

**Bill No. XXX of 2017**

THE CONSTITUTION (AMENDMENT) BILL, 2017

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BILL

*to further amend the Constitution of India.*

BE it enacted by the Parliament in the Sixty-eighth Year of the Republic of India as follow:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2017.

Short Title  
and com-  
mencement.

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

2. After article 21 A of the Constitution, the following article shall be inserted, namely:

Insertion of  
new article  
21B.

“21 B. (1) The State shall provide health protection to all citizens which shall include;

Right to  
Health.

(a) prevention, treatment and control of diseases;

(b) access to essential medicines;

10 (c) maternal, child and reproductive health;

(d) access to basic health services;

(e) access to emergency medical treatment; and

(f) access to mental healthcare.

Provided that the State in such manner as deemed fit, shall provide the above objectives for every citizen by earmarking not less than eight per cent of the annual estimated receipts of the State for healthcare. 5

## STATEMENT OF OBJECTS AND REASONS

Article 47 of the Indian Constitution makes it a duty of the State to raise the level of nutrition and the standard of living and to improve public health. However, the current status of healthcare in India reflects that further measures are required to be taken by the State to assure health to all citizens of the State.

The Government expenditure on health is only 1.4 per cent of Gross Domestic Product (GDP) and the public health infrastructure is inadequate and unequally distributed. The Draft National Health Policy, 2015 takes note of the fact that over 63 million persons are faced with poverty every year due to healthcare costs alone as there is no financial protection for the vast majority of healthcare needs. According to Sample Registration System (SRS) 2013, 1.26 million children under the age of five are estimated to die in our country every year due to preventable diseases.

Thus, due to lack of enforceability of Directive Principles, right to health remains unenforceable for citizens. However the Supreme Court in *Paschim Banga Khet mazdoor Samity & ors V. State of West Bengal & ors*, while widening the scope of Article 21 held that providing adequate medical facilities for the people is an obligation of the Government in a welfare state. The right to health is also internationally recognised as a fundamental human right. In 1946, the World Health Organisation stated in its Constitution 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.” This right is also included in the Universal Declaration of Human rights and in the International Covenant on Economic, Social and Cultural rights, of which India is a signatory.

The initial Draft of National Health Policy, 2017 declared that Right to Health shall be guaranteed as an enforceable fundamental right under the Constitution in order to empower the citizens to hold the State accountable for it. The National Health Policy, 2017 requires the States to spend at least 8 per cent of their Annual Budgets on Healthcare.

Therefore, it is essential to amend the constitution of India and make right to health a fundamental right of the citizens.

Hence, this Bill.

V. VIJAYASAI REDDY

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for making the right to healthcare a fundamental right. It provides that every citizen shall have right to health protection which shall be provided by the appropriate Government. Such Bills, if enacted, by Parliament or State Legislatures will involve expenditure recurring and non-recurring from the Consolidated Fund of India as well as Consolidated Fund of the concerned State. However, it is not possible to access the actual financial expenditure likely to be incurred at this stage.

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*(Shri V. Vijayasai Reddy, M.P.)*