

HUNGER STRIKE AS A FORM OF PROTEST: BODILY AUTONOMY AND CONSTITUTIONAL RIGHTS

by

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ABSTRACT

Protest is an essential feature of a constitutional democracy. It enables individuals to express dissent, challenge governmental action and bring public attention to grievances. While protests are commonly associated with speeches, demonstrations and written communication, some forms of protest communicate through the human body itself. A hunger strike is one such form, in which an individual deliberately refuses food to convey a grievance, demand governmental action or draw attention to a social or political cause.

A hunger strike, however, presents a difficult constitutional dilemma. On one hand, the decision to refuse food implicates bodily autonomy, personal liberty, dignity and freedom of expression. On the other, prolonged fasting may seriously endanger health and life, raising the question whether the State may intervene to protect a protester even against their wishes. The dilemma becomes particularly acute when the hunger striker is in State custody, or when medical intervention becomes necessary.

The central question is therefore not simply whether an individual has a right to refuse food. It is whether the Constitution protects the deliberate use of one's body as a means of political or social expression, and, if so, where the State's power to intervene begins. This article argues that a competent individual's hunger strike should ordinarily receive constitutional protection as a form of expressive conduct and bodily autonomy, while recognising that such protection cannot be absolute. Any State intervention must be legally authorised, necessary and proportionate to the legitimate objective pursued¹.

I. Hunger Strike as Expressive Conduct

A hunger strike differs from an ordinary refusal to eat because its purpose is communicative. The protester uses fasting to convey the seriousness of a grievance, demand institutional or

¹ *Constitution of India*, arts. 19(1)(a), 21.

governmental action, or draw attention to a particular cause. The body consequently becomes both the instrument and medium of communication.

The communicative use of fasting as a mode of protest has deep roots in India's political history, predating independence itself. In 1929, revolutionary Bhagat Singh and his associates undertook a hunger strike of one hundred and sixteen days in Lahore Central Jail to protest the discriminatory treatment of Indian political prisoners, a protest that ended only after the colonial administration partially conceded to their demands. This episode illustrates that the deliberate use of self-imposed starvation to compel a change in institutional treatment, rather than to seek death, has long occupied a distinct place in Indian political consciousness as a purposeful form of dissent.²

Indian judicial history recognises this distinctive character of a hunger strike. In *Lakshmi Narain v. The State*, the Allahabad High Court distinguished between a mere refusal to consume food and a hunger strike, observing that refusal assumes the character of a hunger strike when it is used as a means of seeking redress of grievances³. The Court, however, went on to hold that a prisoner's hunger strike undertaken to seek redress of grievances did amount to an offence against jail discipline, reasoning that permitting such conduct to go unpunished could encourage sympathetic indiscipline among other prisoners and, in extreme cases, mutiny. The decision is significant because it judicially acknowledges the grievance-oriented and communicative character of the act, even while penalising it as a matter of institutional discipline, rather than treating fasting merely as a refusal of nourishment. This punitive approach toward hunger-striking prisoners has persisted in independent India's prison administration. In November 2022, one hundred and seventy-seven undertrial prisoners at Nagpur Central Jail, including several held under stringent security legislation, commenced an indefinite hunger strike demanding time-bound bail hearings, illustrating that the tension between institutional discipline and grievance-based fasting identified in *Lakshmi Narain* remains unresolved in contemporary prison practice.⁴

² 'Indian Revolutionaries Protest Prison Injustices at Central Jail Mianwali, 1929–1931' (Global Nonviolent Action Database, Swarthmore College) <<https://nvdatabase.swarthmore.edu/content/indian-revolutionaries-protest-prison-injustices-central-jail-mianwali-1929-1931>> accessed 19 August 2026.

³ *Lakshmi Narain v. The State*, AIR 1959 All 164 (India).

⁴ 'Nagpur Jail Undertrials Begin Hunger Strike' (Deccan Herald, Bengaluru) <<https://www.deccanherald.com/content/383493/nagpur-jail-undertrials-begin-hunger.html>> accessed 19 August 2026.

The political character of hunger strikes is further illustrated by Irom Sharmila's prolonged fast against the Armed Forces (Special Powers) Act. Her hunger strike resulted in proceedings under Section 309 of the Indian Penal Code, but she was acquitted by a Delhi court in 2016. The proceedings highlighted the distinction between undertaking a fast to advance a political demand and possessing an intention to end one's life.⁵ Although the decision does not establish a constitutional right to hunger strike, it demonstrates the difficulty of automatically equating a politically motivated fast with an attempt at self-destruction. Sharmila's protest, sustained for sixteen years between November 2000 and August 2016, involved repeated nasogastric force-feeding administered while she moved in and out of judicial custody, making her case India's most prolonged and widely documented instance of State-administered artificial feeding of a hunger striker. The same tension resurfaced in July 2026, when the Delhi High Court, faced with the indefinite fast of activist Sonam Wangchuk, declined to direct force-feeding and instead ordered daily medical monitoring, reflecting a continuing judicial preference for supervised persuasion over compelled medical intervention.⁶

The State's response to a hunger strike undertaken outside custody offers an instructive contrast. When anti-corruption campaigner Anna Hazare undertook successive hunger strikes in 2011 to press for the passage of the Jan Lokpal Bill, the Government of India engaged him through dialogue and allowed his fast to continue under private medical supervision rather than resorting to custodial force-feeding. This divergence between Sharmila's custodial experience and Hazare's largely unimpeded protest suggests that the degree of State intervention in a hunger strike has often depended as much on the protester's custodial status as on any settled constitutional principle.⁷

More recently, the Supreme Court's intervention in the hunger strike of farmer leader Jagjit Singh Dallewal illustrated the competing interests involved. While concerned about the deterioration of his health, the Court clarified that its directions were not intended to terminate

⁵ See generally *Irom Sharmila Chanu v. State*, proceedings concerning the prosecution under § 309, Indian Penal Code (2006 case); see also 'Irom Sharmila, Acquitted by the Courts of All "Charges"' (The Citizen, 6 October 2016) <<https://www.thecitizen.in/index.php/en/NewsDetail/index/3/8902/Irom-Sharmila-Acquitted-By-The-Courts-Of-All-Charges>> accessed 19 August 2026.

⁶ 'Can Sonam Wangchuk Be Force-Fed? What Indian Law Actually Says' (Brut India, 18 July 2026) <<https://www.brut.media/in/articles/india/society/can-sonam-wangchuk-be-force-fed-what-indian-law-actually-says>> accessed 19 August 2026; 'Explained: Can the Government Force-Fed a Hunger Striker? What Indian Law Says' (NewsLaundry, 18 July 2026) <<https://www.newslaundry.com/2026/07/18/explained-can-the-government-force-feed-a-hunger-striker-what-indian-law-says>> accessed 19 August 2026.

⁷ 'Explained: Can the Government Force-Fed a Hunger Striker? What Indian Law Says' (The News Minute, 18 July 2026) <<https://www.thenewsminute.com/news/explained-can-the-government-force-feed-a-hunger-striker-what-indian-law-says>> accessed 19 August 2026.

his peaceful protest and indicated that medical care could be provided without necessarily preventing him from continuing the fast. Dallewal ultimately sustained his fast for 131 days, from 26 November 2024 until 6 April 2025, when he called it off at the request of fellow farmer leaders after the Union Government agreed to resume formal dialogue on the farmers' demands, making it one of the longest sustained protest fasts by a public figure in recent Indian history.⁸ This approach is significant because it suggests that protection of life and protection of peaceful dissent need not always be treated as mutually exclusive objectives.

A hunger strike may therefore be understood as expressive conduct: the refusal to consume food communicates a grievance through deliberate bodily action. However, recognising its expressive character does not make every hunger strike immune from regulation. The more difficult constitutional question is whether the State may intervene when the exercise of this form of expression creates a serious risk to the protester's own life. That question requires an examination of bodily autonomy and personal liberty under Article 21.

II. Constitutional Protection: Articles 19 and 21

Article 19(1)(a) protects freedom of speech and expression, while Article 21 protects life and personal liberty⁹. These guarantees are particularly relevant to hunger strikes because the protest simultaneously involves communication and an intensely personal bodily decision.

The Supreme Court's decision in *Justice K.S. Puttaswamy (Retd.) v. Union of India* transformed the constitutional understanding of privacy by recognising decisional autonomy as an important component of Article 21. Privacy protects an individual's ability to make intimate and personal choices without unjustified State interference. Subsequent constitutional jurisprudence has reinforced the relationship between autonomy, dignity and bodily integrity¹⁰. Legal commentary on the decision has emphasised that its recognition of decisional autonomy was not confined to informational privacy but extended to a wide spectrum of intimate personal choices, including diet, dress, sexuality and reproductive decisions, thereby supplying the doctrinal foundation on which later claims to bodily self-determination, including those raised by hunger strikers, could be built.¹¹

⁸ 'Punjab Farmer Leader Jagjit Singh Dallewal Ends His Indefinite Hunger Strike' (Deccan Herald, 6 April 2025) <<https://www.deccanherald.com/amp/story/india%2Fchandigarh%2Fpunjab-farmer-leader-jagjit-singh-dallewal-ends-his-indefinite-hunger-strike-3480575>> accessed 19 August 2026.

⁹ *Constitution of India*, arts. 19(1)(a), 21.

¹⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1, 119–21 (India).

¹¹ Gautam Bhatia, 'The Supreme Court's Right to Privacy Judgment – V: Privacy and Decisional Autonomy' (Indian Constitutional Law and Philosophy, 31 August 2017)

This principle has direct relevance to bodily choices. Decisions concerning one's body are closely connected with personal liberty and dignity. Indeed, the Supreme Court has expressly recognised that liberty encompasses choices concerning various personal aspects of life, including what and how an individual chooses to eat. A hunger strike, although more consequential than an ordinary dietary decision, begins with the same underlying proposition: an individual makes a deliberate decision concerning their own body¹².

However, the existence of autonomy does not mean that every bodily choice is beyond State regulation. Constitutional rights operate within a framework of competing interests and legitimate restrictions. The State may have a genuine interest in preventing serious harm, particularly where it has assumed responsibility for an individual's welfare. The constitutional question is therefore not whether autonomy exists, but whether overriding it in a particular case is justified.

This becomes especially important when medical intervention is contemplated. In *Common Cause v. Union of India*, the Supreme Court recognised the right to live with dignity and accepted that, in carefully defined circumstances, a person may refuse life-sustaining medical treatment. The decision demonstrates that Article 21 does not invariably require the State to preserve biological existence irrespective of individual wishes¹³. The practical significance of this recognition has itself evolved. In January 2023, a Constitution Bench of the Supreme Court modified the procedural safeguards prescribed in the original 2018 judgment, removing the requirement of countersignature by a Judicial Magistrate of First Class and permitting an advance medical directive to be attested instead by a notary or gazetted officer in the presence of two witnesses. Commentators have noted that this simplification was intended to make the constitutional entitlement recognised in *Common Cause* meaningfully accessible in practice, rather than remaining a largely theoretical entitlement frustrated by cumbersome procedure.¹⁴

At the same time, *Common Cause* does not establish an unrestricted right to die. The constitutional recognition of dignity and autonomy must be distinguished from a general right

<<https://indconlawphil.wordpress.com/2017/08/31/the-supreme-courts-right-to-privacy-judgment-v-privacy-and-decisional-autonomy/>> accessed 19 August 2026.

¹² *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (Chandrachud J).

¹³ *Common Cause (A Regd. Soc'y) v. Union of India*, (2018) 5 SCC 1.

¹⁴ 'Explained | Supreme Court's Order Modifying Guidelines Given in 2018 Euthanasia Judgment' (SCC Times, 25 January 2023) <<https://www.sconline.com/blog/post/2023/01/25/supreme-court-simplifies-procedure-to-withhold-life-support-of-a-terminally-ill-patient-modifies-guidelines-given-in-2018-euthanasia-judgment-legal-research-legal-news-updates/>> accessed 19 August 2026.

to intentionally terminate one's life. This distinction becomes critical when analysing hunger strikes¹⁵.

III. Hunger Strike, Right to Die and the Limits of Autonomy

A significant danger in analysing hunger strikes is to treat them automatically as exercises of a supposed “right to die.” The possibility that fasting may ultimately cause death does not necessarily establish that death is the protester's purpose. The constitutional character of the conduct must also be assessed by examining intention, capacity and communicative purpose. Bioethical analyses of hunger strikes reinforce the relevance of this distinction, noting that a competent striker's declared objective is ordinarily to secure a specific outcome from the authorities, and that willingness to resume eating once that outcome is achieved or the protest is abandoned is itself evidence against an underlying intention to die. This pattern is documented across notable Indian hunger strikes, including Bhagat Singh's fast, which ended once certain demands regarding prison conditions were conceded, and Potti Sriramulu's fifty-six day fast for the creation of a separate Andhra state in 1952, which ended only with his death after the government failed to make a timely concession.¹⁶¹⁷

This distinction is consistent with the development of Indian constitutional jurisprudence on the right to die. In *Gian Kaur v. State of Punjab*, the Supreme Court rejected the proposition that Article 21 contains a general right to die¹⁸. At the same time, later jurisprudence, particularly *Common Cause*, recognised a narrowly defined right to die with dignity in the context of end-of-life medical treatment¹⁹. The distinction demonstrates that the constitutional treatment of decisions concerning death depends substantially upon their context.

A hunger strike occupies a different conceptual space. The protester's immediate objective may be to persuade the State or society to respond to a grievance rather than to terminate their life. Consequently, the State should not equate the foreseeable risk of death with an intention to die without examining the circumstances of the individual protest.

¹⁵ *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648.

¹⁶ 'Legal and Bioethical Complexities in the Role of Medical Professionals in Hunger Strikes: A Comprehensive Analysis' (Global Journal of Medical Students, 2 April 2025) <<https://thegjms.org/legal-and-bioethical-complexities-in-the-role-of-medical-professionals-in-hunger-strikes-a-comprehensive-analysis/>> accessed 19 August 2026.

¹⁷ 'Nehru Couldn't Ignore Potti Sriramulu Who Gave India Andhra Pradesh by Fasting Till Death' (ThePrint, 27 November 2024) <<https://theprint.in/theprint-profile/nehru-couldnt-ignore-potti-sriramulu-who-gave-india-andhra-pradesh-by-fasting-till-death/875442/>> accessed 19 August 2026.

¹⁸ *Gian Kaur*, (1996) 2 SCC 648.

¹⁹ *Common Cause*, (2018) 5 SCC 1.

The recent Supreme Court decision in *Harish Rana v. Union of India* further demonstrates the continuing importance of autonomy and dignity in decisions concerning life-sustaining treatment. The Court reiterated the constitutional framework surrounding the right to die with dignity and withdrawal of clinically assisted nutrition and hydration in carefully defined end-of-life circumstances.²⁰ Yet this jurisprudence should not be mechanically extended to hunger strikes. End-of-life medical decisions concern the continuation or withdrawal of medical treatment in circumstances of irreversible medical condition, whereas a hunger strike ordinarily involves deliberate expressive conduct undertaken for a political or social purpose. This distinction finds support in international medical ethics guidance increasingly invoked in Indian commentary on force-feeding. The World Medical Association's Declaration of Malta on Hunger Strikers states that artificially feeding a mentally competent adult who has voluntarily and clearly refused nourishment is ethically impermissible, and that a physician's obligation is to respect an informed refusal of treatment even where it may result in death, a position that Indian legal commentators have increasingly cited when examining the limits of State-directed medical intervention in hunger strikes.²¹

The distinction does not, however, mean that the State is powerless. Where a hunger striker loses decision-making capacity, is acting under coercion, or faces an immediate medical emergency, the justification for State intervention may become stronger. Conversely, where a competent adult has voluntarily and knowingly undertaken a hunger strike, intervention that completely disregards the person's wishes raises serious questions concerning bodily autonomy and dignity.

IV. Towards a Constitutional Balance

A constitutionally balanced approach should therefore avoid both extremes: treating hunger strikes as an absolute right or permitting unrestricted State intervention. Before overriding a hunger striker's decision, authorities should consider at least four factors: **capacity, voluntariness, purpose and proportionality**. The practical utility of these factors is illustrated by recent State responses to high-profile fasts. In July 2026, when activist Sonam Wangchuk undertook an indefinite hunger strike in Delhi, the authorities did not attempt force-feeding but instead sought daily medical monitoring, reportedly weighing his continuing capacity and

²⁰ *Harish Rana v. Union of India*, 2026 INSC 222 (Mar. 11, 2026).

²¹ 'Explained: Can the Government Force-Feed a Hunger Striker? What Indian Law Says' (NewsLaundry, 18 July 2026) <<https://www.newsLaundry.com/2026/07/18/explained-can-the-government-force-feed-a-hunger-striker-what-indian-law-says>> accessed 19 August 2026.

voluntariness before considering any more intrusive step, an approach broadly consistent with the calibrated, factor-based intervention proposed in this article.²²

First, the decision-making capacity of the protester should be assessed. Second, the refusal of nourishment should be genuinely voluntary and informed. Third, authorities should examine whether the conduct is undertaken as expressive protest rather than simply assuming an intention to die. Finally, any intervention should satisfy legality, necessity and proportionality, with less restrictive alternatives considered before coercive measures.

Such an approach would recognise that the State has a legitimate interest in protecting life without reducing bodily autonomy to an empty constitutional promise. Medical monitoring, informed dialogue and less restrictive protective measures should ordinarily be preferred where they can adequately address the risk.

Conclusion

A hunger strike occupies a unique position within constitutional law because it transforms the body into an instrument of dissent. It engages both the freedom to express disagreement and the autonomy to make decisions concerning one's own body. While neither Article 19 nor Article 21 provides an unlimited right to undertake conduct irrespective of its consequences, constitutional protection cannot disappear merely because the chosen form of protest carries personal risk.

The appropriate approach is therefore one of constitutional balance. A competent and informed individual's hunger strike should ordinarily be recognised as expressive conduct deserving protection, while State intervention should be reserved for circumstances where a compelling and legally recognised justification exists. The constitutional challenge is not to choose between life and liberty, but to ensure that the protection of life does not unnecessarily extinguish the autonomy and dignity that give constitutional liberty its meaning.

²² 'Can Sonam Wangchuk Be Forced to Eat Like Irom Sharmila? What Indian Law Says on Preserving the Life of a Person on an Indefinite Fast' (WION, 16 July 2026) <<https://www.wionews.com/india-news/can-sonam-wangchuk-be-forced-to-eat-like-irom-sharmila-supreme-court-on-preserving-life-of-person-on-indefinite-fast-wion-decodes-1784265045185>> accessed 19 August 2026.