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MEDICAL BANKRUPTCY AND RIGHT TO HELP A CONSTITUTIONAL FAILURE ANALYZING HOW OUT OF POCKET EXPENSES VIOLATE FUNDAMENTAL RIGHT

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Abstract

Medical bankruptcy is a growing issue in India where millions of people face financial hardship annually because of high out-of-pocket medical expenses. Lack of funding for public healthcare and inadequate regulatory oversight put people at risk of catastrophic medical costs despite constitutional protections under Article 21 (Right to Life and Health) and Article 14 (Right to Equality). These precedents uphold the fundamental right to healthcare. This study highlights the urgent need for universal healthcare financing stricter price controls and increased insurance coverage to prevent health-induced poverty. It does this by referencing government reports Supreme Court decisions and international case studies. The study concludes that Indias failure to protect its citizens from the financial ruin caused by medical expenses is incompatible with its constitutional ideals and demands immediate legislative and policy changes. To guarantee justice equality and dignity for all citizens healthcare financing must be done according to a rights-based framework.

Keywords: Medical bankruptcy, fundamental right, right to health, healthcare.

Introduction

Healthcare is an essential determinant of human well-being directly linked to socio-economic stability and overall quality of life. However, in India the rising cost of medical treatment coupled with inadequate financial protection mechanisms has made access to healthcare a privilege rather than a fundamental right. A sizable section of the populace experiences catastrophic healthcare expenses which can result in medical bankruptcy a condition in which high medical bills push people and families into financial ruin. This phenomenon is particularly concerning given India's constitutional commitment to social justice equality and the right to life. The Supreme Court has interpreted the Indian Constitution to include the right to health through Article 21 (Right to Life and Personal Liberty) in cases like Paschim Banga Khet Mazdoor samity & Ors vs State of West Bengal & Anr and Consumer Education & Research Centre v. Union of India(India., 1996).According to the judiciary the state has a constitutional duty to provide healthcare (Mohinder Singh Chawla 1997). In a similar vein economic differenceshould not bar people from receiving necessary medical care according to Article 14 (Right to Equality). The reality however shows a sharp contrast: individuals in India pay more than 55% of all medical expenses out of pocket making it one of the countries with the highest OOP healthcare expenditures in the world (Welfare, 2017-18). The impoverished are disproportionately impacted by this financial

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burden which exacerbates cycles of debt asset sales and economic hardship.

The Prevalence of Medical Bankruptcy in India

1. **Out-of-Pocket Expenditure (OOP) and Its Impact**

In India most healthcare payments are still made from pocket (OOP) which puts a heavy financial strain on people and frequently results in medical bankruptcy. According to the National Health Accounts 2020, OOP accounts for nearly 55% of all healthcare costs making India one of the most vulnerable nations in terms of financial risk protection for the medical field. The World Health Organisation estimates that 63 million Indians are pushed into poverty annually due to the country's crippling healthcare expenses, highlighting the systemic failure of the current healthcare model (Organization, 2020). According to the Economic Survey of India 2021–2022 (India. O. , 2022), public health spending is still languishing at less than 2 percent of GDP, which is much lower than the global average of 6 percent.This makes household financial burdens worse. In terms of health expenditure coverage India is one of the worst-performing countries according to the Global Burden of Disease Study 2019 leaving millions of people without financial security against medical emergencies. More than 80 percent of Indians do not have health insurance which forces them to pay for medical care with high-interest loans or their own savings according to data from the National Sample Survey Office (NSSO) 2017–18 (Office., 2019). According to a Lancet Global Health Report from 2021 47% of hospitalized patients in India turn to borrowing money or selling assets to cover their medical bills which feeds the cycle of debt-driven poverty. Since rural and lower-income households spend a larger percentage of their income on healthcare than urban populations do they experience disproportionately higher levels of financial distress according to studies from the Public Health Foundation of India (PHFI). To avoid exploitative costs in the private healthcare sector the Parliamentary Standing Committee on Health and Family Welfare (2022) has underlined time and again the necessity of increased public spending and price regulation of medical services. Furthermore, according to a 2021 NITI Aayog Report more than 30% of Indias poorest quintile postpone or completely forgo medical care because of financial limitations which results in avoidable deaths and escalating health disparities(Aayog., 2021). Unregulated private sector pricing and the absence of a comprehensive universal health insurance program result in a dual burden of economic and health hardship necessitating quick policy changes to stop further deterioration of social and financial stability.

2. **Case Studies Highlighting the Crisis**

Beyond typical medical costs the financial burden of medical care in India places a heavy financial burden on families and individuals alike. The National Cancer Registry Programme (NCRP) 2020 (Programme., 2020) states that medical bankruptcy is primarily caused by cancer treatment because the high expenses of cancer care force many families to sell off assets or take on large debts with high interest rates. The lack of price control during the COVID-19 pandemic allowed private healthcare facilities to charge outrageous prices for necessary medications ventilator support and hospital accommodations leaving many patients with crippling financial burdens according to the 2021 Report of the Parliamentary Standing Committee on Health and Family Welfare(Welfare., 2021). Chronic illnesses like kidney failure diabetes and cardiovascular diseases cause long-lasting financial difficulties according to research from The Lancet and the Public Health Foundation of India (PHFI). This situation feeds a vicious cycle of financial instability in which patients

frequently forgo necessities to pay for protracted medical care. Since access to healthcare is still very limited in rural India the crisis is especially severe there. According to an Oxfam India report from 2022 (India. O. , 2022) the lack of access to reasonably priced healthcare services disproportionately affects rural communities frequently requiring lengthy travel times to hospitals that result in extra expenses for lodging and transportation. The terrible effects of unaffordable healthcare are demonstrated in a case study from 2021 from Maharashtra (Maharashtra., 2021)where a marginal farmer had to sell his land to pay for heart surgery. These instances highlight the shortcomings of Indias healthcare system in terms of financial security which exacerbates economic inequality and emphasizes the pressing need for legislative changes to stop severe health problems from resulting in long-term poverty.

The Psychological and Social Impact of Medical Bankruptcy

Global Perspectives on Medical Bankruptcy

Medical bankruptcy increases vulnerabilities for impacted people and their families by endangering not only their financial security but also having profound psychological and social repercussions. Financial distress brought on by excessive medical bills is a major cause of anxiety depression and other mental health conditions according to NIMHANS studies ((NIMHANS)., 2021). This is especially true for low-income groups that do not have access to psychological support. Families are also impacted as children from homes with high medical debt are more likely to leave school early and join the workforce to help support their families which feeds the cycle of poverty and educational underdevelopment. Due to financial limitations women in low-income families frequently put their own medical needs last with healthcare resources going to male family members more frequently. This problem also has a clear gendered impact. This exacerbates gender disparities in health outcomes by causing women to receive insufficient or delayed treatment for chronic conditions. Social instability emotional distress and financial ruin all work together to highlight how urgently systemic changes in healthcare financing are needed to stop medical costs from causing intergenerational poverty and lifetime hardship.

1. **Comparing India with Developed Nations**

Countries like the UK and Canada have effectively eliminated medical bankruptcy through publicly funded healthcare models that guarantee universal health coverage and guarantee that no individual experiences financial ruin because of medical bills(Bank., 2022). While Canadas single-payer system ensures complete coverage for all its citizens the United Kingdom's National Health Service (NHS) provides free or reasonably priced healthcare services that are funded by taxes. Germanys Social Health Insurance System which offers a mixed insurance-based model that prevents people from going bankrupt while maintaining access to high-quality medical care requires employers and employees to contribute to statutory health insurance. However, the United States provides a sobering example because of its generally private insurance-driven system which has led to widespread medical bankruptcy even though it is a developed nation with cutting-edge medical facilities. Exorbitant medical costs and insurance coverage gaps have left many Americans in debt underscoring the dangers of over-privatization in the healthcare industry. Many international models support putting public healthcare investment first enacting universal insurance programs and controlling medical costs to shield citizens from possible financial ruin. India which is depending more and more on private

healthcare providers is a good candidate for this strategy. (Bank. W. &., 2017)

2. Lessons from Middle-Income Countries

Thailand universal coverage scheme (UCS) a successful model for lower-middle-income countries seeking to improve healthcare access while lowering financial risk serves as evidence that a well-designed public insurance program can prevent medical bankruptcy. In Brazil the Unified Health System (SUS) provides free public healthcare services to its citizens ensuring equitable access to necessary treatments and significantly reducing the financial burden of medical bills. To address healthcare access disparities, preventmedically induced poverty and improve financial protection for rural populations China has relied heavily on the New Cooperative Medical Scheme (NCMS). These models have much to teach India where millions of people continue to face financial hardship because of high out-of-pocket costs and inadequate insurance coverage. India can enhanceits healthcare system protect vulnerable populations and reduce the number of medical bankruptcies by combining government-funded healthcare with targeted insurance programs and universal coverage. (Bank. W. &., 2017)

Constitutional and Legal Implications

1. Article 21: Right to Life and Health

- The **Supreme Court of India** has consistently affirmed the fundamental right to healthcare as an intrinsic component of the right to life, as seen in **Paschim Banga Khet Mazdoor Samity v. State of West Bengal (1996)** and **State of Punjab v. Mohinder Singh Chawla (1997)**.
- The state's failure to ensure financial protection against medical bankruptcy undermines the very essence of Article 21, necessitating immediate legislative intervention.

2. Article 14: Right to Equality and Healthcare Access

- Economic barriers to medical treatment create a de facto healthcare apartheid, disproportionately affecting economically weaker sections of society and thereby violating the principles of equality enshrined in Article 14.

Policy and Legal Shortcomings

1. Gaps in prevailing policies

- **Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PM-JAY)**, which seeks to provide financial assistance to vulnerable populations, significant gaps persist in India's healthcare financing framework. while ambitious in scope, remains insufficient in practice as it covers only a fraction of the population and excludes critical outpatient treatments. The scheme primarily covers **hospitalization expenses** but fails to address **outpatient costs**, which account for nearly **70% of total medical expenditure** in India ((2021)., 2021). Moreover, chronic illnesses such as diabetes, cardiovascular diseases, and kidney failure—which require long-term management—are inadequately covered, pushing affected families into debt cycles and asset liquidation.
- Existing government-funded insurance schemes, including **RashtriyaSwasthya Bima Yojana (RSBY) and state-level initiatives like Aarogyasri (Telangana and Andhra Pradesh)**, remain fragmented, lack uniformity, and often exclude middle-income households who are equally vulnerable to medical bankruptcy.
- The **Drug Price Control Order (DPCO) 2013** attempts to regulate essential medicine prices, but enforcement is weak, leading to **artificial inflation of**

life-saving drugs and treatments. The **Clinical Establishments (Registration and Regulation) Act, 2010**, meant to curb exploitative pricing in private hospitals.

- The **National Health Policy (NHP) 2017**, which envisions increasing public health expenditure to 2.5% of GDP, remains far from realization, with current spending hovering around **1.2%**.
- the **Employees' State Insurance Scheme (ESIS)**, originally designed to provide financial protection to workers, faces operational inefficiencies, limited hospital networks, and underutilization due to bureaucratic hurdles. (Employment., 2020)
- The **Jan Aushadhi Scheme**, aimed at providing affordable generic medicines, faces accessibility challenges as Jan AushadhiKendras are unevenly distributed across the country.
- The **Mahatma Jyotiba Phule Jan Arogya Yojana (MJPJAY)** in Maharashtra provides health coverage for economically disadvantaged populations but has limited reach and suffers from infrastructure constraints.
- the **Universal Immunization Programme (UIP)**, while successful in preventive care, does not address the broader issue of financial protection against major illnesses.

Legal and Policy Recommendations

Ensuring equitable access to healthcare and addressing the growing medical bankruptcy crisis require a strong legal and policy framework. The following suggestions list the changes that must be made to improve India's healthcare system and give all citizens financial security.

1. **Universal Healthcare Financing**: Ensuring financial risk protection requires the adoption of a universal healthcare system that is financed by taxes as recommended by NITI Aayog's Health Reform Report 2021. (Aayog., 2021) By implementing such models' nations such as Canada (publicly funded healthcare) and the United Kingdom (NHS model) have successfully eradicated medical bankruptcy. The National Health Policy (NHP) 2017 set a target of 2 percent of GDP for public health spending but Indias spending is still incredibly low at 1. 2 percent. Expanding government healthcare services lowering out-of-pocket (OOP) costs and enhancing service delivery are all possible with a sustainable financing mechanism financed by progressive taxation and a dedicated health cess. In underserved areas this reform must be combined with public-private partnerships (PPP) to improve efficiency and accessibility.
2. **Strengthening Regulatory Mechanisms**: The pharmaceutical industry and private hospitals must both reduce their exploitative medical costs which calls for a more robust legal and regulatory framework. Pharmaceutical companies frequently challenge the Drug Price Control Order (DPCO) 2013 which attempts to control the cost of essential medications and it is not well enforced. It is essential to expand the Essential Medicines List (EML) and set stringent price caps on expensive medical devices diagnostic procedures and treatments. Mandatory price transparency regulations that mandate hospitals reveal treatment costs up front can also stop unethical billing practices. To avoid disparities between urban and rural areas the Clinical Establishments (Registration and Regulation) Act 2010 which was designed to regulate private healthcare providers must be rigorously enforced. This includes standardized treatment costs and harsher penalties

for overcharging patients. To maintain price stability and stop financial exploitation a Healthcare Pricing Authority should be established to oversee and control healthcare expenses across the country. (Fertilizers., 2013)

3. **Expanding Health Insurance Coverage**: Schemes such as Ayushman Bharat PM-JAY have made healthcare more accessible to those from lower-income backgrounds but they still only cover hospitalization costs outpatient care chronic illnesses and expensive medications are not covered. Millions of Indians can have their financial burdens lessened by extending PM-JAY to cover long-term illness management and outpatient services. Mandatory employer-sponsored health insurance akin to Germanys Social Health Insurance System can also guarantee that employees in the formal sector are adequately covered. The introduction of government-subsidized insurance plans with tiers of premium contributions based on income levels is necessary to safeguard middle-class individuals and workers in the unorganized sector who are not eligible for PM-JAY. Expanding coverage for vulnerable populations can be achieved by strengthening community-based health insurance (CBHI) risk pooling and co-pay mechanisms.

4. **Legal Right to Healthcare:** Enforceability is limited in the absence of comprehensive Right to Health legislation even though court rulings have confirmed healthcare as a fundamental right under Article 21. Like the Right to Education (RTE) Act a National Health Rights Act can create legal responsibility for the government to provide accessible and reasonably priced healthcare. All citizens should be protected from financial risk have non-discriminatory access and receive minimum service guarantees under this law. Policy changes can also be sparked by bolstering public interest litigation (PIL) procedures to contest systemic healthcare violations.

5. **Strengthening Public Healthcare Infrastructure:**Enhancing accessibility requires a major increase in funding for district hospitals primary healthcare canters (PHCs) and public health research particularly in underserved and rural areas. To close healthcare gaps in remote areas Jan AushadhiKendras for reasonably priced generic medications should be expanded and telemedicine and mobile health services should be integrated. Additionally, the lack of qualified medical personnel in Tier-2 and Tier-3 cities can be lessened by providing training and incentives for healthcare professionals to work in these areas.

Conclusion

Despite constitutional guarantees under Article 21 (Right to Life and Health) and Article 14 (Right to Equality) millions of Indians face catastrophic health expenses frequently turning to debt asset liquidation or financial distress due to the countries healthcare systems persistent problems with excessive out-of-pocket expenses (OOP) inadequate public funding and inadequate insurance coverage which exacerbate economic instability especially for marginalized populations. A large section of the population is left vulnerable by the limited coverage of programs like Ayushman Bharat which aim to offer financial protection. Global models like ThailandUCS, Germanys Social Health Insurance and the UK NHS demonstrate how well universal healthcare financing reduces financial risks. Strengthening rural healthcare infrastructure utilizing digital health innovations and encouraging preventive care are crucial steps toward a rights-based equitable healthcare system. Without prompt policy and

legislative intervention medical bankruptcy will continue to jeopardize economic stability social justice and publichealth outcomes in India. Resolving these shortcomings will require India to increase public healthcare spending enforce stringent price regulations on essential treatments and expand insurance coverage to include outpatient care and chronic illnesses. (Bank. W. , Universal Health Coverage: Lessons from Global Case Studies. , 2022)

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