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Kumar, Ph.D Scholar & Co-Authored By: Dr. Anupam Manhas, Associate
Professor, Department of Law, Career Point University Hamirpur,
Himachal Pradesh,
Email Ids: pradip.chauhan.64@gmail.com, anniemanhas@gmail.com.***



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I. INTRODUCTION:

‘Good health is a way of life.’ India’s one of the oldest scriptures and reservoir of rich thoughts, knowledge and wisdom- Rigveda preaches humanity:¹

“It is said that ‘health is wealth’ and a healthy body is the very foundation of all human activities. This has been believed and practiced in India since ages. We find that the earliest concepts of medicine were set-out in Vedas, especially in the passages of Atharveda. With the passage of time and advancements in medical science and technology, the allopathic system for curing the diseases started becoming very popular all over the world and India is no exception to it. The problem of health care is more acute in developing countries. Today there has been innumerable scientific development in the medical field and each and every individual have a right to enjoy the benefits of this progress. But various factors like poverty, illiteracy, lack of information etc. impede the enjoyment of the scientific development. Lack of implementation of Governmental measures to provide these services to the people at large is also one of the major factors adversely affecting the health of citizens in our country”.

II. MEANING OF HEALTH:

Different cultures have their own concept of health. The most ancient definition of health is the *‘absence of disease’*. In some cultures, health and harmony are considered equivalent, harmony being defined as *“being at peace with the self, the community, God and cosmos.”* The World Health Organization, 1948 has in its Constitution defined health as follows: *“Health is a state of complete physical, mental and social wellbeing and not merely an absence of disease or infirmity.”* This statement is amplified to include the ability to lead a *“socially and economically productive life.”* The WHO definition of health is therefore considered by many as an idealistic goal than a realistic proposition. It refers to a situation that may exist in some individuals but not in everyone all the time; it is not usually observed in groups of human beings and in communities³⁰. Some consider it irrelevant to everyday

¹ Rig Veda 1.89.1. <https://www.wisdomlib.org/hinduism/book/rig-veda-english-translation/d/doc829922.html>.

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demands, as nobody qualifies as healthy, i.e. perfect biological, psychological and social functioning. Hence the definition has been criticized in many ways.

III. CONCEPTUAL ASPECTS:

Various concepts of health have been perceived by different professional groups. New concepts on health evolved and new patterns of the concept of health were developed on the basis of new thoughts and ideas. The concept evolved as the time passed by and there was a shift from individual concern to a worldwide social goal which included the whole quality of life. *The development of various concepts of health has been discussed below;*

III.I BIOMEDICAL CONCEPT:

Traditionally, health has been viewed as an “*absence of disease*”. It was believed that if one was free from disease, then he was considered healthy. This concept, known as the “*biomedical concept*” has the basis in the “*germ theory of disease*” which dominated medical thought at the run of the 20th century. The medical profession viewed the human body as a machine and one of the doctor’s tasks as repair of the machine.² Thus health in this narrow view, become the ultimate goal of medicine.

III.II ECOLOGICAL CONCEPT:

Deficiencies in biomedical concept gave rise to other concepts. The ecologists viewed that there is a dynamic equilibrium between man and his environment. Dubos³ defined health saying: “*Health implies the relative absence of pain and discomfort and a continuous adaptation and adjustment to the environment to ensure optimal function.*” Human ecological and cultural adaptations do determine not only the occurrence of disease but also the availability of food and the population explosion. The ecological concept raises two issues, viz. imperfect man and imperfect environment.

III.III PSYCHOSOCIAL CONCEPTS:

² Ahmed and Coelho. Toward a New Definition of health. 1979 available at <https://link.springer.com/book/10.1007/978-1-4613-2991-6> accessed on 17-12-2021.

³ Dubos R. Man Adapting. 1965 available at <https://www.worldcat.org/oclc/231360> accessed on 17-12-2021.

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Recent developments show that health is not only a biomedical concept but is also influenced by social, psychological, cultural, economic and political factors of the people concerned⁴.

III.IV HOLISTIC CONCEPT:

The holistic model is a synthesis of all the above concepts. It recognizes the strength of social, economic, political and environmental influences on health. It has been variously described as a unified or multidimensional process involving the well-being of the whole person in the context of his environment.” The holistic approach implies that all sectors of society have a direct effect on health³⁵. Hence the emphasis is on the promotion, protection and prevention of health.

IV. EVOLUTION AND DEVELOPMENT OF HELTH CARE

SYSTEMS:

There is a popular phrase in the Indian society: “*Pahelu Sukh Te Jate Narya*”. To enjoy the life, a good health is a condition precedent. Human health care remain the first priority among others in whole world. Various systems of medicine evolved over the centuries and have continued to be practiced widely in India and elsewhere. Development and growth of medicine or science of life, was adjuvant with the growth and evolution of Indian civilization and culture.

IV.I AYURVEDA⁵:

Ayurveda is referred to as Mother of all healing. It is considered to be an oldest form of health care in the world. . It is found in the Rig Veda and Atharva Veda describing various diseases and its treatment by various plants and other materials. The most important and massive ancient compilation of the School of Medicine is known as Charka Samhita. It contains several chapters dealing at length with therapeutic or internal medicine. About 600

⁴ available at

<https://www.ncbi.nlm.nih.gov/books/NBK221604/#:~:text=According%20to%20the%20Oxford%20English,Clearly%20in%20this%20definition%20the> accessed on 16-12-2021.

⁵ available at <https://www.ayurveda.com/2021/08/25/the-ancient-ayurvedic-writings/#:~:text=The%20Charaka%20Samhita%20is%20believed,ancient%20authoritative%20writings%20on%20Ayurveda.> accessed on 15-12-2021.

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drugs of plant, animal and mineral origin are described in it. Another equally exhaustive ancient compilation, Sushruta Samhita exists relating to school of surgery. It deals primarily with various fundamental principles and theory of surgery.

IV.II SIDDHA SYSTEM⁶:

Siddha system is another oldest system of medicine in India. The term Siddha means achievements and the persons who practiced this type of medicine and achieved results were called Siddhars. The principles and doctrines are similar to Ayurveda. This system of health care is prevalent in Tamilnadu and some other parts of South India. It is an ancient traditional system of Indian medicine developed by 18 Siddhars. According to the tradition, it was Shiva who unfolded the knowledge of Siddha system of medicine to his consort Parvati who handed it down to Nandi Deva and the Siddhars. This system believes that all objects in the universe including human body are composed of five basic elements namely, earth, water, fire, air and sky. The food and the drugs are all also made of these five elements. The Siddha system is capable of treating all types of diseases other than emergency cases. It is effective in treating all types of skin problems particularly Psoriasis, STD, urinary tract infections, diseases of liver and gastro intestinal tract, general debility, postpartum anemia, diarrhea and general fevers in addition to arthritis and allergic disorders.

IV.III UNANI TIBB - THE GREEK SYSTEM:

Unani system of medicine is also the oldest one of medicine in the world. It is still popular & practiced in India & other parts of the world. The scientists and experts of different countries have contributed in development of Unani system. Unani medicine was originated in Greece and Hippocrates (Buqrat 460-377 BC) was its founder, the great philosopher & Physician. He was the first Unani Physician who opened the education of Medicine to all communities, so he is known as the father of medicine. It was brought to India from West Asia around 10th Century A.D. by the Muslim rulers and in 1351 AD by Arabs. The first known Hakim was Zia Mohd Masood Rasheed zangi. Unani Medicine was accepted by the masses due to its efficacy and non-toxicity of the drugs. After independence in 1964 Govt, of India constituted

⁶available at http://nhp.gov.in/siddha_mty accessed on 15-12-2021.

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Unani pharmacopeia Committee consisting of Unani experts and scientist with a view to maintain uniformity in the standards of drugs and to prescribe standards for compound formulations. It also prescribed the tests for identity, purity, efficacy and quality of the drugs. In order to develop high standards of education and research in Unani Medicine National Institute of Unani Medicine was established at Bangalore in 1983. Now the Unani is an established Indian System of Medicine

IV.IV YOGA⁷:

Yoga has its origins in the Vedas, the oldest record of Indian culture, thousand years ago. Its founders were great Saints and Sages. The great Yogis gave rational interpretation at their experiences about Yoga and brought a practically sound and scientifically prepared method within every one's reach. Yoga philosophy is an Art and Science of living in tune with Brahmand - the Universe. It was systematized by the great Indian yogi Patanjali in the Yoga Sutra as a special Darshana. Patanjali's Yoga Sutra is certainly the most significant book which has touched almost all the aspects of human life. Maharishi Patanjali is called the "Father of Yoga".

IV.V HOMEOPATHY:

The word '*Homeopathy*' is derived from two Greek words, Homois meaning similar and pathos meaning suffering. Homeopathy simply means treating diseases with remedies, prescribed in minute doses, which are capable of producing symptoms similar to the disease when taken by healthy people. It is based on the natural law of healing- "*Similia Similibus Curantur*" which means "*likes are cured by likes*".

Homeopathy entered India in 1839 when Dr. John Martin Honigberger was called to treat Maharaja Ranjit Singh, the ruler of Punjab, for paralysis of vocal cords and oedema. The Maharaja was relieved of his complaints and in return he received valuable rewards and later on was made officer-in-charge of a hospital. Dr. Honigberger later on went to Calcutta and started practice there. This royal patronage helped the system to have its roots in India.

⁷ available at <https://www.medicalnewstoday.com/articles/286745> accessed on 14-12-2021

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IV.VI NATUROPATHY:

The word "*Naturopathy*" has been coined by *Dr. John Scheele* in the year 1895 and was propagated and popularized in the western world by *Dr. Benedict Lust*. Nature Cure movement gained momentum in India as *Mahatma Gandhi*, "*Father of the Nation*" became much interested in this system and included it in his programmes. He also established a *Nature Cure Hospital in Uruli Kanchan, Distt. Poona, Maharashtra* which is still functioning. The credit of making Water cure world famous goes to *Vincent Priessnitz (1799-1851)* who was a farmer and called as "*Father of Naturopathy*".

IV.VII REIKI:

Reiki is a Japanese technique for stress reduction and relaxation, and it also promotes healing. It is administered by "*lying on hands*" and is based on the idea that an unseen "*life force energy*" flows through us and that is what causes us to be alive. If one's "*life force energy*" is low, then we are more likely to get sick or feel stress, and if it is high, we are more capable of being happy and healthy. Reiki is a simple, natural and safe method of spiritual healing and self-improvement that everyone can use. *Dr. Mikao Usui*, is considered as the founder of the Reiki system of natural healing.

IV.VIII ACUPRESSURE:

It is an ancient healing art, developed in Asia over 5000 years ago. It is done by using fingers to press key points on the surface of the skin to stimulate the body's natural self-curative abilities. When these points are pressed, they release muscular tension and promote the circulation of the blood and the body's life force energy to aid healing.

IV.IX MAGNETIC- THERAPY:

Magneto therapy is being increasingly used by practitioners and patients. This simple method is an effective addition when a large part of the body is affected. It is one of the oldest natural methods of therapeutic treatment and can be applied in many cases of acute and chronic pain as well as many illnesses without any side effects. Many people are turning to natural therapy as an alternative to traditional allopathic treatment with drugs and chemicals.

IV.X ALLOPATHY:

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Allopathy is also known as the Modern System of Medicine, developed in the West. A system, which treats a disease with drugs having opposite effects to the existing symptoms. Each successive discovery and development in Allopathy, is the result of extensive research. Each new remedy has helped alleviate pain and suffering and increased the life span of people. Medical research continues at a brisk pace, identifying unknown diseases and searching for their cures.

V. THE RIGHT TO HEALTH IN INTERNATIONAL HUMAN RIGHTS:

The right to the highest attainable standard of health is a human right recognized in international human rights law. *The International Covenant on Economic, Social and Cultural Rights*, widely considered as the central instrument of protection for the right to health, recognizes “*the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*” It is important to note that the Covenant gives both mental health, which has often been neglected, and physical health equal consideration.

1. *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*⁸
2. *The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*
 - a) *The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child;*
 - b) *The improvement of all aspects of environmental and industrial hygiene;*
 - c) *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*
 - d) *The creation of conditions which would assure to all medical service and medical attention in the event of sickness.*

⁸ International Covenant on Economic, Social and Cultural Rights, art. 12

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Subsequent international and regional human rights instruments address the right to health in various ways. Some are of general application while others address the human rights of specific groups, such as women or children.

- *The 1965 International Convention on the Elimination of All Forms of Racial Discrimination: art. 5 (e) (iv)*⁹
- *The 1966 International Covenant on Economic, Social and Cultural Rights: art. 12*¹⁰
- *The 1979 Convention on the Elimination of All Forms of Discrimination against Women: arts. 11 (1) (f), 12 and 14 (2) (b)*¹¹
- *The 1989 Convention on the Rights of the Child: art. 24*¹²
- *The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: arts. 28, 43 (e) and 45 (c)*¹³
- *The 2006 Convention on the Rights of Persons with Disabilities: art. 25*¹⁴

The right to health is also recognized in several regional instruments, such as the *African Charter on Human and Peoples’ Rights (1981)*, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, known as the *Protocol of San Salvador (1988)*, and the *European Social Charter (1961)*, revised in (1996). The *American Convention on Human Rights (1969)* and the *European Convention for the Promotion of Human Rights and Fundamental Freedoms (1950)* contain provisions related to health, such as the right to life, the prohibition on torture and other cruel, inhuman and degrading treatment, and the right to family and private life. Finally, the right to health or the right to health care is recognized in at least 115 constitutions. At least six other constitutions set out duties in relation to health, such as the duty on the State to develop health services or to allocate a specific budget to them.

Constitution of South Africa (1996): Health care, food, water and social security:¹⁵

⁹ International human rights treaties recognizing the right to health

¹⁰ *Ibid*

¹¹ *Id*

¹² *Id*

¹³ *Id*

¹⁴ *Id*

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“(1) Everyone has the right to have access to

- a. health-care services, including reproductive health care;
- b. sufficient food and water; [...]

(2) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.

(3) No one may be refused emergency medical treatment.”

Constitution of India (1950)¹⁶: a duty of the State to raise the level of nutrition and the standard of living and to improve public health: “The State shall 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...”

Constitution of Ecuador (1998)¹⁷: “The State guarantees the right to health, its promotion and protection, through the development of food security, the provision of drinking water and basic sanitation, the promotion of a healthy family, work and community environment, and the possibility of permanent and uninterrupted access to health services, in conformity with the principles of equity, universality, solidarity, quality and efficiency.”

VI. HEALTH IN INDIAN CONSTITUTION:

“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”.¹⁸ *“No person shall be deprived of his/her life or personal liberty except according to the procedure established by law”*¹⁹. ‘Life’ in Article 21 of the Constitution isn’t just the physical demonstration of breathing. It doesn’t imply insignificant creature presence or proceeded with drudgery through life. It has a lot more extensive importance which

¹⁵ Chapter II, Section 27 of Constitution of South Africa (1996):

¹⁶ Part IV, art. 47 of **Constitution of India**.

¹⁷ Chapter IV: Economic, Social and Cultural Rights, art. 42:

¹⁸ According to Article 25(1) of Universal Declaration of Human Rights

¹⁹ According to Article 21 of the Constitution

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incorporates the right to live with human nobility, the right to livelihood, right to health, right to pollution free air, and so forth. Right to health alludes to and means the most achievable degrees of health that each person is qualified for. Health has been greatly viewed as the essential and major human right by the global network under worldwide human rights law. As opposed to the various human rights, the right to health makes a commitment upon the states to guarantee that the right to health is regarded, ensured and satisfied, and is properly qualified for every one of its residents. As indicated by Salmond, each right has a relating obligation to be satisfied and there can be no right without an equal component of obligation.

A more intensive gander at the uncovered content of the Constitution of India will render to the end that the Right to health has not been legitimately joined as a major right. Notwithstanding, the composers and the establishing fathers of the constitution had extremely unrealistic vision and in this manner, had forced the obligation on state in the idea of Directive Principles of State Policy under Part IV of the Constitution wherein it is the duty of the state to guarantee social and financial equity to its residents. Article 38 of the Constitution sets out the duty of the state to make sure about social requests for the advancement of the government assistance of general health. Article 39 statement (e) relates to the assurance of health of the laborers. Article 41 identifies with giving open help by the state in uncommon conditions, for example, disorder, handicap, mature age and so on. Article 42 ensures the health of the newborn child and the moms, for example as it were, it relates to maternity advantage.

Article 47 forces an essential obligation of the state in progress of general health, in making sure about equity, giving accommodating states of work to the laborers, augmentation of advantages relating to infection, handicap, mature age and maternity benefits. What's more, the state is under a commitment to deny the utilization of alcohol in light of a legitimate concern for the open great. Article 48A states the obligation of the state towards giving of a decent and healthy contamination free condition. For the very explanation of Direct Principles holding just powerful worth, the state utilized this as a weapon to get away from its

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obligation, duty and liabilities in giving and securing health of the regular open. Consequently, the Hon’ble Supreme acted as the hero and brought the right under the domain of Article 21 of the Constitution of India. The extent of Article 21 has, in this manner, been extended. Article 21 guarantees the right of life and freedom to every person, residents or non-residents.

VII. STATUTORY CONTROL ON HEALTH IN INDIA:

The Indian Penal Code and the Code of Criminal Procedure by its various provisions protects the health of the people. The Indian Penal Code lays down certain principles to determine the criminal liability of the accused for *e.g., General Exceptions*. Some of the provisions of the code are directly protecting the health of the people and thus lays down punishments for those who are responsible to affect the health of the people. ***Section 52 of the Code reads: “Nothing is said to be done or believed in ‘Good Faith’, which is done or believed without due care and attention.”*** Hence in the case of ***Sukaroo Kabiraj vs. The Empress***, wherein Kabiraj who, having no knowledge of surgery beyond that he had acquired in his practice, operated a man for internal piles by cutting them out with an ordinary knife, in consequence of which he died from hemorrhage. It was held as the operation was one so imminently dangerous that even educated surgeons scarcely ever attempted it, the accused was guilty of an offence punishable under section 304-A of the Indian Penal Code.

VII.I THE INDIAN PENAL CODE:

Section 84 of the code exempts a man who is mentally unhealthy at the time of commission of crime. It lays down as *“Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law”*.

Section 88 of the Code exempts medical practitioners who while treating a patient cause death. It reads as *“Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to be known by the order to be likely to cause, to any person for whose benefit it is done in good faith, and who has*

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given a consent, whether express or implied, to suffer that harm, or take the risk of that harm.”

Section 89 of the Code exempts a person who causes any harm when the act is done in good faith for the benefit of child less than 12 years of age, or of unsound mind, by or by consent of the guardian or other person having lawful charge of that person. Illustration to this section shows that A, in good-faith, for his child’s benefit, without his child’s consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child’s death, but not intending to cause the child’s death. A is within the exception, in as much as his object was the cure-of the child.

Chapter XIV of the Code specifically deals with offences affecting the public health, safety, convenience, decency and morals. Section 269 punishes any person who unlawfully or negligently does any act which is, and which he knows or has a reason to believe to be, likely to spread the infection of any disease dangerous to life. The punishment provided is up to six months imprisonment with or without fine.

Section 270 deals with malignant act likely to spread infection of disease dangerous to life. It punishes any person who malignantly does any act which is or for which he has a reason to believe to likely to spread the infection of any disease dangerous to life. The punishment for such an act is imprisonment of either description for a maximum term of two years with or without fine.

Section 271 punishes a person who knowingly disobeys a rule of quarantine in existence made and promulgated by the government. Quarantine relates to a vessel, which is segregated for prevention of contagious disease.

Section 272 punishes a person who adulterates any article of food or drink making it noxious for consumption and intending to sell such article as food or drink. The expression noxious means unwholesome as food or injurious to health. Selling of inferior food is not an offence but selling something, which is noxious, is an offence and the seller is punishable. It is very important under this section that an article of food or drink has been adulterated and the intention was to sell such article as food or drink.

*Title: “Legal Control of Health in India”, Authored By: Mr. Pradip Kumar, Ph.D Scholar & Co-Authored By: Dr. Anupam Manhas, Associate Professor, Department of Law, Career Point University Hamirpur, Himachal Pradesh,
Email Ids: pradip.chauhan.64@gmail.com, anniemahas@gmail.com.*

Section 273 punishes a person who knowingly sells or offers or exposes to sell any article of food or drink which is rendered or has become noxious or is in a state unfit for food or drink. The section is attracted only if the article is sold as food or drink and it has to be unfit for human consumption.

Section 274 deals with adulteration of drugs and punishes any person who adulterates a drug or a medical preparation knowingly that it will be sold or used for any medicinal purpose, as if it had not gone any adulteration and such adulteration has lessened the efficacy or changed the operation of the drug or medicine or made it noxious. The section punishes the intentional adulteration of drugs and medical preparations.

Section 276 punishes any person who sells or offers to sell or exposes to sell or issues from a dispensary for medicinal purposes any drug or medical preparation as a different drug or medical preparation and knows of such difference at the time of sell.

Section 278 punishes any person who voluntarily vitiates the atmosphere in any place so as to make it noxious to health of persons in general dwelling or carrying business in the neighbourhood or passing along a public way. The section applies to trades producing noxious and offensive smells or manufacturing units by which the atmosphere is polluted.

Section 284 of the code punishes any person who with any poisonous substance which is capable of endangering human life or causing hurt or injury to any person does any act which is so rash and negligent so as to endanger human life or to be likely to cause hurt or injure any person. Under this section any act or omission by the person who is in possession of poisonous substances which is dangerous to human life is included.

Though the Code was made way back in 1860 and before independence but it still focuses on various provisions affecting health and more importantly it punishes for affecting public health.

VII.II THE CODE OF CRIMINAL PROCEDURE, 1973:

The Code of Criminal Procedure, 1973: The Code under Chapter X Section 133 empowers a District Magistrate or a Sub-divisional Magistrate or any other Executive

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Magistrate specially empowered in this behalf by the State Government to make a conditional order on receipt of a report from a police officer that a trade or occupation or keeping of any goods or merchandise is injurious to the health or physical comfort to the community, he may order the person causing the same to desist from carrying on, or to remove or regulate in such manner as may be directed, or to remove such goods or merchandise or to regulate the same in such manner as he deems fit.

VII.III MEDICAL LAWS:

In India we have a large number of legislations in the field of medicine and health. The legislations are made keeping in view of the needs of the society and protecting the health of the people. The drug industry did basically not exist in India in the beginning of the 20th century. Most of the drugs were imported from foreign countries. The change was brought from the end of the First World War when the demand of the indigenous products increased; this led to the establishment of the pharmaceutical manufacturing concerns. In order to earn more profits some of the products produced were of inferior quality and harmful for public health. As a consequence, the Government was, called upon to take notice of the situation and consider the matter of introducing legislation to control the manufacture, distribution and sale of drugs and medicines.

Two of the laws, The Poisons Act and the Dangerous Drugs Act were passed in 1919 and 1930 respectively. The Opium Act was quite old having being adopted as early as 1878. In 1985, the Narcotic Drugs and Psychotropic Substances Act were enacted repealing the Dangerous Drugs Act 1930 and the Opium Act of 1878. At present the following Acts are in force in order to govern the manufacture, sale, import, export and clinical research of drugs and cosmetics in India.

- 1) **The Drugs and Cosmetics Act, 1940:** The Parliament of India formed an Act which regulates the import, manufacture and distribution of drugs in India. The primary objective of the Act is to ensure that the drugs and cosmetics sold in India are safe, effective and conform to prescribed quality standards. The Drugs Act was

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formulated in 1940 in pursuance of recommendations of Chopra Committee constituted in 1930 by Government of India. The drugs under the Drugs and Cosmetic Act cover wide varieties of therapeutic substances, diagnostics and medical devices. Under the Act cosmetic means any article intended to be rubbed, poured, sprinkled, or sprayed on, or introduced in to, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting the attractiveness or altering the appearance, and includes any article intended for use as a component of cosmetic but does not include soap. The Act has been further amended as Drugs (amendment) Act 1964 (13 of 1964) to include Ayurvedic and Unani drugs.

- 2) **The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954:** An Act was made in 1954 by Govt. of India to control the advertisement of drugs in certain cases, to prohibit the advertisement for certain purposes of remedies alleged to possess magic qualities and to provide for matters connected therewith.
- 3) **The Narcotic Drugs and Psychotropic Substances Act, 1985:** This act was enacted to take measures for preventing, combating and regulation of operations relating to narcotic drugs and psychotropic substances and to provide for the forfeiture of property derived from or used in, illicit traffic in narcotic drugs and psychotropic substances.
- 4) **The Epidemic Diseases Act, 1897:** This act was made by Govt. of India to provide for the better prevention of the spread of Dangerous Epidemic Diseases.
- 5) **The Transplantation of Human Organs Act, 1994:** The Transplantation of Human Organ Act (THOA), 1994, was enacted on February 4, 1995, in the states of Goa, Himachal Pradesh, and Maharashtra and all the union territories. Thereafter, all states adopted these regulations, with the exception of the states of Jammu and Kashmir and Andhra Pradesh, which they had enacted their own legislation. THOA relates to the regulation, storage, and transplantation of human organs for therapeutic purposes and prevention of commercial dealings of human

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organs. This Act provide guidelines and rules regarding who can give or donate the organs as well as who can receive the organ and how should the organ donation should take place. This Act for the first time in India recognized the brain stem death under some guidelines. There have been various amendments so far last being amendment in *THOA (Amendment Bill 2011)*. Apart from this Transplantation of Human Organs and Tissues Rules, 2014 also came in the year 2014.

- 6) ***The Mental Health Act, 1987:*** This act was framed in 1987 to consolidate and amend the law relating to the treatment and care of mentally ill persons.

Apart from these all legislations we also have the following legislations governing the conduct of medical profession:

1. *Indian Medical Council Act, 1956*
2. *Indian Medicine Central Council Act, 1970*
3. *Indian Nursing Council Act, 1947*
4. *Dentist Act, 1948*
5. *The Pharmacy Act, 1948*
6. *The Homeopathy Central Council Act, 1973*

VIII. CONCLUSION:

The health and right to health are complementary and supplementary to each other and thus in discussing the concept of right to health, it is important to understand the meaning of “*health*”. The concept of health is a complex matter that touches on deep and unanswered issues of medicine, ethics, and law as its heart lies in the universal and terrifying fact of human vulnerability.²⁰ Law plays a very important role in regulating the health care and in providing better health care services to the poor and the needy. At the same time there has been a lack of sensitivity about health care rights among the public and much needs to be

²⁰ PavlosEleftheriadis, “A Right to Health Care,” 40(2) *Journal of Law, Medicine and Ethics* (2012) pp. 268-285 at p. 268.

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done to bring a change in this area. Vulnerable groups of the society have little or no access to fundamental and human rights such as health, medical services, food etc. Many of these groups are ostracized and not favoured by the society at large, which makes it difficult for them to participate in mainstream processes whereby they could demand their rights.

Over and above the minimal awareness about health-related issues leaves them in a situation wherein they have very little access to fundamental rights. These groups are unaware that the refusal for treatment, denial of access to essential drugs, discrimination in the health care services and lack of information leads to human rights violations.

