

THE RIGHT TO HEALTH OF THE POPULATION - HUMAN RIGHTS INSTRUMENTS ADOPTED BY THE UNITED NATIONS

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Abstract

Instruments for human rights progression adopted by the United Nations (UN) are essentially judicial mechanisms that protect human beings both universally and regionally (Humphrey J.P., 2002). Today, the human being is the supreme value that should be sheltered and helped break through in the perspective of international judicial relationships. The International Charter for Human Rights is the nucleus of international recognition for basic human rights, with its basis being the main treaties from the Universal Declaration of Human Rights (Purdă N., Diaconu N., 2007). These documents which deal with global aspects of human rights are supported by approximately 50 other international treaties, declarations and resolutions adopted by the UN.

Key words: Human rights, right to health, instruments, United Nations

INTRODUCTION

Basic human rights have been stated clearly in general instruments such as the United Nations (UN) Charter, the Universal Declaration of Human Rights, international pacts referring to civil and political rights, etc. but only some of these rights have become instruments in their own shape over time. In the practice of international law we can find several series of rules and obligations of states regarding respecting and promoting the fundamental liberties and rights of human beings, including sanctions for blocking these existing norms (Mazilu M. 2009, Diaconu I., 2008).

In the context of constant economic and social progress, the UN firmly underlines aspects which deal with human rights such as: recognizing equal rights between all peoples, the right for them to decide their own faith, the right to economic development and a free society. Thus, through their nature, the question of human rights needs to be dealt with on a state-by-state basis (Vicol C. M., 2013).

MATERIAL AND METHOD

This article approach public health problems through human rights as an effective right of every citizen. People need to protect and improve their

own health. We analyzed Institutions, mechanisms and guaranteeing instruments of health right, both at global and European context.

RESULTS AND DISCUSSION

Instruments of a universal character adopted by the United Nations

International human rights legislation has evolved from general instruments towards concrete resolutions which are also punctual. Through different conventions and pacts adopted by the United Nations and its specialized organisms there have been a number of specific rights which have been implemented to cater for different categories of people (women, children, etc.) and also the collective good (ethnic minorities, religious minorities, etc.). There are also other complex rights such as solidarity or development which raise the issue of obligations towards the community (Popescu Gh., Velişcu V., 2008). The United Nations Charter was signed in 1945, and the dispositions regarding human rights were considered highly important at the time. The Charter has favored perfecting the international system for human rights over time, beginning with the Universal Declaration of Human Rights in 1948.

The World Health Organization's (WHO) constitution, adopted in 1946, establishes a series of principles regarding health and defines health as a concept that is still in use today. It also specifies the fact that a fundamental condition for peace and security in the world is the overall health of the entire human race, with health being a fundamental right for every human being (Suceava I., 1997).

The right to "the highest level of health" means that each and every individual has the right to cater to his own health with the use of healthcare systems put in place by the national and international bodies and also through other resources such as clean water, adequate food, shelter and clean environments (Suceava I., 1997). This right includes the access to high-quality and affordable healthcare systems as well as to information regarding health issues. The public health system is the guarantee of the quality of life of an individual and also one of the most important political instruments which the government needs to perfect in order to obtain high social standards for the population it represents.

Human rights instruments adopted by the United Nations

The Universal Declaration of Human Rights deals with both civil and political rights as well as economic, social and cultural principles.

The right to live of every citizen is conditioned by the state of his health. When citizens cannot afford accessing basic healthcare instruments due to their cost, the "right to life" as defined by Article 3 of the Universal

Declaration of Human Rights (“any human being has the right to life, liberty and his own safety”) (Universal Declaration of Human Rights, 1948) becomes a principle without any substance. In other words, the right to health is underlined and enforced as a fundamental right depending on individual responsibility, without referring to the social responsibility for health or containing ways to protect citizens in regards to this aspect or what states should do to help (Vicol C. M., 2013).

The notion of social responsibility as a factor of state involvement in promoting and protecting these rights is stipulated in the Universal Declaration on Bioethics and Human Rights – UNESCO, which underlines the importance of health and access to healthcare as “essential to life itself and needs to be considered a social and human greater good”. According to this document the systems put in place to offer healthcare need to be structured and based on protecting and respecting these rights. To strengthen this responsibility, the WHO promotes the concept of performance in a healthcare system, with indicators such as the population’s state of health, equality in financial contributions and the capacity to respond to the needs and expectations of the population. Some of the more important determinants for a clean and healthy life are considered to be: good conditions for work and living, sanitation, clean running water, adequate food, clean environments and shelter. These factors have an important role to play in determining the overall level of health, perhaps more important than biologic or social factors, a concept which is stated in a WHO study which shows that the influence of biological factors is of 15% and physical factors 10%. Looking at things this way, the interdependency between ensuring a minimal state of health for the population and guaranteeing the right to health obliges the state to intervene in order to fight poverty, promote social protection policies which will ensure adequate living conditions and offer a clean environment to its people.

The right to health attracts attention towards some economic and socio-cultural determinants of one’s level of health and, in general, of wellbeing. Thus, there is a clear connection between poverty and sickness and between development and public health system (Meier B., M., Fox A., 2008). Other authors underline the fact that appealing for a right to health, although not helping resolve complex problems in development, separates the problem of accessing a minimal level of healthcare instruments from the economic market fluctuations and inequalities created by the inadequate distribution of wealth (Arras J., Fenton E., 2009). Because there is no legal framework in place which could regulate and dictate sanctions for no minimal interventions from the state in the area of assuming social

responsibility, we can notice a disproportion between the right itself and the actual value of it on a daily basis, meaning that the individual is responsible for his health and cancelling the social responsibility component – in other words an individual's poor state of nutrition or hygiene is his own fault because he does not have enough material resources to follow a correct diet and treatment. However, from another perspective, the medical personnel is stigmatized and considered responsible for all the problems pertaining to the system such as lack of medication and medical instruments, not enough personnel or specializations or problems in the state laws themselves and is sanctioned accordingly by public opinion through images of professional incompetence, instead of the actual people who decide any intervention and thus escape any social responsibility and stigma.

Because of these facts, the states and the international organizations they created as well as the non-profit organizations need to safeguard and ensure the respect for judicial norms through adequate techniques and methods for respecting human rights and a guarantee of their correct and effective implementation whenever necessary.

CONCLUSIONS

The state of health of every individual and of the population in general conditions the right to life. The right to health is stipulated, regulated and recognized as a fundamental right, but in order to exercise this right there needs to be both individual and social responsibility for health which will in turn condition and create ways to protect this right and decide the contribution of every state in respecting it.

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