

RECOGNIZING THE RIGHT TO FOOD & NUTRITIONAL SECURITY IN INDIA: ISSUES AND CHALLENGES

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ABSTRACT

India is often cited as a land of paradoxes. This is certainly true when it comes to right to food and food security. Despite a decline in poverty and green revolution, on the one hand almost twenty-four per cent of its people are still food insecure and one half of its children malnourished in one way or another and Ironically on the other hand it has a million tonnes of food grain buffer stocks through government procurement. No doubt through various policies and programmes the government is trying to be food secure at household level. Regardless of these measures, food insecurity is a gigantic problem in India. Moreover, in the present scenario increased food prices, shrinkage of area under food grains and escalating food subsidy are the major concerns with regards to implementation of right to food. The right to food is operational in India on the basis of India's Constitution and of her obligations under International human rights law. Under these International obligations a framework law has been developed and brought into force in India recently. But the legal framework and the means of producing sufficient food does not imply that food is actually secured for everyone, what it requires is the political and societal will of various stakeholders to overcome the discriminatory situation in order to give the right to food a real meaning. Keeping this in view, the present study analyzes the food security scenario and the issues and challenges that are being faced while implementing the right to food in India.

Keywords: Food Security, Right to Food, Human Rights, Food Subsidy, Hunger

I Prologue

Food has been identified as one of the basic human survival needs.¹ The right to food is considered as human right that protects the right for people to feed themselves in dignity. The right to life and the right to health are inextricably linked to the right to food.² The need for better realization of the right to food is evident from the persistent high prevalence of

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¹ P. Alston, *et. al.*, *The Right to Food -International Studies on Human Rights* (Netherlands: Institute of Human Rights Martinus Nijhoffs Publishers, 1984) 32.

² Susan Randolph, "The Right to Food: A Global Overview." In *The State of Economic and Social Human Rights: A Global Overview* edited by L. Minkler, (Cambridge: Cambridge University Press, 2012) 46.

undernourishment and hunger. The idea of the human right to food is to establish procedural and legal means for seeking remedies against authorities when they fail to guarantee access to food. The right to food is universal, it applies to everybody. However, in practice, it protects first and foremost the most vulnerable individuals and groups in society, among whom are those suffering from discrimination, women and children, landless rural workers, indigenous peoples and tribes, slum dwellers, the unemployed and others. Right to food is all about being guaranteed the right to feed oneself, which requires not only that food is available or but also that it must be accessible. The right to adequate food is realized when every man, woman and child, alone and in community with others, has physical and economic access at all times to adequate food or means for its procurement.³ The right to food has been recognized as a human right since the Universal Declaration of Human Rights in 1948, in numerous binding and non-binding legal instruments, notably Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁴ Member States of Food and Agriculture Organization, adopted the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security to fight hunger and malnutrition using a rights-based approach.

II Background of Study

The right to food is corollary to food security. Food security is a condition related to the ongoing availability of food. Concerns over food security have existed throughout history. There is evidence of granaries being in use over 10,000 years ago, with central authorities in Civilizations including Ancient China and Ancient Egypt being known to release food from storage in times of famine. Yet it was only at the 1974 World Food Conference that the term 'food security' was established as a formal concept. Originally, food security was understood to apply at the national level, with a state being food secure when there was sufficient food to "sustain a steady expansion of food consumption and to offset fluctuations in production and prices". A new definition emerged at 1996 World Food Summit, this time with the emphasis being on individuals enjoying food security, rather than the nation. According to the Food and Agriculture Organization (FAO), food security "exists 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"⁵. In the year 2009, the World Summit on

³ Committee on Economic, Social and Cultural Rights (Committee on ESCR) in its General Comment 12 of 1999, para 6.

⁴ See, Extracts from international and regional instruments and declarations, and other authoritative texts addressing the right to food, FAO Legislative Study No. 68, Rome, 1999.

⁵ Food and Agriculture Organization, "Rome Declaration on Food Security and World Food Summit Plan of Action" dated November 1996, accessed on 26 October 2013. <http://www.fao.org/docrep/003/w3613e/w3613e00.htm>

Food Security stated that the “four pillars of food security are availability, access, utilization, and stability”.⁶ The availability and access to it indicates sufficient food in terms of quantity and quality to satisfy the nutritional needs of the individual and every person must have access, physically and economically to food.⁷ The third dimension of food security is food utilization which means safe and nutritious food which meets their dietary needs must be of good quality and safe. The fourth dimension of food security is stability wherein it means Food security is “a situation” that does not have to occur a moment, a day or a season only but on a permanent basis with sustainability.

III Right to Food in India: An Analysis

i. Indian Scenario at a Glance

According to the State of Food Security and Nutrition in the World 2022 report the number of people affected by hunger, globally rose to as many as 828 million in 2021, an increase of about 46 million since 2020 and 150 million since the outbreak of the COVID-19 pandemic. The report said that in India, the number of undernourished people declined to 224.3 million in 2019–21 from 247.8 million in 2004-06.⁸ Although there is a declined in number of undernourished people but the number is still high. Moreover, the most alarming figure revealed is that approximately 4500 children die every day under the age of five years in the country due to hunger and malnutrition, amounting to over three lakh deaths every year, owing to hunger, of children alone. India slipped to 101st position in the Global Hunger Index (GHI) 2021 of 116 countries, from its 2020 position of 94th.⁹ The main reasons are these persons do not have access to sufficient productive resources (essentially land, water and seeds) nor an income sufficient to allow them to provide themselves as well as their families, with a dignified life free from hunger. India continues to be a land of mass poverty and despite various poverty alleviation schemes, the disparity between rich and the poor is widening day by day and more so in the aftermath of economic liberalization.¹⁰ Indian Government time and again realised that, in order to achieve food security and right to food, the poor should have sufficient means to purchase it. Adequate purchasing power for the poor to buy food can be ensured in two ways. One is to have an employment intensive pattern of growth which can provide

⁶ Food and Agriculture Organisation. *Declaration of the World Food Summit on Food Security*. Rome: Food and Agriculture Organization of the United Nations, 2009.

⁷ Christophe Golay, and Melik Ozden. “The Right to Food.” *Part of a series of the Human Rights Programme of the Europe-Third World Centre (CETIM)*, (2010): 6-7

⁸ Food and Agriculture Organisation. *Hunger Report-State of food Insecurity in the World*. (Rome: Food and Agriculture organization, July 6, 2022) 8.

⁹ <https://www.globalhungerindex.org/ranking.html>

¹⁰ Parmanand Singh, “Hunger Amidst Plenty: Reflections on Law, Poverty and Governance,” *Journal of Indian Law Institute*, Vol. 48. Issue 1 (Jan-March 2006): 51-62

remunerative work to poor and enhance their power to purchase food. The other is to increase incomes and subsidize food through social protection programmes.

In India, the introduction of High Yielding Varieties of seeds, fertilizers and pesticides has significantly improved crop yields, leading to higher production and farm incomes. Since then, India has managed to grow food both to feed its population and to export abroad. Increasing yields has only addressed part of the food security challenge; however, another aspect of food security is associated with food distribution *via* the Public Distribution System. Two new institutions were created: the Agricultural Prices Commission, a government agency to determine the level of support prices for various crops and several other administrative controls and the Food Corporation of India, with the responsibility for purchase, storage, movement and distribution of food through the public distribution system, as well as acting as the main handling agent for imported grain and its distribution. Surplus stocks procured and stored in the earlier years were used instead of resorting to large scale imports. Efforts towards ensuring food security to millions of poor households intensified in the 1990s.¹¹ In 1997, Targeted Public Distributed System was introduced in which special cards were issued to families below poverty line and food grains were distributed at a lower price for these families compared to those above the poverty line. The entire population was divided into three categories Below Poverty Line, Above Poverty Line, Antyodaya Anna Yojna.¹²

It is irony that at present India has the largest programmes: Food Subsidy Programmes (Public Distribution System from year 1951, now Targeted Public Distributed System from 1997, Antodaya Anna Yojana in year 2000, Annapurna Yojana in year 1999), Feeding Entitlement Programmes (Mid Day Meal Scheme in year 2007, Integrated Child Development Services Schemes in year 1975, National Food Security Mission in year 2007, Applied Nutritional Programme in year 1973), and Employment Programmes (National Rural Employment Guarantee Scheme which has now been changed into Mahatma Gandhi National Rural Employment Guarantee Act, 2005, Sampoorna Grameen Rozgar Yojana in 1999) and many social security programmes but despite that the conditions of hunger, malnutrition and food insecurity continue to be high.

ii. Food Insecurity and its Causes

¹¹ Y. Nilachandra Singh, "Public Distribution System: Problems and Prospects." In *Food Security and the Public Distribution System Today: Failure and Successes* edited by Amallesh Banerjee, (New Delhi: Kanishka Publishers, Distributors, 2004) 156-157.

¹² S.M Dev and A.N. Sharma, "Food Security in India: Performance Challenges and Policies." *Oxfam India Working Paper Series*. No. VII. (2010): 22-25

Food insecurity can be indicated by hunger, malnutrition, or poverty. It is the reverse of food security, a condition in which all households have secure physical and economic access to adequate food.¹³ Therefore, food insecurity represents conditions of scarcity, instability, and restricted access with regard to food, however there is a distinction between this and famine. Famine makes news due to its sudden state of emergency, whereas hunger and lack of food security, is chronic, ongoing, and a daily fact of life for millions that rarely heard of.¹⁴ The major challenge to food security in India is its underdeveloped agricultural sector that is characterized by over-reliance on primary agriculture, low fertility soils, minimal use of external farm inputs, environmental degradation, significant food crop loss both pre and post-harvest, minimal value addition and product differentiation and inadequate food storage and preservation that result in significant commodity price fluctuation. Lack of adequate storage facilities for food items such as cereals, wheat, rice, barley etc automatically leads to wastage thereby plugging the people into acute hunger. Inadequate food processing result in direct consumption of large portion of the harvest without taking into consideration what will happen in the near future. The farmers in India face severe problem in marketing their crop produce after harvest due to lack of remunerative prices for the end-products. Several times, the farmers are forced to opt for distress sale leaving them in a vulnerable condition due to poor market prices. It is really unfortunate to find some section of farmers' vulnerability to higher cost of cultivation accompanied by the unreasonable market prices. Globalization has brought openness in trade, but it could not ensure better market prices. Hence there is a need to regulate the agricultural marketing policy for the welfare of the farming community, which in turn would facilitate food security in India.

iii. National Perspective on the Right to Food

The Supreme Court in *People Union for Civil Liberties v. Union of India & Ors*¹⁵ popularly known as the right to food case, recognized the right to food under the right to life stipulated in Article 21 of the Indian Constitution, and Article 47, a Directive Principle of State Policy which puts duty on the State on raising the level of nutrition.

a) Constitutional Provisions

The Constitution of India both explicitly and implicitly provides for a right to food, thereby offering robust national protection that is likely more accessible to Indian citizens than similar

¹³ T. Lang, "Food Security: Does it Conflict with Globalisation?" In *Sustainable Agriculture and Food Security: The Impact of Globalization* edited by V. Shiva, and G. Bedi, (New Delhi: Sage Publications, 2002) 259-273.

¹⁴ J. Madeley, *Hungry for Trade: How the Poor Pay for Free Trade* (London: Zed Books, 2000) 23.

¹⁵ 2004 (12) SCC 104

safeguards provided by International bodies.¹⁶ Explicitly Article 47, located in the Directive principles chapter of the Constitution of India, creates a “duty of the State to raise the level of nutrition and the standard of living to improve public health.”¹⁷ 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 chapter of the Constitution. The Indian Constitution has a federal structure and is in consonance with the Fundamental Rights and the Directive Principles of the State Policy, Entry 33 of Schedule 7 of List III, *inter alia*, provides that with regard to the supply and distribution of foodstuffs including oils and oil seeds, legislation can be passed by the Union as well as by the State. The Constitutional sources for the right to food are the protection of life and personal liberty,¹⁸ right to work,¹⁹ right to livelihood,²⁰ freedom from starvation and right to sustenance,²¹ provision of adequate nutrition and improvement public health,²² etc. These Articles in the Constitution leave no doubt that it is among the primary duties of the State to take proper steps to and base its economic policies on ensuring that there is enough food for all citizens to satisfy their hunger, to raise the level of nutrition and the standard of living and the improvement of public health. Against this background, the Indian Supreme Court recognizes the right to food as a fundamental right.

b) Administrative and Legislative Measures

i) Public Distribution System

In India the Public Distribution System (PDS) is a large-scale food rationing programme, meant to increase food security at both the national and the household levels. India faced serious problems on its food front right from the independence and food deficits persisted up to mid 1970s. The government of India has attempted to move towards the goal of food security. The State intervention in this direction has been two-pronged, adopting an economic growth approach and simultaneously a welfare approach. Government has made significant attempts at food security through the food based social security interventions. In this direction Public

¹⁶ In general, domestic institutions are literally more accessible, they are geographically closer and their proceedings are conducted in a similar language to the one of the rights holders. The principle of exhaustion i.e., the right holders must exhaust domestic remedies before seeking redress and remedy at the International level also makes domestic institutions a more likely starting point for those pursuing human rights claims.

¹⁷ The Constitution of India, Article 47, the State shall regard the raising of the level of nutrition and the standards of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

¹⁸ *Ibid.*, Article 21.

¹⁹ *Ibid.*, Article 43.

²⁰ *Ibid.*, Article 39(a).

²¹ *Ibid.*, Article 38.

²² *Supra* note 18.

Distribution System is one of the major policy initiatives. Public distribution of food at affordable prices through the Fair Price Shops has been the key element of food security system in India. Public Distribution System in India is indeed the largest of its kind in the world. The Public Distribution System (PDS) has evolved over a long period in India.²³

Public Distribution System (PDS) is one of the largest welfare policies in India. It represents the direct intervention of the Indian state in the food market to ensure food security. PDS serves a dual purpose of providing subsidised food to the consumers as well as providing price-support to farmers. It supplements the policy of buffer stocking under which the effect of raising prices on account of supply constraints is modulated by market intervention.²⁴ The objectives of PDS are to maintain price stability, rationing during times of scarcity, raising the welfare of the poor and keeping a check on the private trade.²⁵ In view of the Government of India, “the PDS aims at insulating the consumer from the impact of rising prices of these commodities and maintaining the minimum nutritional status of our population.”²⁶ The PDS supplies have a stabilizing effect on Open Market prices by increasing availability, removing scarcity psychosis and deterring speculative tendencies”.²⁷ Over the decades the functioning of the government PDS has suffered due to inefficient management and lack of proper targeting to improve the food security of the poor. The weaknesses of the Public Distribution System have been augmented by the introduction of structural adjustment policies in the 1990s, intended for reduction in public expenditure.²⁸

As part of structural adjustments made by the Government of India to reduce public expenditure, the PDS in India was modified as Revamped Public Distribution System (RPDS) during 1992. It was intended to give thrust to providing food grains at subsidized rates to people in specific geographical areas like hilly regions, drought-prone areas, urban slum areas, deserts, tribal areas etc., where people were facing hardships.²⁹ Later on, Targeted Public Distribution System [TPDS) has been introduced in 1997, giving emphasis on providing

²³ Vijay. S. Vyas, *Food Security in Asian Countries in context of Millennium Goals*, (Academic Foundation New Delhi, 2005) 123.

²⁴ Supra note 12 at p.156.

²⁵ Madhura Swainathan, *Weakening Welfare - The Public Distribution of Food in India*, (New Delhi: Left Word Books Naya Rasta Publishers Pvt. Ltd., 2000) 145.

²⁶ Bhaskar Majurnder, *Poverty, Food Security and Sustainability – Public Distribution System in India*, (Jaipur: Rawat Publications, 2004) 135.

²⁷ Government of India, *Annual Report Part II* (New Delhi: Ministry of Food and Civil Supplies, Department of Civil Supplies, 1991-1992) 53.

²⁸ Suryanarayana, M.H., “Food Security and Calorie Adequacy Across States: Implications for Reform,” In *Public Support for Food Security-The Public Distribution System in India* edited by N. Krishnaji and Krishnan (New Delhi: Sage Publications, 2000) 80.

²⁹ Supra note 44.

benefits to poorer sections of the population, i.e. targeting households on the basis of income criterion. The Targeted PDS uses income poverty line to demarcate ‘poor’ and ‘non-poor’ households. People are classified as Below Poverty Line (BPL) and Above Poverty Line (APL). Special ration cards are issued to families below the poverty line. Food grains like rice and wheat are distributed to the people below poverty line at specially subsidized price. TPDS is administered under the Public Distribution System (Control) Order 2001,³⁰ notified under the Essential Commodities Act, 1955 (ECA).³¹

ii) The National Food Security Act, 2013

The National Food Security Act gives statutory backing to the TPDS. This legislation marks a shift in the right to food as a legal right rather than a general entitlement. The Act classifies the population into three categories: excluded (i.e., no entitlement), priority (entitlement), and Antyodaya Anna Yojana (AAY; higher entitlement). It establishes responsibilities for the Centre and States and creates a grievance redressal mechanism to address non-delivery of entitlements. Though the motive behind National Food Security Act is very noble, but it seems difficult for government to implement this act without overcoming the governance issues and challenges prevailing in the system. The National Food Security Act, 2013 that extend to the whole of India and makes right to food a legal entitlement. In the current scenario and given the way poverty is measured, this law will benefit approximately 800 million people which are about 67 percent of India’s population. The preamble of the Act clearly states that it is an Act to provide for food and nutritional security in human cycle approach, by ensuring access to adequate quantity of quality food at affordable price to people to live a life with dignity and for matters connected therewith or incidental thereto. Chapter II of the Act makes provisions for the food security. Section 3 provides a Right to receive food grains at subsidised prices by persons belonging to eligible households under Targeted Public Distribution System.³² The

³⁰ The Public Distribution System (Control) Order, 2001.

³¹ The Essential Commodities Act, 1955.

³² The National Food Security Act, 2013, Section 3 (1) Every person belonging to priority households, identified under sub-section (1) of section 10, shall be entitled to receive five kilograms of food grains per person per month at subsidised prices specified in Schedule I from the State Government under the Targeted Public Distribution System:

Provided that the households covered under *Antyodaya Anna Yojana* shall, to such extent as may be specified by the Central Government for each State in the said scheme, be entitled to thirty-five kilograms of food grains per household per month at the prices specified in Schedule I:

Provided further that if annual allocation of food grains to any State under the Act is less than the average annual off take of food grains for last three years under normal Targeted Public Distribution System, the same shall be protected at prices as may be determined by the Central Government and the State shall be allocated food grains as specified in Schedule IV.

Explanation— For the purpose of this section, the "*Antyodaya Anna Yojana*" means, the scheme by the said name launched by the Central Government on the 25th day of December, 2000; and as modified from time to time.

legal entitlement to receive food grains by persons will give them the constitutional rights to minimum food security. After this landmark legislation, the State on the other hand, is under legal obligation to ensure the availability of entitled grains to eligible persons. The Act also makes special provisions for pregnant women and lactating mothers³³ and Nutritional support to children.³⁴ Unlike the previous schemes of the Government, the National Food Security Act adopts the life cycle approach, in the sense; it is an integrated effort to address the food requirement of every phase of human life cycle starting from the infancy to the adult and the parenthood. The take home rations and maternity benefits to pregnant and lactating mothers is a welcome initiative considering the Country's poor record in Infant Mortality Rate and the Maternal Mortality Rate. In order to address malnutrition among children, any child below the age of 14, including those that are out-of-school, may approach any feeding facility such as *anganwadi* centre, school mid-day meals centres for midday meal. The Act ensures the access to food grains through doorstep delivery of food grains by reforms Targeted Public Distribution System.³⁵ The Act provides for Central and State Governments to endeavour to progressively undertake necessary reforms in the Targeted Public Distribution System in consonance with the role envisaged for them in this Act. Some of the reforms mentioned in the Act include, Doorstep delivery of food grains to the Targeted Public Distribution System outlets, application of information and communication technology tools for end-to-end computerization, transparency in maintenance of records of transactions at all levels and to prevent diversion, leveraging "aadhaar", progressive preference in allotment of Fair Price Shops, diversification of commodities distributed, Introducing schemes such as cash transfer, food coupons to the targeted beneficiaries in order to ensure their food grain entitlements. Provisions for Food Security Allowance by cash transfer in case of non-supply of food grains.³⁶ In a major shift from the past, the eldest woman in every eligible household who is not less than eighteen years of age, shall be head of the household for the purpose of issue of ration cards. This is done with a rationale of helping the feeding hands to have first right to food grains rather than male member who on many occasions is presumed to divert the grains to black market or liquor

(2) The entitlements of the persons belonging to the eligible households referred to in sub-section (1) at subsidised prices shall extend up to seventy-five per cent of the rural population and up to fifty per cent of the urban population.

(3) Subject to sub-section (1), the State Government may provide to the persons belonging to eligible households, wheat flour in lieu of the entitled quantity of food grains in accordance with such guidelines as may be specified by the Central Government.

³³ *Ibid.*, Section 4.

³⁴ *Ibid.*, Section 5.

³⁵ *Ibid.*, Section 12.

³⁶ *Ibid.*, Section 8. Right to receive food security allowance in certain cases- In case of non-supply of the entitled quantities of foodgrains or meals to entitled persons under Chapter II, such persons shall be entitled to receive such food security allowance from the concerned State Government to be paid to each person, within such time and manner as may be prescribed by the Central Government.

shops in villages.³⁷ Chapter VII of the Act provides for the Grievance Redressal Mechanism.³⁸ Every State Government shall put in place an internal grievance redressal mechanism which may include call centres, help lines, designation of nodal officers, or such other mechanism as may be prescribed. The State Food Commission and Central Food Commission will be established under the Act to oversee the effective implementation of the Act. The District Grievance Redressal Officer will look after and address the grievances of the public at every district. According to the provisions of the Act, the State governments are encouraged to undertake a decentralized planning process to procure, store and distribute food grain at local levels from district to *Panchayat*, with a view to minimize transportation costs and losses and provide State governments with the appropriate facilities and incentives. The Act intends to accord preference to community institutions such as Self-Help Groups and Cooperatives or public bodies like Gram Panchayats or nongovernmental organizations and women collectives to establish the fair price shops.³⁹ All Targeted Public Distribution System related records shall be placed in the public domain and kept open for inspection to the public, in such manner as may be prescribed by the State Government. Every local authority, or any other authority or body, as may be authorised by the State Government, shall conduct or cause to be conducted, periodic social audits on the functioning of fair price shops, Targeted Public Distribution System and other welfare schemes, and cause to publicise its findings and take necessary action, in such manner as may be prescribed by the State Government. The social audit can also be given to independent agencies having experience in conducting such audits. To ensure transparency and proper functioning of the Targeted Public Distribution System and accountability of the functionaries in such system, every State Government shall set up Vigilance Committees who can regularly supervise the implementation of all schemes under this Act.⁴⁰ Thus this Act is a positive step towards providing the legal protection to human right to food and making it a enforceable right. There had been some criticism given the wide scope of this act and previous bad experiences in poor implementation of different government schemes. Questions have been raised regarding the possibilities of making the scheme universal instead of targeting a certain percentage of the population, since the definition and measurement of poverty are disputed and have changed many people's status overnight, on paper. The current Act has also been criticized by several economists and media professionals on the grounds that it would be very difficult for the government to provide sufficient finances for the implementation of this Act.

³⁷ *Ibid.*, Section 13

³⁸ *Ibid.*, Section 14 (Internal grievance redressal mechanism), Section 15 (District Grievance Redressal Officer) and Section 16 (State Food Commission).

³⁹ *Ibid.*, section 24

⁴⁰ *Ibid.*, sections 27-29.

iv. Implementation of Right to Food: Issues and Challenges

The Act proposes to provide food and nutritional security to people. However, the Act falls short in keeping promise with its own provision as the foods covered are only rice and wheat. To meet nutritional security, the Act should focus on complete dietary requirement to include the pulses, vegetables, milk, meat etc in the food basket. Biggest challenge for the food security in India is poverty. The root cause of the food subsidy and National Food Security Act is poverty prevailing in country. For identification of the poor class of the society, poverty line is the thresh hold. As per the Government of India 21.90 per cent population was poor whereas the World Bank estimates poverty ratio at 25.93 per cent, which was higher by 4.03 per cent as compared to national poverty line. This shows the vast difference between these statistics. As per World Bank, the number of poor people should be 311.11 million instead to 269.30 million (here the Government database shows the gap of 41.81 million number of poor). The Section 3(2)⁴¹ of the National Food Security Act, 2013 claims that the act will cover 75 per cent of the rural population and 50 per cent of the urban population which is Two Third population (67 per cent) of India. As per national poverty line 22 per cent population and as per International Poverty line 26 per cent population is poor. Here question arises that, why government has proposed to cover unnecessary extra population of 41per cent (67per cent – 26per cent). Moreover the National Food Security Act's provision of giving too many grains at too cheap rate to too many people is criticized by many. It is argued that it will boomerang in the long run as it develops 'dependency syndrome' among the people and they lose motivation to work harder to earn their living. The Government's policy of wasting the tax payers' hard earned money on many ineligible people attracted the wrath of industries and working class. Instead, it is suggested, the Government should have considered spending hugely on asset creation and enable people to get access to sufficient food. Though, the argument is not without substance, it is important to realize that, there are huge number of people in the age group who are not in the work force like the school going children, the aged, handicapped, women, pregnant women and nursing mothers, destitute, etc. The Act is a major step to help this section of needy population.

The implementation of this act and supply of food grains to poor is to be done by the existing Public Distribution System. The Food Corporation of India has the responsibility of ensuring proper storage of the grains after procurement. However, there are major issues concerned with the storage capacity and the way the food grains are stored by the Food Corporation of India. As per section 10,⁴² of the act, the State government is responsible to identify the priority house

⁴¹ *Supra* note 33.

⁴² *Supra* note 52, Section 10: State Government to prepare guidelines and to identify priority households (1) The State Government shall, within the number of persons determined under section 9 for the rural and urban areas, identify—(a) the households to be covered under the Antyodaya Anna Yojana to the extent specified under sub-section (1) of section 3, in accordance with the guidelines applicable to the said scheme;(b) the remaining

hold. For this purpose the State government can prepare guidelines. As per this section, the targeted population is to be identified by the State government and in section 9⁴³ of the Act claims to cover 67% of the population. When Central government is not having the data of targeted priority households, how can they claim for giving benefit to 67 % of the population? It is clear that Central Government has just mentioned the targeted population without any proper calculation. Though, the 67% of the population coverage is well above the poverty levels of India indicated by different surveys, it leaves sizable share of population outside the purview of the ambitious National Food Security Act. Moreover, covering 75 per cent and 50 per cent of rural and urban areas is totally arbitrary and without any scientific basis. The distinction between many among the covered under Act and many among the left out will be difficult to make. In this context, the Act throws up major challenge ensuring equitability, social justice for all and following the reforms in Public Distribution Act in the same direction. It is important to mention that some States are already covering the food security on near universal basis. States like Tamil Nadu and Chhattisgarh were pioneers in giving the benefits under their Public Distribution Act to all the citizens of the State with additional coverage of food items like sugar, salt, pulses, edible oil etc.,

Section 12⁴⁴ of the act is related to the reforms in the targeted public distribution system. Some steps are suggested and mentioned towards reforms such as doorstep delivery of food grains,

households as priority households to be covered under the Targeted Public Distribution System, in accordance with such guidelines as the State Government may specify:

Provided that the State Government may, as soon as possible, but within such period not exceeding three hundred and sixty-five days, after the commencement of the Act, identify the eligible households in accordance with the guidelines framed under this sub-section:

Provided further that the State Government shall continue to receive the allocation of food grains from the Central Government under the existing Targeted Public Distribution System, till the identification of such households is complete.

(2) The State Government shall update the list of eligible households, within the number of persons determined under section 9 for the rural and urban areas, in accordance with the guidelines framed under sub-section (1).

⁴³ *Ibid*, Section 9: *Coverage of population under Targeted Public Distribution System*- The percentage coverage under the Targeted Public Distribution System in rural and urban areas for each State shall, subject to sub-section (2) of section 3, be determined by the Central Government and the total number of persons to be covered in such rural and urban areas of the State shall be calculated on the basis of the population estimates as per the census of which the relevant figures have been published.

⁴⁴ *Ibid.*, Section 12: *Reforms in Targeted Public Distribution System*- (1) The Central and State Governments shall endeavour to progressively undertake necessary reforms in the Targeted Public Distribution System in consonance with the role envisaged for them in this Act.

(2) The reforms shall, *inter alia*, include—

- (a) doorstep delivery of food grains to the Targeted Public Distribution System outlets;
- (b) application of information and communication technology tools including end-to-end computerization in order to ensure transparent recording of transactions at all levels, and to prevent diversion;
- (c) leveraging "aadhaar" for unique identification, with biometric information of entitled beneficiaries for proper targeting of benefits under this Act;
- (d) full transparency of records;

implementation of communication technology, leveraging “Aadhar” for unique identification, transparency of records, participation of public institutions in licensing fair prices shops, introducing schemes of cash transfer, food coupons etc.⁴⁵ But in 2013 the Supreme Court of India has made “Aadhar Cards” non-mandatory for getting any social benefit. Here government will have to rethink about unique identification of the targeted beneficiary of food security. Government has also mentioned about cash transfer in case of non-availability of food grains. Computerization of all Fair Price Shops (FPS) for implementation of communication technology is itself a big challenge because there are 515108 Fair Price Shops. Many of those might be in remote areas where electricity and internet facilities will be required. The Computerization of all the Fair Price Shops should be done prior to implementation of National Food Security Act. The Act provides for door step delivery of food grains. This will require well established delivery system having proper database of every ration card holder with their addresses. This type of mechanism requires highly secure and transparent delivery system. Government should be in a position to confirm that the delivery of food grain has reached to the right person else it may increase the scope for diversion of the food grains before it reaches to the actual beneficiaries.

IV CONCLUSION

Hunger and poverty are still predominant factors of people’s life in many developing and transitions countries and will likely remain so for the next one or several decades. A lot has been done with encouraging but insufficient results. From the past experience one can learn the mistakes not to repeat, one can build new approaches. The future of food security is probably already written but we cannot read it. The efforts to implement the right to food will probably be the more visible part of the actions undertaken during the coming years but a lot of grass root work will also take place. New tools that have already been created, will progressively be utilized and give the opportunity to an increased number of people to decide what their situation will be, or to improve it.

(e) preference to public institutions or public bodies such as Panchayats, self help groups, co-operatives, in licensing of fair price shops and management of fair

price shops by women or their collectives;

(f) diversification of commodities distributed under the Public Distribution System over a period of time;

(g) support to local public distribution models and grains banks;

(h) introducing schemes, such as, cash transfer, food coupons, or other schemes, to the targeted beneficiaries in order to ensure their food grain entitlements specified in Chapter II, in such area and manner as may be prescribed by the Central Government.

⁴⁵ Hitesh S. Gujarati et. al., “Governance issues and challenges in implementation of National Food Security Act 2013,” *International Conference on Corporate Governance: “Contemporary Issues & Challenges in Indian Environment”* (ICGS 14 & 15 March 2014), (Ahmedabad: Gujarat Technological University, 2014) 12-13.

There is no doubt that the global community has articulated a strong commitment to ensuring fulfillment of the human right to food, as demonstrated by various international instruments and by repeated international conferences and corresponding action plans signed by the majority of nations. But law makes little difference unless it can be implemented in practice, and conference documents remain mere rhetoric unless under guided by political will. There is enough food on the planet to adequately feed everyone alive today. But the rules governing national agricultural policy and international trade, along with the economic incentives in the global food production system, do not currently result in fulfillment of access to adequate food for all. As far as position in India is concerned the human right to food is operational in India on the basis of India's Constitution and of her obligations under international human rights law. Under these International obligations a framework law has been developed and brought into force in India recently. Besides the recent enacted law, there are many schemes and programmes for the full realization of human right to food in India. The government needs to review policy from time to time and take corrective measures for effective implementation of different schemes and programmes, establish effective mechanisms of accountability and ensure the right to food for all. As the problem of food insecurity relates to both the demand and supply of food, a solution could be to empower people towards greater purchasing power, as well as addressing the inadequacy of the distribution system, and checking corruption and leakages. The food storage by the Food Corporation of India (FCI) and State Food Corporation (SFC) needs to keep in time with the progress achieved in science to store the food grains to protect from infestation from insects, fungus and rodents. The adequate measures to stop pilferage and ensure accountable off take at the time of transportation to state Governments must be given due importance. Though, it is unavoidable to use the network of railways to transport the food grains, it is important to make best use of other means of road and waterways according the situation and demands. It is important to be seen whether, the expenditure on food grain subsidy and its delivery is reaching the intended and helping them to lift themselves out of poverty and empowering them to contribute to the nation building. Awareness among the people with regard to their right to food can escalate the process of equitable distribution and thus help to realize the right to food for all citizens. The right to food is not just a basic human right; it is also a basic human need. It essentially requires the State to ensure that at least people do not starve. Implementation of the right to food does not imply that impossible efforts be undertaken by the States. The obligation to protect and respect the people compels the State to implement the right to food effectively, without recourse to extensive financial means. Our hopes and objectives are that, in a world of globalization and rapid transmission of information, the knowledge will also move more quickly in order to reduce the suffering of those in situation of food insecurity.

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- ¹⁴ J. Madeley, *Hungry for Trade: How the Poor Pay for Free Trade* (London: Zed Books, 2000) 23.
- ¹⁵ 2004 (12) SCC 104
- ¹⁶ In general, domestic institutions are literally more accessible, they are geographically closer and their proceedings are conducted in a similar language to the one of the rights holders. The principle of exhaustion i.e., the right holders must exhaust domestic remedies before seeking

redress and remedy at the International level also makes domestic institutions a more likely starting point for those pursuing human rights claims.

¹⁷ The Constitution of India, Article 47, the State shall regard the raising of the level of nutrition and the standards of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

¹⁸ *Ibid.*, Article 21.

¹⁹ *Ibid.*, Article 43.

²⁰ *Ibid.*, Article 39(a).

²¹ *Ibid.*, Article 38.

²² *Supra* note 18.

²³ Vijay. S. Vyas, *Food Security in Asian Countries in context of Millennium Goals*, (Academic Foundation New Delhi, 2005) 123.

²⁴ *Supra* note 12 at p.156.

²⁵ Madhura Swaininathan, *Weakening Welfare - The Public Distribution of Food in India*, (New Delhi: Left Word Books Naya Rasta Publishers Pvt. Ltd., 2000) 145.

²⁶ Bhaskar Majurnder, *Poverty, Food Security and Sustainability – Public Distribution System in India*, (Jaipur: Rawat Publications, 2004) 135.

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²⁹ *Supra* note 44.

³⁰ The Public Distribution System (Control) Order, 2001.

³¹ The Essential Commodities Act, 1955.

³² The National Food Security Act, 2013, Section 3 (1) Every person belonging to priority households, identified under sub-section (1) of section 10, shall be entitled to receive five kilograms of food grains per person per month at subsidised prices specified in Schedule I from the State Government under the Targeted Public Distribution System

³³ *Ibid.*, Section 4.

³⁴ *Ibid.*, Section 5.

³⁵ *Ibid.*, Section 12

³⁶ The National Food Security Act, 2013, Section 3 (1) Every person belonging to priority households, identified under sub-section (1) of section 10, shall be entitled to receive five kilograms of food grains per person per month at subsidised prices specified in Schedule I from the State Government under the Targeted Public Distribution System

³⁷ *Ibid.*, Section 13

³⁸ *Ibid.*, Section 14 (Internal grievance redressal mechanism), Section 15 (District Grievance Redressal Officer) and Section 16 (State Food Commission).

³⁹ *Ibid.*, section 24

⁴⁰ *Ibid.*, sections 27-29.

⁴¹ *Supra* note 33.

⁴² *Supra* note 52, Section 10: *State Government to prepare guidelines and to identify priority households*

⁴³ *Ibid.*, Section 9: *Coverage of population under Targeted Public Distribution System*

⁴⁴ *Ibid.*, Section 12: *Reforms in Targeted Public Distribution System-*

⁴⁵ Hitesh S. Gujarati et. al., “Governance issues and challenges in implementation of National Food Security Act 2013,” *International Conference on Corporate Governance: “Contemporary Issues & Challenges in Indian Environment” (ICGS 14 & 15 March 2014)*, (Ahmedabad: Gujarat Technological University, 2014) 12-13.