


**RAVINDER KUMAR,***Doctor of Philosophy in Law,**Bharat College of Law (Kurukshestra University, India);* <https://orcid.org/0000-0003-1217-1926>,*e-mail: ravigrowkkkr@gmail.com***STRICT IMPLEMENTATION OF THE RIGHT TO HEALTH AS A FUNDAMENTAL RIGHT: ENSURING UNIVERSAL ACCESS AND EQUITY IN INDIA**

This article explores the significance of recognizing the right to health as a fundamental right in India. It delves into the importance of ensuring universal access to healthcare services and promoting equity in health outcomes. By examining the current healthcare landscape in India, including existing challenges and disparities, this article argues for the urgent need to assert the right to health as a fundamental pillar of the country's legal framework. It discusses the potential benefits of such recognition, including improved healthcare delivery, enhanced public health outcomes, and the fulfilment of basic human rights. Additionally, the article addresses potential policy implications and recommendations for policymakers to prioritize health equity and accessibility for all citizens. This article examines the constitutional underpinnings of the right to health in India, emphasizing its status as a fundamental right enshrined within Article 21 of the Indian Constitution and its reinforcement through Directive Principles of State Policy (DPSP). By delving into the legal framework, the article highlights the imperative of ensuring universal access and equity in healthcare delivery systems. It argues that recognizing health as a fundamental right not only aligns with constitutional principles but also serves as a moral imperative for the state to uphold the dignity and well-being of its citizens. Exploring the imperative of recognizing the right to health as a fundamental right in India. This abstract highlights the pressing need for universal access to healthcare services and equitable health outcomes. It underscores the potential benefits of such recognition, including enhanced healthcare delivery and the fulfilment of basic human rights, while also addressing policy implications for promoting health equity nationwide. The right to health was affirmed as a fundamental human right declared by the UN General Assembly in the 1948 UDHR (Article 25), emphasizing access to an adequate standard of living, including medical care.

**Key words:** *right to health, fundamental right, universal access, equity, healthcare services, constitutional mandates, judicial precedents, public health policy.*

*Original article*

**INTRODUCTION.** The recognition of the right to health as a fundamental right is a cornerstone of modern human rights discourse, enshrined in numerous international and national legal instruments. While the concept finds its roots in foundational documents like the Universal Declaration of Human Rights (UDHR), its elaboration and implementation have been further delineated in subsequent treaties and national constitutions<sup>1</sup>. Despite these legal provisions, ensuring universal access to healthcare services and promoting equity in health outcomes remain significant challenges in many countries, including India. The right to health, though not explicitly labelled in the UDHR, is inherently embedded within Article 25, which proclaims the right to a standard of living adequate for health and well-being. Moreover, international

treaties like the International Covenant on Economic, Social and Cultural Rights (ICESCR) explicitly address the right to health, emphasizing the obligation of states to ensure access to healthcare services for all individuals<sup>2</sup>.

In the context of India, where healthcare disparities persist despite constitutional mandates, the strict implementation of the right to health as a fundamental right (Khanna, Dumka, Kotwal, 2024) becomes paramount. This article explores the legal foundations and international precedents of the right to health, examining its implications for India's healthcare landscape. It is also a duty of government to provide a health life and pure environment to its citizens. Article 21 right

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<sup>1</sup> Universal Declaration of Human Rights. (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

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<sup>2</sup> International Covenant on Economic, Social and Cultural Rights. (1966). <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

to life includes the right to health itself (Pandey, 2023). By analysing existing challenges and opportunities, it advocates for comprehensive measures to realize universal access and equity in healthcare services across the nation.

**PURPOSE AND OBJECTIVES OF THE RESEARCH.** This study aims to underline the importance of recognizing the right to health as a fundamental right within the Indian legal framework, especially in light of recent Supreme Court judgments under Article 21 of the Indian Constitution. By exploring international precedents and constitutional provisions, the study advocates universal access to health services and equitable health outcomes for all citizens, regardless of socio-economic status or geographic location. Additionally, it aims to delve deeper into the legal foundations of the right to health in India, focusing on its interpretation within Article 21 and its reinforcement through the Directive Principles of State Policy (DPSP), thereby developing the right to health jurisprudence in India, can contribute to a comprehensive understanding of. And end users can avail the benefits of this fundamental right.

The objectives of this paper are to Highlight the Significance of Recognizing the Right to Health as a Fundamental Right:

- to emphasize the importance of recognizing the right to health as a fundamental right within the Indian legal framework. By exploring international precedents and constitutional provisions for public health policy in India;
- to advocate for universal access to healthcare services and the promotion of equity in health outcomes across India for all citizens, irrespective of socio-economic status or geographic;
- to delve into the legal foundations of the right to health in India, particularly its interpretation within Article 21 of the Indian Constitution and its reinforcement through Directive Principles of State Policy (DPSP) within the Indian legal framework.

**LITERATURE REVIEW.** The literature review of the article “Strict Implementation of the Right to Health as a Fundamental Right Ensuring Universal Access and Equity in India” provides a comprehensive overview of existing research and scholarly works related to the recognition of the right to health as a fundamental right. The review draws upon a range of sources, including international human rights documents, constitutional provisions, judicial precedents, government reports, and academic studies, to establish the theoretical and legal foundations of the right to health within the Indian context.

The literature review begins by highlighting the international recognition of the right to health

as a fundamental human right, as enshrined in key documents such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC). By citing these international instruments, the review establishes the global consensus on the importance of health as a fundamental human right and lays the groundwork for its application in the Indian legal framework.

Moving to the Indian context, the literature review examines the constitutional provisions and judicial interpretations that recognize the right to health within the framework of Article 21 of the Indian Constitution<sup>1</sup>. Through landmark Supreme Court judgments, such as those emphasizing the broad interpretation of the term “life” to include a life with human dignity and the right to health, the review demonstrates the evolution of the right to health jurisprudence in India. Additionally, the review discusses the relevance of Directive Principles of State Policy (DPSP), particularly Articles 38, 39, 42, 43, and 47, in shaping health-related policies and initiatives aimed at ensuring universal access and equity in healthcare services.

Furthermore, the literature review analyses empirical evidence and government reports to assess the current state of healthcare in India, highlighting challenges such as insufficient allocation of funds, disparities in access to healthcare services, and high medical expenses leading to economic hardships. By synthesizing data from sources such as the National Health Profile (NHP), Economic Survey, and National Crime Records Bureau (NCRB), the review provides a comprehensive understanding of the healthcare landscape in India and underscores the urgent need for policy interventions to address existing gaps and inequities. The literature review of the article effectively synthesizes a diverse range of sources to establish the theoretical, legal, and empirical foundations of the right to health in India. By integrating international principles, constitutional provisions, judicial precedents, and empirical evidence, the review lays a robust groundwork for advocating for the strict implementation of the right to health as a fundamental right, with a focus on ensuring universal access and equity in healthcare services across the nation.

**METHODOLOGY.** The research methodology employed in this study is a Doctrinal study, relying on secondary sources for data collection and analysis. These secondary sources include reports and

<sup>1</sup> Article 21 of the Constitution of India guarantees a fundamental right to life & personal liberty. The right to health is inherent to a life with dignity.

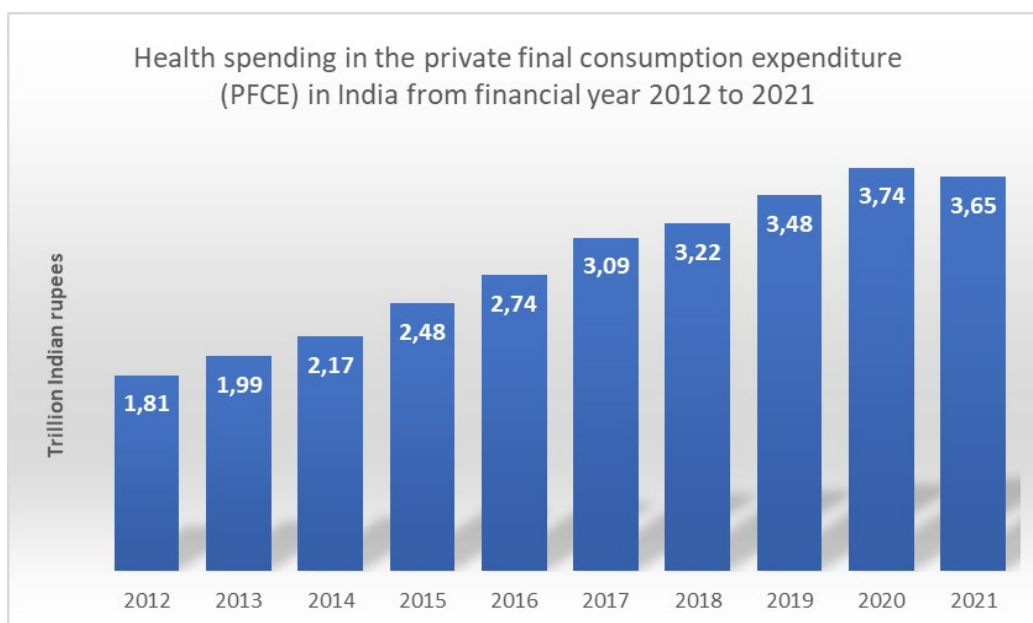
information from authoritative bodies such as the National Human Rights Commission (NHRC), the Health Ministry, and initiatives like the Ayushman Bharat scheme. Through this approach, the study aims to assess the efforts made by the government to ensure the realization of the fundamental right to health for all citizens. By analysing policies, programs, and data from these sources, the study seeks to evaluate the effectiveness and extent of governmental efforts in providing access to healthcare services and promoting public health outcomes in alignment with constitutional mandates.

**RESULTS AND DISCUSSION.** Insufficient allocation of funds for the health sector in India is exacerbating the country's health crisis, leading to approximately 7 % of Indians falling below the poverty line. Moreover, around 23 % of the population facing illness cannot afford necessary healthcare. The Indian government's plan to allocate only 2.5 % of the country's GDP to healthcare by 2025 falls significantly short of the global average of 6 %. Additionally, the burden of high medical expenses forces nearly one in four households in India to resort to borrowing or selling assets. Despite the government's promise of "health assurance to all Indians", the current healthcare spending of just Rs 3 per person per

day, accounting for 1.02 % of the GDP, ranks India among the countries with the lowest public health expenditure, as indicated in the latest National Health Profile (NHP) 2018.

India's per capita public expenditure on health has shown an increase from Rs 621 in 2009-10 to Rs 1,112 (approximately \$16 at the current exchange rate) in 2015-16. Despite this rise, the figure remains notably lower compared to other nations. Switzerland allocates \$6,944 per capita on health, the United States spends \$4,802, and the UK allocates \$3,500, highlighting a significant gap in healthcare spending between India and these countries. The United Kingdom is a developed country after that in March 2024, the waiting list decreased to 7,538,800, consisting of around 6,288,564 individual patients waiting for treatment in England<sup>1</sup>.

India's health budget has witnessed a steady annual growth rate of 12 % from 2012-13 to 2023-24, rising from Rs 25,133 crore to Rs 86,175 crore. The Interim Budget for 2024-25 has earmarked Rs 90,171 crore for health, aimed at enhancing access to healthcare services and infrastructure. With an overall health budget of Rs 98,461 crore for 2024, marking a 14 % surge from the revised estimates of Rs 86,216 crore in 2023.



The Insurance Regulatory and Development Authority of India (IRDAI) Annual Report from 2015 to 2023 illustrates a growing emphasis on healthcare and successful government policies in

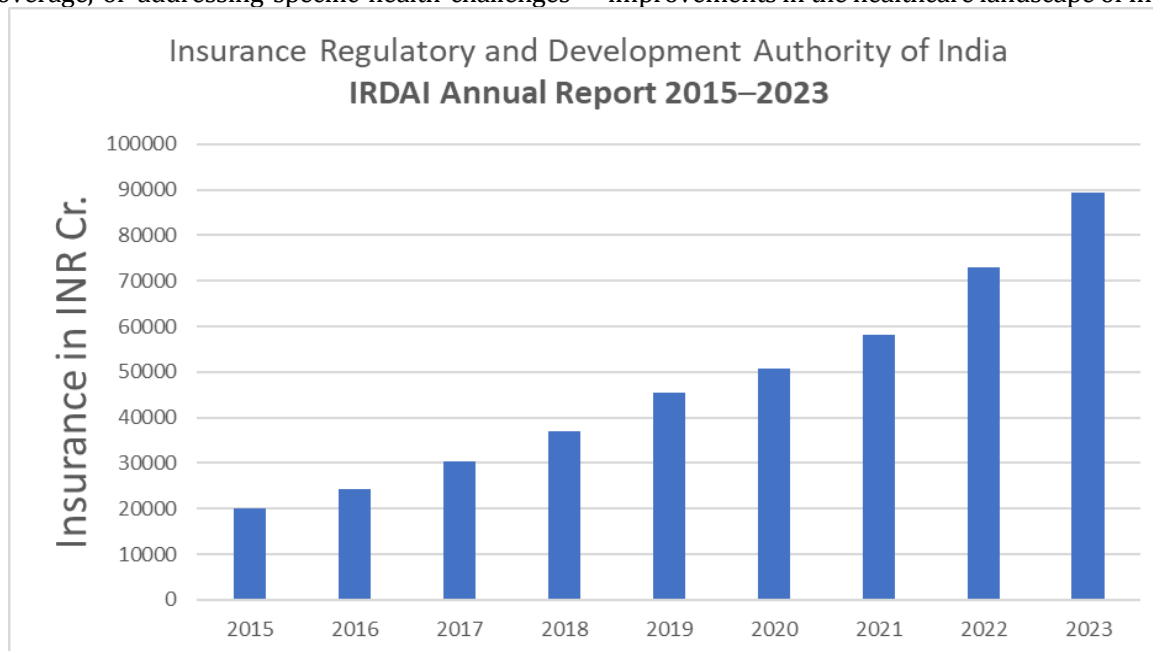
the sector. Over these years, there has been a noticeable increase in the attention given to healthcare, reflecting a broader societal concern for the well-being of citizens. This trend suggests that both governmental and non-governmental stakeholders are recognizing the importance of investing in healthcare infrastructure, services, and policies.

Furthermore, the success of government policies related to healthcare is evident from the

<sup>1</sup> British Medical Association. (2023). *NHS backlog data analysis*. <https://www.bma.org.uk/advice-and-support/nhs-delivery-and-workforce/pressures/nhs-backlog-data-analysis>.

positive outcomes observed during this period. These policies may include initiatives aimed at expanding access to healthcare services, improving the quality of care, enhancing health insurance coverage, or addressing specific health challenges

faceted by the population. The upward trajectory depicted in the IRDAI Annual Report indicates that these policies have been effective in achieving their intended objectives and contributing to overall improvements in the healthcare landscape of India.



According to the Economic Survey 2022-23, the Indian government's<sup>1</sup> budgeted expenditure on healthcare rose to 2.2 % of GDP in 2022 and 2.1 % in 2023, up from 1.6 % in 2021. Additionally, the share of healthcare services expenditure increased from 21 % in 2019 to 26 % in 2023. Even in the Union Budget 2023-24, the Ministry of Health and Family Welfare received an allocation of INR 89,155 crore, marking a 3.43 % increase from INR 86,200.65 crore in 2021-22<sup>2</sup>. It's important to note that health insurance and healthcare are often used interchangeably

The National Crime Records Bureau reported that between 2001 and 2015, 0.38 million suicides in India were attributed to inadequate treatment facilities, constituting 21 % of total suicides during that period. According to the NSSO, outstanding loans for health reasons doubled between 2002 and 2012. Following the introduction of various government provisions, suicide rates have decreased. With the interpretation of health

as a fundamental right, it is expected that suicide rates will further decrease, underscoring the government's responsibility to provide a healthy environment and healthcare access. In August 2022, the National Crime Records Bureau (NCRB) unveiled alarming data on suicide rates in India. The country recorded a total of 164,033 suicides in 2021, marking a 7.2 % increase from the previous year. The suicide rate per lakh population was reported at 12, indicating a 6.2 % rise compared to 2020. That is reduced by the policy and now it will again change because the Supreme Court of India declared health rights as a fundamental right.

*International Concept Right to Health.* The concept of the right to health as a fundamental human right is recognized internationally and is enshrined in various legal documents and international agreements. Here are some key points regarding the international concept of the right to health as a fundamental right which are sufficient to give humans a health right as a fundamental right. Most countries now declare health rights as a fundamental right.

*International Concept of Right to Health as a Fundamental Right.* The recognition of the right to health as a fundamental right finds its roots in various international legal instruments and human rights declarations. While not explicitly articulated as a standalone right in some documents, its essence is encompassed within broader provisions addressing the right to an adequate

<sup>1</sup> Ministry of Health and Family Welfare. (2022). *Indian Public Health Standards, Health and Wellness Centre – Primary Health Centre. Volume III*. [https://nhm.gov.in/images/pdf/guidelines/iphs/iphs-revised-guidelines-2022/03\\_PHC\\_IPHS\\_Guidelines-2022.pdf](https://nhm.gov.in/images/pdf/guidelines/iphs/iphs-revised-guidelines-2022/03_PHC_IPHS_Guidelines-2022.pdf).

<sup>2</sup> Ministry of Health and Family Welfare. (2022). *Rural Health Statistics 2021-22*. <https://hmis.mohfw.gov.in/downloadfile?filepath=publications/Rural-Health-Statistics/RHS%202021-22.pdf>.

standard of living, including healthcare. The following are key international documents that contribute to the understanding of the right to health:

*Universal Declaration of Human Rights (UDHR)*. While the UDHR does not explicitly mention the right to health, Article 25 states that “everyone has the right to a standard of living adequate for the health and well-being of oneself and one’s family, including ... medical care”<sup>1</sup>.

*International Covenant on Economic, Social, and Cultural Rights (ICESCR)*. Article 12 of the ICESCR explicitly recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

The ICESCR obligates state parties to take steps necessary for the prevention, treatment, and control of diseases and the improvement of environmental and occupational health conditions<sup>2</sup>.

*Convention on the Rights of the Child (CRC)*. The children are the real future, if the children are not safe, how a country can move forward? Article 24 of the CRC recognizes the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Without the protection of children, we can’t assume a bright future as well as a country. It emphasizes the obligation of state parties to combat disease and malnutrition, ensure appropriate prenatal and postnatal healthcare for mothers, and provide accessible healthcare services for children with disabilities<sup>3</sup>.

*World Health Organization (WHO) Constitution*. The preamble of the WHO Constitution affirms that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”<sup>4</sup>. The Universal Declaration of “Right to Health”<sup>5</sup> is generally understood to be encompassed within Article 25 of the UDHR, which states:

<sup>1</sup> Universal Declaration of Human Rights. (1948). <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>2</sup> International Covenant on Economic, Social and Cultural Rights. (1966) <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

<sup>3</sup> Convention on the Rights of the Child. (1989). <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>4</sup> Constitution of the World Health Organization. (2006). <https://www.who.int/publications/m/item/constitution-of-the-world-health-organization>.

<sup>5</sup> Office of the High Commissioner for Human Rights. (2000). *CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, 1–21. <https://www.who.int/southeastasia>.

“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”<sup>6</sup>.

*United Nations Sustainable Development Goals (SDGs)*. Universal health coverage (UHC) and Goal 3 of the SDGs aim to ensure healthy lives and promote well-being for all at all ages. This includes targets related to reducing maternal mortality, ending epidemics such as HIV/AIDS and malaria, and achieving universal health coverage, emphasizing the importance of the right to health<sup>7</sup>.

*Regional Human Rights Instruments*. Many regional human rights instruments also recognize the right to health. For example, the European Social Charter and the African Charter on Human and Peoples’ Rights both include provisions related to the right to health.

It highlights the importance of health as a fundamental right and emphasizes the responsibility of governments to ensure the health of their populations. These international instruments collectively underscore the global recognition of the right to health as a fundamental human right and serve as a foundation for advocating for its realization at the national level.

*Indian Concept of Right to Health (Nikaash, 2000)*. In the Indian constitutional framework, the Right to Health is not expressly enumerated as a fundamental right under Part III (Fundamental Rights) of the Constitution. However, judicial interpretation has expanded the scope of Article 21, which guarantees the Right to Life and Personal Liberty, to include the Right to Health as an inherent aspect. The Indian Supreme Court, through its notable judgments, has played a significant role in recognizing and protecting the Right to Health. The right to health is considered a fundamental right, though it is not explicitly mentioned as such in the Constitution. However, Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, has been interpreted by the judiciary to encompass the right to health as an integral part of the right to life. This interpretation has been established through various landmark judgments of the Supreme Court of India. The Supreme Court has

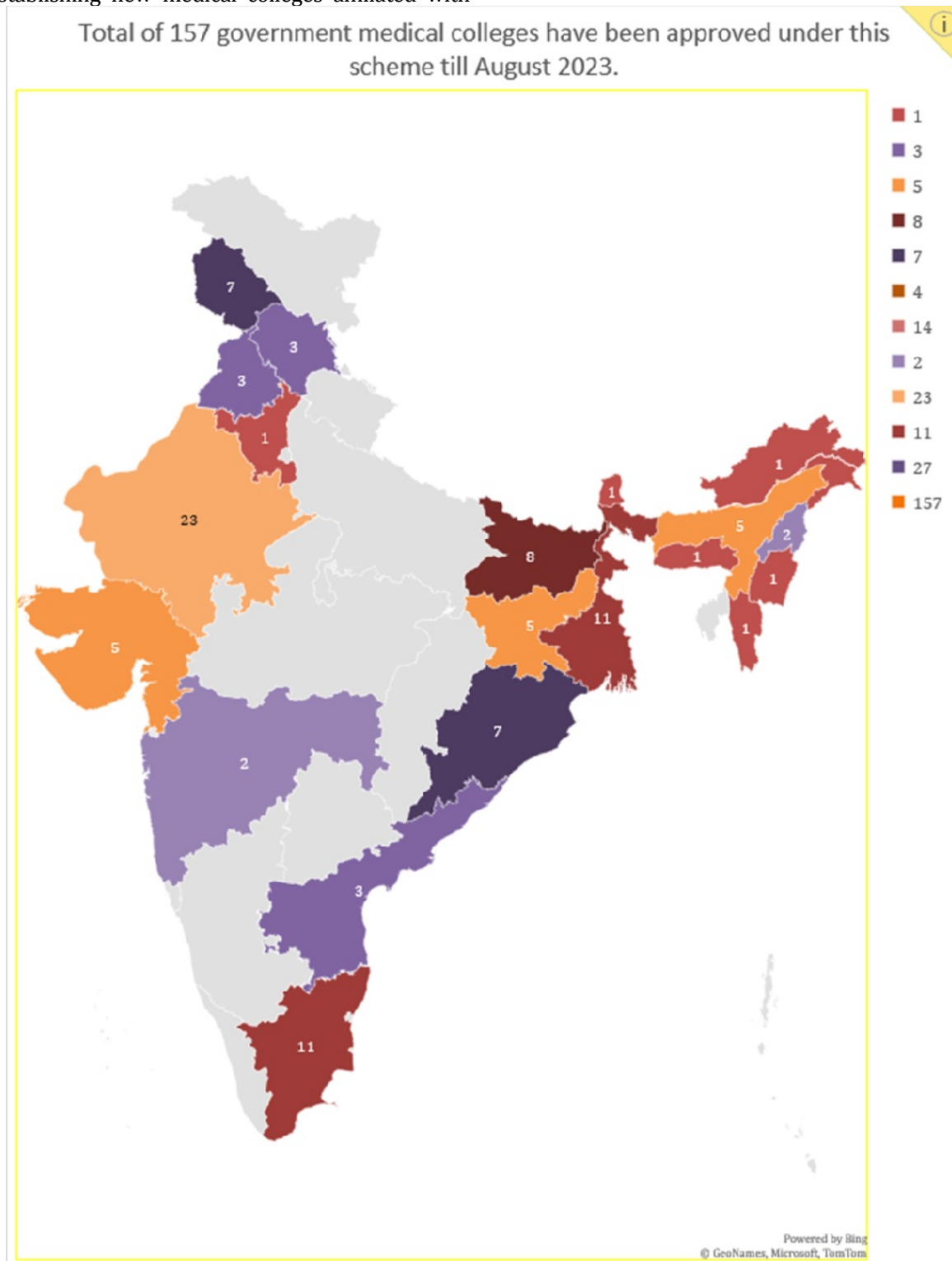
<sup>6</sup> Article 25 of The Universal Declaration of Human Rights. <https://www.humanrights.com/course/lesson/articles-19-25/read-article-25.html>.

<sup>7</sup> Goal 3: Ensure healthy lives and promote well-being for all at all ages. <https://www.un.org/sustainabledevelopment/health/>.

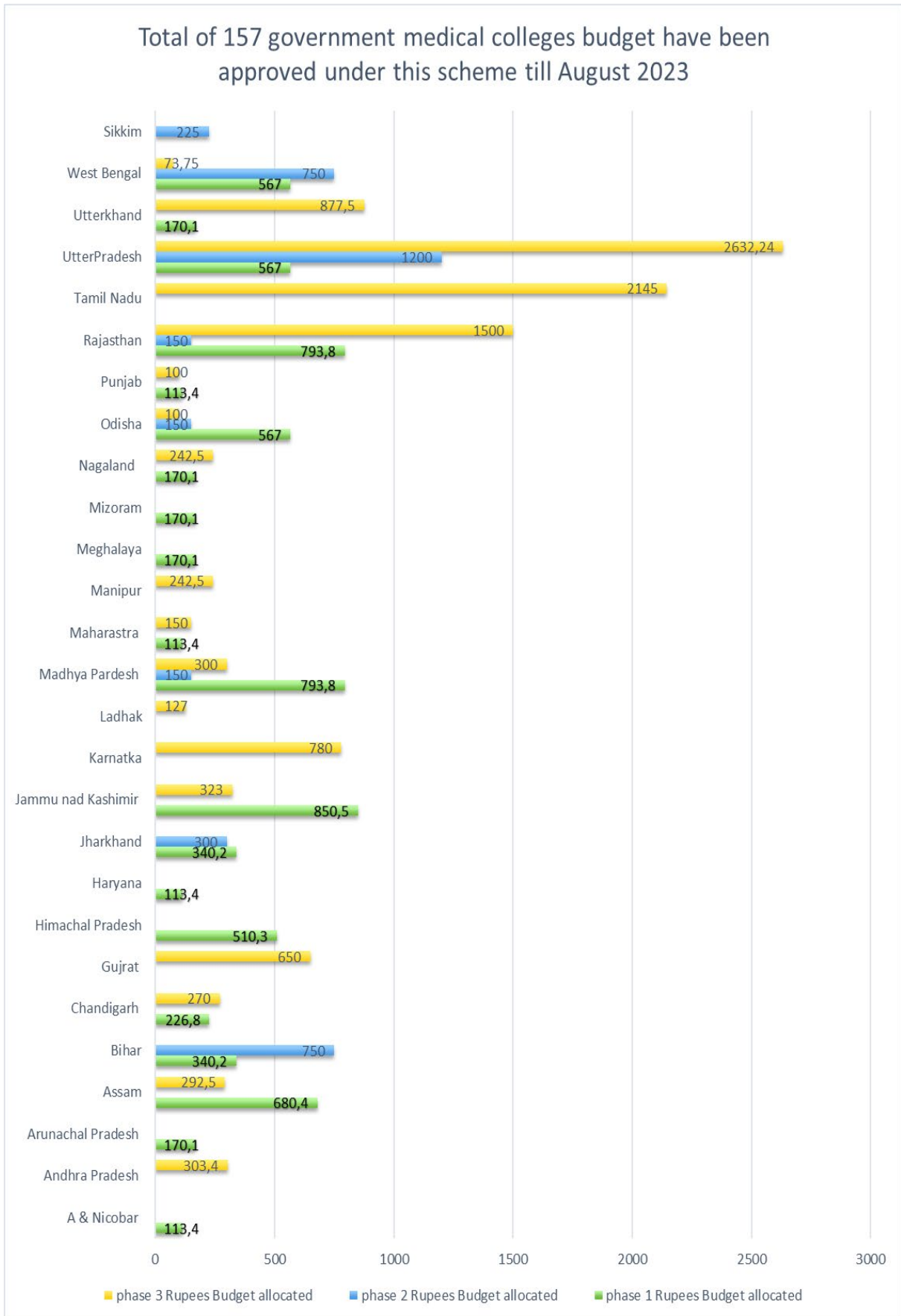
consistently held that the right to health is an essential aspect of the right to life under Article 21. This interpretation implies that the state has a constitutional obligation to ensure access to healthcare services, facilities, and programs that are necessary for protecting and preserving an individual’s life and well-being (Kumar, Kishore, 2020).

The Ministry of Health & Family Welfare oversees a Centrally Sponsored Scheme (CSS) aimed at establishing new medical colleges affiliated with

existing districts or referral hospitals. This initiative prioritizes underserved areas and aspirational districts lacking government or private medical colleges. Funding is shared between the Centre and State Governments, with a ratio of 90:10 for North Eastern and Special Category States and 60:40 for others. Across three phases, a total of 157 government medical colleges have been approved under this scheme till August 2023.







*Interpretation of Article 21.* The interpretation of Article 21 by the Supreme Court of India has been expansive, recognizing that “life” encompasses more than mere survival; it includes living with human dignity. In various judgments, the Court has emphasized that the Right to Life extends to ensuring a better standard of life and hygienic conditions in the workplace. This interpretation inherently incorporates the Right to Health, acknowledging that health is intrinsic to a dignified life. By broadening the scope of Article 21 to include access to healthcare and safe working conditions, the Court has reinforced the fundamental importance of health in upholding individual dignity and well-being. This interpretation underscores the judiciary’s role in advocating for holistic rights protection, beyond just physical existence, and highlights the inseparable link between health and the broader notion of human rights.

On the other hand, children are the future of the country, making it the duty of every nation to ensure the healthy lives of its young citizens. If children are healthy, the country will remain healthy and grow significantly. It is absolutely right to argue that the right to health is implicit when it comes to the well-being of school-age children because they spend most of their time in school. According to studies, professional school teachers play a crucial role in ensuring that students remain healthy and encouraging proper health practices. To support this, the government has launched schemes like the mid-day meal program to provide food at school.

Nevertheless, the findings of studies point to a lack of knowledge among teachers regarding school health services (SHS). Only 22 % of teachers had undergone training in SHS, and only 40 % demonstrated adequate knowledge about aspects of teaching falling under the category of SHS. To tackle these gaps, adequate training and education on health matters should be offered so that teachers are equipped and empowered to support the positive health status of school children and thereby fulfil their rights (Ranga, Majra, 2020).

*Directive Principles of State Policy (DPSP).* While DPSPs are not enforceable by courts, they guide the state. The Supreme Court has emphasized the importance of implementing DPSPs related to health. In this case, the Court held that dignity and health fall within the ambit of life and liberty under Article 21, emphasizing the importance of DPSPs in this regard (Kashyap, 2023).

*Government’s Responsibility towards Citizens.* The government’s responsibility to ensure the health and well-being of its citizens is a funda-

mental aspect of governance, rooted in its duty to protect and promote public welfare<sup>1</sup>.

The Constitution contains provisions guaranteeing the right of everyone to the highest attainable standard of physical and mental health (Mathiharan, 2023). According to the World Health Organization (WHO), health is defined as a state of complete physical, mental, and social well-being, rather than just the absence of illness. The WHO further emphasizes that it is the legal responsibility of the state to guarantee equal access to health services for all individuals “timely, acceptable, and affordable health care of appropriate quality as well as to provide for the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality” for all its people. In India, this right, a natural consequence of promoting public health, is protected in several ways under the Constitution of India<sup>2</sup>. This responsibility entails a multifaceted approach aimed at creating a conducive environment for good health and safety for all individuals within its jurisdiction. The government must prioritize the provision of adequate medical aid and healthcare services accessible to every person. This includes ensuring the availability of healthcare facilities, medical professionals, essential medicines, and treatment options to address a wide range of health needs. By investing in healthcare infrastructure and resources, the government can improve healthcare access and quality, thereby safeguarding the health of its citizens (Pūras et al., 2020).

Furthermore, the government plays a crucial role in promoting public health initiatives and preventive measures. This involves implementing policies and programs aimed at disease prevention, health promotion, and lifestyle management. These initiatives may include vaccination campaigns, awareness programs on healthy living practices, and initiatives to combat communicable diseases and epidemics.

Additionally, the government’s responsibility extends to creating a safe and healthy environment conducive to overall well-being. This includes enacting and enforcing regulations related to environmental protection, sanitation, food safety,

<sup>1</sup> Paschim Banga Khet Mazoor Samity vs. State of West Bengal (1996). <https://indiankanon.org/doc/1743022/>.

<sup>2</sup> Right to Health as a Fundamental Right Guaranteed by the Constitution of India. (2020). <https://www.jsalaw.com/covid-19/right-to-health-as-a-fundamental-right-guaranteed-by-the-constitution-of-india/>.



and occupational health and safety. By addressing environmental hazards, ensuring clean water and air quality, and promoting workplace safety standards, the government can mitigate health risks and protect citizens from preventable harm. To fulfil its responsibility, the government must also prioritize healthcare financing and resource allocation. This involves budgetary allocations for healthcare infrastructure, medical research, healthcare workforce development, and health education programs. By investing adequately in healthcare and allocating resources efficiently, the government can strengthen the healthcare system and improve health outcomes for its population.

Moreover, the government should engage in collaborative efforts with various stakeholders, including healthcare providers, civil society organizations, and international partners, to address complex health challenges comprehensively. By fostering partnerships and leveraging collective expertise and resources, the government can enhance its capacity to address emerging health threats and promote sustainable health development (Kandharkar, 2023).

The government's responsibility to ensure good health and a safe environment for its citizens is multifaceted and requires proactive measures across various domains. By prioritizing healthcare provision, promoting public health initiatives, ensuring environmental safety, allocating resources effectively, and fostering collaboration, governments can fulfil their duty to protect and promote the health and well-being of their populations.

*Professional Obligation.* In this case, the Court held that every doctor has a professional obligation to extend services with expertise for protecting the life of a patient, further reinforcing the Right to Health<sup>1</sup>.

*Fundamental Right Under Article 21.* The Court has explicitly recognized the Right to Health as a fundamental right under Article 21. In this case, it was held that the right to health and medical aid is fundamental, protecting the health of workers both during service and post-retirement<sup>2</sup>. The right to palliative care is part of the right to health and life. Article 21 (Iliyas, 2015) covers all aspects of human existence, the CJI said<sup>3</sup>. On 07 March 2024,

the Supreme Court admitted the writ petition, issuing notice to the Union and State Governments and directing the Union to file a detailed reply on steps taken and policies in place for palliative care for terminally ill patients.

*Limitations on Fundamental Rights.* While Article 19(1)(g) guarantees the right to practice any profession, it is subject to restrictions in the interest of the general public. In this case the Court held that no freedom can be guaranteed at the cost of community safety, health, and peace, underscoring the importance of public health over individual freedoms<sup>4</sup>. The Right to Health is an inherent part of the Right to Life under Article 21 of the Indian Constitution, as recognized and reinforced by the Indian Supreme Court through various judicial precedents (Roy, 2022).

*Secured Under Directive Principles of State Policy under the Indian Constitution.* The Directive Principles of State Policy (DPSP) enshrined in Part IV of the Indian Constitution serve as guiding principles for the state to promote the welfare of its citizens. Among these principles, Articles 38, 39, 42, 43, and 47 hold particular significance in shaping policies related to the right to health. Each of these articles delineates specific objectives and duties of the state towards ensuring the realization of the right to health for all citizens (Myneni, 2023).

Article 38 emphasizes the duty of the state to promote the welfare of the people by securing a social order based on justice, social, economic, and political. It mandates the state to minimize inequalities in income and endeavour to eliminate inequalities in status, facilities, and opportunities. In the context of healthcare, Article 38 underscores the importance of addressing socio-economic disparities that impact access to health services. By striving to minimize inequalities, the state aims to create a conducive environment for the realization of the right to health for all individuals, regardless of their socio-economic background (Basu, 2021).

Article 39 outlines certain principles of policy to be followed by the state, including securing adequate means of livelihood for all citizens, equal pay for equal work for both men and women, and ensuring that the health and strength of workers, men, and women, and the tender age of children are not abused. This article places a strong emphasis on social and economic justice, highlighting the interconnectedness between livelihood, employment, and health. By ensuring

<sup>1</sup> Parmanand Katara vs. Union of India. (1989). <https://indiankanoon.org/doc/498126/>.

<sup>2</sup> Consumer Education and Research Centre vs. Union of India. (1995). <https://indiankanoon.org/doc/1657323/>.

<sup>3</sup> Dr. Rajshree Nagaraju vs. Union of India and Ors. (2024). <https://clpr.org.in/litigation/dr-rajshree-nagaraju-v-union-of-india-and-ors/>.

<sup>4</sup> Burrabazar Fire Works Dealers Association and Others vs. Commissioner of Police. (1998). <https://indiankanoon.org/doc/1280200/>.

equitable opportunities and fair wages, the state contributes to improving the overall health and well-being of its citizens (Jain, 2022).

Article 42 directs the state to make provisions for securing just and humane conditions of work and maternity relief. It underscores the significance of ensuring safe and conducive working environments for individuals, particularly women, and providing support for maternity needs. In the context of healthcare, this article emphasizes the importance of occupational health and safety measures, as well as maternity benefits, to protect the health and well-being of workers and their families. By prioritizing humane working conditions and maternity relief, the state contributes to safeguarding the right to health of its citizens in the workplace (Shukla, 2022).

Article 43 focuses on living wages, conditions of work, and maternity relief. It emphasizes the importance of providing fair wages and decent working conditions to workers, ensuring that they are not subjected to exploitation or deprivation. Additionally, it underscores the need for maternity relief to support women during pregnancy and childbirth. In the realm of healthcare, Article 43 highlights the significance of addressing socio-economic factors that influence health outcomes, such as income levels and working conditions. By advocating for living wages and decent working conditions, the state endeavours to enhance the overall health and well-being of its workforce (Tripathi, 2023).

Article 47 directs the state to regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. It emphasizes the importance of prioritizing public health initiatives and improving access to healthcare services for all citizens. Article 47 underscores the fundamental nature of public health as a cornerstone of socio-economic development and national progress (Rao, 2023). By prioritizing nutrition, standard of living, and public health, the state plays a crucial role in promoting the right to health and ensuring the well-being of its population. In addition to the DPSP, health-related provisions are also delineated in the 11th and 12th Schedules of the Constitution, entrusting certain subjects to the jurisdiction of Panchayats and Municipalities, respectively to strengthen public health under Article 243G<sup>1</sup>. These include ensuring access to clean drinking water, adequate

healthcare, and sanitation facilities, as well as initiatives aimed at promoting family welfare, women's and children's development, and broader social welfare measures. This decentralized approach aims to facilitate grassroots-level efforts towards improving health and well-being within local communities.

*Challenges to the Right to Health in India.* A significant challenge in India is the disparity in access to healthcare services between urban and rural areas. Many rural regions lack adequate medical facilities, trained healthcare professionals, and essential medicines. This gap results in limited access to quality healthcare for a large segment of the population, particularly those in underserved and remote areas (Kasthuri, 2018).

*Financial Barriers.* Despite various government initiatives, out-of-pocket expenditure on healthcare remains high in India. Many people, especially those from economically disadvantaged backgrounds, face financial constraints that prevent them from seeking timely and appropriate medical care. This financial burden often leads to delayed treatments and poorer health outcomes.

India's healthcare infrastructure is often inadequate to meet the demands of its vast and growing population. Many government hospitals and clinics suffer from overcrowding, outdated equipment, and insufficient supplies. Additionally, there is a shortage of healthcare professionals, including doctors, nurses, and paramedics, which exacerbates the challenges of providing comprehensive and continuous healthcare services.

Addressing these challenges requires focused policy interventions, increased investment in healthcare infrastructure, and efforts to reduce financial barriers to ensure equitable access to health services for all citizens.

**CONCLUSIONS.** In conclusion, recognition of the right to health as a fundamental right and its strict implementation in India is of paramount importance to ensure universal access to health services and promote equity in health outcomes. Through this article, we have underlined the importance of accepting health as a fundamental pillar of a country's legal framework, in line with international human rights principles and constitutional mandates. By examining the current healthcare landscape in India, we have highlighted the existing challenges and inequities, emphasizing the urgent need for comprehensive measures to uphold the right to health for all citizens. Through an analysis of international precedents and the legal underpinnings within India, we have demonstrated the moral and constitutional imperative to ensure universal access and equity in healthcare delivery systems. Furthermore, the

<sup>1</sup> Declaring the right to health a fundamental right. (2020). <https://www.orfonline.org/expertspeak/declaring-the-right-to-health-a-fundamental-right>.

exploration of international concepts and Indian constitutional provisions has provided valuable insights into the global recognition of the right to health and its reinforcement within India's legal framework. From judicial interpretations to the Directive Principles of State Policy, we illustrate the evolving understanding of the right to health and the responsibility of the government to protect public health. Policy makers must prioritize

health equity and access by including the right to health as a fundamental aspect of public policy. By doing so, India can achieve better healthcare delivery, better public health outcomes, and fulfilment of basic human rights for all its citizens. The time has come to make concerted efforts toward realizing the vision of universal access and equity in health services across the country.

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#### СУВОРЕ ДОТРИМАННЯ ПРАВА НА ЗДОРОВ'Я ЯК ОСНОВНОГО ПРАВА: ЗАБЕЗПЕЧЕННЯ ЗАГАЛЬНОГО ДОСТУПУ ТА СПРАВЕДЛИВОСТІ В ІНДІЇ

У статті досліджено важливість визнання права на здоров'я як основного права в Індії. Наголошено на важливості забезпечення загального доступу до послуг охорони здоров'я та сприяння рівності в послугах щодо охорони здоров'я. Досліджуючи поточну ситуацію в галузі охорони здоров'я в Індії, враховуючи існуючі проблеми та відмінності, обґрунтовано нагальну потребу відстоювати право на здоров'я як фундаментальну основу правової бази країни. Визначено потенційні переваги такого відстоювання, зокрема підвищення рівня надання медичної допомоги, покращення результатів у сфері охорони здоров'я та дотримання основних прав людини. Крім того, у статті розглянуто потенційні наслідки для політики та рекомендації для політиків щодо пріоритетності

неупередженості та доступності охорони здоров'я для всіх громадян. Розглянуто конституційні основи права на здоров'я в Індії, наголошено на його статусі як фундаментального права, закріпленого у ст. 21 Конституції Індії, і підкріпленні Директивними принципами державної політики. На основі аналізу законодавчої бази наголошено на необхідності забезпечення загального доступу та справедливості в системі надання медичної допомоги. Стверджено, що визнання здоров'я як основного права не тільки узгоджується з конституційними принципами, але й служить моральним імперативом для держави щодо підтримки гідності та добробуту своїх громадян. Зазначено про необхідність визнання права на здоров'я як основного права в Індії. Наголошено на нагальній потребі в універсальному доступі до послуг охорони здоров'я та справедливих висновках щодо здоров'я. Вказано потенційні переваги такого визнання, враховуючи покращене надання медичної допомоги та дотримання основних прав людини, а також розглянуто політичні наслідки сприяння рівності в охороні здоров'я по всій країні. Право на здоров'я було визначено як фундаментальне право людини, проголошене Генеральною Асамблеєю ООН у ЗДПЛ 1948 року (ст. 25), наголошуючи на доступі до належного рівня життя, враховуючи медичне обслуговування.

**Ключові слова:** право на здоров'я, фундаментальне право, загальний доступ, справедливість, медичні послуги, конституційні повноваження, судові прецеденти, державна політика охорони здоров'я.

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