

VIEWPOINT

Maintaining the Right to Health: A Democratic Process in Taiwan

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Taiwan, with a population of 23.56 million, implemented a nationwide single-payer health care system in 1995—the National Health Insurance (NHI)—which has achieved 99.9% universal health coverage.¹ The NHI has an average monthly premium of approximately US\$42 (the average annual income in Taiwan is around US\$22,000) and combines accessibility, affordability, and widespread availability for Taiwanese citizens, residents, and eligible foreigners. The premium is calculated at 5.17% of monthly income, lower than neighboring countries South Korea (7%) and Japan (10%), which have similar aging demographical patterns and single-payer systems. The NHI provides comprehensive coverage, encompassing inpatient and outpatient care, pharmaceuticals, dental services, traditional Chinese medicine, mental health day care, and home-based medical services. To ensure health equity, the NHI exempts low-income households from paying health premiums. Depending on occupation and income, health premiums range from 30% to 100% of the health service cost. Overall, health premiums contribute 89% of the NHI's annual budget, with the government's contribution statutorily capped at 36%. Taiwan's spending on health of 6.54% of GDP remains below the OECD average of 9.2%.² Attempts to increase health premiums are politically controversial and unpopular.³

Although the NHI Act mandates the participation of all citizens and eligible foreigners, the Enforcement Rules of the National Health Insurance Act—a complementary administrative rule to the NHI Act—establishes a suspend-and-resume mechanism for residents living overseas more than six months. This mechanism exempts long-term overseas residents from insurance payments while abroad, benefiting approximately 210,000 Taiwanese living overseas.⁴

Taiwan's NHI system operates primarily through privately run hospitals that generate revenue by offering out-of-pocket health services to attract private patients while also receiving NHI reimbursements from those who use their national health insurance. For inpatient care covered by the NHI, patients are

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responsible for co-payments ranging from 5% to 30% of their hospitalization costs.

While the system delivers comprehensive health services at affordable premiums, high utilization rates have sparked ongoing concerns about its sustainability and potential bankruptcy. Two potential solutions have been proposed: reducing costs by restricting coverage or increasing revenue through higher insurance premiums. However, both options lack political viability because the public and government strongly oppose any reduction in coverage or increase in premiums.

In addition, the affordability and accessibility of the NHI comes at a human cost: health care workers endure long hours and low wages to maintain the system's sustainability. The nurse-to-patient ratio is 1:8.6, compared to 1:4 in the United States, and doctors work longer hours—averaging 59.8 hours per week versus 49.6 hours in the United States. Physicians and hospitals are reimbursed through a point system based on services rendered. This fee-for-service model has resulted in outpatient visits surpassing the OECD average, at 14.12 admissions per 100 persons, placing considerable strain on the health care workforce.

Use of the NHI by expatriates

When the NHI was first introduced in 1995, no one anticipated the surge in international travel and health care tourism that would follow. As health care costs have risen in other countries, Taiwan's wealthy (and aging) expatriates have taken advantage of Taiwan's high-quality, low-cost health services through the suspend-and-resume mechanism. They are able to return to Taiwan for relatively cheaper health services, including non-emergency procedures and annual health screenings.

For instance, knee surgery that costs around US\$50,000 in the United States is available for less than US\$5,000 in Taiwan's NHI.⁵ This scheme enables expatriates to contribute minimally while enjoying full services as local residents, and some hospitals have embraced this trend, offering services that cater to returning overseas residents who are often retirees with the financial means to travel

comfortably. Overseas patients can choose to either make co-payments under NHI coverage or pay out of pocket. Under the NHI, hospitals are reimbursed based on the services they provide; thus, a financial incentive exists to perform more procedures to increase their profit margins. However, doing so dilutes the point values for all service providers since the total NHI budget remains fixed.

While the health services used by expats through the suspend-and-resume scheme constitute a relatively small portion of total usage, government data suggest that NHI loopholes are systematically exploited by overseas residents whose per-procedure costs often exceed those of domestic residents, indicating strategic use of NHI services by expatriates.⁶ Overall, this is placing additional financial constraints on the NHI system, while raising questions of fairness. A key factor behind the financial crisis is the failure of premium growth to keep pace with rising medical expenses. Other major contributing factors include a rapidly aging population, low co-payments, and the broad scope of covered services.⁷

Since the NHI operates as a social insurance system designed to protect all participants equally, the suspend-and-resume mechanism undermines the principle of equitable risk-sharing across all beneficiary groups. It has created a dual-tier structure whereby expatriates receive subsidized health care while making selective financial contributions, while domestic residents pay consistent premiums regardless of usage. This arrangement places a disproportionate financial burden on domestic residents, who effectively bear the medical expenses incurred by overseas residents. This unintentional structure is also straining the health workforce, with nursing shortages presenting a particular concern.⁸

Constitutional Court and democratizing health

In 2022, a landmark Constitutional Court ruling declared the suspend-and-resume scheme unconstitutional and ordered the National Health Insurance Administration (NHIA) to review and

propose reforms.⁹ The case involved a Taiwanese expatriate whose health insurance premium was suspended during her time abroad. During her annual visits to Taiwan, her premium automatically resumed, resulting in an overdue payment of US\$70. Not wanting to pay premiums during her brief visits home, the plaintiff challenged the constitutionality of the suspend-and-resume scheme in the Constitutional Court.

The court acknowledged that mandatory participation in the NHI is necessary for the government to fulfill its responsibility to provide health care for all. However, rather than addressing overseas citizens' health care obligations regarding pooled resources, the court based its decision on the legal doctrine of *Gesetzesvorbehalt* (legal reservation), adopted from German constitutional law. This doctrine acts as a check on government power by requiring that significant decisions affecting citizens' rights and obligations be passed through the legislature. Since the suspend-and-resume scheme operated solely through an NHIA administrative ruling, the court deemed it unconstitutional. In other words, the court held that the legislature, rather than administrative agencies, must make decisions about how to meet health needs fairly across diverse populations.

While it appeared that the Constitutional Court ruled on a technical ground without addressing the substantive issues of the case, its decision carries important implications for understanding the right to health. In particular, since Taiwan's Constitution does not explicitly recognize this right—incorporating it instead through article 22—the court's decision is noteworthy. Under article 22, the substance of the right to health, including health care, remains open to interpretation. Based on *Gesetzesvorbehalt*, the Constitutional Court established that decisions about meeting various health needs must undergo public deliberation, meaning that decisions regarding fair health care access and financing must be subject to public negotiation and democratic accountability.

For Taiwan, this represents a positive development—it not only recognizes health as an

intrinsic moral good but acknowledges that health care distribution across a diverse population must be determined through democratic deliberation. Through this nuanced interpretation, the court reinforced both the legal foundation and moral imperative of democratizing health through the national health care system. The system creates equality of opportunity by requiring public input and democratic processes to guide health care governance.

Implementation of the ruling

After the Constitutional Court's ruling, the NHIA amended the Enforcement Rules of the National Health Insurance Act and set an end date of December 2024 for the suspend-and-resume mechanism. After that end date arrived, the NHIA deliberately chose not to propose any legislative amendments to Congress. This administrative inaction effectively resulted in the complete abolition of the scheme. Eliminating the suspend-and-resume scheme means an increase of 1.18% (an additional US\$70.59 million) in the NHI's annual revenue, a small—but meaningful—step toward (re)establishing fairness in the system.¹⁰

Public sentiment supported the administration's inaction, largely due to widespread concerns about systemic abuse of the NHI system.¹¹ While the suspend-and-resume mechanism had long faced criticism by scholars and practitioners prior to the Constitutional Court's ruling, public support peaked following a high-profile case involving Huang An, an aging Taiwanese entertainment personality who had settled in China. Despite consistently promoting pro-China rhetoric through his public platform, Huang regularly returned to Taiwan to access health care services—behavior widely viewed as exploitative.¹² The public recognized that managing the finite financial pool required fairness, sustainability, and shared responsibility, acknowledging that consistent contributions were essential to maintain Taiwan's health care system.

The sustainability of the NHI requires both political and legal commitments and continuous

financial contributions from all participants. While the Constitutional Court did not directly address the question whether overseas residents are required to contribute, it affirmed that the right to health, expressed as universal health coverage, must use democratic processes to determine fair access.

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