



RIGHT TO FOOD

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INTRODUCTION

The right to food is the right to have regular, permanent and unrestricted access, either directly or by means of financial purchase, which is quantitatively and qualitatively adequate and sufficient according to the cultural traditions of the people and which ensure a physical and mental, individual and collective, fulfilling and dignified life.

The right to food means that the Government must not take actions that result in increasing level of hunger, food insecurity and malnutrition. It also means that Government must protect people from the actions of others that might violate the right to food. Government must also, to the maximum of available resources, invest in eradicating hunger.

The right to food is not about charity, but about ensuring that all people have the capacity to feed themselves in dignity.

Broadly speaking, the right to food can be interpreted as a claim of individuals on State. It is an entitlement to be free from hunger, which derives from the assertion that the State has enough resources, both economical and institutional, to ensure that everyone is adequately nourished.

The term 'freedom from hunger', for instance, lends itself to several interpretations: getting two square meals a day, meeting specific calorie norms, avoiding nutrition-related ailments, and so on. Ideally, the right to food should be seen as a right to 'nutrition', as in Article 47 of the Constitution. However, good nutrition itself depends in complex ways on a wide range of inputs: not just adequate food intake but also clean water, basic health care, good hygiene, and so on. Even if we confine our attention to food intake, the constituents of good nutrition are a matter of debate among nutritionists. For instance, there is some controversy about the importance of various 'micronutrients' for good nutrition. For all these reasons, it is hard to translate the right to food into a specific list of entitlements.

Similar difficulties arise in clarifying the responsibilities associated with the right to food. The primary responsibility is surely with the state, because the state alone commands the resources required to protect everyone from hunger, and because the state is generally responsible for safeguarding Constitutional Rights.

The right to food as an enforceable claim to a minimum quantity of food of a certain quality carries with it correlated duties on the part of others, particularly with the state. These comprise the duty to avoid loss of means of subsistence, to protect against deprivation of the means of subsistence, and to provide for the subsistence of those unable to provide for their own.¹

If the State fails to provide adequate food or food articles, then the individual's right to life will have no meaning and there is a violation of this right to food. The Indian Constitution provides "Right to Life" as a Fundamental Right. **Article 21 of the Constitution** guarantees "Protection of life and personal liberty". This article mandates the state to ensure the right to life of citizens. This includes the right to live with dignity with at least two decent meals a day.

Part IV of the Constitution provides for **Directive Principles of State Policy** which is required to be issued by the State while evolving its policies. **Article 38** requires the State to secure a social order for the promotion of the welfare of the people, in which justice - social, economic and political - shall inform all the institutions of the national life. Also, **Article 39** of the Constitution provides that the State shall, in particular, direct its policy towards securing; that the citizens, men and women equally, have the right to an adequate means of livelihood; that the ownership and control of the material resources of the community are so distributed as best to subserve the common good. Further, **Article 47** provides that the State shall regard raising the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

RIGHT TO FOOD AND POVERTY

There are various factors responsible for the problem of poverty in India like under-development of the Indian economy, over-population, low agricultural productivity, oppressive land system, unemployment and under-employment, inequalities in the distribution of national income etc.

The Government of India has taken various measures and framed many policies to eradicate poverty by accelerating the economic growth, land reforms, population control, incentives for labour using industries, provision for common services and social security, fair price shops, poverty alleviation programmes. Various Acts have also been enacted relating to Labour Laws like Minimum Wages Act 1948, Equal Remuneration Act 1976, Maternity Benefit Act 1961, Payment of Bonus Act 1965 etc. but actually they are not implemented in proper manner due to corruption prevailing in various governmental departments. Due to non-implementation and non-application of these policies and measures, poverty still persists in India.

Part IV of the Constitution provides for Directive Principles of State Policy which is required to be issued by the state while evolving its policies and state is under an obligation to full fill the rights of all its people which have been violated but people are still fighting for their survival.

¹ Jean Dreze 2004 "Democracy and Right to Food", Economic and Political Weekly, 39 (17), p. 1723-1731.

India is a developing country and it is on its way towards development after the Independence. Many works have been undertaken like construction of dams to make India more progressive. But the cost of development is neither paid by the Government officials nor by the rich people. The cost was only paid by the poor population of our country.

Displacement is one of the main causes of prevailing poverty in India. In the path of development and national progress the poor people are displaced from their own places in making of the dams. Since Independence, India has spent Rs. 80, 000 crores on the irrigation sector alone. Yet there are more drought-prone areas and more flood-prone areas today than there were in 1947.

The Government of India has detailed figures for how many million tonnes of food grain the country produces; it has minute-to-minute information about the stock exchange or the value of the rupee in the world market etc. But the Government of India does not have a figure for the number of people that have been displaced by dams or sacrificed in other ways at the altars of "National Progress".

According to a detailed study done by the Indian Institute of Public Administration, in making 54 large dams, near about 44, 182 people were displaced and since Independence the Government had built 3300 dams and near about 33 million people was displaced.

The displaced people category includes the tribal people. Survey reports that in the case of Sardar Sarovar Dam near about 57.6 per cent tribal people were displaced. Hence we can say that for the national interest and development only poor people were suffering. And due to this reason millions of displaced people in India are nothing but refugees. They sacrificed their home, livelihood and still the Government is silent on this point.

The tribal people displaced by the Nagarjunasagar Dam Project for their livelihood sold their babies to foreign adoption agencies. But the Government intervened and put the babies in public hospitals where 6 children died of neglect. There was no National Rehabilitation Policy. The Government is not legally bound to provide a displaced person anything but a cash compensation in the name of relief. A very small amount was granted and through that amount they cannot start a livelihood again and also unable to buy homes at another place. So, in this way the Government itself left them only with one option that is to set up juggi's and to indulge their children into child labour.

In 1979 the number of families that would be displaced by the Sardar Sarovar reservoir was estimated to be a little over 6,000. In 1987 it grew to 12,000. In 1991 it surged to 27,000. In 1992 the Government declared that 40,000 and 41,500.

The Bargi Dam near Jabalpur, about 70,000 people from 101 villages were supposed to be displaced. Hence, it is only the poor people who have suffered the most in the interest of the nation².

When it comes to food grain production, India is a very rich country. 70% of its population depends on agriculture. India's food grain reserves are at a constant high level and contain around 50 millions tonnes of food grains. This is far more than it needs to feed the entire population, including those who are starving and malnourished. The Government of India has made international commitments and designed different Government welfare schemes to ensure people's access to food. Yet, in spite of this, the poor and deprived communities in India are continuously struggling for survival.

India is too poor to buy the food their country produces. Indians are being forced to grow the kinds of food they can't afford to eat themselves. For example, in Kalahandi District in Western Orissa, best known for its starvation deaths. In the drought of 1996, people died of starvation (16 according to the Government, over a 100 according to the press). Yet that the same year rice production in Kalahandi was higher than the national average. Rice was exported from Kalahandi to the Centre.

On 29 August 2001, **National Human Rights Commission** (NHRC) taking serious note of the deaths caused by starvation and by consuming food unfit for human consumption in Orissa issued a notice to the state government of Orissa seeking a report on the matter. NHRC sources said; a prompt reply within a week giving details of action taken to provide food to the needy and to prevent any such death," NHRC chairman J S Verma said in his order. According to the news report "mango kernels, wild roots or starvation death", at least 20 persons in five villages of Orissa have died of either hunger or eating food unfit for human consumption. The report also alleged that all these deaths have evidently escaped the official definition of starvation and claimed that at least 20,000 children and elderly were urgently in need of help in the state.

It was the primary responsibility of centre and state governments to ensure that the food grains, overflowing in the FCI Godowns, should reach the starving people and not wasted by being dumped in the sea or eaten by rats.³

It is estimated that one-third of the world's poor live in India. India is classified by FAO as a low-income, food-deficit country, and has the largest number of poor, food-insecure people in the world. About 360 million people consume less than 80 percent of minimum energy requirements. Vulnerable sections of the population are women almost across income groups, children, the rural landless poor and dwellers in forest and hill areas. Malnutrition in urban areas is also high.

Food insecurity in India can best be described as chronic rather than acute, with 233 million (1998– 2000) undernourished in calorific and micronutrient terms (against 215 million in 1990–2). Undernourishment is severe among Scheduled Castes and in those rural areas weakly integrated into markets, and has marked seasonal patterns. The situation confronting the malnourished differs between rural and urban settings.

A large number of people in our country find it difficult to meet their requirements of food grains. Their diet is also deficient in respect of nutritious food. This problem of food inadequacy is a very serious one for the people of our country. In our country this is not just the problem of poor people who do not have purchasing capacity, but, this is a

² Arundhati Roy 1999, article, "The Greater Common Good".

<http://www.narmada.org/gcg/gcg.html> visited 23/ march/13

³ NHRC notice to Orissa govt. on hunger deaths-India-The Times of India.

<http://timesofindia.indiatimes.com/articleshow/1145182019> visited 24/march/13

problem also of the people who are the victims of natural calamities like famine, flood and accidents. This problem includes starvation deaths which are increasing year by year. These incidents are happening despite our country has stocked more than sufficient food grains. However, survival of man at all times depended more on food.

DEFINITION AND OBJECT OF FOOD SECURITY IN INDIA

World Development Report (1986) defines food security as access by all people at all times to enough food for an active, healthy life. However, Food and Agriculture Organisation (FAO, 1983) defines food security as “ensuring that all people at all times have both physical and economic access to basic food they need”.⁴ Further the food security has also been defined as “the ability to assure, on a long term basis, that the food system provides the total population access to a timely, reliable and nutritionally adequate supply of food”.⁵

From these definitions, the following points emerge:

1. Food security involves physical availability of food to ensure the population in a country.
2. However, to make adequate food available to all, it is necessary that people should have enough purchasing power so that they can acquire the food they need.
3. For healthy life, the food available should be adequately in quality as well a quantity to meet nutritional requirements.
4. A nation may require self-sufficiency at a point of time, but the concept food security necessitates that, timely, reliable and nutritionally adequate supply of food should be made available on a long-term basis. This implies that a nation has to ensure the growth rate in food supply so that it takes care of the increase in population as also the increase in demand resulting from increase in the income of the people.

The concept of food security has been discussed mostly in making available minimum quantity of food grains to the entire population. In this sense the food security includes the most basic need from the point of view of human survival. For this we have to make an adequate quantity of cereals available to all. This includes adequate supply and availability of cereals, pulses, milk, milk products, vegetables, fruits, etc.⁶

RIGHT TO FOOD: A HUMAN RIGHT

Human Rights are the Universal Rights, the National Rights, which “the law of nature gives us as human beings”. Human Rights are “Universal Moral Rights that equally belong to all people because they are human being.”

There are general agreements about basic values inherent in human existence regardless of sex, caste, creed, colour, language, religion, age, class or political belief. These basic values include both human life and human dignity i.e. whatever adds to the dignified and free existence of a human being should be regarded as Human Rights.

People can have these rights even if laws of their own countries do not recognise/protect them (in the court of law). Human Rights are meaningless until included in laws of country and actually enforced.⁷

“Everyone has the right to adequate food and the fundamental right to freedom from hunger.”⁸

When food scarcities and famines struck through out Africa, Asia and Latin America in the early 1970's, the right to food suddenly received more attention than it had in previous decades. The World Food Conference, which convened in 1974 to analyze the cause of these food crises and identify remedies, adopted a Universal Declaration on the Eradication of Hunger and Malnutrition which was endorsed by the General Assembly of the United Nations in the same year. These declaration proclaiming, “the right to be free from hunger and malnutrition.”

The Heads of State and Government gathered in Rome at the World Food Summit at the invitation of FAO, reaffirmed on November 13, 1996, the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger. They considered it intolerable that more than 800 million people throughout the world and particularly in developing countries do not have enough food to meet their basic nutritional needs, and pledged their political will and their common and national commitment to achieving food security for all and to an ongoing effort to eradicate hunger in all countries.

In addition, however, State should also take all the necessary steps possible towards the goal of full enjoyment of the right to adequate food. This means everyone must have physical and economic access at all times to food in adequate quantity and quality to allow for a healthy and active life.

An effective economic policy, freedom from corruption, red tape and bureaucratic blockages and a dynamic education policy are needed. But apart from the Government effort, large scale public participation and programmes can make the environment receptive to human rights specially to face this particular challenge before us i.e., that of Right to Food.

The most important is to create a culture of awareness to assert this basic right. Media nowadays plays a special role to sensitizing such burning issue. Family Planning like scheme will support to make available this ‘Right to food’ to all of us. The major challenge of creating a society where all live with dignity and self-respect will be met with honourably.⁹

⁴ Ruddar Datt and K.P.M. Sundaram 1999, “Indian Economy”, S. Chand & Company Ltd, New Delhi, p. 458.

⁵ Ibid.

⁶ Ramesh 2004 “A need for changes in the present policy”, Indian Social Legal Journal, 30 (1 & 2), p. 55-62.

⁷ P.S. Lathwal 2004 “Right to Food: A Human Rights Approach”, M.D.U. Law Journal, 9 (1 & 2), p. 99 -108.

⁸ World Food Summit, in rome, 1996.

⁹ P.S. Lathwal 2004 “Right to Food: A Human Rights Approach”, M.D.U. Law Journal, 9 (1 & 2), p. 99 -108.

RIGHT TO FOOD: INTERNATIONAL PERSPECTIVE

Every human being has a right to be free from hunger and to have access to safe and nutritious food. As a matter of law, the Right to Food has, at least in formal terms, been accorded universal recognition as a human right. It is articulated in the *Universal Declaration of Human Rights* (hereafter UDHR), the *International Covenant on Economic, Social and Cultural Rights* (hereafter ICESCR), the *Convention on the Rights of the Child* (hereafter CRC), and several other international instruments.

President Roosevelt's "Four Freedoms" speech in 1941 outlined one of the freedoms as "The freedom from want." These freedoms were gradually refined and became the basis of the United Nations Charter and more significantly later the UDHR encompassed the concern of "freedom from want" through inclusion of economic and social rights, particularly by recognizing the Right to Food as a component of an adequate standard of living.

There is increasing recognition worldwide that food and nutrition is a human right, and thus there is a legal obligation to assure that all people are adequately nourished. The articulation of food and nutrition rights in modern international human rights law arises in the context of the broader human right to an adequate standard of living. The United Nations has identified access to adequate food as both an individual right and a collective responsibility. **The Universal Declaration of Human Rights of 1948** asserts in **Article 25(1)** that "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."

In 1963 **A Special Assembly on Man's Right to Freedom from Hunger** met in Rome and issued an historic Manifesto asserting "freedom from hunger is man's first fundamental right."

Article 6 of the **Covenant on Civil and Political Rights, 1966** warrants particular mention in the context of the Right to Food. It provides for the inherent right to life of every human being.

International Covenant on Economic, Social and Cultural Rights, 1966 an international instrument which has been ratified by 144 States, deals with the Right to Food more comprehensively than any other treaty, developed these concepts more fully, stressing "the right of everyone to "adequate food" and specifying "the fundamental right of everyone to be free from hunger".

So, *what is the distinction between the right to be free from hunger and the right to adequate food?* The right to freedom from hunger is fundamental. This means that the state has an obligation to ensure, at the very least, that people do not starve. As such, this right is intrinsically linked to the right to life. In addition, however, states should also do everything possible to promote the right to adequate food for everyone within their territory. The nature of the legal obligations of States parties are set out in **Article 2(1) of the Covenant** and has been dealt within the **Committee's General Comment No. 3 (1990)**.

Article 2(1) of the Covenant provides "All States parties have an obligation to begin immediately to take steps towards full realization of the rights to the maximum of its available resources contained in the Covenant. At the national level States parties shall use all appropriate means, including legislative, administrative, judicial, economic, social and educational measures, consistent with the nature of the rights in order to full fill their obligations under the Covenant."¹⁰

The following states' obligations have been clarified in recent years in the context of the ICESCR.

The generic states' obligations under the right to food are the obligations to respect, protect and fulfill each person's access to food. A breach of a state's obligations leads to the destruction of a person's access to food or keeps a person in a situation of food deprivation.

- (1) The obligation to respect,
- (2) The obligation to protect, and
- (3) The obligation to full fill.

The **first** obligation refers to the state's duty not to interfere in the livelihood of its subjects or their abilities to provide for themselves. The **second** obligation entails the creation of a regulatory environment conducive to the protection of the right to food. The **third** obligation requires positive action by the state in identifying vulnerable groups and in facilitating their access to food-producing resources or income generation.¹¹ States are obliged to take all appropriate steps to achieve progressively the right to adequate food, subject to the maximum of their available resources.

Article 11 of the Covenant recognizes the right of everyone to an adequate standard of living for himself and his family including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State parties to the Covenant commit themselves to adopting appropriate measures for attainment of this right.

In its '*General Comment No. 12*' of 1999 on the right to adequate food the UN Committee ICESCR presented a detailed and authoritative interpretation of the provisions of the Covenant. The Comment establishes in the normative content of paragraphs 1 and 2, of the Article 11 of the ICESCR that: "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". For the Committee, the core content of the right to adequate food includes the following: "The availability of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights" (General Comment 12, 8).

The Human Rights Committee (HRC) is the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties. HRC insists that the right should not be interpreted in a restrictive manner. In its General Comment No. 6, the HRC observes that "... the protection of this right requires that States adopt positive measures ... and it would be desirable that States took all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics."

¹⁰[http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+3.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+3.En?OpenDocument) visited 25/march/13

¹¹ FAO 1998, International Covenant on Economic, Social and Cultural Rights, 1966.

In the **Universal Declaration on the Eradication of Hunger and Malnutrition, 1974** the States recognized that the elimination of hunger and malnutrition and the elimination of the causes that determine this situation are the common objectives of all nations and consequently solemnly proclaimed that "Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties." This commitment and proclamation of the right has been reiterated in many subsequent declarations and resolutions like the World Declaration on Nutrition, 1992; the Vienna Declaration on Human Rights, 1993; the Rome Declaration on World Food Security, 1996; the Plan of Action of the World Food Summit, 1996; General Assembly Resolution 51/171, 1996 and more recently in the United Nations Millennium Declaration, 2000 in which the States acknowledged that 'Men and women have the right to live their lives and raise their children in dignity, free from hunger...'. Thus, the heads of States and Governments pledged to 'eradicate extreme poverty and hunger' as one of the Eight Millennium Development Goals (hereafter MDGs) and resolved to halve, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger. Also the Declaration of the World Food Summit: Five Years later, 2002, reaffirmed the right of everyone to have access to safe and nutritious food.

In the **Convention on the Rights of the Child (which came into force in 1990)**, two articles address the issue of nutrition. **Article 24** says that "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health . . . (paragraph 1)" and shall take 4 appropriate measures "to combat disease and malnutrition . . . through the provision of adequate nutritious foods, clean drinking water, and health care (paragraph 2c)." Article 24 also says that States Parties shall take appropriate measures . . . "To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition [and] the advantages of breastfeeding . . ."

Article 27 says in paragraph 3 that States Parties "shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing."¹²

The human right to food and nutrition has been reaffirmed at the international level in many different settings. Beginning in the late 1990s, work on food rights at the global level centered on a mandate from the **World Food Summit held in Rome in 1996**. In the Summit's concluding Plan of Action, Objective 7.4 called upon the UN High Commissioner for Human Rights, in consultation with relevant treaty bodies, and in collaboration with relevant specialized agencies and programmes of the UN system and appropriate inter-governmental mechanisms, to better define the rights related to food in Article 11 of the Covenant and to propose ways to implement and realize these rights.

Also, as India is a FAO member, it is noteworthy that the **Constitution of FAO** in its Preamble paragraph provides that "the Nations accepting this Constitution, being determined to promote the common welfare by furthering separate and collective action on their part for the purpose of: raising levels of nutrition and standards of living ... and thus ... ensuring humanity's freedom from hunger..."

To elaborate the **Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1986)**, **Maastricht Guidelines created in 1997** by a group of over 30 experts on Violations of Economic, Social, and Cultural Rights (Maastricht Guidelines) concern the nature and scope of violations of economic, social, and cultural rights. The Maastricht Guidelines are quite thorough and comprehensive, and analyze issues that may arise when a State is challenged for violating ESC rights. The Guidelines highlight the fact that, as a matter of international law, the State is ultimately responsible for the realization of ESC rights, and governments must be held accountable for their failures in this area. It also helps to clarify what must be undertaken, what constitutes a violation, and what State conduct is unacceptable, while taking into consideration the involvement of state resources, political allocation, and policy making.

The Maastricht Guidelines, in essence, express ways in which States can comply with their international legal obligations, and also indicate the need for greater international action in the field of ESC rights.¹³

Violations of the Covenant occur when a State fails to satisfy what the Committee on Economic, Social and Cultural Rights has referred to as "a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights [...]. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, violating the Covenant." Such minimum core obligations apply irrespective of the availability of resources of the country concerned or any other factors and difficulties.¹⁴

This ESC rights should ensure respect and protection of access to food resources and work. When the right is appropriately enforced, access to resources, skills, and work is respected, protected, and fulfilled. Agricultural policy change, agrarian reform, and providing access to land for millions of landless farmers are productive investments in full filling human needs. Without food security, people's right to health is denied and there is a violation of this right to food by the State.

Governments must full fill this obligation to provide people with access to food by guaranteeing them the opportunity to feed themselves. Such fulfilment bound obligations have a bearing on decision making at the economic policy level. When economic policies fail to provide access to food, the state must first transfer adequate food-producing resources, including land, and the means of production. Thus, the right to food involves organizing economic life so as to respect, protect, and full fill people's access to food resources, self- employment, and wage employment.

¹² Gorge Kent 2002, article, "The Human Right to Food in India".

¹³ http://www.hri.ca/forthecanada/vol_app/appendix3.html visited 26/march/13

¹⁴ http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html visited 26/march/13