

# The submerged politics of Obamacare may make it harder to repeal than Trump and the GOP realize

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*Next year will see the Republican Party control the presidency, House, and Senate, and they will likely waste little time before beginning to dismantle President Obama's legacy, including signature programs such as Obamacare. [Ursula Hackett](#) argues that Obamacare's 'submerged' delivery, via subsidies for individuals to buy insurance from private markets rather than direct government provision, may mean that the GOP find that it is not easy to repeal.*



The day after Donald Trump's stunning victory, former Obama White House Counsel Gregory B. Craig gave [a bleak assessment](#) of the current President's policy legacy: "Nothing with Obama's name on it is safe. It will be: Let's pull out the list of Obama's sacred cows and slaughter them, one by one."

Many stars are aligned for the prosecution of Trump's policy agenda (and the repudiation of his predecessor's): Republican victories across state legislatures, governorships and in Congress, an emboldened Tea Party and Congressional Freedom Caucus, and a Democratic Party dazed, divided, and in danger of descending into bitter acrimony. [Political scientist Stephen Skowronek](#) reminds us that the presidency functions best when it is directed toward dislodging established elites, destroying the institutional arrangements that support them, and clearing the way for something entirely new. Trump promised all of these things; his victory is bluntly disruptive.

The institutional constraints of the separated American political system, inertial forces that have only thickened over time with the growth of the American state, provide some sources of comfort to the new President's opponents insofar as they slow the process of governance and provide sources of oversight. As every student of American politics knows, Congress, not the President, will need to pass his trillion-dollar infrastructure bill, repeal gun-free school zones, and scrap regulations that limit pollution and coal production. Efforts to increase the production of fossil-fuels, conduct surveillance of Muslim communities, or step-up immigrant deportation efforts would likely face court challenge.

Budget reconciliation in Congress, the strength of Republican partisanship, fear of Tea Party challenge, and the strategic use of executive orders will likely enable President Trump and his Republican allies to circumvent some of the constraints imposed by the separated system and keep reluctant co-partisans in line. But one further constraint has received little attention from pundits, and that constraint could prove to be the most powerful of all: policy design.

## Submerged Policy Design

One priority upon which the new President and the Republican Congress are in full agreement is [the repeal of the Patient Protection and Affordable Care Act](#) known as Obamacare. The flagship 2010 law aimed to decrease the number of uninsured Americans, reduce healthcare costs and increase the quality of health insurance through a mixture of regulation, subsidies and mandates. By many metrics the law has succeeded: banning insurance companies from discriminating against patients with pre-existing conditions and reducing the proportion of uninsured to its lowest level ever. But it has also faced many problems, including a riskier-than-expected risk pool for health exchanges leading to rate hikes and insurer withdrawals. Phased in slowly over six years, this extraordinarily complex law utilizes what scholars call '[submerged' policy delivery mechanisms](#) – a source of both strength and weakness.

The submerged politics of Obamacare makes it difficult for Democrats to drum up public support in the law's defense, but those same features make it risky for Republicans to defy private organisations' opposition to repeal.



- Ursula Hackett, Royal Holloway, University of London

Submerged policy delivery mechanisms involve a government [subsidizing individuals or organisations to buy services in private markets that would otherwise be provided by the state directly](#). Although the US offers directly-taxpayer funded healthcare for some categories of people, most healthcare benefits are paid for through employer-provided or private health insurance for many working-age adults, subsidized in large part by government funds. Employing subsidies rather than direct provision tends to [magnify informational asymmetries](#) between ordinary citizens and the private organisations – insurers, hospitals, pharmaceutical companies – who receive subsidies, because the benefits are provided below the radar. As with [tax credit school vouchers](#), subsidized student loan markets, or tax deductions for home mortgage payments, using private mechanisms for policy delivery makes it harder for citizens to understand the nature and scope of government action. The result is [inaction and apathy](#) at best, and [racialized](#) anti-government fury at worst. Submergence helps explain why Obamacare is still a political football despite its success reducing the ranks of the uninsured.

[Conservatives have historically favoured the use of submerged mechanisms for policy delivery](#) because they replace direct social provision with subsidized market-based alternatives. Many submerged programs are regressive, because tax subsidies benefit those who pay more tax. And it is easier to claim credit for shrinking government if services are delivered through private companies, even if the size of subsidies and the amount of tax foregone end up larger than the cost of comparable direct government provision. Reforming these programs is tough. The private organisations that benefit most from the subsidies are easily mobilized in their defense, while the regular public is unaware of the nature, scope, and sometimes even the existence, of the subsidy. That usually suits conservatives: avoid the appearance of 'big government' while supporting private providers financially.

Therein lies a paradox for 2017: the weakness of Obamacare is its strength. [Recent analysis](#) has focused on the difficulties Trump and his conservative allies will have dismantling some of the most visible benefits of Obamacare – such as the ability of young people under 26 to stay on their parent's insurance and the ban on lifetime coverage limits. If these visible benefits are binned, the public backlash will begin. But ironically for conservatives, the submerged mechanisms they favor could prove an even bigger stumbling block in dismantling the law they hate. Subsidy beneficiaries, including hospitals, health insurers and industry trade groups, are [already mobilizing in opposition to repeal](#). New health insurance exchanges deliver millions of new customers to private insurers. Closing the [Medicare Part D prescription drug coverage 'donut hole'](#) supports consumers' purchase of pharmaceutical company drugs. Subsidizing insurance premiums means insurers' rate hikes are partly swallowed by the government.

The submerged politics of Obamacare makes it [difficult for Democrats to drum up public support](#) in the law's defense, but those same features make it risky for Republicans to defy *private* organisations' opposition to repeal. Obamacare is in trouble, but the submerged politics of repeal will likely prove a headache for the new President and his Republican allies.

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*Note: This article gives the views of the author, and not the position of USAPP– American Politics and Policy, nor of the London School of Economics.*

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