



Right to Food and Nutrition: Indian Perspective

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Abstract

The right to food is often called the most basic human right and has been universally accepted as such. The realization of all other rights depends on the right to food. The purpose of this paper is to put forth various aspects of right to food and nutrition and to identify issues and challenges for the implementation of various schemes in India. Understanding the implications of various laws, mapping the existing system of food grains distribution in India and analyzing existing literature and secondary data available from assorted sources are the steps followed in this endeavor. It is found that limited resources and exponentially increasing population, lack of infrastructure, operational inefficiencies and poor performance of the PDS are the major hurdles in successful implementation of the proposed act. This study gives emphasis on the need of major reforms in procurement, storage, movement and distribution of food grains strategies. This paper focuses mainly on the operational and strategic aspects of right to food and nutrition and its implications on NFSA. There is a wide scope for future research on sustainability of the right to food and nutrition through agricultural and biotechnological innovations, financial analysis and strategic aspects.

Keywords: India, Food security, Food grains management, NFSA, Public distribution system

Introduction

Food is a basic human need for everyone to survive. The right to food is universally accepted most basic human right on whom all the other rights depend. The right to food protects the right of people to access food for themselves and their families and this right is recognized under various national and international laws. The right to food is connected with person's own right to life and dignity and requires that food be accessible, available and adequate for everyone without any discrimination.

The right to food means and includes that all people have the right to feed themselves and their families with dignity and without any conflict. Right to food is a basic human right which cannot be deprived or ignored by the sweet will of the politicians. As per special report on the Right to Food, *Mr. Jean Ziegler*, Right to Food means "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 anxiety."

The right to adequate food and the fundamental right to be free from hunger are recognized by international law, and many countries have food related rights in their constitutions. According to the United Nation's committee on economic, social and cultural rights "the right to adequate food is indivisibly linked to the inherent dignity of the human person and is Indispensable for the other human rights enshrined in the International Bill of Human Rights. It is also inseparable 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 the fulfillment of human rights for all.

In 2002, a basic change was brought from an anti-hunger approach based on food security to one based on the right to adequate food was adopted in World Food Summit, when 179 participating states rationalize the right to adequate food and assigned an FAO inter-governmental working group with developing Right to Food Guidelines in order to provide working guidelines for achieving the goals established in 1996. The right to food as a basic human right imposes three types of obligations or responsibilities on States, which is now a widely used structure for Analyzing States' human rights

obligations broadly. These are: 1. the duty to respect, 2. the duty to protect, and 3. the duty to fulfill or facilitate human rights. The duty to respect the right to food is essentially a duty of not interfering with existing access to adequate food.

Right to Food and Nutrition

The right to food is one of the elementary human rights, closely associated with the right to life. No government policies and actions are allowed to refuse this right to people. Human rights are indivisible and inalienable. The refusal of one right inevitably influences the enjoyment of other rights, but also the close relationship between the rule of law and the protection of all human rights, including the right to food. Effective rule of law does not include only legal provisions in writings, but their requisite implementation and remedies. Particularly, the right to food must be made justifiable in the courts of law. All those suffering from the difficulties of hunger is also being refused other elementary human rights, be they civil and political rights, or economic, social and cultural rights. And in all the cases, these rights are affected by systemic negligence and ineffective distribution not the natural causes or a lack of resources.

From the past, when the nation was dependent on food imports to feed its people, India today is not only self-sufficient in grain production, but also has a substantial reserve. The progress made by agriculture in the last four decades has been one of the biggest success stories of free India. Almost 33% of the Gross Domestic Product are made by Agriculture and allied activities. Agriculture is the source of livelihood of around two-third of the work force in the nation.

Now India does not suffer large-scale disasters as it has in the past, it produces enough food to feed its entire people. Whereas there are rapid increases in hunger in some parts of India, it is now usually due to short-term natural events such as hurricanes or droughts. These are described as transitory, episodic events, temporary deviations from normal course of action.

However, this cheerful version of the food situation in India neglects the reality of widespread chronic malnutrition in the country. Temporary disturbances in the food system by natural calamities are disastrous for so many people only because they live so close to the edge of disaster

under normal conditions. India could feed its entire population, but it doesn't. The severe conditions that are normal for many millions of populations in India are unacceptable in terms of the basic requirements of human life and dignity.

The problems are not rooted in the whim of natural phenomena but are deeply concerned with political and economic patterns. There are lots of governmental programs or schemes for feeding poor children, providing subsidized foods, etc, but still the problems remain the same. Enormous amounts of money are spent on such programs. Yet, somehow, the benefits don't reach the people who are in need of them the most.

There is a story now unfolding that helps us to understand how things can go wrong. The central government of India has been storing many millions of tons of grain while people are starving. That is not new. What is new is that a human right organization in India, the People's Union of Civil Liberties (PUCL), has challenged this practice in the Supreme Court of India. Light is being shined into places that had been well hidden, and the scandal is being thoroughly aired in India's media. The case is being tried on the basis of India's constitution and its federal and state laws. Especially its famed Famine Code. This review shows how the case fits into the framework of international human rights, and specifically the human right to adequate food. Viewing the case in the larger context, we can see that this case is relevant to food assistance programs in every country, and to international humanitarian assistance as well.

The Supreme Court Decision

On April 16, 2001, the PUCL submitted a writ petition to the Supreme Court of India asking three major Questions:

- A. Starvation deaths are a natural phenomenon while there is a surplus stock of food grains in the Government god owns. Does the right to life means that people who are starving and who are too poor to buy food grains ought to be given food grains free of cost by the State from the surplus stock lying with the state, particularly when it is reported that a large part of it is lying unused and rotting?
- B. Does not the life under Article 21 of the Constitution of India include the right to food?

C. Does not the right to food, which has been upheld by the Hon'ble Court, imply that the State has a duty to provide food especially in situations of drought, to people who are drought affected and not in a position to purchase food?

Article 21 of the constitution, entitles Protection of life and personal liberty, says, in its entirety, "No person shall be deprived of his life or personal liberty except according to procedure established by law."

As a result of the ongoing proceedings, the Supreme Court has been issuing orders calling upon government agencies to identify the needy within their jurisdiction, and to assure that they receive adequate food. For example, on July 23, 2001, the court said:

In our opinion, what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them. In case of famine, there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst very poor and the destitute is scarce and non-existent leading to mal-nourishment, starvation and other related problems.

On September 3, 2001, the court directed that 16 states and union territories that had not identified families below the poverty line must do so within two weeks, so that those families could provide with food assistance. After two weeks, on September 17, 2001, the court reprimanded them, saying, we are not satisfied that any such exercise in the right earnestness has been undertaken. They were then given another three weeks to comply with the order. The court also reminded the states that certain schemes of the Central Government are mentioned which are required to be implemented by State Governments:

The Chief Secretaries of all the States & the Union Territories are hereby directed to report to the Cabinet Secretary, with copy to the learned Attorney General, within three weeks from today with regard to the implementation of all or any of these Schemes with or without any modification

and if all or any of the Schemes have not been implemented then the reasons for the same.

All state governments were directed to take their entire allotment of food grains from the Central Government under the various Schemes and disburse the same in accordance with the Schemes. Further, the court required that the Food for Work Program in the scarcity area should also be implemented by the various States to the extent possible.

On November 28, 2001, the court issued directions to eight of the major schemes, calling on them to identify the needy and to provide them with grain and other services by early 2002. For example, for the Targeted Public Distribution Scheme, The States are directed to complete the identification of BPL (below poverty level) families, issuing of cards, and commencement of distribution of 25 kgs. grain per family per month latest by 1st January, 2002.

Intervention by the Supreme Court is a mechanism of accountability, but it is not normally available to ordinary people on a local basis. The present Supreme Court case in India has become necessary because there are no effective mechanisms of accountability available to ordinary people at the local level. Until local people know their rights and they have effective means through which to exercise them, there is no effective system for assuring the realization of the right to adequate food in India.

Right to Food: An Instance of Human Right

There is no doubt that without food no life is possible and therefore right to food is an aspect of right to life. It is necessary to find out its legal status or what kind statutory recognition is there.

Initial Recognition: Non-Justifiable Right

First time in history right to food was expressly guaranteed as human right in UDHR-1948 under Article 25. It has been provided that everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food. As it was mere declaration, this right was not enforceable.

Later on, this right was adopted in the International Convention on Economic and Social Rights, which provided under Article 11 paragraph 2 'the right of everyone to be free from hunger as a fundamental right'. Again, as rights guaranteed under this

covenant are subject to ratification realized immediately.

In India also the right is not expressly provided under the Constitution, the only relevant provisions are Article 47 of the Constitution which provides that it is the duty of the state to raise the level of nutrition. And Article 48 provide for planning of agriculture and animal husbandry. But these rights are guaranteed under Part IV of Constitution and therefore in pertaining to that it was characterized as a non-justifiable right.

Right to Food: International Perspectives

'Human Right' is a universal phenomenon therefore Right to food has to be seen from international perspective, and as it is recognized on international level expressly in many documents/instruments quite early.

UDHR-1948

The UDHR provides under Article 25 paragraph (1) that, everyone has that right to 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. It is expressly provided first time on international level. The right is not absolute; it is an aspect of Right to health, right to livelihood. Persons are entitled only in above-mentioned circumstances.

ICESCR-1966

Article 11 paragraph (2) of the covenant recognized the right of everyone to be free from hunger as a fundamental right. The paragraph (2) of the same article also provides measure to be adopted individually or collectively by states to achieve above-mentioned objects. In particular to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian system in such a way so as to achieve the most efficient development and utilization of natural resources. Further to ensure on equitable distribution of world food supplies in relation to need by taking into account the problems of both food importing and food exporting countries.

UN World Food Conference: 1974

It was convened at Rome from 5th to 6th November 1974. In that Conference 22 resolutions were adopted and Universal Declaration on the Eradication of Hunger and Malnutrition was also made. In the preamble of the Declaration, it was stated that gravity of problem is more in developing countries. The object was enunciated as elimination of hunger and malnutrition. The causes had been mentioned and also their historical circumstances, especially social inequalities, including in many cases alien and colonial domination, foreign occupation, racial discrimination, apartheid and neo-colonialism in all its forms which continue to be among the greatest obstacles to the full emancipation and progress of the developing countries and all the people involved. Three Propositions made:

- Equal right of all persons.
- Adequate resources.
- A common problem in all countries.

Food and Agriculture Organization:

One of the objects of FAO of the United Nations is the elimination of hunger and malnutrition and to attain this object FAO has started following actions for ensuring food security:

- International undertaking on world food security of 1974.
- The plan of action on world security of 1979.
- The agenda for consultations and possible action to deal with acute and large-scale food shortages 1981.
- The world food security compact of 1985.

These all are instances of international agreements. These agreements have been entered upon by different states to achieve above purpose laid down.

World Food Program

It is a joint program of the United Nations and FAO. Initially it was designed on experimental basis for three years, but later on in 1965 its term was extended and it was made operational continuously for as long as multilateral food aid remained feasible and desirable. The aim of WFP is to provide food aid to support development projects and to meet emergency needs. The

Economic Council and the General Assembly review the operation of the program annually.

Beijing Declaration of the World Food Council

The World Food Council adopted the Beijing Declaration in June 1987. The member states have resolved to join together and in our united strength and interest to eliminate the scourge of hunger forever. The World Food Day is observed on 16th October every year, it was decided by FAO in the year 1979 unanimously.

Right to Food of Children in India

The right to food is a human right. It is universal, acknowledged at the national, regional and international level, and applies to every person and group of persons. Currently, however, some 852 million persons throughout the world are seriously and permanently undernourished, 815 million of whom are in developing countries, 28 million in countries in transition and 9 million in developed (industrialized) countries. Furthermore, every five seconds, a child under ten years of age dies of hunger or malnutrition. Thus, the causes of undernourishment and of death from hunger and malnutrition of children are immensely complex, and they cannot be simply attributed to war or natural catastrophes. They are primarily due to social injustice, to political and economic exclusion and to discrimination. Hundreds of millions of undernourished children suffer from political and social exclusion while their right to food is violated. Children's rights are the human rights of children with particular attention to the rights of special protection and care afforded to the young including their, for food. There is an extremely high prevalence of hunger in India. Starvation deaths of children in India are not an anomaly in India the notorious Kalahandi region in Orissa to Baran in Rajasthan are cases in focus. In Sahariya village of the southern Rajasthan district of Baran, it rained continuously for almost a month in August 2004 and the tribal people could not practice the traditional livelihood of gathering forest wood to sell in the nearby town. There was no employment and no money to buy food. Villagers were going without meals, became ill and started to die. In August 2005 there were again reports of starvation deaths. A six-member team, led by the state advisor to the Commissioners of the Supreme Court in the right to food, visited the Baran district

and confirmed deaths due to chronic hunger among the Sahariya tribes. This situation is not only in one of the parts of India but all over the India. All these incidences occur due to improper implementation of right to food as human right. To stop children death due to hunger implementation of right to food is important one. Hence it is necessary to study the implementation of right to food as human right in India to stop these types of incidences.

Statutory Provisions on Right to Food in India Constitution of India

Article 14: Equality before law—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 21: Protection of life and personal liberty—No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 39: Certain principles of policy to be followed by the State – The state shall, in particular, direct its policy towards securing— a) that the citizens, men and women equally, have the right to an adequate means to livelihood;

Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health—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 endeavor to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

Other Statute

- Food Safety and Standard Act, 2006 (No. 34 of 2006)
- Infant Milk Substitutes, Feeding Bottles and Infant foods (Regulation of Production, Supply and Distribution) Act, 1992 (No. 41 of 1992)
- National Rural Employment Guarantee Act, 2005 (No. 42 of 2005)
- Prevention of Food Adulteration Act, 1954 (No. 37 of 1954)

- Protection of Human Rights Act, 1993 (No.10 of 1994)

National Food Security Act 2013

- For children in the age group of 6 months to 6 years: an age-appropriate meal, free of charge, through the local anganwadi.
- For children aged 6-14 years, one free mid-day meal every day (except on school holidays) in all government and government-aided schools, up to Class VIII.
- For children below six months, “exclusive breastfeeding shall be promoted”.
- For children who suffer from malnutrition, meals will be provided to them free of charge “through the local anganwadi.
- Pregnant and Lactating Women: Every pregnant and lactating mother is entitled to a free meal at the local anganwadi (during pregnancy and six months after child birth) as well as maternity benefits of Rs 6,000, in installments.

Schemes Food in India

1. Annapurna Schemes, 2000-01
2. Antyodaya Anna Yojana (AAY)
3. Applied Nutritional Programme (ANP) Planning Commission
4. Emergency Feeding Programme, 2001
5. Integrated Child Development Services Schemes (ICDS), 1975
6. Mid Day Meal Scheme, 1995
7. National Food Security Mission, 2007
8. National Maternity Benefits Schemes
9. National Nutritional Policy (NNP), 1993
10. National Old Age Pension Schemes
11. Nutritional Programme for Adolescent Girls, 2002-03
12. Public Food Distribution Scheme (PPS)
13. Sampoorna Grameen Rozgar Yojana (SGRY)
14. Scheme for Supply of Food Grains to SC/ST/OBC Hostels Welfare Institutions, 2002-03
15. Targeted Public Distribution Scheme (TPDS)
16. Village Grain Bank Scheme
17. Wheat Based Nutrition Programme (WBNP)

Conclusion

Right to food, in India, has been one of the most contentious and highly debated issues in relation to the right to development of children and most importantly, food security of the poor. With the judicious intervention of the highest law-maker of the land, the Supreme Court, a rights-based approach to development has emerged putting aside the concept of welfare approach, according to which it is required of the State to fulfill its promises given to the citizens including children. Right to food of children is a basic right as it is not only essential for human development but also necessary for the proper functioning of a democratic State. In this study, the focus is on issues related to the right to food and the way the State has been looking at it. There is continuous conflict between the State and individual (children) and the ways various people’s movements articulated on the right to Food of children, which is the essential for the survival of human beings. The reason behind all this is only one that laws and policies and schemes only on paper and not reach to real culprit.

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