

“Right to Food for Children in Child Care Institutions of Gujarat State”

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ABSTRACT:

"If we are to teach real peace in this world, and if we are to carry on a real war against war, we shall have to begin with the children." — **Mahatma Gandhi**

The realization of the right to food is necessary for the actualization and enjoyment of all other human rights. It entails that all people individually or in groups should have access to adequate food and water at all times, **and with dignity**. The state has the obligations to respect, protect, and fulfil the right to food for all citizens at all times. This implies that the State must not act in a manner such that people are deprived of their means to realize the right to food, and that it must protect people's right to food from impingement by non-State actors. With respect to vulnerable groups such as Children who are in need of Care and Protection, the State's obligation includes providing food to the groups, which are unable to access it due to an inability to earn a living and on account of their vulnerability.

The adequacy of food in the context of the right to food has to be looked at from the point of view of quality, quantity, cultural appropriateness, as well as in terms of nutritional content. Poor nutritional status during childhood adversely effect on the general health profile of society.

. The right to adequate food as enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), requires State Parties to enact legislation in order to progressively realize the substantive rights provided under the Convention.

Therefore this study focuses on Gujarat Juvenile Justice Rules 2011's rule no 45 "Nutrition and Diet Scale" in chapter VI "STANDARDS OF CARE FOR INSTITUTIONS".

Introduction and Background:

"I am the Child.

All the world waits for my coming.

All the earth watches with interest to see what I shall become.

Civilization hangs in the balance.

For what I am, the world of tomorrow will be.

I am the child.

You hold in your Hand my destiny.

You determine, largely, whether I shall succeed or fail.

Give me, I pray you, these things that make for happiness.

Train me, I beg you, that I may be a blessing to the world."

-MAMIE GENE GOLE

The six fundamental rights recognized by the Indian constitution are:

1. Right to equality: Which includes equality before law, prohibition of discrimination on grounds of religion, race, caste, gender or place of birth, and equality of opportunity in matters of employment, abolition of untouchability and abolition of titles.
2. Right to freedom: Which includes freedom of speech and expression, assembly, association or union or cooperatives, movement, residence, and right to practice any profession or occupation (some of these rights are subject to security of the State, friendly relations with foreign countries, public order, decency or morality), right to life and liberty, protection in respect to conviction in offences and protection against arrest and detention in certain cases.
3. Right against exploitation: Which prohibits all forms of forced labour, child labour and traffic of human beings

4. Right to freedom of religion: Which includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, freedom from certain taxes and freedom from religious instructions in certain educational institutes.
5. Cultural and Educational rights: Preserve the right of any section of citizens to conserve their culture, language or script, and right of minorities to establish and administer educational institutions of their choice.
6. Right to constitutional remedies: Which is present for enforcement of Fundamental Rights.
7. Right to life: Which gives the right to live with human dignity. This includes rights such as right to clean environment, water, education, health, livelihood, shelter and basic amenities that the state shall provide.
8. Right to education: It is the latest addition to the fundamental rights

Fundamental rights for Indians have also been aimed at overturning the inequalities of pre-independence social practices. Specifically, they have also been used to abolish untouchability and thus prohibit discrimination on the grounds of religion, race, caste, sex, or place of birth. They also forbid trafficking of human beings and forced labour. They also protect cultural and educational rights of ethnic and religious minorities by allowing them to preserve their languages and also establish and administer their own education institutions. They are covered under articles 14 to 32 of the Indian constitution.

Children's rights are the human rights of children with particular attention to the rights of special protection and care afforded to minors. The Convention on the Rights of the Child (CRC) of 1989 defines a child as any human person who has not reached the age of eighteen years. Children's rights includes their right to association with both parents, human identity as well as the basic needs for physical protection, food, universal state-paid education, health care, and criminal laws appropriate for the age and development of the child, equal protection of the child's civil rights, and freedom from discrimination on the basis of the child's race, gender, sexual orientation, gender identity, national origin, religion, disability, colour, ethnicity, or other characteristics.

- (i) Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes "abuse" is a matter of debate. Other definitions include the rights to care and nurturing.

- (ii) "A child is any human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier." There are no definitions of other terms used to describe young people such as "adolescents", "teenagers," or "youth" in international law, but the children's rights movement is considered distinct from the youth rights movement.
- (iii) The field of children's rights spans the fields of law, politics, religion, and morality.

The right to adequate food as enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), requires State Parties to enact legislation in order to progressively realize the substantive rights provided under the Convention.

As we know Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

We can describe four main Rights of Children. They are:

- (i) Right to Life
 - (ii) Right to Protection
 - (iii) Right to Development
 - (iv) Right to Participation
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- Human rights are moral principles or norms, that describe certain standards of human behaviour, and are regularly protected as legal rights in municipal and international law. They are commonly understood as inalienable fundamental rights "to which a person is inherently entitled simply because she or he is a human being," and which are "inherent in all human beings, regardless of their nation, location, language, religion, ethnic origin or any other status. They are applicable everywhere and at every time in the sense of being universal, and they are egalitarian in the sense of being the same for everyone. They require empathy and the rule of law and impose an obligation on persons to respect the human rights of others. They should not be taken away except as a result of due process based on specific circumstances; for example,

human rights may include freedom from unlawful imprisonment, torture, and execution.

- The doctrine of human rights has been highly influential within international law, global and regional institutions. Actions by states and non-governmental organizations form a basis of public policy worldwide. The idea of human rights suggests that "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights. The strong claims made by the doctrine of human rights continue to provoke considerable scepticism and debates about the content, nature and justifications of human rights to this day. The precise meaning of the term *right* is controversial and is the subject of continued philosophical debate; while there is consensus that human rights encompasses a wide variety of rights, such as the right to a fair trial, protection against enslavement, prohibition of genocide, free speech, or a right to education, there is disagreement about which of these particular rights should be included within the general framework of human rights, some thinkers suggest that human rights should be a minimum requirement to avoid the worst-case abuses, while others see it as a higher standard.
- Many of the basic ideas that animated the human rights movement developed in the aftermath of the Second World War and the atrocities of The Holocaust, culminating in the adoption of the UNIVERSAL DECLARATION OF HUMAN RIGHTS in Paris by the United Nations General Assembly in 1948. Ancient peoples did not have the same modern-day conception of universal human rights. The true forerunner of human rights discourse was the concept of natural rights which appeared as part of the medieval natural law tradition that became prominent during the European Enlightenment with such philosophers as John Locke, Francis Hutcheson, and Jean-Jacques Burlamaqui, and which featured prominently in the political discourse of the American Revolution and the French Revolution. From this foundation, the modern human rights arguments emerged over the latter half of the twentieth century, possibly as a reaction to slavery, torture, genocide, and war crimes, as a realization of inherent human vulnerability and as being a precondition for the possibility of a just society.
- Children have two types of human rights under international human rights law. They have the same fundamental general human rights as adults, although some human rights, such as the right to marry, are dormant until they are of age, Secondly, they have special human rights that are necessary to protect them during their minority. General rights operative in childhood include the right to security of the person, to freedom from inhuman, cruel, or degrading treatment, and the right to special protection during childhood. Particular human rights of children include, among other rights, the right to life, the right to a name, the right to express his views

in matters concerning the child, the right to freedom of thought, conscience and religion, the right to health care, the right to protection from economic and sexual exploitation, and the right to education.

- Children's rights are defined in numerous ways, including a wide spectrum of civil, cultural, economic, social and political rights. Rights tend to be of two general types: those advocating for children as autonomous persons under the law and those placing a claim on society for protection from harms perpetrated on children because of their dependency. These have been labelled as the right of empowerment and as the right to protection.

About 870 million people are estimated to be undernourished (in terms of dietary energy supply) in the period 2010-2012. According to the Global Hunger Index (GHI), world hunger remains “serious” and the situation in many parts of the world.

In our India, several million people face severe to moderate food insecurity, and her hunger status is also characterized as “alarming” by the International Food Policy Research Institute.

The dismal record of India as regards the food security for the Indian people has long been a concern for the civil society as well as policy makers. With the promise of the UPA II government in 2009 to evolve a legislation framework to ensure food security for everyone, a new ray of hope and consequently an enthusiasm to contribute to this crucial legislation gripped the entire country. However, it is an altogether different question whether the law does not have all the necessary components that could potentially ensure food security and also respond to the violation of the right to food.

It was definitely a historic and defining moment for the people of the country when the National Food Security Act 2013 came into being with the objective of providing food and nutrition security In human life cycle approach by ensuring access to adequate quantity and quality of food at prices which can be afforded by the common man and strives to affect the lives of 50 to 70% people of India. The act is path-breaking insofar as it provides for food at subsidized prices for a minimum 75% of rural and 50% of urban population, has covered pregnant and lactating mothers, children up to 14 years of age, destitute and homeless persons and people living in conditions of starvation. The Act also seeks to ensure food security as a legal entitlement to people covered in its ambit, however, there are few key concerns, especially as regards **the**

children's right to food, that are required to be addressed. It is disappointing that the progressive vision articulated and identified in the preamble is not reflected in the substantive sections of the new law.

National Food Security Act 2013 embodies some specific provisions that are directly related to the realization of right to food of Children.

- ❖ A free meal to every pregnant and lactating mother through the local anganwadi (section 4-a)
- ❖ Age appropriate meals, free of charge, through the local anganwadi, to children in the age group 6 months to 6 years. (section 5-a)
- ❖ One mid-day meal for all children in the age group of 6 to 14 years in all covered schools (section-6).
- ❖ Free meals to children who suffer from malnutrition through the local anganwadi (section-6)

As per the Notified Juvenile Justice (Care and Protection of Children) Act, 2015:

Section 2 (12) “**child**” means a person who has not completed eighteen years of age.

Section 2 (14) “**child in need of care and protection**” means a child—

- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence; or
- (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or
- (iii) who resides with a person (whether a guardian of the child or not) and such person—
 - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
 - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or
 - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or
- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or

- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or
- (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or
- (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or
- (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or
- (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or
- (x) who is being or is likely to be abused for unconscionable gains; or
- (xi) who is victim of or affected by any armed conflict, civil unrest or natural calamity; or
- (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;

Section 50 “Children’s Home”

- (1) The State Government may establish and maintain, in every district or group of districts, either by itself or through voluntary or non-governmental organisations, Children’s Homes, which shall be registered as such, for the placement of children in need of care and protection for their care, treatment, education, training, development and rehabilitation.
- (2) The State Government shall designate any Children’s Home as a home fit for children with special needs delivering specialised services, depending on requirement.
- (3) The State Government may, by rules, provide for the monitoring and management of Children’s Homes including the standards and the nature of services to be provided by them, based on individual care plans for each child.

SCHEDULE II

Nutrition and Diet Scale (rule 45)

Name of the articles of diet	Scale per head per day
(1) Rice/Wheat/Ragi/Bajri/Jowar	600 (700 Gms for 16-18 years age) Gms of which at least 10 Gms to be either wheat, Ragi or Jowar above 12 years
(2) Dal/Kathol	120 Gms for 6 to 12 year / 150 Gms for above 12 years
(3) Edible Oil	25 Gms ml for 6 to 12 year /50 ml for above 12 years
(4) Onion	25 Gms
(5) Salt	25 Gms
(6) Turmeric	05 Gms
(7) Coriander Sed Powder	05 Gms
(8) Ginger	05 Gms
(9) Garlic	05 Gms
(10) Cocum/ Mango powder	05 Gms
(1) Milk (at breakfast)	280 ml for 6 to 12 year /30 ml for above 12 years
(12) Dry Chillies	05 Gms
(13) Vegetables Leafy	10 Gms
Non-leafy	130 Gms
(14) Curd or Butter Milk	50 ml for 6 to 12 year/70 ml for above 12 years
(15) Jaggery	30 Gms for 6 to 12 year/ 50 Gms for \ above 12 years
(16) Sugar	30 Gms for 6 to 12 year/ 50 Gms for above 12 years
(17) Vegetable Ghee	10 Gms for 6 to 12 year/ 15 Gms for above 12 years
(18) Breakfast	80 Gms for 6 to 12 year/ 150 Gms for above 12 years

Following items for 25 Children per day

(19) Pepper	12 Gms
(20) Jeera Seeds	12 Gms
(21) Black Gramdall	25 Gms
(2) Mustard Seeds	25 Gms
(23) Ajwain Seeds	25 Gms
(24) Papad	No.1 Per head (once in a wek)
(25) Pickle	5 Gms (once in a wek)
For Sick Children	
(26) Bread	50 Gms
(27) Milk	50 MI
Other Items	
(28) LP Gas for Coking only	

Instructions:

(1) Variation in Diet:

- (a) Varieties of dal may be issued alternatively.
- (b) Children shall be issued with either 60 Gms of jagery/suger per head in the shape of Lapsi/Kansar/Shukhdi etc once in a week.
- (c) Potatoes shall be issued in lieu of vegetables once in a wek.
- (d) Leafy vegetables such as Fenugreek (Methi), Spinach (Palak), Sarson (Mustard leaves) Gongura/Thotakura or any other sag etc., may also be issued once in a week. If a kitchen garden is attached to any institution leafy vegetables, in addition to drumstick trees, curry leaves trees and coriander leaves, should be grown and issued and the Superintendent should try to issue variety of vegetables and se that he same vegetable is not repeated for at least a period of one week.
- (e) The Superintendent may make temporary alternations in the scale of diet in individual cases when considered necessary by him, or on the institution. Doctor's advice subject to the condition that he scale laid down is not exceeded.

(2) Meal Timing and Menu:

a) Breakfast between 6:00 to 8:00 am

- (i) Upma/pauva/cereals or any other dish.
- (ii) Chutneys from Gongura or fresh cury leave or fresh coriander or Coconut andPutnadal or idly – sambhar may be issued as a dish.

(iii) Milk

(iv) Any seasonal fruit in sufficient quantity as per scale

b) Lunch as per School timing and Diner After 7:0 P.M.

(i) Rice, Chapatis, Vegetable, dal, salad and buter milk/ curd

(i) khichadi, bhakhari/ chapati, kadi/Vegetable, Milk

(3) Others:

(a) Depending on the season, the Superintendent shal have the discretion to alterthe time for distribution of food.

(b) On the advice of the Institution Doctor, every sick child who is prevented fromtaking regular food, on account of his il-health, may be issued with medicaldiet, as indicated in diet scale.

(c) Extra diet for nourishment like milk, eggs, sugar and fruits shall be issued tothe children on the advice of the institution Doctor in addition to the regulardiet, to pick up weight or for other health reasons and for the purpose ofcalculation of the daily ration, the sick children shall be excluded from theday's strength.

(d) On the following national and festival occasions, sweet dishes may bedistributed to al the children at the Home at the rate fixed by the DirectorSocial Defence, from time to time.

1. Republic Day (26th January)
2. Ambedkar's Birthday (14th April)
3. Independence Day (15th August)
4. Mahatma Gandhi's Birth Day (2nd October)
5. Children's Day (14th November)
6. Child Rights Day (20th November)91
7. Dusehra (Vijayadasami)
8. Depavali
9. Ramzan (Id-UI-Fitr)
10. Bakrid (Id-UI-Zuha)
11. Christmas (25th December)
12. Janmastmi
13. Ram navmi
14. Makarsankranti
15. Hindu New Year Day
16. Holi

17. Dhulety
18. Sardar Patel birthday
19. International anti child labour day (12th June)

This Study has evaluated the present Nutrition and Diet Scale of those children living in governmental child care institution as per Gujarat Juvenile Justice Rules, 2011.

Methods:

Research Method:

In this technical section, those children who are in need of care and protection and their nutrition and diet scale as per Gujarat Juvenile Justice Rule-2011 in governmental child care institution, is centrally indicated as to by which methods and by which course the study will be carried on.

Structure of Study:

Different methods are included in narrative research method section from that in context with relative method research work is carried out by “Evaluation”.

Scope:

As approved by the Project Approval Board and as per section 50 of the Juvenile Justice (Care and Protection of Children) Act, 2015, institutions certified by the government and having registration name of “ABC Child Care Institution” (name is changed) and children living under care and protection in that institution.

Selection of Sample:

In the potential selection section, information is collected with re-arranged from at random samples.

Tools of Data Collection:

Information is collected by unstructured interviews and observations.

Limitations of the Study:

- As Research work of Children needing care and protection is quite sensitive, consultation is to be done with utmost care, which is time consuming.
- The researcher has to estimate the given diet scale for children as he cannot measure exactly or regularly.
- The researcher has to conduct visit of governmental Child Care Institution for collecting information relating to that he has to seek permission of the concerned government department, which process takes much time due to secrecy of seeking permission from the concerned government department, however, here is restriction on knowing certain definite facts.
- Researcher is a student.

Analysis technique:

Classifying the data collected about minimum standards of care and protection of child care institution, and analysing the required statistical data, conclusion is secured in a prescribed form of questions and answers.

Result:

- a) In ABC Child Care Institution, children are given three meals in a day including breakfast.
- b) The menu of the ABC Child Care Institution is prepared with the help of a nutritional expert.
- c) This institution under this act is not strictly adhering to the minimum nutritional standard and diet scale specified in schedule II. There is no specific diet chart.
- d) Children are provided special meals on Republic Day, Ambedkar's Jayanti, Independence Day, Mahatma Gandhi's Birth Day, Children's Day, Dussehra (Vijayadashmi), Deepavali, Ramzan, Bakrid, Christmas, Janmastmi, Ram Navami, Makarsankranti, Holi, Dhulety and Sardar Patel birthday, while on International anti Child Labour Day, children are not given special meals.
- e) Sick children are given special diet according to the advice of institution doctor; they are prevented from taking regular food.

NOTE: In Gujarat Juvenile Justice Rules 2011, there is no provision of Pure Ghee, so as per rule 45 (Schedule II) children are given Vegetable Ghee in this institution.

As per Gujarat Juvenile Justice Rules 2011, Chapter VI-“STANDARDS OF CARE FOR INSTITUTIONS”,

Rule Number 45- Nutrition and Diet Scale.-

The following nutrition and diet scale shall be followed by the institutions, namely:-

- (a) The children shall be provided four meals in a day including breakfast;
- (b) The menu shall be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste as per the minimum nutritional standard and diet scale set out in Schedule II of these rules;
- (c) Every institution under this act shall strictly adhere to the minimum nutritional standard and diet scale specified in schedule II;
- (d) Juveniles or children may be provided special meals on holidays and festivals;
- (e) Infants and sick juveniles or children shall be provided special diet according to the advice of the doctor on their dietary requirement.

Discussion:

In this Study depends on the Notified Juvenile Justice (Care and Protection of Children) Act, 2015 and Gujarat Juvenile Justice Rules, 2011. As now we have notified Juvenile Justice (Care and Protection of Children) Act, 2015, so State has to frame Gujarat Juvenile Justice Rules, 2015 under section 110 of the Act. Those amendments which are in new notified Juvenile Justice (Care and Protection of Children) Act, 2015, may be the base of the formation of Gujarat Juvenile Justice Rules, 2015.

This Study reveals the gap between the institutional care regarding nutrition and diet scale and the standards of care in institution as per Gujarat Juvenile Justice Rules, 2011. Besides, some suggestions may be considerable while the framing of Juvenile Justice Rules, 2015. For example, in Schedule II, there should be a provision of pure ghee for those children who are in need of care and protection.

Thus, this study can also be useful for future research on those children who are in need of care and protection and living in Child Care Institutions of Gujarat State.

Acknowledgement:

In any research work many persons, institutions and organizations get to relate themselves with the process of its completion in one way or the other. This is true with the present study also. It is therefore my privilege as well as my duty to acknowledge them all that they have contributed to the study.

First of all I have been greatly thankful to Dr.Parvez A. Abbasi. He has provided me always guidance towards true direction. With his inspiration, this study has become possible. During the entire study with his incessant guidance, due to research work in the development sector, constructive service works, necessary amendments, innovation, continuity, transparency and value added education is being implemented.

Of course, I am also thankful to all Children for their love and support. I love their innocence...

Last but not least, I would like to thank my parents, my sister, my brother, my friends who directly and indirectly encouraged and motivated me to express myself with success.

References:

- ✓ Validating Food Insecurity Scale
- ✓ Policy Note On The Right To Food For Children, Toolkit 1,3
- ✓ Notified Juvenile Justice (Care and Protection) Act, 2015
- ✓ Gujarat Juvenile Justice Rules,2011
- ✓ Revised Guideline of Integrated Child Protection Scheme
- ✓ Gujarat State Commission for Protection of Child Rights, 2014
- ✓ Right to Children to free and Compulsory Education Act, 2009
- ✓ Protection of Children from Sexual Offence Act, 2012
- ✓ Prohibition of Child Marriage Act, 2006 and Rules
- ✓ Child Labour (Protection and Regulation) Act, 1986
- ✓ www.unicef.in