

Protecting Our Future: Understanding Children's Health Rights

Hashim M Kabeer

Assistant Professor on Contract, Department of Law, University of Kerala, Kariyavattom Trivandrum, Kerala, India

Author Email: hashimmkabeer@gmail.com

“The preservation of health is without doubt the first good

And foundation of all other goods of this life”.

(Rene Descartes, Discors De La Methode 1637)

I. INTRODUCTION

Health is a key factor in a nation's growth and development.¹ Health is defined as the state of complete physical and social wellbeing and not merely the absence of disease or infirmity.² This definition very well includes whole concept of health. WHO also recognized that the health of all people is fundamental to the attainment of peace and security and its dependency upon the fullest cooperation of individuals and states. This vision was shared by all the member countries including India.³

II. CHILDRENS HEALTH RIGHTS: INTERNATIONAL FRAMEWORKS

First and foremost, human right document is the Universal Declaration of Human Rights; 1948. Article 25⁴ talks about medical care for adequate standard of living and also provides for special care to mother and child.

The International Convention on Social Economic and Cultural Rights, 1966 in Article 12⁵ guarantees to everyone highest attainable standard of physical and mental health .

United Nations Conventions on the Rights of Child, 1989 in its Article 24⁶ guarantees the rights to the child to the highest attainable standard of health and facilities for the treatment of illness and rehabilitation of health and no child should not be deprived of health service. Convention also guarantees provision for medical assistance and health care to children and it emphasis the development of primary health care and Convention abolishes the traditional practices which prejudicial effect the health of child.

The African Charter on the Rights and Welfare of the Child, 1990 Its Article 14⁷ of the charter deals with health and health services. Charter proclaims to the child best attainable standard of physical mental and spiritual health. Then it says about the reduction of infant mortality and child mortality. Standards for the development of primary health care.

III. CHILDRENS HEALTH RIGHTS: NATIONAL SCENARIO

India has substantial achievement in its credit in child survival⁸ last 20 years have witnessed improvement in child survival in India. Several factors were contributed for these improvements such as institutional deliveries, better sanitation, and availability of life saving drugs etc. beside all these now also we are facing certain difficulties in protecting children's health rights recent issues in Gorakhpur UP is an example. Now also in certain states children's health right exists as mirage.

IV. RIGHT TO BE BORN

¹ 1 JOSEPH A. GATHIA & SANJAY V. GATHIA, CHILDRENS RIGHT AND WELLBEING IN INDIA LAW , POLICY AND PRACTICE 218 -19 (2015) .

² WHO definition (Nov1,2024 ,10AM) <https://www.who.int>.

³ Supra note 2 at 1.

⁴ See Article 25 of Universal Declaration of Human Right.

⁵ See Article 12 of International Convention on Social Economic and Cultural Rights 1966.

⁶ See Article 24 of United Nations Conventions on The Rights of Child 1989

⁷ See Article 14 of African Charter on The Rights and Welfare of The Child 1990.

⁸ . GOVT OF INDIA, LOK SABHA SECRETARIT, NATIONAL POLICY STUDIES, (1990).

Concept of right to be born includes several aspects such as the right to be conceived, the right to be implanted in the uterus, and right to live or not to be aborted. The right to be born is linked with concept of humanity and human rights. Several laws were in existence for the protection of right to be born.

Indian penal code (here in after referred as IPC) 1860 contains several provisions to check foeticide Aminocentesis and sex selective abortion are crime under the IPC. IPC lays down stringent punishment for causing miscarriage without the consent of women.⁹

V. THE PRENATAL DIGNOSTIC TECHNIQUE (REGULATION AND PREVENTIO OF MISUSE) ACT 1994 (Here in after referred as PNDT ACT).

PNDT Act first national legislation against sex determination test. The object of the act is to provide for the regulation of use of prenatal diagnostic techniques. The act explicitly prohibits and criminalizes communicating the sex of a feotus to any person, including parents and relatives.

VI. MEDICAL TERMINATION OF PREGNANCY ACT 1971 (Here in after referred as MTP ACT).

Act enables women to terminate pregnancies that may cause harm to them. The acts decriminalize the act of abortion which is criminalized by IPC. But there as stipulated conditions for termination of pregnancies under the act all pregnancies can be terminated only with the consent of women. And all abortion after 20 weeks are illegal. And they were also certain other conditions prescribed by the act to conduct abortions.¹⁰

VII. HEALTH RIGHTS DURING EARLY CHILDHOOD

Rights in early childhood include all young children at birth and throughout infancy during preschool and years as well as during the transition to school. Early child hood is an important period of child so May health rights are to protected at this period such as immunization, nutrition, breast feeding, etc.

VIII. IMMUNIZATION

Immunization is the process by which a person is made immune or resistant from an infectious disease by the administration of a vaccine. In India we launched expanded immunization programme in 1978 and universalized in 1985. And now it is called as universal immunization programme.

IX. BREAST FEEDING

Breast feeding is the important source of child nutrition and provides protection against diseases. WHO recommends exclusive breast feeding for first six months and continued breast feeding through child's second year.¹¹ In India infant milk substitute , feeding bottles, and infant foods (regulation production, supply , and distribution) Act 1992. Act has a strong intervention to protect promote and support breast feeding. The Maternity Benefit Acts also supports breast feeding and children's health care.

Besides this legislation central government introduced various policy for the protection and prevention of children's health care.¹²

X. RECENT ISSUES RELATING TO CHILDRENS HEALTH CARE

Today there are certain global diseases which are affecting the children through global interaction such as AIDS, SARS ¹³. And also life style diseases such as obesity in children are also increasing. Today non communicable diseases can be seen more than communicable diseases. Non communicable diseases may be the next villain of 20 century we can avoid this by promoting good food habits among the children's and by avoid this we can create healthy generation for future.

⁹ See. sections 312, 313, 314, 315, 316, 318 of IPC.

¹⁰ See section 3 of MTP Act.

¹¹ 1 JOSEPH A. GATHIA & SANJAY V. GATHIA, CHILDRENS RIGHT AND WELLBEING IN INDIA LAW , POLICY AND PRACTICE 218 -19 (2015) .

¹² Maternal And Child Health Programme (MCH), INTEGRATED CHILD DEVELOPMENT SERVICE SCHEME (ICDS), CHILD SURVIVAL AND SAFE MOTHERHOOD PROGRAMME(CSSM), REPRODUCTIVE AND CHILD HEALTH PROGRAMME (RCH), INTEGRATED MANAGEMENT OF CHILDHOOD ILLENES (IMCI).

¹³ Severe Acute Respiratory Syndrome.

XI. CONCLUSION

"There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they can grow up in peace." ¹⁴

¹⁴ KOFFI ANNAN.