

## RIGHT TO BASIC NECESSITIES OF LIFE

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### ABSTRACT

"The right to life under Article 21 includes the right of food, clothing, decent environment and reasonable accommodation to live in. The concept of basic human necessities involves drawing a list of foundational human needs of both, physiological and as well as social import and in a way to arrive at a list of the minimum social needs. The basic necessities of life encompass at a minimum, the right to adequate nutrition, housing, health, education and livelihood, and all of these rights provide foundations upon which human development can occur and human freedom can flourish. In addition, such basic social rights should be conceptualized in terms of an entitlement both to be equal as humans and to be equal as members of society. The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal, it is the bare protection of the body, for a human being, it has to be suitable

It includes protection of health and strength of workers, men and women and of the tender age of the children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and human conditions of work and maternity relief. These are the minimum conditions which must exist in order to enable a person to live with human dignity.

In any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is free from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilized society. The basic concept of right to basic necessities is that no one should have to live in conditions whereby the only way to satisfy their needs is by degrading themselves or depriving themselves of their basic freedoms, such as through begging, prostitution or forced labor.

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The basic concept of right to basic necessities is that no one should have to live in conditions whereby the only way to satisfy their needs is by degrading themselves or depriving themselves of their basic freedoms, such as through begging, prostitution or forced labor.

Satisfaction of human needs is widely accepted as a characteristic of any just society. However, in view of the stages of development and ideological preferences there may be marked difference between one society and another on the issue of perception of human needs, priorities of human needs and the techniques deployed for securing them. Though human needs issues have been traditionally explored by disciplines like Economics, Political Science, Anthropology and Psychology but in recent times human need have started receiving the attention of legal scholars, who have made human needs their starting points for more meaningful enquiries in the fields of human rights, social justice, individual liberty, equality, etc.<sup>1</sup> In this context the food need has acquired a distinct status in some of the recent researches and studies in the field of International Law and Jurisprudence.<sup>2</sup>

#### (i) Identification of Human Needs

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<sup>1</sup>See particularly Conrad, D. "The Human Right to Basic Necessities of Life", *Delhi Law Review* Vols. 10 and 11, 1981-82; Baxi, Upendra (Ed.) *The Right To Be Human* (Lancer International, Delhi, 1987); Menon, N.R. Madhava (Ed.) *Social Justice and Social Process in India* (Indian Academy of Social Sciences, 1988).

<sup>2</sup> Alston, P. and Tomasevski, K. (Eds.) *The Right to Food*, International Studies in Human Rights (MartinusNijhoff Publishers, 1984)

Human need, urge or drive may be understood as a physiological, or social requirement of the body or the mind which is considered essential for the maintenance of human life. In respect of physiological or homeostatic needs the biological sciences are more unanimous in producing scientific information regarding the essential needs relating to general hunger and specific food appetites, thirst, respiration, constant internal temperature and sleep, rest after fatigue and work after rest, etc.<sup>3</sup> In a recent study David Braybrooke has described the bodily needs as needs based on physical functioning and listed the need to have life-supporting relations with environment on the top, followed by the need to food and water, the need to excrete, the need for periodic rest (including sleep) and the need to keep the body intact in other ways.<sup>4</sup>

The identification of social, learnt or acquired human needs proves much more problematic and controversial, not only because such needs are strongly influenced by ideological considerations but also on account of a close association of such needs with subjective preferences and abilities. Furthermore, as understood by the Marxists these needs can either be 'true' or 'false', depending upon the level of critical examination.<sup>5</sup> However, despite such disagreements and controversies it is still possible to broadly identify need for companionship, education, social acceptance and recognition, sexual activity, freedom from harassment and recreation, etc. as prominent 'social function' needs. Karl Marx used the term species needs to describe these needs, which according to him include primarily the need for solidarity relations (companionship and communication) and need to perform productive work.<sup>6</sup> Some of the recent writings on social needs have emphasized equality, access to justice and removal of social stigma like untouchability as the prominent aspects of social needs. The latest addition in the catalogue of needs is the right or the need to development, which is described as the key need that subsumes many others.<sup>7</sup>

#### (ii) Prioritizing Human Needs

Any programme of social action based on human needs has to arrange the vast variety of needs in some kind of ranking order. The idea of labeling certain human needs as basic and the rest as non-basic implies resort to a ranking order. The arrangement of needs according to rank involves not only a better identification but also fixing of social priorities for the various human needs. The concept of basic human needs involves drawing a list of foundational or essential human needs of, both, physiological as well as social import and, in a way; arrive at a list of bare minimum human needs. One of the earliest thinking about basic human needs was given by Buddhism which described basic needs of a person resigned to ascetic order as chatupachhayaya that included within its fold Pindpat (Food), Chivar (clothes), Senasan (shelter) and Gilanapachhaya-BheshajyaParikhkhara (medical services).

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<sup>3</sup>*International Encyclopaedia of the Social Sciences*, Vol. 4 (MacMillan Company & Free Press, 1968), pp. 275-80.

<sup>4</sup>*Meeting Needs*(Princeton University Press, 1987)p. 36

<sup>5</sup>See Bay, Christian, "Human Needs and Political Education" and Nielsen, Kai, "True Needs, Rationality and Emancipation" in Ross Fitzgerald (Ed.) *Human Needs and Politics* (Pergamon Press, 1977) at pp. 1-25 and 142-156

<sup>6</sup>McLellan (Id.) *Karl Marx-Selected Writings* (Oxford University Press, 1977) at 166

<sup>7</sup>See Baxi, Upendra "The New International Economic Order, Basic Needs and Rights: Notes towards Development of Right to Development" in D.A. Desai (Ed.) *Role of Law and Judiciary in Transformation of Society*, (KamlakarPrakashan, New Delhi, 1984) at 178.

The United Nations<sup>8</sup> has identified the following list of basic needs:

1. Nutrition
2. Shelter
3. Health
4. Education
5. Leisure
6. Security (physical safety and economic security)
7. Environment

Similarly, the International Labour Organisation has included in their scheme of material basic needs certain minimum levels of private consumption of food, clothing and shelter and access to certain essential services, such as pure water, sanitation, public transport and health and educational facilities.<sup>9</sup> Thus, the very trend of identifying basic needs involves preferring certain needs over others by placing them in some kind of priority order.

However, in some societies even the actualization of these basic human needs poses serious resource and political problems. There are societies that lack resources for providing all the basic needs at a time. The question arises which basic need is to be preferred over others? Similarly, there is a strong viewpoint that is opposed to the State or the International agencies taking up the task of fulfilling all the basic needs: Will it not lead to a undesirable dependency and unreasonable assumption of power on the part of the State? Which of the basic needs can be fulfilled without such undesirable side-effects? Perhaps the best answer to some of these issues can be found in the writings of Abraham Maslow<sup>10</sup> and Christian Bay. Maslow was the first to propound a theory of hierarchy of human needs and the mechanism of the emergence of a higher need only after a reasonable satisfaction of the lower needs. Similarly, Bay says "New and higher" motives are born only as more basic and essential motives receive satisfaction and the individual takes their satisfaction for granted<sup>11</sup> The views of Maslow and Bay find ample support in the alienated lives of the poorest sections of our society for whom many higher social needs and desires remain, by and large, meaningless.

The idea of prioritizing human needs has assumed special significance in the wake of widespread hunger and starvation — an indicator of unfulfilled food need. It is true that food need might no more be a serious social problem for many of the developed societies. In the words of Professor Conrad "Issues of basic

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<sup>8</sup> The U.N. Basic needs list has been formulated by J.F. Drownowski. It is discussed in detail by David Braybrooke, *op. cit.* at pp. 28-29

<sup>9</sup> See Sandbrook, Richard, *The Politics of Basic Needs* (Heinemann, London, 1982) at pp. 7-16

<sup>10</sup> "A Theory of Human Motivation", *Psychological Review*, Vol. 50, 1943

<sup>11</sup> Bay, Christian, *The Structure of Freedom* (Stanford University Press, 1970), p. 372

needs are no longer pressing in the West. In the affluent societies no one dies from starvation involuntarily. The prayer for "daily bread" lacks existential earnest — we know that, at the latest, the social welfare office will provide us with the daily bread, if on a measured scale".<sup>12</sup> But in the underdeveloped societies<sup>13</sup> and the underdeveloped regions of the developed societies the problem of mal distribution is still leaving many deprived of even food need. Perhaps this is because the exploiting sections of the society know fully well that the fear of hunger and its associated conditions is the best means for keeping the exploited sections under control: they most easily agree to become bonded labour, sell their children, and agree to act as organ donors, only when the threat of hunger and starvation looms large.

### (iii) Relating Basic Needs to the 'De-humanised' Population

Talking of basic human needs at abstract level serves little practical purpose. The fact of the different sections of the vulnerable population suffering on account of diverse disabilities requires matching particular basic need with the relevant dehumanized population.<sup>14</sup> In this way basic need discussions and actions can be related to a specific weaker section like the Scheduled Castes, tribals, landless labour, bonded labour, slum-dwellers, women and children, etc., and the available resources deployed in caring for the needs of the most 'needy' groups.

Though the social categorization of the 'needy' on the basis of caste, landlessness, working class, gender and juvenile status may prove a useful criteria for fulfilling basic needs of particular type such as the need to remove social stigma and access to social resources in case of Scheduled Caste or women, etc., but the criterion of poverty line provides a generally acceptable basis. It can be assumed safely that the below poverty line population would also suffer for want of multifarious needs. According to the official estimate, in 1981 the below poverty line population was 317 million<sup>15</sup>, which could be further classified into five levels of poverty on the basis of their income standing. Of these the lower four levels that comprised 150.7 million could be described as the destitute population. It is this destitute population that could be described to be in subhuman level of existence. The basic needs of this section of population, particularly the lower level basic needs that Maslow described as Physical (biological) needs — air, water, food, sex, etc.,<sup>16</sup> deserve unconditional priority not only as a subjective existential condition but also as a precondition for a civilized social order.

Article 21 of the Indian Constitution, deals with the basic necessities of human life

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<sup>12</sup> Conrad, D., *op. cit.* at 14

<sup>13</sup> See for a detailed account of famines in developing societies Amartya Sen, *Poverty and Famines* (Oxford University Press, 1981).

<sup>14</sup> The latest trend of conceptualizing needs in terms of subaltern groups as self-perceived and individual-oriented is very similar to the idea advocated here. See Ryan, Michael *Marxism and Deconstruction* (John Hopkins University Press, 1985).

<sup>15</sup> According to the latest official estimate the percentage of population below poverty line has declined in the recent years, but that does not necessarily mean the absolute numbers might have changed substantially

<sup>16</sup> "Dimensions of War on Poverty", *Mainstream*, December 25, 1982 pp. 14-15



Article 21 states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

Article 21, though couched in negative language, confers on every person the fundamental right to life and personal liberty which has become an inexhaustible source of many other rights.<sup>17</sup> These rights are as much available to foreigners as to citizens. These rights have been given paramount position by the courts.

The right to life which is the most fundamental of all is also the most difficult to define. Certainly it cannot be confined to a guarantee against the taking away of life; it must have a wider application. With reference to a corresponding provision in the 5<sup>th</sup> and 14<sup>th</sup> amendments of the U.S. Constitution, which says that no person shall be deprived of his “life, liberty, or property, without the due process of law”, in *Munn v. Illinois*, Field J. spoke of the rights to life in the following words:

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

This statement which has been repeatedly quoted with approval by our Supreme Court, has been further expanded in *Francis Coralie v. Union Territory of Delh*<sup>18</sup>, by the statement “that any act which damages or injures or interferes with the use of any limb or faculty of a person, either permanently or even temporarily, would be within the inhibition of the article 21”. In the same case Bhagwati, J. held :

“ We think that the right to life includes the right to life with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingle with fellow human beings.”

The judge conceded that “the magnitude and content of the components of this right would depend upon the extent of the economic development of the country”,

but emphasized that “it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such function and activities as constitute the bare minimum expression of the human-self”. The court upheld the right of the detenu in this case to have interviews with members of the family, friends and lawyer.

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<sup>17</sup>Bhagwati, J. in *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248: AIR 1978 SC 597,620

<sup>18</sup> (1981) 1 SCC 608: AIR 1981 SC 746

Again relying on *Francis Coralie v. Union Territory of Delhi* case , in *Bandhua Mukti Morcha v. Union of India*,<sup>19</sup> where the question of bondage and rehabilitation of some labourers was involved Bhagwati, J. held :

“It is the fundamental right of everyone in this country ... to live with human dignity, free from exploitation. The right to live with human dignity enshrined in Article 21 deprives its life breath from the Directive Principles of the State Policy and particularly clause (e) and (f) of Article 39 and Article 41 and 42 and at least , therefore , it must include protection of the health and interests of the workers men and women, and of the tender age of children against abuse ,opportunities and facilities for children to develop in a healthy manner and in condition of freedom and dignity , educational facilities , just and humane condition of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity, and no State ...has the right to take any action which will deprive a person of the enjoyment of these basic essentials”.

This statement has been fully endorsed by the court in a petition seeking ban on injurious drugs and in a petition seeking human conditions in a care home for females. Similarly the court has favourably entertained a petition under article 21 for appropriate relief against the leakage of oleum gas a chemical plant resulting in loss of lives and injury to health. The right to appropriate relief against the ill effects of the X ray radiation on the employees of a state corporation has also been recognized under Article 21.

Further, in a case of the effect of asbestos exposure on the health of the workers the court has held that the right to health and medical aid to protect the health and vigour of a worker while in service or after retirement is a fundamental right under article 21 read with Articles 39(e),41,43,48A and all related article and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of the person. Failure on the part of a governmental hospital to provide timely medical treatment to a person in need of such treatment has been declared a violation of his rights under Article 21. The right does not extend to private hospital facilities or to claim reimbursement for using such facilities by a government employee unless such reimbursement is provided for.

For some time the Court held the view that the right to life in Article 21 does not include the right to livelihood. After some controversy on that issue the Court has clearly held that right to livelihood is included in the right to life “because no person can live without the means of living, that is, the means of livelihood”.

The right to agriculturists to cultivation is a fundamental right to livelihood .But the right to carry on trade and or business is not covered by Article 21. Non revision of pay scales, which are not so low as to deny survival, also does not violate Article 21. Further upholding the right of the people in hill areas for a suitable approach road the Court in *State of H.P. v. Umed Ram*, held that the right to life in article 21 “embraces not only physical existence of life but also the quality of life and for residents of hilly areas, access to road is access to right itself”. Right to unpolluted environment and preservation and protection of nature’s gifts has also been conceded under Article 21. This right encompasses wide variety of many such rights. The court has held that right to life includes the “right to reasonable accommodation to live in” and right to shelter,

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<sup>19</sup> (1984) 3 SCC 161: AIR 1984 SC 802

including the necessary infrastructure to live with human dignity. The right to water and the duty on the State to provide safe and clean drinking water to its citizens has also been recognized. But the right to vote is not included under article 21. Nor has the Court yet held that the right to food is included in Article 21. It has, however, issued directions to the state to ensure that nobody dies of starvation.

More importantly, in *Unni Krishnan v. State of A.P.*<sup>20</sup> the Court recognized a fundamental right to education in the right to life under Article 21. Taking help from Articles 41 and 45 it held that “every child/citizen of this country has the right to free education until he completes the age of fourteen years. Thereafter his right to education is subject to the limits of economic capacity and development of the State”. But this right does not include the right to participate in the student union activities and to contest union elections.

The question whether deprivation of property leading to “deprivation of life or liberty or livelihood” falls within the reach of Article 21 is open though where it does not result in such deprivation, Article 21 does not apply. Displacement of land owners on acquisition of their land under the Land Acquisition Act, 1894 does not violate Article 21. The government may however provide a suitable scheme for such displaced persons such as employment of one of the members of the family in the right to livelihood or right to shelter or dignity of a person.

In view of the global developments in the sphere of human rights these judicial decision are a strong pointer towards the recognition of an affirmative right to basic necessities of life under Article 21.

The right to an adequate standard of living is recognized as a human right in international human rights instruments and is understood to establish a minimum entitlement to food, clothing and housing at a subsistence level. The right to food and the right to housing have been further defined in human rights instruments.

The right to an adequate standard of living is enshrined in Article 25 of the Universal Declaration of Human Rights (UDHR) and Article 11 of the International Covenant on Economic, Social and Cultural Rights.<sup>21</sup> The most significant inspiration for the inclusion of the right to an adequate standard of living in the UDHR was the Four Freedoms speech by US President Franklin Roosevelt, which declared amongst others the freedom from want. Fulfillment of the right to an adequate standard of living depends on a number of other economic, social and cultural rights, including the right to property, the right to work, the right to education and the right to social security. There have been a number of proposed policies to guarantee people a basic standard of living through the concept of offering a Basic income guarantee essentially gifting all citizens a basic level of “free money” in order to meet basic needs such as food and shelter.

On the basis of the speech the American Law Institute established draft proposals for an international bill of rights, the Statement of Essential Human Rights, which greatly influenced the UDHR.<sup>22</sup> The statement

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<sup>20</sup>(1993) 1 SCC 645,732.

<sup>21</sup>Bourquain, Knut (2008). *Freshwater access from a human rights perspective: a challenge to international water and human rights law*. MartinusNijhoff Publishers. p. 137

<sup>22</sup>Alfredsson, Gudmundur; Eide, Asbjorn (1999). *The Universal Declaration of Human Rights: a common standard of achievement*. MartinusNijhoff Publishers. p. 527



included the right to adequate food and housing and the right to social security, including the right to health.<sup>23</sup> Article 25(1) of the UDHR recognizes the right to an adequate standard of living, stating 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, 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.

The UDHR establishes that the realization of the right to an adequate standard of living requires as a minimum the enjoyment of subsistence rights that is adequate food and nutrition, clothing, housing and care when required.<sup>24</sup> The UDHR recognizes that the right to an adequate standard of living will require different measures depending on the situation of a person. It specifies that persons who are unable to secure the enjoyment of conditions necessary for an adequate standard of living have a right to care. Article 25 is closely related to Article 22 of the UDHR, which explicitly enshrines the right to social security. Article 25 also specifically mentions the rights of children born out of wedlock, which historically have been subject to discrimination.

The nature of the right to an adequate standard of living was further defined in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which defines the right to an adequate standard of living in two paragraphs. Paragraph one states that:

"The States Parties to the present Covenant recognize 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 States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."<sup>25</sup>

Medical care and health, which were included in the UDHR under the right to an adequate standard of living, were included in Article 12 of the ICESCR under the right to health.<sup>26</sup> Rights relating to motherhood are recognized in Article 10 of the ICESCR on the protection of the family. When the ICESCR was drafted increased malnutrition was an urgent international concern, giving Article 11 an overall emphasis on food.<sup>27</sup> Paragraph two of Article 11 states that:

"The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programs, which are needed: (a) To improve methods of production, conservation and distribution of food

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<sup>23</sup>Ed. at 528

<sup>24</sup>Alfredsson, Gudmundur; Eide, Asbjorn (1999). *The Universal Declaration of Human Rights: a common standard of achievement*. MartinusNijhoff Publishers. p. 523

<sup>25</sup>"International Covenant on Economic, Social and Cultural Rights". Office of the United Nations High Commissioner for Human Rights.

<sup>26</sup>*Supra* note 20, p. 530

<sup>27</sup>Bourquain, Knut (2008). *Freshwater access from a human rights perspective: a challenge to international water and human rights law*. MartinusNijhoff Publishers. p. 137.

by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need."<sup>28</sup>

As such Article 11 of the ICESCR establishes two human rights, the right to be free from hunger, known as the right to food, and the right to an adequate standard of living, specifically in relation to subsistence rights to clothing, housing and food. The ICESCR requires as a minimum that the subsistence rights are protected by the state. The right to food and the right to housing have subsequently been defined as independent rights in other human rights instruments.<sup>29</sup> Other aspects of the right to an adequate standard of living, such as the right to clothing have not received such attention, nor development.<sup>30</sup> The ICESCR makes it clear that states must take appropriate steps to ensure the realization of the right to an adequate standard of living, by for example requiring the state to take the necessary measures to ensure that hunger does not occur.

Overall the right to an adequate standard of living is understood as a social right, which requires respect for a number of other economic, social and cultural rights, including the right to education as enshrined in Article 26 of the Universal Declaration of Human Rights (UDHR) and Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the right to property, which is enshrined in Article 17 of the UDHR, the right to work as enshrined in Article 23 of the UDHR and Article 6 of the ICESCR, and the right to social security as enshrined in Article 22 of the UDHR and Article 25 of the ICESCR.<sup>31</sup> When the right to property, the right to work and the right to social security, three core economic rights, are implemented in combination, it is assumed that an adequate standard of living can normally be secured.

The right to private property was a crucial demand in early quests for political freedom and equality, and against feudal control of property. Property can serve as the basis for the entitlements that ensure the realisation of the right to an adequate standard of living. Initially only property owners were granted civil and political rights, such as the right to vote. The right to work was enshrined to allow those who do not own property to attain an adequate standard of living

The UN Committee on Economic Social and Cultural Rights has issued guidance on a number of aspects of the right to an adequate standard of living, namely on food, water and housing. The key obligations are that countries must ensure the availability and accessibility of the resources that are essential to the realisation of the right.

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<sup>28</sup>"International Covenant on Economic, Social and Cultural Rights".Office of the United Nations High Commissioner for Human Rights.

<sup>29</sup>Clause, Richard Piierre; Weston, Burns H. (2006).*Human rights in the world community: issues and action*. University of Pennsylvania Press.p. 173.

<sup>30</sup>Dr Stephen James, "*A Forgotten Right? The Right to Clothing in International Law*"

<sup>31</sup>Clause, Richard Piierre; Weston, Burns H. (2006).*Human rights in the world community: issues and action*. University of Pennsylvania Press.p. 173.

## Food

The UN Committee has stated that in the context of food, the concept of adequacy is to a large extent determined by prevailing social, economic, cultural, climatic, ecological and other conditions, and is linked to the notion of sustainability, which implies food security, namely that food should be accessible for both present and future generations.

The Committee has also stated that, as part of their obligations to protect people's resource base for food, countries should take appropriate steps to ensure that activities of the private business sector are in conformity with the right to food.

## Water

The UN Committee has stated that the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, including consumption, cooking, personal and domestic hygienic requirements. Water, and water facilities and services, must be affordable for all.

The Committee has noted the importance of ensuring sustainable access to water resources for agriculture to realise the right to adequate food. Attention should be given to ensuring that farmers have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology. In order to ensure that there is sufficient and safe water for present and future generations, countries should adopt programs that reduce depletion of water resources through unsustainable extraction, diversion and damming.

The Committee has stated that Indigenous peoples' access to water resources on their ancestral lands should be protected from encroachment and unlawful pollution, and that countries should provide resources for Indigenous peoples to design, deliver and control their access to water.

## Housing

The UN Committee has stated that housing must provide adequate shelter, which means adequate privacy, space, security, lighting and ventilation, basic infrastructure and location with regard to work and basic facilities, all at a reasonable cost. Everyone should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.

Countries should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs.

The Committee has also stated all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. Tenants should be protected by appropriate means against unreasonable rent levels or rent increases.

The UN Special Rapporteur on Adequate Housing is an independent expert appointed by the UN Human Rights Council to examine and report back to the council on adequate housing as a component of the right to an adequate standard of living.

There are a number of cases identified which are related to the right of basic necessities. The decisions of these cases now serve as case laws. Some of the identifies cases are:-

In **Francis Coralie Mullin vs. Administrator, Union Territory of Delhi** (1981, 1 SCC 608 at 618, pr.17) the Court held that right to life means the right to live with basic human dignity. In the case, the petitioner, a British national, who was detained in the Central Jail, Tihar, in India, contended that her five-year-old daughter and her sister were not allowed to have interview with her for more than five minutes in a month. In the context of the detention order under Article 22 and its effect on Article 21, the Court posed the question: What is the true scope and ambit of the right to life guaranteed under this Article? The Court held that while arriving at the proper meaning and content of the right to life, we must remember that it is a constitutional right which we are expounding, and moreover it is a provision enacting a fundamental right and the attempt of the court should always be to expand the reach and ambit of the fundamental right rather than to attenuate its meaning and content.

The Court further held that the fundamental right to life which is the most precious human right and which forms the ark of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person. The Court observed that the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival, and held that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing, shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, free movement and commingling with fellow human beings are part of the right to live with human dignity and they are components of the right to life.

Thereafter, in **C.E.S.C. Ltd. vs. Subhash Chandra Bose** (1992; 1 SCC 441 at p.462, pr.30), the question decided was whether employees appointed by contractors whose wages were being paid through such contractors would fall within Section 2 of the 1948 Act. In that context, the Court observed that the right to livelihood springs from the right to life guaranteed under Article 21. The Court referred to the Universal Declaration of Human Rights, the International Convention on Economic, Social and Cultural Rights which recognize certain needs, which include the right to food, clothing, housing, education, the right to work, leisure, fair wages, decent working conditions, social security, the right to physical or mental health, protection of their families, as an integral part of the right to life. The Court also held that the Preamble and Part IV reinforce them compendiously as socio-economic justice, bedrock to an egalitarian social order. The right to social and economic justice is thus a fundamental right

In **P.G. Gupta vs. State of Gujarat** (1995; Supp 2 SCC 182 at 184, 1) the Court observed that the protection of life assured under Article 21 has given an expanded meaning of the right to life. It is settled



law that all the related provisions under the Constitution must be read together and given the meaning of widest amplitude to cover the variety of rights which go to constitute the meaningful right to life. The Court also adverted to Article 11(1) of the International Covenant on Economic, Social and Cultural Rights which laid down that the States parties to the Covenant recognize the «right of everyone to an adequate standard of living for himself and for his family, including food, clothing and housing, and to the continuous improvement of living conditions. And held that to the poor, settlement with a fixed abode and right to residence guaranteed by Article 19(1)(e) remain more a teasing illusion unless the State provides them the means to have food, clothing and shelter so as to make their life meaningful and worth living with dignity. It is also observed that food, shelter and clothing are minimal human rights.

Thereafter, in **Chamoli Singh & Ors. vs. State of Uttar Pradesh & Anr.** (1996; 2 SCC 549 at) the Court, dealing with the challenge to acquisition proceedings, wherein one of the contentions was that on account of acquisition the owner would be deprived of his land which is his only source of livelihood under Article 21 of the Constitution, held that protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter in order to enjoy the meaningful right to life. The Court further observed that in any organized society, the right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. The right to live guaranteed in any civilized society implies the right to food, water, a decent environment, education, medical care and shelter. These are basic human rights known to any civilized society. All civil, political, social, and cultural rights enshrined in the Universal Declaration of Human Rights and the Convention or under the Constitution of India cannot be exercised without these basic human rights.

It is abundantly clear that the Supreme Court of India is leaving no stone unturned in interpreting various provisions of the Constitution to protect the right to basic necessities of life, a basic human right, by taking into account the changing conditions and purposes, so that democracy in real form is maintained.

The Court, from time to time, injects flesh, blood and vitality into the skeleton of the words used in different Articles of the Constitution, and gives colour and content to the expressions made therein, and also provides it with the skin of living thought. The phrase right to life is given a wider meaning so as to serve the needs of the society.

Now, the right to basic necessities of life has become an inviolable part of the basic structure of the Constitution. This is in conformity with the culture of India. The Indian concept of Dharma (religion) lays extraordinary emphasis on growing and sharing food in abundance. Atharvaveda ensures: All have equal rights in articles of food and water. Further, one of the prayers is: «SahaNavavatu .SahaNauBhunaktu. SahaViryamKaravavahai» (May He (God) protect us both together; may He nourish us both together; may we work conjointly with great energy). We have to try to achieve the said goal, because survival without food is not possible. Lack of food for human beings would undoubtedly generate problems of law and order and, in any case, the freedoms contemplated in the Constitution would be meaningless.