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Health as Human Rights under National and International Legal Framework: Bangladesh Perspective

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Few would dispute that good health is fundamental to a full and active life. It is the key to wealth and prosperity. Good health contributes directly to economic growth while poor health drives poverty. The right to health is considered directly in many international instruments including the World Health Organization. Every single country in the world is now a member of at least one of the many international instruments where health is treated as a human right. Sound health is a precondition to enjoy right to live peaceful. This right to health is guaranteed by the Constitution of the People's Republic of Bangladesh. If anybody in Bangladesh is deprived of enjoying his life then he can go to the court in order enforce his right. This paper aims at giving an overview of legal and regulatory framework of different international legal instruments and national laws of Bangladesh relating to healthcare and shares the response of Bangladesh Government in relation to the framework.

Keywords

Health, Human Rights, World Health Organization, Fundamental Rights, Fundamental Principles of State Policy, International Human Rights Instruments, Laws of Bangladesh

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I. Introduction

Few would dispute that health is wealth which is fundamental to a full and active life.¹ Good health contributes directly to economic prosperity, while poor health leads to poverty. According to Nobel Laureate Amartya Sen, men can enjoy the maximum freedom when they are free from health problem.² Securing health is therefore important to human well-being. Against this backdrop, the right to health is considered directly in many international instruments. As the World Health Organization (“WHO”) has revealed that every country in the world is now a member of at least one of these international instruments,³ few people dispute that sound health is a pre-condition to enjoy the right to life.

As the traditional police state redefines its role in the welfare state system,⁴ State not only performs sovereign functions, but also seeks to ensure social security and welfare for people. Health is what most countries put the highest priority on. This paper aims to examine how various international legal instruments view the physical and mental health issue from the perspective of human right. In addition, it explores how it is applied to the national law of Bangladesh. The human right to health has been always embodied within the “right to life.” Unfortunately, the “right to health” has not received considerable attentions in many parts of the world, including Bangladesh. This paper intends to initiate the discussion about such an important and timely issue and to provide guidelines for the countries on how to determine their international obligations to support it.

This paper is composed of four parts. The first part will discuss conceptual issues in health and human rights, etc. The second part will analyze the provisions relating to health in different international legal instruments. The third part will address questions on the implementation of international human rights instruments. The final part will discuss how Bangladesh government handles the issue of health as human rights at the national level.

¹ For details, see L. DOYAL & I. GOUGH, A THEORY OF HUMAN NEED (1991).

² S. Amartya, *Health in Development*, 77 BULL. THE WORLD HEALTH ORG. 619 (1999).

³ WHO, HEALTH AND HUM. RIGHT, available at <http://www.who.int/hhr/en/> (last visited on Nov. 11, 2008).

⁴ The phrase ‘Welfare State’ was probably first used by Archbishop William Temple in 1941 in his pamphlet “Citizen and Churchman.” See P. GREGG, THE WELFARE STATE 3-4 (1967).