CHAPTER 1

INTRODUCTION

I. PRELUDE

Health is a precondition for life while life is the precondition for the existence of the society. Society cannot be conceived of without life. Therefore, life acquires the first and the foremost place among the social values. The acquisition of this place has, however, been a slow realization. Life must have always been an important value. But its first legal asset, appears in *Magna Carta* in the year 1215.\(^1\) Though, the discourse on legal heights in terms of social values has been a long and continuous process, it slowly acquired the status of an inalienable right of the individual and has been incorporated in various legal documents including State Constitutions\(^2\) and international instruments.\(^3\)

Health is a common theme in most cultures. In fact all communities have their concepts of health, as part of their culture.\(^4\) Truly admitting, health is not perceived in the same way by bio-medical scientists, social science specialists, health administrators and ecologists and this gives rise to confusion about the concept of health. In the world of continuous change, new concepts based on new patterns of thoughts are bound to emerge. However, health has

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\(^2\) Ibid.


evolved over the centuries as a concept from an individual concern to a worldwide social goal and encompasses the whole quality of life. Different perceptions about health need serious consideration. The concept of biomedical health based on "germ theory of disease" which dominated medical thought at the turn of the 20th century. The concept of cause, embodied in the germ theory of disease, is generally referred to as one to one relationship between casual agent and disease. It is true that health care has benefited a great deal through research and development. The scientific and technological achievements of the twentieth century have helped in unfolding the hitherto unknown aspects of human life and provided a deeper insight into the human physiology, diseases and death. Researchers burned their midnight oil in producing new drugs, successful against oil in producing new drugs, successful against diseases hitherto incurable. The fatal consequences of diseases like cancer have been mitigated and epidemics tamed. Public health has received great attention at global level, impelling State governments to evolve effective strategies for prevention and control of epidemics.

Health, in this narrow view became the ultimate goal of medicine and it has minimized the role of the environmental, social, psychological and cultural determinants of health. So the deficiencies in the biomedical concept gave rise to other concepts. The ecological concept viewed health as a dynamic equilibrium between man and his environment, and disease a maladjustment of the human organism to environment. Dubos defined health as "the relative absence of pain and discomfort and continuous adaptation and adjustment to the environment to ensure optimal function". The ecological concept raises two issues, viz. imperfect man and imperfect environment. History

5 Id., at 15-16.
argues strongly that improvement in human adaptation to natural environments can lead to longer life expectancies and a better quality of life even in the absence of modern health delivery services. Contemporary developments in social sciences revealed that health is not only a biomedical phenomenon but one which is influenced by social, psychological, cultural, economic and political factors of the people concerned. Above all the holistic approach implies that all sectors of society have an effect on health, in particular agriculture, animal husbandry, food, industry, education, housing, public works, communications and other sectors. The main emphasis of all concepts are the promotion and protection of health.

The question of right to health has emerged as one of the most significant issues for discussion in this new millennium. Health care involves ever-changing challenges. The national and local decisions regarding health are affected by global forces and policies. The effect of globalization on health has resulted in substantial gains for some groups and severe marginalization of others. India bears 21 percent of global disease burden on its shoulders. This is coupled with spiraling health costs, high financial burden on the poor and erosion in their incomes. Around 24 percent of all people hospitalized in India in a single year fall below the poverty line.

In 1947, when the country gained independence, half the population was dying before the age of 10 years, the life expectancy was less than 30 years and the major cause of death was communicable diseases, with “fevers” accounting for more than half of

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8 K. Park, op cit., p.12; see also WHO (1978), Health for All, Sr. No. 1.
9 Peeyush Gaurav Soni, Health Insurance – An Indian Perspective, Kare Law Journal at 101 (August 2006).
the deaths. As part of its welfare policy, the Indian government adopted the central guiding principle of the Sir Joseph Bhore Committee, 1946 that no individual should be denied medical care because of his/her inability to pay for it. Similarly, the Report of the Sub-Committee on National Health appeared in 1948. In 1959, the government appointed a Committee under Dr. A.L. Mudaliar to review the health services and make recommendations. The Committee (1962) observed that rural services were not popular among the doctors. They wanted their services/posting in city hospital or in the health department. The report was criticized on the count of being urban oriented public health policy. The main recommendations of the report were enhancement of reach of the delivery system, streamline of organization, development of training facilities for multipurpose para-medical personnel and expand sum of educational base for modern medicine. Another Committee under the Chairmanship of Dr. J.B. Srivastava was set up in 1974 and it recommended an alternative strategy for the development more suited to our conditions, limitations and potentialities based on the criteria of development of an integrated service covering promotive, preventive, and curative aspects of health services and family planning. It envisaged for universal coverage and equal accessibility to all citizens and full utilization of paramedical resources and supplementation by well structured system of referral services. Promotion of traditional knowledge and in modern medicines for the indigenous research in tune with latest scientific developments. Practical implementation was emphasized. The report led to the community health worker scheme in consonance with 1978 International Conference on Primary Health Care and Alma Ata Declaration India set before the world the target of health for all by

11 This Sub-Committee of the National Planning Committee had submitted an interim report earlier in which it adopted a positive approach to primary health care. The Sir Joseph Bhore Committee Report has a pioneering impact on all subsequent policy.
2000 A.D. The *Alma Ata* Conference of 1978 convened by WHO and UNICEF is considered as a historical turning point in health care provisioning for the developed world. The declaration adopted, with its rallying cry of "Health for All by 2000", captured the imagination of the public health community in no uncertain way. Though the promises made by the political leadership of the 134 countries to the people of the world remain largely unrealized, yet it continues to resonate even 31 years after the event. WHO's report of the year 2008, entitled as "Primary Health Care: Now More Than Ever", hoped to affirm that the concept is still valid. Under the backdrop of *Alma Ata* Declaration Indian Council of Social Sciences Research (ICSSR) and the Indian Council for Medical Research (ICMR) submitted report in 1980 which necessitated to develop a comprehensive national policy on health.\(^{12}\)

The report reiterates that health is function not merely of medical care, but overall development of society cultural, economic, educational, social and political development.\(^{13}\)

Health is a State subject and health of all human beings is precious asset of the nation. It is nation's moral, legal and constitutional responsibility to promote, restore and maintain the health status of its population through meticulously designed policy, plans and programmes, effectively implementing monitoring and evaluating them to yield targeted result in respect of health care infrastructure, manpower support, provision of clean drinking water, sanitation and hygiene, besides a host of other inter-related activities. Health care is one of the thrust areas under the mandate of National Common Minimum Programme. The National Rural Health Mission was launched on 12\(^{th}\) April 2005 for a period of 7 years (2005-2012), that is two years of Tenth Plan and the full period of Eleventh Plan. The goals of NHRM

\(^{12}\) Indian Council of Medical Research : A Report on Epidemic of Infectious Hepatitis in India (1956).

are to provide accessible, affordable, accountable, equitable, effective and reliable health care, especially to poor and vulnerable sections of the population in rural areas.

The NRHM provides an overarching umbrella, subsuming the existing programmes of the Ministry. It is operational over the entire country with special focus in 18 states viz. 8 Empowered Action Group States (Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Uttar Pradesh, Uttaranchal, Orissa and Rajasthan), 8 North East States (Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura) Himachal Pradesh and Jammu and Kashmir. The mission is an articulation of the commitment of the Government to achieve the goals and objectives of National Health Policy, 2002 and National Population Policy, 2000. Despite all the evidence that has accumulated to underline the interdependence of population growth and health, the dichotomy in approach has persisted. Since 2001, there has been a barrage of commissions, committees, campaigns, and advisory bodies in addition to the Planning Commission. They have produced drafts, discussion, papers, and policy guidelines for public, and not so public debates. Some amongst these are the population Commission, the Indian Commission on Macro Economics and Health, the Rural Health Mission, and the National Advisory Council. As early as 1992 the World Bank produced a document on ‘Financing for India’s Health Sector’ and another in 2001 on, ‘Better Health Systems for India’s Poor’.

In September 2000, 189 member states of the United Nation adopted UN Millennium Declaration incorporating eight millennium goals of which three sharply focused on ‘health’, viz. (i) reduce child mortality; (ii) improve maternal health; and (iii) combat HIV/AIDS.

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malaria and other diseases. Indian government is committed to the objective of providing health for all. The health scenario of the country has undergone significant changes during the past few years. In a way the Sixth Plan can be called the last and the weakest milestone in India's experiment of establishing itself as an independent architect of its health sector services. It diverted resources into controlling communicable diseases, put restraints on pumping more resources into family planning but the upgraded infrastructure continue to serve the latter as it enjoyed the highest priority at the central level. The Seventh Plan under increasing pressure of neo-liberal polices scaled up investment in Family Planning and opened up to NGO and private sector partnerships. The Eighth Plan talked of privatization of medical care and of targeting the underprivileged for providing primary health care and national health programmes. The Ninth Plan envisaged the development of a well structured network of urban health care institutions providing health and family welfare services to the population within one to three km. of their dwellings by re-organizing the existing institutions. During the Tenth Plan every effort was made to implement the recommendations of the Seventh, Eighth, and Ninth Plan, that is, all hospitals and dispensaries below the district level were mainstreamed, recognized, restructured and integrated into the three tier rural primary health care system in order to serve the population. The National Rural Health Mission was launched on 12th April 2005 for a period of seven years, that is the balance two years of Tenth Plan and the full period of Eleventh Plan.

At present in India there are 1,46,206 Sub-Health Centres (SHCs), 23,236 Primary Health Centres (PHCs) and 3,346 Community Health Centres (CHCs). To meet 2001 population norm, additional 1926915 SHCs, 4337 PHCs and 3206 CHCs are needed. External

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assistance in India has been channeled through centrally-sponsored programmes for communicable diseases and family welfare. In initial years, the funding was from USA and European countries. The World Bank funding for health was generally given as grants. Even then, the change in the context of health, though visible, is certainly not impressive as reflected by India's 127th position in the world in its human development index, poverty level of 31 percent, and literacy rates among women as low as 47. There are disparities between rural and urban areas to access to health care services. Most of the rural health centres had inadequate specialists, medical equipment and drugs. Since April 2009, the HINI influenza virus has killed over 12,500 people in 210 countries. India reported 28,251 cases with 1135 deaths till January 18, 2010.

II. PROBLEMS OF DEFINING HEALTH

‘Health’ is one of such terms which most people find it difficult to define though they understand what does it mean. Health is universally recognized as essential to human condition. A healthy physique and mind, apart from being the concern of the individual, is also the concern of the entire community, because without a healthy population no sustainable economic, scientific and technological development is possible. Truly speaking, defining health does not merely serve a nominal need of health analysis but has operational relevance for health practice. Keeping this in view, various efforts have been made to define health from time to time.

Health was defined, not negatively or narrowly as the absence of disease or infirmity, but positively and broadly as “a state of complete physical, mental and social well being”, the enjoyment of which should be part of the rightful heritage of “every human being without
distinction of race, religion, political belief, economic or social condition". In the same spirit as the UN Charter the Preamble of the WHO asserted that the principles it state were basic to the happiness, harmonious relations and security of all people, thus, expressing a modern set of universal aspirations. Health, it says, was an essential condition for their attainment, and the highest possible attainment of health was a fundamental right of every human being without distinction of any kind. In the recent years, this definition has been amplified to include the ability to lead a 'socially and economically productive life'. Through this definition, WHO has helped to move health thinking beyond a limited, biomedical and pathology-based perspective to the more positive domain of "well-being". Further, by explicitly including the mental and social dimensions of well-being, WHO has radically expanded the scope of health, and by extension, the roles and responsibilities of health professionals and their relationship to the larger society.

It is also revealed from different studies that from time to time many definitions of health have been offered, viz., (a) "the condition of being sound body, mind or spirit, especially freedom from physical disease or pain"; (b) "soundness of body or mind; that conditions in which its functions are duly and efficiently discharged"; (c) "a condition or quality of human organism expressing the adequate functioning of the organism in given conditions, genetic and environmental"; (d) "a modus vivendi enabling imperfect men to achieve a rewarding and not too painful existence while they cope with

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19 See, Webster Dictionary.
an imperfect world"; "a state of relative equilibrium of body form and function which results from its successful dynamic adjustment to forces tending to disturb it. It is not passive interplay between body substance and forces impinging upon it but an active response of body forces working toward readjustment."

The WHO definition of health has been criticized as being too broad. Some argue that health cannot be defined as a "state" at all, but must be seen as a process of continuous adjustment to the changing demands of living and of the changing meanings we give to life. It is a dynamic concept. It helps people live well, work well and enjoy themselves. The WHO definition of health is, therefore, considered by many as an idealistic goal than a realistic proposition. It refers to a situation that may exist in some individuals but not in everyone all the time; it is not usually observed in groups of human beings and in communities. Some consider it irrelevant to everyday demands, as nobody qualifies as healthy i.e. perfect biological, psychological and social functioning. Inspite of the above limitations, the concept of health as defined by WHO is broad and positive in its implications, it sets out the standard, the standard of "positive" health. It symbolizes the aspirations of people and represents an overall objective or goal towards which nation should strive.

The World Health Organization (WHO) definition of health is not an "operational" definition, i.e., it does not lend itself to direct measurement. Studies of epidemiology of health have been hampered because of our inability to measure health and well-being directly. In this connection an "operational definition" has been devised by a World

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23 Perkins quoted in K. Park, Ibid.
24 K. Park, op. cit., at 12.
Health Organization (WHO) study group.\textsuperscript{25} In this definition, the concept of health is viewed as being of two orders. In a broad sense, health can be seen as “a condition or quality of the human organism in given conditions, genetic or environmental”. In a narrow sense – one or more useful for measuring purposes health means (a) there is no obvious evidence of disease, and that a person is functioning normally, i.e. conforming with normal limits of variation to the standards of health criteria generally accepted for one’s age, sex, community and geographic region; and (b) the several organs of the body are functioning adequately in themselves and in relation to one another, which implies a kind of equilibrium or homeostasis – a condition relatively stable but which may vary as human beings adapt to internal and external stimuli.\textsuperscript{26}

There are some negative aspects of health, which have been discussed by some scholars. According to them, health is considered as an absence of disease or illness, and also as an absence of sickness or suffering. Never the less, each of these aspects carry different conceptions. If medical conception of health as absence of disease\textsuperscript{25} relates to organic level of experience, identifying pathological abnormality in terms of sickness, a medical and psycho-social conception of “health as absence of illness”, on the other hand relates to personal experience of pain and discomfort where one feels illness without having a disease. Similarly, a sociological conception of “health as absence of sickness” relates to status requiring two fold professional attention namely exemption from normal social responsibilities and need for non-volitional attention for getting well. Further, the conception of “health as absence of suffering” is related to growth of hospitalization with a purpose of reducing suffering.\textsuperscript{27}

\textsuperscript{25} Ibid.
\textsuperscript{26} Id. at 13.
\textsuperscript{27} Avanish Kumar, op. cit., at 18-19.
A normative definition that "Health is optimum capacity to perform social roles" constitutes adequacy relative to capacities, feeling and biological functioning needed for performing social tasks. Functional fitness, which is the standard of positive health, is related to such capacity. Identification of health as status is a value-free approach to use statistical norms of fixing the health of the individual. At present, there is no agreed norms i.e. the index of health status is sometimes social, sometimes non-social, sometimes biological and medical indices are preferred. The definition is, however, closely related to functional fitness. Health status can be normative as well as positive. When health is seen as a sick role, it signifies three characteristics of the individual: (i) he/she is exempted from normal social responsibilities; (ii) he/she cannot get well on his/her own; (iii) he/she should have the will and ask for getting well. All these necessitate professional intervention.

According to the definition of health as "a functional requisite for the social system", its importance appears to be propagated through health education. The societal perspective on health is essential because it is related not only to illness or sickness or disease of individual but also to national defence and urban development. The stress is on functional efficiency and not just on functional fitness. Health forms part of social situation and not just of environment. The working norms, levels of living, distribution of health services and the health providing institutions, even health needs as determined by defence needs, composition of industrial production and population density comprise social situation. The concept is essentially relativistic i.e. society specific.

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\text{id. at 19; also see Kulkarni, Health for Peace, (New Delhi: Institute of Peace Research and Action 1992), at 8.}
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\text{\textit{Ibid}.}
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Health as a social system is perhaps the widest conception of health in traditional sociology of health. Health is an important cog in the social machine. There has to be equilibrium in the social system. Poor health becomes dysfunctional and a cost to the society, therefore, the society should take care of the sick. The medical system should be viewed as a mechanism through which the restoration of health takes place. This approach is specially significant in times of resource scarcities. The extended meaning of health calls upon doctors to go beyond curing patients, collecting and interpreting data not only on clinical categories but also on health needs and utilization of health services. This conception helps in integrating health into the socio-economic system. A healthy person continually participates in social functioning, but illness deprives him of this. Therefore, it is potentially disruptive to this social functioning of an individual. A state of perfect health is one which people strive for but do not expect to attain. The ideal state is the absolute state; it is static and in some sense negative. Critics have suggested that health should be viewed holistically i.e. as a state of functional fitness comprising the negative as well as the positive aspects.

III. MULTI-DIMENSIONS OF HEALTH

The concept of health is multi-dimensional. The World Health Organization (WHO) definition envisages three specific dimensions—the physical, the mental and the social. Besides these, many more dimensions may be added, such as spiritual, emotional, vocational and political. As the knowledge base grows, the list may be expanding. Although these dimensions function and interact with one another, each has its distinct nature.
(i) **Physical, Mental and Social Dimensions**

The physical dimension of health implies "perfect functioning" of the body in which every cell and every organ is functioning at optimum capacity and in perfect harmony with the rest of the body. At the community level, the state of health may be assessed by such indicators as death rate, infant mortality rate and expectation of life.\(^3^2\)

Mental health is also an entirely different problem and equally important like physical health. Mental health is not mere absence of mental illness but it has been defined as a "state of balance between the individual and the surrounding world, a state of harmony between oneself and others, a coexistence between the realities of the self and that of other people and that of the environment."\(^3^3\) Although mental health is an essential component of health, the scientific foundations of mental are not yet clear. Keeping in view the dignity and welfare of persons with mental illness the international forum did not leave this area untouched. In an effort to allow to persons with mental illness as integrated a life as possible, the General Assembly has made some principles providing protection of persons with mental illness and the improvement of mental health care.\(^3^4\)

Social health is the third dimension and has been defined as the "quantity and quality of an individual's international ties and the extent of involvement with the community". In general, social health takes into account that every individual is a part of a family and of wider community and focuses on social and economic conditions and well being of the "whole person" in the context of his social network.\(^3^5\)

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\(^3^2\) K. Park, *op. cit.*, at 14.
\(^3^4\) K. Park, *op. cit.*, at 13; see also Furan Ahmad, "International Instruments and Health" in International Conference on Global Health Law held on 5-7 December, 1987, at 3.
\(^3^5\) K. Park, *ibid.*
Social well-being implies harmony and integration within the individual, between each individual and other members of society and between individuals and the world in which they live.

(ii) Vocational Dimensions

The vocational aspect of life is a new dimension. It is a part of human existence. When work is fully adapted to human goals, capacities and limitations, work often plays a role in promoting both physical and mental health. Physical work is usually associated with an improvement in physical capacity, while goal achievement and self-realization in work are a source of satisfaction and enhanced self-esteem.\(^\text{36}\) Truly admitting that the importance of this dimension is exposed when individuals suddenly lose their jobs or faced with mandatory retirement. For many individuals, the vocational dimension may be merely a source of income. But to others, it represents the culmination of the efforts of other dimensions as they function together to produce what the individual considers life "success".\(^\text{37}\)

(iii) Other Dimensions

A few other dimensions have also been suggested, namely, (i) philosophical dimension which deals with issue like concept of health, value systems affecting health and attitude towards illness, pain, ageing or death which, in the final analysis, determine the nature and quality of the health services; (ii) cultural dimensions which deals with life styles of people which have far reaching consequences on the practice of health, (iii) socio-economic dimension deals with the social, economic and political organization of the society as a whole; (iv) environmental dimension deals with problems like public sanitation,


pollution, water supply, housing or settlement patterns, with a view to protect health system, (v) nutritional dimension deals with the quantities and quality of food available to all; (vi) educational dimension deals with the role and responsibilities of individuals and families in maintaining a healthy society; (vii) preventive dimension deals with problems relating to the prevention of avoidable suffering, disease or untimely death; and, (viii) curative dimension deals with measure for the provision of adequate and appropriate treatment when, despite of all efforts, disease or ill health does manifest itself.38

These dimensions symbolize a huge range of factors to which other sectors besides health must contribute if all people are indeed to attain a level of health that will permit them to lead a socially and economically productive life.

IV. DETERMINANTS OF HEALTH

Many factors combine together to affect the health of individual and communities. Whether people are healthy or not, is determined by their circumstances and environment. To a large extent, factors such as where we live, the state of our relationship with friends and family all have considerable impacts on health, whereas the more commonly considered factors such as access and use of health care services often have less of an impact. Health is multifactorial. The factors which influence heath lie both within the individual and externally in the society in which he or she lives. Thus, before analyzing the determinants of health, it is pertinent to examine the factors which influence the human health. These underlying influential factors become challenge to health and ultimately become the determinants of health. The declaration of Alma-Ata opened up a new era in public

38 Avanish Kumar, op. cit., at 24; also see, Health For All : An Alternative Strategy (Pune: Indian Institute of Education 1981) at 12. Report of a Joint Study Group of ICSSR and ICMR.
health thinking and practice. The Health-For-All strategy, rooted in a progressive implementation of primary health care, has led to the achievement of major health gains worldwide. To developed and developing nations alike, it has brought notable health benefits, a number of deadly diseases have been gradually conquered, overall mortality rates have declined significantly, access to health care has improved and, during the last decade of the 20\textsuperscript{th} century, life expectancy has increased considerably worldwide.\textsuperscript{39}

The influential factors, which affects human health (either positively or negatively) becomes a challenge to health and finally determine our health status. These factors, in a nut shell, are shown in the chart below:

\begin{figure}
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\includegraphics[width=\textwidth]{chart.png}
\caption{Selective Significant Factors Influencing Human Health}
\end{figure}

\textsuperscript{39} K. Park., \textit{op.cit.}, at 17; also see; Genevieve Pinet, "Health Challenges of the 21\textsuperscript{st} Century : A Legislative Approach to Health Determinants", (1998) 49 : 1 IDHL 131-177, at p.132.
Keeping in view the brief analysis of the selective significant factors that reduce or increase the burden of disease, it is clear that these factors become either positive or negative determinants of health status. Some of the health determinants are as follow:

(i) Biological Determinants

The physical and mental traits of every human being are to some extent determined by the nature of his genes at the moment of conception. The genetic make-up is unique in that it cannot be altered after conception. A number of diseases are now known to be of genetic origin, for example, chromosomal anomalies, errors of metabolism, mental retardation, some types of diabetes, etc. The state of health, therefore, depends partly on the genetic constitution of man. But now a days medical genetics offers hope for prevention and its treatment. This knowledge will help people achieve better health; the individual has the opportunity to assert greater control over his life and long lasting suffering can be reduced and some lines avoided. Inspite of it some times it gives birth to basic ethical, legal and social issues."^1

The European Convention on Human Rights and Biomedicine, signed by 22 member States out of a total of 40 of the Council of Europe (CE) on 4 April 1997, is the first international legal instrument that specifically prohibits any discrimination against a person on the basis of his genetic heritage and only authorizes predictive testing for genetic disease with a medical objective."^2 The Universal Declaration on the Human Genome and Human Rights, adopted unanimously by

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the General Conference of UNESCO (United Nations Educational, Scientific and Cultural Organization) on 11 November 1997, strikes a balance between safeguarding respect for human dignity, freedom and HR (Human Rights) and the need to ensure freedom of research, while emphasizing the prohibition of all forms of discrimination based on genetic characteristic.\textsuperscript{42}

The successful cloning of an adult sheep by a team of scientists in Scotland in March 1997, interesting opportunities to advance biomedical research on diagnosis and treatment of diseases affecting human beings raised great concern the world over because of the potential implications of cloning procedure is human reproduction. The same the World Health Assembly adopted by consensus resolution WHA (50.37) affirming that: "the use of cloning for the replication of human individuals is ethically unacceptable and contrary to human integrity and morality. But in October 1997, "Scientific and Ethical Review Group of WHO’s Special Programme of Research, Development and Research Training in Human Reproduction" was convened with representatives of UNESCO (United Nations Educational Scientific and Cultural Organization), IARC and the CE (Council of Europe), as there was felt a need to develop international guidelines covering the technical and ethical issues of cloning in human health.\textsuperscript{43} Now developments in the biological disciplines and future progress will together ensure that the 'inborn' determinants of health continue to increase its importance.


(ii) Behavioural Determinants

Behaviour is another factor which influences health. Behaviour is of great importance to health, either directly through learned life styles or indirectly in the environmental and socio-economic context. Health requires the promotion of healthy life style. During the last two decades or so considerable body of evidence has accumulated which indicates that there is an association between health and lifestyle of individuals.44

Many current – day health problems especially in the developed countries (e.g. coronary heart disease, obesity, lung cancer, drug addiction) are associated with lifestyles still persist, risks of illness and death are connected with lack of sanitation, poor nutrition, personal hygiene, elementary human habits, customs and cultural patterns. WHO’s (World Health Organization) World Health Report 1995 corroborates these findings,45 stating that lifestyle-related diseases and conditions are responsible for 70-80 percent of deaths in developed countries and about 40 percent in the developing world. Even in developing countries the situation is expected to worsen in the future with a growing number of life style related diseases, attributed to the rapid emergence in the middle class of unhealthy dietary and behavioural changes. The development process brings about changes in lifestyle which increases the risk of developing those so called “diseases of modern civilization” common in industrialized countries such as cardiovascular diseases, certain type of cancer and obesity.46
It may be noted that not all lifestyle factors are harmful. There are many that can actually promote health. Examples include adequate nutrition, enough sleep, sufficient physical activity, etc. In short, the achievement of optimum health demands adoption of healthy lifestyles. Health is both a consequence of an individual's lifestyle and a factor in determining it.

(iii) Environmental Determinants

Environment is the third factor which influences the health. It is usually defined as the aggregate of all external conditions and influences affecting the life and the development of an organism. It consist of those things to which man is exposed after conception. It is defined as “all that which is external to the individual human host”. It was Hippocrates who first related disease to environment, e.g., climate, water, air, etc. Centuries later, Pettenkofer in Germany revived the concept of disease-environment association. Environment is classified as “internal” and “external”. The internal environment of man pertains to “each and every component part, every tissue, organ or organ system and their harmonious functioning within the system”. Internal environment is the domain of internal medicine. The external or macro-environment consists of those things to which man is exposed after conception. It is defined as “all that which is external to the individual human host”. One may divide it into physical, biological and psychological components, any or all of which can affect the health of man and his susceptibility to illness. Some epidemiologists have used the term “microenvironment” (or domestic environment) to personal environment which includes the individual's way of living and lifestyle, e.g., eating habits, other personal habits (e.g., smoking or

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47 K. Park, op.cit., at 18.
48 J.M. Last, A Dictionary of Epidemiology, 1983.
drinking), use of drugs etc. It is also customary to speak about occupational environment, socio-economic environment and moral environment.\textsuperscript{49}

In the poor and least developed countries, the domestic environment remains a major factor of ill health, linked with lack of access to safe water supplies and adequate basic sanitation, upon which the control of many infectious diseases largely depend. If the environment is favourable to the individual, he can make full use of his physical and mental capabilities. But in the industrialized countries, there is considerable concern about the adverse health effects of continuing environmental degradation, notably, pollution, the uncontrolled dumping of chemical wastes, and the transport and storage of potentially dangerous substances, especially nuclear wastes. Another environmental threat is the depletion of the ozone layer, predicted to result in global climate changes. Changes in climatic condition may have an impact on public health,\textsuperscript{50} increasing the potential for transmission of infectious diseases through the extension of breeding areas for mosquitoes and other insect vectors of disease. Together with the WHO (World Health Organization) and UNEP (United Nations Environment Programme) has studied the impact of the depletion of the ozone layer on health and analyzed the potential impact of global climate change on the health.\textsuperscript{51} Climate changes over recent decades have probably affected some health outcomes. The potential impact of climate change, on health in developing countries, has not been sufficiently addressed may include the following:

\textsuperscript{49} Supra n. 47.


* Acute deaths due to sudden heat waves, floods and droughts;
* Vector-borne diseases such as dengue, malaria and chikungunya;
* Water borne disease especially diarrhea;
* Malnutrition and its associated effects on child growth and development;
* morbidity and mortality due to cardio-respiratory ailments.

The World Health Report, 2002\(^\text{52}\) reported the estimates of climate change to worldwide diarrhea incidence approximately 2.4 percent and 6.0 percent of malaria in some middle income countries in 2000. Climate change is also projected to increase the proportion of the population exposed to dengue from 35 percent to 60 percent by the latter part of the country. However, casual attribution to climate change is difficult to confirm. There is a need to document similar observations in different population settings.

Although, the environmental policies for the protection of health occupies an important role but is not necessarily a predominant concern. So there is a need to strike a balance between the protection of environment and the public health. In order to exercise health responsibilities, health authorities need to carry out health impact assessment at the regional, national and local levels on the extent of severity of communicable disease as a consequence of climate change.

(iv) Health Services as Determinants

The term health and family welfare services covers a wide spectrum of personal and community services for treatment of disease,
prevention of illness and promotion of health. The purpose of health services is to improve the health status of population. Health care system in the 21^st century will continue to be confronted with a wide variety of challenges, such as demographic evolution, new patterns of diseases, escalating environmental degradation, changing economic and social structures and status, further developments in health technology and growing expectations of health care consumers. The purpose of health services is to improve the health status of population. This may be done by immunization of children, provision of safe water can prevent mortality and morbity from water borne disease. Further the case of pregnant women and children would contribute to the reduction of maternal and child morbidity and mortality. The need of the hour is that the health services must reach the social periphery, equitably distributed, accessible at a cost the country and community can afford and socially acceptable. Frankly admitting, all these are ingredients of what is now termed "primary health care", which is seen as the way to better health. To be effective, the health services must reach the social periphery, equitably distributed, accessible at a cost the country and community can afford and socially acceptable. Health services can also be seen as essential for social and economic development. In fact health care does not produce good health, but the most we can expect from an effective health service is good care. 

(v) Socio-Economic Determinant

It is a truism that the socio-economic situation of a country has a definite influence on the health of its population. A large body of evidence supports the view that the lower the socio-economic status, the higher the prevalence of disease. For the majority of the world's people, health status is determined primarily by their level of socio-

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53 WHO (1978), Health For All, Sr. No. 1.
54 Avanish Kumar, op. cit., at 32.
economic development, e.g. per capita GNP (Gross National Product), education, nutrition, employment, housing, the political system of the country etc. Poverty is the major single determinant of individual, family and community health, and major challenge of present times. Director General of WHO (World Health Organization), Dr. H. Nakajima, in his message, presenting the 1995 World Health Report, cited poverty as the world's deadliest disease, stressing its role in contributing to the suffering and burden of illness, disability and death affecting many people worldwide. Extreme poverty – the world's most ruthless killer – is listed in WHO's (World Health Organization's) "International Classification of Diseases". Reduction of poverty is one of the four key priorities identified for future international health action in achieving the goals and targets defined in WHO's Ninth General Programme of Work' (1996-2001). In renewing its "Health For All" policy for the 21st century, WHO (World Health Organization) has chosen to combat against poverty as its first strategic line of action.

To achieve the goal of 'Health For All', WHO (World Health Organization) has set the target of at least 5 percent expenditure of each country's GNP (Gross National Product) on health care. Political commitment and leadership is needed which is oriented towards social development, and not merely economic development. If poor health patterns are to be changed, then changes must be made in the entire socio-political system in any given community. Social, economic and political action is required to eliminate health hazards in people's working and living environments.

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56 Awanish Kumar, op.cit., at 34; see also, World Health Report 1995, at 81.
57 K. Park., op.cit., at 17.

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(vi) Science and Technological Advances as Determinant

Advances in science and technology, medical sciences, engineering and communications in the last decade of the 20th century has offered untold opportunities to influence health. There is a need to consider the benefits as well as the potential risks of these new technologies in terms of health, integrity and dignity of the individual. Advances in fields such as genetic screening, assisted reproduction, organ transplantation and intensive care units have reaped considerable advantages. These refined instruments give man more and more power to manipulate life and come to question our values. To be true, this inevitable technological evolution necessitates ongoing ethical reflection in order to prevent deviations or excesses and ensure the respect of identity, dignity and autonomy of the human beings. In fact ethics and law complement each other. Hence, moving from ethics into law also depends on the capacity of the legislator to respond to a felt social need. This definitely requires precise identification of the need to be satisfied, the determination of feasible and desirable solutions, and the choice of the most relevant legal tool.

(vii) Gender as Determinant

The gender concept was first used in 1970's to describe those characteristics of men and women which are socially constructed in contrast to those which are biologically determined. WHO (World Health Organization) has estimated that in different countries unsafe abortion can cause from 25 to 50 percent of maternal deaths simply because women do not have access to family planning services they want and need or have no access to safe procedures or to humane

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treatment for the complication of abortion and because of costly contraceptive methods, lack of information and restrictive legislation. From a study, jointly carried out by World Health Organization and UNICEF (United Nations International Children Emergency Fund), about 99 percent of pregnancy-related deaths occur in developing countries (55 percent in Asia and 40 percent in Africa) and by contrast, less than 1 percent in developed countries. The rise of the AIDS (Acquired Immuno Deficiency Syndrome) epidemic has brought to our attention, the risk of sexually transmitted diseases and the vulnerability of women to HIV (Human Immuno Deficiency Virus) infection and AIDS (Acquired Immuno Deficiency Syndrome), in all parts of the world, related to their status in society, including social and cultural expectations about their sexuality.

Health legislation has contributed substantially in promoting public health and could be used more vigorously to promote women's health. Laws that give women the right to control their fertility and provide access to such services tend to reduce mortality and morbidity related to pregnancy. Women themselves should be encouraged and supported to take advantage of the basic Human Right (HR) and freedoms that empower them to realize their own health goals, not only as regards the right to health care, the right to benefit from scientific progress and patient's rights with their important aspect of confidentiality and privacy, but also as regards a broader span of rights – for instance, the right to be free from discrimination, rights regarding survival and security, family and private life, information and education. The 1990s have witnessed an increased concentration on women issues. In 1993, the Global Commission on Women's Health

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61 Ibid.
was established. The Commission drew up an agenda for action on women's health covering nutrition, reproductive health, the health consequences of violence, aging, lifestyle related conditions and occupational environment. It has brought about an increased awareness among policy-makers of women's health issues and encourages their inclusion in all development plans as a priority.

(viii) Human Right as Determinant

Equity in health and social justice are amongst the major determinants of health and will remain the foundation of World Health Organization's (WHO's) 'Health For All' policy in the 21st century. WHO was the first to recognize the right to health as one of the fundamental right of every human being, as stated in its Constitution. The World Health Organization (WHO) Constitution asserts that: "the enjoyment of the highest attainable standard of health is one of the fundamental right of every human being without distinction of race, religion, political belief, economic or social condition". The 'Health For All' movement launched in 1977 was based on the recognition of the close linkage between health, Human Right (HR) and social development. The resolution on "Health For All in the year 2000" reaffirmed that health is a basic Human Right and called for a social target of a standard of health to be attained by all citizens of the world by the year 2000 to 'permit them to lead a socially and economically productive life'. The Declaration of Alma-Ata reaffirmed that health is a fundamental Human Right but focused further on a specific approach concentrating on primary health care as the key to the attainment of that right and 'Health For All'. World Health Organization has developed a set of basic indicators of primary health care and 'Health For All Attainment, which further linked that goal with the fight against inequities in health.

Pinet, op.cit., at 166.
Indeed these indicators are the best measures of the “right to health” which exist in the world today. Although WHO did not explicitly link its health action with the Human Right promotion and protection, the organization has a long history of operationalizing the right to health. In order to develop the Human Right agenda of World Health Organization and engage in a broader cooperation among health and Human Right agencies, World Health Organization convened a “Consultation on Health and Human Rights” in December 1997.63

Thus, health is recognized as essential to the human in every condition. A health physique and mind, apart from being the concern of the individual, is also the concern of the entire community, because without a healthy population no sustainable economic, scientific and technological development is possible.64

However, the development of the concept of health as absence of disease and health as right to life has been determined the past experiences and vision for the future. Health is also a total sum of strengthening adequate nutrition, community support, education, safe environment and social cohesion. Rights are a mode to empower and mobilize the vulnerable and the disadvantaged, and this is the main concern of anxiety in different parts of the world. The language of a health creates consciousness and their existing condition, cause of oppression and the possibility of change.65

Health as a basic and fundamental right is indispensable for the existence of other human rights. Each and every human being is entitled to the attainment of adequate standard of health conducive to enjoy a life in dignity. The implementation of the right to health may be

63 Ibid.
64 Supra n. 1.
undertaken through a number of different approaches such as the formulation of health polices or the realization of health programmes initiated and developed by State bodies such as legislature, executive and the judiciary and international instruments. Among the international bodies the WHO is an official agency of United Nations performing this task globally. Further, the right to health includes certain components which are legally enforceable. The right to health contains both freedoms and entitlement. The freedom includes the right to be free from torture, non-consensual medical treatment and human experimentation, and the right to control one’s own health and body such as sexual and reproductive freedom. Thus, freedom in this context means the possibility of choice, and consciousness about the consequences of choice, both in regard to both production and consumption of health inputs inviting people to design their own health-illness health-cycles. So the entitlement includes the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health, meaning the probability that one will not die from a disease pre-maturely, whether that premature death is brought about by misguided health care, wrong distribution, ecological imbalances and lack of self-reliance.

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67 Avanish Kumar, op cit., at ii.

68 Id., at iii.
V. HEALTH AND HUMAN RIGHTS LINKAGES

The right to health extends to all things which promote health and well-being and prevents illness and disease, not just access to medical care. This includes among many others, the right to education, food and shelter; freedom from discrimination and persecution; right to information and to the benefits of science. Keeping this in view, the complex linkage between health and human right is mainly based on three part framework, all of which are inter-connected and has definitely substantial consequences. First is the positive and negative impact of health policies, programmes and practices on human rights, which focuses on the use of state power in the context of public health. The second linkage is based on the understanding of human rights violations which again have health impact. This process engages health expertise and methodologies in helping to understand how well being is affected by human rights violations. The third is based on the proposition that promotion and protection of human rights and protection of health are fundamentally linked. This internal linkage has strategic implications and potentially dramatic practical consequences for work in each domain.\(^6^9\) The examples of the linkages between health and human rights can be understood by going through the following chart.

Therefore, an earnest attempt is made by the researcher to explain these three linkages in the following pages.

(i) **Impact of Health Polices on Human Rights**

Truly admitting, health care is provided through many diverse public and private mechanisms all over the globe. However, the responsibilities of public health are carried out in large measure through polices and programmes promulgated, implemented and enforced by, or with support from, the state. The three central functions of public health include, viz., (a) assessing health needs and problems; (b) developing polices designed to address priority health issues; and

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pursuit of each of these major areas of public health responsibility. Hence, a State's failure to recognize or acknowledge health problems that preferentially affect a marginalized or stigmatized group may violate the right to non-discrimination by leading to neglect of necessary services, and in so doing, may adversely affect the realization of other rights including the right to "security in the event of sickness (or) disability...", or to the "special care and assistance" to which mothers and children are entitled. Thus, the right to freedom from discrimination is an important element of linkage between health and human right. Further, discrimination against ethnic, religious and racial minorities, as well as on account of gender, political opinion or immigration status, compromises or threatens the health and well being of millions of people. This practice threatens physical and mental health and denies people access to care altogether, deny people appropriate therapies, or relegate them to inferior care. Similarly, the misuse of information about HIV infection status has led to: restrictions of the right to work and to education; violations of the right to marry and found a family; attacks upon honour and reputation; limitations on freedom of movement, arbitrary detention or exile; and even cruel, inhuman or degrading treatment.

The another major task of public health is to develop polices to prevent and control priority health problems. No doubt burdens on human rights may arise in policy-development process. It is worth to quote examples that if a government refuses to disclose the scientific basis of health policy or permit debate on its merits, or in other ways refuses to inform and involve the public in policy development, the right to "seek, receive and impart information and ideas... regardless of frontiers, and "to take part in the government...directly or through

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73 Mann and Gostin, op cit.
74 UDHR : Article 19; ICCPR : Article 19; CEDAW : Articles 10, 14 and 16; CRC : Articles 13, 17 and 24.
freely chosen representative" may be violated. Here the right to participation becomes another important element, linking health and human rights. Participation of individuals and groups in matters that affect them is essential to the protection of all human rights. Participation of individuals and groups in matters that affect them is essential to the protection of all human rights. The Declaration of Alma-Ata on Primary Health Care states, “the people have the right and duty to participate individually and collectively in the planning and implementation of their health care. It is also to highlight that due to violation of right to information and participation, the prioritization of health issue may definitely result in discrimination against individuals, as and when the major health problems of a population defined on the basis of sex, race, religion or language are sympathetically given lower priority.

The last core function of public health is to assure services capable of realizing policy goals and is also linked with the right to non-discrimination. It is a truism that when health and social services do not take logistic, financial and socio-cultural barriers to their access and enjoyment into account, intentional or unintentional discrimination may readily occur.

Keeping in view the above mentioned functions, it is essential to recognize that in seeking to fulfill each of its core functions and responsibilities, public health may burden human rights. Frankly admitting, public health has a long tradition, anchored in the history of infections disease control, of limiting the “rights of the few” for the “good of the many”. Hence, coercive measures such as mandatory

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76 Emily Friedman, Money is not Everything: Non-financial Barriers to Access, JAMA, 271:19 (1994) at 1536.
testing and treatment, quarantine and isolation are considered basic measures of traditional communicable disease control. There is a need to adopt public health concern for human rights norms by promoting societal respect for human rights as well as on arguments of public health effectiveness. Every efforts to harmonize health and human rights goals in other areas are also desirable in order to promote and respect rights and dignity.

(ii) Impact of Human Rights Violation on Health

Health impacts are obvious and inherent in the popular understanding of certain severe human rights violations, such as torture, imprisonment under inhumane conditions, summary execution and 'disappearances'. It is for this reason, health experts are concerned about human rights and are making available their expertise in order to restrict such abuses. There may be numerous examples of this type of medical human rights collaboration which includes: exhumation of mass graves to examine allegations of executions; examination of torture victims, and entry of health personnel into prisons to assess health status. Health impacts of rights violations go beyond these issues in two way. First, the duration and extent of health impacts resulting from severe abuses of rights and dignity remain generally under-appreciated. Torture, imprisonment under inhuman conditions or trauma associated with witnessing summary executions, torture, rape or imprisonment of others have been shown to lead to severe, probably life long effects on physical, mental and social well

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78 Mann and Gostin, op.cit.
being. The researcher find that torture remains epidemic in dozens of countries around the world. Treatment and prevention programmes are emerging on every continent in response to this epidemic. Second, beyond these serious problems, it is apparently clear that violations of many, if not all, human rights have negative effects on health. The other violations of the right, with substantial health impacts, including governmental withholding of valid scientific health information about contraception or measures to prevent infection with a fatal virus (HIV)\(^2\)

(iii) New Avenues for Human Well-Being

To promote and protect human right is inextricably linked with the challenge of promoting and protecting health derives in part from recognition that health and human rights are complementary approaches to the central problem of defining and advancing human well being. The broad mention of health in the UDHR (Article 25) and specific health-related responsibilities of states listed in Article 12 of the ICESCR, including: reducing stillbirth and infant mortality and promoting healthy child development; improving environmental and industrial hygiene; preventing, treating and controlling epidemic, endemic, occupational and other diseases; and assurance of medical care. Much of the world is enmeshed in violent conflicts, either self-imposed or super-imposed. A great deal of the world's human and financial resources, which could have been used for constructive and welfare purposes of peace and prosperity, is wasted for destructive purposes. This is evidenced by the World Health Report for 2007, which. craving for "A Safer Future", highlights the health consequences of poverty, wars and conflicts and stresses the importance of strengthening health systems in building global public health security. According to the report many of the public health emergencies cold have been prevented or better controlled but for the weaker and ill-

\(^{2}\) Mann and Gostin, *op.cit.*
prepared health systems. Huge amounts of money are spent on defense sector compared to social service sector. In the year 2007-08 budget of Rs. 96000 crore was allocated for defense while only Rs. 9321 crore was allocated social services (which includes education, health care and broadcasting). The researcher find that modern concepts of health recognize that underlying 'conditions' establish the foundation for realizing physical, mental and social well being. It is, therefore, submitted that from the human rights perspective, health experts and expertise may contribute usefully to societal recognition of the benefits and costs associated with realizing, or failing to respect human rights and dignity. This can be accomplished without seeking to justify human rights and dignity on health grounds. Rather, collaboration with health experts can help give voice to the pervasive and serious impact on health associated with lack of respect for right and dignity. In addition to this, the right to health can only be developed and made meaningful through dialogue between health and human rights disciplines. Finally, the importance of health as a pre-conditions for the capacity to realize and enjoy human rights and dignity must be appreciated.

VI OBJECTIVES OF THE STUDY

The main purpose of this research is to explore the linkage between Right to Life and Right to Health and to test the hypothesis as to what extent the Right to Health has been integrated in Right to life. The present research on the Right to Health in India is being carried out, keeping in view the following objectives in mind:

(1) The existence of right to health in the past.
(2) The current status of right to health under various legislations.
(3) The role of Indian judiciary in preserving human life under Constitution by directing the State to provide adequate medical services to people.

(4) The role of legislative and administrative authorities in protecting health care right.

(5) The legal and administrative impediments in providing speedy, credible and inexpensive redress to aggrieved patients and the option available to improve the situation.

(6) Lastly, conclusion and suggestions are made to improve upon the existing legal framework for protection and promotion of health care rights.

VII HYPOTHESES

Hypothesis is a tentative generalization the validity of which has to be tested. It provides a direction to the inquiry, aids in establishing a link between theory and practice and helps to delimit the field of inquiry by singling out the pertinent facts on which to concentrate. It is true that globalization of medical care has resulted in increase in cost. The emergence of big corporate hospitals has brought world class medical standards in a few cities. There is a need to monitor and evaluate the health initiatives existing in the country. The hypothesis rest on the presumption that if planning and implementation of health initiatives remained unchecked the repercussions of the problem shall destroy the social structure of the society. Hence, a comprehensive study is required in order to strengthen the present legal control mechanism and plug the loopholes and also to modify the legal norms and practices.

The researcher has endeavour hard to find answer to the following hypothesis:
(1) Right to Health is an emerging right and had an existence.
(2) It is obligatory upon the State to provide adequate medical services and clean environment to preserve human life under the Constitution.
(3) The provisions of the Medical Council of India have the ample powers to award compensation for the negligent acts of medical professionals.
(4) The role of legislative and administrative authorities in protecting health care rights needs more improvement.
(5) The judiciary has contributed a lot in protecting the interest of patients and defining the responsibilities of health providers.

VIII. METHODOLOGY

The reliability and dependability of any research problem depends upon the method that is adopted for the investigation of problem. The researcher has devised the methodology of the present study in such a manner that the functional aspect of right to health as a right to life in the State of Himachal Pradesh can be investigated in its true perspective. The methodology primarily consists of two parts. The first part relates to examination of the theoretical aspect of right to health which mainly lays emphasis on the genesis, various provisions regarding health care rights, programmes and policies, and the role played by our judiciary in order to protect health rights of the citizens. In order to know about theoretical aspect of this scheme, the researcher has made use of both primary and secondary sources. The researcher has used analytical approach to find out as much as relevant information possible through the primary and secondary sources. Primary data has been collected through Central and State
statutes, rules, orders and reports of proceedings of Parliament, State legislatures, Government Departments and other agencies.

Secondary data has been gathered from the literature available in different libraries, International Collaborative Reports on Health Care Rights, Court judgments, newspapers, reports, articles and other relevant documents including review of books, legal and extra legal relevant literature has been studied and scanned for the present research work.

The second part relates to the practical aspect of right to health. It is purely exploratory and evaluative in nature. The researcher has collected first hand information with regard to the standards of health right in the State of Himachal Pradesh. The first hand information has been collected from two stratas viz., general public and the medical officers. The universe of the present study is proposed to be confined to the hospitals based in Shimla town. The idea to limit the present study to Shimla town is that Shimla being the capital of the State and all shades of people live in Shimla. For this, a sample size of 150 persons has been, that is 50 doctors and 100 general public. The questionnaire served on the above stated strata includes a number of questions composed with a view to know through these sample units hereinafter called respondents, about the legal awareness of the rules framed by the State Government for promotion and living standards of health. Structured questions both open ended as well as close ended are used to ascertain the opinion of the respondents.

IX. UNIVERSE OF THE STUDY

Keeping in view the fact that the scope of the topic under study is so wide that touches every person, group, community and class in the
entire world, the researcher is restrained to limit her study to India in general and to Shimla Town in particular being the capital of Himachal Pradesh in which all shades of people reside.

X SCHEME OF CHAPTERIZATION

The present research is divided into eight chapters. Chapter 1 introduces the subject matter. This chapter is the conceptual study of health as human right, exploring the multi-dimensional nature and various determinants of health. It also analyzes the complex linkages between health and human rights. Chapter 2 is devoted to the gradual development of health status in the past. Chapter 3 is exclusively devoted to various provisions regarding the health care rights. The various articles like Articles of the Constitution namely, 41, 45, 48 etc. relating to health are explained with various judgments. Chapter 4 is devoted to the legal provisions relating to health under various laws like civil, criminal and miscellaneous Acts relating to medical health laws, child health laws occupational health laws etc. In Chapter 5, various Five Year Plans, programmes and policies and their analysis on health care system are discussed. In Chapter 6 various judgments on the protection of health rights are discussed. Chapter 7 is brief summary of health planning in Himachal Pradesh and analysis of various issues like expenditure during various health plans, availability of infrastructure facilities, standards of health services and treatment patterns. In this chapter, an empirical study of the standards of health right in Shimla town is made. Chapter 8 deals with the conclusion of the study. Some suggestions for certain judicial and legislative action have also been submitted.

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