



Making Right To Food – A Reality In India

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ABSTRACT

Food formed the foundation from where fulfillment of all other needs start. On the one hand, the growth of the food processing industry by leaps and bounds providing variety of foods and on the other hand getting adequate food has remained an illusion for millions worldwide. The most vulnerable groups are children and women, especially pregnant and lactating mothers and elders who are unable to earn their food on their own. The problem of food insecurity is prevalent in almost all countries of the world.

KEYWORDS :

Introduction

"There are people in the world so hungry, that God cannot appear to them except in the form of bread."

Mahatma Gandhi

Food, Clothing and Shelter form the basic necessities of every human being right from the beginning of civilisation. From the Stone Age to today's cyber age, food occupied a prime position in human needs without which survival would have been impossible. According to the hierarchy of needs theory i.e. food, clothing and shelter, food is to be attended first. Food formed the foundation from where fulfillment of all other needs start. The problem of food insecurity is prevalent in almost all countries of the world.

Hence right to adequate food forms the basic human right of every individual which is also recognized through Article 25 of the Universal Declaration of Human Rights (1949). The evolution of the right to food is derived from the larger human right to an adequate standard of living contained in the 1948. India is an active member of the United Nations and is a state party to International Covenant on Economic, Social and Cultural Rights (ICESCR)¹. The ICESCR has adopted an analytical framework for the description of the obligation to respect, protect and fulfill the right to food for every citizen of India.²

Definition of right to food

The Right to food is an inclusive right. It is not simply a right to a minimum ration of calories, proteins and other specific nutrients. It is a right to all nutritional elements that person needs to live a healthy and active life, and to the means to access them.

Indian Constitution and Right to Food:

The reading of Article 21 together with Articles 39(a) and 47, places the issue of food security in the correct perspective, thus making the Right to Food a guaranteed Fundamental Right which is enforceable by virtue of the constitutional remedy provided under Article 32 of the Constitution. The requirements of the Constitution preceded, are consonant with, the obligations of the State under the 1966 International Covenant of the Economic, Social and Cultural Rights to which India is a party. That Covenant, in Article 11, expressly recognizes the right of everyone to an adequate standard of living, including adequate food.

In the view of the Commission, the Right to Food is inherent to a life with dignity, and Article 21 should be read with Articles 39(a) and 47 to understand the nature of the obligations of the State in order to ensure the effective realization of this right. Fundamental rights have two aspects- they act as a fetter on plenary legislative power and, secondly, they provide conditions for fuller development of our people including their individual dignity.³

The citizen's right to free from hunger enshrined in Article 21 is to be ensured by the fulfillment of obligations of the State set out in Article 39(a) and 47. The orders of the Apex Court of India interpret the right to food is the part of the right to life, which is a fundamental right as per the Indian Constitution. Over the past decade, a series of events in India have brought the question of food security into sharp focus. Vast famine-affected areas versus surplus production and stocks of

grains, the impact of globalization and World Trade Organization laws on agriculture and farmers, the media's spotlight on starvation deaths and, finally the Supreme Court of India's strong reaction to the plight of the hungry. All makes a case for recognizing the right to food.

Direct Recognition of Right to food

A total of 2346 Constitutions recognize the right to food explicitly as human right. Of these, nine countries recognize the right as a separate and stand-alone right:

- Bolivia (art. 16),
- Brazil (art. 6),
- Ecuador (art. 13),
- Guyana (art. 40),
- Haiti (art. 22),
- Kenya (art 43) and
- South Africa (art. 27.1).
- The interim Constitution of Nepal recognizes an individual right to food sovereignty 47 (art. 18.3) and
- Nicaragua (art. 63) provides for the right of every person to be free from hunger.⁴

Right to Food implicit in other Human Rights:

Right to Food is a very complex one. It is interrelated and interdependent with other rights like Right to Life, Right to Employment, and Right to Health etc. Protection of the Right to Food requires the protection of these interrelated rights. Very often, Right to Food is violated indirectly. In fact, the problem relating to Right to Food is not the availability of food, but the accessibility to food. The main problem is that people lack the purchasing power to get the available food. Nobel laureate Prof. Amartya Sen has strongly emphasized the need to strengthen people's entitlements in order to ensure food security to them in his famous work "Poverty and Famines". He advocated human development alone to be the real economic development. Barring a majority of the few nations, majority of the countries are able to provide enough food to their people either by way of domestic production or through imports.⁵

National Food Security Act – 2013:

The National Food security Act received the assent of the President of India on 10th September 2013. The object of the Act as stated is to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto.⁶ If the National Food Security Act becomes law, it should build on the human rights framework set forth in **Peoples Union for Civil liberties v. Union of India, 2003 4 SCC 399** and emphasize the active and democratic participation of society.⁷

The Supreme Court and Right to food:

Bhagwati J, beautifully stated that right to life includes the right to live with human dignity which include adequate nutrition, clothing and shelter.

Today, the directions issued by the Supreme Court are one of the major components for implementing right to food. In brief, the interven-

tion of the court had three major impacts:

- It converted the benefit of the eight nutrition-related schemes into legal entitlements;
- It directed all state Governments to begin providing a cooked mid day meal for all children in government assisted schools, and
- It directed State and Central Government to adopt specific measures to ensure public awareness and transparency of these schemes/programmes.⁸

In **Keshwanand Bharati v. State of Kerala**⁹, Mathew J. observed that the object of the people in establishing the Constitution was to promote Social and economic justice. While discussing the other aspects he observed that, "freedom from starvation is as important as the right to life."

In **Dena Nath vs. National Fertilizers Ltd.**¹⁰, the court observed that the enforcement of the provision to establish a canteen in very establishment under section 16 is to supply food to workmen at the subsidized rates as the right to food is a basic human right.

In **Francis Coralie Mullin vs. Administrator Union Territory of Delhi**,¹¹ the court held that right to life means the right to live with basic human dignity and all that goes along with the bare necessities of life such as adequate nutrition, clothing, shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freedom are part of the right to live with human dignity and they are components of the right to life.

In **Olga Tellis &Ors. Vs. Bombay Municipal Corporation &Ors.**,¹² the court held that the sweep of the right to life conferred by the Article 21 is wide and far reaching. If the right to livelihood is not treated as a part of the right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. The court also observed that persons have to eat to live.

In **Shantistar Builders vs. Narayan Khimalal Totame**¹³, the court held that basic need of man have traditionally been excepted to be three i.e. food, clothing and shelter.

In **Peerless General Finance and Investment Co. Ltd. Vs. Reserve Bank of India**¹⁴

Court held that Article 21 protects the right to life. It guarantees and derives there from the minimum needs for existence including a better tomorrow.

In **Chameli Singh & Ors.v. State of Uttar Pradesh & Anr.**,¹⁵the court interpreted Article 21 in the following manner "Right to live guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter". These are the basic human right know to any civilized society.

In **Kishen Pattnayak& another v. State of Orissa**¹⁶ the letter by the social worker was considered as the writ petition by the Supreme Court. It was mentioned in the petition that the people of Lalahandi and district of Orissa are so poor that in order to survive and to get food they are forced to sell off their land and they are even selling their children.

A landmark judgment was given by the Supreme Court in **Peoples Union for Civil liberties v. Union of India**.¹⁷A human right organization, PUCL, in April 2001 filed a petition in the Supreme Court for relief after several states in the country faced their successive year of drought and, despite having more than 60 million tons of stock failed to make available the minimum food requirement of the vast drought- stricken population. In a situation of "plenty" the Supreme Court States, a situation of scarcity was inexplicable.

In **Kapila Hingorani vs. State of Bihar**¹⁸ the court held that lack of access to food is in violation of the human right to food and issued various directives to ensure that no starvation deaths occurs.

Conclusion:

Right to food is recognized in the International Convention on Economic, Social and Cultural Rights. Majority of the countries recognizes this right as right to food. For human existence a society should be based on human right, knowledge and information and strong legal system can be said to be just and fair to make provision for basic human rights of an individual. All prominent legal thinker from Locke to Finnis everyone have always stressed the importance of such rights. Out of all, right to food is the bedrock of human sustainability.

"Food is the moral right of all who are born into this world."

-Norman Borlaug.