

RIGHT TO FOOD AS HUMAN RIGHT: ISSUES AND CHALLENGES

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Abstract

Right to food is a basic human right. It is the duty of a State to provide sufficient quantity of food to all people. Various government and non-government schemes are working to provide handful amount of food to needy people or targeted beneficiaries. There are various factors which are responsible for lack of availability of food and food products. India is not in a good position on global hunger index. Various numbers of malnourished children are living in rural as well as in urban areas where someone dies every year due to starvation and lack of micro and macro nutrients. National Food Security Act, 2013 is one of the weapons to provide sufficient amount of food grains to below poverty line people. Annatodyay yojana, Annapurna yojana, anganwadi etc. and some other government schemes are working to eradicate hunger and malnutrition from country. Anganvadi, Mid day Meal Schemes etc. are of the important schemes to provide food to children from age group 3 months to 14 years along with right to education. Right to food has been recognized on national as well as on international law. International Covenant on Civil and Political Rights (ICCPR), 1966, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1976, Universal Declaration of Human Rights (UDHR), 1948, etc. have recognized right to food as one of essential rights to enjoy right to life with dignity.¹

Key words- right to food, people, food grains, schemes, targeted beneficiaries

INTRODUCTION

Right to food is a one of the basic human right which need to protect by State for all people so they can enjoy right to life with dignity. It has been observed that a number of people are dying due to starvation on the other hand various numbers of people are dying due to obesity and obesity related problems. People are unable to feed themselves and their families with adequate quantity and quality of food. Foods are wasted in parties and receptions and no one cares for wastage of food. There is a need to banned or stop wastages of food in restaurant and receptions. Government has enacted National Food Security Act, 2013 to provide handful of food grains to below poverty line people on minimum rates. But targeted beneficiaries are not getting benefit of Antodyaya Yojana and Annapurna Yojana due to leakage in public distribution system etc.

RIGHT TO FOOD AS A HUMAN RIGHT: INDIAN CONSTITUTION

“Article-21, 39(a) 47, 51 A(j), 51A(h), 243 have provisions for right to food. Right to food has been defined in Fundamental rights, Directive Principles of State of Policy and Fundamental Duties of Indian Constitution.”²

“Article-14: “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”³ “It establishes equality before law. People have a right to get equal protection of law.”⁴

“Article-21: “No person shall be deprived from his life or personal liberty except the procedure established law and the procedure must be fair and reasonable.”⁵ “If any person is disable or not in a position to get adequate amount of food in his capacity and through all his resources then in such conditions State shall ensure fundamental right of people to get adequate amount of food.”⁶ “Article-32(1): The right to move the Supreme

¹Jyoti Kiran, Enforcing Right to Food in India, Legal Service India, retrieved from http://www.legalserviceindia.com/artilcles/en_food.htm visited on 31st May 2015.

² Jyoti Kiran, Enforcing Right to Food in India, Legal Service India, retrieved from http://www.legalserviceindia.com/artilcles/en_food.htm visited on 31st May 2015.

³ Constitution of India-Ministry of law & Justice retrieved from <http://lawmin.nic.in/olwing/coi/coi-english/coi-4March2016.pdf> visited on 20th January 2016.

⁴D. D. Basu. Introduction to the Constitution of India (Nagpur: Lexis Nexis Butterworths Wadhwa, 2012) 482,483-484.

⁵ Constitution of India-Ministry of law & Justice retrieved from <http://lawmin.nic.in/olwing/coi/coi-english/coi-4March2016.pdf> visited on 20th January 2016.

⁶Supreme Court Orders on the Right to Food: A tool for Action retrieved from http://www.sccommissioners.org/CourtOrders/tool_for_action.pdf visited on 20th January 2016.

Court by appropriate proceeding for the enforcement of the rights conferred by this Part is guaranteed.”⁷ “If fundamental rights of any person are violated like he or she does not get adequate amount of food then he can approach the judiciary for the enforcement of fundamental rights or against violation of fundamental rights and may get constitutional remedies.”⁸ “Article-47: 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 and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.”⁹

“Article-51A (h): It shall be the duty of every citizen of India to develop the scientific temper, humanism and the spirit of inquiry and reform.”¹⁰ “Article-51A (j): It shall be the duty of every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.”¹¹ “It is justiciable in nature.”¹²

“In a remarkable judgment of **PUCL v. Union of India**¹³ Supreme Court observed that it is the duty of a State to provide adequate amount of food to all people beyond their inability to get food for example-State shall provide adequate amount of food to destitute, old age, sick, pregnant women, children and lactating women.”¹⁴

“In **Kishen Pattanayak & Anr. v. State of Orissa**¹⁵ the Supreme Court held that Right to Food is one of the fundamental right of people and it is the duty of State to provide adequate amount of food to people and take necessary action to eradicate hunger, malnutrition and starvation death from the district Kalahandi of Orissa.”¹⁶

RIGHT TO FOOD: LEGISLATIVE ASPECT

To secure right to food in a State Central Government enacted an Act known as National Food Security Act, 2013. It ensures adequate quantity and quality of food to targeted beneficiaries or people who are living below poverty line. Following are the main features and provisions of National Food Security Act, 2013. It is applicable and extends to whole of India. It ensures adequate of food from the age group of children of 3 months to 14 years. Chhattisgarh is one the State who have used recent techniques in public distribution system to remove malpractices, corruption and provide cereal, grains to targeted beneficiaries without any obstacle.

National Food Security Act, 2013

“It is also known as Food Security Act, it provides subsidized food grains to two thirds of the population of the country. Its main objective is to distribute procured food grains to targeted beneficiaries. Procured food grains are purchased from farmers at Minimum Support price by State, Central (Food Corporation of India) and other state private procuring companies. It proposes for 75 percent of the rural population and 50 percent of urban population with an entitlement of 5 kilogram per person per month of food grains at issue price of rupees 2 for wheat, 3 for rice and 1 for coarse grain respectively. It extends to whole of India. It has 45 Sections, 13 Chapter and 4 Schedules. National Food Security Act, 2013 has combined all previous food security programme of government of India such as Mid Day Meal Scheme, Integrated Child Development schemes. Food Security Allowances will be provided to beneficiaries in case of non supply of food grains through Targeted Public Distribution System (TPDS). Special focus has been given to children up to the age of fourteen years, pregnant women and lactating mothers. The pregnant women, lactating mothers and children up to the age of six months are eligible to get free food through Anganwadi.”¹⁷

“National Food Security Act also contains a provision of public grievances redressal mechanism at District and State level. The penalty may be imposed on any public servant or any defaulting authority in case of failure to

⁷Id.

⁸Naveen Bhartiya, Legal Justification of Right to Food in India, Slideshare, retrieved from <http://www.slideshare.net/nbhartiya/legal-justification-of-right-to-food> visited on 7th June 2015.

⁹ Constitution of India-Ministry of law & Justice retrieved from <http://lawmin.nic.in/olwing/coi/coi-english/coi-4March2016.pdf> visited on 20th January 2016.

¹⁰ Id.

¹¹ Id.

¹² Jean Dreze, Democracy and Right to Food, Economic and Political Weekly, 24th April 2004, retrieved from <https://casi.sas.upenn.edu/sites/> visited on 25th August 2016.

¹³ 2000(5) SC 40.

¹⁴ J. N. Pandey. Constitutional Law of India (Allahabad: Central Law Agency, 2008) 265.

¹⁵ Writ Petition (Civil) No. 1081 of 1987, Decided on Jan 9, 1989 1989 Suppl (1) SCC258; AIR 1989 SC 677.

¹⁶ Jyoti Kiran, Enforcing Right to Food in India, Legal Service India, retrieved from http://www.legalserviceindia.com/articles/en_food.htm visited on 31st May 2015.

¹⁷ Wikipedia, National Food Security Act, 2013, retrieved from https://en.m.wikipedia.org/wiki/National_Food_Security_Act,_2013 visited on 15th July 2017.

provide relief recommended by District grievance redressal officer.”¹⁸ “State Food Commission shall be established in each of the state. The State Food Commission has a capacity of Civil Court and any appeal may be filed in it against the order of State and Public District Redressal officer.”¹⁹

RIGHT TO FOOD: INTERNATIONAL PERSPECTIVES

“According to Food and Agricultural Organization’s World Food Conference (1974), Food and Agriculture Organization (FAO) and World Food Summit (WFS) (1996), the concept of food security has been shifted from “self-sufficiency”, to “accessibility of sufficient food, When all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food to meet their dietary needs according to their food preferences to live a healthy life.”²⁰

1. **Universal Declaration of Human Rights (UDHR), 1948:** “Everyone has the right to a standard of living adequate for the health and well being of himself and 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.”²¹
2. **International Covenant on Civil and Political Right (ICCPR), 1966**
“Everyone has inherent right to life. This right should be protected by Law; No one can deprive him of his life arbitrarily.”²²
3. **International Covenant on Economic, Social and Cultural Rights (ICESCR), 1976**
The state parties to the present covenant should recognize the fundamental right of every one to be free from hunger individually and collectively and make necessary programmes to improve methods of productions, conservation and distribution of food by making full use of technology and scientific knowledge of the principle of nutrition and make necessary arrangement of development to utilize natural resources efficiently.”²³

LOOPHOLES IN IMPLEMENTAION OF RIGHT TO FOOD IN INDIA

1. **Loopholes in public distribution system:** public distribution system is faulty. Culprits do not ensure smooth flow of cereal grains from public distribution system to targeted beneficiaries.
2. **People are not aware about their right to food:** people are not aware about their fundamental right as right to food. They do not know how they can get their entitlements of right to food. Right to food is not benefiting to destitute, beggars, homeless people who don’t have any knowledge or any facility to know about the right to food. It is a one of the major challenge and issue for Right to Food. No proper schemes are conducting to destitute and beggars for entitlements of their right to food.
3. **People are unaware about use of biometric system added in their ration card:** For distribution of cereal and grains to targeted beneficiaries Adhaar card has been added to their ration card. People who are illiterate and poor do not get benefits of National Food Security Act. Various cases have been reported in some of the States where poor targeted beneficiaries died due to starvation and hunger in lack of addition of Adhaar card in their account linked to public distribution system.

PREVENTIVE MEASURES TO ENSURE RIGHT TO FOOD IN INDIA

1. **People should be aware about their right to food themselves:** Every people should be aware about the right to food whether they are poor illiterate or beggar. It is the responsibility of government and people to educate and tell people who are forced to starvation in lack of food.
2. **People should be updated with latest techniques used for distribution of cereals and pulses by public distribution system:** It has been observed that several people died in some of the state in lack of availability of food due to non addition of Adhaar card to their ration card. Before starting any such kind of updated schemes people should be updated automatically by government. Such kind of responsibilities

¹⁸Id.

¹⁹National Food Security Act, 2013 retrieved from <http://indiacode.nic.in/acts-in-pdf/202013> visited on 15th May 2016.

²⁰What is the Right to Food?|Right to Food, retrieved from www.righttofood.org/work-of-jean-ziegler-at-the-un/what-is-the-right-to-food/ visited on 3rd July 2013.

²¹Right to Food, Making it Happen, Progress and lessons Learned through Implementation, (Rome:The Food and Agriculture Organization of the United Nations, 2011) 3.

²²United Nations human Rights office of the High Commissioner, What are Human Rights, Special Rapporteur on the Right to Food, International Standards, retrieved from <http://www.ohchr.org/EN/IssuesFood/Pages/Standard.aspx> visited on 9th January 2016.

²³Id.

- should be run by government authorities because poor people don't know about latest techniques and in lack of such knowledge they may suffer starvation and hunger.
3. **Government should conduct food security related awareness programme to people:** It is the responsibility of government to conduct awareness program for poor and targeted beneficiaries so they can be updated with latest methods of public distribution system and may get sufficient amount of cereal and grains at proper time without any obstacle.
 4. **Culprit should be punished if found malpractices in public distribution system:** If any person found or involved doing malpractices in public distribution system then strict action should be taken to punish them. Proper vigilance system should be done on personnel employed in public distribution system.
 5. **Proper implementation of Law:** National Food Security Act, 2013 should be implemented in true manner.

CONCLUSION

Right to food is one of the basics human rights because it is applicable to human being. Right to food includes availability and accessibility of handful amount of food to all people beyond their limitations. National Food Security Act, 2013 is providing adequate amount of food to all people. There are various challenges in implementation of right to food. Supreme Court in one of the leading case of PUC v. Union of India held that it is the duty of a State to ensure adequate amount of food to all people and take necessary action to remove hunger, malnutrition, starvation and death from the state through conducting various social welfare schemes. People should know about their fundamental right and follow latest techniques used in public distribution system. National Food Security Act, 2013 should be implemented in proper manner. Government and people should work collectively to remove hunger, malnutrition, starvation and death from the country.

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