## Contents

### Chapter I Introduction
1.1 Introduction 1  
1.2 Basic Concepts 4  
1.3 Object and Scope of the study 7  
1.4 Rationale of the study 9  
1.5 Importance and Significance of the topic and the study 10  
1.6 Utility of the study 15  
1.7 Hypothesis formulated to conduct the study 16  
1.8 Methodology adopted to conduct the study 17  
1.9 Limitations of the study 18  
1.10 Review of the chapters 18  

### Chapter II Right to Health: Conceptual Framework
2.1 Introduction 23  
2.2 Concept of life 23  
2.2.1 Meaning of life 23  
2.2.2 Definitions of life 24  
2.2.3 Characteristics of life 26  
2.2.4 Judicial interpretation of the expression 'life' 27  
2.3 Concept of health 32  
2.3.1 Definitions of health 33  
2.3.1.1 WHO definition 34  
2.3.2 Varying concepts 34  
2.3.2.1 Biomedical concept 35  
2.3.2.2 Ecological concept 35  
2.3.2.3 Psychosocial concept 36  
2.3.2.4 Holistic concept 36  
2.3.3 Contemporary ideology of health 36  
2.3.4 Various aspects of health 37  
2.3.4.1 Physical aspect 37  
2.3.4.2 Mental aspect 37  
2.3.4.3 Social aspect 38  
2.3.4.4 Spiritual aspect 38  
2.3.4.5 Emotional aspect 38  
2.3.4.6 Vocational aspect 38  
2.3.4.7 Other aspects 39  
2.3.5 Different phases of public health 39  
2.3.5.1 Disease control phase 39  
2.3.5.2 Health promotional phase 39  
2.3.5.3 Social engineering phase 41  
2.3.5.4 Health for all phase 41  
2.4 Concept of Right and legal rights 44  
2.4.1 Definitions of Right 44  
2.5 Concept of human rights 47  
2.5.1 History of human rights 50  
2.5.1.1 Human rights in ancient times 50
3.6.3.2 Personal practices and coping skills 93
3.6.3.3 Literacy and health literacy 93
3.6.3.4 Gender norms and values 94
3.7 Conclusion 95

Chapter IV Implementation of Right to Health: Role of Government

4.1 Introduction 97
4.2 Reports of various Committees formed for public health 98
4.2.1 Bhore Committee 98
4.2.2 Sokhey Committee 99
4.2.3 Mudaliar Committee 100
4.2.4 Ajit Prasad Jain Committee 100
4.2.5 ICMR/ICSSR Committee 100
4.2.6 Varadappan Committee 101
4.3 Brief Overview of five years plan 101
4.4 Eleventh five year plan (2007-2012) 103
4.5 AYUSH (Ayurveda, Yoga And Naturopathy, Unani, Siddha And Homeopathy) 108
4.6 National Rural Health Mission 2005-2012 109
4.7 National Urban Health Mission (NUHM) 111
4.7.1 Problem statement 112
4.7.2 Coverage 112
4.7.3 Goal of NUHM 113
4.7.4 Key strategies 113
4.7.5 Model 113
4.8 National Health Policy 1983 116
4.9 National Health Policy 2002 117
4.10 National Population Policy 127
4.11 National Policy on Indian Systems of Medicine & Homoeopathy 2002 127
4.12 National AIDS Prevention and Control Policy 129
4.13 Pharmaceutical Policy 2002 130
4.14 Draft National Policy for Persons with Disabilities 131
4.15 National Water Policy 2002 131
4.16 Conclusion 131

Chapter V Right to Health: Indian legislations and International documents

5.1 Introduction 133
5.2 Constitutional provisions relating to health 133
5.2.1 Fundamental rights 134
5.2.2 Directive principles of State policy 143
5.2.3 Other Constitutional obligations 148
5.3 Criminal law and health 150
5.3.1 The Indian Penal Code 1860 150
5.3.2 The Code of Criminal Procedure, 1973 159
5.4 Consumer law applicable to health services 159
5.5 Environment and Health 162
5.5.1 Environment Protection Laws 163
5.5.2 Resource Management
5.5.3 Administration of Environment laws
5.6 Medical laws
5.6.1 The Drugs and Cosmetics Act, 1940
5.6.2 The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954
5.6.3 The Narcotic Drugs and Psychotropic Substances Act, 1985
5.6.4 The Epidemic Diseases Act, 1897
5.6.5 The Transplantation of Human Organs Act, 1994
5.6.6 Legislations for the conduct of Medical Profession
5.7 Occupational health laws
5.7.1 Employees' State Insurance Act, 1948
5.7.2 The Factories Act, 1948
5.7.3 The Maternity Benefit Act, 1961
5.7.4 The Mines Act, 1952
5.7.5 The Plantation Labour Act, 1951
5.7.6 Workmen's Compensation Act, 1923
5.8 Women and health laws
5.8.1 Pre-conception and Pre-Natal Diagnostic Techniques (Regulation and prevention of misuse) Act, 1994
5.8.2 The Medical Termination of Pregnancy Act, 1971
5.9 Children and health
5.9.1 The Child Labour (Prohibition and Regulation) Act, 1986
5.9.2 The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992
5.9.3 The Juvenile Justice (Care and Protection) Act, 2000.
5.10 Food laws and health measures
5.10.1 The Food Safety and Standards Act, 2006
5.10.2 The Prevention of Food Adulteration Act, 1954
5.11 Disability and Law
5.11.1 The Mental Health Act, 1987
5.11.2 The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995
5.11.3 The National Trust (For welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities) Act, 1999
5.11.4 The Rehabilitation Council Act of India (RCI, 1992)
5.12 International human rights instruments
5.13 The Universal Declaration of Human Rights
5.14 The International Covenant on Civil and Political Rights
5.15 International Covenant on Economic, Social and Cultural Rights
5.16 Convention on the Elimination of All Forms of Discrimination against Women
5.17 Convention on the Elimination of All Forms of Racial Discrimination
5.18 Convention on the Rights of the Child
5.19 Convention against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment 219

5.20 The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 219

5.21 The Standard Minimum Rules for the Treatment of Prisoners 219

5.22 United Nations Rules for the Protection of Juveniles Deprived of their Liberty 222

5.23 Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 225

5.24 Declaration on the Rights of Mentally Retarded Persons 226

5.25 Principles for the protection of persons with mental illness and the improvement of mental health care 226

5.26 Universal Declaration on the Eradication of Hunger and malnutrition 227

5.27 Declaration on the Rights of Disabled Persons 228

5.28 Convention relating to the Status of Refugees 229

5.29 Regional human rights instruments 229

5.30 World Health Organisation 231

5.30.1 Health Organization of the League of Nations 231

5.30.2 Second World War and health in the Region 231

5.30.3 The word 'Health' in the UN Charter 232

5.30.4 The 'Magna Carta' of Health 233

5.30.5 Constitution of the World Health Organization 234

5.30.6 Concept of 'Health' in the Bill of Human Rights 235

5.30.7 World Health Day 235

5.31 Alma Ata Declaration 236

5.32 Conclusion 238

Chapter VI Judicial Activism in Protection of Right to Health 241

6.1 Introduction 241

6.2 Protection of Right to health during Emergency 243

6.3 Workers right to health 249

6.4 HIV patients and their rights 259

6.5 Prisoners' right to health 263

6.6 Violation of right to health in Protective home/mental hospitals 267

6.7 Children's' right to health 271

6.8 Increasing Pollution level and the right to health 275

6.9 Ban on public Smoking to protect right to health 279

6.10 Shortage of Food and right to health 281

6.11 Medical negligence cases 283

6.12 Unqualified medical practitioners and risk to public health 289

6.13 Effect of Drugs and Medicines on health 296

6.14 Neglect of duty by the public authorities 298

6.15 Conclusion 300
Chapter VII Conclusion and Suggestions

7.1 Introduction 302
7.2 Conclusions drawn by the Researcher 303
7.2.1 A Paradigm shift in the concept of health 303
7.2.2 Ensuring right to health care: a challenge for government 304
7.2.3 Legislations pertaining to health issues 305
7.2.4 Health care: recognized at the International level 307
7.2.5 Role of judiciary: laudable 307
7.2.6 Lack of awareness and information leads to violation of right to health 309
7.2.7 Lack of health awareness by the Government and the Role of media 310
7.2.8 No effective steps taken to implement the Constitutional obligation 311
7.2.9 No Minimum standards of health care formulated by the government 312
7.2.10 Lack of resources in Government hospitals 313
7.2.11 Legal procedures and formalities in emergency violates human rights 313
7.2.12 No priority given to cases relating to health 314
7.2.13 Liability of health providers under criminal laws 315
7.2.14 Medical negligence and right to health 316
7.3 Suggestions 317
7.3.1 Need for new laws and need for amendments in the existing legislations 317
7.3.1.1 Amendments required in Criminal Laws 317
7.3.1.2 Women's health legislations required 318
7.3.1.3 Regulation of Private hospitals needed 319
7.3.1.4 Need to amend Consumer Protection Law 319
7.3.1.5 Protecting rights of HIV patients 320
7.3.1.6 Changes required in the Mental Health Act, 1987 320
7.3.1.7 General Suggestions regarding need for legislations 321
7.3.2 Need to define the role of executive for health sector specifically 321
7.3.3 Role of media 323
7.3.4 People's participation and Sensitization 323
7.3.5 Health budget 323
7.3.6 Shortcomings of National Health Bill 324

Bibliography

Abbreviations

Annexure:

National Health Bill