



## LEGAL PERSPECTIVE OF RIGHT TO FOOD: IN INDIAN SCENARIO

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### Abstract

Food is an essential human prerequisite which everybody needs to survive. The right to food is regularly called the most fundamental common liberty and has been all around acknowledged thusly. The acknowledgment of any remaining rights relies upon the right to food. The right to food has a position of significance in the Constitution. The Supreme Court of India has seen that it shapes a basic piece of the right to life, ensured under Article 21. Other than Part IV of the Constitution's weight on general wellbeing and nourishment, this encapsulates inside its ambit the right to food. Notwithstanding ideal case law from India's Supreme Court, and an escalated court-run program intended to drive Indian States to disperse food as per the government assistance plots set up, and to legitimize the right to food and get it as a legitimate privilege by establishing the National Food Security Act, there are irritating holes between laws and responsibilities on paper and carrying out these responsibilities practically speaking.

The point of this paper is to give an investigation into the current lawful and institutional administration designs India's common liberty to food.

**Key Words-** Right to food, Human Rights, Government Schemes, Constitution.

### Introduction

There are several basic needs that people have in order to live with dignity, and they should be governed by granting those needs some rights. These rights are outlined in international human rights law. The right to food is intertwined with one's right to life and dignity, and it necessitates that food be available, accessible, and sufficient for all people, regardless of their socioeconomic status. Food is a necessity for all living things to sustain and survive. There are several basic needs that people have in order to live with dignity, and they should be governed by granting those needs some rights. This human right is protected by national and international law that protects people's right to access food and nourish them, whether they produce it or buy it.

Hunger and malnutrition are twin issues that afflict the entire world and continue to be a blot on the progress graph. Despite the fact that many governments have promised their support for the goal of ending hunger, it has so far proven to be a pipe dream. Despite the fact that food is the most basic necessary for living, it appears to be a luxury that millions of people lack.

### Food security

Food security is a complex issue with many different definitions and interpretations. Simply put, food security is the absence of hunger and malnutrition. "At all times, adequate world food supplies of basic commodities to sustain a steady expansion of food consumption and to offset fluctuations in production and prices,"<sup>1</sup> was according to the 1974 World Food Summit. Food security is not a legal term in and of itself; it does not impose obligations or give entitlements to

<sup>1</sup> United Nations. 1975. Report of the World Food Conference, Rome 5-16 November 1974. New York.



stakeholders, whereas the right to food imposes legal requirements on states to end hunger and malnutrition and achieve food security for all.

### **Recognition of the right to food in International Law**

The human right to food evolved from the greater human right to an acceptable standard of living enshrined in the 1948 Universal Declaration of Human Rights (UDHR). According to Article 25(1) of the UDHR, "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services." The right to food is recognized as part of the right to an adequate standard of life in a number of other international agreements, with a particular emphasis on the requirement for hunger relief. Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) formalized the right, which contains two different but connected norms: the right to enough food and the right to be free from hunger. In its General Comment 12, the Committee on Economic, Social, and Cultural Rights expanded on the right to food included in the ICESCR. Article 27 of the Convention on the Rights of the Child and Article 12(2) of the Convention on the Elimination of All Forms of Discrimination against Women are two more international legal treaties that India has accepted that further express the right to food.

### **CESCR on Violation of Right to Food**

General Comment No.12 also mentions violations of the right to food, which occur when the state fails to provide, at the very least, the bare minimum required to avoid starvation. Furthermore, if a State believes it

is unable to fulfil its responsibility due to circumstances beyond its control (e.g., resource restrictions), it must show to the CESCR that it has "done everything in its ability to secure access to food, including appealing for international assistance." Discrimination in food availability, as well as the means and entitlements for obtaining it, on the basis of race, color, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status, obstructs the exercise of economic, social, and cultural rights.

### **Recognition of the right to food in Indian Law**

Due to backwardness and the employment of archaic agricultural methods, India remained food insecure for over two decades after independence. In the lack of a proper and practical way of producing extra grain, farmers resorted to farming just for survival. As a result, despite its quality and ability to generate tonnes of excess, Indian soil remained underutilized. However, there has been a significant shift in the nation since the green revolution, which was implemented as part of the Indian government's five-year plan to assure the progress of agricultural technique and technology. Not only was an attempt launched to help farmers economically, but also morally, so that they might make the best use of resources to produce excess grains and products for the markets. As a result, India is presently self-sufficient in grains and has a surplus. But the sad reality is that, despite having the potential to feed the whole country, hunger and malnutrition are on the rise in some parts of the country. Recognizing the necessity for a solution to this developing crisis, the Constituent Assembly tried to include measures in our constitution that would aid in



the fight against hunger and food scarcity. Provisions are stated below:

- **In The Indian Constitution**

- i. **Article 21-** The right to food is an implication of the basic “right to life,” which is recognized in Article 21 of the Indian Constitution. Indeed, the Supreme Court has said expressly (many times) that the right to life should be understood as a right to “live with human dignity,” which includes the right to food and other basic requirements. The Supreme Court stated in *Maneka Gandhi v. Union of India*<sup>2</sup> that “the right to life enshrined in Article 21 means something more than animal instinct and includes the right to live with human dignity, it would include all these aspects which would make life meaningful, complete, and living.” Similarly in *Shantistar Builders v. Narayan Khimalal Totame*<sup>3</sup>: Supreme Court declared that “The right to life is guaranteed in any civilised society.” This would include the right to food as part of its scope. In the case of *Keshvananda Bharti v. State of Kerala*<sup>4</sup> “Article 21 of the Indian Constitution guarantees every citizen the right to live with dignity”. In *People’s Union for Civil Liberties v. Union of India & Others*<sup>5</sup>- the Hon'ble Supreme Court considers the Commissioner's report, which was submitted on record. The background with which the Integrated

Child Development Services have been launched had discussed in detail. After evaluating the food supplied to children through Anganawadi Centers, the Hon’ble Supreme Court issued specific directions to address the problem of contractors, which was mentioned in the report, and is expected to be done by agency and officials at the government level. The Apex Court explicitly established a constitutional human right to- “Right to Food” and determined a basic nutritional floor for a large number of poor people. The PUCL case was the first case in India in which the Hon’ble Supreme court placed the Right to Food in the ambit of Right to Life.

- ii. **Article 38 - Part IV Directive Principle of State Policy**<sup>6</sup> States that citizens, men and women alike, have the right to an adequate means of livelihood; that ownership and control of the community's material resources are distributed in such a way that they best serve the common good; that the operation of the economic system does not result in the concentration of wealth and means of production to the detriment of the common good; and that the health and strength of the community are not jeopardized.

<sup>2</sup> AIR 1978 SC 597

<sup>3</sup> AIR 1990 SC 630

<sup>4</sup> AIR 1973 SC 1461

<sup>5</sup> PUCL v UOI (SC 2001) Writ Petition No. 196/2001.p. 48

<sup>6</sup>J.N. Pandey, Constitution of India 461(Central Law Agency, Allahabad, 15th edition, 2018).



iii. **Article 47- Part IV Directive Principle of State Policy**<sup>7</sup> also states that States that it is the responsibility of the state to improve public health by raising the level of nutrition and living standards. Enforceability of Article 47 "State shall regard the improving the level of nutrition and the standard of life of its people and the promotion of public health as among its major obligations.

iv. **Food Security Act, 2013:** Food security refers to food security and access to it. Food security exists when all people have physical, social, and economic access to enough safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life at all times. The definition distinguishes four major dimensions. (i) the physical availability of food, (ii) economic, social and physical access to food, (iii) food utilization, (iv) the stability of three dimensions over time.

#### Initiatives taken by the Indian Government to eradicate hunger

**Targeted Public Distribution Scheme (TPDS):** With effect from June 1, 1997, under the Government of India's Minimum Common Program, poor families in the State were given 10 kg of food grains at half the normal rate. With effect from 1.4.2000, the quantum was increased to 20 kg of food grains. With effect from 1.4.2002, the BPL and APL beneficiaries' entitlements have

been increased to 35 kg and fixed 15 kg, respectively.

The State was set an initial target of 60.34 lakh BPL beneficiaries under TPDS. The Government of India has set 65.34 lakh beneficiaries for the State based on the population in March 2000.

The National Food Security Act of 2013 (NFSA) took effect in the state on February 1, 2014. Beneficiaries are divided into two categories under the Act. 1) Antyodaya, for example Priority House Hold is the second option. PHH beneficiaries are entitled to 5 kg of food grains per person each month, while Antyodaya group beneficiaries are entitled to 35 kg of food grains per card every month<sup>8</sup>.

**Antyodaya Anna Yojana (AAY):** The central governments initiative for providing food security to the poorest of the poor is moving slowly, as many states are yet to identify these vulnerable families.<sup>9</sup> According to the Antyodaya Anna Yojana (AAY), "We direct the States and Union Territories to complete beneficiary identification, card issuance, and grain distribution under this scheme by January 1, 2002."

**Mid-Day Meal Scheme (MDMS):** The government held it under this scheme: "We direct the State Governments/Union Territories to implement the Mid-Day Meal Scheme by providing a prepared meal with a minimum content of 300 calories and 812 grams of protein each day of school for a minimum of 200 days to every child in every Government and Government assisted Primary School." Those governments that provide dry rations instead of cooked meals must provide cooked meals in all government

<sup>7</sup> J.N. Pandey, Constitution of India 461 (Central Law Agency, Allahabad, 15th edition. 2018).

<sup>8</sup> Food Civil Supplies and consumer protection department; see website-

<http://mahafod.gov.in/website/English/PDS.aspx> last visit on 04/Sep/2021

<sup>9</sup> "Antyodaya scheme: many states yet to identify poor". Financial Express



and government-aided primary schools in all half of the state's districts (in order of poverty) within three months, and extend the provision of cooked meals to the remaining parts of the state within another three months.

**National Old Age Pension Scheme (NOAPS):** The purpose of this scheme is to provide financial aid to senior citizens, widows and disabled people.<sup>10</sup> States must identify beneficiaries and begin distributing payments by January 1, 2002, according to the system. State governments and union territories are required to make timely payments by the 7th of each month. By January 1, 2002, the States/Union Territories must have identified the beneficiaries and distributed the grain.

**Integrated Child Development Scheme (ICDS):** We direct the State Governments or Union Territories to fully implement the Integrated Child Development Scheme (ICDS) and to ensure that every ICDS disbursing center in the country provides as follows: Each child under the age of six receives 300 calories and eight to ten gms of protein; each adolescent girl receives 500 calories and twenty to twenty-five gms of protein; and each pregnant woman receives 500 calories and twenty to twenty-five gms of protein.

**National Maternity Benefit Scheme (NMBS):** The goal of this plan is to steer governments in the right direction. We direct the State Governments or Union Territories to implement the National Maternity Benefit Scheme (NMBS) by providing all BPL pregnant women INR 500/- through the

Sarpanch 8-12 weeks prior to delivery for each of their first two births.

**National Family Benefit Scheme (NFBS):** According to the scheme. We direct state governments/union territories to implement the National Family Benefit Scheme and pay a BPL family INR 10,000/- four weeks through a local Sarpanch whenever the family's primary breadwinner dies. The National Food Security Act (NFSA) that happened on July 5, 2013, intends to guarantee food and health security in the human existence cycle by guaranteeing admittance to a satisfactory amount of valuable food at moderate cost to individuals to carry on with an existence with respect.

#### **Wastage of food in India**

Somewhat recently, we have experienced that, in light of the developing economy, the way of life has been changed and individuals have begun tossing undeniable level gatherings in the general public. This pattern has become the piece of their superficial point of interest and where they trust an assortment of food to be ready in an immense amount. At a large portion of the events, the left finished or surplus food goes to the receptacle while the equivalent could be utilized by conveying something similar between the destitute and needy individuals. In view of this; a gigantic measure of food is squandered. Generally, it is weddings, government gatherings followed by lunch or supper, and other parties. We may also observe food waste on a regular basis at hostels, messes, bars, hotels, restaurants, airlines, trains, at homes, during transportation, and so on. But, as of today, nothing has been done to enact legislation to

<sup>10</sup> National Social Assistance Programme (NSAP) available at: <https://nsap.nic.in/> last visit on 04/Sep/2021



address the grave issue of food waste that might be consumed as delicious food.

After experiencing difficulties such as food inflation, food shortages, and food security, the government planned to issue a rule on the point of the Guest Control Order to limit the number of guests at weddings in the 1960s. In addition, the government formed a group comprised of renowned individuals to investigate the issue of food waste. Following that, the committee issued various suggestions, one of which was to raise awareness and pass laws to prevent all food waste, particularly at weddings and social events. This government was also attempting to conserve food supplies and posed several questions to that end, which are as follows:

- There is no waste at weddings since thousands of marriages are held in India every day?
- Why do individuals pile food on their plates that they don't eat?
- What actions may be taken to reduce this indiscriminate food waste?
- Is there anybody present to address questions concerning the food waste of leftover food after the function is over?

Considering the abovementioned points, some states took initiative by issuing the following orders to reduce the unnecessary wastage of food:

- **Delhi Guest Control:** In the extended period of the 1960s, the Delhi Guest Control request was outlined to deal with the quantity of visitors at weddings. This was a decent endeavor by the then government to save the assets, alongside food wastage.

- **Mizoram Guest Control Order, 1972 and Rajasthan guest control order 1978:** The Mizoram Guest Control Order, 1972 and Rajasthan visitor control request, 1978, additionally appeared on a similar balance as referenced in some subsequent visitor control requests, 1966, for example, limitation on arrangement, utilization, and conveyance of disallowed staples.

- **Jammu & Kashmir Guest Control Order:** allowing that, the state government of Jammu and Kashmir established legislation in 2004, limiting the number of invitees to 250 for vegetarian food and 200 for non-vegetarian cuisine. As a result, the 'All Jammu and Kashmir Banquet Hall & Caterers Association and others' challenged the order on the grounds that the petitioners have impugned the above order as illegal and unconstitutional because the petitioners have the fundamental right to celebrate and enjoy functions such as marriages, ring ceremonies, and so on.

- **The Compulsory Food Waste Reduction Bill, 2018:** The requirement for a food wastage enactment was acknowledged by our administration in 2018 where while satisfying their obligation as given under Article 47 of Part IV of Indian Constitution which offers an obligation to the public authority to increase the expectation of living and level of nourishment and work on general wellbeing. Regardless of this



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arrangement given in Article 47 of Constitution of India, India is positioned at 103 out of 119 nations according to the report delivered by the Global Hunger Index, 2018, which is an intense issue.

### **Conclusion**

India is home to a colossal number of individuals experiencing hunger, lack of healthy sustenance, and food instability on the planet today. By and by, there are significant and abundant government plans and projects which include crores and crores of rupees. However, they can't accomplish the imperative outcome and the fantasy of changing India into a country liberated from yearning and starvation remains an idealistic dream. Unfortunately, the right to food has not been given direct recognition in any of the Indian laws. Although there are some initiatives taken by the government in order to eradicate hunger, most people are still ignorant about these schemes due to lack of awareness and high corruption rate. Therefore, we won't be able to eradicate hunger completely without any proper laws. Also, there should be stricter punishment for wastage of food because without curbing the issue of food wastage, realization of right to food cannot be achieved.

### **Bibliography**

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