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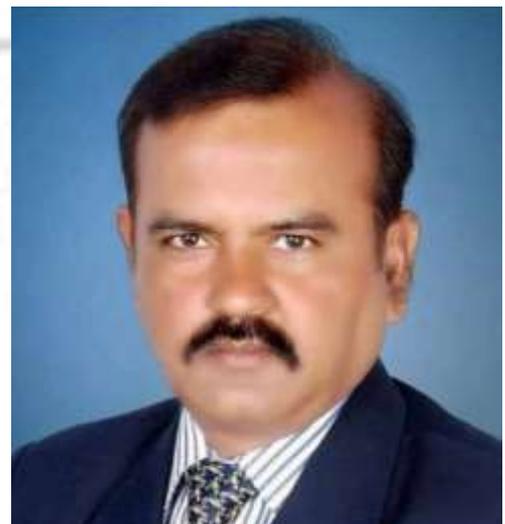
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

COMBATING MALNUTRITION: A SOCIO-LEGAL ANALYSIS OF THE RIGHTS TO FOOD & HEALTH FOR WOMEN & CHILDREN IN INDIA

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ABSTRACT

Malnutrition is a very common socio-economic-legal challenge affecting the health as well as right to life with dignity of women and children in India. This paper throws light upon the social evil causing health issues to women and children associated with malnutrition. The aim of this paper is to examine Right to Food and Right to Health of women and children, emphasis upon the nutritional empowerment and analyze the social-legal-economic-political-cultural impact upon the society by identifying gaps and lacunae in gender equality, food and health security system. Through a critical analysis of Constitutional and other legal frameworks, judicial responses, policies and welfare programmes regarding the protection of these rights, it can be suggested that recommendations for amendments of statutory provisions are immediately needed and other welfare initiatives must be taken by the Government to combat injustice against women as well as children in the society and promote welfare and safety to lead a meaningful life with rights, equity, dignity.

INTRODUCTION

The status of women and children has gone through several changes over the years, depending upon the social cultural political economic dimensions in the society. To provide safeguards and protection of women and children against various types of crimes and violation of rights, numerous legislations have been implemented. Basically health is the basic and vital requirement to lead a meaningful life as we know health is wealth. Thus health is a human right which is essential to every individual human being since his or her birth. Constitution of India did not mention any specific provision dealing with the terms “the right to health” and “right to food” as fundamental rights. Eventually through the dimensions of several judicial judgements, the provision of Article 21 related with “Right to Life and personal liberty”

connotes several rights are guaranteed such as right to livelihood, right to life with human dignity, right to health and medical assistance, right to food and other basic necessities which are fundamental to live a healthy life with dignity.

CONCEPT OF RIGHT TO FOOD

The right to food is universal human right and it is interlinked with other rights likely the right to life and the right to health. Proper adequate and sufficient food, healthcare, education, shelter, dress, cultural values, and the freedom to participate in economic and political life all are basic necessities for all human beings to live in dignity, free from hunger, food insecurity and malnutrition. The Three main elements of right to food are: availability, adequacy and accessibility of food.¹

Universal Declaration of Human Rights, 1948, where Article 25 affirms the right to a standard of living adequate for the health and well-being of oneself and one's family, explicitly including access to food. Similarly, Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) marks that the right to adequate food is essential for attaining an adequate standard of living. Thus, freedom from hunger and malnutrition is a basic and inalienable right of every individual.

CONCEPT OF RIGHT TO HEALTH

Health is necessary for the biological, mental, psychological, social, cultural, spiritual, economic, and political well-being of all human beings. Health enhances capability and functioning of human beings. Inequalities in the field of health are the most basic form of inequalities and needs to be addressed urgently.

According to the World Health Organization (WHO), "Health is a state where a person has achieved physical, mental, and social well-being," 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 and motherhood and childhood are entitled to special care

¹ What is Right to Food, available in <https://www.righttofood.org/work-of-jean-zeigler-at-the-un/what-is-the-right-food-fundamental-right>, last visited on 04.05.2025

and assistance. According to the World Health Organization, everyone has the fundamental right.²

The World Health Organization and the United Nations (UN) share the same guidelines when it comes to the right to health. Article 25 of the Universal Declaration of Human Rights (UDHR) acknowledges the right to health. It states that every individual has a right to a quality of living that is appropriate for their family's health and well-being. This right, include the provision of food grains, clothes, shelter, medical treatment, social services, and the assurance of one's health in the event of unemployment, illness, widowhood, old age, or incapacity to support oneself due to circumstances outside one's control.

CONCEPT & TYPES OF MALNUTRITION

Every country in the world is affected by by malnutrition and now globally it becomes a great challenge in combating malnutrition in all its forms. Women, infants, children and adolescents are at the highest risk of malnutrition in national as well as international level. Specifically poor people in remote areas are more likely to be affected by different forms of malnutrition. They are deprived from their basic human rights to get adequate food and healthcare.

Malnutrition can also be defined as an impairment of health resulting from a deficiency, excess or imbalance of nutrition. It also includes under nutrition and over nutrition. Deficiency of protein and energy during infancy is one of the most serious problems throughout the world. It leads to clinical syndromes such as Kwashiorkor, Marasmus, and Anaemia³.

Kwashiorkor-

Kwashiorkor is a protein deficiency disease, caused due to poor intake of protein or quality protein over a prolonged period of time. Kwashiorkor causes swelling in the body especially in the hands, feet and the face. The hair and skin show characteristic changes – hair may be light coloured or reddish yellow and fall off in patches and the skin show patches and become flaky and peel off.

² Dr Tedros Adhanom Ghebresus, "Health is a fundamental human right" 10th December , 2017 available in <https://www.who.int/news-room/commentaries/detail/health-is-a-fundamental-human-rights>, last visited on 04.05.2025

³ "Malnutrition: Definition, causes, symptoms & treatment" available in <https://my.clevelandclinic.org> last visited on 04.05.2025

Marasmus-

Marasmus is a form of undernutrition caused by inadequate food intake children's do not get sufficient amount of food, especially in developing countries and face many deficiencies as weight loss, dehydration, hair loss etc.⁴

Anaemia-

Anaemia causes due to deficiency of iron in the diet. It is very common serious health issue for women and girls, menstrual losses and increased needs in pregnancy are some cause of anaemia. It is also harmful for children.

FACTORS CAUSING ISSUES AND CHALLENGES:

- i. **Poverty:** Poverty and low income are the main root cause of malnutrition particularly among women and children in India. Families with low income fail to meet the need of adequate fresh food, pure water, medicines, proper healthcare and sanitations which are main essentials for proper nutrition to lead a healthy life.
- ii. **Gender Inequality:** In 21st century, women and girls in many societies still face discrimination due to cultural norms and traditional patriarchal. In many societies women are treated as burden, inferior and secondary to men. Due to gender bias women and girl children are more vulnerable and often lack access to proper nutrition, health care and education opportunities.
- iii. **Lack of Maintenance:** Abandoned helpless women and children face economic insecurity, shelter, food and health support.
- iv. **Domestic Violence:** Cruelty by starvation through domestic violence heightens the risk of malnutrition in women and children by depriving them from food.
- v. **Lack of Education:** Lack of education limits the knowledge to access necessary resources about health, nutrition and support.
- vi. **Lack of Health Development & Poor Infrastructure:** Inadequate food security, investment, poor infrastructure in public health system cause malnutrition.
- vii. **Lack of awareness:** Due to lack of awareness and negligence regarding rights and laws, women and children fail to seek legal protection and support against exploitation.

⁴ Ms. Anupama Rajput, "Marasmus" 6 IJARRIE Review 619,(2020)

- viii. **Corruption and Leakages:** Diversion of funds for agriculture and public welfare, irregularities and inefficiency in resources and public food distribution system hamper the adequate quality of food grains.
- ix. **Pandemics and Natural Calamities:** It may cause food insecurity and healthcare crises globally at high risk.
- x. **Non-development of Rural Areas:** Results in poor access to basic services.

HEALTH EFFECTS OF MALNUTRITION ON WOMEN AND CHILDREN:

A. Effects on Children:

Stunted Growth:-

It leads to poor physical development and cognitive delay.

Wasting and Underweight:-

It indicates acute and chronic malnutrition.

Iron deficiency anemia:-

It causes fatigue, developmental delays⁵.

Vitamin A deficiency :-

It increases infection risk and causes vision problems.

Zinc deficiency:-

Due to Zinc deficiency immunity and growth disrupts⁶.

Increased Susceptibility to Disease:-

Frequent infections like diarrhea, pneumonia etc occurs.

Severe Acute Malnutrition (SAM):-

Several health disorders like marasmus and kwashiorkor increase.

Mortality:-

Due to low immune power in body may cause death to a child.

B. Effects on Women:

Frequent Illness, Weakened Immunity and Wound Healing:

Immune function is also affected, increasing the risk of infection due to impaired cell-mediated immunity and cytokine, complement and phagocyte function. It causes frequent illness and delayed wound healing in malnourished surgical patients.

⁵ P.M Bakshi, "Right to Nutrition", 37 Journal of The Indian Law Institute, (1995)

⁶ Ken Albala, "The Sage Encyclopedia of Food Issues". 3, (2015)

Iron Deficiency Anaemia:

Iron deficiency anaemia is the most common nutritional health issue in women especially among adolescent girls and pregnant women⁷. It causes nutritional deficiencies, chronic fatigue, weakness, pale skin and lips, reduced physical capacity, reproductive issues, high risk of infections and diseases like malaria, tuberculosis, diarrhea etc.

Menstrual Disorders:

Poor nutrition disrupts hormonal balance, leading to menstrual problems such as irregular periods, amenorrhea (absence of menstruation), heavy bleeding, and painful cramps. Deficiencies in iron, calcium, magnesium, and B vitamins are common causes, and they can worsen symptoms, reduce fertility, and affect overall reproductive health.

Lowers productivity & Infertility:

Delaying puberty, infertility and other reproductive issues cause due to hormonal imbalance from malnutrition.

Complicated Pregnancies:

Malnutrition leads to still births, undernourished or low birth weight infants, miscarriage and other complications during pregnancy.

Reduced Breast milk Production:

It impacts infant health.

Osteoporosis and Bone Health:

Inadequate calcium and vitamin D intake weakens bones, causing osteoporosis, especially in post-menopausal women

Mental Health Issues:

It increases risk of depression and anxiety.

Death:

Malnourished women, especially during pregnancy, face higher risks of death due to severe anaemia, hemorrhage, infections due to weakened immunity. Due to lack of proper nutritious food, medicine and healthcare death may cause to woman.

Psychosocial Effects

In addition to these physical consequences, malnutrition also results in psychosocial effects such as apathy, depression, anxiety and self-neglect.

⁷ Prema Ramchandra, "India's Food and Nutritional Security", 9 Journal of National Human Rights Commission. 9,(2010)

CONSTITUTIONAL PROVISIONS:-

➤ **Provisions Under Part-III Of The Constitution Of India :**

Article 14:

Article 14 speaks about equality before law where the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 14 is applicable to all citizens as well as non-citizens and states every individual irrespective of his or her religion, caste, sex, race or place of birth is equal before law and should get equal protection of laws within territory of India.

Article 15:

Article 15 contains prohibits discrimination against citizens on the grounds only of religion, race, caste, sex, place of birth or any of them. Further no citizen shall also be subjected to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels and places of public entertainments; or the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public. Even nothing in this Article shall prevent the State from making any special provision for women and children for their betterment of life⁸.

Article 21:

Article 21 of the Indian Constitution ensures protection of life and personal liberty of the individual. Article 21 states that no person shall be deprived of his life or personal liberty except according to procedure established by law.

➤ **Provisions Under Part-IV Of The Constitution Of India:**

Apart from the above fundamental rights, the Constitution of India provides health care of the citizens under the provisions discussed in Directive Principles of State Policy.

ARTICLE 38:

Article 38 provides that the State shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice social, economic and political, shall inform all the institution of the national life. The State will secure a social order

⁸ Dr. Soumitra Kumar Chatterjee, “*Right to Health, Constitutional Safeguards and Role of Judiciary*” 85, 86 (2016)

for the promotion of welfare of the people including public health because without public health welfare of people is practically meaningless.

ARTICLE 39:

Article 39 states that the State shall, in particular, direct its policy towards securing adequate means of livelihood to all citizens, the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

ARTICLE 41:

Article 41 secures right to work, education and public assistance in certain cases of unemployment and thus imposed duty on the State to public assistance basically for those who are old, sick and disable.

ARTICLE 42:

Article 42 provides for just and humane conditions of work and maternity relief and prescribes power to the State for making provisions in this regard, which intends to protect the health of infants and mothers by ensuring maternity benefit.

ARTICLE 47:

Article 47 imposes duty on the State to raise the level of nutrition and the standard of living and to improve public health. It states that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

ARTICLE 48:

Article 48A has been added by 42nd Constitutional Amendment, 1976 to protect and improve environment and provide safeguards the forest and wildlife for good health.

➤ **Provisions Under Part - IV-A:-**

Article 51 A (g):

Article 51 A (g) of the Constitution of India ensures that it shall be the duties of every individual to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

LEGISLATIVE PROVISIONS:-

➤ **The National Food Security Act, 2013 (NFSA):**

The National Food Security Act, 2013 was enacted by Parliament to provide for subsidized food and nutritional security to the people to ensure adequate quantity of quality food at affordable prices to people to live a life with dignity⁹. This law aims to provide subsidized food grains to approximately two-thirds of India's population. This Act prescribes provision for penalty on public servant or authority, to be imposed by the State Food Commission, in case of failure to comply with the relief recommended by the District Grievance Redressal Officer.

The government will provide food entitlement to 75% of the population in rural India and 50% of the population in cities. Anganwadis provide age-appropriate meals to children aged between 6 months and 6 years and pregnant women. Mid-day meal scheme will provide food to children aged between 6 years and 14 years. Breast feeding is to be promoted for children below 6 months. State Food Commissions will monitor and evaluate the implementation of the Act as well as redress grievances and the Central Government will provide food grains or funds to State Governments.

➤ **The Maternity Benefit Act, 1961 (Amended 2017):** Provides maternity leave and healthcare access to pregnant women in formal employment.

➤ **The Juvenile Justice (Care and Protection of Children) Act, 2015:** This Act aims to protect child's right including right to food and health and eradicating malnutrition through the approach of adjudication, rehabilitation and proper care. It mandates establishment of bodies like Child Welfare Committees and Juvenile Boards for progress.

➤ **The Protection of Women from Domestic Violence Act, 2005:**

Includes the right to food and health as part of the right to reside in a shared household.

⁹ Object of the National Food Security Act, 2013

➤ **Section 498 A of Indian Penal Code 1860/Section 85 of The Bharatiya Naya Sanhita, 2023:**

Section 498 A of IPC (now presently Section 85 of The Bharatiya Naya Sanhita, 2023) deals with cruelty related with unlawful demanding of any property or valuable security, by husbands or his family members towards married woman and it is punishable offence in terms of imprisonment for a term extending to three years with fine. Not providing food to the married woman and compelling her to live in parental home on account of non-fulfilment of demand of dowry would certainly amount to physical and mental harassment, punishable under Section 498A of the Indian Penal Code.

➤ **Maintenance under the Criminal Procedure Code, 1973/ Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 & Personal Laws**

Section 125 of the Criminal Procedure Code, 1973 (now presently is Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) provides legal remedy for women and minor children, aged parents to claim maintenance from a husband or father post-divorce or abandonment. The main object of this legislation is to protect dependants who are unable to protect themselves from starvation, misery and vagrancy by providing basic necessities. In personal laws, Hindu Marriage Act, 1955, Hindu Adoption and Maintenance Act, 1956, Hindu Minority and Guardianship Act, 1956 deals with the provision related with maintenance to Hindu woman and child. For Muslims, the provisions regarding maintenance is provided in Muslim Women (Protection of Rights on Divorce) Act, 1986, Indian Divorce Act, 1869 governs law relating to maintenance to Christian similarly as Parsi Marriage and Divorce Act, 1958 for Parsis. The Special Marriage Act, 1954 prescribes alimony pendente lite, permanent alimony and maintenance to the wife belonging to different religions or castes.

GOVERNMENT SCHEMES:

➤ **Integrated Child Development Services Scheme (ICDS):**

It focuses on improving nutrition, immunization, and early education of child, adolescent, pregnant and lactating women. It provides Take Home Rations for pregnant and lactating women. Anganwadis provide age-appropriate meals to children aged

between 6 months to 6 through Anganwadi Centres¹⁰.

➤ **Mid-Day Meal Scheme:**

It offers free lunches to improve nutritional levels and school attendance.

➤ **Poshan Abhiyaan(National Nutrition):**

This scheme aims to reduce stunting, malnutrition, and anaemia and promote community based health and nutrition practices.

➤ **Saksham Anganwadi & Poshan 2.0**

Ministry of Women and Health Development has issued guidelines regarding this programme and it is an integrated restructured version of ICDS and POSHAN Abhiyan nutrition programme in India to improve nutritional status of children, adolescent girls, pregnant women and lactating mothers.

➤ **Janani Suraksha Yojana (JSY):**

It promotes safe motherhood by providing financial assistance for institutional deliveries.

➤ **Pradhan Mantri Matru Vandana Yojana (PMMVY):**

To reduce maternal mortality, maternity benefits of at least Rs. 5,000 offer to pregnant and lactating women under the Pradhan Mantri Matru Vandana Yojana.

➤ **Swadhar Greh (A Scheme for Women in Difficult Circumstances):**

In India this scheme aims to provide shelter, food, clothing, social, economic and health security for empowerment to the women who are deserted and not having economic-social support, homeless, trafficked, prisoner not having family and suffering from AIDS, HIV.

➤ **National Rural Health Mission (NRHM):**

This initiative focuses on improving affordable healthcare to people especially women and children in rural areas.

❖ **JUDICIAL RESPONSES:**

In **Kesavananda Bharati vs. State of Kerala**¹¹, a landmark judgment, the larger Bench discussed the concept of the inviolable basic structure of the Constitution which cannot be amended. In this case, Mathew J. observed that the object of the people in establishing the Constitution was to promote justice (social and economic), liberty and equality. The modus

¹⁰ Y Sachdev, J Dasgupta, "Integrated Child Development Services (ICDS)Scheme, available in <https://pmc.ncbi.nlm.nih.gov/articles/PMC4925843> (2001) last visited on 04.05.2025

¹¹ (1973)4 SCC 225

operandi to achieve these objectives is set out in Parts III and IV of the Constitution. While discussing the other aspects, he observed that freedom from starvation is as important as the right to life.

In **Kishen Pattnayak vs. State of Orissa**¹², 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 in lack of food and where several people were forced to sell their children. The Supreme Court of India held that, "Right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. All civil, political, social, and cultural rights enshrined in the Universal Declaration of Human Rights and the Convention or under the Constitution of India cannot be exercised without these basic human rights. The Court held that the Government of India has a constitutional obligation to take steps to ensure to all individuals a dignified life by providing adequate food as these are basic human rights known to any civilized society.

In **Shantisar Builders v Narayanan Khimala Totame**¹³, the Court held that basic needs of man have traditionally been accepted to be three – food, clothing and shelter. The right to life is guaranteed in any civilized society. That would take within its sweep, the right to food, the right to clothing, the right to a decent environment and reasonable accommodation to live in.³⁰ In landmark case of **People's Union for Civil Liberties (PUCL) vs. Union of India**¹⁴, 'the right to food' was recognized as part of the "right to live with dignity" and the Court held that right to food is a fundamental right of all citizens. Writ Petition (Civil) No. 196 of 2001 was filed as a Public Interest Litigation under Article 32 contending violation of Articles 21 and 47¹⁵. Various interim orders were passed from time to time directing the authorities to ensure that nutritious food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, undernourished or malnourished, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them.

In this case, the Supreme Court directed in the interim order that every State and Union

¹² AIR (1989) SC 677

¹³ (1990) 1 SCC 520

¹⁴ AIR 2003 SC 2363

¹⁵ *PUCL v UOI* SC (20010) Writ Petition No. 196/2001 p.48

Territory to ensure that no one dies from starvation or malnutrition. It ordered the States and Union Territory to implement food-for-work programmes, Mid-day Meals Scheme to provide meal to every child in government and government assisted schools containing minimum calories with 8-10 grams protein each day of school for minimum 200 days and Integrated Child Development Scheme (ICDS) to provide 300 calories and 8-10 grams of protein for each child up to 6 years of age and 500 calories and 20-25 gram of protein for all adolescents. Every pregnant woman and nursing mother was to be given 500 calories and 20-25gms of protein and every malnourished child would get 600 calories and 16-20gms of protein. The states and the union territories were also ordered to implement the National Maternity Benefit Scheme by paying Rs.500 to all pregnant women who were below the poverty line, 8-12 weeks prior to delivery for each of the first two births and the National Fertility Benefit Scheme in which a BPL family would receive Rs. 10,000 within 4 weeks if the family's primary earning person dies.

In **Kapila Hingorani vs. State of Bihar**¹⁶, hundreds of employees of state-owned corporations, public undertakings or other statutory bodies in the State of Bihar died due to starvation, or committed suicide owing to acute financial crises resulting from non-payment of remuneration for a long time. When this fact was brought to the notice of the Supreme Court, it held that the State cannot escape its liability when human rights problems of such a magnitude involve starvation deaths. The Court held that lack of access to food is in violation of the human right to food, and issued various directives to ensure that no starvation deaths occur. The State Government of Bihar thus, had a constitutional obligation to protect the life and liberty of the employees of the government-owned companies or corporations who are the citizens of India. It must oversee the protection and preservation of the rights as adumbrated in Articles 14, 19, 21 and 300-A.

In **Peerless General Finance and Investment Co. Ltd. vs. Reserve Bank of India**¹⁷, the Court quoted Article 25 of Universal Declaration of Human Rights and held that right to life includes the right to live with basic human dignity with the necessities of life such as nutrition, clothing, food, shelter over the head, facilities for cultural and socio-economic well being of every individual.

¹⁶ (2003) 6 SCC 1

¹⁷ (1992) 2SCC 343 P.388

In **Olga Tellis v. Bombay Municipal Corporation**¹⁸, the Supreme Court of India recognized the right to livelihood as an essential part of the right to life under Article 21 of the Constitution and stated that access to healthcare services and a healthy environment are integral to the right to life.

In **Consumer Education and Research Centre v. Union of India**¹⁹, the Supreme Court held that the right to health includes the right to medical care and treatment. It emphasized that the State has an obligation to provide essential healthcare services, especially to marginalized and vulnerable populations.

In **Paschim Banga Khet Mazdoor Samity v. State of West Bengal**²⁰, emphasized the State's duty to ensure healthcare facilities, including emergency medical services, in rural areas. The court recognized the right to health as a fundamental right, and failure to provide necessary healthcare facilities was deemed a violation of that right.

In **Francis Carolin Mullin v. Union Territory of Delhi**²¹, The fundamental rights to food, clothing, and shelter are included in the right to life guaranteed by Article 21 of the Constitution

In **Bandhua Mukti Morcha v. Union of India**²², The Supreme Court discussed the kinds of circumstances required to enjoy good health and declared that the right to "protection of health" is a component of the right to live with human dignity. No State, neither central government, nor state government has the authority to take any action that would prevent someone from enjoying this fundamental necessity.

In landmark judgment **Pt. Parmanand Katara v. Union of India**²³, the Apex Court held that all medical professionals, who are working in government hospitals or not, have a duty to use their professional skills to save lives, whether the patient is a criminal who faces legal penalties or an innocent person. No state action or legislation can prevent or postpone the accomplishment of the primary duty imposed upon medical practitioner.

¹⁸ 1986 AIR 180

¹⁹ AIR 1995 SC 42

²⁰ AIR 1996 SC 2426

²¹ AIR 1981 (1) SCC 608

²² AIR 1984 SC 802

²³ AIR 1989 SC 2039

In **Devika Vishwas vs. Union of India**²⁴, the Supreme Court held that "right to health" is a facet of the "right to life" guaranteed vide Article 21 of the Constitution.

In **Navtej Singh Johar and others Vs. Union of India**²⁵, the Supreme court held that one aspect of the right to life guaranteed by Article 21 of the Indian Constitution is the right to health and medical care. It was held that "the right to life is meaningless unless certain concomitant rights, such as the right of health, are guaranteed."

❖ **CONCLUSION & SUGGESTION:**

Through the critical analysis of Constitutional provisions, legal frameworks and judicial responses we can state that the Court has played vital role in combating malnutrition. Besides that government of India has also taken effective measures to protect the right to health as well as right to food by promoting several programmes and schemes. Despite of Constitutional guarantees and welfare schemes a large number of people specifically women and children in rural area are still suffering from malnutrition and lack access to adequate food, fresh drinking water, medicine, proper nourishment and healthcare as this right is not officially added in provision of Fundamental Rights. Though we are living in 21st century and witnessing rapid development of society as well as advancing technology including Artificial Intelligence, it is deeply disgraceful and pathetic to observe that millions are still suffering from hunger and die due to lack of food and basic healthcare. Thus to erase this gap and to improve the disheartening condition of such affected women and children of our society, strict legislations against the corruption should be implemented and Government must reform infrastructure of both food distribution system and public healthcare by upgrading hospitals and ensure strict implementation of schemes for betterment of women and children especially in rural and marginalized areas. Besides that, National Human Rights Commission, National Commission for Women and National Commission for Protection of Child Rights, NGOs and other bodies and institutions must advocate the present status of affected people, monitor their participations and assure effective execution of eradicating malnutrition and promoting nutrition, education, awareness, development of economy and health infrastructure without any discrimination for the welfare of women and child.

²⁴ (2016) 10 SCC 726

²⁵ (2018) 10 SCC 1