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## THE CONCEPT AND CONTENT OF THE RIGHT TO HEALTH

VICTORIJA DORINA, DMITRY SHCHERBIK  
Polotsk State University, Belarus

*This article deals with the right to health, the concept and content of the right to health in international and national normative legal acts, its relationship with other human rights, addresses the need for public regulation of this right.*

In the modern world the problem of realization of the right to health is especially important by virtue of the rapid development of society, scientific and technological progress, the spread of previously unknown diseases. Rapid growth of the world population, industrial influences on the environment, and, as a result, environmental degradation, widespread armed conflicts have created new obstacles to the realization of the right to health, factors such as resource distribution and gender differences are taken into account.

Health is a fundamental social good, without which the realization of other human rights becomes difficult, whether the right to work, education or a decent life. Without a minimum level of health man cannot fully participate in the social life of the community, to exercise their political rights, thus undermining the economic development, stability and security of societies. The right to health should be considered in conjunction with such rights as the right to a safe environment, health care, safety, and equality and independence. The right to the protection of health refers to the second generation of human rights, the so-called social rights, such as the right to work, education, housing, decent life, social security and social protection, etc. and was introduced into scientific parlances somewhat later than first generation rights (civil and political). The right to health has all the qualities and characteristics of social rights: social rights form an integral part of the system of inalienable human rights; the main characteristic of social rights is that they are intended to ensure the identity of the satisfaction of essential life needs, without which there can be no normal human being; social rights are the basis of a truly welfare state; the realization of social rights becomes problematic in the face of a lack of material and financial resources.

It should be further determined what is included in the definition of "the right to health". The Constitution of the World Health Organization, 1946, the concept of "health" is defined as *a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity* [1]. This document marked the beginning of the inclusion of the social right in various international treaties and conventions. A critical step towards the development of socio-economic rights of man became The Universal Declaration of Human Rights, which was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. The Declaration enshrines the right of every person to has a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control [2].

With regard of the definition and implementation of the right to healthcare, from our point of view, the International Covenant on economic, social and cultural rights, adopted in 1966, is of particular importance. States parties to the present Covenant recognize *the right of everyone to the highest attainable standard of physical and mental health* (article 12) [3]. With the adoption of the Covenant the "adequate" level of health protected by the Universal Declaration of human rights has moved on to *"the highest attainable standards"*. In accordance with the Act of the Republic of Belarus "On health care" health is also defines as *a state of complete physical, mental and social well-being and not merely the absence of disease* [4].

It should be noted that the concept of "health" is much wider than the concept of "right to health" because the state of absolute health practically unreachable and includes both hereditary characteristics and influence of environment, proper physical and mental education, healthy lifestyle. The State has no obligation to heal the person from any disease, including incurable. Rather, the right to health is the right to use the services of a variety of goods, institutions, the conditions necessary for its implementation.

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It seems to us the most appropriate definition of "health" as "complex of political, economic, legal, social, cultural, scientific, social-hygiene, anti-epidemic and medical nature, aimed at the preservation and enhancement of the physical and mental health each person maintaining his long life, providing an accessible medico-social assistance. [5, c. 296-297].

With regard to the content of the right to health, for example I.I. Pljahimovich cites the following directions of activity of the State, aimed at maintaining and promoting health:

- medical assistance;
- sanitation, anti-epidemic measures;
- environmental protection;
- ensuring safe working conditions, rest, education;
- control over the production and realization of food products;
- development of physical culture and sports. [6, c.830].

In turn, for example, the Covenant on economic, social and cultural rights leads an indicative list of commitments of member countries: the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; the improvement of all aspects of environmental and industrial hygiene; the prevention, treatment and control of epidemic, endemic, occupational and other diseases; the creation of conditions which would assure to all medical service and medical attention in the event of sickness. [3].

The right to health, along with other rights, implies both freedoms, which include the ability to control one's health and body (for example, sexual and reproductive rights) and the right not to be subjected to interventions (e.g., torture and medical intervention, experimental research without consent), and rights, for example, to use the system for the protection of public health, which provides equal opportunities for all in order to maintain the highest attainable level of health.

These measures are provided in the State of a sufficient number of functioning institutions, goods and services of adequate quality in the field of health care. The availability of these institutions is not only physical accessibility, but also the economic ability of the population to enjoy this kind of services, without discrimination on any ground. In the concept of availability also includes availability and right to information, with the exception of sensitive personal health data. Health care institutions should be in conformity with the principles of ethics, the culture of individuals, minorities, peoples and communities, take into account the requirements a gender mainstreaming.

It is only the legislative framework that can and should be used by States as a basis for national legislation making additions specific to a particular country.

Therefore, the right to health has evolved in treaties and declarations from modest mentions as the main human values, to an independent right which is implemented with the growing set of measures for the protection and realization of the most sensitive important health factors.

This right is an inalienable human right, belonging to him since birth and ends with death, and requires protection by the state against attacks on its various components, whether the right to a favourable environment, access to health facilities, favourable sanitary-epidemic conditions or drinking water and food quality, health education and gender equality. The right to health is enshrined both internationally and at the national level and imposes on the state a number of clear commitments to allocate the maximum possible resources to achieve objectives, to eliminate possible discrimination on the basis of race, age, ethnicity or any other conditions. To implement the tasks of the state of universal coverage of health services requires strengthening of physical and mental health of citizens, well-being, development of new humanist principles of existence, the upbringing of the younger generation values based on healthy lifestyles, development of physical culture and sports, legal culture, ensuring an adequate level of access of citizens to information.

States should take specific measures for the realization of the human right to health, fund the programmes for the protection and promotion of health, implement actions to promote public and private health systems.

The priority directions of state policy should be caring for the health of the population, the development of physical culture, sport and tourism, provision of sanitary-epidemiological well-being, upbringing and education of citizens, access to information and protection of the rights of the patient. All these measures confirmed the public interest of the state to issue health, improve the environment for the realization

of the right to health care, improving the quality of medical services and disease prevention. These factors are integral parts of the national security of any state.

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