



LAW RELATING TO FOOD SECURITY IN INDIA: FROM WELFARE TO RIGHT BASED APPROACH

Law

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ABSTRACT

Hunger is global problem and it is more serious in developing countries like India. Though India is an agricultural country yet, its citizen's face lack of accessibility to the basic need of human body i.e. food. Performance of India revealed by Global Hunger Index (GHI) is not satisfactory. The Indian Constitution provides for right to food as a constitutional right. The Constitution of India does not recognize the right to food as a fundamental right but the judiciary at times has interpreted the right to food under the ambit of Article 21. The government came forward with the National Food Security Act, 2013 to cop up with this problem. NFSA is a unique step taken by Indian government to fight against hunger and protect right of the people for food. This paper highlights legal efforts to eradicate food problem in India and the various aspects of NFSA.

KEYWORDS

Hunger, Food security, Nutrition, Fundamental Rights, Law.

Introduction

Right to adequate food is a human right, inherent in all people, to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people to which the consumer belongs, and which ensures a physical and mental, individual and collective fulfilling and dignified life free of fear.

Status of hunger in Indian perspective

The hunger situation in India is still "serious", notes the Global Hunger Index, 2017, a report prepared by the International Food Policy Research Institute.

Report looks at 119 developing countries. India ranks 100th on that list in ensuring food security for its peoples, placing it in the high end of the "serious" category.

According to the State of Food Security and Nutrition in the World 2017 report. The data showed that 38.4% of children under five in India are stunted, while 51.4% of women in reproductive ages are anemic. However the situation is improved in last few years but it is still serious.

Global Hunger Index 2017 Rank



Scroll In

Data: Global Hunger Index, 2017

Legal efforts to mitigate hunger

India is an active member of the United Nations and is a state party to International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11 of the International Covenant on Economic, Social and Cultural Rights recognizes the fundamental right of everyone to be free from hunger. Hence there is an obligation to respect, protect and fulfill the right to food for every citizen of India. In the Indian context, the underpinnings for food security of the people can be found in the Constitution, though there is no explicit provision on right to food. However, comparable human right provisions are found in the articles of the fundamental rights as well as the Directive Principles of State Policy.

Article 21 of the Indian Constitution provides the fundamental right to the protection of life and personal liberty. This article mandates the state to ensure the right to life of citizens. This includes the right to live with dignity with at least two decent meals a day. Article 47 of Directive Principle of State Policy specifies that 'the duty of the state to

raise the level of nutrition and the standard of living and to improve public health'. Also, Article 51 which forms a part of the DUTIES of State Policy of the Constitution is unambiguous: "The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties..."

Fight for the Right

In *Chameli Singh vs. State of UP (1996) 2 SCC 549*, a three-judge bench of the Supreme Court had held as follows: "In any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. Right to live guaranteed in any civilized society implies the right to food, water, decent environment education, medical care and shelter. These are basic human rights known to any civilized society."

In 2001, after 47 tribals and Dalits were starved to death in south-eastern Rajasthan, despite India's food stocks having an excess of around 40 million tons of food grain that year, activists and organizations had approached the apex court to secure food security for Indians. In one of the initial orders, the Supreme Court in the Right to Food case (*People's Union for Civil Liberties vs. Union of India*) observed (23 July, 2001):

"Starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them. In case of famine, there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst the very poor and the destitute is scarce and non-existent leading to malnourishment, starvation and other related problems."

In the above case SC further ruled that it was the duty of the government to ensure no one went hungry. Subsequently, the apex court issued a series of interim orders, defining rights and entitlements over food and related services, all keeping the poorest as their focus'. The court had also appointed commissioners to monitor implementation of its orders.

To further strengthen the efforts to address the food security of the people, the Government has enacted the National Food Security Act, 2013. It marks a paradigm shift in approach to food security – from welfare to rights based approach.

The National Food Security Act, 2013

The Act aims at providing food and nutritional security to its citizens by ensuring them access to quality food at affordable and reasonable prices so that the people can live their life with dignity. It provides for the economic, social and physical right of the citizens to have access to healthy and nutritious food which is consistent with an adequate diet important to lead a healthy life. Thus, the Act seeks at providing subsidized food grains to the poor and needy at very affordable prices.

The Act legally entitles up to 75% of the rural population and 50% of

the urban population to receive subsidized food grains under Targeted Public Distribution System. About two thirds of the population therefore will be covered under the Act to receive highly subsidized food grains. There is a special focus in the Act on nutritional support to pregnant women and lactating mothers and children up to 14 years of age by entitling them to nutritious meals. Keeping in view the important role that women play in ensuring food security of the family, the Act contains an important provision for women empowerment by giving status of head of the household to the eldest woman of the household, for the purpose of issuing of ration cards.

Salient features of the Act

- a) Coverage and entitlement under Targeted Public Distribution System (TPDS): Up to 75% of the rural population and 50% of the urban population will be covered under TPDS, with uniform entitlement of 5 kg per person per month. However, since *Antyodaya Anna Yojana* (AAY) households constitute poorest of the poor, and are presently entitled to 35 kg per household per month, entitlement of existing AAY households will be protected at 35 kg per household per month.
- b) State-wise coverage: State-wise coverage has been determined by the Planning Commission on the basis of 2011-12 NSSO Household Consumption Expenditure Survey data.
- c) Subsidized prices under TPDS and their revision: Food grains under TPDS will be made available at subsidized prices of Rs. 3/2/1 per kg for rice, wheat and coarse grains for a period of three years from the date of commencement of the Act. Thereafter prices will be suitably linked to Minimum Support Price (MSP).
- d) In case, any State's allocation under the proposed legislation is lower than their current allocation, it will be protected up to the level of average off take during last three years under normal TPDS, at prices to be determined by the Central Government. Existing prices for APL households i.e. Rs. 6.10 per kg for wheat and Rs 8.30 per kg for rice has been determined as issue prices for the additional allocation to protect the average off take.
- e) Identification of Households: Within the coverage under TPDS determined for each State, the work of identification of eligible households is to be done by States/UTs.
- f) Nutritional Support to women and children: Pregnant women and lactating mothers and children in the age group of 6 months to 14 years will be entitled to meals as per prescribed nutritional norms under Integrated Child Development Services (ICDS) and Mid-Day Meal (MDM) schemes. Higher nutritional norms have been prescribed for malnourished children up to 6 years of age.
- g) Maternity Benefit: Pregnant women and lactating mothers will also be entitled receive maternity benefit of not less than Rs. 6,000 as per scheme to be formulated by the Central government in order to partly compensate her for the wage loss during the period of pregnancy and also to supplement nutrition.
- h) Grievance Redressal Mechanism: Grievance redressal mechanism at the District and State levels. States will have the flexibility to use the existing machinery or set up separate mechanism.
- i) Transparency and Accountability: Provisions have been made for disclosure of records relating to PDS, social audits and setting up of Vigilance Committees in order to ensure transparency and accountability.
- j) Food Security Allowance: Provision for food security allowance to entitled beneficiaries in case of non-supply of entitled food grains or meals.
- k) Penalty: Provision for penalty on public servant or authority, to be imposed by the State Food Commission, in case of failure to comply with the relief recommended by the District Grievance Redressal Officer.

Schemes to ensure food security

The central food schemes and other assistance programmes for the poor in India are:

- Targeted public distribution system;
- Antyodaya Anna Yojana;
- Mid day meal scheme;
- Annapurna Yojana;
- Integrated child development services;
- National family benefit scheme;
- National maternity benefit scheme; and
- National old age pension scheme.

Conclusion & Suggestions:

With the advent of Food Security Act, 2013 along with the execution of various government policies India is doing better in eliminating hunger as compared to previous years but there are several areas in which the work is still to be done.

The main objective of NFSA is to fight against hunger and malnutrition in the country, but emphasis is given in the act on the effective distribution of only cereals and millets. However, there is need of distribution of other nutritious food items through the PDS to all the beneficiaries in order to meet the recommended dietary allowance. The food items like pulses, grams, iron rich pearl millet, protein rich maize, fortified wheat flour, vegetables, fruit, milk and eggs, etc. can be served in the form of a "food basket" targeting different strata of society as per the age group, nutritional requirements, affordability, etc. State food commission is also not established in many states for which Supreme Court of India took a serious concern and said that law enacted by parliament, as a part of its social justice obligation, must be given its due respect and must be implemented faithfully, sincerely and positively.

The Act if implemented properly can change the entire situation of food problem in the country

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