

Chapter III
Health and Human Rights:
An Inextricable linkage

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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 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

3.1 Introduction

"Linking health and human rights could act as a force for mobilizing and empowering the most vulnerable and disadvantaged. Advancing health as a human right means making people conscious of both their oppression and the possibility of change," said Ms Helena Nygren-Krug¹

Although the enjoyment of the highest attainable standard of health as a fundamental right of every human being was articulated for the very first time in the WHO Constitution in 1946, the implementation of right to health in its factual sense remained obscure and ambiguous in terms of its scope, content, and practical application for decades, largely due to Cold War politics². Right to health in concurrence with human right is a new experience and the concept of linking health with human right is recently developed and a new momentum on health and human rights has been initiated.

It has been rightly said that "since the beginning of this millennium, the human rights movement has witnessed extraordinary developments in advancing the right to health, giving us an excellent opportunity to promote and protect the health of populations throughout the world;³"

Human rights are not a concept which is taken from the western countries exclusively. As we have seen⁴, India through the concept of Dharma covers all what is implied in the concepts of rights, freedoms and duties in the West. But there were certain limitations as the caste system was much more rigid and because of it enjoyment of rights and freedom were not open to all equally and uniformly. The Hindu epics prescribed certain duties and obligations to the rulers. For e.g. Kautilya

¹ Author of the publication and Health and Human Rights Focal Point, WHO

² The period of conflict, tension and competition between the United States and the Soviet Union and their allies from the mid-1940s until the early 1990s

³ Dr Gro Harlem Brundtland, Director-General, WHO.

⁴ Human right imbibed in Indian culture since ancient times. See Chapter II 2.5

ordained that “the King shall provide an orphan, the aged, the infirm, the afflicted and the helpless with maintenance; he shall also provide subsistence to the helpless expectant mothers and also to the children they give birth.”⁵

Protecting and promoting right to health as a human right has positive consequences on the health care system. It broadens health issues beyond the domain of clinical medicine and focuses on the individual health care. In a human rights framework, health is placed in the context of social justice and linked with principles of equity and non-discrimination so that it cannot be challenged as violative of fundamental rights. Recognizing health as a human right issue dramatically re-frames health issues and focuses it to be in a humanitarian point of view. When health is not described simply in terms of needs but also in terms of rights, governments find it far more difficult to justify the withholding of basic provisions and services on account of alleged financial constraints or because of discriminatory priorities.

The right to health is closely related to and dependant upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information and the freedoms of association, assembly and movement. These and all other rights and freedom address integral components of the right to health. Further health and human rights are intricately linked. Health has always to be read in conjunction with human rights.

⁵ Rau BN. Human Rights in India. Year-Book on Human Rights, United Nations, New York, 1947, pp. 150-51.

3.2 Linkages between health and human rights

- Violations or lack of attention to human rights can have serious health consequences;⁶ as each human right is inextricably linked with health issues.
- Health policies and programmes can promote or violate human rights in the ways they are designed or implemented;⁷ like poorly designed or implemented health programmes and policies can violate human rights.
- Vulnerability and the impact of ill health can be reduced by taking steps to respect, protect and fulfill human rights like focusing those groups which are most vulnerable for instance, children; ethnic, religious or linguistic minorities; refugees; the elderly and the disabled also to detect discrimination on the basis of gender, race, religion, health status, etc.

Human rights as envisaged in the international documents and implemented by the member states are very basic to all human beings. Each Human right has been inextricably linked with health issues and we can very well form a link between every human right with that of health. An attempt has been made to link health with human rights as follows:

Right to health is very well grounded with human rights in the international conventions and national laws and has been recognized and reaffirmed by India in numerous international treaties and documents. Article 12 of the ICESCR and Article 5(e) (IV) of CERD specifically provides for highest attainable standard of physical and mental health.

⁶ Mann J, Gostin L, Health and Human Rights: An International Journal, Vol. 1, No. 1, 1994.

⁷ For further explanation see Chapter IV 4.8-14

3.3 Violations of human rights and its impact on health:-

3.3.1 Right against Discrimination

Discrimination against ethnic, religious and racial minorities, as well as on account of gender, sexual orientation, political opinion or immigration status, compromises or threatens the health and well-being and, all too often, the very lives of millions. Discriminatory practices threaten physical and mental health and deny people access to care altogether, deny people appropriate therapies, or relegate them to inferior care. In extreme forms of discrimination, as exemplified by Apartheid, ethnic cleansing and genocide, the devaluation of human beings as "other" has had devastating consequences. The Universal Declaration of Human Rights talks about equality principle⁸. It entitles to all equal protection against discrimination in violation of the rights proclaimed under the declaration.

3.3.2 Torture

Torture is one of the forms which affect the health to a very large extent. The international instrument on Civil and Political Rights under Article 7 says, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation." Torturing a person is a violation of human right. Torture remains pandemic in dozens of countries around the world. It brings both acute trauma and long-lasting physical or psychological suffering to victims, their loved ones, and society at large and thereby affecting their physical and mental health.

The prohibition of torture is also articulated in other human rights instruments, including the Convention against Torture and Other Cruel,

⁸ Article 7

Inhuman or Degrading Treatment or Punishment and Article 37 of the Convention on the Rights of Child.

3.3.3 Education

The Indian Constitution has recognized right to education as a fundamental right under Article 21 A. Education is one of strongest predictors of health status and an intrinsic quality of well-being. Education has a direct effect on the health of human beings. We find that where the level of illiteracy is high people are more prone to hazardous health effects as they are unable to understand the health hazard and are more inclined towards traditional therapies which affects the health of the people negatively.

The right to education is articulated in human rights instruments like ICESCR⁹, CERD¹⁰, CEDAW¹¹, and CRC¹². Access to education leads to “basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents”¹³.

3.3.4 Freedom of expression

As we all know that promoting and protecting human rights is fundamental to promoting and protecting health. Suppressing a person's independence could cause serious health problems. Freedom of expression helps the State to take positive steps towards the control of diseases and to implement health policies and programs effectively.

⁹ Article 13

¹⁰ Article 5

¹¹ Articles 10 and 16

¹² Articles 19, 24, 28 and 33

¹³ Article 24, CRC

3.3.5 Violence against women and children

All kinds of violence against women and children including physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse influences the health. At the international level Convention on the Rights of Child and Convention on Elimination of All forms of Discrimination Against Women protects the rights of women and children keeping health as a main concern. Article 6 of CEDAW and Article 34 of

CRC protects the women and children respectively from sexual exploitation and prevention of prostitution and other unlawful sexual practices.

3.3.6 Right to Participate

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.¹⁴ It is very true that a person's physical and mental personality develops only when he is allowed to participate actively. The right to "...active, free and meaningful participation" is articulated under the Declaration on the Right to Development, 1986¹⁵. The right to participation is also articulated in other human rights instruments, including article 25 of the ICCPR, article 15 of the ICESCR, article 5 of CERD, articles 7, 8, 13 and 14 of CEDAW, and articles 3, 9 and 12 of the CRC.

¹⁴ Article 1 of Declaration on the Right to Development.

¹⁵ Article 2

3.3.7 Right to Information

Information helps people to access various human rights and fundamental freedoms. “Freedom to seek, receive and impart information and ideas of all kinds” is articulated in several international instruments like ICESCR¹⁶, CEDAW¹⁷ and CRC¹⁸.

3.3.8 Right to enjoy scientific progress

Latest technologies and scientific progress has resulted into the treatment of dangerous diseases. Right to enjoy scientific progress and its application is expressed in the ICESCR, 1966¹⁹.

3.3.9 Right to adequate Food and nutrition

“The right of everyone to adequate food and the fundamental right of everyone to be free from hunger...” is directly linked with the health of people. It is articulated Article 11, ICESCR, article 12 of CEDAW, and article 27 of the CRC.

3.3.10 Right to Safe working conditions

Human rights violations are more frequent where the working conditions are inhumane. Safe working conditions like rest and leisure including reasonable limitation of working hours and periodic holidays with pay are provided under the UDHR²⁰ moreover the ICESCR²¹ provides further for fair wages and equal remuneration and equal pay for equal work. The ICESCR also provides for women special protection for a reasonable period before and after childbirth and a paid leave or leave with adequate social security benefits.²² The Convention also provides for the protection

¹⁶ Article 19

¹⁷ Articles 10, 14 and 16

¹⁸ Articles 13, 17 and 24

¹⁹ Article 15

²⁰ Article 24

²¹ Article 7

²² Article 10(2)

of children from economic and social exploitation and ensures the state parties to levy punishment if they are employed in work harmful to their moral health or is dangerous or likely to hamper their normal development. Most of the people in India are laborers.

Labor practices though not in terms of law but in reality are inhumane compromising the health of millions. Women, men, and children toil under brutalizing, unsanitary and hazardous conditions for long hours or work without wages sufficient to support their families' basic needs.

3.3.11 Right to an adequate standard of living

The right to an adequate standard of living for the health and wellbeing of a person and his family including adequate food, clothing, housing, and medical care and necessary social services is expressed clearly in Article 25 of UDHR, Article 11 of ICESCR and Article 27 of CEDAW.

3.3.12 Right against Harmful Traditional practices

Harmful traditional practices have a direct effect on the health of human beings. The Convention on the Rights of Child provides for "Effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children" The prohibition of harmful traditional practices against women is also articulated in the Declaration on the Elimination of Violence against Women, and General Recommendation 24 on Women and Health of the Committee on the Elimination of all forms of Discrimination Against Women, 1999.

3.3.13 Slavery, servitude and forced labor

Article 4 of the UDHR, Article 8 of ICCPR proclaims that "no one shall be held in slavery and servitude". At the same time forced labor is also is also prohibited and people shall not be allowed to work in reversible

position²³. The CRC under Article 32 expresses that the child should be protected from economic exploitation and should not be allowed to perform any work which is likely to be hazardous or to interfere with child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

There are certain other issues which again establish a link between health and human right.

3.3.14 Access to Health Care

Access to health care is very important in a country like India. Though we have adequate policies but because of the geographical vastness and diversity in religion, caste, social status some people could not access the health care services provided by the State. At the same time information is also not conveyed properly to alert people about health hazards. Media plays a very significant role in the spread of awareness and for the access of various facilities provided by the State but we find in India various villages where there is no electricity and the villages are unapproachable because of their remoteness.

3.3.15 Inadequate facilities for Basic Sustenance

One fifth of the world's population live in abject poverty and India is a country where majority of the people live under the poverty line. They lack adequate food, clothing, housing, and social services, and the opportunity to work. This results in weakening the access to health care and health status.

²³ Article 8(3) of ICCPR

3.4 Health as a human right under the Constitutional mandate

The Indian Constitution ensures the creation and the sustaining of conditions congenial to good health. Articles 39(e) (f), 42 and 47 in Part IV of the Constitution of India directs the State to sustain the health of people²⁴. The State legislature is under Entry 6 of the State List contained in the Seventh Schedule to the Constitution, empowered to make laws with respect to public health and sanitation, hospitals and dispensaries. Both the Centre and the States have power to legislate in the matters of social security and social insurance, medical professions, and, prevention of the extension from one State to another of infections or contagious diseases or pests affecting man, animals or plants, by entries 23, 26 and 29 respectively contained in the concurrent list of the Seventh Schedule

Health as one of the duty of the State to be preserved is also well recognized as a person's fundamental right under Article 21. Article 21 has now come to be invoking almost as a residuary right. Various Public interest petitions have been filed under Article 21 to identify health to have been included as a fundamental right. The courts recognizing right to health as inherent to right to life has given various decisions on special treatment to children in jail; against health hazards due to pollution; against health hazards from harmful drugs; for redress against failure to provide immediate medical aid to injured persons; against starvation deaths; against inhuman conditions in after-care home and on scores of other aspects which make life meaningful and not a mere vegetative existence²⁵.

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²⁴ See Chapter V, 5.2

²⁵ See Chapter VI

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Health as a human rights approach depicts the state's obligation to respond and fulfill to the absolute rights of human beings. Health as a human right has to be demanded as a right and not as a charity.

3.5 Right to health as a duty towards Government

Article 2(3) of the Declaration on the Right to Development states that States have the right and the duty to formulate appropriate national development policies that aims at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting there from.

The human right to development implies the full realization of the rights set forth in the two International Covenants of human rights. Both the International Covenants specifically deals with right to health which is an inalienable right.

India by ratifying most of the International human rights documents is under a duty to set minimum standards as proclaimed in the International documents in our national legislations and policies. Human rights are conferred by the State to the individuals; they mainly refer to the relationship between the State and the individual, and are concerned with entitlements which imply accountability and governments' responsibility. They are claimed rights and any individual can claim it

against the State.

Wherever there is a recipient of rights, there is corresponding body, primarily the State, whose duty is to ensure the existence of conditions under which rights can be claimed and enjoyed by the individual. For e.g. child immunization. Within a human rights framework, immunization is not simply a necessary medical requirement for children and a responsible public health measure; it is a right of all children, with corresponding duty of State. This duty cannot be bargained away because of financial constraints or of other priorities as to how money should be spent in health sector. The bearer of rights, in this case is the child.

Individuals are the holders of civil, political, economic, social and cultural rights as endowed to them by the various international documents, the national legislations and policies, which create legal standards for these rights. Governments have corresponding obligations to respect, promote, protect and fulfill these rights.

International protection of human rights is very essential as they make the base of human rights which are uniformly applicable in all the member states. National-level legislation, policies and enforcement mechanisms are the key factors in granting the rights that are being claimed and granted in the everyday lives of individuals.

As India has ratified the international human rights treaties that affirm the right to health, it is responsible for all its actions and non-actions. Because of stark differences between economic, social, cultural and political conditions as well as disparities between health status and health care in different countries, the phrase 'highest attainable standard of health' is used so that the State may proceed towards the goals but

within its economic capacity.

The Constitution and the certain other laws protect the Human rights in India. The state has to consider health programs and policies and develop them so that the human right is not violated. The necessary resources should be allocated in a manner so that the greatest needs are satisfied.

The Supreme Court in India has also been very active in the realization of human rights and specifically right to health. As in the case of *Vincent Panikurlangara v. Union of India*²⁶, the Apex Court has said “In a welfare State, therefore, it is the obligation of the State to ensure the creation and the sustaining of conditions congenial to good health.”

Health when considered to the human right creates legal responsibility and Legal responsibility is closely associated to the notion of entitlement. The legal recognition of the right to health allows the right to be challenged in the courts of law on violation. Hence it is very important for the individuals and those providing health care to know that the right to health is legally sanctioned. Individuals are entitled to receive or to be protected from, in order to achieve the highest attainable standard of health. It is the responsibility of the government to provide necessary services and conditions to attain the highest attainable standard of health. To make these rights as a live reality, the entitlements of the individuals should be reflected in the actions of the government and all those providing health services.

In order to protect this right in full bloom the relationship between rights-holders i.e. the public and the duty-bearers i.e. public authorities

²⁶ AIR 1987 SC 990

has to be strengthened. As we have already seen that Human rights of individuals imposes a corresponding duty towards the State. Human rights therefore create obligations, usually on governments. These obligations correspond with the entitlements to rights of individuals. Human rights require minimum standards of legal and administrative practice that must be followed and enforced by governments if individuals are to enjoy their fundamental rights. There is furthermore, a duty on the part of governments not to obstruct any person's ability to claim his or her own rights.

Hence Human rights place both positive and negative duties on the State. Positive obligations require government to take certain actions, which negative ones require it to refrain from other actions such as obstructing enjoyment of the right to health.

The State's positive and negative duties are often distinguished respectively as obligations to respect, to protect and to fulfill. The obligation to respect is generally a negative duty; the other two obligations impose many positive duties on States as well. These three obligations can be further explained as below:

- To respect human rights i.e. the Duty of State not to violate rights by its actions i.e. the state should refrain from interfering directly or indirectly with the enjoyment of human rights. This obligation ensures that governments should abstain from acting in a way that impedes any attempt to claim rights say for e.g. Denial of access to health facilities mostly on rural and remote areas; misrepresentation of information or non-information that is vital to the protection of health.
- To protect human rights i.e. Duty of State to prevent human rights violation by others i.e. by preventing third parties from interfering

with or violating human rights. This means taking the necessary measures to prevent individuals or groups from violating the rights of others. The State may neglect this duty by omitting to discourage the production, marketing and abusive consumption of tobacco, narcotics and other harmful substances; or discourage the continuation of harmful traditions or cultural practices.

- To fulfill human rights i.e. Duty of the State to act in order to ensure that rights can be enjoyed by adopting appropriate legislative, administrative, budgetary, judicial, promotional and other measures to facilitate the full realization of human rights. This means taking the necessary measures to ensure that each person has the opportunity to assure their entitlements, as guaranteed in human rights instruments. The obligation to fulfill again includes three concepts i.e. to include the obligations to facilitate, to provide and to promote.

This reflects the following types of responsibility that governments incur to take positive measures to implement the right to health.

- Facilitating the right to health requires states to take positive measures that enable and assist individuals and communities to enjoy the right to health by providing relevant services.
- Providing the right to health requires States to intervene when individuals or groups are unable, for reasons beyond their control, to realize the right to health themselves through the means at their disposal.
- Promoting the right to health requires States to undertake actions that create, maintain and restore the health of the population. Health promotion is an important component of the measures necessary to fulfill the right to health. In order to enjoy the right to health, individuals and communities must have adequate and appropriate health-related information. It also requires that special

measures be taken to prioritize the health needs of the poor and otherwise vulnerable and disadvantaged groups in society.

The State may fail to fulfill human rights by adopting a gender-sensitive approach to health which may be discriminatory or may fail to reduce infant and maternal mortality rates.

We find that the State is the protector of our rights. But many a times the State itself violates the rights of people by commissions and omissions. The State can violate the rights of people in the following ways:

- Violations through the acts of commissions may include formal repeal or suspension of legislation that is necessary for continued enjoyment of the right to health or adopting of legislation or policies which are manifestly incompatible with pre-existing domestic or international legal obligations affecting right to health.
- Violations through the acts of omissions may include:-
 - Failure to take appropriate steps towards the full realization of everyone's right to the enjoyment of highest attainable standard of physical and mental health;
 - Failure to have a national policy on occupational safety, health and occupational health services;
 - Failure to comply with national food and product safety standards.

Health when viewed as a human right creates the following responsibilities towards the State to fulfill the rights of people.

- The state is more accountable for the health care services provided as well for spreading the information relating to health care services;

- Health care sector be more focused to the needs of the poor and otherwise vulnerable and disadvantaged groups, as these groups are at the least recipients of services provided by the State due to lack of information, knowledge and economic constraints.
- Non discriminatory practices should be prevented, avoided and halted.
- Governments should stop retrogressive measures in the health related budgetary and administrative practices;
- Immediate provision should be made for the minimum standards that are essential for the enjoyment of right to health. Hence Government must accept that they have obligations to take progressive steps towards realizing fully the right to health and must immediately take steps to set the stage for progress.

Hence it is very rightly said by Justice R.K.Abhichandani that "the legal responsibility of the State agencies to take care of the individual's health and ensure his physical and mental well-being will therefore be a measure of the individual's right to health in a welfare state. Every sovereign State has plenary power to do all things which promote the health, peace, morals, education and good order of the people and tend to increase the wealth and prosperity of the State. Maintenance and improvement of public health have to rank high as these are indispensable to the very physical existence of the community and on the betterment of these depends the building of the society which the Constitution makers envisaged.²⁷"

²⁷ Justice R. K. Abhichandani on "Health as Human Right: Role Of Courts In Realization of The Right"

But the right to health should not be seen as a right to be healthy. It is not possible and it should not be expected from the State to provide protection in cases where individuals voluntarily take unnecessary risks including the adoption of unhealthy lifestyles. But at the same time the state should never fail to provide facilities and conditions for which it is responsible for ensuring the highest attainable standard of health.

The Supreme Court of India by constructing Article 21 liberally has included health to be as a fundamental right. When we talk about Fundamental rights, they are generally available only against the State. They prescribe the obligations of the State which has to be fulfilled. Financial constraints should not be a bar in providing the health services. Providing health services is not enough but these services should be quality services including good infrastructure having enough beds, sufficient medicines and the most important well experienced medical professionals and trained nurses.

In a case dealing with bad infrastructure in public hospitals the Allahabad High Court held:

“It is indeed true that most of the Government Hospitals in Allahabad are in a very bad shape and need drastic improvement so that the Public is given proper medical treatment. Anyone who goes to the Government Hospitals in Allahabad will find distressing sanitary and hygienic conditions. The poor people, particularly, are not properly looked after and not given proper medical treatment.”

To conclude we can say that considering health under the purview of human rights, the public health strategy should be well informed so that most people can take the advantage of the same. Most importantly is the principle of non-discrimination, equality that has to be adopted to advance public health sector. Hence right to health should be promoted and it is the obligation of the government to promote the right to health

by properly implementing various legislative provisions and policies, implementing the laws and their violations in a stringent manner; educating the mass, creating awareness amongst people mobilizing public opinions and identifying and solving actual and potential violations of right to health. If all these things are taken care of we can say that the State as a welfare state has ensured people with their most important right.

3.6 Determinants of health

Different social groups have varying degrees of health and illnesses; this is because of the varying conditions in which they live. The health of individuals depends on various social, economic and environment circumstances. Some factors tend to have a greater effect on health and some have a lesser effect depending on the circumstances. Some factors are such which could be controlled by human being like food and nutrition or hygiene but some other factors are out the human control like floods etc. These determinants of health are the conditions under which people live and they greatly influence the collective and personal well-being of individuals and the community. So it is very important to know the determining factors of health of individuals as well as the community at large.

Social determinants of health are factors in society or in our living conditions that affect our health, for better or for worse, throughout life. Things such as education, housing, transport, employment, working conditions, finance, clean drinking water, sanitation, and a good start to life are just some of the social determinants of health. "Throughout the

world, poor people and those from socially disadvantaged groups get sicker and die sooner than people in more privileged social positions²⁸.

It has been very rightly said that "Technical knowledge and an effective public health system may not always be the answer. Sometimes, understanding the social determinants of diseases can help in prevention,"²⁹ Health and well being of the people can be achieved by addressing the social and environmental determinants of health in addition to the biological and medical factors³⁰. Once the determinants are identified the policies should be made focusing to achieve the highest attainable standard of health.

Determinants of health determine whether individuals stay healthy or become ill. It is also about the quantity and quality of a variety of resources that a society makes available to its members. These resources include but are not limited to - conditions of childhood, income, availability of food, housing, employment and working conditions, and health and social services. At an individual level it includes issues of gender, class, racism and other forms of social exclusion. Hence the determinants of health approach views the mainsprings of health as being how a society categorizes and distributes economic and social resources, consequently directs attention to economic and social policies as means of improving health.

India needs to make its public health system operative and effective, says the World Health Organization (WHO), Commission on Social

²⁸ Wilkinson R, Marmot M Editors. Social Determinants of Health, The Solid Facts. 2nd Ed. Europe: World Health Organization; 2003

²⁹ Marmot M. Commission chairperson and Director of the International Institute for Society and Health at University College, London

³⁰ Aged, Community and Mental Health Division (1998), A stronger primary health and community support system: policy directions, Victorian Department of Human Services, Melbourne

Determinants of Health. Besides possessing technical knowledge, the Government needs to understand the social determinants of diseases³¹.

The World Health Organization has identified certain determinants of health and has broadly classified the determinants of health into three categories:

3.6.1 The social and economic environment,

3.6.2 The physical environment,

3.6.3 The person's individual characteristics and behaviors.

All the factors affecting health fall under these three categories. Clearly defining the factors falling under these three categories we get:

3.6.1 The Social and Economic Environment:

The social environment is where a group of individuals have a direct influence of the contributions of the society. This environment guides to individual self growth and their progression in each field. On the other hand economic environment refers to factors such as income, wealth, poverty, employment etc which affects the health of the people. The factors included in social environment comprises of:

3.6.1.1 Social inclusion and exclusion:

It refers to the processes of inequality among groups in society. It can also be related to the inability of certain groups and individuals to participate fully in the social life due to structural inequalities in access to social, economic, political and cultural resources. These inequalities arise out of discrimination related to race, class, gender, disability,

³¹ The Hindu, Sept 16 2005

sexual orientation, immigration status and religion³². In India we find people having different social backgrounds which tend them to be in downtrodden strata. This inequality leads them to lack of knowledge and awareness which ultimately leads to determine the health of people belonging to that group.

3.6.1.2 Childhood care and child development:

This factor is a very important aspect of the determining the health of children as well as adults. The early childhood care leads a person to a healthy life free from disease and higher consistency. Early childhood education and care describes an integrated, multifunctional approach to policies and services that is inclusive of all children and parents regardless of employment or socio-economic status³³. It means proper functioning of child care centers and family care centers be provided for the development of children and educating the mothers for their child's development. It also includes kindergartens, nursery schools and preschools whose primary focus is early childhood education.

3.6.1.3 Education:

Education is directly related to the health of people. Low education levels are linked with poor health and the more the people are educated the healthier they are. This is because they understand certain health consequences and take preventive measures to protect their health. Education again is dependent on many factors. Poverty is the main root after low education. At the same time availability of schools and services like transportation for schools etc also plays a very important role in educating an individual.

³² Population Health, Public health Policy of Canada

³³ Population Health, Public health Policy of Canada

3.6.1.4 Food security, nutritious food availability and food safety:

Food insecurity is defined as “the inability to acquire or consume an adequate diet quality or sufficient quantity of food in socially acceptable ways³⁴. It also includes problems in obtaining nutritionally adequate and safe foods due to lack of money to purchase them or the limited availability of these foods in geographically isolated communities³⁵. In India we find that the problem of food non-availability is faced by majority of people due to financial constraints. Hence it has a direct effect on the health of human beings.

3.6.1.5 Health Services:

Health services provided should be accessible to all i.e. even in remote areas. Policies should be made focusing the vulnerable group who are not able to afford the private services. Access and use of services that prevent and treat disease influences health. In a country like ours the government has made various programmes so as to provide adequate nutrition to children as well as pregnant women like mid day meals programme etc. Apart from food security and availability one more factor that is food safety which has to be taken into consideration. Exposure of food to both chemical and biological hazards imposes a substantial health risk to the people.

3.6.1.6 Financial impediment:

Poverty is directly linked to poor health. In India we find majority of the people living below the poverty line who do not have much consciousness about their health. Income inequality also prevails in our country and we find greater differences in health between rich and poor. Because of financial constraints people are not able to take nutritious food and that leads them to get into addiction like smoking and drinking.

³⁴ Davis and Tarasuk, 1994

³⁵ Campbell, 1991

3.6.1.7 Child labour

Industrialization has lead to increase the use of child labour and resulted in degradation of children's quality of life and health status. According to Indian Council of Child Welfare, child labour usage is prevalent in match industries, beedi making, diamond polishing, sari embroidery, and fish peeling, glass works etc. child labour engaged in these types of industries suffer from health problems and the condition of work are also unsafe and detrimental to their physical and mental health. They also have to face occupational accidents succumbing to death and sustaining body injuries. Unhygienic atmosphere at work place, overcrowding and malnutrition are some of the common characteristics of child labour sector. Apart from this, the children are also engaged in informal sectors like shoe shining, tea stalls, way side dhabas, rag picking etc which again is injurious to their health. Working children seldom get the opportunity to educate themselves which again leads to unawareness about the health hazards. Apart from health effects they also face social problems like they find it difficult to adjust to social situations. They seem to be less comfortable in social atmosphere. They have limited social relationship outside their work setting and this adversely affects the development of their personality.

3.6.1.8 Use of traditional healing methods:

Indian people are more traditional minded and are not able to accept new inventions and discoveries. Lack of awareness, rigidity and inclination towards the use of homely traditional techniques sometimes poses a danger to the health of people.

3.6.2 The Physical Environment:

3.6.2.1 Occupational health hazards and safe working conditions:

Industrialization is invariably associated with adverse health effects in the form of various types of health hazards. Working conditions such as job and employment security, physical conditions such as safety measures, working time, and facilities like medical and recreational provided and most importantly the wages are the key factors determining the health of workers. Workers working in slate industries, asbestos industries, textile, coal, chemicals, glass, electronics, pesticides, paints industries are most likely to face health hazards. Workers are most likely susceptible to accidents and diseases which affect their respiratory system and which causes asthma, chronic bronchitis etc as they inhale the particles present in their workplace.

Moreover the health of the workers working in unorganized sectors is also to a very great extent affected due to unsafe working conditions. The prevailing legislation are applicable to organized sectors and so these workers at unorganized sector could not even avail legislative safeguards. The working conditions depend upon the employer's financial resources and attitude towards their workers. The working hours, lower wages, absence of health facilities and improper hygienic conditions are the factors which add to the misery of the workers in unorganized industries. Hence it appears that so far as the occupational health hazards are concerned in India, there is more or less a complete vacuum and even organized sectors of the industries do not have a clear idea about the extent of occupational health problems. Further industrialist are also overburdened with production cost and competitive markets and they seldom take care of the health of their workers in order to reduce additional costs. Hence unless they are forced to take care of the health of their workers they ignore it. At the same time it is equally important to educate the workers and make them aware of their rights so as to avoid unnecessary health hazards.

3.6.2.2 Environment pollution:

Pollution is the introduction of substances or energy into the environment, resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems, and impair or interfere with amenities and other legitimate uses of the environment³⁶. These days there has been a rapid deterioration in the quality of environment because of air, water and noise pollution. Along with pollution there has been depletion in the ozone layer in the stratosphere and global warming. This situation is expected to cause multidimensional health problems. Because of the development in science and technology, industrial revolution, population rise, deforestation and urbanization the pollution level is increasing day by day. Some other factors present in environment such as toxic chemicals in human and animal excreta, industrial wastes, radioactive wastes etc do have an impact on health.

3.6.2.3 Housing:

The World Health Organization in one its publication summarizes the health implications of housing in the following statements:

“Housing is intimately related to health. The structure, location, facilities, environment and uses of human shelter have a strong impact on the state of physical, mental and social well-being. Poor housing conditions and uses may provide weak defences against death, disease and injury or even increase vulnerability to them. Adequate and appropriate housing conditions, on the other hand, not only protect people against health hazards but also help to promote robust physical health, economic productivity, psychological well-being and social vigour.”³⁷

³⁶ Definition of Pollution by Dr. K.P. Peiry at University of New South Wales, Australia

³⁷ World Health Organization, Health Principles on Housing, WHO, Geneva, 1989.

In India housing is compounded by a myriad of factors like poverty, nutrition, levels of income, literacy etc. Migrants from rural to urban areas have to accommodate themselves in slums which are already ill-ventilated and crowded. Slum dwellers rarely take into account the health and sanitation factor and keep their surrounding dirty which again gives rise to a number of diseases. Hence it creates unhygienic living conditions and affects the health of people.

3.6.2.4 Natural calamities and disasters:

Earthquakes, floods, tsunamis etc causes immense trauma in the minds of people. These natural calamities lead not only to physical health hazards but affect the mental health of people who have experienced it.

3.6.2.5 Violent Conflict Affecting Civilian Populations:

Violent conflict including communal riots is unmanageable. Consequently many people are suffering from health effects which disregards for human rights.

3.6.2.6 Unethical Research Practices:

Biomedical and behavioral research practices too often violate human rights. This is because of inadequate information and absence of consent procedures which are more detrimental to the physical and mental health.

3.6.2.7 Exposure to Dangerous Environment:

Industrialization and urbanization has caused the environment to pollute. Environment has a direct effect on the health of the people living in polluted surroundings.

3.6.3 Person's individual characteristics and behaviour.

3.6.3.1 Biology and genetic endowment:

In biology heredity means the transmission of traits from parent to offspring and genetics is the branch of biology which is concerned with the study of heredity and it aims to explain how characteristics of living organisms are passed on from one generation to the next³⁸. Hence inheritance plays a vital role in determining a person's lifespan. Some diseases like diabetes etc are hereditary and so these are endowed in the genes of a person which could seldom be avoided.

3.6.3.2 Personal practices and coping skills:

Personal practices of human being are also very important in determining the health of people. Due to busy life young people are not having balanced eating. Their dietary patterns also are quite unacceptable as most people dependent on fast foods and junk foods. Again because of busy life physical exercise is reduced and people are prone to addictions like smoking, drinking which are hazardous to their health. Some other factors like coping with stress also affects the health.

3.6.3.3 Literacy and health literacy:

We have already seen education as one of the social and economic factors. Health literacy refers to health information and better health practices³⁹. A more robust view of health literacy includes the ability to understand scientific concepts, content and health research, interpretation of mass media messages, approaching public health services and most importantly using cultural and indigenous knowledge in health decision making.

³⁸ www.encyclopedia.farlex.com

³⁹ Wikipedia encyclopedia

3.6.3.4 Gender norms and values:

The stereotyped roles and behaviors of men and women in a country like India gives rise to gender differences and inequalities. These gender inequalities empower one group to the detriment of the other. In most cases women is in a detrimental position. Some gender based examples as described by The World Health Organization⁴⁰ affecting health and health status

- A woman cannot receive needed health services because norms in her community prevent her from traveling alone to a clinic.
- A teenage boy dies in an accident because of trying to live up to peers' expectations that young men should be "bold" risk-takers.
- A married woman contracts HIV because societal standards encourage her husband's promiscuity while simultaneously preventing her from insisting on condom use.
- A country's lung cancer mortality rate for men far outstrips the corresponding rate for women because smoking is considered an attractive marker of masculinity, while it is frowned upon as unfeminine in women.

In each of these cases, gender norms and values, and resulting behaviors, are negatively affecting health. Also poverty, unequal power relationships between men and women, and lack of education prevent millions of women worldwide from having access to health care and from attaining and maintaining the best possible health. Gender based discrimination and violence against women is also responsible for the ill health of women.

⁴⁰ Gender, Women and Health Project, WHO

3.7 Conclusion:

Differences in health and health status highly depend on the range of socio-economic, physical as well as person's individual behavioral patterns. In all these factors we find that the most disadvantaged groups have poorest health and the highest exposure to health-damaging risk factor⁴¹.

According to Marmot and Wilkinson there is evidence that poorer socio-economic groups tend to have poorer nutrition, less physical activity in leisure time, greater prevalence of smoking and more damaging patterns of alcohol use. However, each factor should not be considered separately. The life circumstances or determinants of health (including people's social and economic circumstances, indigenous status and ethnicity, stress, gender, early life development and experiences, social exclusion, work and unemployment, and social supports)⁴² of people experiencing disadvantage highlight the greater restrictions on 'making healthy choices the easy choices'⁴³. Further, cultural diversity and the failure of the system to address issues of access to appropriate services and programs for diverse groups can create inequalities in health status. Integrated health promotion attempts to close the equity gaps by supporting social networks; developing and advocating healthy public policies; and strengthening community capacity⁴⁴.

All human rights are universal, indivisible and interdependent and interrelated. The international community has also through its various documents treated human rights in a fair and equal manner, on the

⁴¹ Marmot, M. The solid facts: the social determinants of health. *Health Promotion Journal of Australia*, 1999 vol. 9, no. 2, pp. 133–9.

⁴² Marmot, M. and Wilkinson, R. *Social determinants of health*, Oxford: Oxford University Press; 1999

⁴³ World Health Organization (1999), *Reducing inequalities in health: proposal for health promotion policy and action*, Consensus Statement, Health Documentation Services, Copenhagen

⁴⁴ International Union for Health Promotion and Education (2000), *The evidence of health promotion effectiveness: shaping public health in a new Europe*, Report for the European Commission, Brussels

same footing, and with the same emphasis. However it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms. But as we know, many factors are combined together to affect the health of individuals and communities. Whether people are healthy or not, is determined by their circumstances and environment. We have seen in this chapter that factors such as where we live, the state of our environment, genetics, our income and education level, and our relationships with friends and family all have considerable impacts on health, whereas the more commonly considered factors such as access and use of health care services often have less of an impact. The government in order to ensure and fulfill the right to health of individuals and community should take into consideration the Social determinants of health. These determinants mainly depend on the economic and social conditions under which people live which in consequence determine their health; illnesses that are generally related to social, economic, political, and environmental circumstances.