

## Multicultural Education

Research Article

Homepage: [www.MC-caddogap.com](http://www.MC-caddogap.com)**RIGHT TO FOOD  
(ISLAM & CONTEMPORARY WORLD)****Amir Mahmood Chaudhry***Member Visiting Faculty / Former Legal Advisor, University of the Punjab, Lahore, Pakistan.***Muhammad Hassan Zia***Assistant Professor, Department of Law, University of the Punjab, Gujranwala Campus, Pakistan.***Naveed-ur-Rehman***Lecturer, University Law College, University of the Punjab, New Campus, Lahore, Pakistan***Farhana Aziz Rana***Assistant Professor, Department of Law, University of the Punjab, Gujranwala Campus, Pakistan.***ABSTRACT**

Right to food is acknowledged in Islam as a basic human right. Islam always promoted austerity and emphasized simplicity. Islamic injunctions have prescribed a lifestyle that only finds its support from Holy Quran and Sunnah. In this regard, a balanced approach has been ordained which described what is permissible and what is prohibited to be taken as food by mankind. The Islamic code towards food also prescribed food security and its management. Profligacy and wastage are not only disliked in Islam but are also prohibited. The Muslims take pride in the fact that Islam is the practical religion of nature and has set rules for all humanity in all the times to come. Generally, the right to food is not peculiar to Islamic society and is well entrenched in all the communities of the world. Thus, the right to food is considered as the fundamental right which ought to be indiscriminately applied to all societies. The right to food was first recognized as a human right by the Universal Declaration of Human Rights of 1948. Pakistan being an agricultural country having enough resources unfortunately lacked policies for better implementation of laws to regulate food wastage and food security. This slackness on the part of the Government has virtually denied the right to food to the people of Pakistan in accordance with recognized international standards and has indirectly failed to fulfill the obligations towards its citizens in consonance with the international laws. Accordingly, this qualitative research has been undertaken to scrutinize various sources of Pakistan laws and to formulate recommendations on such a basis to facilitate the process of food management i.e. food for all while reducing its wastage.

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**1. INTRODUCTION**

The right to life is the basic human right whereas the right to food is its fundamental component. The state must provide food to its citizens, especially to those who do not have access to it and cannot afford its purchase. If we construct a pyramid of the rights, then such right acquires the status of its foundation and all other rights

are corollary to such rights. Thus, if this right is breached, then other rights like the right to life, security and dignity will eventually be marred. It is incumbent upon the State to legislate so as to protect the wastage of food and to raise awareness among people to sensitize them regarding food security. It is important to make them aware of the meaning of food insecurity which means a situation in which people lack access to ample food that is required for normal growth and healthy lifestyle.

Miscellaneous factors have exacerbated the food crisis, inadequate distribution, or inappropriate use of food at the domestic level. Poor nutritional status is an outcome of poor sanitation, health conditions, and food insecurity. Pakistan is an agricultural country rich in resources. Wheat, rice, sugarcane, vegetables and fruits can be grown in plenty in Pakistan. However, lack of management and distribution has led to the food deficit to an extent that now Pakistan stands on the verge of facing the food shortage. Hostile climates, impure water, and population explosion have acted as the catalyst to further aggravate the situation and now the situation is grim with respect to the food security. Pakistan is ranked in the countries with poor nutrition in the population and many international food reports highlight serious food shortages. According to a Fact Sheet on Hunger by the World Food Program published in April 2016, 43% of Pakistan's population is facing food security which means that every 6 out of 10 are not well nourished. Countries Case Study ranks Pakistan as 106th with a score of 32.6 which is seriously alarming. Moreover, in the case of Pakistan, USAID Food Assistance Program has attributed inadequacy of the mechanism being the sole root cause for food insecurity while holding that otherwise, it is a food surplus country.

## 2. RESEARCH METHODOLOGY

Doctrinal and non-doctrinal are the two types of methods used in the legal researches. Doctrinal research includes in-depth analysis of legal philosophy and reasoning whereas non-doctrinal research is more concerned with facts. It includes relationship of law with facts and thus to determine the impact of law on society (Amrit Khel 2018). In the present paper researchers opted for doctrinal research as the aim of writing this article is to scrutinize legal dictionaries, textbooks, articles, Holy Quran and Sunnah.

### *Research Questions*

The article aims to explore the following research questions:-

1. Whether the International Treaties and Laws have ensured the right to food as a fundamental human right?
2. How the Constitution of Islamic Republic of Pakistan 1973 and subordinate domestic legislation deals with the right to food, its conservation and food wastage?
3. How Islam has dealt with and regulated the right to food and its various connected aspects?

## 3. RECOGNITION OF THE RIGHT TO FOOD UNDER INTERNATIONAL LAWS:

Initially, the right to food was acknowledged as a fundamental human right in the Universal Declaration of Human Rights, 1948. The International Covenant on Economic, Social and Cultural Rights, 1966 helps the states in reaching consensus to recognize the right to food in more categorical terms. It is the right of everyone that he must have an adequate standard of living for himself and his family which includes adequate food, clothing, and housing. Thus, adequate standard of living also included adequate food, clothing, and housing for a person and the family. Right to food included in it the improved methods of production of foodstuff, proper conservation of such food to save it from unnecessary wastage, and effective distribution of such food.

Article 11 of the International Covenant on Economic, Social and Cultural Rights 1966, focus on the need for the full use of technical and scientific skills. It was considered mandatory for the subsequent purpose of disseminating knowledge of the principles of nutrition and promoting an agrarian system in such a manner so as to achieve the most efficient use of resources. Thus, three aspects pertaining to the right to food were enumerated i.e. production, conservation and distribution. Special emphasis was given to the system of distribution while considering the problems of food exporting and food-importing countries in order to ensure an equitable distribution of the food supplies in the world while also considering the needs of any particular region or country.

In 1974, the participating States of the World Food Conference adopted the Universal Declaration on the

Eradication of Hunger and Malnutrition when it was resolved that every man, woman, and child has the right to be free from hunger and malnutrition. It was further emphasized that it is the responsibility of all the governments to work for the efficient distribution of food and to control malnutrition. Special emphasis was laid to the efficacy and importance of human milk vis-à-vis its nutritional aspects whereas it was also resolved that efforts should be made to prevent wastage of food in all its forms. To achieve these purposes, a consensus was built upon the formulation of detailed policies to make concerted efforts for estimating the available resources.

Human insecurity has always been considered a direct threat to human rights and mankind. There are presently seven types of major insecurities faced by mankind and food insecurity is one amongst those. This reflects that food security is directly linked with human security. The right to food was considered so essential and important that it has also been extended to disabled persons through the Convention on the Rights of Persons with Disabilities 2006, which has provided that such persons have an equal right to food, clothing, housing, and better living conditions which should be provided to them without any discrimination. Pakistan signed the Covenant on 3rd November 2004 whereas ratified it after about four years on 17th April 2008. After ratification, it is now the responsibility of the State of Pakistan to extend this right to its citizens by making tangible efforts but it appears that the right can only be materialized in a society where easy access and means of production are made available to everyone without any exception and where State is seriously involved in putting efforts to uplift the living standards of its citizens.

### *Steps taken for the preservation of food and food security by various States*

Considering the importance of food security, different countries through their respective domestic laws have adopted the approaches to avoid or curtail food wastages. In this regard, we may discuss those States, which have taken pragmatic measures to eliminate such wastage.

#### *i) France:*

It is illegal in France to bin food. An appreciable law regarding the conservation of food imposes a fine on supermarkets up to EUR 75,000. Even, if the food items are approaching the expiry date, distributors are not allowed to throw them and they must distribute it to the poor before the expiry to save themselves from fines.

#### *ii) Italy:*

In Italy, stealing the food to satisfy one's hunger is considered as justified. To provide right to food to every individual is the responsibility of the State and no one would sleep empty stomach. At the same time, it is also illegal to bin the food. According to the Italian Court the "right to survival prevails over property."

#### *iii) Philippine:*

There are certain important actions taken by the Philippine Government. Managing bodies monitor the need, supply and wastage of food and demand accountability for that thus minimizing the wastage of food. "Zero food waste Act" has been promulgated and is followed.

#### *iv) Britain:*

Britain is also working on similar lines. A food waste chief has been appointed to reduce food wastage. The government has also made agreements with different multinational companies which are donating surplus food.

## **4. DOMESTIC LEGISLATION ON THE RIGHT TO FOOD IN PAKISTAN:**

### *i) Constitutional Developments*

In Pakistan, the right to food is not directly available as a fundamental right in the Islamic Republic of Pakistan Constitution, 1973. It is considered as a mere corollary to the right to life guaranteed under Article 9 of the Constitution. The right to life thus implies the right to food, water, decent environment, education, medical care and shelter etc. and has mandated that no person shall be deprived of life except in accordance with law (PLD 2011SCMR SC 619). The Supreme Court of Pakistan while interpreting this constitutional safeguard has categorically held that '...a man cannot think of individual or collective development when he cannot meet the basic necessities of life such as minimum food, clothing, and housing. In Al-Raham Travels and Tours (Pvt.) Ltd. reported at 2011 SCMR 1621, Supreme Court declared the rights to those basic necessities of life are

basically and fundamentally economic rights'. Considering this aspect, it was reemphasized that economic prosperity is a sine qua non for the implementation of all fundamental rights, the paramount right being that of right to life (Human Rights Case No.17599 of 2018 ). So, to strengthen these rights it was held as duty of the State to protect and safeguard all the fundamental rights including right to life and liberty as envisaged by Article 9 of the Constitution (Watan Party v. Federation of Pakistan;). For such purpose, the dignity of man was also held as inviolable whereas all the citizens ought to be treated equally before the law and must have an equal entitlement to protection of law in all respects, whereas commitments made on behalf of government should neither be lightly disregarded nor deliberately ignored (Bahadur Khan v. Federation of Pakistan;). It is incumbent upon the State to provide basic food items and in case of its failure to perform this duty then it is not merely a violation of the right to food but tantamount to disregarding the right to life.

Article 38 of the Constitution of Islamic Republic of Pakistan, 1973 emphasized upon promotion of social and economic well being of the people and it is the responsibility of the State to raise the standards of living and prevent the concentration of wealth in the hands of the few and to adjust these rights. The State is thus responsible to provide basic necessities of life to citizens including food, clothing and housing etc. In this regard, Article 38 of the Constitution was held as commanded the State to act for the welfare of its citizens. Clause (d) of the said Article provided that the State shall make available basic necessities of life, such as food, clothing, housing, education and medical relief for all such citizens irrespective of sex, caste creed or race.

The aforesaid position clearly reflects that although the right to food has not specifically been provided in the Constitution as a fundamental right but it is considered as part and parcel of the right to life. So, if for any reason, people are deprived of the basic right to food and water etc., then even the right to life and other fundamental rights will become useless. Analyzing this situation, we can safely deduce that in Pakistan, violation of the right to food would equally endanger the right to life and other rights available to the citizens under the Constitution thus making the right of food more vivid and evocative.

### *ii) Subordinate Legislation*

Apart from the constitutional guarantees, domestic laws have been enacted mainly on a provincial basis. In this regard, the Punjab Foodstuffs (Control) Act (XX) of 1958 has empowered the Provincial Government in the Province of Punjab to maintain the supplies of any foodstuff for securing its equitable distribution and availability at fair prices while making an order regulating, prohibiting or keeping the storage, movement, transport, distribution, disposal or acquisition. Section 3 of the Punjab Foodstuff (Control) Act (XX) of 1958 has categorically empowered the Government to control the supply, distribution, movement, trade or commerce of foodstuff in Punjab.

Section 15 of the Punjab Pure Food Ordinance (VII) of 1960 generally provided that all the items of the food and drink must be sold in a pure and genuine state. For this purpose, the local authorities have been empowered to carry into force or execute such laws. For such purpose, Food Inspectors have been appointed, who have general powers of checking, search, and seizure in respect of the foodstuff intended for human consumption or for preparation, manufacturing, or storage of any food for the purpose of trade or sale or where such foodstuff is prepared, manufactured or stored( Section 16 and 17 of the Punjab Pure Food Ordinance (VII) of 1960). Section 19 of the Punjab Pure Food Ordinance (VII) of 1960 gives power to the Inspector to take samples of any food item for its analysis, whereas any private person may also apply him for taking samples from any particular place and secure analysis of such food staff (Section 19 of the Punjab Pure Food Ordinance (VII) of 1960 ). For this purpose, a detailed method of taking samples has also been laid down whereupon a certificate of analysis is formally issued (Section 20 and 21 of the Punjab Pure Food Ordinance (VII) of 1960 ). If any violation is found, then the Ordinance of 1960 has also prescribed penalties. Thus, various instances of violations are selling the foodstuff against law; adulteration by manufacturers of foodstuff at large scale; un-standard and misbranded food; un-safe food; un-hygienic or unsanitary conditions; false advertisement or false labeling or doing food business without any license (Section 23 to 23 F of the Punjab Pure Food Ordinance (VII) of 1960 ). These offenses entailed penalties in accordance with the prescribed procedure whereas all such offenses shall be tried by a special court constituted for such purpose (Section 23 L of the Punjab Pure Food Ordinance (VII) of 1960 ). The Punjab Government has also constituted District Food Committees in each District to be headed by the Deputy Commissioner of the District concerned (Section 35B of the Punjab Pure Food Ordinance (VII) of 1960). The Government of Punjab in the Health Department has also made Punjab Pure Food Rules, 2011, the sole purpose of which is to achieve the purposes of the Ordinance of 1960.

To protect public health and to provide safety and standards of food, Punjab Food Authority 2011 has also been constituted through a law. Punjab Food Authority is composed of a Chairperson and at least seventeen

members. The members shall be amongst senior government officers, food technologists, farmers, representatives of food industries and consumers, etc ( Section 4 the Punjab Food Authority Act (XVI) of 2011). The Authority shall have exhaustive powers regarding the formulation of standards, procedures, processes, and guidelines regarding food business, food labeling, food laboratories, monitoring the food business to ensure the provision of safe food, collecting technical and scientific data relating to food, organizing training programs for food safety and standards and promotion of general awareness etc (Section 7 of the Punjab Food Authority Act (XVI) of 2011 ). Proper monitoring and licensing mechanism have also been laid down and no one can use any place for the food business until and unless he has not been registered or licensed for such purpose. The Authority shall also regulate and monitor the food laboratories and prescribe the minimum standards to define unsafe food, controlling false advertisement and false labeling or to impose punishments and fines in cases of unhygienic and unsanitary conditions. It is an illegal to manufacture, sell or distribute any foodstuff without any license issued by the Authority ( Section 32 of the Punjab Food Authority Act (XVI) of 2011). Thus, the Authority has jurisdiction to register information of an offense; suspend or cancel license; to submit a complaint before the Special Court; direct destruction of foodstuff found adulterated; impose fines etc ( Section 39 of the Punjab Food Authority Act (XVI) of 2011). The Authority has also been empowered to frame Punjab pure food Regulations, 2018. Prosecution for committing any offense shall be made before the Special Court constituted for the purpose which will have jurisdiction to summary try all the offenses under the Act of 2011. The regulations made under the Act of 2011 have exhaustively covered production methods, proper conservation, and effective distribution of the foodstuff.

To prevent the shortages of food items during emergent situations and for maintaining effective food security through equitable distribution, the Punjab Prevention of Hoarding Act (XV) of 2020 has been enacted. The preamble of this law is very important as it provided for the prevention of hoarding of certain scheduled articles. The preamble states that hoarding contributes to adversities whereas Deputy Commission or any other officer on his behalf may search and seize any scheduled item recovered from hoarding and auction it. The officer working under this law has the power to summarily try the offenses under the Act of 2020 whereas appeal in such cases will lie to the concerned District & Sessions Judges. The most interesting feature of this law is that any informer who has provided any information with respect to hoarding of any scheduled item at any place to any officer shall also be entitled to reward by the Government (Section 19 of the Punjab Prevention of Hoarding Act (XV) of 2020). Any officer acting under this law shall have the power to seek the aid of law enforcement agencies, whereas the Government from time to time may amend the schedule to add or delete any item ( Section 17 of the Punjab Prevention of Hoarding Act (XV) of 2020).

From the above position of subordinate domestic legislation in Pakistan, it is evident that to some extent the same appears to be in consonance with the requirements of international laws. Generally, all the three major aspects pertaining to the right of food i.e. production of food, its conservation and effective and equitable distribution have fully been embodied in the domestic legislation. However, only the moral aspect of avoiding food wastage needs to be highlighted for making distribution more equitable in accordance with the prescribed international standards.

### **5. ISLAMIC COMMANDMENTS REGARDING RIGHT TO FOOD AND TO CONTROL ITS WASTAGE:**

Islam has always emphasized the importance of philanthropy, and the altruistic help of the poor has always been appreciated. It is the duty of every Muslim to give Zakat which is one of the five pillars of Islam (Qura'n, 98:4) and not fulfilling this obligation puts one faith in danger. Hazrat Muhammad (P.B.U.H)'s companion, Hazrat Abu Bakar Sidique declared to go on war with the person who refuses to pay Zakat. Moreover, there is voluntary help by the Muslims in the form of Sadqa. Allah and Prophet (P. B.U.H) encourage Muslims by referring to Sadqa as trade with Allah and the promise of its multi-fold reward from Allah the Almighty. Here in this section researcher will further see some of the Quranic verses and Prophets Ahadith to enlighten one regarding Islamic opinion on the right to food. In the following verse it has been explained that how the rights of the poor has been given to the privileged class who is obliged to share it with them: "And from their properties was [given] the right of the [needy] and the deprived" [Surah Adh-Dhariyat 51:19]. At the same time helping someone with an intention to be appreciated, acknowledged or favoured by the person has not been approved in Islam: "(The righteous are those) who feed the poor, the orphan and the captive for the love of God, saying: 'We feed you for the sake of God Alone; we seek from you neither reward nor thanks [Surah Al Insan 76:8-9]."

People are born poor and rich by the will of Allah. Therefore a true Muslim stays humble and thankful to Allah no matter how much wealth he is blessed with. Therefore, Muslims have also been advised to be kind to the poor and not to frown over poor's demands: "And as for the petitioner, do not repel [him] [Surah Ad-Duhaa

93:10]."

Similarly the Holy Prophet commanded regarding Zakat to the Muslims: "Tell them that Allah has imposed on their goods, Sadqah (Zakat) which will be realized from their haves and distributed among their have-nots (Sahih Bukhari, " Kitab-uz-zakat", Hadith No.1342 )."

In the Islamic way of living one cannot stay aloof from the society and the neighborhood as is usually being practiced in modern times. In Islam, neighbors have also been bestowed with rights and duties. As a Hadith narrates: "He is not a believer whose stomach is filled while the neighbour to his side goes hungry (al-Sunan al-ubr 19049, Grad : Sahih (authentic) according to Al-Albani)." Here one can see a clear reference to the right to food. If a neighbour sleep hungry then his neighbours are liable in Islamic law. In this regard Maulana Abulala Maududi has also explained in his book that it is the duty of the affluent Muslims to help the unprivileged whether he asks for help or not : , in his well celebrated book Tafheem-ul -Qur'an, Vol. 5 has stated that: "it is their duty to reach them and give all the help that they can extend (Abulala Maududi , Tafheem-ul -Qur'an, Vol. 5 (Lahore: Idarah Tarjman-ul-Quran, 1984), 139; [See also, Akhtar Khalid Bhattai and Gul-e-Jannat, The Holy Quran on Human Rights (Karachi: Royal Book Co., 1996), 83]."

Holy Quran and Sunnah are two major sources of Islamic Law. Both sources promote a balanced approach towards available resources and guide mankind to attain sustainable food security. A careful perusal of the aforesaid commandments reflects that the Islamic concept of the production of food is connected with the blessings of Allah the Almighty, who Has taken it as His exclusive responsibility to provide food to every creature. Accordingly, there are three aspects emerging from this aspect of faith. Firstly, that food (Rizq) is the exclusive responsibility that Allah the Almighty Has taken upon Him to provide it to every creature, and keeping this aspect in mind we must not be fully absorbed in making exhaustive efforts for the food so as to ignore our other primary responsibilities towards mankind and Allah. The second aspect is that available planetary resources are far above that and are sufficient to fulfill the need for food for the whole of mankind and other creatures. Thirdly, the available planetary resources of food have naturally been connected together by Allah (S.W.T.) in such a manner so as to constitute a food chain wherein every creature is helping the other to ultimately fulfill the need for food for all.

As regards the second aspect of preservation of food, the Islamic teachings are very clear from the Sunnah of the Holy Prophet (p.b.u.h.), who always emphasized the consumption of the food to its fullest. Islam also abstained from wastage and ensured equal and equitable distribution of food and other resources without any discrimination thus making the food as conveniently available for the whole of mankind. In this regard, if we compare the Islamic commandments and teachings, they appear to be more comprehensive and compact being far superior in their application and efficacy and may be considered as a blessing upon mankind which will ensure elimination of food scarcity at all levels and in all its forms.

## 6. DISCUSSION

Research shows that the right to food has globally been taken mainly into three aspects. Production or manufacturing of the food items, Conservation or preservation of such foodstuff, and effective and equitable distribution of the food to all the population of the world. On the domestic front, Pakistan has made laws and formulated policies and strategies that cover all the aspects needed in accordance with the prescribed international standards but the only shortcoming is that the country lagged behind in the sphere of actual implementation to achieve the efficacy of these laws.

Pakistan is an agricultural country and has enough resources to provide food for all its population and in the ordinary course; it is difficult to visualize any sort of food shortage. The country has the blessing of producing wheat, rice, sugarcane, vegetables, fruits, and other staple crops in abundance. The only shortcoming is good governance to ensure the proper implementation of laws and policies regulating the right to food. It is only due to lack of implementation at governmental level that encouraged black-marketing and created cartels. The cartels and mafias in connivance with the administration generally hoard the staple crops and other edibles and subsequently release such items in the market for gaining undue advantages and generating unfair profits for themselves thereby depriving the general public and citizens from the benefits of the agrarian economy.

Pakistan is an Islamic Republic demanded in the name of Islam to establish a peaceful and egalitarian society wherein everyone has the right to live according to the Injunctions of the Holy Quran and Sunnah. Thus, considering the Islamic Injunctions, there is a dire need to create awareness as to the food amongst the masses by including the Islamic commandments regarding food as part of the curriculum at educational institutions so

as to educate people and infuse in them the awareness as to the importance of food, the repercussions of its wastage, depletion of resources and the starvation of the poor. This objective can also be achieved with the help of media and social media. Doing so will not only induce the people to see this right from a religious point of view but also help save the humanity from unwanted famines and food shortages.

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