

RIGHT TO FOOD - PERSPECTIVES IN LAW

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No right has meaning or value once starvation strikes. It is an ultimate deprivation of rights, for without food, life ends, and rights are of value only for the living.¹

Introduction

HISTORY RECORDS global unacceptable levels of infant mortality due to malnutrition, which in addition curtails growth and cripples mental and physical development of millions of living infants. It contributes to 60% of child death in India.² UNICEF estimates that fifteen million children die every year from malnutrition and related infections.³ However, despite universal recognition and agreement over the acuteness and magnitude of the problem of malnourishment there exists palliative neglect in recognising right to food as a basic human right. Apparent affirmations of recognition of that right declarations, conventions, and covenants on international plane or Statutes or Regulations at national level transmuted into reality as concavities. Often, efforts are being extended by the executive to eradicate hunger which were marked with apathy, mismanagement coupled with rampant corruption and as unaccountable charitable exercises. When the mother earth showers bounties universally the interplay of economic forces in the society and failure of the State to checkmate the same, ultimately led to the cornering of these bounties by few at the cost of lives of the others. Unequal distribution of wealth and gross disparities in income are the basic causes of the world food problem. Indescribable extreme sufferings from the scourge of hunger frustrate populace which threatens the very existence of the society. Thus, it

is the state's duty to extend Right to Food in order to secure its future generations.

Normative instruments and right to food

The Vienna Declarations and the Programme of Action (1993) affirms once again the commitment of world organisations to eradicate the infant mortality and malnutrition by means of National Action Plans. It also calls on States to integrate the Convention on Rights of the Child (1989) into their National Action Plans.

The right to adequate food has long been accepted in the normative instruments of International law. Right food runs all through the economic rights mentioned under Universal Declaration of Human Rights and covenants thereof. Food and Agricultural Organisations (FAO), International Fund for Agricultural Development (IFAD), WFC, Food Aid Convention, the Programme of Third Nationals Development Decade and the Universal Declaration on Eradication of Hunger and Malnutrition all aim at achieving an equitable international food regime. However, right to food remains to be only an aspirational right as the stress was always on evolving framework against the violation of civil and political rights and there exists manifest lack of political will among the nations. There is a need to give practical content to this right which has been a long professed but neglected right.

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1. Gorovitz, "Bigatory, loyalty and malnutrition", in Brown and Shue (ed.) *Food Policy: The Responsibility of United States* 3(1977).

2 *The Hindu*, 2 Feb., 1994.

3. Alston and Tomasevski (ed.), *The Right to Food* 19.

Right to food in India

Though it is paradoxical that India has food reserves, it figures on the map of 'malnourishment' countries. Art.47 of the Indian Constitution specifically refers that the State shall regard the raising of the level of

nutrition and of living of its people and improvement of public health as among its primary duties. Art. 39(g) ordains that the children be given opportunities and facilities to develop in a healthy manner.

In its quest to humanise the law, the Supreme Court embarked upon the expansive interpretation of Art.21 and almost reached the goal of assuring right to food as a fundamental right. It has been recognised in *Maneka Gandhi v. Union of India*,⁴ that life under Art. 21 is not confined to mere physical existence but includes the right to live with human dignity and which according to *Francis Coroly v. U.T. Delhi*,⁵ included the bare necessities of life such as adequate nutrition. In *Olga Tellis v. Bombay Municipal Corporation*,⁶ the Supreme Court viewed that there is an obligation to call upon the State to secure to its citizens adequate means of livelihood. It has been held in *Vincent v. Union of India*,⁷ by the Supreme Court that the right to maintenance and improvement of public health is included in the right to live with human dignity.

However, these implicit judicial exercises or indirect legislative assurances cannot substitute for a guarantee of right to food specifically under Part III (Fundamental Rights) of the Indian Constitution.

Conceptual framework of right to food

Right to food is undisputedly a primary

welfare right. According to Rodney Peffer, a welfare right is a right to some type of goods or services that one requires to survive and to have any sort of worthwhile life.⁸ Carl Wellman who travels beyond Hohfeldian orthodoxy, squarely brings in the welfare rights within the sphere of his general conception of right as a system of normative elements that confer autonomy concerning some core upon its possessor and he opines that legal welfare right can accurately be conceived of as system of legal autonomy.⁹ Right to food is not a charity but a right of the individual and a perfect duty of the state as hunger arises as a result of interaction of social forces beyond the control of individual and not due to his misconduct but because of his misfortune.

Conclusion

The above analysis projects the need to secure the right to food as a basic human right. The level of a country's progress and development is judged by its ability to save its people from starvation and protect its young children from infant deaths and to promote their learning abilities, capacity to work and decent behaviour which are generally affected by malnutrition. Starving masses are the stuff with deviant behaviour who can be exploited even to overthrow the Government.

4 A.I.R 1978 S.C. 597.

5. A.I.R 1981 S.C. 746.

6. A.I.R 1986 S.C. 180.

7. (1987) 2 S.C. 165.

8. "A dence of rights to Welbeing", *Philosophy and Public Affairs* 65, 80 (1978).

9. Carl Wellman, *Welfare Rights* 60 (1982).