

‘COLLECTIVE HUMAN RIGHT TO PUBLIC HEALTH’

In the Auspicious of

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Modern human rights, precisely because they were initially developed entirely outside the health domain and seek to articulate the societal preconditions for human well-being, seen a far more useful framework, vocabulary, and form of guidance for public health efforts to analyse and respond directly to the societal determinants of health than any inherited from the biomedical or public health traditions.

Article 25 of the Universal Declaration of Human Rights, 1948 (UDHR) encapsulated the “right to health” in the following words:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

General Comment 14 issued by the UN Committee on Economic, Social and Cultural Rights in 2000. The said Committee made the following observations:

The notion of the “highest attainable standard of health” in Article 12(1) of ICESCR takes into account both the individual's biological and socio-economic preconditions and a State's available resources. There are a number of aspects which cannot be addressed solely within the relationship between States and individuals; in particular, good health cannot be ensured by a State, nor can States provide protection against every possible cause of human ill health. Thus genetic factors, individual susceptibility to ill health and the adoption of unhealthy or risky lifestyles may play an important role with respect to an individual's health. Consequently, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health.

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

Prof. Amartya Sen, in his recent Prof. Hiren Mukherjee Memorial Parliamentary Lecture delivered at the Central Hall of Parliament House, said:

A Government in a democratic country has to respond to ongoing priorities in public criticism and political reproach, and to the threats to survival it has to face. The removal of long-standing deprivations of the disadvantaged people of our country may, in effect, be hampered by the biases in political pressure, in particular when the bulk of the social agitation is dominated by new problems that generate immediate and vocal discontent.

If the politically active threats are concentrated only on some specific new issues (no matter how important they may appear), rather than on the terrible general inheritance of India of acute deprivation, deficient schooling, lack of medical attention for the poor, and extraordinary undernourishment (especially of children and also of young women), then the pressure on democratic governance acts relentlessly towards giving priority to only those particular new issues, rather than to the gigantic persistent deprivations that are at the root of so much inequity and injustice in India. The perspective of realisation of justice is central not only for the theory of justice, but also for the practice of democracy.

Introduction

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The recognition of right to public health at national level

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