RIGHT TO EMERGENCY MEDICAL CARE IN INDIA

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Abstract

Medical Emergency not only causes anxiety but also affects the families mentally as well as financially. The cumbersome and laborious procedures for availing the treatment, ill-timed medical care and inadequate quality of healthcare facilities make it difficult to save the victims in need of emergency medical care. As per the Road Accidents in India 2021, the latest data released by the Ministry of Road Transport and Highways, 1,53,972 people were killed in road accidents in India in 2021. Road Safety has become one of the biggest public health issues in India. Millions of lives are lost due to road accidents while the number of accidents is increasing. Goal three of Sustainable Development Goals too seeks to ensure healthy lives and promote well-being for all, at all ages. The right to health is one of a set of internationally agreed human rights standards as well. Keeping in view the dire need for Emergency Medical Care System in India, healthcare has been recognised as an extension of the right to life by the Supreme Court of India in the case of Kaushal Kishore v. State of Uttar Pradesh and Others in January 2023 in which the court emphasised that Articles 19 and 21 could be enforced against persons other than the state and its instrumentalities. This paper deals with the Constitutional perspective of the emergency medical care system in India and the challenges that India faces in providing medical care in emergent situations. The paper also proposes suggestions to overcome the challenges.

KEYWORDS: *Accident, Emergency, Health, Medical, Victim*

1. INTRODUCTION

"Wo bahar casualty mein koi marne ki halat me raha, toh usko form bharna zaroori hai kya?" - Munna Bhai M.B.B.S. (a popular Bollywood movie)

This dialogue from the famous Bollywood film exposes the inadequate procedural functioning of hospitals in India especially during emergency. A life once lost cannot be brought back. It is even more painful when the valuable life is lost due to lack of adequate emergency medical care system. It is a well-accepted fact that if the accident victim receives basic care from trained professionals and is transported to the nearest hospital within 15-20 minutes of an emergency, he has the greatest chance of survival. But even if the victim is transported to the hospital well in the golden hour, nevertheless, the hospital's tedious procedural requirements and financial demand will seriously affect the chances of survival of the victim. Emergency medical help in India for patients has always been defied. Hospitals accord primary obligation of depositing money and documentation requirements instead of admitting patient to the hospital. Without money, a patient is unable to avail medical aid. Moreover, low quality care also exists and is rampant either due to misdiagnosis or incorrect prescription of drugs. Medical Emergency not only causes anxiety but also affects the families mentally as well as financially. The cumbersome and laborious procedures for availing the treatment, ill-timed medical care and inadequate quality of healthcare facilities make it difficult to save the victims in

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need of emergency medical care. Emergency Medical Care System is therefore an essential part of the overall healthcare system as it saves lives by providing care immediately.

As per the 'Road Accidents in India 2021', the latest data released by the Ministry of Road Transport and Highways, 1,53,972 people were killed in road accidents in India in 2021.[1] While 56,007 people died in accidents on national highways, there were 37,963 deaths on state highways and 60,002 deaths on other roads.[2] According to World Health Organisation, at least one out of ten people killed on roads across the world is from India.[3] India witnessed as many as 4,12,432 road accidents in 2021 in which 1,53,972 people were killed, while 3,84,448 individuals were injured[4]. The 18-45 year age group is worst affected by accidents, accounting for nearly 67% of deaths[5]. The report is based on the information received from police departments of States and Union Territories, collected on a calendar year basis, in standardised formats as provided by the United Nations Economic and Social Commission for Asia and the Pacific under the Asia Pacific Road Accident Data base project.[6] According to Sh. Nitin Gadkari, Minister for Road Transport and Highways, "cost of road accidents is borne not only by the victims and their families but by the economy as a whole in terms of untimely deaths, injuries, disabilities and loss of potential income. It is indeed a matter of great concern that despite the continuing efforts of the government in this regard and our commitments for halving fatalities we have not been able to register significant progress on this front[7]."

Road Safety has become one of the biggest public health issues in India. Millions of lives are lost due to road accidents while the number of accidents is increasing. The issue relates to all types of road users as well as unauthorized road side vendors. Due to increasing road usage and road network, travel risks arises at a faster rate. The growth of registered vehicles has outnumbered the population growth. Road traffic injuries have now become one of the primary reasons for deaths, disabilities and hospitalization. Amongst the States, Tamil Nadu with 55,682 accidents (13.5 %) recorded the highest number of road accidents in 2021 followed by Madhya Pradesh (48, 877 i.e. 11.8%).[8] Uttar

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1 Road Accidents in India 2021, Ministry of Road Transport And Highways (Apr. 28, 2023, 11:50 AM), https://morth.nic.in.

2 *Id.*

3 Varun Singh, *1,53,972 People Killed In Road Accidents In India In 2021,* INDIA TODAY, Dec . 29, 2022, (Apr. 28, 2023, 11:55 AM), https://www.indiatoday.in/auto/latest-auto-news/story/people-killed-in-road-accidents-in-india-in-2021-no-helmet-seatbelt-drunk-driving-overspeeding-2315029-2022-12-29.

4 Road Accidents in India 2021, *supra* note 1.

5 *Id.*

6 *Id.*

7 Varun Singh, *supra* note 4.

8 Road Accidents in India 2021, *supra* note 1.

Pradesh (21, 227 i.e. 13.8 %) topped the States in respect of the number of persons killed due to road accidents followed by Tamil Nadu (15,384 i.e. 10%).[9]

1.1 OBJECTIVES OF STUDY

The objective of this paper is to analyse the Constitutional perspective of the emergency medical care system in India and the challenges that the country faces in providing medical care in emergent situations.

2. RESEARCH METHODOLOGY

The methodology of this paper is primarily doctrinal, descriptive and analytical. The data has been collected through secondary sources such as data of World Health Organisation, Ministry of Road, Transport and Highways, United Nations Organisation, Legislations, Reports, Newspapers, Magazines and Internet. The collected data has been analysed in context of the judicial precedents and constitutional provisions.

3. DATA ANALYSIS

3.1 Sustainable Development Goals

Road safety cannot be underestimated if the goals of sustainable development are to be achieved. Road Safety is necessary for a healthy and prosperous life of both individual as well as nation. Goal three of Sustainable Development Goals seeks to ensure healthy lives and promote well-being for all, at all ages.[10] This goal addresses all major health priorities: reproductive, maternal, newborn, child and adolescent health; communicable and non-communicable diseases; universal health coverage; and access for all to safe, effective, quality and affordable medicines and vaccines.[11] It also calls for deeper investments in research and development, health financing and health risk reduction and management.[12]

Adoption of a multi pronged strategy to address the issue of road safety based on four Es of Road Safety: (i) Education (ii) Enforcement (iii) Engineering (roads as well as vehicles) (iv) Emergency Care[13]

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9 *Id.*

10 Sustainable Development Goals (Apr. 29, 2023, 11:50 AM), https://sdgs.un.org/goals.

11 *Id.*

12 Goal 3: Good Health and Well-Being, (Apr. 29, 2023, 10:50 AM), https://data.unicef.org/sdgs/goal-3-good-health-wellbeing/#:~:text=SDG%203%20aims%20 to%20prevent,and%20regions%20are%20priority%20areas.

13 The Economic and Social Commission for Asia and the Pacific, (Apr. 27, 2023, 12:30 PM), https://www.unescap.org/sites/default/files/2.12.India_.pdf. As per the report of ESCAP Road Accidents in India Issues & Dimensions Ministry of Road Transport & Highways Government of India.

3.2 Right to Health and Emergency Medical Care

Healthcare is recognised as an extension of the right to life by the Supreme Court in the case of Kaushal Kishore v. State of Uttar Pradesh and Others[14] by observing that "Articles 19 and 21 could be enforced against persons other than the State and its instrumentalities." As per 201st report of Law Commission of India, emergency medical condition means "a medical condition manifesting acute symptoms of sufficient severity (including severe pain) where the absence of emergency medical treatment could reasonably be expected to result in (i) death of the person, (ii) serious jeopardy in the health of the person (or in the case of a pregnant woman, in her health and the health of the unborn child), or (iii) serious impairment of bodily functions, (iv) serious dysfunction of any bodily organ or part."[15]

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.[16] The right to health is one of a set of internationally agreed human rights standards, and is inseparable or indivisible from these other rights.[17] This means achieving the right to health is both central to, and dependent upon, the realisation of other human rights to food, housing, work, education, information, and participation.[18] The right to the highest attainable standard of health implies a clear set of legal obligations on States to ensure appropriate conditions for the enjoyment of health for all people without discrimination.[19] Right to health refers to and means the most attainable levels of health that every human being is entitled to.[20] The right to health is an essential component of human dignity, and it is the responsibility of governments to ensure that this right is protected and promoted for all individuals, regardless of their gender, race, ethnicity, religion, or socioeconomic status.[21]

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14 Writ Petition (Criminal) No. 113 of 2016 decided By Supreme Court on 3 January 2023 (India).

15 201st Report on Medical Treatment After Accidents And During Emergency Medical Condition And Women In Labour, Aug. 2006, (Apr. 03, 2023, 11:50 AM), https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081071.pdf.

16 (Apr. 28, 2023, 11:40 AM), https://www.who.int/news-room/commentaries/detail/health-is-a-fundamental-human-right.

17 *Id.*

18 (Apr. 30, 2023, 10:30 AM), https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health.

19 *Id.*

20 (Apr. 30, 2023, 11:50 AM), https://www.drishtiias.com/daily-updates/daily-news-analysis/right-to-health-3.

21 *Id.*

According to the World Health Organization , health is a state of complete physical, mental and social well being and not merely the absence of disease.[22] The WHO further clarifies that it is the State's legal obligation to ensure uniform access to timely, acceptable, and affordable health care of appropriate quality.[23]

4. ARGUMENTS

4.1 International Perspective

India is a signatory of Article 25 of the Universal Declaration of Human Rights (1948) by the United Nations that grants the right to a standard of living adequate for the health and well-being to humans including medical care. This duty of care enhances further when medical services are required in emergency cases such as road accidents. Due care has been accorded at the international level regarding to right to medical care. However, in India the goal is far away to be achieved successfully.

4.2 Law Commission of India Report

The Law Commission of India suo motu took up the subject of 'Emergency Medical Care to Victims of Accidents and other Emergencies' in the light of the observations of the Supreme Court of India in Paramanand Katara vs. Union of India[24] and in Paschim Banga Khel Mazdoor Samiti vs. State of West Bengal[25] dealing with refusal of hospitals to provide emergency medical care to people injured in accidents and are in emergency medical condition.The Commission proposed recommendations in its 201st report and also a draft Model Bill for the purpose of emergency treatment of victims.[26]

The Commission proposed that: "It shall be the duty of every hospital and every medical practitioner to immediately attend on every person involved in an accident or who is purportedly in an emergency condition, when such a person has come or has been brought to the hospital or to the private medical practitioner and screen or transfer such person as stated in section 4 and when the screening reveals the existence of an emergency medical condition, to stabilize or transfer such person as 91 stated in section 5 and afford them, such medical treatment as may be urgently called for - (i) without raising any objection that it is a medico-legal case requiring information to the police authorities, (ii) whether or not such a person is immediately in a position to

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22 (Apr. 30, 2023, 10:50 AM), https://www.who.int/data/gho/data/major-themes/health-and-wellbeing#:~:text=The%20WHO%20constitution%20states%3A%20%22Health,of%20mental%20disorders%20or%20disabilities.

23 *Id.*

24 A.I.R. 1989 SC 2039 (India).

25 1996 (4) S.C.C 37 (India).

26 201st Report on Medical Treatment, *supra* note 16.

make payment for screening and emergency medical treatment, and without insisting on payment as a condition precedent. (iii) whether or not such a person has medical insurance or is a member of any medical scheme of the person's employer or to a scheme which otherwise provides for medical reimbursement, and (iv) without raising any other unreasonable objection."

"Every hospital, medical practitioner, shall maintain a separate register containing the following information: (a) name and address of the person injured, date or place of accident as reported, nature of injuries and other relevant details and the person who brought him, (b) name and address of the person purportedly in emergency medical condition, nature of emergency and nature of medical condition and the person who brought him, (c) details of the screening tests done and the determination of emergency condition, (d) whether the person is in a position to give informed consent for emergency medical treatment including stabilization or for transfer or if he refused them, (e) whether emergency medical treatment was not given for want of facilities, if so, which facilities, (f) nature of tests done, results thereof, surgery conducted, who attended, time, date and hours of treatment, (g) details of transfer to another hospital or medical practitioner (h) details of fee paid to consultants or laboratories, (i) details of expenditure incurred, (j) other particulars to show that the hospital or doctor complied with its or his duties under the Act. (k) Such other particulars as may be prescribed.[27]

4.3 Constitutional Perspective

In India, this right, which is a natural corollary to promoting public health, is protected under the Constitution of India in multiple ways.[28] The Directive Principles of State Policy, enshrined in Chapter IV of the Constitution of India, require the State to:

- Promote the welfare of its people (Art.38);
- Protect their health and strength from abuse (Art 39(e));
- Provide public assistance in case of sickness, disability or "undeserved want" (Art 41);
- Ensure just and humane conditions of work (Art 42); and
- Raise nutrition levels, improve the standard of living and consider improvement of public health as its primary duty (Art 47).

In addition to the Directive Principles, some other health-related provisions are also found in the 11th and 12th Schedules, as subjects within the jurisdictions of Panchayats and Municipalities, respectively. These include the duty to provide clean drinking water, adequate healthcare and sanitation including hospitals, primary health care centres and dispensaries, promotion of family welfare,

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27 *Id.*

28 *supra* note 19.

development of women and children, promotion of social welfare, etc.[29] Failure on the part of any hospital to provide timely medical treatment to a person in need of such treatment results in a violation of the patient's Right to Life, which is guaranteed under Article 21 of the Constitution of India.[30] Most emergency departments in centrally run university and government hospitals do not match up to the "Emergency Department Categorization Standards" proposed by the Society of Academic Emergency Medicine.[31]

4.4 Judicial Perspective

The Constitution of India does not expressly recognize Right to Emergency Medical Care as a fundamental right under Part III of the Constitution. However, through its various judicial interpretations, this right has been read into the fundamental right to life and personal liberty under Article 21. The role of Indian judiciary in providing the emergency medical care is noteworthy. The Supreme Court has often observed that the expression 'life' in Article 21 means a life with human dignity and not mere survival or animal existence.[32]

Recently in Kaushal Kishore v. State of Uttar Pradesh and Others,[33] the Supreme Court observed that *"*The State is under a duty to affirmatively protect the rights of a person under Article 21, whenever there is a threat to personal liberty, even by a non-State actor. Articles where, without injuncting the State, certain rights are recognized to be inherent,, either in the citizens of the country or in persons. For instance, the rights conferred by Articles 15(2)(a) and (b), 17, 20(2), 21, 23, 24, 29(2) etc., are obviously enforceable against non-State actors also. The owner of a shop, public restaurant, hotel or place of entertainment, though a non-State actor cannot deny access to a citizen of India on grounds only of religion, race etc., in view of Article 15(2) (a). So is the case with wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public, in view of Article 15(2)(b). The right not to be enforced with any disability arising out of untouchability is available against non-State actors under Article 17.*"*

In Medical Association v. V. P. Shanta[34], the Supreme Court declared that "the patients seeking medical aid are included under the definition of the 'Consumer' and healthcare is defined as 'Service' as per the guidelines of the Consumer Protection Act." The Court further stated that "denial of emergency

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29 INDIA CONST. Schedule 11 and 12.

30 Imron Subhan & Anunaya Jain, *Emergency Care In India: The Building Blocks*, (May 3, 2023, 11:50 AM), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3047870/#CR9.

31 *Id.*

32 Francis Coralie Mullin vs The Administrator, Union Territory of Delhi A.I.R. 1981 SC 746 (India).

33 Writ Petition (Criminal) No. 113, *supra* note 15.

34 1995 S.C.C. (6) 651 (India).

medical treatment is in violation of Article 21 of the Constitution of India. Hence it is the basic right of the citizen to get emergency medical aid without any conditions."

In the case of Bandhua Mukti Morcha v. Union of India,[35]the Supreme Court held that "although the Directive Principles of State Policy are not binding obligations but hold only persuasive value, yet they should be duly implemented by the State. Further, the Court also held that dignity and health fall within the ambit of life and liberty under Article 21".

In the case of Paschim Banga Khet Mazoor Samity v. State of West Bengal,[36] the scope of Article 21 was further widened. The court held that "it is the responsibility of the government to provide adequate medical aid to every person and to strive for the welfare of the public at large. It further stated that the Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. In a welfare State the primary duty of the government is to serve the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the government in a welfare State. The government discharges the obligation by running hospitals and health centres which provide medical care to the person seeking to avail of those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person."

In Parmanand Katara v. Union of India,[37] the Supreme Court observed that "Every injured citizen brought for medical treatment should instantaneously be given medical aid to preserve life and thereafter the procedural criminal law should be allowed to operate in order to avoid negligent death. There is no legal impediment for a medical professional when he is called upon or requested to attend to an injured person needing his medical assistance immediately. The effort to save the person should be the top priority not only of the medical professional but even of the police or any other citizen who happens to be connected with the matter or who happens to notice such an incident or a situation. Preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man. The patient whether he be an innocent person or be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in charge of the health of the community to preserve life so that the innocent may be protected and the guilty may be punished. Social laws do not contemplate death by negligence to tantamount to legal punishment. A doctor at the Government hospital

35 A.I.R. 1984 SC 812 (India).
36 (1996) 4 S.C.C. 37 (India).
37 A.I.R. 1989 SC 2039(India).

positioned to meet the State obligation is, therefore, duty bound to extend medical assistance for preserving life. Every doctor whether at a Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life. No law or State action can intervene to avoid/delay the discharge of the paramount obligation cast upon members of the medical profession. The obligation being total, absolute and paramount, laws of procedure whether in statutes or otherwise which would interfere with the discharge of this obligation cannot be sustained and must, therefore, give way. Every doctor should be reminded of his total obligation and be assured of the position that he does not contravene the law of the land by proceeding to treat the injured victim on his appearance before him either by himself or being carried by others. Zonal regulations and classifications cannot also operate as fetters in the process of discharge of the obligation and irrespective of the fact whether under instructions or rules, the victim has to be sent elsewhere or how the police shall be contacted, the guideline indicated in the 1985 decision of the Committee on Forensic Medicine (set up by the Ministry of Home Affairs of the Government of India) is to become operative." The court also observed that "although emergency physicians and emergency medicine have remained a realized need in the country, the practice of emergent care has remained centralized, with traditionally few private hospitals admitting emergency cases as they prefer to avoid dealing with medico-legal formalities during emergencies. The court further held that every doctor at Government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life of a patient and observed when accidents occur and the victims are taken to hospitals or to a medical practitioner, they are not taken care of for giving emergency medical treatment on the ground that the case is a medico-legal case and the injured person should go to a Government Hospital. The Supreme Court emphasized the need for making it obligatory for hospitals and medical practitioners to provide emergency medical care. This is not the only reason for not attending on injured persons or persons in a medical emergency, for sometimes such persons are turned out on the ground that they are not in a position to make payment immediately or that they have no insurance or that they are not members of any scheme which entitles them to medical reimbursement." The Supreme Court reiterated its views in Paschim Banga Khet Mazdoor Samithi v. State of West Bengal.[38]

In Pravat Kumar Mukerjee v. Ruby General Hospital,[39] the National Consumer Redressal Commission observed that "the sole question that arises for consideration is whether the doctors in the hospital were deficient in discharge of their duties in not continuing with the treatment after having started giving some treatment to the deceased. It is contended that treatment was not

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38 1996 (4) S.C.C. 37 (India).

39 Original Petition No. 90 of 2002 decided By National Consumer Disputes Redressal Commission on 25-4-2005 (India).

continued because of failure on the part of the persons who brought him to the hospital to deposit Rs.15,000 that resulted in denial of treatment and consequential death of the young boy. [40] The court further held that it is not merely the alleged harm or mental pain, agony or physical discomfort, loss of salary and emoluments etc. suffered by the appellant which is in issue it is also the quality of conduct committed by the respondents upon which attention is required to be founded in a case of proven negligence. Keeping the aforesaid principles in mind, it would be just and reasonable to award compensation of Rs. 10 lakh for mental pain and agony. This may serve the purpose of bringing about a qualitative change in the attitude of the hospitals of providing service to the human beings as human beings. Human touch is necessary; that is their code of conduct; that is their duty and that is what is required to be implemented. In emergency or critical cases let them discharge their duty/social obligation of rendering service without waiting for fees or for consent".[41]

In Indian Medical Association v. V.S. Shanta[42] the Supreme Court observed that "a hospital has generally two categories of patients, those who pay and those who are treated free, the free patients acquire the status of consumers because it is deemed that the treatment to free patients is deemed to be met by the paying patients".

In State of Punjab v. Mohinder Singh Chawla,[43] the Supreme Court observed that "the right to life includes within its scope the obligation of the State to provide proper health services. Right to Health being part of Right to Life, thereby becomes a fundamental right guaranteed to every citizen of India under Article 21 of the Constitution. Duty is cast upon every State to take care of the health of the public".

4.5 Rajasthan Right to Health Care Act 2022

The Rajasthan Government enacted the Rajasthan Right to Health Care Act 2022 that provides every State resident the right to avail free services at all public health facilities.

The National Health Policy, 2017 stated that the time had not come for declaring health as a right. It supported a progressively incremental assurance-based approach, with assured funding to create an enabling environment for realising health care as a right in the future, essentially kicking

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40 *Id.*
41 *Id.*
42 1995(6) S.C.C. 651 (India).
43 A.I.R.1997 SC 1225 (India).

the can down the road.[44] Contrary to this the Right to Health Act in Rajasthan guarantees access to health for the residents of Rajasthan. The law passed on 21 March 2023 is based on moral and legal imperatives and provides for dispute resolution, and constituting district and state authorities to rule on complaints.[45] It also prescribes accountability of health institutions. In its preamble, the Act states that "the state aims to provide protection and fulfilment of rights and equity in health and well-being under Article 47 of the Constitution of India and to secure the Right to Health as per the expanded definition of Article 21 of the Constitution" and also to provide for "free, accessible to, and equality in, health care for all residents of the State with the progressive reduction in out-of-pocket expenditure". The law guarantees that those ordinarily resident in Rajasthan can obtain emergency treatment without prepayment of fees or charges. This includes prompt and necessary emergency medical treatment and critical care. Free healthcare services, including consultation, drugs, diagnostics, emergency transport, procedure and emergency care, will be provided at all public health institutions and select private facilities subject to conditions specified in the rules. The Act makes it mandatory for the hospitals to provide treatment in emergency cases without waiting for medico-legal formalities and give medicines and transport facilities without charging money. The implementation of the law is expected to do away with out-of-pocket expenditure and bring transparency and accountability within the health care system.[46]

4.6 Relevance of Emergency Medical Care

Since right to emergency medical care is a fundamental right hence it compels the government to take necessary measures in this regard. It enables everyone to access the services irrespective of his/her financial status, gender, caste, religion etc and seek medical help whenever there is an emergency. It reduces the financial burden on the people for paying for emergency medical care in private hospitals, especially the poor and the middle class.

5. FINDINGS: CHALLENGES IN AVAILING RIGHT TO EMERGENCY MEDICAL CARE IN INDIA

a) Lack of Infrastructure:

As per the report entitled 'Reimagining Healthcare in India through Blended Finance' released by Niti Aayog in 2022, about 65 per cent of hospital beds in

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44 G. Ananthakrishnan, *Rajasthan's Right To Health Law Advances Socialised Medicine,* THE INDIA FORUM, April 2023 (May 03, 2023, 10:30 PM), https://www.theindiaforum.in/health/rajasthans-right-health-law-advances-socialised-medicine.

45 *Id.*

46 Amid Protests Rajasthan Becomes First State To Pass Right To Health Bill, THE HINDU, March 21, 2023, (May 03, 2023, 10:30 PM) , https://www.thehindu.com/news/national/other-states/amid-protests-rajasthan-becomes-first-state-to-pass-right-to-health-bill/article66646594.ece.

the country cater to almost 50 per cent of the population and stressed that the number of beds must be increased by at least 30 per cent to ensure equitable access to healthcare facilities for people.[47] The report also states that around 65 per cent of hospital beds in India cater to almost 50 per cent of the population concentrated in Uttar Pradesh, Maharashtra, Karnataka, Tamil Nadu, Telangana, West Bengal and Kerala.[48] The other 50 per cent of the country's population living in the remaining 21 states and 8 Union Territories has access to only 35 per cent of hospital beds.[49] This indicates a need to grow hospitals beds by at least 30 per cent to ensure equitable access to healthcare for citizens in all parts of the country.[50] Hence, hospital infrastructure for the treatment of medical emergencies need further strengthening.

b) Lack of Training

Training of health staff, whether public or private, is required especially in emergency cases. The existing staff is not sufficiently trained.

c) Non-linking of Ambulances with Emergency Response Team

The government owned ambulances are not linked with the new Emergency Response Team Schemes. This results in waste of time in reaching the accident victim.

d) Inadequate Legal Framework

Legal framework for regulation of various stakeholders like ambulance operators, emergency technicians, treating hospitals and staff, etc is inadequate and requires transparency and enforcement throughout the country.

e) Limited Health Financing

India's health financing system is limited, with low levels of public spending on healthcare.[51] This limits the government's ability to invest in healthcare infrastructure and resources, and it can lead to inadequate healthcare services for individuals.[52] Government of India spent 2.1% of GDP on healthcare in Financial Year 2023[53]. This is much lower than the average health spending

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47 Reimagining Healthcare In India Through Blended Finance, White Paper, NITI Ayog, (2022), (May 03, 2023, 10:35 PM) https://www.niti.gov.in/sites/default/files/2022-02/AIM-NITI-IPE-whitepaper-on-Blended-Financing.pdf.

48 *Id.*

49 *Id.*

50 *Id.*

51 Pooja Yadav, *Explained: Right To Health And The Provisions Related To It In India*, India Times, March 28, 2023, (May 04, 2023, 10:30 PM) https://www.indiatimes.com /explainers/news/explained-right-to-health-and-the-provisions-related-to-it-in-india-597012.html.

52 *Id.*

53 (May 06, 2023, 10:30 PM) https://health.economictimes.indiatimes.com/news/policy /economic-survey-2023-govt-spent-2-1-of-gdp-on-healthcare-in-fy23/97488091.

share of the GDP at around 5.2% of the Lower and Middle Income Countries.[54]

f) Emergency is manned by Junior doctors

Since emergency services are usually manned by junior doctors the patient does not get adequate medical advice and care which is of utmost importance during first few hours of the accident/emergency. Senior doctors are hardly visible in the emergency wards especially in government hospitals. Emergency care is offered in areas designated as '*casualties'* that are often manned by junior specialty residents with little overview and are mere referral points for specialized care. [55]

6. Conclusion and Suggestions

It can well be concluded that no transformation is successfully possible until the intent to implement and adapt to the same comes from within. The stringent laws can only instil fear and compulsion in the minds of the people to comply with the norms but the self is to be enriched. The endeavour to save the lives must be the optimum priority for the medical professionals, police and common people who happen to notice an accident or a situation needing emergency medical care for the victim. It is a well-accepted fact that a patient who receives basic care from trained professionals and is transported to the nearest healthcare facility within 15-20 minutes of an emergency has the greatest chance of survival. Emergency Medical Care System is therefore an essential part of the overall healthcare system as it saves lives by providing care immediately[56] . Hence there must be a comprehensive uniform law throughout the country to sincerely recognise the need for Emergency Medical care and save the lives. Following are the suggestions:

a) A central comprehensive legislation is required to cope up with the medical care in emergent situations. Emergency Medical Care for road accident cases must be provided freely at all hospitals whether government or private and this can be made compulsory by way of legislation.
b) There is a dire need to promptly enhance investment in healthcare infrastructure in India for emergency medical facilities, medical equipments, machines and healthcare professionals. This can be achieved through enhanced public spending on healthcare and increased private sector investment.
c) Access to healthcare in emergency cases must be dealt with sincerely and presence of senior doctors must be made mandatory. Instant skill

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54 *Id.*

55 Imron Subhan & Anunaya Jain, *supra* note 30.

56 Prasanthi Potluri, *Emergency Services In India,* ASIAN HOSPITAL AND HEALTHCARE MANAGEMENT, 2009, https://www.asianhhm.com/healthcare-management/emergency-services-india (last updated May 07, 2023).

and knowledge that is required to deal with road accident cases cannot be left to the understanding of less skilled and under training junior doctors.

d) Hurdles that prevent people from accessing emergency medical care services such as, finances, transportation, availability of senior doctors etc need redressal. This can be achieved through concrete and practicable governmental policies. Such policies that mitigate the trauma of road accident victims must be made and sincerely implemented.
e) Mobile healthcare units must be established to immediately respond to road accident cases. Failure to respond must be made a punishable offence. This will make the implementation better.
f) It must be made mandatory that immediate response teams/mobile health care units be deputed on national highways especially at the distance of 10-15 Kilometres so as to ensure timely help to the accident victims.
g) A designated agency can be set up to perform the functions of maintenance of national health statistics, enforcement of public health regulations and dissemination of information to the public.
h) It is usually pointed out by doctors that at least 50 per cent of the fatality can be averted if the victims are admitted to a hospital within the first one hour. It therefore becomes imperative that an accident victim is provided basic first aid enabling him to survive till he reaches the hospital.
i) It must also be ensured that all hospitals near the national/State highways are equipped with the necessary medical instruments and devices so that accident victim is not referred to another hospital. Referral to another hospital will result in failure to the first aid to be necessarily administered to the victim.
j) More doctors/nursing staff is required to be recruited to cope up with the increasing pressure and deal with the accident cases with much ease and care. Overburdened doctors cannot be expected to give their best output.
k) Lastly, doctors must be sensitised to deal with accident victims with care and compassion. One kind gesture of the doctor or his/her few motivational words to his/her patient can do wonders in saving the life of the victim when such victim is conscious and in severe pain.

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