

## Legal Issues in Infectious Disease Control and Prevention Perspective

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### KEYWORDS

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### ABSTRACT

The Indian system of safeguarding an individual's health has a lengthy history. It has gained notoriety across the globe in the field of medical systems. The commercialization of medications and the medical profession, along with the passage of time and advancements in science and technology, enhanced the duty of physicians and contributed to the daily rise in medical negligence lawsuits. The government has established a number of committees to examine public health-related issues, and these committees have produced a number of suggestions aimed at enhancing India's healthcare system. The world came to understand that one of every person's most basic necessities is their health. The right to health is recognised by almost all human rights treaties. In addition to the obvious absence of disease, the term "health" also refers to the availability of sufficient medical treatment and facilities, which not only guard against illness but also guarantee the support of a robust labour force that is necessary for economic growth. Therefore, health is more than just the absence of illness or disability; it is a state of total physical, mental, and social well-being. The International Bill of Rights and the United Nations both recognize the right to health as an international right. Every State in the globe is required by the UN Charter to fulfil certain obligations to accomplish the goal, and in this regard, governments must cooperate with the UN Organisation in both solo and collective acts.

### 1. Introduction

Health has always been regarded as the most important aspect of human life. As humans have evolved from apes to humans, health has progressively become more important [13]. Prior to the development of science, people believed that all illnesses stemmed from the curse of God [11]. The search for cures, strategies, and ways to stay healthy has long been among humans. Man had to discover cures for a wide range of diseases out of a survival instinct [1]. Over time, man came to understand that, despite his earlier belief that illness and death were natural occurrences, both could be prevented and treated with human intervention [2]. With the advancement of science, it became gradually clear that man is the true source of ill health, not the curse of God [14]. As a result, we came to understand that everyone's health is determined by their access to clean air, wholesome food, and a calm mental state, regardless of their age, gender, ethnicity, or geographic location [3]. This right is also threatened by a number of things, including a lack of nutrient-dense food, subpar housing and living arrangements, hazardous workplaces and surroundings, etc [4]. Therefore, in order to achieve the aim of "Health for All," it is necessary to analyse the influence of the many variables mentioned above in order to reinforce this right to health [5]. Law has been a key factor in controlling the general health of society and the health of the community in modern times [6]. The advancement of civilization and the development of international ties among nations have greatly increased public awareness of the need to safeguard and enhance community health [7] [13]. The rise of diseases like cholera, chicken pox, plague, and similar outbreaks that affected a large population at once forced the authorities to devise strategies for controlling and preventing these illnesses [8]. Over time, the significance of public health protection, vaccination, drainage, sanitation, and hygiene increased quickly, underscoring the necessity of preserving one's own health as well [12]. After World War II, the importance of global health care and the right to health increased [10]. As a result, the United Nations and its affiliate organisations, such as the World Health Organisation, took a strong interest in establishing the right to health as a fundamental human right that applies to everyone on the planet, based on the tenet that disease knows no national boundaries and is unaffected by factors such as sex, religion, caste, or community [9]. People's health is negatively impacted by unsafe environmental circumstances and a lack of access to a nutritious, well-balanced diet, especially the great majority of the impoverished and vulnerable members of society [15]. In this case, the introduction is examined in section 1 of the article while the pertinent literature is examined in section 2. Section 3 and 4 explains the goal of the work, Section 5 shows the discussion of the work, and Section 6 concludes the project.

## **History And Evolution Of Measures To Protect Health**

Humans are prone to illnesses. Diseases begin at birth when a guy is born. Humanity has always sought solutions and methods to maintain and regain health. Man has an innate desire to solve problems, mostly because he is constantly concerned with maintaining his health and because the need to survive has driven him to look for answers to several health-related issues. At first, people believed that illness and death were natural occurrences. Severe and incapacitating illnesses were thought to have a paranormal cause. But throughout time, people came to understand that illnesses and diseases could be treated by humans, and that God did not want people to suffer needlessly. With growing concerns about health and illness treatment, emerging human society considered using a new approach to problem solving. Mankind has created a large and intricate system of knowledge, beliefs, techniques, rules, norms, values, ideologies, attitudes, customs, rituals, and symbols to support his medical knowledge and practices. The medical system refers to this enormously intricate structure. Over the years, the judiciary has consistently interpreted the Constitution and other Indian laws, highlighting the State's duties to safeguard the public's right to health and the health of the individual. Appropriate directives have also been periodically issued in this regard. To put it another way, it is clear that the judiciary has been crucial to maintaining and defending India's post-independence right to health.

## **Public Health And Local Self Government**

Significant alterations were observed in the management of public health in India throughout the 1880s. Although the 1880s reforms advanced the process of financial and administrative decentralisation started by the mayor in the early 1870s, they did not completely break with the past. However, shifting accountability for road upkeep, sanitation, and other municipal services from the federal to the provincial levels of government was the main focus. Administrators realised that the people of India had to cooperate in order to manage the country, particularly when it came to issues of hygiene and health. The Municipal Commission of Ripon was founded with a majority elected element in May 1882, as per the resolution on local self-government. However, the provinces retained the authority to determine the precise ratio of official and nonofficial members in municipal organisations falling within their purview.

As demonstrated by the experience of the provincial capitals, where elected Indian representatives had been serving on municipal commissions from the early 1870s, the Indians had mixed feelings about European ideas of sanitation and hygiene. Administrative decentralisation was impeded by a number of additional factors, including the opposition or apathy of the indigenous people towards the western concept of public health. It is still very unknown how local self-government affects cleanliness. In contrast to other places where public health services were only created because officials encouraged them, Bengal had a genuine demand for sanitary services as well as a willingness to pay for them. According to the Rippon Reforms, the importance of cleanliness differed greatly amongst municipalities. Reform was thwarted in Calcutta by sectoral interests and socioreligious barriers, but in Bombay, the municipality's stance towards public health was primarily shaped by commercial considerations. The city has been recognised throughout Europe since the 1860s as the main hub for the introduction of cholera to the West, and ships leaving the port were routinely quarantined. Due to the corporation's negligence in implementing cholera prevention measures, the city experienced a significant increase in mortality in 1882. The provincial government's reluctance to financially contribute to the city's sanitation was another barrier. The Bombay Corporation had prepared a drainage project, but the government of Bombay decided that the municipality would be responsible for developing a financially feasible plan, according to the complaint made by the city's Sanitary Commissioner in 1867. Complaints were also often made about Bombay's inadequate water supply and the lack of subordinate sanitary workers employed by the municipal commission of the city, such as road sweepers and night soil collectors.

## **National Health Policies**

The goal of the Indian Constitution's adoption was to create a society in which every citizen would

have unrestricted access to equality, justice, freedom, and dignity. The main goal is to promote public health, which can only be achieved by carefully planning and implementing the framework and policies under the guidance of professionals. Due to a multitude of flaws, the government's numerous initiatives and policies have failed to defend citizens' rights to health. In 1983, the official National Health Policy was developed for the first time. In response to the Alma Ata Declaration's pledge to achieve "Health for all by the year 2000" and the joint ICMR-ICSSR proposals. It was believed that in order to meet the real needs of the populace, particularly the most vulnerable groups, through the establishment of an effective and efficient health care system, a comprehensive and integrated approach was required for the future development of medical education and training, research, and health services.

The National Health Policy (NHP) aimed to establish a robust and stable primary health care infrastructure, with the ultimate goal of achieving health for all by the year 2000. To achieve this, the policy also called for the provision of universal, comprehensive primary health care, close coordination between health-related services and activities like nutrition, drinking water supply, and sanitation, active involvement and participation of voluntary organisations and the community, the provision of essential drugs and vaccines, qualitative improvements in health and family planning services, and medical research focused on issues facing everyday people. In India, a number of laws have been passed to govern medical and healthcare facilities as well as to preserve and improve public health in accordance with international conventions and declarations. Soon after independence, the Indian Constitution, which is the ultimate law of the land, incorporated a number of measures for the preservation of health. The State is required to apply the Directive concepts found in Part IV of the Indian Constitution while enacting national laws. These concepts are essential to the country's governance. The Constitution's provisions in Articles 39, 42, 47, and 48 place a duty on the State to safeguard, promote, acknowledge, and respect people's health and well-being.

In addition to laws governing the medical field, declarations and codes of ethics impose obligatory, fundamental, and other obligations on the government, patients, and other parties. Criminal and civil laws both allow for the prosecution of medical malpractice. Additionally, medical negligence has been included in the definition of "service" under the Consumer Protection Act, making the doctors' service deficiencies actionable. Numerous laws, including the Bonded Labour System (Abolition) Act of 1976, the Mines Act of 1952, the Maternity Benefit Act of 1961, the Workmen's Compensation Act of 1923, the Child Labour (Prohibition and Regulation) Act of 1986, and others, are related to labour law and contain provisions for safeguarding workers' health. The judiciary has made an effort to interpret all of these laws in a way that will strengthen the labour laws through its rulings supporting workers' rights to health by placing a premium on their safety and protection. Aside from that, the Indian government has passed a number of other laws to protect its citizens, including the Environment Protection Act of 1986, the Medical Termination of Pregnancy (MTP) Act of 1971, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act of 1993, the Drugs and Cosmetics Act of 1940, the Drugs and Magic Remedies (Objectionable Advertisement) Act of 1954, the Mental Health Act of 1987, the Transplantation of Human Organs Act of 1994, etc. The judiciary has demonstrated utmost concern when interpreting all of these laws, regardless of gender.

The development of the Indian healthcare system started during the height of Hindu culture. There was no established national health strategy in place throughout the British era. It wasn't until after independence that the Indian government began periodically announcing its health policies and creating initiatives to achieve the goals of those policies. Beginning in 1943, the British government's Health Survey and Development Committee convened a number of expert groups to provide support and guidance to the Government of India in developing its health policy. The Government of India intended to host a programme during each Five-Year Plan stating their goals and objectives linked to the field of health management after accepting the suggestions of these expert panels. The government provided the resources for them to meet their designated goals. It is vital to briefly review the suggestions made by the several expert committees and the various health initiatives that India has implemented since gaining its independence in order to fully comprehend the country's health policy.

Adopted in 2017, the National Health Policy aims to achieve the highest level of good health and well-being through preventive and promotional measures in order to meet the Sustainable Development Goal (SDG) to deliver health and well-being to all by 2030, setting the target for nearly 14 years. The main goal of the National Health Policy, 2017 is to provide information, clarification, reinforcement, and prioritisation regarding the role of the government in forming the health system in all of its aspects, including health investments, health care service organisation, disease prevention and promotion through cross-sectoral actions, technology access, human resource development, medical pluralism encouragement, knowledge base building, improved financial protection strategies.

## 2. Conclusion and future scope

History will show that science played a major role in the development of the medical system. As British authority over India began, so did public awareness of the right to health. Anxieties sparked by the Indian Mutiny of 1857 basically, the unwell state of British troops shaped public health policies in British India. In response to these worries, a public health system developed, initially mostly inside military cantonments but eventually spreading outside of them. However, logistical challenges, financial constraints, resistance from Indian elites and British humanitarians, and the military's and some IMS officers' strong desire to sterilise the Indian populace all served to restrain this goal. Public health initiatives like smallpox vaccinations and death registrations, despite the mission's general failure, offered a way to know the population, although an imprecise one. In some parts of India, the spread of smallpox vaccination in the late 19th and early 20th centuries was also starting to reduce disease-related deaths. However, the impracticality of the vaccination programme and ongoing scepticism about it ensured a steady flow of infections, especially in rural areas.

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