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# **ENSURING EQUITY AND DIGNITY: EXPLORING HUMAN RIGHTS IN PUBLIC HEALTH**

Laxmi Priya Soni<sup>1</sup>

## **ABSTRACT**

*"Ensuring Equity and Dignity"* dives into the critical junction of human rights and public health, emphasizing the importance of equal healthcare access and maintaining human dignity. This study looks at the fundamental concepts of human rights in the context of public health, focusing on non-discrimination, active community engagement, and institutional responsibility. It investigates the social determinants of health and their impact on equitable healthcare outcomes, providing insights into ethical considerations and legal frameworks that drive policy. By scrutinizing these features, this research intends to improve a complete knowledge of the critical relationship between human rights and public health, providing avenues for more just, inclusive, and respectful healthcare systems worldwide.

## **KEYWORDS**

Human Dignity, Equity, Public Health, Non-discrimination.

## **1. INTRODUCTION**

The concepts of fairness and dignity are critical in today's interconnected society for safeguarding the well-being of all individuals. These values meet at a vital crossroads in the field of public health, where human rights promotion and protection are critical for establishing a just and inclusive society. The purpose of this investigation is to look into the complex relationship between human rights and public health, giving light on how

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these two realms interact to form our collective well-being. Public health is concerned with protecting and enhancing the health of populations. It includes a wide range of activities, such as illness prevention and health promotion, as well as healthcare access and policy creation.

The absence of illness is not the only measure of the effectiveness of public health activities; it is also the presence of social justice, equality, and human dignity. Human rights, on the other hand, provide a foundation for the fundamental rights and freedoms to which all people are entitled, regardless of their origin, beliefs, or circumstances. These rights apply to all elements of life, including civil, political, economic, social, and cultural rights.<sup>2</sup> They are enshrined in international treaties, such as the Universal Declaration of Human Rights, as well as in the Constitution.

At the intersection of public health and human rights, we find a symbiotic relationship that requires our attention and commitment. To ensure that all members of society benefit equally, public health efforts must be founded on human rights values. Human rights, on the other hand, are upheld and realised through the implementation of equitable and dignified public health policies and practises.<sup>3</sup> This multidimensional approach of understanding is important as to how human rights principles can be integrated into public health practises, ensuring that no one falls behind in the pursuit of health and well-being. Important issues such as healthcare access, the right to health, social determinants of health, and the impact of prejudice and inequality on public health outcomes. Understanding of the critical role that human rights play in influencing the future of public health and, by extension, the overall well-being of societies around the world is necessary.

## **2. REVIEW OF LITERATURE**

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<sup>2</sup> BM Meir, Human Rights in Public Health, National Institutes of Health (Dec. 18, 2018, 11:00 AM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6293343/>

<sup>3</sup> *Id.*

Human rights and public health have been the topic of extensive scholarly research and practical implementation. This literature review gives an overview of significant issues and findings in this discipline, offering light on the changing debate as well as critical observations.<sup>4</sup>

- **The Right to Health and Access to Healthcare:** The right to health, as expressed in international human rights treaties, emphasizes the significance of equal access to healthcare services for all individuals without discrimination. Numerous research has looked into how discrepancies in healthcare access can increase health inequities. Inequities are frequently linked to criteria such as socioeconomic position, race, gender, and geographic location.
- **Human Rights-Based Approaches in Public Health:** Human rights-based approaches to public health programmes are becoming more popular. These approaches emphasize the importance of human rights protection and fulfilment in accomplishing public health goals. They frequently entail empowering individuals and communities to assert their rights and participate in decision-making processes.
- **Health's social determinants:** The importance of social determinants of health in moulding individuals' well-being has received increased attention in research. Socioeconomic situations, education, housing, employment, and environmental factors are examples of determinants. Addressing social determinants is viewed as a critical component of achieving health equity and realizing the right to health.<sup>5</sup>
- **Vulnerable and marginalized populations:** Vulnerable and marginalized populations, such as refugees, migrants, indigenous tribes, and the poor, confront distinct problems in obtaining

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<sup>4</sup> Jonathan M. Mann, Lawrence Gostin, Sofia Gruskin, Troyen Brennan, Zita Lazzarini, Harvey V. Fineberg, Vol. 1, No. 1 (1994), JSTOR, <https://www.jstor.org/stable/4065260>

<sup>5</sup> *Id.*

healthcare and enduring health inequities. Studies have investigated the specific vulnerabilities and barriers that various groups face, emphasizing the significance of specialized treatments.

- **Accountability and Governance in Global Health:** International organisations, governments, and civil society have all played critical roles in moving the global health agenda forward from a human rights standpoint. Human rights courts and commissions, for example, provide options for addressing abuses of the right to health at the international level.

The literature on human rights in public health emphasizes the interconnected nature of these two fields. Recognizing the right to health as a fundamental human right and incorporating human rights principles into public health policies and practises are critical first steps towards achieving health fairness and dignity for everyone.<sup>6</sup> This study highlights current debate and developing understanding of the complicated link between human rights and public health, providing ideas for future research and policy development.

### **3. STATEMENT OF PROBLEM**

The question and challenge of "Ensuring Equity and Dignity: Exploring Human Rights in Public Health" is the continuing gap between human rights concepts and public health practises. This gap presents itself in healthcare inequities, socioeconomic determinants of health, discrimination, and insufficient accountability mechanisms, all of which limit the achievement of equitable and dignified health outcomes for all individuals. Addressing this issue is critical to realizing the full potential of public health as a tool for protecting and advancing human rights.

### **4. HYPOTHESIS**

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<sup>6</sup> *Id.*

The integration of human rights principles into public health policies and practices will lead to a reduction in healthcare disparities, improved health outcomes for marginalized populations, and increased accountability, ultimately ensuring greater equity and dignity in public health.

## **5. RESEARCH QUESTIONS**

- i. How does discrimination effect healthcare access and outcomes?
- ii. What role do social determinants of health play in shaping health outcomes, and how can a human rights-based approach address these variables in public health to promote equity and dignity?
- iii. How do healthcare inequities affect vulnerable populations?
- iv. What are the major barriers to achieving universal access to safe and high-quality healthcare services, and how can universal health coverage be achieved in a way that is consistent with human rights standards?
- v. What are the best practises in the nexus of human rights and public health?

## **6. OBJECTIVES OF THE STUDY**

- i. To identify and address gaps in healthcare.
- ii. Discrimination in healthcare environments must be addressed.
- iii. To Examine the socioeconomic determinants of health from the standpoint of human rights.
- iv. Attempt to provide universal access to high-quality healthcare.
- v. To Enhance human rights accountability systems in public health.
- vi. Best practises for improving fairness and dignity in public health.

## **7. SCOPE OF THE STUDY**

The study will primarily focus on the intersection of human rights and public health, it will investigate how socioeconomic determinants of health, such as education, employment, housing, and environmental factors, influence health outcomes and equality; The study will use a global approach, drawing on international human rights treaties, regional contexts, and a diverse population. It will also take into account the field's changing problems and opportunities, such as disparities within and between communities, taking into account characteristics including socioeconomic position, race, gender, and geographic location; the problems of ensuring universal access to safe and high-quality healthcare services, as well as the alignment of healthcare systems with human rights norms; discrimination and stigma in healthcare settings and how they affect access to care and health outcomes such as rising health concerns and technological breakthroughs in healthcare. The study's goal is to provide a comprehensive understanding of how human rights principles can be integrated into public health policies and practises to achieve equity and dignity for all individuals.

## **8. RESEARCH METHODOLOGY**

To comprehensively explore the intersection of human rights and public health and address the objectives of the study, a mixed-methods research approach will be considered. Qualitative method approach will be considered to provide a holistic understanding of the subject matter.

## **9. JURISPRUDENTIAL BACKGROUND OF RIGHT TO PUBLIC HEALTH**

The right to health refers to and denotes the highest levels of health that each individual is capable of attaining. The global network regards health as a fundamental and major human right under international human rights law. Unlike other human rights, the right to health requires states to ensure that the right to health is recognised, protected, and fulfilled for

all of its citizens. According to Salmond, each right has a corresponding obligation to be fulfilled, and there can be no right without an equal component of obligation.<sup>7</sup>

Furthermore, there are both positive and negative enforceable substances with regard to the right to health; these range from satisfactory security by the state to providing equal health care offices to everyone and imposing the most significant commitment upon the state to create such ideal conditions that render the right to health satisfied.

The right to health dates back to 1946, when the World Health Organization (WHO) became the first worldwide organisations to recognise health concepts as human rights. Furthermore, prior to the demise of the World Health Organization, a few states were in the process of recognizing health as a fundamental right.<sup>8</sup> The development owed its actuality to recent upheavals as well, in which labourers were viewed as commodities and firms paid no attention to the unsanitary conditions of working environments. As a result, the interest in health grew to the point that it was seen as one of the critical and important human rights that any individual with an existence on Earth is entitled to.<sup>9</sup>

## **10. CONSTITUTIONALITY OF ARTICLE 21 OF INDIAN CONSTITUTION FOR PUBLIC HEALTH**

Article 21 of the Indian Constitution, which stipulates that "No person shall be deprived of his life or personal liberty except according to procedure established by law," has been interpreted by the Indian judiciary to embrace a wide range of rights, including the right to health and healthcare.<sup>10</sup> Here is how Article 21's legality pertains to public health in

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<sup>7</sup> Divya Rai Sharma, Right to Health, ipleaders (Sep. 27, 2023, 8:00 PM), <https://blog.ipleaders.in/right-to-health>

<sup>8</sup> Aart Hendriks, Vol. 5 No. 4 (1998), JSTOR, <https://www.jstor.org/stable/45437828>

<sup>9</sup> *Id.*

<sup>10</sup> INDIA CONST. art. 21



India:

- **Right to Life and Health:** The Indian Supreme Court has consistently held that the right to life entails the right to live in dignity under Article 21. Access to healthcare and a healthy environment, according to this understanding, are crucial components of the right to life.
- **Right to Health:** While the Indian Constitution does not expressly include a "right to health," courts have ruled that the right to life includes the right to health. This recognition requires the government to take affirmative steps to provide access to healthcare, sanitation, safe drinking water, and a clean environment.
- **Public Health Measures:** Article 21 empowers the government to create and enforce public health measures for the preservation of the public's health and well-being. This includes vaccine campaigns, disease control, quarantine, and other public health efforts.<sup>11</sup>
- **State's Duty:** The state has an obligation under the constitution to safeguard and promote the health of its inhabitants. This duty extends beyond disease prevention to providing access to healthcare services, particularly for marginalized and vulnerable communities.
- **Judicial Activism:** Indian courts have played a significant role in protecting and advancing public health rights. They have issued directives and judgments in cases related to healthcare, air and water pollution, sanitation, and access to essential medicines, among others.

Article 21's constitutionality for public health in India is well established. According to Article 21, the right to life and personal liberty includes the right to health and healthcare, which requires the government to take measures to safeguard and promote public health while ensuring equal access to healthcare services for all citizens. This interpretation has been

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<sup>11</sup> INDIA CONST. art. 21

critical in furthering public health rights and ensuring that healthcare in India is more than a privilege, but a fundamental right.

## 11. UDHR AND THE PROMOTION OF PUBLIC HEALTH.

The United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) in 1948, although it does not expressly address the concept of "public health." However, some paragraphs of the UDHR are pertinent to the concepts and purposes of public health. Here are some notable articles that connect with the area of public health:

- **Article 3** states that: "Everyone has the right to life, liberty, and security of person." While it does not specifically mention public health, Article 3 recognises the fundamental right to life, which is intimately tied to public health aims. Public health initiatives strive to protect and promote people's quality of life and well-being.<sup>12</sup>
- **Section 21(1)** states that: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives." Participation in government and policymaking processes is critical in the context of public health for designing policies that improve community health and well-being.<sup>13</sup>
- **Article 22** states that: Recognises the significance of social security and the realization of economic, social, and cultural rights as important to human dignity. Public health policies frequently include social security and the safeguarding of these rights.<sup>14</sup>
- **Article 22(1)** states that: "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organisations and resources of each State, of the economic, social

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<sup>12</sup> UDHR. Art. 3

<sup>13</sup> UDHR. art. 21, cl.1.

<sup>14</sup> UDHR. art. 22

and cultural rights indispensable for his dignity and the free development of his personality.”<sup>15</sup>

- **Article 25(1)** states that: "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." This article recognises people' and families' right to a decent quality of living, which includes access to medical treatment and other social services. It emphasises the significance of public health issues such as healthcare access and social services.<sup>16</sup>
- **Article 28** states that: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised." Article 28 emphasises the necessity for a social and international order that allows for the full realization of the UDHR's rights and freedoms. This involves fostering settings that promote public health efforts and the overall well-being of all people.<sup>17</sup>

While the UDHR does not clearly state that there is a "right to public health," its principles emphasize the significance of variables that contribute to public health and well-being. Access to healthcare, social services, the right to life, and the necessity for a supporting social and international order are all among these values. Subsequent international human rights treaties, such as the International Covenant on Economic, Social, and Cultural Rights (ICESCR), provide more specific guidance on the right to health and its relevance to public health.

## **12. ICESCR: ADVANCING THE RIGHT TO HEALTH GLOBALLY**

The International Covenant on Economic, Social, and Cultural Rights

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<sup>15</sup> UDHR. art. 22, cl.1.

<sup>16</sup> UDHR. art. 25, cl.1.

<sup>17</sup> UDHR. art. 28

(ICESCR) is one of the most important international human rights treaties, having been enacted by the United Nations General Assembly in 1966. It expressly acknowledges and expands on the right to health as a basic human right. **Article 12** of the ICESCR expresses the right to health as follows.<sup>18</sup>

- **The Right to the Healthiest Possible Standard:** "The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."
- **Non-Discrimination:** The right to health must be enjoyed free of all forms of discrimination, including discrimination based on race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth, or other status.
- **Obligations of States:** "The steps to be taken by the States Parties to the present Covenant to achieve the this right shall include those necessary for: (a) the provision for the reduction of the stillbirth rate and infant mortality and for the healthy development of the child; (b) the improvement of all aspects of environmental and industrial hygiene; and (c) the prevention, treatment, and control of epidemic, endemic, occupational, and other diseases."
- **Government Obligations:** States that are parties to the ICESCR are bound to take actions to achieve full realization of the right to health. This comprises preventive, curative, and palliative healthcare services and interventions, as well as steps to improve environmental and industrial hygiene.
- **Accountability:** States are responsible for ensuring that the right to health is realised, and individuals have the right to seek redress if their right to health is violated.

The ICESCR recognises the right to health as a fundamental human right

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<sup>18</sup> ICESCR. art. 2

and requires nations to take actions to guarantee its fulfilment. It is a critical international legal instrument that directs global efforts to promote and preserve everyone's right to health.<sup>19</sup>

### **13. DOMESTIC LEGISLATION RELATED TO THE RIGHT TO PUBLIC HEALTH**

There is no Commonwealth statute specifically enshrining the right to the best possible bodily and health. A number of Commonwealth statutes, including the ones listed below, address issues related to the right to health.

- **The Health Insurance Act of 1973** underlies the Medicare plan by establishing payments for medical benefits and hospital treatments.<sup>20</sup>
- **The National Health Act of 1953** provides for pharmaceutical, sickness, and hospital benefits, as well as medical and dental services. It has detailed requirements governing the functioning of nursing homes.<sup>21</sup>
- **The Aged Care Act of 1997** is intended to encourage high quality care and housing for recipients of aged care services, as well as to preserve the health and well-being of recipients of aged care services.<sup>22</sup>
- **The Disability Services Act of 1986** is intended to assist people with disabilities in receiving services that enable them to work towards full participation as members of the community, to promote services provided to people with disabilities that assist them in integrating into the community, and to assist people with disabilities

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<sup>19</sup> LSE BLOGS, <https://blogs.lse.ac.uk/vaw/int/treaty-bodies/international-covenant-on-economic-social-and-cultural-rights/>

<sup>20</sup> Health Insurance Act, 1973, Act of the Parliament, 1973 Australia

<sup>21</sup> National Health Act, 1953, Act of the Parliament, 1953 Australia

<sup>22</sup> Aged Care Act, 1997, Act of the Parliament, 1997 Australia

in achieving positive outcomes such as increased independence and employment opportunities.<sup>23</sup>

#### 14. CASE LAWS

- **Bandhua Mukti Morcha vs. Union of India (1984)**

The right to health was highlighted as a basic right under Article 21 of the Indian Constitution in this case. It emphasized the health and well-being of bonded labourers and highlighted the government's responsibility to provide healthcare to vulnerable communities.<sup>24</sup>

- **Consumer Education and Research Centre (CERC) vs. Union of India (1995)**

This case emphasized the right to health as an important aspect of the right to life as guaranteed by Article 21 of the Indian Constitution. It acknowledged the rights of consumers to information about the quality and safety of food and healthcare products. It sparked major debate over the availability and affordability of life-saving pharmaceuticals, as well as their impact on public health.<sup>25</sup>

- **M.C. Mehta vs. Union of India (1996)**

Several cases filed by environmental activist M.C. Mehta have addressed issues of air and water pollution in India. These stories highlight the significance of environmental health in public health discourse.<sup>26</sup>

- **TAC v. South Africa**

This case, often known as the "TAC case," featured the Treatment

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<sup>23</sup> Disability Services Act, 1986, Acts of the Parliament, amended 2018 Australia

<sup>24</sup> *Bandhua Mukti Morcha v. Union of India*, AIR 1984

<sup>25</sup> *Consumer Education and Research Centre v. Union of India*, AIR 1995

<sup>26</sup> *MC. Mehta v. Union of India*, AIR 1996

Action Campaign (TAC) filing a judicial challenge against the South African government's policy on delivering antiretroviral treatment for HIV/AIDS. The case was crucial in establishing the right to health as a constitutional right in South Africa and influencing HIV treatment practises.<sup>27</sup>

## 15. CONCLUSION

Throughout this research, we have looked at several aspects of this vital juncture and the tremendous ramifications it has for individuals and communities globally. This research led us to a profound appreciation for the interconnectedness of these fields. We found that equitable access to healthcare, devoid of discrimination, is not just a matter of policy but a moral imperative rooted in the principles of human rights. The right to health, as enshrined in international instruments like the International Covenant on Economic, Social and Cultural Rights (ICESCR), underscores the obligation of states to ensure that every individual can enjoy the highest attainable standard of physical and mental health. Furthermore, the importance of community engagement and participation in shaping public health policies and practices. The voices and experiences of affected communities must be heard and respected to foster genuine equity and dignity in healthcare. Through case studies and analysis, we identified best practices and lessons learned from diverse global contexts, demonstrating that innovative solutions exist to address complex public health challenges.

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<sup>27</sup> *Tac v. South Africa*, 1998