

Is Our Constitution Working?

If the Constitution is a living document, can it be killed?

Examining the Constitution reveals that the document itself is not failing to secure American rights; however, the questionable laws being produced in its name (which cause the Constitution's components to conflict) are. American policy has insidiously extended beyond its Constitutional parameters.

Recently, the debate regarding the dubious constitutionality of the Affordable Care Act (Obamacare) has been rekindled with the Trump administration's attempts to dismantle it. The constitutionality of Obamacare has been "justified" by Section 8, Clause 1 of Article I¹ (which describes Congress's structure and responsibilities): "...Congress shall have Power to lay and¹ collect taxes, duties, imposts, and excises, to pay... for the... general Welfare of the United States". This clause authorizes Congress to use tax dollars for social welfare programs; it does not, however, permit Congress to impose financial sanctions on those who refuse to purchase a particular product or service (in this case, health insurance). This action is not consistent with Congress's constitutional instructions. It is an encroachment of liberty.

Furthermore, this warrantless extension of authority enjoyed President Obama's executive encouragement. The president's listed duties in Article II include the responsibility to "take Care that the Laws be faithfully executed" (Section 3, Clause 5). This obligation is not conditional upon the constitutionality of the law; thus, unconstitutional policy may be legally executed. We are killing our Constitution - and our rights - with laws that cause the Constitution to contradict itself.

¹ *National Federation of Independent Business v. Sebelius*

In 2012, the Supreme Court ruled that requiring individuals to purchase health insurance *is* constitutional due to Congress's right to tax.² Is Obamacare constitutionally obedient simply because the Court said so? Consider Article III, which establishes our national court system and outlines the Supreme Court's jurisdiction: judicial review is *not* a responsibility specified in this Article! Judicial review was established out of precedence, not permission. While supreme interpretation of the law is a practicality, the opinions of the Supreme Court are just that: opinions, not edicts. The Supreme Court may have upheld the legality of Obamacare for now, but that decision is subject to future discretion. A reversed ruling may be the sole remedy for the damage inflicted on our core document by illegitimate statutes, and the only hope for relieving strained American liberty. Thank goodness we have one branch of the government that has the potential to keep the Constitution intact.

Nevertheless, an additional, albeit subtle, false justification of Obamacare exists in Article IV, which explains the obligations the states and the national government have toward other states. Section 3, Clause 2 states, "The Congress shall have power and dispose of and make all needful Rules and Regulations respecting the... Property of the United States". (Although the word "property" refers to land in this context, it can be reasonably assumed that the government has the right to manage its monetary property as well.) The Constitution gives Congress the right to utilize funds to benefit society, but the United States government does *not* have the permission to regulate how Americans must spend their own income (the one exception being taxes). Here is yet another example of how Obamacare disrupts our Constitution and violates American freedom.

² *National Federation of Independent Business v. Sebelius*

Not surprisingly, several congressmen have utilized Article V (which describes the amending process) and proposed constitutional amendments prohibiting unlawful government interference with health care. Earlier, we explored the possibility of Supreme Court rulings being reversed in future hearings.³ There is only one other way to invalidate the Court's interpretation of the Constitution: change the Constitution itself. Article V, which allows this to happen, is a vital artery of liberty continuing to pump potential throughout the Constitution. While no amendments related to medical insurance have survived beyond the proposal phase, they remain a possibility thanks to Article V.

Earlier, we discussed the president's unconditional obligation to enforce the law. Article VI, however, declares that "The Constitution, and the Laws of the United States *which shall be made in pursuance thereof*...shall be the supreme Law of the Land" (Clause 2, emphasis added). If the president is unconditionally bound to execute the laws Congress produces, but the preeminent law consists of only *constitutional* laws, which Article is the president expected to honor? This question should not exist. But when a policy such as the Affordable Care Act is passed, the Constitution collapses upon itself. Article VI *would* effectively protect American freedoms if not for injurious laws.

The final article of the Constitution, Article VII, requires a certain number of states to ratify the Constitution in order for it to be legitimate. Due to this Article, the authority of the Constitution itself is never questioned, even if certain congressional laws (such as Obamacare) are. This final safeguard guarantees the validity of our Constitutional privileges.

³ H.J.Res.21 - 115th Congress; H.J.Res.20 - 114th Congress; H.J.Res.27 - 113th Congress; S.J.Res.16 - 113th Congress; H.J.Res.28 - 113th Congress

To reiterate, the Constitution itself is not a flawed document. However, flawed statutes - Obamacare being a case in point - causes internal friction among the Articles, thus jeopardizing American freedoms. However, because the Constitution allows America to be so beautifully adaptable to change, I am confident that instilling a blend of constitutional awareness and advocacy within our nation will result in positive adjustments.