

Contents

Chapter	1 introduction	
1.1	Introduction	1
1.2	Basic Concepts	4
1.3	Object and Scope of the study	7
1.4	Rationale of the study	9
1.5	Importance and Significance of the topic and the study	10
1.6	Utility of the study	15
1.7	Hypothesis formulated to conduct the study	16
1.8	Methodology adopted to conduct the study	17
1.9	Limitations of the study	18
1.10	Review of the chapters	18
Chapter	II Right to Health: Conceptual Framework	
2.1	Introduction	23
2.2	Concept of life	23
2.2.1	Meaning of life	23
2.2.2	Definitions of life	24
2.2.3	Characteristics of life	26
2.2.4	Judicial interpretation of the expression 'life'	27
2.3	Concept of health	32
2.3.1	Definitions of health	33
2.3.1.1	WHO definition	34
2.3.2	Varying concepts	34
2.3.2.1	Biomedical concept	35
2.3.2.2	Ecological concept	35
2.3.2.3	Psychosocial concept	36
2.3.2.4	Holistic concept	36
2.3.3	Contemporary ideology of health	36
2.3.4	Various aspects of health	37
2.3.4.1	Physical aspect	37
2.3.4.2	Mental aspect	37
2.3.4.3	•	38
2.3.4.4	Spiritual aspect	38
2.3.4.5	<u>-</u>	38
2.3.4.6	Vocational aspect	38
2.3.4.7	Other aspects	39
2.3.5	Different phases of public health	39
2.3.5.1	Disease control phase	39
2.3.5.2	Health promotional phase	39
2.3.5.3	Social engineering phase	41
2.3.5.4	Health for all phase	41
2.4	Concept of Right and legal rights	44
2.4.1	Definitions of Right	44
2.5	Concept of human rights	47
2.5.1	History of human rights	50
2.5.1.1	Human rights in ancient times	50

2.5.1.2	Human rights in the middle ages	53 54
2.5.1.3	Human rights during the 16th, 17th and 18th century	56
2.5.1.4	Human rights during the 19th century	56
2.5.1.5	Human rights during the 20th century	59
2.6 2.7	Concept of right to health Conclusion	65
		0.5
Chapter	III Health and Human Rights: An Inextricable linkage	
3.1	Introduction	66
3.2	Linkages between health and human rights	68
3.3	Violations of human rights and its impact on health	69
3.3.1	Right against Discrimination	69
3.3.2	Torture	69
3.3.3	Education	70
3.3.4	Freedom of expression	70
3.3.5	Violence against women and children	71
3.3.6	Right to Participate	71
3.3.7	Right to information	72
3.3.8	Right to enjoy scientific progress	72
3.3.9	Right to adequate food and nutrition	72
3.3.10	Right to safe working conditions	72
3.3.11	Right to adequate standard of living	73
3.3.12	Right against Harmful Traditional practices	73
3.3.13	Slavery, servitude and forced labour	73
3.3.14	Access to Health Care	74
3.3.15	Inadequate facilities for basic sustenance	74
3.4	Health as a human right under the	77
	Constitutional mandate	75
3.5	Right to health as a duty towards Government	76
3.6	Determinants of health	84
3.6.1	The social and economic environment	86
3.6.1.1	Social inclusion and exclusion	86
3.6.1.2	Childhood care and child development	87
3.6.1.3	Education	87
3.6.1.4	Food security, nutritious food availability and food safety	88
3.6.1.5	Health Services	88
3.6.1.6	Financial impediment	88
3.6.1.7	Child labour	89
3.6.1.8	Use of traditional healing methods	89
3.6.2	The physical environment	90
3.6.2.1	Occupational health hazards and safe working conditions	90
3.6.2.2	Environment pollution	91
3.6.2.3	Housing	91
3.6.2.4	Natural calamities and disasters	92
3.6.2.5	Violent Conflict Affecting Civilian Populations	92
3.6.2.6	Unethical Research Practices	92
3.6.2.7	Exposure to Dangerous Environment	92
3.6.3	The person's individual characteristics and behaviors	93
3.6.3.1	Biology and genetic endowment	93

3.6.3.2	Personal practices and coping skills	93
3.6.3.3	Literacy and health literacy	93
3.6.3.4	Gender norms and values	94
3.7	Conclusion	95
Chapter	IV Implementation of Right to Health: Role of Govern	
4.1	Introduction	97
4.2	Reports of various Committees formed for public health	98
4.2.1	Bhore Committee	98
4.2.2	Sokhey Committee	99
4.2.3	Mudaliar Committee	100
4.2.4	Ajit Prasad Jain Committee	100
4.2.5	ICMR/ICSSR Committee	100
4.2.6	Varadappan Committee	101
4.3	Brief Overview of five years plan	101
4.4	Eleventh five year plan (2007-2012)	103
4.5	AYUSH (Ayurveda, Yoga And Naturopathy, Unani,	
·	Siddha And Homeopathy)	108
4.6	National Rural Health Mission 2005- 2012	109
4.7	National Urban Health Mission (NUHM)	111
4.7.1	Problem statement	112
4.7.2	Coverage	112
4.7.3	Goal of NUHM	113
4.7.4	Key strategies	113
4.7.5	Model	113
4.8	National Health Policy 1983	116
4.9	National Health Policy 2002	117
4.10	National Population Policy	127
4.11	National Policy on Indian Systems of Medicine	
	& Homoeopathy 2002	127
4.12	National AIDS Prevention and Control Policy	129
4.13	Pharmaceutical Policy 2002	130
4.14	Draft National Policy for Persons with Disabilities	131
4.15	National Water Policy 2002	131
4.16	Conclusion	131
Chapter	r V Right to Health: Indian legislations and Internation	al
docume	-	
5.1	Introduction	133
5.2	Constitutional provisions relating to health	133
5.2.1	Fundamental rights	134
5.2.2	Directive principles of State policy	143
5.2.3	Other Constitutional obligations	148
5.3	Criminal law and health	150
5.3.1	The Indian Penal Code 1860	150
	The Code of Criminal Procedure, 1973	159
5.3.2	Compression law combinable to bealth compage	159
5.3.2 5.4	Consumer law applicable to health services	
	Environment and Health	162 163

.

5.5.2	Resource Management	165
5.5.3	Administration of Environment laws	165
5.5.5 5.6	Medical laws	
		166
5.6.1	The Drugs and Cosmetics Act, 1940	168
5.6.2	The Drugs and Magic Remedies	160
. = 6.2	(Objectionable Advertisement) Act, 1954	169
5.6.3	The Narcotic Drugs and Psychotropic Substances	170
= 6 4	Act, 1985	170
5.6.4	The Epidemic Diseases Act, 1897	173
5.6.5	The Transplantation of Human Organs Act, 1994	174
5.6.6	Legislations for the conduct of Medical Profession	176
5.7	Occupational health laws	177
5.7.1	Employees' State Insurance Act, 1948	177
5.7.2	The Factories Act, 1948	179
5.7.3	The Maternity Benefit Act, 1961	183
5.7.4	The Mines Act, 1952	185
5.7.5	The Plantation Labour Act, 1951	186
5.7.6	Workmen's Compensation Act, 1923	186
5.8	Women and health laws	189
5.8.1	Pre-conception and Pre-Natal Diagnostic Techniques	100
	(Regulation and prevention of misuse) Act, 1994	189
5.8.2	The Medical Termination of Pregnancy Act, 1971	190
5.9	Children and health	191
5.9.1	The Child Labour (Prohibition and Regulation) Act, 1986	192
5.9.2	The Infant Milk Substitutes, Feeding Bottles and Infant	
	Foods (Regulation of Production, Supply and	
	Distribution) Act, 1992	193
5.9.3	The Juvenile Justice (Care and Protection) Act, 2000.	197
5.10	Food laws and health measures	197
5.10.1	The Food Safety and Standards Act, 2006	197
5.10.2	The Prevention of Food Adulteration Act, 1954	200
5.11	Disability and Law	201
5.11.1	The Mental Health Act, 1987	201
5.11.2	The Persons with Disabilities (Equal Opportunities,	
	Protection of Rights and Full Participation) Act, 1995	206
5.11.3	The National Trust (For welfare of persons with Autism,	
	Cerebral Palsy, Metal Retardation and Multiple	
	Disabilities) Act, 1999	210
5.11.4	The Rehabilitation Council Act of India (RCI, 1992)	211
5.12	International human rights instruments	211
5.13	The Universal Declaration of Human Rights	215
5.14	The International Covenant on Civil and Political Rights	215
5.15	International Covenant on Economic, Social and Cultural Rights	215
5.16	Convention on the Elimination of All Forms of	
	Discrimination against Women	216
5.17	Convention on the Elimination of All Forms of Racial	
	Discrimination	217
5.18	Convention on the Rights of the Child	217
5.19	Convention against Torture and Other Cruel, Inhuman or	

5.20	Degrading Treatment or Punishment The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of	219
5.21	Others The Standard Minimum Rules for the Treatment of	219
E 00	Prisoners	219
5.22	United Nations Rules for the Protection of Juveniles Deprived of their Liberty	222
5.23	Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	225
5.24	Declaration on the Rights of Mentally Retarded Persons	226
5.25	Principles for the protection of persons with mental	220
5.26	illness and the improvement of mental health care Universal Declaration on the Eradication of Hunger and	226
0.20	malnutrition	227
5.27	Declaration on the Rights of Disabled Persons	228
5.28	Convention relating to the Status of Refugees	229
5.29	Regional human rights instruments	229
5.30	World Health Organisation	231
5.30.1	Health Organization of the League of Nations	231
5.30.2	Second World War and health in the Region	231
5.30.2	The word 'Health' in the UN Charter	232
5.30.4	The 'Magna Carta' of Health	233
5.30.5	Constitution of the World Health Organization	234
5.30.6	Concept of 'Health' in the Bill of Human Rights	235
5.30.7	World Health Day	235
5.31 5.32	Alma Ata Declaration Conclusion	236 238
0.02	Conclusion	200
	VI Judicial Activism in Protection of Right to Health	
6.1	Introduction	241
6.2	Protection of Right to health during Emergency	243
6.3	Workers right to health	249
6.4	HIV patients and their rights	259
6.5	Prisoners' right to health	263
6.6	Violation of right to health in Protective home/	
	mental hospitals	267
6.7	Children's' right to health	271
6.8	Increasing Pollution level and the right to health	275
6.9	Ban on public Smoking to protect right to health	279
6.10	Shortage of Food and right to health	281
6.11	Medical negligence cases	283
6.12	Unqualified medical practitioners and risk to public	
	health	289
6.13	Effect of Drugs and Medicines on health	296
6.14	Neglect of duty by the public authorities	298
6.15	Conclusion	300
	•	

Chapter VII Conclusion and Suggestions

7.1	Introduction	302
7.2	Conclusions drawn by the Researcher	303
7.2.1	A Paradigm shift in the concept of health	303
7.2.2	Ensuring right to health care: a challenge for government	304
7.2.3	Legislations pertaining to health issues	305
7.2.4	Health care: recognized at the International level	307
7.2.5	Role of judiciary: laudable	307
7.2.6	Lack of awareness and information leads to violation of	
	right to health	309
7.2.7	Lack of health awareness by the Government and the Role	:
	of media	310
7.2.8	No effective steps taken to implement the	
	Constitutional obligation	311
7.2.9	No Minimum standards of health care formulated by the	
	government	312
7.2.10	Lack of resources in Government hospitals	313
7.2.11	Legal procedures and formalities in emergency violates	
	human rights	313
7.2.12	No priority given to cases relating to health	314
7.2.13	Liability of health providers under criminal laws	315
7.2.14	Medical negligence and right to health	316
7.3	Suggestions	317
7.3.1	Need for new laws and need for amendments in the	
	existing legislations	317
7.3.1.1	Amendments required in Criminal Laws	317
7.3.1.2	Women's health legislations required	318
7.3.1.3	Regulation of Private hospitals needed	319
7.3.1.4	Need to amend Consumer Protection Law	319
7.3.1.5	Protecting rights of HIV patients	320
7.3.1.6	Changes required in the Mental Health Act, 1987	320
7.3.1.7	General Suggestions regarding need for legislations	321
7.3.2	Need to define the role of executive for health sector	
	specifically	321
7.3.3	Role of media	323
7.3.4	People's participation and Sensitization	323
7.3.5	Health budget	323
7.3.6	Shortcomings of National Health Bill	324

Bibliography Abbreviations Annexure:

National Health Bill