



## RIGHT TO FOOD: INDIAN PERSPECTIVE WITH SPECIAL REFERENCE TO HUMAN RIGHTS \*

### Abstract

“Food, shelter and clothes - Right from the beginning of life, we hear these words, they are said to be the basic necessities of life without which life is impossible. Food is the most important part of our life, without food a body cannot function for a very long time. We need energy to work, and food provides us that energy. Food is necessary for the ultimate survival of life. Our Indian constitution has provided us various fundamental rights like; right ton equality, right to speech, and right to life. However, the truth is if there is no food, these rights are of no use. This statement itself shows the importance of food and how integral it is in our life. Therefore, we can say that the realization of all the rights is dependent upon the right of food. Supreme Court in its judgment has identified that right to food is also a part of right to life and there is covered under article 21 of the Indian constitution. The human right to adequate food has also recognized in different international instruments. In this paper we will discuss about the legal perspective of Right to food as well as the actual scenario and the implementations of the laws regarding the right to food and also what can be the solutions to these problems.”

### Introduction

Right to food is a basic part of a life. One cannot exist without the other. A vision for a hunger free nation is only possible when there are adequate means to provide food to the people. The majority of states has considered right to food as a basic human right and has provided laws and guidelines to ensure that nobody is deprived of food. The Human Rights has also made instruments, most notably the Universal Declaration of Human Rights (UDHR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention on the Rights of the Child (CRC). Despite of having so many instruments and rights provided by the constitution there are still lacunas due to which people are deprived of their right to food. India has been ranked at 102nd place among 117 economies in the Global Hunger Index (GHI) 2019. In 2018, India was 103 out of 132. In 2017, India was at 100 out of 119. Number of hungry people in the world according to the report of World Health Organization in 2018 is 821.6 million. Despite the existence of all these organizations and instruments there are still many hungry people who have been deprived of their right to food. We must also understand that these records imply that lack of

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food may also result in deaths. Therefore it is said that Right to food is an integral part of Right to life.

The main question arises is that if there are so many organizations for the enforcement of adequate means to food then why still the problem of hunger exists? Is there a problem in laws? Or the reason is lack of implementation?

To find out the answers of these questions, firstly we have to look at the laws, the views of different states towards right to food and also the working on the organizations to find out where the lacunas are. Meanwhile, before that we must look at the different definition given by various scholars about right to food.

### **Definition**

As by the Committee on Economic, Social and Cultural Rights (Committee on ESCR) in its General Comment 12 of 1999-

“The right to adequate food is realized when every man, woman and child, alone and in community with others, has physical and economic access at all times to adequate food or means for its procurement.”

Inspired by the Committee on ESCR definition, the Special Rapporteur has concluded that the right to food entails:

The right 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 the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.”

Following these definitions, all human beings have the right to food that is available in sufficient quantity, nutritionally and culturally adequate and physically and economically accessible.

The three main elements of the right to food are: availability, adequacy, and accessibility of food.

Availability alludes to enough food being created for both the present and the people in the future, along these lines involving the thoughts of manageability, or long haul accessibility, and the assurance of the earth.

Adequacy alludes to the dietary needs of a person which must be satisfied regarding amount as well as far as nutritious nature of the open food. It additionally incorporates the significance of considering non-supplement esteems connected to food, be they social ones or purchaser concerns.

Accessibility implies that the financial costs incurred for the acquisition of food for an adequate diet does not threaten or endanger the realization of other basic needs (e.g. housing, health, education). Physical accessibility implies that everyone, including physically vulnerable individuals, such as infants and young children, elderly people, the physically disabled, the terminally ill, and persons with persistent medical problems, including the mentally ill, should be ensured access to adequate food.

## **The Right to Food Guideline 8.1 further states**

States ought to encourage manageable, non-prejudicial and secure access and use of assets reliable with their national law and with universal law and ensure the benefits that are significant for individuals' jobs. States should regard and secure the privileges of people as for assets, for example, land, water, timberlands, fisheries and domesticated animals with no segregation. Where essential and fitting, States should complete land changes and other strategy changes predictable with their human rights commitments and as per the standard of law so as to tie down productive and evenhanded access to land and to fortify appropriate development. Uncommon consideration might be given to gatherings, for example, pastoralists and indigenous individuals and their connection to normal assets.

Furthermore, under article 2(1), 11(1) and 23 of the ICESCR, states agreed to take steps to the maximum of their available resources to achieve progressively the full realization of the right to adequate food.

This means that the ICESCR has not merely recognized right to food but also has directed the states to implement those laws on the people. Everyone knows that food is an important part of everyone's and it is very easy for everyone to just speak up and say that food is an inherent need, but what is essential is to make such laws that helps in implementation of such laws so that nobody is deprived of that right.

The definition of "food security" has also come to include food safety, which is now recognized as key link between food and health. Food safety requires all actions geared toward ensuring that food is as safe as possible. In an effort to emphasize food safety as a critical component of food security, the FAO added the terms "safe and nutritious" to the definition of food security during the 1996 World Food Summit.

To sum up, the right to food means that governments must not take actions that result in increasing levels of hunger, food insecurity and malnutrition. It also means that governments must protect people from the actions of powerful others that might violate the right to food. States must also, to the maximum of available resources, invest in the eradication of hunger.

### **Relation of Right to Food with other Human Rights:**

**Right to Health** – Right to health is also an important right. Every person has a right to be healthy and for that they need nutrition. To be healthy, access to food is very important. Therefore, without food no one can be healthy.

**Right to Life** – Food is the ultimate source of energy and as discussed earlier, without food, survival is not possible. Therefore, food and life are co-related.

**Right to Education**- Children will only be able to concentrate on studies when they have a proper nutritious diet. Without food no physical or mental activity can be done because food provides us energy. Also, there are many times when children have to drop out from their schools in order to fulfill the needs of the family i.e. to earn money. To run a family, three basic needs; Food, clothing and shelter are necessary and to achieve them they have to work to earn money. Therefore, if

children are not deprived of their right to food, there are high chances that their right to education is also fulfilled.

## **Human Rights Approach**

The right to food is a human right recognized by international human rights law.

Article 25 -

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, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Universal Declaration of Human Rights has always recognized the needs of the people for their ultimate survival and the rights without which a human life is nothing but just a mere existing body. Similarly, human rights have considered food as an essential part of a human life and therefore made right to food a human right. Human rights offer universal frameworks to advance global justice for food and nutrition security. Instrumental to human dignity, rights seek to address basic needs and frame individual entitlements to uphold a universal moral vision. The state becomes the duty bearer under international law upon ratification of the underlying human rights treaty, with the government thereafter accepting resource-dependent obligations to “progressively realize” rights “to the maximum of its available resources, with a view to achieving progressively the full realization of the rights”

Food security and sustenance security are interlinked and should be tended to all the while to address related wellbeing challenges. Perplexing and multidimensional, food security isn't restricted to guaranteeing the adequate creation of food; it includes the need to ensured access and accessibility of nutritious food, a trademark that has been worried by universal associations, for example, the World Health Organization (WHO), World Food Program (WFP), just as the Food and Agriculture Organization of the United Nations (FAO). FAO, for instance, has accentuated that "great nourishment is the establishment for human wellbeing and prosperity" and "physical and intellectual turn of events”

The codification of human rights under worldwide law starts in the result of World War II, with rights identified with food and wellbeing serving to forestall hardships like those that had occurred during the downturn and the war that followed. As a reason for building an only world out of the cinders of war, states worked under the support of the beginning UN General Assembly to list and expand these human rights under worldwide law, broadcasting on December 10, 1948, a Universal Declaration of Human Rights (UDHR) to make “a common standard of achievement for all peoples and all nations” With the UDHR developing a right to “a standard of living adequate for the health and well-being,” it specifically clarified a series of underlying determinants of health, “including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”

Working from this non-restricting assertion, states kept on haggling in the following a long time to create explicit legitimate commitments under two separate human rights agreements, establishing in 1966 the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These three reports—the UDHR, ICCPR, and ICESCR, embraced independently by the UN General Assembly and alluded to on the whole as the "Universal Bill of Human Rights"—structure the regulating premise of the human rights framework from which the human right to food and the human right to wellbeing would advance as interconnected rights under worldwide law.

The UDHR has time and again tried its best to understand the needs of a human being, whether it is food, water, life or anything. Human Rights have understood the value of a human being and have declared even those rights which were not considered by anyone so important, but Human rights considered it as an integral part of a life.

### **Indian Perspective**

Our Indian Constitution has provided various fundamental rights to the citizens which are enshrined in part III of the constitution. Some of them are, Right to Life, Right to Education, Right to Equality, Right to freedom and many more. Our constitution understands the needs of a human being and what is essential for them to have a life with dignity. Education, Life, Freedom of speech, and equal treatment; all of these rights are important for person and without them life cannot be considered as a whole.

People's Union for Civil Liberties v. Union of India & Others (Right to food case):

Article 21 of the Indian Constitution provides right to life to every citizen and it imposes a duty upon the state to protect this right. The Supreme court of India has time and again ruled that Right to life not only means mere breathing, the scope of Article 21 is very wide. Right to life also includes life with dignity and all that goes along with it.

The petition points out two aspects of the state's negligence in providing food security. The first is the breakdown of the public distribution system (PDS). The disappointments of the PDS emerge at different levels: its accessibility has been confined to families living underneath the destitution line (BPL), yet the month to month amount per family can't satisfy the healthful guidelines set by the Indian Council of Medical Research (ICMR). Indeed, even this is executed sporadically: a review in Rajasthan demonstrated that just a single third of the example towns had ordinary appropriation in the first three months, with no circulation at all in one 6th of them. The Identification of BPL families is likewise profoundly untrustworthy.

The other focus of the petition is the inadequacy of government relief works. Famine Codes operational in various states govern the provision of these works, and make them mandatory when drought is declared. Despite being required to give work to "every person who comes for work on a relief work", the Rajasthan government has followed a policy of 'labour ceilings', which restrict employment to less than 5 per cent of the drought affected population, by the government's own statistics. Actual employment has been even lower, and failure to pay the legal minimum wage has been reported at many places.

The Court noticed that conundrum of food being accessible in granaries yet that the poor were starving and it would not hear contentions concerning the non-accessibility of assets given the seriousness of the circumstance. The court requested that: the Famine Code be actualized for a quarter of a year; grain assignment for the nourishment for work plot be multiplied and monetary help for plans be expanded; ration shop licensees must remain open and give the grain to families beneath the destitution line at the set value; exposure be given to the privileges of families underneath the neediness line to grain; all people without methods for help (more seasoned people, widows, incapacitated grown-ups) are to be conceded a ration card with the expectation of complimentary grain; and State governments ought to continuously execute the Mid-Day meals in schools.

This case is known as the landmark judgment because it understood the need of a human being and recognized the importance of food and especially for the ones who cannot afford it. The concept of ration card is a beneficial step for the people who are not able to meet their daily needs. Similarly, another great initiative which was started after this case was the concept of Mid-day meals in government school which fulfilled two fundamental rights at the same time; right to food and right to education.

Hunger and poverty has always been a constant problem in India. India has a population of 1.3 billion people and is one of the developing countries in the world. GDP is also increasing as well as the food production but so is the hunger. Even after considering right to food as a fundamental right under Article 21- Right to life and making it a duty of the state under DPSP under Article 39 to ensure no one is deprived of such right, we have not achieved the goals. Even after making many food schemes yet the problem remains unsolved. India is not able to provide sufficient food to its citizen and unable to make access to food for a large number of population.

- 194.4 million People i.e. 14.5% of our population are undernourished.
- 20.8% of children under 5 are underweight.
- 37.9% of children under 5 years of age are stunted.
- 51.4% women in the reproductive age (15-49 years) are anemic

The Human Rights Commission in India makes a significant contribution to bring the instances of violation of the right to food before the judiciary by intervening any proceeding involving any allegation of violation of human rights pending before a court. In case of violation of human rights the Human Rights Commission can approach the Supreme Court or the High Court concerned for such directions, orders or writs as the court may deemed necessary.

### **Worldwide Scenario**

The constitution of every country has always focused on fulfilling the needs of their citizen. Similarly, Human Rights have also made sure that no person is deprived of any right which interferes in their living. Right to food has also been recognized as a fundamental right by many countries and ensures that adequate measures are provided to fulfill such rights. However, the question which still remains unanswered is that, despite of Right to food being considered as a fundamental right nationally as well internationally and also has been recognized as a basic human right, why people are still deprived of food? Why people are still hungry? Why people are dying because of inadequacy of food? Why people are undernourished?

Earlier we discussed the data of India in context of food inadequacy. Now we must look at the worldwide data of hunger.

If we observe this data closely, major part of the world is at low rate in terms of hunger yet, the condition is still serious in many countries. This means that the problem of inadequacy of food is still serious and we must try to eliminate this problem by taking effective measures and the countries must focus on the implementation of such measures. The problem lacks in implementation, every country has laws and recognition is not a problem, the problem is lack of implementation. The respective government ensures that everyone get access to adequate amount of food, but due to lack of implementation people are deprived of that.

### **Impact of Covid-19**

The digitalization of food: The centralization of food retail in the possession of grocery store online stages and the expanded utilization of electronic installment programs have subverted regional markets and prohibited huge pieces of the total populace who don't approach such advancements.

Imbalances and segregation: Even if the infection can influence each individual, the dangers and the impacts are extensively higher for those living in neediness . This circumstance of weakness joins lower access to wellbeing and other fundamental administrations, just as decreased assets to adapt to the loss of salary. Underestimated and impeded individuals and networks much of the time have less opportunities for physical separating and absence of clean water to follow sterile suggestions. Likewise, they can't manage the cost of remaining in their homes, as they chip away at a day to day premise, are destitute or live in conditions where spaces are stuffed, in this manner are more vulnerable to COVID-19 contamination. Hunger, absence of access to satisfactory nutritious food, clean water and sanitation increment the presentation to the infection and cause its multiplication.

Food deficiency in grocery stores and value hypothesis: Panic purchasing with regards to lockdowns has prompted deficiencies of food in general stores. Regardless of whether calling for good and social obligation may work in certain circumstances, state guidelines might be essential during emergency.

Conclusion of casual markets and restriction of road merchants: notwithstanding the conclusion of neighborhood food showcases, a few nations have presented measures that ban casual markets furthermore, the selling of merchandise by road merchants. This has prompted loss of pay for minimized and helpless families, putting them in danger of food and sustenance weakness.

Food creation and reaping: Peasant and rancher associations in a few nations have cautioned that they chance losing significant pieces of their collect because of an absence of occasional work power. Occasional farming specialists – regularly transient laborers – can't complete the work due to the conclusion of outskirts and additionally different estimates that confine free development.

### **Solutions**

Every state has 3 types of obligations:

- Obligation to respect the right to food - Every state has an obligation to respect the right to food of every person. There comes a time when one person has so much access to something that they forget that someone else must be craving for it. The state must respect the right to food of, respect means that the state must not prevent or eliminate any measure which may assist the people in accessibility of food.
- Obligation to protect the right to food – Every state has an obligation to protect the rights of its people. Similarly, with the Right to food, the state must protect the food by ensuring that the food is not being wasted. The state must ensure that the food is not wasted by any third party for ex. By any land pollution or mines. It is the duty of the state to protect the food from these interferences.
- Obligation to fulfill the right to food- Every state has a duty to ensure every person has access to food. The state must make schemes and food campaigns etc. to ensure that people get adequate food for their survival.

### **Other Solutions**

The State shall guarantee that little scope food makers keep up their ability to create and give sufficient food.

Take explicit measures to guarantee access to safe water for underestimated gatherings to guarantee that they can likewise execute preventive conduct to stay away from virus and have satisfactory access to food.

Execute measures to control alarm purchasing and food squander, and guarantee accessibility of food in instances of frenzy waves. This may require explicit guideline for general stores, to guarantee legitimization in selling as well as value controls.

Set up instruments to screen the effects of the COVID-19 pandemic and the measures taken to contain it on the privilege to food and nourishment. Data ought to be disaggregated by sex, financial status, age and other significant measures, and ought to incorporate declarations by grassroots networks and influenced gatherings.

However, it is not only the duty of the state to ensure the needs of people, the state is already trying their best to provide adequate measured for the fulfillment of right to food. For example: Mid-Day meal- In my view, Mid-day meal was a great initiative taken by our state to ensure food availability to the children who not have access to food and due to the need of food they would come to school also and educate themselves. But the biggest lacuna in this scheme was poor quality of the food. Some children were falling sick due to the food provided in mid-day meals.

In my view, every person has the duty to respect and fulfill the right of the other person; if we have access to something it doesn't mean we should not understand the pain of the others. We all have adequate access to food, or I can say we have more than we need for our survival, yet we waste so much food on a daily basis. If we go to a restaurant, we order so many dishes and then the food gets wasted and is thrown out by the hotel staff. We must respect the food and we should donate that food to the needy ones. Similarly, in the current scenario people are having big fat weddings and spend crores in such parties and the food is also wasted. It is also the duty of the staff of the banquet halls and hotels to ensure that the remaining food is donated to the needy



ones either through NGO's or on personal level. Even one person can bring the change if we wish to.

### **Conclusion**

Food is an essential part of everyone's life and nobody should be deprived of it. Most of the countries has recognized this right as a basic human right and ensured that everyone has adequate access to it. Yet the problem remains unsolved. The change cannot be only bought by the state, we are the state, the state is made by its people, and if we try our best to bring the change then it is possible that we can cure this problem too. Therefore, it is not enough to recognize the right to food constitutionally and to enact law on same; such law needs to be 'owned' by those who are most in need of its enforcement. Successful legislation should be employed after a thorough process involving all stakeholders, government and civil society alike. Legislation also needs constant follow up from all sides, in order to be effective. Furthermore, judges and lawyers need to be fully cognizant of the right to food if cases are to be brought to court and dealt with successfully.

