

AS INTRODUCED IN THE RAJYA SABHA
ON THE 4TH FEBRUARY, 2022

Bill No. XLII of 2021

THE RIGHT TO HEALTH BILL, 2021

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BILL

to provide for health as a fundamental right to all citizens and to ensure equitable access and maintenance of a standard of physical and mental health conducive to living a life in dignity and for matters connected therewith or incidental thereto.

WHEREAS every individual is entitled to a life of quality, well-being and attainment of the highest possible standards of health;

AND WHEREAS health is intrinsically linked to the right to life and other human rights;

AND WHEREAS Directive Principles of State Policy enshrined in the Constitution also guides the State to secure the health of the workers { Article 39(e)}, provide just and humane conditions of work (Article 42), and raise nutritional levels (Article 47);

AND WHEREAS the Union of India has signed various international treaties, agreements and declarations specifically undertaking to provide the right to health including

but not limited to Universal Declaration of Human Rights (UDHR): Article 25 (1); International Covenant on Economic, Social and Cultural Rights (ICESCR): Article 12; WTO Doha Declaration on TRIPS Agreement & Public Health (2001), International Health Regulations, 58th World Health Assembly (2005); WHO Framework Convention on Tobacco Control (WHO FCTC 2005), and several other declarations and conventions on underlying determinants of health;

AND WHEREAS a rights-based approach is needed to fulfil these obligations and improve the health outcomes.

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

Short Title,
extent and
Commencement.

1. (1) This Act may be called the Right to Health Act, 2021.

(2) This extends to the whole of India.

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

Definitions.

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

(a) "appropriate Government" means—

(i) in the case of State, the Government of that State;

(ii) in the case of an Union Territory having its own legislature, the Government of that Union Territory; and 10

(iii) in other cases, the Central Government;

(b) "healthcare" means testing, treatment, care, procedures and any other service or intervention towards a therapeutic, nursing, rehabilitative, palliative, convalescent, preventative, diagnostic, research and/or other health-related purpose or combinations thereof, including reproductive health care and emergency medical treatment, in any system of medicine and includes any of these as a result of participation in a medical research programme; 15

(c) "health outcome" means consequences of a disease suffered by an individual including impairments, symptoms, functioning, participation in activities and social roles and health-related quality of life; 20

(d) "health research" means any research that contributes to the knowledge of biological, clinical, and psychological processes and development of new technology that contributes to better health outcomes;

(e) "individual" means any person having Indian citizenship according to Citizenship Act, 1955; 25

57 of 1955.

(f) "quality" means services and facilities of a minimum standard consistent with the latest professional knowledge and technological advances to increase the desired health outcome;

(g) "right to food" means at least, the right to be free from hunger and malnutrition and the right to have regular and permanent access to food that is affordable, adequate, safe and nutritious, for a healthy and active life and culturally acceptable to the population; 30

(h) "right to health" means the right of an individual to a standard of physical and mental health conducive to living a life in dignity; 35

(i) "right to housing" means the right of each individual to live in a safe, private space with access to facilities conducive to a life of dignity;

(j) "right to sanitation" means the right of each individual to safe excreta disposal facilities and shall include access to sewerage facilities to remove waste water for treatment; 40

(k) "right to therapy" means receiving humane care and treatment with confidentiality and privacy; and

(l) "right to water" means the right to access safe, adequate, and affordable drinking water for personal and domestic use.

5 **3.** Every individual shall have the right to:—

Right to
Health.

(i) enjoy the highest attainable standard of physical and mental health; and

(ii) seek, receive and refuse health care appropriate to that person's health needs.

4. Every individual shall have timely and quality access to facilities, goods, and services necessary to achieve the best health outcome. Right to
Access.

10 *Explanation*—Access includes the components of coverage, quality and timeliness.

5. Every individual shall have the right to the conditions conducive to maintaining appropriate levels of health, including but not limited to at least the following:— Right to
Determinants
of Health.

(a) right to food;

(b) right to water;

15 (c) right to sanitation;

(d) right to therapy;

(e) right to healthcare services;

(f) right to road safety;

(g) right to occupational safety;

20 (h) protection from unforeseen circumstances of famines, floods and earthquakes, disease outbreaks and epidemics and other public health emergencies; and

(i) protection from consumption of hazardous substances that threaten life.

6. Any individual whose right to health has been violated by a government or private entity shall have the right to redressal of their grievance under the law of the land. Right to
Redressal of
Grievances.

25 **7.** No individual shall be denied access to health services, facilities, resources, goods or information based on the grounds of sex, class, economic status, place of birth, age, marital status, actual or perceived health status, sexual orientation, physical or mental disability, occupation, religion, sect, region, language, political or other opinions, caste, civil, political, social, or other status or affiliation, race, or any unreasonable ground. Right to Non-
discrimination.

30 **8.** Every individual shall have the right to full disclosure of information about the following, but not limited to:— Right to
Informed
Consent.

(a) the condition, disorder and disease that the individual is having or suffering from;

(b) the necessity for further diagnostic test(s);

35 (c) the natural course of the condition and possible complications;

(d) consequences of non-treatment;

(e) available treatment options;

(f) potential risks and benefits of treatment options;

(g) duration and approximate cost of treatment; and

40 (h) expected outcome:

Provided that the information shall not jeopardize the patient's physical, mental or emotional health.

Right to Privacy.	<p>9. The appropriate Government shall ensure that medical records of each individual shall be kept confidential and the health care provider shall not divulge the information to others unless the individual gives consent to disclose such information to others.</p>	
Obligations related to healthcare.	<p>10. (1) The Central Government shall take appropriate measures to provide free and universal access to health care services and ensure that there shall not be any denial of health care directly or indirectly, to anyone, by any health care service provider, public or private, including for-profit and not-for-profit service providers, by laying down minimum standards and appropriate regulatory mechanism.</p> <p>(2) The Central and State Governments, in collaboration, shall ensure the following determinants of health are provided to the individuals but not limited to:—</p> <p>(a) access to the minimum essential food which is nutritionally adequate and safe ensuring freedom from hunger and malnutrition to everyone;</p> <p>(b) adequate supply of safe water;</p> <p>(c) proper sanitation facilities through appropriate and effective sewerage and drainage systems, waste disposal and management systems;</p> <p>(d) pollution control systems, control of ecological degradation, control of insects and rodents and other carriers of infections, addressing practices resulting in unhygienic disposal of human excreta and refuse, consumption of unhygienic water or food and through other measures;</p> <p>(e) access to basic housing with dignity, access to basic facilities, and protection from forced eviction, harassment or other threats;</p> <p>(f) appropriate training to doctors and other medical personnel;</p> <p>(g) fostering health research and promoting medical advancements;</p> <p>(h) assess and monitor public health through appropriate measures and standards and make the data available for public use;</p> <p>(i) inform, educate and empower communities about health problems and mobilize them towards solving them; and</p> <p>(j) protection against public health emergencies including pandemics through coordinated efforts with the state and other local governments and ensuring transparent dissemination of information during such emergencies.</p>	5 10 15 20 25 30
Central Government to provide adequate fund.	<p>11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purpose of this Act.</p>	
Power to make rules.	<p>12. (1) The appropriate Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.</p> <p>(2) Every rule made by the Central Government under this Act 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 sessions aforesaid, both the 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 modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>	35 40
Laying of rules made by State Government.	<p>13. Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.</p>	45

STATEMENT OF OBJECTS AND REASONS

The World Health Organisation 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." The right to health cannot be alienated from the right to life. Without realization of health as a right, one cannot be expected to live a life of dignity and reach their highest human potential. Individuals' right to health cannot be obtained without realizing their other rights and *vice-versa*, the violations of which are at the root of poverty, such as the rights to work, food, housing and education. A rights-based approach is required to solve the dismal health outcomes in the country. Thus, the goal is to attain the highest possible level of health and well being for all at all ages, through a preventive and promotive health care orientation in all developmental policies.

Hence this Bill.

PROF. MANOJ KUMAR JHA

FINANCIAL MEMORANDUM

Clause 11 of the Bill provides that the Central Government shall provide requisite funds for carrying out the purposes of the Bill. At this stage, it is not possible to estimate the amount to be incurred. However, the Bill, therefore, if enacted, will involve an annual recurring expense of about thirty thousand crores from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 and 13 of the Bill provide that the appropriate Government may make and implement such rules, as are reasonable and necessary to implement and effectuate the provisions of this Act given in the clauses. The rules to be framed by the appropriate Government pertain to matters of administrative detail only. The delegation is, therefore, normal in character.

RAJYA SABHA

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(Prof. Manoj Kumar Jha, M.P.)