

# International Health Regulations and Role of State to Protect Health in India with Special Reference to International Health Regulation 2005: A Critical Study

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## ABSTRACT

The apt observation by the great philosopher of India, Mahatma Gandhi emphasizes the importance of health and healthy person. The health of any nation is dependent on health of individual and society. The protection of public health is responsibility of state. It ensures the physical and mental wellbeing of individual to enjoy the life to fullest extent. The ill health is root cause for many problems including dirt, disease, poverty etc. The right to health is one of the cherished rights recognized and protected at national and international level. It is responsibility of state to enable every individual to protect health of individual.. There are several international instruments provided for regulation of regulation of health of individual. The International Health Regulations 2005 is adopted by World Health Assembly. It specifically provides for responsibility of state to develop capacity to detect, protect and to respond the public health crisis and risks. It also requires the state to coordinate with WHO on any issue on concern on public health which may create danger to world health. The recent example of CORONA emerged as challenge before the public health which is tackled with coordination and cooperation The present research explores the international health regulation and duties of state with special reference to public health in India. The International treaties and pacts are binding on state once it is signed by state. The signatory state shall implement the obligations created by it. India is signatory to many instruments. This research further explored the laws and measures and health system provided by India for implementation of international health standard as provided by international health regulation. The research critically examined the loopholes in implementation of such regulations. The research concludes that IHR is crucial initiative by WHO to disease surveillance and prevent disease outbreak endangering world health. It suggests that government must strengthen public health system in coordination with organizations like WHO.

**Keywords:** International, Health, Regulation, State, India,

It is health that is real wealth & not pieces of gold & silver- Mahatma Gandhi

## INTRODUCTION:

The apt observation by the great philosopher of India, Mahatma Gandhi emphasizes the importance of health and healthy person. The health has pivotal role in wellbeing of individual, society, Nation and world

also. It ensures better quality life for individual and provides opportunity of development of nation. The health of any nation is dependent on health of individual and society. The protection of public health is responsibility of state. It ensures the physical and mental wellbeing of individual to enjoy the life to fullest extent. The ill health is root cause for many problems including dirt, disease, poverty etc. The right to health is one of the cherished rights recognized and protected at national and international level. It is responsibility of state to enable every individual to protect health of individual. The healthy members of every nation lead to healthy environment at global level.

The present research article aims to emphasize the importance of protection of health at international regulations and it further aimed to explain the state responsibility to protect the health of its citizen as per the international health regulation along with the measures provided by our government to implement international health regulation 2005 through various schemes at national and state level.

### CONCEPT OF HEALTH:

The concept of health can be understood in holistic approach to living of person. It cannot be limited to freedom from particular disease. Therefore, we should understand the dictionary meaning of health. According to Cambridge dictionary, health is defined as the condition of the body and the degree to which it is free from illness, or the state of being well<sup>1</sup>. It makes reference to freedom of body from illness and well state of living.

According to Merriam Webster Dictionary, health is defined as the condition of being sound in body, mind, or spirit<sup>2</sup>. It makes reference to physical, psychological wellbeing of individual. It provides the required conditions of body to be referred as healthy person.

The Constitution of World Health Organization which came in to force in 1948, defines health as state of complete physical, mental and social well-being and not merely the absence of disease or infirmity<sup>3</sup>. The definition by WHO seems to have holistic approach and indicate that physical, mental and social wellbeing of individual are integral parts of health. Therefore, health is not restricted to absence of illness or disease or absence of any infirmity.

The physical health relates to healthy body of person without sufferance of any physical wound whether external or internal. The mental health relates to psychological balance in body which controls behavior of person in balanced manner. The psychological disorder disables from living health life. The social health of person is closely related to physical and mental health. It allows person to make and maintain social relation among the members of society.

In nutshell health can be defined to understand living of human being in such physical, mental and social state where the person is living the life to fullest extent without any type of disease, disability or infirmity. The right to health is one of the cherished and recognized right at all over the globe.

### HEALTH IS WEALTH:

According to Mahatma Gandhi, as referred by Ms. Mittal Chauhan, Dept. of Sociology, M.N.W. College in his article Gandhian Views on Health, it is health that is real wealth and not pieces of gold and silver<sup>4</sup>.

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<sup>1</sup> <https://dictionary.cambridge.org/dictionary/english/health> (Last visited on 08 Oct. 23)

<sup>2</sup> <https://www.merriam-webster.com/dictionary/health> (Last visited on 08 Oct. 23)

<sup>3</sup> <https://www.who.int/about/governance/constitution> (Last visited on 08 Oct. 23)

<sup>4</sup> Chauhan Ms. Mittal, Gandhian views on Health, available at : [https://www.mkgandhi.org/articles/g\\_health.htm](https://www.mkgandhi.org/articles/g_health.htm) (Last visited on 08 Oct. 23)

There could not be comparison between health and wealth.. The healthy person may create tons of wealth, but unhealth or deteriorating health may result in loss of wealth in treatment expenditure. The ill health can be one amongst the causes of poverty.

The productivity and income of person is directly connected to the health of individual. The healthy workforce may bring prosperity and it will cause growth of national economy. It provides financial stability to individual, industry, society and nation. It will automatically benefit the global community. The issue public health is not a national issue but it becomes global issue of concern as it was evidenced by corona as global disease. Such types of diseases may affect global wealth.

### **STATE RESPONSIBILITY FOR PROTECTION OF HEALTH:**

According to John Lock<sup>5</sup> the concept of state is emerged as need for protection to its peoples. The modern form of state as welfare state has assumed role of caterer of protection and wellbeing in all spheres of life. The welfare state, in which the government was held to be responsible for the survival of its members, guaranteeing subsistence to those lacking it<sup>6</sup>. Therefore, the modern state is also under obligation to protect health of its members. The pandemic of corona was taken by all states as responsibility for its treatment. The Protection of public health is basic responsibility of state. The state shall provide health care services for its members. The services must be of quality to satisfy the need for protection of health. It will include infrastructure and measures with its common fund.

### **INTERNATIONAL HEALTH REGULATIONS:**

The right to health is basic right recognized by numerous international instruments and regulations. These regulations are in the form of declarations, conventions and treaties etc. The organs attached with United Nations playing important role in providing regulations for protection of public health. The followings are some regulations for protection of health.

#### **Universal Declaration of Human Rights, 1948:**

This is basic charter of human rights in world. This document was drafted by General Assembly of United Nations on 10 December 1948 for protection of basic inherent rights of individuals as human right. Therefore, this day is celebrated as Human Rights Day.

Article 25 of UDHR provides as-Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family<sup>7</sup>. This creates a responsibility of State to provide circumstances to enable its citizen to enjoy healthy living standards.

#### **International Covenant on Civil and Political Rights, 1966**

This is a covenant agreed by members to this treaty for protection of basic rights as recognized by universal declaration of Human right. It obliges state parties to respect the basic human rights without imposition of any restrictions but The Articles 12, 18,19, 21 and 22 specifically allow the state to impose restrictions as an exception for protection of public health<sup>8</sup>.

#### **International Covenant on Economic Social and Cultural Rights, 1966.**

This is another international covenant adopted by General Assembly of United Nations on 16 December

<sup>5</sup> <https://www.britannica.com/topic/state-sovereign-political-entity/Hegel> (Last visited on 08 Oct. 23)

<sup>6</sup> <https://www.britannica.com/topic/state-sovereign-political-entity/Hegel> (Last visited on 08 Oct. 23)

<sup>7</sup> Universal Declaration of Human Rights, available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (Last visited on 8 December 2023)

<sup>8</sup> International Covenant on Civil and Political Rights, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> Accessed on 8 December 2023.

1966 for protection of economic, social and cultural rights. It imposes responsibility on member state to implement obligations created by covenant.

Article 12 of Covenant creates responsibility of state to recognize right to health for enjoyment of the highest attainable standard of physical and mental health<sup>9</sup>. This article further provides for states responsibility for reduction of still- birth rate, infant mortality and full development of child, to improve environmental and industrial hygiene. The state is also under obligation to prevent and to treat epidemic, endemic diseases and to provide medical services.

### **Constitution of the World Health Organization:**

World Health organization<sup>10</sup> is an agency of United Nations founded in 1948. This agency coordinates nations for promotion of health and to assure everybody to attain highest level of health. The World Health Organization play leading role in expansion of global health coverage.

The Constitution of WHO is basic document for foundation of World Health Organization. The preamble of the constitution declare that health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity<sup>11</sup>.

The Constitution further declare that enjoyment of highest standards of health is fundamental right of every individual any discrimination. The constitution identifies unequal development in promotion of health and in prevention and treatment of disease in different nations is common danger for world.

Finally, the preamble impose responsibility on nations to secure health of its peoples by providing adequate health provisions and measures.

In short WHO is prominent global agency specially devoted for promotion and protection of health around the world. The WHO has declared various regulations to assure protection of health.

### **INTERNATIONAL HEALTH REGULATIONS 2005:**

International Health Regulation is one amongst numerous regulations agreed by World Health Organization. This agreement is adopted in 2005 which is enforced on 15 June 2007<sup>12</sup>. The basic object of this regulation to implement international health standards to control international disease threats and health risks arising out of commensurate and infectious diseases. These regulations require member state to develop capacity and capabilities to handle health emergencies like CORONA. These regulations replace the International Health Regulations 1967.

Followings are some important features of Regulations provided for promotion and protection of Health:

#### **Part I - Definitions, Purpose and Scope, Principles and Responsible Authorities**

Article 1 of regulation provides definitions like Event as manifestation of disease or occurrence of disease that create potential for disease, Disease is defined as illness or medical conditions. Ill- person is defined as person suffering with physical ailment that may cause public health risk. Infection is defined as development of infectious agent in body of human being causing danger to public health.

Article 2 of Regulation provide the purpose and scope of regulation to prevent, control the international spread of commensurate disease-causing risk to public health.

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<sup>9</sup> International Covenant on Economic, Social and Cultural Rights, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> (Last visited on 8 December 2023)

<sup>10</sup> World Health Organization, available at: <https://www.who.int/about> (Last visited on 8 December 2023)

<sup>11</sup> Constitution of the World Health Organization, available at: [https://apps.who.int/gb/bd/pdf\\_files/BD\\_49th-en.pdf#page=6](https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf#page=6) (Last visited on 8 December 2023)

<sup>12</sup>World Health Organization, International Health Regulations (2005), 2008 ISBN: 9789241580410 available at: <https://www.who.int/publications/i/item/9789241580410> (Last visited on 8 December 2023)

Article 3 provides principles for implementation of these regulation.

Article 4 provides for establishment of National IHR focal points and authorities for implementation of regulations.

#### **Part II- Information and Public Health Response:**

Article 5 Provides responsibility of member state to capacity to detect, assess, and to report the events of occurrence of diseases to WHO. The Who shall collect the information through its surveillance.

Article 6 require member state to notify through National Focal Point, the event within 24 hours to WHO.

Article 7 Require member state to share the unexpected or unusual event to WHO.

#### **Part III – Recommendations**

Part III of regulations provides for recommendations by WHO for prevention of spread of disease. It also provides circumstances and criteria for recommendations.

Article 18 of regulations provides recommendations in respect of persons, baggage, cargo etc.<sup>13</sup>

#### **Part IV – Points of Entry**

Article 19 provide general obligation of member state to provide authorities to designate entry point in territory and to identify and collect the data and send such data to WHO regarding the sources of infections, vectors etc.

Article 20 provides for precaution to be taken at entry point designated as per Article 19.

Article 22 provides role of competent authorities for monitoring the entry of persons and baggage coming from affected area and measures to be taken to remain free from infections.

#### **PART V – Public Health Measures:**

Chapter I of Part V deals with general provisions relating to public health measures.

Article 23 provides health measures that shall be adopted at the time of arrival and departure of travelers. It will include the information relating destination, inspection, non-medical examination, medical examination with consent, vaccination etc. to prevent the spread of infection.

Chapter II of Part V provides special provisions for conveyance and conveyance operators.

It provides that the health measures and recommendations suggested by WHO must be implemented by conveyance operators to keep premises free from infections. It is also applicable to ships, aircrafts, lorries, trains,

Chapter III of part V provides for special provisions for travelers

Article 30 provides provisions to keep suspected traveler under observation. Article 31 provide for medical examination, vaccination, of traveler at the entry only if it is necessary to determine public risk. Article 32 provide for treatment of traveler with dignity without causing any distress or discomfort, without violating their freedom, human right and providing them adequate food, clothe etc. It further provides that state shall provide adequate assistance to travelers quarantined or isolated.

Chapter IV for special provisions for goods, containers and container loading areas. Article 33 requires state parties to use international containers which are kept infections free. The container loading areas must be kept infection free. There must be facility for isolation of containers.

#### **Part VI – Health Documents**

Part VI of the regulations deals with health documents

Article 35 provides general rule that No health document shall be asked to international traveler except the health document issued by or as per regulation by WHO. According to Article 36 the traveler in

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<sup>13</sup> Article 18 Recommendations with respect to persons, baggage, cargo, containers, conveyances, goods and postal parcels.

passion of vaccination shall not be denied the entry at destination of entry. The Article further provides responsibilities of ship master or pilot of aircraft to inform about health conditions of board or aircraft respectively.

#### Part VII – Charges

Part VII provides the responsibility of state that it shall not recover any fees or charge for any medical examination, quarantine or isolation or vaccination made under this regulation. The other services shall be charged as per tariffs as provided by regulations.

#### Part VIII – General Provisions

Article 42 provides responsibility of member state to implement the regulation immediately without delay. Article 43 allow members to apply additional health measures for prevention of spread of event but it shall not violate international norms and tariffs. It shall not be or restrictive nature. Article 44 provides for coordination collaboration and assistance among member states for detection, assessment of event causing risk to public health, it shall include the cooperation in technical support, logistical support. Article 45 provides that health information collected by state as per present regulations shall be kept secret These are relevant provisions under the international health regulations for protection of health. The overall nature of regulation looks effective on paper but similar like other international regulations its effective implementation is not seen effectively. The outbreak of pandemic like corona etc. could not be prevented or controlled effectively with the help of ideal provisions of the regulations.

### **IMPLEMENTATION OF INTERNATIONAL HEALTH REGULATIONS 2005 IN INDIA:**

Indian Constitution is supreme law of land. Article 253 of Indian Constitution provides responsibility of parliament to make law or to enact legislation to give effect to international agreements. India is a member of United Nation and is signatory of various vital international instruments of United Nations and its agencies.

India is a member of World Health Organization. The obligations created by WHO are binding on India. Therefore, the International Health Regulations are binding on India.

Followings are some major steps taken by Indian Government for Implementation of International Health Regulations.

#### **Enactment of Special Legislation:**

Indian Parliament has made special efforts to legislate special Act to give effect to International Legislation by name The Public Health (Prevention, Control and Management of Epidemics) Bill, 2020<sup>14</sup>. The basic object of this Act is to provide for public health and to prevent, control and to manage the epidemics or pandemics. The Chapter II of the Act aims to provide health measures in such conditions.

#### **Establishment of Focal Points Authority: National Centre for Disease Control:**

Indian Government has designated National Centre for Disease Control<sup>15</sup> as National International Health Regulation Focal Point Authority as per International Health Regulations 2005. This is Authority working under the Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India. The NCDC has its headquarters in Delhi<sup>16</sup>. It is responsible for prevention control and management of communicable

<sup>14</sup> Bill No. XVIII of 2020, AS INTRODUCED IN THE RAJYA SABHA ON THE 13TH MARCH, 2020 *available at:* <http://164.100.47.4/BillsTexts/RSBillTexts/asintroduced/pub%20health-E-13320.pdf> (Last visited on 10/ 10/2023)

<sup>15</sup> <https://ncdc.mohfw.gov.in/> (Last visited on 10/ 10/2023)

<sup>16</sup> <https://ncdc.mohfw.gov.in/index1.php?lang=1&level=1&sublinkid=159&lid=168> (Last visited on 10/ 10/2023)

**Establishment of Focal Points or Point of Entry:**

Apart than National Centre for Disease Control Authority the Government has established its several Airports and Department of health as focal points or points of entry. There are Nine Public Health Organizations, Five Airport Health Organizations and 15 Ministries or Departments are identified as national focal points. These POEs are responsible for prevention, identifying events of disease and to provide such response to World Health Organization<sup>17</sup>. The main purpose of these points is to prevent the entry of disease in India from foreign nations through travelers and vice versa. They are also responsible to detect and report the outbreak of disease and take necessary action.

**Development of capacity and Capabilities:**

One of the important goals of International Health Regulations is that member state shall develop capacity and capability to detect, prevent, monitor and to report occurrence of event which is also called as commensurate disease. The Government support of National Centre for Disease Control and Points of Entries designated for above purpose has successfully acquired capacities and capabilities for the purpose of detection, reporting, control, surveillance, preparedness for emergency and prevention of diseases as referred by International Health Organization 2005.<sup>18</sup> According to research published<sup>19</sup> by 2013, India had met most of its goals towards maintaining IHR capacities

**Establishment of International Health Division:**

International Health Division is established under Directorate General of Health Services under Director General of Health Services, Ministry of Health & Family Welfare.<sup>20</sup> All the Nodal offices of Point of Entry in India are members of International Health Division.

The basic function of International Health Division is to coordinate between all national focal points and points of entry and control the spread the disease. It is also responsible for implementation of international health regulations, guidelines and norms through point of entries.

**Health Measures and other guidelines:**

The international Health Regulations 2005 provides health measures and other guideline such as quarantine rules, isolation, treatment, vaccination, Prevention of spread of disease, and guidelines for keeping conveyance places, entry points free from infections etc. These health measures and other guidelines are strictly followed in India. The successful handling CORONA disease is one of the best examples which indicates prepared ness of India to tackle such kind of pandemics in future

**Conclusion:**

India is largest democratic welfare state in the world. The Constitution of India itself recognized the right to health as fundamental right through literal interpretation of Article 21. Health is subject placed in concurrent list. the centra and State Governments constantly working to secure best health services to citizen to afford the opportunity to live the life to fullest extent. The Ministry of Health and Welfare of India government

<sup>17</sup> INTERNATIONAL CO-OPERATION FOR HEALTH & FAMILY WELFARE available at :<https://main.mohfw.gov.in/sites/default/files/8963214569874563.pdf> (Last visited on 10/ 10/2023)

<sup>18</sup> Packer, C., Halabi, S.F., Hollmeyer, H. et al. A survey of International Health Regulations National Focal Points experiences in carrying out their functions. *Global Health* 17, 25 (2021). available at: <https://doi.org/10.1186/s12992-021-00675-7> (Last visited on 10 December 2023.)

<sup>19</sup> Garg, Suneela & Basu, Saurav & Dahiya, Neha. (2017). International Health Regulations: Is India Prepared after 10 Years of Implementation? 3. 23-27. available at: 10.21088/ijcd.2395.6631.3117.4. (Last visited on 10 December 2023)

<sup>20</sup> <https://ihpoe.mohfw.gov.in/intro.php> (Last visited on 10 December 2023)

There is special scheme like National Health Mission, Aayushman Bharat, Pradhan Mantri Jan Aarogya Yojna to provide health care service to all Indian. The Government has largescale involvement in establishment of health infrastructures like hospitals ad dispensaries. The pandemic of corona compelled government to strengthen the health coverage though there are some areas which require more attention. The International Health Regulations 2005 are fundamental binding regulations that aims to detect, assess, report and control of diseases especially like pandemic and epidemic. It provides the guidelines and responsibilities to be followed by member state. If we consider the obligations created and fulfilled by member state, it seems like idealistic, it looks like it has no implementing sanction or value as some nations to not follow it in letter and spirit. The best example of this is outbreak of pandemic CORONA and its outbreak in whole world. It shows that international health mechanism provided by International Health Regulation 2005 was not prepared to handle the emergency arising out pandemic like corona. The responsibility to report the disease-causing risk to public health is grossly neglected by China which can be referred as place of origin of CORONA. Here an inference can be drawn that World Health Organization failed to implements regulations.

The international Health Regulations are effectively implemented in India. Indian government has established the National Centre for Disease Control; and International Health Divisions for effective implementation of regulation. It also established the point of entries for prevention of disease and its reporting. The Capacities like detection, assessment, its reporting, surveillance extra ahs been developed in India. The proper handling of corona helped India to overcome from disease of Pandemic corona with less loss of life. This is evident of fact that these regulations are implemented in India to best extent.

### **Suggestions:**

The International Health Regulations 2005 is a fundament global document which binding on member state. Therefore, its proper implementation is necessary for effective handling and monitoring of epidemic and pandemic diseases. Followings are some suggestions which may help its implementation.

1. There is need of strong enforcement authority with WHO for implementation of International Health Regulations.
2. The WHO must take stringent action against member state denying to report the outbreak the disease.
3. There is need of quick and efficient platform under the authority of WHO in every member state to take early cognizance of outbreak disease.
4. There must be international center for inventions and innovation necessary for medical and technical support for detection, surveillance, vaccination against the epidemic and pandemic disease.