

HEALTH LAWS IN INDIA: A LEGAL & JUDICIAL ANALYSIS**Prof.(Dr.) S.P. Mishra¹, Dr. Anjali Dixit² and Prof (Dr) Mrityunjai Pandey³.**

Abstract: The Globalization has a lot of hurdles on the health prospects, with all this health sectors have various good opportunities with only few risks. Current hurdle in the health sector is work in a minimum benefits with maximum serve in this globalization. With the main object is to work for the benefits of the human being and protect their human rights, fundamental rights and all other rights.

All these are basically possible with the help of States organizations. With the positive cooperation of state, we can solve the hurdles. By enforcement of better health policies, effective legislations we can benefits societies. Health sector also deals with the proper protection of environment, by proper disposing of medical waste materials.

From Health education to Health services everything is under the control and supervision of Legislative frameworks in India. Positively, India becomes a rising health hub for the various countries due to its rich facilities and cheapest services.

Keywords: Health, Globalization, Hurdles, Supervision, Legislative frameworks

Introduction: India is a country of superrich health facilities. From Vedic era to modern era, Indian doctors are famous for their medical services. Homeopathy, Ayurveda, Yunani and Alopthy on every aspects Indian medical facilities are superb. There is no compare with other countries, regarding the health services. In the digital era, India again prove itself by using the high-tech medical facilities to cure all kinds of diseases with a minimum coast. Not only for medical facilities, India now become a great place for medical research.

‘Medi-tourism’ or ‘Medical tourism’ is a new profession trends arises in India within few two decades. In recent days India witnessed for the issuance of highest numbers of ‘Medical Visas’. Tele-medicine also a emerging sector

of healthcare in India.

Indian health care is now adopting ‘Artificial Intelligence’ to cure diseases. Tele health, Tele Medicines, Robotic-surgeries many more are the new dimensions in the Indian Health care systems generated in recent year.

Finance Minister also focuses health sector, and increases 20% more budget for health & medicines.

Healthcare Laws

Various laws have been made by Indian Government to protect the right to health of people. This right includes improvement of all aspect of environment; working conditions and industrial hygiene; prevention and control of occupational, epidemic and other diseases.

Every Law is framed with its unique objects some of them are as follows:-

1. MRTP Act¹ for the control abortion system in India;
2. Pharmacy Act² deals with the pharma Industries to pharma education & research
3. For welfare of mother and child there is maternity law³;

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¹ Medical Termination of Pregnancy Act, 1971

² The Pharmacy Act 1948

³ The Maternity Benefit Act, 1965

4. To avoid sex determination there is a law⁴
5. Adulterous food is also penalized by law⁵
6. Health services also comes under the ambit of Consumer laws⁶
7. Every organization and factories are strictly bound to provide medical facilities to their workers⁷
8. Environment also part of health care under the laws⁸
9. Human organs also protected by the laws⁹
10. Mental health care is protected by the laws¹⁰
11. Not only human being medicines are the part of health care system¹¹

Above are the only few, list is very big. Parliament to judiciary every institution in India is playing its role to protect Indian human being.

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Physical health to mental healthcare, all is the part of the Indian health care system. Every Institution of Indian Government is responsible to take care of the Humanity by performing their duties honestly.

Indian Constitution is the watchdog to protect the health rights of Indian citizens in India. Various precedents are sets that Indian Constitution 's 'Right to life' is includes the 'Right to health' .

Arts. 14, 15,16, 20,21, 23 and 24 are the fundamental rights are covered by the Constitution of India. Arts. 38,39, 40, 41,42, 47,48-A are the part of Directive Principles of State policies to impose duties on the state to prepare a strict framework for the every citizen of India.

We are duty bound under the Art. 51-A (g), 'to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures'.

Indian Judiciary also set various principles to protect the humanity by protecting the rights of the human being.

⁴ The Pre-natal Diagnostic Techniques Act, 1994

⁵ The Prevention of Food Adulteration Act, 1954

⁶ The Consumer Protection Act, 2019

⁷ The Factory Act 1948The

⁸ Environment Protection Act, 1986, The Water Pollution (Prevention and Control) Act, 1972, The Air Pollution (Prevention and Control) Act, 1974

⁹ The Transplantation of Human Organs Act, 1994

¹⁰ The Mental Health Act, 2017

¹¹ The Drug and Cosmetics Act, 1940, The Narcotic Drugs and Psychotropic Substances Act., The Insecticides Act.

There are certain rights are mention below, which are protected by the Indian Judiciary;-

Right to Life- Every human being have right to life. Not only life have right to live with human dignity¹².

Right to Medical Aid- It's the duty of state to provide medical aids to their citizen who are not capable to avail the medical facilities¹³.

Welfare of People- It's the duty of state to work for the welfare of peoples by providing them free of cost medical facilities¹⁴.

Maintenance & Improvement of Public Health- Indian Constitution is imposing duties to the state to improve the medical facilities to improve the health of public¹⁵.

Integral Factors of a Meaningful Right to Life- Under the consumer law medical facilities are also covered and its duty of all to protect other health too¹⁶.

Right to life includes Protection of life- Under the Constitution of India, right to life includes protection of human health¹⁷.

Environment also part of health- Constitution of India also ensure the right to environment with the health law¹⁸.

Healthy body & mind- All the human activities are the reasons of the good health & mental wellness¹⁹.

Accidental person also right to treatment- Supreme Court mention in the case of Parmanand that every person who get accident have also right of treatment without any delay²⁰.

¹² Francis Coralie Mullin vs. Union Territory of Delhi, 1981(1) SCC 608

¹³ Paschim Banga Khet Mazdoor Samity vs. State of West Bengal, (1996) 4 SCC 37

¹⁴ Ibid

¹⁵ Unnikrishnan, J.P. vs. State of Andhra Pradesh, AIR 1993 SC 2178 , (1993) 1 SCC 645

¹⁶ Consumer Education and Research Centre vs. Union of India, AIR 1995 SC 636: (1995) 3 SCC 42

¹⁷ Bandhua Mukti Morcha vs. Union of India, AIR 1984 SC 802

¹⁸ Virender Gaur vs. State of Haryana, 1995 (2) SCC 577

¹⁹ Vincent vs. Union of India, AIR 1987 SC 994.

Right to health a Fundamental Right- As relied on various International Instruments, right to health is a fundamental rights as well as a human right²¹.

Primary health care centers are the legal right of villagers just like multi facilities hospitals in the urban areas²². Not only the health of peoples are protected by the state, its duty of state also to protect the health of workers²³.

Conclusion & Suggestions

In India healthcare is the part of fundamental rights, its also protected and cured by the states and as a fundamental duties, it must be protected. But now a days, medical facilities become the part of corruption. Medical

hospitals converted into medical death chambers and doctors & medical facility providers known as medical terrorists.

Not only state is responsible for all these, we peoples also are the equally responsible for this.

References:

- 1 Medical Termination of Pregnancy Act, 1971
- 2The Pharmacy Act 1948
- 3The Maternity Benefit Act, 1965
- 4The Pre-natal Diagnostic Techniques Act, 1994
- 5The Prevention of Food Adulteration Act, 1954
- 6The Consumer Protection Act, 2019
- 7The Factory Act 1948
- 8Environment Protection Act, 1986, The Water Pollution (Prevention and Control) Act, 1972, The Air Pollution (Prevention and Control) Act, 1974
- 9The Transplantation of Human Organs Act, 1994
- 10The Mental Health Act, 2017
- 11The Drug and Cosmetics Act, 1940, The Narcotic Drugs and Psychotropic Substances Act., The Insecticides Act.
- 12Francis Coralie Mullin vs. Union Territory of Delhi, 1981(1) SCC 608
- 13Paschim Banga Khet Mazdoor Samity vs. State of West Bengal, (1996) 4 SCC 37
- 14Ibid
- 15Unnikrishnan, J.P. vs. State of Andhra Pradesh, AIR 1993 SC 2178 , (1993) 1 SCC 645
- 16Consumer Education and Research Centre vs. Union of India, AIR 1995 SC 636: (1995) 3 SCC 42
- 17Bandhua Mukti Morcha vs. Union of India, AIR 1984 SC 802
- 18Virender Gaur vs. State of Haryana, 1995 (2) SCC 577
- 19Vincent vs. Union of India, AIR 1987 SC 994.
- 20Pt.Parmanand Katara v. Union of India, AIR 1989 SC 2039
- 21CESC Ltd. vs. Subash Chandra Bose, AIR 1992 SC 573,585
- 22Mahendra Pratap Singh vs. State of Orissa, AIR 1997 Ori 37
- 23Occupational Health and Safety Association vs. Union of India and others, AIR 2014 SC 1469