

Bill No. 73 of 2023

THE ANDAMAN AND NICOBAR ISLANDS (RIGHT TO HEALTH)
BILL, 2023

By

SHRI KULDEEP RAI SHARMA, M.P.

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BILL

to provide for right to health for residents of Andaman and Nicobar Islands and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Andaman and Nicobar Islands (Right to Health) Act, 2023.

Short title, extent and commencement.

5 (2) It shall extend to the whole of the Union territory of Andaman and Nicobar Islands only.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “clinical establishment” means establishments defined as a clinical establishment under clause (c) of section 2 of the Clinical Establishment (Registration and Regulation) Act, 2010; 23 of 2010
- (b) “Government” means the Administration of Andaman & Nicobar Islands and in all other cases, the Central Government. 5
- (c) “health care” means testing, treatment, care, procedures and any other service or intervention towards a preventative, promotive, therapeutic, diagnostic, nursing, rehabilitative, palliative, convalescent, research and/or other health related purpose or combinations thereof, including reproductive health care and emergency medical included any of these as a result of participation in a medical research program; 10
- (d) “health care establishment” means the whole or any part of a public or private institution, facility, building or place, whether for profit or not, that is operated to provide inpatient and/or outpatient health care, and a “public health care establishment” shall accordingly refer to a health care establishment set up, run, financed or controlled by the Government or privately owned; 15
- (e) “health care provider” means a medical doctor, nurse, other paramedical professional, social worker or other appropriately trained and qualified person with specific skills relevant to particular health care, nursing, rehabilitation, palliative, convalescent, preventative or other health services, and any reference to “service provider” shall mean the same unless specifically stated otherwise; 20
- (f) “health impact assessment” means a combination of procedures, methods, and tools for identifying, predicting, evaluating, and mitigating potential effects of a proposed law, policy, program, project, technology, or a potentially damaging activity, in relation with health prior to taking decisions thereon and making commitments thereunder, on the health of the population, and other relevant effects, and the distribution of those effects within the population, and any reference to health impact assessment shall mean the same; 25
- (g) “informed consent” means consent given, specific to a proposed health care without any force, undue influence, fraud, threat, mistake or misrepresentation and obtained after disclosing to the person giving consent, either for himself, or in representative capacity wherever it is necessary, all material information including costs, risks, benefits and other significant implications of, and alternatives to, the proposed health care in a language and manner understood by such person; 30
- (h) “Panchayati Raj Institutions” means institutions of local self-Government established under any of the Union territory’s Panchayati Raj Laws at village, block or district level, like Gram Panchayat, Panchayat Samiti, or Zilla Parishad, or by whatever other name called, and any reference to “PRI” shall mean the same; 35
- (i) “prescribed” means prescribed by rules made under this Act;
- (j) “public health” means the health of the population, as a whole, especially as monitored, regulated, and promoted by the Government; 40
- (k) “public health institution” means governmental organizations that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic, interventions, nursing, rehabilitative, palliative, convalescent, preventative, promotive, medical research program or other health services to public; 45

(l) “Government funded health care services” means the health care services funded and provided by the Government or those provided by the non- government entities but for which Government funds part or whole of the costs of care to some or all patients;

(m) “resident” means an ordinary resident of the Union territory of Andaman and Nicobar Islands; and

(n) “social audit” means the audit conducted by the community using the social dimension.

3. Every person in the Union territory of Andaman and Nicobar Islands shall have the right:— Right to health.

(a) to have adequate relevant information about the nature, cause of illness, proposed investigations and care, expected results of treatment, possible complications and expected costs;

(b) to avail free Out-Patient Department services, In-patient Department services consultation, drugs, diagnostics, emergency transport, procedure, and emergency care as provided by all public health institutions accordantly to their level of health care as may be prescribed;

(c) to have emergency treatment and care under any emergent circumstances, without pre-payment of requisite fee or charges including prompt and necessary emergency medical treatment and critical care, emergency obstetric treatment and care, by any health care provider, establishment or facility, including private provider, establishment or facility, qualified to provide such care or treatment without delay and in a case of medico-legal nature of case, no health care provider or health care establishment shall delay treatment merely on the grounds of receiving police clearance or a police report.

Explanation.— For the purposes of this clause “medico-legal case” means any medical case which has legal implications, either of a civil or criminal nature, and includes but is not limited to cases relating to accidents, assault, sexual assault, suicide, attempt to murder, poisoning, injuries on account of domestic violence, injuries to workers during course of employment, in some of which the service provider may be required to prepare documents in compliance with demands by authorized police-officer or magistrate;

(d) in case of a resident, to have the right to avail free health care services from any clinical establishment in the prescribed manner and subject to the terms and conditions specified in the rules;

(e) to have access to patient records, investigation reports and detailed itemized bills of treatment;

(f) to know the name, professional status and job chart of the person who is providing health care;

(g) to informed consent prior to specific tests or treatment including surgery and chemotherapy from all health care establishments;

(h) to confidentiality human dignity and privacy during treatment at all health care establishments;

(i) to the presence of female person, during physical examination of a female patients by a male practitioner;

(j) to choose alternative treatment available at any health care establishments;

(k) to have treatment without any discrimination based upon illness or conditions, including HIV status or other health condition, religion, race, caste, sex, age, sexual orientation or place of birth of any of them at all health care establishments;

(l) to have information about the rates or charges for each type of service provided and facilities available; 5

(m) to choose source of obtaining medicines or tests at all health care establishments;

(n) to patient's education about health condition;

(o) to safe and quality care according to standards prescribed for the health care establishments;

(p) to referral transport by all health care establishments, whether public or private, in the prescribed manner; 10

(q) to have treatment summary in case of a patient leaving health care establishment against the medical advice;

(r) to be heard and seek redressal in case of any grievance occurred during and after availing health care services; 15

(s) in case of residents, to avail free transportation, free treatment and free insurance coverage against road accidents at all health care establishments in the prescribed manner and subject to the terms and conditions specified in the rules; and

(t) to obtain treatment records and information from the treating health care establishments to seek second opinion from another health care professional or health care establishment. 20

Obligation of Government.

4. The Government shall have the following general obligations at all times, by enhancing the quantum of the health care resources in time bound manner for realization of health and well-being of every resident in the Union territory of Andaman and Nicobar Islands:— 25

(a) to develop and institutionalize Human Resource Policy for Health to ensure availability and equitable distribution of doctors, nurses and other ancillary health professionals and workers at all levels of health care as may be prescribed;

(b) to set up the quality audit and grievance redressal mechanisms as may be prescribed; 30

(c) to align all health services and schemes to strengthen a system of health services to empower and make residents aware for preventive, promotive and protective health care, not merely an absence of disease;

(d) to lay down standards for quality and safety of all levels of health care as may be prescribed; 35

(e) to make availability of Government funded health care services as per distance or geographical area or considering population density which includes health care institutions, free medicine, test and diagnostics of notified items and ambulance services as per standards as may be prescribed;

(f) to ensure that there is no any direct or indirect denial to anyone for any Government funded health care services at such health care establishment and such guaranteed services as may be prescribed; 40

(g) to mobilize resources and frame plans or policies to carry out obligations under this Act;

(h) to set up co-ordination mechanisms among the government departments to facilitate availability of nutritionally adequate and safe food, adequate supply of safe drinking water and sanitation to patients; and

(i) to take appropriate measures to inform, educate and empower people about health issues.

5. (1) The Government shall, by notification in the Official Gazette, constitute an independent body to be known as the Union Territory of Andaman and Nicobar Islands Health Authority consisting of the following members, namely:—

Constitution of Union territory of Andaman and Nicobar Islands Health Authority.

Lieutenant Governor of Andaman & Nicobar Islands *ex-officio* Chairperson;

Member of Parliament from House of the People representing Andaman and Nicobar Islands *ex-officio* Vice-Chairperson;

Chief Secretary, Union Territory of Andaman & Nicobar Islands *ex-Officio* Member;

Three Members, to be nominated by Administration of Andaman & Nicobar Islands having knowledge of Public Health and Hospital Management Members.

(2) The Union territory of Andaman and Nicobar Islands Health Authority shall meet at least once in three months.

(3) The salary and allowances payable to and other terms and conditions of services of members of the Union territory of Andaman and Nicobar Islands Health Authority shall be such as may be prescribed.

6. The Union Territory of Andaman and Nicobar Islands Health Authority shall,—

Functions of the Union Territory of Andaman and Nicobar Islands Health Authority.

(a) advise the Government on any matter concerning public health, including preventive, promotive, curative, and rehabilitative aspects of health and occupational, environmental, and socio-economic determinants of health;

(b) formulate Union Territory health goals and get these included in the mandate of Panchayati Raj Institutions and urban local bodies;

(c) formulate Union Territory level strategic plans for implementation of Right to Health as provided under this Act, including action on the determinants of healthy food, water and sanitation;

(d) develop mechanisms and systems for regular medical, clinical, and social audits for good quality of health care at all levels;

(e) constitute one or more committees, scientific panels, technical panels for the efficient discharge of its functions as and when required;

(f) ensure quality and cost effective health and diagnostic services by private health sector; and

(g) carry out other functions as may be prescribed. 5

Grievance
Redressal
Mechanism

7. (1) The Government shall establish Grievance Redressal Mechanism within three months from the date of commencement of this Act.

(2) The Grievance Redressal Mechanism under sub-section (1) shall include the following, namely:—

(a) a specified web-portal and helpline centre where complaint may be made on denial of services and infringement of rights provided under this Act; 10

(b) the web-portal and helpline centre shall forward the grievances received to the concerned officer and his immediate supervisors within 24 hours;

(c) the concerned officer shall respond to the complainant within next 24 hours; 15

(d) if the complaint is not resolved by concerned officer within 24 hours as aforesaid the complaint shall be forwarded to Union territory of Andaman and Nicobar Islands Health Authority immediately.

Central
Government
to provide funds.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act. 20

Power to
remove
difficulties.

9. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act. 25

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to make
rules.

10. (1) The Central Government may make rules for carrying out the purposes of this Act. 30

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 35

STATEMENT OF OBJECTS AND REASONS

The islanders of the Union Territory of Andaman & Nicobar, due to its geographical location remain susceptible to public health problems. This island located 1200 km from mainland India, is beset with several bottlenecks, in terms of infrastructure in health care facilities as well as in the number of health care professionals available.

Looking at the overall supply of health care (supply side) and the health outcomes (demand side) scenario, the Union Territory of Andaman & Nicobar still has miles to go in terms of improving its services in health care. The Post Pandemic scenario has thrown up new challenges for the island, which is grappling with the constrained infrastructure of healthcare facilities, further aggravated by the locational inhibiting factors.

The GB Pant Hospital is the lone referral hospital for the entire Union Territory with specialized services in Surgery, Medicine, Gynecology, Pediatrics, ENT, Pathology & Ophthalmology, etc. The Union Territory has a total of 4 functioning CHCs, out of which urban areas have zero CHCs.

It is pertinent to note that the right to life and proper health care is an integral part of life and the quality of life of an individual depends upon the quality of health care. Thus, the schemes implemented by the Government will be reaching out to more and will be implemented more efficiently if it is backed by legal sanction. Over the years Andaman and Nicobar islands have proven to be of strategic importance to the nation and have established itself as tourist hubs. In the first quarter of the last year, the island saw a footfall of 1,36,190 tourists. It is only imperative that the health infrastructure of the island is robust enough to meet the medical needs of the tourists as well.

Thus, keeping in mind the violability of the life of an individual this bill seeks to provide the basic right to health to all the citizens of Andaman and Nicobar. In addition to this, this bill also cast a duty upon the Government to protect the right to basic health care and the right to access health care for all its citizens.

The present Bill seeks to enumerate certain rights for the people of Andaman and Nicobar including free access to health care for all its citizens. However, these rights are not limited to what has been enumerated under this provision but are also in addition to what has been provided by the constitution and in other laws for the time being in force. Further, under the proposed Bill, certain duty has also been entrusted to the Government. Thus, in a nutshell, this Bill provides an inclusive approach to deal with the wide range of problems of health care and its accessibility. Further, keeping in mind the financial condition of all its citizens of the Andaman and Nicobar island this Bill provides free access to health care in cases as enumerated under the provision of the Bill.

Hence this Bill.

NEW DELHI;
February 28, 2023.

KULDEEP RAI SHARMA

FINANCIAL MEMORANDUM

Clauses 4 of the Bill provides for the Administration of Andaman and Nicobar Islands to develop and institutionalize Human Resource Policy for Health to ensure availability and equitable distribution of doctors, nurses and other ancillary health professionals and workers at all levels of health care and setting up the quality audit and grievance redressal mechanisms, etc. Clause 5 provides for appointment of members for Union Territory of Andaman and Nicobar Health Authority and provides for salary and allowances for the members. Clause 7 provides for the Administration of Andaman and Nicobar Islands to establish Grievance Redressal Mechanism within three months from the date of commencement of this Act. Clause 8 provides for the Central Government to provide requisite funds for carrying out the provisions of this Act. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. A recurring expenditure of about rupees two crore is likely to be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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(Shri Kuldeep Rai Sharma, M.P.)