CHAPTER – IV

RIGHT TO ADEQUATE STANDARD OF LIVING

The right to adequate standard of living is concerned as fundamental human rights. It is mainly concerned with right to food, pure drinking water, shelter and health. These are primary determinants to an adequate standard of living. These rights are avoiding to hunger, diseases and emphasis to provide continue living environment. Every human person has right to seek adequate standard of living for health and well being of himself and his family. These rights include food, clothing, housing and health care facilities and necessary social services. An adequate standard of life has been infringed more comprehensively and systematically that any other rights\textsuperscript{1}. It is primarily a combination of other economic, social and cultural rights.

The right to adequate standard of living is recognized under various international human rights instruments such as Article 25\textsuperscript{2} of the Universal Declaration of Human Rights\textsuperscript{1948}, Article 11\textsuperscript{3} of the International Covenant an


\textsuperscript{2} Article 25 of UDHR provides (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.

\textsuperscript{3} Article 11 of ICESCR provides “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”.

4.1 Right to Food

According to the United Nation’s Food and Agriculture organization (FAO), total more than 850 million people in the world are hungry. Similarly the World Health Organization (WHO) report says 10 million child deaths occur every year due to malnutrition in the world\(^7\). These facts are rise concern to right to food as a Human Right. Article 11(2)\(^8\) of the ICESCR deals comprehensively the human right to food. The human right to adequate food is important for enjoyment of all other human

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\(^4\) Article 27(1) of CRC provides “1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development”.

\(^5\) Article 5(e) of ICERD provides “Economic, social and cultural rights, in particular: (i) The rights to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration; (ii) The right to form and join trade unions; (iii) The right to housing; (iv) The right to public health, medical care, social security and social services; (v) The right to education and training; (vi) The right to equal participation in cultural activities; (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks”.

\(^6\) Article 28 of CRPD provides “1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability. 2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs; (b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes; (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counseling, financial assistance and respite care; (d) To ensure access by persons with disabilities to public housing programmes; (e) To ensure equal access by persons with disabilities to retirement benefits and programmes”.

\(^7\) Y.S.R. Murthy, *Human Rights Hand Book* 130 (LexisNexis Butterworth’s, New Delhi, 2007)

\(^8\) *Id.*
rights. It is indivisibly linked to the inherent dignity of the human person and it’s indispensably linked to the fulfillment of other human rights enshrined in the International Bill of Human Rights. Right to food is responsible to the eradication of poverty.

a) International Level

The right to food is part of the various human right instruments. Article 25(1) of the Universal Declaration of Human Rights 1948, Article 5 (e) of the Convention on Elimination of all forms Racial Discrimination, Article 12(2) of the Convention on Elimination of Discrimination against women and Article 24(2) (c) of the convention on the rights of the child are recognized right to food as human rights. These instruments are specifically imposed obligation upon the state recognize right to food and guarantee to people. The Committee on Economic, Social and Cultural Rights (CESCR) through its General comment 12 provided the following definition of the right to adequate food.

The right to food is realized when everyman, women and child alone or in community with others, has physical and economic access at all times to adequate food or means of its procurement. The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger as provided for in paragraph 2 of Article 11, even in times of natural or other disasters. Further the special rapport on the Right to food is the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food.

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10 Supra note 5.
11 Id.
12 Id.
13 Art. 12(2) “Notwithstanding the provisions of paragraph I 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.”
corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual or collective, fulfilling and dignified life free of fear\textsuperscript{14}. The normative framework of the right to food is encompassed three essential components. These are the adequacy of food, the availability of food and the permanent access to food within dignity\textsuperscript{15}. These denote minimum content of right to food. The General comment 12 entails an obligation that Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe to ensure their freedom from hunger\textsuperscript{16}.

b) National Level

1) Legislative Incorporation

Constitutional provisions: The Supreme Court of India has played vital role for recognizing unenumerated fundamental rights are emanated from Article 21 of the Indian Constitution. The Judge of the Supreme Court during post-emergency era, finding themselves free from its previous restrictive jurisprudence of Article 21, took an expansive view of life and liberty to include in the meaning of the right to life every aspect that made life meaningful, worthwhile\textsuperscript{17}. Justice Bhagawathi while interpreting Article 21\textsuperscript{18} asserted that the right to life includes “right to live with human dignity and all that goes along with it”\textsuperscript{19} and further emphasized that “everyone has a right to basic necessities of life”\textsuperscript{20}. The important provision in the India Constitution is pertaining to the primary duty of the State to raise the level of

\textsuperscript{14}Para 14 of UN Doc. E/CN.4/2001/53.
\textsuperscript{15}Prof.Dr.Bimal N.Patel, Dr.Ranita Nagar, (et.al.), \textit{Food Security Law} 18 (Eastern Book Company, Lucknow,2014)
\textsuperscript{16}Para 17 of General Comment 12, UN Doc.E/C.12/1999/5.
\textsuperscript{17}Rajeev Dharan, “Promises, Promises…Human Rights in India” (1984) JILI 149.
\textsuperscript{18}Article 21 of the Constitution provides “no person shall be deprived of his life or personal liberty except procedure established by law”.
\textsuperscript{20}Id.
nutrition, the standard of living and to improve public health which may be regarded as the basis of the right to food. It contained under Article 47 of the Constitution and imposed obligation on the State. The Constitution under Article 39(a) directs the state to frame its policy towards recurring that the citizens, men and women equally have the right to adequate means to livelihood. The provisions discussed above it have firmly established in the context of Indian Constitution as recognized right to food under Directive Principles of State Policy and Supreme Court recognized under Article 21.

**Parliamentary Laws:** The sustained efforts of the social activists and the Supreme Court are responsible for introduction of National Food Security Bill during December 2011. The Bill seeks to provide food security to all citizens and it covers all aspect of food security. Finally the Bill was passed by Parliament and Government has notified the Act on 10th September 2013. The object of the *National Food Security Act, 2013 (Right to Food Act)* is to provide for 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. The Act has provided the nutritional support to women and children. Besides meal to pregnant women and lactating mothers during pregnancy and six months after the child birth, such women will get maternity benefit of not less than Rs.6000/- Children up to 14 years of age will be entitled to nutrition meal. The Act also provides food security allowance in

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21 Article 47: The State shall regard the raising of level of nutrition and the standard of living of its people and the improvement of public health as among it 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.

22 Article 39(a): that the citizens, men and women equally, have the right to adequate means of livelihood.

23 Supra note 15 at 28.


25 Id, sec 4.

26 Id, sec 5.
case of non supplies of food grains. The Salient Features of the Act is to provide food
security entitlements under targeted public Distribution system;\textsuperscript{27} state – wise
coverage;\textsuperscript{28} subsidized prices under TPDS;\textsuperscript{29} identification of Households;\textsuperscript{30} nutritional
support to women and children;\textsuperscript{31} maternity Benefit;\textsuperscript{32} women Empower-
ment;\textsuperscript{33} grievance redressel mechanism;\textsuperscript{34} transparency and accountability\textsuperscript{35}: Disclosure
of records of Targeted Public Distributions system placed public domain and social
audit, food security allowance\textsuperscript{36} and penalty provision.\textsuperscript{37} The National Food Security
Act 2013 has guaranteed that food security of people and it improved nutritional
status of the population especially of women and children. The Act is responsible for
development of human resources of the Country.

2) Executive Incorporation

The Government of India has formulated various policies and programmes for
increasing food production and on effective distribution of rice and wheat through
Public Distribution System (PDS). One of the strategies followed by government is
“Green Revolution”. Green Revolution has resulted sufficient food production.
Dr. V.K.R.V. Rao expressed his view about Green Revolution: “\textit{It is well known that
the so-called Green Revolution which helped the country to raise its output of good
grains has also been accompanied by a widening of the range of inequality in rural
incomes. The challenge which Indian agriculture faces is not only of production but of

\begin{footnotesize}
\begin{enumerate}
\item Id, sec 3.
\item Id, sec 7.
\item Id, sec 3(1).
\item Id, sec 10(1).
\item Id, sec 4 & 5.
\item Id, sec 4(2).
\item Id, sec 13.
\item Id, Chapter VII (Sections 14 to 21).
\item Id, secs 27 to 29.
\item Id, sec 8.
\item Id, sec 33.
\end{enumerate}
\end{footnotesize}
distribution..." Public Distribution System (PDS), 1960 has responsible for effective distribution of rice and wheat and other products to beneficiaries through a large network of fair shops. The PDS system was revamped during 1997 in the form of Targeted Public Distribution System (TPDS)\(^{39}\). The following programmes ensured food security or right to food for all. These programmes can be classified into three categories. These are feeding programmes through ICDS Scheme and MDMS, food subsidy programmes such as Targeted Public Distribution System including and Annapurna Yojanas, employment generation programmes under the National Rural Employment Guarantee Act 2005, Sampoorna Grameen Rozgar Yojana and National Food for work programme.

In Integrated Child Development Services (ICDS) Scheme\(^{40}\) was launched in 1975 in 33 development blocks and in a few urban areas in India. It is regarded as the World’s largest community based child development programme. It aims at the holistic development of children below the age of six years, expectant and nursing mothers and adolescent girls. The scheme provides a package of services comprising of supplementary nutrition, immunization health checkups, referral services, pre-school education and nutrition and health education. The Mid – Day Meal scheme\(^{41}\) (MDMS) was launched by the Ministry of Human Resource Development (Development of Education) on 15\(^{th}\) August 1995 for the benefit of students in primary schools under Employment Assurance Scheme (EAS). The scheme covers students Class I-V in the primary schools run by local bodies. The Scheme provides supply of free cooked meal to every child in class I to V of government, government

\(^{38}\) Ruddar Dutt and K.P.M.Sundaram, *Indian Economy* 563(S.Chand and Company Ltd, New Delhi, 1999).


\(^{40}\) *India Year Book 2009,999* (Publication Division, MoIB,GOI, New Delhi, 2009).

\(^{41}\) *Id*, at 422.
aided and local body schools. The scheme appears to be very useful in preventing child malnutrition and to enhance school enrolment.42

The Government of India has launched the Targeted Public Distribution System43 June 1997 in order ensure availability of minimum quantity of food grains to the families living below poverty line. It was intended to benefit about six crore poor families in the country for whom a quantum of 72 lakh tones of food grains was earmarked annually at the rate of 10kg per family per month. The allocation was increased from 10kg to 25 kg per family per month from July 2001. From 1st April 2002, this allocation has been further increased from 25 to 35 kg per family per month. The central issue price (CIP) for BPL families in Rs.4.15 per kg for wheat and Rs.5.65 per kg for rice.

Antyodaya Anna Yojana (AAY)44 was launched on December 2000 in order to make TPDS more focused and targeted towards the poorest section of population for one crore poor families. The Scheme contemplated identification of one crore poorest of the poor families amongst the BPL families covered under TPDS within the state and providing them food grains at highly subsidized rate of Rs.2/- per kg for wheat and Rs.3/- per kg for rice. The scheme has been expanded in subsequent years and presently it is covering 2.5 crore households. The Annapurna Scheme, 2000-200145 was launched by Ministry of Rural Development on 2000-2001. The Scheme provides food grains to indigent senior citizens of 65 years of age or above whom though eligible for old age pension under the National Old Age Pension Scheme (NOAPS)

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43 Supra note 40 at 432.
44 Id.
45 Id, at 425.
but are not getting the pension are covered under the scheme. This scheme provides 10kg of food grains per person per month are supplied free of cost.

_The National Rural Employment Guarantee Scheme, 2005_ has been implemented through the Mahatma Gandhi National Rural Employment Guarantee Act (NREGA) provides every person who is willing to work a statutory right to 100 days wage employment at a minimum wage of RS.120 per day and is open to all destitute people\(^{46}\). The *Sampoorna Gramem Rozgar Yogana 2001\(^{47}\)* was launched by Ministry of Rural Development on 25.09.2001. It is largest rural employment programme in India. It provides food grains free of costs to States and Union Territories who are engaged with various employment programme. This programme is now replaced by NREGA.

The *National Food for work Programme 2004\(^{48}\)* was launched by government of India on 13.10.2004. This programme is being implemented in 150 most backward district of the country so that the generation of supplementary wage employment and providing of food security through creation of need based economic, social and community assets is these districts. This programme has been replaced by NREGA. These programmes and schemes appear to offer certain benefits on all vulnerable groups of people and guaranteed right to food all human being.

### 3) Judicial Incorporation

The proactive role of Supreme Court of India has reiterated in several decisions that the right to life guaranteed under Article 21 of the Constitution includes the basic right to food, clothing and shelter. The Supreme Court of India has incorporated these rights into India.

\(^{46}\) _Supra_ note 42.
\(^{47}\) _Supra_ note 40 at 425-426.
\(^{48}\) _Supra_ note 40 at 431.
The larger bench of the Supreme Court in *Keshavanda Bharathi v. State of Kerala*\(^{49}\) has propounded the concept of the inviolable basic structure of the Constitution which cannot be amended. *Justice Mathew observed that 'the object of the Constitution is to promote justice Social and Economic, Liberty and Equality. The modes of operation to achieve these objects are set out under part III and IV of the Constitution. The Court further observed that freedom from starvation is as important as the right to life'.* The Court held that in “view of Article 51 of the Directive Principles of State Policy, (DPSP) this court must interpret the language of the constitution, if not intractable, which is after all a Municipal law in the light of the United Nation (UN) charter and the solemn declaration subscribed by India”. In this way the Supreme Court has incorporated international human right of free from starvation into domestic legal system.

The Supreme Court has interpreted article 21 in par with article 5 of the UDHR and article 7 of the ICCPR in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*\(^{50}\). The court held that the right to life enshrined in Act.21 cannot be restricted to mere animal existence. Bhagawathi J has asserted that the right to life includes the right to live with human dignity and all that goes along with it comprised that “everyone has a right to basic necessities of life.”\(^{51}\) It includes adequate nutrition, clothing, and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, free movement and communication with fellow human beings.

\(^{49}\) AIR 1973 SC 146.

\(^{50}\) (1981) 1 SCC 608.

\(^{51}\) Id, at 618 in para 17.
In *Shantistar Buildings v. Narayan Khimalal Totame*\(^{52}\), the supreme Court has interpreted article 21 in the light of international human rights instruments and held that right to life in guaranteed in any civilized society that would take within its sweep the right to food, right to clothing, right to decent environment and reasonable accommodation to live in.\(^{53}\) In *Peerless General Finance and Investment Co., Ltd., v. Reserve Bank of India*\(^{54}\) the court has noted the Article 25 of the UDHR while interpreting Art. 21 of the Indian Constitution Article 21 protect the right to life of the individual. The court held that on the basis of “art. 21 include the right to live with basic human dignity with the necessities of life such as nutrition, clothing, food, and shelter over the head, facilities for cultural and socio-economic well being of every individual”\(^{55}\). It guarantees and derives these from the ministries needs for existence, including a better tomorrow.

The Court in *C.E.S.C. Ltd., v. Subhash Chandra Bose*\(^{56}\) held that the right to livelihood springs from the right to life guaranteed under article 21 of the constitution. The court while deciding the case referred to the UDHR, the ICESCR recognized “rights such as right to food, clothing, housing, education, and the right to work, leisure, fair wages, decent working conditions, social security, and right to physical or mental health, protection of their families as an integral part of the right to life. The court also has held that the preamble and part. IV reemphasized them as socio-economic justice, and it is bedrock to an egalitarian social order”\(^{57}\).

\(^{53}\) *Id*, at 527.
\(^{54}\) (1992) 2 SCC 343.
\(^{55}\) *Id*, at 388.
\(^{56}\) (1992) 1 SCC 441.
\(^{57}\) *Id*, at 462.
In *Deena Nath v. National Fertilizer Ltd.*, the Supreme Court has observed international human rights norms while deciding the enforcement of the provision to establish a canteen in every establishment under section 16 of the Contract Labour Act, 1970. Section 16 provides to supply of food to workman at the subsidized. It is basic human right of right to food and Court attempted to incorporate right to food into domestic legal system through incorporative process. In *Chameli Singh v. State of Uttar Pradesh*, the Supreme Court has retired on Article 25(1) of the UDHR and Article 11 (1) of the ICESCR while interpreting article 21 of the Constitution. The Supreme Court held that the need for a decent and civilized life including right to food, water etc. In the aspect Court observed that “in any organized society, right to live as a human being is not ensured by meeting only the animal need of man. It is secured only when he is assured need of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guarantee in any civilized society implies the right to food, water. They are basic human rights known to any civilized society”.

The Court has discussed the validity of transfer of tribal land to non-agricultural purpose in *Muralidhar Dayandeo v. Viswanath Pandu Bardex Another*. The Court has observed Article 25 of the UDHR which states that “energy one has the right to a standard of living adequate for the health and well-being himself and of his family, including food, clothing, housing, 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

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58 1992 AIR 457.  
59 (1996) 2 SCC 549.  
control". The court has set-aside the alienation and direct to the District Collector to assign sold land to the legal representatives of the owner of the land. The Court also discussed the right to food and development incidentally while discussing social and economic justice.

In *P.G. Gupta v. State of Gujarat*, the Court has observed that right to life guaranteed under article 21 has given expanded meaning. It is further observed that all the related provisions of the Constitution must be read together Article 21 and given the meaning of wildest amplitude to cover variety of rights which constitute the meaning of right to life. The Court has referred ‘article 11 (1) of the ICESCR and it laid down that the State Parties to the covenant recognize the right to everyone to an adequate standard of living for himself and for his family including food, clothing and housing and to the continuous improvement of living conditions’. The Court further held that the State should provides to poor means of food, clothing, and shelter so as to make their life meaningful and worth living with dignity and it is also observed that food, shelter and clothing are minimal human rights.

In *J.P.Ravidas & others v. Navyuvak Harijan Uthapan Multi Industrial Co-op. Society*, the Court has dismissed acquisition of land for construction of houses to dalits. The Court immediately discussed the issue of ‘right to food’ as a fundamental human right. The Court relied article 25(1) of the UDHR, 1948 and article 17 (1) of ICESCR, 1966 which states that everyone has the right to food as a human rights and the State Parties should recognize the said right and take appropriate steps to realization of right to food. In *R.D. Upadhyay v. State of A.P. and others*, the Court has held that the juvenile children of prisoners are not treated par with under-trials or

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61 Id. at 568 in para 10.
convicts. Children are entitled to right to food. No child in prison is deprived of food because he is a under trials India in acceded to the United Nations Convention on the Rights of the child in December 1992. It reiterates its commitment to the cause of the children. The objective of the convention is to give every child the right to survival and development in a healthy and congenial environment.

The Supreme Court in Kapila Hingorani v. State of Bihar\(^{65}\) has directed to the State of Bihar to deposits Rs.50 crore before the High Court of Bihar for disbursement of salaries to their employees who are worked under state owned corporations. The State owned corporations were faced by losses due to the government failed to sanction salary. Hundreds of employees died due to starvation or by committing suicide owing to actual financial crisis resulting from non-payment of remuneration for a long time. The Court has retried article 11 of ICESCR, 1966 and held that “human beings have a right to food and approved that hunger is a vitiation of human rights”.

In Peoples Union for Civil Liberties v. Union of India\(^{66}\), at the time of filing this writ petition the State of Rajasthan was severely affected by third successive year of drought resulted massive hunger and starvation healthy were supported. At that time the State of Rajasthan has State rural population lived below poverty line and without policy mandated employment relief and subsidized food for the poor. The matter was brought notice before the Court under Art.32 contending violation of Articles 21 and 47 of the Constitution. In this case, the Hon’ble Supreme Court passed series of interim orders. In 2004, the Supreme Court has adopted broader approach and identified “the aged, infirm, disabled, destitute women, destitute men who are in

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\(^{65}\) AIR 2006 SC 1946.
\(^{66}\) 2013 (2) SCC 688.
danger of starvation, pregnant and lactating women and destitute children”. Then Court directed to distribute food to them through various schemes such as Targeted Public Distribution Scheme (TDPS) for BPL families, Antyodaya Anna Yojana, Midday meal scheme, Annaporna Scheme and to give assistance through National Old – Age Pension Scheme, Integrated Child Development Scheme, National Maternity Benefit Scheme etc. The Supreme Court has formed a Commission to advise the Supreme Court to explicate the right to food implementation schemes for protect, monitor and implement its orders relating to the right to food. The Court finally has directed government to enforce Famine code in famine affected states. The Court has directed strengthen the public distribution system and fair price shops should be opened throughout month and also the Court observed that right to food is not charity. It should be enforceable right “as a part of adequate standard of living”. It is considered as component of “adequate standard of living as per Article 11 (1) and (2) of ICESCR, 1966”. Therefore now right to food is fundamental human rights by virtue of this case.

4.2 Rights to Water

The right to adequate standard of living has stipulated under Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 of UN General Assembly and the Human Rights Council explicitly recognized that right to water and sanitation as a human rights. The right to water required leading to basic rights of right to life i.e. water for drinking, cooking, washing and personal hygiene, and also water is essential for livestock. Water rights refer to water for irrigation,
industrial or commercial use etc. that is economic usage of water\textsuperscript{68} water-supply and sanitation are interconnected. If there is right to water, there must be a right to decent sanitation, water is required for a range of different purposes, besides personal and domestic uses realise many of the rights stated in International Covenants on Economic, Social and Cultural Rights 1966. Water is necessary to produce food i.e. the right to adequate food and it also ensures environmental hygiene and essential for securing standard livelihood.

\textbf{a) International Level}

Since adaptation of Universal Declaration Human Rights, 1948, the right to water\textsuperscript{69} has been declared explicitly and implicitly as an essential component of right to life. In various international covenants or conventions has recognized that right to water is implicitly considered to be a fundamental resource. Several other rights such as right to food, health and development cannot be attained without guaranteeing accesses to clean water. The International Covenants have not expressly provided right to water but it impliedly denoted. The International Covenant on Civil and Political Rights (ICCPR), 1966 has recognized that “\textit{right to life shall be protected by law and no one shall be arbitrarily deprived of his life}”.\textsuperscript{70} The International Covenant an Economic, Social and Cultural Rights (ICESCR), 1966 has recognizes the right of everyone to have an adequate standard of living for himself and his family, including, adequate food.\textsuperscript{71} The Committee on Economic, Social and Cultural Rights, which is overseas the implantation of the ICESCR, 1966 has held that the expression ‘\textit{food}’ in

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\textsuperscript{68} Water in India: Situation and prospects 62-63 (UNICEF, FAO & SaciWATERS, New Delhi, 2013).
\textsuperscript{69} Art.25 (1): Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, and housing.
\textsuperscript{70} Art.6 (1) of the International covenant on Civil and Political Rights (ICCPR), 1966.
\textsuperscript{71} Art.11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.
\end{flushleft}
Article II of the Covenant includes ‘water’. The Convention on Elimination of all forms of Discrimination against Women 1979 has stated that State parties must ensure that the right of women to ‘enjoy adequate living conditions, particularly in relation to water supply’. It any way should not be denied and this right is a non-derogatable right. The Convention on the Rights of the Child 1989 stipulates that State parties to combat disease and guarantee rural nutrition ‘through the precision to adequate nutrition’s foods and clean drinking water’. These instruments have emphasized basic human right of right to clean drinking water.

b) National Level

1) Legislative incorporation

The Parliamentary enactments are emphasized right to water by means of enactments. Since water resource comes under the federal jurisdiction and its responsibility to provide clean drinking water to all people and recognize their right to life as guaranteed under Article 21 of the constitution under Part- III. Hence the parliament of India has enacted regulation and preservation water resources whereby the right to water is realizable even though the water fell on the State subject. A large number of enactments regarding water and water based resources have been enacted for drinking water supply purposes, irrigation, and rehabilitation of operation of schemes for water resources management. However, none of the laws enumerate an explicitly ‘right to water’.

Constitution provisions: The right to water has been protected as a fundamental human right by the Indian Supreme Court as a part of right to life guaranteed under Article 21 of the Indian Constitution. Therefore right to access to clean drinking water

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can be drawn from the right to life.\textsuperscript{75} The Constitution has prohibited discrimination on grounds of religion, race, caste, sex, and place of birth or any of them for using of public walls, tanks and bathing ghats\textsuperscript{76}. The Directive Principles of State Policy (DPSP) recognize the principle of equal access to the material resources of the community.\textsuperscript{77} Further Article 39(b) mandates that “the state shall in particulars direct its policy towards securing that ownership and control of the material resources of the community are so distributed as test to Supreme the common good.”\textsuperscript{78} Article 51-A (g) cast a fundamental duty on every citizen of India “to protect and improve the natural environment including forests, lakes, wildlife and to here comparisons for living creatures.”\textsuperscript{79} The Government has introduced Panchayatraj and Nagarpaliga models of decentralized structure of governance at village and municipality level through 73\textsuperscript{rd} and 74\textsuperscript{th} Constitutional amendments. It has granted powers and responsibility to the Panchayat Raj Institutions (PRIs) and Urban Local Bodies (ULBs) for the supply of water. As per Article 243G, the State Legislature can make laws to empower the Panchayat to prepare plans for economic development and social justice\textsuperscript{80} apart from other matters specified in the Eleventh Schedule to the Indian Constitution. Thus providing clean drinking water to people lays responsibility on the local bodies.

**Parliament Laws:** Water (Prevention and Control of pollution) Act, 1974\textsuperscript{81} is the first Act relating to control of pollution in India after than Prime Minister Mrs.Indira

\begin{footnotesize}
\textsuperscript{75} Art.24 (2) of the Indian Constitution says “No person shall be deprived his life or personal liberty except procedure established by law”.  
\textsuperscript{76} Article 15(1) of the Indian Constitution, 1950.  
\textsuperscript{77} Id, article 37.  
\textsuperscript{78} Id, article 39 (b).  
\textsuperscript{79} Id, article 51- A (g).  
\textsuperscript{80} Id, article 243 G.  
\textsuperscript{81} Act No. 6 of 1974. It enacted by parliament in Twenty fifth year of Republic of India. Since the water is fell on state subject, there is no power parliament to enact laws relating to water but the
\end{footnotesize}
Gandhi has participated United Nations Conference on ‘Human Environment’ held at Stockhom. The object of the Act is to provide for the prevention and control of water pollution; to maintain or restore wholesomeness of water; to establish pollution control boards; and to confer a pollution control board’s powers and functions relating to prevention and control of water pollution. The Act is control of the pollution in water through which right to clean and wholesomeness of water maintained. The Environment (Protection) Act, 1986 provide for the protection and improvement of environment. The Act has been enacted on decisions were taken at United Nations Conference on the Human Environment held at Stockhom in June 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment and also prevent hazards to human beings, other living creatures, plants and property. The Act authorizes the central government to establish standards for the quality of the environment and for emissions of discharge of environmental pollutants from any sources. The environmental audit was introduced in the Environmental (protection) Rules in 1992. Environmental auditing is recognizing self – regulation among industry with a view to tailoring environmental safeguards in industrial activities. The industries are under the audit discloses about waste generation, adoption of clean technology for pollution prevention, waste minimization, recycling and utilization, arrangement for off-site disposal and revealing of data as consumption of water and raw materials. This information in the form of an audit will also help citizens in enforcing their right to water. Another provision under the act which helps communities’ asset of their right to water is the provision of public hearings under the process of environmental impact assessment.

certain States of India asked Government of India to enact this Act under Article 252(1) of the Constitution.

These laws are governing right to water directly. These acts are enacted for the fulfilling the international obligations.

2) Executive Incorporation

The provision of clean drinking water has been given priority under Part-IV of the Constitution. Art. 47 is conferring the duty of the government to provide clean drinking water and improving public health standards. Therefore the executive of the Union has formulated various programmes to realize the right to water in India.

In *National Rural Drinking Water Supply Programme, 1969*\(^{83}\) was launched with technical support from UNICEF and Rs.254-90 crore was spent during this period for 1.2 million bore wells dug and 17,000 piped water supply schemes being provided. This programme sanctioned funds to states for implementation of rural water supply schemes, and priority was given to villages with acute scarcity of drinking water. The Government of India launched the *Accelerated Rural Water Supply Programme (ARWSP), 1972-1973*\(^{84}\) in 1970’s. It assists States and Union Territories to accelerate the pace of coverage of drinking water supply. The ARWSP is followed until 2009. Its core framework used to foster the provisions of drinking water to all habitations in rural areas. *Technology Mission on Drinking Water, 1986*\(^{85}\) programme is named as ‘*National Drinking Water Mission’* was launched on 1986 for providing clean drinking water to rural population. *The National Drinking water Mission (NDWM) was renamed as Rajiv Gandhi National Drinking Water Mission (RGNDWM), 1991*\(^{86}\) on 1991. The objective of the programme is to consolidate earlier programmes and guaranteed to provide safe drinking water to all villages, existing

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84 Phillippe Cullet, “Right to water in India”, 17 IIHR 63(2013).
85 Supra note 40 at 794-795.
86 Id.
local communities to maintain sources of safe drinking water in good conditions and
give special attention for water supply to Scheduled Castes and Scheduled Tribes. The
special Department of Drinking Water Supply (DDWS), 1999\textsuperscript{87} has been formed under
the Ministry of Rural Development (MoRD) for the main objective of which focused
on drinking water and sanitation. It is a supervisory body to monitor various drinking
water schemes.

The Rural Water supply Programme and Guidelines have been revised into
National Rural Drinking water Programme\textsuperscript{88} (NRDWP) with effect from 1\textsuperscript{st} April
2009. It is one of the six components of the Bharat Nirman Programme that was
implemented for building rural infrastructure. The main objective of NRDWP is to
provide adequate water supply for all households. It also focused on ensuring
household level drinking water security through preparation of village water security
plans and household level water budgeting. These programmes have been
implemented through various five year plans (FYPS). The executive action has
indirectly recognized right to water as human rights. It also fulfils the international
objections in which India party to the conventions.

3) Judicial Incorporation

With specific reference to right to water in India is not clearly provided any
legislation though the Supreme Court of India has played vital role that recognizing
right to water as a human right which directly flows from Act 21 of the Indian
Constitution. The various pronouncements directly or indirectly denote international
covenants mentioned right to water as a human rights. The following cases, the

\textsuperscript{87} Supra note 68 at 58.
\textsuperscript{88} Supra note 84 at 58.
Supreme Court of India has recognized right to water as a basic human rights which emanates from Article 21 of the Constitution.

In *Bandhua Mukti Morcha v. Union of India*, the Court has considered a letter as a petition under Article 32 of the Constitution. The alleged complaint made on behalf of workers who are in bondage and their living condition was very miserable i.e. without a proper or adequate shelter over their heads, without any protection against sun and rain, without two square meals per day and with only dirty water from nullah to drink. The court has considered their petition and held that “*it is the fundamental right of every one in this country…. to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Article 21, derives its life – breath from the Directive Principles of State Policy and Particularly clauses (e) and (f) of Article 39 and Article 41 and 42, and at least, therefore, it must include protection of the health and strength of the workers, man and women, and of the tender age of children against stage, opportunities and facilities for children to develop in a healthy manner and is conditions of freedom and dignity……*”. The court has emphasized fundamental requirement of right to food, clean water and shelter or basic fundamental right which flow from Article 21 of the constitution on the basis of Directive principles of status policy. The further held that human working conditions are essential to the pursuit of the right to life.

The Supreme Court in *M.C. Metha v. Union of India* had issued certain directions with regard to the tanning industries in Kanpur Nagarpalika on the tanks of the River Ganga. The Court has directed to Kanpur Nagarpalika’s responsibility for maintenance of cleanliness under their jurisdiction and the protection of their

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89 AIR 1984 SC 802.
90 AIR 1987 SC 1086.
environment. The Court observed the responsibility fixed on States and citizens under Act.48-A of and 51-A of the constitution to protect our national environment. The Court held that the state should protect Mother Ganga River from pollution and to take appropriate measure for statement. The Court has emphasized the cleanliness and maintenance of environment as a fundamental responsibility on the State. The Supreme Court in Subhaskumar v. State of Biha\textsuperscript{91} further held that right to pure drinking water as human rights which emanates from Article 21 of the Constitution.

In Vellore Citizens Welfare Forum v. Union of India,\textsuperscript{92} the Supreme Court has observed international conferences on environment detailed manner and discussed sustainable development concept. The polluter pays and precautionary principles have been accepted as part of the law of the land. Article 21 of the constitution of India guarantees protection of life and personal liberty. Articles 21, 47,48A, and 51-A (g) of the constitutional provisions are deals these principles. The court held that the states’ responsibility ‘to protect a person’s right to fresh air, clean water and pollution free environment. These are inalienable common law right of clean environment”. It is fundamental human rights of every citizen. Narmada Bachav Andoban is a NGO. It has obstructed rise of construction Sardar Sarovar Dam in across the river Narmada. The Court in Narmada Bachav Andolan v. Union of India\textsuperscript{93} has observed various international legal propositions in favour of the SSP. Finally the Court held that “water is the basic need for the survival of human beings and is part of life and human rights as enshrined in Article 21 of the Constitution of India and centre served only for providing source of water where there is none. The Resolution of U.N.O. in 1977 to which India is a signatory, during the United Nations Water conference

\textsuperscript{91} AIR 1991 SC 420.
\textsuperscript{92} AIR 1996 SC 2715.
resolved unanimously interlay as all people, Whatever their stage of development and their social and economic conditions have the right to have access to drinking water in quantum and of a quality equal to their basic needs”. The Court has emphasized right to clean water is a basic human right. Hence the court was recognized to construction SSP Project. In Dr. B.L. Wadhera v. Union of India\(^9^4\) the Supreme Court through Justice Kuldip Sigh and Justice Saggir Ahamed observed that the environment of historic city of Delhi should be protected from degrading environment. They are directed Municipal Corporation of Delhi to provide clean and healthy environment to resident of Delhi. River Yamuna is only a water resource which provides drinking water to Delhi and it should be protected because right to pure drinking water as implicit in article 21 of the Constitution. There the Court directed MCD to obey the Constitutional obligations.

In A.P.Pollution Control Board-II v. Prof. M. V. Nayudas (Retd.) & Others,\(^9^5\) Hon’ble Justice Jaganathadha Rao has observed the Resolution of the United Nations Water Conference, 1977 in which India is a party. It envisage “all people, whatever their stage of development and social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs.” Thus the court has held that right to access to drinking water is fundamental to life and there is a duty on the State under Article 21 to provide clean drinking water to its citizens. In State of Andhra Pradesh v. State of Karnataka,\(^9^6\) the Supreme Court has upheld verdict of Krishna Waters Tribunal while Justice R.P.Sethi observed importance of water as “Water is a unique gift of nature which has made the planet earth habitat. Life cannot be sustained without water”. The National Water policy,

\(^9^4\) AIR 1996 SC 2969.
1987 has declared that “water is prime natural resources, a basic human need and a precious national asset and Water like air, in the essence for human survival”. The court has recognized right to water as a human right. It cannot be watershed.

4.3 Right to Shelter

Access to adequate and secure housing is a basic human right. It is denied to many of the poor people in the world. According to United Nations estimation indicates that approximately 100 million people in the world are living without a place to live and one billion people are inadequately housed without access to basic services. This is a main concern for right to house for all. The right to housing is delivered from the right to an adequate standard of living. It is a central importance for the enjoyment of all economic, social and cultural rights. Right to house has been deprived to 50% of people in India. The United Nation Special Rapporteur on adequate housing has defined the human right to adequate housing, as “the right of every women, men, youth and child to gain and sustain a safe and secure home and community is which to live in peace and dignity.”

a) International Level

The International human rights law has imposed obligation on States parties to take steps towards the realization of the right to adequate housing for all. It is legally finding instruments on state parties. These instruments are Universal Declaration of Human Rights (UDHR), the International Covenant an Economic, Social and

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98 Supra note 9 at 120.
99 Miloon Kothari, Satrina Karmali, et al., The Human Right to Adequate Housing and Land (NHRC, New Delhi, 2000).
101 Article 25(1): (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
Cultural Rights (ICESCR)\textsuperscript{102} the Convention on the Rights of the Child (CRC)\textsuperscript{103}, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW)\textsuperscript{104}, and International Convention on the Elimination of all forms of Racial Discrimination (ICERD).\textsuperscript{105} These International human rights instruments are guaranteed adequate standard of housing as a basic human rights. According to General Comment No.4 on the right to adequate housing adopted in 1991 by the United Nations Committee an economic, social and cultural rights provides that housing to be adequate and it must provide more than just four walls and a roof over one’s hand. It must at a minimum, include the following elements, habitability, locations and cultural adequacy.\textsuperscript{106} Despite all these instruments and committees report, it widely violated in global level. These rights have been incorporated into India through parliamentary laws, executive programmes and judicial decision.

b) National Level

1) Legislative incorporation

Since the adoption of the Universal Declaration of Human Rights (UDHR), 1948 the right to adequate housing has been recognized as an important component of the right to an adequate standard of living. Thereafter the right to adequate housing has come to be widely recognized a basic human right.

\footnotesize{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.}
\footnotesize{102 Article 11(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.}
\footnotesize{103 Article 27(3): 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.}
\footnotesize{104 Article 14(2) (h): To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.}
\footnotesize{105 Article 5 (e) (iii): The right to housing.}
\footnotesize{106 Supra note 99 at 10.}
**Constitutional Provisions:** The Constitution of India in Part-III contains fundamental rights. It does not expressly guarantee ‘right to shelter’ to citizen or non-citizen. But Article 19(1) (e) is recognizes right to shelter as a fundamental right which springs from the right to residence and right to life under article 21 of the Constitution. Right to shelter has been held to be necessary for enjoyment of right to life, guaranteed under Article 21 of the constitution. Further Article 39(b) enjoins to state that the ownership and control of the material resources of the community are so distributed as to promote welfare of the people by securing social and economic justice to the weaker sections of the society and article 46 directs the state to promote with special care social, economic and educational interests of the weaker sections of the society particularly scheduled castes and scheduled tribes. The right to social and economic justice and right to shelter are inextricably interwoven that together they form a meaning component of right to life. These provisions of the Constitution has guaranteed right to shelter in India.

**Parliament laws:** The Parliament of India has not enacted an Act to guaranteeing right to shelter in India. But various laws were enacted for the regulation of housing by State Governments. The federal structure of the Indian policy has placed matters pertaining to the housing and urban development on State subject. However the Union government is responsible for formulation and implementation of social housing schemes. Certain enactments of the parliament provide States to take private property for public use and fixing ceiling of urban lands. These enactments are Urban

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108 Article 19(1) (e): To reside and settle in any part of the territory of India.
109 Article 21 of the Constitution of India, 1950 states that no person shall be deprived of his life or personal liberty except procedure established by law.
110 Id, art. 39 (b): that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.

Urban Land (Ceiling and Regulation) Act, 1976\textsuperscript{113} the object of enactment is for the imposition of a ceiling on vacant land in urban agglomerative acquisition of excess ceiling land, to regulate construction of building on such land, to prevent the concentration of urban land in the hands of few persons and to bring about an equitable distribution of land in urban agglomerations to subserve the common good. The Act also enacted on the basis of resolution of certain States under Article 252(1) of the constitution. But the Act was repealed by Parliament\textsuperscript{114} in respect of the States of Haryana and Punjab and to all the Union Territory. The Act also applied to acquire excess land for common benefit for construction of houses for needy or weaker section of the people in particular States.

The Main objective of the National Housing Bank Act, 1987\textsuperscript{115} is to operate as a principal agency to promote housing finance institution both at local and regional levels and to provide financial and other support to such institutions. The National Housing Bank has launched a programme called Productive Housing in Rural Areas (PHIRA) under which a composite loan of Rs.70,000/- will be extended of which an amount to the extent of 30\% is for the income generating activity and balance for construction of housing unit plus work area, including purchase of land. The Object of the Right to Fair Compensation and Transparency in Land Acquisition,

\textsuperscript{113} Act No.33 of 1976. Be it enacted by parliament in the twenty seventh year of the Republic of India. It came into force on 17th February, 1976.
\textsuperscript{115} Act No.53 of 1987.
Rehabilitation and Resettlement Act, 2013\(^{116}\) is to ensure in consultation with institutions of local self-government under the Constitution, a humane, participative, informed and transparent process while land acquired for the purpose of industrialization, development of essential infrastructural facilities. It also provides with the least disturbance to the owners of the land and other affected families and provides just and fair compensation to the affected by such acquisition and made adequate provisions for such affected persons for their rehabilitation and resettlement. \textit{Intoto} the Act provides acquisition of land from people without affecting their social and economic status. The Act provides for land acquisition for \textit{eminent domain} and also impose obligation on State to provide compensation, rehabilitation and settlement for affected people. The Act recognizes to housing projects for that purpose land may be acquired.\(^{117}\) These enactments are specifically governed for construction, rehabilitation, and providing for compensation to aggrieved persons and acquired excess limit of urban land utilised for construction of houses for weaker section of the people. By these Acts and various schemes, 30\% of the people’s dreams come to reality.

2) Executive Incorporation

The Union executive is responsible for the formulation of policies with regard to programmes for effective implementation of social housing schemes particularly those pertaining to weaker sections of the society. Housing is one of the components that would be considered to be vital for human survival. Therefore it is essential for socio-economic development. For the realization of right to shelter, government of India has implemented various flagship programmes. Further Government of India in

\(^{116}\) Act No. 30 of 2013. It came into force on 1\(^{st}\) January 2014.

\(^{117}\) \textit{Id}, sec. 2 (d).
line with the *United Nations of Global Shelter Strategy* has guarantees shelter to all till 2000 which was adopted in *National Housing Policy (NHP), 1988*.\textsuperscript{118}

*Indira Awaas Yojana*\textsuperscript{119} (IAY) was the flagship rural housing scheme. It was launched during 1985-86 as a sub-scheme of *RLEGPR*. *Indira Awaas Yojana* thereafter continued as a sub-scheme of *Jawahar Rozgar Yojana (JRY)*. The scheme provides financial assistance for construction/up gradation of dwelling units to the *below poverty line (BPL)* rural households belonging to the Scheduled Castes, Scheduled Tribes and freed bonded labourers categories. From the year 1993-1994, the scope of the scheme was extended to cover non-scheduled castes and scheduled Tribes rural *BPL poor*, subject to the condition that the benefit to non-SC/ST would not be more than 40% of the total *IAY* allocation. The benefits of the Scheme have also been extended to the families of ex-servicemen of the armed and paramilitary while killed in action, 3% of the houses are reserved for the rural below poverty line physically and mentally challenged persons, from 2006-2007 onwards the scheme is extended to BPL minorities in each State.

The Government of India has adopted *National Housing Policy, 1988*\textsuperscript{120} in line with *United Nation’s Declaration of Global Shelter Strategy* which guaranteed shelter to all till 2000. The object of the *NHP* was to eradicate homelessness, improve the housing conditions of the inadequately housed and provide a minimum level of basic services and amenities to all. The Government of India was conceived as a provider for the poorest and vulnerable sections and also a facilitator for other income groups and private sector under the policy for removal of constraints and the increased supply of land and services.

\textsuperscript{118} Supra note 9 at 249.
\textsuperscript{119} Id.
\textsuperscript{120} Supra note 118 at 249.
The National Habitat and Housing Policy, 1998\(^{121}\) envisage housing for all. The policy stated that “after fifty years of independence most of us still live in conditions in which even beasts would protest.... The situation is doubtless grim and calls for nothing less than a revolution- A Housing Revolution, “in practice the housing situation in the country is still grim. On the one hand the policy set a target of construction of two houses every year with emphasis on housing for low – low income groups, economically weaker Sections, dalits, SC/STs and Women, while on the other, it categorically stated that, “corporate, private and co-operative Sectors would take the lead in land assembly, construction of houses and development of amenities”. This policy provides “house for all” that should be provided by the Government in various programmes.

Valmiki Ambedkar Awaas Yojana (VAMBAY), 2001\(^{122}\) was launched in December 2001 to ameliorate the condition of the urban slum dwellers living below the poverty line without adequate shelter. The scheme also provides not just shelter for the urban poor but also a healthy living thereby enabling urban environment and help them to come out of their poverty level. The primary objective of the scheme is to facilitate the construction and up-gradation of dwelling units for slum dwellers and providing a healthy and enabling urban environment through community toilets under Nirmal Bharat Abiyan, a component of the Scheme. Under the Scheme, the Central Government provides a subsidy of 50%, the balance 50% being arranged by the State Government the target group under the VAMBAY are slum dwellers in urban areas that are living below the poverty line including members of the economic weaker section who do not possess adequate shelter. However, preference is to be given to people

\(^{121}\) Supra note 99 at 47.
\(^{122}\) Supra note 119 at 13.
living below poverty line. Rural Housing is one of the six components of *Bharat Nirman programme, 2005-2006*. Under *Bharat Nirman Programme Period-I*, 60 lakh houses were envisaged to be constructed through *Indira Awas Yojana* all over the country during the four years, i.e., from 2005-2006 to 2008-2009. The Programme is mainly intended to provide housing for needy people and weaker sections of the society.

The *Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005-2006* has two components and it implemented only 7 years beginning with the year 2005-06. The first component is *basic services to the urban poor (BSUP)* programme and second is *integrated housing & slum development programme (IHSDP)*. *BSUP* was launched to assist cities and towns in taking up housing and infrastructure facilities for the urban poor in 63 selected cities in the country. *IHSDP* which was launched simultaneously with *BSUP* in December 2005, is taking up housing and slum up-gradation programmes in non-*BSUP* cities.

The *National Urban Housing & Habitat Policy (NUHHP), 2007* focus on “*affordable urban housing for all*” with special emphasis on the urban poor. It provides special emphasis on the scheduled Castes/Tribes/Background classes/Minorities/ empowerment of women within the ambit of the urban poor. The policy also focuses on a symbiotic development of rural and urban areas in line with the objectives of the 74th Constitutional Amendment Act. It laid on urban planning, increased supply of land, and use of spatial incentives like additional *floor area ratio (AFR)*, *transferable development rights*, and increased flow of funds, healthy environment, effective solid waste management and use of renewal sources of energy.

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123 *Know Your Rights Series: Right to Adequate Shelter*, 11 (NHRC, New Delhi, 2011).
124 *Supra* note 40 at 515.
125 *Id.* at 213.
It directs on States to develop a “habitat infrastructure action plan” for all cities with a population of over one lakh. These schemes are responsible for planning and providing infrastructure and shelter for all.

3) Judicial Incorporation

The Constitution of India in Part -III contains fundamental rights under Article 12- 35. It does not expressly provide ‘right to shelter’ to people. But the Supreme Court of India has held the right to shelter as a fundamental right by taking recourse to Article 19(1) (e) of the Constitution. Article 19(1) (e) expressly states right to reside and settle in any part of India. Right to Shelter has been held to be necessary for enjoyment of right to life guaranteed under Article 21 of the Constitution. The Court has played vital role recognizing right to shelter as basic human rights by relying various International Instruments.

The Supreme Court in Francis Coralie Mullin v. Administrator, Union Territory of Delhi\(^\text{126}\) has considered detention under Article 22 and its effect on Article 21. The petitioner detainee in that case was a British national and was arrested and detained in the central prison, Tihar while in Jail, the detainee experienced a number of difficulties in meeting with her lawyer, her relatives and she was allowed to meet her younger daughter only once a month. Because restrictions was imposed by authorities under clause 3(b) (i) (ii) of condition of detention, issued in exercise of the powers conferred under section 5 of the COFEPOSA Act. The detainee has challenged the above order. The Supreme Court while allowing the petition, it has held

\[but \text{the question which arises is whether the right to life is limited only to protection of limit of faculty or does it go further and embrace something more. We think that the right to life includes the right to live with human dignity and all that goes along with}\]

\(^{126}\) (1981) 1 SCC 608.
it, viz. the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and mingling with fellow human beings. Of course, the magnitude and the content of the components of this right would depend upon the extent of the economic development of the country, but it must in any view of the matter, include right to basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self."

The Supreme Court has observed international covenants while interpreting Article 21 of the Constitution. In Deepak Palwa v. Lt.Governor of Delhi\textsuperscript{127} case, the Judgment of the Court was delivered by Justice Chinnapa Reddy. The case has related to acquisition of land for Delhi Airport extension. The Court has observed due to acute shortage of housing accommodating to the dalits and tribes, the State should undertaken its economic policy towards planned expenditure to provide shelter to them on a war–footing on accordance with the constitutional obligation undertaken as a member of the UNO to the resolutions referred under Article 11 of the International Covenant on Economic, Social, and Cultural Rights, 1966.

The Supreme Court in Olga Tellis v. Bombay Municipal Corporations\textsuperscript{128} has held that ‘right to shelter’ has been held as inextricably connected to right to means of ‘livelihood’. This case was decided by the Constitutional Bench which considered the right to dwell on pavements or in slums by the indigent and the same was accepted as a part of right to life as enshrined in Article 21. Their evocation from the place nearer to work has held to be deprivation of their right to livelihood.

The Court has observed that “the right to life includes the right to livelihood. The sweep of the right of life conferred by Article 21 is wide and far reaching. It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important fact of that right is the right to livelihood because, no person can live without the means of living, that is the means of livelihood. If the right to livelihood is not treated as a part of the Constitutional right to life, the easiest way of depriving a person of his

\textsuperscript{127} AIR 1984 SC 1724 : (1984) SCC (4) 308.

\textsuperscript{128} (1985) 3 SCC 545.
right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived of his life."

In *M/s. Shantistar Builders v. Narayan Khimalal Totame*¹²⁹ the Court recognized that right to shelter as a fundamental right in following words:

“Basic needs of man have 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 decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body, for a human being it has to be a suitable accommodation which would allow him to grow in every aspect-physical, mental and intellectual. The Constitution aims at ensuring further development of every child. That would be possible only if the child is in a proper home. It is not necessary that every citizen must be ensured of living in a well-built comfortable house but a reasonable home particularly for people in India can even be mud-built thatched house or a mud-built fire-proof accommodation.”

Thus the Court has directed government that available surplus vacant land under Urban Land Ceiling and Regulation Act, 1976 should be used to provide shelter to the poor. In *P.G.Gupta v. State of Gujarat*¹³⁰ the full bench of the Supreme Court considered the mandate of “human right to shelter” and read it into Article 19(1) (e) and Article 21 of the Constitution, with the aid of Universal Declaration of Human Rights, 1948 and the International Covenant an Economic, Social and Cultural Rights, 1966. The Court further held that the right to residence and settlement is a fundamental right under Article 19(1) (e) and it is a facet of irreparable meaningful right to life under Article 21. Food, Shelter and Clothing are minimal human rights. The state has undertaken as its economic, policy planned development of the country

¹²⁹ AIR 1990 SC 630.
and has undertaken massive housing scheme. As its part allotment of houses was
adopted, as is enjoined by Articles 38, 39 and 46. Preamble and Article 19(1) (e),
facilitates opportunities to the weaker sections of the society of the right to residence
to make the life meaningful and livable in equal status with dignity of person.
Therefore it is imperative of the state to provide permanent housing accommodation
to the poor.

The Supreme Court in Chameli Singh v. State of Uttar Pradesh131 has held
while interpretation of the right to life under Article 21 of the Constitution thus under:

“in any organized society, the right to live as a human being is not ensured by
meeting only the animal-needs of man. It is secured only when he is assured of all
facilities for his self development and is freed from restrictions inhibiting his growth.
All human rights are designed to achieve this object. Right to life guaranteed in any
civilized society implies the right to food, water, decent environment, education,
medical care and shelter. These are the basic human rights known to any civilized
society. All civil, political, social and cultural rights enshrined in the Universal
Declaration of Human Rights, 1948 and Conventions or the under the Constitution of
India cannot be exercised without these basic human rights.”

The Court further held that “shelter for a human being, therefore, is not a
mere protection of his life and limit. It is home where he has opportunities to grow
physically, mentally, intellectually and spiritually. Right to shelter, therefore includes
adequate living space, safe and decent structure, clean and decent surroundings
sufficient light, pure air and water, electricity, sanitation and other civic amenities
like roads etc., so as to have easy access to his daily avocation. The right to shelter,
therefore does not mean a mere right to a roof over one’s head but right to all the
infrastructure necessary to enable them to live and develop as a human being. Right
to shelter when used as an essential requisite to the right to live should be deemed to
have been guaranteed as a fundamental right. As is enjoined in the Directive
Principles, the State should be deemed be to under an obligation to secure it for its
citizens of course subject to its economic budgeting. In a democratic society as a
member of the organized civil community one should have permanent shelter so as to
physically, mentally and intellectually equip oneself to improve his excellence as a
useful citizen as enjoined in the fundamental duties and to a useful citizen and equal
participated in democracy. The ultimate object of making a man equipped with a
right to dignity of person and equality of status is to enable him to develop himself
into a cultured being. Want of decent residence, therefore, frustrates the very object of
the constitutional animation of right to equality, economic justice, fundamental right
to residence, dignity of person and right to live itself.”

131 (1996) 2 SCC 549.
The Court has incorporated that right to shelter as a basic human right into India by recognizing the international economic and social rights. The Supreme Court in *Uttar Pradesh Avas Avam Vikas Parishad v. Friends Co-operative Housing Society Limited*\textsuperscript{132} while construing provisions of Uttar Pradesh Urban planning and Development Act, permitting for preparation of Housing Schemes including for poorer sections of the society, with the approval of the State Government, has made the following observations: “*Right to shelter is a fundamental right, which springs from the right to residence assured in Article 19 (1) (e) and right to life under Article 21 of the Constitution.*”

In *J.P.Ravidas & Others v. Navyuvak Harijan Uthappan Multi Unit Industrial Cooperative Society*\textsuperscript{133} the Supreme Court has upheld the Constitutionality of providing 2 acres of prime land belonging to the Government for weaker sections i.e., dalits providing right to residence and held that it is one of fundamental and human right to those persons who cannot afford to purchase the site and construct the flats thereon. Article 19(1) (e) read with Article 21 of the Constitution provides right to residence and settlement to live with dignity as a fundamental human right. The Court has considered Articles 46, 39 and 38 with Article 25(1) of the UDHR, 1948 and Article 11(1) of the ICESCR, 1966. These are enjoins the State to provide facilities and opportunities of construction of houses by the dalits, tribes and poor to enable them to live with dignity.

The Supreme Court in *State of Karnataka v. Narasimhamurthy*\textsuperscript{134} held that the duty of the State to construct houses at reasonable cost and to make them easily accessible to the poor. The Court further held that food, shelter and clothing are

\textsuperscript{132} AIR 1996 SC 114.
\textsuperscript{133} (1996) 9 SCC 300.
\textsuperscript{134} AIR 1996 SC 90: 1995(5) SCC 524.
minimal human rights as recognized under Articles 19(1) (e) and 21 of the constitution and Article 22 of the UDHR and Article 11 of the ICESCR, 1966 and it is constitutional duty cost upon the state to realize basic human rights. In Gaurav Jain v. Union of India & Others\textsuperscript{135} the Supreme Court has considered that the children’s well being is in the light of Article 8 of the Declaration on the Right to Development, 1986 and held that the state shall take necessary measures for the realization of right to development and ensure housing as fundamental human rights along with food and health.

The Supreme Court in Ahmedabad Municipal Corporation v. Nawab Khan\textsuperscript{136} while dealing with the statutory power of the corporation to remove encroachments, the Court took note of the face that the constant efflux of rural people to urban areas and consequential growth of slums and encroachments, obligates the statutory functionaries to evolve suitable schemes and policies to ensure access to shelter and means of livelihood to migrant people.

The Court has held that: "it would therefore, be clear that though no person has a right to encroach and erect structures or otherwise on footpath, pavement or public streets or any other place reserved or earmarked for a public purpose, the State has the Constitutional duty to provide adequate facilities and opportunities by disturbing its wealth and resources for settlement of homeless and erection of shelter over their heads to make the right to life meaningful, effective and fruitful..... therefore, be the duty of the State to provide right to shelter to the poor and indigent weaker sections of the society is fulfillment of the Constitutional objections.”

In Kapila Hingorini v. State of Bihar\textsuperscript{137} the Supreme Court has held that the Government of Bihar had a Constitutional obligation to protect life and liberty of the employee of the Government owned companies. The Government has also additional disability to supervise over the affairs of the company. In this regard the Court observed that Part III and Part IV of the Constitution contain a large number of rights

\textsuperscript{136} AIR 1997 SC 152.
\textsuperscript{137} (2003) 6 SCC 1.
which guarantee human rights, some of which are akin to the rights enumerated in Article 11 of the ICESCR, 1966 which provides that “the state parties to the present Government recognize the rights of everyone to an adequate standard of living for himself and his family, including adequate food clothing and housing.” The Court has assured ‘right to shelter’ an identical but it was construed form right to life under Article 21 of the Constitution. While dealing R. D. Upadhay v. State of A.P. & Others\textsuperscript{138} the Court relied the U.N. Convention on the Rights of the child (CRC) in December 1992, hold that children of the under-trial prisoners are not treated as under trials or convicts and they have right to shelter, clothing, education and recreational facilities as a matter of right. The objective of the convention is to give every child the right to survival and development is a healthy and congenial environment.

4.4 Right to Health

Health is a fundamental human right and indispensable for the enjoyment of other human rights. The right to health guarantees that every human being is entitled to the enjoyment of the highest attainable standard of health which conducive to living a life of dignity.\textsuperscript{139} The preamble of the Constitution of the WHO defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”\textsuperscript{140} The right to health is not a right to be healthy. It referred to the ‘highest attainable standard of health.’ Right to life is considered one of the fundamental rights in which health is considered vital indicators reflecting quality of human life. Alma Ata Declaration, 1978 proclaimed that all people in the world attained health for all by 2000. In this respect world countries have formulated programmes for achieving the goal. The growing recognition of right to health is not

\textsuperscript{138} AIR 2006 SC 1946.
only a human right issue but also a fundamental building block of sustainable
development, poverty reduction and economic prosperity\textsuperscript{141}.

\textbf{a) International Level}

At International level, right to health has been guaranteed in several
international instruments since the end of World War II and the founding of the
United Nations. The relevant instruments provide a legal basis of the right to health in
international law including the principles of universality, non-discrimination,
progressive realization. Right to health can be traced from the charter of United
Nations. The United Nation (UN) commits to the realization and protection of human
rights\textsuperscript{142} as one of the purposes of the UN and with obligations imposed upon the UN
and member states to,\textit{ inter alia}, promote human rights and solutions to
\textit{international…. health… problems.}\textsuperscript{143} The United Nations Charter has expressly
noted as one of the purpose of the establishment and for promotion of solutions to
international health problems was made in recognition of the fact that \textit{‘medicine is
one of the pillars of peace’}\textsuperscript{144}. The following international instruments determine
standards for the protection of the right to adequate health.

The Universal Declaration of Human Rights (UDHR), 1948 was signed by all
members of the General Assembly in 1948. It states that it is obligatory for every
nation to ensure enumerated rights under the declaration. Article 25\textsuperscript{145} of the UDHR
enumerates right to health is a basic human rights. Article 12\textsuperscript{146} of the International

\textsuperscript{141} Manisuli Ssenyonjo,\textit{ Economic, Social and Cultural Rights in International law} 314 (Hart
publishing ltd., Portland, 2009).
\textsuperscript{142} Article 1, 55 and 56 of Charter of the United Nations, 1945.
\textsuperscript{143} Id, art. 55 (b).
\textsuperscript{144} Supra note 139 at 317.
\textsuperscript{145} Supra note 2.
\textsuperscript{146} Article 12: 1. 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. 2. The steps to be taken by
the States Parties to the present Covenant to achieve the full realization of this right shall include those
necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for
Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, Article 5\textsuperscript{147} of International Convention on Elimination of all forms of Racial Discrimination (ICERD) 1966, Article 12\textsuperscript{148} of International Convention on the Elimination of All forms of Discrimination against Women (CEDAW) and Article 24\textsuperscript{149} of the Convention on the Right of Child (CRC), 1989 have been specifically provided right to health as one of the basic human rights. It is bedrock for realization of the other human rights and binding upon the state parties to realize the right to health.

b) National Level

1) Legislative incorporation

The parliament has enacted for protection of right to health i.e. Epidemic Disease (ED) Act, 1925, Drugs and Cosmetic Act 1940, Prevention of Food Adulteration Act, 1954, Medical Terminations of Pregnancy Act 1971, Water Act, the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

\textsuperscript{147} Supra note 5.

\textsuperscript{148} Article 12: 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. 2. Notwithstanding the provisions of paragraph I 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.

\textsuperscript{149} Article 24: 1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) 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; (d) To ensure appropriate pre-natal and post-natal health care for mothers; (e) 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, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; (f) To develop preventive health care, guidance for parents and family planning education and services. 3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children. 4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

**Constitutional perspective:** The Constitution of India has provided the part-III (Fundamental Rights) and Part-IV (Directive Principles of State Policy). The right to health is considered as one of the most important and critical fundamental rights. Therefore the Supreme Court has held that in catena of cases right to health is a part of the right to life. It is now settled law that right to health is an integral to right to life. Government has constitutional obligation to provide the health facilities. The right to life is the Indian legal context is vast that it includes almost every human right in its ambit.

The Part-IV of the Constitution is fundamental in the governance of the country and the state is under duty to apply these principles in law making. Directive Principles impose certain obligations on the State to take positive action to achieve economic democracy and to establish a welfare State. Framers of the Constitution has recognized that the mandate of the state is responsible for promote health of all people in general and vulnerable sections of the society in particular. Article 39(e) and (f) specifically directs the state to frame policies towards securing health of the workers, tender aged children, men and women and children are given opportunities and facilities is a healthy manner for their developments. The Directive Principles recognizes the state obligation by providing that the raising the level of nutrition and

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151 Dnyaneshwar P.Chouri, *Right to Health and legal Protection* 58 (Regal Publications, New Delhi, 2013)
152 Article 39 (e) & (f) of the Indian Constitution, 1950.
the improvement of public health are primary duty of the State. The Constitution also imposes the duty to protect and improve the environment and to safeguard the forests and wildlife in the country. It is related to improvement of public health Article 21 of the Constitution guaranteed right to life and personal liberty. By the interpretation, the Supreme Court of India has extended the ambit and scope of the Article 21. The Supreme Court read the right to health, right to clean environment, and so on into the right to life and personal liberty.

Federal political set up in India, the Constitution contemplates distribution of powers between Union and States under seventh Schedule. The subject of the health has been left to the States. The state legislature is empowered to make laws in the respect to Public health and sanitation, hospitals and dispensaries. Article 243-G and 243-W has provide eleventh Schedule and twelfth schedule respectively deals about public health, sanitation conservancy and solid waste management, hospitals, primary health center and dispensaries. The provisions are recognized the right to health by constitutional mandate.

Parliamentary Laws: No legislation has been enacted for right to health expressly. However the Public health legislations play vital role in protecting the right to health of very one. Right to health as a fundamental human right this is recognized under HIV/AIDS Bill. The Bill is pending without passing. In order to ensure the public health the parliament has enacted following laws. The object of enactment of Drugs and Cosmetics Act, 1940 is to regulate the import, manufacture, distribution and sale of drugs and cosmetics. The main purpose of the Act is to prevent sub-standards, in

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153 Id, art. 47.
154 Id, art. 48 A.
155 List II of Entry 6: public health and sanitation; hospitals and dispensaries.
156 Entry 23: Health and sanitation, including hospitals, primary health centres and dispensaries.
157 Entry 6: Public Health, sanitation conservancy and solid waste management.
158 Act No. 23 of 1940 of amended up to Act 26 of 2008.
drugs, presumably for maintaining high standards of medical treatment. The Act insists on licensing not only for drugs and cosmetics but also for storage in order to prevent drugs deteriorating into substance harmful to society. The object of *Public Liability Insurance Act, 1991* is to provide public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto. This Act makes two kinds of provisions. In the first place the Act creates ‘no fault’ liability, for harm caused by an accident and while handling any hazardous substances. Secondly it is made compulsory to take out liability insurance. The object of *Water (Prevention and Control of Pollution) Act, 1974* is to maintain or restore the wholesomeness of water and to prevent, control and abate water pollution. To achieve this objective the Act provides for the maintaining of Boards for the Control of water pollutions, and it also provides for conferring powers on such Boards and assigning function to such board. In view of sub-sec 2(e) read with sections 17 and 18 of this Act is to provide clean water to citizens which is necessary for good health.

The objective of *Air (Prevention and Control of Pollution) Act, 1981* to prevent, control and abate air pollution, for that purpose to establish Boards and conferring powers and functions on such Boards relating thereto and matters connected therewith. The Act was enacted on basis of decision of the United Nations Conference on the Human Environment held in Stockholm in July, 1972. The Act provides for the preservation of the natural resources of the earth including the preservation of the quality of air and control of air pollution. The main purpose of the Act is to control pollution in the air and guarantee pure air to every person’s health.

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159 *Id*, sec 18(c).
161 Act No.6 of 1974.
162 Act No.14 of 1981.
The object of *Environment Protection (EP) Act, 1986*\(^{163}\) is to provide for the protection and improvement of environment and matters connected therewith. The Act was passed to fulfill its obligation as provided under the Stockholm Declaration of 1972. It was suggested by Stockholm Declaration of 1972 that “State Governments must evolve necessary laws to protect and improve ....and human health”. The Environment Protection, 1986 is a general measure for the protection of the environment.

*The Epidemic Disease (ED) Act, 1897*\(^{164}\) enacted by British Government in 1897. The large part of the Act amended in 1925. The Act gives powers to Central Government to take certain measures to check the spread of epidemic disease. The measures can cover compulsory notification of such disease, inoculation and segregation of the patients. *The Insecticides Act, 1968*\(^{165}\) regulates the import, manufacture, sale, transport and distribution of insecticides with a view to prevent risk of human beings or animals. These are provisions for registration of insecticides and for obtaining licenses for manufacture sale or stocking of insecticides. *Medical Termination of Pregnancy Act, 1971*\(^{166}\) is to provide for the termination of certain pregnancies by registered medical practitioners and for that matter. The Act aims to give protection to the physical and mental health of pregnant women and also to the child in the womb.\(^{167}\) The Act has laid down that circumstances under which pregnancy may be terminated.

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\(^{163}\) Act No.29 of 1986.  
\(^{164}\) Act No.39 of 1897.  
\(^{165}\) Act No.46 of 1968.  
\(^{166}\) Act No.34 of 1971.  
The aim of *Mental Health Act, 1987*\(^{168}\) is to consolidate and amount the Law relating to the treatment and care of mentally ill persons, to make better provision with respect to their properly and affairs and matters connected with. The major Legislation in India deals about detention, and treatment of mentally ill persons and the Regulation of Institution ‘concerned with such patients’. The main Provisions of the Act are mental health authorities,\(^{169}\) psychiatric hospitals and nursing homes, admission and detention in psychiatric hospitals, etc.\(^{170}\) inspection, discharge, leave of absence and removal of maternity ill persons,\(^{171}\) judicial inquisition regarding detention of mentally ill persons,\(^{172}\) maintenance of mentally ill persons detained in psychiatric hospitals, etc.\(^{173}\) human rights of mentally ill person,\(^{174}\) penalties and procedure;\(^{175}\) and miscellaneous.\(^{176}\)

*Narcotic Drugs and Psychotropic Substance (NDPS) Act, 1985*\(^{177}\) is very lengthy, complete and drastic enactment. The Act is enacted for consolidation and amendment of the Law relating to narcotic drugs (the Act repeals the Opium Acts of 1875 and 1878, and the Dangerous Drugs Act, 1930) the problems with the Dangerous Drugs Act and Opium Act which led to the need for a more stringent Law were that the old Laws were not sufficiently deterrent with maximum punishment of 3-4 years and very low fines and powers of investigation were linked. These factors led to an increase in drug trafficking. The NDPS Act imposes fines on people found in possession of narcotic drugs and psychotropic substances as defined under the Act. The Act

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\(^{168}\) Act No.14 of 1987.  
\(^{169}\) *Id*, secs 3 & 4.  
\(^{170}\) *Id*, secs 15-36.  
\(^{171}\) *Id*, secs 37-49.  
\(^{172}\) *Id*, secs 50-77.  
\(^{173}\) *Id*, secs 78-80.  
\(^{174}\) *Id*, sec 81.  
\(^{175}\) *Id*, secs 82-87.  
\(^{176}\) *Id*, secs 88-98.  
\(^{177}\) Act No.61 of 1985.
imposes stringent fines up to 3 Lakh Rupees and imprisonment ranging up to 20 years. It serves a deterrent value and it also provides for the forfeiture of property derived from or used in illicit traffic in Narcotic Drugs and psychotropic substances. It is rectifying connections with respect to drug control. The Act defines “Narcotic Drugs”\(^{178}\) means coco leaf, cannabis (hemp), opium and poppy straw and includes all manufactured drugs. “Psychotropic”\(^ {179}\) substances, means as a list given under the Schedule to the Act.

The object of *Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994*\(^ {180}\) is to provide for the regulation of the use of Pre-natal Diagnostic Techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female feticide; and for matters connected therewith or incidental thereto. This Act also provides the punishment for violation of the provision of this Act. Adulteration of food in India is rampant. It has a great menace to the health and wellbeing of the people. Therefore it is necessitated by Parliament of India to enact Laws for protection of the health of people. The *Prevention of Food Adulteration Act, 1954*\(^ {181}\) enacted in 1954 and intended to prevent the adulteration of food. The *prohibition of employment as Manual Scavengers and their Rehabilitation Act, 2013*\(^ {182}\) provides prohibit employment as manual scavengers and to provide rehabilitation measures to them. The enactment assures constitution mandate of fraternity and dignity of the individual. It is implicit right to life enshrined in article

\(^{178}\) *Id*, sec.2 (xiv).  
\(^{179}\) *Id*, sec. 2 (xxiii).  
\(^{180}\) Act No.57 of 1994.  
\(^{181}\) Act No.37 of 1954.  
\(^{182}\) Act No. 25 of 2013.
21 of the Constitution and article 48 assures that the state shall duty to protect weaker sections in the society as Scheduled Caste and Scheduled Tribes from social injustice. The manual scavenging is dehumanizing practice and it is violating their right equal dignity among individuals and right to health as implicit right to life. Therefore the Act guarantees right to health that prohibit dehumanizing practice of manual scavenging. These Laws are playing vital role in protecting right to health in various aspects by prohibiting anything injurious to health and preventing the spread of disease. The Legislations have indirectly recognized right to health and incorporated into legal system.

2) Executive Incorporation

India is densely populated in the World. It has made remarkable efforts in the field of health. At the time of independence, three committees were appointed by the British Government for formulating health care policy in India.\textsuperscript{183} Thereafter various policies were implemented by Government of India. Unfortunately health comes under the State list. The State is responsible to enact Laws relating to health. The progress of the five year plans from 1951–56 to the tenth year plan are indicative of the shifts in the Governments priorities and commitment for specific health issues.\textsuperscript{184} The Ministry of Health and Family Welfare consists of the Department of Health, Department of Family Welfare and the Department of Indian System of Medicine and Homeopathy Government of India has introduced various health policies and programmes through five year plans. These programmes are as follows:

\textit{Family Planning Programme} was a first programme formulated in 1952. The first five year plan has recognized that the population policy is essential for planning

\textsuperscript{183} Sir J.C. Bhore Committee, 1946, the Chopra Committee, 1946 and the Sokhey Committee, 1948.
\textsuperscript{184} N.B. Sarojini, Suchita Chakraborty, et.al. (eds.), \textit{Women’s Right to Health} 22 (NHRC, New Delhi, 2006).
and family planning as step towards improving health of the mother and children. The programme mainly focused on family planning. The method propagated were rhythm and barrier methods, like diaphragms, jellies and foam tablets.\(^{185}\) The Government of India launched the *National Leprosy Control Programme* in 1955. It aimed at control of leprosy. It is based on *Dapson Monotherapy*. In 1982, *Multi Drug Therapy (MDT)* came into use. The programme was re-designated the *National Leprosy Eradication Programme (NLEP)* in 1983.\(^{186}\) Further the programme was expanded with World Bank assistance. Now, the programme has been integrated with *NRHM*. The *National Tuberculosis Control Programme (NTCP)*, was launched in 1962. It did not achieve the desired results. Therefore it was reviewed by an expert committee in 1992 and based on its recommendations, *Revised National TB Control Programme (RNBTCP)* launched. It is a WHO-recommended strategy of *Directly Observed Treatment short course (DOT)*. It was launched in the Country on 26\(^{th}\) March 1997. The objectives of RNTCP are to achieve and maintain a cure rate of at least 85% among newly detected infections TB cases and to achieve and maintain detection of at least 70% of such cases in the population.\(^{187}\) The programme is being implemented with assistance from *World Bank, DFID, USAID, GDF and GFATM*.

The Government is implementing the *National Iodine Deficiency Disorders Control Programme formerly known as National Goitre Control Programme, 1962*. It is a 100% centrally assisted programme with a focus on the provision of iodated salt, IDD survey / resurvey, laboratory monitoring of Iodated Salt and Urinary Iodine excretion, health education and publicity.\(^{188}\) *The National Cancer Control Programme, 1975-76* was launched with objectives of primary prevention, early

\(^{185}\) *Id.*, at 24.
\(^{186}\) *Supra* note 40 at 458.
\(^{187}\) *Id.*, at 457.
\(^{188}\) *Id.*, at 472.
detection, treatment and rehabilitation. The programme was revised thrice by Government. Under the revised programme, the primary focus is on correcting the geographic imbalance in the availability of Cancer Care facilities across the Country.\textsuperscript{189} The National Programme for Control of Blindness, 1976 was launched in the year 1976 and 100% centrally sponsored Scheme. Its aim is to reduce the prevalence of blindness from 1.4% to 0.3%. The object of the programme is\textsuperscript{190} to reduce the backlog of blindness through identification and treatment of blind; to develop Eye Care facilities in every district; to develop human resources for providing Eye Care Services; to improve quality of service delivery; and to secure participation of Voluntary Organization in Eye Care. Routine Immunization Programme, 1978 is one of the key interventions for protection of children from life threatening conditions which are preventable. It was introduced in 1978. The programme gained momentum in 1985 as Universal Immunization Programme (UIP). It is a part of Child Survival and Safe Motherhood Programme in 1992. Immunization is one of the key areas under the National Rural Health Mission (NRHM), 2005.\textsuperscript{191}

India 20 person per 1000 are affected by Mental Disorders like Schizophrenia, Bipolar Disorder, organic psychosis and major depression. For this the population needs regular treatment and follow-up attention. Therefore National Mental Health Programme, 1982 was started with objectives\textsuperscript{192} of to ensure availability and accessibility of minimum mental health care for all, particularly to the most vulnerable sections of the population; to encourage mental health knowledge and skills in general health care and social development and to promote community participation in mental health service. In 1946, the Bhore Committee has proposed

\textsuperscript{189} Id, at 474.  
\textsuperscript{190} Id, at 459.  
\textsuperscript{191} Id, at 501.  
\textsuperscript{192} Id, at 472.
universal health for all. It is the Government’s responsibility to realize the health for all. Subsequently, India’s commitment to the Alma Ata Conference, forced to frame the National Health Policy (NHP) in 1983. The main objective of the NHP is to provide comprehensive Primary Health Care Service, which linked to extension and Health Education; large scale transfer of knowledge, skills and requisite technologies to “health volunteers”; intersectorial cooperation and better utilization and strengthening of traditional system of medicine.  

The National Nutritional Policy (NHP), 1993 provides that comprehensive inter-sectoral strategy for alleviating all multi-faceted problems related to nutritional deficiencies. It stated that nutrition should be availed to all in the society and it special emphasis given to women and children. The policy has adopted the strategy of screening of all pregnant women and lactating mothers for Chromic Energy Deficiency (CED); identifying women with weight below 40 kg. for that it provided adequate ante-natal intra-partum and neo-natal care under the RCH programme. The policy also ensures food supplementation through Integrated Child Development Services (ICDS) Scheme to the children and lactating women. The NNP has provided nutrition for women and children specifically. 

The main objective of the National AIDS Control Programme, 1992 was to control the spread of the injection and to promote community and family-bayed care to the people with HIV/AIDS. Further it was to undertake surveillance to know modes of spread, to screen blood and increase awareness. During Period–I of the NACP (1992–1999) focused that awareness generation, controlling spread through blood, etc. The Period–II of the programme was launched in 1999 with a strategic plan for

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193 Supra note 184 at 23.  
194 Id, at 26.  
195 Supra note 40 at 462-463.
HIV prevention. This period also setup the *State AIDS Control Societies*. The rollout of *ART* in 2004 was distributed to *HIV/AIDS* affected people. The Government has taken necessary step for availability of *ART* at affordable prices in local market. The pursuance of the World Health Assembly Resolution of 1998 and administration of routine OPV through the Universal Immunization Programme, the *Pulse Polio Immunization Programme* was launched in 1995–1996 to cover all children below the age of 3 years. In order to eradicate polio, the target age group was increased from 3 to 5 years of age in 1996–1997. These programmes are responsible for providing wealthy human resources in our Country.

_Yaws Eradication Programme (YEP), 1996–1997_ was launched as a Central Sector Health Scheme in 1996–1997 in Koraput District of Orissa. Subsequently, it was extended to cover all 49 years endemic Districts in ten States during IX Plan period. The programme basically aimed to reach the unreached tribal areas of the Country. *Reproductive and Child Health (RCH), 1997* is the consolidation of the *Mother and Child Health (MCH), Nutrition and Immunization Programmes*. It was launched in 1997 and provides Integrated Health and Family Welfare Services for Women and Children. The programme aimed at improving the quality, distribution and accessibility of services and to meet the health care needs of women in the reproductive ages and children more effectively.

_The Family Planning (Indemnity) Insurance Scheme, 2005_ was launched on 29.11.2005. It provides insurance cover to all persons undergoing sterilization operation in Public/Private Health Centre against death failure of sterilization and medical complications. The Indemnity Insurance Scheme provides for compensation

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196 *Id.* at 502.
197 *Id.* at 473.
198 *Supra* note 184 at 28.
199 *Supra* note 40 at 504.
of Rs.2 Lakh in case of death due to sterilization in Hospital or within 7 days from the
date of discharge from the hospital, Rs.50,000/- for death due to sterilization within 8-
30 days from date of discharge from hospital and Rs.30,000/- for failure of
sterilization for medical complications. *National Rural Health Mission (NRHM), 2005*
was launched in 18 States that were identified as poor health care facility. It
emphasizes on Comprehensive Primary Health Care for the rural poor. The main goal
of mission is to provide for effective health care facilities and universal access to rural
population. The thrust areas of the missions are strengthening three levels of *Rural
Health Care i.e. Sub-Centre, Primary Health Centre (PHC) and the Community
Health Centre (CHC).* 200 It also states that all assured services of emergency care in
Surgery, Medicine, Obstetrics, Gynecology and Pediatrics, new health financing
mechanism for additional resource allocation and up gradation of facilities, appointing
*Accredited Social Health Activist (ASHA)* at village level and private and public
partnership and regulation of private sector. These areas provide easy access to health
facilities all rural population in the Country. The executive programmes are ensured
that right to health in India. It is indirect influence of the international human rights
law relating to health.

3) Judicial Incorporation

The Supreme Court of India has shown concern from time to time in
protecting the health of children and youth for their welfare, several public interest
litigation has been decided by the Court relating to right to health. The Court by
interpretation of article 21 held that in catena of cases right to life includes attainable
standard of health as basic fundamental human rights. Through interpretation, the
Court has incorporated right to health into India from international human rights law.

\(^{200}\) *Supra* note 184 at 30.
The Supreme Court in *Bandhua Mukti Morcha v. Union of India*\(^{201}\) has held that “*Right to live with human dignity in Article 21 derives its life breath from the Directive Principles of State Policy and particularly Clause (e) and (f) of Article 39 and Article 41 and 42 and at least, therefore it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and conditions of freedom and dignity..... Since the DPSP..... are not enforceable in a Court of Law, it may not be possible to compel the State through judicial process to make provision by statutory enactment or executive fiat for ensuring these basic essentials which go to make up a life of human dignity”\(^{202}\). The Court has amenity for protecting the workers health and well being, Justice Bhagwati categorically stated that even though DPSP’s not enforceable before the Court of Law, the State’s positive duty to protect well being of the workers and guarantee basic essentials which go to make up a life of human dignity.

*In Lakshmikant Pandy v. Union of India*\(^{203}\) the question in this case before the Court was an adoption of Indian Children of foreign parents, placed in it. The abuses arising out of the system were brought to the Court knowledge. While delivering the judgment, Justice Bhagwati underlining the importance of the Welfare of the children:

> “It is obvious that in a civilized society the importance of child welfare cannot be over emphasized, because the Welfare of the entire community, its growth and development, depend on the health and well being of its children. Children are a supreme important national asset and the future well being of the nation depends on how its children grow and develop”.

The Court held after referring the Articles 39(e) and (f) of the Constitution that the protection of health is pre-requisite for the Welfare and all-round development of


\(^{202}\) Id, at 811-12.

\(^{203}\) AIR 1984 SC 469.
children and youth. The supreme in *Francis Corallie Mullin v. Union Territory of Delhi*\(^{204}\) held that “right to health has been perhaps the least difficult area for the Court in terms of justifiability, but not in terms of enforceability”. The Court has recognized right to health as part of right to life.

*In Vincent Panikurlangara v. Union of India*,\(^{205}\) the Court held that ‘a healthy body is the very foundation of all human activities. Art.47 of the DPSP has emphasized that State obligation to improve public health and prohibition of drugs injurious to the health as one of the primary duties of the State’. The Court further held that “the obligation of the Welfare State to ensure the creation and sustaining of conditions congenial to good health was highlighted in emphatic terms. The crowning glory of the decision in that health was seen as part and parcel of life”\(^{206}\).

*In Paramand Katara v. Union of India*,\(^{207}\) the Court has held that it is the professional obligation of all doctors, whether Government or Private to extend medical aid to the injured immediately to preserve life without waiting legal formalities to be complied with by Police under Cr. P.C. Article 21 of the Constitution Castes the obligation on the State to preserve life. It is the obligation of those who are in charge of the health of the community to preserve life so that the innocent may be protected and the guilty may be punished. The Court further held that no law or State action can intervene to delay the discharge of this paramount obligation of the members of the medical profession. The Court directed to State to make everyone aware of this decision.

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\(^{204}\) AIR 1981 SC 746.  
\(^{205}\) AIR 1987 SC 990.  
\(^{206}\) Id, at 995.  
\(^{207}\) AIR 1989 SC 2039.
The Supreme Court in *C.E.S.C. Ltd., v. Subhas Chandra Bose*\(^{208}\) has held that the right to health and Medicare is the Fundamental Right under Article 21 of the Constitution. It is essential for making the life of a workman meaningful and purposeful with dignity of person. While deciding the case the Court has referred Article 25(2) of UDHR and Article 7(b) of ICESCR, 1966. Justice K. Ramasamy observed right to life that “right to life and dignity of person and status without means are cosmetic rights. Socio-economic Rights are, therefore, basic aspiration for meaningful right of life”. The Supreme Court in *Regional Director, ESI Corporation v. Francis De Costa*\(^{209}\) has followed the *C.E.S.C. Ltd., v. Subhas Chandra Bose* case. Social Security provided under Employees State Insurance Act against sickness and disablement in Fundamental Rights. While deciding the case the Court has referred Article 25 of UDHR and Article 7(b) of ICESCR and held that Employment State Insurance Act seeks to provide succor to maintain health of an injured workman and the interpretation should be given as to give effect to right to medical care benefit which is a Fundamental Right to the workman.

The Supreme Court in *Consumer Education and Research Centre v. Union of India*\(^{210}\) has unanimously held that right to health to a worker is an integral facet of meaningful ‘right to life’. Lack of health denudes his livelihood. The Court further held that facilities and opportunities, as enjoined in Article 38, should be provided to protect the health of the workman….. Medical facilities to protect the health of the workers are Fundamental Right to workman. Therefore it was held that “right to health, medical aid and to protect the health and the vigour of worker while in service or post retirement is a Fundamental Right under Article 21 read Article 39(e), 41, 43

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\(^{208}\) (1992) 1 SCC. 441.
\(^{210}\) (1995) 3 SCC. 42.
and 48-A of the Constitution of India and Fundamental Human Right to make the life of workman meaningful and purposeful with dignity of persons”. The Court has observed Article 25(2) of UDHR and Article 7(b) of the ICESCR for well being of the workers these were incorporated.

The Supreme Court in Kirloskar Brothers Ltd., v. Employees State Insurance Corporation\(^{211}\) has followed the Consumer Education and Research Centre’s Case and held that right to health is a Fundamental Right of the workman. The Court also held that this right is not only available against the State and instrumentalities but every private industries to ensure to the workman to provide facilities and opportunities for health and vigour of the workman assured in the provision of Part–IV of the Constitution which are integral part of right to equality under Art.14 and right to invigorated life under Article 21 which are fundamental rights to the workman.

The Supreme Court in Paschim Banga Khet Mazdoor Samiti v. State of West Bengal\(^{212}\) has followed the Paramand Katara’s case ruling. The Court has held that denial of medical aid by Government hospitals to an injured person on ground of non-availability of beds amounted to violation of right to life under Article 21 of the Constitution. The Supreme Court further held that Article 21 imposes an obligation on the State to provide medical assistance to every person. Preservation of human life is of paramount importance, failure on the part of a Government hospital to provide timely treatment to a needy person is violation of right life guaranteed under Article 21 of the Constitution. The Court directed West Bengal Government to pay compensation for the loss suffered by victim.

\(^{211}\) (1996) 2 SCC. 682.

\(^{212}\) (1996) 4 SCC 37.
In State of Punjab v. Mohinder Singh Chanla\(^{213}\) the Court has held that right to health was integral to right to life and that Government had Constitutional obligation to provide health facilities. The Court observed,

“if the Government Servant has suffered an ailment which requires treatment of a specialized approved hospital and on reference whereas the Government Servant had undergone such treatment therein it is but the duty of the State to bear the expenditure incurred by the Government Servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee”.\(^{214}\)

In Suchita Srivastav and another v. Chandigarh Administration\(^{215}\) the victim was a mentally retarded orphan major women who was raped and became pregnant. She becomes expressed her willingness to bear the child. The State claimed that it is the guardian for the Petitioner and requested the Court to terminate her pregnancy for considering mentally ill and her health. The Court has referred International instruments in the case and said that

“special emphasis should be placed on Principle 7 which prescribes that a fair procedure should be used for the ‘restriction or denial’ of rights guaranteed to mentally retarded persons, which should ordinarily be the same as those given to other human beings. In respecting the personal autonomy of mentally retarded persons with regard to the reproductive choice of continuing or terminating a pregnancy, the Medical Termination of Pregnancy Act lays down such a procedure. We must also bear in the mind that India has ratified the Convention on the Rights of Persons with Disabilities (CRPD) on October 1, 2007 and the content of the same are binding an over system”.

Thus in all above judicial pronouncements have shown sufficient interest in protecting health of the people through incorporation of International Human Rights Law. These judgments highlight the fact that the right to health consists of composite of right.

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\(^{213}\) AIR (1997) SC 1225.
\(^{214}\) Id, at 1227.
\(^{215}\) AIR 2009 SC 235.
4.5 Incorporative Process

With reference to Tables- I-V and Graphs 1 – 5 has shown the incorporative processes of right to adequate standard of living such as right to food, water, shelter and health have been critically analyzed into four periods as given below.

a) Period-I (1950-1966)

During this period, Indians were deprived of basic rights related to standard of living under British regime. The Second World War created massive stateless persons and starvation everywhere in the world at that time. India was divided into two countries. Lack of food availability caused widespread death. People were denied of adequate standard of living. These are right to food, water, shelter and health. This period parliament has not enacted any Act dealing about right to food. Similarly the executive failed to recognize and guarantee any food programmes but it introduced PDS system. The Court also has not decided any case in this period. But the executive authorities had steps to food production measures so that poverty and starvation deaths were diminished. The Government of India has allocated average plan outlay of Rs.664.34 Crore for food production through agriculture. This period is responded to Green Revolution. The sufficient food production (i.e.) rice and wheat produced and stock is maintained by Food Corporation in this periods. Right to water is essential for leading life, without water we cannot live. During this period, no parliamentary laws, executive programmes and judicial pronouncements were dealt in this regard. But the executive has allocated sufficient funds Rs. 40.9 Crores to realize this right. The funds were utilized for providing drinking water to people.

Right to adequate housing during this period the parliamentary enactments, judicial pronouncement has been absent. But the executive authorities allocated funds
though five year plans for realizing this right. The average allocation of funds in FYP during this period was Rs.123.67 Crores. The right to health is predominant for realizing other human rights. During this period the parliament has enacted three Acts for preventing adulteration into food which causes injurious to health and the pre-constitutional law one. The executive programmes were performed through four programmes. Apart from these Government has allocated Rs.235.6 Crores. The judiciary did not decide any case regarding right to adequate housing. During this period child health was given importance with WHO assistance.

b) Period-II (1966-1979)

During first quarter of this period food scarcity has been arisen and circumstances of drought everywhere. Hence the Government has allocated more funds through five year plans to eradicate of poverty (Garibi Hatto), green revolution for agricultural production and attainment of self-reliance in all fields. During this period parliament has not enacted any laws with regard to food. But the Supreme Court has interpreted the article 21 of the constitution on par with international human rights law. This period the Supreme Court has kept in mind international human rights relating to food while deciding cases. The Executive Authorities allocated an average plan outlay of Rs.4485.795 Crores funds through FYP. These funds were utilized to food guarantees programmes in this period. This period witnessed that implementation of only one programme and same utilized for agricultural sector for producing more food grains. This period shows abundant food production. The Parliament of India enacted one law for preventing pollution of water. This Act was enacted for implementing international obligation of providing pure water to everyone. The executive has formulated two programmes for providing pure water to
people. Apart from this the Government allocated funds an average plan outlay of Rs.718.84 Crores including sanitations. The judiciary did not decide any case in this period.

The parliament enacted the Urban Land (Ceiling and Regulation) Act, 1976 to take over excessive lands and use it for constructing houses to homeless persons. During this period no executive programme existed. But the executive authorities allocated average plan outlay of Rs.1488.96 through five year plans. This period had no case decided by the Supreme Court in this regard. The parliament enacted three Acts related to health. The executive formulated three policies for recognizing and guaranteeing right to health to masses. The executive authority allocated average plan outlay of Rs.557.595 to right to health. During this period, the judiciary has not decided any case relating to right to health.

c) Period-III (1979-1993)

During this period it responded to gradual development of people adequate standard of life to everyone. This period witnessed that starvation death was controlled and population control awareness was created to people. During this period, there was rapid growth in food grain production. Even though the parliament has not enacted any law, the executives played vital role to alleviate poverty through food grain production. Mid-Day meal programme was introduced to school going children for ensuring food. During this period, the Government allocated funds in average plan outlay of Rs.37713.5 Crores including nutritional support. The judiciary decided five cases in which Court has directly interpreted Article 21 with aid of international human rights law and held that right to food which emanated from
article 21 of the constitution. The parliament enacted law relating to protection of water resources through maintaining environment coverage under the Environmental (Protection) Act, 1986. The Act was enacted for fulfilling decision taken at United Nations Conference on Human Environment held at Stockholm, 1972. The executive has formulated policies ensuring pure drinking water to people in two programmes. The Government during this period allocated an average fund in FYP Rs.5222.245 Crores for providing drinking water and sanitation purposes. This period was post-liberal interpretation period of article 21 of the constitution. The Court while deciding cases, liberally interpreted article 21 held that right to life includes right to pure drinking water. During this period, Court decided two cases in this aspect.

In respect of right to housing, the parliament has enacted one Act. It dealt about providing housing loans to need persons for construction of house. The Act has formulated a Housing in Rural Areas Programme in which loan was extended up to Rs.70, 000. The executive formulated two policies regarding to shelter. The average plan outlay of this period was Rs.1974.54. During this period judiciary has decided four cases. The Court has categorically incorporated international human rights while deciding case about right to shelter. With regard to right to health, the parliament enacted six Acts during this period. These Acts mainly dealt with mental health, psychotropic substance effect on health, environmental cleanness and pollution free air. During this period, the executive has formulated four programmes which specifically AIDS control programmes, National Nutritional Policy, National Health Policy and Mental Health Programmes were implemented. The average FYP outlay during this period was Rs.2606.97. During this period, the Supreme Court has
directly applied international human rights law in seven cases through incorporative processes.

d) Period-IV (1993-2013)

This period witnessed the progressive development in all aspects in human development. The period guaranteed food and nutritional support to everyone, basic infrastructural facilities provided to education, drinking water and health. Totally this period made sure that quality of life is ensured. By food production, the poverty got reduced. This period increased literacy rate and new emphasis has been formulated to enact law relating to ground water. The parliament enacted the progressive law relating to Right to Food Act, 2013. The Act ensured right to food for needy people through targeted public distribution system. The Act supports food security allowance. The executive authorities have been formulated seven programmes through which food support and nutritional support was provided. For this purpose, the average plan outlay was Rs.51244.4 including agricultural production. The judiciary incorporated international human right while interpreting article 21 of the constitution in seven cases. The Court has expressly incorporated international human rights relating to food through interpretation of article 21 of the constitution.

With regard to right to water, the parliament did not enact any law. But the executive authorities formulated two programmes which guaranteed pure drinking water. The average plan outlay of during this period was Rs.40715.757 Crores. Judiciary has incorporated the international human rights relating to right to water in five cases. During this period Court has expressly held that right to life includes pure drinking water through incorporation of international human rights relating to right to
water. With regard to right to shelter, the parliament enacted one law. The Act provides adequate shelter or rehabilitation measures should be provided while acquiring residence properties for eminent domain. During this period, executive has played vital role for guaranteeing adequate housing to all through five programmes. The average plan outlay for adequate housing was Rs.5427.81 Crores. The judiciary has incorporated international human rights relating to right to shelter in nine cases. The Court has expressly incorporated right to shelter through interpretation of article 21 of the constitution.

With regard to right to health, the parliament has enacted one enactment during this period. Pre-natal diagnostic techniques Act deals prevention and misuse for sex determination which leads to female feticide. Through this Act protect the mother’s health and save female sex. The executive formulated five health related welfare programmes for ensuring health to all. The average plan outlay was Rs.4296.97. These were utilized by executives to implementing health related welfare programmes in par with World Health Organization assistance. The judiciary has incorporated international human rights related to right to health in five cases through interpreting article 21 and other statutory provisions.
TABLE – I

Legislative incorporation (No. of enactments)

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Graph - 1

Legislative Incorporation (No. of Enactments)
### TABLE – II
Executive Incorporation (No. of Programmes)

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### Graph - 2
Executive Incorporation (No. of Programmes)
### TABLE – III

**Judicial Incorporation (No. of Cases decided)**

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### Graph - 3

**Judicial Incorporation (No. of Cases decided)**

![Graph showing the number of cases decided for different rights and periods](chart.png)
Table – IV

Trends in Incorporative Processes of Right to Adequate Standard of Living

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Graph – 4

Trends in Incorporative Processes of Right to Adequate Standard of Living