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INTERNATIONAL INSTRUMENTS ENSURING RIGHT TO HEALTH FOR ALL: AN ANALYSIS¹

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Abstract

The right to health is a fundamental human right recognized and promoted by several international legal instruments and global frameworks. This paper critically analyses the evolution, significance, and enforcement of the right to health in international law. It explores how various international conventions, declarations, and treaties particularly those from the United Nations system have shaped state obligations and global standards to ensure health for all. Despite these commitments, disparities in health outcomes persist globally, raising questions about implementation, accountability, and equity.

Keywords: Right to Health, International conventions, WHO, United Nations, and Sustainable Development Goals

1. Introduction

The right to health is intrinsic to human dignity and well-being. It encompasses not merely access to medical care, but also the broader determinants of health such as safe water, sanitation, nutrition, housing, and education. Over the years, a robust body of international law has developed to enshrine this right, guiding states in policy-making and enforcement. However, despite these legal frameworks, global health inequalities remain a pressing concern. This paper examines key international instruments that guarantee the right to health and evaluates their impact and effectiveness in practice.

Today, the right to health is recognized by the international community as a major inherent right that belongs to everyone. It is enshrined in the very first international legal instruments and referred to a group of economic, social and cultural rights. When the world's largest organizations have special units, whose duties include the legislative initiative, the

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development of international legal instruments to implement the right to health; the implementation of the provisions of the international instruments that perpetuate human rights and freedoms ratified by the states. The right to health is an integral part of the complex human rights recognized in virtually all countries, even in those where it is not formally recorded. In many countries, the right to health care has become part of domestic law, enshrined in the basic legal acts, provided ample opportunities for the realization of this right in accordance with internationally recognized standards.²

2. Understanding the Right to Health

The right to health is universally recognized as a fundamental human right essential to the realization of human dignity. However, it is important to understand that this right extends far beyond access to healthcare services alone. The right to health is inherently **inclusive** encompassing not only medical care but also the broader social determinants that influence health outcomes. The **inclusive nature** of the right to health means it is not limited to treating illness or accessing hospitals and doctors. Instead, it includes a wide range of conditions that promote and sustain good health. According to **General Comment No. 14** of the **UN Committee on Economic, Social and Cultural Rights (CESCR)**, the right to health includes access to:

- (a). Safe drinking water and adequate sanitation;
- (b). Safe food and proper nutrition;
- (c). Adequate housing and a healthy environment;
- (d). Health-related education and information;
- (e). Occupational health and safety³;
- (f). Access to essential medicines and healthcare services, The inclusive right to health is founded on four essential and interrelated elements;
- (g). **Availability:** There must be a sufficient quantity of functioning public health and healthcare facilities, goods, and services;

² Gafuvora Nozimakhon, and Yusupova Faringiz, working at Department International Law and Human Rights of Tashkent State University Uzbekistan, 'Analysis International Legislation Regulating the Protection of Patient's Rights, Vol-5, S1, Asian Pacific Journal of Environment and Cancer, available at <https://waocp.com/journal/index.php/apjec/article/view/1043/2230> visited on 27.01.2025

³ Fact Sheet no.31, Office of the United Nations High Commissioner for Human Rights, and World Health Organization, 'the Right to Health' available at <https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet31.pdf> visited on 13.03.2025

- (h). **Accessibility:** Health facilities must be accessible to everyone without discrimination. This includes physical, economic (affordability), and informational access;
- (i). **Acceptability:** Services must respect medical ethics and be culturally appropriate, gender-sensitive, and responsive to the needs of diverse populations; and
- (j). **Quality:** Facilities and services must be scientifically and medically appropriate and of good quality.⁴

The World Health Organization (WHO)⁵ defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." The right to health, therefore, implies access to timely, acceptable, and affordable healthcare of appropriate quality, as well as to the underlying determinants of health. It imposes three types of obligations on states:

- (a). To respect (not interfere);
- (b). To protect (prevent third-party interference); and
- (c). To fulfill (take positive action to facilitate access).

3. International Instruments Ensuring the Right to Health for all

(a) Universal Declaration of Human Rights (UDHR), 1948

The Universal Declaration of Human Rights of 1948 laid the foundation for international recognition of such values as human dignity, human life and health. The provisions of the Declaration were further developed and specified in various international legal documents. The importance of legal regulation and protection of patients' rights has grown with the development of medical science, the expectations and requirements of patients in relation to the quality and safety of medical care. Since 1970, a number of international documents of a universal and regional nature on the rights of patients have been adopted.

⁴ Office of the High Commissioner for Human Rights, CESCR General Comment No.14: The Right to the Highest Attainable Standard of Health (Art.12), adopted at the Twenty Second Session of the Committee on Economic, Social, and Cultural Rights on 11, August 2000, contained in document E/C, 12/2000/4, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/Health/GC14.pdf> visited 23.01.2025

⁵ The World Health Organization is a specialized agency of the United Nations which coordinates responses to international public health issues and emergencies. It is headquartered in Geneva, Switzerland, and has 6 regional offices and 150 field offices worldwide. WHO mainly address the followings,

- (a) Human Capital across the Life Course
- (b) Non Communicable Diseases prevention
- (c) Mental health promotion
- (d) Antimicrobial resistance; and
- (e) Elimination and eradication of high impact communicable diseases.

Article 25 of the UDHR recognizes the right to a standard of living adequate for health and well-being, including food, clothing, housing, and medical care. Although not legally binding, it set the foundation for binding treaties.⁶

(b) International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

Article 12 of the ICESCR obligates states to recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Committee on Economic, Social and Cultural Rights (CESCR) further clarified this right in General Comment No. 14, outlining its core obligations and guiding principles. 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; and
- (d) The creation of conditions.⁷

(c) Convention on the Rights of the Child (CRC) 1989

States Parties recognize 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. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

- (1) States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

⁶ The Universal Declaration of Human Rights is an international document adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings, available at https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf visited on 22.01.2024

⁷ The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly (GA) on 16 December 1966 through GA. Resolution 2200A (XXI), and came into force on 3 January 1976, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> visited on 23.02,2024

- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
 - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) To develop preventive health care, guidance for parents and family planning education and services.
- (2) States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
- (3) States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.⁸

(d) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

CEDAW, under Article 12, obligates states to eliminate discrimination against women in healthcare access and to ensure services related to family planning, pregnancy, and postnatal care.

- (a). States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning; and
- (b). Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement

⁸ Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49, available at <https://www.ohchr.org/sites/default/files/crc.pdf> visited on 30.03.2024

and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.⁹

(e) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965

ICERD promotes equality in healthcare access and prohibits discrimination based on race, color, or ethnic origin and it ensures the right to public health, medical care, social security and social services.¹⁰

(f) International Labour Organization (ILO) Conventions

ILO instruments promote occupational health and safety and social protection systems that ensure healthcare access, especially for workers thought out the globe, these are categorized as follows,

- (a) Occupational safety and health convention, 1981;
- (b) Occupational health services convention, 1985;
- (c) Occupational health services recommendation, 1985;
- (d) Promotional framework for occupational safety and health convention, 2006;
- (e) Protection of workers health recommendation, 1953;
- (f) Safety and health in Construction Convention, 1988;
- (g) Safety and health in construction recommendation, 1988;
- (h) Safety and health in mines convention, 1995;
- (i) Safety and health in mines recommendation, 1995;
- (j) Safety and health in agriculture convention, 2002;
- (k) Safety and health in agriculture recommendation, 2001;
- (l) Occupational safety and health (Dock Health) Convention, 1979; and
- (m) Occupational safety and health (Dock Health) recommendation, 1979.¹¹

⁹ Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 entry into force 3 September 1981, in accordance with article 27(1), available at <https://www.ohchr.org/sites/default/files/cedaw.pdf> visited on 23.01.2024

¹⁰ Article 5 of International Convention on the Elimination of all forms of Racial Discrimination

¹¹ Compendium of International Labour Conventions and Recommendations (Compilations of International Labour Conventions and Recommendations) International Labour office, Geneva, available at https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_413175.pdf visited on 23.01.2024

(g) Role of the World Health Organization (WHO)

The WHO Constitution itself affirms health as a fundamental human right. The organization plays a crucial role in setting global health standards, monitoring health trends, and supporting member states in achieving health-related goals. WHO initiatives such as Universal Health Coverage (UHC) and its leadership during the COVID-19 pandemic highlight its ongoing relevance.

The World Health Organization (WHO) plays a pivotal role in promoting and safeguarding the right to health across the globe. As the leading international public health agency of the United Nations, WHO's mandate includes ensuring the attainment by all peoples of the highest possible level of health, which is a fundamental human right,

- (a) Normative Leadership and Standard Setting;
- (b) Promoting Universal Health Coverage (UHC);
- (c) Monitoring and Assessing Global Health Trends;
- (d) Public Health Emergency Response;
- (e) Capacity Building and Technical Support;
- (f) **Advocacy and Awareness; and**
- (g) Support for Health Equity and Social Determinants of Health.

(h) Sustainable Development Goals (SDGs) in safeguarding right to health

The 2030 Agenda for Sustainable Development, particularly Goal 3 (Good Health and Well-being), reinforces global commitment to ensuring healthy lives and promoting well-being for all at all ages. It emphasizes universal health coverage, access to essential medicines, and reproductive healthcare services.

The Sustainable Development Goals (SDGs), adopted by all United Nations Member States in 2015 as part of the 2030 Agenda for Sustainable Development, play a critical role in safeguarding the right to health. These 17 interlinked goals provide a global blueprint for peace, prosperity, and well-being for people and the planet. Health is both a standalone goal and a cross-cutting theme that underpins the success of all other goals.

- (a) Goal 3: Ensure Healthy Lives and Promote Well-being for All;
- (b) Promotion of Universal Health Coverage (UHC);
- (c) Addressing Social Determinants of Health;
- (d) Combating Health Inequalities;
- (e) Global Partnerships for Health (SDG 17); and
- (f) Monitoring and Accountability.

4. Challenges in Implementation

Despite comprehensive legal frameworks, significant challenges remain:

- (a). **Lack of Enforcement Mechanisms:** Many treaties lack binding enforcement provisions.
- (b). **Resource Constraints:** Developing countries struggle with funding and infrastructure.
- (c). **Discrimination and Inequality:** Marginalized populations often face systemic exclusion.
- (d). **Global Health Crises:** Pandemics such as COVID-19 have exposed and exacerbated global health inequalities.

5. Conclusion

The right to health is universally recognized as a fundamental human right, integral to the realization of human dignity and well-being. International instruments such as the **Universal Declaration of Human Rights (UDHR)**, the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, and various regional human rights treaties form the legal backbone for the global commitment to health as a human right. These frameworks not only define the scope of the right to health but also impose obligations on states to respect, protect, and fulfill this right.

Through the efforts of international bodies like the **World Health Organization (WHO)** and the integration of health-related goals in global agendas such as the **Sustainable Development Goals (SDGs)**, the right to health has been advanced both in policy and practice. These instruments advocate for access to essential healthcare, equitable health systems, and attention to the social determinants of health.

However, the realization of the right to health remains uneven across the world, especially in low- and middle-income countries where systemic inequalities, resource constraints, and weak governance hinder progress. Therefore, while international instruments provide a strong normative framework, their effective implementation depends on national commitment, adequate financing, legal enforcement, and inclusive policies.

In conclusion, international instruments play a crucial role in safeguarding the right to health for all. They serve as a guiding force for governments and institutions, promote

accountability, and foster international cooperation. Achieving universal health rights requires not only adherence to these instruments but also sustained global solidarity, inclusive development strategies, and a shared moral commitment to health equity and justice.

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