INTERVIEW

Right to health: Why this expert believes Rajasthan doctors' fears aren't unfounded

Both how the private sector will be reimbursed and how the public sector will be held accountable remain unclear, argues public health expert T Sundararaman.

Tabassum Barnagarwala

Apr 02, 2023 · 07:30 am

https://scroll.in/article/1046618/right-to-health-why-this-expert-believes-rajasthan-doctors-fears-are-not-wholly-unfounded

As doctors in Rajasthan stage massive protests against the Right to Health bill that has been passed by the state assembly, the question is being asked: Are the physicians being unreasonable in their opposition to a landmark bill? While opponents and supporters of the bill have taken hard positions, public health expert Dr T Sundararaman, in an interview with Scroll, lays out the middle ground. The bill has yet to be signed by the state governor.

In this interview, he explains why the medical fraternity's fears are not entirely unjustified and what the government could do to make the law more effective. There must be a constant dialogue, he said.

Excerpts:

What is the importance of bringing in legislation ensuring the right to health?

It is an obligation under international laws and treaties, and Supreme Court rulings [in multiple hearings, the Supreme Court has emphasised the right to health drawing from the right to life] that advises the central government and states to have a law.

When you are talking of economic growth and social justice, you need to provide health security for the population. Unless you have provisions to secure healthcare, your aspirations to be a modern developed society will not be taken seriously

This is fundamental to our growth. It is required for both equity and social justice. It is welcome that Rajasthan has moved in this direction. It is a powerful bill. current bill is broadly in lines with the objectives set out during the drafting stage.

What are the flaws in the bill? Are the doctors right to be worried?

Remember all laws take time to mature and evolve. They come up, they get tested by the courts, they get amended. Let us still welcome it.

However, there is one major concern. The government has brought in the private sector as a care provider but it has not really clarified how it will empanel private hospitals.

The government has left that to the rules, which are yet to be framed, and the private sector is not very happy to wait until then.

There are two problematic clauses, 3(c) and 3(d). Section 3(c) says that private and public hospitals have to provide emergency treatment and care in case of accidents, an emergency due to snake bite or animal bite. Now, if we check the definition of designated healthcare centres, the bill says, "healthcare centre as prescribed in the rules".

So will some private hospitals be included in this category? If yes, where is the clause that says this cost will be reimbursed? Reimbursement is only discussed in Section 3(c) which talks about emergency treatment.
I had pointed out during deliberations with the state that this clause is unnecessarily provocative. Unless the rules come out soon and reassure doctors, the opposition will remain.

Does the bill clearly define a 'healthcare establishment'?

The definition of healthcare establishment [Section 2(m)] is ambiguous. At one point, it says public or private facility, and later it says hospitals managed by government finances.
So, will a private hospital empanelled in an insurance scheme of the government be included in the list of designated health care establishments?

What are the other drawbacks in the law?

The other issue is public sector accountability. The onus to provide healthcare is on the public sector, but the mechanisms of accountability in the form of grievance redressal is not enough.
Rajasthan has a weak public health service. How will you strengthen it? Say, a poor person goes to a public hospital and he is turned away, he will then have to go to the district health authority. Will everyone be forced to go to the grievance redressal body then?

As of today, people go to the private sector because there are no services in the public sector. How is that going to change? The law does not say much about the supply side nor the mechanism by which the entitlement to healthcare will be delivered.

How did the bill change after it went to the select committee?

When the bill was tabled in the assembly, it went to the select committee, and doctors were taken on board and a number of compromises were made. Before, the role of the district and state health authorities was broader. That accountability mechanism is now diluted.
Only the Indian Medical Association was involved in the process of consultations in later stages.
All civil society and public representatives were removed from discussions when the bill went to the select committee.

One provision of the bill says that the decision of the district or state health authority is final and doctors cannot approach the court against a decision taken in "good faith". Is it fair?

That won't stand legally. What the provision means is the authority has its own powers. But there is always a higher authority to approach.

But there may also be delays in treatment. A hospital may turn away a patient and the patient will have to go to the district health authority. This could be time-consuming.

Absolutely. The law should have specified that if there is no bed in that hospital, it is the responsibility of the hospital to transfer the patient to a place where there is a bed. And if necessary, they must contact the private sector to provide a bed. That feature is not yet there in the bill.

What measures do you propose to break the deadlock around the law?

First, we should welcome and explain the bill. It is confusing in parts. The government has to clarify some provisions.

Second, the government should continue discussion with doctors and civil society and address the concern about the losses of the private sector, and especially assure them of reimbursement. That will mean that under the obligations of the government, there must be a clear section that says the state must reimburse the cost of service to the service provider who provided free service under the bill. It is there in Section 3(c) of the bill, but it needs to be spelt out clearly.

Third, the district and state health authority must include civil society representatives. The select committee has only focussed on demands of the private sector, they need to strengthen the public sector.

Fourth and most important, the organisation of public health service delivery required for accessing all essential healthcare as an entitlement must be made clear. This usually takes the form of a network of designated health centres, where registration ensures full range of primary healthcare services and which also acts as an assured port of entry to all levels of healthcare.

[Sundararaman is the former dean of School of Health System Studies at the Tata Institute of Social Science, and was also the director at the State Health Resource Centre in Chhattisgarh. He was executive director of the National Health Systems Resource Centre, and has played an advisory role in formulating public health policies in several states]