

# IMPACT OF COVID-19 ON RIGHT TO HEALTH

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"Health is a human right, not a privilege to be purchased". - **Shirley Chisholm**

The word health means a state of complete physical, mental and social well-being and not merely the absence of infirmity according to World Health Organization (WHO). As the definition says it all health depends on your physical, mental and social fitness. Better health is central to human happiness and wellbeing. **Indian Constitution does not expressly recognize the fundamental right to health.** Everyone has its own right to life, liberty and security of person. Right to life is a fundamental right for all.

## Relation with other Articles of Indian Constitution

According to **Article 21** of Indian Constitution, life is not only a physical act like breathing even it has a much wider meaning which includes Right to live with human dignity, Right to livelihood, Right to health, pollution-free air etc. Right to life is essential for our existence without which we cannot exist as a human being. **Article 21 is the base of all rights.** Article 21 make sure the right to life and liberty of each and every person whether he is citizen or non-citizen. Unless Article 21 interferes with its original sense, the remaining fundamental rights will not be worth mentioning. Under Article 21, so many rights have found growth, shelter and nourishment. The right to health is a characteristic to live with dignity and Article 21 should be read with Articles 38, 39(e), 42 and 47 to understand the idea of the commitment of the state in order to ensure the compelling acknowledgement of this right.

Earlier Right to health was a part of the Directive Principles of State Policy (DPSP). Most provisions related to health care in Part (IV) D.P. These are-

**Article 38** Imposes a commitment on the state that state will ensure about a social request for the advancement of government assistance of the individuals however without general wellbeing we can't achieve it. It suggests without general wellbeing government assistance of individuals is

unbelievable. This article says that for the promotion of the welfare of the people the state shall/will secure social order.

**Article 39(e)** Makes it the duty of the state to ensure that the health and strength of workers whether they are men or women, and the youthful period of kids are not abused.

**Article 41** The state will make successful provisions for making sure about open help with instances of unemployment, old age, sickness and disablement and so forth.

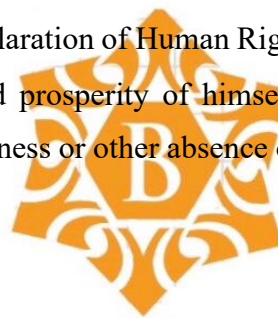
**Article 42** It's an essential duty of a state to secure the health of newborn child and mother by maternity benefit.

**Article 47** Make it the obligation of the state to raise the degree of sustenance and the norm and to improve general wellbeing.

As per **Article 25(1)** of Universal Declaration of Human Rights "Everybody has the right to a way of life satisfaction for the health and prosperity of himself and of his family including food, clothing, medical care, disability, sickness or other absence of livelihood in conditions outside his ability to control.

### **Health-Related Rights**

Everybody has the Right to Health. It identifies with both the privilege of people to acquire a specific norm of wellbeing and medicinal services and the State obligation to guarantee a certain standard of public health with the community generally. It is a comprehensive right extending not only to timely and appropriate health care, yet additionally to the basic determinants of wellbeing, for example, access to protected and consumable water and adequate sanitation, healthy occupational and environmental conditions and access to wellbeing related education and information, including sexual and reproductive wellbeing. "The benefit to the most elevated achievable norm of wellbeing" implies a proper and clear set of legitimate commitments on states to guarantee suitable conditions without discrimination for the enjoyment of health for all individuals. The right to health is one of the arrangements of globally agreed human rights norms and is 'inseparable' or 'indivisible' from these different rights. This implies accomplishing the right to health is both central to, and dependent upon, the acknowledgement of other human rights, to



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food, housing work, education, information and participation. Right to health incorporates different rights with freedom and entitlements-

Freedom means you cannot control on somebody's wellbeing and body nor interfere. You cannot torture them and you cannot experiment with them. You cannot do a non-consensual clinical treatment. They also have their sexual and reproductive rights. Entitlement gives you a system of health protection right which gives everybody equal rights to enjoy the highest attainable standard of health.

### **Human Health Rights-Based Approaches**

Humans health-related rights-based approaches come up with an appropriate arrangement of principles and which assesses health policy and state policy with the goal that everybody treated equally and which remove discrimination. They have to design these kinds of strategies programmes and health policies to improve the enjoyment of all people to the right of health:

- Provide equality and Non-Discrimination
- Availability
- Accessibility - Physical, Economical, Information, Non-Discrimination.
- Acceptability
- Quality - Safe, Effective, People-centred, Timely, Equitable, Efficient, Integrated.

### **ABCDE of Right to health-**

- **ACCESS** - There is a defining principle of Universal Health Coverage- Nobody should get sick and die just because they are poor, because of who they are or where they were born, or because they cannot afford or access the health services they need.

The right to health is about to ensure that everybody, everywhere can get affordable, quality and health care.

- **BARRIERS** - Break all the barriers related to access, affordability, quality or availability of health care services. There will be efforts made deliberately and focused on to reach those most at risk of being left behind. Whether it has to be social, cultural, structural or financial. People should not be dismissed on the basis of gender, age, education, ethnicity,



poverty and other factors in relation with other people so that their resources cannot be stolen.

- CIVIL SOCIETY - It is a fundamental principle of human right that we have to ensure that in health policies and programs community have to participate in it. It means that to engage or empower people in such decisions which affect their health in a positive way. There will be a design of a health system in favour of needy persons so that everybody gets the right care, at the right time, in the right place.
- DETERMINANTS OF HEALTH - The scope of health does not include only health care as health has a wider scope. It's underlying on such other aspects like the food we eat, the water we drink, the air we breathe, the house we live in or the education we receive.
- EQUALITY AND NON DISCRIMINATION- Inequality lefts dark effect on health like this who lives where what is their gender, age, sexuality, race, or migration or does he run away from asylum or any other factors. Inequality reflects where there are discrimination and abuse that occurs in health care itself, which affects both health workers and service users.

It is must Health and Human Right always go hand in hand. People have a right to health care, and they have to be treated with respect and dignity when they access it. Yet, harmful policies, laws and practices including abuse and determination directed against health workers too often prevent people from getting the care they want and they need and can cause serious physical and mental health harms.

Some groups including girls and women, those who live in poverty, or they are migrants, displayed population and people with disabilities, and gender and sexual minorities are more likely to experience abuses and are exposed to harmful or degrading treatment and practices.

It is a kind of approach to health and wellbeing centred on the needs and circumstances of individuals. So that we can give them proper care without discrimination.

### **Impact of COVID-19 on Right to Health**

So, if we talk about the Impact of COVID-19 on Right to Health, here we can see that it lefts marks on a large scale on everyone. Whether they are poor or rich, migrants or any other person. This time is very crucial for all of us. COVID-19 is scattered all over the world. It's our right to get

proper medical facilities and care in this time but some hospitals are taking benefit from it. They are charging arbitrarily from peoples. It's not that much for rich peoples because they can afford it but what about poor. They didn't get proper facilities even in government hospitals. Our right to health is we have to equality, non-discrimination or on any other ground whether it is caste, race, sex, gender etc. We have to break down barriers, have access so that we get facilities, medicines and care timely. We have to maintain a set of principle which is properly worked and evaluate health policy. As COVID-19 lefts dark effect on the whole world. Everybody gets affected by it. Change, uncertainty, disruption, threat, loss and fear these are the impact of COVID-19 on mental health. Whether our Constitution does not expressly recognise the fundamental right to health but it is the duty of government to secure our right and to make proper health policies and to evaluate it. It's the primary responsibility of a state to protect the health of infant and others and in the last one of the most positive impact of this pandemic and I would like to say that it has opened the eyes of people towards the importance of universal and powerful public health services and the need for the everybody for health services to be accessible and for everybody to be covered by health care otherwise it is very damaging Pandemic.



### **The Basic Requirements to be fulfilled in providing Right to Health**

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The creators and those who framed the constitution had a very unrealistic view. In this way, under part IV of the Constitution, the obligation has been imposed on the state that it is the duty of the state to guarantee social and financial equity to its residents. If seen, part IV of the constitution in a way identifies open strategy legitimately or in a circular manner as far as health.

Article 38 of the constitution derives that it is a duty of the state to make sure about the social request for the advancement of the government assistance of general health. Article 39(e) talks about the assurance of the health of labourers. Article 41 identifies that in uncommon condition state have to give open help for example Handicap, mature age and others. Article 42 provides that it is the duty of the state to ensure the health of a newborn child and the mother by maternity benefit. Article 47 of the constitution gives an essential obligation of the state in the progress of general health, for making sure about equity and providing accommodating states of work to the labourers, argumentation for the advantages relating to infection, maternity benefit, age of maturity

and handicap. Further, the state is under a commitment to repudiate the utilisation of alcohol, in favour of a legitimate concern for the open grade. Article 48(A) provides the obligation of the state regarding the grant of a decent and healthy contamination-free condition.

The Directive Principles of State Policy (DPSP) having only convincing worth so, they are non-justiciable. For example, it is not enforceable in the courtroom.

It further explains directive principles then it shows that it is just a powerful worth, the state takes this as a weapon to get away from its duty and liabilities to providing and securing the health of the regular open. For the same reason, the honourable supreme court brought the right under Article 21 of the Indian Constitution. The domain of Article 21 has been extended in this manner. Article 21 provides guarantee regarding Right to Life and freedom to every person, it doesn't matter whether they are resident or non-resident of India. The Idea of Individual freedom is for the rights that might be connected to the life and freedom of the individual which are currently related to Right to Health too.

At the time of dynamic law, the acknowledgement of principle right was late at the suit relating to human rights in Keshvanand Bharti. Furthermore, around that similar time, the standing standard is loose regarding the advancement of Public Interest Limited and access to equity. They have further prompted a precarious ascent in the suit related to health.

In the Ram Lubhaya case, the issue is related to Right to Health the Article 21, 41 and 47 of Indian Constitution, the court saw that the right of one is connected with the obligation of other. Right under Article 21 forces an equal obligation towards the state which is additionally strengthened as under Article 47. Despite this fact, few schools and emergency clinic are set up by the administration however the motive isn't satisfied until they reach to the overall population. It is relevant to the take note from the Hon'ble court for the situation regarding health and important rights.

In the case of Paschim Banga Khet Mazdoor Samity, there is the extent of Article 21 was widened, the court held that it is the duty of the legislature to provide sufficient clinical guidance to each and every individual and to work in the government assistance for the overall population. Additionally, Article 21 forces that the state is required to ensure and shield the rights of each and every individual.



The Hon'ble Supreme Court in the other situation held that health is a central right and it cannot be limited for the benefit of some persons. The clinical and health offices are kind of impetus to work with better regulation both in the physical and mental term. Certainly, clinical offices are likewise part of government-managed savings. In T.Ramakrishna Rao case, the Honorable Supreme Court gave the impression that it is the duty of both the residents and the state to ensure the situation. Article 21 likewise explains the security and conservation of the earth that natural contamination is a moderate demise and along these lines, it is a violation of Article 21 of the Constitution of India. In the popular example of Ratlam Municipal Corporation, the court held that it is a compulsory obligation of the state under Article 47 of the Constitution to guarantee individuals a healthy environment everyday and uphold this obligation against any authority or legislative body who defaults in doing so independent of the money related assets it has.

### **How far INDIA has been successfully implementing the Right to Health**

In India, experiments and practices on public health are continuously on working and due to continuous working, it is on peak level and facing many great problems during work. At the time of Independence India has faced many major diseases like Human immunodeficiency virus infection and acquired immune deficiency syndrome (HIV), Leprosy, High maternal, Malaria, Child mortality and Lately and Tuberculosis, to which India has taken as a concern and taken action on it. Now India, as well as the whole world, are dealing with a Pandemic disease named as COVID-19 (novel Coronavirus) and now we have come to know that in India health system are going with some major issues like lack of financial and material resources, lack of health workers and facing problem in following health policies with equality.

India has invoked two acts namely The Archaic Epidemic Disease Act, 1897 and The Disaster Management Act, 2005 so that they can outbreak and mitigate COVID-19. To invoke Disaster Management Act, 2005, Ministry of Home Affairs has passed an order. Under this act, there is a Union Home Secretary who is also a Chairman of the National Executive Committee, delegated power to Union Health Secretary to enhance the preparedness and containment of COVID-19. From 11 March order is implementing in a retrospective way and as it is in effect from 17 January.

The law details the constitution of administrative authorities how they have to work like the National Disaster Management Authority (NDMA), their powers, steps have to be taken in a situation of disaster, penalties and rules.

## Treatment in Health Centres

Government divided facilities of health into 3 categories for the care of COVID-19 patients. On Tuesday, Union Home Ministry has divided health facilities into 3 categories for providing care regarding novel coronavirus and the categories are as follows:

1. COVID Care Center
2. Dedicated COVID Health Centre
3. Dedicated COVID Hospital

These dedicated facilities of COVID-19 will have separate reserved areas for suspected cases and for confirmed cases, and ensure that bed capacity in the available hospitals is only for the moderate to severe cases of the infection. It is said in a document.

Ministry said that in any situation it is not allowed to mix the confirmed and suspected cases. Series of measures has been created by the Central and State government to break the transmission chain. These health centres all suspects and confirmed cases of COVID-19. Ministry said, still the number of cases is increasing per day, It is going to necessary that we have to use existing resources judiciously and prepare or make an appropriate health system. Care centres of COVID-19 will offer care and assigned only those cases which are the clinically mild or very mild or suspect case. These centres have makeshift facilities and can be set up in hotels, schools, lodges, hostels, stadiums and etc both public and private. If needed that then-existing quarantine centres will be converted into COVID care centres.

Community Care Centers (CHCs) just like function hospitals, which can regularly non-COVID cases will be designate into COVID care centres as a last resort. This is important and essential as services for non-COVID like those for pregnant women and the newborns are to be maintained carefully and separately from the COVID services. All dedicated COVID care centres must have sufficient oxygen support and dedicated basic life support ambulance and also must have dedicated



higher facilities for ensuring safe transport of a case if the symptoms progress from mild to moderate or severe the standard operating system (SOPs) stated.

Dedicated COVID Care Hospital (DCHC) is that kind of hospital which provide care offer for all kind of cases. They are clinically assigned as a moderate and they can be called as a full hospital or a block of any hospital with preferability and also with different entry and exit zone.

Private hospitals are also designated as a kind of COVID Dedicated health centres.

There are some care centres for the human resource to the man that can be drawn from AYUSH doctors. The ministry of AYUSH carried out some training sessions for improvements regarding us.

The last and third category of the dedicated COVID hospital is that firstly they offer comprehensive care means the care which includes for the whole patient his or her needs, not just the physical or medical ones for those who have been clinically assigned as severe and they are in a separate block in the hospital or a kind of the whole hospital. These hospitals are fully equipped. There is the availability of better care of ventilators, beds, with the support of the oxygen unit. These facilities are followed by strict infection prevention. Ministry has provided in standard operating procedures that state and Union territories have been asked to identify hospitals with separated and delegated scales.

Beyond these rules and categories in today's time, many persons are dealing with discrimination as they are not getting proper care and facilities. Even in this crucial time also where they belong to a rural and urban area.

## Conclusion

Health is our major human right which has also been recognized by the World Health Organization (subsequently appointed as WHO). All countries agreed with the view that health is the essential and fundamental right of all individuals, which is independent of religion, gender, race, sex, caste and is beyond all of these. This means that health is surprisingly our basic right and everyone should contact the necessary administrators as and when the need emerges. Good health is related to sanitation, clean and safe water, nutritious nourishments, satisfactory lodging, training and sympathetic working conditions etc. Health is associated with our right to safety. That is why every

person is eligible for their regard and respect. And as we know how widespread the corona is and continues to grow and the infection caused by this virus is a huge threat to global health and is a major cause of death and their adverse socio-economic effects which are constantly increasing. Therefore, there is a need to develop potential approaches and treatment initiatives. After overcoming the epidemic, which will surely happen, we must carry out a comprehensive assessment of the world's ability to maintain stability while facing similar challenges in the future and we should also take measures to face these challenges together. It is time to abandon traditional thinking based on stereotypes and finally start acting from a moral point of view. After all, our best bet should be for the happy future of all those who live on earth, which is our common home. We should live on the lines of Vasudhaiva Kutumbakam which means "THE WORLD IS ONE FAMILY".

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