

PalArch's Journal of Archaeology of Egypt / Egyptology

FOOD SECURITY IN INDIA: THE RIGHT TO ADEQUATE FOOD AND THE CHALLENGES AHEAD

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Dr. Sadhna Gupta (WBES)^{2*}: Food Security In India: The Right To Adequate Food And The Challenges Ahead-- Palarch's Journal Of Archaeology Of Egypt/Egyptology 17(7). ISSN 1567-214x

Keywords: Food Security, Human rights, Constitution, NFSA

ABSTRACT

The concept of Food Security is multi-dimensional and exists when all people at all times have physical and economic access to sufficient and nutritious food that meets their dietary needs for healthy life. The right to food is the basic socio-economic right which lays down the principle of democracy in India. In September 2013, the Parliament of India passed the National Food Security Act (NFSA) that made 'right to food' a legal entitlement for approximately three-fourths of the rural population and half of the urban population of India. Besides ensuring access to highly subsidized food grain, NFSA also made maternity benefits and nutrition for children aged six months to 14 years a legal entitlement. The Act, which aims to eradicate hunger and malnutrition, is a repackaging of three earlier schemes: the Midday-meal (MDM), the Public Distribution System (PDS) and the Integrated Child Development Schemes (ICDS). The Food Security (Amendment) Bill, 2019 seeks to ensure that beneficiaries are not adversely affected by provision of food coupons in place of affordable food grains. The objective of this paper is to examine right to food in the International and Indian context on human rights approach, issues, challenges and policies in food security.

"Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life"

World Food Summit 1996

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I PRELUDE

Food security, as defined by the World Food Summit (WFS) and the Food and Agricultural Organization, ‘exists when all people at all times have physical and economic access to sufficient, safe and nutritious food that meets their dietary and food preferences for an active and healthy life’³. World Development Report (1986) defined food security as “access by all people at all times to enough food for an active, healthy life”. Ensuring food and nutrition security is a challenge for India given its huge population and high level of poverty and malnutrition. Food is considered among basic amenities essential for the sustenance and growth of an individual. It has three dimensions (a) **Food availability**- total food production including imports and buffer stocks maintained in government granaries like FCI. (b) **Food accessibility**- food should be made available or should be in reach of each and every person (c) **Food affordability**- an individual should have enough amount of money to purchase proper, safe, healthy and nutritious food to meet his dietary needs.

The Food and Agricultural Organization (FAO) states that food security emerges 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. In Worldwide 852 million people are hungry due to extreme poverty and 2 billion people lack food security intermittently due to varying degree of poverty (Sources FAO, 2003). 600 million children die of hunger every year and 17000 every day⁴.

Concept of Food Security

The concept of Food Security is multi-dimensional. Food security remains an overwhelming concern for developing countries even though some countries classified as developing countries have virtually eradicated hunger. It is a function of availability, access and distribution of food⁵. Food security can be understood at different levels, from household to the international level. The issue of food security came to the force in the 1970’s and at the 1974 World Food Conference in Rome; the first explicit acknowledgement was made that this issue concerned the whole of mankind: “Every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties. Accordingly, the eradication of hunger is a common objective of all the countries of the international community, especially of the developed countries and others in a

³ EDWARD CLAY, (2002), TRADE AND FOOD SECURITY: CONCEPTUALIZING THE LINKAGES, Overseas Development Institute, London, UK July 11–12, Paper presented at the FAO Expert Rome. <http://www.fao.org/docrep/005/y4671e/y4671e06.htm#fn21> accessed on December 10, 2018.

⁴ FAO, FOOD: A DUNDAMENTAL HUMAN RIGHT, <http://www.fao.org/FOCUS/E/rightfood/right1.htm>. (6th March 2020)

⁵ MANBU BUL HAQ, (2003), HUMAN DEVELOPMENT IN SOUTH ASIA, 2002. 98 ,Agriculture and Rural Development,98

position to help”⁶. In 1970’s, food security was used to refer to availability of food stuff in sufficient quantity at global level. During the course of 1980’s and 1990’s, academics and NGO’s pointed out the inadequacy of food security approaches rooted in global production levels and countries access to world markets for food alone⁷. Any analysis of food security will examine whether a change from security to insecurity or insecurity to security actually takes place and also the probability of such a change happening. Factors that may lead to a situation of food insecurity include non-availability of food, lack of access, improper utilization and instability over a certain time period. The 1996 World Food Summit declared the fight against food insecurity as one of its objectives: *“This Plan of Action envisages an ongoing effort to eradicate hunger in all countries, with an immediate view to reducing the number of undernourished people to half their present level no later than 2015, and a mid-term review to ascertain whether it is possible to achieve this target by 2010”*⁸. The definition was further widened when Amartya Sen’s book “Poverty and Famines” came out in 1981. His book made the point that the starving are often denied access to food rather than suffering because food is unavailable and in so doing introduced the idea of entitlement to food: “Starvation is the characteristic of some people not having enough food to eat. It is not the characteristic of there being not enough food to eat”⁹.

II CHALLENGES OF FOOD SECURITY

The serious concerns related to food security in the developing countries have assumed global proportions in the last few years, with a need for urgent action. Henry Kissinger¹⁰ is reported to have declared, at the first World Food Summit, held in 1974, that in 10 years no child would suffer from malnutrition¹¹. The average annual growth rate in real terms in agriculture as well as its allied sectors has remained static in the last six years, in turn impacting farmers’ income¹². The annual growth rate in real terms in agriculture and its allied sectors was 2.88 per cent from 2014-15 to 2018-19, according to the Economic Survey. The estimated growth rate in 2019-20 is 2.9 per cent¹³. The challenges India faces to meet its food security are as follows:

⁶ UNITED NATIONS, (1975), REPORT OF THE WORLD FOOD CONFERENCE ROME 5-16 November 1974. New York

⁷ ABHISEKH TEWARI & DR. VINITA KACHER, (2011), GENETICALLY MODIFIED CROPS AND FOOD SECURITY, 110-115, Legal Analyst, Varanasi

⁸ Rome Declaration on World Food Security and World Food Summit Plan of Action: World Food Summit, 13-17 November 1996, Rome, Italy. <https://digitallibrary.un.org/record/195568?ln=en>

⁹ AMARTYA SEN, (1981), POVERTY AND FAMINE; An Essay on Entitlement and Deprivation, 257, Oxford New York

¹⁰ Rome-5 November 1974-World Food Congress-Henry Kissinger, Secretary of State of the United States of America delivering his speech, “In ten years’ time, no child will go to bed hungry”.

¹¹ FEAST AND FAMINE, INDIAN EXPRESS By Arrangement with The Economist, New Delhi, December 4, 2014, p. 15. 3.

¹² The Economic Survey 2019-20, released on January 31, 2020.

¹³ Ibid

Climate change: The generation of farmers now on the land is the first to face manmade climate change. Climate change is expected to affect agricultural land use and production due to less availability of water for irrigation and other factors. There is climate change in India due to rising temperature and extreme events on the food production systems which impacts agricultural growth adversely. Various reports indicate that climate change would result in further intensification of temporal and spatial variation in the availability of water and extreme events of flood and drought. Agriculture as it exists today developed over 11,000 years of rather remarkable climate stability¹⁴. It has evolved to maximize production within that climate system. Now, suddenly, the climate is changing and there is a strong need to address changes in institution and resource accessibility to tackle the climate induced natural hazards.

Crop Diversification: In recent years there has been great emphasis of agricultural scientist on implementation of crop diversification. The crop diversification has been found to influence food security through its supply chain by creating comprehensive food which includes subsistence food grain and other protein nutrients available. The, price of food grains like rice and wheat are no encouraging and farmers ended up with very low return. By concentrating on other crops the farmers were encouraged to earn higher profits. The creation of decentralized food grain bank in each block or district would enable the villagers to get subsidized food. This concept will improve the delivery of food grains and reduce corruption¹⁵.

Mismatch between water demand and availability: The major constraint in the path of future agricultural growth and food security is the negative relationship between demand and supply of water. There is a vast temporal and spatial variation in rainfall and water availability in the country. Majority of water is available during monsoon period and that too, through few spell of intense rainfall. The average rainfall in India is 1170mm. The demand for water for various purposes is increasing due to population growth, industrialization and urbanization¹⁶. Presently agriculture sector is using about 83% of water resources, but due to demand from other sector availability may decline to 68% in 2050. Hence, mismatch between demand and supply of water¹⁷.

Land fragmentation: Fragmentation of land is widespread in India and it is believed that fragmented nature of land holding plays a major role in

¹⁴ CLIMATE CHANGE AND FOOD SECURITY: A framework document food and agriculture organization of the United Nations Rome, 2008 <http://www.fao.org/tempref/docrep/fao/010/k2595e/k2595e00.pdf>

¹⁵ R PRAKASH UPADHYAY & C PALANIVEL, CHALLENGES IN ACHIEVING FOOD SECURITY IN INDIA, Iranian Journal on Public Health. Retrieved from <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3481742/>

¹⁶ HUGH TURRAL AND JEAN MARC FAURES, (2011), CLIMATE CHANGE, WATER AND FOOD SECURITY, Food and Agriculture Organization of the United Nations Rome. <http://www.fao.org/3/a-i2096e.pdf>

¹⁷ S. BRAHMANANDA, A. KUMAR, S. GHOSH, CHALLENGES TO FOOD SECURITY IN INDIA, Retrieved from <http://www.currentscience.ac.in/Volumes/104/07/0841.pdf>

explaining low levels of agricultural productivity. Household food security among small holder farmers is sensitive to a variable and changing climate, requiring farmers to improve food security. The extent to which land fragmentation moderates the food security effects of sustainable land management practices is unknown¹⁸. Land fragmentation provides more potential opportunities for improving food security than challenges. There has been increase in putting agriculture land into non agriculture uses to accommodate developmental activities leading to land fragmentation and low productivity. Therefore there is a need for shift in land use and cropping pattern.

Quality seeds and Planting material: The challenge confronting the seed sector is to make available quality seeds having good genetic potential at an affordable price and across the country to the farmers to enable them harvest maximum yield in the given agro climatic conditions. Quality seeds ensures good crop stand because of its high genetic and physiological qualities. So, with the institutional and technological enhancements in seed sectors, quality seeds can be used as solution for food security with addition to food self-sufficiency too¹⁹.

Globalization: Globalization and global change have amplified traditional food security concerns such as chronic malnutrition but have also given rise to new forms of challenges from biotechnology, bioterrorism, and emerging infectious diseases. Globalization has certainly intensified interdependence and competition between economies in the world market creating worse condition for domestic framers and producers. Globalization and health are inherently linked and, by reconceptualizing the concept of food security. Imbalances in power throughout the food chain help explain food insecurity in the past and present.

III INTERNATIONAL COMMITMENT FOR RIGHT TO FOOD

The UN General Assembly adopted the International Covenant on Economic, Social and Cultural Rights (ICESCR) on December 16, 1966²⁰. Article 11(1) of the ICESCR recognizes the right of everyone to an adequate standard of living for himself and his family and it encompasses adequate food, clothing and housing, and to the continuous improvement of living conditions. Indeed, the right to food has been enshrined in international legal documents for over half a century and is a part of the modern international human rights agenda that has both influenced and been influenced by India. The international human rights

¹⁸https://www.researchgate.net/publication/327537513_Land_fragmentation_climate_adaptation_and_food_security_in_the_Gamo_Highlands_of_Ethiopia_Open_Access_httpsonlinelibrarywileycomdoi/pdf101111agec12464

¹⁹ <http://www.fao.org/3/Y2722E/y2722e0d.htm>

²⁰ The International Covenant on Economic, Social and Cultural Rights adopted under UN General Assembly Resolution 2200A (XXI) on Dec. 16, 1966, entered into force on Jan. 3, 1976. The International Covenant on Civil and Political Rights also adopted by the UN General Assembly Resolution 2200 A (XXI) on December 16, 1966. 5

law regarding the right to food relies largely on national action for implementation. That being said, the national and the international human right to food interact and inform each other. The human right to adequate food is of crucial importance for the enjoyment of all other rights. The right to food is also part of the various human rights instruments. The right to adequate food is included under article 25(1) of the Universal Declaration of Human Rights (UDHR), and article 11(2) of the ICESCR deals comprehensively with the human right to food. The committee has noted that while reporting guidelines are available relating to the right to adequate food, only a few states parties have provided information sufficient and precise enough to enable the committee to determine the prevailing situation in the countries concerned with respect to this right and to identify the obstacles to its realization²¹.

The right to food has been part of the international human rights regime since its inception. Access to food was first declared a right in Article 25²² of the Universal Declaration of Human Rights (UDHR), 1948, and the right was subsequently codified by Article 11²³ of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which encompasses two separate but related norms: the right to adequate food and the right to be free from hunger. The Committee on Economic, Social and Cultural Rights has further defined the right to food provided for in the ICESCR in its General Comment 12(2)²⁴. Other international legal instruments that India has ratified and that further articulate the right to food in Article 27²⁵ of the Convention on the Rights of the Child and of the Convention on the Elimination of All Forms of Discrimination against Women. In addition to these legal obligations, India has signed up to such political declarations as the 1996 Rome Declaration of the World Food Summit, thereby pledging its political commitment to ensuring

²¹ Report by the Special Rapporteur on the Right to Food, Olivier De Schutter, submitted in accordance with General Assembly Resolution 64/159, A/65/281 of 11 Aug. 2010, available at: <http://www.unhchr.ch> (last visited on Oct. 10, 2013).

²² Article 25 of the UDHR, 1948 States that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food”.

²³ Article 11 of the ICESCR reads: 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. 2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

²⁴ Articles 12(2) of the CEDAW, States have to ensure to women “adequate nutrition during pregnancy and lactation.

²⁵ Article 27(1) of the CRC recognizes “the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development”. The States Parties to the Convention have the duty to “take appropriate measures” to assist parents in fulfilling their primary responsibility to implement such right, “particularly with regard to nutrition” (art. 27(3)). Moreover, article 24(2)(c) of the CRC commits States to combat child malnutrition.

its citizens access to adequate food. Despite declaring that such a right exists, none of these legal texts is particularly specific in defining what a state party must do in order to ensure the right to food. Thus it is particularly important for states, such as India, to give shape to this right through national programmes.

India's Commitment

Before beginning our discussion on India's specific jurisprudential progression towards finding and founding a constitutional human right to food, it is important to note that adequate legal guarantees to the right to food existed prior to the establishment of a right to food in India. The Constitution of India both explicitly and implicitly provides for a right to food, thereby offering healthy national protection that is likely more accessible to Indian citizens than similar safeguards provided by international bodies. Explicitly, Article 47, found in the Directive Principles division of the Constitution, creates a "duty of the State to raise the level of nutrition and the standard of living and to improve public health". Given the aspirational and non-justiciable nature of the Directive Principles, however, most of the development of the right to food has occurred within the context of Article 21, which includes a right to life and is located within the enforceable and justiciable Fundamental Rights section of the Constitution.

Indeed, the Supreme Court has explicitly stated in various cases that the right to life should be interpreted as a right to "live with human dignity", which includes the right to food and other basic necessities²⁶. Certain directive principles such as right to an adequate means of livelihood under Article 39²⁷, right to work, education and public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want under Article 41, living wages for workers under Article 43²⁸, and the principle relating to the duty of the state to secure social order for the promotion of welfare under Article 38 are thought to be sufficient to ensure right to food. India's constitutional guarantee of a right to food is perhaps not unique amongst the World's Constitutions. According to the Food and Agricultural Organization of the United Nations, twenty-two national constitutions explicitly mention a right to food that applies to the entire national population,

²⁶ For instance, in *Maneka Gandhi v. Union of India* AIR 1978 SC 597, the Supreme Court stated: "Right to life enshrined in Article 21 means something more than animal instinct and includes the right to live with human dignity; it would include all these aspects which would make life meaningful, complete and living." Similarly, in *Shantistar Builders v. Narayan Khimalal Totame* (1990) 1 SCC 520, the Supreme Court stated: "The right to life is guaranteed in any civilized society. That would take within its sweep the right to food..."

²⁷ According to Article 39A of Indian constitution the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid.

²⁸ Article 43 of the Constitution: The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

while several other Constitutions provide for a right to food through a right to life with dignity or related social welfare rights²⁹.

IV SALIENT FEATURES OF (NFSA 2013)

The National Food Security Act (NFSA) 2013, passed recently by the Indian Parliament, aims to ensure food security in India, chiefly by providing cereals at subsidized prices through the Targeted Public Distribution System (TPDS) for about two-thirds of households. The Act is a unique step taken by Indian government to fight against hunger and protect right of the people for food. The act was enacted with the objective of increasing food production, improving food distribution, food security at the household level, improving the nutritional status of the vulnerable population, improving awareness regarding nutrition and improvement of health care. The National Food Security Act, 2013 (NFSA 2013) converts into legal entitlements for existing food security programmes of the Government of India. It includes the Midday Meal Scheme, Integrated Child Development Services scheme and the Public Distribution System. The objective is to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and to provide right to food to every citizen of the country. Some of the features of the Act are--

- Public Distribution System (PDS) is now governed by provisions of the National Food Security Act, 2013 (NFSA).
- Coverage under PDS is de-linked from the erstwhile 'poverty estimates'.
- The Act provides coverage for nearly 2/3rd of the country's total population, basis Census 2011 population estimates.
- 75% of Rural and 50% of Urban population is entitled to receive highly subsidized food grains under two categories of beneficiaries – Antodaya Anna Yojana (AAY) households and Priority Households (PHH).
- State/UT-wise coverage is determined by the erstwhile Planning Commission (now NITI Ayog) on the basis of 2011-12 Household Consumption Expenditure survey of NSSO.
- The Act entitles 35 kg of food grains per AAY Household per month, whereas 5 Kg of food grain per PHH Person per month.
- Identification of beneficiaries/households under NFSA is done by respective State/UT Government, which is required to frame its own criteria.
- Highly subsidized Central Issue Prices of Re.1, Rs.2 and Rs.3 for Coarse-grains, Wheat and Rice respectively, kept unchanged till June 2019.
- No reduction in food grains allocation to any State/UT under NFSA. Allocation gaps if any, are covered with Tide-Over allocation

²⁹ FAO, Intergovernmental Working Group for the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, Information Paper: Recognition of the Right to Food at the National Level, 25-26, IGWG RTFT INF/2 (Feb. 2004), available at <ftp://ftp.fao.org/docrep/fao/meeting/007/j0574e.pdf>.

- Eldest woman of the beneficiary household (18 years or above) is considered as 'Head of Family' for the purpose of issuing ration cards.
- Grievance Redressal Mechanism, through State Food Commissions, DGROs, and Vigilance Committees at different levels are provisioned for Women Empowerment.
- Provisions for disclosure of records relating to PDS operations, placing of beneficiaries' list in public domain/portals, for enhanced transparency

V THE NATIONAL FOOD SECURITY (AMENDMENT) BILL, 2019

The National Food Security Bill³⁰ seeks to ensure that beneficiaries are not adversely affected by provision of food coupons in place of affordable food grains. Further, the principal Bill permitted the Government to provide beneficiaries “take home ration” in place of hot cooked meals for pregnant and nursing women as well as young children. However, the increased resources at the State and local self-governments level, a coordinated action plan across different branches of the Government, includes health services, food, drinking water, sanitation facilities and regular income for livelihoods, is required.

With the release of the NITI Aayog's National Nutrition Strategy 2017, the Central Government has introduced a renewed focus on the issue of malnutrition in India. While the most recent National Family Health Survey — shows an overall decline in the levels of under-nutrition in women and children, the pace of decline has been slow. According to the United Nations Children's Fund (UNICEF), India has the 10th highest number of underweight children in the world. As reiterated in the National Nutrition Strategy and the National Health Policy 2017, addressing the problems of malnutrition and under-nutrition requires a comprehensive and concerted effort. With the aim of reducing all forms of malnutrition by the year 2030, a decentralized approach is required that can ensure the provision of nutrition to women and children, especially to protect maternal health. An identification of the most vulnerable sections and districts needs to be carried out in order to create a plan that can target those who need it the most.

The National Food Security Act, 2013 has been enacted to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity. The Act therefore, seeks to amend the National Food Security Act, 2013 with a view to—

- define “malnutrition” in adults and children;
- create a National Nutritional Monetary and Surveillance System; and
- establish a District Nutrition Monetary Committee in each district.

³⁰ Bill No. 196 of 2019. A BILL to amend the National Food Security Act, 2013.

Clause 3 of the Bill provides for setting up of National Nutrition Monitoring and Surveillance System at district level in every State. It also provides for setting up of a District Nutrition Monetary Committee in each district. Clause 5 provides that the Central Government to provide additional financial and infrastructural support to 'high risk' district as identified by the District Nutrition Monitoring Committee and the State Food Commission and corroborated by the National Nutrition Monitoring and Surveillance System³¹.

VI THE RIGHT TO FOOD IS A LEGAL AND HUMAN RIGHT

The right to adequate food is a human right of every individual in every country and this right has been duly recognized by the great majority of states. But there is a large difference between a state's formal recognition of food as a human right and ensuring effective implementation of this right by the state³². The right to food is realized when every man and woman and child, alone or in community with others, has physical and economic access at all times to adequate food or for means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or strict sense, which equates it with a minimum package of calories, protein and other specific nutrients. With the coming of the Food Security Act it was believed that those who are entitled will get food grains at a minimized rate. Access to an adequate supply of food is the most basic of human needs and rights. Ensuring that their people have enough to eat is not only the moral duty of governments; it is also in their economic and political interest. Hungry people cannot work; hungry children cannot learn. Without a well-nourished, healthy population, development is impossible.

Since the year 2000, global attention has been placed firmly on food and nutrition security, first through the Millennium Development Goals (MDGs) and now through Goal 1 of the Sustainable Development Goals (SDG). Indian policy makers, too, have refocused attention on the links between poverty and hunger, recognizing freedom from hunger as a basic human right. In particular, they have acknowledged the role of women in ensuring food security at the household level. The National Food Security Act (NFSA) (India, MLJ 2013) formalizes this recognition by legitimizing the most senior woman in the household as its "head" for purposes of securing food entitlements³³. This is indeed a welcome step. It has put on the agenda the need to better understand the linkages between the recognition of women in food security policies, changing gender relations, and well-being outcomes in terms of actual food and nutrition security. This paper lays out a framework for achieving gender justice in Indian food security policies.

³¹ <http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/2677LS%20AS%20INTRO.pdf>

³² MANOJ KUMAR SINHA, RIGHT TO FOOD: INTERNATIONAL AND NATIONAL PERSPECTIVE, 2014, Journal of Indian Law Institute, Vol.56 No.1 pp47-51

³³ India, MLJ (Ministry of Law and Justice). 2005a. Right to Information Act. New Delhi: Legislative Department--- 2005b. Mahatma Gandhi National Rural Employment Guarantee Act. New Delhi--- 2013. National Food Security Act. New Delhi.

The right to food, and its variations, is a human right derived from the International Covenant on Economic, Social and Cultural Rights (ICESCR). The UN Special Rapporteur on the right to food in 2002 defined it as follows: Right to adequate food is a human right, inherent in all people, to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people to which the consumer belongs, and which ensures a physical and mental, individual and collective fulfilling and dignified life free of fear

The right to food is a human right. It protects the right of all human beings to live in dignity, free from hunger, food insecurity and malnutrition. The right to food is not about charity, but about ensuring that all people have the capacity to feed themselves in dignity. The right to food is protected under international human rights and humanitarian law and the correlative state obligations are well-established under international law. Citizens make use of civil and political rights and freedoms to ensure that governments respect the right of everyone to have access to adequate food³⁴. The right to food is recognized in Article 25 of the Universal Declaration of Human Rights and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as a plethora of other instruments. Food security exists when all when all people at all times have physical and economic access to sufficient and nutritious food that meets their dietary needs and food preference for an active and healthy life³⁵.

Government of India Programmes and Initiatives

Many women, men and children affected by chronic undernourishment suffer from what the UN Food and Agriculture Organization (FAO) calls ‘extreme hunger’. This means that their daily ratio of calories is well below the minimum necessary for survival. Many people die on a daily basis from starvation. Malnutrition, also called the ‘hidden hunger’, refers to inadequate intake of calories, proteins or nutrients. Thus, malnutrition necessarily encompasses undernourishment; however it stretches beyond the latter since it might be that a person receives enough calories but not enough nutrients. Malnutrition is quieter than famine – in the sense that it does not attract the attention of the media – but it has no less tragic implications for those suffering of this disease. Malnutrition heightens vulnerability to other illnesses and almost always has serious physical and mental effects – the lack of brain cell development, inadequate growth. Serious malnutrition can also be hereditary, as many malnourished mothers give birth to malnourished babies. A vicious circle ensues. The 1996 World Food Summit (WFS) in Rome had pledged

³⁴ASBJORN EIDE, (1996) HUMAN RIGHTS REQUIREMENTS TO SOCIAL AND ECONOMIC DEVELOPMENT, FOOD POLICY, 21(1), 23-39.

³⁵SUDHA NARAYAN, (2014), THE NATIONAL FOOD SECURITY ACT VIS-A-VS THE WTO AGREEMENT ON AGRICULTURE, Economic and Political Weekly Vol.XLI X No.5 pp 40-46

‘...to eradicate hunger in all countries, with an immediate view of reducing the number of undernourished people to half their present level no later than 2015’³⁶. The right to food is a human, legal and clearly defined right which gives rise to obligations of states to reduce both chronic under nourishment and malnutrition.

The United Nations celebrates October 16 as the World Food Day every year, with an aim to spread awareness about eradicating hunger and ensuring food security for all³⁷. With nearly 195 million undernourished people, India shares a quarter of the global hunger burden. Nearly 47 million or 4 out of 10 children in India are not meeting their full human potential because of chronic under nutrition. The government has large food security and anti-poverty programmes but there are critical gaps in terms of inclusion and exclusion errors. With a five-fold increase in food grain production from 50 million tonnes in 1950-51 to about 250 million tonnes in 2014-15, India has moved away from dependence on food aid to become a net food exporter. In 2017-18, over Rs 1, 50,000 crore, or 7.6% of the government’s total expenditure has been allocated for providing food subsidy under the Targeted Public Distribution System³⁸. In 2016, the government launched a number of programmes to double farmers’ incomes by 2022 by the production of agriculture capacity. They include National Food Security Mission, Pradhan Mantri Fasal Bima Yojana, Rashtriya Krishi Vikas Yojana, the Integrated Schemes in Oilseeds, Pulses, Palm Oil and Maize as well as a massive irrigation and soil and water harvesting programme to increase the country’s gross irrigated area from 90 million hectares to 103 million hectares by 2017³⁹. Independent India has overcome the problems of famines and mass deaths due to starvation, thanks to the focus given to agriculture, mainly, in the production of cereals. Today, the country produces 104 million tons of rice and 93 million tons of wheat annually, 13 which is more than sufficient to meet the requirements of a widespread Public Distribution System (PDS), distributing cereals at highly subsidized prices.

The government has also taken significant steps to combat under and malnutrition over the past two decades, such as through the introduction of mid-day meals, *anganwadi* systems to provide rations to pregnant and lactating mothers, and subsidized grain for those living below the poverty line through a public distribution system. The National Food Security Act, 2013 aims to ensure food and nutrition security for the most vulnerable through its associated schemes and programmes, making access to food a legal right. The UN priority group partners with the government provides support the strengthening of agriculture and livelihood dimensions of anti-poverty

³⁶ The State of Food Insecurity in the World, FAO, IFAD and WFP 2015 at <http://www.fao.org/3/a-i4646e.pdf> (Accessed on December 18, 2018).

³⁷ About World Food Day, <http://www.fao.org/world-food-day/2017/about/en/>.

³⁸ Expenditure Budget, Union Budget 2017-18, <http://unionbudget.nic.in/ub2017-18/eb/allsbef.pdf>.

³⁹ (<https://in.one.un.org/un-priority-areas-in-india/nutrition-and-food-security/>) 2.28PM 12/21/2020

programmes, particularly the Mahatma Gandhi National Rural Employment Guarantee Act and the National Rural Livelihoods Mission.

India's efforts to achieve food security

The Public Distribution System, which was initially started as a system to manage food scarcity in the 1940s, has evolved into a system for the distribution of food grains at affordable prices, and is an important part of the government's policy for food management. The main objectives of food management are: the procurement of food grains from the farmers at remunerative prices; the distribution of food grains to the consumers, particularly, the vulnerable sections of society, at affordable prices; and, the maintenance of food buffers for food security and price stability. The PDS is supplemental in nature, i.e. it is not intended to make available the entire requirement of any commodity distributed to a household. The PDS is operated as a joint responsibility of the state and central governments. The central government, through the Food Corporation of India (FCI), has the responsibility for the procurement, storage, transportation and the bulk allocation of food grains to the state governments. It has to maintain satisfactory level of operational and buffer stocks of food grains so as to ensure National Food Security⁴⁰.

VII DENOUEMENT

“Even though self-sufficiency of food production has been achieved, the population still lacks access to balanced food. It is a matter of concern that even though cereal production has kept pace with the increasing requirements and average per capita intakes of cereals have remained satisfactory, there has been a fall in the per capita consumption of pulses....” (Ninth Five Year Plan 1997-2002)

For almost two decades after getting independence India remained a food deficient country. During this period the country faced the worst famine and cases of starvation death appeared in a large number. However, things have changed drastically after the introduction of the green revolution in the mid 1960s;⁴¹ today the country has not only become self-sufficient in food grains but now it has surplus food grains. Despite the fact that India produces enough food to feed its entire population, ironically, there are rapid increases in hunger

⁴⁰ Food Corporation of India website at fci.gov.in (Accessed on December 14, 2018)

⁴¹ S.Ganguly, From Bengal Famine to the Green Revolution available at: <http://www.indiaonestop.com/Greenrevolution.htm> (last visited on Dec. 19, 2013). The world's worst recorded food disaster took place in 1943 in British ruled India, which is known as the Bengal Famine, more than 4 million people died. Nevertheless, when the Britishers left India in 1947, India continued to be haunted by famine and drought. Thus, it was natural that food security acquired a prominent place in Independent India. This awareness led to the Green Revolution in India. However, the Green Revolution is applied to the period from 1967 to 1978. Between 1947 and 1967, efforts at achieving food self-sufficiency were not entirely successful. The term Green Revolution is a general one that is applied to successful agricultural experiments in many Third World countries.

and malnourishment in some parts of the country⁴². Thus, there is a need to shift from the current inefficient, expensive, perennial and corruption ridden institutional arrangements to those that will guarantee cheap delivery and distribution of requisite qualities of food grains in a transparent manner. To curb existing problems of food security the government has implemented various programs. In the backdrop the government of India enacted new Act i.e. the National Food Security Act, 2013 which aims to provide subsidized food to approximately two thirds of India's 1.2 billion people. The Act is considered as the biggest ever experiment in the world for distributing highly subsidized food for any government through a "right based approach". The Act aims to provide legal right over subsidized food grain to around 67 per cent of the population. Despite its advantages the Act has been severely criticized since it will use extremely "leaky" PDS to distribute food grains. The cost of food grains is rising globally then how would the government be able to provide subsidized food to 70 per cent of Indian population in the situation of inappropriate climate conditions. The National Food Security Bill⁴³, 2019 provide that the beneficiaries are not adversely affected and receive affordable food grains. Further, the principal Bill permitted the Government to provide beneficiaries "take home ration" in place of hot cooked meals for pregnant and nursing women as well as young children. However, with increased resources at the State and local self-governments level, a coordinated action plan across different branches of the Government, which includes health services, food, drinking water, sanitation facilities and regular income for livelihoods, is required.

In nutshell, despite ensuring ample availability of food, existence of food insecurity in the country has remained a formidable challenge for India. Promoting human rights above all means strengthening people's capacity to hold state actors accountable, as well as pressuring state actors to assume accountability for their human rights obligation. The right to adequate food will have to be realized progressively by constant improvement in the food security system. Estimates show that while 27.8% of India's population suffered from moderate or severe food insecurity in 2014-16, the proportion rose to 31.6% in 2017-19. The number of food insecure people grew from 42.65 crore in 2014-16 to 48.86 crore in 2017-19⁴⁴. Projections show that the world is not on track to achieve Zero Hunger by 2030 and, despite some progress; most indicators are also not on track to meet global nutrition targets. The food security and nutritional status of the most vulnerable population groups is likely to deteriorate further due to the health and socio-economic impacts of the COVID-19 pandemic.

⁴² P. AHLUWALIA, (2004), THE IMPLEMENTATION OF THE RIGHT TO FOOD AT THE NATIONAL LEVEL: A Critical Examination of the Indian Campaign on the Right to Food as an Effective Operationalization of Article 11 of ICESCR Center for Human Rights and Global Justice Working Paper NYU Law School 23.

⁴³ Bill No. 196 of 2019. A BILL to amend the National Food Security Act, 2013

⁴⁴ THE HINDU, 24 August, More evidence of India's food insecurity.