

“Statutory Provisions Related To Health Law”

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Abstract

Today health is considered to be one of the most important values. Many people in general in modern times have regarded health as one of the most precious values in life. The human appropriate to health implies that everybody has the privilege to the most noteworthy achievable standard of physical and emotional well-being, which incorporates access to every restorative administration, sanitation, satisfactory sustenance, tolerable lodging, healthy working conditions and a perfect domain. This article investigates general health law look into, characterized as the logical investigation of the connection of law and legitimate practices to populace health. The Constitution of India has arrangements in regards to one side to health. The commitment of the State to guarantee the creation and the supporting of conditions amiable to great health is thrown by the Constitutional mandates contained in Articles 38, 39 (e) (f), 42, 47 and 48 in Part IV of the Constitution of India.

Research on the substance and commonness of general health laws, procedures of embracing and actualizing laws, and the degree to which and components through which law influences health results can utilize techniques drawn from the study of disease transmission, financial aspects, humanism, and different orders.

Keywords: Public health, law, lawful, grant, look into.

I. Introduction

Our parliament, the most noteworthy political organization in the nation, has continuously been vivacious to address the issues of the evolving society. Due to urbanization and industrialization the social examples of the general population are quickly evolving. The most vital part is that, with the evolving society, the law should be changed securing the interests of the disadvantageous gatherings and the weaker segments. The Indian Parliament has done much to enhance the social examples of subjects by instituting social welfare enactments. These enactments are surrounded in request to accomplish the objectives set in our Constitution. The unique enactments have been made keeping in mind the end goal to ensure diverse gatherings of individuals like ladies, kids, specialists and so on. Aside from the objectives laid down in our Constitution, it additionally accommodates an assortment of central rights. Health being a standout amongst the most vital central right needs additional security by particular enactments. Our Constitution moreover requires the State to guarantee health and nutritious prosperity of all individuals. Before autonomy the health care area was in grim condition as the quantity of death

rate inferable from illnesses was high. Be that as it may, since freedom the fundamental accentuation has been the health care part. This has been made conceivable by instituting different enactments.

I.1 Concept of Health

Today health is thought to be one of our most essential qualities. Numerous individuals, specifically in current circumstances, have viewed health as a standout amongst the most valuable qualities throughout everyday life. Health, and life span, should, they believe, be secured and improved however much as could reasonably be expected. Health is an idea fundamentally material to a person all in all. Better health is fundamental to human satisfaction and prosperity. It additionally gains a critical commitment to financial ground, as healthy populaces live more and are more beneficial.

Health is a dynamic condition coming about because of a body's steady change and adjustment in light of pressure and changes in the earth for keeping up an internal balance called homeostasis

Amid the **Ottawa Charter for Health Promotion in 1986**, the WHO said that health is " An asset for regular day to day existence, not the goal of living. Health is a constructive idea underscoring social and individual assets, and additionally physical limits. Health is a productive thought focusing on social and individual resources, and also physical breaking points." In this way, health is a tricky word. Health is an idea which does not simply identify with the nonappearance of illness, of healthy working of organs, or having great musings. Health is an all-encompassing idea. It identifies with individual all in all. Not just the person you see, but also the person you feel. Health is a tri-urine of three parts:

- Emotional health
- Mental health
- Physical health

II. Definition of Health

According to **World Health Organization**: Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

Rene Dubos: Health is primarily a measure of each person's ability to do and become what he wants to become.

Operational Definition of Health: A condition or quality of the human organism expressing the adequate functioning of the organism in given conditions generic or environmental.

III. Statutory Provisions Related to Health

Our parliament for the welfare of people, made various legislation for the health care of the people. The Grundnorm or Supreme Law of our country is the constitution which provides the laws related to the health and various other statutes also provides several laws related to the health. In this researcher deal with main statutes which is deal with for protection and rights regarding health. Researcher classified the categories of statutes related to health. They are:

- 1) Constitutional Provisions Relating to Health
- 2) Criminal Law Relating to Health
- 3) Environment Law Relating to Health
- 4) Role Of WHO
- 5) International Treaties
- 6) Other Statutes Related to Health

1) Constitutional Provision Relating to Health

A constitution implies a report having a unique legitimate holiness which sets out the casing work and the central elements of the organs of the legislature of a state and proclaims the standards overseeing the task of those organs. Constitution is not only talk about the classification of the organs of government but also said that the right of the persons which enjoyed by the people with certain restrictions. Constitution given the various rights related to the health in part III and IV of Indian constitution. Part III talk about the fundamental rights and part IV said that Directive principle of state policy. Our preamble of the constitution also said about the health. Our preamble talk about the socio economic goals it to be achieved is: To secure to all its citizens through the social, economic and political justice. In case of **Samantha v. State of Andhra Pradesh**¹ held that “The constitution envisions establishing an egalitarian social order rendering to every citizen, social, economic and political justice in a social and economic democracy of the Bharat Republic.”

1.1) Fundamental right

Part III of constitution talk about the fundamental right. Article 14, 19 and 21 said about the right of person related to health and said that no law can be valid if which arbitrary denies the right to health. Article 14 talk about Right to equality “no state shall deny to any person equality before the law and equal protection of law.”²

¹ AIR 1997 SC 3326

² See Article 14, Indian constitution

In case of **LIC of India V. Consumer Education and Research Centre**³, LIC introduced a scheme related to life insurance but this scheme was only for the governmental or semi governmental services, so this scheme was challenged, and the Supreme Court said that this scheme is violated our right to equality.

Article 19 said that right to six freedoms with certain reasonable restrictions and Article 21 talk about right to life and liberty “ no person shall be deprived of his right and personal liberty except the procedure established by law.”⁴ Right to life include right to live with human dignity.

In **Vincent Parikurlangara V. Union of India**⁵ the Supreme Court held that the right to upkeep and change of public health is incorporated in the right to live with human dignity enshrined in Article 21. In case of **Bandua Mukti Morcha v. Union of India**⁶, Supreme Court has held that the right to live with human dignity, enshrined in article 21, is derived from the DPSP and therefore includes protection to health.

1.2) Directive Principle of State Policy (DPSP)

Part IV of constitution said that DPSP and under this part constitution provides provisions related to health. Article 38, 39 (e) (f), 42 and 47 provisions related to health and state has an obligation to ensure the creation and sustaining of conditions congenial to good health. Part IV of the Indian constitution which is DPSP imposed an obligation on state. Some of these provisions are directly or indirectly related with public health. It directs the state to take measures to improve the condition of health care of the people.

Article 38- State To Secure A Social Order For The Promotion Of Welfare Of The People

1. The State will endeavor to advance the welfare of the general population by anchoring and ensuring as viably as it might a social request in which equity, social, financial and political, will illuminate every one of the establishments of the national life.
2. The State will, specifically, endeavor to limit the imbalances in salary, and attempt to dispose of disparities in status, offices and openings, among people as well as among gatherings of individuals living in various territories or occupied with various jobs

Article 39- Certain Principles Of Policy To Be Followed By State

The state shall, in particular, direct its policy towards securing-

³ AIR 1995 SC 1811

⁴ See article 21 of Indian constitution

⁵ (1987) 2 SCC 165

⁶ AIR 1984 SC 802

(e) that the health and quality of workers, people, and the youthful time of child are not abused and that residents are not constrained by financial need to enter side interests unsuited to their age or quality;

(f) that children are given openings and offices to create in a healthy way and in states of opportunity and nobility and that adolescence and youth are secured against misuse and against good and material deserting.

In **M.C.Mehta V. State of Tamil Nadu**⁷, it has been held that in view of article 39 the employment of children within the match factories directly connected with the manufacturing process of matches and fireworks cannot be allowed as it is hazardous. Children can, however, be employed in the process of packing but it should be done in area away from the place of manufacturing to avoid exposure to accidents.

Article 42- Provisions For Just And Humane Conditions Of Work And Maternity Relief

The State will make arrangement for anchoring just and sympathetic states of work and for maternity help.

Article 47- Duty Of State To Raise The Level Of Nutrition And The Standard Of Living And To Improve Public Health

The State will respect the raising of the level of sustenance and the way of life of its kin and the change of general health as among its essential obligations and, specifically, the State will attempt to realize denial of the utilization with the exception of therapeutic motivation behind inebriating drinks and of medications which are damaging to health.

1.3) Panchayat, Municipality And Health

Not only the state but also panchayat, municipalities are liable to improve and protect public health. The legislature of a state may endow the panchayats with necessary power and authority in relation to matters listed in the 11th schedule. The entries in this schedule having direct relevance to health are as follows:

- Drinking
- Health and sanitation including hospitals, primary health centers and dispensaries
- Family welfare
- Women and child development
- Social welfare
- Water supply for domestic industrial and commercial purpose
- Public health

⁷ (1991) 1 SCC 283

- Regulation of slaughter-house and tanneries.

2) Criminal Law Relating To Health

Chapter XIV of Indian Penal Code, 1860 talk about of offences against the public health, safety, convenience, decency and morals. This chapter consists of section 268 to section 290. But in this chapter sections relating to health are section 268 to 276 and 284 to 286 and 290.

Section No	Section Name
268	Public nuisance
269	Negligent act likely to spread infection of disease dangerous to life
270	Malignant act likely to spread infection of disease dangerous to life
271	Disobedience to quarantine rule
272	Adulteration of food or drink intended for sale
273	Sale of noxious food or drink
274	Adulteration of drugs
275	Sale of adulterated drugs
276	Sale of drug as a different drug or preparation
277	Fouling water of public spring or reservoir
284	Negligent conduct with respect to poisonous substance
285	Negligent conduct with respect to fire or combustible manner
286	Negligent conduct with respect to explosive substance
290	Punishment for public nuisance in cases not otherwise provided for

Section 268- it said about the public nuisance. It means any act which causes any common injury danger or annoyance the public or which must necessarily cause injury, danger or annoyance to persons, who may have occasion to use any public right constitutes a public nuisance.

Section 269- Punishes any person who unlawfully or negligently does any act which is, and which he knows or has a reason to believe to be, likely to spread the infection of any disease dangerous to life. The punishment provided is up to 6 months imprisonment with or without fine.

In case of **Krishnappa V. State of Madras**⁸, said that a man who was suffering from cholera and was aware of its infectious nature, travelled by train without informing the railway authorities of his condition, it was held that he was responsible for spreading infection of cholera.

⁸ (1883) 7 Mad. 276

Section 270- Punishes any person who malignantly does any act which is, and which he knows or has a reason to believe to be, likely to spread the infection of any disease dangerous to life. The punishment for such an act is imprisonment of either description for a maximum term of 2 years with or without fine.

Section 271- Punishes a person who knowingly disobeys a rule of quarantine in existence made and promulgated by the government.

Section 272- Punishes a person who adulterates any article of food or drink making it noxious for consumption and intending to sell such article as food or drink. The expression noxious means unwholesome as food or injurious to health. Selling of inferior food is not an offence but selling something, which is noxious, is an offence and the seller is punishable with the imprisonment for a term up to 6 months or fine up to Rs. 1000, or with both.

Section 273- This section punishes a person who knowingly sells or offers or exposes to sell any article of food or drink which is rendered or has become noxious. The punishment for such an act is imprisonment of either description for a maximum term of 6 months, with or without fine, which may extend to 1000 or with both

In case of **Emperor V. Saligram**⁹, accused did not sell any article s food or drink but for the purpose of trade, an article which was unfit for human consumption. it was held that no offence was committed.

Section 274- It deals with adulteration of drugs and punishes any person who adulterates a drug or a medical preparation knowingly that it will be sold or used for any medical purpose, as if it had not gone any adulteration any such adulteration has lessened the efficacy or changed the operation of the drug or medicine or made it noxious. The punishment for such an act is imprisonment of either description for a maximum term of 6 months, with or without fine, which may extend to 1000 or with both.

Section 276- It said any person who sells or offers to sell or exposes to sell or issues from a dispensary for medical purposes any drug or medical preparation as a different drug or medical preparation and knows of such difference at the time of sell. The punishment for such an act is imprisonment of either description for a maximum term of 6 months, with or without fine, which may extend to 1000 or with both.

Section 277- This section talk about that if any person who corrupts or fouls the water of any public spring or reservoir voluntarily and by doing so has rendered such water less fit for the purpose for which it was ordinarily used shall be punished with imprisonment of either

⁹ 3 Cr.L.J. 208

description for a term of maximum 3 months, with or without fine which may extend to rs. 500 or with both.

Section 284- It punishes any person who with any poisonous substance which is capable of endangering human life or causing hurt or injury to any person does any act which is so rash and negligent so as to endanger human life or to be likely to cause hurt or injure any person. Under this section any act or omission by the person who is in possession of poisonous substances which is dangerous to human life. The main object of this section is to protect people from danger, hurt or injury from substances which are naturally dangerous. The punishment for such an act is imprisonment of either description for a maximum term of 6 months, with or without fine, which may extend to 1000 or with both.

Section 285- It punishes any person who with fire and combustible matter, which is capable of endangering human life or causing hurt or injury to any person does any act which is so rash and negligent so as to endanger human life or to be likely to cause hurt or injure any person. Under this section any act or omission by the person who is in possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter. The punishment for such an act is imprisonment of either description for a maximum term of 6 months, with or without fine, which may extend to 1000 or with both.

Kurban Hussain Mohamedalli Bangawalla V. State of Maharashtra¹⁰, the appellant was a factory manager, in breach of conditions in the license kept necked fire in proximity of store of turpentine and vanish and the fire caused death of seven workers the court found that he is guilty under section 285 of IPC.

Section 286- This section said that if any person who with explosive substance, which is capable of endangering human life or causing hurt or injury to any person does any act which is so rash and negligent so as to endanger human life or to be likely to cause hurt or injure any person. Under this section any act or omission by the person who is in possession as is sufficient to guard against any probable danger to human life from such explosive substance. The punishment for such an act is imprisonment of either description for a maximum term of 6 months, with or without fine, which may extend to 1000 or with both.

Section 290- This section talk about the punishment it said if any person who commit any public nuisance and this chapter are not covered that type of nuisance. He shall be punished with fine; it may be extended to Rs. 200.

¹⁰ AIR 1965 SC 1616

3). Environment Law Relating To Health

Environment and health unpredictably connected. Environmental elements contribute essentially to health load. In India, 60 for every penny of jungle fever, all gastro-intestinal and respiratory infections, and noteworthy extent of organ particular, skin infections, are caused in light of poor environmental conditions. Environmental control is to a great extent ordered and implemented with human prosperity and general health as its core interest. Environmental laws were to start with ordered in the 1970s, and were not by and large separated from the general assortment of law.

Environmental Health is the branch of general health that is worried about the health suggestions characteristic in both the normal and assembled environments in which we work each day. Specialists in environmental health are worried about air quality, nourishment and waste sanitation, safe drinking water, catastrophe readiness, and the impacts of harmful substances on individuals, in addition to other things. The three fundamental teaches that involve environmental health hone are environmental the study of disease transmission, toxicology, and environmental presentation science.

Our parliament has made several laws relating to the protection of environment relating to health. In India first time any law made related to environment in 1974. And then parliament made various laws relating to health they are:

- ❖ The Water (Prevention And Control Of Pollution) Act, 1974
- ❖ The Air (Prevention And Control Of Pollution) Act, 1981
- ❖ The Environment (Protection) Act, 1986
- ❖ The National Environment Appellate Authority Act, 1997
- ❖ The Noise Pollution (Regulation And Control) Rules, 2000

3.1) The Water (Prevention And Control Of Pollution) Act, 1974

The Water (Prevention and Control of Pollution) Act, 1974, has constitutional sections, with a n international backdrop. This act drew forceful inspiration from the resolution adopted by the united nations conference on the human environment, held at Stockholm from 5th to 16th June, 1972, in which the Indian legislation played a vital role. This act to made for the prevention and control of water pollution and the maintaining or restoring or wholesomeness of water. This act makes provisions for setting up the pollution control board at central and state level and further to advice the central or state government on water pollution issues. The water pollution control board has to lay down guidelines for the purpose of dealing with the problem of water pollution and coordinate the activities between the state machinery and NGO's working in the field of water pollution. This act applies to stream, inland waters, sea or tidal water and also to subterranean waters. It also provides mechanism to treat the effluent or maintain quality of water

and the state boards to prescribe standard for this purpose. The act prohibits discharge of untreated water into rivers, streams and the sea. The person or the industrial unit relating water pollutants is required to obtain the prior permission from the concerned state board.

3.2) The Air (Prevention And Control Of Pollution) Act, 1981

Unlike the Water (Prevention and Control of Pollution) Act, 1974, the air (prevention and control of pollution) act, 1981 was enacted by invoking the central government's power under article 253 to make law implementing decisions taken at international conferences. In the united nations conference on the human environment held in Stockholm in June, 1972, in which India participated, decisions were taken to take appropriate steps for the preservation of the natural resources of the earth which, among other things, include the preservation of the quality of air and control of air pollution. It is felt that there should be an integrated approach for tackling the environmental problems relating to pollution. It is, therefore, proposed that the central board for the prevention and control of water pollution constituted under the Water (prevention and control of pollution) act, 1974, will also perform the same functions of the central board for the prevention and control of air pollution and of a state board for the prevention and control of air pollution in the union territories. The main object of this act is to prevention, control and abatement of air pollution.

3.3) The Environment (Protection) Act, 1986

Undoubtedly, the Environment (Protection) Act, 1986 has important constitutional implications with an international flavor. The concept behind this act is borrowed from the Stockholm conference. The environment protection needs immediate attention worldwide. it has been realized that the protection and improvement of the human environment is a vital major issue affecting not only the creatures / living men and animals but also non-living. It is the duty of all governments and urgent need for the people of the whole word that protection and improvement of environmental problem should be given proper attention. Need of this act is because there is a continuation degradation in environmental quality has been evidenced by enormous pollution, loss of vegetal cover and biological diversity, excessive accumulation of harmful chemicals in the atmosphere and in food chains, growing risks of environmental accidents and threats to life support system. So the GOI made a legislation related to environment. Previously several laws made by parliament related to environment but they are not directly linked with environment so GOI made a legislation related to environment which is directly deal with environment.

In case of **M C Mehta V. Union of India**¹¹, the supreme court said that environmental pollution causes several health hazards and therefore violate right to life.

¹¹ AIR 1987 SC 1086

In **Santosh Kumar Gupta V. Secretary, Ministry Of Environment, New Delhi**¹², high court of Madhya Pradesh said that pollution from cars poses a health hazard to people and that the state must ensure that emission standards are properly implemented.

3.4) The National Environment Appellate Authority Act, 1997

This act was enacted by parliament in the 48th year of the republic of India. This act basically deal with to appellate matter related to environmental matters. This act was not a long act, it is a short act he only deal with appellate matter and under this act various authorities are their and how the matter is going in this act and can control or to prevent the degradation of environment.

3.5) The Noise Pollution (Regulation And Control) Rules, 2000

The experience reveals that noise is the slow agent of death. In other words noise is a silent enemy of environment whether the living or non-living things. Noise is a health hazard. In view of medical opinion prolonged exposure to noise levels above 90 decibels can cause permanent deafness. Increasing the noise level in public places from various sources like industrial activity, loud speakers, public addresses systems, music systems and other mechanical devices have deteriorious effects on human health and the psychological well being of the people, it is considered necessary to regulate and control noise producing and generating sources with the objective of maintaining the ambient air quality standards in respect of noise.

4) Role of World Health Organization (WHO)

The World Health Organization (WHO) is a specific organization of joined countries that is manage the worldwide general health. it was built up on seventh April 1948. headquarter of WHO in Geneva, Switzerland. The WHO is an individual from the unified countries improvement gathering. its ancestor, the health association, was an organization of the alliance of countries. the WHO is capable adversary the world health report, a main global distribution on health, the worldwide world health review, and world health day. world health day will be praised on seventh April of consistently.

4.1) The Role Of WHO In General Health

WHO satisfies its items through its center capacities :

- Giving initiative on issues basic to health and taking part in associations where joint activity is required;
- Forming the exploration plan and invigorating the age, interpretation and scattering of important information;
- Setting standards and models and advancing and checking their executions;

¹² ALR 1998 MP 43

- Articulating moral and confirmation based arrangement alternatives;
- Giving specialized help, catalyzing change, and building supportable institutional limit; and
- Observing the health circumstance and evaluating health patterns.

5) International Human Right Treaties Recognizing The Right To Health

S.N.	Name of Treaties	Year	Provision
1	International Convention On The Elimination Of All Forms Of Racial Discrimination	1965	Article 5 (e) (iv)
2	International Covenant On Economic, Social And Cultural Rights	1966	Article 12
3	Convention On The Elimination Of All Forms Of Discrimination Against Women	1979	Article 11(1)(f), 12 and 14(2)(b)
4	Convention On The Rights Of The Child	1989	Article 24
5	International Convention On The Protection Of The Rights Of All Migrant Workers And Members Of Their Families	1990	Article 28, 43(e) and 45(c)
6	Convention On The Rights Of Persons With Disabilities	2006	Article 25

6) Other Statutes Related To Health

- ✓ Miscarriage And Kidnapping In Indian Penal Code, 1860
- ✓ Factories Act, 1948
- ✓ Immoral Traffic (Prevention) Act, 1956
- ✓ Maternity Benefit Act, 1961
- ✓ Medical Termination of Pregnancy Act, 1971
- ✓ Child Labor Prohibition And Regulation Act, 1986
- ✓ Consumer Protection Act, 1986
- ✓ Mental Health Act, 1987
- ✓ Pre-Natal Diagnostic Techniques (Regulation And Prevention Of Misuse) Act, 1994
- ✓ Juvenile Justice Care And Protection Act 2000
- ✓ Pre-Conception And Pre-Natal Diagnostic Techniques (Prohibition Of Sex Selection) Act, 2002
- ✓ Mental Health Act, 1987

IV. Conclusion

I have conclude this research topic and said that our parliament have made various legislation related to health but they are not properly implemented. and in international scenario, there are various treaties and laws related to protection of health and India also signed various treaties. Health is one of the main essential of human being. without good health, a person cannot enjoy his life. and health does not cover only physical health but also mental, social and cultural health. Now-a-days people have affected their health to mental health because today there is a lot of depression and tension, various competition and the advancement of technology. Our apex court also gave various guidelines related to health and he also gave various landmark judgment related to health and that judgment are followed in the country. Smoke in public places and discharge of waste in water are affected our health so court said that it is violated our fundamental right because under Article 21 right to life include right to free clean air and water. in India a commission was appointed for the health which is known as national human right commission it seen the matter related to human right. in human right include right to health.

Today's youth is tomorrow's future of our country so from this opinion framer of Indian constitution kept in mind that the children welfare is supreme and had laid down special provision related to children and prohibition of child labor are there. Health not only direct affect from food but also affect the indirect from environment. Environment includes air, water noise pollution environment also affect the health of people because environment are not clean and dust in air, people come in contact with this pollution it affect the people health. Now a day's people have several diseases like cancer, comma, hard-attack, etc that diseases are directly or indirectly affected from environment.