

DE JURE NEXUS LAW JOURNAL

Author:

Nidhi Agarwal

Symbiosis Law School, Noida

1st Year, BBA LL.B.**RIGHT TO FOOD AND WATER WITH REFERENCE TO ARTICLE 21 OF
THE INDIAN CONSTITUTION****Abstract:**

*Nature has provided us with many basic amenities on which the whole biorhythmic existence is based and two of them are food and water. An animal never dies of starvation because they are not made to earn and eat, God already had plans for them, it is the human who got the intellect to earn a loaf of bread to survive and it is a right of every person too and nobody can infringe it because it is a basic need of a person, and where we have our right to life, this can't be ignored. With a right, comes a corresponding duty which means that if a person P has a right, then person Q must have a duty towards person P to ensure he can exercise his right. **Article 21** of the Indian Constitution along with the right to life and personal liberty protects the right to food inherent to life with dignity and the right to access clean water, these rights are implicitly stated in the supreme law of India. Both these rights fall as an intrinsic right vested in people who either secure that right by responsibility for or in the ebb and flow situation all the more fittingly are vested with an interest in it through the state being its legal administrator. To curb hunger, food security, and malnutrition the fundamental right to food and water of the citizens needs the protection of the state by preserving adequate food and clean water because these are environment-driven natural resources.*

Keywords:

Right to Food, Right to Water, Right to Life, Starvation, Indian Constitution, State, Legal Administrator, Food Security, Malnutrition.

Introduction:

In this research paper, we will see how the 'Right to food' and 'Right to water' were recognized as fundamental rights under Article 21 of the Indian Constitution. We will see that Article 21 should be read with which other articles in Part IV (Directive Principle of the State Policy) of the Indian Constitution to know what is the responsibility of the State towards its citizens concerning these rights. An existence without freedom would bring about some of the other types of enslavement. Freedom can't be there for an individual having an empty stomach.

A person's all-in-all right to life would be meaningless if the State neglects to give sufficient food or on the other hand food nutriment. The Constitution of India gives the «right to life» as a Fundamental Right and this right has been given a wider understanding by the Supreme Court to incorporate the «right to food and water » with the goal that the majority rules system and full opportunity can be accomplished and subjection in any structure can be avoided.

Interpretation of Article 21 of the Indian Constitution:

Part III of the Indian Constitution deals with the Fundamental Rights for the citizens, from Article 12- 35. Fundamental Rights were included in the Constitution for protecting the human life dignity and development of each individual's personality. Article 21 is the most important fundamental right because it is the foundation for all the other basic rights.

In the case of "*Francis Coralie Mullin v. The Administrator*", Justice P.N. Bhagwati says that Article 21 incorporates constitutional worth of preeminent significance in a democratic society. Then further Justice Iyer denotes Article 21 as the '*procedural Magna Carta protective of life and liberty.*'

Article 21 states that: "*No person shall be deprived of his life or personal liberty except according to procedure established by law*". 'Life' in Article 21 of the Constitution doesn't simply mean the act of breathing or bare animal existence, it holds wider connotations to that. It implicitly includes the Right to livelihood, right to health, right to food, right to water, right to have pollution-free air, etc. It is a tree that has several branches. Right to life is so wide in its terms it has the widest interpretation of all articles in the constitution, it serves the bare necessities of a human being, it makes life meaningful and worth living.

In *Kharak Singh v. State of Uttar Pradesh*, Supreme Court held that:

"By the term 'life' as here used, something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by amputation of an armored leg or the pulling out of an eye, or the destruction of any other organ of the body through which the soul communicates with the outer world."

Then in *Maneka Gandhi v. Union of India*, Article 21 was given a new facet by the Supreme Court, The Court held that the right to live is not just an actual right but it incorporates the right to live with human dignity under its ambit.¹

Right to food and water - as fundamental provision:

In “*Peoples Union for Civil Liberties v. Union of India and Others (PUCL)*” Public Interest Litigation. Supreme Court expressly held right to food will be included in the Indian Constitution for the impoverished population of India. UNGC United Nations General Assembly on 28 July 2010 through Resolution 64/292 has expressly perceived the Right to clean water and Sanitation believing portable water and hygiene to be very essential for the cognizance of all human rights. India’s impoverished section of society has been suffering from malnutrition, inadequate nutrition, starvation, and poor health for more than a millennia and of course in millions. And these rights to complement all other basic rights of a human being are recognized as fundamental rights by the supreme law of India.

Accountability and Responsibility of the State in protecting the Right to food and water:

The fundamental right under Article 21 within Part III of the Indian Constitution should be read with the Directive Principle of State Policy which is expected to be issued by the State for the development of its policies provided under Part IV of the Indian Constitution and particularly with **Article 39 (a)** under which the State is expected to direct its policies in a way that every citizen would have the “*right to adequate means of livelihood*,” that means every citizen is living a quality of life which is the ideal life for a normal human being and directive principle under **Article 47** bounds the state to “*raise the level of nutrition and standard of living*” of its citizens and hence right to food and water was also recognized as the constitutional remedy under Article 32 of the Indian Constitution.

In the landmark judgment of “*Kesavananda Bharti v. State of Kerela*” it was also observed considering many other aspects that “*freedom from starvation is as important as the right to life*” along with the decision that the absolute basic structure of the constitution can never be changed.² The right to pollution-free water and air for full enjoyment of life was considered as a part of right to life by the Supreme Court of India, in *Subhash Kumar v. State of Bihar (1991)*.³

People living in states of indigent and appetite have frequently been viewed as experiencing delayed ailing health. In any event, when their demises proved unable, in stringently clinical terms, be

¹ Academike, Article 21: Understanding The Right to Life and Personal Liberty from Case Laws-Academike Explainer <https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/>(last accessed on 14.02.2022).

² *Kesavananda Bharti v. State of Kerela* (1973; 4 SCC 225 at 875, pr.1700)

³ *Subhash Kumar v. State of Bihar* (1991) AIR 420 1991 SCR

connected with starvation, the disastrous reality stayed that they frequently passed on from delayed hunger and the continuum of misery, which had delivered them unfit to endure normal illnesses like

intestinal sickness. The Commission believed the present circumstance to be even more agonizing taking into account the way that the treasure house of the Food Corporation of India was overflowing.

The water that is broadly accessible wherever is possessed by all people and general society has a right over it, however, the drinkable water and other homegrown uses also have specific cases for privileges. What's more, however, there is an aggregate directly over all the water assets of the country, the accessibility of water is dependent upon the dispersion of it by the public authority.

In "*Nath v. National Fertilisers Ltd.*" It was observed that "*right to food is a basic human right*", in this case under Article 16 of the Indian Constitution the canteens were established in each area to supply the food at the subsidized rate to the workmen.⁴

In the "*M.C. Mehta case (1988)*", the judiciary implicitly fortified the provision for the right to uncontaminated and pollution-free water.

Constitutional Outlook of the 2nd and 6th Sustainable Development Goal in India:

The United Nations Member States adopted the 2030 Agenda for Sustainable Development Goals in 2015, which provides a share blue print for peace and prosperity for the people and the planet, now and into the future. There are 17 Sustainable Development Goals(SDGs) which are an urgent call for action by all countries – developed and developing- in a global partnership. They recognize that ending poverty and other deprivations must go hand in hand with strategies that improve health and education, reduce inequality, and spur economic growth- all while tracking climate change and working to preserve our oceans and forests.⁵

The Second Sustainable Development Goal (SDG) looks forward for ending up the hunger and starvation deaths and attaining food securities and fostering sustainable agriculture, hence, complimenting our Right to life under Article 21 of the Indian Constitution where we have the right to food and right to livelihood as an implicit part of the article because our constitution does not aver the right to food explicitly, but then it is the fundamental right of each and every citizen to intake sufficient amount of nutriment to keep going with his or her life. According to SDGs report 2021, 2.37 millions were deprived of food and a healthy balanced diet on a regular basis.

The Sixth Sustainable Development Goal (SDG) ensures the *sustainable management and availability of water and sanitation for all*, and this SD Goal again goes on enhancing the right to pollution free water under Article 21 (Right to life) of our Indian Constitution, because getting the access to water and getting the access to the clean water makes the difference, water is present everywhere and every citizen has a right over it, but the water that is clean and is safe for drinking and other household uses, likewise has unquestionable claims for rights.

Conclusion:

⁴ *Nath v. National Fertilisers Ltd.* (1992; 1 SCC 695)

⁵ United Nations, Department of Economic and Social Affairs Sustainable Development, <https://sdgs.un.org/goals> (last accessed on 19.02.2022).

Some of our rights are already confirmed by the nature, despite that, some of the sections of our society face starvation and malnutrition, hence, depicting the impoverished section of our society. Since ages, Indian societies are among the most ill treated and impoverished societies of the world

because we have great chunk of population which is still deprived of the basic amenities of life and millions of people – mostly in rural areas are deprived of proper nutrition which may lead to the stunted bones or malnutrition and clean drinkable water and sanitation. Since, rights are to be followed by some duty, each one of us needs to protect each other's rights. And the stakeholders hold the biggest obligation to confer these rights. The right to food doesn't suggest that state run administrations have a commitment to distribute free food to every individual who needs it, or an option to be taken care of. Nonetheless, assuming individuals are denied of admittance to nourishment because of reasons outside their ability to do anything about, for instance, since they are in detainment, in the midst of war or after catastrophic events, the right requires the public authority to give food straightforwardly. Hence the fundamental right under Article 21 of the Indian Constitution guarantees the right to food and water and no one can be deprived of it.



De Jure Nexus

LAW JOURNAL