

International perspective on Human Rights to Health: Special reference to COVID-19 pandemic

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Abstract

At international level the right to health developed with human rights growing concern and development, as it is understood as continuum which is the conditions to the protection of health of the public. In terms of civil and political rights, one can have the right to medical care services and provision of public health care including the treatment, diagnosis of diseases and other services for health care and for those who are not capable to pay for it. COVID-19 pandemic created global health care concern.

The main focus of this paper is to study international human Right to Health in international covenants, declaration and regional charter and also international strategies and responses of COVID-19 pandemic and their possible solutions.

Keywords: Right to Health, International Covenants, Declaration, and Regional Charter, Covid-19 Pandemic.

Introduction

Human rights in the international framework, the concern for public health began after World War II, when spread of infectious diseases led to serious health problems. Internationally, first of all “health” as a right in the WHO constitution articulated in 1946, in 1948 Human Rights in Universal Declaration Human Rights mentioned health as a right in the article (25). After that in 1966 health covenant on Economic, Social and Cultural Rights was recognized internationally.

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For being human basic human rights for the survival in a civilized society, human being is entitled to have which is minimal requirement. Human rights are universal values and legal guarantee that from any kind of exploitation it protects individuals and groups. Human rights to the states sets legal obligations to promote and also to human rights respect.

In 1948 World Health Organization (WHO) given the definition of health in its constitution i.e. in the preamble as “health” is a state of complete physical, mental, and social wellbeing and not merely an absence of disease or infirmity”. The human right to health states that human being has all such health rights which they are entitled to with an inclusive right, like the human rights to health.

The Alma Ata conference of 1978 meeting by WHO and UNICEF were considered as taking initiatives of the health care provisions for the developing countries. Recently because of increasing concern for the health, a special report was created by WHO and human rights council in 2002 to attain highest physical and mental health.

A devastating epidemic (Covid-19 in Dec.2019 was identified in country i.e. in Wuhan, China) caused by the virus SARS-COV-2 and is a respiratory disease and spread very quickly globally. Mainly a covid-19 infected person through coughing or sneezing by droplets spreads. Common symptoms are Fever, Breathing problems; some patients also have symptoms like nasal congestion, aches, diarrhea pains, or runny nose. **Covid-19 prevention:** good hygiene practice, social distancing practice, not touching with unclean hand, also to eyes, nose and mouth, wear mask, ensure the surfaces and objects are regularly cleaned.

Towards to ensure protection of human rights to health, international initiatives could be found embedded in the many international instruments such as in international conventions, declarations, regional charters and through international institutions.

International conventions

- **International Covenant On Economic, Social And Cultural Rights (ICESCR), 1966:** Human right to health interpretation is outlined in the following articles of ICESCR 1966 which includes adequate food, safe and healthy working conditions, security, housing, clothing, sanitation, education and culture etc. and these rights developed since human rights declaration in 1945.

The right to health is the internationally set up of social norms, institutions, laws to secure the right to health of the person. The ICESCR affirms the member states to assure the health that is

both mental and physical health of people and social well-being through other articles of the same treaty by putting obligations on the states. Both preventive and facilitative right to health care aspects has included in the ICESCR and both are the conjunction to human right to health.

“it states that

Article 7(b) Safe and healthy working conditions

Article 11-

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need”.

“It states that **Article 12-** 1. 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.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;(b) The improvement of all aspects of environmental and industrial hygiene;(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness”.¹

▪ **UN Convention on the Rights of Persons with Disabilities:** Article 25 reinforces that without discrimination the right of persons with disability to attain the highest standard of

healthcare, however, the reality is that few countries for people with disability provide adequate quality services.

For person with disabilities to ensure access to health services, “the state parties shall: a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes; b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons; c) Provide these health services as close as possible to people’s own communities, including in rural areas; d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care; e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner; f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability”².

Declarations

- **United Declaration of Human Rights (UDHR), 1948:** The milestone UDHR document which universally protects the fundamental human rights. UDHR for the better health of people affirms in its preamble, Article 25 (1) states that for adequate health, standard of living, and well-being of everyone, this article including food, clothing, and housing and medical care and other necessary social services. For all the human rights enjoyment, UDHR for human right to health laid down the international legal framework.
- **Declaration on the Rights of Mentally Retarded Persons, UN (1971):** The universal protection of the right to adequate health this convention reaffirms and mandates proper care be provided for the mentally retarded. To reach their full potential as human beings as they should receive aid that allows them.

The mentally retarded person has a right to proper medical care and physical therapy and to such education training, rehabilitation and guidance as will enable him to develop his ability and maximum potential³.

- **Universal Declaration on the Eradication of Hunger and Malnutrition (1974):** The right of all people to nutrition, this declaration establishes and sustenance sufficient to ensure their well being. It states that: “Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties. It is a fundamental responsibility of Governments to work together for higher food production and a more equitable and efficient distribution of food between countries and within countries. Governments should initiate immediately a greater concerted attack on chronic malnutrition and deficiency diseases among the vulnerable and lower income groups. All state should strive to the utmost to readjust, where appropriate, their agricultural policies to give priority to food production, recognizing, in this connection the interrelationship between the world food problem and international trade”⁴.
- **Declaration on the Right of Disabled Persons (1975):** The universal protection of the right to adequate health and establishes that the disabled have the right to receive the special care they need this declaration reaffirms. It states that: “Disabled persons have the right to medical, psychological and functional treatment, including prosthetic and orthetic appliances, to medical and social rehabilitation, education, vocational training and rehabilitation, aid counseling, placement services and other services which will enable them to develop their capabilities and skills to the maximum and will hasten the processes of their social Integration or reintegration”⁵.

Regional Charters

- ✦ **European convention for the protection of Human Rights and Fundamental Freedoms (1950):** European convention for the protection of Human Rights and Fundamental Freedoms in November at Rome was signed. To all European citizens, for good health this convention establishes guidance document including protection from actions and conditions for basic rights such as Article 2 Right to Education, Article 3 Freedom from torture or inhuman or degrading treatment or punishment and Article 4 Freedom from slavery or servitude⁶.
- ✦ **European social charter, 1961:** The European social charter was adopted in October, 1961 for the protection of human rights and fundamental freedoms of its citizens.

Following are the rights and principles of economic and social rights contained in Part I of European social charter: “it states that 1) All the workers have the right to safe and healthy working conditions; 2) Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed; 3) Employed women, in case of maternity, and other employed women as appropriate have the right to a special protection in their work; 4) Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable; 5) Everyone has the right to benefit from social welfare services; 6) Disabled person have the right to vocational training, rehabilitation and resettlement, whatever the origin and nature of their disability; 7) Mothers and children, irrespective of marital status and family relations, have the right to appropriate social and economic protection”⁷.

Institutions or Bodies at international level for public health protection.

✦ WHO

As the WHO defines health “a state of complete physical, mental and social well-being, not merely the absence of disease or infirmity”. The preamble of the WHO constitution sets the principles that without any discrimination on the basis of race, caste, religion, political belief, economic and social condition should be part of rightful heritage of the people. For the fundamental right to health the constitution states that to the attainment of peace and security is dependent on the fullest cooperation of the individuals and states and health of the people is the fundamental. It states that the achievement of any state in the promotion and protection of health is value to all states.

✦ **UNICEF:** United Nations International Children’s Emergency Fund (UNICEF) formed on 11th December 1946 and it’s headquarter is in New York, US. UNICEF established to provide help to children and country by the United Nations General Assembly. UNICEF works almost in 190 countries to promote the rights of the children and well being of the children, special efforts are given to reach the most vulnerable and excluded children to be benefited. The UNICEF programme focuses on the most disadvantaged children and who are living in the fragile contexts, children with disabilities and those who are affected by the urbanization and environmental degradations. UNICEF is created with the purpose to work and overcome the obstacles in the path of children like poverty, violence, diseases and discriminations so that

children could best start their life and build future. UNICEF promote the girl's education, providing immunization to all the children and preventing the children from childhood diseases. It works to prevent the HIV/AIDS among young people and also creating protective environment so that children could not be abused, exposed to violence and providing help in emergencies. UNICEF works to reach the millennium development goals promised in the United Nations Charter through country programmes and committees. Following are the core values driven by the UNICEF: Care, Respect, Integrity, Trust, and Accountability.

These core values established to ensure that all the organizations work for the welfare of children and young people on the basis of UNICEF guide lines and operations globally to defend their rights and nurture the unique culture.

UNICEF's Mission

- United nations General Assembly gives authority to UNICEF to safeguard the children's rights, to help them to recognize opportunities existing in their surroundings and achieving them to their full potential. It helps them to meet their basic needs.
- On the Rights of the Child the Convention acts as a guiding source for UNICEF. Children's rights are their very own right and UNICEF aims to establish it as ethical principle.
- UNICEF insists that survival, safety, and growth of children are imperatives of universal nature which are essential to human advancement.
- UNICEF makes sure that children get the first priority mainly in developing nations. It mobilizes political will and significant resources to assist nations and it forms adoptable policies for children and their families so that they can build their capacity and etc.
- ✦ **United Nations High Commissioner for Refugees (UNHCR)** Refugees are denied always to basic health care services and financial protection for health. They are not any member in country, infect they are forced to reside. For the refugees protection the UNHCR was established in 1950 by UN mandate. The headquarter of UNHCR is in Geneva, Switzerland. The establishment of the UNHCR is to ensure and provide life- saving essentials, health care which includes food security and nutrition, water, sanitation, reproductive health services, sanitation, health, hygiene, HIV prevention and treatment⁸.
- ✦ **Food and Agriculture Organization of the United Nations (FAO)** In 1945 FAO was established at Rome, Italy with the motive to defeat the hunger. This organization is the United

Nations specialized agency. The organization main purpose or goal of this is for all to achieve food security and also make sure that globally people will high quality of food to access. FAO works in 130 countries with over 194 member states. As every member state will play its part to end the hunger, famine, malnutrition and lead active role to make healthy lives. It also provides assistance grants to member states to improve agriculture production and helps to relieve the pressure of starvation in their countries by improving productivity of their land⁹.

Some of the regional human rights instruments to protect the rights of public health directly or indirectly:

- **International committee of the Red Cross and Red Crescent (ICRC):** In 1863 at Geneva (Switzerland), establishment of ICRC which directs the action of the International ICRC Movements. From the ratifying parties of the 1864 Geneva Convention, its legitimacy the organization owes. ICRC functions in the war time to soldiers and civilians to give aid and care. Outside of war to relieve the people's suffering ICRC also participates in efforts whether through to starving peoples sending food or medical care, drugs and equipment by providing to those who need them¹⁰.
- **Environment and health:** Environment plays vital role in physical, mental and social wellbeing of human being. In the favorable environment people can use their full physical and mental capabilities. In the poor and developing countries people are more prone to ill health compared to developed countries due to lack of facilities like to safe drinking water and sanitation.

Sanitation is key to healthy living. (water and sanitation, kalidas ray, pp.207, prentice hall of India Pvt. Ltd., New Delhi, 2007). Human activities contributed to the presence in drinking water and harmful to the human life and increased use of chemicals in various human activities including chemicals used in agriculture, solid waste are injurious substance to human health. To provide safe water and ensure safe disposal of manmade waste are concrete majors constitute vital elements of the sanitation universe.

Following are major issues related to the environmental are: air pollution , water and hazardous land, chemicals and wastes, degradation of land, biodiversity loss, depletion of ozone, change in climate and natural and cultural resources loss.

A number of agencies working for managing these environmental issues affecting to human health including International conferences on climate change and this is gigantic global issue are 1) Earth summit 1992 which has the following documents such as on environment Rio declaration and development, Agenda 21, on Biological Diversity convention, principles on forest and convention on climate change framework.

Human activities are major cause for the climate change and the effects of climate change are ice melting, in sea level rise, in ocean current change, and biodiversity and human health.

After attending various summit conferences World leaders adopt many economic and social goals, strategies and activities are implemented to attain them. The goals remained set at: to access universal safe drinking water and to adequate sanitation.

- **Bill and Melinda Gates Foundation:** In 2000, the gates foundation a private nonprofit organization was established for the various purposes such as across the globe to reduce extreme poverty, to expand educational opportunities and to enhance social health care. For both to public and private, this foundation helps in improvement and development of infrastructure related to health care system. It also helps in development of cheap and effective drugs¹¹.
- **Right to Education under UDHR Economic, Social and Cultural rights:** Education plays vital role in overall development of human being. Illiteracy relates to poverty, child mortality rate, high infant mortality and poor health. Through education people perception changes towards life and educated people have positive attitude towards health and also contribution to the economy.

“It states that Article 26. (1): everyone has the right to education. Education shall be free, at least in the elementary fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and in the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the united nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children”¹².

Initiatives are taken at international level for public health protection i.e. closing the borders was first step and WHO has reported and warned/alert to world that virus could spread. After cluster of cases found in china, W.H.O activated highest level immediately to its team i.e. emergency management team and published its first guidance package on 10th of January 2020 and over the global outbreak of novel corona virus, declaring a public health emergency of international concern. In Africa, on 6th February, 2020 first WHO shipment of personal protective equipment arrives and later to rest of the world.

This is believes that Economic, Cultural and Social human rights is one of the right to health that needs affirmative government action to create the conditions for people rather government restrains vis a vis citizens. From the many research studies this is found that internationally, during 19th century to reduce the burden of infectious diseases in the Europe and America, public health movement occurred which produced sanitation reforms and internationally this marked the roots of right to health. During 14th century to control the epidemic diseases caused by trading ship in Europe, the Venice government for the first time passed Quarantine Law to keep people outside city for the period of 40 days to protect its citizens. Gradually Britain, USA and other countries started giving importance to the individual’s rights for health rather than to epidemic diseases controls.

Recently because of increasing concern for the health due to COVID-19, WHO’s strategic preparedness, supports and published technical guidance to coordinates countries in response to Covid-19

1. WHO in February 2020 set out strategic preparedness and response plan working with world leaders and scaled up pillars to reduce transmission of virus, to safe everyone, to vulnerable by planning and support platforms sending supplies and protective personal equipment to 150+ countries for health care workers to prevent infection and to keep safe through its 157 global, regional and national offices to control the virus.
2. Helping establish treatments centers and to strengthen laboratories treatment sharing the science based information, patient care and biomedical capacity and also to provide emergency

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medical teams for local strategies to 100s of countries to help design to fit for the purpose strategies and to train health workers to prepare for the essential care.

3. Building partners' platform and identify the gaps to ensure appropriate covid-19 responses and Providing diagnostics and biomedical equipment to help diagnose and manage cases around the world.
4. Working with multiple agencies, NGOs , member state and the private sector to give information through online and educating with guidance to keep everyone, everywhere citizens safe.
5. Issuing 130 + technical guidance documents to provide real time information and best practices and to identify rapidly the cases distributing millions of tests.

W.H.O accelerate covid-19 research and development (R and D)

- W.H.O had launched the R& D blueprint, conveying ACT-Accelerator for coordinated research for diagnostics, treatment, therapeutics and vaccines so that no country left to rush for the vaccines.
- Engaging in solidarity trials for therapeutics and vaccines research with 5000+ people enrolled in trials in 100 + countries, continuous hard work was there but still far from the over_.
- Establishing the C-TAP access pool sharing of knowledge and accessible intellectual property of covid-19 health tools for existing and new covid-19.

Responses in numbers dated as on 31st December 2020, globally deployed resources overview

- Participating 23-United Nations(UN) entities in UN crisis Management Team
- Through surge mechanisms provided 12000- Intensive care unit beds by WHO
- Related to COVID-19, 509- publications(technical documents)
- It Shipped 19 million tests
- Deployed Internationally, 191- emergency medical teams(EMTs) and GOARN deployments
- On partners platform, 140- areas ,territories , and countries .
- Shipped PPE, 243 million including face shields, gowns and goggles masks, and gloves.
- Available online COVID-19 trainings, 150 on OpenWHO and 4.7 million course enrolments.
- It has implemented an Incident support Team at 156 WHO offices.
- Implementing 58 countries, territories and areas sero-epidemiological investigation or studies

- 35 countries, territories and areas on WHO clinical platform
- More than 19.7 million Respirator masks shipped

After quickly taking strategies and responses to COVID-19 where this pandemic created a huge health crisis globally and claiming more than two million lives and affected all segments of society across the world where countless people losing life, human grieving is spreading and lives of people are in danger. Vulnerable People (migrants, refugees etc.) and those who don't have the any kind of shelter or homes are more suffered and facing challenges.

Covid-19 pandemic created the social crisis and may also increase globally discrimination, inequality, and unemployment.

Covid-19 epidemic have caused huge negative impacts by putting societies and communities on hold such as on population, health system, economic disruption, education and even on security of national and international. At the height of covid-19 these London, New York, Italy, and Mumbai global cities like looked like ghost towns.

This COVID-19 greatest crisis in limited resources increasing demand for medical and health care services and has brought out the demand for careful global health care of planning and health services. Global public health care and services are considered essential and to be achieved only if there is higher standards of public health and health care.

International governments through coordination helped to countries through strategies and response to control the spread of viruses but still countries are not free from this deadly virus, it is essential to international governing bodies to fulfill basic necessities such as food, clothing, shelter, education and to take effective measures to invest in health and in medical care services.

Following affords could help from current pandemic and could handle any future health crisis.

- Establishing priority goals and identify the needs
- In the public health sector facilitating more innovations
- Providing innovative technologies to countries during health crisis
- Formation of global communication management teams
- Monitoring of cases and formation of special management teams
- Provision of diagnostics centers globally

- Formation of organizations for managing availability of employees(health workers)
- Prior Formation of emergency teams
- Facilitating health care and services globally
- Providing vaccines and helping to poor countries

In these aforementioned context, then international human rights to health care and health services could improve and help from any upcoming health crises.

Conclusion:

To conclude, in this context, ensuring human right to health globally its protection and the promotion we can say that global public health coverage can be an important vehicle and to determine both human rights and public health internationally, human rights provide a useful tool.

At international level, we have seen that health is promoted from perspective of human rights. By the governments, several international conventions, documents as well as treaties were signed and ratified. The Parties to a human right treaty, governments decides freely whether to be become part of it or not. The decision is made once; however concerned with the provisions of the treaty, to act in accordance with there is a commitment. Meeting the obligations of government towards human rights, as clearly as possible rights realization must be concrete, deliberate, and targeted. Regardless of people economic and social status everyone should access to public health care and this COVID-19 puts global concern at humanitarian ground to protect the people health and increases importance.

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