

“Analysis of the Problem of Malnutrition in Melghat Area of Maharashtra – A Socio-Legal Study”

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Abstract

In this article the researcher has tried to discuss problem of Malnutrition in Melghat area. In this article the researcher has given focus on causes of malnutrition, human rights and malnutrition, national and international convention on right to health, right to health is a fundamental right and directive principles of state policy. Researcher also drawn recommendations and conclusion on the basis of the socio-legal study in the Melghat area.

KEYWORDS: Malnutrition, Melghat area, Right to Health, fundamental right, National and International Conventions.

Introduction

Malnutrition is not only National problem but also an International problem. Malnutrition is a burning issue in the present era, this problems is not only in Melghat a tribal dominated area but also many districts of Maharashtra and other states of India. In developing countries like India problem of malnutrition is an obstacle to human progress and socio-economic development. Effects of malnutrition are serious on human being including children. It is dangerous for children who need adequate quantity and quality of food for their mental and physical development. In the Melghat area problem of malnutrition is increasing day by day. First time in 1993 the gravity of this issue was underlined by several reports which displayed by media in various news papers of Maharashtra. Since this year occasional reports were appearing but no one is serious about this problem.

The statistics of death due to malnutrition have acquired attention once after reports started pouring in Melghat, Gadchiroli, Thane, Dhule, Nandurbar and other tribal areas of the Maharashtra. So long as the government machinery treats malnutrition in Melghat as mere health problem, malnourished children would continue to die. A section of Government official working in the tribal dominated areas has started defining the problem as socio-economic crisis. A study conducted by the Tirpude Institution of Social Action and Research claims that around 25000 families **Korku** Tribal have perished in the tribal region of Melghat as a result of Malnutrition death during last 20 years. If Malnutrition continues to rock the region at the same rate, the Korku Tribe might become extinct after some years. It appears from the research which highlighted the root causes of Malnutrition death are poverty, illiteracy, child marriage, child mortality, socio-economic contrition, geographical condition, and lack of employment. Therefore the researcher tried to analysis the problem of malnutrition in Melghat – A socio-legal study. While doing this research researcher has studied root causes of malnutrition, constitutional and statutory rights in the form of fundamental and human rights available to marginalized/indigenous people and its analysis with specific reference to ‘right to health vis-à-vis the problem

of malnutrition' of this section of society, various measures taken by the Government to eliminate the problem of malnutrition and tried to investigate the causes of administrative failures and impediments in implementation of government policies in this area. Researcher also drawn recommendations and conclusion on the basis of the socio-legal study.

Origin of the research problem

Melghat is recognized as tribal area because maximum tribal people are residing in Melghat area and they are depending on forest area, but now Government has acquired the forest area and due to this reason these people are unable to fulfill their basic needs. This is one of the root causes for increasing the malnutrition in the Melghat area.

Constitution of India is the law of the land in which the special protection is given to the schedule tribe and schedule caste. Right to health, right to food, right to equality, special protection for schedule caste and schedule tribe are fundamental rights guaranteed under the constitution of India. These rights are available against the state it means that state can't make any discrimination on any ground like race, religion, caste, sex, place of birth. One side fundamental rights plays an important role but another side in Melghat area Malnutrition is the basic problem. Therefore it is nothing but violation of their fundamental rights. Directive principles of state policy states that state is under obligation to protect health and strength of people. National and International conventions also states about the protection of these rights. Instead of these rights and conventions the ratio of the malnutrition in Melghat area is increasing day by day.

Review of Research and Development in the Subject:

International status

Malnutrition is not only National problem but also an International problem. Article 12 of International Covenant on economic, social rights (ICESCR) defined the right to adequate health in a relative fashion. It clearly states that, the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and second clause of this covenant states that, steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right. The right of everyone to the enjoyment of the highest attainable standard of physical and mental health. According to the Article 25 of the united Declaration of the Human Right everyone has right to standard of living adequate for health and well being of himself of families, including food, clothing, housing and medical care, states must take action to ensure that all citizens to enjoy an adequate standard of living, means it recognizes health care as essential component of standard living. India is a signatory country of these conventions therefore it imposes an obligation to give respect and implement.

National Status:

In July 2004 the court issued the first set of directives to the government that to provide the factual death status in Gadchiroli, Yaotmal, Amravati, Nandurbar and Dhule District. In this respect the Government set up the committee i.e. Dr. Abhay Bang of Society for Education, Action and Research in Community (SEARCH) whose report under the heading of *Kowali Pangar* was published. This committee submitted its first report in August 2004 and it was observed that 1.75 lakh children died every year in the state by medical reasons. India has tried to control malnutrition problem by various rules, regulations and schemes. The conclusion of this report was mainly

based on child death due to Malnutrition. Then after the NGO studied the Malnutrition Problem in the Melghat area.

Significance of the study:

Right to food and right to health are important fundamental rights under Indian constitution. In Melghat area Malnutrition is basic problem and it is nothing but the violation of their fundamental rights. There is need to study various legal provisions, laws, Governmental Policies which are protecting the rights of the tribal people. It is necessary to find out that, contribution of the administrative authorities, legal provisions and protection provided by the law by various dimensions. The researcher had studied various declarations in respect of right to health and malnutrition which necessary to curb this burning aspect. There is need to study the legislative provisions whether these provisions are sufficient to protect the rights of the Tribal people.

Objectives:

The objectives for the present research are -

- To study causes of Malnutrition in the Melghat area.
- To enquire the constitutional and statutory rights available to marginalized/indigenous people and its analysis with reference to tribal population residing in Melghat region of Satpura ranges with specific reference to ‘right to health vis-à-vis the problem of malnutrition’ of this section of society
- To study various measures taken by the Government for prevention of Malnutrition and protection and promotion of ‘right to health’ for this vulnerable group
- To investigate the causes of administrative failures and impediments in implementation of government policies in this area

Methodology:

Research methodology is a way to systematically solve the research problem. It may be understood as a science of studying how research is done scientifically. In it we study the various steps that are generally adopted by a researcher in studying his research problem along with the logic behind them. It is necessary for the researcher to know not only the research methods/techniques but also the methodology. Researchers not only need to know how to develop certain indices or tests, how to calculate the mean, the mode, the median or the standard deviation or chi-square, how to apply particular research techniques, but they also need to know which of these methods or techniques, are relevant and which are not, and what would they mean and indicate and why. Researchers also need to understand the assumptions underlying various techniques and they need to know the criteria by which they can decide that certain techniques and procedures will be applicable to certain problems and others will not. All this means that it is necessary for the researcher to design his methodology for his problem as the same may differ from problem to problem. For example, an architect, who designs a building, has to consciously evaluate the basis of his decisions, i.e., he has to evaluate why and on what basis he selects particular size, number and location of doors, windows and ventilators, uses particular materials and not others and the like. Similarly, in research the scientist has to expose the research decisions to evaluation before they are

implemented. He has to specify very clearly and precisely what decisions he selects and why he selects them so that they can be evaluated by others also.

From what has been stated above, we can say that research methodology has many dimensions and research methods do constitute a part of the research methodology. The scope of research methodology is wider than that of research methods.

*Thus, when we talk of research methodology we not only talk of the research methods but also consider the logic behind the methods we use in the context of our research study and explain why we are using a particular method or technique and why we are not using others so that research results are capable of being evaluated either by the researcher himself or by others.*¹

While doing this research work the researcher has adopted non doctrinal method. The subject matter of the present research work, there is need to study the constitutional provisions, various governmental policies and landmark decision given by the Supreme Court and High Court of India for this reason the researcher used non-doctrinal method. This research project is a socio-legal research and there is need to collect the primary data from society by way of observation, questionnaire etc. For this reason the researcher adopted non-doctrinal method.

In the non doctrinal research the researcher needs to collect data from the relevant respondents. Therefore there is needed to do the survey for accurate information from the subject. In this research the researcher has collected data by way of observation and questionnaire from Melghat area and prepared 20 questionnaires on the basis of research area and collected answers from the respondents. In the Melghat area there are 311 villages out of the researcher has selected 08 villages randomly namely Dhulghat railway, Gullarghat, Salita, Susarda, Bijudhavadi, Aki and Zarida . The researcher has prepared all questionnaires in the Marathi language because in Melghat area is a tribal area and these people speak the Korku language but they are able to understand Marathi language. From each village 10 married male and female has been questioned by way of direct questioning to them to get relevant and accurate data from the respondents. In addition the researcher has also used observation and interview method to collect more information on causes of malnutrition, annual income, geographical condition and its effects on the residents of Melghat area.

Major Findings of the Research: followings are major findings-

1. Causes of malnutrition in Melghat area:

While doing research the researcher has find out fallowing main reasons for increasing malnutrition problem in the Melghat area

a. Poverty:

Poverty is one of the most important reasons to increase the problem of malnutrition in the Melghat area. While collecting Data from Melghat area it has been observed that, maximum tribal people are depending on forest area, but now Government has acquired the forest area and due to this reason these people are unable to fulfill their basic needs. This is one of the root causes for increasing the malnutrition in the Melghat area. However, Melghat is primarily a forest area and despite the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Adivasis have not yet been given their due. They still

depend on rain-fed agriculture and migrate for work during the rest of the year. This is a major factor contributing to malnutrition.

b. Violation of Right to food as a fundamental right:

Problem of malnutrition is nothing but violation of fundamental rights and human rights in India. The right to food and right to health are important fundamental rights under the constitution of India². The wording of this article is that, “no one can violate the right to life and personal liberty without due procedure established by law”. Constitution of India is the law of the land in which the special protection is given to the schedule tribe and schedule caste. Right to health and right to food are fundamental rights guaranteed under constitution against the state. The researcher had studied various declarations in respect of right to health and malnutrition which necessary to curb this burning aspect. One side fundamental rights plays an important role but another side the ratio of the malnutrition in Melghat area is increasing day by day.

The Maharashtra government has been repeatedly pulled up for its neglect by the High Court. In 1997, it said: “We are prima facie of the view that it is the primary responsibility of the government of Maharashtra to provide adequate food, health care and adequate employment opportunities to Korku tribes and other tribals in Melghat area...”³ The court order came on a writ petition filed by activist Sheela Barse on malnutrition deaths in Melghat. The court specifically pointed to Article 47 of the Constitution, which postulates a duty on the state to raise the level of nutrition and standard of living and to improve public health.⁴

The court once again reminded the State of its constitutional obligations. On a public interest litigation petition filed by Rajendra Burma and others, it had this to say on January 15, 2009, “We have no hesitation in observing that the progress in preventing malnutrition and infant deaths is hardly satisfactory. Meetings after meetings in the State administration may be held, but so far results are not shown and as a matter of ground reality, the picture is dismal. We are afraid the state is failing in its duty to provide due protection to the life of poor citizens of the State. The areas with which we are concerned are remote areas of Maharashtra. Various orders of the court have really not persuaded the authorities concerned to take effective steps.”

c. Illiteracy:

Tribal people of Melghat are less literate and backward therefore they having no knowledge of modern and scientific developments and techniques. Thus economic position of these people is not much sound. In this area main occupation is agriculture and mainly crops are in this area wheat, jawar, rice, vegetable, cotton produced in small quantity or amount by farmers and also these people collecting forest products for their livelihood.

While doing research the researcher has observed that, illiteracy is also one of the important root causes to raise the problem of malnutrition in the Melghat area. In the Melghat area most of the tribal people are illiterate, they are not aware about the consequences of malnutrition. In this area schools are available, some facilities have been provided to the students for increasing the regularity in the school. Most of the parents are not aware about benefits of the education due to their illiteracy rate in the Melghat area. Government has been provided medical facilities in the Melghat area

but most of the tribal people are not taking benefits of these medical facilities during pregnancy due to this reason malnutrition problems are increasing like low weight of the children by birth.

d. Child marriage and rate of mortality:

Child marriages are also responsible to increase the problem of malnutrition in the Melghat area. While doing survey in this area it was found that, tribal people performing child marriage of their children before attaining age of majority which has been fixed by the government. These people are not aware about the problem of child marriage, some of them are aware but due to the problem of poverty they performing child marriages of their girl child and it will responsible to early age pregnancy. The age of marriage, number of children, gap between two children, and health care during pregnancy is decided by tribal people according to their social norms and values. Therefore high fertility rate is increasing in the Meghat area due to the reason of child marriages. These minor girls physically and mentally unable to protect their children by reason of minority. Children are reported to have died of secondary causes such as low birth weight, premature birth, dysentery, diarrhea and pneumonia and death may be occurred by these reasons. Here the employments guarantee scheme paper. These tribal people had no jobs, no money for nourishing their children.⁵

e. Medical facilities:

While doing research it has been also observed that, government has provided medical facilities in this area but most of tribal people are relied on custom, tradition and their rituals. During pregnancy there is needed to provide appropriate proteins, vitamins to the child but due to the illiteracy rate in the Melghat area they are not taking nutrition by way of food and from the government hospitals. While taking response from them, these people said that, government hospitals are far from their village, relied on customary and traditional facilities provided in their own village, during pregnancy and at the time of delivery unable to travel from one place to another place. Therefore problem of malnutrition and death of children increasing in the Melghat area.

f. Socio-economic factors:

Socio-economic condition of tribal people is very poor. Small landholders have been acquired their lands. In this area poor quality of soil and primitive method of cultivation are responsible for low agriculture of yields. These adequate yields are not adequate to sustain the people throughout year. Therefore ultimately these people start consuming available fruits, roots and wild vegetable for their basic needs. Children in this area found that they are helping to their parents in collection of forest products.

Melghat area has mainly divided into two Talukas one is Dharni and another is Chikhaldara. This area is known as tribal area and main residents of this area are Korku tribal people. 90% population of Scheduled tribal people like Gonds, Nihals and Mongias. Balais, Vanjaris, Gaolies, etc residing in the Melghat area. In language and general type they are said to be identical with the Kols and Santals. Their common language is Korku but Hindi is also commonly spoken among them. Korku language belongs to Munda stock of aboriginal language. Originally they worshippers of the Sun and the Moon therefore mostly relied on God

While talking about economic profile most of the tribal people's earnings depend on forest. However, in 1980 Forest Conservation Act, has been passed by the government and conflict has come to be seen between environment protection and

basic needs of the local tribal communities. The National Forest Policy of 1988 recognized that domestic requirement of the local people for fuel wood, fodder, minor forest produce and construction timber. It also emphasized that while safeguarding their customary rights and fundamental rights. These tribal people are in need of protection, regeneration and development of forests. The government is responsible to provide them basic need but it has remained on paper. Therefore social and economic profile is also responsible for malnutrition problems in the Melghat area. Some of them depend on agricultural land but due to heavy rainfall these people are not able to fulfill their basic needs and daily needs.

g. Geographical condition and malnutrition:

The area known as Melghat is comprises of mainly two tahsils of Amravati District namely 1.Dharani 2.Chikhaldhara. The region spread across 315 presently existing villages and encompasses an area of 140025 hectares. The Korkus occupy mainly the central section of the Satpura Mountains, the Mahadeo hills and eastern section, while the westernmost section is occupied mainly by the Bhils. The whole from north south Melghat area is about 65 Kms and about 100Kms. From east west, its latitude is 76d-38' and 72d.34 east. The area situated on the boundary of Satpura range to the South of Tapi river, is known as Gawilgarh hills or Melghat, Gawilgarh being the name of an old fort and Melghat being the name of Khapra and Tapi rivers in the north. Gawilgarh fort now in ruins, is situated along one of the southern spurs of Gawilgarh hills and is about 2 kms. From the Chikhaldhara plateau towards south. As the central highland of the Satpuras- the main habitat of the Korkus- was from early times onwards ruled by different political powers, the history of this region is not at all uniform. It experienced different systems of administration and land tenure according to the tradition and the whims of the overlords.

The name of Melghat is literally a meeting place of Ghats. The area is very hilly and valleys in a confused pattern. The entire Melghat is traversed by many rivers because of which villages get cut off during rainy season. The main ridge of Gawilgarh hills form water shade of Tapi and Purna rivers, which drain the tract of Melghat towards north- south respectively. As the ridge is situated towards southern part the greater part of Melghat is drained north- east towards Tapi river. Khandu, Khapra and Sipna rivers rise near Khandala in Betul district, while the Garge and Darbar rivers have their sources from area itself.

The monsoon sets in Melghat during middle of June and it ends by the end of September. The quantum of rainfall in Melghat varies. The average annual rainfall is usually higher in the main ridge of Gawilgarh. The rainfall decreases towards the north and west, average annual rainfall at Dharani. However, some of the valleys receive rainfall upto 2500mm in a year. The average rainy days at Melghat are approximately 70 days.

Despite of having high rainfall, Melghat still suffers very badly from water scarcity. The rainwater quickly gets drained off into steep slopes and hard-bedded hill streams. As a result, there are very few perennial springs and not a single perennial river in the area. The rate of malaria in Melghat is very high. Due to this malaria impact the general vitality of people is very low and people also fall prey to pneumonia, bronchitis and other disease.

The major occupation of the Korkus before they took over to settled form of existence, was logging in the forests. Initially these people worked in forests. Earlier the villages were taken care of by the forest department, later they were transferred to revenue department around 1971 and the entire welfare activities were transferred

to the Zilla Parishad's various departments thus ended. Korkus are honest, hardworking and are skillful mainly in the forest and agriculture works. They have a custom from thousands years to do independent work and depend only on forest produce. Their main source of income and food is surrounding forest only. They do not hesitate to migrate in nearby village for forestry work. Therefore geographical profile Melghat area is very poor.

2. Constitutional and statutory rights of Tribal people:

Fundamental rights are guaranteed by the constitution of India, it is the law of the land. Fundamental rights are in the form of equality, freedom of speech and expression, right to life and personal liberty, live in healthy environment, right to education, right to food etc. these rights guaranteed by the constitution without any discrimination on any ground like race, religion, caste, sex and place of birth.

Article 21 clearly states that, "No one shall be deprived from the life and personal liberty except according to the procedure established by law". It means neither any one nor any government can deprive fundamental rights of people, people includes tribal people.

In 1996 Supreme Court in the landmark case held that, in a welfare state it is the primary duty of the government to secure welfare of the people. Article 21 impose obligation on state to safeguard right to life and personal liberty. Failure on the part of government it will result in violation of fundamental rights⁶.

In another case⁷ the Supreme Court also held on International instrument that, right to health is fundamental right it is not merely absence of sickness. Therefore it is clear that right to health is most important fundamental right under article 21 of the constitution of India and it is an obligation on state to protect it, enforce it by providing basic needs and nutrition which is require for health.

Therefore problem of malnutrition is nothing but violation of fundamental rights of tribal people in the Melghat area. This right is correlates to right to health under article 21 of the constitution of India. In Melghat area rate of malnutrition children is high, it means that state is failed to control this problem in Melghat area.

Article 21 of the Constitution of India guarantees a fundamental right to life liberty. The expression Life in this Article has been judicially interpreted to mean a life with human dignity and not mere survival or animal existence. In the light of this, the State is obliged to provide for all those minimum requirements which must be satisfied in order to enable a person to live with human dignity, such as education, health care, just and humane conditions of work, protection against exploitation etc. In the view of the Commission, the Right to Food is inherent to a life with dignity, and Article 21 should be read with Articles 39(a) and 47 to understand the nature of the obligations of the State in order to ensure the effective realisation of this right. Article 39(a) of the Constitution, enunciated as one of the Directive Principles, fundamental in the governance of the country, requires the State to direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means to livelihood. Article 47 spells out the duty of the State to raise the level of nutrition and the standard of living of its people as a primary responsibility.

The reading of Article 21 together with Articles 39(a) and 47, places the issue of food security in the correct perspective, thus making the Right to Food a

guaranteed Fundamental Right which is enforceable by virtue of the constitutional remedy provided under Article 32 of the Constitution.

Human Right aspect and Malnutrition:

Tribal people have not only protected by fundamental rights but also protected by human rights in India. Some of the human rights mentioned as under -

a. The Universal Declaration of Human Rights⁸:

The General Assembly Proclaims This Universal Declaration Of Human Rights, 1948 as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction. This Universal Declaration of Human Rights state about-

- 1) 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.
- 2) 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.⁹

b. International Covenant of the Economic, Social and Cultural Rights, 1966¹⁰:

The requirements of the Constitution proceeded, and are consonant with, the obligations of the State under the 1966 International Covenant of the Economic, Social and Cultural Rights to which India is a party. That Covenant, expressly recognises the right of everyone to an adequate standard of living, including adequate food¹¹. Despite its strong economic growth, rapid development of information technology and the claim of being the largest democracy in the world, India remains one of the worst human rights violators in Asia. Being discriminated on the basis of caste is unfortunately a common occurrence for a large number of India's population. Demonstrates how this discrimination violates many of their fundamental human rights, including their right to food. This convention clearly states that,

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

The first paragraph of Article 11 articulates the normative entitlement, or, the basic right to food. The second spells out how the government must realise this right.

c. UN convention on rights of child¹²:

All children have the same rights. These rights are listed in the UN Convention on the Rights of the Child. Almost every country has agreed to these rights. All the rights are connected to each other, and all are equally important. Sometimes, we have to think about rights in terms of what is the best for children in a situation, and what is critical to life and protection from harm. As you grow, you have more responsibility to make choices and exercise your rights.¹³ In the Convention on the Rights of the Child two articles has been addressed on the issue of nutrition.

1. Article 24 says that "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and shall take appropriate measures" to combat disease and malnutrition through the provision of adequate nutritious foods, clean drinking water, and health care. This article also says that States Parties shall take appropriate measures "To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition and the advantages of breastfeeding ."
2. Article 27 says in paragraph 3 that States Parties "shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing."

Even if the human right to adequate food had not been stated directly, it would be strongly implied in other provisions such as those asserting the right to life and health, or the Convention on the Rights of the Child's requirement article 24 clearly states that, States Parties shall take appropriate measures to diminish infant and child mortality.

The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. GC12 paragraph 7 explains that adequacy means that account must be taken of what is appropriate under given circumstances. Food security implies food being accessible for both present and future generations. Sustainability relates to long-term availability and accessibility. Thus, as explained in paragraph 8, the core content of the right to adequate food implies:

- a. The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;
- b. The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

Paragraph 15 draws out the different kinds or levels of obligations of the state. These obligations may be sorted into categories as follows:

- respect - "The obligation to respect existing access to adequate food requires States parties to take any measures that result in preventing such access."
- protect - "The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food."
- fulfil (facilitate) - "The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security."
- fulfil (provide) - "Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters."

General Comment 12 also addresses the issues of implementation at the national level, framework legislation, monitoring, remedies and accountability, and international obligations. The primary responsibility of national governments is to facilitate, which means assuring that there are enabling conditions that allow people to provide for themselves.

As a party to the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, India has committed itself to honoring the right to adequate food.

It follows, therefore, that there is a fundamental right to be free from malnutrition and hunger. Malnutrition constitutes a gross denial and violation of this right. As Malnutrition deaths reported from some pockets of the country are now invariably the consequences of misgovernance resulting from acts of omission and commission on the part of public servants, they are of direct concern to the Commission under the provisions of the Protection of Human Rights Act, 1993.

3. Various measures taken by Government for eliminate the problem of Malnutrition in Melghat area:

Government, CSOs, private sector, professional institutions, some of the international organisations and donors are involved in addressing the problem of hunger and malnutrition in India in various ways. Numerous government measures to overcome hunger and malnutrition includes¹⁴-

- National Food Security Mission,
- National Food Security Act, 2013¹⁵
- National Nutrition Mission,
- National Policy On Farmers,
- National Horticulture Mission,
- National Mission on Pulses and Oilseeds,
- National Rural Livelihoods Mission,
- Mahatma Gandhi National Rural Employment Guarantee Act/Scheme,
- National Rural Health Mission Integrated Child Development Services (ICDS) for children below 06 years to provide nutrition and pre-school education,

- Mid Day Meal (MDM) for children of 06-14 years,
- Public Distribution System
- Kishori Shakti Yojana
- Janani Suraksha Yojana (Mothers' Protection Scheme) for pregnant/lactating mothers and Social Assistance to the poor/needly (subsidised foodgrains, pension, insurance, etc),
- Fair Price Shops(FPSs) under the PDS to distribute subsidised food grains, sugar, kerosene oil, etc to the targeted poor households;
- Angan Wadi Centres (AWCs)

4. Causes of administrative failures and impediments in implementation of government policies in this area and Challenges before Government:

- Right to food and right to health having lake of implementation.
- Lack of awareness regarding their rights among tribal people.
- Poverty in Melghat area.
- Lack of education.
- Lack of medical facilities in their village.
- Lack of implementation and awareness of statutory rights.
- Lack of medical facilities at their own village.
- Tribal people mostly relied on tradition and custom.
- Community participation in awareness programme is low.
- Workers having low motivation, over-burdened, poorly paid.
- SNP is of poor quality
- Focus has been more on 3 to 6 year age group and for this group on feeding and not preschool education
- No convergence with health services
- Corruption while providing schemes to tribal people.

5. Recommendations:

There is needed to implement following programs and schemes for eliminating problem of malnutrition in Melghat area of Maharashtra

- The Food Component: making available sufficient food, which is acceptable, which is varied- (adequate quality- energy dense, micronutrient rich etc.)
- The System of Child Care: supplements care by the family; enables and empowers women ; care needs to be provided by informed, interested adult care with appropriate infrastructure
- System of Health Care: provides prompt locally available care for common but life threatening illnesses- both prevention and management.
- Immunization Programmes
- Vitamin A Supplementation Programme
- National Nutritional Anaemia Control Programme
- National Iodine Deficiency Disorder Control Programme.
- National Rural Drinking Water Programme
- Total Sanitation Campaign
- Dietary supplements of iron –rich, energy dense foods made from locally available food material prepared by women SHGs for adolescent girls and women, especially during growth periods and pregnancy to fill the protein calorie gap and ensure optimal weight gain during pregnancy.
- Anemia screening for children, adolescent girls and women.

- Weight monitoring of all adolescent girls and pregnant women.
- Prevention and management of Micro-Nutrient deficiencies, especially through IFA supplementation to prevent anemia in adolescent girls and women.
- Making available low cost energy foods for the general population.
- Fortification of common foods.
- Access to safe drinking water treatment, storage, handling and transport, sanitation and hygiene.
- Increased female education and completion of secondary schooling for the girl child, delayed age of marriage and pregnancy.
- Need to prevent child marriages, child mortality.
- Increase access to basic health services to women.
- Need to Expand and improve nutrition education and involvement at Panchayat and community level to create demand.
- Need to increase gender equity.
- Linking Agriculture/Horticulture and Nutrition.

6. Sum-up:

On the basis of above made research it is concluded that, right to food and right to health are fundamental and human rights in India. These rights are closely linked to the right to life under article 21 of the constitution. No government practice or action can be allowed to deny these rights on any ground. The right to food is implicitly recognized in such provisions as the right to life, the right to health and the right to economic, social and cultural development, which are expressly recognized under the Constitution of India. The right to food is inseparably linked to the dignity of human beings and is therefore essential for the enjoyment and fulfillment of such other rights as health, education, work and political participation.

It is the duty of the state, as a welfare state, to ensure adequate food and nutrition for its people. Our government should first ensure food for all then only the people of this country would be able to contribute to the progress and development of the nation, thereby making our country a better place

In India there are various fundamental rights, directive principle of state policy, human rights and conventions states about protection of these rights but lack of implementation is major problem in India. Therefore there is needed to give focus on implementation of these rights by governmental agencies and non governmental agencies. While doing this research in Melghat region it has been observed that lack of proper health care both by their families and the primary health centers run by the government, has resulted in increasing number of tribal women giving birth to malnourished children. Inadequate basic health care, lack of elementary education and intensive land alienation of the indigenous people have been cited as the main reasons for the poor condition of the Korku tribals. Improper child rearing practices, poor diet intake by the pregnant women, early marriages, poor spacing of children, inadequate health education and awareness, lack of adequate income and purchasing power have been found to be the main reasons of child health in Melghat.

Intervention by the Supreme Court is a mechanism of accountability, but it is not normally available to ordinary people on a local basis. The present Supreme Court case in India has become necessary because there are no effective mechanisms of accountability available to ordinary people at the local level. Until local people know their rights and know that they have effective means through which to exercise them, there is no effective system for assuring the realization of the right to adequate food

and right to health in India. Therefore it is an obligation on state to necessary steps to control the problem of malnutrition,

References:

1. Scope of research methodology is available at <http://www.limat.org/data/research/Research%20Methodology.pdf>
 2. For more detail See Article 21 of the constitution of India
 3. Available at www.thehindu.com/todays-paper/tp-opinion/.../article dated 23rd July, 2009.
 4. See detail **Sheela Barse v. Union of India, AIR 1986 SC 1773**
 5. See Prabha Krishnana, Health care, earth care: interrogating health and health policy in India, Earth care books, 2000, p. 87.
 6. Paschim Bangal Khet Mazdoor Samity and others Vs. State of West Bengal AIR 1996 SC 426.
 7. CESC Ltd. Vs. Subhas Chandra Bose (1995) Supreme Court cases.
 8. **Universal Declaration Of Human Rights, 1948** available at
 9. <http://www.un.org/en/documents/udhr/>
 10. For more detail see Article 25 Of the Universal Declaration of Human Rights, 1948
 11. Available at http://www.cesr.org/downloads/CESR_s%20Activists%20Manual.pdf visited on 6-6-2014/
 12. See Article 11 of the International Covenant of the Economic, Social and Cultural Rights, 1966.
 13. This convention came into force in 1990.
 14. Available at www.unicef.org/rightsite/files/uncrcchildfriendlylanguage.pdf
 15. Available at <http://www.angoc.org/wp-content/uploads/2012/09/12/vietnam-food-and-nutrition-security-situationer/India.pdf>
 16. Main object of this Act, to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto.
- C. R. Kothari, Research methodology: Methods and techniques, New age International, 2004.
 - Durga Das Basu, Introduction to the Constitution of India, South Asia Books, 1994.
 - O. Chinnappa Reddy, The Court and the Constitution of India: Summit and Shallows, OUP India, 2010.
 - Hans Raj Khanna, Making of India's Constitution, Eastern Book Company, 2008.
 - V. V. Devasia, Ajit Kumar, Social Work Concerns and Challenges in the 21st Century, APH Publishing, 2009.
 - P.D. Tiwari, A.N. Sharma, Tribal Ecosystem and Malnutrition in India: Proceedings of the National Seminar, Northern Book Centre, 1989.
 - Poverty and Social Exclusion in India, World Bank Publications, 2011
 - S. N. Choudhary, Human Rights And Poverty In India: Theoretical Issues And Empirical Evidences, Concept Publishing Company, 2005.
 - H. Suresh, All Human Rights are Fundamental Rights, Universal Law Publishing, 2010

- International Covenant on Economic, Social and Cultural Rights.
http://www.unhchr.ch/html/menu3/b/a_ceschr.htm
- PUCL Petitions Supreme Court on Starvation Deaths”, PUCL Bulletin, July 2001. Available at
http://www.pucl.org/reports/Rajasthan/2001/starvation_death.htm
- International Covenant on Economic, Social and Cultural Rights.
http://www.unhchr.ch/html/menu3/b/a_ceschr.htm
- United Nations Children’s Fund, The State of the World’s Children (New York: UNICEF, 2002). <http://www.unicef.org/sowc02summary/table1.html>
- Universal Declaration of Human Rights.
<http://www.unhchr.ch/udhr/index.htm>