



**HEALTH AS A HUMAN RIGHT: IMPLICATIONS FOR
UNIVERSAL HEALTH COVERAGE IN NIGERIA :**

Role of the National Human Rights Commission in promoting
rights based approach to Universal Health Access in Nigeria.

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Supported States**

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OBJECTIVE OF TRAINING

To encourage Health Financing Reforms that will accelerate progress towards Universal Health Coverage in the Implementing States.

FRAMEWORK OF PRESENTATION

What are Human Rights

- ❑ Right to Health : Overview
- ❑ Constitutional Issues
- ❑ Legislative Measures to give effect to Right to Health , such as :
 - National Health Insurance Act
 - National Primary Health care Act
 - National Health Act
- ❑ Universal Health Coverage : Meaning
- ❑ Health Financing : Meaning
- ❑ Role of NHRC in promoting rights based approach in Universal Health Coverage in Nigeria
- ❑ Conclusion

What are Human Rights?

- *Human Rights* are derived from the inherent dignity and worth of the human person
- *Human Rights* are the entitlements that accrue to one because he or she is a human being. Therefore, all human beings, without exception, are entitled to human rights !

Characteristics:

- Universality
- Indivisibility
- Interdependence
- Inalienable

International Legal Frame work for promotion & protection of Human Rights include:

- Universal Declaration of Human Rights adopted on 10th December 1948;
- The International Covenant on Civil and Political Rights, adopted in 1966 and which entered into force 23 March, 1976
- The International Covenant on Economic, Social and Cultural Rights, adopted in 1966, entered into force 3rd January, 1976 (Highlight examples of ECOSOC Rights
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984, entered into force 26th June, 1987.
- The Convention on the Rights of the Child, adopted in 1989, entered into force on 2nd September, 1990.
- UN Convention on Rights of Persons with Disabilities



I c. Regional Instrument(s):

- African Charter on Human & Peoples Rights

I d. Domestic Instrument(s)

- Constitutional Provisions – Chapter 2 & 4 as well as other Legislations

Right to Health : Overview

The Right to Health is a fundamental human right which is vital to all aspects of a person's life and wellbeing and is crucial for realization of all human rights, especially right to life. The main human rights instruments providing for the right to health include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, among others. Article 12.1 of the International Covenant on Economic, Social and Cultural Rights provides for state parties recognition of right of everyone to the enjoyment of the highest attainable standard of physical and mental health. **While the right to health does not include a guarantee of perfect health for all, it includes government duty to ensure healthcare.** Right to health connotes entitlement to an effective and integrated health system, encompassing health and underlying determinants of health. It is not merely a right to be healthy. It includes a variety of services, facilities and conditions that promote and protect the highest attainable standard of health

State Obligation: Article 2 ICESCR – Progressive Realization:

- The right to health has to be understood together with article 2(1) of the International Covenant, according to which states commit to “**take steps**, individually and through international assistance and co-operation, especially economic and technical, **to the maximum of its available resources**, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means...
- Herein lies justification for State adoption of Universal Health Coverage or other measures pursuant to discharge of obligations under the Covenant
- The right to health does *not* provide an immediate entitlement to the best available health care in the world. The corresponding obligation upon states is “to take steps towards” providing the best available health care, taking into account that states’ resources are limited and that there are many rights to be realised – even the wealthiest states do not have unlimited resources for health care. Due to the greater availability of resources, the level of health care that a government of a wealthy state is obliged to ensure its residents is broader than that which a government of a poorer state is obliged to ensure its residents, such that the entitlement to health care will look different across different countries.



Constitutional Controversy :Argument of Non- Justiceability (Highlight the Issues)

However Human Rights are indivisible, interrelated and mutually reinforcing

Government steps/Legislative Measures to give effect to Right to Health such as :

- National Health Insurance Act
- National Primary HealthCare Act
- National Health Act 2015 :

The National Health Act establishes a basic healthcare provision fund which seeks to have funds for emergencies and basic healthcare to which every one is entitled ; to be financed by “(a) Federal Government through the Consolidated Revenue Fund; (b) grants by international donor partners; and (c) funds from any other source.’ The act specifies that 50% of the fund shall be administered by National Health Insurance Scheme for the provision of “basic minimum of health services to citizens.


- National Health Act, which recently came into force, is a potential instrument which can fast track progress in the health sector , if effectively implemented.
- Among other salient provisions, the Act sets the background to earmark adequate public resources to health towards strengthening primary health care through the Basic Healthcare Provision Fund. 50% of the fund will be managed by the National Health Insurance Scheme to ensure access to a minimum package of health services for all Nigerians and 45% by the National Primary Healthcare Development Agency for primary health-care facility upgrade and maintenance, provision of essential drugs, and deployment of human resources to primary health-care facilities. The Federal Ministry of Health will manage the remaining 5% for national health emergency and response to epidemics.
- Commendable Aspirations !


It is noteworthy, however, that counterpart funding from state and local governments is at the core of the National Health Act implementation. Resource mobilisation and accountability are key factors for successful implementation of the National Health Act which if effectively implemented would enhance realization of Health for all or Universal Health Coverage for various populations in Nigeria.


Universal Health Coverage :

Meaning

- With expiry of the MDGs, the World Health Organization (WHO) proposed the concept of Universal Health Coverage (UHC) as a “single overarching health goal” for the post MDGs . The 2010 World Health Report describes UHC as “access to good quality health services without people experiencing financial hardship because they must pay for care”
- The UHC was adopted in December 2012 by the United Nations General Assembly (*UNGASS*) . The WHO considers UHC as, “a practical expression of the concern for **health equity and the right to health**” .

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- UHC usually refers to health systems providing both access to health services and financial protection which includes avoiding out-of-pocket payments that reduce the affordability of services. A broad range of risk-pooling mechanisms or insurance schemes are increasingly being utilized across the developing world to increase access and reduce the financial burden of health -NHI , SHI and CBHI on health care utilization and financial protection .
 - A key feature of UHC is that it includes prepayment and that it supports risk pooling, which ensures the spread of risk across time and across individuals. The concept of UHC does not imply a particular health system organization and can include both national health systems (or a National Health Insurance model) which are state-funded and government managed, and systems of Social Health Insurance (SHI) which are generally designed for the working population and financed by payroll taxes collected from employers and employees .

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- Another model of risk pooling and prepayment is Community-based Health Insurance (CBHI) often referred to as health insurance for the informal sector or micro-health insurance which share three common characteristics such as not-for-profit prepayment plans, community empowerment, and voluntary membership.
 - Having implemented the NHIS in Nigeria for some time now , how far has the scheme fared ?
 - Whereas the NHIS and Private Health Insurance has gained attraction in providing coverage to federal public sector workers, their families and workers of large private organizations, the large majority of Nigerians are without any form of coverage. This situation has made the aspiration for UHC difficult to attain. State governments have been slow in the uptake of social insurance regulated by NHIS because they feel excluded from the scheme. Expanding coverage and minimizing out-of-pocket expenditure primarily through greater federal government health care funding is not a realistic proposition given Nigeria's income status and the autonomy that the constitution gives the states to determine their health care priorities and spending choices.

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- Notably, concerns have been raised about the absence of social security for vulnerable groups, and poor coverage of the informal sector resulting in health inequities. Challenges faced by marginalised groups, specifically prisoners, to access healthcare are also noteworthy.
 - Accordingly, expanding the frontiers of Social Insurance in Nigeria is a path to actualizing Universal Health Coverage. There is no doubt that in doing so , realizing Right to Health of many Nigerians would be enhanced in view of availability, accessibility, affordability of qualitative and equitable healthcare.
 - **More so , State-Led Social Insurance Schemes should be encouraged to thrive** in order to scale up social insurance coverage to public sector workers employed by the states. The fund should also target the informal sector in a progressive manner.

Healthcare Financing – Meaning

How is the Healthcare System funded?

- As earlier discussed ,Article 2 of the International Covenant on Economic, Social and Cultural Rights obliges government to progressively attain rights contained therein , including Right to Health. How progressive has government funded healthcare in Nigeria ?
- Comparative Budget analysis would offer guidance in this respect.
- A review of health-system financing for UHC in Nigeria shows high out-of-pocket expenses for health care, a very low budget for health at all levels of government, and poor health insurance penetration.
- Concerns are raised that health care in Nigeria is poorly funded with budgetary allocations not well managed. Government expenditure on health has been very low in Nigeria and domestic resource mobilisation is weak.It has been argued that public funding has to be at the forefront if good quality healthcare for all is to be achieved. However ,health care resource allocation in Nigeria is skewed in favor of secondary and tertiary care as against primary care and PHC.A direct consequence is that most people bypass PHC facilities to seek primary care at secondary and tertiary facilities- This situation is both inefficient and promotes inequities:The cost of primary care provision at secondary and tertiary level is higher (economically inefficient) and poor people, especially in rural areas, cannot access care because it is either not available or too expensive for them (inequity in access and payment)

World Health Assembly in 2005 adopted a widely supported resolution encouraging countries to plan a transition to UHC and in 2010, the WHO World Health Report focused on alternative financing initiatives for achieving universal coverage .

- Steps toward reforming health care financing in Nigeria to achieve UHC through social health insurance. A viable path to UHC through expanding social health insurance exists in Nigeria. It has been argued that encouraging the states which are semi-autonomous federating units to setup and manage their own insurance schemes presents a unique opportunity for rapidly scaling up prepaid coverage for Nigerians.
- by supporting the states to establish and manage their own insurance funds while encouraging integration with the National Health Insurance Scheme
- The foregoing presents the rationale for the proposal put forward here for reforming health care financing in Nigeria as a prerequisite for progress toward UHC. We propose a shift away from the federal-led social health insurance scheme toward leveraging the constitutional autonomy enjoyed by the states to extend social insurance coverage to residents of each state.

Role of NHRC in promoting rights based approach in Universal Health Coverage in Nigeria

- **Mandate of the National Human Rights Commission :**
- The establishment of the Commission was aimed at the promotion protection, and enforcement of human rights, creating an enabling environment for extra judicial recognition, promotion and protection of human rights as enshrined in the 1999 Constitution of the Federal Republic of Nigeria, the African Charter on Human and people's Rights and other International instruments to which Nigeria is a party.
- Powers & Functions include :
- Deal with all matters relating to the promotion and protection of human rights in Nigeria
- Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;
- c) Assist victims of human rights violations and seek appropriate redress and remedies on their behalf.
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Role of NHRC in promoting rights based approach in Universal Health Coverage in Nigeria Cont:

- Undertake studies on all matters pertaining to human rights and assist the Federal, State and Local Governments where it considers appropriate to do so in the formulation of appropriate policies on the guarantee of human rights.
- Publish and submit, from time to time, to the President, National assembly, Judiciary, State and Local Governments, reports on the state of human rights promotion and protection in Nigeria.
- Organize local and international seminars and conferences on human rights issues for public enlightenment.
- Liaise and cooperate, in such manner as it considers appropriate, with Local and international organizations on human rights with the purpose of advancing the promotion and protection of human rights.
- Promote an understanding of public discussions of human rights issues in Nigeria.
- Undertake research and educational programmes and such other programmes for promoting and protecting human rights and co-ordinate any such programmes on behalf of the Federal, State or Local Government on its own initiative when so requested by the Federal, State or local Government and report concerning the enactment of legislation on matters relating to human rights.
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- On its own initiative or when requested by the Federal, State or Local Government, report on actions that should be taken by the Federal, State or local Government to comply with the provisions of any relevant international human rights instruments.

NHRC Interventions:

- **Training**
- **Advocacy**
- **Monitoring**
- **Research**

Conclusion

- Without doubt, attaining Universal Health Coverage would enable realization of right to health and related rights such as right to life. Even though , Nigeria has shown commitment to achieving Universal Health Coverage (UHC), as reflected in the 2014 Presidential Summit Declaration which affirms that UHC is key to ensuring equitable access to high-quality, affordable health care for all Nigerians ; progress has been slow.
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- With regards to the entitlement to health care, states have “at least the following obligations:
- To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups;
- To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;
- To ensure equitable distribution of all health facilities,
- To meet these obligations, effective implementation Health Financing becomes necessary

Conclusion Cont:

- The government should commit itself to the 2001 Abuja declaration by allocating at least 15% of its budget to health.
- It is also canvassed that the NHIS Act be amended to ensure that each state government should create its health insurance agency with guidance from the NHIS and implement innovative ways to capture the formal and informal sectors in order to improve access to healthcare without discrimination.
- This would be in line with the spirit of the September 2013 United Nations Sustainable Development Solutions Network (UNSDSN) report on “Health in the Framework of Sustainable Development” which proposes that all countries achieve Universal Health Coverage at every stage of life, with particular emphasis on primary health services, including mental and reproductive health, to ensure that all people receive quality health services without suffering financial hardship considering “Universal Health Care is being built on the foundation of human rights and equity.

Conclusion Cont:

The Commission is open to collaboration to take necessary steps aimed at promoting rights based approach to Universal Healthcare in Nigeria



**THANK YOU FOR
YOUR
ATTENTION!**