# EQUAL RIGHTS TO HEALTH: A LEGAL EXAMINATION OF MEDICAL INSURANCE AS A GATEWAY TO UNIVERSAL HEALTHCARE IN INDIA

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*"It is health that is real wealth and not pieces of gold and silver."*

– Mahatma Gandhi

## ABSTRACT

The concept of equality is fundamental to human rights; however, its interpretation remains a subject of extensive discussion. The right to health constitutes a social and legal entitlement which encompasses a fundamental minimum standard of health that is guaranteed to all individuals irrespective of its condition and situations. Optimal health is evidently influenced by various humanitarian rights, which encompass access to clean and safe drinking water, a basic sanitation, a residential accommodation, elementary education, healthy lifestyle and a safe working space. This paper takes a glance on the Indian Healthcare industry and its substantial expansion, propelled by contributions from both private and public sectors. The paper focuses on the better accessibility of medical care and goes through a detailed discussion on the rising challenges and demands of healthcare services. At this nodal point, the access to medical insurance smoothens the affordability and unprecedented cost of quick medical resources to patients suffering from chronic disorder or ailments. Hence, the paper makes an examination on how medical insurance creates a connectivity on equal access to healthcare.

## 1. Introduction

The art of preserving our physical, mental and all-round stability of our body is the key to our existence. The entitlement to health, along with other human rights that is intricately related with our well-being and physical wellness, constitutes legally binding obligations codified in the International treaties and covenants concerning human rights. The Constitution of the World Health Organization (WHO) also affirms the entitlement to health. The right to health is particularly distinguished as a critical element of the right to life as articulated in Article 21 of the Constitution[1]. Every individual possesses the right to attain the maximum possible standards of both bodily and cognitive rationality. Nations are legally mandated to formulate and execute legislation and judicial policies that ensure universal access to high-quality health services while addressing the fundamental determinants of health inequities, such as poverty, societal stigma, and discrimination. The right to healthy lifestyle is inextricably linked to other fundamental human rights, encompassing the rights to education, participation, nourishment, housing, employment, and access to information.

## 2. Background and Significance of Health Care System in India

Healthcare in India has its roots in ancient history, characterized by traditional medical systems such as Ayurveda, which is recognized as one of the earliest documented medical practices, originating over 5,000 years ago. This system primarily emphasizes lifestyle modifications through the use of herbal remedies. Furthermore, Unani medicine, rooted in Arab and Persian traditions, has played a significant role in the healthcare industry. Some of the key contributors to the development of modern medicine in India include Charaka, Anandibai Joshi, and Dr. Bidhan Chandra Roy and many other notable personalities.

The prestigious medical institution in India, Calcutta Medical College, which was founded by Sir Lord William Bentinck in 1835[2], marked the country's initial stride to provide and promote education in Western medicine. The founding of the All India Institute of Medical Sciences (AIIMS) in 1956 marked a crucial turning point in the development of  healthcare system in India. Presently, India is recognized for its advanced medical infrastructure and the high level of professional expertise within the medical field. India achieved Independence in 1947,

[1] *Paschim Banga Khet Mazdoor Samity v. State of West Bengal* (1996)

[2] Medical College & Hospital, Kolkata, India, available at: https://en.wikipedia.org/wiki/Medical_College_%26_Hospital,_Kolkata (last visited on March 08, 2025).

concluding over 150 years of foreign rule[3].This era witnessed a deep and pervasive level of exploitation across all economic, religious, societal and political dimensions. While independence elicited feelings of joy and celebration, it also presented significant challenges, including rapid population growth, sluggish economic progress, widespread illiteracy, and issues related to linguistic diversity. In response to these challenges, the Government of India established the Planning Commission during 1950, tasked with formulating a strategy for the optimal and equitable use of the nation's resources. Throughout various planning phases, health was allocated a distinct budget, yet it consistently ranked low in priority. As health is a state responsibility, each state developed its own health plan. Nevertheless, the central government emphasized initiating community development programs and a national extension movement.

Currently, India is a prominent player in medical research, the pharmaceutical sector, and healthcare services. Patients from across the globe are seeking treatment in India, drawn by the high quality and cost-effectiveness of surgical procedures.

### 3. Study of Healthcare Infrastructure: Private and Public

The healthcare system in India constitutes a multifaceted and varied framework that encompasses both public and private sectors, providing an array of medical services and infrastructure to the nation's population of approximately 1.4 billion individuals as per the statistics of the National Institute of Health of the Government of India.

The government primarily funds and oversees the public healthcare system in India, with the objective of delivering affordable or even healthcare services at no charge to the general population. This system emphasizes primary care, encompassing both preventive and therapeutic services. Despite its broad accessibility, public healthcare encounters several obstacles, including overcrowding, extended waiting periods, and a scarcity of specialized medical care, particularly in rural regions. Currently, approximately 75% of India's Public Healthcare framework is financed by the state funding; however, inadequate government expenditure leads to significant neglect of the public health infrastructure. Consequently, out-of-pocket expenses incurred by households account for 60.6% of the overall health expenditure in the country.[4]

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[3] S A Tabish, "Historical Development of Health Care in India" *ResearchGate* (2000)*available at*: https://www.researchgate.net/publication/290447383_Historical_Development_of_Health_Care_in_India (last visited on March 09, 2025).

[4] Public Health System In India, India, available at:

The transition of private institutions from a focus on welfare to a focus on profit is widely recognized. Households throughout India continue to rely predominantly on private providers for healthcare services, approximately 55% of inpatient care is provided by private hospitals.[5] The expansion of the private healthcare services can be attributed to various factors, including telemedicine that has significantly improved access to healthcare services in rural regions. Private healthcare providers are consistently adopting cutting-edge technologies to improve the standard of care they offer to patients. The urban sprawl and challenges linked to contemporary living have shifted the focus from traditional health issues to lifestyle-related diseases, thereby amplifying the need for specialized healthcare services. This paradigm shift has also heightened the current generation's consciousness regarding personal health, hygiene, and preventive care. The private healthcare sector in India presents numerous opportunities for industry participants and undoubtedly, India has even established itself as a premier destination for medical tourism, offering advanced diagnostics and science-intensive healthcare services.

## 4. Challenges to HealthCare Access

The healthcare landscape in India showcases a diverse range of conditions. On one side of this spectrum, there are advanced medical facilities that provide cutting-edge healthcare services primarily to affluent urban residents and on another side, there are dilapidated medical outposts in the distant places where even fundamental healthcare services lag significantly behind. India encounters a variety of public health challenges, which include diseases associated with poverty, such as tuberculosis and malaria, as well as health issues stemming from environmental factors and lifestyle choices, including pollution and chronic illnesses. India's public health system necessitates a balanced strategy that emphasizes both primary and secondary care, enhances public sector infrastructure, and guarantees equitable access across various social strata.

There are certain challenges to access of healthcare services by the common man:

- The large population presents a significant challenge in the implementation of comprehensive modern healthcare for everyone. India's healthcare infrastructure, encompassing hospitals, private clinics, and other medical and pathological facilities, frequently falls short of addressing the increasing needs of its population. A significant

https://en.wikipedia.org/wiki/Public_health_system_in_India . (last visited on March 10, 2025)

[5] Most Indians dependent on private healthcare: Study, India, available at: https://health.economictimes.indiatimes.com/news/industry/most-indians-dependent-on-private-healthcare-study/55788939 (last visited on March 13, 2025)

deficiency of healthcare centres, particularly in rural and sub-urban regions, results in disparities in access to healthcare services.

- A significant portion of healthcare costs in India is paid directly by individuals and families. It is widely perceived that the private sector plays a predominant function in the country's healthcare system. Consequently, it is not unexpected that a large segment of the Indian population struggles to afford the exorbitant costs associated with healthcare. Although healthcare insurance options exist in India, the coverage remains limited, affecting only a small fraction of the population. When examining the steep expenses associated with intensive care units (ICUs) in India, it becomes evident that these costs are unattainable for the majority of the populace.

- India is experiencing a deficiency of qualified healthcare personnel, encompassing doctors, nurses, and technicians. The ratio of doctors to patients is notably inadequate, particularly especially in rural regions. The scarcity howsoever created adversely affects the quality and efficacy of healthcare services and results in extended waiting periods for patients.

## 5. Concept of Medical Insurance

A health insurance policy serves as a guarantee that offers prompt financial assistance during medical emergencies. This agreement is established between the policyholder and the insurance provider, covering medical costs that may arise from illness, injury, or any unforeseen events. With a health insurance policy in place, the insurance company will cover some or all of the medical expenses, while the insured individual is required to pay a specified amount referred to as the premium.

Some of the Policies are:

Accident Insurance - This policy provides coverage for hospitalization costs resulting from an accident however the premium is determined by the level of coverage selected by the policyholder.

Individual Health Insurance Policy - This policy furnishes coverage for medical and hospitalization costs that allows to reduce the risk of uncertain medical expenses. The premium for this insurance is calculated based on the insured individual's age.

Maternity Health Insurance Plan Policy - This insurance policy encompasses expenses related to medical concepts of pre-natal and post-natal care, as well as the costs associated with childbirth for newborns, ambulance services are also included in the coverage.

Health Insurance Plan for Senior Citizens - This insurance plan covers medical expenses of individuals who are generally aged 60 above. It provides for social and extensive medical security like cashless hospitalization and other exorbitant medical benefits, thereby providing a financial stability at times of emergency.

### 6. Medical Insurance Policies to bridge the gap of healthcare access

Medical Insurance Policy acts as a financial peace of mind in challenging situation. This plan handles expenses tied to medical treatment, such as hospital admissions and surgeries. This coverage eventually bears individuals necessary care without worrying about finances, which often results in better health. Having health insurance is the key to tackling financial challenges and ensuring you get timely medical attention.

To summarize, it is prudent to secure a health insurance policy for numerous compelling reasons:

- It includes specialized coverage for serious health conditions;
- It covers the costs associated with ambulance services during road emergencies;
- It enables access to high-quality medical care without the concern of exorbitant expenses;
- It offers affordable premiums tailored for younger individuals;
- It provides a cashless claim option, allowing you to focus on your health rather than the burden of significant medical bills;
- It helps preserve your savings in times of medical crises;
- Additionally, it offers tax advantages under Section 80D of the Income Tax Act, 1961[6].
- In the end, it completely ensures the safety of one's and their loved one's safety by

[6] Section 80D of Income Tax Act: Deductions Under Medical Insurance, Limit, Eligibility And Policies, India, available at: https://cleartax.in/s/medical-insurance (last visited March 13, 2025)

securing their financial assets.

## 7. Government Initiatives and Policies

The Government of India has introduced various initiatives which is designed to improve the healthcare system in India. These initiatives however aim to expand the access to medical equipment and supplies. It furthermore, helps in promoting the community engagement and participation in healthcare decision-making and service delivery. It even secures use of certain diagnostic medical equipment for diagnosing medical conditions and thereby providing rapid reports and relief to patients. One of such schemes is the Ayushman Bharat scheme[7] which provides wellness services to individuals by providing a health coverage to families according to their socio-economic status.

A Concise Outline of Government Efforts and Initiatives in the Healthcare Sector are:

- The healthcare system in India is experiencing a surge of innovations, including affordable medical devices and novel healthcare delivery frameworks.

- This regulatory landscape is adapting to ensure the provision of high-quality care, maintaining the safety protocol of the patients and providing a cost-effective system respectively.

- One such initiative as already referred to in the previous passage is the Ayushman Bharat scheme[8], which falls under the flagship programme of the Government of India to meet one of the goals pertaining to sustainable development, aimed in providing universal healthcare service to those who need it. It provides health insurance cover to families of rupees 5 lakhs[9]. It was earlier known as the National Health Protection Scheme. It even covers accommodation cost, food expenses and post-hospitalization care and follow-up up to 15 days.

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[7]Healthcare Schemes, India, available at: https://pib.gov.in/pressreleaseshare.aspx?prid=1576128#:~:text=Services%20at%20Ayushman%20Bharat%20%E2%80%93%20Health,residing%20in%20the%20service%20area.&text=Sl.,No.&text=AB%2DPMJAY%20provides%20health%20coverage,Caste%20Census%20(SECC)%20database (last visited on March 16, 2025)

[8] National Health Authority, India, available at: (https://nha.gov.in/PM-JAY ) (last visited on March 26, 2025)

[9] Ayushman Bharat Becomes Bigger, India, available at: https://pib.gov.in/PressNoteDetails.aspx?NoteId=152133&ModuleId=3&reg=3&lang=1 (last visited on March 26, 2025)

- In 2021, India introduced the Universal Health Care Bill which aims at providing healthcare services to every individual[10]. The objective is to deliver high-quality healthcare services to every citizen, irrespective of their income level, social standing, gender, or religious beliefs, ultimately aiming to enhance health outcomes. It supports the prioritization of preventive healthcare in place of reactive healthcare. It acts as a link with Article 21 of the Indian Constitution which promotes providing of quality healthcare facilities to every citizen of the country. It primarily tries to bridge the gap between those people who do not have access to basic care and health facilities thereby providing them with government ensured benefits as proposed in the bill.

- In the Union Budget for 2024-25, India underscores its ambition to innovate the healthcare sector by strengthening its digital infrastructure. It assigns a modified health expenditure amounting to Rs. 89,287 crores[11]. The objective of this initiative is to increase accessibility and stimulate innovation within the healthcare sector.

- The central government sponsors the Poshan Abhiyan program, with its activities that are carried out by various States and Union Territories. It likely guarantees the provision of Smartphones and Growth Devices (GMDs) in every Anganwadi Centre including Infantometers, Stadiometers, and weighing scales for mothers and infants, considering the fact that the Ministry of Women and Child development has established such an organisational mission in the province[12].

- In an effort to boost medical tourism, the Indian government is expanding the e-medical visa program to citizens from 156 nations.

## 8. Future Trends and Concluding Remarks

Given our modern, inactive lifestyles, combined with unhealthy eating habits and rising stress levels, the risk of developing a range of diseases has significantly increased. Health conditions like diabetes, Hypertension, hearing loss, obesity and cardiovascular diseases, which were once mainly linked to older age, are now increasingly common among a wider range of age groups,

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[10] Healthcare Industry in India, India, available at: (https://www.ibef.org/industry/healthcare-india#:~:text=are%20as%20follows%3A-,In%202021%2C%20the%20Universal%20Health%20Care%20Bill%20was%20introduced%20in,accountability%20in%20the%20healthcare%20system (last visited on March 27, 2025).
[11] *Ibid. at 9.*
[12] *Ibid. at 9.*

and even broadly among youngsters.

The importance of health insurance lies in its ability to offer financial aid and improve access to essential healthcare services needed for managing these conditions. It ensures that individuals have the financial means and stability at emergency times to access essential medical treatments, bear the cost of medicines, and support required to manage and slow down the progression of these diseases.

The aforementioned reasons mentioned in the article underscores the importance of health insurance, ensuring that medical insurance and its recent modifications enables individuals to focus on their own health and that of their family members which becomes so crucial, and it guarantees the necessary coverage to effectively handle healthcare expenses in the country. It is essential to have health insurance regardless of one's age or current health status. This necessity arises from the unpredictability of health issues that may arise unexpectedly. Furthermore, obtaining health insurance at a younger age allows one to have benefit of lower premium rates and take the advantage of no-claim bonus (NCB) benefits. However, it is evident to acknowledge the lasting importance of health insurance in our life, as it offers to the insured a long-term financial protection, an improved lifestyle and a reliable stability in future.

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