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Right to Health and Health Care and its necessary synergy with (Comprehensive) Primary Health Care

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Presentation in 3 parts:

1. Understanding Right to Health and Health Care
2. Conceptualization of Primary Health Care what, why, how?
3. How are entitlements assured ? L

So what is meant by Right to Health?

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- Right to Health Care Services is part of of the demand for Right to Health:

- Right to Health is the right to the enjoyment of the highest attainable standard of health without distinction of race, religion, political belief, economic or social condition.

Defining Right to Health

WHO Constitution (1946-8):

"Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

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.

The extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health.

Informed opinion and active co-operation on the part of the publicare of the utmost importance in the improvement of the health of the people."

Two Essential Aspects

Right to Healthcare Services

(preventive, promotive, medical/curative, palliative, rehabilitative)

And

Right to the Underlying Determinants of Health

1. Reduced Social Inequities
2. Entitlements to basic provisions required for life with dignity
3. Protection from Commercial determinants of health and health life styles

The Underlying Determinants

- Social Inequalities-
  - Based on Gender, Caste, Class, Religion, Ethnicity and Social Status
  - Marginalization By Occupation, by Social Status, By Geography
  - Poverty, Hunger, Unemployment

Basic Provisions- Safe drinking water and adequate sanitation; Safe food; Adequate nutrition and housing; Healthy working and environmental conditions; Education

Protection from commercial determinants of ill health

Promotion of harmful life styles- tobacco , alcohol and substance abuse.

Urbanization and Urban Planning,

Commercial foods and unhealthy consumerism

Actions of corporate capitalism in destruction of eco-systems

Right to Health is more than one legal instrument

Related to Health Services	Related to underlying determinants
• Right to Health Services • Clinical Establishments Act. • National Medical Commission Act • National Allied Health Workers Act • Nation Nursing Commission Bill • Acts pertaining to medicines, and medical devices • Biomedical waste management act • PCPNDT & Abortion Act	• Public Health Act • Food Safety Act • Right to Food Act • Social Security Codes • Employees State Insurance Act • Right to Education • Consumer Protection Act • Environmental Protection Act • Air Pollution Control Act

Right to Healthcare Services (aka RTH)

- Every Person in need of healthcare services currently resident in the state shall have guaranteed access to these health care services
  - And that such services will be
  - timely,
  - of good quality,
  - Without financial hardship
  - Provided with complete respect to dignity, comfort and human rights
  - Available without discrimination.

What are essential health services?

- All preventive and promotive healthcare services as required by individuals and communities
- Curative health care services for acute and chronic illness, communicable and non-communicable, simple or complex, physical or mental
- Emergency medical services
- Palliative care
- Rehabilitative care
- Maternal health care services
- Sexual and Reproductive healthcare services
- Neonatal, infant, child and adolescent health services
- Health care services for elderly

Typically only exclusions are to be specified!!

What are the protections?

- Right to Non-discrimination
- Right to Information
- Right to confidentiality, privacy
- Right to informed consent, and second opinion
- Right to dignity
- Rights to measures against avoidable pain and suffering
- Rights related to death..

International Obligations

- ICSECR_ International Covenant on Social, Economic, and Cultural Rights, 1976- article 12 & General Comment-14 (2000)- ratified by India, 1979
- As of 2015, the Covenant has 164 parties. A further six countries, including the United States, have signed but not ratified the Covenant.
- India adopts in 1979
- The ICESCR is part of the Declaration on the Granting of Independence to Colonial countries and peoples, International Bill of Human Rights, Universal Declaration of Human Rights & the International Covenant on Civil and Political Rights-including first and second optional protocol.
- •The Covenant is monitored by the UN Committee on Economic, Social and Cultural Rights.(UNESCO)

General Comment 14- of ICSECR

- Right to health- contains both freedoms and entitlements- free with respect to decision making on body, from harm, on treatment etc and entitlement to services required-equality of opportunity.
- Progressive realization, but immediate obligations and core content: Obligations to
  - Respect: do not interfere in the right to enjoy health/services
  - Protect: prevent third parties from interfering in 12 guarantees
  - Fulfil: adopt, legislative, administrative, budgetary, judicial, promotional and other measures as required

Other international obligations

- **Declaration of Alma Ata, 1978**
- **Convention on Elimination of all forms of discrimination against women (CEDAW): Treaty**-1979
- **Convention on the Rights of the Child (CRC): Treaty 1989**
- **Convention on the Rights of Persons with Disabilities: Treaty : 2006**
- **WHO Framework Convention on Tobacco Control (WHO FCTC):Treaty: 200**3
- **International Health Regulations: Treaty: 2005**

- ***There are also a number of Supreme Court Rulings and Policy Statements made in India- which are drivers for Right to Health Legislation.***

Who legislates- Center or the States?

Center?

- Has more funds to implement the law
- Has international obligation- can override states
- Has greater capacity

States?

- Health is a state subject.
- States at very different levels of development – many states have the capacityto deliver this.
- Center's thrust is towards privatization- already excessive centralization has not helped.

Our position: It should be the states prerogative- with a financial sharing arrangement. States without their own law, or unable to meet certain standards, will be obliged to follow central law- ---- ????

The pitfalls of Legislation

- Many nations and state governments have laws which have no impact. Eg Assam..
- Usually these are not poor implementation- these are poor legislation, never meant to be implemented
- Poor design of legislation, that creates entitlements without mechanisms for delivery can lead to privatization- and shift of care to more privileged sections.
- Most examples of "successful legislation" and realization of rights depends upon universal and comprehensive primary healthcare with a legal pathway through which all health services are accessed.

What is primary health care??

2

- It is an **approach** to organization of health care services which has a set of essential features-

(The opposite of primary health care approach is a hospital centric approach…)

Essential Features of Primary Health Care

1. Comprehensive- all components, illnesses & levels
2. Emphasis on prevention and promotion
3. Population Based--
4. Includes the referral – entire district health system
5. Community Based & People-Centered
6. Gate-keeping and Gateways

(Reference- WHO Report, 2008- Primary Health Care- Now)

People-Centered & community based

- …..requires a direct and enduring relationship between the provider and the people in the community served ….
- ….and it is essential to be able to take into account the personal and social context of patients and their families,
- ….. ensuring continuity of care over time as well as across services.

: Gate-keeper/Gateway/

- This role "effectively transforms the primary health care pyramid into a network, where the relations between the primary-care team and the other institutions and services are no longer based only on top-down hierarchy and bottom-up referral, but on cooperation and coordination.
- The primary-care team then becomes the mediator between the community and the other levels of the health system, helping people navigate the maze of health services and mobilizing the support of other facilities by referring patients or calling on the support of specialized services.
- They can help ensure that people know what they are entitled to and have the information to avoid substandard providers.." (2)

Why has this been so difficult to realize?

2B

BARRIERS TO IMPLEMENTATION

1.Confusion with Primary *Level* Care:

- It is NOT First Contact Care
- It is NOT care for simple ailments and symptomatic care/dispensary
- It is NOT reproductive and child health plus national disease control programs
- It is NOT limited to care you get at Primary Health Centres
- **Primary Level Care**: Is one sub-set of primary health care and describes what happens at point of first contact and close to community facilities- usually managed by primary care team - who can even be only nurses and paramedicals: Also referred to as entry point ambulatory care:

2. The Selective Health Care Approach

- 1950 to 1978 : The Capture by Family Planning (….and malaria and a few national programs).
- 1990 onwards: Health Sector Reform Under Structural Adjustment:

  " *Beyond a well-defined package of essential services, therefore, the role of the government in clinical services should be limited to improving the capacity of insurance and health care markets*" (WB Report, 1993)

- The essential services to be provided were to be based on an indicator- " dollar spent per DALY saved."

Impact of selective healthcare

- Peripheral facilities (sub-centers, PHCs and CHC) lose public trust and credibility.
- Changed the perception of medical officers on what is their role and what are they expected to deliver.
- Introduction of user fees contributes to exclusions
- Vertical programs stagnate due to weak system
- Tertiary care over-crowded and poorly functional.
- Huge increases in costs of care.
- Transfer the blame from the policy makers to the public health workforce and public systems- justifying lack of further investment – even for replacement in public health systems

3. Systematic Under-funding:

- Low public expenditures on healthcare –
- Most of the resources go into tertiary care sector-
- In most states the number of health centers were never created- and did not keep up with populaton.
- There was almost no additional beds, or health centers added on, even to keep to population norms
- HR in most facilities was far below required levels- and inconsistent.

4. Human Resources Mis-match

- Poor fit between the training provided and the needs on the ground
- Poor fit between aspirations of the providers and the requirements
- The changing culture of medical practice- especially specialist practice

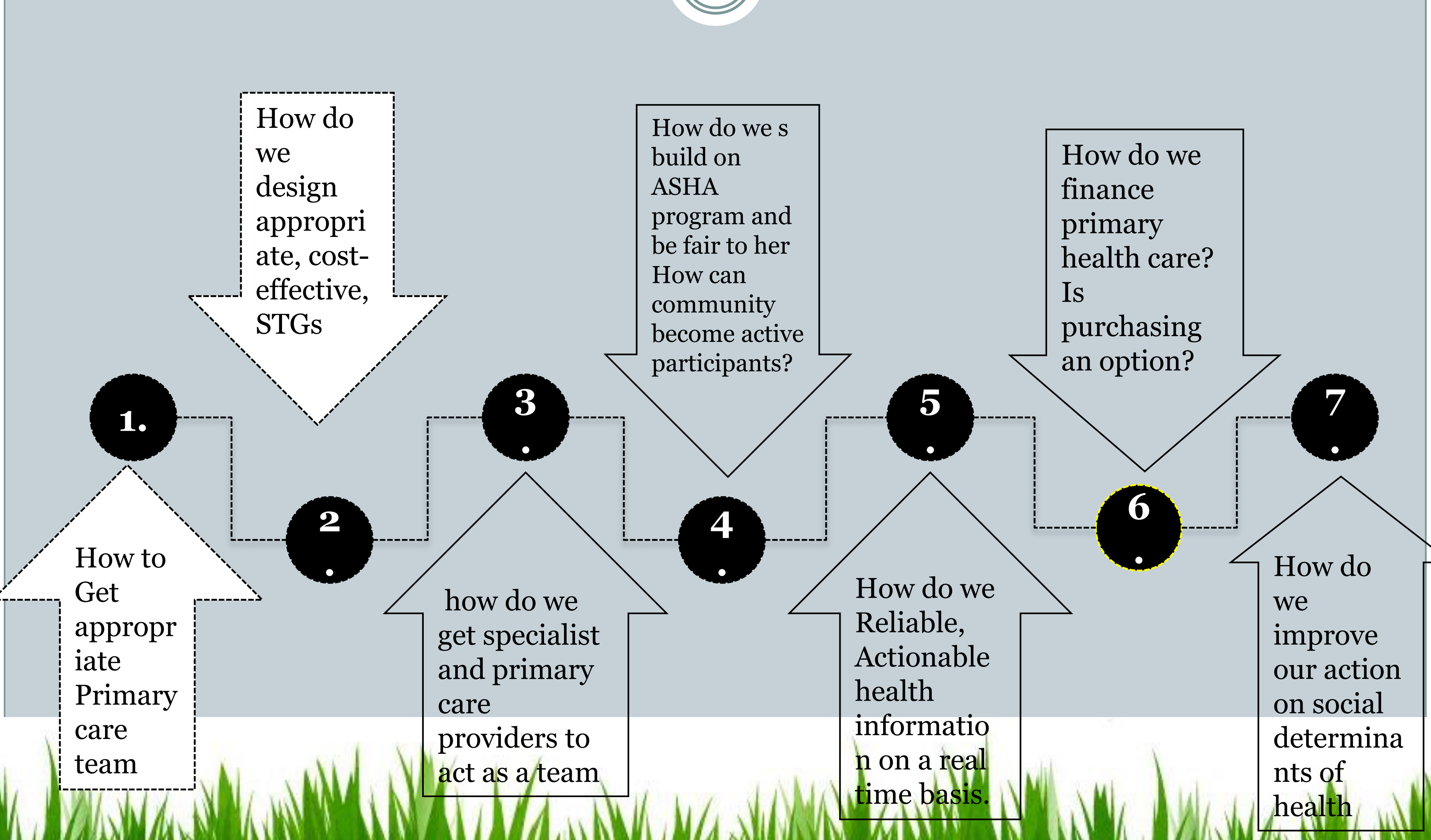
Task Force for roll out of comprehensive primary health care-2015

Main Recommendation: The transformation of all sub-centers and PHCs into health & Wellness Centers

- Expand the basket of services
- Reform the organization of service delivery
- Make required and appropriate human resources available – the mid level care provider
- Reliable access to FREE medicines and diagnostics
- Leverage Information Technology
- Ensure Quality of Care
- Institutionalize community role in HWC – Jan Arogya Samitis

Reiterated in National Health Policy- 2017

Seven problematics of primary health care.. & scope for innovative and creative designsolutions…



How can the right to healthcare services be delivered as a justiciable entitlement?

3

Learning from other LMIC nations

Learning from Thailand

- Based on comprehensive primary health care-Every health need is included-only exclusions specified
- Registration at PHC as gateway to entitlements-NHSO Act clauses 5 to 7.
- Responsive and responsible public financing with over 95% of district systems are public providers
- Adequate deployment of appropriately skilled public health workforce-) 1.4 million CHVs, 26,000+MLHPs, and 25 plus teams at DH(CHC)++) and infrastructure.

Thailand's National Health Security Act- 2002-

Creates an entitlement

Chapter 1: The Right to Health Service

Section 5 Every person shall enjoy the right to a standard and efficient health service as provided in this Act.

The Board may determine that, at each visit, beneficiaries of the health service shall contribute a fee at the specified rate, except for the indigents or other persons whose contribution is exempted by the Board.

The type and scope of health service entitled to a person shall be as prescribed by the Board.

NHSO creates the delivery of the entitlement

Section 6: Any person intending to exercise the right pursuant to Section 5 shall select a service unit for regular visitation, and shall be registered there as per rules and shall be entitled to the health services. .as prescribed by Board (Choice of service unit or application for a change of the service unit shall be in accordance with the rules…. with due regard given to the convenience and need of the person.)

Section 7 A registered person shall exercise the right to health service at the service unit of their own choosing or a primary care unit within the relevant network of service units or another service unit thereto he or she is referred by their service unit or the relevant

network of service units, except in the case of justifiable cause, accident or emergency illness whereby the registered person shall have the right to access another service facility, as prescribed by the Board……. In such case, the service facility shall be entitled to reimbursement of the expense from the Fund

Section 8 : for first services- may access any service unit- but they will ensure registration.

Section 10- scope of service as per law, Board shall ensure its availability..

Section 11: is a person registered with ESI takes service from a service unit, ESI would reimburse the service unit.

Other important features of the NHSO act

- **The No-Fault Liability Clause: Section 41** The Board shall earmark no more than one percent of the budget to be allocated to service units for financial assistance in the case where a beneficiary is damaged by the medical treatment provided by a service unit where no wrongdoer is identified, or where the wrongdoer is identified but the beneficiary has not received compensation within a reasonable period of time, according to the rules, procedures and conditions as prescribed by the Board. (this goes along with a grievance redressal mechanism”_
- **Section 59-** covers denial of service or charging excess or unwarranted fee
- **Financing-** section 46- shall be Based on cost-estimates of services delivered- as decided by a standards Board- taking into account variations of mission, of geography, and will include costs of HR,
- **Governance**- The National Health Security Board and the Quality and Standards Control Board.

Learning from Costa Rica

- Rights driven- provision of healthcare as core value
- Political facilitators- de-militarization, democracy,
- Largely organized, urban work-force
- Built around social insurance
- Integration of social insurance & ministry of health team
- Multi-disciplinary health teams provided universal primary healthcare- linked closely to secondary and tertiary care.
- Empanelment of Costa Ricans to these care teams to support population health management and continuity of care;
- Adequate management capacity

Creating legal entitlements in the Indian context:

- Putting in place a network of comprehensive primary healthcare providers- build upon the HWC or equivalent service unit
- Registration in neighbourhood HWC mandatory and entitles to a full range of primary services- right there- and secondary and tertiary care services through this gateway.- all insurance schemes link back to this
- All services access through this portal are free- as they are pre-paid by tax based premiums
- Board specifies only exclusions- and it specifies gateways.

Right to Healthcare services:
Essential feature of Left and Democratic Platform..!!.....?

- Most countries that adopted RTH, did so at level of development, less than where we are !!! It's a feasible slogan:
- The Right to Food, the Right to Employment, the Right to Social Security- including elderly care, the Right to Education and the Right to Health, are 5 key elements of an alternative LD Platform
- Financed by increased taxes-including income, wealth and estate taxes. Would require greater federalism…
- We are **against** hatred and the politics of hatred and fascism
- We must create an imagination of what we are for…
- And work towards achieving it should start now- …. And we should ourselves be convinced that this is possible to implement such a plan if democratic forces come to state power.

Thank You

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