

RGNUL STUDENT RESEARCH REVIEW (RSRR)



IN COLLABORATION WITH



CALL FOR PAPERS

ON:

***“HEALTHCARE IN INDIA: TRACING THE CONTOURS OF A
TRANSITIONING REGIME”***

FOR

VOLUME 6, ISSUE 1

CALL FOR PAPERS

The RSRR Journal invites papers for Volume 6 Issue 1 from academicians, practitioners, legal luminaries and students on the theme titled, **“Healthcare in India: Tracing the Contours of a Transitioning Regime”** in collaboration with **Arogya Legal** and the **Medical Students Association of India (MSAI)**.

An established healthcare system is akin to an oiled machine driving the wheels of growth. It is not only necessary for the expansion of the economy but also for its sustenance and survival. In the absence of accessible healthcare, the entire workforce of a nation can be rendered handicapped. A sound healthcare system ensures less financial burden on both the citizens and the exchequer, and constant availability of an active workforce, resulting in a mushrooming economy.

Healthcare systems all over the world primarily follow any of the following three models to provide its citizens with healthcare protection.¹ There are countries with a wholly state-owned system without any private investment (for example, Cuba); there are countries where the State plays the central role of administrator and key provider of healthcare services, but it is supplanted by private players too; and then there are a few countries which majorly rely on the open market to provide healthcare.

India is one of those countries where the State has played a central role in providing healthcare along with support from private parties. Modern healthcare started in the post-independent era, with the establishment of the Ministry of Health. Since then, the government has invested lakhs of crores of rupees, majority of which came through the five-year plans wherein public health has constantly been one of the most important focuses.

Notwithstanding the above-mentioned investment, there is a huge disparity between healthcare accessibility in rural and urban areas. There is an acute shortage of doctors in the rural areas as a large chunk of practicing doctors blame the lack of infrastructure for not being inclined to work in such places, which means that the people have to look towards the private sector for the supply of even basic healthcare services. This has been the status quo for the last decade or so.

¹ Vinny Parekh, ‘Tracing the History of the Modern Health Care Sector of India’ (2018) INDIANFOLK, at <https://www.indianfolk.com/tracing-history-modern-health-care-sector-india-edited>, (last accessed 27 September 2019).

However, it is expected that the existing paradigm is set to change. The rise of the Indian middle class saw healthcare become one of India's largest sectors, not only in terms of turnover but also the employment opportunities it generates. With the government's push for foreign investment, healthcare market in India is expected to reach US\$ 372 billion by 2022, driven by rising incomes, greater health awareness, lifestyle diseases and increasing access to insurance.² Apart from that, the medical devices market is also simultaneously expected to reach US\$ 11 billion.³

Although healthcare services offered by the private sector have largely eluded majority of the population, it has been successful in attracting patients from beyond the borders. It is only natural as the services being offered by the private healthcare providers in India are at par with world standards and are available at a fraction of the price they cost in developed countries. Tamil Nadu⁴ is one such state which has emerged as the hub of medical tourism in India, attracting people from middle eastern countries like Oman, Iran, countries from Africa and different parts of South Asia.⁵ In addition to that, people also reach India for alternative treatments, like Ayurveda, and to study medicine. Despite the potential to generate employment and revenue, this sector, historically, has not been exploited, focussed upon while mulling over healthcare framework, or even debated in policy discussions.

While the discourse is upon the changing dynamics of the healthcare system, it is imperative to highlight the recent actions taken by the government, both at state and central level. Launched in 2018, the 'Pradhan Mantri Jan Arogya Yojana' a nationwide insurance scheme nears completion of its first year with treatments worth Rs. 7500 Crores carried out in 47 lakh hospital treatments.⁶ However, its long term sustainability remains contentious due to the controversial process of determining eligibility and states like West Bengal and Delhi opting out of the implementation of the scheme.

² — 'Healthcare Industry in India' (2019) IBEF, at <https://www.ibef.org/industry/healthcare-india.aspx>, (last accessed 30 September 2019).

³ Ibid.

⁴ N. Md Faiyaz Ahmed, 'Vellore – A Hub for Medical Tourism' (2017) INTERNATIONAL JOURNAL OF TREND IN SCIENTIFIC RESEARCH AND DEVELOPMENT, at <https://www.ijtsrd.com/papers/ijtsrd2331.pdf> (last accessed 12 October 2019).

⁵ Sowmiya Ashok, K. Lakshmi, 'A hub of medical tourism' (2011) THE HINDU, at <https://www.thehindu.com/news/cities/chennai/a-hub-of-medical-tourism/article2237677.ece>, (last accessed 30 September 2019).

⁶ — 'Ayushman Bharat Scheme Commended By UN, World Bank: Harsh Vardhan' (2019) NDTV, at <https://www.ndtv.com/india-news/union-health-minister-harsh-varadhan-ayushman-bharat-scheme-commended-by-united-nations-world-health-2105906> (last accessed 12 October 2019).

Manifold reforms in the medical education and institution sector are set to begin with the passing of National Medical Commission Act, 2019 and awaited status of National Commission for Indian System of Medicine Bill, 2019, the National Commission for Homoeopathy Bill, 2019 and the Allied and Healthcare Professions Bill, 2018. More recently, the Rajasthan government awaits the "Right to Health" Act to be tabled, an act similar to that of Thailand. The scope of the legislation is ginormous, in terms of what stages of healthcare will it cover along with ramifications of the act such as, right to sue, compensation, special tribunals to address claims etc.

WHO recognizes access to essential medicines as part of the 'Right to Health'⁷. Access to government approved medicines for a comprehensive recovery is the right of every citizen of this country. Issues surrounding manufacture, sale & distribution of medicines/drugs transcend well beyond constitutional rights, into the dominion of intellectual property in the form of patents balancing IPR rights with regard to accessibility.

Healthcare system is incomplete without the mention of mental healthcare. The Mental Healthcare Act of 2017 is an example of this concept gaining recognition in India. The misconceptions surrounding mental health and terming issues related to it as disorders has led to it still being considered a taboo in India, resulting in those revealing their conditions to be ostracized or discriminated against. According to National Mental Healthcare Survey of India, nearly 15% of Indian adults are in need of active intervention for one or more mental health issues.⁸A brewing issue at both, national and international level, arena of mental healthcare remains unexplored. In the present scenario, it becomes pertinent to understand its basic concept and work on making necessary changes in the system catering to their specific needs.

The purpose of the above enunciated concepts is to give prospective authors a choice pool of ideas to brainstorm with, and simultaneously help them understand the crux of the theme, **'Healthcare in India: Tracing the Contours of a Transitioning Regime'**. While coursing through a plethora of incumbent issues in healthcare, few perennial questions along with contemporary ones that arise for deliberation. In spite of considerable investments and funding over the years, India lags behind in healthcare accessibility, benefits remain unreachable and funds go unutilized. Can the State allow the private sector to exercise greater control for effective implementation and allocation of health benefits/programmes and escape red tape? Can FDI in

⁷ — 'WHO | Access to essential medicines as part of the right to health' World Health Organization at https://www.who.int/medicines/areas/human_rights/en/, (last accessed 14 October, 2019).

⁸ — 'National Mental Health Survey of India, 2015-16' NIMHANS - National Institute of Mental Health and Neuro Sciences, at <http://indianmhs.nimhans.ac.in/Docs/Report2.pdf>, (last accessed 30 September 2019).

the health sector breathe fresh life into a stagnant industry? Is there a need for separate agencies to oversee the actual implementation of policies/legislations/regulations and special tribunals for handling claims arising out of the same?

The object behind the theme is to invite scholarly, original and unpublished written works from persons across the legal profession – students, academicians and practitioners. The authors are free to choose from a catena of sub-themes within the main theme. Manuscripts initiating a critical discourse amongst the readers, incorporating comparative analysis followed by exposition, proposing feasible solutions whether legislative, judicial or policy based are encouraged.

RSRR invites manuscripts on the following **sub themes**:

1. A critical analysis of recent legislations and bills:
 - a) DNA Technology (Use and Application) Bill
 - b) The Surrogacy (Regulation) Bill, 2019
 - c) Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Bill, 2019
 - d) New Drugs and Clinical Trials Rules, 2019
2. National Medical Commission: A panacea reforming Medical Education?
3. Ayushman Bharat:
 - a) A transnational analysis of Insurance based Schemes
 - b) Sustainability of the Scheme
4. Mental Healthcare
 - a) Mental Healthcare Act, 2017: A Critical Analysis
 - b) International Approach towards providing Mental Healthcare
5. Need for a “Right to Health” Act
6. Technology in Healthcare:
 - a) A.I. in Healthcare: Who is liable when the doctor is a software?
 - b) Digitization of Healthcare records - Electronic Health Record Standards, 2017 and the way forward
 - c) Regulatory framework for Medical Devices to ensure Safety, Quality and Effectiveness- Examination of shortcomings of current framework and making recommendations to NITI Aayog
 - d) Telemedicine- Legal challenges and opportunities in India

- e) Regulation of Health Tracking Wearables in India - What we can learn from Other Countries
 - f) Regulating Advertisements of Medicines in the times of Social Media - Is a complete ban justified?
 - g) Robotic Surgeries - Legal limitations and possibilities
 - h) Genetically modified children- Should Unequals be treated Equally? Regulation and Challenges
 - i) 3D Printing of Organs - How should Law Shape Up?
7. Foreign Investment in Healthcare Industry - Cause for Concern or Much-Needed Fillip? Where to Draw the Line?
 8. Role of NGOs/Social activists as Primary and Secondary Healthcare Providers
 9. Comparative Legal Analysis of Different Healthcare Systems with India
 10. Federalism and Healthcare in India
 11. India as a Centre for Medical Tourism: Regulatory Approaches and Potential
 12. Implementation issues in Primary Healthcare
 13. Healthcare and Medicine
 - a) Right to Effective Medicines
 - b) Balancing the IPR and Accessibility issues in the Pharmaceutical Sector
 - c) Regulating the Prices of Healthcare- the Karnataka experience and Way Forward
 - d) Regulating Prices of Medicines- How Much is too Much?
 14. Interplay between Medical Ethics and Legal Jurisprudence
 15. Protecting Personal Patient Data- Patients Hate Pesky Calls but Marketers love it- Need, Concerns and Way Forward
 16. Genetically Modified Food- Opportunities and Challenges- a Legal perspective
 17. Unethical Marketing Practices and Doctor Interaction- Shortcomings in Indian Law

Please note that the above-mentioned sub- themes are not exhaustive and the authors are free to write upon any other sub-theme provided it falls within the broad ambit of this journal's theme.

SUBMISSION GUIDELINES

Submission Categories

The RSRR invites papers under the following categories:

- Articles (5,000 to 10,000 words)
- Short Notes (3,000 to 8,000 words)
- Case Comments (3,000 to 5,000 words)
- Normative Law Articles (3,000 to 5,000 words)

Articles: A comprehensive and thorough analysis of issues related to the theme of the Journal. The word limit for articles is between 5,000 to 10,000 words.

Short Notes: These should contain brief, terse and pointed arguments revolving around a specific, current issue or an issue of importance which may have not received due research. The word limit for short notes is between 3,000 to 8,000 words.

Case Comments: An academic writing that analyses or is a critique of a recent case. The word limit for commentaries is between 3,000 to 5,000 words.

Normative Law Articles: The Law Review will explore the opinion of students relating to the specific legislations involved in the theme of the Journal. It seeks to bring out a student's view on how a particular Legislation or Legislative Provision should have been drafted to bring out clarity into the law. The article must first state briefly the Legislation/Legislative provision and then suggest what changes can be adopted in it. Should you have reason to believe that the particular legislation requires some amendments, you are welcome to draft and/or amend the provisions or you can re-draft the entire law if so, be the requirement. Arguments must be logical and can take into account aspects such as Sociological, Political, and Economic implications of the law. Word Limit shall not exceed 5,000 words.

Instructions for Authors

All submissions must be in Garamond, font size 12, spacing 1.5.

All footnotes should be in Garamond 10, single-spaced and should conform to the Standard Indian Legal Citation. (Get your free copy from <https://drive.google.com/file/d/1bFCWFB8DaP97aq6MkDJR7T0OP7aZmmV7/view?usp=sharing>).

Margins: Left 1.5 Inch and Right 1 Inch, Top 1 Inch and Bottom 1 Inch.

All the word limits are exclusive of footnotes.

Co-authorship is allowed up to 2 authors.

The paper should be accompanied with a covering letter specifying the author's name, designation, institute, contact number and e-mail for future reference.

All entries should be submitted in .doc or .docx format only.

The papers must be e-mailed at **submissionsrslr@rgnul.ac.in**, with the subject “**Submission for Volume 6 Issue 1 – Type of Submission (Article/Short Note/Case Comment/Normative Law Articles)**”.

The author(s) bear sole responsibility for the accuracy of facts, opinions or views stated in the submitted paper. In case of any gross plagiarism found in the contents of submitted paper, the Manuscript shall be subject to rejection.

Abstract Submission

Interested authors must submit an abstract of not more than 200-250 words accompanied with a covering letter specifying the author's name, designation, institute, contact number and e-mail for future reference. The general submission guidelines shall also govern the abstract submission. **The last date for the submission of abstract is 15th December, 2019.**

Submission Deadline

The last date for submissions is **15th January, 2020 by 11:59 P.M.** (Indian Standard Time).

Copyright

The RSRR Journal shall retain all the copyrights arising out of any publications and only the moral rights will vest with the author.

Contact

For more details about the RSRR, visit www.rsrr.in.

For any further queries, contact the Editorial Board at rslr@rgnul.ac.in.

ABOUT THE COLLABORATORS



Arogya Legal is a firm of specialists who advise on laws that apply to health-focused businesses such as pharma, medical device, food and cosmetics. The firm takes great pride in finding simple, innovative and workable solutions to the most demanding and complex legal issues that are faced by health-focused businesses from time to time.



MSAI is a non-government organization of, for and by medical students of India. It works for the welfare of medical students and communities at large, and to enhance healthcare in India. MSAI works with issues that matter the most to the nation's youth by empowering the medical students and improving the health of the country with meaningful youth participation.

ABOUT RGNUL STUDENT RESEARCH REVIEW (RSRR)

The RGNUL Student Research Review (RSRR) Journal is a bi-annual, student run, blind peer reviewed journal based at Rajiv Gandhi National University of Law, Punjab. It is the flagship journal managed by the students of the University. It has been founded with the objective of facilitating arguments in black and white. Legal Research skills form the core of the learning process in any dimension of law.

The RSRR Journal aims to publish comprehensive treatments of subjects (“articles”), written by law students as well as shorter pieces, commonly called “notes” and “comments”.

Normative law articles form a major component of the RSRR Journal. Legislative Bill Drafting is one of the novels and the primary areas which it aims to cover. Ambiguous provisions in the law are a cause of concern amongst the legal community. The RSRR Journal aims to seek the opinion of student researchers and provides the option to draft and/or amend the existing law.

RSRR is proud to share that its Journal has been continuously supported and published by Eastern Book Company (EBC) in the past. The Journal has already applied for the RNI number and upon approval, EBC will again be a part of the journal’s forthcoming publications. EBC’s online legal-research tool SCC also features the previous published volumes of the RSRR Journal.

Further the RSRR has also come out with RSRR Blog Series which publishes blogs on specific and different contemporary issues of law.

Our Works

RSRR Journal has come out with various Volumes on different themes as follows:

- Volume 1 Issue 1: “Intellectual Property Rights”
- Volume 1 Issue 2: “Competition Laws” -
- Volume 2 Issue 1: “Public International Law”
- Volume 2 Issue 2: “Taxation Laws: Contemporary Issues”
- Volume 3 Issue 1: “Contemporary Issues in Alternate Dispute Redressal Mechanisms”
- Volume 5 Issue 1: “Metamorphosis: From An Extensive To An Evolutionary Constitution”

The following Issues of the RSRR Journal are in the process of publication and would be published shortly by EBC:

- Volume 3 Issue 2: “Constitutionalism: Revisiting the Grundnorm”
- Volume 4 Issue 1: “Into the Rabbit Hole Of Blockchain- Legal Issues Surrounding Internet 2.0 Revolution”

RSRR has also come out with a special edition on “Law and Technology”.

RSRR Blog Series has come out with various Issues on different themes as follows:

- Issue 1: “International Law and Espionage”
- Issue 2: “Right to Privacy: Addressing the Concerns”
- Issue 3: “Goods and Services Tax (GST)”
- Issue 4: “Data Protection Laws: A Cross Jurisdictional Analysis”
- Issue 5: “An Analysis of Standard Clauses Related to Data Protection”
- Issue 6: “Regulating the E-Commerce Sector in India: A Work in Progress”
- Issue 7: “Regulating E-Sports: Paving the Road Ahead”
- Issue 8: “Deferring the Environmental Exigency: A Rebellion to Begin?”

Contact Us:

For any queries, contact at rslr@rgnul.ac.in

The following people may be contacted:

Editors-in-Chief:

Aryan Babele (9926041054)

Shrey Nautiyal (7988767598)

Website:

www.rsrr.in

EDITORIAL BOARD

Chief Patron

Prof. (Dr.) Paramjit S. Jaswal
Hon'ble Vice Chancellor
Rajiv Gandhi National University of Law

Patron

Prof. (Dr.) Naresh Kumar Vats
Hon'ble Registrar
Rajiv Gandhi National University of Law

Faculty Editor

Prof. (Dr.) Anand Pawar
Professor of Law
Rajiv Gandhi National University of Law

Editors in Chief

Aryan Babele
Shrey Nautiyal

Executive Editor

Arjun Gaur

Senior Editors

Anandita Bhargava
Sahastranshu
Smita Gupta

Senior Digital Editor

Vineet Gupta

Junior Editors

Aditya Vyas
Sehaj Singh Cheema
Stuti Srivastava
Tathagat Tiwari

Associate Editors

Faiz Uddin Ahmad
Kavya Jha
Malveka Nautiyal
Palak Kapoor

Junior Digital Editor

Sanidhya Parashar

Research Assistants

Bhumija Upadhyay
Chahat Gautam
Shivali Shah

ABOUT RGNUL

Rajiv Gandhi National University of Law (RGNUL), Punjab, was established by the State Legislature of Punjab by passing the Rajiv Gandhi National University of Law, Punjab Act, 2006 (Punjab Act No. 12 of 2006). The Act incorporated a University of Law of national stature in Punjab, thereby fulfilling the need for a Centre of Excellence in legal education in the modern era of globalization and liberalization. RGNUL started functioning from its Headquarters-Mohindra Kothi, The Mall, Patiala w.e.f. 26 May 2006. The University acquired approval of the Bar Council of India (BCI) in July 2006. The University also got registered with the University Grants Commission (UGC), New Delhi under Section 2(f) of the University Grants Commission Act, 1956 and has been declared fit to obtain grant from the (UGC) under Section 12-B of the UGC Act, 1956.

The University has also set up Centre for Advanced Study in Criminal Law (CASCL); Centre for Consumer Protection Law and Advocacy (CCPLA); Centre for Advanced Study in International Humanitarian Law (CASH); School of Agricultural Law and Economics (SALE); RGNUL Institute for Competitive Examination (RICE); Bureau of Information for Study Abroad (BISA) and Directorate of Distance Education (DODE). The objective of these Centres is to undertake advanced study and research in the emerging areas of the respective fields, independently or in collaboration with professional institutions at the national or international levels; to bring about publications and produce study material in the respective fields of knowledge; organize seminars, workshops and conferences on contemporary and significant issues. Besides, there is an IGNOU School of Law functioning from Mohindra Kothi, the Mall, Patiala. The University has set up a Legal Aid Clinic under the aegis of Punjab Legal Services Authority. The University has also set up the Internal Quality Assurance Cell (IQAC) as per UGC guidelines.

RGNUL is also a member of a number of professional organizations of national and international stature like the Asian Law Institute (ASLI), Singapore; Commonwealth Legal Education Association (CLEA); Forum of South Asian Clinical Law Teachers (FSACLT), Goa; Indian Economic Association (IEA); Indian Institute of Comparative Law (IICL), Jaipur; Indian Institute of Public Administration (IIPA), New Delhi; Indian Law Institute (ILI), New Delhi; Indian Political Science Association (IPSA); Indian Society of Criminology (ISC), Madras; Indian Society of International Law (ISIL), New Delhi; Institute of Constitutional and Parliamentary Studies (ICPS), New Delhi; International Association of Law Schools (IALS), and International Law Students Association (ILSA), United States of America, Legal Information Institute of India (LII of India), Shastri Indo-Canadian Institute (SICI).



RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB

Sidhuwal - Bhadson Road, Patiala
(PUNJAB)

www.rgnul.ac.in

