

PERSPECTIVES CONCERNING HUNGER AND FOOD INSECURITIES IN INDIA - A POSITION REVIEW WITH SPECIAL REFERENCE TO NATIONAL FOOD SECURITY ACT, 2013

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Abstract

Hunger, malnutrition and poverty potently blemish the development statistics of the world across. Despite unanimously avowing to wipe out the existent insecurities concerning hunger and food from the global scenario, the international community has failed to achieve the same. Though food is the most basic of the human rights requisite for human survival, it is still a luxury for millions of people across the globe, deplorably undernourished and malnourished. Based upon the indicators of undernourishment, underweight children and under-five mortality rate, Global Hunger Index, 2013 (GHI) and FAO statistics, 2014 establish that 842 million people or more than one in eight persons were chronically undernourished across the world in 2011-13. As per the World Bank Report, 2013, the credit of high and volatile global food prices goes to the increased frequency and intensity of droughts, war, political instability and poverty. Further, a quarter of the world's hungry i.e., 210 million are domiciled in India. Despite being heralded as one of the fastest growing economies and stunning human food production, India still dawdles many of the developing countries in the GHI and hunger, food insecurity and scarcity situation is grim in the country. Dichotomies of excess food grains production, large scale subsidized food distribution mechanism characterize the scenario along with huge wastage and millions of hungry families, starvation staring as a tangible and pressing threat.

Right to food and food security is the need of the hour. In PUCL vs. Union of India & others [In the Supreme Court of India, Civil Original Jurisdiction, Writ Petition (Civil) No.196 of 2001], Supreme Court encompassed right to food within the fundamental right to life with human dignity u/ Article 21 of the Indian Constitution. With the enactment of the National Food Security Act, 2013 for ensuring provision of food grains to the priority households at subsidized prices through the food security networks, the hitherto moral right to food stands transformed into a legal and fundamental right. Amidst this scenario, the present research paper conceptualizes hunger, food security and relevant terms; examines the international approach towards food security and hunger; analyses the gravity of hunger and food insecurity in India and the factors responsible and critically focuses on the subsidized public distribution network operating in India. It analyses the National Food Security Act, 2013 and endeavors to arrive at the desirable course of action for wiping out hunger and food insecurities prevailing in the country.

Key Words: Food Insecurity, Hunger, India, National Food Security Act, 2013, Public Distribution System, Supreme Court

Introduction

"If we can conquer space, we can conquer hunger too." -Astronaut Buzz Aldrin

Though food is most indispensable for sustaining human life and most basic human right, it remains a luxury for millions of people across the globe, deplorably undernourished, malnourished and starving. Despite unanimously avowing to wipe out the existent insecurities concerning hunger and food from the global scenario, the international community has failed to achieve the same. Persistence of hunger can be attributed to tremendous social inequalities, fluctuating food prices in the market, low wage structures and inadequate income.¹ Despite agricultural technological advancements with potentiality of improving the living conditions of the rural poor, environmental degradation threatens their very livelihood, further deteriorating their financial and purchasing capacity. As per the World Bank Report, 2013, credit of high and volatile global food prices goes to increased frequency and intensity of droughts, war, political instability and poverty.² Hunger, malnutrition and poverty statistics potently blemish the development pace. Based upon the indicators of undernourishment, underweight children and under-five mortality rate, Global Hunger Index, 2013 (GHI)³ and FAO statistics, 2014⁴ establish that 842 million people *i.e.*, more than one in eight persons were chronically undernourished across the world in 2011-13. Food insecurity, starvation deaths, hunger, malnutrition and undernourishment has increased substantially and is sustained by inefficient government policies, making it imperative for the whole world to address these issues emergently since allowing the most vulnerable to have a dignified and unthreatened access to food, supporting their physical and emotional health and assisting them in having an active healthy life is inevitable for a healthy economic scenario.

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¹ Bhumali, Anil. (2006). Globalisation and Human Rights. New Delhi: Serials.

² Annual Report, World Bank. 2013.

³ Global Hunger Index, (2013). Retrieved on 23 June 2014 from <http://www.ifpri.org/ghi/2013>.

⁴ FAO Statistical Year Book. (2014). Near East and North Africa Food and Agriculture.

Research Objectives

As per FAO statistics, 2014,⁵ India is second worldwide in farm output; is largest producer of many fresh fruits, vegetables, milk and millets; is second largest producer of wheat and rice; is one among the world's five largest producers of over 80% of agricultural produce and poultry meat.⁶ Despite stunning human food production,⁷ hunger, food insecurity and scarcity situation is grim in the country. Dichotomies of excess food grains production, large scale subsidized food distribution mechanism characterize the scenario along with huge wastage and millions of hungry families. Amidst ample reasons of reducing purchasing power, increasing debts, massive unemployment, droughts, attribution prominently can be made to the careless attitude of the Indian government and society, food staple spoilage, rampant dishonesty and corruption at the public distribution levels, innumerable difficulties in identification and reaching the target groups. Ratiocination is that starvation stares as a tangible and pressing threat in India. Having no substitute, food differs from other commodities and since adequate food is mandatory for survival, security over the next meal is essential. Right to food and food security is the need of the hour. Amidst this scenario, the present research paper conceptualizes hunger, food security and relevant terms; examines the international approach towards food security and hunger; analyses the gravity of hunger and food insecurity in India and the factors responsible and critically focuses on the subsidized public distribution network operating in India. It analyses the National Food Security Act, 2013 and endeavors to arrive at the desirable course of action for wiping out hunger and food insecurities prevailing in the country.

Methodology

⁵ The State of Food and Agriculture, 2013. (2013). Food and Agriculture Organization of the United Nations, Rome. Retrieved on 15 June 2014 from www.fao.org/publications;
<http://www.wfp.org/countries/wfp-innovating-with-india/overview> -Retrieved on 7 June 2014;
<http://www.fao.org/docrep/004/ab981e/ab981e0a.htm#TopOfPage>-Retrieved on 7 June 2014.

⁶ www.fao.org/wfs/index-en.htm -Retrieved on 22 June 2014; Misri, Bimal. K. (2006). Country Pasture/Forage Resource Profiles.

-Retrieved on 7 June 2014 from <http://www.fao.org/ag/AGP/AGPC/doc/Counprof/India/India.htm>

⁷ Ministry of Agriculture, Government of India.

-Retrieved on 24 June 2014 from <http://agricoop.nic.in/welcome.html>.

Being purely doctrinal in nature, the research study employs historical, descriptive and analytical research methods in combination and is based on primary and secondary documentary sources including international legal instruments, Constitution of India, Statutes, judgments, books of legal experts of national and international repute, law journals, newspapers, articles of eminent persons, law reports, dictionaries and internet references *etc.*

Conceptual Framework

United Nations Food and Agriculture Organization (FAO) Index of Undernutrition defines hunger as energy deficiency caused by inadequate dietary intake.⁸ International Food Policy Research Institute (IFPRI) defines hunger in terms of calories consumed and classifies hunger as subacute hungry covering persons consuming between 1,800-2,200 calories per day; medial hungry covering those consuming between 1,600-1,800 calories per day; ultra hungry covering those consuming less than 1,600 calories per day.⁹ Scientifically known as food deprivation, hunger is an uneasy, uncomfortable, painful sensation, a feeling of discomfort or weakness caused by insufficient food consumption accompanied with a desire or craving to eat. It can also be defined as nutritional deficiency, under-nourishment, mal-nourishment and in extreme case as starvation.¹⁰ Medically it is either malnutrition or undernutrition, both referring to not having enough food or lack of some/all nutritional elements necessary for human health.¹¹ It is chronic under nutrition and not sudden starvation rendering one vulnerable to disease, inactive and unproductive lives.

Food security is a situation where all persons have access to nutritionally adequate and culturally acceptable diet at all times. World Food Summit, 1974 defines food security as *availability at all times of adequate world-food supplies of basic food stuff to sustain a steady expansion of food*

⁸ <http://www.uniteforsight.org/nutrition/module9> -Retrieved on 22 June 2014.

⁹ <http://www.ifpri.org/> . -Retrieved on 22 June 2014.

¹⁰ Oxford Dictionary (2013). Facts on Hunger.

-Retrieved on 7 June 2014 from <http://www.stophungernow.org/hunger-facts>

¹¹ *World Hunger and Poverty Facts and Statistics*. (2013). -Retrieved on 7 June 2014 from <http://www.worldhunger.org/articles/Learn/world%20hunger%20facts%202002.htm>

consumption and to offset fluctuations in production and prices. FAO defines it as *ensuring that all people at all times have both physical and economic access to the basic food that they need.*¹² The World Bank Report on Poverty and Hunger defines it as *access by all people at all times to enough food for an active, healthy life.* Essence of food security is availability and ability to acquire food. Food insecurity, in turn is the lack of access to enough food.¹³ World Food Summit, 1996, convened by FAO at times of growing international concern over food security, defines food security at the individual, household, national, regional and global levels thus: *“when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.”*¹⁴ Four food security dimensions emanate here *viz.*, food availability, access, food utilization and stability (vulnerability and shocks) over time.¹⁵ Food availability refers to the supply side determined by food production and technology, inventory, efficiency of supply chains and local and international trade. Food access refers to the ability to obtain adequate quantities of nutritious food, purchasing power needed and adequate delivery mechanisms including social safety nets. Physical accessibility for the poor mainly depends upon the public distribution system operating through the network of fair price shops (FPSs) and economic accessibility depends upon purchasing power of the people and cost of acquisition of food for an adequate diet should not be so high as to compromise other basic needs and is affected by two factors *viz.*, the price of food grains and the income of the people. Food utilization refers to the need to meet dietary needs and cultural preferences. A state of food insecurity exists when the

¹² FAO. (2003). Food Security- Concepts and Measurement, Trade Reforms and Food security- Conceptualising the Linkages, Commodity Policy and Projections Service, Commodities and Trade Division. Retrieved on 12 June 2014 from <http://www.fao.org/documents/>.

¹³ Poverty and Hunger- A World Bank Policy Study. (1986). Retrieved on 22 June 2014 from http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1999/09/17/000178830_98101901455676/Rendered/PDF/multi_page.pdf; Food Security in Asia and the Pacific. (2013). Asian Development Bank: Philippines.

¹⁴ Rome Declaration on World Food Security. (1996). Retrieved on 22 June 2014 from <http://www.fao.org/docrep/003/W3613E/W3613E00.HTM>; The State of Food Insecurity in the World. (2001). Retrieved on 22 June 2014 from <http://www.fao.org/docrep/003/y1500e/y1500e00.htm>; Menon, Parvathi., & Dixit, Divya. (2013). Starving India: Food Security vis-à-vis Right to Food in Indian Context. OIDA International Journal of Sustainable Development 06: 09.

¹⁵ Trade, foreign policy, diplomacy and health- Food Security. World Health Organization. Retrieved on 23 June 2014 from <http://www.who.int/trade/glossary/story028/en/>.

members of a household have inadequate diet for whole or part of the year or face the future possibility of an inadequate diet. Though poverty determines access to food, relationship between poverty and food insecurity is not always straight. Food security is also conditioned by food prices, supply, political instability and presence of natural hazards. Being a multidimensional issue, food security has become increasingly complex and challenging with the interconnected global aspects and impact of economic growth, changing demographics, consumption patterns, international trade and environmental change.

Food insecurity can be of two kinds *viz.*, chronic and transitory. The former is a continuously inadequate diet caused by the inability to acquire food while the latter is a temporary decline in a household's access to enough food due to unstable food prices, food production and household incomes.¹⁶

The right to food may be understood as the right to have two square meals a day. International Code of Conduct on the Human Right to Adequate Food, 1997 defines right to adequate food as the right to feed oneself or to social safety-nets for those who are unable to do so, underlining the importance of access to productive resources.¹⁷ Broadly it means nutrition and right to be free from malnutrition. Food security is a precondition for the full enjoyment and realization of the right to adequate food. While food security itself is not a legal concept per se and does not impose obligations on stakeholders nor does it provide entitlements to them, right to food places legal obligations on States to overcome hunger and malnutrition and realize food security for all.

Hunger, Food Security and Right to Food: International Approach

Right to food is the right of all people at all times to be food secure and the duty to enforce it principally lies on the national governments who ought to ensure freedom from

¹⁶ *Supra* n.13.

¹⁷ International Code of Conduct on the Human Right to Adequate Food. (1997). Retrieved on 23 June 2014 from http://www.iatp.org/files/International_Code_of_Conduct_on_the_Human_Rig.htm.

hunger despite the intricacies involved. It has to take necessary action, individual or collective, to facilitate and improve the means to produce, conserve and distribute food by utilizing scientific and technical knowledge, particularly when no possibility of self-sufficiency exists.¹⁸ Right to adequate food as a fundamental human right¹⁹ and the goal of banishing hunger has been repeatedly articulated in various national, regional and international forums. Universal Declaration of Human Rights, 1948 (UDHR), International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR), Declaration on the Right of Disabled Persons, 1975, Convention on the Elimination of all Forms of Discrimination against Women, 1979 (CEDAW), Declaration on the Right to Development, 1986, Declaration of the Rights of the Child, 1959, Convention of the Rights of the Child, 1989 (CRC), ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries all unanimously vociferate and affirm this right. Further it was also recognized at many international gatherings, summits and in their final documents including the World Food Conference, 1974, Declaration of Principles and Programme of Action of the World Conference on Agrarian Reform and Rural Development, 1979, World Summit on Children, 1990, International Conference on Nutrition, 1992, Vienna Declaration and Programme of Action of the World Conference on Human Rights, 1993, Copenhagen and Programme of Action of the World Summit for Social Development, 1995, Beijing Conference on Women, 1995, and Rome Declaration on World Food Security and World Food Summit Plan of Action, 1996.

Right to adequate food derives strength from the larger human right to an adequate standard of living set out in UDHR stating that *everyone has the right to standard of living adequate for the health and well-being of himself and his family including food, clothing...*²⁰ Constitution of the FAO,

¹⁸ Yadav, Surya Narain., & Baghel, Indu. (2009). Human Rights in the 21st Century. New Delhi: Jnanada Prakashan; Reichert, Elisabeth. (ED.). (2008). Challenges in Human Rights. Jaipur: Rawat Publications.

¹⁹ Symonides, Janusz. (Ed.). (1998). Human Rights: New Dimensions and Challenges. Aldershot: Ashgate.

²⁰ Article 25 (1), UDHR.

1965 declares that ensuring humanity's freedom from hunger is one of its basic purposes.²¹ ICESCR enjoins state parties to recognize the right of everyone to an adequate standard of living for himself and his family including adequate food and recognizes the fundamental right of every one to be free from hunger.²² Universal Declaration on the Eradication of Hunger and Malnutrition, 1974 proclaims that *every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop their physical and mental faculties.*²³ CEDAW recognizes the right of pregnant and lactating women to special protection with regard to adequate nutrition²⁴ and the right of rural women to adequate living conditions.²⁵ CRC addresses the issue of child nutrition through the provision of adequate nutritious food, clean drinking water and health care.²⁶ International Code of Conduct on the Human Right to Adequate Food, 1997 emphasizes that right to adequate food must be guaranteed without discrimination as to national or social origin, property, race, gender, language, religion, political or other opinion and food should never be used as an instrument for political and economical pressure.²⁷

In the late 1990s, mandate pertaining right to adequate food emanated from World Food Summit, 1996 (Rome Declaration, 1996) which renewed the global commitment at the highest political level to eliminate hunger and malnutrition and achieve sustainable food security for all and adopted a plan of action to reduce the number of undernourished people to half by 2015. To halve the proportion of people suffering from hunger between 1990-2015 is the first of the United Nation's Millennium development Goals, 2001 (MDGs).²⁸ A paradigm shift from an anti-hunger approach based on food security to one based on the right to adequate food was adopted in the World Food Summit, 2002 in pursuance of which voluntary guidelines for progressive

²¹ Preamble, Constitution of the FAO, 1965.

²² Article 11, ICESCR.

²³ World Food Conference. (1974). –

Retrieved on 22 June 2014 from http://en.wikipedia.org/wiki/World_Food_Conference.

²⁴ Article 12, CEDAW.

²⁵ Article 14, CEDAW.

²⁶ Article 24 (2), CRC.

²⁷ *Supra* n.17.

²⁸ *Supra* n.4.

realization of the right to adequate food were adopted by the 127th Session of the FAO Council, 2004 to guide the States. Declaration of the World Summit on Food Security, 2009 stressed the urgency of national, regional, global action to fully realize the target of Millennium Development Goal 1 and the 1996 World Food Summit Goal of reducing the number of people suffering from hunger and malnutrition by half by 2015.²⁹

Hunger Statistics in India and Gravity

Amidst widespread hunger, malnutrition and food insecurity, one-third absolute poor population and one-half malnourished children despite specially designed and closely monitored governmental policies and programs, the issues relating hunger and food security assume great importance and have received critical attention from the lawmakers, social activists groups and judiciary in India. Despite impressive food production, it has failed to achieve complete food security and satisfy hunger of each and every person. A quarter of the world's hungry *i.e.*, 210 million domicile in India. GHI, 2013 indicates that the proportion of undernourished declined from about 21% to 17.5%, that of underweight children declined from 43.5% to 40% and under-five mortality declined from 7.5% to about 6% and the hunger index for India declined from 24 to 21 between 2003-07 and 2008-12. Despite this, India, positioned at 63 in GHI, alarmingly falls in the hunger index between 20 and 29.9. Notably, other countries in this category are Ethiopia, Sudan, Congo, Chad, Niger *etc.*³⁰ Almost 23% Indians battle hunger and need immediate support according to IFPRI and anything above 10% on the scale is considered serious.³¹ This score indicates continuous poor performance of India in reducing hunger. Though heralded as one of the fastest growing economies, India still dawdles many of the developing countries in the GHI which is a composite of three equally weighed indices *viz.*, under-nourishment, child mortality rate and proportion of underweight children.

²⁹ Menon, Parvathi, *Supra* n.14.

³⁰ *Supra* n.3.

³¹ Kumar, U. Anand. (2013). India Worse Than Rwanda on Global Hunger Index.

-Retrieved on 7 June 2014 from <http://www.newindianexpress.com/nation/India-Worse-Than-Rwanda-on-Global-Hunger-Index/2013/12/31/article1974323.ece>.

Hunger, malnourishment and undernourishment unfortunately are the remarkable features of the life of an average poor Indian.³² Over 20% of Indians suffer from chronic hunger. The National Family Health Survey, 2005-06 indicates 40.4% children below three are underweight, 33% women (age group of 15-49) and 28% men have a below normal body mass index; 79% children aged 6-35 months. 56% married women aged 15-49 and 24% similar men are anemic.³³ These are disturbing statistics indicating nutritional deficiencies. Almost half of the country's children under five are classed as chronically malnourished and more than a third of Indians aged 15-49 are undernourished.³⁴ The proportion of households with calorie intake below the level of 2700 Kcal (a level used in National Sample Survey data of the 66th Round, 2009-10 tabulation for comparisons) per consumer unit per day has grown more or less steadily since 1993-94 from under 52% in rural India to nearly 62% and from 57% in urban India to about 63%. Children and adults are vulnerable to malnutrition due to low dietary intakes, infectious diseases, lack of appropriate care and inequitable distribution of food within the household.³⁵ These statistics are shocking in view of the widespread network of public distribution system and mid-day meal scheme, world's largest school-feeding programme. While the former distributes food grains worth lakh of metric tons every month,³⁶ latter benefits 10.68 crore children in 12.12 lakh schools across India.³⁷

Post-independence, facing challenges of achieving food security and self-sufficiency in food production, India focused on promoting growth in the agricultural sector. This paved the way for Green Revolution, public distribution system and price supports system for farmers.

³² Virmani, Arvind., and Singh, Charan. (2013). Malnutrition, not hunger, ails India. Retrieved on 7 June 2014 from <http://www.livemint.com/Opinion/3qMKRqinXT0Dkl39K5N3M/Malnutrition-not-hunger-ails-India.html>.

³³ Key Indicators for India from NFHS-3. (2005-06). Retrieved on 15 June 2014 from <http://www.rchiips.org/nfhs/pdf/India.pdf>.

³⁴ National Food Security Mission, 12 Five Year Plan. (2012). Department of Agriculture & Cooperation; Fact Sheet: India's Food Security Bill. (2013).

-Retrieved on 14 May 2014 from <http://blogs.wsj.com/indiarealtime/2013/08/07/fact-sheet-indias-food-security-bill/>.

³⁵ SAARC Development Goals -India Country Report 2013. Central Statistics Office Ministry of Statistics and Programme Implementation, Government of India.

³⁶ PDS Portal of India. Retrieved on 23 June 2014 from <http://www.pdsportal.nic.in/main.aspx>.

³⁷ Mid Day Meal Scheme. Retrieved on 23 June 2014 from <http://mdm.nic.in/>.

From a net importer of food in 1950s, it excelled in the production of food grains (mainly rice, wheat, coarse cereals and pulses) during the last few decades. From a mere 50 million metric tons of annual food grain production in 1950s, it has produced a record 252 metric tons of food grains (rice and wheat) in 2011-12. The initial low food grain production can be attributed to the cunning subsidy policies adopted by the advanced countries for destroying the markets of the developing world.³⁸ Even the financially powerful Indian States have failed to alleviate hunger despite economic strength, urbanization and industrial development. Between 1990-1996 India's hunger level reduction was proportionate to its economic growth. As per the GHI, post-1996, no impacts of high economic growth were observed on the level of hunger and links between them got snapped. India's stagnation in GHI score occurred during a period when India's gross national per capita income almost doubled, rising from about \$1,460 to \$2,850 per annum.³⁹

Even poverty has played its role in spoiling the situation as poverty and hunger share close nexus. Hunger can be viewed as the most severe and critical manifestation of extreme poverty. People living on less than \$1.25 a day are in extreme poverty. Around 18% of the world population lives in extreme poverty⁴⁰ out of which around 33% (400 millions) constitute Indians.⁴¹ Post-Tendulkar Committee Report, 2009 which defines poverty line (differentiating between the poor and not poor), poverty ratio stands at 21.9% (270 millions) in 2011-12⁴² with 25.7% and 13.7% persons below poverty line in rural and urban areas respectively.⁴³ Usually

³⁸ Saxena, N.C., Mander, Harsh., Patnaik, Biraj., & Sinha, Dipa. (Ed.). (2008). Right to Food. New Delhi: Human Rights Law Network.

³⁹ Mahapatra, Richard. (2012). *India's hunger level constant for past 15 years*. Retrieved on 7 June 2014 from <http://www.downtoearth.org.in/content/indias-hunger-level-constant-past-15-years>.

⁴⁰ *Supra* n. 18; Prosperity for All: Ending Extreme Poverty. (2014). World Bank. Retrieved on 23 June 2014 from <http://www.worldbank.org/en/news/feature/2014/04/10/prosperity-for-all-ending-extreme-poverty>.

⁴¹ Infographic: Prosperity for All. (2014). Retrieved on 23 June 2014 from <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:23553788~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>; Statistics on Poverty in India. Retrieved on 7 June 2014 from <http://filipsagnoli.wordpress.com/stats-on-human-rights/statistics-on-poverty/statistics-on-poverty-in-india/>.

⁴² Kaul, Vivek. (2013, 30 July). Required: A new poverty line that shows 67% of India is poor. Retrieved on 7 June 2014 from <http://www.firstbiz.com/economy/required-a-new-poverty-line-that-shows-67-of-india-is-poor-43862.html>.

⁴³ Press Note on Poverty Estimates, 2011-12. (2013). Government of India, Planning Commission; Now, only 22 per cent Indians below poverty line: Planning Commission. (2013). Retrieved on 7 June 2014 from

access to food is a matter of purchasing power. While affluent suffer only during extreme circumstances of war or natural disasters, poor are vulnerable during all times. High per capita income brings with it food security. Since India has the dubious distinction inhabiting large chunks of families under abject poverty, food insecurity and hunger is rampant. Not every poor person is hungry but *vice versa* is true. Millions live with hunger and malnourishment because they simply cannot afford food or the farming supplies required for growing enough good food of their own. Majority of the deprived and poverty stricken masses are in rural areas or in the city slums, usually being marginal peasants, landless laborers and unemployed workers burdened with large families. Income and economic prosperity, at any point of time is distributed amongst the ones having land or productively employed,⁴⁴ benefits of which are largely concentrated in urban areas.

Right to Food and Indian Judiciary

Supreme Court of India has played a magnanimous role in championing the relevance of right to food through various landmark decisions. In ***Francis Coralie vs. Administrator, Union Territory of Delhi***,⁴⁵ it observed that “*right to life under Article 21 includes the right to live with human dignity and all that goes along with 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...include the right to the 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.*” In ***Chameli Singh vs. State of Uttar Pradesh***,⁴⁶ it held “*in any organized society, 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 to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to*

http://articles.economictimes.indiatimes.com/2013-07-24/news/40771743_1_poverty-line-tendulkar-methodology-poverty-rates; <http://articles.economictimes.indiatimes.com/keyword/poverty-line>.

⁴⁴ Murphy, Arthur.W., Errabbi, B., Menon, N.R.Madhava., Mysore, Narasimhaswamy., & Sivaramayya, B. (1973). Law and Poverty. Bombay: N.M.Tripathi; Reichert, Elisabeth. (ED.). *supra* n. 18.

⁴⁵ 981 AIR 746: 1981 SCR (2) 516.

⁴⁶ AIR 1996 SC 1051: (1996) 2 SCC 549.

achieve this object. Right to live guaranteed in any civilized society implies the right to food, water...” In **Kishen Pattnayak and ors vs. State of Orissa**,⁴⁷ when the poor people of Orissa were selling their lands and children for food, the court enunciated the importance of the right to food. In **Shantistar Builders vs. Narayan Khimalal Totame**,⁴⁸ **Olga Tellis and ors vs. Bombay Municipal Corporation and ors**⁴⁹ and **Samatha vs. State of Andhra Pradesh**,⁵⁰ the court held that “the right to life includes within its sweep the right to food...”.

Prompted by the reports of acute starvation in various parts of the country when 50 million tonnes of food grains was lying in Food Corporation of India (FCI) storehouses, petition was filed in **Peoples’ Union for Civil Liberties vs. Union of India**⁵¹ seeking enforcement of the right to food in the Apex Court on 9th May 2001 against Union of India, FCI and state governments of Orissa, Rajasthan, Chhattisgarh, Gujarat, Himachal Pradesh and Maharashtra on behalf of the poor in the state of Rajasthan who had not been receiving the required employment and food relief mandated by the Rajasthan Famine Code, 1962. Subsequently all the states and union territories were made party to the writ petition. It demanded enforcement of the food schemes and the Famine Code, a code permitting the release of grain stocks in times of famine and highlighted that Central and State Governments have violated the right to food implied under right to life under Article 21, Indian Constitution by failing to respond to the drought situation and in particular by accumulating gigantic food stocks while people went hungry. It further highlighted two specific aspects of state negligence *viz.*, breakdown of the public distribution system (PDS) and inadequacy of drought relief works. In requested for directing state government to provide immediate open-ended employment in drought-affected villages; to provide “gratuitous relief” to persons unable to work; to raise food entitlements under the PDS & to provide subsidized food grain to all families and the central government to

⁴⁷ AIR 1989 SC 677.

⁴⁸ (1990) 1 SCC 520

⁴⁹ 1986 AIR 180; 1985 SCR Supl. (2) 51; (1985) 3 SCC 545.

⁵⁰ AIR 1997 SC 3297.

⁵¹ (PUCL) Civil No.196/2001; SCC 196 of 2001. (In the Supreme Court of India, Civil Original Jurisdiction)

supply free food grain to these programs. It also sought immediate release of the surplus food grains lying in the stocks of FCI and implementation of various schemes announced by the governments.

Till date, the litigation remains open, standing as one of the longest running mandamus cases of its kind. Over the last thirteen years of this ongoing petition, Supreme Court emphasized the need for long term solutions aimed at raising the capabilities of the people by various means including providing employment and has addressed complex issues of hunger, unemployment and food security. Through its various interim orders (44 interim orders issued so far), it has issued innumerable directions to the central and the state governments for implementation of various food related schemes.⁵² The case has been significant in not only catalyzing a country wide movement for implementation of various food schemes but has also been widely discussed globally. The interim orders have established right to food as a fundamental right within the meaning of the right to life; concretized its enforcement and have created a mechanism for continuous monitoring and reporting of the implementation of the Court's decisions by appointing independent Commissioners.⁵³ Some of the interim orders have been remarkable. It has directed states to reopen the PDS shops (23/7/2001); food grains stored in the FCI godowns should not be dumped into the sea or eaten by rats; prevention of sufferings of poor due to hunger and starvation is the duty of the government (20/8/2001); below poverty line (BPL) families must be identified under Antyodaya Anna Yojana (AAY) and schemes like Employment Assurance Scheme (Sampoorna Gramin Yojana), Mid-day Meal Scheme (MDMS), Integrated Child Development Scheme/Service (ICDS), Annapurna Scheme, Antyodaya Anna Yojana and PDS should be implemented for BPL and above poverty line (APL) families (17/9/2001); 25 kgs of grains to be distributed under Targeted Public Distribution Scheme

⁵² *Supra* n.38.

⁵³ Seventh Report of the Commissioners appointed by the Supreme Court.

(TDPS),⁵⁴ provision of cooked food under MDMS and full implementation of 8 governmental schemes (28/11/2001); laid down nutritional requirements of children, pregnant woman and nursing mother (8/5/2002); elaborated beneficiaries of AAY (2/5/2003); preference to dalits in appointments of cooks and helpers under MDMS and direction to central government to allocate funds to meet cooking costs and payment of full wages in shape of food grains under employment guarantee schemes (20/4/2004); anganwadi centres to be established in all SC/ST hamlets/habitations (7/10/2004). Presently any modification or discontinuance of any food scheme covered in any orders without prior permission of the Supreme Court is not possible.

Supreme Court ruled that the right to food is a justiciable, reviewable, expandable, legally enforceable, constitutional and inviolable right vides various interim orders, thereby mandating preservation and expansion of the existing right-to-food programs and for developing new programs to fight hunger, malnutrition, discrimination and poverty. It forced Indian Government to increase its budget and spend millions of dollars on programs for ensuring adequate food and nutrition and has endeavored to eradicate malnutrition, hunger and death from starvation. Consistent monitoring by Supreme Court-appointed commissioners and civil society has kept high pressure on the government demanding swift action from them.

PDS in India

Socially vulnerable groups and impoverished population with limited resources deserve special programs to facilitate economic accessibility to food grains. Apart from availability of food grains, one needs to have sufficient means to purchase it. Capacity of the poor to purchase food can be generated in two ways *viz.*, by raising incomes through employment generation programs or supplying food grains at subsidized prices through PDS. Wheat, rice, sugar and kerosene are provided to 330 million people nutritionally at risk through FCI run 5,05,879

⁵⁴ Targeted Public Distribution System. Retrieved on 24 June 2014 from <http://dfpd.nic.in/?q=node/101>.

FPSs.⁵⁵ Central government is responsible for procurement, storage, transportation and allocation up to the designated depots of FCI and states are responsible for lifting and distributing the allocated food grains within the States/UTs, identification of eligible BPL families, issuance of ration cards to them and supervision over distribution of allocated food grains to eligible card holders through the FPSs.⁵⁶

Present day PDS is rooted in the rationing system introduced by the British during World War II in 1939 in specified cities/towns for providing fixed quantity of ration to the card holders.⁵⁷ Though post-war, India decided to abolish this system, it reintroduced it in 1950 due to renewed inflationary pressures. Creation of FCI, 1964, central agency for procurement, storage, transportation and distribution of food commodities like rice, wheat, sugar, edible oils, kerosene and coal and Agricultural Prices Commission, 1965 consolidated PDS while droughts of 1965/67 and 1972/73 led to expansion of PDS. During early 1990s when the global food prices were temporarily high, food grains were exported at the cost Indian needs.⁵⁸ Revamped PDS (RPDS) was introduced in 1992 to outreach remote areas of the country. Till 1992, PDS was a general entitlement for all the consumers and was deficient due to its failure to serve the BPL population, urban bias, improper coverage of the rural poor and lack of transparent and accountable arrangements for delivery, Targeted PDS (TPDS) was introduced in June 1997 to specially cater the BPL families.⁵⁹ When National Sample Survey Exercise pointed that around 5% population (one crore) slept without two square meals a day, AAY was launched in 2000 to cater their needs.⁶⁰ Despite the ups and downs of Indian agriculture, PDS has been continued as

⁵⁵ <http://pib.nic.in/newsite/erelease.aspx?relid=74180> -Retrieved on 24 June 2014.

⁵⁶ Ministry of Consumer Affairs, Food & Public Distribution. (2011). Retrieved on 24 June 2014 from <http://pib.nic.in/newsite/erelease.aspx?relid=74180>; Kattumuri, Ruth. (2011). Food Security and the Targeted Public Distribution System in India. Asia Research Centre Working Paper 38.

⁵⁷ http://en.wikipedia.org/wiki/Public_distribution_system_%28India%29 -Retrieved on 8 June 2014.

⁵⁸ *Supra* n.38.

⁵⁹ Tarozzi, Alessandro. (2002). The Indian Public Distribution System as Provider of Food Security: Evidence from Child Anthropometry in Andhra Pradesh.

-http://www.princeton.edu/rpds/papers/pdfs/tarozzi_indian_public_distribution_system

⁶⁰ Public distribution system in India-evolution, efficacy and need for reforms. Retrieved on 8 June 2014 from http://www.fao.org/docrep/x0172e/x0172e06.htm#P1406_137724

a deliberate social policy of the government to provide subsidized food grains and influence the open market prices of cereals.

Hunger, Right to Food and the Indian Legal Framework

Indian Constitution explicitly upholds right to food under Article 47 creating a non-enforceable duty of the state to raise the level of nutrition and the standard of living and to improve public health. Since life is biologically impossible sans regular nutrition, right to food is by implication a fundamental right under Article 21 wherein life means a life with human dignity and not mere survival or animal existence. Further, Article 39(a) requires the State to direct its policy towards securing adequate means to livelihood to all men and women equally. The citizen's right to be free from hunger enshrined in Article 21 is to be ensured by the fulfilling the obligations under Articles 39(a) and 47 and enforceable by virtue of the constitutional remedies provided under Article 32 and 226. Enactment of National Food Security Act, 2013 for distributing food grains to the priority households at subsidized prices through the food security networks transforms the hitherto moral right to food into a legal right.

National Food Security Act, 2013⁶¹ aimed at providing food and nutritional security to the needy by ensuring access to adequate quantity of quality food at affordable prices⁶² and guarantee cheap food grains to nearly 70% of India's 1.2 billion people (833 million rural population and 377 million urban population) and alleviate chronic hunger and poverty in India.⁶³ Section 2 (23) defines TDPS as a system for distributing essential commodities to the ration card holders through FPSs.⁶⁴ Section 2(5) defines food grains as rice, wheat or coarse grains or any combination thereof. Under Section 2(4), FPS means a shop licensed to distribute

⁶¹ Food Security Bill. Retrieved on 8 June 2014 from <http://www.youspeakindia.org/food-security-bill/>

⁶² Preamble, National Food Security Act, 2013.

⁶³ *Supra* n.34.

⁶⁴ Ranjan, Amitav. (2014, February 24). Food security Act also covers foreign nationals, refugees, says Law Ministry. Retrieved on 14 May 2014 from <http://indianexpress.com/article/india/india-others/food-security-act-also-covers-foreign-nationals-refugees-says-law-ministry/>; Himachal High Court directs to issue provisional ration cards for Nepalese. (2012, December 15).

-Retrieved on 15 June 2014 from <http://www.thenewshimachal.com/2012/12/himachal-high-court-directs-to-issue-provisional-ration-cards-for-nepalese/>.

essential commodities under Essential Commodities Act, 1955 to the ration card holders. Under Section 2(6), food security means the supply of the entitled quantity of food grains and meal specified under Chapter II. Under Section 2(9), meal means hot cooked or pre-cooked and heated before its service meal or take home ration. Families shall be identified by the Central and State government to be covered as priority households under the AAY and TDPS.⁶⁵ Every person belonging to priority household is entitled to receive 5 Kg food grains per person per month and the households covered under AAY shall be entitled to 35 Kg food grains per household per month at subsidized prices specified in Schedule I under the TDPS.⁶⁶ Entitlements of the persons belonging to the eligible households at subsidized prices shall extend up to 75% of the rural population and up to 50% of the urban population.⁶⁷ Eligible households may be provided with wheat flour lieu of the entitled quantity of food grains.⁶⁸ Schedule I provides that eligible households shall be entitled to food grains u/Section 3 at the subsidized price not exceeding Rs.3 per kg for rice, Rs.2 per kg for wheat and rupee 1 per kg for coarse grains for a period of three years from the date of commencement of this Act.

Section 4 entitles every pregnant woman and lactating mother to free meals during pregnancy and six months after child birth through the local anganwadi as per Schedule II.⁶⁹ Section 5(1) provides that children in the age group of six months-six years shall be provided meals free of charge through local anganwadi and children up to class VIII or within age group of 6-14 years shall be entitled to one mid-day meal, free of charge, everyday, except on school holidays, in all schools run by local bodies, Government and Government aided schools, to meet nutritional standards specified in Schedule II. Section 6 obliges State Government to identify through the local anganwadi and provide free meals to children suffering from malnutrition.

⁶⁵ Section 9 & 10, National Food Security Act, 2013.

⁶⁶ Section 3 (1), National Food Security Act, 2013.

⁶⁷ Section 3 (2), National Food Security Act, 2013.

⁶⁸ Section 3 (3), National Food Security Act, 2013.

⁶⁹ Schedule II enumerates nutritional chart for the children, lactating and pregnant mothers.

Section 11 provides that State Government shall display publicly the list of identified eligible households.

Chapter 5 envisages doorstep delivery of food grains to the TDPS outlets; use of technology and computer for transparency at all levels and to prevent diversion; preference to panchayats, self help groups, co-operatives in licensing of FPSs and management of FPSs by women; diversification of commodities distributed; support to local public distribution models and grain banks; introducing schemes like cash transfer, food coupons *etc.* Section 15 appoints District Grievance Redressal Officer for every district to redress grievances of aggrieved persons regarding distribution of entitled food grains or meals under Chapter II and to enforce the entitlements under this Act. It constitutes State Food Commission⁷⁰ for monitoring and review of implementation of the Act. Section 22, Chapter VIII mandates Central Government to allocate required quantity of food grains to the State Governments to be distributed under TDPS, AAY and anganwadis and procure food grains for the central pool through its own agencies and the State Governments and their agencies; provide for transportation of food grains to the depots designated by the Central Government in each State; assist State Governments in meeting the expenditure incurred by it towards intra-State movement, handling of food grains and margins paid to FPSs dealers and create and maintain required modern and scientific storage facilities at various levels. Section 24, Chapter IX provides that State Government shall be responsible for implementation and monitoring of the schemes of various Ministries and Departments of the Central Government in accordance with guidelines issued by the Central Government for each scheme and their own schemes, for ensuring food security to the targeted beneficiaries in their State. Under TDPS and AAY, State Government has to take delivery of food grains from the designated depots of the Central Government in the State and organize intra-State allocations for delivery of the allocated food grains through their authorized agencies

⁷⁰ Section 16, National Food Security Act, 2013.

at the door-step of each FPS and ensure actual delivery or supply of the food grains to the entitled persons and in case of non-supply of the entitled food grains/meals to entitled persons, it be responsible for payment of food security allowance specified u/Section 8. It should also create and maintain scientific storage facilities at the State, District and Block levels to accommodate food grains and establish institutionalized licensing arrangements for FPSs per the Public Distribution System (Control) Order, 2001.⁷¹ Further Section 33 penalizes any public servant/authority found guilty by the State Commission upon failing to provide the relief recommended by the District Grievance Redressal Officer, without reasonable cause or willfully ignoring such recommendation with a fine not exceeding five thousand rupees.

Findings and Policy Implications

At the recent Berlin launch of IFPRI's Global Food Policy Report, IFPRI Director General Shenggen Fan reiterated "*eradicating hunger by 2025 is an important ethical and economic goal and one that can be achieved.*"⁷² Eradication of hunger is the bounden duty of the governments. Apart from being a fundamental basic human need universally, food has significant implications for potential economic and social development.⁷³ People without food security are least likely to develop economically or contribute to the welfare of other populations through economic trade, cultural exchange or social interaction. Thus, alleviating hunger and poverty is a prerequisite for human development. In this regard, Indian government has tough task to accomplish. The statistics relating to hunger and food insecurity in India are not encouraging and immediate attention is called for. All the laws and statutes are useless and purposeless when the poor are starving in the country. Attention needs to be focused on the following aspects for eradication of hunger:

⁷¹ DFPD. (2010). Department for Food and Public Distribution, Government of India. Retrieved on 7 June 2014 from http://www.fcamin.nic.in/dfpd/EventListing.asp?Section=PDS&id_pk=1&ParentID=0.

⁷² Breisinger, Clemens. (2014). A world without hunger. Retrieved on 22 June 2014 from <http://www.ifpri.org/blog/world-without-hunger>.

⁷³ Gonsalves, Colin., Kumar, P.Ramesh., & Srivastava, Anup.Kumar. (Ed.). (2005). Right to Food. New Delhi: Human Rights Law Network.

There is enough food for everyone but not everyone has enough food.⁷⁴ Mere large scale food production in India does not guarantee food security. Rendering food available is only an aspect of ensuring food security, though a vital one. Efforts have to be directed towards providing economic access to food, generating the requisite purchasing power to buy food and its absorption by people. Apart from raising farm productivity,⁷⁵ reduction of food staple spoilage is of utmost important. Need is there to rejuvenate agriculture by restoring soil fertility, reviving groundwater levels and stopping the destruction of rich natural resources through unsustainable farming practices.

PDS needs to be improvised in many respects. The present large PDS network in India can be significant in eradicating hunger and food insecurity only if massive leakage of grains, low margins of FPS leading to diversion of grains, corrupt attitude and general lack of accountability amongst the persons involved in the distribution network is checked. Identifying the needy ought to be done with extra care lest dangers of leaving them out exist. To avoid this problem, universalization is a better option. Coverage of all will ensure benefit to the most needy while the affluent will voluntarily opt out of it. To minimize leakage and diversion of food grains, tight monitoring and increased commission to FPSs is needful. As suggested by the Central Vigilance Committee headed by Justice D.P. Wadhwa, increased use of technology for monitoring distribution process, GPS tracking, SMS alerts to beneficiaries, CCTV monitoring of FPS and creation of public awareness through campaigns in the media and social audit by local bodies/community groups/NGOs is necessary. Other suggestions relating to door step delivery to FPS, use of information technology in PDS, creation of better storage facilities have been incorporated in the National Food Security Act, 2013. The option of bio-metrics, smart cards, food stamps or food coupons may to some extent solve the present defects of food leakage, corruption and inefficiency and give liberty to the stakeholders to approach the stores of their

⁷⁴ Alexander, Ruth. Does a child die of hunger every 10 seconds?. Retrieved on 7 June 2014 from <http://www.bbc.co.uk/news/magazine-22935692>

⁷⁵ Hegde, N.G. (2000). Sustainable Agriculture for Food Security. *Indian Farming*. 49(12). Mar.: 4-11.

choice but reimbursing subsidy directly to public or the participating retailers is a cumbersome task. Food and Civil Supplies Department in Karnataka has relocated a ration shop to a Food World Store benefitting around 929 BPL card holders.⁷⁶ Similar process can be started at other places too.

The Food Security Act, 2013 is silent about the method of identifying beneficiaries and dividing poor into BPL and APL groups. It only provides for cereals while pulses and edible oil required to combat malnutrition are left out. Distributing food security allowance to public in lieu of food grains is difficult and may lead to diversion of money to areas other than food by the beneficiaries apart from middlemen corruption. Act is silent about other food based schemes like ICDS and MDMS. Appreciably it provides more food grains to the needy under the AAY apart from special focus on nutritional support to women and children and obliges Central Government to provide funds to States/UTs in case of short supply of food grains.

Creation of better vocational training and job opportunities for the people will go a long way in freeing India from the vices of poverty, starvation and hunger. The purchasing power of the poor has to be enhanced. It has to be checked if the food for work programs can be successful. Prompt implementation of food for work programs can directly reduce hunger and prevent starvation deaths. Further emphasis has to be on complementary conditions for nutritional absorption like access to safe drinking water, sanitation, health care education. Due to massive corruption, none of the food based programs have been able to exploit their full potential. With close monitoring, corruption within the schemes ought to be detected and meted out with strict punishment. Further, rural population needs to be made aware about their various rights which would in turn help to spread these schemes to the grass root level.

The law makers and the government are under obligation to ensure adequate food to all. As rightly remarked by Josette Sheeran, World Food Program, *'A hungry world is a dangerous world.'*

⁷⁶ Krishnaswamy, Asha. (June 9, 2014). Getting their ration with ease and in clean ambience. Deccan Herald (Bangalore). p.4.

Without food, people have only three options: They riot, they emigrate or they die. None of these are acceptable options.' There can be nothing more important at this juncture than eradicating hunger from the social scene.

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