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Original Research

The Role and Responsibilities of the Government Regarding the Right to Health and Freedom with Emphasis on the Right to Access Medicine and Vaccines for Citizens

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The aim of this article is to examine the role and responsibilities of the government in relation to the right to health and freedom, with a focus on the right to access medicine and vaccines for citizens. The data collection method was library and documentary-based, and the information was gathered through note-taking. The data analysis method was descriptive-analytical. The right to health and freedom are closely interconnected, such that freedom creates the foundation for the realization of the right to health. Governments have an obligation to ensure both the realization of the right to health and the protection of the freedom of individuals in the context of healthcare and medical services. People have the autonomy to choose the type of hospital, treating physician, and medicines and vaccines for prevention and health-related issues, allowing them to make choices freely. This freedom of choice is contingent upon the availability of necessary conditions and facilities within the country. These issues are linked to the government's commitment to providing essential medicines, vaccines, medical services, and increasing the number of specialized physicians. The more healthcare centers there are, and correspondingly, the more specialized personnel (such as nurses and doctors) are available to serve the population, the better the quality of services. As a result, individuals will have more opportunities to make free choices. The realization of the right to health is more apparent when individuals have greater freedom in their choices, both in terms of hospitals and specialized physicians. There are instances where a conflict or contradiction exists between the right to health and freedom. This situation arises when the number of healthcare centers, physicians, and healthcare personnel is inadequate relative to the defined population. In such cases, patients have a limited range of choices. Moreover, in Iran, there is a conflict between private and public healthcare centers, particularly in terms of the type and quality of services provided by these institutions, and even the manner in which physicians treat patients. Governments are obligated to provide the necessary facilities to ensure access to appropriate medicines and vaccines for citizens. Medicines and vaccines must be sufficiently available to ensure that citizens can freely access them in any region. Additionally, governments have a responsibility to increase the number of healthcare centers and promote private sector involvement to ensure that the number of healthcare facilities and medical staff increases, enabling citizens to receive better services.

Keywords: *Right to health, right to freedom, government responsibilities, role of the government, right to access medicine, right to access vaccines.*

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1. Introduction

Health is a topic discussed in many societies. In fact, every society, as part of its culture, holds a specific concept of health. From the perspective of human rights principles, health means ensuring the complete physical, mental, and social well-being of the people in a society, enabling them to freely enjoy their fundamental health rights and access appropriate services that suit their dignity (Zamani, 2016). According to international human rights documents, the right to health means that everyone has the right to attain the highest possible standard of physical and mental health, which includes all medical services, public health, adequate food, suitable housing, a healthy working environment, and a clean environment. The existence of various dimensions of health, the diverse sectors related to health, and the numerous influencing factors have made defining the right to health challenging (Shoja, 2020). Governments are required to take actions in a broad range of areas to ensure the possibility of a healthy life, with some obligations requiring immediate action and others being realized over time. The right to health is considered part of the fundamental rights in any society. Every individual, as a member of society, regardless of racial, religious, political, or cultural considerations, has the right and entitlement to enjoy this right (Dehghani, 2016). These rights, which are generally discussed in the context of preserving and protecting the right to life, are deeply connected to other human rights, especially freedom. Therefore, it seems essential that governments, regardless of their political system, pay proper attention to the right to health. The preparation, formulation, and adoption of numerous international documents and treaties related to the right to health, as well as the enactment of domestic laws and regulations in this regard, is evidence of this claim. The right to health and the right to freedom hold significant importance in legal systems and international human rights. In Iranian domestic legal sources, such as Article 29 of the Constitution of the Islamic Republic of Iran, the Vision 2025 document, the Law on the Establishment of the Ministry of Health and Medical Education, the Law on Management of Public Services, the Citizens' Rights Charter, and in international sources and legal systems of progressive countries such as the World Health Organization's Charter, Article 12(2) of the Universal Declaration of Human Rights, and the Covenants on Economic, Social, and Cultural Rights, as well as Civil and Political Rights, health is considered one of the fundamental human rights. Health, medical care, mental health, and the right to live a healthy life are considered inherent citizen rights, to the extent that one of the key features of an ideal society is the presence of satisfactory health and medical conditions. The right to health and freedom are closely interconnected, with freedom serving as the foundation for realizing the right to health. Governments are obligated to ensure both the realization of the right to health and the protection of people's freedoms in healthcare services. Therefore, the research questions are as follows:

1. What are the foundations and nature of the right to health and freedom?
2. What is the relationship between the right to health and freedom?
3. How does the conflict between the right to health and freedom arise?
4. What are the governments' obligations regarding free access to medicine and vaccines?

2. Foundations of Freedom and Health Rights

The right to health lies between a maximum and a minimum curve. In its maximal sense, the right to health affirms the state's duty to provide the necessary conditions for the health of individuals within the available resources. However, in its minimal sense, the state is responsible, within the scope of its resources, to intervene in order to prevent or reduce health risks for individuals or the community. Undoubtedly, one of the most significant aspects of the right to health, and its minimum form, is the necessity of treating and controlling diseases, as explicitly stated in Paragraph 2(c) of Article 12 of the 1966 Covenant, which is considered one of the fundamental expressions of the right to health in every international document or domestic law (Zamani, 2016). The right to health includes individual entitlements; a person has the right to live in a healthy and safe environment because access to a healthy living and social environment is essential for human development. Governments are obligated to provide, to the extent possible, a healthy environment where their citizens can lead a life of health and well-being (Shojaei Tehrani, 2021). The right to "attain the highest attainable standard of health" is described as a

fundamental right that plays a crucial role in the realization and enjoyment of other rights and freedoms. Although this right is part of the second generation of human rights, it is closely connected to the other generations of human rights. The right to health encompasses a wide range of rights, each of which plays an undeniable role in its realization. Therefore, access to clean drinking water, sufficient and nutritious food, a clean environment, and so on, are essential elements of human health. Additionally, the right to life loses its meaning without the right to physical and mental health. This fact provides evidence that "all instances of human rights are mutually dependent, inseparable, and interconnected" (Habibi, 2007). The right to health means the right to access clean water, sanitation, food, adequate nutrition, a healthy working environment, proper housing, education, information, and other rights, including accessibility, availability, acceptability, and quality. Availability means that the necessary facilities, goods, and services should be available in adequate quantities and quality within the member state. However, the exact nature of these facilities may vary based on factors such as the member state's economic development. These facilities must include essential health determinants such as safe drinking water, sanitation facilities, hospitals, clinics, and other health-related services, as well as trained medical and professional personnel with competitive salaries. Accessibility means that health services should be available to everyone, especially the most vulnerable or marginalized segments of the population, without discrimination based on race, etc. Accessibility has four dimensions: non-discrimination, physical accessibility, economic accessibility (so that people can afford the costs), and the accessibility of health-related information (Kriven, 2022). Acceptability means that all health services and goods should be provided in accordance with medical ethics, taking into account the culture of individuals, minorities, nations, communities, gender, life cycles, and respecting confidentiality principles. Finally, the quality of these services is of great importance. The diverse range of facilities must also be scientifically and medically suitable, of high quality, and include skilled medical personnel, approved scientific medicines with valid expiration dates, and equipment that meets accepted standards (ibid).

The right to health is a human right that is essential for the enjoyment of other human rights. In the preamble of the World Health Organization's Constitution, the right of every human being to access the highest possible standard of health is recognized (Shoja, 2020). This right is addressed in its most comprehensive form in Article 12 of the International Covenant on Economic, Social, and Cultural Rights, and according to Paragraph 2 of this article, the measures that member states take to ensure the full enjoyment of this right include the following:

a. Reducing the rates of infant mortality, child mortality, and ensuring their healthy growth.

b. Improving environmental and industrial hygiene in all aspects.

c. Preventing and treating communicable, endemic, occupational, and other diseases, as well as combating them.

d. Creating suitable conditions to provide medical services and assistance to the public in the event of illness.

The right to health is inextricably linked to the right to life (first-generation human rights) and is also connected to the right to health care and social security. Furthermore, the right to a healthy environment, which is part of third-generation human rights, is nourished by the right to health. Thus, the right to health can be seen as a connecting link between the different generations of human rights (Zamani, 2016).

3. The Nature of Rights to Freedom and Health

The essence of freedom, based on the right to freedom and health within the healthcare system of any country, is considered from various perspectives.

1. **Freedom in Choosing Preventive Services**: Preventive health services and care are primarily provided through specified healthcare networks and population-based frameworks. However, this does not mean that individuals from other geographical regions are deprived of these services. Instead, priority is given to individuals within the area, and after providing the necessary services to them, they are advised to return to their place of residence for further treatment. The freedom of people in this area is significantly restricted (Mostafa, 2019, p. 212). This is because of the nature of the actions taken in this sector, and compliance with them is the

first step in establishing the fundamental principles of health within the population. Sometimes, a person from a rural area visits healthcare centers, for example, to receive the COVID-19 vaccine. In such cases, the nearest healthcare centers must provide the service. Transferring the person to another region is not feasible. In these circumstances, it can be said that the priority is for the person to receive the vaccine in their own city. However, in some widespread diseases, if individuals refuse to fulfill their duties, they may contract the disease. In such cases, individuals have adequate freedom in terms of accessing healthcare.

2. **Freedom in Choosing Medical Services**: In the Iranian health system, medical services are provided through doctors' private clinics, hospitals, and treatment centers. The public is relatively free in choosing the type of treatment and the organization or physician providing the care. They can visit the treatment center of their choice and be treated by their preferred doctor. A patient, regardless of where they reside, can go to any hospital or private clinic they prefer and receive treatment (Delavari et al., 2020, p. 93). Unlike some countries where individuals must follow a referral system and cannot visit other healthcare centers or hospitals outside the system, in Iran, people are free to choose their treatment and the type of physician they see.
3. **Freedom in Choosing Insurer**: Generally, employers and individual employees have a significant influence in choosing their insurance organization. For example, military personnel are covered by armed forces insurance, while company and contract employees, workers, and some government employees are covered by Social Security Organization insurance, and other groups, including the self-employed and individuals in need, are covered by Iranian Health Insurance. According to Article 4 of the Universal Insurance Law, all governmental bodies and affiliated organizations, as well as other legal entities and individuals, are free to choose the insurance company or organization for contracting health insurance services within the framework of this law. In some countries, many healthcare and health services are free of charge. However, for certain specific diseases and those that incur high government costs, the government collects amounts from individuals according to official tariffs. In some countries with large populations, public services, like many other services, also incur costs (Shariati & Majdzadeh, 2019).

4. The Relationship Between the Right to Health and Freedom

One of the essential components of the right to health is freedom. This right is closely linked to the realization of the goals of the right to health in human rights systems. People have the freedom to choose the type of hospital, physician, and health-related issues to make decisions. This freedom to choose is conditional on the availability of necessary conditions and facilities in the country. In this environment, people can make informed decisions about the type of hospital where they want to receive treatment and the type of specialist for their disease. There is no obligation in this regard. In fact, people reach a level of awareness where the quality of care is important to them—both the quality of service delivery and the quality of treatment. Therefore, it can be said that society is moving in the direction of awareness, growth, and development. This is contingent upon the government fulfilling its obligations regarding the provision of medicines, medical services, and increasing the number of specialists in each field. The more healthcare centers there are and the more specialized staff (such as nurses, doctors, etc.) available in proportion to the population, the greater the competition between healthcare centers. This competition enhances the quality of service delivery to patients, and patients also have more freedom and a wider range of choices (Qari Seyed Fatemi, 2021, p. 82). In many countries, the ratio of physicians and healthcare staff to the target population is balanced. For instance, in Sweden and the United Kingdom, this is clearly evident. This is because the government has adhered to its medical and healthcare commitments and has performed well in this regard. It can be said that when there is greater freedom of choice—whether in terms of the type of hospital or specialized physicians—the right to health is more fully realized. In some countries, like the Netherlands, patients can transfer their case to

healthcare centers outside their physician's work location to receive better care. In such cases, increasing the range of choices for patients leads to better healthcare services. This situation is possible when the population, healthcare centers, and healthcare staff are proportionally aligned.

5. Conflict Between the Right to Health and Freedom

At times, there is a conflict between the right to health and freedom. This situation arises when the number of healthcare centers, physicians, and medical staff is insufficient for the defined population. In such cases, patients have limited choices. In Iran, there is a conflict between private and public healthcare centers, particularly concerning the type and quality of services provided by the healthcare centers and physicians (Zamani, 2016, p. 57). A large portion of the population in Iran lacks the financial capacity to pay for medical expenses and is forced to visit public healthcare centers. These public centers operate under a specific healthcare insurance scheme. Some patients wait for months to receive an appointment with a doctor, or those in need of surgery may wait several days for their turn. In Iran, some doctors work in both public hospitals and private clinics, which creates a conflict in the level of service delivery for patients. It has been observed that in an eight-hour shift at a public hospital, doctors may treat 60 to 80 patients. However, in some public hospitals, the number of consultations may be between 20 and 30 patients. This discrepancy in the number of consultations often leads to a situation where patients do not receive adequate treatment (Shojaei Tehrani, 2021). In fact, the treatment often becomes a mere formality for the hospital. Several factors contribute to the conflict between the right to health and freedom in this context: 1. The financial income of patients. As living costs in Iran continue to rise, patients are unable to pay large medical bills and are forced to wait in public hospitals. 2. The limited number of public healthcare centers. This factor severely restricts patients' choices. There are only a few hospitals in each province, and in some cases, they are unable to treat certain specialized diseases and must refer patients to other provinces. This creates a sense of compulsion for patients, which contradicts the right to freedom and choice. 3. The shortage of specialized physicians in most provinces of Iran. In fact, in recent years, many of them have emigrated abroad. This creates a fundamental issue that limits patients' ability to choose their doctors. Patients often focus solely on receiving treatment, regardless of the quality of care. This situation is more prevalent in developing countries, with countries like Pakistan, Afghanistan, and other Asian nations facing even worse conditions.

6. The Right to Access Medicine

The right to access medicine is one of the subcategories of the right to health. The right to a healthy, productive, and quality life is a universal right emphasized in Islam, Article 26 of the Universal Declaration of Human Rights, and Articles 3, 29, and 43 of the Constitution of the Islamic Republic of Iran, with the responsibility of its implementation resting with governments and considered one of the prerequisites for achieving sustainable development. The World Health Organization’s 1946 Constitution states that the need for access to the highest attainable standards of health, regardless of race, religion, political belief, or socio-economic status, is an inherent right for every person (Mostafavi et al., 2019).

The pharmaceutical supply chain in any country must provide quality, acceptable medicine for the general public, as this is a fundamental human right. One of the most important goals of healthcare systems is easy access to medicines. The pharmaceutical supply chain must ensure that medicines are available in appropriate quantities, with acceptable quality, stored in the proper conditions, and accessible to patients when needed so they can purchase them in a timely manner (Sadeghi, 2021).

Millions of people in low-income countries lack access to reliable, high-quality medicines. These individuals suffer from and die from diseases that could be treated elsewhere in the world. Today, effective drug treatments exist for many infectious diseases that are leading causes of death in poor countries, with many dying annually from diseases such as acute respiratory infections, diarrhea, tuberculosis, malaria, and others (Amir Arjomand & Mohammad Habibi, 2016). However, if access to necessary medicines for treatment were available, these death rates could be reduced. The lack of access to essential treatments not only imposes great suffering on the poor but also keeps them trapped in poverty. Severe and difficult-to-treat diseases are among the primary causes of reduced economic productivity

and stalled development. Poverty is both a cause and a consequence of the burden of disease. Therefore, for people living in low-income countries, escaping this vicious cycle of poverty and disease is practically impossible (Doshmangir et al., 2015). Even if medicines are available in these countries, they are often unreliable; in an inefficient healthcare system, these medicines are poorly distributed or improperly used. These factors lead to widespread illness and death in these countries. On the other hand, drug-producing countries assert intellectual property rights over their inventions and products, refusing to allow free access to them without participation in covering the production costs, claiming that the lack of profitability will reduce their incentive for further advancement. There are various interpretations of this conflict. However, global steps have been taken to improve the situation. Nevertheless, there is still a huge gap between the potential to save millions of lives through affordable and reliable medicines and the harsh reality of widespread disease and mortality in low-income countries (Baltussen, 2017).

One way to encourage medical research and drug innovation for difficult-to-treat diseases is by granting patents and exclusive rights. A company that invests its resources in research and development of drugs for diseases like AIDS and COVID-19 is granted patent rights to cover its costs and generate profit, which also encourages further research (Baltussen, 2017). However, the mechanism of exclusive rights also has a downside. The exclusivity granted to the drug producer can lead to excessive pricing of medicines. While this serves as a reward for the inventor, it harms consumers. In some developing countries, the government has unilaterally started to redesign the pharmaceutical market and has enacted its own intellectual property laws. For example, in India, the government decided not to grant patents for food and medicine, allowing many manufacturers to sell copies of drugs from American and European companies at significantly lower prices. Similar actions have occurred in other countries as well. This led to protests from pharmaceutical unions, who argued that disregarding patent rights undermines research and development and that without such rights, there would be no incentive to develop new and more effective drugs (McMillan, 2016).

The General Committee of the International Covenant on Economic, Social, and Cultural Rights of the United Nations, in its report on the right to health, acknowledges that this right "is closely linked to other human rights, and it is only when all of them are realized that the right to health can be fully achieved" (Petersmann, 2013). The first treaty to mention the right to health is the United Nations Charter, which in Article 55(a) obligates the UN to promote higher standards of living, and in Article 55(b), obligates the UN to find solutions to international health issues. Undoubtedly, one of the ways to promote higher standards of living is by ensuring access to medicines and increasing the fight against diseases and expanding public health. Another example is the WHO's Constitution, which in its preamble states: "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being" and "The health of the people is vital to the attainment of peace and security." Article 25(1) of the Universal Declaration of Human Rights, adopted on December 10, 1948, states: "Everyone has the right to a standard of living adequate for the health and well-being of themselves and their family, including food, clothing, housing, medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond their control" (Sadeghi, 2021). However, Article 27 of the Universal Declaration of Human Rights emphasizes the material and moral rights of the creators of intellectual works and their protection. Despite the close proximity of these two articles, the relationship between these two human rights and their impact on each other, and the harmful effects of focusing on one and neglecting the other, is rarely discussed. A similar case exists in the International Covenant on Economic, Social, and Cultural Rights. On the one hand, Article 9 of the Covenant recognizes "the right of every person to social security, including social insurance." Article 12 acknowledges "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." On the other hand, Article 15(1) of the Covenant states: "The States Parties to the present Covenant recognize the right of everyone: (a) to take part in cultural life; (b) to enjoy the benefits of scientific progress and its applications; (c) to benefit from the protection of the moral and material interests resulting from any

scientific, literary, or artistic production of which they are the authors" (Norman, 2013).

As seen, this right guarantees the intellectual property rights of drug inventors and guarantees the right of society members to use intellectual products and have access to them in order to benefit from medicines or strive to improve existing drugs. To resolve the conflict between these two rights, member states are obliged to create an environment that ensures the availability of research results and access to new ideas and scientific exchanges. The Economic, Social, and Cultural Rights Committee of the United Nations has requested members to report on the existing laws and regulations and the measures taken to implement this right. This committee also provides reports on the rights enshrined in the Covenant and their status in member countries. In its report published on May 11, 2000, regarding the right to the highest attainable standard of health, the committee stated that this right is a fundamental human right necessary for the implementation of other human rights, as it "is closely linked to other human rights." The committee also emphasized that, regardless of the availability of resources, governments must facilitate access to basic health facilities and that the World Trade Organization regulations should support this facilitation. Additionally, in another part of the report, it emphasized that every person or group victimized by a violation of the right to health should have access to judicial and other appropriate remedies both at the national and international levels (Clark & Weale, 2018). This perspective, along with the recognition of the right to access research results and the benefits of scientific progress alongside intellectual property rights, highlights the preferential nature of the right to health over intellectual property rights over these products, albeit with recognition of the interconnected nature of human rights. Therefore, in analyzing human rights documents, including the articles of the Covenant, one should not consider a right like the one mentioned in part (b) of paragraph 1 of Article 15 or the right mentioned in part (c) in isolation from other rights, as a one-sided analysis of a right implies that human rights consist solely of that one right. In fact, the human rights system is composed of a set of inseparable rights, and in legal analysis, other rights, such as the right to welfare, should also be taken into account. One of the key moves in this regard was the adoption of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In Article 7 of this agreement, the issue of considering the development of countries is emphasized, and one of the most important examples of this development is improving the health standards of developing countries. According to this article: "The protection and enforcement of intellectual property rights should contribute to the promotion, transfer, and dissemination of technology, in a manner that supports social and economic welfare and creates a balance between rights and obligations." Although this agreement sought to improve the health standards of developing countries, it has had little impact on ensuring access to and adherence to this obligation. For instance, in 2001, when South Africa raised concerns about the lack of access to essential medicines under intellectual property rights, none of the pharmaceutical companies met the country's needs, and they did not feel responsible under the above agreement (Saniei, 2007). In fact, the TRIPS agreement, due to its structure and specific requirements, has been the source of many disputes among human rights groups and advocates for extensive drug access. Therefore, the adoption of this agreement can be considered a factor that strengthens both human rights and pharmaceutical innovations, and this issue clarifies the unique nature of pharmaceutical innovations compared to other innovations. The first signs of concern regarding the negative impact of TRIPS on the right to health were expressed in 1998 in Geneva, and since then, in what is now referred to as the post-TRIPS era, many human rights efforts have been made to clarify these negative impacts (Habiba, 2013).

Regarding whether the right to health through access to medicine only includes essential medicines—that is, medicines that meet the health needs of the majority of the population and treat or prevent common diseases such as AIDS, tuberculosis, respiratory diseases, and cancer—or whether this right encompasses all therapeutic medicines, there are two different views. Some experts believe that since the right to access health is presented as a corrective tool for patent rights, and this correction contradicts the principle of protecting exclusive rights, it should be limited to essential medicines. Human rights challenges regarding pharmaceutical innovations are mainly focused on essential medicines, not all therapeutic drugs. Referring to paragraph 1 of the Doha Declaration on TRIPS and

public health, and examples cited in this paragraph, such as AIDS, malaria, and other epidemics, it can be understood that the focus is on essential medicines. Moreover, in the TRIPS Council's decision regarding the implementation of paragraph 6 of the Doha Declaration on TRIPS and public health, the term "pharmaceutical products" is explicitly defined as "any patented product or process in the pharmaceutical sector that is necessary to address public health issues identified in paragraph 1 of the Declaration" (Correa, 2002). On the contrary, some believe that access to any type of medicine is a human right, as every human has the inherent right to be free from illness and pain, and that the type of medicine does not matter. They argue that the right to life and the right to health refer to any medicine that contributes to the provision of a desirable and pain-free life. From the above, it can be concluded that the right to benefit from scientific progress and its applications as a human right entails that every individual should benefit from the advantages, benefits, and facilities that scientific advancements in solving problems, fighting disease, and improving quality of life provide (Amir Arjomand & Mohammad Habibi, 2016).

Some rights are inherent and are considered goals, while others are tools to achieve these goals. The right to health and access to optimal health for humans seems to be a goal, and to achieve this goal, humans strive to ensure access to medicine. Thus, the invention of medicine and the right to it is a right to a means, not an inherent right, and is for the realization of a fundamental goal—namely, the right to health. Therefore, it cannot be claimed unconditionally or absolutely; rather, freedom in exercising this right is limited to ensuring health. The right to physical integrity and the right to respect for the human body, which is ultimately intertwined with the right to health, is of utmost importance, and thus all human features must be respected in relation to these principles (Asbaghi, 2017).

One aspect of the right to access medicine is its ethical dimension. From the perspective of deontologists, respect for an individual as a valuable being is a moral obligation. Thus, when a person can save someone who is dying, saving them is a moral imperative, and neglecting this duty is inhumane. Clearly, when the lives of many people in low-income areas are at risk, the matter becomes even more serious. Even distance is not a valid excuse for shirking this moral responsibility, and ignoring it does not diminish the moral shame of evading it. Therefore, wealthy societies, the people living in these countries, and researchers and companies, although they invest intellectual and financial capital, are ethically responsible for this matter. It seems that this complex issue requires action at all levels to institutionalize the moral obligation at the global level. To further clarify this issue, it is important to mention that there are two perspectives regarding the right to access life essentials to preserve life. One perspective expresses negative obligation, meaning that no one has the right to prevent individuals from accessing what is necessary to preserve life. The other perspective, with a positive approach, states that creating the possibility of access to such necessities is obligatory. The traditional approach in this regard holds that a just society is one that is moderately categorized, and it is not necessary for everyone to be the same to achieve justice. It is sufficient for everyone to have the necessary rights and access to opportunities. Realists believe that countries, while maintaining independence, can sign agreements and establish relationships to create justice. Liberals, on the other hand, argue that the purpose of the international legal system should be to support the sovereignty of states, not to divide wealth between rich and poor countries. Therefore, some say that the difference between poor and rich countries in terms of medicine is like the difference between the poor and the rich in society. It is not inherently unjust, provided that the rights of all individuals are respected (Ferbaey et al., 2015).

Rawls, in this context, believes that although people are different and this is not inherently unjust, they must have equal access to opportunities. The most promising approach to justifying the right to health was proposed by Norman Daniel, who extended Rawls' theory of justice to the field of healthcare. Daniel believes that the function of healthcare is to restore or preserve the functioning of ordinary human beings. Just as impairment in the functioning of ordinary individuals due to illness or disability limits their opportunities, healthcare, by preventing and treating diseases, enhances equal opportunities. Therefore, if people have a right to fair equality of opportunity—which Rawls' theory supports—they will also have the right (inferred) to health. Certainly, the strength of Daniel's approach lies in his compelling demonstration of the ethical importance of health: healthcare plays a role in

maintaining or restoring equal opportunities. Since this inferred right to health is not based on a specific concept of welfare, it should be considered a universal right that can provide an ethical justification for global access to essential medicines (Norman, 2013). However, what remains unclear is the scope of this inferred right: Do people have the right to any type of health that is technically feasible, regardless of the cost, or do they only have the right to the minimum acceptable level of healthcare? Given the limitations in resources, only the second interpretation seems feasible. However, Daniel's approach does not specify the minimum acceptable level or the basic level of healthcare. The greatest ethical challenge in increasing access to essential medicines in low-income countries is the need for a moral justification on how responsibilities should be allocated among actors and activities that can contribute to alleviating the problem of access to essential medicines. The difficulty in providing an ethical analysis of responsibility allocation lies in the global nature of the issue: what prevents access to essential medicines is a network of environmental and global factors that require the involvement of diverse actors and institutions. To provide an ethical justification for access to essential medicines, there are two different approaches: the distributive justice approach and the rights-based approach. However, neither of these approaches provides adequate justification for assigning responsibilities. On the contrary, a systematic clarification of obligations should begin, as this type of clarification more explicitly outlines what actions are needed from whom to increase access to essential medicines. This helps bridge the gap between highly abstract considerations related to distributive justice and specific actions to increase access to essential medicines. In fact, because of the global nature of the issue, the problem of access represents a major challenge to the traditional theory of distributive justice, which often focuses on the distribution of goods within states or communities. Since poverty is one of the main causes of poor health, these economic inequalities are also involved in creating massive inequalities in health status, and the income gap is now more pronounced and likely to continue growing (Pogge, 2014).

7. Right to Access Vaccines

Since the outbreak of COVID-19 in winter 2019, the lack of timely information from the Chinese government, and more importantly, the rapid spread of the virus, resulted in a high rate of infections and deaths. After nearly a century, humanity faced a pandemic; a pandemic that showed humanity that cover-ups, ignoring scientific facts, unilateralism, censorship, limiting communications, and unscientific methods lead to nothing but the accelerated spread of the disease, an increasing number of patients, and an exponential rise in deaths caused by the disease. Today, experience and knowledge, roughly one year after confronting the disease, have proven that the only way to combat this disease is through scientific methods based on humanity, free from any economic interests. With the production of the COVID-19 vaccine, the global population's need for vaccination and the increased public demand, it is necessary for all groups to have access to vaccines. Article 12 of the International Covenant on Economic, Social, and Cultural Rights obligates state parties to prevent and combat the spread of diseases, which includes the obligation to produce and distribute vaccines and ensure that everyone has access to them. To fulfill this obligation, all actors must take action in a transparent, scientifically based, and unrestricted manner to produce and distribute vaccines to everyone. Any commercial action aimed at making profits that restricts access to vaccines, any imposition of sanctions that limits access to vaccines and leads to sickness and increased mortality, is not acceptable.

Access to health services aimed at improving, maintaining, and ensuring the health of individuals is a key pillar of societal progress and a universal human right. The right to the highest attainable standard of physical and mental health, regardless of race, religion, political opinion, or economic or social status, was first recognized in the World Health Organization's constitution (Preamble and Article 1). Subsequently, this right has been recognized in numerous international and regional documents, including the Universal Declaration of Human Rights (Article 25(1)), the International Covenant on Economic, Social, and Cultural Rights (Article 12), the Convention on the Elimination of All Forms of Racial Discrimination (Article 5), the Convention on the Elimination of All Forms of Discrimination Against Women (Article 5), the European Social Charter (Article 11), the African Charter on Human

and Peoples' Rights (Article 16), among others (Zamani, 2016).

According to the WHO constitution: "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" (Preamble, WHO Constitution). Although the right to access medicines is not explicitly mentioned in human rights documents, Article 12 of the International Covenant on Economic, Social, and Cultural Rights requires state parties to commit to preventing, treating, and controlling epidemics, endemic, occupational, and other diseases, and combating these diseases. Additionally, in General Comment No. 14 (2000), the right to access essential medicines was described as a human right. The right to vaccines is also a fundamental human right, supported and guaranteed by various human rights. To realize this human right, international organizations, governments, pharmaceutical companies, and all individuals have obligations to act to ensure access to vaccines. In order to fulfill this obligation, governments and companies must produce vaccines, distribute them widely, transfer technology to developing and least-developed countries, and cease any unilateral actions such as sanctions, financial restrictions, and transport limitations that impede access to vaccines. In case of failure to ensure universal access to vaccines, international responsibility will be incurred by all parties involved.

The basis for universal access to the COVID-19 vaccine can be found in Article 25 of the Universal Declaration of Human Rights, Article 6 of the International Covenant on Civil and Political Rights, and Article 12 of the International Covenant on Economic, Social, and Cultural Rights. According to Article 25 of the Universal Declaration of Human Rights, which has customary law status in international law, the right to health is recognized for all humans, and access to vaccines is simply an embodiment of the right to health. Article 6 of the International Covenant on Civil and Political Rights, as a binding document, recognizes the right to life, which is a fundamental human right and the basis for other human rights, regarded as a peremptory international norm. Any failure or economic interest that leads to individuals not accessing vaccines, regardless of the violation of the Covenant, constitutes a breach of a peremptory international norm (Niawarani & Javid, 2016). Furthermore, resolutions 74/270 and 74/274 of the United Nations General Assembly, resolutions 41/10, 44/2, and 46/14 of the Human Rights Council, and resolution 3701 of the World Health Assembly refer to the right to access medicines and vaccines and the enjoyment of the highest attainable health standard as a human right.

The announcement of the development of COVID-19 vaccines in mid-2020 sparked hope worldwide. This event promised the end of the deadly COVID-19 pandemic. However, a major concern was the issue of intellectual property rights related to vaccines, a topic that could impede public access to vaccines and hinder an effective fight against the virus. In response to this issue, in October 2020, India and South Africa submitted a request for the temporary suspension of some provisions of the TRIPS agreement to the World Trade Organization, aiming to prevent, restrict, and treat the pandemic. Intellectual property rights were a major topic of discussion during the Uruguay Round (1955 negotiations that led to the establishment of the World Trade Organization), resulting in the TRIPS agreement. Pharmaceutical products and their production processes are intellectual property and, therefore, are protected under intellectual property rights. According to the TRIPS agreement, including Articles 27 and 28, intellectual property holders are granted exclusive rights regarding manufacturing, usage, offering for sale, selling, or importing, which may pose challenges to access to essential medicines and increase the prices of such medicines. This situation especially affects developing and least-developed countries' obligations to respect, protect, and fulfill the right to access essential medicines. Since the right to access medicines and vaccines is a fundamental human right and is indirectly referenced in the International Covenant on Economic, Social, and Cultural Rights, the restrictions outlined in the mentioned articles posed risks to public access to medicines and caused price increases. To address this, Articles 30 and 31 of the TRIPS agreement, which introduced the issue of compulsory licensing, provided a response to global concerns.

One of the grounds for granting compulsory licenses is ensuring and guaranteeing public benefits. Despite the restrictions outlined in Article 31, which stated that only countries issuing compulsory licenses have the right to use medicines under such licenses, countries without

such licenses and lacking the necessary infrastructure to produce medicines faced importation challenges, making this provision a barrier for developing or least-developed countries to access medicines and vaccines (Fathi Zadeh, 2011).

To address this issue, during the Doha negotiations (2001), WTO member countries proposed Paragraph 6 of the Doha Declaration, allowing members to waive certain TRIPS provisions in specific cases so that developing and least-developed countries could access medicines under compulsory licenses in other countries. Following this recommendation, in 2003, the TRIPS Council adopted the "Waiver Decision," which introduced a new system for compulsory licenses. Under this system, qualified member states are exempted from adhering to TRIPS conditions regarding the internal use of compulsory licenses. A key issue discussed in the TRIPS Council was which diseases should be covered by the "Waiver Decision." Despite differing opinions among member states, developing countries adopted an unlimited approach regarding the diseases covered by the waiver, and eventually, this approach prevailed. As a result, the Doha Declaration specified that "the severity of public health crises, especially those caused by AIDS, malaria, tuberculosis, and other pandemics, has affected many developing and least-developed countries." Therefore, the diseases mentioned in Paragraph 1 of the Doha Declaration should be regarded as exemplary, indicating that the TRIPS Council's decision to waive the requirements of Article 31 is not limited to the diseases mentioned but also serves as an example of acute public health issues (Sadeghi, 2021). WTO member countries, excluding least-developed countries, are now required to notify the TRIPS Council of their decision to use this system as an importing country. Least-developed countries are exempt from proving the lack of their domestic production capacity, as they automatically qualify as eligible members for this system due to their specific economic and technical conditions. Thus, these countries automatically qualify as importing members (Sadeghi, 2021).

Before we discuss the specific methods of pharmaceutical companies in fulfilling their human rights obligations regarding COVID-19 vaccines and treatments, we need to consider their responsibility toward shareholders and the current incentive structures for innovation. Although pharmaceutical companies that contributed to the global fight against COVID-19 by making vaccines more affordable may gain some reputation benefits, the number of people affected by COVID-19, along with vaccine production costs, creates a scenario where helping produce affordable vaccines may be less profitable for them. The COVID-19 crisis, especially its disproportionate impact on communities of color, has further weakened public support for the existing framework of pharmaceutical companies and their incentive structures. However, the question remains: How much profit is needed to maximize access and create incentives for innovation in pharmaceutical companies? Although a precise answer is not available, the principle of decision-making is clear. The issue is about "balance and proportionality," meaning that pharmaceutical companies should "do their fair share" in providing access, in line with their obligations to shareholders and economic sustainability. As we will note below, the fundamental outcome of this principle is that other entities, including governments, NGOs, charitable foundations, and intergovernmental organizations that share the responsibility for ensuring public access to healthcare services, should support pharmaceutical companies in providing sustainable incentives for innovation. If companies wish to receive minimal rewards for combating the current pandemic, we may fulfill some human rights advocates' concerns, but we will not create good incentives for pharmaceutical companies to treat future global pandemics. Again, the key issue is "balance and proportionality." The human rights obligation of a pharmaceutical company to play its pharmaceutical companies could provide financial contributions or subsidize prices for those who are most in need. Such contributions could be directed to the purchase of vaccines or medicines for low-income countries. This method would allow pharmaceutical companies to fulfill their human rights obligations while also ensuring that life-saving treatments are accessible to the populations that need them the most. This approach, however, must be carefully managed to avoid creating a situation where a company’s philanthropic actions are seen as a mere marketing tool rather than a genuine effort to ensure equitable access to health.

In addition, differential pricing strategies can be another important method. This involves setting different prices for the same product in different markets, often based on

the economic status of the country or region. While this can increase access in poorer regions, it also raises concerns about the sustainability of this practice and the potential for exploitation. Pharmaceutical companies must strike a balance between ensuring access to medications and maintaining the financial viability of their business operations.

Furthermore, facilitating intellectual property rights such as patents is another potential strategy for supporting human rights. The patent system has often been criticized for creating barriers to access due to the monopolies it grants to manufacturers, which can lead to inflated prices for essential medicines. Companies could choose to allow for the voluntary licensing of patents or participate in patent pools, where multiple companies share their intellectual property to increase the production of generic medicines. By doing so, pharmaceutical companies could contribute to addressing the global health crisis without compromising their intellectual property rights or market share.

However, such strategies also have their limitations. For example, voluntary donations or subsidized pricing models may not be sustainable in the long term without external financial support or subsidies from governments and international organizations. Similarly, while differential pricing can make medicines more affordable in low-income regions, it does not address the underlying issues of healthcare infrastructure and access that may still exist in these areas. Furthermore, while intellectual property facilitation might increase access, it also runs the risk of devaluing innovation by undermining the incentives for pharmaceutical companies to invest in research and development.

In conclusion, pharmaceutical companies play a critical role in ensuring access to vaccines and essential medicines during public health crises. Their responsibility goes beyond simply fulfilling their economic obligations to shareholders; it extends to ensuring that their actions do not exacerbate global health inequalities. The human right to access vaccines and healthcare must be prioritized, and this can be achieved through a combination of strategies that include financial contributions, differential pricing, and facilitating access to intellectual property rights. However, these efforts must be carefully balanced with the need for companies to remain economically viable and incentivized to innovate, ensuring that solutions to global health problems are both equitable and sustainable in the long run.

8. Conclusion

The public is the primary recipient of healthcare services, and therefore, individuals believe they are entitled to the right to choose and fairly access healthcare services. The healthcare system is responsible for ensuring fair services along with the right to choose for the public. The healthcare system, as the main body responsible for health in each country, varies in its composition of health and medical organizations and the manner in which healthcare services are provided across different countries. In some countries, the government alone is responsible for ensuring the health of the population, while in others, both the government and the private sector provide healthcare services through specific processes. What is common across all healthcare systems is that the public is the primary recipient of healthcare services and believes they deserve the right to choose. The relationship between freedom and the right to health refers to the extent to which individuals have independence and autonomy in selecting the type of treatment, healthcare provider, or even the insurance company. This freedom has always been a subject of debate in healthcare systems, as some view it as beneficial to the patient, while others see it as detrimental. In societies with democratic governance systems, where people have the right to make choices in various matters, this value is more prominent and holds particular importance; European, American, British, and Australian countries fall into this group. However, in most Asian and African countries, where governments tend to be more conservative and healthcare systems are more centralized, this freedom and right to choose is more limited.

In Iran, although people have limited rights to choose their insurance provider, they generally have adequate freedom and choice when selecting healthcare providers and, at times, even treatment methods. The extent of this freedom varies based on the ownership of hospitals, meaning that in private hospitals, patients have more freedom to choose their doctor and even treatment methods. However, in public hospitals, due to resource limitations and the high number of patients, individuals

have limited choices. In the prevention and health sectors, considering the nature of the provided services and the necessity of population coverage according to predetermined programs, limiting access to services from specific units in a particular geographic area is justifiable. Although the right to choose freely is an inherent right for the general public, its use, due to the information asymmetry in the healthcare sector, may not always benefit patients and may sometimes lead to additional costs and prolonged treatment processes. This situation is especially applicable in the private sector, where financially capable people have more freedom of choice.

From a different perspective, this value can also be examined; citizens' freedom to choose healthcare centers, as well as doctors and health specialists, can lead to disorganization in the delivery of services. In other words, due to the lack of a referral system and failure to direct people based on their health status and the urgency of treatment needs, some centers experience crowding, resulting in service delivery inefficiencies. On the other hand, the right to choose, particularly in the private sector, is based on individuals' financial abilities, with wealthier individuals having more options. This situation contradicts justice-oriented perspectives, which argue that the general population should have access to the healthcare services they need with adequate quality.

The right to health affirms the government's duty to provide the necessary conditions for individuals' health within the limits of available resources. The right to health includes individual entitlements; every person has the right to live in a healthy and safe environment and society, as access to a healthy living and social environment is essential for human growth and development. Governments are obligated to create, to the best of their ability, a healthy environment so that their citizens can live a life of health and well-being within that environment.

Authors' Contributions

Authors contributed equally to this article.

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In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Ethical Considerations

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