

The Study of the Functions of Iran's Legal System and International Laws in Realizing the Right to Health with a review of the Health Rights of Seafarers

Sayyed Ahmad Intezari Sereshke¹, Malek Zolghadr²,
Seyed Farshid Jafari Pabandi³

Received: 02 September 2023 Accepted: 27 January 2024 Published: 26 March 2024

Abstract

Background and Theoretical Basis: The right to health is a comprehensive and fundamental human right, which not only includes timely and appropriate health care, but also basic factors that determine health, such as access to water, healthy food, nutrition, housing, environment, and health. The spirit and soul also spread, especially for seafarers and their families, it has a special importance in national and international law. The existence of different dimensions for health, various fields related to health, and various factors affecting it have made it difficult to define the said right, and governments are required to take measures in a wide area to ensure the possibility of a healthy life, some of these obligations require immediate action and some They should be realized over time. Iran has also recognized and supported this right by approving various laws and regulations in the field of health as well as joining various international conventions.

¹ PhD Candidate in International Law, Department of Law, Faculty of Humanities, Zanjan Azad University, Zanjan, Iran.

² Assistant Professor of International Relations, Department of International Relations, Faculty of Humanities, Zanjan Azad University, Zanjan, Iran, (Corresponding Author), Email: Malek.zolghadr@yahoo.com

³ Assistant Professor of International Relations, Department of International Relations, Faculty of Humanities, Zanjan Azad University, Zanjan, Iran.

Methods: In this research, using a descriptive analytical method, using the collection of information in the form of documents and libraries, the subject of examining the compliance of national and international laws and the functions of the Iranian legal system in realizing the right to health, focusing on commercial vessels, has been investigated .

Findings: In this research, using a descriptive-analytical method, using the collection of information in the form of documents and libraries, the subject of examining the compliance of national and international laws and the functions of the Iranian legal system in realizing the right to health, focusing on commercial vessels, has been investigated.

Conclusion: The fundamental rights of health have been emphasized in Iran's legal system so since the beginning of the modern government, more than 600 laws and regulations have been approved in the field of health system. In fact, Iran is one of the most advanced countries in the Asian continent in the field of medicine and health. However, the most important internal challenges facing health and the institutionalization of health rights as a fundamental right are the problem of providing medicine and medical equipment due to the embargo on oil exports and the embargo of the Central Bank, immigration of doctors and nurses and medical staff, issues related to insurances and non-observance of transparency. In the medical system, the private sector is responsible for medical expenses. In terms of institutionalizing maritime health rights in commercial ships at the international level, the most important step taken is the ratification of the Maritime Labor Convention in 2006 by the International Labor Organization, which Iran also ratified on May 19, 2010. This convention was implemented on August 20, 2013, one year after the registration of 30 countries that own more than 33 percent of the gross tonnage of the world's ships. In fact, the main philosophy of this convention is to protect the health of seafarers and ensure their prompt access to medical care on board and ashore. Therefore, any country that approves the convention in its legal system. shall ensure that seafarers on board ships in their territory who require urgent medical attention have access to medical facilities ashore and requirements for health care and medical care on board ships including



standards for safety aimed at providing Health care and medical care are provided to seafarers to be as comparable as possible to what is available ashore. Another important point is that protection and health care are provided at no cost to seafarers.

Key words: national and international health laws, Iran's legal system, health rights, commercial vessels, seafaring,

1. Introduction

The issue of health is one of the most important and necessary human needs and it refers to the close relationship with other human rights such as the right to life, the right to education, the right to expression (claiming one's rights) and the right to a healthy environment, so in individual and collective life. If the health, both physical and mental, is not in optimal conditions, it will affect the efforts to achieve any goal and purpose and other rights and freedoms, the necessity of using this right is also that the human being has other rights and freedoms, to have a life with desirable standards is in line with Article 25 of the Universal Declaration of Human Rights (the right to meet the basic needs of food, health, shelter, and social welfare), which is emphasized in the International Convention on Economic and Social Rights and is accepted by member countries, including Iran. Is. The importance of this issue is that by understanding the above challenges, we can reach a coherent approach in accordance with international documents and rules in the field of the right to health.

In today's world, seafaring and seafaring jobs, which in the legal system of Iran and the legal system of most maritime countries at the international level, are among the hard and exhausting jobs, play a fundamental role in the economy and international trade. This method of transportation, due to its cheapness compared to other methods such as land, rail and air, more than 90% of the goods and raw materials in the world, is transported by commercial ships and oil tankers. Therefore, the importance of the health of seafarers has priority, so that in 2006, the Maritime Labor Convention was

approved by the International Maritime Labor Organization. From this point of view, the physical and mental health of seafarers plays an essential role in national and international trade and economy and is of strategic importance.

In commercial marine vessels, whether fishing and transportation or large ocean-going cruise ships, which are working with men and women sailors of different nationalities at sea, it is important to benefit from the right to their health, hygiene and treatment on the ship and under certain conditions. Was. In addition, seafarers and their families benefit from the health system based on rules and regulations as citizens of society. In fact, a major part of the life of sailors is spent on ships and ports. Therefore, it is necessary to first enumerate the concept of the right to health in international agreements and documents and national laws in general for all members of the nation in all fields of work at the national level, and then deal with specific laws in the seas and far from the land that seafarers. They are its beneficiaries in both fields and it includes the Universal Declaration of Human Rights, the International Convention on Economic, Social and Cultural Rights and numerous conventions and the Constitution of Iran. The right to health, as defined in Article 12 of the International Convention on Economic, Social and Cultural Rights, is not limited to the right to health care, but includes a wide range of other factors that enable people to live a healthy life.

In the sense of the right to health, which is stated in Article 12, Paragraph 2 of the International Convention on Economic, Social and Cultural Rights⁴, the right to health includes a wide range of socio-economic factors that provide conditions in which people can lead a healthy life have, in fact these determinants of health include food and nutrition, housing, access to safe

⁴ Article 12: 1. The States Parties to the present Convention recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Convention to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
(b) The improvement of all aspects of environmental and industrial hygiene;
(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness. International Convention on Economic, Social and Cultural Rights (Resolution, G. A. (1966).



and drinking water and adequate hygiene, safe and healthy working conditions and a healthy environment (Article 12 ICESCR).

In this article, an attempt has been made to examine the scientific challenges of Iranian law in the field of the right to health and compliance with international documents and Conventions, especially in the field of health, focusing on the employees of commercial marine vessels (fishing and transportation) based on the maritime labor convention that Iran 2013 has joined it to be analyzed. And that in terms of the difficult conditions of seafaring jobs, the distance and separation from the family and other strata located on land and the difficulty of accessing the country's urban and social services, as well as the importance of their activity and performance at sea for the economy and social, political affairs and governance of countries as a union Certain nationalities are of interest.

It is worth mentioning that one of the groups that are known as difficult and exhausting jobs in the legal system of most countries from a legal point of view is maritime jobs. From this point of view, in this article, we seek to investigate how the international conventions and approvals for the employees of marine vessels are institutionalized in securing their right to health.

We are also seeking to answer the question that how and based on what laws and regulations are the benefits of healthcare facilities and the right to health established in the seas?

Nevertheless, it can be seen that there is some kind of inequality among countries regarding the right to health. But the gross disparities between countries, and especially between the global North and South, from a behavioral and structural point of view, the definition of the right to health faces challenges, but it shows the need to place the government's obligations in a global political economy in which institutions International and third-state governments often have great influence over the economy and politics of developing countries, and the right to health, like all human rights, requires "international assistance and cooperation." In addition to the International Convention on Economic, Social and Cultural Rights, a wide

set of international and regional treaties recognize health as a legal issue, which themselves reflect a broad consensus on the content of norms. A review of international documents and interpretive documents makes it clear that the right to health mentioned in international law goes beyond health care and includes basic prerequisites for health, such as drinking water and sanitation and adequate nutrition (Lal, 2021, p.61).

Legally, in this field, it is necessary to first have criteria to determine the right to health, so that we can clearly determine what duties the government has to provide services to promote the right to health, and how to prevent non-compliance with these duties. The government proved it and created a responsibility for the government.

2. Theoretical foundations of research from a normative and structural point of view

Realizing the right to health requires participation in health promotion. Analyzing the structural determinants of health in a political economic context is increasingly common (Krieger, 2001: 668). Framing health as a right draws attention to the growing literature in social epidemiology that links health to social justice. It does this by first articulating the link between health and the creation of a functional democracy, that is, the distribution of health-related resources, evidence of discrimination and inequality, not only in terms of their impact on health status, but also in terms of Their relationship with laws, policies and measures that limit public participation in decision-making, in turn, are analyzed in the establishment of a truly democratic society derived from it, but also explicitly in terms of the accountability of the state and, to some extent, other actors, under the guise of national and international law. Thus, a human rights framework simultaneously views health as inherently political—which is closely related to social context, ideologies, and power structures are relevant – it acknowledges and removes health policy decisions from purely political issues by placing them squarely within the realm of law. For this reason, like the range of international human rights, the realization and implementation of the right to health seriously depends on legal and judicial measures at the



national level. More than 70 national constitutions recognize the right to health, and many more countries legislate various aspects of the right to health.

However, the epidemic of Covid-19 in 2019 to 2022 showed that many countries, including Iran, did not take the right to health seriously in the form of implementation. Moreover, the procrastination and poor crisis management in the field of preventing the spread of this virus is proof of our claim. The issue of healthcare and health is considered as a duty and a public service under the responsibility of the government and it is acknowledged in all countries. In Islamic Iran and the constitution, this important issue has been addressed in articles 3, 29, 43 and 21, and protective measures it has also been mentioned that it is not enough in accordance with the Convention.

2.1. The right to health

The right to health for all people means that everyone should have access to health and medical services and a healthy environment according to the internationally defined standards and their needs, within the limits that are related to the duties and obligations of the government, at the time and place they need it have access and benefit from it. In General Recommendation 24, the Convention on the Elimination of All Forms of Discrimination against Women also defines the right to health as including socio-economic factors (2) International Convention on Economic, Social and Cultural Rights, 2005: 1, article 12):

2.2. International documents and global agreements and Conventions related to the right to health

The United Nations human rights system, realizing the importance of the issue, has paid special attention to the right to health since its inception. In this context, there are international documents that we discuss below.

2.2.1. World Health Organization

Health as a human right was recognized for the first time in 1946 in the constitution of the World Health Organization. The preamble of the statute describes the right to health as "a complete state of physical, mental and

social well-being and not merely the absence of disease or weakness." And Article 1 introduces the realization of the highest possible level of health for all people as the main mission of the organization. It is noteworthy that the World Health Organization Assembly in 1998 developed the program and agenda "Health for all in the 21st century". The idea of health as a human right was codified in Article 25 of the Universal Declaration of Human Rights (UDHR) of 1948 and was repeated in many subsequent treaties and declarations. The Human Right to Health is now a well-established platform in global health policy, action and research. While this right has strengthened successful active health movements around the world, it has not gained as much popularity in some countries of the developed world, such as the United States (Salhi, 2019: 191).

In this context, the fundamental documents of the World Health Organization, which came into force in 1948, recognize health as one of the fundamental human rights and say: "Enjoyment of the highest standards of health is one of the fundamental rights of every human being without discrimination of race." , religion, political opinions, economic or social conditions. (World Health Organization, BASIC DOCUMENTS, 2014). Given that many national governments recognize the right to health as part of their constitutions, they are legally obligated to protect access to quality health in a "timely, acceptable and affordable" manner, while determining guarantee health (World Health Organization. Human rights and health, 2022: 2). Therefore, based on what we have mentioned in the previous lines, "the right to enjoy the highest attainable standard of health" requires a clear set of legal obligations on governments to ensure the right conditions for enjoying health for all people without discrimination.

2.2.2. The United Nations Charter and emphasis on the importance of the right to health

The right to health is one of the basic human rights. Health and the right to enjoy a healthy life is considered one of the inalienable rights of citizens, in such a way that one of the main characteristics of the Aedean society is having a favorable health status. Article 55 of the United Nations Charter



mentions the first reference to the issue of health and public health, and according to paragraph b of this article, governments are committed to promoting solutions to health-related problems.

2.2.3. Convention of Economic, Social and Cultural Rights (1966)

The above document can be considered as one of the most important international documents in this field, which deals with the issue of the right to health in Article 12 and has the following verses:

"The member countries of this Convention recognize the right of every person to benefit from the highest attainable level of physical and mental health. Based on the principles of general international law, the government is committed to implement its contents and cannot escape from the implementation of the treaty should refer to its internal laws. The obligations of the states regarding the right to health, like any other human right, have three dimensions: the obligation to respect, the obligation to support, and the obligation to fulfill the Committee on Economic, Social and Cultural Rights in General Opinion No. 14. By using this common three-dimensional model, he explains the obligations of governments regarding the right to health.

In 2000, the body overseeing the implementation and interpretation of the International Convention issued its General Commentary No. 14 on the subject of "the right to the highest attainable standard of health". According to this article, the countries that are parties to the Convention recognize the right of everyone to enjoy the best possible physical and mental state, and the measures that the governments must take to fully fulfill health and wellness are: taking measures to develop Children's health and reducing their mortality, improving environmental and industrial health, prevention, treatment and control of local, regional and other epidemic diseases and providing medical services and caregivers in times of illness (Javid & Niavarani, 2013).

2.2.4. The position of the right to health in regional human rights documents

Health as a human right was first recognized in 1946 in the constitution of the World Health Organization. The preamble of the constitution describes the right to health as the achievement of a "perfect state of physical, mental and social well-being and not merely the absence of disease or weakness". Also, Article 1 states "the realization of the highest possible level of health for all people" as it is noteworthy that in 1998, the World Health Organization formulated the program and agenda of "Health for all people in the 21st century".

Article 25 of the Universal Declaration of Human Rights also deals with the right to health. According to paragraph 1 of this article, everyone has the right to secure a decent life in terms of food, housing, medical care and social services; This article states the right to a dignified life, that one of the essentials of a decent and dignified life is providing basic needs such as health. In this scope, the European Convention for the Promotion of Human Rights and Fundamental Freedoms of 1950, Article 11 of the European Social Charter of 1961, Article 10 of the American Convention on Human Rights (1969) and the Additional Protocol of the American Convention on Human Rights in the Field of Economic, Social and Cultural Rights of 1988 and Article 16 It is recognized by the African Charter of Human Rights adopted in 1981.

3. The scope of the right to health in the national and international human rights system

In the final analysis, the human rights system reaches a single category called "human life". Human life is his most valuable asset, and naturally, the protection of this unique asset is one of the necessities that at the same time connects a wide range of things. One of these issues that is related to human life is the issue of his health.

3.1. The scope of the right to health in the system of health rights in Iran

From a normative and structural point of view, health rights in Iran have gone through various eras and developments. With the establishment of the



National Council and the establishment of the modern government in 1285, efforts were made to develop the health system of this country. During the post-Qajar era and the rule of Reza Shah, there were fundamental changes in the creation of health and treatment infrastructures and attention to individual and collective health. In fact, modern Iran was formed with the creation of various ministries with a new structure and in a modern style, in the sector. In some way, health care and health were provided as an effective and foundational measure for the next developments, and although insufficient, but effective steps were taken in this direction, and then by joining the international Convention of economic and social rights, the preparations and infrastructures for development. And subsequent developments were made⁵.

The most important approved laws and protective principles in the field of the right to health in the Constitution of the Islamic Republic of Iran can be listed as follows:

1. In the third principle of the Constitution of the Islamic Republic of Iran, Clause 12 of the Constitution, "The foundation of a just economy according to Islamic principles to create prosperity and eliminate poverty, instead of creating any type of deprivation in the fields of nutrition, work and health, and generalizing insurance" is proposed.
2. Article 3 of the Constitution of the Islamic Republic of Iran is designed according to the three objectives of establishing "justice and justice", "cultural, economic, social and political independence" and "national solidarity", and in fact, it is a brief list of the topics of the principles. The

⁵The law allowing the accession of the Imperial Government of Iran to the International Convention on Economic, Social and Cultural Rights approved on 1975 May 7, single article - the International Convention on Economic, Social and Cultural Rights consisting of a preamble and thirty-one articles, which was adopted on December 16, 1966. It has been approved by the United Nations General Assembly and signed by the representative of the Imperial Government of Iran on April 4, 1968 in New York. The above law, including one article and the text of the attached Convention, was approved by the Senate after being approved by the National Council on Tuesday, 1972 March 21, and on Wednesday, 1975 May 17.

future is the constitution, and in a compact way, they should specify the duties of legislation and law enforcement in the future.

3. In Article 21 of the Constitution of the Islamic Republic of Iran, it is stated as follows: "The government is obliged to guarantee women's rights in all directions by observing Islamic standards and to do the following".

Examples related to health are as follows: "supporting mothers especially during pregnancy and child custody and supporting orphaned children" and "creating special insurance for widows and orphaned elderly women", but perhaps the principles that explicitly address the health category are the main ones. 29 and paragraph one of Article 43 of the Constitution

4. Article 29 of the Constitution of the Islamic Republic of Iran states that "Enjoyment of social security in terms of retirement, unemployment, disability, homelessness, being on the road, accidents and accidents and the need for health care services and medical care in the form of insurance etc. is a right for everyone. According to the laws, the government is obliged to provide services and financial support for each person of the country from the sources of public revenues and the revenues obtained from the participation of the people⁶.

5. In Iran, the constitution and many upper documents have recognized the right to health as a fundamental right, in this regard, the government is obliged to consider a comprehensive program or national policy to realize it and to create the conditions It is appropriate to strive for the access of all the people of the nation to the highest attainable standard of health and to support these rights with appropriate policies and planning. And it seems that considering the emphasis of the Constitution of the Islamic Republic of Iran and its recognition as a fundamental right, which has placed the Constitution in a privileged position as a progressive constitution, addressing the right to health in the general policy The system, planning, policy making

⁶ An important point that exists in the text and explanations of the negotiations for the drafting of the Constitution of Iran is that the legislator does not clearly explain the meaning and concept of social security, and in determining the share of the public and private sectors of social security, the eligible people and the extent of their benefits does not raise.



and government legislations are one of the necessities that should be taken into consideration by the legislator.

2.3. The obligations of governments in the scope of the right to health in the international human rights system

The right to health as one of the economic-social human rights is considered as a right that necessarily requires the government's intervention. In general, the government's intervention in the field of human rights should be considered from two perspectives, positive and negative. The view of the general approach is that the intervention of the government in the rights of the second generation has a positive and positive aspect, and in the rights of the first generation, this intervention is reduced to a certain extent. Here, a conflict between civil and political rights against the most interference in civil and political rights requires a positive intervention of the government. In general, in the international human rights system and especially in the field of the right to health, three categories of general obligations for governments can be identified in a division: the obligation to observe, support and implement (Javid and Niavarani, 2022: 344).

The obligation to support obliges the government to protect the benefit of the right to health against the interference and harassment of third parties, and finally the obligation to implement a wide range of legal, judicial, financial and... It is for the implementation and advancement of the right to health. Based on this, the realization of the right to health is within the framework of the amount of resources available to each government, internally and their maximum use. Therefore, the realization of this right is not possible instantly, but it requires the passage of time and spending of resources, and that is why the Convention talks about the realization of economic-social rights in a gradual process of acquisition).

The realization of the right to health will necessarily be done gradually and with maximum use of the resources available to governments. The member states are committed to make maximum efforts to move towards the highest attainable standard of physical and mental health. But if a government is really incapable of providing this standard, it cannot be held responsible. In

other words; the philosophy that lies behind commitment to action is that no person can be considered responsible for a task that is beyond his responsibility, rather, performing a task is associated with having the necessary tools and power to do it. Nevertheless, in the field of human rights, the acceptance of this argument is associated with some doubt; because the absolute inability of the government cannot be a license for not fulfilling international human rights obligations, including obligations arising from the Convention.

In fact, if a government claims that due to the limitation or lack of resources and facilities, it has not been able to implement the obligations arising from the Convention, it must prove that it has used all its efforts, but due to the limitation of resources, in full implementation Commitments have not been successful.

3.3. The right to health in accordance with the Maritime Labor Convention and the Maritime Labor Law

In the general concept of the right to health for the members of a nation and the obligations of governments and the international community in this regard, attention should be paid to the benefits of the employees of sea vessels, especially different commercial vessels in different situations, a situation related to families and relatives based in cities and ports for employees Marine vessels and the significant period of time leaving the ships is during life on land, and the other time includes the period of service on the ship and away from the coast and in the seas and oceans with its own status.

It is worth noting that the human body needs at least 5 days and in some cases more than a few weeks to adapt to different climates and environments, but the crew of commercial ships in many cases move from one geographical area to another with a very short period of time. geographically different from another or one sea place is traveling with a different sea place and the lack of balance in matching with the environment sometimes causes physical problems and illness and the occurrence of unexpected crises and accidents in the staff of vessels and causes accidents that sometimes for a region and Its environment will be dangerous, seafaring is a costly matter, therefore, it



has a direct relationship with the economy of countries. In other words, the economic prosperity of the transportation industry is closely related to the correct implementation of maritime conventions, which unfortunately, Iran's maritime transportation industry receives little attention and due to various reasons, including sanctions, the maritime industry does not enjoy the prosperity it should.

In accordance with the maritime labor convention, comprehensive social security coverage such as medical care, unemployment compensation, unemployment pension, old age pension, family pension, maternity pension, disability pension and survivor's pension should be gradually implemented for the seafarer's community. At the time of accession to the mentioned convention, at least three of the above insurance items, including medical care, compensation and wages for unemployment days, pension for work-related accidents, must be provided, and the remaining coverages must be continuously provided until the final completion of all 9 items. . These insurance coverages are directly related to the economic status of shipping companies. In other words, both maritime safety and a suitable work and living environment are a function of the economic status of shipping companies, in such a way that shipping companies with a good economic status, in order to comply with the rules of the conventions, both in terms of equipment and in terms of providing a suitable environment for The work and life of sailors will have more opportunities. If the tripartite committee is not formed, the International Labor Organization uses its tripartite committee and implements its public votes, which sometimes may be contrary to the mechanisms and laws of the country. In other words, if a tripartite committee of a country is not formed, the tripartite committee of the International Labor Organization makes a decision for that country.

According to the Maritime Labor Convention, member states are required to create comfortable facilities for seafarers in specified ports. These comfort facilities such as internet, commuting service, sports facilities and spaces and meeting and recreation rooms, facilities and open space including educational facilities and, if possible, a place for performing religious duties

and career counseling, which unfortunately exist in Iran's ports. They do not have or are created in a weak form. Therefore, it is necessary for the government, through public funds or levying taxes and other special duties on shipping resources or voluntary contributions, to provide the ground for upgrading the mentioned facilities as much as possible at a reasonable price. Although guidelines on how to provide comfort facilities are mentioned in the convention, it is better to specify them in a special way in the national law. According to the Maritime Labor Convention, it is necessary to form a committee in the national law to constantly monitor the quality of the services provided by these centers.

Providing a safe and standard work environment along with establishing justice and a decent life on board, supporting social services such as access to medical centers and health facilities and the availability of welfare services for seafarers are among the goals of the maritime labor law. In order to create better conditions within the framework of the national laws of those countries, the maritime labor law obliges governments to spend the tax paid on providing social security such as medical, unemployment insurance, disability insurance, pension insurance, family insurance, workplace injury insurance and In some countries, owners of private insurance companies and owners of shipping companies have this responsibility. In addition, the legal and insurance situation has made large shipping companies to be relatively prepared. But small shipping companies face major problems in this field.

3.4. Compliance with national and international laws and practices in commercial vessels

In line with the amendment law of the Annex to the Treaty of the International Convention for the Safety of Life at Sea (1947) and the ISPS International Regulations for the Security of Ships and Port Facilities, the Islamic Republic of Iran's Accession Code to the aforementioned regulations regarding the needs related to resources The issue of dealing with seafarers, issues related to the owner and lessee of ships, international communication has been raised. This resolution has paid particular attention to the laws and regulations in the way of cooperation and alignment with the internationally



approved goals in providing national interests, in this regard, although it is explicit about the details of providing and paying attention to the right to the health of individuals during service and on the way to sea. It is not mentioned on the ships, but in providing this right according to the special conditions of service on the ships for these persons and even their families on land, on the coast and at sea in the national and international laws related to the current approvals in the ministries and organizations of the Ministry of Health and treatment and other institutions have been emphasized. In accordance with other current laws in the place of service of seafarers, it should be achieved, including how to provide health and special services in vessels and their performance in the field of environment in sea routes and work and life safety conditions in ships and large commercial vessels.

It is worth mentioning that in the path of realizing the right to health, the Iranian Navy, with the participation of its Health, Relief and Treatment Department, has provided and continues to provide free medical and relief services to citizens in Makran and Sistan and Baluchistan provinces with special measures. . Also, the Iranian Ports and Maritime Organization has made its best efforts regarding the implementation of the maritime labor convention in the direction of efficient and effective legal supervision regarding the institutionalization of the provision of services by the owners of commercial ships to seafarers regarding the implementation of the regulations of health, medical, sanitary and welfare services stated in this convention to seafarers.

Therefore, flag states are responsible for protecting the right to life in life-threatening situations by providing and making medical care available on board ships, and coastal states are required to provide access to medical treatment. Therefore, the governments that have failed to provide medical care on the ship's deck either in crises or major accidents, or have refused access to health care for people who are seriously ill in ports, or have violated their positive obligations regarding the protection of the right to life. violated and also the issues related to human rights violations by the governments that forced the rescued persons to be quarantined on ships and in conditions

of overcrowding and polluting the environment and forced them to settle in the sea and in conditions that may be subject to torture and have arranged the deportation of all these people, such actions are considered to be in violation of international law and violation of human rights on the part of those governments.

Also, the aforementioned behaviors with seafarers, including commercial ships, during the outbreak of the epidemic, which are contrary to the standards of labor rights (abandoning them at sea without providing food, medical equipment or economic support) are also against the international obligations of governments in the Maritime Labor Convention. 2006 against Article 21 of the Fishery Work Letter and against the guiding principles of the International Maritime Organization and the International Labor Organization, which asked countries to consider seafarers as key workers and exempt them from travel restrictions, the right to medical care and safety of employment conditions on ships It is guaranteed by Article 4, 1, 4, and 3 of the Maritime Labor Convention and Articles 29, 30, and 33 of "the Torremolinos International Convention for the Safety of Fishing Vessels"⁷, which is considered the first international convention on the safety of fishing vessels and recognising the great differences in design and operation between these vessels and other types of ships.

4. An overview of communities in need of health rights at sea

4.1. Sea fishermen

Fishermen may stay at sea for weeks, and as a result, they are exposed to numerous hazards, making these jobs a high-risk occupation. In developing

⁷ The Torremolinos International Convention for the Safety of Fishing Vessels has safety requirements for the construction and equipment of new vessels, ocean-going fishing vessels with a length of 24 meters and above, as well as fishing vessels that are processing their catches, and existing fishing vessels are only required to comply with telecommunication requirements were included in the convention. Fishing in the sea by vessels safely is considered one of the main conditions for the sustainable development of sea-oriented activities, which, in addition to the health of the vessel and crew, improves the environment and plays an important role in the process of sustainable sea-oriented development.



countries and tropical regions, primitive boats may be used, which pose a risk of sinking. Also, walking or swimming in coastal areas of the sea may expose them to the risk of being bitten by marine animals, including some corals and fish. They may also be attacked by sharks when going out to sea. They may also suffer from decompression sickness if they swim to the depths. Hot and humid or stormy and cold weather can also threaten the health of employees.

Therefore, the Torremolinos International Convention has safety requirements for the construction and equipment of new vessels, ocean-going fishing vessels with a length of 24 meters and above, as well as fishing vessels that are processing their catches, and existing fishing vessels are only required to Compliance with the telecommunication requirements contained in the convention.

4.1. Sailors of the commercial fleet and oil tankers

Merchant mariners and oil tankers that have to travel long distances. These employees do not have enough entertainment on board. They may see few people for long periods of time and as a result psychological problems are common among them. Also, the spread of some infectious diseases may also happen among them. Also, their treatment is usually not done properly due to limited access to doctors, and safety risks related to fire and drowning can also threaten the health of employees and cause stress. Therefore, the flag countries and coastal countries based on human principles Friendship as well as the Maritime Labor Convention are required to provide the assistance mentioned in the Maritime Labor Convention.

4.3. Sovereign fleet employees

The problems of the employees of the sovereign fleet, including the navy and government institutions, are very numerous depending on the type of vehicle

or fleet used, and each of them may have a part of the above problems. For example, submarine crews may suffer from decompression sickness. While the crews of warships can have more problems than commercial ships due to the difficulty of their jobs. Also, some submarine crews suffer from physiological, muscular, psychological problems, etc. due to the small space. Considering the above risks, it is necessary to pay more attention to these employees. The safety of the equipment used must also be fully checked before going to the sea, and the doctor, medicine, treatment and first aid facilities should also be carried with them.

5. Discussion of justice in health development programs in Iran

Issues related to health in 6 development programs in Iran show that the approach of these programs in the discussion of health and treatment and the right to health was initially only the physical development of government health centers. From the beginning of the third development plan, there was a slight tendency towards service provision. Evidence of justice distribution was also introduced. Concepts such as justice in health have been formulated in the fourth and fifth plans. In addition, approaches to physical health and equity in access to health services and economic justice in health seem to have changed. In the sixth plan, the issue of financing through tax on harmful goods has been taken into consideration, but regarding how to benefit sea vessels outside the territorial area, it has not been of much use to its employees, even with the existence of maritime labor laws.

In Iran, in order to institutionalize health rights, the health and treatment network was established in 1364. Its purpose was to ensure the fair access of all people to basic health care and by giving priority to the rural and deprived areas of the country. A country has been considered in the second development plan. In 2013, the guidelines for the new hospital included three goals. Improving the motivation of doctors and medical personnel, increasing the financial capacity of hospitals and improving the authority of hospitals. Article 192 of the Third Development Plan also mentions the partial payment of revenues as fees. This is despite the fact that in one case, for example, the corona crisis, managerial imprudence and not announcing



the arrival date of corona 2 months after the original date and not allowing world-class vaccines to enter Iran are some of the cases that show that the government Iran has not acted in accordance with the Convention in the field of the right to health.

Concepts such as justice in health have been formulated in the fourth and fifth programs. In addition, it seems that approaches to physical health and equality in access to health services and economic justice in health have changed. In the first development plan, more attention was paid to the issues of development and infrastructural health regarding the critical conditions of the country. The first development program focused mainly on the following goals in the field of health and treatment: providing access to health for all by the year 2000, developing health education, expanding the socio-medical perspective, decentralization, increasing the efficiency of various units, and equitable distribution of medicine and facilities and regulation of conditions. Medicine was in this range (Bostani Khalasi et al., 2014: 8). In the first development plan, the government's focus was primarily on primary health care and public access to health care. In 1978, the Alma-Ata Declaration declared "Health for all by the year 2000" to all countries with a primary health care approach (Khodayari et al, 2016: 68). During the development process of this plan, the primary health care approach was the focus of all countries, although it was not implemented in Iran.

Also, "health for all by the year 2000" was mentioned as the general goal of the first development program in Iran. From the beginning of the second decade of the 21st century, the autonomous hospital project was implemented throughout the country. According to this, all the expenses of hospitals and educational centers, except for the salaries of the personnel and employees, should be provided from their own source of income. According to the first development plan, the hospital is a self-governing institution and (must) recover its revenues, and the government pays only part of the development and personnel costs. In the first and second development plans, issues such as public participation, inter-sectoral cooperation, change of goals, form of education, training of medical staff according to the increasing

needs of society and changing the duties of health centers and hospitals in the health system are not sufficiently concerned.

In the last attempt to reform the health system, the Ministry of Health, Treatment and Medical Education implemented a series of reforms in 2013 under the title "Health Sector Transformation Plan". The two main goals of these reforms were to reduce direct costs for hospitalized patients and improve the quality of care in public hospitals (Oliai Manesh et al., 2015: 228).

However, the existence of some challenges—including lack of sustainable financing, neglect of primary and preventive health care, and neglect of patients in private hospitals—had a negative impact on the reforms. Today, the transformation plan of the health sector still faces criticism. More than three decades of health reforms in the Islamic Republic of Iran have shown that there is a state of chaos at the level of health policy making, in which a number of health reforms were not successful due to the country's political developments.

6. Insurance and hospital

Fair financing is one of the main goals of health care systems in the world, and the insurance system is one of the most common methods of financial support against the costs of healthy people. In developed countries, four financial and insurance models were usually used including: national health insurance, national medical system, social health insurance and private insurance. France and Australia are the countries where these last two models are used simultaneously. Meanwhile, Britain, Denmark, Canada and Germany respectively have the highest indicators of fair participation in financing (Saadati et al., 2015: 65-73). As the above countries have achieved this, social insurance, national insurance and national health systems can perform well in financial support for people, so it can be said that the insurance system plays a significant role in financial support against the costs. People's health plays a role, while in Iran, the issue of insurance and the right to health is one of the challenges, its performance is inappropriate. One of the most important examples can be seen in health insurance, which



can be said to have no function for it has no people. In Iran, there is no single, coherent and efficient social services insurance system, it can be mentioned as a disadvantage.

Also, there is a network of hospitals with different private ratings, hotels, hospitals and different semi-government hospitals, including a wide and exclusive network of medical centers and medical clinics, and various specialized and subspecialized hospitals, as well as a medical network and hospitals of the armed forces, which are covered by Bringing a significant percentage of the country's people (directly and indirectly) from the employed and retired and dependents has a significant contribution to the provision of health care services in the country, and certainly the health care structure of the armed forces due to its importance and important and influential role. And the special situation, the coherent and orderly and effective structure, the duties and obligations and the special duties that he has in this regard towards the employees under his command and under his cover and includes a significant percentage of the people of the nation. An effective example is in the health sector and naval personnel of the country's armed forces. In the field of health insurance, now with all kinds of insurers, insurers, in providing social services, each with ambiguities and different laws and contradictory priests and different executive procedures and without a system. We are faced with a coherent and specific supervision that does not go towards constructive developments with predetermined goals in reaching the considered standards, but each tries to explain its own goals.

With the existence of different government, military, medical and private insurers with different tariffs and services and different regulations, it is possible to establish a public insurance institution and the cooperation of sub-insurers from different sectors, including government, private and non-government and institutionalizing a transparent control and monitoring system for all citizens who pay insurance premiums to provide fully efficient, effective and transparent social security insurance services at the national level.

7. An overview of medical care on board and on shore and the duty of member states of the Maritime Labor Convention

7.1. Medical care on board and on shore

States ratifying the Maritime Labor Convention shall ensure that measures are taken to protect the health and provide medical care, including essential dental care, to seafarers on board ships flying its flag, which shall be as follows:

a) The countries ratifying the Convention and the Ports and Maritime Organization or the Ministry of Ports and Maritime Affairs shall ensure that their seafarers and other international seafarers whose ships dock at ports under the jurisdiction of the coastal State are not subject to any general provisions on health protection. Professional and medical care related to the duties of seafarers as well as special regulations related to work on board use.

b) The Ports and Maritime Organization or the Ministry of Ports and Maritime Affairs of the member country should ensure that the seafarers receive health protection and medical care that is as comparable as possible to what is available to workers on land, including quick access to medicines, medical equipment and The necessary facilities for diagnosis and treatment and medical information and expertise are provided. ;

c) Member countries should give seafarers the right to consult a qualified doctor or dentist without delay if possible.

(d) to ensure that, to the extent consistent with Member national law and practice, medical care and health protection services are provided free of charge to seafarers while they are on board a ship or disembarked in a foreign port;

e) It is not limited to the treatment of sick or injured seafarers, but includes preventive measures such as health promotion and health education programs.

2. The competent authority must adopt a standard form of medical report for use by ship captains and relevant medical personnel ashore and on board.



Once completed, the form and its contents must be kept confidential and used only to facilitate the treatment of seafarers.

3. States parties to the Maritime Labor Convention must adopt laws and regulations that establish requirements for hospital facilities and equipment and onboard medical care and equipment and training on ships flying its flag.

8. Assessing the need and requirement of transitional regulations in the field of national laws and regulations on health rights at sea

In the field of health rights, national laws and regulations must provide at least the following conditions by the country ratifying the Maritime Labor Convention:

a) In the implementation of the maritime labor convention of the ratifying country, the state-government must supervise that all ships must have medicine boxes, medical equipment and medical guides whose specifications are prescribed and subject to regular inspection by the competent authority. National requirements should take into account the type of vessel, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards.

(b) In accordance with the Maritime Labor Convention, paragraph A4.1, the Government of the ratifying State shall require ships carrying 100 or more persons and normally engaged in international voyages of more than three days' duration to have a qualified medical officer in charge. Providing medical care. National laws or regulations should also specify which other ships are required to carry a doctor, including factors such as the duration, nature and conditions of the voyage and the number of seafarers on board.

(c) Ships which do not have a doctor must have at least one seafarer on board who is responsible for medical care and medication management as part of their normal duties or at least one seafarer on board who is competent to provide the service. medical first aid; Persons responsible for medical care on board a ship where a doctor is not present shall be satisfactorily trained in medical care in accordance with the requirements of the International

Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW"); Seafarers designated to provide medical first aid must be satisfactorily trained in medical first aid that meets the requirements of STCW. National laws or regulations should specify the level of approved training required, taking into account factors such as the duration, nature and conditions of the voyage and the number of seafarers on board.

(d) The competent authority in the countries ratifying the Labor Convention, which in Iran is the Ports and Maritime Organization, shall ensure by a predetermined system that medical advice is transmitted by radio or satellite to ships at sea, including Expert advice is available 24 hours a day. Medical advice, including the transmission of medical messages by radio or satellite communication between the ship and centers providing such advice on land, shall be free to all ships regardless of flag.

Research findings

The findings indicate that, in general, in the discussion of providing health care services and the right to health, despite the approved laws and the structure of the departments and the Ministry of Health and social monitoring institutions in accordance with the documents and approvals and international agreements, both on land and In marine vessels, although good measures have been taken, but due to the problems, the most important of which are the sanctions, especially the oil export embargo and the central bank, and management problems, which have challenged Iran's oil and non-oil exports, we have not reached the defined goals and standards. And we are facing challenges and dilemmas.

According to Regulation 4.1, Section 1 of the Maritime Labor Convention, 2006 (MLC, 2006), which entered into force on 20 August 2011, "Each Member shall ensure that all seafarers on ships flying its flag are covered by adequate measures to The protection of their health and access to prompt and adequate medical care while working on board and also, in accordance with Article 2 (4.1) of the Maritime Labor Convention, the protection and care of seafarers shall be provided free of charge to ensure that seafarers on



board ships in their territory who require urgent medical attention have access to the Member's shore-based medical facilities. This Code sets standards aimed at providing seafarers with health protection and medical care as comparable as possible to what is generally available on land is included (Zarie, M. H., & barati, A. N. 2021, P.91-92). This ship carries people who have undergone medical care training according to STCW standards. Hospital facilities are available on each ship and are equipped in accordance with WHO and flag government requirements regarding medicines and medical equipment (ILO, 2013). According to Maritime Guidance Note (MGN 482 (M)) issued by the Maritime and Coast Guard agencies, if seafarers suffer illness or injury on board or resulting from work on board, shipowners must also pay bear the cost of medical care until the seafarer recovers or is declared permanently disabled for a maximum period of 16 weeks (ILC, 2006).

Conclusion and suggestions

a) Conclusion

According to the significant laws and regulations approved by the competent authority of Iran, the level of attention of the legislators to the importance of health, treatment and the health system is evident, and it can be stated that the government's role, duties, obligations and tasks in this field are clear.

The right to health and generally health rights as an inherent right means that everyone has the right to achieve the highest standard of physical and mental health and this right includes all medical services, public health, adequate food, suitable housing, environment It includes healthy work and clean environment both on land and at sea, on the deck of ships and other marine structures, including hulls and submarines. In fact, the fundamental rights of health have been emphasized in Iran's legal system, so that since the beginning of the modern government, more than 600 laws and regulations have been approved in the field of health, and Iran is one of the most advanced countries in the field. Medicine and health in Asia. However, the most important domestic challenges facing health and the institutionalization of health rights as a fundamental right are the problem of providing medicine

and medical equipment due to the embargo on oil exports and the embargo of the Central Bank, immigration of doctors and nurses and medical staff, issues related to insurances and non-observance of transparency. In the medical system, the private sector is responsible for medical expenses.

In terms of institutionalizing maritime health rights in commercial ships at the international level, the most important step taken is the ratification of the Maritime Labor Convention in 2006 by the International Labor Organization, which Iran also joined in 2013. In fact, the main philosophy of this convention is to protect the health of seafarers and ensure their prompt access to medical care on board and ashore. Therefore, any country that approves the convention in its legal system, shall ensure that seafarers on board ships in their territory who require urgent medical attention have access to medical facilities ashore and requirements for health care and medical care on board ships including standards for safety aimed at providing Health care and medical care are provided to seafarers to be as comparable as possible to what is available ashore. Another important point is that protection and health care is provided at no cost to seafarers.

In the discussion of the general health of the society, the environment, macro-policies of social services, the structure of insurances, etc., as a result of moving away from the goals and approved laws and the constitution, the functions have reached a deviant path under the influence of privatizations and privatization and profit-making. This is how, in a comparative comparison with almost successful countries such as Germany, Austria, England, America, Canada, Japan, etc., even despite the time difference of more than a decade, we have a significant difference, and despite all the claims that have been made, no We are not only on the way to reach the set standards, but we are moving away from the path of success with the challenges and obstacles and problems that we create with our performances. Regarding the right to health of the employees of marine vessels, these problems are definitely bothering the families and relatives and the employees of the vessels themselves. It is seafarers who spend a significant part of their lives in the country and in ports and cities, but in addition to



that, there is a discussion on how to provide health care services and matters related to the right to health on ships and outside the country's facilities.

b) Suggestions

According to the results of the research and the opinion of experts and specialists, it is suggested to do the following:

- (1) The creation of a seafarers' union that is elected by the voting of all Iranian seafarers, (2) the creation of different companies for the seafarers' activities in order to get out of the monopoly, (3) the recognition of seafarers' rights and the interaction of companies with associations A union to agree on seafarers' rights, (4) timely payment of seafarers' rights and prohibition of forced labor on ships, (5) respect for seafarers' rights regardless of religion, race, nationality, gender or political views and equal rights of seafarers. Together, (6) providing a safe and standard work environment along with establishing justice and a decent life on board, social support such as access to medical centers and health facilities and the availability of welfare services for seafarers based on the Maritime Labor Convention approved in 2006. 7) Forming a tripartite committee including the government, ship owners and seafarers to review the amount of salaries received by seafarers in the private, public and sovereign sectors due to the difficulty of maritime jobs. vision and color blindness, which are not currently seen in seafarers' medical qualification documents, which have problems and can lead to the seizure of ships of the Islamic Republic of Iran during port inspections according to the Maritime Labor Convention.

Resources

- Adimit, Fereydoun (1982) Amirkabir and Iran, Khwarazmi Publishing House.
- Oliyai-Manesh, Alireza, Saeed Manavi, Mohammad Aghajani, Leila Pour-Aghasi, Ali Maher, Ali Shahrami et al. (2015) "Implementation of the health system transformation plan with an emphasis on supporting the

- longevity of doctors in deprived areas: results and challenges". Research of Hakim Health System. 2015; 19 (4):228-237
- Omidi, Reza and Gholamreza Ghafari (2008) Quality of life, social development index, Shiraz Publishing.
- Bostani Khalesi, Zahra, & Ghanbari Khanqah, Atefeh. (2014). "Married reproductive age women's perception and experience of the importance of sexual health education: a content analysis study". Iran Journal of Women, Midwifery and Infertility, 18(172), 7-17.
- Taghipour, Ali, Bahrami Taganki, Hamidreza, Hosseinzadeh Hamidreza, Nours Mohammadreza (2015). "Ethical and legal challenges in complementary and alternative medicine". Iran's ethics and history of medicine; 9 (3): 23-31
- javid, E., & niavarani, S. (2022). The Obligation of States to Guarantee the Right to Enjoyment of Medical Health Care in the Light of International Law with a Glimpse to the Evolution Scheme of Health System in Iran. Legal Research Quarterly, 25(97), 343-368. doi: 10.22034/jlr.2018.112033.1068
- Sajadi H, hosseini M, dehghani A, khodayari R, zandiyan H, hosseini H. The Policy Analysis of Iran's Health Transformation Plan in Therapeutic Services. Hakim 2018; 21 (2):71-88
URL: <http://hakim.tums.ac.ir/article-1-1720-fa.html>
- Saadati, Mohammad, Rezapour, Ramin, Derakhshani, Nasser, & Nakhshi, Maryam. (2015). A comparative study of justice in financing in health insurance models. Health Management, 7(No. 4), 65-73.
- Shadpour, Kamel (1372) Primary Health Care Network in Iran, Publisher: Ministry of Health, Treatment and Medical Education.
- Shirjang, Ahmed, Mahfouzpour, Soad, Masoudasal, Yerevan and Doshmangir, Leila (2019) "Challenges and solutions to the implementation of rural family doctors in Iran: a qualitative study", Journal: Image Salamat, Volume: 11, Number: 1, P. 14.
- Cengiz Tahereh, Sabri Mohammad Reza, Shah Sanai, Ermin Dokht, Ashurion Vahid, Binandeh Elham. (2018) "Evaluation of the implementation of the doctors' residency package in the health system reform program and its



- effect on the training of assistants in medical training centers in Isfahan". Iranian Journal of Medical Education. 19:101-103
- Larijani, Baqer (2013) Health Policy in the Islamic Republic of Iran, Information Publication. Tehran, Iran
- Wathouq Moghadam Abbas and Demari Behzad (2013) "Effects of family medicine on improving the quality of services and controlling health costs", trade conference and desirable functions of the primary health care system, 12.
- The list of laws and regulations related to the health system, approved on 24/08/2019, year 76, number 22042, available at:
<https://rrk.ir/Laws/PrintLaw.aspx?Code=22541>
- Zarie, M. H., & barati, A. N. (2021). The Consideration of Maritime Labor Convention Standards and Decent Work factors and ILO standard for seafarers: The Glance Survey on the Accession of I.R.I. International Journal of Maritime Policy, 1(1), 83-100. doi: 10.22034/irlsmp.2021.140661
- Ayse, Valentine; Nash, Jason John; Leland, Rice (January 2013). The Business Year 2013: Iran. London, U.K.: The Business Year. p. 156.
- Craven M.(1995) The International Convention on Economic, Social and Cultural Rights: A Perspective on Its Development. Oxford, England: Clarendon Press
- Lal, A., Erondur, N. A., Heymann, D. L., Gitahi, G., & Yates, R. (2021). Fragmented health systems in COVID-19: rectifying the misalignment between global health security and universal health coverage. The Lancet, 397(10268), 61-67.
- Krieger, N. (2001). Theories for social epidemiology in the 21st century: an ecosocial perspective. International journal of epidemiology, 30(4), 668-677.
- Khodayari - Zarnaq R, Ravaghi H, Mosaddeghrad AM, Sedaghat A, Mohraz M. (2016)HIV/AIDS policy agenda setting in Iran. Med J Islam Repub Iran.; 30(1):654-66.
- International Convention on Economic, Social and Cultural Rights, 2005: 1

-Maurel, Raphel,(2020) « L' activité du Conseil de sécurité face au Covid-19: où EST confinée la « communauté » internationale? », Revue des droits et libertés fondamentaux, n° 18,.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188

-Resolution Maritime Safety Committee-MSC-. 167 (78), May 20, 2004, Annex 34.

The Geneva Declaration on Human Rights at Sea, Version 1, April 5, 2019.

United Nations Convention on the Law of the Sea (Law of the sea Convention), 1982.

J.H.A. V. Spain, UN Committee against Torture (CAT) (CAT/C/41/D/323/2007), 21 November 2008, available at:
<https://www.refworld.org/cases,CAT,4a939d542.html>

Saiga Case (Saint Vincent and the Grenadines V. Guinea), International Tribunal for the Law of the Sea, 1997.

Resolution, G. A. (1966). International Convention on economic, social and cultural rights. General Assembly resolution A, 2200.

پژوهشگاه علوم انسانی و مطالعات فرهنگی
پرتال جامع علوم انسانی