

RIGHT TO HEALTH IN INDIA: LAW, POLICY AND PRACTICE. By Sugata Talukdar. Sage Publications, Delhi. Pp.307. Price Rs. 1395/-.

SAUGATA TALUKDAR'S *Right to Health in India: Law, Policy and Practice* is a timely and comprehensive exploration of one of the most pressing concerns in contemporary India: the intersection of law, policy, and the fundamental right to health. Published by SAGE in 2022, the book situates health not merely as a welfare concern but as an enforceable human right rooted in constitutional and international legal frameworks. At a time when the COVID-19 pandemic exposed deep inequities in India's health infrastructure, this volume provides both an analytical foundation and a practical critique of the country's health laws and policies.<sup>1</sup>

The book is structured into eight substantive chapters, along with an introduction and conclusion, moving from conceptual and international perspectives to domestic constitutional provisions, statutory frameworks, and vulnerable groups such as women, children, and persons with disabilities. Talukdar also devotes focused attention to epidemic diseases and occupational health hazards—two areas of growing relevance in India's rapidly industrializing and crisis-prone landscape.<sup>2</sup>

The opening chapter deals with the theoretical foundations of health, tracing how the definition of health has evolved from a biomedical concept—concerned primarily with the absence of disease—to the more holistic World Health Organization (WHO) definition that includes physical, mental and social well-being.<sup>3</sup> Talukdar rightly argues that this expanded understanding is essential for framing health as a legal right rather than a charitable entitlement.

The chapter also draws upon distributive justice theories, particularly Rawlsian egalitarianism, to underscore that health cannot be left to market vagaries but requires state responsibility.<sup>4</sup> This theoretical lens is important because it highlights the normative shift: health is no longer just a medical service but a right that entails correlative duties upon the state. The rights-based approach, Talukdar shows, makes the conversation less about availability of hospitals and more about accountability, equality, and non-discrimination.<sup>5</sup>

Chapter II discusses the international legal perspective, tracing how the right to health found expression in global instruments such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights

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1 Sugata Talukdar, *Right to Health in India: Law, Policy and Practice* (SAGE Publications, 2022), Preface

2 *Id.*, Contents.

3 *Id.*, Ch.1.

4 *Id.*, Ch1. Discussion on distributive justice.

5 *Id.*, Introduction, at 2-4.

(1966), the Alma Ata Declaration (1978), the International covenant on Economic, Social and Cultural Rights (1966), the Alma Ata Declaration (1978), and the Sustainable Development Goals (2015).<sup>6</sup> Talukdar highlights how these frameworks shaped India's own obligations, even though the country has not always fully implemented them.

What stands out in this section is the author's emphasis on the "AAAQ" framework—availability, accessibility, acceptability, and quality—as guiding standards for the realization of the right to health.<sup>7</sup> This analytical prism allows readers to evaluate Indian Health Policies against internationally recognized benchmarks.

Chapters III and IV are arguably the book's strongest contributions. Talukdar demonstrates how the Indian judiciary expanded Article 21 of the Constitution (Right to Life) to include the right to health, despite the absence of an explicit constitutional provision.<sup>8</sup> Through landmark judgements such as *Consumer Education and Research Centre v. Union of India*<sup>9</sup> and *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*,<sup>10</sup> the Supreme Court treated health as intrinsic to dignity and life.

At the same time, Talukdar is critical of the fragmented legislative landscape. He reviews statues such as the Drugs and Cosmetics Act (1940), the Food Safety and Standards Act (2006), the National Food Security Act (2013), and the Clinical Establishments Act (2010).<sup>11</sup> While these laws address specific aspects of health, India still lacks a comprehensive, rights-based legislation akin to the Right to Education Act. The unpassed National Health bill, 2009, which explicitly defined the right to health, is cited as a major missed opportunity.<sup>12</sup>

The book devotes separate chapters to the right to health in the context of women, children, and persons with disabilities. This focus is commendable, for it highlights how health inequities are not evenly distributed but intersect with gender, age and ability.

For women and children, Talukdar explores international commitments under CEDAW and the Convention on the Rights of the Child, alongside Indian laws such as the Medical Termination of Pregnancy Act (1971, amended 2021), the Pre-Conception and Pre-Natal Diagnostic Techniques Act (1994), and child welfare laws.<sup>13</sup> He notes progress in maternal health and child nutrition but underscores persistent gaps in implementation, particularly in rural India.

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6 *Id.*, Ch. II.

7 *Ibid.*

8 *Id.*, Ch. III.

9 (1995) 3 SCC 42.

10 (1996) 4 SCC 37.

11 *Supra* note 1, Ch. IV.

12 *Ibid.*

13 *Id.*, Ch. V.

On disability, Talukdar examines the Rights of Persons with Disabilities Act, 2016, noting how it moves beyond charity-based approaches to rights-based entitlements.<sup>14</sup> Yet infrastructural deficits—such as lack of wheelchair access or healthcare personnel trained in disability needs—undermine the law’s transformative potential.

Chapter VII on epidemic diseases is especially relevant post-COVID-19. Talukdar critiques the reliance on the Epidemic Diseases Act of 1897, a colonial-era law ill-suited for modern health crises.<sup>15</sup> He advocates replacing it with a comprehensive statute grounded in rights-based and public health principles.

Chapter VIII turns to occupational health hazards, discussing the Employees State Insurance Act (1948), Factories Act (1948), and Maternity Benefit Act (1961).<sup>16</sup> Talukdar stresses that India’s industrial workforce continues to face unsafe conditions, lack of awareness, and weak enforcement of protections. Here, the book demonstrates how health rights intersect with labour rights, making the case for integrated reforms.

The conclusion synthesizes the book’s findings and offers reform suggestions. Among the key recommendations are: insertion of a specific constitutional provision on the right to health, similar to the right to education,<sup>17</sup> and enactment of a comprehensive National Health Law, reviving and updating the 2009 draft bill.<sup>18</sup> Talukdar acknowledges the progress India has made—through judicial activism, legislative experiments, and schemes—but insists that these are piecemeal and often exclusionary. Without systemic reforms, the right to health risks remaining aspirational.

The book is written in a clear, scholarly style, combining doctrinal analysis with policy critique. While heavily grounded in legal texts and case law, it avoids excessive jargon, making it accessible to not only law students and practitioners but also policymakers and civil society actors. Each chapter is carefully structured, beginning with conceptual grounding, moving to international and domestic frameworks, and ending with critical analysis.

One possible limitation is that the book sometimes becomes descriptive rather than analytical—especially in sections summarizing statutes. While this ensures comprehensiveness, more empirical engagement (*e.g.*, case studies of health service delivery) could have enriched the analysis. Nevertheless, for a legal text, the balance between theory and practice is well struck.

Talukdar’s work fills an important gap in Indian legal scholarship. While public health has been studied extensively by social scientists, there are relatively few works that

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14 *Id.*, Ch. VI.

15 *Id.*, Ch. VII.

16 *Id.*, Ch. VIII.

17 *Id.*, Conclusion.

18 *Ibid.*

systematically analyse it through the lens of law and rights. By integrating constitutional jurisprudence, statutory analysis, and international law, this book offers a holistic perspective.

Its greatest contribution lies in reframing health not as a welfare measure but as a justiciable right linked to dignity, equality and citizenship. In doing so, it aligns with the global human rights discourse while highlighting India's unique challenges.

*Right to Health in India: Law, Policy and Practice* is an essential resource for anyone interested in the intersection of health and law in India. It offers a comprehensive overview, critical insights, and practical recommendations that resonate strongly in the aftermath of a pandemic and amidst ongoing debates on universal health coverage.

For students and scholars of law, it provides a strong doctrinal foundation; for policymakers, it highlights gaps and reforms; and for civil society, it offers arguments to demand accountability. While some areas could benefit from deeper empirical grounding, the book stands out as one of the most authoritative treatments of the subject in recent years.

In sum, Talukdar has succeeded in advancing the conversation from whether health is a right to how it can be realized. His call for constitutional recognition, legislative reform, and stronger implementation provides a roadmap for securing the right to health in India—transforming it from aspiration to lived reality.

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