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IJIEMR Transactions, online available on 26th Dec 2022. Link

[:http://www.ijiemr.org/downloads.php?vol=Volume-11&issue=Issue 12](http://www.ijiemr.org/downloads.php?vol=Volume-11&issue=Issue 12)

10.48047/IJIEMR/V11/ISSUE 12/168

TITLE: ROLE OF JUDICIARY TO ENSURE THE FOOD SECURITY IN INDIA

Volume 11, ISSUE 12, Pages: 1238-1246

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ROLE OF JUDICIARY TO ENSURE THE FOOD SECURITY IN INDIA

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ABSTRACT

Since the establishment of modern welfare states, it has been widely accepted that the main responsibility of the State is to ensure the safety of its citizens. Due to divergent views on how far the state should go in mandating social welfare measures, such as the provision of food, the legal system has given more weight to some types of individual claims or interests than to others, including claims relating to basic needs like food, shelter, education, and health. Since the human rights approach to the issue of food and nutrition introduces normative basis and provides an element of accountability by virtue of which State can be compelled to protect certain vital interests of subjects, it is gaining popularity as an alternative to the policy-oriented programmatic approach to development. Because not everyone who is hungry or malnourished is a victim of human rights abuses, the "rights" approach is not always going to be beneficial in finding solutions to the issues that cause hunger and malnutrition. However, violations occur when States do to respect, safeguard, or fulfil the right to food, and this State failure is a significant reason why hunger and malnutrition continue to be problems. In this article, we will investigate if and how the Indian legal system upholds the right to adequate nutrition.

KEYWORDS: Food Security, human rights approach, Indian legal system

INTRODUCTION

Article 21 of the Constitution protects citizens against having their lives taken away without due process, however this provision was originally construed quite literally and restrictively. Freed from its prior jurisprudence, the Supreme Court's justices in the post-emergency period developed a broad view of life and liberty, expanding the meaning of the right to life to include everything that gave it value. While arguing that everyone has the right to "basic necessities of life," Bhagwati J also highlighted that "right to live with human dignity and all that goes along with it." The court went on to say, "the right to

life is guaranteed in any civilized society that would take within its sweep the right to food."

JUDICIAL RECOGNITION OF THE RIGHT TO FOOD:

The English Bill of Rights, the American Bill of Rights, and the French Declaration of the Rights of Man all served as inspiration for India's construction of a constitutional guarantee of basic human rights. The Rowlatt Act of 1919 gave the British government extensive new authority. It provided authorities with the means to conduct warrantless searches and seizures and to detain suspects indefinitely. It also suppressed the media and restricted

public gatherings. Therefore, the authorities' expansive authority led to the widespread violation of citizens' human rights. As a result, there was a heightening of popular hostility and a widespread call for safeguards of civil freedoms and restraints on Governmental authority. Politicians and the general public have opposed previous attempts to regulate the Indian press, such as the Vernacular Press Act of 1878, the Indian Council Act of 1892, the Indian Council Act of 1909, etc. Individuals' most fundamental rights were often disregarded during Lord Curzen's rule. Therefore, it is fair to say that the leaders of the liberation struggle were also fighting for the fundamental rights of the Indian people at large.

The Nehru Commission Report of 1928 (led by Motilal Nehru) was also a significant development at this time. It recommended changes to India's Constitution. In addition to calling for India to be recognized as a dominion and for elections to be held with universal suffrage, it also proposed limiting the authority of the state and emphasized some basic rights. The colonial government's repeated violations of the people's basic rights were another goal of the proposed legislation.

The Indian National Congress passed a series of resolutions in 1931 promising to uphold civil and economic-social rights such the establishment of a minimum wage and the elimination of social stigmas like untouchability and serfdom. The Karachi Resolution, which was passed by Congress, was also significant because it called for economic freedom to be included with political freedom in order to end the exploitation of the people. Finally,

the Sapru Committee¹³ recommended the people's political and civil rights, equality of liberty and security, freedom of religion, worship, etc. The Constituent Assembly was charged with writing India's constitution after the country gained its independence on August 13, 1947. It was made up of elected officials, with Rajendra Prasad serving as president. Members of Congress made up the vast majority, although appointees from a variety of political parties were tasked with writing the Constitution and national legislation. Chairing the several committees and subcommittees tasked with crafting the document were Dr. Bhimrao Ambedkar, Jawaharlal Nehru, and Sardar Vallabhbhai Patel. On 10 December 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights and urged all member states to adopt these rights in their own constitutions. This event had a profound effect on the Constitution of India, which was ratified a year earlier.

The Drafting Committee incorporated the essential rights in all three drafts of the Constitution they created: Draft I (February 1948), Draft II (17 October 1948), and Draft III (26 November 1949). As was said before, the Constitution guarantees some rights to its people. Part III of the Constitution contains the Fundamental Rights (Articles 12-33), which were drafted by a committee of the Constituent Assembly led by Sardar Vallabhbhai Patel.

The Indian Constitution included novel approaches to expanding these rights, ensuring that social and economic rights could be enforced in court. Complex disputes about development and the role of

property rights in that process are likewise etched into its surface. This corpus of constitutional legislation has made it possible to shift away from a centrally planned, redistributive economic growth model and toward one that is more market-based and open to international trade and investment.

The Constitution does not provide a definition for these freedoms. They are deemed fundamental, however, since they supersede normal legislation and may only be changed by a change to the Constitution. They are also important because they help people feel valued and cared for as they grow into their full potential. Article 32 of the Constitution, which is a part of Part III, provides the constitutional remedy for the protection of these rights, which is an application directly to the Supreme Court.

In order to ensure that everyone is safe from abuses that undermine their dignity, we must recognize and respect their human rights. Anyone, regardless of where they were born or what they identify as, may exercise their human rights. The Indian Constitution vests the court with the duty of safeguarding individual liberties. Legal action may be taken to protect these rights by the Supreme Court or a High Court. The Indian Constitution guarantees the right to seek remedy under Articles 32 and 226. For basic rights protection, grievance resolution, and enjoyment, the disadvantaged individual may go straight to the Supreme Court or High Court of the relevant state. The court has the authority to issue writs such as Habeas Corpus, Mandamus, Prohibition, Quo Warranto, and Certiorari in such cases.

SUPREME COURT ON RIGHT TO FOOD:

The right to life and the "right to live with human dignity" were both construed by the Supreme Court of India in the case of *Maneka Gandhi v. Union of India*. To provide substance and life to the basic right, the Supreme Court advocates the "emanation" approach. Many subsequent instances, like *People's Union for Civil Liberties and another v. State of Maharashtra and others*³ and *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*, upheld the idea that the right to life included the right to live a life worthy of human respect. As a result, although though they are not explicitly provided for in Part III of the Constitution, the court interpretations of numerous rights under the Constitution have been acknowledged. The judiciary has loosened the idea of locus standi, or the right to access the court, so that anybody who is unhappy may go there to have their problems resolved. Now, thanks to Public Interest Litigation (PIL), the court will hear petitions from well-intentioned citizens who are seeking to protect the rights of others but who themselves cannot do so for financial or other reasons. In *S.P. Gupta v. Union of India and others*, the Supreme Court ruled that "any member of the public can approach the court for enforcing the Constitutional or legal rights of those, who cannot go to the court because of poverty or any other disabilities." The individual has the option of writing a letter to the court to express concerns about a potential rights infringement. For the poor and powerless, public interest litigation offers a chance to have their fundamental human

rights enforced. When it comes to protecting people's human rights, the contemporary judiciary plays a crucial role, expanding existing protections and recognizing new ones when the need arises. The right to life has been expanded by the courts to encompass other privileges vital to living a dignified life. The rights of the people have been upheld in court on several occasions, including the protection of the right to health, the right to appropriate salaries of employees, the protection of women in the workplace, and the protection of the right to food.

The Food Security and Standard Act (FSSA) of 2006 and the National Food Security Act of 2013 owe a great deal to the efforts of the Indian judicial system. To give credit to In 2001, Jaipur (Rajasthan) social activist Kavita Srivastava filed a civil writ petition often referred to as the right to food case, which resulted in a number of rulings that ultimately led to the passing of the Act. Article 21's wide interpretation that "right to life includes the right to adequate and nutritious food as a fundamental right and also further stated the primary responsibility of Government to prevent hunger and starvation" gives the court the primary role in protecting this right. Through interim orders, the judiciary also directs the Central and State Governments to provide food-related schemes like "Mid-Day Meals" schemes; in this scheme, the Supreme Court mandates that the Central Government provide funding for kitchen construction, prioritize Dalit cooks, and enact other quality safeguards. The Supreme Court of India has delegated authority in this area to the Government to

ensure that all citizens have access to nutritious meals.

Despite the fact that the Indian Supreme Court has stated in multiple decisions that Article 21 of the Indian Constitution guarantees the right to food, clothing, and shelter, the Indian government did not begin enforcing the specific Right to Food as a part of right under Article 21 until 2001. In cases such as "Kishen Pattnayak vs. State of Orissa," "Chameli Singh vs. State of U.P.," "Maneka Gandhi's case," "Francis Coralie Mullin v Union Territory of Delhi," and others, the Supreme Court guaranteed the Right to Life under Article 21, which encompasses right to food also, long before the Right to Food petition was filed by PUCL in 2001.

The Supreme Court and other justices were inspired to take a more active role in fighting for the rights of the poor, bonded workers, wage earners, and other marginalized groups in the aftermath of the emergency. Some noteworthy judgements, such as "Azad Rickshaw Puller's Union v. State of Punjab" 37 (Rickshaw Pullers case), "People's Union for Democratic Rights v. Union of India"(Asiad Workers case), and "Bandhua Mukti Morcha v. Union of India," adequately depict this judicial attitude.cases such as "Olga Tellis v. Bombay Municipal Corporation⁴⁰" (Pavement Dwellers case), "Bonded Labourers v. Municipal Corporation³⁹," and many more. V.R. Krishna Iyer put it well when he said, "The challenge in these petitions compels us to remind ourselves that under our Constitutional system courts are heavens for the toiler, not the exploiter, for the weaker claimant of social justice, not the stronger pretender who seeks to

sustain the status quo ante by judicial writ in the name of fundamental rights"

While these rulings support the demands of vulnerable groups, they also seem to revolutionize the legal system.

In the end, India's active judiciary, aided by educated people, attorneys, journalists, and social activists, displayed a commitment to guaranteeing food security and realizing the right to food. The Supreme Court of India established a constitutional right to food in India in the historic Right to Food case via a series of interim rulings that directly addressed food security in India. Specifically, the court ruled that certain government food-related schemes constituted legal entitlements under the Constitutional right to food, and it outlined the minimum allocation levels of food grains and supplemental nutrients for the Indian poor.

ORIGIN OF RIGHT TO FOOD CASE:

As was previously established, the People Union for Civil Liberties first brought the right to food matter before the Supreme Court in April 2001. Although widespread hunger and starvation deaths were occurring in India, particularly in drought-affected regions like Rajasthan and Orissa, the case showed that over 30 million tonnes of food grains were languishing on the premises of the Food Corporation of India (FCI). The state of Rajasthan was named as a defendant in the original complaint. Subsequently, all of the States and Union Territories were included to the list of respondents.

The petition said the government had failed to provide enough access to nutritious meals. It was claimed that the

Public Distribution System (PDS) only provided aid to those with incomes at or below the federal poverty line (BPL). The Indian Council of Medical Research (ICMR) established dietary guidelines, but the monthly allotment per household did not fulfill them. Even then, implementation was all over the place. According to a poll conducted in the Indian state of Rajasthan, just 33% of the randomly selected villages have seen consistent distribution throughout the previous three months. It was also very iffy to tell whether households were below the poverty line. Less than three rupees per month per person was given out in PDS aid to BPL households. The petition also claimed the government's response to the disaster was insufficient. The supply of these works was controlled by famine rules in effect in a particular State, and they became required once the drought was proclaimed. The State of Rajasthan adopted a policy of "labor callings," even though it was mandated to employ "every person who comes for work on a relief work." According to official government data, fewer than 3% of the drought-affected population was eligible for work due to this policy. Employment was significantly lower than claimed, and several businesses were accused of not paying the minimum wage.

On 23 July 2001, India's then-Attorney General said that although he agreed with the Public Interest Litigation's main points, the country's large population and limited resources made it impossible to eradicate hunger and malnutrition. It had been widely believed up until that point that a nation the size of India could never hope to eradicate malnourishment since doing so

would demand a massive expenditure that the state was simply unable to provide. The courts were historically hesitant to issue rulings that placed significant obligations on the government prior to the PUCL case. The Attorney General persevered to some extent, perhaps in the mistaken belief that the Supreme Court would reach the same conclusion in this instance.

To elaborate on the former statement, "either you do it or we will tell you how to do it," Midly, Kirpal J. After that, it was the constant counterargument. The Attorney General also played a critical role in convincing his staff that they must treat this issue seriously. Many of the orders may not have been achievable without his consistent help.

The Supreme Court ordered the petitioner to revise the document so that every state and territory was a party to the case. The court also issued the following directive: "In our opinion, what is of utmost is to see that food is provided to the elderly, the infirm, the disabled, destitute men who are in danger of starvation, pregnant and lactating women, and destitute children, especially in cases where they or member of their family do not have sufficient funds to provide food for them. In a time of famine, food may be scarce; however, in this case, it is non-existent among the poor and destitute, causing malnourishment, starvation, and other related problems...as an interim order, we direct the states to see that all PDS shops, if closed, are reopened and start functioning within one week from today and regularly supplied made".

EVOLUTION OF THE RIGHT TO FOOD THROUGH JUDICIARY:

In India, the idea of a person's entitlement to food develops via a process of precedent. Since the law created via the Doctrine of Stare Decisis is binding, the right to food in India has always been recognized as a legally enforceable right.

1. Free from Starvation Wage:

To alleviate hunger in India, the court has taken the first and most important step by ensuring that the impoverished may buy food with their wages. Since most of India's poor are landless laborers willing to take on any job that comes their way, the country's judicial system has ensured that they would not be exploited.

Before 1934, when the Supreme Court of India ruled that workers should be paid enough to feed themselves and their families, the idea of a "right to food" began to take shape. Given that the master's workers were paid so little that they were unable to afford food for themselves and their families, the court has ruled that masters must no longer pay starvation wages and must instead ensure that their workers earn at least enough to meet basic needs.

2. Starvation Wage as Forced Labour:

In *People's Union for Democratic Rights v. Union of India* (No. 33), The Supreme Court also ruled that a starvation wage constitutes compelled labor. The major reasons why workers accept a starvation pay are poverty, hunger, and misery. Judiciary provides full coverage against starving wages in the formal and informal economy. The court ruled that forced labor violates people's basic rights and is an enforceable right for every citizen.

As in *Sanjit Roy v. State of Rajasthan*³³, a similar case According to the court, the state must ensure that the minimum wage

is paid even in drought relief programmes since famine and hunger are the major reasons for the persistence of forced labor. The opportunity afforded to the judges has allowed the hungry and the marginally employed to live in relative luxury.

3. Rehabilitation of Bonded Labourers:

The Supreme Court of India ruled in *Bandhu Mukti Morcha v. Union of India* that it is the state's responsibility to provide rehabilitation services to formerly enslaved people. In this instance, the Supreme Court makes sure that the freed banded laborers have access to food and other requirements so that they may live their lives in accordance with human dignity despite losing their jobs.

4. Food grain Production and Hunger:

Judiciary has assigned equal emphasis to maintaining food production of the nation to end the battle against hunger and famine, meaning that the right to eat is no longer limited to the hungry labor force.

The Supreme Court's definition of "the crop it includes fodder" in *Ramanlal Gulabhand Shah v. State of Gujarat* highlights the significance of cattle to farmers. In *Dasaudha Sing and Others v. State of Haryana*, the court affirmed government policy that implemented the zamindars to cultivate agricultural land in an effort to enhance food grain output. This regulation that helped boost the country's food grain output was upheld by the court.

The right to food in India can't be guaranteed without increased food production.

5. Upholding Legislation with the Objective to Prevent Hunger:

The National Food Security Act of 2013 was affirmed by the Supreme Court,

ensuring that all citizens may afford to eat three healthy meals every day.

A Magistrate may issue an order under Section 123 of the Cr P C requiring a person to pay reasonable interim maintenance awaiting determination of an order for maintenance, as was the case in *Smt. Savitri v. Gobind Sing Rawat*. Considering the code's stated goal—"to compel a man to perform the moral obligation which he owes to society in respect of his wife and children"—the court concluded that such authority was implicit in the code. The provision of support under Section 123 of the Code of Criminal Procedure of 1973 is crucial in preventing hunger among women, children, and the elderly. The Maintenance of Senior Citizen Act of 2007 has made it more forceful.

6. Fundamental Right to Immunity from Starvation:

Article 21 of the Indian Constitution, which guarantees a fundamental right to life and personal liberty, should be read in conjunction with Articles 39(a) and 47 of the Indian Constitution in order to understand the nature of the State's obligations in ensuring the effective realization of the Right to Food. Article 39(a) of the Constitution, enunciated as one of the Directive Principles, fundamental in the governance of the country, requires "the State to direct its policies towards securing that all its citizens have the right to an adequate means of livelihood," while Article 47 provides that "the duty of the State to raise the level of nutrition and standard of living of its people as a primary responsibility." As a result, the Right to Food is a protected Fundamental Right that may be

enforced via the legal process outlined in Article 32 of the Indian Constitution.

7. Right to Food as an Integral Part of Right to Life:

The case of State of Maharashtra v. Chandrabhan⁶⁴ before the Supreme Court was also a major turning point. Supreme Court justices ruled in favor of the plaintiffs, saying that "the right to food is an integral part of the right to life under Article 21 of the Constitution." The issue here is to subrule (ii)(6) of rule (131) of the Bombay Civil Service Rule, 1939. During the employee's suspension, this regulation calls for the payment of one rupee per day as a subsistence stipend. The Supreme Court safeguards the worker from the huge laws causing hunger and malnutrition, and the High Court acquitted the petitioner and put him or her back to work. ruled based on the merits of the case. The court ruled that the clause in question violates the constitution. The right to eat advanced largely due to judicial rulings. People's lives are improved as a result of these rulings, who were previously going hungry. When it declared that the right to food is an integral part of the right to life under article 21 of the Indian Constitution, it did more than just establish the right to food as a fundamental right under part III of the Indian Constitution; it also introduced enforceability of the peoples to the fundamental right to food.

CONCLUSION:

It is illegal in India to take food or other items with the intent of eating them, to beg, or to attempt suicide due to a lack of food. The legislation prohibits any illegal means of obtaining food. In the event that he is convicted and punished for such an

offense, he will have access to food, clothing, and shelter in the jail. It's a basic human right to have access to food, regardless of whether society endorses such criminal behavior or not. The Supreme Court has given constitutional weight to its interpretation of the right to life, making it an integral component of the document itself. The government has taken up this duty as well. To paraphrase the words of India's "Father of the Nation," "Without food, it is difficult to remember god," and "hunger eats into the ethos of culture," respectively. In addition, modern civilization must keep in mind the idea of self-preservation in its totality. Anyone, even the most moral of people, would be driven to unethical or unlawful measures by the threat of starvation in order to ensure the survival of themselves and their families.

REFERENCES

1. Jane Dixon, Carol Richards, on Food Security and Alternative Food Networks: Understanding and Performing Food Security in the Context of Urban Bias, *Agric Hum Values* (2016) 33:191–202, Springer Science Business Media Dordrecht 2015.
2. Jean Drèze, Democracy and Right to Food, *Economic and Political Weekly*, Vol. 39, No. 17 (Apr. 24-30, 2004), pp. 1723-1731 Published by: Economic and Political Weekly.
3. Jeffrey Stanton kellam, *Role of Religion, Spirituality, and Faith in Food Choices*, Taylor and Francis Group LLC.
4. Jessica Caplin, *Feeding an Elephant: Malnutrition and the Right to Food in India*, *Harvard International Review*, Vol. 30, No. 3 (FALL 2008), pp.

26-29 Published by: Harvard International Review.

5. K.N. Nair, Food Security and Public Support in Kerala, a Book Edited by N. Krishnaji and T. N. Krishan, published by Sage Publications, New Delhi, 2000.

6. Kannan K P, Mahendra Dev, Alakh Narain Sharma, Concern on Food Security, November 4, 2004, Economic & Political Weekly.

7. Kerti Singh, The Right to Food and Global Food Crisis, Accessed from www.rmlnl.ac.in at 6:20 pm, 22/05/2014.

8. Kiranbabu P, Gujarat Ranks 13th in Hunger Index-IHDR2011, Abhyudaya, Vol2, Issues-3, March 2014, www.uni-mys.ac.in.

9. Krushna Chandra Jena and Jyotsnarani Kuanr, Food Security in India: the Challenges Ahead, Indian Bar Review vol XL (2) 2013, Bar Council of India Trust, New Delhi.

10. Lauren Birchfield & Jessica Corsi, Between Starvation and Globalization: Realizing the Right to Food in India, Mich Journal of International Law, Volume 31 | Issue 4, 2010.

11. Madhura Swaminathan, Strategies towards Food Security, Social Scientist, Vol. 31, No. 9/10 (Sep. - Oct., 2003), pp. 58-94 Published by: Social Scientist Stable URL:

<http://www.jstor.org/stable/3518136>.

12. Margarate Ann Miller, Kristin Viswanathan and Jorgen Schlundt, The International Food Safety Authorities Network, Taylor and Francis group LLC.

13. Margret Vidar, State recognition of the right to food at the National level, June 2006, Food and Agriculture Organization UNO.

14. Mark Gibson, Re-Defining Food Security for the 21st Century, CRC Press 2012, Page no507-510, Accessed from <http://www.crcnetbase.com/>, at 04:51 22/5/ 2014.