**THE RIGHT TO FOOD AS THE HUMAN RIGHT: EVOLUTION AND SIGNIFICANCE**

**By- Nidhi Upadhyay**

**Abstract**

The landmark declarations by International Bodies and State Agencies had set the framework for a specific right in various countries essentially consists of a legal framework that establishes something as a right to food as Human Right. But, it also true that as the right to food is gaining recognition, the implementation of human right to adequate food is primarily remains full of challenges.

The paper attempts to give a theoretical understanding of the right to food where it discusses the evolution of the right to food and role played by the international and national units, the key factors that will ensure the guarantee of the right, essential challenges concerning the right and concludes that a normative turn to right to food can essential tackle the challenges.

The human right to adequate food is of crucial importance for the enjoyment of all other rights. The right to adequate food is indivisibly connected to the inherent dignity of the human person and is indispensable for the fulfillment of different human rights enshrined within the International Bill of Human Rights. It is additionally indivisible from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and therefore the fulfillment of all human rights for all. The paper is an attempt to find out how a state like India can ensure effective implementation of this right.

Food fashioned the muse from wherever fulfillment of all different wants begin. 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.

Key words: Right to food, Food security, Poverty, Public Distribution System.

**Introduction**

Food is indispensable in the lives of the people since time immemorial. The right to food could be a right recognized underneath national and law, which protects the right of people to access food and feed themselves, either by producing their food or by purchasing it. The right to food is connected to one’s right to life and dignity and needs that food be obtainable, accessible and adequate for everybody while not discrimination.

The human rights approach to the right to food and nutrition is increasingly becoming popular as against policy oriented programmatic approach to development as it introduces normative basis and provides for an element of accountability by virtue of which State can be compelled to protect certain vital interests of subjects.

The ‘Rights’ approach is not always going to be useful to solve the problems that cause hunger and malnutrition because not every hungry and malnourished is a victim of human rights violations. But violations occurs when States fail in their obligations to respect, protect or fulfill the right to food, and such State failure is one of the major causes of the persistence of hunger and malnutrition.

Hunger and malnutrition are the twin problems that plague the world at large and continue to be a blemish on the graph of development. Though many countries have pledged their allegiance to the task of eradicating hunger, so far it has proved to be a utopian dream.

Even though food is the most basic requirement for survival, it still seems to be a luxury which millions barely have access to. The only way that hunger can become a thing of the past is to make food security a reality, and to respect every individual’s right to adequate food and ensuring that no one is denied the same.

**Evolution**

The evolution of the right to food is derived from the larger human right to an adequate standard of living contained in the 1948 Universal Declaration of Human Rights (UDHR). Article 25(1) of UDHR asserts that: ‘*Everyone has the right to a standard of living adequate for the health and wellbeing 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. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.*’[[1]](#footnote-1)

The right to food in Article 11 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) recognizes the fundamental right of everyone to be free from hunger.[[2]](#footnote-2)

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. Article39(a) of the Constitution, enunciated as one of the Directive Principles, fundamental in the governance of the country, requires the State to direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means to livelihood[[3]](#footnote-3).

Article 47 spells out the duty of the State to raise the level of nutrition and the standard of living of its people as a primary responsibility[[4]](#footnote-4). The citizen’s right to be free from hunger enshrined in Article 21 is to be ensured by the fulfillment of the obligations of the State set out in Articles 39(a) and 47.

Article 21 read 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. Therefore it is the obligation of the state to be proactive in strengthening people’s access to food.

**Definition of right to food**

The right to food means all individuals have the proper to feed themselves and their families with dignity.

• People should be ready to grow or hunt or catch the food they have or earn enough cash to shop for it.

• Right to food may be a basic right that can't be twisted or unnoticed by the sweet can of the politicians.

• According to Mr. Jean Ziegler, Right to Food suggests that *“the right to possess regular, permanent and unrestricted access, either directly or by suggests that of economic purchases, to quantitatively and qualitatively adequate and adequate food admire the cultural traditions of the individuals to that the buyer belongs, and that ensures a physical and mental, individual and collective, fulfilling and dignified life freed from anxiety.”*

**Key principles to guarantee right to food**

Following area unit the key principles guaranteeing Right to Food:

• Availability: Food ought to be out there to everybody during a amount and quality adequate to satisfy the dietary desires of people, and acceptable to the cultural norms of that space.

• Accessibility: Food ought to be physically and economically accessible to all or any.

• Consumption: Food ought to be consumed by each individual as per their want and with none discrimination on the idea of caste, class, gender, etc.

• Sustainability: Food ought to be safe, secure and may be used during a means that it remains adequately out there for the approaching generations.

• Non-Discrimination: Discrimination in any type starting from the provision to suggests that and entitlements for food, accessibility to food on the idea of race, color, sex, age, religion, or on the other part violates the proper to food.

• Adherence to rights: the right to food is reticular, mutually beneficial to all or any alternative rights that along represent the idea of human rights. The area unit rights are undividable and inalienable. Strict adherence to those rights altogether maintains the elemental order of the right in society.

• Right moreover as obligation: Right to food, similar, to the opposite rights, comes with obligation moreover every state has the requirement to shield, respect and fulfill the right to food. Individual even have the duty to respect the rights of others and in no case the access and also the consumption of the food ought to infringe with the rights of the others.

**Core obligations of states**

The Right to Food as somebody's right imposes three varieties or levels of obligations on States: that is currently a wide used framework for analyzing States’ human rights obligations usually. These are: the duty to respect, the duty to shield, and also the duty to satisfy or facilitate human rights.

The duty to respect the proper food is actually an obligation of non-interference with existing access to adequate food. It needs States parties to refrain from measures that forestall such access.

The duty to shield the proper food needs States parties to make sure that enterprises or people don't deprive people of their access to adequate food.

The duty to satisfy the proper to Food may be a positive obligation that the CESCR has understood to incorporate the duty to facilitate and to produce.

The duty to facilitate implies that taking positive steps that strengthen people’s access to food and access to resources that alter higher nutrition, including, inter alia, land, schooling, jobs and markets.

**Food security**

• Food security is a multi-faceted concept, variously defined and interpreted.

• Concisely food security may be defined as freedom from hunger and malnutrition.

• Food security was defined in the 1974 World Food Summit as: *“availability at all times of adequate world food supplies of basic foodstuffs to sustain a steady expansion of food consumption and to offset fluctuations in production and prices”.*

• The concept of food security itself is not a legal concept per se and does not impose obligations on stakeholders nor does it provide entitlements to them whereas the right to food places legal obligations on States to beat hunger and deficiency disease and understand food security for all.

• Food security is a precondition for the full enjoyment of the right to food.

**Legal framework for the right to food**

*International commitment*

The right to food has been enshrined in international legal documents for over half a century and is a part of the modern international human rights agenda that has both influenced and been influenced by India. The international human rights law regarding the right to food relies largely on national action for implementation. That being same, the national and the international human right to food interact and inform each other. Progress at one level can be translated into progress at the other, and so it is important to understand the larger international framework in which the Supreme Court case exists.

The right to food has been a part of the international human rights regime since its origination. Access to food was first declared a right in Article 25 of the Universal Declaration of Human Rights (UDHR), 1948, and the right was subsequently codified by Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which encompasses two separate but related norms: the right to adequate food and the right to be free from hunger.

The Committee on Economic, Social and Cultural Rights has further defined the right to food provided for in the ICESCR in its General Comment 12. Other international legal instruments that India has ratified and that further articulate the right to food in 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.

In addition to these legal obligations, India has signed up to such political declarations as the 1996 Rome Declaration of the World Food Summit, thereby pledging its political commitment to ensuring its citizens access to adequate food. Despite declaring that such a right exists, none of these legal texts is particularly specific in defining what a state party must do in order to ensure the right to food. Thus it is particularly important for states, such as India, to give shape to this right through national programmes.

*India’s commitment*

The Constitution of India both explicitly and implicitly provides for a right to food, thereby offering healthy national protection that is likely more accessible to Indian citizens than similar safeguards provided by international bodies. Explicitly, Article 47, found in the Directive Principles division of the Constitution, creates a “duty of the State to raise the level of nutrition and the standard of living and to enhance public health.”

Given the aspirational and non-justiciable nature of the Directive Principles, however, most of the development of the right to food has occurred within the context of Article 21, which includes a right to life and is located within the enforceable and justiciable Fundamental Rights section of the Constitution.

Indeed, the Supreme Court has explicitly stated in various cases that the right to life should be interpreted as a right to “live with human dignity”, which includes the right to food and other basic necessities. Certain directive principles such as right to an adequate means of livelihood under Article 39, right to work, education and public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want under Article 41.

Living wages for workers under Article 43, and the principle relating to the duty of the state to secure social order for the promotion of welfare under Article 38 are thought to be sufficient to ensure right to food India’s constitutional guarantee of a right to food is perhaps not unique amongst the world’s Constitutions. According to the Food and Agricultural Organization of the United Nations, twenty-two national constitutions explicitly mention a right to food that applies to the entire national population, while several other Constitutions offer for a right to food through a right to life with dignity or connected welfare rights.

*Judicial commitment*

The right to food is a vital human right that, if denied, renders human life stunted, painful, or null. A magnificent step was taken by the Supreme Court in expanding the scope of Article 21 when it observed that ‘right to life does not merely mean ‘animal existence’ but living with ‘human dignity’ which include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self.’[[5]](#footnote-5)

Another broad promulgation of the right to life with dignity is found in *Bandhua Mukti Morcha v. Union of India*.[[6]](#footnote-6) The Court observed- “to live with human dignity, free from exploitation. It includes protection of health and strength of workers, men and women, and of the tender age of the children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. These are the minimum conditions which must exist in order to enable a person to live with human dignity. No government can take any action to deprive a person of the enjoyment of these basic rights.”

The Supreme Court in *Chameli Singh v. State of Uttar Pradesh*[[7]](#footnote-7) held that the need for a decent and civilized life includes the right to food, water and decent environment. The court has observed in this connection: “In any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object.

In *KishenPattnayak and ors.v. State of Orrisa*[[8]](#footnote-8) , it was alleged that the people of Kalahandi, Koraput and other districts of Orissa, there are many people dying there due to hunger. Justice P.N Bhagavati observed that *‘No one in this country can be allowed to suffer deprivation and exploitation particularly when social justice is the watchword of our Constitution’.*

The Supreme Court of India has established itself as a champion of food security and committed itself to the realization of the right to food in India. Through its landmark decision in the public interest litigation Petition*, People’s Union for Civil Liberties (PUCL) v. Union of India &Others*[[9]](#footnote-9) , explicitly established a constitutional human right to food and determined a basic nutritional floor for India’s impoverished millions.

**Policies And Programmes**

India has demonstrated a commitment to ensuring food security and to realizing the right to food by legally establishing a basic nutritional floor for all citizens. Following are the food related schemes:

• The Public Distribution System;

• Antyodaya Anna Yojana (AAY);

• The National Programme of Nutritional Support to Primary Education, also known as “mid-day meal scheme”;

• The Integrated Child Development Services (ICDS);

• Annapurna;

• The National Old Age Pension Scheme (NOAPS);

• The National Maternity Benefit Scheme (NMBS);

• The National Family Benefit Scheme (NFBS);

• The National Food Security Mission (NFSM).

**National Food Security Act, 2013**

As gone by the Parliament, Government has notified the National Food Security Act, 2013 on tenth September, 2013 with the target to supply for food and organic process security in human life cycle approach, by guaranteeing access to adequate amount of quality food at cheap costs to folks to measure a life with dignity.

The Act provides for coverage of upto 75% of the rural population and upto 50% of the urban population for receiving subsidized food grains under Targeted Public Distribution System, thus covering about two-thirds of the population. The eligible persons square measure entitled to receive five Kgs of food grains per person per month at supported costs of Rs. 3/2/1 per Kg for rice/wheat/coarse grains. The existing Antyodaya Pakistani monetary unit Yojana (AAY) households, that represent the poorest of the poor, can still receive thirty five Kgs of food grains per person per month.

The Act conjointly features a special specialization in the organic process support to ladies and kids. Besides meal to pregnant ladies and fresh mothers throughout physiological condition and 6 months when the kid birth, such ladies are be entitled to receive maternity advantage of not less than Rs. 6,000. Children up to fourteen years more matured square measure entitled to alimentary meals as per the prescribed organic process standards.

In case of non-supply of entitled food grains or meals, the beneficiaries can receive food security allowance. The Act conjointly contains provisions for putting in of grievance redressal mechanism at the District and State levels. Separate provisions have conjointly been created within the Act for guaranteeing transparency and responsibleness.

**Conclusion**

The right to adequate food is complete once each man, lady and kid, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall so not be taken in a very slim or restrictive sense, which equates it with a minimum package of calories, proteins and other specific nutrients.

The right to adequate food can have to be compelled to be complete increasingly. In the Indian scenario after the Food Security Act, it is hoped that those who are entitled under this Act will get food grains at the minimum subsidized rate.

The ICESCR clearly requires that each state party take whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food. This will need the adoption of a national strategy to make sure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks. It ought to conjointly establish the resources offered to fulfill the objectives and also the most efficient method of exploitation them.

Realization of human rights depends largely on two important factors:

1. the capacity of people’s to claim their rights, and
2. the states capacity to comply with their obligations under international human rights law. Promoting human rights above all means strengthening people’s capacity to hold state actors accountable, as well as pressuring state actors to assume accountability for their human rights obligations.

1. Subhash C. Kashyap, Our Constitution, An introduction to India’s Constitution and constitutional law, 4th edition. [↑](#footnote-ref-1)
2. Article 11 of ICESCR. [↑](#footnote-ref-2)
3. Article 39(A) of the Indian Constitution,1950. [↑](#footnote-ref-3)
4. Article 47 of the Indian Constitution,1950. [↑](#footnote-ref-4)
5. *Francis Coralie v. Union of Territory*, Delhi AIR 1981 SC 746 [↑](#footnote-ref-5)
6. AIR 1984 SC 802. [↑](#footnote-ref-6)
7. AIR 1996 SC1051. [↑](#footnote-ref-7)
8. AIR 1989 AIR 677. [↑](#footnote-ref-8)
9. Writ Petition(Civil) No.196 of 2001 [↑](#footnote-ref-9)