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THE ROLE OF COMPULSORY HEALTH INSURANCE IN ENSURING THE RIGHT TO HEALTH PROTECTION

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Abstract. This article examines the role of compulsory health insurance in the realization of the right to health protection in the Republic of Azerbaijan. The right to health protection is recognized as an integral part of fundamental human rights, enshrined both in the national Constitution and in international legal instruments. However, the effective implementation of this right requires not only legal recognition but also functional mechanisms, including a sustainable and inclusive health insurance system. Since 2020, the introduction of compulsory health insurance in Azerbaijan has aimed to enhance access to healthcare services and improve public health outcomes. Nevertheless, issues such as regional disparities, inadequate funding models, personnel shortages, and service quality concerns continue to hinder the system's efficiency. The article explores the legal and institutional causes of these challenges and emphasizes the need for reforms within the existing legislative framework.

Key words: right to health, compulsory health insurance, legal guarantee, insurance relations.

Introduction. The Latin phrase "Orandum est ut sit mens sana in corpore sano" suggests that the concept of health encompasses not only physical health but also mental health and well-being (Kue Young, 2005, p.3). Despite the tendency in some legal literature to equate the concept of the "right to health" with the "right to health protection," we believe that the right to health protection should be classified among a person's social rights. The right to health itself, like other fundamental rights, refers to a person's inherent right from birth. However, the right to health protection involves the safeguarding of that right through various means. In this context, ensuring the protection of one's health is directly dependent on reforms aimed at guaranteeing a decent living standard and the fulfillment of the right to health. The right to health protection is recognized as a fundamental and inseparable human right in the system of human rights. This right is not only related to freedom from disease or physical impairment but also to ensuring physical, mental, and social well-being. The significance of the right to health lies in its close connection with other human rights; an unhealthy person's ability to receive education, work, or integrate into society is significantly limited. Therefore, the right to health protection is not just a health issue, but also a matter of social justice, equality, and the preservation of human dignity. International legal documents have clearly defined the essence of this right and the obligations of states in this regard.

Materials and Methods of Research. This study employs a mixed-methods approach to assess the role of compulsory health insurance (CHI) in realizing the right to health protection in Azerbaijan. Legal analysis focuses on Article 41 of the Constitution, the Law on Health Insurance, and international frameworks like the Universal Declaration of Human Rights. Quantitative data from the State Statistical Committee (2020–2024), the Ministry of Health, and CHI Agency reports were analyzed, covering population coverage, funding allocations, and healthcare workforce trends. Regional disparities were evaluated through comparative analysis of urban-rural service accessibility, infrastructure gaps, and service quality. Limitations include potential bias in government-published statistics and insufficient granular data on patient outcomes or informal healthcare expenditures.

Results and Discussion. By 2024, CHI covered 5.2 million citizens (50% of the population), with a 10% annual increase in service utilization, including 24 million outpatient visits and 485,315 inpatient admissions. Urban areas showed higher bed occupancy rates (32%) compared to rural regions, where limited infrastructure, laboratory shortages, and medical staff deficits hindered preventive care access. Despite increased funding (2.02 million AZN in 2024), rural infrastructure and staff training received only 220,303 AZN, exacerbating disparities. While CHI improved early detection of chronic diseases (e.g., cancer, diabetes), respiratory illnesses remained underdiagnosed in rural zones due to diagnostic gaps. These findings underscore the need for decentralized funding, workforce expansion, and preventive care campaigns to align CHI's outcomes with constitutional and international health equity obligations.

The discussion (main text). According to Article 25 of the Universal Declaration of Human Rights, every person has the right to an adequate standard of living for themselves and their family, including food, clothing, housing, medical care, and necessary social services to ensure their health and well-being, as well as the right to social security in case of unemployment, illness, disability, widowhood, old age, or other circumstances beyond their control. Additionally, Article 12 of the International Covenant on Economic, Social and Cultural Rights states that everyone has the right to the highest attainable standard of physical and mental health. Furthermore, this article requires states to take measures for the improvement of health, and to adopt a systematic approach to prevent and treat epidemics and other diseases. The World Health Organization (WHO) defines health as "not merely the absence of disease or infirmity, but the complete state of physical, mental, and social well-being." This approach demonstrates that individuals not only require treatment but also need support for a healthy lifestyle, the ability to live in a healthy environment, and equal access to medical services. Thus, the right to health is a multi-dimensional right that must be realized at both the individual and collective levels.

Many scholars argue that the right to health protection is one of the universally recognized fundamental human rights: it is enshrined in numerous international universal and regional treaties, as well as confirmed by numerous declarations and resolutions of intergovernmental organizations and conferences. Some of them asserts that the "right to health protection belongs to the group of social rights, which are part of the socio-economic rights". Other scholars highlight that the right to health protection is a broad and multifaceted concept, and the provision of medical assistance is just a small part of the health protection system.

It is reasonable to agree with the view that the right to health protection belongs to the group of socio-economic rights, as it extends beyond medical services to encompass both social and economic aspects. This approach connects the right to health not only with the provision of medical assistance but also with social security, education, working conditions, and other social issues. Therefore, for the right to health protection to be fully realized, it is not enough for the state to provide medical services; measures to improve social policies, quality of life, and economic conditions must also be implemented. Moreover, it is necessary to disagree with the idea that the right to health protection is solely concerned with medical services. While providing medical assistance is an important part of the right to health protection, it is not sufficient for the protection of every individual's rights. The right to health protection requires the state to implement various social measures to safeguard this right. This includes preventive measures, social security, and health education. The state's active and independent policies in this area are also an obligation enshrined in international law.

Professor M.N. Aliyev notes that, as a constitutional right, the right to health protection is not only about providing various types of medical care to individuals suffering from specific diseases. It also involves preventing harm to healthy individuals' health and protecting them from various diseases (Aliyev, 2016, p. 6). We agree with the author's perspective that the right to health protection should not be limited to providing medical care to individuals suffering from particular diseases. This right

should also involve the protection of healthy individuals from potential diseases, supporting their health status, and eliminating risk factors. In the context of constitutional rights, this broad interpretation of the right to health protection implies that the state has a duty to take preventive measures, not just reactive ones. In this regard, the author's approach aligns with the functional role of the right to health protection in the system of social rights and can be considered a progressive legal perspective aimed at ensuring human well-being. For example, measures such as preventing infectious diseases, vaccinating the population, public health campaigns, and addressing environmental hazards are not only directed at patients but also serve to protect the rights of healthy individuals. Thus, the author's viewpoint is consistent with approaches found in international legal documents (including WHO principles) and modern social state concepts.

Professor Z.A. Asgarov argues that the meaning of every individual's life, perception of the surrounding world, and work capacity are directly dependent on their health (Asgerov, 2002, p. 224). G. Aliyev states that when a person is unhealthy, the other benefits of life lose their significance to varying degrees. Therefore, the protection of health is crucial for a person's normal life and activity (Aliyev, 2000, p. 159). I.M. Jafarov believes that health is not only determined by the existence of diseases and physical impairments but is also an overall indicator of physical, mental, and social well-being. In this sense, the protection of health consists of a set of political, economic, legal, social, cultural, scientific, medical, and sanitary-epidemiological measures aimed at strengthening everyone's physical and mental health, ensuring long-term life activity, and providing medical assistance in case of health deterioration (Jafarov, 2004, p. 128).

In the legislation of the Republic of Azerbaijan, the right to health protection is enshrined in Article 41 of the Constitution. According to this article, every citizen has the right to protect their health and receive medical care. The state is responsible for ensuring the implementation of this right through the development of healthcare, improving the quality of medical services, and ensuring equal access to these services for everyone. The "Law on the Protection of Public Health" legally defines citizens' rights and obligations in this field, as well as the state's guarantee mechanisms. In Azerbaijan, both the public and private healthcare sectors operate, and the implementation of the compulsory health insurance system is one of the significant reforms aimed at broadening and ensuring equal access to healthcare services for the population.

Z.N. Aslanov notes that the right to health protection also reflects the right to medical and social insurance (Aslanov, 2019, pp. 71–72). Moreover, Prof. M.N. Aliyev states that compulsory and voluntary health insurance are based on the right of various categories of the population to receive medical assistance in the field of health protection (Aliyev, 2016, p. 16). F.E. Aliyeva considers health insurance as the economic basis of the "right to health protection". The author's view is agreeable because health insurance plays a significant role in realizing the right to health by ensuring people's access to medical services. State-funded health insurance programs make health services accessible to a wide range of the population, which is a vital condition for individuals to exercise their rights. Additionally, health insurance provides social security by helping to protect individuals financially when they face illness or health problems. In this regard, health insurance can be considered as a key economic tool for the protection and development of the right to health. However, it is important to note that while health insurance is a crucial mechanism for ensuring the right to health protection, it is not the only or sufficient tool. Health insurance can ensure certain aspects of the right to health by providing access to medical services, but broader and more diverse economic and social measures are needed for the full realization and protection of this right. First and foremost, the right to health is not limited to the provision of medical services. It also includes areas such as improving people's health conditions, quality of life, social security, and access to education and basic social services. Therefore, health insurance alone is not enough to fully ensure the right to health protection. While health insurance increases access to medical services, strengthening the health system, implementing

social policies, and improving economic conditions are also crucial to ensuring the quality and effectiveness of these services. For example, the state must also take measures to finance medical services and implement education and awareness programs in the health sector. One of the most important mechanisms for realizing the right to health protection in the Republic of Azerbaijan is the compulsory health insurance (CHI) system. The organization and development of this system demonstrate the country's compliance with the principles of sustainability and equitable service in the health sector, both from a constitutional and social-political context.

In the legislation of the Republic of Azerbaijan, the right to health protection is enshrined in Article 41 of the Constitution. According to this article, every citizen has the right to protect their health and receive medical care. The state is responsible for ensuring the implementation of this right by promoting the development of healthcare, improving the quality of medical services, and ensuring equal access to these services for everyone. The "Law on the Protection of the Population's Health" legally defines the rights and duties of citizens in this area, as well as the state's mechanisms for ensuring these rights. Both the public and private healthcare sectors operate in Azerbaijan, and the implementation of the compulsory health insurance system is one of the key reforms aimed at providing broader and more equal access to healthcare services for the population.

Article 41 of the Constitution of Azerbaijan guarantees every citizen the right to health protection and medical care (The Constitution of the Republic of Azerbaijan, 2023). However, for the effective realization of this right in practice, economic and institutional mechanisms are required. The relations concerning compulsory health insurance are regulated by the "Law on Health Insurance" of the Republic of Azerbaijan. Under this legislation, CHI is designed to ensure the population's access to free medical services guaranteed by the state and to ensure the financial sustainability of the medical assistance system. The main role of the CHI system is to help make health services accessible to all segments of the population. According to statistics, before the implementation of CHI, there was a significant gap in access to medical services between urban and rural populations. Due to financial difficulties, citizens' use of hospital services was limited. However, the effectiveness of the system is directly related not only to financial mechanisms but also to the modernization of health infrastructure, training of medical staff, and improving the quality of services. The development of the health protection system in Azerbaijan is considered one of the most critical reforms of recent decades, with the introduction of compulsory health insurance (CHI). The transition from the centralized, fully state-funded system of the Soviet era to a modern model based on the principles of social justice has aimed to improve the quality of life, increase access to medical services, and ensure social security. The full implementation of the compulsory health insurance system in Azerbaijan began in 2020, although its conceptual foundations were laid in earlier periods. The system's primary goal is to provide citizens with free medical care through a financially sustainable mechanism, as well as to reduce the burden on hospitals, improve service quality, and eliminate corruption risks. The role of compulsory health insurance in ensuring the right to health protection is primarily manifested in its ability to ensure accessibility to medical services and is dependent on the overall performance of the healthcare system in the country. According to available statistical data, more than 5.0 million people sought medical services at state health institutions in 2023, with over 22 million visits in total. This indicates that 50% of the country's population benefited from compulsory health insurance during that period. Additionally, in 2023, 5,011,538 citizens, including 1,664,080 children aged 0–17, received medical assistance within the framework of compulsory health insurance. This figure represents a 10% increase compared to 2022. In 2024, 5,236,391 citizens, including 1,723,343 children aged 0–17, benefited from healthcare services under compulsory health insurance, showing a 5% increase compared to 2023. In 2024, a total of 2,019,389.65 manats were allocated for the financing of compulsory health insurance funds. Of this amount, 1,253,267.58 manats were provided as compulsory health insurance payments and subsidies to healthcare institutions under the Ministry of Health (TABİB). Additionally,

393,000.00 manats were spent on insurance payments for medical services provided by institutions not under the Ministry of Health. Furthermore, an additional 220,303.79 manats were spent to cover expenses such as pharmaceutical supplies, materials, infrastructure, and staff training in the TABİB system. According to monitoring results, as of 2024, the population covered by compulsory health insurance in the administrative regions reached 10,180,800, an increase compared to the 10,127,145 population in 2023. A positive trend was also observed in the number of medical staff, with the number of doctors rising to 16,923 (up from 16,723 in 2023), and the total number of healthcare workers increasing to 38,470 (up from 36,728 in 2023). Indicators of the volume of services also show a growing trend. The number of doctor visits, including preventive visits, reached 24,063,849 (compared to 21,462,265 in 2023). The number of admissions for inpatient treatment rose to 485,315 (compared to 454,868 in 2023), and the number of patients discharged to home treatment increased to 469,998 (compared to 444,660 in 2023). The volume of service in terms of patient bed days reached 2,194,084 days (compared to 2,122,519 days in 2023), although the average length of stay for individual patients slightly decreased from 4.7 to 4.8 days. The number of surgical interventions rose to 218,819 (compared to 191,569 in 2023), and the available bed capacity reached 18,810 (compared to 18,651 in 2023). As a result, the bed occupancy rate increased to 32% (compared to 31% in 2023). According to data from the State Statistical Committee, the leading causes of death in the country include cancers, diseases of the circulatory system, and diseases of the respiratory system, which require regular examination and treatment. In this regard, compulsory health insurance plays a crucial role in ensuring regular medical examinations and treatment for chronic diseases (e.g., high blood pressure, diabetes, and cancer). Early diagnosis of such diseases significantly contributes to achieving positive outcomes. Compulsory health insurance helps ensure the right to health protection for individuals, particularly those with lower incomes who face difficulties accessing healthcare. However, despite the achievements in the healthcare sector, rural populations' use of preventive examinations remains limited due to factors such as the scarcity of medical visits to villages, limited laboratory facilities, and other challenges. Additionally, it is difficult to generalize these positive trends across all regions (especially rural areas). For instance, when comparing the healthcare situation in the Qazakh-Tovuz economic region from 2015 to 2023, significant reductions have been observed in the number of medical personnel, hospital beds, and outpatient clinic capacity. This has raised concerns about the accessibility and quality of healthcare services in the region. In response, compulsory health insurance can address these negative trends in the following ways: enhancing financial incentives, allocating insurance fund revenues to regions with fewer medical staff and hospital beds, improving service volume-based payments, raising the professionalism of healthcare workers, and extending outpatient services and preventive examinations. Moreover, telemedicine services and mobile medical teams can be funded through insurance to compensate for the shortage of doctors in remote areas. A comparative analysis conducted among CIS countries between 2022 and 2024 shows that Azerbaijan ranks at an average level in terms of healthcare human resources. For example, the number of doctors per 10,000 people in Azerbaijan was 32 in 2022 and 2023, and 33 in 2024, which is significantly lower compared to countries like Russia (51) and Belarus (52–53). In terms of the number of medical staff, Azerbaijan also lags behind Belarus, Russia, and Moldova but performs better than Tajikistan, Turkmenistan. This statistical picture reflects the shortage of human resources in the Azerbaijani healthcare system and its impact on the population's health. In this context, compulsory health insurance (CHI) plays a crucial role and holds great potential. Through CHI, universal access to healthcare services is ensured, which, by increasing demand, creates a need for more doctors and medical staff. The system improves the working conditions and salaries of doctors and medical personnel, increases interest in the profession, and prevents brain drain. In organizing equitable medical services in regions, the financial flows of CHI help in the balanced distribution of resources. The implementation of a performance-based financing model under CHI not only improves the quality of services but also

positively affects the number and efficiency of healthcare workers. Thus, compulsory health insurance is not only a means of financing medical services but also a comprehensive legal and economic tool aimed at enhancing the provision of human resources in the healthcare system and promoting structural reforms. The continued implementation of this system in the Republic of Azerbaijan creates conditions for forming a healthcare model competitive on the international stage and has the potential to bring the country's current indicators closer to leading positions within the CIS region. In conclusion, it can be stated that the institutional strengthening of the compulsory health insurance system should be regarded as a strategic measure not only for financing medical care but also for solving the structural problems of the healthcare system. To reduce the resource deficits and bring the density of medical personnel up to the standards of CIS countries, there is a need for continuous investment in the improvement of this system. The main challenges in the implementation of CHI include the lack of financial resources, the complexity of management mechanisms, and the low level of public awareness. Sociological surveys show that the majority of the population does not fully understand the terms of insurance, payments, and coverage. Scientific research shows that compulsory health insurance systems are correlated with improvements in the health indicators of countries. While it may take time to evaluate the impact of CHI in Azerbaijan, initial data reflect positive trends, such as a reduction in infant mortality rates and an increase in preventive services. However, the key condition for the system's long-term success is its dynamic improvement and support through political will. Ultimately, compulsory health insurance in the Republic of Azerbaijan serves as both a legal and socio-economic tool in ensuring the right to health. The success of the system depends on the effective application of the principles outlined in legislation, as well as the enhancement of citizens' legal awareness. For CHI to evolve into a more inclusive and equitable healthcare system, continuous investment, adaptation of international experiences, and strengthening of public oversight mechanisms are essential.

Conclusion. The concept of health in modern legal doctrine is not only considered as the absence of diseases and physical disabilities but also as the provision of physical, mental, and social well-being. In legal literature, although there is often a conflation of the terms “right to health” and “right to health protection,” there are subtle yet important distinctions between these concepts. The right to health should be recognized as one of the fundamental rights a person possesses from birth, while the right to health protection should be understood within the framework of social rights, as the legal and institutional protection of the existing health and its sustainability. The right to health protection, being a part of human rights of a social nature, constitutes one of the main directions of the state's social policy. The provision of this right is not limited to its recognition through constitutional and normative acts but also requires the effective implementation of practical mechanisms, particularly the compulsory health insurance system. The phased implementation of the compulsory health insurance system in Azerbaijan has served to expand the population's access to medical services and has laid the institutional foundations in this area. However, despite the reforms, issues such as inequality in access to medical services in regions, infrastructure deficiencies, and a shortage of medical personnel continue to hinder the comprehensive provision of this right. The realization of the right to health is closely linked not only to the financing of medical services but also to the implementation of preventive measures, strengthening public awareness, and ensuring equal access to medical services for citizens. This necessitates the state's consistent and purposeful policy in this area. To increase the effectiveness of the compulsory health insurance system in the Republic of Azerbaijan and ensure the right to health protection on an equitable basis, systematic and targeted changes are required in several normative legal acts. These changes are deemed necessary in terms of human rights protection, the principle of social justice, as well as the transparency and sustainability of the healthcare system. To eliminate the observed inequality in access to medical services across regions, it is proposed that a risk-based and needs-oriented financing model be introduced in the legislation. This is important in

fulfilling the constitutional obligation related to the implementation of the “fair distribution of healthcare resources” principle. Additionally, specific normative requirements regarding the accreditation of healthcare institutions, certification, and the implementation of clinical protocols should be more clearly reflected in the legislation. This will ensure that the quality of services meets minimum standards. Furthermore, the law should clarify the state's obligations regarding preventive healthcare measures (vaccination, screening programs, promoting a healthy lifestyle, etc.) and establish mechanisms for overseeing the implementation of these measures. Legal foundations for stimulating measures such as tax incentives, social packages, and provision of service housing for the placement of medical personnel in regions should be established by law.

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