

Right to Health

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Abstract

Background:

Right to health is the economic, social and cultural right to a universal minimum standard of health to which all individuals are entitled. The concept of a right to health has been enumerated in international agreements which include the Universal Declaration of Human Rights International Covenant on Economic Social and Cultural Rights and the Convention.

Objective:

To examine the importance of Right to health.

To understand the different forms of Right to health.

To know the Indian penal and special local laws of Right to health.

To provide some suggestion to overcome of these issues.

Methodology *Primary data, Observation method, Secondary data, Library, news paper, Research Publication. Data analysis and interpretation.*

Finding / Results:

The maintenance and development of the quality of goods to be exported out of India or transported from one state to another even within India are mentioned as the concern of the Union Government. This also is legitimate in view of the fact that only the Union Government can oversee such issues.

Key Words*Health, Laws and Article.*

Introduction

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. Health as a fundamental inalienable human right that governments cannot abridge and are rather obligated to protect and uphold. The WHO Constitution notably marks the first formal demarcation of a right to health in international law. However there remains

some international variation in the interpretation and application of the right to health due to considerations such as how health is defined, what minimum entitlements are encompassed in a right to health, and which institutions are responsible for ensuring a right to health. Broadly as a state of complete physical mental and social well-being and not merely the absence of disease or infirmity.

Article 25 of the United Nations' Universal Declaration of Human Rights 1948 states that Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family including food clothing, housing and medical care and necessary social services. The Universal Declaration makes additional accommodations for security in case of physical debilitation or disability and makes special mention of care given to those in motherhood or childhood. n that requires taking all human rights civil political economic social or cultural—as an indivisible and organic whole inseparable and interdependent contend that the interrelated nature of the rights expressed in the Universal Declaration establishes a responsibility that extends beyond the provision of essential health services to tackling the determinants of health such as provision of adequate education housing food and favourable working conditions further stating that these provisions are human rights themselves and are necessary for health. The Convention calls upon States to Prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone without distinction as to race colour or national or ethnic origin to equality before the law and references under this provision The right to public health medical care social security and social services. Just as there is a requirement that the state shall have to provide certain facilities and services to the citizens there is mention in the Constitution, of reciprocal requirement in the form of the fundamental duties of the citizens towards the country. Clause No.51A of the section on Fundamental Duties states that every citizen of India has the duty to protect and improve the natural environment including forests Lakes Rivers and wildlife and to have compassion for living creatures. In this sense there is a joint responsibility from the state as well as the citizens towards the maintenance of human and animal health and also the long term issues relating to the improvement in the health conditions of the human beings and the animals.

THE UNION LIST:

Court quarantines including hospitals connected therewith, seaman sand marine hospitals are legitimately put under the Union List implying the responsibilities of the Union Government towards this function. Also the maintenance and development of the quality of goods to be exported out of India or transported from one state to another even within India are mentioned as the concern of the Union Government. This also is legitimate in view of the fact that only the Union Government can oversee such issues. The following items related to the health services and health status of the people is also put under the Union List. These items are considered under Clause:

HEALTH AND STATE LIST:

Under the State List, there are direct references to the provisions of healthcare facilities. For example Clause No.6 under the State List refers to public health and sanitation hospitals and dispensaries. Clause No.7 refers to the pilgrimages within India in which case, the provision of health care facilities comes under the state responsibilities. Clause No.8 refers to the intoxicating liquors, the production manufacture Possession transport purchase and salutes of which will have to be overseen by the State Government in the federal framework. Clause No. 10 refers to the burials and burial grounds, cremation and cremation grounds, proper maintenance.

CONCURRENT LIST:

The following items are included under a Concurrent List – List III of the Indian Constitution. These items refer to the various aspects of physical mental and social health care policy the policy with regard to drugs and medicines .These clauses are reproduced preventing detention for reasons connected with the security of the State the maintenance of public order or the maintenance of supplies and services essential to the community persons subjected to such detention.5. Marriage and divorce infants and minors adoption wills intestacy and succession joint family and partition all matters in respect of which parties in judicial proceedings were immediately .The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular the State to bring about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health. The Constitution of India also has provisions regarding the right to health. They are outlined the Directive Principles of State Policy- Articles 42 and 47, outlined in Chapter IV and are therefore non-justifiable. The right to public health medical care social security and social services. Just as there is a requirement that the state shall have to provide certain facilities and services to the citizens there is mention in the Constitution, of reciprocal requirement in the form of the fundamental duties of the citizens towards the country. Clause No.51A of the section on Fundamental Duties states that every citizen of India has the duty to protect and improve the natural environment including forests Lakes Rivers and wildlife and to have compassion for living creatures.

Article 42

“Provision for just and humane conditions of work and maternity relief- The State shall make provision for securing just and humane conditions of work and for maternity relief”

Article 47

“Duty of the State to raise the level of nutrition and the standard of living and to improve public health- The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular the State shall endeavour to bring

about prohibition of the consumption, except for medicinal purposes, of intoxicating drinks and of drugs which are injurious to health. The above articles act as guidelines that the State must pursue towards achieving certain standards of living for its citizens. It also shows clearly the understanding of the State that nutrition, conditions of work and maternity benefit as being integral to health. Although the DPSP quoted above is a compelling argument for the right to health this alone is not a guarantee. There must be a clearly defined right to health so that individuals can have this right enforced and violations can be redressed. The Indian judiciary has interpreted the right to health in many ways. Through public interest litigation as well as litigation arising out of claims that individuals have made on the State with respect to health services etc. As a result there is substantial case law in India, which shows the gamut of issues that are related to health. The Fundamental Right to Life as stated in Article 21 of the Indian Constitution guarantees to the individual her/his life which or personal liberty except by a procedure established by law. The Supreme Court has widely interpreted this fundamental right and has included in Article 21 the right to live with dignity and all the necessities of life such as adequate nutrition clothing The recognition that the right to health is essential for human existence and is therefore an integral part of the Right to Life is laid out clearly in Consumer Education and Resource Centre Vs Union of India It also held in the same judgment that humane working conditions and health services and medical care are an essential part of Article 21.

Article 16. Right regarding Environment and Health:

- (1) Every person has the right to live in a clean environment.
- (2) Every citizen shall have the right to basic health services free of cost from the State as provided for in the law.

Article 33. Responsibilities of the State:

The State shall have the following responsibilities:

- (h) To pursue a policy of establishing the rights of all citizens to education, health, housing, employment and food sovereignty

Article 35. State Policies:

- (1) The State shall pursue a policy of raising the standard of living of the general public by fulfilling basic needs such as education health transportation, housing and employment of the people of all regions by equitably distributing investment of economic resources for balanced development of the country.
- (8) The State shall pursue a policy of encouraging maximum participation of women in national development by making special provision for their education, health and employment.
- (10) The State shall pursue a policy which will help to uplift the economically and socially backward indigenous ethnic group's communities and workers and farmers living below the poverty line by making provisions for reservations in education, health, housing, food security and employment for a certain period.

Conclusion

United Nations' Universal Declaration of Human Rights 1948 states that Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family including food clothing, housing and medical care and necessary social services. The Universal Declaration makes additional accommodations for security in case of physical debilitation or disability and makes special mention of care given to those in motherhood or childhood. n that requires taking all human rights civil political economic social or cultural—as an indivisible and organic whole inseparable and interdependent contend that the interrelated nature of the rights expressed .

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