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RIGHT TO HEALTH, SHELTER, WELFARE AND ROLE OF WHO

**INDIRA RAVEENDRAN
Advocate & Notary**

INTRODUCTION

Every man, woman and child has the right to highest attainable standard of health and also has the right to access to shelter. State shall adopt necessary measures for the protection of health of the people and also by providing adequate shelter to them.

I. RIGHT TO HEALTH

Health is defined as the general conditions of the body or mind with reference to soundness and vigour. All activities of life viz, Physical, Social, Spiritual or any conceivable human activities depends on health. Traditional definitions of health were concerned with an individual body's mechanical ability, but with the advent of rapid scientific advances made in 1950's and 1960's, countries began to follow what is commonly known as Medical Model of Health. Under such an approach an individual is regarded as being healthy when not suffering from a particular illness or disease.

But gradually with the Internationalisation of Health and health policy, a shift in the perceptions of health occurred. This positive concept of health is reflected in the Constitution of World Health Organisation wherein 'Health' is defined as a state of complete physical, mental, social well being and not merely the absence of disease or infirmity. Every one has the right to the

enjoyment of the highest attainable standard of Physical and Mental health. So States should take all appropriate measures to ensure on the basis of equality of men and women, universal access to health care services.

More importance was given to the policy of "Health by People" thereby reflecting the principle that improvements in health required the involvement of communities as active partners rather than passive recipients. These themes formed the backdrop to the 1978 Alma Ata Conference. This declaration throws light on two levels, firstly it expresses a philosophy of thinking about health and health care covered by this five themes. These are :-

- (i) the importance of equity as a component of health
- (ii) the need for community participation in decision making
- (iii) the need for a multisectoral approach to health problems.
- (iv) the need to ensure the adoption and use of appropriate technology, and
- (v) the emphasis on health-promotional activities.

The Declaration also listed particular essential service interventions
These are :

- (i) education concerning prevailing health problems and the methods of prevention and control.
- (ii) promotion of food supply and proper nutrition.
- (iii) adequate supply of safe water and basic sanitation.
- (iv) material and child health care, including family planning,
- (v) immunization against the major infectious diseases
- (vi) prevention and control of locally epidemic diseases.
- (vii) appropriate treatment of common-diseases and injuries and
- (viii) provision of essential drugs

All these elements are essential basic requirements. Many developed countries have attained basic levels in these whereas the undeveloped countries are yet to travel long distances to achieve this goal. Nevertheless the solemnity of affirmation of right to health is an undeniable attainment. The mental, ethical, philosophical and legal challenges imposed by the application of

the right to health are considerable. Now health has become an object of legal concern for the last fifty years in the light of the various international legal texts.

Essential Characteristics of Right to Health

The concrete requirements and implications of affirming a right of health are as follows :-

1. The use of rights language vis-à-vis social goals confer a special status on those goals

When society assigns priority to health it also accepts responsibility for its promotion and protection. Such a designation implies a rejection of a solely market based approach to the social good to be distributed according to principles of justice.

2. Use of rights language mandates that a basic and adequate health care services entitlement be guaranteed to all citizens and residents.

This means a standard package of health care services must be made available to all citizens at a generous and comprehensive level. This implies a right to preventive, reproductive, long term and mental health care services.

3. Use of rights language in connection with health emphasizes that the dignity of each person must be central in all aspects of health including health care, medical experimentation and limitations on freedom in the name of health.

4. Incorporation of Equality

Equality is a fundamental principle of any right. The definition requires that a specific entitlement be guaranteed to all members of society without discrimination on the basis of financial means, employment status, gender or disabilities.

5. Rights approach focuses on the need of the most disadvantaged and vulnerable communities

A right approach implies both non discriminate and affirmative action to rectify historical inequities in access to health care services. For

example the particular system in which we are living is systematically disadvantages to the poor.

6. A meaningful and secure right should be affordable

Recognition of a right to health right to health mandates that society remove financial barriers to a basic and adequate standard of health care. Access to health services cannot vary depending on financial status. A right approach also assumes a social or public responsibility for financing basic health care services. Its basic tenant is 'healthy subsidize the sick'. It also implies a focus on preventive and primary health care services. It also envisages regulation of price structure.

7. Rights language underlines the provision of quality care.

Viewed in the context of the allocation of scarce resources, right to health becomes associated with the idea of the provision of quality care. The definition implies that right to appropriate health care services increases in proportion to the degree to which illness threatens the persons potential to flourish, through successful social interaction and reduces their capacity for good citizenship.

8. Rights language underscores the importance of meaningful public participation in setting priorities and shaping healthcare reform.

Right to health incorporates with it the provision of information and informed participation- Meaningful participation entails the careful design of a process through which issues are identified and forums are provided that encourage citizen input into debate. This also gives an opportunity to those who have been voiceless all these years, for instance, refugees, poor urban and rural residents, homeless persons and persons with disabilities.

9. By establishing clear individual entitlements to basic health care services a rights approach would empower individuals and groups to assert their claims.

Claims to access and utilization of adequate health care services would be a matter of right and not regarded as a privilege, a matter of charity or an optional service.

Empowerment also implies the right of the citizens to claim ongoing information and education about the nature of their rights and the establishment of institutions and procedures that facilitate claiming those entitlements.

10. Redress in case of violation

An individual surely needs to have the possibility of recourse to an independent third party to ensure that his right to health is not violated.

11. Rights may depend on other rights for their fulfillment. The right of freedom of association, for example is closely associated with freedom of expression, right to privacy etc. Therefore the right to health cannot be effectively protected without respect for right to life, right to privacy and right to information.

12. Rights are generally not absolute. It may be subject to limitations on certain ground. Limitations can be imposed on right to health. But the said limitation must be scrutinized to determine whether they are truly necessary.

So most modern countries considers the advancement of public health as the main purpose of the Govt. The duty of legal systems is to ensure that rights are fully justifiably administered. The alarming frequency of epidemics of decease and the lock of proper institutional Mechanism to tackle the same is also causing great concern. The aftermaths of globalization, liberalization and commercialization in health care services is further curtailing the coveted right.

Hence in order to achieve, ensure Health for all people the following measures are suggested.

(1) Creation of national health Scout movement to abridge the interface between provider and consumer. Here voluntary agencies can play their part. They can mobilize the youth of the country, boys and girls, young man and

women both on villages and urban areas in to a massive national health scout movement (community health volunteer movement).

(2) Better management of material and manpower resources:-

Even with the existing material and manpower resources poor countries can achieve far better results than what they are now getting, through more efficient management.

(3) The development and establishment of a modern information system at the health centres: This will help the health administrations to identify the "households at risk" in each village. This will facilitate a purposeful program of periodic domiciliary visits by the health worker.

(4) Easy mobility of professional staff from PHCs and sub centres to villages must be ensured. This will overcome current reluctance of PHC and sub centre staff to move out to villages when necessary and will contribute to better outreach of health care.

(5) Arrangements for prompt supply of drugs and other life saving equipments. The work of village level health workers will greatly improve if this is ensured.

(6) Referral facilities within the health system-from the village centers and from rural schools to the PHCs, community health center and district hospitals must be considerably strengthened.

(7) The performance of private hospitals and paramedical hospital have projected their need for a comprehensive legislation. It is because the Private Medical institutions in the state registered as charitable ones ultimately work for profit although they enjoy certain privileges from the state in the name of charity. In such circumstances it becomes the duty of the state to allow such institution to function subject to reasonable restriction which can be made in the interest of the general public.

II RIGHT TO SHELTER

Every woman, man, youth and child has the human right to a secure place to live, which is fundamental to living in dignity to physical and mental health and to overall quality of life. The Right to shelter is explicitly set out in the Universal Declaration of Human Right, The International Covenant on Economic social and cultural Right and other widely adhered to international human rights, treatise and Declarations. Despite widespread recognition of the human right to adequate housing, the UN center for Human Settlements estimates that over 1 billion people worldwide live in inadequate housing and 100 million are homeless.

The Human Right to adequate Housing guarantees all people the right to live in security, peace and dignity. It involves the right to access to shelter and also the right to adequate standard of living.

The right to adequate housing is of high importance for the enjoyment of all economic, social and cultural rights. The right to adequate housing is applicable to individuals and to families irrespective of their age, economic status, group or other status. There should not be any form of discrimination. It should be seen in a broader perspective. State has much obligation to enable people to obtain shelter and to protect and improve dwellings and neighbourhoods. State shall implement and promote this objective in a manner fully consistent with human rights standards. There should be given legal protection in ensuring access to shelter and basic services, without distinction of any kind such as race, colour, sex, language, religion political or other opinions, national or social origin, property birth or other status. Human rights are Universal. It belongs to all human beings.

So State shall adopt the necessary measures for protection of health of the people and for providing a secure place for them to live. Then only the concept of building a welfare state can materialise. State parties shall pursue full

implementation of man's right to the highest attainable Standard of health and also provide material assistance and support particularly with regard to Housing.

III ROLE OF WHO

The first indications of the emerging Right to Health is found in the Universal Declarations of Human Rights in 1948. The Declaration does not make the holder of rights alone responsible for the quality of his life. In Article 22 it recognizes the right to social security. The preamble to Constitution of World Health Organisation declared health as a fundamental right. Art 12 (1) declared "The State parties to the present covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".

A WHO publication defined Right to health as a right to every human being to live in an environment with minimum health risks and to have access to health services than can event or alleviate their suffering, treat diseases, help, maintain and promote health throughout individual life.

The success of World Health Organization smallpox campaign in 1970's provided an impetus for more emphasis on preventive programmes aimed at individuals through immunization . The state also concentrated on the wider causes of ill health such as poor water and sanitation, malnutrition, inadequate housing and poverty. Parallel to this there was also a growing recognition in developing communities over matters affecting health care. This resulted in the philosophy of Primary Health Care.

The State must respect human rights limitations and constraints on its scope of action it is also obliged to be active in its role as protector and provider. Improved health contributes to economic growth in four ways.- it reduces production losses caused by worker illness- it permits the use of natural resources that had been totally or nearly inaccessible because of disease; it increases the enrolment of children in school and makes them better able to learn: and it frees

for alternative uses resources that would otherwise have to be spent on treating illness. Recognizes the right to social security. The preamble to constitution of World Health Organization declared health as a fundamental right. Art,12 (1) declared "The States Parties to the present covenant recognize the right of everyone to the enjoyment of the highest attainable standard of Physical and mental health.

So Right to health community the state to adopt the necessary measures for the prevention and treatment of disease as community then to sell up the appropriate structures and services for the protection or rehabilitation of health of the person entitled to the right. So this obligation has to be discharged by running hospitals and health center which provide medical care to the person seeking to avail those facilities. Thus the welfare of the people can be maintained by providing adequate food and shelter.