

Medical care laws and human rights jurisprudence

[Sociology](#), [Human Rights](#)



The right to medical care is an old phenomenon. The adoption of the paradigm of human rights could revolutionize health care. It is unthinkable to separate health and human rights and they must be integrated into all aspects of health care. The violation of human rights has a negative impact on health. The Indian prayer “ Sarve Bhavantu Sukhinah Sarve Santu Niramayah” perfectly illustrates the Indian conceptualization of human rights, which means ‘ May everyone in this universe be happy and healthy’. This principle underlines the global and multi-dimensional nature of our commitment to the protection and preservation of human rights. The most important right to the human body is the right to health, and this right has found its place in the field of human rights at the beginning of time.

a)International efforts for Protection of Health

The right to medical care as an international human right is based on the mandate of the United Nations Charter, the International Bill of Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, and the United Nations Convention on the Rights of the Child (UNCRC), 1989. Therefore, members of the international community are expected to work on building health care strategies. These international documents have recognized the right to quality treatment and medical care.

1. United Nation Charter: The United Nations Charter does not explicitly treat health as a human right under its Human Rights provisions. The Charter states that the promotion of respect for human rights and fundamental freedoms is the goal of the creation of the United Nations. For the achievement of its purpose, the United Nations is also

responsible, inter alia, for promoting a higher standard of living, full employment, economic condition, social progress & development and solutions to economic, social, health and related problems. In this sense, Member States, in cooperation with the United Nations bodies, must achieve those objectives.

2. International Bills of Rights: In accordance with the United Nations Charter on Human Rights and Fundamental Freedoms, the international community adopted the Universal Declaration of Human Rights on 10 December 1948, which entered into force on 10 December 1948, 1976.
3. Universal Declaration of Human Rights: The adoption of the Universal Declaration of Human Rights by the General Assembly of the United Nations has brought about the human rights revolution in the world. The Declaration proclaims that all human beings are born free and equal in dignity and rights and are entitled to a social and international order in which the rights and freedoms provided under this Declaration can be fully realized. The statement expressly acknowledges the right to health.
4. International Covenants on Human Rights: The International Covenant on Economic, Social and Cultural Rights enshrines second-generation human rights, which are positive in character and impose an affirmative obligation on States parties. It fully enshrines the right to health in detail.

The International Convention on the Elimination of All Forms of Racial Discrimination of 1965 gives the member states a more effective positive

medical commitment. The 1979 Convention on the Elimination of All Forms of Discrimination against Women, under Article 12 requires state parties to take all necessary measures to eliminate discrimination against women in order to ensure equal access to medical services for men and women, including those related to family planning.

The United Nations Convention on the Rights of the Child of 1989 requires state parties to recognize the child's right to the highest attainable standard of health and to provide medical and rehabilitative services. State parties shall endeavour to ensure that no child is deprived of the right of access to such health services. The right to medical care, like all other human rights, is an internationally recognized right that encourages national legal systems to ensure their automatic enforcement through judiciary. India is a classic example: the Indian Supreme Court has recognized various human rights enshrined in the International Instrument to which India belongs.

There have been other international efforts to realize the right to health. The World Health Organization has been a pioneer in the direction of health policy, development and action at national and global level in recent years. The main goal of the World Health Organization is for all people to reach the highest possible level of health.