

HEALTH CARE ROLE IN ENSURING RIGHT TO HEALTH: HISTORICAL PARADIGM AND CURRENT STATE OF AFFAIRS

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Abstract

Modern anthropological paradigm views health as the superior human value and the right for health is declared as a crucial concept within international and regional law.

Contemporary challenges to human health affect countries across the continents. However, the right for health is still to be fully implemented into the international and national administrative policies and health care services.

The research hypothesis states that the right for health turns from declaration into proactive practice only if the State views this right provision as one of its top priorities regarding its mission, governance and administration.

The research goal is to explore the implementation of the right to health within different national contexts in a diachronic perspective.

The research rests on the qualitative methodology, uses the comparative and historical approaches to the data, follows inductive analysis pathway by collecting concrete examples for further generalizations and recommendations.

The research materials include data from academic research, national legislations regarding the topic under the study.

The research findings reveal how the concept of the human right for health was being shaped and mapped within larger human rights dimensions across history.

The paper concludes with recommendations on balancing the international and national policies regarding the issues of human right for health provision.

Keywords: international law, human rights, right for health.

1 INTRODUCTION

Today, human health is recognized as the highest value, and the right to health is enshrined as an important human right in many international legal acts of a universal and regional nature. It is worth noting that the topic of health law and its interaction with other fundamental human rights [1.S. 69-82] has come to the fore

due to a new approach to understanding human rights at the international level and to certain factors underlying the process of bringing the right to health to the fore. One of these factors is related to healthcare history. This article will review the history of health care, and highlight the process of developing and promoting the concept of the right to health.

Of course, the history of health care, as well as the history of human rights itself, is complex and controversial. Throughout the history of mankind, such threats to health as infectious diseases, poor sanitary and hygienic living conditions, low-quality drinking water and the difficulty of obtaining medical care have been the reason that caused increased public concern. To better present the situation it is essential to refer to specific examples across history.

1.1 Research Hypothesis

The research hypothesis states that the right for health turns from declaration into proactive practice only if the State views this right provision as one of its top priorities regarding its mission, governance and administration.

1.2 Research Goal

The paper aims to explore the implementation of the right to health within different national contexts in a diachronic perspective.

The goal requires a number of tasks to be implemented, including search for and analysis of best practices of national policies with regard to the implementation of the human right under study, identification of changes regarding scale and instruments to ensure the right to health within civilizations historical development, study of the state role in this process.

1.3 Research Methods and Materials

The research rests on the qualitative methodology, uses the comparative and historical approaches to the data, follows inductive analysis pathway by collecting concrete examples for further generalizations and recommendations.

The research materials include data from academic research, national legislations regarding the topic under the study.

2 RESEARCH FINDINGS

2.1 Attitude to Healthcare in Ancient History

If we talk about Ancient India, then it can be noted that already at that time "the bathing rooms were equipped with a sewage disposal system with closed sewers, and in ancient Greece, in turn, there was a developed pipeline system" (Rosen 2015, pp 1-4), as was discovered during excavations in Egypt, Troy and the cities of the ancient Incas, archaeologists also discovered aqueducts and sewage systems.

Professor D. Porter in his work notes that since ancient times, the state have paid attention to the system of medical services provision to the population, the creation of appropriate health institutions and the training of medical personnel. Professor D. Porter also cites as an example the fact that "the experience of medical care in the Greek city-states extended to the conquered territories, and later to the territories occupied by the Roman Empire" (Rosen 2015, pp. 1-3). In addition, the Romans knew well that the cause could be just as harmful or dangerous production factors, and as a result, by the 2nd century AD, a medical service was created, where the main duty of doctors was to provide medical assistance to poor citizens, including the provision of free services.

As for the Middle Ages, it should be noted that "under the auspices of the Church, municipal activities were launched to ensure the health of citizens." Of course, these medieval municipalities did not have an organized health care system like the one we are accustomed to see it today. But despite this, they still had administrative resources to carry out disease prevention and to ensure sanitary and hygienic supervision. It is measures of this kind that testify that the authorities back then had an understanding of the need to deal with health issues related to maintaining the health of citizens and to ensure their access to medical care. But with all this, we should not forget that measures to ensure the health of the population, taken in the past, were deprived of the scientific knowledge, thanks to which in our time it became possible to prevent and treat many diseases.

It should also be noted that the existence of collective measures aimed at maintaining the health of the

population throughout the entire period of development of human civilization does not mean that the right to health at all times was a kind of embryo of a concept that expected favorable conditions to stimulate new growth. Rather, collective health measures taken throughout human history in the areas of water supply, sanitation, education, access to health care, and decent nutrition were dictated frequently by complex and conflicting factors. These factors should primarily include the humanitarian aspirations of secular philanthropists and religious organizations to show mercy and support towards the sick and dispossessed. In addition, economic and political considerations played an important role in the history of healthcare.

2.2 Changes in Attitude to Healthcare in 16th-19th Centuries

From the 16th to 18th centuries the health care system was formed in accordance with the needs of the modern state expressing the interests of the nation. For example, under the influence of the philosophy of the Most Holy Absolutism among the Germans, it was stated that the monarch was responsible for protecting the health of the people and a plan was drawn up to create a "medical police" that carried out certain health policy through administrative measures. Medical police have successfully coped with sanitation being improved in major cities in Western Europe and the United States throughout the nineteenth century.

Within the framework of the processes taking place during that period, the social and religious considerations that underlay the initiatives in the field of healthcare were gradually supplanted by political ones, which corresponded to the state's desire to expand its area of authority. Professor G. Rosen, one of the researchers of this topic, believes that "problems related to health and morbidity were considered primarily in close connection with the task of maintaining public health, which in turn should have provided political and economic power of the state." And accordingly, the concept of the individual's right to health was not the concept the states relied in ensuring the health of citizens. (Rosen 2015, p. 90).

Subsequently, the growth of scientific knowledge led to the emergence of experts in the field of health care, who took dominant positions in the management of the health care system and "contributed to strengthening professional positions of medicine in the field of healthcare and disease control" (Cane, Johnson 1993, p. 150).

Obviously, such a position can hardly be considered as the basis for the formation of the right to health. But there are other opinions of analysts who believe that "there are sufficient grounds for a different interpretation of the history of health care" (Detels et al 2009, pp. 25-27).

Professor G. Rosen, for example, is of the opinion that political leaders of that time had a growing understanding that they were responsible for creating "conditions and opportunities for developing health care, preventing morbidity, and accessibility of health services for those who need them" (Rosen 2015, pp. 91-92).

Subsequently, the idea that it was the state, and not local governments that should be responsible for the health of each of their citizens was gradually taking over the minds. In order to explain this phenomenon, Professor D. Porter advanced the thesis that "the most important ideological influence on the debate that took place at the end of the 18th century on the state's attitude to health problems was the philosophy of the Enlightenment on Democratic Citizenship and the American revolution "(Porter 1999,p. 57).

This trend was critical to the success of the health care system. And accordingly, it meant a decisive transition from a model in which health initiatives were taken in the interests of the state to a model in which the focus was on the role of the state in ensuring the health of citizens.

2.3 Attitude to Healthcare in American and French Models

At one time, Jefferson failed to include the right to health in his list of inalienable human rights. Nevertheless, he was well aware of the relationship that exists between the state political system and the health of citizens. He was convinced that "the population suffering from diseases is the product of an unhealthy political system" (Porter 1999, p. 57). However, all this did not mean that they should have the right to health, but on the contrary, Jefferson believed that guaranteeing the right to freedom and the search for happiness would automatically lead to a healthy life, that is, life without disease. This position is a classic example of the ideology of libertarianism regarding human rights, where the state is not recognized to have any active role in ensuring the very happiness to which, according to Jefferson, all people have every right.

Unlike the creators of the American model, French public and state leaders of that time already realized the need for the state to play a more significant role in ensuring the health of its citizens (Ramsey 1994, pp.45-49). Although the French revolutionaries in 1789 did not include the concept of "health" in the original text of the "Declaration of Human Rights" (Abashidze 2009, pp. 209-214), but as far back as " 1791 the Committee

of the Constituent Assembly on health issues included the concept of "health "in the obligations of the state towards citizens" (Porter 1999, p. 144), and in 1793 and 1974. "Adopted a series of laws that formed the basis of the national social assistance system, including medical care for the population" (Rosen 2015, p. 145).

It is also worth noting that the implementation of all these initiatives was at first hampered by a lack of funds, as well as serious disagreements in society on how to ensure the right to health. It is these themes that are today the basis of the modern understanding of the right to health. In addition, "the contradiction between loyalty to the ideals of freedom in the understanding of revolutionaries, namely (economic freedom and the protection of private property) and the strategy that was necessary to protect the right to health turned out to be quite problematic" (Rosen 2015, pp. 45-50).

In the middle of the 19th century there was a growing awareness that taking measures to prevent diseases is the right economic step. "It was the recognition of the economic and social costs associated with morbidity that served as a powerful incentive for further actions aimed at strengthening the public health system" (Porter 1999, p. 185). The serious attitude towards rights that was characteristic of the Enlightenment, although "it still raged in the hearts of French and German revolutionaries, remained unclaimed when developing state health policies" (Porter 1999, p.. 8).

2.4 Attitude to Healthcare in the UK

Industrial society, with its harmful living and working conditions, has become a source of serious health problems, such as epidemics. Particularly vivid manifestations of new health problems in cities were cholera epidemics in 1832 and 1849. And when politicians realized the social consequences of the diseases, they began to develop public health measures that would raise the standard of living. There is no doubt that the public health movement originated in England, in the same place where the industrial revolution began. In 1834, there was adopted the "Law on the poor, which replaced the previous, imperfect law, adopted in the 17th century under Queen Elizabeth" (Rosen 2015, pp 3-14). This Law provided for the creation of a commission on the poor. In 1842, the commission published a report that focused on the relationship between the state of the environment (good water supply, timely removal of sewage) and the incidence of urban residents' morbidity. The result was the adoption in 1848 of the Law on Public Health, which provided for the creation of a centralized system of health departments.

Further in the UK innovations in the health care system also took place on the basis of a centralized state system, which led to the creation in 1911 and the subsequent expansion of the national health insurance system. At the same time, this model was based on such values and criteria as fairness and rationality; therefore, it was considered as "correct and good", providing medical services of sufficiently good quality and the necessary scope of all citizens of the country (Hamlin 1994, p. 132).

The same centralized model of the national health care system is also inherent in France, but it bore the imprint of "certain voluntarism and local approaches" (Ramsey, 1994).

2.5 Attitude to Healthcare in the USA

It is advisable to turn to another example, namely, the political philosophy of the United States regarding the problem of health care. This philosophy was based on the principles of non-interference in the economy and unlimited freedom of entrepreneurship. In essence, this was a significant obstacle to the reform of entrepreneurship in order to create a centralized national health care system throughout the nineteenth century.

Americans were disgusted with the collective communal policy, which was necessary for the implementation of health care reform, because they associated this policy with the paternalistic model of public affairs management - after all, this model was "replaced with a value system in which the main importance was attached to absolute personal freedom of citizens. " Reforms, where they took place in the United States in the 19th century, were private, local. And these reforms "bore the distinct imprint of Puritan morality regarding social purity and piety." At the same time, in the USA, as Professor D. Porter notes, "the new technocratic ideal gained more and more weight, but it could not reverse the deep-rooted distrust of Americans towards a paternalistic centralized state and their belief in the priority of local rights over national ones" (Porter 1999, p.147).

However, at the end of the 19th century in the United States, as a pragmatic response to a situation when there was a sharp resentment in society about the excessive wealth and privileges of some and the poverty of others, the idea of creating a national health care system in the form of social reform began to gain

strength. The reason for this situation was the social impoverishment of the masses as a result of the turbulent processes of industrialization and urbanization. As a result, a socially heterogeneous movement emerged, which included scientists, doctors, engineers, municipal employees, architects, lawyers, and women who “strive to throw off the shackles of domestic routine duties”, which began to come up with slogans to improve medical care and demand that the authorities draw more attention to solving problems of such social components of the concept of “health” as housing conditions (Porter 1999, p. 234).

It should be noted that the history of the birth of social and economic rights in North America is significantly different from the situation with rights prevailing in South America, where states tried to escape from the dangers associated with the manifestation of extreme individualism and collectivism. Many North Americans, just like South Americans, increasingly came to realize that freedom proclaimed by Jefferson might have been necessary, but it is not a sufficient guarantee of a happy life and well-being. The state is obliged to do something more than not to interfere in civil and political rights if it is really concerned with the problem of ensuring normal health for its citizens and creating conditions for a normal and happy life for them.

With the advent of the 20th century a number of events helped the US to form a national consciousness in understanding the importance of the relationship between health care and the state. The Americans began to see these relations as an “example of a successful economy,” which would preserve the “national spirit”. They began to realize that young people should have excellent health to replenish the ranks of the US Army. In connection with all this, after the end of the Great Depression, the provision of national health financing from the federal budget became one of the main parts of the Roosevelt plan.

3 DISCUSSION

Summarizing the historical review of the situation in Europe and the USA it is possible to state secret that the industrial revolutions were characterized by terrible working conditions of workers and poverty, which acquired enormous proportions and created “the platform through which society could revive a dialogue about the need to respect human rights, first of all socio-economic” (Lauren 2011, p. 294). It was acknowledged that poverty and the deplorable state of people's health are links of one and the same chain, “and it was this that prompted citizens who have an active social position, doctors, clergymen, social workers and government officials to search for common points of contact for the start of active actions” (Lauren 2011, p. 294). These joint efforts and actions of local social movements in support of these initiatives were aimed at combating infectious diseases, ensuring normal working conditions and reducing child mortality.

It was humanistic ideals that inspired such initiatives that were formed largely under the influence of the working-class political movement, which was becoming more and more organized. And workers began to come up with the requirements of the provision of “various social services, including medical” (Rosen 2015, p. 203).

The result of these trends was the creation in 1919 of the International Labor Organization (ILO). This is a prime example of how “states were involved in the development and implementation of health initiatives” (Rosen 2015, p. 203).

Obviously, it is impossible to fully highlight the complex history of the development of health care in each individual country, but it is realistic to trace how specific states influenced the modern understanding of the right to health.

As an example, let us turn to the USSR, where the obligation to provide medical services to all citizens was realized through the creation of a centralized health system, “and medical services under such a system were provided to citizens free of charge. At the same time, there was practically no private medical practice in the country, and patients could not choose a physician for themselves (Kaufman, Becker, 1986).

It should also be noted here that the history of public health comes into contact with the history of human rights and as a result the idea is born of the need to enshrine the right to health in international law. This happened at a time when states - not all, but many - were strengthened in the conviction that there was a need to build a new world order for humanity on the foundations of justice, which is - as stated in the Preamble of the Universal Declaration of Human Rights - “ a task that all nations and states should strive to implement. ” And human rights, including the right to health, which at the turn of the century and at the beginning of the 20th century was viewed as “a political force that lost its relevance”, in which “there was hardly any intellectual content” occupied a key position in the performance of this task.

As the entire history of health care shows, in the absence of collective actions aimed at providing medical services and protecting health, the humanitarian, economic and political consequences are deeply negative

for both nations and states. It was on the basis of this conclusion that scholars were able to assert that the work on "developing national health care and preventing diseases in society" was recognized as "an obvious duty of the state" (Porter 1999,p. 358). Henceforth, the concept that the state bears full responsibility in the field of protecting and promoting the health of citizens is closely intertwined with the fact that the state is obliged to recognize the right of every person to the enjoyment of the highest level of health. The fact that the right to health was officially enshrined in international law is not only the result of a political struggle for the triumph of justice after the end of World War II, but also recognition of this right was the culmination of a number of factors - political, economic, philosophical, humanitarian and religious, who have acted for millennia in such areas as the health of people and nations.

The cumulative effect of all these factors yielded a result, and at a certain point in human history, a quite definite idea of the role of the state in the field of human health appeared in the world.

Western scientists are trying with all their might to justify the fact that, historically, the right to health dates back to the Enlightenment and the birth of the Latin American philosophy of human rights. Based on their opinion, such an approach suggests that the ideological basis of the right to health is a combination of liberal ideas and recognition of the need on the part of the state to smooth over the costs that arise as a result of excessive liberalism and capitalism. They believe that the right to health cannot be reduced to a simple expectation of better times, reflecting a utopian ideology, the distinctive features of which are the impossibility of its practical application and, in general, an unrealistic character. And the state, which is unable to deal with health issues, is undermining its economic potential and creates a threat of instability in society, causing damage to its global strategic potential.

4. CONCLUSION

In conclusion, it should be noted that the entire history of health care shows that in the absence of the right to health, all the peoples of the world recognized the need to take action to protect public health. The emergence of the right to health contributed to raising the status of the individual within the framework of the implementation of the decision-making mechanism by states, since it was aimed at ensuring the protection of people's health at the legal and state level, and not only on the basis of considerations of instrumentalism. Within the framework of the implementation of this right the question is: in whose interest are these actions applicable? The answer to this question is simple - in the interests of all. And based on this, the inclusion of the right to health in the body of international law reflects an attempt to create a governance structure that was not based solely on the traditional Westphalian system of state sovereignty, in which state interests serve as the main reason for taking certain steps in the field of health protection at national level or internationally (Filder 2004, p. 108). And in contrast to this system in the new system of international relations, which was formed largely due to the adoption of the UN Charter of 1945, the Universal Declaration of Human Rights of 1948 (Abashidze 2009, pp. 209-214), as well as the WHO Charter of 1946, the status of the individual and his right to health was significantly enhanced. And as a result of such changes in the world, the fact that the right to health is also specified in international law does not raise any objections to anyone today, since it is indisputable.

The research findings showed how the concept of the human right for health was being shaped and mapped within larger human rights dimensions across history.

The research findings and discussion lead to the recommendations for international and national regulatory bodies to balance the international and national policies regarding the issues of human right for health provision.

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