President Obama's Health Care Reform: The Inevitable Impossible

Mark Carl Rom

Presidential candidate Barack Obama first outlined his proposals for health care reform in Iowa in May 2007, eight months before the caucus that launched his campaign. He promised that all Americans would have health insurance and that their insurance would cost less. Noting the Democratic legacy of support for universal coverage from President Harry Truman to the present, Obama concluded: "The time has come for affordable, universal health care in America" (Obama 2007).

The American health care system did have serious problems. The number of uninsured was enormous and steadily rising. In 2000 about 38 million individuals in the United States (almost 14 percent of the public) lacked health insurance, and these figures had grown to 46 million (over 15 percent) by 2007 (U.S. Census Bureau 2010: Table HIA:1). Health insurance costs had risen 120 percent between 1999 and 2008 and were poised to rise yet further (Kaiser Family Foundation 2009a: 10). Many were anxious about their ability to afford health insurance, if they were able to obtain it at all.

President Obama addressed the American people triumphantly in March 2010, as he signed the Patient Protection and Affordable Care Act: "Today, after almost a century of trying; today, after over a year of debate; today, after all the votes have been tallied –- health insurance reform becomes law in the United States of America" (Obama 2010).

As the Vice President noted at the signing ceremony: "This is a big [deleted] deal" (Biden 2010). The law was one of the most important health policy changes in a generation (for a detailed summary, see Library of Congress 2010a). Should it be fully

implemented, it will fulfill the first part of Obama's campaign promise by requiring that virtually all Americans have health insurance. Whether or not it will accomplish his other goal of making care more affordable remains to be seen.

The Obama-led health care reform was hugely controversial, with the controversy extending even to what to call it: On this, as seemingly on all things, Republicans and Democrats disagree, vociferously. Opponents of the new law call it "Obamacare". Its advocates reject this label, mainly because opponents prefer it. To avoid this political controversy, this chapter uses the neutral acronym HCR for health care reform.

President Obama campaigned on HCR, he governed to obtain it, and he succeeded. In retrospect, it may seem that what he and his Democratic supporters did was inevitable. Given the political, economic, and social environment, how could Obama fail to bring the United States finally into the community of nations that has adopted universal health insurance? But, the inevitability argument is best used after the "inevitable" outcome has happened. At almost any point reform could have failed and, if President Obama had failed to achieve it, observers might now be declaring that failure was inevitable.

This chapter considers the wide range of factors that made Obama's HCR simultaneously and paradoxically (almost) *inevitable* yet (virtually) *impossible*. Inevitable and impossible are overstatements, of course. However the politics of HCR was filled with hyperbole from all sides. This chapter also describes the politics of the reform process, highlighting the predictable (and, at times, idiosyncratic) behavior of the public, the news media, interest groups and politicians. Ultimately, of course, HCR was

neither inevitable nor impossible. Although powerful forces pushed in both directions and the reform's process was highly predictable, HCR's enactment hinged on the unforeseeable outcomes of strategic decisions, changing circumstances, and luck.

Health Care Reform Was Inevitable

Political scientists stress "structural" factors (e.g., those involving incentives, environmental conditions, etc.), rather than idiosyncratic ones in explaining political outcomes. In predicting the winners of national elections, for instance, our models emphasize economic conditions and ignore campaign tactics. In next two sections I present the structural factors implying that HCR was alternately inevitable or impossible.

Presidents seek to fulfill their key campaign pledge; they usually do; and HCR was one of Obama's signature issues. Presidential candidates do not just seek to win; they seek to achieve. Whether it is President Bush with education, Clinton with welfare, or Reagan with taxes, presidents genuinely try to keep some of their campaign promises and are generally successful at doing so (Randolph 2007).

Successful promises will be popular and, like Obama's, albeit inevitably vague. Successful presidential candidates tap into the public's aspirations and fears. It is not that candidates merely give the public what it wants, but successful politicians are able to promote what *they* want in terms that the public embraces (see Jacobs and Shapiro 2000). Clinton's pledge to "end welfare as we know it" was popular, in part because both liberals and conservatives could read into it what they wanted (see Weaver 2000). Bush campaigned with education reform as his number one priority, because, well, who doesn't support better public education? Obama stressed affordability and universality in

his promises for HCR, while remaining carefully non-committal on any questions of mandates, cost controls, or taxes (see Jacobs and Skocpol 2010, 34-38).

The public clearly agreed with Obama's concerns. A New York Times/CBS News poll in 2007 found that 90 percent of the public believed that the US health care system required fundamental changes or a complete overhaul. Ninety-five percent indicated that it was a serious or very serious problem that many Americans lacked health insurance and two-thirds of the public thought that it was the government's responsibility to provide such insurance. Almost 90 percent were worried about the future costs of healthcare to themselves and their families. Numerous other questions reinforced the idea that Americans wanted HCR, they wanted it now, they wanted to make coverage universal, and that they were willing to pay for this (New York Times/CBS News 2007).

Presidents are better able to fill their campaign promises if they have large electoral and governing (E&G) coalitions and Obama had one of the most powerful coalitions of the past 100 years. The strongest E&G coalitions contain three elements: A solid majority of the popular vote, indicating broad public support; a large partisan majority in the House of Representatives, which allows for bills to pass, even if some members defect; and a filibuster-proof majority in the Senate, so that bills cannot be stalled indefinitely. Presidents Franklin Roosevelt and Lyndon Johnson had by far the largest first term E&G coalitions in the modern era (Table 11.1). Not surprisingly, these two presidents are widely seen as instrumental in enacting the most important legislation of the 20th century, with Roosevelt enacting Social Security as well as a host of other

New Deal programs, while Johnson successfully pushed for major civil rights laws as well as the creation of Medicare and Medicaid.

Table 11.1	Share of President's Party (in percent)			
President	Popular Vote	Senate	House	Election Year
Roosevelt	57.3	61	72	1932
Truman	49.4	56	60	1948
Eisenhower	55.1	50	51	1952
Kennedy	49.7	64	60	1960
Johnson	61.4	68	59	1964
Nixon	43.4	42	44	1968
Carter	50.8	61	67	1976
Reagan	58.8	53	44	1980
G.H.W. Bush	53.4	45	40	1988
Clinton	43.2	57	59	1992
Bush	48.4	50	51	2000
Obama	53.4	60	59	2008

President Obama had the third-broadest first term E&G coalition of the past century. He came into office with 53 percent of the popular vote (and 365 of the 535 votes of the Electoral College). Fifty nine percent (256 of 435) of the Representatives in the House were Democrats. The Senate contained 58 Democrats, but the two independents caucused with them to produce a filibuster-proof 60 votes.

The combination of a President winning a sweeping electoral victory, supported by large majorities in Congress, whose signature campaign issue was broadly popular with the public, might seem to guarantee that HCR would be enacted. At the time of Obama's inauguration, his backers chanted, "Yes we can!" but a neutral observer might easily have concluded "Yes, he will."

HCR Was Impossible

Yes, but…. powerful forces resisted HCR and, at the beginning of the Obama presidency, a betting person might have reasonably believed that these forces would prevail, for several reasons.

Major reforms almost always fail to be enacted. The American political system is, both by design and by evolution, filled with 'veto points'. For any proposal to become law, it must clear each and every step: It must clear the relevant committees in the House and the Senate, it must be passed by both chambers individually, both chambers must ultimately reconcile their differences and agree on an identical bill, and the bill must be approved by the President. For opponents of reform to prevail, they only had to win (or obstruct) at any one of many steps.

Perhaps the most difficult barrier to overcome is the Senate. Senate rules give substantial powers to those holding minority positions and, in particular, they can block legislation by threatening to stall ("filibuster") proceedings. This threat can only be overcome if 60 Senators vote to proceed ("cloture"). Although filibusters were rare until recently, by Obama's first term they were so routine that the President could expect that *all* his proposals would be filibustered. Given the expectation that all 40 Senate Republicans would vote to block HCR, Obama's reforms would move forward only if *all* Democratic and Independent Senators supported it. This meant that each and every potential senatorial supporter was also a potential veto point. Obama had no margin of error.

Presidents do not always fulfill their campaign promises and no President had succeeded in fulfilling the promise of universal health care. George W. Bush was unable

to reform Social Security, despite spending much time and effort attempting to do so, and Clinton failed to provide universal health insurance after making it his signature first term initiative. History certainly suggested that Obama's desire for comprehensive HCR would be thwarted. Presidential candidates since Teddy Roosevelt in 1912 had sought universal health insurance coverage and *all had failed* (McRoberts 2009).

President Obama had no mandate to reform health care. Presidents never have mandates to do anything specifically, because the public does not really know what it wants (Grossback, Peterson and Stimson 2007). Presidential elections are as often a rejection of the past as an embrace of the future. The public may well have wanted "change we can believe in" without knowing what kind of change it actually wanted, except for life to be better.

Congressional Democrats had no particular to reason to believe that they were brought to Washington to enact HCR or even to support Obama any more than they thought in their own interest. Winning Democratic congressional candidates typically obtained more votes than Obama did. The most "vulnerable" Democrats (those winning in generally conservative and Republican-leaning districts) typically ran well ahead of Obama. In a sense, they won despite Obama, not because of him (Shugart 2010).

When presidential pledges are enacted, they have always been bi-partisan, yet it was clear that no Republicans would support Obama's proposals. FDR's Social Security program was enacted with substantial support from the minority party in Congress, as 20 percent of the "aye" votes in both House and Senate came from Republicans (author's calculations from Sidor 2010). LBJ's Medicare and Medicaid programs were adopted

with comparable minority support in both House and Senate (Sidor 2010). When Clinton "ended welfare as we know it," thirty percent of the minority (Democratic) party in Congress voted in support (Social Security Administration n.d.). *Never* before had major legislation been enacted purely on a party-line vote.

However, President Obama would get no Republican votes for HCR in Congress, with few exceptions. In the House, only a single Republican voted for HCR a single time on a single recorded vote and no Republicans voted for final passage. This came as no surprise, as House Republicans had unanimously voted against Obama's other key agenda items, including the stimulus package (Calmes 2009) and financial regulatory overhaul (Hulse 2009). At the peak of bipartisan comity, only three Republicans would vote for the "Lilly Ledbetter Fair Pay Act," the first law that Obama would sign.

Obama could count on little more Republican help in the Senate. Although a few Republican Senators seemed prepared to negotiate on HCR at the beginning, Senator Olympia Snowe (R-ME) was the sole Republican to vote for HCR in committee. When the bill advanced to the Senate floor, it was obvious that it would receive no Republican support: indeed, Senator James DeMint (R-SC) stated that "If we're able to stop Obama on [HCR] it will be his Waterloo. It will break him" (Smith 2009).

The public feared HCR's personal costs. Yes, a large majority of the public wanted fundamental change, but nearly 80 percent of Americans were satisfied with *their own* care and about two-thirds of the public were concerned that their care would suffer if the government provided health coverage to all (Sack and Connelly 2009). Individuals with health insurance – that is, most Americans – thus had two reasons not to support

HCR. First, individuals tend to be 'loss averse' in that they much rather avoid losses than obtain gains (Tversky and Kahneman 1991). To the extent that Americans worried more about personal costs than benefits, they would not support HCR and would more likely oppose it. Second, those with insurance might understandably conclude that while they would bear the costs of HCR, the benefits would be broadly distributed to the entire public.(see Wilson 1991).

It is one thing to support reform as a concept. It is another thing to mobilize to support reform. It is almost certain that those who fear change are more willing and able to take action to defend their interests.

Interest groups had killed HCR before and they would do it again. In 1994, major medical interest groups ferociously opposed Clinton's HCR proposals and were instrumental in defeating it (SourceWatch 2010). Even though they initially were open to the idea of reform, the combination of risk aversion and conflicting goals ultimately led them to uniformly reject Clinton's reforms (Starr 1995). In American politics, it is perhaps possible to triumph without effective interest group support, but it is impossible to win when the interests that oppose reform are organized, mobilized, and committed.

Impossibilities, Inevitabilities, and Contingencies in the Process

In his first State of the Union address in 2009, President Obama reiterated his pledge that "[W]e must have quality, affordable health care for every American," along with his insistence that the Congress act: "[L]et there be no doubt: health care reform

cannot wait, it must not wait, and it will not wait another year" (Obama 2009). With these words, efforts to reform health care moved into high gear.

President Obama had many options regarding the substance and process of HCR. Not all options were equal, however, in either their policy or political implications. The political consequences, in particular, made some options impossible; others inevitable. It was inevitable that Obama would seek to avoid what he saw as the mistakes the Clinton administration made. The two chief missteps Clinton made were to "lay all his cards on the table" and develop a detailed legislative proposal to present to the Congress (Jacobs and Skocpol 2010: 56). Obama, in contrast, avoided committing himself to *any* legislative specifics and allowed congressional leaders to craft the actual legislation.

Congress never seriously considered an obvious solution to the problems of health care access and cost control: A 'single-payer' health insurance system, in which the federal government would insure the entire population, collecting revenue through taxes and fees and paying claims from medical providers when they treat patients. This option has been embraced by other countries (Canada, for example) and, in fact, it is used in the United States for Medicare, which provides health insurance for the elderly. Obama's liberal supporters desperately wanted "single-payer", but this option was a non-starter.

That a single-payer system was impossible is, in some ways, puzzling. Obama himself had spoken in favor of the idea in 2003 (Physicians for a National Health Program 2008a). Physicians were also sympathetic to the concept (Physicians for a National Health Program 2008b). Numerous public opinion polls had found that the American public favored it (see for example Kaiser Family Foundation 2009b). The

elderly population actually *experienced* a single payer system (Medicare) and, by and large, was satisfied with it (see for example John et al. 2007).

Yet opposition trumped support. The health insurance industry saw "single-payer" or *any* form of government-provided insurance (even the so-called "public option") as an existential threat that it would resist vigorously. Moreover, Senator Max Baucus (D-MT), the chair of the Finance Committee, made it clear that he would not support single-payer and, as any measure required support from *all* Senate Democrats, therefore it would not pass the Senate (Associated Press 2009). Given the strength of health insurance interests, it was inevitable that HCR would entail a "market-based" approach that would preserve existing health insurance arrangements. As Obama put it: "If you like your health care plan, you can keep your health care plan" (PolitiFact.com 2009).

Throughout 2009, the Congress worked to produce HCR that would do just that, while at the same time making coverage universal and constraining costs. In developing the legislation, Congress inevitably was influenced by the concerns of the public, the coverage by the news media, and the demands of interest groups.

The Public. On most policy issues, the public is grossly ill-informed. Regarding HCR, public ignorance was compounded in ways that made it impossible for citizens to understand what HCR would mean to the country generally or to themselves specifically.

First, the legislation was lengthy and complex. No individual understood every detail in its entirety, few individuals had the expertise necessary to comprehend these details, and only some had even read it. Second, had the public been so inclined, it would have had little time to read the bill. The full text of the 1,990 page reform bill passed by

the House, was not made available to the public until 72 hours before the scheduled floor vote (Wonderlich 2009). Not surprisingly, nearly 70 percent of Americans found the health care debate "hard to understand" even at the time the Senate began voting on the reforms (Pew Center for the People and the Press 2009).

The impossibility of public comprehension had inevitable results. HCR's opponents took every opportunity to spread misinformation and fear, castigating Obama for his politics ("he's ramming health care down the public's throat!") and policy ("a government takeover of health care!" "death panels!" and so forth). Public dismay toward HCR peaked during the summer of 2009 with angry outbursts at congressional town hall meetings. Although Obama tried to counter the fear tactics of the opponents, he did not succeed, as uncertainty about consequences and distaste over the process helped turn the public against Obama's reform plans (Kornblut and Shear 2009). By the time the Senate voted on the full package in December, a solid majority of the public opposed Obama's handling of HCR and the reform proposals (Seelye 2009; Quinnipiac 2009).

The News Media The logic of the media inevitably leads it to cover news in ways that serve media interests and not necessarily the public's interests. As the media are generally for-profit businesses, they seek audiences more than illumination. Indeed, "as the [media] coverage continued, the public seemed more confused" as reports focused more on conflict, passions, and partisanship than on substance (Pew Research Center for Excellence in Journalism 2010). Cable and radio talk shows spent far more time on HCR than did network television or newspapers and the hysteria-to-evidence ratio was undoubtedly similarly tilted. Coverage highlighted the most sensational images and

events, such as rambunctious protests or Congressman Joe Wilson's "You lie!" outburst to President Obama, downplayig systemic problems and proposed solutions (Pew 2010).

Conservative media outlets were far more successful than liberal ones at winning the message war. According to one study, the "concepts and rhetoric" used by HCR's opponents appeared about 1.6 times more often in major media than the terms used by advocates (Pew Research Center for Excellence in Journalism 2010). In the most inflammatory instance, Sarah Palin posted a Facebook update in August alleging that government bureaucrats would sit on "death panels," deciding which citizens were "worthy of care" (Palin 2009). That phrase subsequently dominated media coverage (Pew 2010), even though Palin's statement had no basis in fact.

Interest Groups. It was inevitable that interest groups would seek to maximize their gains and minimize their losses, but their responses were uncertain initially. Would they, like the Republican Party, simply try to kill reform or would they seek to shape it?

The insurance industry (and many other medical interests) had two key priorities, one favoring comprehensive reform and one opposing it. Medical interests loved the idea of universal health coverage, as this would dramatically expand the pool of those receiving services. Nevertheless, medical interests vehemently opposed increased government intervention in terms of cost controls, regulation, or other competitive threats.

Fortunately for Obama, the interest groups decided to play ball, and Obama was more than willing to play. These groups did not support reform out of the goodness of their hearts. They did do because the Obama administration reached out to them to cut

deals that would allow the interests to benefit financially from reform (Jacobs and Skocpol 2010: 68-76). Although these deals were widely criticized by liberal activists as unwarranted giveaways to corporate interests, they were defended by the Administration on purely pragmatic grounds as necessary for "get[ing] things done within the system as it is" (Baker 2010). The outreach worked: Although they were not always enthusiastic proponents, medical interests never launched a frontal assault against HCR.

The Legislative Struggle

The public was confused and skeptical, if not angry. The media heightened divisions and diverted attention from substance to show. The interest groups were assiduously pursuing their interests. How would the Congress respond? The essential logic is presented here; the details of the legislative struggle over HCR can be found elsewhere (Jacobs and Skocpol 2010; *The Washington Post* 2010).

House Speaker Nancy Pelosi (D-CA) was committed to enacting reform and her central task was to craft legislation that would produce at least 218 votes. Assuming that all 178 Republicans would oppose her, Pelosi could afford to lose up to 39 Democratic votes from her caucus of 257. As the Democrats ranged from the very liberal to the highly conservative, any legislation that tilted too far in either direction would lack sufficient support. Pelosi ultimately produced a majority, but just barely: The House enacted its version of HCR (HR3962) by a vote of 220-215 (Library of Congress 2010b).

Majority Leader Harry Reid (D-NV) was equally dedicated to pushing HCR through the Senate. By rules and by custom, Reid had a more difficult job than Pelosi, as he had to garner support from all 58 Democrats and 2 independents to move forward.

Doing so was slow and ugly, and involved protracted negotiations with Republicans in a futile effort to gain their support as well as virtual extortion from individual Democrats such as Senators Ben Nelson (D-NE) and Joe Lieberman (I-CT). After 25 days of acrimony, showboating, and passion on the floor of the Senate -- and deal-making off of it -- Reid finally reached the magic number and the Senate approved its version of HCR (HR3950) by 60-39 on Christmas Eve 2009.

With both House and Senate approving similar HCR legislation, at this point, it might have seemed that Obama's call for reform truly was inevitable. It was not and, in the coming weeks, it quickly seemed impossible.

Even under normal circumstances, finalizing reform would have been extraordinarily difficult. When the House and Senate pass differing bills on the same topic, the differences are usually resolved in a conference committee. Each chamber must then vote on the revised version of the bill, with no additional changes possible. But, here was the rub. As both House and Senate approved their own legislation by the slimmest possible margins, changing the bill in any way could lead to additional defections.

This possibility was real. Although the tiniest portion of the legislation in terms of money or emphasis, abortion rights became the fulcrum on which the entire bill balanced. In the House, pro-life advocates, led by Representative Bart Stupak (D-MI), threatened to vote against any bill that made abortions easier to obtain; pro-choice advocates countered by pledging to vote against any changes that further restricted abortions. Although it was unclear whether either group had the ability or desire to kill the bill if push came to shove, it was impossible to ignore the risks of changing the bill.

Moreover, on January 20, 2010, circumstances ceased to be normal. In a massive upset, Republican Scott Brown achieved the impossible by winning a special senatorial election in Massachusetts (filling the seat long held by Ted Kennedy), meaning that the Democrats could no longer break filibusters in the Senate on their own. As Brown had campaigned specifically against HCR, he left no doubt that he would vote against any bill that came to the floor. As a result, even if a conference committee could devise a compromise proposal, there was zero chance the Senate would approve it.

The only possibility, it seemed, was for the House to approve the Senate version of reform without changes, so that a conference committee and further Senate action were avoided. This was impossible, Speaker Pelosi announced: "The Senate bill is a non-starter. I can't sell that to my members" (Connolly 2010).

President Obama now had three main options and he pursued all three. For the next two months, he openly, publicly, and aggressively promoted “his” plan (in essence, this was what a compromise between the House and Senate would have looked like) in the hope of persuading the public, reluctant Democrats, or perhaps even Republicans to support reform. At the least, this demonstrated to his E&G coalition that he would not bail out on them. Second, Obama considered the possibility of scaling back the reforms, so that he could at least get something, before concluding that the “something” would be bad politics, bad policy, or both. For President Obama, it was going to be all or nothing.

The third option was brilliant, tricky, and risky. The House would approve the Senate version of reform verbatim (so Obama could sign it into law), in return for the Senate promising to pass a separate and complementary House bill that would “correct”

the Senate bill to meet House concerns. The House bill would be moved through the Senate through a special parliamentary maneuver ("reconciliation") that could not be filibustered. It took the full persuasive force of Obama, Pelosi and Reed to convince the respective chambers that it was in the interest of the country, as well as their mutual self-interest, to accept this option. However reluctantly, they accepted this. On March 21, 2010, the House approved the Senate version of HCR by a vote of 219-212, with all Republicans opposing, and also passed its complementary bill that "fixed" the Senate bill by a 220-211 margin (*The Washington Post* n.d.). On March 25, the Senate approved the reconciliation bill by a 56-43 margin. The impossible / inevitable had happened.

Conclusion

Obama's HCR is the most important legislation in a generation. When fully implemented, it will extend health insurance to virtually all Americans. Individuals will be able to purchase insurance – indeed, they will be *required* to obtain insurance – either through their employers or through state-based "exchanges" (markets). The federal government will subsidize those with low incomes. Insurance companies will no longer be able to deny coverage to individuals with pre-existing conditions, among other pro-consumer reforms. Medicare and Medicaid have both been expanded.

The public still seemed wary of the reforms and many Republicans vow to "repeal and replace" it (Camp 2010). The Democratic party suffered substantial losses in the 2010 midterm elections, with the Republicans gaining control of the House of Representatives. The future course of health care policy is uncertain. Two things are

worth betting on, however. Continued partisan fighting over the direction of HCR is inevitable. Complete repeal of the historic law will be impossible.

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