

A COMPARATIVE STUDY ON THE PROTECTION OF CITIZENS' RIGHT TO HEALTH FOCUS ON THE PUBLIC HEALTH POLICY OF KOREA AND THE USA

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ABSTRACT

The Constitution of the Republic of Korea adopts the principle of social state as a constitutional ideology and sets the right to health as the fundamental right of the people. In order to implement the citizens' right to health, Korea has adopted national health insurance, in particular public methods, in which the state directly intervenes in the medical market. All Koreans are compulsorily enrolled in National Health Insurance, and pay their premiums in proportion to their income to the National Health Insurance Corporation. All medical institutions are also enforced in the national health insurance system. Under this system, anyone who needs medical care can receive universal basic medical treatment at low cost. National health insurance in Korea has institutionalized that, at the very least, it should not be deprived of even the least opportunity to enjoy health because of economic barriers. In Korea, the universal health insurance system has been accepted as natural because of the combination of solidarity and shared responsibility.

On the other hand, the United States (hereinafter "U.S."), the world's most powerful nation, seems to have a different situation and different views from Korea. It is natural to recognize that

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differences in economic ability may or may not guarantee minimum health. Of course there have been attempts by the Clinton and Obama administrations to ensure universal health, but they still have not progressed to the same level as social insurance. Obamacare is to force all citizens to join private health insurance, penalize them for violations, and provide tax relief for low-income people. However, this was not free from the unconstitutional debate. Unlike the Korean Constitution, the U.S. Constitution does not directly stipulate the right to health. In addition, the federal state, the U.S. of America, places emphasis on individual freedom and guarantees state independence and federalism is an important ideology. Even if the United States emphasizes individuals or local autonomy rather than the solidarity of the community, is it impossible to interpret from the US Constitution the universal health right of the people?

In this paper, through the comparison with Korea, we wanted and tried to demonstrate that citizens' health rights can be derived as universal rights through the interpretation of the U.S. Constitution, and that Obama Care is a practical example of such an attempt.

KEYWORDS: *social state, right to health, national health insurance, solidarity, Obamacare, social insurance, federalism, fundamental right*