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The private health sector and universal health coverage in India: an assessment in light of the right to health framework

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Abstract

The overall goal of universal health coverage (UHC) is to guarantee that every person receives the healthcare services as per his/her need without facing any financial barrier. The achievement of this goal depends upon the legal and regulatory environment to realize the human right to health. In this context, this paper examines the involvement of India's private health sector in achieving the goal of UHC in light of the right to health framed by international law. The paper also addresses various consequences of growth of private health sector in the light of weak legal and regulatory environment, which might adversely affect achievement of UHC.

Keywords: Universal health coverage, private health sector, right to health, regulation.

Introduction

The goal of universal health coverage (UHC) is to guarantee that every person should have access to health services as per their needs without facing any financial hardship[1]. World Health Organization (WHO) views this goal as "a practical expression of the concern for health equity and the right to health"[2]. The right to health framework by international law stipulates that every state is ought to ensure timely access to good quality health care for their citizens[3]. It offers a group of legitimately offered criteria that guide the governments to guarantee the availability, accessibility, acceptability, and quality of healthcare services (AAAQ) to every individual[4]. The goal of UHC and the government's commitments towards realizing the individual rights to health are interrelated in many ways. Globally, health systems in countries adopt different mix of government and private involvement in funding as well as delivery of healthcare services. Nonetheless, states have a legal obligation to protect citizen from harmful activities by private players and ensure the AAAQ criteria. Recently, there has been increasing dependence on private sector in provisioning and financing of health services in many counties. However, evidences suggest many positive and negative consequences of participation of the private sector in the healthcare delivery systems, despite their human rights obligations are defined by the states.

There is ample literature on the contribution of private sector in promoting UHC, given its varying functions in health care delivery system. With the significant proportion of private health sector involvement, most advanced countries have already realized UHC and middle income economies like Brazil, Thailand, Philippines and Cambodia have made progress in UHC in their health sector[5]. Studies in sub-Saharan African nations revealed improved performance in terms of accessibility and equity though there is limited evidence on reduction in out-of-pocket expenditure and quality of services, which are significant aspects of the right to health[6]. Some studies have shown evidence of increasing costs of health care through out-of-pocket expenditure, especially when the governments are not in a position to provide free health care to the poorest segment of population or through social health insurance coverage.

The role of private health sector in health services delivery in India is substantial. This sector is very diverse, which broadly comprises of formal and informal health care providers. While the formal sector includes profit making entities and non- profit providers, single entities, hospitals and nursing homes; the informal sector comprises bulk of care providers with little or no training. Overall contributions of private sector in terms of hospitals, health workforce and medical education institutions are greater than that of the public health sector[7-9]. This sector contributed to about 70% of surge in all hospital beds in the country between 2002 and 2010[9]. Currently, private hospitals deliver about 80% of out-patient care and 60% of inpatient care in India[10]. In this context, it is imperative to address their role in achieving UHC goal, as envisaged in the framework of right to health.

Methodology

This article is centered on extensive review of research and evidence on the role of private players in Indian health system, and explores their contribution towards achieving UHC as envisioned in the right to health framework. Up-to-date information available through government documents, websites

and studies related to UHC, right to health and private sector healthcare in India were used. Apart from these resources, the publications of WHO, reports of Ministry of Health and Family Welfare, academic articles related to privatization of health care, UHC and right to health were also used.

UHC and the right to health framework: The overall aim of UHC is to "ensure that all people obtain the health services they need without suffering financial hardship when paying for them"[1]. An assessment of various components laid down in right to health framework and UHC reflects their interconnections. While right to health is an integral part of human rights law, constitutions of many countries have not made any such provision. A review of constitutions of 159 countries by Kinney and Clark (2004) revealed that only 107 countries had elements of right to health[11]. Backman et al (2008) in a review of 194 health systems and their commitments towards right to health showed 121 nations did not have any constitutional provision and many of them lacked detailed plan for regulating the private health sector[12].

Based on the right to health as envisioned under international law, it is obligatory for the governments to guarantee access to quality health care services at right time for their citizens. Even if it is delivered through the private sector, it is the basic duty of the governments to safeguard that these services achieve AAAQ criteria; besides ensuring the implementation of legal redressal mechanisms to resolve any wrongful actions. Moreover, the predominance of market failure in health care warrants government's intervention in healthcare markets and play active role as a regulator. World Bank (2004) emphasizes the role of governments in financing, regulation and dissemination of health information rather than direct delivery of health services[13].

There are many legal obligations related to right to health; which is equally relevant to both public and private health sectors. According to treaties on human rights, there are 3 types of legal responsibilities on governments: obligations to respect, to protect, and to fulfill[14]. The obligation to respect entails the governments to desist from meddling with the fulfillment of right to health directly or indirectly; the obligation to protect entails them to initiate necessary actions to preclude interference of other parties with right to health; and obligations to fulfill requires that government to implement suitable policies on the road to the achievement of right to health[14]. With respect to the growing private health sector in India, the obligation to protect is of greater significance, which requires active role of government in regulating and controlling the behavior of providers and to see that the services delivered by them are in conformity with the AAAQ framework envisaged under UHC.

India's commitment towards UHC and private health sector: Indian's health system is shaped on the basis of broad outlines drawn up by the Bhore committee (1946), with the aim of UHC to its vast population. However, even after seven decades, the country has not been able to meet the health rights of population. While most of the developed nations spend about 8% of GDP on health, India's spending hovers between 1 to 1.5% of GDP. As a result, private health sector has expanded rapidly owing to free market policies of the government and inadequate provision of public health care, which in turn has led to several consequences in terms the right to health. Surveys of NSSO show that health care costs has been one of the most important causes of improvisation of families in the country, which points to a gross violation of the principles of the AAAQ. Escalating costs of health care and increasing financial barriers are the major barriers affecting rights to health. The outcome of India's low public health spending leads to large vacancies, lack of drugs, inadequate maintenance and up-gradation of facilities in rural and remote regions.

The Government of India launched National Rural Health Mission (NRHM) in 2005, which was aimed at bridging the financial resources gap of state governments by increasing public health outlays and reducing out-of-pocket expenditures of households through strengthening the rural health system[15]. Subsequently National Urban Health Mission (NUHM) was also launched in 2014, with an aim to provide access to health care for poor population in urban areas[16]. The Rashtriya Swasthya Bima Yojana (RSBY) as potential mechanism to reduce out-of-pocket spending was one of the important steps towards fulfilling the health rights of poor individuals. However, the role of this insurance scheme in reducing out-of-pocket expenditure has raised several concerns[17]. Other notable health insurance schemes in this direction are Yeshaswini in Karnataka and Rajiv Aarogyasri in Andhra Pradesh state. Gradually, the country's obligation towards realizing UHC is undoubtedly mirrored in health policies and implementation strategies, which are focused towards enhancing health coverage and improve access to health services to different segment of population. In 2018, Ayushman *Bharat* was implemented, which one of the largest national health protection schemes, providing health coverage to 10 crore poor families. These government sponsored schemes are mostly rely on private health providers[18].

Private healthcare sector and AAAQ: The role of private health sector in India in achieving UHC in the light of right to health may be assessed based on AAAQ criteria. According to UHC framework, availability criterion addresses the question whether health care goods and services including health workforce employed in private health system are available to all sections of population. Accessibility criterion addresses the question whether adequate health services are provided by this sector according to the needs of different sections of population and those services equally reachable to all geographical regions. This criterion also addresses the issue of costs of care and the effect of private sector participation to reduce out-of-pocket expenditures. Acceptability criterion entails that health care provided by the private sector should value medical ethics and cultural appropriateness of individuals and communities. It should also provide gender sensitive services, greater privacy

and enhance health status of population. Healthcare services delivered by them under health insurance should be acceptable to all and not based on individual's health or economic status. According to quality criterion, private health sector is judged on the basis of guarantee of minimum level of quality care to all patients. It also addresses the question whether private providers have proper trainings to provide appropriate services.

An assessment based on set of questions given above might determine the influence of private sector AAAQ criteria. A majority of hospitals which thrive on government subsidies are mostly concentrated in metropolitan cities, and larger towns, catering to health care needs of affluent population. Despite the provision for reserving 10% beds for treatment of poor patients in most of these hospitals, poor patients do not have access to these services. There are reports of refusal of treatment due to outstanding hospital bills, withdrawn of life support system for those patients unable to pay and refusal of emergency cases at first hand. Studies have shown that they overprescribe medicines and advise for unnecessary diagnostic tests with the motive to generate revenue[19-21]. There are instances where caesarean sections performed in private maternity hospitals are high although WHO has suggested the upper limit of lower than 15% [22].In comparison to public sector, cost of hospitalization in the private health sector was about 3.9 times higher in rural population and 4.02 times higher in urban population in 2014[4]. Though health insurance is considered as a key mechanism to reduce financial risk protection, there exist many challenges like supply side moral hazard, unethical practice, fraudulent claims, and cherry picking of profitable interventions. There are reports of delaying treatment of patients under the social health insurance due to late approval by insurance companies.

While the economically better off receives good quality services in urban centers, the population residing in rural counterparts still faces various problem of inadequate access to quality services, specialty care and even essential medicines. Private providers are the first point of contact for most common ailments in rural and urban areas, but significant share of them are unqualified and underqualified[8]. A study conducted in a central Indian state revealed that only 11% of private providers covered in the study were medically qualified and 53% of them were high school pass-outs[23]. These entities often do not adhere to patient safety standards; and without the comprehensive quality monitoring system either at the state or at central level, clinical excellence and patient experience remains a tenuous area.

Regulation of the private health sector in India: Economic theory advocates government interventions in healthcare markets due to prevailing market failures, a situation where market forces are unable to achieve an efficient allocation of resources. In the right to health framework, regulation of health sector involves a continued and concentrated effort to modify the conduct of actors in the market and these measures should be aimed to change or guide the conduct of private entities with a view to realize the obligation to protect the health and to improve AAAQ criteria. The government needs to guarantee that adequate numbers of healthcare providers are in place where such providers are required and ensure that health facilities are physically accessible to all sections, including health insurance services to the poor. Regulation should also play an effective role in improving the acceptability of services. Besides considering medical ethics, it should also ensure that health institutions follow the quality requirements and private providers have received adequate trainings.

Despite having the vast private sector dominance, the regulatory framework in India is very weak, Several issues like weak compliance on manufacturing of medicines, counterfeit drugs, over the counter sales without prescription etc., leading to inappropriate use. The existing laws on medical establishments are violated; ethical reviews and prescription audits are seldom conducted in hospitals, clinical and drug trials with poor patients, and with asymmetry of information mostly prevailing in health market, physicians advise for unnecessary tests and prescription of medicines leading to increased prices. Despite legal and regulatory mechanisms are in place, the presence of commercial interest, dominance of professional associations, plurality of actors, political pressure groups, growing influence of corporate players in policy making have adversely impacted the smooth implementation process. Therefore, alongside focusing on health sector regulation, it is also the responsibility of government to allocate adequate resources to reduce both financial and physical barriers in accessing good quality health care services by every Indian.

Conclusion

The framework of UHC is diligently linked to the right to health which encompasses every individual should have access to affordable and good quality health services. In accordance with human rights law, Indian government not only has a commitment to protect the right to health of its citizens but also guarantees that healthcare services delivered by both public and private sectors improve AAAQ. Despite seven decades of Independence, the country has not been able to ensure the health rights of its population. Indian health sector continues to be dominated by private sector, which is susceptible to overuse and misuse of medical technology, corruption, unethical practices, and lack of accountability including medical negligence. It's high time to conduct impact assessments of private health sectors' role in achieving the goal of UHC, in the light of right to health framework.

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