

# FOOD & HEALTH

(Human Rights Perspectives)

Editor

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Aadhar Publications, Amaravati

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## ■ FOOD & HEALTH

(Human Rights Perspectives )

**Dr. Sandip B. Kale**

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## Editorial

I am very happy to publish this book on FOOD & HEALTH (Human Rights Perspectives). All the professors and researchers have made a concerted effort to clarify the contemporary context of Food & Health through various perspectives on the occasion of World Health Day on 7<sup>th</sup> April 2024. An honest effort has been made in cooperation with the professors and researchers to analyze and explicate their views in context with the Food & Health which has been a boon for knowledge through the present editorial book.

The right to food is recognized in the 1948 Universal Declaration of Human Rights as part of the right to an adequate standard of living, and is enshrined in the 1966 International Covenant on Economic, Social and Cultural Rights. It is also protected by regional treaties and national constitutions. Furthermore, the right to food of specific groups has been recognized in several international conventions. All human beings, regardless of their race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status have the right to adequate food and the right to be free from hunger. At the World Food Summit organized by FAO in 1996, States agreed to halve the number of undernourished people by 2015. They also called for the obligations arising from the right to food as provided for under international human rights law to be clarified. In response, the Committee on Economic, Social and Social Rights issued its general comment No. 12 (1999), which defines the right to food. In the United Nations Millennium Declaration, adopted by the General Assembly in 2000, States committed themselves to

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halving the proportion of people suffering from hunger by 2015. In 2004, FAO adopted the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, providing practical guidance to States in their implementation of the right to adequate food.

This Fact Sheet explains what the right to adequate food is, illustrates its implications for specific individuals and groups, and elaborates upon State parties' obligations with respect to this human right. The Fact Sheet also provides an overview of national, regional and international accountability and monitoring mechanisms. In this regard the present editorial book is most valuable & relevant.

The contributions of the professors, researchers and authors who have contributed to FOOD & HEALTH (Human Rights Perspectives) are invaluable. I feel it is my duty to express my gratitude to them. I would not have been able to complete this book without the inspiration of our mentor and former MLA Hon'ble Prof. Sureshbhau Bapuraoji Deshmukh and Hon'ble Shri. Sameerbhau Sureshrao Deshmukh, President of Yeshwant Rural Education Society, Wardha. The faculty members and the non-teaching staff is unique. The publication of this book has been facilitated due to the untiring efforts of our friend Prof. Virag S. Gawande Sir, Director, Aadhar Publications, Amravati. A heartfelt thanks to all the distinguished professors, researchers and loved ones who have contributed to the publication of this book.

Date : 7<sup>th</sup> April – 2024. ✨

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**A study of the challenges faced by migrant labourers during the covid-19 pandemic, as portrayed in viond kapari's "1232km: the long journey to home"**

Dhiraj Narayan Rahutiya  
M.A. (Eng.), M.A. (Mar.), B.Ed.

**Abstract:**

The months of April and May in 2020 brought about significant changes in human life. It was a time of lockdown, social distancing, wearing masks, sanitizing, migration, job losses, mental illness, anxiety, helplessness, and more. The pandemic COVID-19 had a severe impact on the lives of labourers, who struggled to survive. Literature often reflects the reality of the time through imagination and establishes a strong connection between writing and the pandemic. The pandemic has affected various aspects of life, including economic, political, social, and environmental structures. These changes have provided an opportunity to study human life more deeply. This study aims to compare the impact of the pandemic on the lives of laborers and their perception of life and livelihood. VinodKhapri's novel "1232: Journey to Home" not only offers a fictional account but also a realistic and truthful documentary on the lives of laborers during COVID-19

**Key words:** lockdown, social distancing, using masks, using sanitizer, migration, job losses, mental illness, anxiety, helplessness.

**Introduction:-**

The COVID-19 pandemic has brought about a significant change in the way people live their lives, affecting almost every aspect of human life. The labourers, in particular, have had a very difficult time due to the pandemic. The nationwide lockdown in India has had a profound impact on the lives of millions of labourers, leaving them without jobs, food, and shelter. They were completely helpless during this period. Despite efforts from the government, social institutions, and administration, they were unable to provide meaningful assistance to the labourers. As a result, the labourers faced a difficult choice: either to starve to death or to risk their lives by travelling back to their hometowns. The labourers' lives had been sold to contractors in

7. 1232 Km: the long journey home/VinodKapri/harperCllins Publishers India/2021/38
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## Right to Food as a Human Right in India.

**Dr. Ramesha K\***

**Srishtya L\*\***

### Abstract:

*“Food, shelter and clothes are basic essential elements for every individual for his life, without which life is impossible, the Food is the most essential of our life, without having food a human body cannot function for a very long time. Every individual has needed energy to carry the work and food provides that energy. Food is required for the every one for ultimate survival of life. The Constitution of India has provided various fundamental rights to citizens of India like; right to equality, right to freedom, and right to life. However, if there is no food, these rights are of no use. This statement itself shows the significance of food and how essential it is in our life. Therefore all the rights of human are relay on the right to food. The Supreme Court upheld the right to food is also a part of right to life under article 21 of the Indian constitution. The right to food as a human right has recognized in various international treaties, conventions and declaration at international level like are United Nations Universal Declaration of Human Rights in 1948. The Food and Agriculture Organization (FAO), The International community has identified the reduction of poverty and hunger as one of the overreaching goals for development policy in the new millennium. The Millennium Development Goals outlines a framework for development actions, as well as benchmarks for measuring development progress. A further recommitment to the right to adequate food came in 1999 from the United Nations Committee on Economic, Social, and Cultural Rights. In the text of the International Covenant on Economic, Social, and Cultural Rights, The Universal Declaration on the Eradication of Hunger and Malnutrition (1974): Convention on the Elimination of*

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*All Forms of The Discrimination against Women (CEDAW), Convention on the Rights of the Child. In the Indian context, the right to food can be found in the Constitution of India, though there is no explicit provision on right to food. The fundamental right and Directive Principles of State Policy. The right to food has the potential to drastically improve the living conditions and health of millions of families across the India. With the added benefit of Government provides subsidized grains from various schemes through the National food security Act 2013. This paper is based on doctrinal work and the data collected from books, journals, news paper articles and Government notifications. This paper provides a strong platform to discuss about right to food provisions in international and national human right provisions, judicial contribution to implementing the right to food in India.*

**Keywords:** Human Right, United Nations. Food and Agriculture Organization, Constitution of India,

**Introduction:**

The right to food has been recognized broadly as a basic human right at all levels like national, regional and global. Food is a basic necessity for an individual to survive. A man cannot live without food for a long time. But, not every individual on this planet goes to sleep satisfactorily after having proper food. Hunger is a global problem. On one side, we can observe huge wastage of food in gatherings and hotels. On another side, we also see people dying of hunger and malnutrition. Any responsible Government, individual and NGO should think about ensuring that the hunger problem of every individual in its territory is solved.

When we venture into analyzing the problem of hunger, we come across a chain of issues and problems that have made this problem prevalent and chronic. The large chain includes – land holdings, agricultural production, agricultural marketing, food grain acquisition and distribution, Government policies relating to food items and most importantly – the effect of Globalization and WTO norms.

According to Food\* and Agricultural Organization (FAO) reported more than 800 million people throughout the world do not

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have sufficient food to meet their basic requirement.<sup>1</sup> And 98% of the people in world they are living in undernourished in the developing countries.<sup>2</sup> According to Global Hunger Index Report 2023 India obtain the 111<sup>th</sup> rank had got among the 125 countries, in India scored fall to 28.07 percent.<sup>3</sup>

The right to food is a fundamental human right recognized by international law in several dimensions some provisions are directly mentioned about the food provisions some provisions are mention indirectly.

Article, 25<sup>4</sup> of the Universal Declaration of Human Rights (UDHR),<sup>5</sup> Article, 11(1)<sup>6</sup> of the International-Covenant on Economic,

<sup>1</sup> [www.fao.org/publication/sofi/en/](http://www.fao.org/publication/sofi/en/), visited 26/02/2024 at 10:10pm

<sup>2</sup> <http://www.tho.org>, visited on 26/02/2024 at 10:40pm

<sup>3</sup> Global Hunger Index Report 2023

<sup>4</sup> Article 25 of UDHR, *Everyone has the right to a standard of living adequate for the health and well-being of himself and of 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. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.*

<sup>5</sup> The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of Human Rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 General Assembly resolution 217(iii) as a common standard of achievements for all peoples and all Nations. It sets out, for the first time, Fundamental Human Rights to be universally protected.

<sup>6</sup> Article 11(1) of ICESCR, 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

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Social and Cultural Rights (ICESCR),<sup>7</sup> Article, 11<sup>8</sup> of the ICESCR lays out a three-part rubric for fulfilling these rights, based on the following policy measures.

First, increasing food availability nationally and internationally by increasing production, specifically by harnessing and disseminating technical and scientific knowledge to improve methods of production, conservation and distribution of food.

Second, enhancing access to food at the country level by ensuring an equitable distribution of world food supplies in relation to need.

Third, targeting food utilization by identifying good nutrition as a crucial link between food access and health outcomes at the individual level. Article 11, paragraph 2 thus instructs countries to

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effect the essential importance of international co-operation based on free consent.

<sup>7</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 3 January 1976

<sup>8</sup> Article 11 of ICESCR, 1. 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.

2. 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 programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food 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.

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disseminate "knowledge of the principles of nutrition" to ensure adequate utilization of food.

Articles, 24(2)(c)<sup>9</sup>, 27(1)<sup>10</sup> and 27(3)<sup>11</sup> of the **Convention on the Rights of the Child (CRC)** and Under Article, 12(2)<sup>12</sup> of the **Convention on the Elimination of All Forms of The Discrimination Against Women (CEDAW)** make provisions on right to food.

The Constitution of India does not directly mention about the right to food as a fundamental right. However Article, 21<sup>13</sup> of Indian Constitution guarantees a fundamental right to life and personal liberty. The expression 'life' in this article means a life with human dignity and not mere survival or animal existence. The right to food is inheritance to a life with dignity, and Article, 21 should be read with

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<sup>9</sup> Article, 24(2)(c)<sup>9</sup> CRC, To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

<sup>10</sup> Article 27(1) of CRC, States Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

<sup>11</sup> Article 27(3) of CRC, States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

<sup>12</sup> Article, 12(2) of CEDAW, Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

<sup>13</sup> Article 21, No person shall be deprived of his life or personal liberty except, according to procedure established by law.

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Article, 39(a)<sup>14</sup> and 47<sup>15</sup> of Indian Constitutions to understand the nature of obligation of State in order to ensure the effective realisation of the right to food.

In modern days the Judiciary play very important role relating to the right to food and it broadly interpreted Article 21 which deals with right to life includes the right to adequate and nutrition food as a Fundamental right and also further stated the primary responsibility of Government to prevent hunger and starvation.<sup>16</sup> The judiciary also gives the direction to Government through the interim orders for ensuring the food through various schemes like are PDS, Mid-Day Meals<sup>17</sup> schemes to school children. In these matters the Supreme Court of India directed to Government to provides adequate and quality of food to all peoples in country. The quality and adequate food are includes the micronutrients such as vitamins and minerals and other necessary ingredients to human. Hence, people may have access to sufficient quantities of food to their necessity of his body.

**Obligation of the state to provides the food:**

State has the primary obligation to protect and promote human rights of every person. Human Rights obligations are defined and guaranteed by International Customary law and International Human Rights Treaties, creating binding obligations on the States that have ratified them to give effect to these rights.

The existence of state, the head of the state felt the necessity to define its structure relates the power and duties of the head of the state, and also have liability of people to contributes a part of their

<sup>14</sup> Article 39(a) that the citizens, men and women equally, have the right to an adequate means to livelihood.

<sup>15</sup> Article 47, Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

<sup>16</sup> People's Union for Civil Liberties v. Union of India and other(civil write petition196 of 2001), Supreme Court Order dated 20<sup>th</sup> August, 2001

<sup>17</sup> People's Union for Civil Liberties v. Union of India and other(civil write petition196 of 2001), Supreme Court Order dated 21<sup>st</sup> August, 2001

income by way of tax, which should be placed at the hand of head of state for purpose of the defence of the realm and maintaining peace, safety and order in the society and also undertake various welfare measure for the benefit of the people.<sup>18</sup> Those welfare measures implies the setting up of minimum desirable standards and provisions of facilities like health, food, clothing, housing, education and other basic necessity of the people.

In this view the state has an obligation to provide the food and other basic needs to the people, this obligation recognized by the Constitution also, it casts the duty on the state to provide the basic needs to its people. The Right to food and corresponding obligations of the State, there are three types, like Respect, protection and fulfilment.

The "respect-bound obligations" impose a duty on states not to destroy access to food. These respect-bound obligations are unconditional in the sense that the state can always be expected to stop destroying people's access to food. Since even the poorest state can do so, these obligations are imperative.

The "protection-bound obligations" make a state duty-bound to protect a person's access to food against destruction by a third party his or her neighbours, employers or business enterprises. Whereas the respect-bound obligations are fairly without any discrimination, protection-bound obligations can become fairly.

The "fulfilment-bound obligations" refers to the state's duty to fulfil access to food for those in need. It means, in particular, the state's obligation to provide food for each person threatened by hunger and malnutrition. It does not mean that the general state obligation is, to provide food. To fulfil means nothing more and nothing less than to ensure that people overcome their deprivation.

**International Provisions on Right to Food:**

"The right to adequate food means that every man, woman and child alone and in community with others must have physical and economic access at all times to adequate food using a resource base

<sup>18</sup> M Rama Jois, Legal and Constitutional History of India-Ancient legal judicial and constitutional system, Universal law publishing co pvt(2005) Ltd, pp 578.

appropriate for its procurement in ways consistent with human dignity. The right to adequate food is a distinct part of the right to an adequate standard of living”.

The right to food is enshrined in several International Human Rights Instruments and other treaties, they are:

**1. The Universal Declaration on Human Rights (1948):** The right to food was recognized for the first time at the international level in 1948 *Universal Declaration of Human Rights*. Says that: *“Everyone has the right to a standard of living adequate for the health and well-being of himself and of 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 importance of the Universal Declaration of Human Rights lies in its being accepted today by *all countries*.

**2. The International Covenant on Economic, Social and Cultural Rights (1966):** In 1966, almost eighteen years after the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights was adopted. This treaty offers that the governments recognized several economic, social and cultural human rights, among which the right to food, the right to health, the right to education, the right to adequate housing and the right to work. Article 11, says Governments committed themselves to take all measures necessary to ensure: *“the right of everyone to an adequate standard of living for himself and his family, including adequate food... and to the continuous improvement of living conditions”*. And also recognized was: *“the Fundamental Right of everyone to be free from hunger”*. The International Covenant on Economic, Social and Political Rights is a treaty, legally binding for the 151 countries that have ratified it.

**3. Convention on the Rights of the Child 1989:** The UN Convention on the Rights of the Child is internationally binding agreement on the rights of children, which was adopted by the United Nations General Assembly in 1989. Articles, 27(1) and 27(3) of the Convention on the Right of the Child (CRC) says that the state party to recognize *“the right of every child to a standard of living adequate for the child’ physical, mental, spiritual, moral and social development.”* The States Parties to the Convention have the duty to

“take appropriate measures” to assist parents in fulfilling their primary responsibility to implement such right, “particularly with regard to nutrition.” Moreover, Article, 24(2)(c) of the CRC obligates States to combat child malnutrition and provides the basic needs including primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water.

**4. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):** The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is an International Treaty adopted in 1979 by the United Nation General Assembly, this Convention do not mention direct provisions relating to right to food but provides some special concern on women during the pregnancy and lactation period, that time state have obligation to provides the adequate, standard and nutritional food for every women. This Convention was signed by India on 30 July 1980 and ratified it on 9 July 1993.

**5. The Universal Declaration on the Eradication of Hunger and Malnutrition (1974):** The Universal Declaration on the Eradication of Hunger and Malnutrition was on adopted on 16 November 1974, by governments who presence the 1974 World Food Conference that was convened under the UN General Assembly. The Universal Declaration on the Eradication of Hunger and Malnutrition affirmed that it is a fundamental human right to be free from hunger and malnutrition, so that one can develop both their mental and physical faculties fully. This Declaration arose out of ever-growing concerns regarding worldwide famine and in doing so, stressed that every country that is in a position to be able to assist developing nations to gain access to more, better quality food has the responsibility to ensure that right food is realized.

**6. United Nations Special Rapporteur on the Right to Food 2007:** In 2000, the erstwhile UN Commission on Human Rights created the, mandate of a Special Rapporteur on the right to food. In 2007 the mandate was endorsed and extended by the Human Rights Council. The Special Rapporteur monitors the implementation of the right to food, undertakes country visits, and reports to the Human Rights Council and General Assembly. Building on General Comment 12, the Special Rapporteur has focused especially on further clarifying

the content of the right to food and giving meaning to the Government obligation with the respect to this right. According to the Special Rapporteur, the right to is:

“The right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.”<sup>19</sup>

**National Provisions on Right to Food:**

The right to food has been recognized as part of the right to an adequate standard of living conditions and adequate food. The right to food provisions is not mentioned directly in any Articles of Indian Constitution but it is available under Article 21 of the Indian Constitution by judicial interpretations<sup>20</sup>. This implicit the provisions relating to social security, minimum income, agrarian reform or minimum wage legislation, which tend to refer to basic needs, including food, cloth and house.

**Constitutional Provisions on Right to Food:**

Right to Food is associated with other economic and social rights, like the right to education, work, information and health. These economic and social rights harmonize and strengthen each other. In particular, their role was to bring economic and social democracy, it the absence of political democracy would remain unproductive. Various provisions of Directive Principles of State Policy concentrate on the problem of establishing social and economic Democracy. Members of the Constituent Assembly gave their thoughts on the importance to the Directive Principles. According to Dr. B. R. Ambedkar, “in enacting this part of the Constitution the assembly is giving certain directions to the future legislative and the future

<sup>19</sup> Olivier De Schutter, “right to food”, united nations special rapporteur on the right to food,

<http://www.srfood.org/index.php/en/right-to-food> accessed on 20/03/2024, at 9:20 pm

<sup>20</sup> People Union for Civil Liberty V, Union of India, (2013)2 SCC 688

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executive to show in what manner they are to exercise the legislative and executive power they will have. Surely, it is not the intention to introduce in this part these principles as pious declarations. It is the intention of the assembly that in future both the legislative and executive should not merely pay lip service to these principles, but they should be made the basis of all legislative and executive actions that they may be taking here after in the matter of the governance of the country”<sup>21</sup>.

The Constitution of India does not directly mention about the right to food as a fundamental right. However Article, 21<sup>22</sup> of Indian Constitution guarantees a fundamental right to life and personal liberty. The expression ‘life’ in this article means a life with human dignity and not mere survival or animal existence. The right to food is inheritance to a life with dignity, and Article, 21 should be read with Article, 39(a)<sup>23</sup> and 47<sup>24</sup> of Indian Constitutions to understand the nature of obligation of State in order to ensure the effective realisation of the right to food. Article, 39(a) of Directive Principles of State Polices, it provides to fundamental duty of state, it requires the state to direct its policy towards the securing that the men and women equally they have the right to an adequate means to livelihood. The livelihood includes the food also so states have duty to provide the food and other necessity items of the livelihood to every citizen. And also fundamental in the governance of the country, the State directs its policy towards securing that the citizens, without any discrimination, have the right to an adequate means to livelihood for every citizens of

<sup>21</sup> Constituent Assembly Debates (CAD). Official Report, Lok Shaba secretariat. New Delhi: Vol. II. (1999) p. 382.

<sup>22</sup> Article 21, No person shall be deprived of his life or personal liberty except according to procedure established by law.

<sup>23</sup> Article 39(a) that the citizens, men and women equally, have the right to an adequate means to livelihood.

<sup>24</sup> Article 47, Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

India. Further Article, 47 provides the duty of the State to raise the level of nutrition and the standard of living of its people as a primary responsibility, these provisions direct to state provides the adequate and nutritional food to everyone in state. The citizen's right to be free from hunger enshrined in Article, 21 is to be ensured by the fulfilment of the obligations of the State set out in Articles 39(a) and 47.

The reading of Article, 21 jointly with Articles, 39(a) and 47, places the subject of food security in the proper perspective, thus making the Right to Food a guaranteed Fundamental Right which is enforceable by virtue of the Constitutional remedy provided under Article, 32<sup>25</sup> of the Constitution of India. The requirements of the Constitution proceeded, and are consonant with, the obligations of the State under the International Covenant of The Economic, Social and Cultural Rights, 1966 to which India is a party. The Covenant, in Article, 11,<sup>26</sup> expressly recognises the right of everyone to an adequate standard of living, the convention also impose the duty to state provides the adequate and nutrient food to citizens.

**National Food Security Act, 2013 (also known as Right to Food Act):**

The National Food Security Act (NFSA) came into effect on July 5<sup>th</sup> 2013, aims to ensure, "food and nutritional security in human life cycle approach, by ensuring access to adequate quantity and quality food at affordable prices to people to live a life with dignity"<sup>27</sup>

<sup>25</sup> Article 32, Remedies for enforcement of rights conferred by part of Indian Constitution.

<sup>26</sup> Article 11 of ICESCR 1966, recognises the right of everyone to an adequate standard of living. This includes, but is not limited to, the right to adequate food, clothing, housing, and "the continuous improvement of living conditions." It also creates an obligation on parties to work together to eliminate world hunger.

<sup>27</sup> Government of India. 2013. The National Food Security Act, 2013. The Gazette of India: Extraordinary

(Part II, Sec 1. September. <http://indiacode.nic.in/acts-in-pdf/202013.pdf>, accessed on 28/02/2024, at 9:20pm

The Act that aims to deliver food security to a large segment of the country will have significant implications. Costs shall be shared between the Centre and State. Costs imposed on the state (partial or full) include nutritional support to pregnant women and lactating mothers, mid-day meals, Anganwadi centre, meals for children suffering from malnutrition, transport and delivery of food grains, creating and maintaining storage facilities and costs associated with District Grievance Redressal Officer and State Food Commission. Although the Centre shall provide some assistance, the State will have to bear a significant financial burden on account of implementation.

**Judicial Contribution on Right to Food:**

In India, judiciary play the unique role relating to the right to food it was broadly Article 21; right to life includes the right to adequate and nutritious food as a fundamental right and also further stated the primary responsibility of Government to prevent hunger and starvation.<sup>28</sup> The judiciary also give the direction to Government through the interim orders for provides the food relating schemes like are Mid-Day Meals<sup>29</sup> schemes, in this scheme, the Supreme Court impose more responsibility to Central Government like provides the financial assistance, constructions of kitchen, give the priority to Dalit cooks and other quality safeguards also issued.<sup>30</sup> In these matters the Supreme Court of India issue direct to Government for provides the adequate and quality of food all peoples in the country.

While the Indian Supreme Court has reiterated in several of its decisions that the right to life guaranteed in Article 21 of the Indian Constitution in its true meaning includes, the basic right to food, clothing and shelter, it is indeed surprising that the justiciability of the specific right to food as an integral right under Article, 21 had never been articulated or enforced until 2001. Before the Right to Food,

<sup>28</sup> People's Union for Civil Liberties v. Union of India and other ((2013)2 SCC 688)

<sup>29</sup> Ibid

<sup>30</sup> People's Union for Civil Liberties v. Union of India and other((2013)2 SCC 688)

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petition filed by PUCL in 2001, the only other case concerning specifically the right to food, went up to the Supreme Court in 1986 was the case of *Kishen Pattnayak vs. State of Orissa*<sup>31</sup>. In this petition, the petitioner wrote a letter to the Supreme Court bringing to the court's notice the extreme poverty of the people of Kalahandi in Orissa where hundreds were dying due to starvation and where several people were forced to sell their children. The letter prayed that, the State Government should be directed to take immediate steps in order to ameliorate this miserable condition of the people of Kalahandi. This was the first case specifically taking up the issue of starvation and lack of food. In this judgment, the Supreme Court took a very pro-government approach and gave directions to take macro level measures to address the starvation problem such as implementing irrigation projects in the state to reduce the drought in the region, measures to ensure fair selling price of paddy and appointing of a Natural Calamities Committee. None of these measures directly affected the immediate needs of the petitioner, i.e. to prevent people from dying of hunger. More importantly, the Supreme Court did not recognise the specific right to food within this context of starvation. In *Chameli Singh v. State of U.P.*<sup>32</sup> it was held that, right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. The method in the Constitutional social rights or the DPSP have been enforced or made justiciable by the Supreme Court has been through an expansion of the existing Fundamental Rights, particularly the right to life guaranteed in Article 21. Right from the late 1970s starting from the *Maneka Gandhi's case*<sup>33</sup> the Supreme Court started expanding the guarantee of the right to life in Article 21, it include within it and recognise a whole of social rights<sup>34</sup>. Other Problems are: In spite of the increase in food subsidy, the overall impact on the poor is still

<sup>31</sup> AIR 1989 SC 677.

<sup>32</sup> AIR 1996 SC 1051

<sup>33</sup> AIR 1978 SC 597.

<sup>34</sup> Francis Coralie Mullin v Union Territory of Delhi, 1981(1) SCC 608.

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wanting. There has been significant diversion of commodities under the Public Distribution System to the open market. There are also problems in delivery, quality and coordination. However, efforts are underway to rectify some of these problems. The Supreme Court orders in response to the PUCL writ petition and the campaign on right to food have had a positive impact.

**Conclusion:**

The right to food as a human right recognised under national and international law, which protects the right of people to access food and feed themselves, either by producing their food or by purchasing it. The right to food is linked to one's right to life and dignity and requires that food be available, accessible and adequate for everyone without discrimination. The human rights approach to the right to food and nutrition is increasingly becoming popular as against policy oriented programmatic approach to development as it introduces normative basis and provides for an element of accountability by virtue of which state can be compelled to protect certain interests.

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## Mulk Raj Anand : Human Rights in the Novel Untouchable

Dr. Vitthal A. Ugemuge

Associate Professor of English A.M. College, Adyal

Mulk Raj Anand was a well-known and renowned novelist in Indian writing in English. He has produced dignified and social aware literature for uplifting the life of downtrodden. Almost all his novels concern with the life of underprivileged sections of Indian society. Being an Indian and brought up in Indian social background; he was keenly connected an injustice which imposed upon oppressed and suppressed section of the society which is nothing but the violation of their right to life and physical safety. Since his childhood days, he observed the large scale of exploitation of poor by rich. His fictions demonstrates the impact he received in his childhood. Anand's fiction display the violation of the human right of the underprivileged during the pre-independence period. In pre-independence era caste, creed and religion plays vital role in Indian society. Human rights are articulation for the need for justice. Mulk Raj Anand novels an epitome of human rights. His well known novel *Untouchable* is a picture and gallery of poverty and oppressed people of the society. With his writing tool, he attempts to spread human rights. In fact, he felt intensely the restoration of human rights to every downtrodden of the deprived section of the society. In pre-independence era, upper classes people treated very pathetically to the downtrodden community. Their rights of livelihood had been neglected by the upper-classes of society. On every theme, the novel *Untouchable* has set up.

Human right is a weapon in the hand of oppressed section of the society. It treats equal to all the human beings. Human rights are those basic standards without which people can not live in dignity. To advocate human rights is to demand that the human dignity of all people be respected. Human rights afford suitable and dignified life i.e. rules are equal to all human beings. Mulk Raj Anand novel *Untouchable* provides us and strongly narrate that man should have equal rights to live. There should be no demarcation on the caste and creed or religion. As a social reformer, he penned almost all his

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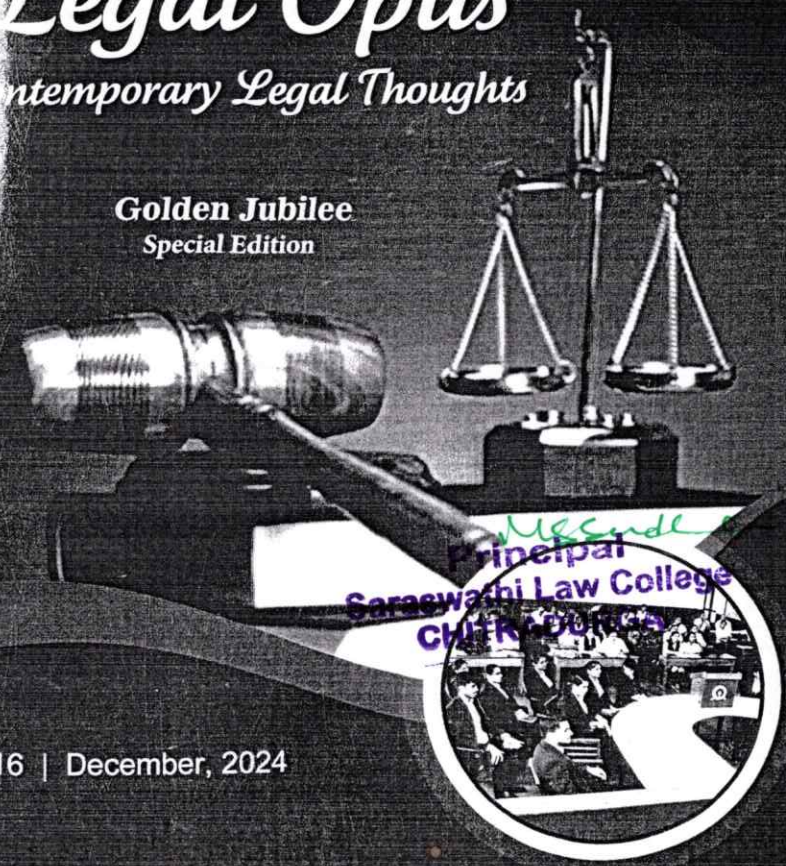
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## EDITORIAL

The 21st century is the era of the knowledge revolution. The age-old notion of the human mind as the ultimate epicenter of knowledge is challenged by the emergence of artificial knowledge in the form of artificial intelligence. In pursuit of knowledge the factor that is feared most is the loss of original or creative knowledge. Creative knowledge in any field is meant for understanding human problems, application of new tools, procedures for testing the established truths, and arriving at a solution to the problem from multidimensional levels. A true researcher always strives to achieve above objectives. In this process he needs to develop objectivity, impartiality, honesty and above all intellectual integrity.

The 16<sup>th</sup> issue of Legal Opus- Contemporary Legal thoughts brings forth chapters, articles from academicians and other personnel from the legal sphere aspiring to be researchers of quality and integrity. We have received a good number of articles which have undergone blind peer review. We acknowledge all our contributors for presenting their scholarly thoughts. A heartfelt gratitude to our Management headed by Dr. D. Veerendra Heggade, the President SDME Society, Ujire, Vice President Sri. Surendra Kumar, Secretaries Sri. Harshendra Kumar, Dr. Satheeshchandra S and all other members of the Management for all support extended to us in our endeavors. I appreciate the efforts of Dr. Santhosh Prabhu, Associate editor for the compilation of this work. Special thanks to Manjushri Printers for the quality printing of this issue.

**Dr. Tharanatha**  
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I, Dr. Tharanatha, hereby declare that the particulars given above are true to the best of my knowledge and belief.

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## ACHIEVING SUSTAINABLE DEVELOPMENT GOALS THROUGH GENDER EQUALITY IN EDUCATION: A HUMAN RIGHTS PERSPECTIVE

Dr. Anu Prasanna<sup>1</sup>

### Abstract

Gender Equality is a fundamental human right and the essence of human rights jurisprudence. It symbolises the needs and interests of all the genders-women, men, transgenders thereby, allowing them to take independent decisions as human beings brushing aside all stereotypes and prejudices. In simple words, Gender Equality means equality in opportunities for women, men, transgender in fields of education, employment, health care, economic resources, leadership positions, participation in decision making process and contributing towards social, economic and political development of the nation. Although these rights are guaranteed evenly to both men and women, the disparity exists even today and women are found to be more discriminated. There are many ways to remove the stereotypes and prejudices but one of the primordial ways to remove the gender disparity is through educating the women globally and thereby, empowering them and enabling them to stand at par with men. The same is reflected in Sustainable Development Goal 4 (SDG 4) and it should be achieved in cooperation with Sustainable Development Goal 5 (SDG5) that emphasises on 'Achieving Gender Equality and Empowering all Women and Girls'. However, it is to be noted that Education is not the sole way to achieve gender equality. In order to bring a change in the existing situation, realisation should happen within oneself and one's family, then in the Community and ultimately in the society wherein, the values of equality can be inculcated thereby, shattering the social stigma that women are inferior and an object for discrimination.

**Keywords:** Women, Gender Equality, Human Right, Sustainable Development Goals, Social Stigma

### Introduction

In the words of UN Secretary General Mr. Antonio Guterres: Achieving Gender Equality and Empowering Women and Girls are the unfinished business of our time, and the greatest human rights challenge in our world.<sup>2</sup> Gender Equality is thus a fundamental human right and the essence of human rights jurisprudence.<sup>3</sup> The very essence of human rights jurisprudence is that it symbolises the needs and

<sup>1</sup> Assistant Professor, Karnataka State Law University, Hubballi.

<sup>2</sup> The UN Secretary General's Message on International Women's Day, UN Women (Jan. 15, 2024 3:30 P.M) <https://www.unwomen.org/en/news/stories/2018/3/statement-un-sg-iwd>

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# DUTIES AND RESPONSIBILITY OF LOCAL GOVERNMENT IN ENVIRONMENTAL PROTECTION

L. Srishyla<sup>1</sup>

## Abstract

In the modern era, it is highly impossible to look after the affairs of the state from corner to corner of the state. So the power of the Government has been decentralized. So in the 90's through 73<sup>rd</sup> and 74<sup>th</sup> amendment to the constitution local self-government has been introduced with some obligation to look after all the affairs of the particular area, it also includes environmental protection. In this paper I am discussing the concept of local government, environment and duties and responsibilities of the local governments in the protection of environment.

**Keywords:** Environment, Local Self Government, Duties and Obligations, etc.

## Introduction

The local Government is a type of democratic decentralization where the cooperation of even the grass root level of the society is ensured during administration. In the recent years local government and non-government organisations has been a subject of extraordinary arrangement of social research and assessment with regards to improvement being looked through a procedure of decentralization of political power at the grass root level. After the enactment of 73rd and 74th Amendments to the Constitution it appropriate to deliberate on the barriers and the way forward in shaping up effective<sup>2</sup>

Local government is the regulation and administration of local affairs by the people inhabiting the locality through representative bodies composed mainly of elected representatives. Local government refers to the operations of Municipal corporations, Local authorities, District boards, Panchayats and other local bodies which are entrusted with the execution of functions, relating to and concerning the residents of a locality.

The institutions of local government have flourished in India since time immemorial. The Panchayats or village governments were ancient institutions and were

themselves small republics. Although local government existed in India in ancient times, in its present structure and style of functioning, it owes existence to the British rule in India. A beginning of local government in India may be said to have been made in the year 1687 when, for the first time, local governing body — a Municipal corporation was set up for Madras.

## Definitions of Local government

Sidgwick — "*Local government consists of certain subordinate bodies which have defined powers of making rules and regulations within their prescribed area of administration*"<sup>3</sup>

W. A. Robson — "*Local government may be said to involve the conception of territorial, nonsovereign community possessing the legal right and the necessary organisation to regulate its own affairs*"<sup>4</sup>

## Environment

Environment can be defined as a sum total of all the living and non-living elements and their effects that influence human life. While all living or biotic elements are animals, plants, forests, fisheries, and birds, non-living or abiotic elements include water, land, sunlight, rocks, and air.

Environment— Environment has been defined to include air, water, and land, and the inter-relationship among and between air, water, land and human beings, other living creatures, microorganisms, plants and property<sup>5</sup>

## Local Environment

The term "local environment" refers to the immediate surroundings and conditions within a specific geographic area or community. It encompasses the natural, built, and social elements that shape the environment in which people live. The local environment includes factors such as the local ecosystem, land use patterns, infrastructure, air and water quality, waste management practices, and community dynamics<sup>6</sup>.

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<sup>2</sup> <http://www.jeywin.com/wp-content/uploads/2010/03/Optional-Public-Administration-12-> (Last Seen on 27-09-2023).

<sup>3</sup> Henry Sidgwick, "The Elements of Politics", De Boeck Superieur publication, 2001. p. 43

<sup>4</sup> William A. Robson's "Welfare State and Welfare Society Illusion and Reality"(1976) Routledge publication (1st ed) p 23

<sup>5</sup> Sec. 2 of Environmental Protection Act, 1986.

<sup>6</sup> J.R. Karr's "Environmental Impact: Concept, Consequences, Measurement" PMC Publication, p.34

Subjection. Among these subjects, the following are related to environment management.

Municipal bylaws affect the environment in many ways, from regulating and licensing businesses, to controlling nuisances, to a wide variety of measures designed to protect or enhance the general welfare of the community. While a comprehensive review of municipal jurisdiction is beyond the scope of this paper, key areas of jurisdiction are examined briefly below.

In many cases, it is through their jurisdiction over land use planning and development that Local authorities have their greatest impact on the environment. This process, the applicable law, and opportunities for public involvement are examined in detail in Part 2, Municipal land use planning and the environment.

#### **Business licensing and regulation<sup>9</sup>**

Local authorities are authorized to license and regulate businesses within their boundaries. This includes the power to restrict or prohibit businesses that are unsuitable or undesirable due to local health or environmental impacts, provided the regulation does not conflict with federal or provincial law. However, decisions regarding acceptable locations for different types of businesses and industrial facilities, and site-specific development conditions, are made through the land use planning process.

#### **Nuisances<sup>10</sup>**

Local authorities are empowered to pass bylaws respecting nuisances and unsightly property. "Nuisance" is not defined in the legislation, leaving Local authorities with the power to manage and control Nuisance happens within the Jurisdiction of the Local authorities like air, water, environmental pollution by the people of the Communities.

#### **Safety, health and general welfare<sup>11</sup>**

Local authorities are empowered to pass bylaws respecting the safety, health and welfare of people and the protection of people and property. This power, referred to as the general welfare power, has been broadly interpreted by the courts. In addition, the local authorities specify that the power to make bylaws is intended to enable councils to

<sup>9</sup> List 18 of 12<sup>th</sup> Schedule of Indian Constitution

<sup>10</sup> Sec 87, The Karnataka Panchayat Raj Act, 1998 and Sec 224 to 242, Karnataka Municipalities Act, 1964.

<sup>11</sup> Sec 213 to 223, Karnataka Municipalities Act, 1964

respond flexibly to present and future concerns. Both the Grama Panchayat<sup>12</sup> and ZillaPanchayat have to perform the functions which are specified in the first and Second schedule of the panchayat Act.

#### **Agriculture, including agricultural extension<sup>13</sup>**

Both GramaPanchayat and ZillaPanchayat has to take appropriate steps for promotion and development of agricultural and horticulture activities, development of waste lands into cultivable and eco-friendly lands and development and maintenance of grazing lands and prevent their unauthorized use of the land.

#### **Animal husbandry, dairying and poultry<sup>14</sup>**

It is the obligation of both Grama and ZillaPanchayat is to improvement of breed of cattle, poultry and other live stocks, promote dairy farming, poultry and piggery forming, and to take all necessary measures for the development of Grassland.

#### **Social and farm forestry, minor forest produce, fuel and fodder<sup>15</sup> and Urban forestry, protection of the environment and promotion of ecological aspects<sup>16</sup>**

Objectives of Social Forestry is as follows

- Improve the environment for protecting agriculture from adverse climatic factors
- Increase the supply of fuel wood for domestic use, small timber for rural housing, fodder for livestock, and minor forest produce for local industries,
- Increase the natural beauty of the landscape; create recreational forests for the benefit of rural and urban populations,
- Provide jobs for unskilled workers,
- Effect land rehabilitation
- Raise the standard of living and quality of life of rural and urban people.

#### **Khadi, Village and cottage industries<sup>17</sup>**

The panchayat has to promote rural and cottage industries which are environmental friendly and also organize conferences, seminars and training programs, agricultural and industrial exhibitions for the benefit of the rural areas.

<sup>12</sup>Sec. 58 of Act.

<sup>13</sup>List 1 of 11<sup>th</sup> Schedule of the Indian Constitution

<sup>14</sup>List 4 of 11<sup>th</sup> Schedule of the Indian Constitution

<sup>15</sup>List 5 of 11<sup>th</sup> Schedule of the Indian Constitution

<sup>16</sup>List 8 of 12<sup>th</sup> Schedule of the Indian Constitution

<sup>17</sup>List 9 of 11<sup>th</sup> Schedule of the Indian Constitution

### **Drinking Water**<sup>18</sup>

The Local self-government has to construct, repair and maintenance of drinking water, wells, tanks and ponds which must maintained by panchayat and provide pure and drinkable water to the villagers, prevention and control of water pollution, maintenance of rural water supply schemes.

### **Roads, buildings, culverts, bridges, ferries, waterways and other means of communication**<sup>19</sup>

Healthy environment need cleanliness, which can maintained by construction and maintenance of proper roads, drains and culverts and the panchayat has to maintain boats, ferries and waterways which are under the control of panchyats.

### **Non-Conventional energy sources**<sup>20</sup>

Non-conventional sources are also known as renewable sources of energy. Examples of non-conventional sources of energy include solar energy, bio energy, tidal energy and wind energy.

#### **Solar Energy**

Solar Energy is produced by sunlight. The photovoltaic cells are exposed to sunlight based on the form of electricity that needs to be produced. The energy is utilized for cooking and distillation of water.

#### **Wind Energy**

The Panchyat has to encourage the Wind Energy. Wind energy is generated by harnessing the power of wind and mostly used in operating water pumps for irrigation purposes. India stands as the second-largest country in the generation of wind power.

#### **Tidal Energy**<sup>21</sup>

Tidal energy is generated by exploiting the tidal waves of the sea. This source is yet to be tapped due to the lack of cost-effective technology.

The Panchayat has an obligation to promote and development of non-conventional energy schemes, maintenance of community non-conventional energy devices, including bio-gas plants and propagation of improved chulhas and other efficient energy devices.

<sup>18</sup> List 11 of 11<sup>th</sup> Schedule of the Indian Constitution

<sup>19</sup> List 13 of 11<sup>th</sup> Schedule of the Indian Constitution and List 4 of 12 Schedule of Constitution

<sup>20</sup> List 15 of 11<sup>th</sup> Schedule of the Indian Constitution

<sup>21</sup> A form of power produced by the natural rise and fall of tides caused by the gravitational interaction between earth and the sun and the Moon

### **Sanitation**<sup>22</sup>

The Local Sanitation includes the maintenance of general sanitation, cleaning of public roads, tanks, wells and other public places, maintenance and regulation of burning and burial grounds, construction and maintenance of public latrines, disposal of unclaimed corpses and carcasses which makes environmental pollution and manage and control of washing and bathing ghats.

The rural sanitation campaign has the following as its objectives:

- Accelerate sanitation coverage in rural areas.
- Generate a push from the people to get facilities rather than expect the Government to do it (demand-led promotion).
- Focus on intensive education and awareness campaigns to ensure that people understand the need for safe sanitation.
- Take the scheme beyond rural households to rural schools and nursery schools. Here again, the emphasis was placed on promoting good hygiene practices.
- Promote cost-effective and appropriate technologies.
- Through all the above, improve the health and quality of life in rural areas.

Public amenities<sup>23</sup>, electric crematoriums<sup>24</sup>, public parks, gardens, Play grounds<sup>25</sup> are the some of important environmental aspect under the 11<sup>th</sup> and 12<sup>th</sup> schedule of the Constitution. Apart from these function both Karnataka Municipality Act and Karnataka Panchayat Act having plenty of Environmental protection provisions for protection of the Environment.

### **Conclusion**

The role of local self-government in environmental protection is crucial for creating sustainable and resilient communities. Local self-government bodies have the authority and proximity to address environmental issues effectively within their jurisdiction. By developing and implementing environmental policies, regulating and enforcing environmental regulations, promoting sustainable waste management practices,

<sup>22</sup> List 6 of 12<sup>th</sup> Schedule of the Indian Constitution

<sup>23</sup> List 17 of 12<sup>th</sup> Schedule of the Indian Constitution

<sup>24</sup> List 14 of 12<sup>th</sup> Schedule of the Indian Constitution

<sup>25</sup> List 12 of 12<sup>th</sup> Schedule of the Indian Constitution

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conserving natural resources, raising public awareness, and fostering collaboration, local self-government bodies can make a significant impact on environmental protection.

Through their actions, local self-government bodies contribute to maintaining a clean and healthy environment, mitigating pollution, conserving natural resources, and promoting sustainable practices. They play a vital role in shaping the environmental consciousness of their communities, empowering residents to take responsibility for their environment, and fostering a culture of sustainability. Furthermore, the role of local self-government in environmental protection extends beyond immediate environmental concerns. It also encompasses the broader aspects of sustainable development, public health, and the well-being of communities. By prioritizing environmental protection, local self-government bodies contribute to creating livable and resilient communities that can thrive in the face of environmental challenges.

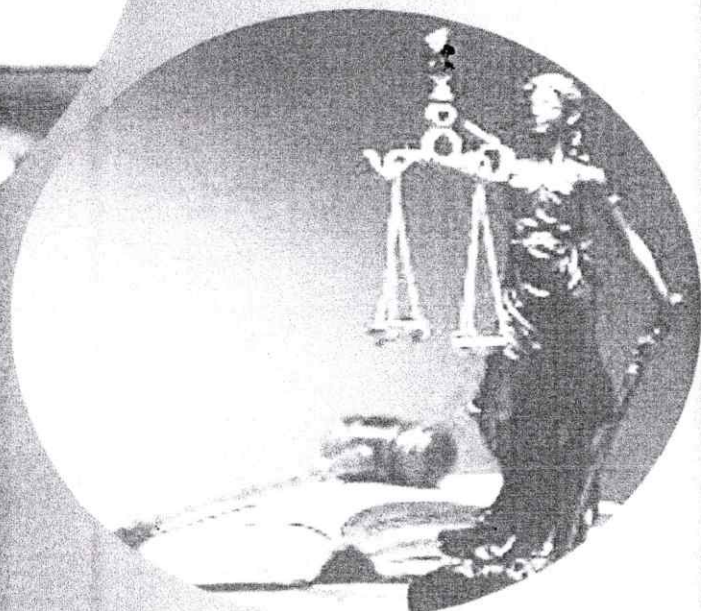
In a world grappling with pressing environmental issues such as climate change, pollution, and biodiversity loss, the role of local self-government in environmental protection is more critical than ever. By embracing this role and actively working towards environmental sustainability, local self-government bodies can pave the way for a greener future, ensuring a better quality of life for both current and future generations.

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# INTEGRATION OF DIVERSE INSIGHTS INTO LEGAL EDUCATION AND RESEARCH



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## AN OVERVIEW ON THE INTER-STATE RIVER AND WATER DISPUTES

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### ABSTRACT:

Since most rivers in India are interstate, there have been numerous, ongoing disputes over how to govern and distribute the proportionate use of these rivers. Several legislatures as well as Articles 262, 263, and 131, which offer the procedure for resolving inter-State conflicts, make up the pre-independence era's body of law in this area (via the Parliament). Water supplies, irrigation, and other topics are subject to legislation from both the Parliament and the State. The River Boards Act of 1956 and the Inter-State Water Disputes Act of 1956 are two significant pieces of legislation that have been thoroughly discussed in this article, detailing their provisions for dispute resolution, advisory opinions, negotiations, and other activities. The National Water Development Agency and the Resources Development Council, both of which have the Prime Minister as their chairman, have also been established as organisations to support river-water development. The Hon'ble Supreme Court's stance on interstate water conflicts, particularly the Cauvery case, is also discussed in detail in this essay, along with how it decided the rights of the contending states. Last but not least, some difficulties faced by Tribunals have been outlined, along with possible solutions, such as granting contempt powers for enforcement, eliminating delays, complete laws, etc.

**Keywords:** *Several legislatures, inter-State conflicts, Water supplies, irrigation, National Water Development Agency, Resources Development Council.*

### INTRODUCTION:

Water is a fundamental natural resource that is essential for meeting basic human needs as well as for the development of many other nations. As a result, such a resource's planning, development, and administration are given national attention. Most India's major rivers, as well as their tributaries and sub-tributaries, flow between states<sup>1</sup>. As a result, there have long been disagreements between states over how to use, manage, or distribute such rivers. In this area, legislation has a long history that dates back to the period before independence. Irrigation was constituted a provincial topic by the GOI Act of 1919, although items impacting relations between one province and any other area fell within the purview of the central assembly. Then, under the GOI Act of 1935, river disputes between several provinces received attention. The Act's "water" section covered the topic in sections 130 to 134. The draught Indian Constitution's articles 239–242 were the result of this.

Dr. Ambedkar suggested a change during the deliberation of the Draft Constitutional provision regarding the requirement of establishing a permanent institution to resolve disputes, the frequency of which was certain to rise with the full utilisation of such waters for irrigation and power generation in independent India. These factors led to the adoption of the current Art. 262 in the Constitution.<sup>2</sup> Articles 262, 263 and 131 of the Indian Constitution provide various channels for the resolution of disputes between States. The provisions of the Government of India Act, 1935 and the statute governing the rights of States with regard to the waters of interstate rivers under the Indian

<sup>1</sup> Gulhati N.D., *Development of Inter-State Rivers* (1972), pp. 5

<sup>2</sup> D.D.Basu, *Commentary on the Constitution of India*, 8th Ed, pg 9112.

Constitution are nearly identical.<sup>3</sup> For instance, Entry 17 of List-2 of the 7th Schedule of the Constitution of India granted States the same legislative authority as Entry 19 of List-2 of the Act of 1935's 7th Schedule. According to the Article, no state is allowed to use interstate water in a way that would be detrimental to the interests of another state.

The 1935 Government of India Act, Section 204, is the source of this article. It makes it possible to resolve conflicts between states and between the union and a state. However, the proviso of 131 limits the Court's ability to rule on particular treaties, among other things. Only in circumstances where there is a dispute about the existence of a legal right that has been intricately interpreted by the Supreme Court in numerous cases<sup>4</sup> may Article 131 be invoked.

It is crucial to remember that the Constitution does not inherently offer a procedure for resolving water-related disputes.<sup>5</sup> Due to Entry 56 of List I of the Constitution, it is the Parliament's responsibility to deliberate and take action in the relevant topic. Under Entry 17 of List II, the states have been given the authority to enact laws governing water supplies, irrigation and canals, drainage and embankments, water storage, and waterpower, but these laws must be subject to Union legislative authority.

It is maintained that interstate river and power sharing should be treated as a state matter and given primacy. However, because many of these princely states had agrarian economies and joined the Indian Union on the condition of some autonomy, they refused to give up their control over water regulation, therefore the Constitution had to take this into account. States cannot be viewed as regular entities interested in property disputes since they are quasi-sovereign bodies. This is possibly the justification behind Article 262, which gives the Parliament the authority to create separate laws for the resolution of water disputes between States.<sup>6</sup>

#### **Constitutional Perspective:**

The parliament has passed a number of laws and legislation to handle the problem of water disputes. One of these issues, the regulation of interstate rivers, led to the passage of the River Boards Act of 1956. Other issues, like the Narmada Control Authority, merely have operational implications.<sup>7</sup> Union has additional water-related authority that it may use, for example, during the impact analysis of significant projects that call for environmental approval.<sup>8</sup> Two significant pieces of parliamentary legislation—The River Boards Act of 1956 and The Inter-State Water Disputes Act of 1956—need to be examined in order to better comprehend the constitutional system governing inter-state water disputes.

#### **Inter-State Water Dispute Act, 1956:**

The Government of India Act, 1935, served as the impetus for the 1956 Inter-State River Water Disputes Act. It includes clauses that are comparable to Sections 130 to 132 of the Act of 1935. In accordance with Article 262 of the Constitution, this act was passed. But in a purely legal sense, water tribunals owe their existence to the Indian constitution's authors' choice to give state governments

<sup>3</sup> Report of the Narmada Water Disputes Tribunal, Volume-1, page 108, para 8.2.9].

<sup>4</sup> (i) State of Rajasthan v. Union of India, AIR 1977 SC 1361; (1977) 3 SCC 592 (Rajasthan Assembly Dissolution Case). (ii) State of Karnataka v. Union of India, AIR 1978 SC 68, paras 141-149, 159-165, 198-203 (1997) 4 SCC 608. (iii) State of Bihar v. Union of India, AIR 1970 SC1446: (1970) 1 SCC 67

<sup>5</sup> Ganihar N.N. and Belagali H.V., Educational Philosophy of Dr. Zakir Husain (2008), pp. 232

<sup>6</sup> Haokip T., Theoretical Considerations of Political Integration and the Indian Experience, IJSAS 4(1) 2011, pp.221-234.

<sup>7</sup> Mohiel AD, 'Government Policies and Programmes' in J Briscoe & RPS Malik, Handbook of Water Resources in India-Development, Management and Strategies (New Delhi: The World Bank and Oxford University Press, 2007) 10.

<sup>8</sup> Government of India, The Environmental Impact Assessment Notification 2006.

control over water. Water was included on the state list when topics were divided according to whether they should be handled by the states, the union, or simultaneously by both.<sup>9</sup> The statute defines water conflicts and allows different states to protest to the federal government about water problems. The resolution of conflicts involving the waters of Inter-State Rivers and River Valleys is also provided for. When the Central government believes that dialogue cannot resolve the issue, the legislation permits the creation of tribunals to resolve disputes on interstate rivers or waterways. The Sarkaria Commission had suggested that a Tribunal be established when the State Government filed a complaint, and that it issue a verdict within five years.

The act states that the decisions made by the tribunals in this manner will be final and conclusive, and the Supreme Court will not hear any appeals. As a result, it is obvious that the Supreme Court and other courts have no jurisdiction over these issues. However, the tribunal simply has the authority to make decisions; it has no influence over how such decisions are carried out. The tribunal's mandate also includes conducting investigations into issues of public significance, such as water pollution, flood control, the sustainability of river basin productivity, the consequences of climate change, and others. Though several water tribunals, including the Krishna, Narmada, Godavari, Cauvery, Ravi, and Beas Tribunals, had been established by the Union government in accordance with the statute. However, the way these tribunals operate is not ideal because there are delays at every stage of the process.

Since the tribunal only operates at the request of the relevant state, the board acted in accordance with the spirit of the constitution by upholding the notion that water is a state topic. Additionally, because the board's decision is final and binding, it combines the abilities and standing of the legal system. Even though the act provided relatively clear principles for any water issue, different conflicts nonetheless followed diverse courses to resolution because the law allows for a great deal of latitude.

#### **River Boards Act, 1956:**

In 1956, the River Boards Act was passed by the Parliament in accordance with the authority granted by Entry 56 of List I. The sole time the Parliament has exercised the authority granted to it by Entry 56 is in this Act. The board's primary responsibilities were to oversee appropriate and optimal use of the water resources of the interstate rivers and to keep an eye on various irrigation, water supply, and hydroelectricity power generating plans. However, the board's activity is advisory in nature and is solely intended to offer counsel and suggestions. By failing to appoint River Boards, the act has been rendered null and void.

Thus, the act had not been effective, and one of the main reasons for this is that Entry 56 grants the Union a massive and unrestricted amount of power, which, when combined with its abundant resources, allows it to encroach on territory that is under the control of the States.<sup>10</sup> River Boards, such as the Upper Yamuna River Board and the Betwa River Board, were established under independent legislation, but they served to carry out a mutually agreed-upon sharing agreement between States. River Boards cannot be established to oversee the execution of Tribunal awards.

#### **National Water Policy, 1987:**

The board was established by the Ministry of Water Resource to control water development and planning and guarantee their best use. This water policy's Section 21 specifically addresses how water is distributed among the states. It has emphasised the necessity of developing and managing water resources holistically and comprehensively, meeting various requirements through a participatory

<sup>9</sup> Pani N, The Place Of The Tribunal In Inter-State Water Dispute, Vol. 2 Issue 1.

<sup>10</sup> Sarkaria Commission Report (1988), Chapter XVII, para.17.4.01

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approach. The board's additional duties include ensuring that water resources are allocated properly, preventing all forms of exploitation, setting up a uniform national information system with a network of data banks and data bases, and other similar tasks. The 2012 amendment to this national water strategy places more focus on the development of water bodies by granting them the label of "economic good."

To encourage river-water development, the centre has established two other organisations. All State irrigation ministers serve as members of the non-statutory National Water Development Agency. The agency's duties include conducting surveys, investigations, and studies for the development of the peninsular rivers, a component of the national water plan. The agency's goal is to encourage the best possible use of the nation's resources. This plans to use any extra water in the nation's waterways. The Water Resources Development Council is the other organisation, and all state chief ministers are members as well as its chairman, the prime minister.

### **Judicial Approach:**

Several interstate river water disputes have been brought before the Supreme Court over the years with regard to a number of different issues, including the Tribunal's ability to handle a request for an interim allocation (Cauvery), the non-implementation of a Tribunal order (Cauvery), shortcomings in environmental protection and rehabilitation (Narmada), the constitutionality of a State Legislature's act terminating all prior water agreements (Punjab), etc. Each of these instances involved some other connected legal or constitutional question, not the water-sharing issue, which had already been decided or was still being decided by a Tribunal.<sup>11</sup>

When the Supreme Court's rulings in interstate water conflicts are analysed, it becomes clear that the court saw a conflict between "we the people" and the "sovereign socialist secular democratic republic" of India.<sup>12</sup> Before offering hasty solutions to interstate water disputes, it is crucial to comprehend and consider the tension. There are two categories of interstate water disputes. The rights of states and the extent of those rights inside the Union are one area of contention. The states may petition the Supreme Court to decide on issues relating to constitutional rights, with the exception of revisiting the terms of unification.<sup>13</sup> On the other hand, interstate rivers do not concern constitutional rights problems.

### **River Kaveris's Case:**

The re-sharing of waters that have already been fully consumed is at the heart of the Cauvery dispute case. The Cauvery cases are significant in two ways. First, they opened the door for the Supreme Court's intervention in interstate water disputes, which would not have been possible without a constitutional mandate. This dispute has its roots in two agreements signed by the governments of Karnataka (the ancient Mysore) and Madras in 1892 and 1924, respectively. The Karnataka Government asserts that the agreement prevents the state from receiving its fair share of water and that as a result, the state should re-enact the agreement, which should be based on "equitable distribution". The Tamil Nadu government argues that any modification to the agreement's structure will have a significant impact on many people because it has already created preparations to advance the deal. The accord rejects the Supreme Court's original jurisdiction under Article 131 of the Indian Constitution. However, the issue at hand is the execution of the Tribunal's Interim Order, along with

<sup>11</sup> The Supreme court and river water disputes, Ramaswamy R. Iyer, The hindu , 17/09/12

<sup>12</sup> Petrella, R. The Water Manifesto. London: Zed Books, and Bangalore: Books for change

<sup>13</sup> The Constitution Of India, Article 131.

the connected subject of adherence to the rulings of the Cauvery River Authority and to the Supreme Court's own instructions,<sup>14</sup> which is squarely within the Supreme Court's purview.

After several discussions between the two states and the federal government, the Cauvery Fact Finding Committee's report was finally approved. Concerns about the agreement's expiration arose once more. The state of Tamil Nadu asked the government to bring the dispute to a tribunal in accordance with the Inter State River Water Dispute Act of 1956. But when this appeal was ignored, Tamil Nadu went to the Supreme Court to ask it to order the state of Karnataka not to move through with a new project that would result in the loss of livelihood. Karnataka nevertheless continued with the project's construction.

A tribunal was finally established in 1990 thanks to a Supreme Court decision. In June 1991, the Soon Tribunal issued a temporary order. First, Karnataka was instructed to make sure that 205 TMC feet of water from its reservoirs were made available at Metter over the course of a year, from June to May, until the Tribunal's final resolution of the matter. Second, it was ordered that Karnataka not use more Cauvery water for irrigation than 11.2 lakh acres.

In order to ensure the execution of the Interim Order, the government established two new organisations in 1997: the Cauvery River Authority and the Cauvery Monitoring Committee. In the event that the Interim Order was disobeyed, one of these authorities allowed for the takeover of dam control. Additionally, the group included experts and other officers to investigate the situation and inform the authorities. Once more, the mechanism fell short, and a protracted period of dispute followed.

The tribunal issued its final award in 2007 after nearly 17 years of extensive discussion and debate. Tamil Nadu will receive 419 million cubic feet (instead of the requested 562), Karnataka will receive 270 million cubic feet, Kerala will receive 30 million cubic feet, and Puducherry will receive 7,000 million cubic feet. Karnataka would be required to release 192 billion cubic feet annually, of which 7 billion cubic feet will be diverted to Puducherry. Additionally, a certain amount of water was set aside for environmental conservation and the inevitable journey to the sea. Tamil Nadu and Puducherry accepted the order, but the Karnataka administration was not happy with it, and this resulted in a large-scale protest.

The government established a temporary body in 2013 as part of the Cauvery Water (Implementation of the Order of 2007) Scheme, which was implemented in response to the 2007 award. The organisation is tasked with carrying out the Cauvery Water Dispute Tribunal's ruling. The order has not yet been put into effect, though, because the Supreme Court is still considering a Special Leave Petition on the subject. The Cauvery River water-sharing controversy has gained national attention. Without a doubt, it is one of India's most contentious interstate river water conflicts. The government must step in and make a good contribution because of how complicated the nature of the disagreement is.

#### **CONCLUSION AND SUGGESTIONS:**

The mechanism dealing with inter-state water disputes functions ineffectively because of several reasons. The most prominent problem faced by it is that it do not have any effective authority for the implementation of the order of the tribunal. The Tribunal can only give an award but cannot enforce its implementation. It has not been clothed with powers of punishment for 'contempt'. In the event of non-implementation of an ISWD Tribunal's award by a state government, the central government can

<sup>14</sup> Cauvery Dispute: An Instance of Judicial Fallacy, Mr. Naresh Pareek, Manupatra.

(failing persuasion) issue a direction to the erring state and then invoke Article 356, but that seems an extreme step; besides, when a popular government comes back it may once again refuse to implement the award. There is no easy answer to this problem.<sup>15</sup> Cauvery water dispute case is a classic example showcasing complicated scenario of river water management and governance in India.

When there is shortage, when developmental projects grow, and riparian States do not enjoy equal access to the source, inter-state problems are bound to rise in sharing. It has been recommended by the Sarkaria Commission that the tribunal award's should be equated with the status of the decree of the Supreme Court. Appeals to the court in large number to the court reflects the failure of the government in the handling water related disputes. Though the issues relating to the water allocation involves special technicalities but entrusting the adjudicatory power to the tribunal leads to undermining the status of the Federal government. This may lead to creating of more obstacles rather finding a solution. The tribunal also lacks the power of enforcement of its decision which Supreme Court is endowed with. Thus such matters which involves public importance should be guided and decided by the court.

The Provision under Article 262 seems to be insufficient. It would have been better if a machinery had been written into the Constitution itself. Then it would not be left to the Parliament to provide a machinery. 5 years passed before the Inter-State Water Disputes Act was passed in 1956. Article 262 grants power to make a law; it does not impose a duty, for no court can issue a mandamus to the legislature to make a law.<sup>16</sup> Also no provision of the Constitution can be held ultra-vires, but any law, or part of law made under Article 262 can be held ultra-vires. Also there are always inordinate delays in the setting up of tribunals and deciding the award. The right to have a dispute referred to a tribunal under IWSDA is dependent on the opinion of the Central Government that the matter cannot be settled by negotiations.<sup>17</sup> In light of the prevailing loopholes in functioning of the system, certain recommendations can be considered. Firstly, there is a need to set up a permanent tribunal for such disputes instead of creating one each time. Then it has been suggested by the NCRWC that the Inter-State Water Disputes Act, 1956 be repealed and in its place a more comprehensive parliamentary legislation should be enacted. It is of the view that it is not necessary to exclude Inter-State Water Disputes from the original jurisdiction of the Supreme Court under article 131 of the Constitution and that such disputes should also be made to fall within the exclusive jurisdiction of the Supreme Court.<sup>18</sup>

The rationale behind this is that almost in every case either of the party approaches Supreme Court seeking judicial review of the order or for the enforcement of the Fundamental rights. This leads to involvement of two forums in decision making. Also, parliament needs to exercise its powers under Entry 56 List I effectively. According to National Water Policy, this can be done by setting up of river boards. Alternatively, it has been suggested by some scholars that the Supreme Court should only be granted appellate jurisdiction, if an appeal to the Supreme Court is possible, at least no state can reasonably nurse a sense of grievance and as the Supreme Court's decisions are still being respected and obeyed in this country, the non-implementation problem will disappear.<sup>19</sup>

<sup>15</sup> Inter-State Water Disputes Act 1956: Difficulties and Solutions, Ramaswamy R. Iyer, Economic and Political Weekly, Vol. 37, No. 28 (Jul. 13-19, 2002), pp. 2907-2910, Economic and Political Weekly.

<sup>16</sup> Seervai H.M., Constitutional Law of India, Vol.3 (4th Edition) pp. 3243

<sup>17</sup> The Inter-State Water Disputes Act, Section 4(1)

<sup>18</sup> NCRWC, Report of the NCRWC, Vol. 1(31st March, 2002), para 8.11.4


<sup>19</sup> Iyer R.R., Inter-State Water Disputes Act 1956: Difficulties and Solutions, EPW, Vol. 37, No. 28 (Jul. 13-19, 2002), pp. 2907-2910

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**3.2.2. Number of books and chapters in the edited volumes/books published and papers published in national/international conference proceedings per teacher for the year 2024-25**

Sl. No	Name of the teacher	Title of the book/chapters published	Title of the paper	Title of the proceedings of the conference	Name of the conference	National/ International	Year of Publication	ISBN/ISSN number of the proceeding	Affiliation Institute at the time of publication	Name of Publisher
1	<b>Dr. Ramesha. K &amp; Dr. L. Srishyla</b>	Food & Health	Right to Food as a Human Right in India	--	--	--	2024	978-93-95494-39-7	Saraswathi Law College, Chitradurga	Aadhar Publication
2	<b>Dr. Ramesha. K</b>	Integration of Diverse insights in to Legal Education & Research	An Overview on the Interstate River and Coaster Dispute	--	--	--	2025	978-9348843-17-3	Saraswathi Law College, Chitradurga	National Press Associates, New Delhi