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**RIGHT TO FOOD IN INDIA WITH A
CONSTITUTIONAL ANALYSIS**

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ABSTRACT

India is a country with a vast population and every single citizen of India has the right to life as prescribed under Article 21 of the Indian Constitution. Article 21 emphasizes on providing each citizen a life with dignity which includes the right to food, the right to shelter, the right to education and more. As we all know that food is the basic need for one's survival and we are in a world where everyone fights for their own survival. Therefore, in this paper, I was focusing on the concept of Right to Food with a Constitutional Analysis as there is no specific provision for 'Right to Food' in our Constitution. I will also be focusing on how Article 21 and other provisions of the Constitution have played a major role in developing the concept of Right to Food and how the Judiciary has made an impact on the States for the proper implementation of Right to Food through their various schemes and policies. Despite these well-known food related food schemes and policies, there have been certain loopholes in these schemes that have failed to make an impact to its full potential.

Keywords: Article 21, Indian Constitution, Right to Food, Schemes & Policies and Judiciary.

INTRODUCTION

Food is the basic necessity which a human being requires for their survival. The right to food is an essential right which is widely recognized throughout our country as every citizen of India is subject to the right to food. The Indian Constitution has given great importance to the right to food through Article 21. Article 21 of the Constitution states that "No person shall be deprived of his life or personal liberty except according to procedure established by law, nor shall any person be denied equality before law within the territory of India."¹ But apart from Article 21, the aspect of right to food does not have an explicit provision under the Indian Constitution. Article 21 states that every citizen of India should have the right to live in dignity which includes the right to food and other basic necessities. Apart from Article 21, Article 39(a) of the Constitution states that "the citizens, men and women equally, have the right to an adequate means to livelihood".² Article 27 states that it is the responsibility of the State to increase the level of nutrition and the living standard of

¹Article 21 in The Constitution Of India 1949

²Article 39(a) in The Constitution Of India 1949

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the people. With all these provisions supporting access to food and nutrition, according to the Global Hunger Index of 2021, India ranks 101st out of the 116 countries with a score of 27.5³ which is a serious problem to tackle. The level of hunger and malnutrition is so high in India is due to the discrimination between the rich and poor and due to the failure of the State to perform their tasks.

Despite the fact that the past and present governments have promised their support for the goal of ending hunger, it has so far proven to be a fantasy. Despite the fact that food is the most basic necessity for living, it appears to be a luxury that millions of people lack. The best way to eradicate hunger is to make food security a reality, while also respecting everyone's right to adequate nutrition and by guaranteeing that every citizen has access to this right.

DEFINITION OF RIGHT TO FOOD

The basic idea of the right to food is that everyone has the access to nutritional food for performing their day-to-day activities and for their survival. The right to food is a right given to the people to be free from hunger and malnutrition as to ensure that everyone is properly nourished⁴. As per special Rapporteur on the Right to Food, Mr. Jean Ziegler, has defined the concept of Right to Food as “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”⁵.

Right to food is not only a problem which is faced by India, but it is also an international problem where many developed countries have faced problems like hunger and malnutrition. The UN's committee has defined the right to food as “the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”⁶

³Global Hunger Index 2022

⁴Dreze Jean, 'Democracy and Right to Food'. Economic and Political Weekly, April 24, 2004, 1723-1731

⁵www.righttofood.org/work-of-jean-ziegler-at-the-un/what-is-the-right-to-food accessed on 12-09-2015.

⁶United Nations Committee on Economic, Social and Cultural Rights

DEFINITION OF FOOD SECURITY

The 1947 World Food Summit has defined the term food security as “availability at all times of adequate world food supplies of basic food stuffs to sustain a steady expansion of food consumption and to offset fluctuations in production and prices”⁷. The concept of food security itself conveys that food needs to be secure for every citizen as it is the obligation of the States to overcome the issue of hunger and malnutrition which goes hand in hand. But the concept of food security does not impose an obligation on anyone but it should be considered as a moral and a social responsibility by the society to make sure the food is secure for every individual.

INTERNATIONAL COMMITMENT TOWARDS RIGHT TO FOOD

The international forum started its contribution towards finding the true essence of Right to food centuries before it began to establish in India. India has benefitted from these international forums as we have adapted their progression of founding the constitutional human right to food. As international forums started its journey with the aspect of right to food, access to food was first declared a right under Article 25 of the Universal Declaration of Human Rights (UDHR)⁸. India has ratified certain legal provisions of food from international law which includes Article 27 and Article 12(2), from the Convention on Rights of Child⁹ and Convention on the Elimination of All Forms of Discrimination against women¹⁰ respectively.

Apart from these, India has made its contribution through the political side by signing up for the 1996 Rome Declaration of the World Food Summit and through this commitment, India was trying to convey the message to its people that they are strongly working towards the goal of food security and to tackle issues like hunger, mal nutrition and starvation deaths.

⁷United Nations. 1975. Report of the World Food Conference, Rome 5-16 November 1974. New York

⁸Article 25 of the UDHR, 1948 states that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food”

⁹Article 27(1) of the CRC recognizes “the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development”. The States Parties to the Convention have the duty to “take appropriate measures” to assist parents in fulfilling their primary responsibility to implement such right, “particularly with regard to nutrition”

¹⁰ Articles 12(2) of the CEDAW, States have to ensure to women “adequate nutrition during pregnancy and lactation”

INDIA'S APPROACH TO 'RIGHT TO FOOD'

The core content of the right to food lies in the State to provide its people with adequate nutritional food. For proper distribution of food grain to the people, there should be proper production of food. The committee on Economic, Social and Cultural Rights has stated that "the core content of the right to food is to ensure that there is Adequacy, Availability and Accessibility of food."¹¹ It is also the responsibility of the State and of the people to ensure that there is enough food being produced not only for the present generation but also for the future. In terms of Adequacy, the State must ensure that the food being provided is fulfilling of a certain nutritional level. In *PUCL vs UOI*¹², through the implementation of the Mid-Day Meal Scheme, every child was to be provided 300 calories and 8-12 grams of protein each day. Accessibility implies that the food being provided by the State should be budget friendly which can be accessible by all the citizens regardless of their economic status.

From the human rights perspective, the right to food has imposed certain duties on the State which are mainly the duty to respect the right to food, the duty to protect the right to food and the duty to facilitate the right to food¹³. These duties basically impose the State to ensure that no individual is being deprived of their right to food and that everyone is having the adequate means of access to their food. Thereby, the states have a crucial role in securing the right to food, and they should carry out their responsibilities in a honest, responsible, and non-discriminatory manner as to ensure that even the most deprived section of the society is having their access to their right. Article 47 of the Constitution, states that "it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health"¹⁴. Even though it is the obligation of the State to improve the nutritional level of the State, most of the actions and targets are being carried through Article 21 which states about the right to life. Through Article 21, we have had landmark judgements which supports Article 21 by stating that the right to life needs to be interpreted in such a manner that the right to life needs to be approached with a "right to live with dignity", which includes to provide the basic amenities which a person requires to live with dignity¹⁵. Article 39 of the Constitution, which states that there "should be adequate means of livelihood"¹⁶, Article 41 which states that "Right to work, to education and to public assistance in certain cases the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want"¹⁷, and Article 38 which state that it is the responsibility of the "State to secure a social order for the promotion of welfare of the people"¹⁸ and these are sufficient to ensure the concept of right to food.

¹¹United Nations Committee on Economic, Social and Cultural Rights

¹²People's Union for Civil Liberties vs. Union of India & Others

¹³Strategies for the realisation of the right to food in Kathleen E. Mahoney and Paul Mahoney

¹⁴Article 47 in The Constitution Of India 1949

THE ROLE OF JUDICIARY IN IMPLEMENTING RIGHT TO FOOD

The Judiciary made its major impact on its approach to Right to Food through the case PUCL vs UOI 2001, in which the Supreme Court's main objective was to provide nutritional nourishment by establishing a constitutional right to food especially for the deprived sections of the society. At that time, though the production of food grains were high and adequate in number, the poor people of the society were facing issues of hunger, malnutrition and starvation death. Provisions relating to the right to food were being violated immensely without any consideration for the poor sections of the society. Thereby, the court had introduced many schemes and policies through this case as the Public Distribution Scheme was ordered to provide food grains to the families who were below the poverty line that was aligned by the government. The Public Distribution System proved beneficial for the State and the people because it was carrying out the duty of the State to provide nutritional food to the society. Through the PUCL case, the Integrated Child Development Scheme and the Mid-Day Meal scheme was also introduced as its main motive was to uplift the welfare of the children in the deprived sections of the society. The motive of these schemes was not only to provide food to children, but to provide nutritional food to children which includes, a minimum of 300 calories and 8-12 grams of protein should be prepared in the Mid-Day Meal Scheme for a minimum of 200 days.

Another impact by the Judiciary is through the Bandhua Mukti Morcha vs Union of India¹⁹, in which the Court observed that to live with dignity, one must be free from exploitation and through this case, the welfare of workers, especially women and children were given the opportunity to grow in a healthy environment. The Court held that there must be some dire conditions in workplaces which are to be mandatory for a person to live with dignity. The basic conditions included the wellbeing of the workers especially of women and children and it is important to provide opportunities and facilities for children to develop in a healthy and dignified manner. In Chameli Singh v. State of Uttar Pradesh²⁰, the Supreme Court stated that to live a life with dignity, it must include the right to food, right to water and other basic necessities including the right to a safe environment.

Thereby, through these cases we can see the importance of Article 21 and how the Supreme Court has played a huge role in providing a mark for the Right to Food in India and even though some landmark cases are still going on, it has made a huge impact like the PUCL vs UOI in helping the States to tackle issues like hunger, malnutrition and food insecurity.

¹⁵Maneka Gandhi v. Union of India AIR 1978 SC 597, the Supreme Court stated: "Right to life enshrined in Article 21 means something more than a mere animal instinct and includes the right to live with human dignity, it would include all these aspects which would make life meaningful, complete and living."

¹⁶Article 39 in The Constitution Of India 1949

¹⁷Article 41 in The Constitution Of India 1949

¹⁸Article 38 in The Constitution Of India 1949

¹⁹Bandhua Mukti Morcha v. Union of India AIR 1984 SC 802

THE PROGRAMMES INTRODUCED BY THE GOVERNMENT FOR THE ENFORCEMENT OF RIGHT TO FOOD

India has a vast population and it won't be enough if just one or two schemes are reintroduced for providing the availability of food to all the sections of the society. In PUCL vs UOI, the Supreme Court held that "the right to food is a justiciable, reviewable, expandable, legally enforceable, constitutional—and thus inviolable—right that opened up new a venues both for political discourse and for concrete action."²¹ Thereby, in India the food-related programs are The Antyodaya Anna Yojana (AAY), Annapurna Scheme, The national Old Age Pension Scheme (NOAPS), The National Maternity Benefit Scheme (NMBS), The National family Benefit Scheme (NFBS), The Public Distribution Scheme (PDS) and for the most important scheme the Mid-Day Meal Scheme as it has not only helped our country to provide nutritional food to the children free of cost but also it encourages parents to send their young ones to schools for their education. The Mid-Day Meal Scheme has provided a new way of light for the poor households that have a practice of sending their children to factories to undergo labour instead of sending them to schools. With the introduction of the Mid-Day Meal Scheme, those households that face difficulties in providing meals twice a day to their children can find peace by sending them to schools. The Mid-Day Meal scheme will provide nutritional food to the students for a minimum period of 200 days under only one condition that the children come to school for their education. This scheme has taken off the huge burden of the parents as they can concentrate in providing the other basic necessities to their children. The PUCL case has made a legal and a political impact on the lives of the poor sections of the society as the concept of right to food was looked at with an entirely new perspective. There was a proper mechanism of ration shops, proper distribution of food grains to the poor sections of the society and the discrimination by the richer section towards the lower section had been reduced. Thereby it is clear that these government limited schemes and policies have and will play a huge role towards the goal of aiming for food security in our Country.

²⁰Chameli Singh v. State of Uttar Pradesh AIR 1996 SC 1051

²¹People's Union for Civil Liberties v. Union of India & Others

LOOPHOLES IN THE GOVERNMENT INITIATED SCHEMES

With the introduction of various schemes by the government for the procurement of food security, it is the middle man that has been carrying out the responsibility of the State to ensure that the food grains are being reached to the desired section of the society. But it is the very same middle man that carries out the unwanted trade practices to make profit out of the food supplies that are meant for the poorer people. The middleman often sells the nutritious food grains to the market at a higher rate and sells the low-quality grains to the poorer people where in the whole grains are only meant for the poor section of the society.

As we know that India has a vast population, and from various references it is found that all these government-initiated schemes have not reached their full potential as there are loopholes and corruption is in every corner of the society. In the Northern part of India, especially in Bihar and Jharkhand, 75% of the Public Distribution System's grains are end in gup in the black market instead of the intended improvised household. The Targeted Public Distribution System has also failed its objective of providing long term food security measures of the poor section. The Integrated Child Development Mechanism has also had its own drawbacks as its funding mechanisms were very limited. This scheme also lacked the required number of staff to carry out its objectives and they also suffered from the lack of storage houses and the other basic necessities like water, electricity and more. The Mid-Day Meal Schemes has also shown some drawbacks as some students died due to poisoning after consuming the meal given by the schools. In some States, the video was captured of dead rats being found in the meals that were meant to be given to the school students. The Mid-Day Meal Scheme was also used as a scam by the schools to procure more food grains by producing a false number of student's enrolment list in order to receive extra food grains so that they could sell those grains and make profit.

Thereby even after these schemes and policies are introduced for achieving food security in order to tackle issues like hunger, malnutrition and starvation deaths, it is grey areas like corruption, greed and discrimination shown by the richer section that needs to be primarily halted for a greater good. If these loopholes are fixed, then society will run towards a better future where food is secure for every individual.

CONCLUSION

Food insecurity is a problem that will take time to resolve, and due to food insecurity, problems like hunger, malnutrition, and starvation deaths go hand in hand in our Country.

Even though many governments have initiated schemes and policies toward the commitment to aim for food security, issues like corruption, greed and discrimination prevent these very schemes from fulfilling their full potential. It is not only the responsibility of the States to ensure that food is secured for its people in the coming years, as it is even our responsibility to ensure that we help the States in fulfilling the aim of making food secure in our Country.

