HEALTHCARE ACCESS: LEGAL CHALLENGES IN ACHIEVING UNIVERSAL HEALTH COVERAGE

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INTRODUCTION

"True progress is measured by the health of the most vulnerable. In our quest for universal health coverage, let inclusivity and justice be our guiding principles."

According to the report released by the **Centre for Science and Environment** (CSE) and Down to Earth magazine, more than **two-thirds** of Indians can't afford a healthy meal. This problem is not just limited to the rural areas of the countries as urban areas such as cities, metropolitans are grappling with another sort of health crisis which is junk food addiction. Some would argue that healthy food is for the elite class, but this is a myth. Nowadays, junk food is much cheaper than healthier options, which forces many people to buy junk food. According to some data, junk food costs about half as much as healthy food.

The reason for this is the high prevalence of junk food which exacerbates this issue, as its high processing allows for prolonged shelf life, making it convenient for both consumers and sellers. In contrast, perishable healthy foods like fruits and vegetables face significant wastage.

Approximately 18% of India's fruit and vegetable production, valued at Rs 13,300 crore annually, is lost due to various factors. "The lack of refrigerated transport and high-quality cold storage facilities for food manufacturers and sellers are major contributors to this wastage."[1]

So, why I am even bothering to tell you about the food habits and diet of the current generation?

The answer of this is the deterioration of the health of the people, as although the **Health of the Nation's States Report**[2] states that the National income is *rising* but *poverty, hunger, and*

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[1] 'What a Waste! Fruits, Veggies Worth Crores Rot in India' (*Rediff.com Business*, 29 November 2013) https://www.rediff.com/business/slide-show/slide-show-1-what-a-waste-fruits-veggies-worth-crores-rot-in-india/20131129.htm accessed 3 June 2024

[2] *Indian Council of Medical Research, Public Health Foundation of India, and Institute for Health Metrics and Evaluation. India: Health of the Nation's States – The India State-Level Disease Burden Initiative.* New Delhi,

*pollution issue*s still exist.

Despite, India being in the developing phase still, health is only a 2.5% contributor to the Budget for the financial year 2024-25. Whenever we talk about **Universal Health Coverage** then SDG Target 3.8 is the basis of the same, adopted by the global leaders in the COP21 in Paris to achieve 'Health for all' by 2030.

What is UHC?

This means that everyone should have access to health. The **WHO** [3]defines health as "a state of complete physical, mental, and social well-being, and not merely the absence of disease or infirmity." This emphasizes not just curing diseases after they occur but also focusing on prevention, as the saying goes, "Prevention is better than cure."

Although this definition is not applicable completely if we observe India then there are National Health Mission (NHM) and Ayushman Bharat Mission (ABM) focusing on *Primary* and *Secondary Healthcare Sector* respectively.

India: Indian Council of Medical Research, Public Health Foundation of India, and Institute for Health Metrics and Evaluation; 2017. [Last accessed on 2019 Apr 20]. Available
from: http://www.healthdata.org/sites/default/files/files/2017_India_State-Level_Disease_Burden_Initiative_-_Full_Report%5B1%5D.pdf . [Google Scholar]
[3] *Constitution of the World Health Organization* (no date) *World Health Organization*. Available at: https://www.who.int/about/accountability/governance/constitution (Accessed on 03 June 2024).

The National Health Mission (NHM) aims to enhance healthcare infrastructure and quality in primary sectors, yet its full potential remains untapped. Meanwhile, Ayushman Bharat (ABH) provides insurance coverage for specific medical procedures, though its linkage with NHM is lacking. To maintain balance, "ABH funds should flow through the primary healthcare system on a per capita basis. Primary healthcare providers should be empowered to make referrals and payments, ensuring cashless services. Coordinated efforts are needed across sectors. Every village or urban ward should have an *Arogya Kendra*, financed by the state but managed locally, with a decentralized Integrated Health Information System supported by ICT. This decentralized approach aims to operationalize multisectoral public health action effectively."[4]

As previously discussed, healthcare isn't uniform. While quality healthcare should be accessible to all, benchmarks differ between rural and urban areas. In rural settings, healthcare standards may be perceived as inferior compared to urban areas where services are often more robust. This discrepancy highlights the need for tailored approaches to healthcare delivery based on regional needs and resources. Rural areas may require initiatives focused on basic care and infrastructure development, while urban areas may emphasize specialized services and advanced technologies. Thus, benchmarks for healthcare quality should be context-specific, ensuring equitable access and meeting diverse population needs.

Challenges to UHC & their viable solutions-

Inclusivity in healthcare means accessibility for all, irrespective of factors like caste, race, gender, or place of origin. It should be affordable, ensuring everyone can access it, although it's impractical to offer free healthcare universally due to resource limitations. Instead, it means no one should be denied medical care due to financial constraints. One solution is to provide free healthcare to those unable to afford it, based on income rather than factors like caste or race. This approach ensures equitable access while acknowledging the complexities of funding and resource allocation in healthcare systems**.**

As differences are there in the healthcare facilities in the urban and rural areas, in the same way it is the situation in the developed countries on one side and developing and underdeveloped countries on another side. On one hand, where developed countries have enough resources and

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[4] Kumar, R. (2020). Achieving Universal Health Coverage in India: The Need for Multisectoral Public Health Action. *Indian Journal of Community Medicine : Official Publication of Indian Association of Preventive & Social Medicine*, *45*(1), 1-2. https://doi.org/10.4103/ijcm.IJCM_61_19

money to finance their health care infrastructure, but on the other hand, there are these low and middle-income countries who don't have resources to finance their healthcare system, so the need for the hour is to take actions so that these countries must be helped by the international community via ***Development Assistance for Health (DAH).***[5]

Another thing is **good governance** in terms of **healthcare services** which are provided by the medical practitioners, doctors, nurses, etc., it means they should be accountable for the work which they are doing, transparency must be there in their work, honesty must be there for the work, dedication also be there, and the last important thing is the requisite skills must be there as in the case of ***Jacob Mathew v. State of Punjab***[6]***(AIR 2005 SC 3180)*** where the Supreme Court talked about two main things-

- Professional must possess requisite skills which he/she is claiming to possess

- Application of that skill must be done in the way that a reasonably competent person of the same profession would do in similar circumstances.

Bolam[7] ***& Bolitho Test***[8] also became pertinent in these cases as proper and reasonable care must be provided to the people if something is provided free that doesn't mean that someone could surpass the **reasonability test**.

Finally, governments must uphold the rule of law, ensuring that no one is above it, including healthcare organizations (both government and private), political leaders, and judicial authorities. These entities must operate in a reasonable, fair, and just manner to ensure equitable healthcare. When corruption and unfair practices infiltrate these sectors, achieving a fair and just health society becomes a utopian dream.

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[5] Mushasha R and Bcheraoui CE, 'Comparative Effectiveness of Financing Models in Development Assistance for Health and the Role of Results-Based Funding Approaches: A Scoping Review - Globalization and Health' (*BioMed Central*, 20 June 2023) https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-023-009429#:~:text=Development%20assistance%20for%20health%20(DAH,improving%20health%E2%80%9D%20%5B1%5D.accessed 3 June 2024

[6] Subrahmanyam BV, 'Jacob Mathew v. State of Punjab, the Judgment Stipulates the Guidelines to Be Followed before Launching a Prosecution against a Doctor for Negligence' (*Journal of neurosciences in rural practice*, January,2013)https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3579074/#:~:text=The%20Supreme%20Court%20gave%20the,to%20rash%20or%20negligent%20act accessed 3 June 2024

[7] Bolam v Friern Hospital Management Committee [1957] 1 WLR 582
[8] Bolitho v City and Hackney Health Authority [1996] 4 All ER 771

The rule of law is essential in preventing discrimination and marginalization of vulnerable populations, which directly undermines their health. Efficient political and judicial systems are fundamental to attaining health justice. Additionally, safeguarding civil society freedoms is imperative for the health and safety of the population.

Conclusion

While universal health coverage is often seen as a scientific and technological endeavour, the truth is that good law and governance are equally vital. Analysing the policy and governance environment, along with mechanisms for health workforce policy development and implementation, is necessary. This analysis should guide the identification of appropriate levels and interventions to enhance health workforce stewardship and leadership.

It's important to note that there are no universal best practices in this regard; responses must be context-specific. Each country needs to design its strategies to address these challenges, tailored to its unique circumstances. By focusing on inclusivity, affordability, and the rule of law, and by ensuring that these principles guide policy and governance, we can move closer to achieving equitable healthcare for all. Effective governance and robust legal frameworks are not just supportive elements but are foundational to the health and well-being of populations worldwide. By embracing this holistic approach, we can transform the vision of universal health coverage from a theoretical ideal into a practical reality, ensuring that everyone, regardless of their socio-economic status, has access to the healthcare they need.