

THE RIGHT TO HEALTH:

LACK OF PHYSICAL WELL-BEING AND ITS EFFECTS ON MENTAL HEALTH WITH A SPECIFIC FOCUS ON CHRONIC ILLNESSES

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INTRODUCTION

Health is a fundamental human right necessary for the exercise of other human rights, as expressed by the Committee on Economic, Social and Cultural Rights.¹ However, within the fast paced life in our current society, the importance of mental health can be easily overlooked.² A balanced mental health is a cornerstone in being able to participate in social life, including work, hobbies, relationships, and education.³ Mental and physical health are very closely intertwined and it is therefore of utmost importance to take care of both aspects of health, as ill-health can have far reaching implications for the individual and for society as a whole. As a fundamental human right, every individual should be able to enjoy the right to health and thereby live their life to the fullest. Unfortunately matters such as chronic illnesses, which can be outside the control of individuals, affect both the physical and mental well-being of a person. Particularly in cases of untreated or complex illnesses, the impacts can be vast. Therefore, the following report will shed light on the right to health and what kind of implications ill-health can have on the life of an individual.

1. THE RIGHT TO HEALTH

The right to health is set out under Article 12 the International Covenant on Economic, Social and Cultural Rights (ICESCR).

1. The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The right to health has broad coverage and includes various different rights related to the physical and mental health of a person. However, it is important to note that it does not entail the right to be healthy, as matters such as genetics, consumptions of harmful substances, such as tobacco and alcohol, as well as life choices, affect the well being and health of individuals.⁴ On the other hand, the right to health entails the enjoyment of various facilities, services and goods which are all essential to realise the highest attainable standard of health as soon as possible.⁵

Accordingly, the right to health includes various elements, such as underlying determinants of health, entitlements, and essential elements. First, the underlying determinants are of crucial importance as the absence of them can deny or undermine the effectiveness of the right to health. These include access to safe and potable water, to adequate sanitation and supply of safe food, nutrition, and housing, to healthy occupational and environmental conditions,

¹ CESCR, 'General Comment No. 14 (2000) The right to the highest attainable standard of health' UN Doc E/C.12/2000/4, para 1.

² 'The importance of mental wellbeing' (*Big Help Project*)

<<https://www.bighelpproject.com/news/the-importance-of-mental-wellbeing>> accessed 13 May 2024.

³ *ibid.*

⁴ UN Doc E/C.12/2000/4 (n 1), para 8.

⁵ *ibid* para 9.

including the right to a healthy environment and to health related education and information as well as gender equality.⁶

Secondly, the entitlements partly overlap with the underlying determinants and entail the right to a system of health protection which provides an equal opportunity to all to enjoy the highest attainable standard of health, in line with gender equality and non-discrimination.⁷ The right to prevention, treatment, and control of diseases in conjunction with access to essential medicines, which qualify as medicines that satisfy the priority healthcare needs of the population, are available within a functioning healthcare system continuously and are of affordable price to ensure individuals and health facilities can buy such, and as such are crucial to upkeep the right to health.⁸ In addition, everyone should be able to receive timely access to health services as well as enjoy the opportunity to participate in health related decision making.

Thirdly, the essential elements consists of four issues and create the core of the right to health:⁹

- **Availability.** The presence of a sufficient quantity of public health and health-related facilities, goods, services, and programmes. Since states are at different levels of development, the nature of these services depend on the developmental level. However, every state should ensure the mentioned underlying determinants are available to its people and ensure the presence of hospitals, clinics, other health-related buildings, trained medical and professional staff, and essential medicines.
- **Accessibility.** The right to health should be accessible to all without discrimination or any other prohibited ground, with a special focus on persons who belong to vulnerable or marginalised groups, such as indigenous populations, ethnic minorities, women, children, older persons, and disabled persons. Physical accessibility should be ensured by placing health facilities, services, and goods at a safe distance, thereby making sure that persons who live within rural areas also have access to healthcare. Furthermore, economic accessibility guarantees that facilities, services, and goods are affordable to all and that therefore the financial status of a person does not affect the access to healthcare. Lastly, every individual should be able to seek, receive, and impart information and thoughts related to health, while simultaneously respecting the confidentiality of health related information for an individual.
- **Acceptability.** Health facilities, services, and goods must follow medical ethics and be organised in a way that honours the culture of individuals and minorities. They should be designed to respect the confidentiality of a person and aim to improve the health status of an individual.

⁶ *ibid* para 11.

⁷ *ibid*.

⁸ *ibid*; ‘WHO Model List of Essential Medicines - 23rd list, 2023: Overview’ (*WHO*, 26 July 2023) <<https://www.who.int/publications/i/item/WHO-MHP-HPS-EML-2023.02>> accessed 13 May 2024.

⁹ UN Doc E/C.12/2000/4 (n 1), para 11.

- **Good quality.** Health facilities, services, and goods must be of good quality and based on scientifically and medically appropriate factors. These include medical personnel who have the adequate competence and skills, that the medicines and equipment used at hospitals are scientifically approved, and the presence of safe and potable water, as well as adequate sanitation.

2. THE RIGHT TO PHYSICAL HEALTH

Physical well-being covers the well-being and functioning of the body, and the following matters and rights can be connected to the physical health of a person. Firstly, lifestyle choices are at the core of balanced physical health, as factors such as sleeping well, eating nutritious food, and avoiding substance abuse have a major impact on the proper functioning of a healthy body.¹⁰ Moreover, biology and the genetics of a person can determine to a large extent the physical well being of the body.¹¹ Some diseases hold a genetic factor, resulting in the fact that individuals have more of a tendency for certain diseases. Furthermore, certain rights are closely connected to physical well being, such as the right to a healthy environment, as air, water, and soil pollution can be very harmful to the physical health of an individual, and therefore ensuring a healthy environment is an important stepping stone to a healthy human life.¹² The right of access to health and healthcare, including adequate nutrition, safe food, and drinking water, adequate sanitation and physical access to health facilities which are of good quality is also vital to be able to receive appropriate treatment and take care of the body to the highest extent possible. Lastly, the rights related to health education in relation to receiving knowledge and information about health, possible diseases, and factors of prevention are a necessary aspect in the active upkeep of physical well-being, as in the absence of knowledge about physical health it is far more difficult to live a life which is good for the functioning of the body.¹³

2.1. CHRONIC ILLNESS AND THE RIGHT TO HEALTH

Chronic illnesses can be described as conditions which require a complex response over a longer period of time.¹⁴ As part of treatment, coordination is required from a wide range of health professionals, and access to essential medicines must be ensured and monitoring systems need to be set up. The care should take place in an environment of promoting patient

¹⁰ Alysia Marshall-Seslar, 'Body Health Basics: What is Physical health' (*McMillen Health*, 4 January) <<https://www.mcmillenhealth.org/tamtalks/physical-health>> accessed 13 May 2024.

¹¹ *ibid.*

¹² *ibid.*

¹³ *ibid.*

¹⁴ Ellen Nolte and Martin McKee (eds), *Caring for people with chronic conditions: A health system perspective* (Open University Press 2008), 1.

empowerment. Common chronic illnesses include: cardiovascular disease, diabetes, cancer, mental health disorders, neurological diseases, obesity, and respiratory diseases.¹⁵

Certain matters and rights are of crucial importance when it comes to treatment and dealing with individuals who suffer from chronic illnesses. The principle of equity and non-discrimination should be at the forefront, enabling everyone to have a fair and just opportunity to attain the highest standard of health.¹⁶ However, a vast amount of individuals are denied access to health and related resources due to reasons of ethnicity, sexual orientation, economic factors, age, geographical location, and educational background.¹⁷ Especially in case of chronic illnesses, the impacts of such discrimination can be vast on the individual, leading to a deteriorating state of health in the absence of access to health services. In addition, some studies have shown a link between low health illiteracy and higher incidence of chronic illnesses.¹⁸ This goes hand in hand with the right to receive health education and information, which enables the individual to be more aware of factors that can either aid or hinder the process of recovering from a chronic illness. Living habits can have great effects on the state of the chronic illness and therefore awareness of such with a combination of adequate medication can vastly improve the health of an individual.¹⁹ Furthermore, routine and lifelong treatment in regard to chronic illnesses is crucial to better the well-being of an individual.²⁰ However, in low and middle-income countries, access to care of such nature can be a burden due to lack of financial means to buy prescription medicine and inadequate knowledge of the disease in question. Lastly, it is necessary to stress the importance of prevention and management, as a core way to address chronic illnesses, as when left untreated, an individual's ability to participate in society is gravely diminished.²¹

3. THE RIGHT TO MENTAL HEALTH

Mental health covers the well-being of the mind, and good mental health enables people to cope with stresses of life, realise their abilities, work well, maintain relationships, and contribute to society.²² As with physical health, mental health is a pivotal cornerstone of our health as a whole. The COVID-19 pandemic has made mental health a global priority,

¹⁵ 'Chronic Diseases: Sustainable Solutions for Europe' (*EFPIA*) 5

<<https://www.efpia.eu/media/fjbfpc1o/powering-up-chronic-disease-management-in-europe.pdf>> accessed 13 May 2024.

¹⁶ 'Equitably Addressing Social Determinant of Health and Chronic Diseases' (*Centers for Disease Prevention and Control*) <<https://www.cdc.gov/chronicdisease/healthequity/index.htm>> accessed 14 May 2024.

¹⁷ *ibid.*

¹⁸ Lefan Liu, Xujun Qian and Zhuo Chen et al, 'Health literacy and its effect on chronic disease prevention: evidence from China's data' (2020) 20 *BMC Public Health*

<<https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-020-08804-4>> accessed 14 May 2024.

¹⁹ 'Management of chronic conditions' (*Health Direct*)

<<https://www.healthdirect.gov.au/management-of-chronic-conditions>> accessed 14 May 2024.

²⁰ Michiyo Higuchi, 'Lifestyle Diseases: Access to chronic Disease Care in Low- and Middle- Income Countries' (*UN Chronicle*)

<<https://www.un.org/en/chronicle/article/lifestyle-diseases-access-chronic-disease-care-low-and-middle-income-countries>> accessed 14 May 2024.

²¹ Martin Seychell, 'Towards better prevention and management of chronic illnesses' (*European Commission*)

<https://ec.europa.eu/health/newsletter/169/focus_newsletter_en.htm> accessed 14 May 2024.

²² 'Mental Health' (*WHO*, 17 June 2022)

<<https://www.who.int/news-room/fact-sheets/detail/mental-health-strengthening-our-response>> accessed 14 May 2024.

contributing to increasing the significance of mental health.²³ It is crucial to respect the right to mental health, which affords equal access to comprehensive care and support services and freedom from discrimination, and as such promotes the mental well-being of individuals.²⁴ However, in cases where this right is neglected, the consequences on the individual and the society as a whole can be severe.²⁵ When individuals are not able to access such necessary mental health services, they are faced with difficulties trying to cope with declining mental health on their own. Factors such as stigma, discrimination, and neglect contribute to the vast amount of untreated mental health conditions.²⁶

An estimate of about 2/3 of people on a global level, suffering from mental health conditions, do not seek treatment. - WHO

*Textbox.*²⁷

In cases of untreated mental health conditions the impacts can be severe. Firstly, from the point of view of the individual, untreated conditions can decline over time and will most likely affect daily functioning, relationships, and overall well-being.²⁸ This can result in facing difficulties in managing responsibilities, impair relationships, and lead to a diminished quality of life.²⁹ Secondly, from the point of view of society as whole, untreated mental health conditions may have grave socio-economic impacts. Untreated conditions of depression and anxiety have been estimated to result in global economic loss of one trillion (\$) annually, mainly due to decreased productivity in the work environment. Factors such as being absent from work and not being able to function in full capacity contribute to lack of economic productivity.³⁰ This is a relevant example of the right to work being affected due to ill-health. Moreover, untreated conditions can lead to an increase in healthcare costs, as individuals require more frequent visits to healthcare providers and the emergency room, as well as more frequent hospitalisation.³¹ Lastly, the stigma surrounding mental health conditions can worsen the lack of treatment as individuals are deterred from disclosing their condition, as fears of social isolation and discrimination within the work environment and in housing opportunities

²³ Natalie Abrokwa, 'The right to mental health: a human rights approach' (*University of Groningen*, 2023) <<https://research.rug.nl/en/publications/the-right-to-mental-health-a-human-rights-approach>> accessed 14 May 2024.

²⁴ *ibid.*

²⁵ 'Treatment available but not being used' (*WHO*, 28 September 2001)

<<https://www.who.int/news-room/detail/28-09-2001-the-world-health-report-2001-mental-disorders-affect-one-in-four-people>> accessed 14 May 2024.

²⁶ *ibid.*

²⁷ *ibid.*

²⁸ 'Undiagnosed mental illness: What you should know' (*Turnbridge*)

<<https://www.turnbridge.com/news-events/latest-articles/untreated-undiagnosed-mental-illness/#:~:text=How%20often%20do%20mental%20illness,treatment%20for%20their%20mental%20illness>> accessed 14 May 2024.

²⁹ *ibid.*

³⁰ 'Mental health at work' (*WHO*)

<<https://www.who.int/teams/mental-health-and-substance-use/promotion-prevention/mental-health-in-the-workplace#:~:text=Without%20effective%20support%2C%20mental%20disorders,to%20retain%20or%20gain%20work>> accessed 14 May 2024.

³¹ *ibid.*

are present.³² Therefore, early intervention, ensuring access to mental health services, and bettering the attitudes towards the negative stigma of mental health conditions are key in addressing mental health matters to prevent the individual and societal harms of untreated conditions.³³ Ultimately, the promotion of mental well-being is of absolute importance.

4. THE EFFECTS OF ILL-HEALTH

Ill-health can have far reaching consequences on the daily life of an individual, of which roots can be attached to diminished access to other human rights, or the declining of mental health, amongst other factors. Other human rights which can suffer as a consequence of ill-health include the right to work, the right to education, and the right to enjoy social and cultural life.

Moreover, ill-health can have serious effects on the mental health of an individual. It has been shown that people who suffer from chronic illnesses are more susceptible to mental health conditions.³⁴ When diagnosed with a chronic illness, feelings of sadness and discouragement may be present and such reactions are normal.³⁵ However, in case feelings of sadness are prolonged, depression might be present, and as such, depression itself diminishes the ability to participate in daily life, along with having the additional burden of the chronic illnesses limiting this ability as well.³⁶ An individual may be faced with additional hardship as some medications used to treat chronic illnesses can themselves cause depression.³⁷ Furthermore, the presence of feelings of incompleteness, anxiety, and hopelessness can be present for individuals suffering from chronic pain and illnesses.³⁸ In extreme situations, depression, in combination with chronic illness and chronic pain, can lead to suicide. It is therefore of crucial importance to treat physical and mental health simultaneously to improve the overall well-being of an individual and ensure that they receive access to a multitude of health-related services to aid them in recovery.³⁹

³² *ibid.*

³³ ‘Unattended Mental Health’s Impact on Society’ (*Tacoma- Pierce County Health Department*, March 2016).

³⁴ ‘Chronic Illness and Mental Health: Recognizing and Treating Depression’ (*National Institute of Mental Health*) <<https://www.nimh.nih.gov/health/publications/chronic-illness-mental-health>> accessed 14 May 2024.

³⁵ *ibid.*

³⁶ *ibid.*

³⁷ *ibid.*

³⁸ *ibid.*

³⁹ *ibid.*

CONCLUSION

01

The right to health, article 12 ICESCR.

The right to health covers physical and mental health. It consists of underlying determinants such as access to safe food and water, and adequate sanitation. Additionally, entitlements such as non-discrimination are at the forefront of ensuring this right for everyone. The right consists of four essential elements, accessibility, availability, acceptability, and good quality.

02

The right to physical health.

Physical health deals with the well-being of the body, and factors such as living habits and genetics affect the physical health of an individual. Rights which can be connected to physical health include the right of access to health and healthcare, the right to a healthy environment free from pollution, and the right to health education.

03

The right to mental health.

Mental health covers the well-being of the mind as well as the ability to cope with responsibility in daily life and to upkeep relationships. Access to health services related to mental health is of crucial importance to upkeep the health of individuals.

04

Chronic illnesses and health.

Chronic illnesses are conditions which require treatment over a longer period of time, with a coordinated combination of various healthcare professionals and adequate medication. Chronic conditions can diminish the enjoyment of other human rights, such as the right to work, and can also decline the mental health of an individual, leading to conditions such as depression.

05

Impacts of untreated mental health conditions.

Untreated mental health conditions affect the daily life of an individual as well as the society as whole by creating economic loss through diminished working productivity and increased healthcare costs.

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Alysia Marshall-Seslar, 'Body Health Basics: What is Physical health' *McMillen Health* (4 January) <<https://www.mcmillenhealth.org/tamtalks/physical-health>> accessed 13 May 2024.

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