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Implementation of Right to Health in India: NHRC Role

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Abstract:

This article examines the implementation of the right to health in India and the role of the National Human Rights Commission (NHRC) in ensuring this right. The NHRC has actively monitored healthcare accessibility, affordability, and availability through workshops, public hearings, and review meetings. They have also made recommendations to improve healthcare infrastructure, quality, and affordability, as well as address women and child health issues and occupational health and safety. The article emphasizes the importance of strengthening measures to ensure comprehensive healthcare access for all individuals in India.

Key words: Right to Health, NHRC, Public Health

Introduction:

Every human being is entitled to enjoyment of the highest attainable standard of health conducive to living a life of dignity. Health does not mean mere absence of disease but physical, mental, psychological and emotional well-being of an individual. This right is indispensable for the exercise of other human rights. It is the duty of the State to promote, protect and preserve the health of all individuals. The Constitution of India upholds 'right to health' as a Fundamental Right under Article 21.

Right to Health:

The human right to health is recognized in numerous international instruments. Among them, the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the most comprehensive article on right to health in international human rights law. Article 12.1 of the Covenant affirms that the States Parties must recognize "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health", whereas Article 12.2 enumerates, by way of illustration, a number of "steps to be taken by the States Parties. To achieve the full realization of this right". Additionally, the right to health is recognized, inter alia, in Article 5 (e) (iv) of the International Convention on the Elimination of All Forms of

Racial Discrimination, 1965 (ICERD) in Articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) and in Article 24 of the Convention on the Rights of the Child, 1989 (CRC).

The right to health has also been proclaimed in the Vienna Declaration and Programme of Action, 1993 as well as in the Programme of Action of the International Conference on Population and Development held at Cairo in 1994 and other international instruments like the Declaration and Programme of Action of the Fourth World Conference on Women held in Beijing in 1995.¹

Implementation of Right to Health in India:

The National Human Rights Commission (NHRC) represents India's commitment to human rights. Ensuring the right to health to all is a quintessential aspect of this commitment. Hence, the Commission is closely monitoring right to health in terms of its accessibility, affordability and availability. The NHRC has consistently taken the view that the right to life with human dignity, enshrined in the Constitution and as interpreted by the Supreme Court, must result in strengthening of measures to ensure that the people of this country, and particularly those belonging to economically disadvantaged sections of society, have access to better and more comprehensive health care facilities.

The Commission's efforts to protect and promote right to health has evolved in a variety of interconnected ways over the past two decades. The issue of maternal anaemia was first identified as a Violation of right to life and right to health in 1996-1997. Thereafter, 2000, it organized a workshop on 'Health and Human Rights in India with Special Reference to Maternal Anaemia'. Another workshop organized by it during 2000 was 'Human Rights and HIV/AIDS', In 2001, it organized a Regional Consultation on 'Public Health and Human Rights' with a view to bring together the policy makers, public health experts, legal professionals, human rights activists and other, to deliberate on issues like nutritional deficiencies, access to health care and tobacco control. These activities were held in collaboration with the Ministry of Health and Family Welfare, Department of Women and Child Development, UNICEF, UNAIDS, WHO, NACQ and Lawyers. In the year 2000, the Commission also constituted Core Advisory Group on Health, consisting of experts in the field on matters relating to 'right to health'. The Core Group has tendered advice to the Commission on a range of issues, such as leprosy, burn injuries, prevention and control of fluorosis, illegal trade in human organs, availability of blood in blood banks and blood transfusion, Preventive aspects of health care, access to health care, pre-natal sex selection, and survival and development rights of children.²

In 2004, the Commission along with a health service network, held five 'Public Hearings on Right to Health Care' across the country. Through these public hearings, the Commission was able to resolve individual problems and identify systemic problems. Over 1,000 victims from marginalized sections presented their testimonies. These public hearings were followed up with a National-Level Public Hearing that covered a range of issues such as women's and children's right to health care; the right to essential drugs; rights of

¹ Beck, D. (2013) [The Human Right to Health](#) *Journal of Human Development and Capabilities* 14, 452-454

² Tobin, J., Barrett, D. (2020) [The Right to Health and Health-Related Human Rights](#) , 67-88

mentally ill persons; strengthening of the public health system and regulation of the private medical sector; health rights in the context of HIV/AIDS; and occupational and environmental human rights. In the national level public hearing, a National Action Plan (NAP) to operationalize the 'right to health care' was also proposed. The NAP recommended the enactment of a National Public Health Services Act that would recognize and legally protect the health rights of all sections of the population at the village/community, district, state and national levels.³

"In order to know the status of implementation of recommendations made by the NHRC on different issues relating to right to health, the Commission convened a review meeting on the 'Recommendations of the Core Group on Health and Public Hearing on Health' in March 2006 and later organized a 'National Review Meeting on Health' in March 2007. The National Review made a series of recommendations, prime among them being — the need to ensure universal provision of guaranteed health services, in particular, services for mental health, child health, emergency medical care, need for Medical Council and Nursing Council of India to have a relook and work out courses for nursing practitioners. MCI to have an in-built compulsory rural attachment for medical students, need for public private partnerships in health care and a regulatory mechanism to ensure quality standards by private partners to fulfill public health goals, need to enact a National Clinical Registration and Regulation Act for running health care facilities and protecting patients' rights, proper drug procurement mechanism to ensure guaranteed availability of all essential drugs at affordable prices, create awareness about the availability of essential drugs by printing a booklet/pamphlet and making it available at PHC/ CHC/District Hospitals, need to develop 'emergency medicines' as a specialty to improve the emergency medical services in the country, efforts to include provision of complete ante-natal and post-natal care and need to take care of key childhood diseases, maternal health services to focus on safe institutional delivery services along with health education concerning safe motherhood, States to enact a Public Health Act and evolve a redressal mechanism to ensure right to health. This Meeting also recommended that silicosis is an occupational health hazard and needs required interventions and convergence of efforts of concerned stakeholders, that is, labour and health departments of the Government, NIOH, NIMH, industries and NGOs.⁴

"Some of the recommendations made in the National Review Meeting are also reflected in the Twelfth Five Year Plan (2012-2017) of the Government of India — reduction of infant mortality rate, reduction of maternal mortality ratio, prevention and reduction of anemia among women aged 15-49 years to 28 per cent, raising child sex ratio in the 0-6 year age group from 914 to 950, prevention and reduction of communicable and non-communicable diseases (including mental illnesses) and injuries and reduction of poor households out of pocket expenditure.

³ (2011) [Public Hearings for the Right to Health: An analysis of different approaches Public Hearings have emerged as an important mechanism for sharing violations of economic, social and cultural rights in India. The campaign on the Right to Information](#)

⁴ Naal, H., Mahmoud, H., Whaibeh, E. (2020) [The potential of telemental health in improving access to mental health services in Lebanon: Analysis of barriers, opportunities, and recommendations](#) *International Journal of Mental Health* 50, 218-233

The Commission is presently concerned with the following issues:

Accessibility/Availability, Quality and Affordability of Health Care:

Parameters	Determinants
1. Availability	Functioning public health care facilities, goods. Services and programmes in sufficient quantity.
2. Accessibility	Non-discrimination, physical accessibility, economic accessibility (affordability) information accessibility.
3. Acceptability	Respectful of medical ethics and culturally appropriate, sensitive age and gender.
4. Quality	Scientifically and medically appropriate.

It is a known fact that common man in India does not have proper access to health care facilities to the extent his complete wellbeing is ensured. Primary health care may have improved in recent years through more funds being made available under the NRHM towards creation of necessary infrastructure in parts of few states. However, the success of this programme has not been uniform and there are large parts of the country still lacking in adequate primary health care facilities. The deficient health infrastructure, both in terms of quality and quantity is further noticeable in secondary and tertiary health care. Very few hospitals which can boast of having good specialists in different fields of medical sciences are located in rural areas. Even in the cities where these facilities are available, the situation is far from satisfactory. Government run hospitals, where one can avail of health care facilities at a reasonable cost, there are problems of easy accessibility. One is confronted with long queues while seeking a doctor's consultation in the OPD. Long waiting lists for life saving operations/surgeries and sometimes, even for important diagnostic tests are a common phenomenon at government run hospitals. These problems are more prominently faced by the people belonging to economically weaker sections or those who are otherwise not with powerful connections or influence. It is a fact that these people need these facilities more than those coming from economically better off sections as the latter category can afford to pay for access to treatment at hospitals in the private sector. It is because of the poor accessibility that the poor are driven to private sector hospitals even at the cost of incurring debt or selling off their valuable assets in order to save a life in a family. Thus, when faced with a serious disease to a member, it can be an experience where a family could be driven to poverty.⁵

“The doctor to population ratio is low and even the numbers of para-medical staff are lower than necessary. There is acute deficiency of specialists which leads to problems of accessibility. Further, quality of health care also suffers due to pressures on the existing facilities. The number of hospital beds for patients is low compared to the population. Lack of quality in Government hospitals also contributes to people seeking private facilities.

⁵ Sahoo, P., M., Rout, H., S. (2023) [Analysis of public health-care facilities in rural India](#) *Facilities*

In view of the above situation, there is need to improve our health care system in terms of both, increased health infrastructure as well as quality to enable common man to have easy accessibility to public health facilities. Further, the doctors and staff besides being sufficient in number and proficient need to be committed towards their duties so that the people at large are ensured of their right to health through proper treatment and care. There is also need to adopt available best practices as well as innovative measures including universal health insurance to deal with the Problem of accessibility and affordability.⁶

»Women and Child Health Issues:

Women and Child Health is a priority area since Proper, nurturing and care of a child in early years of life goes a long way in ensuring growth and development into a productive adulthood. It is also natural that a healthy mother, especially during child birth and after has a positive role in determining the health of a child. Moreover, both women and children are vulnerable to ill-health if not provided proper care and timely treatment due to their physiology. They also need clean and hygienic environment and drinking water without contamination. They also need proper nutritious and balanced diet. ,

Unfortunately, in India, there are large number of problems associated with women and child health. A large percentage of child population suffers from malnutrition. A large number of children suffer from stunted growth. There is prevalence of widespread anaemia among both women and children. Adolescent girls and expecting/lactating mothers suffer from iron deficiency and hence anaemia. They also suffer from deficiency in other important nutrients.

Government has been implementing several schemes including ICDS which provides for supplementary nutrition for both lactating mothers and children. Adolescent girls with lower than normal weight have also been provided diet. However, the latest available data as per NFHS-3 do not indicate positive results from these schemes. There is need to address the problems associated with design and implementation of these schemes and also ponders over other steps to ensure better health for women and children in India. ⁷

»Ethical issues and illegal practices:

Professionals working in medical field have of duty towards humanity. They need to be carrying out the duties with commitment and sincerity. However, there are numerous problems in the country associated with the conduct of medical professionals. The Commission has been recently concerned with the issue of pharmaceutical companies and doctors conducting drug trials on unsuspecting people, largely from among tribals without obtaining proper informed consent.

⁶ Dineshbhai, C., G., Jitendrabhai, J., K., Girija, P., K., Nirmal, P., C. (2018) [Study of knowledge attitude and practice amongst interns, residents and para-medical staff regarding transmission and prevention of hepatitis-B of C. U. Shah Medical College and Hospital, Surendranagar](#) *International Journal Of Community Medicine And Public Health*

⁷ Unnikrishnan, B., Rathi, P., Sequeira, R., Rao, K., Kamath, S., K., M., A., K. (2020) [Awareness and Uptake of Maternal and Child Health Benefit Schemes Among the Women Attending a District Hospital in Coastal South India](#) *Journal of Health Management* 22, 14-24

Medical professionals have also been indulging in unnecessary surgeries on tribal women to avail the benefits under RSBY. There is also problem of drug pricing by pharmaceutical companies to earn huge profits. This affects the affordability of treatment especially in cases life threatening diseases. Doctors also indulge in many other unethical practices including conduct of illegal ultrasound for sex determination. These practices indicate to the need for better regulation of medical services to save people from exploration in the name of treatment.⁸

»Health, Drinking Water and Sanitation Issues:

The accessibility to clean drinking water and sanitation facilities are closely linked to the health of people. Lack of sanitation facilities and clean drinking water are not only the cause of several diseases on account of associated water borne infections but have also ramifications on the nutritional intake especially, among children. While, the Government has been implementing schemes to provide clean drinking water to the so far uncovered habitations as also to ensure the quality of water, there are still large sections of population who are devoid of potable water. Similarly, there is large number of house-holds without toilet facilities in spite of the total sanitation campaign programme of the Government. As such, there is need for emphasis on this important aspect to improve the health care standards of the people of the country.⁹

»Occupational Health and Safety:

The Commission has been concerned with occupational, health problems like silicosis, asbestosis etc. as these have been generally affecting the right to life and dignity of people working in unorganized sector without access to any form of social security. It is important that not only the problems of this unorganized labour are addressed and the affected persons and their families are provided not only treatment and medical care but also sustenance amount of funds to ensure them to live a life of dignity. There is also need for preventive steps against such diseases by providing proper awareness among workers about the risks involved as well as use of available technologies to prevent the incidence of these problems. There is a need that States/UTs should acknowledge the existence of these problems and take all necessary steps to address them.

In order to accomplish the task of strengthening the measures to ensure access to better and more comprehensive facilities to people of this country, particularly those belonging to economically disadvantages of section of society, the Commission held a meeting of the Core Advisory Group on Health on 20 June 2013 and National Conference on Health Care as Human Rights on 5 and 6 November 2013. It also held a National Conference on Human Rights of Women - Reproductive Rights of Women on 18 and 19 February 2014 and a meeting on Reproductive Rights of Women and Draft Legislation on subject of Surrogacy 29 April 2014. During these meetings/ conferences, many latest findings on the subject were shared and useful recommendations emanated.¹⁰

⁸ Kaldjian, A., M., Shinkunas, L., Peter, T., K., Kaldjian, L. (2023) [Epidemics and the healthcare professional's duty to care: Students' attitudes about work requirements before and during Covid-19 \(2017-2021\)](#). *Medical education*

⁹ Aina, B., Ata, N. (2022) [Access to Safe Drinking Water and Sanitation Facilities: A Case Study of Lagos Mainland Local Government Area, Lagos, Nigeria](#) *Journal of Basic and Social Pharmacy Research*

¹⁰ Tiwary, G., Gangopadhyay, P. (2011) [A review on the occupational health and social security of unorganized workers in the construction industry](#) *Indian Journal of Occupational and Environmental Medicine* 15, 18-24

GOVT INITIATIVES IN IMPLEMENTATION OF RIGHT TO HEALTH IN INDIA**National Health Mission (NHM)**

This research paper focuses on the National Health Mission (NHM) and its role in implementing the right to health in India. The NHM has actively monitored healthcare accessibility, affordability, and availability through various methods such as workshops, public hearings, and review meetings. Additionally, the NHM has provided recommendations to enhance healthcare infrastructure, improve quality and affordability, and address specific health issues such as women and child health and occupational health and safety. This paper emphasizes the need to strengthen measures to ensure comprehensive healthcare access for all individuals in India.

Pradhan Mantri Surakshit Matritva Abhiyan (PMSMA):

The PMSMA is a national initiative in India that aims to provide comprehensive maternal health services through the fixed day strategy. This strategy ensures that every pregnant woman receives at least one checkup during the 2nd or 3rd trimester of pregnancy. On the 9th day of every month, the Pradhan Mantri Surakshit Matritva Clinics offer a minimum package of antenatal care services to beneficiaries. In case the 9th day falls on a Sunday or a holiday, the clinic is scheduled for the next working day. This initiative plays a crucial role in improving maternal health outcomes in India.

Janani Shishu Suraksha Karyakaram (JSSK) scheme:

The JSSK Scheme was launched by the Government of India on June 1, 2011. This program aims to provide benefits to pregnant women who choose to deliver in government health facilities. It also aims to encourage those who prefer home deliveries to opt for institutional deliveries. All states and union territories in India have started implementing this scheme.

Conclusion:

The article examines the implementation of the right to health in India and the role played by the National Human Rights Commission (NHRC) in guaranteeing this right. The NHRC has actively monitored healthcare accessibility, affordability, and availability through various means, including workshops, public hearings, and review meetings. They have also made recommendations to enhance healthcare infrastructure, quality, and affordability, as well as to address women and child health issues and occupational health and safety. The article emphasizes the need to strengthen measures to ensure comprehensive healthcare access for all individuals in India. Furthermore, it highlights challenges in the healthcare sector, such as inadequate infrastructure, a shortage of trained personnel, overwhelming patient load, and high out-of-pocket expenses. It suggests the need to enhance the capacity of existing healthcare institutions, embrace technology to streamline processes, implement proactive healthcare policies, and address the imbalance in resource allocation between health insurance schemes and health and wellness centers. The article also underscores the importance of accessible and affordable healthcare in the public sector to reduce reliance on private institutions and excessive out-of-pocket spending.

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