

# Article the fulfillment and enjoyment of existing



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Article 25 of the UDHR states that ‘ everyone has the right to a standard of living adequate for the health and wellbeing of himself including food, clothing, housing and medical care Similarly, Article 12 of the ICESCR advocates the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’. Article 12. 2 (d) of the ICESCR places an obligation on states to create conditions that ensure medical service and medical attention in the event of sickness.

If IPR such as medical patents are recognized as human rights, it would result in absurd outcomes where one human right comes in the way of another human right. Specifically, medical patents obligate a country to introduce product patents in pharmaceuticals, thereby disallowing the generic manufacture of medicines, which, in turn, leads to higher medicine prices, adversely affecting accessibility of medicines by the poor and endangering the human right to health. This discussion illustrates that IPR are not human rights, essentially because there are certain fundamental differences between the two. Article 15. 1 (c) should be narrowly construed in light of the overall balancing principle enunciated in Article 15. 1. If we consider IPR as human rights, there could be serious repercussions on the fulfillment and enjoyment of existing human rights.