

Health Care Law

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Abstract—Among all the other issues/problems faced by a person be it poverty, education, unemployment and many more, health is also considered a big problem in society. ‘Public Health Risk’ means the happening of an event which can affect the health of population at an adverse level with focusing on one task which may spread at huge level or may cause danger. Health status of India was obviously not so good before taking it into consideration but after the scheme of 2011 i.e. availing Health Care Services for public, the reduction of money and expenditure especially for lower class people was there and also helped these people a lot in resolving their health issues. India has both of public and private health care service providers. So, not just it helped poor people but also those who works in public as well as private sectors. Our constitution provides guarantees and policy directives in Part III and IV, i.e. Fundamental Rights and Directive Principles of State Policy, for the right to health and health care. Public Health Care can be said as the power and duties of state regarding the healthy and good conditions of people. It has spread from communicable diseases areas and sanitation to large health concerns. This scheme helped rural people a lot in improving their health status. Unlike the olden times, now people can get check-ups from well qualified doctors, gets the knowledge of proper sanitized environment and know the importance of health and hygiene.

1. INTRODUCTION

It’s said ‘A healthy nation is a Wealthy Nation’. There are a lot of accidents happening, people falling sick, emergencies coming up and hospitals diagnosing to treat variety of diseases and ailments across the world in every country. The health care system is spreading into various areas for people to meet with their health needs and overall population. It will keep on growing at large as long as there is increase in population and becoming a huge part of a country’s economy. When the people of a nation are healthy with a healthy environment and mindset, then the nation in itself is considered as healthy as all the efforts will be jammed together in developing the economy of country and not fighting diseases.

Our constitution provides framework for a welfare and socialist pattern of development. During the development of state, health sector has always considered a weak issue. For urban people of our country, health care is a pity issue as compared to rural people. Urban people face issue of job, economic development, infrastructure and many more.

Our constitution had given responsibility to State government for handling the health care issues all over the country. Also,

the Central government plays a significant role in health sector demanded by the Constitution and the health policy & planning are also provided.

2. MEANING

The easiest meaning of Health care is that it is the freedom of sickness and diseases. According to World Health Organization (WHO), “Health is merely absence of disease but physical, mental and social.” It is the maintenance or improvement of health through prevention, recovery, illness, injury and many more. Health care is defined as the diagnosis, treatment, prevention and management of disease, illness, injury, and the preservation of physical and mental well-being in humans. Health care services are delivered by medical practitioners and allied health professionals.¹

People often get confused regarding Health care and Medical Care. There is a difference in terms ‘Health Care’ and ‘Medical Care’. Health Care deals with health condition of the population as whole like a community and Medical Care deals with the health condition of an individual like a person.

‘Health Care Services’ are provided all over the country to accomplish the furnishing of medicine, or any sort of medical treatment, hospital services, nursing, and many other related aspects.

3. HEALTH CARE SYSTEM

All the health care system of India is looked after or administered by the states. These states are ordered under our Constitution for providing health care for people and addressing the medical coverage lack in rural areas. To cover the lacking in such places the government launched the National Rural Health Mission in 2005 which focused and still focuses on the poor or low state/condition of country’s poorest region.

There are basically 3 levels² of Health care system. These levels are:

1. Primary Level of Care;

¹ http://en.wikipedia.org/wiki/Health_care

² <https://nurseslabs.com/levels-of-health-care-referral-system/>

2. Secondary Level of Care; and

3. Tertiary Level of Care

The first level i.e. the Primary level includes the:

- Devolvement of cities and municipalities.
- First contact between the community members and health level facilities.
- Center physicians, public health nurse, health workers etc.

The second level i.e. Secondary level includes the care:

- By physicians along with health trainings.
- In health facilities whether private or government operated.
- Of municipal, district hospitals.
- Rendering by the specialists in health facilities.

And the last one i.e. Tertiary level includes the:

- Referral system of secondary care.
- Providing intensive care in complicated cases.
- Provides medical centers, regional, specialized and provincial hospitals.

The Health care system works in both Private and public sector with its own capabilities along with medication. There are some differences in public sector, private sector in every field and it includes medical field too.

3.1 Public Health Care

Public health care is free and subsidized for the BPL (Below Poverty Line) people. The upper and middle class family's individual uses the public health care less than those with a lower living standard. Ladies and the old age group people use this facility more. Originally, this scheme was developed to provide health facilities by being unbiased in respect of status or caste.

Our country's public health care sector encompasses of 19% of total Ambulatory care and 43% of Inpatient care. 'Ambulatory care' or outpatient care refers to medical care provided on a patient who attends a hospital for treatment without staying there overnight, including diagnosis, consultation, observation, treatment and rehabilitation services where as 'Inpatient care' refers to the care of patients who requires admission to a hospital in a particular condition.

People prefer private sector health care more than public sector due to the poor quality of care at national level in public sector with more than 55% of household issues who prefer private sector health care. Majority of Public Health Care sectors do catering to the rural areas and results in unwilling experience of the arising of poor quality of health care providers to visit rural areas. In simple terms, the providing and serving of food and drinks in the public sector highly

relies on inexperienced and unmotivated interns of the rural and remote areas who are mandated to get involves in this whole process of health care clinics as a part of their curriculum requirement. Long distance between hospitals and residence of rural areas, longer waiting hours and unscheduled operation timings turns people to go for private health care sector.

The governing of health care is distributed among State and Central Government systems. The state government deals with the aspects like local hospitals, public health, sanitation which varies from state to state based on the communities involving in it. On the other hand, the central government took care of the health issues of the family welfare wholly and preventing of major diseases. Involvement of state and central government occur for health care issues requiring large scale resources and present a concern to the country as whole.

It is the responsibility of government to provide health care services to the public which are affordable, reasonable, adequate, latest and acceptable for the public. If compared to the cost of private health care, the public health care is necessary especially for the poor section of society. People belonging to the BPL cannot go to the private health care for their treatment.

3.2 Private Health Care

The private health care sector is formed of 58% of the hospitals in the country, 29% of beds in hospitals and 81% of doctors.³ Since 2005, many health care capacities have been added in it. The private sector is the big and primary source of health care of 70% families of urban areas and 60% families of rural areas.⁴

Over 14,000 families across 12 states indicates the constant increase of using of private health care facilities in last 25 years for both inpatient and outpatient services in both urban and rural areas.⁵ The working of private sector is done more likely by spending longer hours with their patients and conducting physical examination as compared to the public sector due to which a disturbance in the balancing of the expenditure occurs and leads to rough maintaining of living standard because the costs of private sector keeps on increasing. The poor sections are left with less option for their treatment as the increases in costs of private sectors are getting beyond their financial status. Private insurances are also provided to the people by the health insurances schemes sponsored by the government itself. About 25% population had some form of Insurance⁶ and in year 2014, it was found over an estimated study that only 17% of the population claimed insurance.⁷

³ "Issues of creating new cadre of doctors of rural India" International Journal of Medicine and Public Health 3 (1): 8 (2013)

⁴ According to the NFHS (National Family Health Survey) – 3 (2005-2006)

⁵ Conducted in a study by IMS Institute for Health Care Informatics in 2013

⁶ According to World Bank Report of 2010

⁷ By Indian government study of 2014

3.3 Medication

In 2012, the right of producing any patented product by paying fee was used by the pharmaceutical companies because in 1970, the Indian government banned medical patents and signed 1995 TRIPS Agreement.⁸ In 2012, a cancer drug named Nexavar was produced by the Natco Pharmacy as this particular right was being used because in 2005, legislation stipulated that if a medicine doesn't result in enhancing the known efficacy of a particular substance than it is not patented.

Indians are on the list of consuming the most number of antibiotics per head in the world.⁹ In a survey of 2017, it was found that 3.16% samples of the medicines were standard and 0.024% were fake. The more common prescribed samples are often faked. In 2018, many antibiotics were not approved in India and its origin country but still were on sale and this is prohibited. Some medications were listed in the schedule H1 i.e. they can't be sold without a prescription and also, the pharmacists should maintain a proper record of selling and purchasing of the medicines and the doctor's prescribing it and the patient's details who are buying it.

In Rajasthan, approx 40% medical practitioners don't have a medical degree and 20% have not completed secondary education.¹⁰ India being the world's second most populated nation and the 6th largest economic country spends a little on health care as compared to other poorer nations. Approx. 55 million people were led to poverty in 2011-12 because of the 'out-of-pocket' or say expensive expenditure on health bills. More than half of the population goes for treatment in private sector because the public sector is overwhelmed and delivers lower/poor care and treatment. Over 1.6 million people die due to the low quality of health care. This indicates that health care is becoming a political issue as politicians' uses this to gain votes of general public.

4. HEALTH ISSUES

4.1 Malnutrition

Malnutrition refers to deficiencies, excesses or imbalances in an exceedingly person's intake of energy and/or nutrients. The term deficiency disease covers a pair of broad teams of conditions. One is under nutrition - which incorporates low height for age, low weight for height, low weight for age and substance deficiencies or insufficiencies (a lack of vital vitamins and minerals). The opposite is overweight - overweight, fat and diet-related non-infectious diseases (such as heart condition, stroke, polygenic disorder and cancer).

According to a 2005 report, 60% of India's youngsters below the age of 3 were starved, that was larger than the statistics of

desert African of twenty eighth percent. International Bank for Reconstruction and Development knowledge indicates that India has one among the world's highest demographics of youngsters plagued by deficiency disease – same to be double that of geographical area with dire consequences. India's international Hunger Index India ranking of sixty seven, the eighty nations with the worst hunger scenario places it even below North Korea or Sudan. 44% of youngsters underneath the age of five are unit scraggy, whereas seventy two of infants have anemia. It's thought-about that one in each 3 starved youngsters within the world lives in India.

States wherever malnutrition is prominent:

Uttar Pradesh: Most youngsters here, in India's densest state by population, underneath the age of five are a unit scrubby because of it.

Tamil Nadu: The state, despite high education, incorporates a outstanding kid malnutrition issue. A National Family Health Survey reveals that twenty third of youngsters here area unit scraggy, whereas twenty fifth of Chennai youngsters show moderately scrubby growth.

Madhya Pradesh: 2015 knowledge reveals that Madhya Pradesh has India's highest range of starved youngsters - 74.1% of them underneath half dozen suffer from anemia, and 60% ought to trot out from it.

Jharkhand and Bihar: At 56.5%, Jharkhand has India's second highest range of starved youngsters. This is often followed by Bihar, at 55.9%

4.2 Communicable diseases

In 2011, India developed a 'totally drug-resistant' type of TB. HIV/AIDS in India is graded third highest among countries with HIV-infected patients. National AIDS Control Organization, a government apex body is creating efforts for managing the HIV/AIDS epidemic in India. Diarrheic diseases area unit are causes of infancy mortality. These diseases will be attributed to poor sanitation and inadequate safe beverage. India has the world's highest incidence of zoonosis. Protozoan infection has been a seasonal ill health in our country from an awfully long time. The most variety of protozoan infection cases and deaths are reportable largely kind the agricultural components of Orissa. The overall prevalence of the unwellness has diminished in 2012 and 2013 but there's a small increase in 2014 and once more started decreasing from 2015. Kala-azar is that the second largest parasitic killer in the world. Most of the cases (76%) were found in Bihar in 2016. Dengue fever and chikungunya transmitted by genus *Aedes* mosquitoes, is another problem of concern in India. Dengue fever outbreaks have continued since the 1950s however severity of disease has multiplied within the last 20 years. In 2016, India reported a complete of 58,264 cases of

⁸ TRIPS Agreement is the agreement on Trade-Related Aspects of Intellectual Property Rights and is an International legal agreement between all the member nations of the World Trade Organization.

⁹ 2010 survey

¹⁰ "Health care and equity in India" The Lancet 377 (9764): Pg. 505-515

chikungunya. Chicken pox cases were reported to be 61,118 & deaths to be 60 in 2016.¹¹

In 2012, India was polio-free for the first time in its history. This was achieved owing to the pulse poliomyelitis program started in 1995–96 by the govt.

4.3 Sanitation

As there are over 122 million households that don't have any toilets, and 33rd lack access to latrines, over five hundredth of the population (638 million) eliminate within the open¹². This can be comparatively more than Bangladesh and Brazil (7%) and China (4%). Although 211 million individuals gained access to improved sanitation from 1990–2008, only 31st use the facilities provided. Solely 11 November of Indian rural families eliminate stools safely whereas eightieth of the population leave their stools in the open or throw them in the garbage. Exterior excretion results in the spread of unwellness and malnutrition through parasitic and microorganism infections.

Several million additional suffer from multiple episodes of looseness of the bowels and still others fall sick on account of hepatitis A, typhoid, internal organ worms and eye and skin infections caused by poor hygiene and unsafe drinking water.

Access to protected sources of water improved from sixty eight of the population in 1990 to half a mile in 2008. However, only twenty sixth of the slum population has access to safe water, and twenty fifth of the entire population has water on their premises. This downside is exacerbated by falling levels of groundwater caused primarily by increasing extraction for irrigation. Low maintenance of the surroundings around water sources, groundwater pollution, excessive arsenic and fluoride in drinking water create a serious threat to India's health.

5. GOVERNMENT INITIATIVES

Some of the major initiatives taken by the Government of India to promote Indian healthcare industry are as follows:¹³

The Government of India aims to increase healthcare spending to three percent of the Gross Domestic Product (GDP) by 2022.

In February 2019, the Government of India established new All India Institute of Medical Sciences (AIIMS) at Manethi, District Rewari, Haryana at a cost of Rs 1,299 crore (US\$ 180.04 million).

The Union Cabinet approved setting up of National Nutrition Mission (NNM) with a three-year budget of Rs 9,046 crore (US\$ 1.29 billion) to monitor, supervise, fix targets and guide the nutrition related interventions across ministries.

On September 23, 2018, Government of India launched Pradhan Mantri Jan Arogya Yojana (PMJAY), to provide health insurance worth Rs 500,000 (US\$ 7,124.54) to over 100 million families every year.

In August 2018, the Government of India has approved Ayushman Bharat-National Health Protection Mission as a centrally Sponsored Scheme contributed by both center and state government at a ratio of 60:40 for all States, 90:10 for hilly North Eastern States and 60:40 for Union Territories with legislature. The center will contribute 100 per cent for Union Territories without legislature.

The Government of India has launched Mission Indradhanush with the aim of improving coverage of immunization in the country. It aims to achieve at least 90 per cent immunization coverage by December 2018 which will cover unvaccinated and partially vaccinated children in rural and urban areas of India.

6. CONCLUSION

Nations have created sturdy commitments to action for health in instruments like the Constitution of the World Health Organization, the IHR and therefore the Framework Convention on Tobacco control. To fulfill these commitments, countries should enact national legislation to hold them out. Once enacted, health laws are often a strong tool for ever-changing unhealthy behaviour and environments and for coordinating the work of health systems. A modern, effective public health agency should have the legal expertise and therefore the ability across its workers to support policy development, capacity-building and scientific impact analysis. It should grasp what's licensed by national law and be in a position to evaluate and determine required reforms. In this paper, I suggest that World Health Organization develop a program for public health law capacity-building and policy surveillance to make sure continuous and arranged efforts to assist Member States to strengthen their legal infrastructure. Trendy public health can't be effective without laws, and WHO will not attain its goals unless it can facilitate all Member States to develop and implement the legal and regulative tools they have.

7. ACKNOWLEDGEMENT

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