



RIGHT TO FOOD IN INDIA

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ABSTRACT

The right to food, guarantees to people, the right to feed themselves with dignity. It forms part of the right to an adequate livelihood, which in turn, is a part of a person's broader human rights. The right to health is intertwined with the right to food since nutrition is an essential component of both these rights. When people are unable to feed themselves, they face the risk of death by starvation, malnutrition or resulting illnesses. The right to food includes all those elements which are required in order to lead an active and healthy life. Since the right to food is intrinsically linked with the right to life itself, no governmental practice or action should be allowed to deny this right to the people. Given its importance, this right has been recognized in a host of international instruments - most notably the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). The Millennium Development Goals (MDGs) of 2000 included as Goal 1, the eradication of extreme poverty and hunger by the year 2015. The present position is that despite food-aid and other measures taken to fight this scourge, MDG No. 1 is far from being realized at the global level, even though substantial progress has been achieved in several countries. In India, the passage of the National Food Security Act (NFSA) has redefined the existing governmental schemes operating in the area of food security, as legal entitlements, marking the beginning of a very important chapter in India's tryst with food security.

Keywords: Right to Food, Hunger, NFSA, Food Security, Malnutrition

I. INTRODUCTION

In order for a country to be able to ensure the right to food to all its citizens, three conditions need to be satisfied, namely, the country should have sufficient food available, people should have the means to access it, and the food so provided should be able to adequately meet the nutrition requirements of every individual. Thus, it can be said that the right to food protects the right of all human beings to be free from hunger, food insecurity and malnutrition.¹

In the year 1941, the then President of the United States (US), Franklin D. Roosevelt² included 'The freedom from want' as one of the fundamental freedoms which ought to be

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¹ <http://www.righttofood.org/work-of-jean-ziegler-at-the-un/what-is-the-right-to-food/> Last visited on December 10, 2021 at 1110 hours.

² 32nd President of the US, who was first elected to this office in 1932. He acted to restore public confidence in the wake of the Great Depression of the 1930s, and his ambitious 'New Deal' programmes and reforms redefined the role of the federal government in the lives of ordinary Americans. Re-elected by comfortable

enjoyed by people throughout the world during the course of his famous ‘Four Freedoms’ speech³. Later on, this freedom became a part of the United Nations (UN) Charter⁴ in the year 1945. The UDHR recognised the right to food as part of the right to an adequate standard of living⁵.

At the World Food Summit, 1996⁶, governments of the world reaffirmed the right to food, and committed themselves to halve the number of hungry and malnourished people throughout the world from 840 million to 420 million by 2015. However, except in the case of some Latin American countries like Argentina, Bolivia and Brazil, this goal has remained a mere chimera. Rather, what we have seen is that, instead of decreasing, the actual number of hungry people the world over, has actually increased over the past few years, and today, we have more than a billion undernourished and malnourished people in our midst⁷. Furthermore, the numbers who suffer from hidden hunger i.e., micronutrient deficiencies which may cause stunted bodily and intellectual growth in children, amounts to over two billion people worldwide⁸.

The endeavours of the State are often hampered by practical difficulties, and the task remains a daunting proposition even to this day. Scholars and specialists working in this area claim that the achievement of this basic human right is, more often than not, missing from the agenda of policymakers, and that there is a palpable lack of political will because of the lesser visibility of work done in these areas when compared to work done in other sectors of the economy like infrastructure growth or increase in industrial production.

margins in 1936, 1940 and 1944, FDR led the transition of the country from isolationism to victory over Nazi Germany and its allies in World War II. *Available at* <https://www.history.com/topics/us-presidents/franklin-d-roosevelt> Last visited on November 23, 2022 at 1745 hours.

³ The 1941 State of the Union address delivered by the then President of the US on January 6, 1941, in which he proposed four fundamental freedoms that people ‘everywhere in the world’ ought to enjoy. Roosevelt delivered his speech 11 months before the US declared war on Japan on December 8, 1941. In this speech, the President made a break with the tradition of US’ non-interventionism doctrine that had long been held in vogue and outlined the US role in helping allies that were already engaged in warfare. *Available at* <https://fdrlibrary.org/four-freedoms> Last visited on January 2, 2022 at 1800 hours.

⁴ UN Charter, *See* art. 1 (3).

⁵ UDHR, 1948, *See* art. 25 (1).

⁶ Held at the headquarters of the Food and Agriculture Organisation of the UN (FAO) in Rome, Italy from November 13-17, 1996 in response to the concerns of widespread undernutrition across the world, and the capacity of agriculture to meet future food needs. The ‘Rome Declaration on World Food Security’ and the ‘World Food Summit Plan of Action’ were two outcomes of this summit. *Available at* <http://www.fao.org/WFS/> Last visited on November 4, 2021 at 1600 hours.

⁷ *Supra* Note 1.

⁸ Pooja Ahluwalia, “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”, *CHRGJ Working Paper No. 8* (New York, 2004).

Today, most parts of the world are largely self-sufficient when it comes to food grain production. Among the continents, those with the biggest food-related problems are Africa, Asia and Latin-America. Except in the case of the food-deficient countries (which number around 82, and are concentrated in parts of the Middle East and Africa⁹), for the large part, the issue of food insecurity is one that involves misdistribution and inadequate access to food.

II. FOOD AND NUTRITION IN INDIA

Historically, Indians have laid a great deal of importance on growing food in abundance. However, the distribution of food grains among the populace has always been the responsibility of either the King or the State. The occurrence of a series of famines in British India points to the fact that distribution of food grains did not take place in a proper manner during this period, and it is here that the imbalances began to creep into the system for the very first time. The rapid elimination of famines since independence is certainly an accomplishment when compared with the experience of many other developing countries. However, millions of Indians are still plagued by chronic hunger and malnutrition. India has a population of 1.4 billion people¹⁰, which includes some of the poorest and most marginalised people in the world. In this backdrop, the challenge of ensuring food security for the masses, is indeed a formidable one, and is therefore, one of the foremost concerns of governmental policy.

In this day and age, “...to die of hunger is equivalent to being murdered”¹¹. Chronic hunger and malnutrition have, therefore, begun to be seen as a gross violation of the fundamental right to life¹², which is guaranteed to each and every citizen of India. In recent years, the Indian economy has witnessed unprecedented rates of growth and is ranked amongst the fastest-growing economies of the world. Despite this welcome economic development, per-capita calorie intake has witnessed a decline. Similarly, the intake of many important nutrients has also fallen, and the problem of endemic hunger continues to remain alarmingly high¹³.

⁹ Francis Ng and M. Ataman Aksoy, “Who Are the Net Food Importing Countries?”, *Policy Research Working Paper No. 4457* (World Bank Development Research Group, Washington DC, January 2008).

¹⁰ <https://www.worldometers.info/world-population/india-population/> Last visited on March 5, 2022 at 1130 hours.

¹¹ Arnie H. Eide and Benedicte Ingstad (eds.), *Disability and Poverty: A Global Challenge*, p. 180 (The Policy Press, Bristol, 2011).

¹² Constitution of India, See Article 21.

¹³ Angus Deaton and Jean Drèze, “Food and Nutrition in India: Facts and Interpretations”, *Economic and Political Weekly*, Vol. XLIV, No. 7, February 14, 2009, pp 42-47.

One-fourth of the world's hungry live in India, and according to the Global Hunger Index (GHI)¹⁴, we also have the dubious distinction of topping the list of hungry people in the world with a total of 194.6 million hungry and undernourished persons living in our midst¹⁵. When this huge figure is seen in perspective, we see that it is more than the combined populations of nations like Australia, Canada, France and the United Kingdom (UK). We are currently ranked 102nd out of 117 nations in the GHI, and 42% of the world's undernourished children live in India alone¹⁶. The ranking of the country is worse than that of its immediate neighbours like Sri Lanka, Nepal, Bangladesh and even Pakistan¹⁷, and even today, the average Indian household still spends about 45% of its total expenditure on food¹⁸. In fact, estimates of malnutrition indicate that the situation in some parts of our country is even worse than that of Sub-Saharan Africa where intermittent famines occur even today¹⁹. Over half of the Indian children are malnourished, and about one-quarter so severely malnourished that they have shrunken brains and stunted bodies. Thus, an entire generation of millions of Indians is all set to grow into adulthood in a disabled condition. More than half of all women are anaemic with pregnant and lactating women often suffering from severe anaemia and malnutrition.²⁰

An important facet of the problem of food insecurity in India is the fact that the *Dalit* (the Scheduled Castes) and *Adivasi* (the Scheduled Tribes) population of the country is hit the hardest by hunger and undernourishment²¹. At least three thousand starvation deaths are reported in India each year as per documentation by Non-Governmental Organisations (NGOs)²². Of these, the vast majority comprises of those belonging to these segments of the population.²³

¹⁴ Multidimensional statistical tool used to describe the state of countries' hunger situation. It was adopted and further developed by the International Food Policy Research Institute (IFPRI), and was first published in 2006 with the German non-profit organisation *Welthungerhilfe*. Available at <http://www.globalhungerindex.org/pdf/en/2017.pdf> Last visited on August 31, 2021 at 1345 hours.

¹⁵ IFPRI, *Global Hunger Index 2020* (Washington DC, 2020).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ National Sample Survey Office (NSSO), Government of India, *Household Consumer Expenditure Statistics*, p.16 (New Delhi, 2013).

¹⁹ As per a 2010 estimate of the FAO, 925 million or 13.6% of the world's population is hungry and undernourished and nearly all of them live in developing countries. Available at <http://www/fao.org/nens/story/en/item> Last visited on September 23, 2021 at 1330 hours.

²⁰ Prakash V. Kotecha, "Nutritional Anemia in Young Children with Focus on Asia and India", *Indian J Community Med* 36 (1), p. 13.

²¹ Utsa Patnaik, *The Republic of Hunger and Other Essays*, pp 97-98 (Merlin Press, London, 2007).

²² Non-profit, citizen-based groups which function independently of Government agencies. Also called 'civil societies', these are organized on community, national and international levels to serve specific social or political purposes, and are cooperative, rather than commercial, in nature. Available at

III. PRESENT DAY SCENARIO

Regarding India, the UN Special Rapporteur on Right to Food²⁴ has commented as follows:

India provides one of the best examples in the world in terms of the justiciability of the right to food. The Constitution of India prohibits discrimination and recognizes all human rights. The right to life is recognized as a directly justiciable fundamental right²⁵, while the right to food is defined as a Directive Principle of State Policy^{26,27}. As it has interpreted these provisions, the Supreme Court of India has found that the government has a constitutional obligation to take steps to fight hunger and extreme poverty and to ensure a life with dignity for all individuals.²⁸

Today, India is largely self-sufficient when it comes to foodgrain production, and also possesses substantial food reserves; but widespread hunger, chronic malnutrition and starvation deaths continue unabated. It appears that governmental efforts relating to food security have, so far, concentrated only on enhancing agricultural production, and have largely ignored the question of food security at the household and individual levels. The decade of the 2000s witnessed growth in Gross Domestic Product (GDP)²⁹ at an average rate of around 7% on a year-on-year basis. Since the rate of growth of population was less than 1.5% per annum, the per capita income witnessed a rise of more than 5.5% per annum during this period. This exerted a tremendous amount of pressure on food demand, and this situation

<https://www.investopedia.com/ask/answers/13/what-is-non-government-organization.asp> Last visited on November 13, 2021 at 1100 hours.

²³ <http://www.hrln.org/hrln/right-to-food/reports/679-fact-finding-on-right-to-food-and-farmers-suicide-in-up.pdf> Last visited on October 10, 2021 at 1130 hours.

²⁴ The UN Special Rapporteur on the Right to Food led a country mission to India from August 20, 2005 to September 2, 2005. Available at <http://www2.ohchr.org/english/issues/food/docs/A.HRC.9.23.pdf> Last visited on October 15, 2021 at 1930 hours.

²⁵ *Supra* Note 12.

²⁶ Guidelines or principles given to the Central Government with a direction that these are to be kept in mind while framing laws and policies. These provisions which are contained in Part IV (Article 36-51) of the Constitution of India are not enforceable by any court, but are considered irrefutable in the governance of the country.

Virendra Singh, *Indian Polity with Indian Constitution and Parliamentary Affairs* p. 22 (1st Edn, Neelkanth Prakashan, New Delhi, 2016).

²⁷ Constitution of India, *See* Article 47.

²⁸ Jean Ziegler, UN Special Rapporteur on the Right to Food, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*, (UN Human Rights Council, Geneva, January 2008). Available at <http://www.webcitation.org/68CmO1PyB> Last visited on September 19, 2021 at 1945 hours.

²⁹ Refers to the monetary value of all finished goods and services which are produced within a country's borders during a specific time period. It is commonly used as an indicator of the economic health of a country, as well as a gauge of a country's standard of living since the mode of measuring GDP is uniform across countries. Available at <http://www.investopedia.com/terms/g/gdp.asp> Last visited on August 11, 2021 at 11.30 hours.

is likely to exacerbate in the foreseeable future as income and prosperity levels rise even further.

Agricultural production in India has increased on a regular basis, but on the other hand, there has also been a steady increase in population. This increase in population has been even more in the case of urban areas, on account of migration of people from villages to towns in search of better employment opportunities. Unlike in the rural areas where it may be possible for people to grow their own food, self-sufficiency in food production in urban areas is not an option on account of limited land availability. Augmented foodgrain production has also come with the problem of inadequate storage facilities and improper infrastructure. This has led to wastage of foodgrains in our country almost on a year-on-year basis, especially during the monsoon season or whenever there are unseasonal rains. Our country is largely self-sufficient in foodgrain production today, which was not always the case. Despite this, there have been chronicled instances of deaths caused by endemic hunger and malnutrition. Food riots have taken place in different parts of our country from time to time. Both these unpleasant situations demonstrate that we have often had a situation of 'poverty amidst plenty' when it comes to foodgrains. Thus, the problem of food security in India is not one of food production alone, but also comprises of various other components, the most notable being the need for redistribution of food to those who cannot otherwise afford to buy it.

The problems in the food availability scenario of today are not rooted in frequently occurring natural calamities, which was the case earlier, but in deeply embedded economic patterns. Despite large sums of money being doled out for such programmes, the benefits often do not reach the ones who need them the most. This is because administrative processes in the form of welfare schemes, have conferred benefits upon individuals and groups on a selective basis. The severely impoverished persons who occupy the bottommost rungs of the social ladder, have not really benefitted as the development bureaucracy has allowed the benefits of the developmental process to be cornered by politically-dominant persons and groups³⁰.

Since India is today seen as a rising economic power, it is hoped that a trickle-down effect of the gains made in the economic sphere would benefit the poor and marginalized. In reality however, the gap between the rich and the poor has grown over the years, and there has also been an increase in the absolute number of hungry and malnourished persons, including the

³⁰ M.N. Srinivas, *Caste in Modern India: And Other Essays*, pp 21-25 (Media Promoters, Bombay, 1978).

number of children who are malnourished or stunted³¹. Prof. Utsa Patnaik³² in her famous work *The Republic of Hunger and Other Essays*³³ has concluded that on an average, a family of 5 in India, consumes around 100 kg of grain less per year, as compared to the consumption of such a family during the Second World War³⁴.

This situation becomes even more intolerable given the fact that our country, thanks to the gains of the Green Revolution³⁵, is today, a surplus producer of foodgrains. This grain however, is either exported to other countries, or sold in the open market. The poor and those living on the margins of society, cannot afford to buy grains at market rates, and it is therefore imperative that welfare measures like the Public Distribution System (PDS)³⁶, which provides cheap grains to such persons, are greatly strengthened and implemented in a more targeted manner.

IV. ROLE OF JUDICIARY IN ENSURING RIGHT TO FOOD

The journey towards a justiciable right to food is not a new one, although this issue has been a rather contentious one during the course of the last few decades or so. The Indian judiciary has also been grappling with this issue for several years now, and has, from time to time, recognised this right. There have been several judicial interventions in this regard - most notably, those in the case of *People's Union for Civil Liberties (PUCL) v. Union of India & Ors*³⁷ wherein the Hon'ble Supreme Court of India, in its order issued after the very first date

³¹ *Supra* Note 15.

³² Celebrated Indian Marxist economist who obtained her doctorate in economics from the University of Oxford, and taught at the Centre for Economic Studies and Planning in the School of Social Sciences at Jawaharlal Nehru University (JNU) from 1973 to 2010. She has authored several books, including *Peasant Class Differentiation - A Study in Method* (1987), *The Long Transition* (1999) and *The Republic of Hunger and Other Essays* (2007). Available at <https://www.jnu.ac.in/FacultyStaff/ShowProfile.asp?SendUserName=utsa> Last visited on September 3, 2021 at 1440 hours.

³³ Merlin Press, London, 2007, ISBN: 9788188789337.

³⁴ *Supra* Note 21 at 116-121.

³⁵ Period when agriculture in India, especially in the north-western parts of the country, increased its yields due to improved agronomic technology. The credit for the development of High Yielding Variety (HYV) seeds which was one of the high points of this programme, goes to scientists like Prof. M. S. Swaminathan, the noted American agronomist Dr. Norman E. Borlaug and others. Available at <http://www.indiaonestop.com/Greenrevolution.htm> Last visited on September 7, 2021 at 1130 hours.

³⁶ Administered by the Department of Food and Public Distribution, Ministry of Consumer Affairs, Food & Public Distribution, this scheme is one of the oldest welfare measures in India. It was launched by the Central Government in June 1947, and is jointly managed by the Central and State Governments. Subsidized food and non-food items like wheat, rice, sugar and kerosene are distributed to India's poor through a network of half-a-million 'fair price shops', also known as 'ration shops'. Available at <http://dfpd.nic.in/public-distribution.htm> Last visited on August 23, 2021 at 0855 hours.

³⁷ Writ Petition (Civil) No. 196 of 2001 filed before the Hon'ble Supreme Court in April 2001 in the wake of a large number of starvation deaths in the state of Rajasthan. This case was filed at a time when the country's foodgrain stocks were at unprecedented high levels and even then, people in large parts of the country continued

of hearing i.e. September 17, 2001, was pleased to affirm as under, “...We direct all the State Governments to forthwith lift the entire allotment of foodgrains from the Central Government under the various schemes and disburse the same in accordance with the schemes”³⁸. The Hon’ble Court went on to unambiguously direct the Central Government to immediately release 5 Million Tonnes (MT) of foodgrains for distribution amongst the poorest sections of society in 150 poverty-stricken districts across the country. In the words of the Hon’ble Apex Court, “...the Union of India had the responsibility to ensure food security of the country”³⁹.

In 2001, a highly unfortunate incident was reported from south-eastern Rajasthan wherein 47 tribals and *Dalits* had reportedly starved to death. The tragedy occurred at a time when governmental warehouses were brimming with an excess of around 40 MT of foodgrains. Weeks later, the Right to Food Campaign⁴⁰, which was a civil society network of activists and organizations, moved the Apex Court to secure food security for all citizens of the country. The orders in the PUCL⁴¹ case had a major role to play in the enactment of the NFSA, 2013. In response to this writ petition, several interim orders were passed in order to detail India’s constitutional right to food. In the defining order of November 28, 2001, the court essentially redefined the existing governmental schemes as constitutionally protected legal entitlements, marking the beginning of a very significant milestone in our country’s tryst with food security. The Apex Court identified the already existing food schemes which would constitute legal entitlements under the constitutional right to food, and also outlined as

to face hunger and malnutrition. . Available at <http://www.pucl.org/reports/Rajasthan/2001/starvation-writ.htm> Last visited on October 17, 2021 at 1540 hours.

³⁸ Order dated September 17, 2001 of the Hon’ble Supreme Court of India in Writ Petition (Civil) No. 196 of 2001 titled *PUCL v. Union of India & Ors.* Available at <http://supremecourtfindia.nic.in/jonew/bosir/orderpdfold/18655.pdf> Last visited on November 19, 2021 at 2300 hours.

³⁹ Order dated August 12, 2010 of the Hon’ble Supreme Court of India in Writ Petition (Civil) No. 196 of 2001 titled *PUCL v. Union of India & Ors.* Available at <http://supremecourtfindia.nic.in/jonew/bosir/orderpdfold/1139485.pdf> Last visited on November 1, 2021 at 2300 hours.

⁴⁰ Began with the filing of a Writ Petition before the Supreme Court in April 2001 by PUCL, Rajasthan. The petition demanded that the country’s gigantic food stocks should be used to protect people from hunger and starvation. Despite significant interim orders being issued in this case, it soon became clear to Right to Food advocates that the legal process would, by itself, not go very far. This motivated the effort to build a larger public campaign for the Right to Food. Bruno Jobert and Beate Kohler-Kech (eds.), *Changing Images of Civil Society: from protest to governance*, pp 80-82 (Routledge Studies in Governance and Public Policy, London, 2008).

⁴¹ Veteran leader Jaya Prakash Narayan founded the People’s Union for Civil Liberties and Democratic Rights (PUCLDR), in 1976. Today, the organisation supports grassroots movements which focus on organizing and empowering the poor rather than using state initiatives for change. Available at <http://www.pucl.org/history.htm> Last visited on November 29, 2021 at 1355 hours.

to how these schemes were to be implemented in the future⁴². The order laid down certain policy guidelines which the Central and State Governments were bound to implement in order to provide food security to the entire populace. The court also identified persons within the government bureaucracy who would be held accountable in the event of non-compliance.

The Apex Court, through a series of directions and interim orders, stepped in to stem the rot and corruption prevailing within the PDS, and issued several orders strengthening various social security schemes⁴³. Over 160 interim orders were passed by the Apex Court in this case, spread over a period of over one-and-a-half decades. Top-level functionaries of the Central and State Governments / Union Territories (UTs) were either asked to enter personal appearance before the court in this matter, or were asked to swear affidavits before the court from time to time. In addition, the Ld. Attorney General, Ld. Solicitor General, Ld. Additional Solicitors General, Ld. Advocates General of States, Ld. Additional Advocates General and Ld. Standing Counsels for various States / UTs entered appearance in this extremely significant matter, and assisted the court. The court also obtained, from time to time, assistance from highly acclaimed professionals like Justice D.P. Wadhwa,⁴⁴ Nandan Nilekani⁴⁵ and the Right to Food Commissioners, each of whom are stalwarts in their own right. Finally, on February 10, 2017, i.e., nearly 17 years after the first judicial intervention in this matter, a Divisional Bench of the Apex Court headed by Madan B. Lokur, J. decided to end the case, and held that, "... in view of the passage of the NFSA, nothing further

⁴² Order dated November 28, 2001 of the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 196 of 2001 titled *PUCI v. Union of India & Ors.* Available at <http://supremecourtindia.nic.in/jonew/bosir/orderpdfold/33378.pdf> Last visited on December 21, 2021 at 2100 hours.

⁴³ <http://www.hrln.org/hrln/right-to-food/pils-a-cases/255-pucl-vs-union-of-india-a-others-.html> Last visited on November 2, 2021 at 1400 hours.

⁴⁴ Former Judge of the Supreme Court of India who served as the Chairman of the Central Vigilance Committee constituted by the Ministry of Consumer Affairs, Food & Public Distribution, Government of India, under the orders of the Supreme Court in Writ Petition (Civil) No. 196 of 2011 titled *PUCI v. Union of India and Ors.* This Committee was constituted to examine various aspects of public distribution including prevalent corruption in the PDS system, and suggest modalities for efficient use of the PDS. Available at <http://pdscvc.nic.in/biodata%20of%20justice%20wadhwa.htm> Last visited on December 19, 2021 at 1930 hours.

⁴⁵ Indian entrepreneur, bureaucrat and politician who co-founded the software company Infosys, and has served as the Chairman of UIDAI. He has been ranked at number 12 in 'India's 50 Most powerful people of 2017' list, and is the author of two books - *Imagining India: The Idea of a Renewed Nation* (Penguin Press, 2009) and *Rebooting India: Realizing a Billion Aspirations* (Penguin Books Limited, 2015). Available at <http://www.bloomberg.com/research/stocks/people/person.asp?personId=398010&privcapId=398006> Last visited on October 13, 2021 at 1700 hours.

survives in this petition. In case the petitioner has any grievance with regard to the implementation or otherwise of the NFSA, 2013, he may file a fresh petition⁴⁶.

Judicial interventions in the area of right to food in India are, however, not a recent phenomenon, and began with the celebrated case of *Sunil Batra v. Delhi Administration*⁴⁷, wherein the Apex Court famously laid down that even prisoners enjoyed a right to adequate and nutritious food. Borrowing from Justice Corwin's remarks on American constitutional law, V.R. Krishna Iyer, J., in his judgment opined that a person would not lose his basic right to proper, wholesome and nutritious food just because (s)he happened to be incarcerated. The court laid down that this visitorial power of the Board of Visitors⁴⁸ was to be given wide interpretation, and made it mandatory for the members of the Board of Visitors, to inspect the barracks, cells, wards, and other buildings of the jail, and in particular, the food that was served to the prisoners.

While deciding the case of *People's Union for Democratic Rights v. Union of India*⁴⁹, P.N. Bhagwati, J. quoted from Sir W. Paul Gormley's address at the silver jubilee celebrations of the UDHR at Banaras Hindu University (BHU)⁵⁰, and opined that: "... the question may be raised as to whether or not the Fundamental Rights enshrined in our Constitution have any meaning to the millions of our people to whom food, drinking water, timely medical facilities and relief from disease and disaster, education and job opportunities still remain unavailable."

In 1987, a Bench of the Apex Court headed by O. Chinnappa Reddy, J. during the adjudication of *Union of India v. Cynamide India Ltd*⁵¹, laid down that profiteering, by itself, was an evil prevalent in our society. When this act of profiteering happened to take place with respect to the scarce resources of the community like foodstuffs and life-saving drugs, the situation became diabolical and absolutely untenable. This was a menace which has to be

⁴⁶ Order dated February 10, 2017 of the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 196 of 2001 titled *PUCI v. Union of India & Ors.* Available at <https://www.sci.gov.in/jonew/bosir/orderpdf/2873174.pdf> Last visited on March 5, 2022 at 1535 hours.

⁴⁷ AIR 1980 SC 1579.

⁴⁸ In every prison, there is the institution of the Board of Visitors which includes judicial and administrative officers and also members of the public. Such members include District & Sessions Judges, District Magistrates and Sub-Divisional Magistrates among the members.

Bureau of Police Research and Development, *Model Prison Manual for the Superintendence and Management of Prisons in India*, p. 287 (New Delhi, 2003).

⁴⁹ (1982) 2 SCC 494.

⁵⁰ Formerly known as Central Hindu College, it is one of the oldest higher education institutions in India, and serves as a public central university located in Varanasi, UP. Established in 1916 by Pt. Madan Mohan Malaviya, with over 12,000 resident students, it claims the title of the largest residential university in the whole of Asia. Available at <http://www.bhu.ac.in/> Last visited on December 12, 2021 at 1900 hours.

⁵¹ AIR 1987 SC 1802.

lettered and curbed. According to the court, the Essential Commodities Act⁵² was a legislation towards that end, in keeping with the duty of the State⁵³ towards securing the ownership and control of the material resources of the community in order to best subserve the common good.

When the case of *Kishen Pattnayak v. State of Orissa*⁵⁴ came up for adjudication, certain districts in Orissa had witnessed a continuing phenomena of drought, starvation deaths and famine. While laying down guidelines for the district administration to provide food to the affected population on a priority basis in the event of a natural calamity, the Bench headed by M.M. Dutt, J. opined that it would be the personal responsibility of the District Collector to review the relief measures undertaken in the area. The court directed that the entire procurement of paddy should be immediately entrusted to the Food Corporation of India (FCI)⁵⁵ and the State Cooperative Marketing Federation, which were specialised agencies when it came to making such purchases and possessed adequate number of godowns to store the grains so procured. These agencies were mandated to open procurement centres throughout the State, and the court directed that no produce from the drought affected area should ordinarily be refused by the procuring agencies.

In *Shantistar Builders v. Narayan Khimalal Toame*⁵⁶, Ranganath Misra, J. laid down that the right to life is guaranteed in any civilized society, and the same is also the position in our Constitution⁵⁷. Further, the right to life is not merely the physical act of breathing and the basic needs of man have traditionally been accepted to be three - food, clothing and shelter. Thus, the right to life would take within its ambit, the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. This decision has, since, been quoted with approval in several cases, most notably in *Chameli Singh v. State of Uttar Pradesh*⁵⁸.

⁵² Act No. 10 of 1955.

⁵³ Constitution of India, *See* Article 39 (b).

⁵⁴ AIR 1989 SC 677.

⁵⁵ Indian Government owned corporation which was established as a statutory body on January 14, 1965 to implement the objectives of the National Food Policy, 1964. It is one of the largest corporations in the country, and probably the largest supply chain management in Asia. *Available at* <http://fci.gov.in/> Last visited on October 28, 2021 at 1535 hours.

⁵⁶ AIR 1990 SC 630.

⁵⁷ *Supra* Note 12.

⁵⁸ AIR 1996 SC 1051.

In its judgment delivered in the case of *Jilubhai Nanbhai Khachar v. State of Gujarat*⁵⁹, the Apex Court made it clear that the Founding Fathers of our Constitution believed in the concept of a welfare State as envisioned under the Directive Principles of State Policy. The basic prerequisites for ensuring this kind of a State are that everyone should be entitled to a minimum amount of material well-being, such as food, clothing and decent housing. Expansion of living standards should certainly be the mandate of the State and it should take every step possible to further this end, by either using the existing physical resources and scientific knowledge or by expanding them. Further, the Bench comprising K. Ramaswamy and N. Venkatachala, JJ. opined that the State has a right and duty to act in this regard whenever private initiative failed.

In the case of *Harit Recyclers Association v. Union of India*⁶⁰, the petitioner prayed for the issue of a writ of *mandamus*⁶¹ commanding the Central and State Governments to investigate into a health hazard that was suffered by the students of a Government school in Trilokpuri, East Delhi. The petitioner alleged that these children had been forced to eat contaminated food which was served to them under the Mid Day Meal⁶² programme administered by the Delhi Government. The Delhi High Court while agreeing with the petitioner, once again laid down that the right to food was a basic human right and the need for food was a basic human need. Dipak Misra, C.J. picturesquely opined that, "...A civilized society does not countenance starvation...All across the globe, nutrition, health and education have been recognized as the basic needs of a member of the society as man cannot be allowed to have animal existence."

While evaluating the functioning of a Government scheme for lactating mothers and pregnant women, in the course of its hearing in the case of *Laxmi Mandal v. Deen Dayal Harinagar Hospital*⁶³, the Delhi High Court postulated that the right to health, as defined in Article 12.1

⁵⁹ AIR 1995 SC 142.

⁶⁰ (2010) 170 DLT 476 (DB).

⁶¹ It is one of the five types of writs which can be issued by courts in India, and means 'we command' in the Latin language. It is issued by a superior court to compel a lower court or a government officer to perform his / her mandatory or purely ministerial duties correctly. Available at <http://www.legalservicesindia.com/article/592/Analysis-Of-Writ-Of-Mandamus.html> Last visited on November 4, 2021 at 1145 hours.

⁶² Nationwide school meal programme designed to improve the nutritional status of school-going children. It supplies free lunches to primary and upper-primary school children in government, government-aided and local-body run schools. It currently serves over 120 million children in over 1.2 million schools and Education Guarantee Scheme centres, and is the largest such programme in the world. Available at <http://mdm.nic.in/> Last visited on August 17, 2021 at 1430 hours.

⁶³ (2010) 172 DLT 9.

of the UDHR was an inclusive right which extended not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe and potable water and an adequate supply of safe food, nutrition and housing. Writing for the Bench, S. Muralidhar, J. went on to opine that, "...A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels".

In *Emergent Genetics India (Pvt.) Ltd. v. Shailendra Shivan*⁶⁴, the plaintiff was a private limited company engaged in research, development, processing and sale of agricultural seeds in India. The suit alleged that the defendants had violated the plaintiffs' copyright in the sequences of their hybrid seeds. A Bench of the Delhi High Court headed by S. Ravindra Bhat, J. opined that "...food security lies at the heart of agriculture, and food sovereignty. It is an undoubted material resource, as are agricultural practices such as seed breeding." The court went on to extol the virtues of copyright law and discussed one basic tenet of intellectual property law according to which, the needs of the inventor / creator to earn royalty as a result of his invention should always be attempted to be balanced with the needs of the society to have access to better products. However, in cases where there is a conflict between the two, and this conflict cannot be harmonised, the rights of the society must necessarily prevail over the rights of the individual. In view of the above, copyright in the sequence of these seeds as claimed by the plaintiff, could not be allowed to prevail over the right of the society to have access to adequate food to meet its requirements.

During the adjudication of *PUCL (PDS Matters) v. Union of India*⁶⁵, the Justice D.P. Wadhwa Committee⁶⁶ submitted its various reports before the Supreme Court. *Inter alia*, these reports contained detailed guidelines for revamp of PDS / Targeted Public Distribution System (TPDS)⁶⁷, and included various short-term and long-term measures for improvement of the scheme, including complete computerisation of records, augmentation of storage

⁶⁴ (2011) 125 DRJ 173.

⁶⁵ (2013) 2 SCC 688.

⁶⁶ Also known as the 'Central Vigilance Committee on Public Distribution System', this committee was created by the Supreme Court of India, while hearing Writ Petition (Civil) No. 196 of 2001 titled *PUCL v. Union of India*. It was headed by Justice D. P. Wadhwa, Former Judge, Supreme Court of India, and was asked to look into the maladies affecting the proper functioning of the PDS and to suggest remedial measures. Available at <http://www.prsindia.org/uploads/media/Food%20Security/Justice%20Wadhwa%20Committee%20Report%20on%20PDS.pdf> Last visited on December 9, 2021 at 1900 hours.

⁶⁷ Launched in 1997 in order to benefit the poor, and to keep budgetary food subsidies under control, following the failure of the existing PDS system. Conceptually, the transition from a universal PDS to the TPDS was a move in the right direction, as it was designed to include within its ambit, only the poor households. Available at http://planningcommission.nic.in/reports/peoreport/peo/peo_tpds.pdf Last visited on September 16, 2021 at 1430 hours.

capacity, better transportation for procured foodgrains, tracking of vehicles and Fair Price Shops (FPSs)⁶⁸ through use of Global Positioning System (GPS)⁶⁹, better accountability and monitoring, electronic weighment, etc. The court incorporated all these suggestions in its final order while disposing of the matter.

In *Swaraj Abhiyan v. Union of India & Ors*⁷⁰, certain important aspects of the NFSA including the setting up of grievance redressal machinery and a Food Commission in every State, as mandated by the Act, came up for adjudication before the Apex Court. Despite the fact that the National Food Security Bill was passed by both Houses of Parliament and received Presidential assent on September 10, 2013, almost four years had elapsed and the authorities and bodies mandated to be set up under the Act had not been set up till as late as July 2017. The Act *inter alia* mandated that every State Government was required to put in place an internal grievance redressal mechanism⁷¹, and that for each district, there should be a Grievance Redressal Officer⁷². Similarly, the Act also mandated the setting up of a State Food Commission in every state⁷³. Each of these provisions of the NFSA were mandatory and yet even after four years, they had not been fully implemented by some State Governments. The Apex Court directed the Union Food Secretary to immediately write to the State / UT Governments to immediately notify appropriate rules for a Grievance Redressal Mechanism under the provisions of the Act, while also designating appropriate and independent officials as District Grievance Redressal Officers. State / UT Governments were directed to constitute, establish and make fully functional, their respective State Food Commissions by the end of the year, i.e., by end 2017.

V. RIGHT TO FOOD AS A LEGALLY ENFORCEABLE RIGHT

The right to food, like any other social or economic right, has been recognised the world over, only in recent times and its specific nature - whether moral or legal, absolute or

⁶⁸ NFSA (Act No. 20 of 2013), *See* s. 2 (4).

⁶⁹ Space-based radio-navigation system which is owned by the US Government and operated by the US Air Force. The US Government created the system, maintains it, and makes it freely accessible to anyone who has a GPS receiver. *Available at* <http://www8.garmin.com/aboutGPS/> Last visited on September 10, 2021 at 1900 hours.

⁷⁰ Writ Petition (Civil) No. 857 of 2015.

⁷¹ NFSA (Act No. 20 of 2013), *See* s. 14.

⁷² NFSA (Act No. 20 of 2013), *See* s. 15.

⁷³ NFSA (Act No. 20 of 2013), *See* s. 16.

conditional, individual or collective, was under discussion till just a few years ago⁷⁴. Our Constituent Assembly while emphasising the need to provide a constitutional basis for a welfare State, enacted the Directive Principles of State Policy and placed the right to food in this category⁷⁵. Although it did not enact a specific fundamental right to food in the Constitution, there are several provisions which guarantee such a right by implication. Thus, it can be said that the Constitutional provisions pertaining to the right to food in India are meant to impose obligations upon the State to ensure food security to the entire population but they do not explicitly guarantee to individuals, the right to food. The right to life is recognized as a directly justiciable fundamental right under Article 21 of the Constitution, and the right to food finds mention in the form of Directive Principles of State Policy under Article 47 of the Constitution. Further, there is a constitutional mandate cast upon the State to ensure early childhood care and education to all children below the age of six years⁷⁶.

In the period after independence, various states of the country like Maharashtra⁷⁷, have recognised the right to food in the form of Employment Guarantee Schemes (EGS)⁷⁸ and Food for Work⁷⁹ programmes in their respective jurisdictions. Others like Chhattisgarh⁸⁰, Odisha⁸¹ and Tamil Nadu⁸² have achieved a considerable degree of success in the supply of foodgrains at subsidised prices to the poor through the mechanism of the PDS. At the national level, the NFSA, which is popularly referred to as the ‘Right to Food Act’, was

⁷⁴ Dr. K.R. Aithal, “Towards Justiciable Right to Food” in Prof. (Dr.) Bimal N. Patel and Dr. Ranita Nagar (eds.), *Food Security Law: Interdisciplinary Perspectives*, pp 1-30 at 10-11 (1st Edn., Eastern Book Company, Lucknow, 2014).

⁷⁵ *Supra* Note 27.

⁷⁶ Constitution of India, *See* Article 45.

⁷⁷ As a part of the ‘15 Point Programme’ formulated by the Government of Maharashtra for the development of the state’s economy, an EGS was sanctioned for the very first time on March 28, 1972. Later on, the scheme acquired statutory recognition in the form of the Maharashtra Employment Guarantee Act, 1977, and served as a role-model for future legislations like the MGNREGA, 2005. *Available at* http://nagarzp.gov.in/html_docs/mregs.htm Last visited on October 29, 2021 at 1020 hours.

⁷⁸ The main objective of these schemes is to provide guaranteed wage employment to all adult persons who volunteer to do unskilled manual work in rural areas, which would, in turn, help create durable assets for the benefit of the community and the economy. Examples of such works include construction of rural roads and small check dams, water conservation, village tanks, digging of drinking water wells, afforestation, etc.

Jean Drèze, “Employment as a social responsibility”, *The Hindu*, New Delhi, November 22, 2014.

⁷⁹ Incorporated as the National Employment Guarantee Programme during the Sixth Plan, the programme entailed construction of developmental projects like building of roads and canals in exchange for foodgrains. It was modified from time to time, and in February 2006, it was subsumed within the MGNREGA scheme. *Available at* <https://tnrd.gov.in/schemes/nrega.html> Last visited on October 27, 2021 at 1900 hours.

⁸⁰ Jean Drèze and Reetika Khera, “Chhattisgarh shows the way”, *The Hindu*, New Delhi, November 13, 2010.

⁸¹ “Jean Drèze explains how Odisha managed to make public distribution system work”, *Catchnews.com*, February 14, 2017. *Available at* <http://www.catchnews.com/india-news/jean-dreze-explains-how-odisha-managed-to-make-public-distribution-system-work-1453720234.html> Last visited on October 15, 2021 at 2225 hours.

⁸² S. Vythianathan and R.K. Radhakrishnan, “Behind the success story of universal PDS in Tamil Nadu”, *The Hindu*, Chennai, August 10, 2010.

enacted in the year 2013, and ably demonstrates our national priorities. The passage of this Act proves that we as a country, are determined to rid ourselves of the scourge of hunger and malnutrition which has plagued us for considerable periods of time in our history.

The NFSA was signed into law by the President of India on September 12, 2013 with retrospective effect from July 5, 2013⁸³, and defines ‘food security’ as “...the availability of sufficient foodgrains to meet the domestic demand as well as access, at the individual level, to adequate quantities of food at affordable prices⁸⁴”. This date of July 5, 2013 was chosen as the date when the provisions of the Act would come into effect because the Central Government had earlier promulgated the law in the form of the National Food Security Ordinance on July 5, 2013.⁸⁵

Prof. K.V. Thomas⁸⁶, who was the Union Minister of State (Independent Charge) in the Ministry of Consumer Affairs, Food and Public Distribution, at the time when the National Food Security Bill was introduced in Parliament, stated while addressing the press corps on April 3, 2013 that

This is no mean task; a task being accomplished in the second most populated country in the world. ...The responsibility is not just of the central government but equally of the states / [UTs]. I am sure (that) together we can fulfil this dream. The day is not far off, when India will be known the world over for this important step towards eradication of hunger, malnutrition and resultant poverty...By providing food security to 75% of the rural and 50% of the urban population with focus on nutritional needs of children, pregnant and lactating women, the National Food Security Bill will revolutionize (the) food distribution system.⁸⁷

⁸³ The National Food Security Bill, 2013 received the assent of the President of India, and was published in the Gazette of India as Act No. 20 of 2013.

Government of India, *Gazette of India, Extraordinary, Part-II, Section-1* (New Delhi, September 10, 2013).

⁸⁴ Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution, *The National Food Security Bill 2011: Twenty Seventh Report*, p. 17 (Parliament of India, New Delhi, 2011).

⁸⁵ <http://www.prsindia.org/uploads/media/Ordinances/Food%20Security%20Ordinance%202013.pdf> Last visited on August 26, 2021 at 1900 hours.

⁸⁶ Indian politician who represented the Ernakulam constituency in the *Lok Sabha* from 2009 to 2019, and served as the Union Minister of State (Independent Charge) in the Ministry of Consumer Affairs, Food and Public Distribution, when the NFSA was enacted. As a Minister in the Kerala Government, he has handled the portfolios of Excise, Tourism and Fisheries. Available at <https://www.india.gov.in/my-government/indian-parliament/kuruppassery-varkey-thomas> Last visited on August 9, 2021 at 1440 hours.

⁸⁷ Ministry of Information & Broadcasting (Government of India), *Salient Features of the National Food Security Bill, 2013: Food Security Bill will Eradicate Hunger, Malnutrition - Prof. Thomas* (New Delhi, April 3, 2013). Available at <http://inbministry.blogspot.in/2013/04/salient-features-of-national-food.html> Last visited on September 4, 2021 at 1500 hours.

Former National Advisory Council (NAC)⁸⁸ member and noted development economist Prof. Jean Drèze who was one of the foremost architects of the National Food Security Bill 2011, has written that, “...the Bill is a form of investment in human capital... It will bring some security in people’s lives and make it easier for them to meet their basic needs, protect their health, educate their children, and take risks⁸⁹.” While dismissing opposition from business interests, he maintains that “...Corporate hostility does not tell us anything except that the Food Bill does not serve corporate interests. Nobody is claiming that it does, nor is that the purpose of the Bill⁹⁰.”

This legislation has subsumed three existing food security programmes which were hitherto being implemented by the Central Government *viz.* the Mid Day Meal scheme, the Integrated Child Development Services (ICDS)⁹¹ scheme and the TPDS. Further, the NFSA has also recognised maternity entitlements⁹². According to the scheme of the Act, the Mid Day Meal and the ICDS would be universal in nature, while the TPDS, which was the country’s principal domestic food-aid programme, would reach out to approximately two-thirds of the population, i.e., 75% of the population in rural areas and 50% in urban areas⁹³. Persons who were covered under the TPDS system under the NFSA would be entitled to 5 kg of foodgrains per person per month at the following prices:

- Rice at ₹3 per kg ;
- Wheat at ₹2 per kg ; and

⁸⁸Advisory body which was established on June 4, 2004 to advise the Prime Minister of India, it was instrumental in drafting several important legislations like the MGNREGA, the NFSA, the RTI Act and the RTE Act. Sonia Gandhi served as its Chairperson for much of the tenure of the UPA and it comprised of ex-bureaucrats, members of civil society, academicians and lawyers. *Available at* <http://www.allgov.com/india/departments/ministry-of-youth-affairs-and-sports/national-advisory-council-nac?agencyid=7592> Last visited on September 11, 2021 at 1430 hours.

⁸⁹ Revati Laul, “The Food Security Bill can help to protect the people from poverty and insecurity”, *Teheka.com*, July 9, 2013. *Available at* <http://www.tehelka.com/2013/08/the-food-security-bill-can-help-to-protect-the-people-from-poverty-and-insecurity/> Last visited on October 10, 2021 at 1615 hours.

⁹⁰*Id.*

⁹¹ Programme which provides food, pre-school education and primary healthcare to children under the age of six years, as well as their mothers. The widespread network of ICDS has played an important role in combating malnutrition especially for children belonging to weaker sections of society. *Available at* <http://icds-wcd.nic.in/icds/icds.aspx> Last visited on August 13, 2021 at 1440 hours.

⁹² <http://dfpd.nic.in/Salient-features-National-Food-Security-Act.htm> Last visited on September 29, 2021 at 1300 hours.

⁹³ NFSA (Act No. 20 of 2013), *See* s. 3 (2).

- Coarse grains (millet) at ₹1 per kg.⁹⁴

Thus, up to 75% of the population in rural areas and upto 50% of the urban population was proposed be covered under TPDS, with a uniform entitlement of 5 kg per person per month⁹⁵. However, households covered under the *Antyodaya Anna Yojana* (AAY)⁹⁶ which constituted the ‘poorest of the poor’, were entitled to 35 kg of foodgrains per household per month prior to the enactment of the NFSA. Therefore, their entitlement of 35 kg per household per month is protected under the Act⁹⁷. Corresponding to the all-India coverage of 75% in rural areas and 50% in urban areas⁹⁸, state-wise coverage under the NFSA was to be determined by the Planning Commission of India, which did so by using the NSS Household Consumption Survey⁹⁹ data for the year 2011-12. The work of identification of eligible households who were to be covered under the TPDS within the purview of the NFSA, was to be done by the respective State / UT Governments¹⁰⁰, who were also given the responsibility to place the list of the identified eligible households in the public domain, where it was to be displayed in a prominent manner¹⁰¹. Foodgrains distributed under the TPDS were to be made available at subsidised prices of ₹ 3 / 2 / 1 per kg respectively in the case of rice, wheat and coarse grains for a period of three years from the date of commencement of the Act. Thereafter, prices were proposed to be linked to the Minimum Support Prices (MSPs)¹⁰² of the respective

⁹⁴ NFSA (Act No. 20 of 2013), See Schedule I: Subsidised Prices Under Targeted Public Distribution System.

⁹⁵ *Supra* Note 93.

⁹⁶ Centrally-sponsored scheme launched on December 25, 2000 to provide highly subsidised food to the ‘poorest of the poor’ families. Once a family has been recognized as eligible for the AAY, they are given a unique colour-coded ration card which acts as a form of identification. Available at <http://pib.nic.in/feature/feyr2001/fmar2001/f280320011.html> Last visited on August 11, 2021 at 1440 hours.

⁹⁷ Shweta Punj, “Digestion pangs: The food security bill has been passed. But implementing it is a formidable challenge”, *Business Today*, September 29, 2013.

⁹⁸ *Supra* Note 93.

⁹⁹ Household Consumer Expenditure is the sum total of the monetary value of all the items, i.e., all goods and services consumed by the household on domestic account during the reference period. The NSSO conducts surveys on Household Consumer Expenditures based on a thin sample of households on an annual basis, and a quinquennial survey based on a large sample of households. Available at <https://data.gov.in/catalog/household-consumer-expenditure-national-sample-survey> Last visited on October 28, 2021 at 1400 hours.

¹⁰⁰ <http://dfpd.nic.in/Salient-features-National-Food-Security-Act.htm> Last visited on September 29, 2021 at 1300 hours.

¹⁰¹ NFSA (Act No. 20 of 2013), See s. 11.

¹⁰² Price fixed by the Government of India to protect the farmers from any excessive fall in prices during bumper production years. MSPs are announced at the beginning of the sowing season for certain crops based on the recommendations of the Commission for Agricultural Costs and Prices (CACAP), and serve as a guarantee price for the grower. MSPs are currently announced for 24 commodities including seven cereals (paddy, wheat, barley, *jowar*, *bajra*, maize and *ragi*), five pulses (gram, *arhar / tur*, *moong*, *urad* and lentil), eight oilseeds (groundnut, rapeseed/mustard, *toria*, soyabean, sunflower seed, *sesamum*, safflower seed and *nigerseed*), *copra*, raw cotton, raw jute and Virginia Flue Cured (VFC) tobacco. Available at

crops¹⁰³; however, till the date of writing this Paper, there has been no increase in the price of foodgrains supplied under the NFSA.

With the passage of this Act, the Government finds upon itself, for the very first time, a positive obligation to enforce the right of the people to have an adequate supply of food to meet their daily nutritional requirements. If the Government fails to meet these legal obligations, it can be called to account by courts across the country. Thus, the NFSA aims to empower persons through a clear acknowledgement of their basic human right, i.e., the right to food.

VI. CONCLUSION

Traditionally speaking, the right to food did not entail that governments had an obligation to hand out free food to anyone, and everyone who wanted it, nor did it entail that everyone had a right to be fed. However, what it meant was that in cases where people were deprived of access to food for reasons that are beyond their control, the right to food necessarily entailed that the Government had to provide food directly. For instance, there could be some special situations wherein persons are incarcerated or when a natural calamity or a riot has taken place or when there is a war (something similar to what we are seeing in Ukraine today). Traditionally speaking, it was under these types of circumstances, that there was a mandate cast upon governments to provide food to the people directly¹⁰⁴. However, with the passage of legislations like the NFSA, this definition has broadened manifold, and so have the legal responsibilities cast upon the State. Today, several countries of the world have guaranteed the right to food to their citizens either through various constitutional arrangements, or through statutory law or through application of various international treaties in which the right to food is protected. While some countries have chosen to provide this right for a specific segment of their population, others have chosen to provide it as part of a human right to an adequate standard of living¹⁰⁵.

http://www.arthapedia.in/index.php?title=Minimum_Support_Prices Last visited on October 1, 2021 at 0730 hours.

¹⁰³ <http://dfpd.nic.in/public-distribution.htm> Last visited on August 23, 2021 at 0855 hours.

¹⁰⁴ General Comment No. 12 of the United Nations (UN) Committee on Economic, Social and Cultural Rights. Available at <http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx> Last visited on January 20, 2022 at 1700 hours.

¹⁰⁵ Lidija Knuth and Margret Vidar, *Constitutional and Legal Protection of the right to food around the World*, p. 17 (FAO, Rome, 2011).

Even though endemic hunger and resultant poor nutrition have been continuing problems for policymakers across developing countries for several centuries now, it is at the time of natural disasters such as floods and droughts, that the impact of these problems gets even more severe. This happens because certain sections of the population who live on the margins of society, immediately lose their meagre means of livelihood during such times, and become particularly vulnerable to the vagaries of the weather Gods. Despite governmental measures to alleviate their plight, millions of Indians have gone to bed hungry in the seven decades since independence. The lot of these unfortunate people with respect to access to food, has not really improved as much as it should have, given the significant degree of economic progress that the country has made, especially in recent decades.

Often hailed as the country's most successful Public Interest Litigation (PIL)¹⁰⁶ ever, the Right to Food case witnessed day-to-day monitoring by the Supreme Court of virtually every government scheme related to food (both at Central and State levels), as well as its implementation on the ground. This was done through the mechanism of Court Commissioners wherein ground realities were brought to the courtroom by these officers. One reason for the spectacular success of the Right to Food case could be the fact that the petitioner was not any one particular person or one particular NGO, but an entire movement, comprising people drawn from civil society, academia, politics and economics. Even before the first intervention of the Supreme Court came in the year 2001, the National Campaign on the Right to Food was actively lobbying in the area of right to food, and there were groups which were active in every state. This case enabled all of them to come together on one single platform, and ensure implementation of the orders of the Supreme Court. Over 160 interim orders were passed in this case over a period of 17 long years. This constant monitoring of the functioning of governmental efforts in the area of right to food contributed tremendously to an already existing active grassroots campaign which enjoyed considerable public support¹⁰⁷.

¹⁰⁶ Writ Petition wherein the rule of *locus standi* is relaxed. Such litigation is introduced in a court of law, not by the aggrieved party, but by the court itself or by any other private party. The person filing the petition must prove to the satisfaction of the court that the petition is being filed for a public interest, and is not a frivolous litigation by a busy body. Available at <http://www.manupatrafast.com/articles/PopOpenArticle.aspx?ID=a4a599a3-ee92-41da-aa0b-b4201b77a8bd&txtsearch=Subject:%20Jurisprudence> Last visited on August 13, 2021 at 1445 hours.

¹⁰⁷ Apurva Vishwanath, "What are the lessons learnt from the Right to Food case?: Lessons learnt from the Right to Food case can be applied for other social issues that end up at the Supreme Court's doorstep every day", *Live Mint*, New Delhi, March 21, 2017.

Even though campaigners like Biraj Patnaik¹⁰⁸ are slightly disappointed with the fact that the case ended without a “...last order stating that access to food is a fundamental right in as many words”, the PUCL case is today the world’s most-cited case on right to food and even judicial activism in this area¹⁰⁹. In the eight-and-a-half years since its enactment, the perceived success of the NFSA has led to a strong clamour for similar framework laws for protection of the right to food in several other countries of the world, especially in the backdrop of the devastating Covid19 pandemic. Countries like neighbouring Bangladesh, have been particularly keen to learn from the Indian experience, and have sought to adapt the NFSA to suit their domestic requirements.

¹⁰⁸ Currently serves as Executive Director at National Foundation of India, he has served as Amnesty International’s South Asia Director, and is also an Honorary Research Fellow at Coventry University, UK. He has previously served as Principal Adviser to the Supreme Court Commissioners on the Right to Food case, where he was closely associated with the drafting and lobbying for the NFSA 2013. *Available at* <http://nfi.org.in/biraj-patnaik> Last visited on September 29, 2021 at 1900 hours.

¹⁰⁹*Supra* Note 107.