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## Health Care and Health Laws

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### **Abstract:**

*The right to health is a fundamental part of our human rights and of our understanding of a life in dignity. The right to health is the economic, social and cultural right to a universal minimum standard of health to which all individuals are entitled. The two decades witnessed the end of the 20th century promising to some the end of the world and human life, or at the least a massive collapse of electronic communication networks, while foretelling to others a 21st century and a new millennium of peace, security, justice and equitable global economic opportunities. The right to health, i.e. the right to the highest attainable standard of health, makes governments responsible for prevention, treatment and control of diseases and the creation of conditions to ensure access to health facilities, goods and services required to be healthy. Primarily located within legal frameworks that focus on civil and political rights, the right to health is more frequently being used to challenge abuses of health by invoking social and internationally accepted as civil and political right. Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care of appropriate quality as well as to providing for the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality.*

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### **Introduction:**

Human right refers to internationally recognized norms applying equally to all people everywhere in the world. International human rights law is a set of legal standards to which governments have agreed with the purpose of promoting and protecting these rights. International treaties not only prohibit direct violations of human rights but also hold governments responsible for progressively ensuring conditions enabling individuals to realize their rights as fully as possible. Every country is now party to at least one treaty encompassing health-related rights and is therefore responsible for reporting periodically to an international monitoring body on its compliance.

All human rights economic, social, cultural, civil and political are considered interdependent and indivisible, governments are accountable for progressively correcting conditions that may impede the realization of the "right to health", as well as related rights to education, information, privacy, decent living and working conditions, participation, and freedom from discrimination. Systematic attention to this range of rights by the health sector can provide a coherent framework for a focus on conditions that may limit people's ability to achieve optimal health and to receive health services.

The human right discourse and practice the right to health has been and continues to be a contentious arena. A right to health is one of a range of socio-economic rights for which many states have accepted an obligation under international law. However, in practice socio-economic rights are rarely given the same status as civil and political right. Access to health means that all people, regardless of differences in race, sex, language, religion or social origin should have

physical access to health facilities goods and services. However, in practice access to health is not universally applied: all of the above are frequent barriers to securing adequate redress of health problems.

**Definition:**

The preamble of the 1946 World Health Organization Constitution defines health broadly as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." The Constitution defines the right to health as "the enjoyment of the highest attainable standard of health," and enumerates some principles of this right as healthy child development; equitable dissemination of medical knowledge and its benefits; and government-provided social measures to ensure adequate health.

The WHO definition also highlights the importance of health promotion, defined as the process of enabling people to increase control over, and to improve, their health. To do so, an individual or group must be able to identify and realize aspirations, to satisfy needs, and to change or cope with the environment.

The positive and negative effects on health of promotion, neglect, or violation of human rights; the effect of health on the delivery of human rights; and the effects of public health policies and programmes on human rights.<sup>19</sup> Despite the advances in the study and advocacy of health and human rights we still do not fully understand the nature of these relationships, how they interact, or their value to medicine and public health practice. In this chapter we address the public health aspects of these relations, and highlight where further research and action are needed.

**Universal Declaration of Human Rights:**

The modern idea of human rights is similarly vibrant, hopeful, ambitious and complex. While there is a long history to human rights thinking, agreement was reached that all people are "born free and equal in dignity and rights" when the promotion of human rights was identified as a principal purpose of the United Nations in 1945. Then, in 1948, the Universal Declaration of Human Rights was adopted as a universal or common standard of achievement for all peoples and all nations.

**Human Rights and Health:**

The links between human rights and health are best understood by referring to the preface to the WHO constitution, which states that health is the "state of complete physical, mental, and social wellbeing and not merely the absence of disease or infirmity" and "the highest attainable level of health is the fundamental right of every human being." Governments are therefore responsible for enabling their populations to achieve better health through respecting, protecting, and fulfilling rights This responsibility extends beyond the provision of essential health services to tackling the determinants of health such as, provision of adequate education, housing, food, and favorable working conditions.

Health care is a critical sector that increasingly intersects with health laws aimed at ensuring patient safety, equitable access, and quality services. As the demand for innovative health solutions grows, sustainable business models are emerging, focusing on efficiency and long-term viability while prioritizing community well-being and environmental stewardship. By integrating stringent health regulations with sustainable practices, the industry can not only enhance patient outcomes but also foster resilience and adaptability in a rapidly changing landscape (Rathod et al., 2024).

Health care is a fundamental aspect of public welfare, ensuring that citizens have access to essential services that promote physical and mental well-being. The implementation of robust health laws is crucial in regulating these services, safeguarding patient rights, and ensuring equitable access to medical resources. As part of the vision for a "Viksit Bharat," or developed India, innovative strategies and policies are being pursued to enhance the health care system, aiming to create a healthier, more prosperous society for all citizens (Harale & Pawar, 2024).

Economic, social, and cultural rights, such as education and food, are relevant to health, as are such civil and political rights as those relating to life, autonomy, information, free movement, association, equality, and participation. Recognition of the legal and political obligations that connect economic, social, and cultural rights, as well as civil and political rights, continues to grow. The right to the highest attainable standard of health therefore builds on, but is by no means limited to, Article 12 of the UN International Covenant on Economic, Social, and Cultural Rights. It transcends almost every other right. The legal obligation of states to respect health-related rights is only one part of the picture, because rights are also used to guide policies and programmes for health and wellbeing. They enable a broad response to health and development by national and international stakeholders with responsibilities that reach beyond the health sector.

### **Women and Health laws:**

Women have always obtained an inferior status in our society. They are often ignored and are considered to be as child producing machines. In such situation there is no one to take care of women who besides homely duties do a much more to help the economic condition of the family. The legislators have done a great task by enforcing laws protecting health of women.

#### **1. Pre-conception and Pre-natal diagnostic techniques (Regulation and Prevention of misuse act, 1994):**

The act permits pre-natal diagnostic techniques to be used only for the purposes mentioned below:

1. Chromosomal abnormalities
2. Genetic metabolic diseases
3. Homo-Globinopathies
4. Sex-Linked genetic diseases
5. Congenital anomalies
6. Any other abnormalities or diseases as may be specified by the Central Supervisory Board

#### **2. The Medical Termination of Pregnancy Act, 1971:**

Previously abortions were governed exclusively by the Indian Penal Code and the Code of Criminal Procedure. Abortions were not allowed except to save the life of a pregnant woman. By the passing of the Act of 1971 it has made abortions to be legal under certain circumstances. It is a health care measure which helps to reduce maternal morbidity and mortality resulting from illegal abortions.

It permits Medical termination of pregnancy (MTP) only under certain conditions which are as follows:

- i. MTP can be carried out in case of contraceptive failure, rape, threat to mother's life, and grave injury to her physical and mental health, risk of the child being born with congenital abnormalities.
- ii. MTP can only be conducted at approved hospitals i.e. Government hospitals and other hospitals and centers specifically approved by the authorities after ensuring availability of essential surgical facilities.

- iii. MTP can only be performed by doctors trained for the purpose and by post-graduates in Gynecology and Obstetrics.
- iv. Certification approval is needed by one doctor when pregnancy is below 12 weeks and by two doctors when it is between 12 to 20 weeks. Beyond 20 weeks, no termination is permissible.
- v. Written approval of the lady or the guardian in case of a minor is to be obtained before carrying out the MTP.

### **Children and Health Laws:**

Today's children are tomorrow's asset. The future of our country is dependant on our today's children. But we find majority of children are not able to develop themselves due to economic constraints. And because of which their health is not taken care of. The researcher has discussed the following laws relating to children. We also find that the children are not properly taken care of just because of lack of knowledge of their parents. The laws have done much in this field too.

### **The Child Labour (Prohibition and Regulation) Act, 1986:**

The Act has been enacted to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments. The Act has the following objects:

1. To ban the employment of children.
2. To lay down a procedure to decide modifications to the Schedule of banned occupations or processes.
3. To regulate the conditions of work of children in employments where they are not prohibit from working.
4. To lay down enhanced penalties for employment of children in violation of provisions of this Act, and other Acts which forbid the employment of children.
5. To obtain uniformity in the definition of "child" in the related laws.

### **The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992:**

In fact breastfeeding has been our culture since ancient time. But in modern times our babies were deprived this gift of God due aggressive promotion of infant formulae and packaged cereal foods, which resulted in increased infant morbidity, malnutrition and mortality. Recognizing this as a major public health problem, the Government of India had enacted the above legislation to prevent such improper practices. India became one of the few countries in Asia to fully implement the International Code of Marketing of Breast milk Substitutes with the enactment of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.

### **The Juvenile Justice (Care and Protection) Act, 2000:**

The object of the Act is to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering their developmental needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under the act.

**Conclusions:**

The challenges posed in linking health with human rights are immense. There is, however, increasing evidence that public health efforts that respect, protect and fulfill human rights are more likely to succeed in public health terms than those that neglect or violate rights. National and international policy and decision makers, health professionals and the public at large all, to varying degrees, understand the fundamental linkages between health and human rights, and the way in which those linkages can provide new ways to analyze and conceive responses to health issues. To move the work of health and human rights forward will require building and strengthening the information and education available about human rights concepts and procedures. It will also require information exchange and stronger cooperation between those working on health and those working on human rights. When people are sufficiently knowledgeable about human rights, they will be able to identify the issues for which the synergy of human rights and health is critical, and to act accordingly. Human rights and health are progressing, in parallel, towards a common goal that will never be fully realized. Yet, together, they project a vision and an approach that may fundamentally and positively improve the lives of people everywhere in the world.

Health has to be promoted from the human rights perspective and the same has to be borne in the minds of each and every individual involved in the health care sector. This is only possible when the legislations are made with a view to promote and protect health from a human right perspective. We find that the legislations in India fail to focus and promote health from human rights approach.

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