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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

FOOD SECURITY LAW IN INDIA: AN ENDEAVOUR TO TACKLE THE PROBLEM OF HUNGER THROUGH LEGISLATION

AUTHORED BY - S. KALAIVANI

Introduction

The world now produces enough food to feed its population. The problem is not simply technical. It is a political and social problem. It is a problem of access to food supplies, of distribution, and of entitlement. Above all, it is a problem of political will¹. The right to food, is an essential common liberty which ensures individuals the option to take care of themselves with pride.

This infers that a nation has adequate food accessible, individuals possess the ability to get to it, and it sufficiently meets the singular's nourishment prerequisites. It accordingly safeguards the right of all people to be liberated from hunger, food weakness and malnutrition². Customarily talking, it didn't involve that states had a commitment to give out free food to everybody who needed it, nor did it involve that everybody reserved an option to be taken care of.

Nonetheless, what it implied was that in situations where individuals were denied of admittance to nourishment because of reasons that are outside of their reach, the right to food fundamentally involved that the Public authority needed to straightforwardly give food. For example, there could be circumstances wherein people are detained or when a characteristic disaster/revolt has occurred or when there is a conflict; it is under these exceptional conditions, that there is a command upon the Public authority to give food to individuals directly³. The right to food tracks down an express notice

¹ Boutros Boutros-Ghali, Special Address - Ending Hunger: A Global Concern, Conference on Overcoming Global Hunger, Washington DC, November 30, 1993.

² <http://www.righttofood.org/work-of-jean-ziegler-at-the-un/what-is-the-right-to-food/> Last visited on May 10, 2016 at 1110 hours.

³ 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 May 11, 2016 at 1700 hours

in the Worldwide Pledge on Monetary, Social and Social Freedoms (ICESCR)⁴ , 1966. Toward the finish of 2011, a total of 106 nations of the world have ensured the right to food to their residents either through different established courses of action, or through legal regulation or through utilization of different global arrangements in which the right to food is protected⁵.

At the World Food Summit, 1996⁶ , states of the world reaffirmed the right to food and serious themselves to split the quantity of ravenous and malnourished individuals all through the world from 840 million to 420 million by 2015.

Notwithstanding, with the exception of a few Latin American nations like Brazil, Argentina, and Bolivia, this objective has stayed a simple figment. Rather, what we have seen is that, rather than diminishing, the real number of hungry individuals the world over, has really expanded throughout recent years, and today, we are confronted with more than one billion undernourished and malnourished people⁷.

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

⁴ Multilateral treaty adopted by the UN General Assembly on December 16, 1966. It came into force on January 3, 1976 and commits its parties to work toward the granting of economic, social, and cultural rights to the Non-Self-Governing and Trust Territories and individuals, including labour rights and the right to health, the right to education and the right to an adequate standard of living. As of 2016, the Covenant has a total of 116 parties and another six countries, including the United States(US), have signed but not ratified the Covenant. 25 countries, most notably Malaysia, have neither signed nor ratified the Covenant. It forms a part of the International Bill of Human Rights, along with the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), including the latter's first and second Optional Protocols. It is monitored by the UN Committee on Economic, Social and Cultural Rights (UNCESCR). Available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> Last visited on July 1, 2017 at 0900 hours.

⁵ Lidija Knuth and Margret Vidar, Constitutional and Legal Protection of the right to food around the World, p. 32 (FAO, Rome, 2011).

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 continued existence of widespread undernutrition and growing concern about the capacity of agriculture to meet future food needs. This Summit witnessed participation from almost 10,000 participants from 185 countries and the European Community, and provided a forum for debate on one of the most important issues facing world leaders in the new millennium - the imperative of eradicating hunger. The 'Rome Declaration on World Food Security' and the 'World Food Summit Plan of Action' were two outcomes of this summit, and it provided a framework for bringing about important changes in policies and programmes that were needed to achieve 'Food for All'. Available at <http://www.fao.org/WFS/> Last visited on July 4, 2017 at 1600 hours.

⁷ Supra Note 2 at p. 1

worldwide⁸. The following sections of this postulation will exhibit that undertakings of the State are in many cases hampered by functional hardships, and the errand stays an overwhelming suggestion even right up to the present day.

Researchers and experts working in this space guarantee that the accomplishment of this essential basic freedom is, generally, missing from the plan of policymakers and that there is an obvious absence of political will as a result of the lesser perceivability of work done here when contrasted with work done in different areas of the economy like foundation development or expansion in modern creation.

Today, most regions of the planet are generally independent with regards to foodgrain creation. Among the landmasses, those with the greatest food-related issues are Africa, Asia and Latin-America. But on account of the food-lacking nations (which number around 82 and are amassed in parts of the Middle East and Africa⁹), for the enormous part, the issue of food uncertainty is one that includes misdistribution and lacking admittance to food. On account of the food-inadequate nations, there is one more aspect to the issue - an overall deficiency of food and the absence of legitimate infrastructure¹⁰.

The subject under study is something extremely near the core of this scientist and something which has intrigued him for quite a while. This scientist's most memorable brush with the issue of Right to Food came in the year 1992-93 when he was an understudy of eighth norm in Bhopal. At the pertinent time, the city was set under discontinuous check in time for right around two months and during this period, residents were given 'check in time elapses' for the restricted motivation of buying food and different things of day to day use.

Since the unwinding in check in time was exclusively for an extremely restricted period at a time, there was a weighty rush at food shops and proportion warehouses. While remaining in one of those

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).

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 Supra Note 8 at p. 2.

serpentine lines, the current scientist saw that the foodgrains which were saved for stockpiling in gunny packs were frequently of low quality and this is the kind of thing that continued to irritate him, particularly in the illumination of the way that food grain creation in India has been reliably expanding, practically on a year-on-year premise. Rural creation in India has expanded consistently, and then again, there has likewise been a consistent expansion in populace. This expansion in populace has been considerably more on account of metropolitan regions, because of movement of individuals from towns to towns looking for better business potential open doors. Not at all like in rustic regions where it very well might be workable for individuals to develop their own food, independence in food creation in metropolitan regions isn't a choice by virtue of restricted land accessibility. The way that in spite of expanded creation offices and regardless of endemic appetite, there is still wastage of food in our nation, is something that this scientist has needed to concentrate from that point onward.

This wastage of foodgrains is seen in our country consistently, particularly during the storm season or at whatever point there are unseasonal downpours. Our nation is generally independent in foodgrain creation today, which has not forever been the situation. In spite of this, there have been chronicled cases of passings brought about by endemic appetite and lack of healthy sustenance. Food riots have occurred in various pieces of our country every once in a while. Both these horrendous circumstances show that we have frequently had what was happening of 'neediness in the midst of bounty' with regards to foodgrains. Comparative occasions have been seen in different areas of the planet too. While undertaking the current review, this analyst before long understood that the issue of food security was not a single of food creation, yet additionally had different parts, the most remarkable being the requirement for rearrangement of food to the individuals who couldn't in any case bear to get it. The food security regulation instituted by our country at the public level, capably shown our public needs, and demonstrated that we as a, still up in the air to free ourselves of the scourge of yearning and unhealthiness which has been tormenting us for impressive timeframes.

Judicial Intervention in Securing the Right to Food:

There are a few eminent legal decisions in the space of Right to Food in India, and the scientist has endeavored to narrative these in the following passages. In the celebrated case of *Sunil Batra v. Delhi*

Administration¹¹, the Pinnacle Court set out that even detainees partake in a right to satisfactory and nutritious food. Acquiring from Equity Corwin's comments on American established regulation, V.R. Krishna Iyer, J., in his judgment thought that an individual wouldn't lose his essential right to legitimate, healthy and nutritious food on the grounds that (s)he turned out to be detained. The court set out that this visitorial force of the Board of Visitors¹² was to be given wide understanding and made it obligatory for the individuals from the Leading group of Guests, both authority and non-official, to review the sleeping enclosure, cells, wards, worksheds and different structures of the prison by and large and specifically, the food that was cooked and served to the detainees.

While deciding the case of Peoples Union for Democratic Right v. Union of India¹³ P.N. Bhagwati, J. quoted from Sir W. Paul Gormseley's address at the silver jubilee celebrations of the UDHR¹⁴ at Banaras Hindu University (BHU)¹⁵ 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 unavoidable."

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.¹⁶, 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 lettered and curbed. According to the court, the Essential Commodities Act, 1955 was a legislation towards that end, in keeping with the duty of the

¹¹ AIR 1980 SC 1579.

¹² 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).

¹³ (1982) 2 SCC 494

¹⁴ Supra Note 15 at p. 6.

¹⁵ Formerly known as Central Hindu College, 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. Its main campus is spread over 1,300 acres (5.3 sq. km) and was built on land donated by the hereditary ruler of Banaras and its south campus spread over 2,700 acres (11 sq. km), hosts the Krishi Vigyan Kendra (Agriculture Science Centre) and is located about 60 km (37 miles) away from Banaras. It celebrated its centenary year in 2015-2016. Available at <http://www.bhu.ac.in/> Last visited on January 12, 2018 at 1900 hours.

¹⁶ AIR 1987 SC 1802.

State enshrined in Article 39(b)¹⁷ of the Constitution towards getting the proprietorship and control of the material assets of the local area to best support the benefit of all.

In the case of *Kishen Pattnayak v. State of Orissa*¹⁸, certain regions in Orissa had seen a proceeding with peculiarities of dry season, starvation passings and starvation. While setting down rules for the region organization to give food to the impacted populace on fundamentally important premise in case of a characteristic disaster, the Seat headed by M.M. Dutt, J. thought that it would be the moral obligation of the Locale Authority to survey the help estimates embraced nearby. He ought to either visit the region himself or depute a senior official to check out the circumstance when such an occurrence was accounted for. He ought to likewise promptly fulfill himself concerning the amplex of work business, food position and other alleviation courses of action in the region. In the event that he thinks of it as important to additionally reinforce the alleviation measures, he ought to outfit substantial proposition immediately with fundamental support through the Income Divisional Magistrate to the Leading body of Income or the Extraordinary Alleviation Chief. In the moment case, the court coordinated that the whole acquirement of paddy ought to be quickly depended to the FCI¹⁹ and the State Agreeable Showcasing League, which were specific organizations when it came to making such buys and had satisfactory number of godowns to store the grains so acquired.

Further, these organizations were ordered to have their nearby focuses all through the State for acquisition of surplus paddy. In conclusion, the court thought that no produce from the ranchers of the dry spell impacted region ought to usually be rejected by the acquiring organizations named previously. In *Shantistar Builders v. Narayan Khimalal Toame*²⁰, 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 Constitution²¹. Further, the right to life isn't simply the actual demonstration of breathing and the essential requirements of man have generally been acknowledged to be three - food, attire and asylum. Subsequently, the right to life would take inside its ambit, the right to food, the option to dress, the right to respectable climate and a sensible convenience to live in. This decision has, since, been quoted

¹⁷ 3 Constitution of India, Article 39: Certain principles of policy to be followed by the State:

¹⁸ AIR 1989 SC 677.

¹⁹ Supra Note 43 at p. 13.

²⁰ AIR 1990 SC 630.

²¹ Supra Note 552 at p. 107.

with approval in several cases, most notably in *Chameli Singh v. State of UP*²² In its judgment delivered in the case of *Jilubhai Nanbhai Khachar v. State of Gujarat*²³, Further, the right to life isn't just the actual demonstration of breathing and the essential requirements of man have generally been acknowledged to be three - food, apparel and asylum. Subsequently, the right to life would take inside its ambit, the right to food, the option to dress, the right to fair climate and a sensible convenience to live in. In the case of *Harit Recyclers Association v. Union of India*²⁴, the petitioner prayed for the issue of a writ of mandamus²⁵ 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 contended that these children had been forced to eat contaminated food which was served to them under the Mid Day Meal 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 as under:

A civilized society does not countenance starvation. In a cultured society, the cry for food is not thought of. 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. When food is not available to meet the cry of hunger, authors have gone to the extent of saying that it tantamount to nullification of life. Biological growth is dependent on food. It is not for nothing that it has been said in the days of yore that a hungry man can commit any sin and a man in demand of food cannot conceive any kind of poetry or look at the moonlit sky.

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*²⁶, the Delhi High Court postulated that the right to health, as defined in Article 12.1 of the UDHR was an inclusive right which extended not only to timely and appropriate health care, but also to the

²² AIR 1996 SC 1051

²³ AIR 1995 SC 142.

²⁴ (2010) 170 DLT 476 (DB).

²⁵ 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. The word 'mandamus' has appeared in a number of orders issued by the sovereigns of England in the years following the Norman Conquest, and the first instance of a mandamus being used to enforce the right of a private citizen was seen in the year 1615. Available at <http://www.legalservicesindia.com/article/592/Analysis-Of-WritOf-Mandamus.html> Last visited on November 4, 2018 at 1145 hours.

²⁶ (2010) 172 DLT 9.

underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. 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*²⁷, the offended party was a confidential restricted organization participated in research, improvement, handling and offer of rural seeds in India. The suit claimed that the respondents had abused the offended parties' copyright in the groupings of their crossover seeds. A Seat of the Delhi High Court headed by S. Ravindra Bhat, J. thought that "...food security lies at the core of agribusiness, and food power. It is an undoubted material asset, as are rural practices, for example, seed reproducing." The court proceeded to praise the ideals of intellectual property regulation and examined one fundamental precept of licensed innovation regulation as indicated by which, the necessities of the designer/maker to procure eminence because of his creation ought to continuously be endeavored to be offset with the requirements of the general public to approach better items. Be that as it may, in situations where there is a contention between the two, and this contention can't be fit, the freedoms of the general public must fundamentally beat the privileges of the person. Considering the abovementioned, copyright in the grouping of these seeds as guaranteed by the offended party, couldn't be permitted to beat the right of the general public to approach satisfactory food to meet its necessities.

During the adjudication of *PUCL (PDS Matters) v. Union of India*²⁸, the Justice D.P. Wadhwa Committee²⁹ submitted its various reports before the Supreme Court. Inter alia, these reports contained detailed guidelines for revamp of PDS⁹ / TPDS³⁰ furthermore, included different present moment and long haul measures for development of the plan, including total computerisation of records, expansion of capacity limit, better transportation for acquired foodgrains, GPS following of vehicles and FPSs, better responsibility and observing, electronic weighment, and so on. The court

²⁷ (2011) 125 DRJ 173.

²⁸ (2013) 2 SCC 688

²⁹ Supra Note 442 at p. 85.

³⁰ Supra Note 385 at p. 73.

consolidated this large number of ideas in its last request while discarding the matter.

In *Swaraj Abhiyan v. Union of India & Ors*³¹, certain significant parts of the NFSA including the setting up of complaint redressal hardware and a Food Commission in each State, as commanded by the Demonstration, came up for settlement under the steady gaze of the Summit Court. Regardless of the way that the Public Food Security Bill was passed by the two Places of Parliament and gotten Official consent on September 10, 2013, just about four years had slipped by and the specialists and bodies ordered to be set up under the Demonstration had not been set up till July 2017. The Act inter alia mandated that every State Government was required to put in place an internal grievance redressal mechanism³² and that for each district, there should be a Grievance Redressal Officer³³. Similarly, Sec. 16 of the Act mandated the setting up of a State Food

Commission in every state³⁴. 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. At the time of filing the petition, states like Andhra Pradesh and MP had not constituted the State Food Commission in their respective jurisdictions, whereas in the case of Maharashtra, appointments had been made but the mandate of the Act was not fulfilled as there was no member in the Commission belonging to either the Scheduled Castes or the Scheduled Tribes. In other states like Bihar, appointments had been made but there were still certain vacancies in the Commission. The Apex Court directed the Union Food Secretary to immediately convene one or more meetings of all the States and UTs to take stock of the implementation of the NFSA, and also brainstorm over finding ways and means to effectively implement the provisions of the Act in letter and spirit.

Further, the court directed that the Union Food Secretary should emphatically request and commend every State / UT to notify appropriate rules for a Grievance Redressal Mechanism under the

³¹ Writ Petition (Civil) No. 857 of 2015

³² NFSA, Sec. 14: Internal grievance redressal mechanism: 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.

³³ NFSA, Sec. 15: District Grievance Redressal Officer: (1) The State Government shall appoint or designate, for each district, an officer to be the District Grievance Redressal Officer for expeditious and effective redressal of grievances of the aggrieved persons in matters relating to distribution of entitled foodgrains or meals under Chapter II, and to enforce the entitlements under this Act.

³⁴ NFSA, Sec. 16: State Food Commission: (1) Every State Government shall, by notification, constitute a State Food Commission for the purpose of monitoring and review of implementation of this Act

provisions of the Act and also designate appropriate and independent officials as District Grievance Redressal Officers. State and UT Governments were directed to constitute, establish and make fully functional, a State Food Commission under the provisions of the NFSA by the end of the year (2017).

Since the Act specified a very large number of functions to be performed by the State Food Commission, the Chief Secretary of each State / UT was directed to ensure that proper arrangements were made to provide adequate infrastructure, staff and other facilities for the meaningful functioning of this Commission. Having studied the important judicial pronouncements in the area of Right to Food in this section, we shall now proceed to study the PUCL case in further detail in the ensuing sections of this chapter.

Inadequate storage and rotting of foodgrains According to the Report of the Court Commissioners, about 50,000 MT of wheat kept in government storage facilities across the country had already deteriorated and was unfit for human consumption. Accordingly, the court asked the FCI to properly evaluate the storage capacities of their godowns and procure only that much quantity of foodgrains which could be properly preserved.³⁵ With regards to the problem of inadequate storage, the Union Food Secretary's affidavit of August 2010 stated that since there was a record procurement of wheat and rice in the previous three years, the Central Pool stocks had reached the level of 604.28 lakh tonnes on June 1, 2010.

On account of high procurement and insufficient covered storage space to store the procured stock, 178 lakh tonnes of wheat was stored in CAP³⁶ storage, as on June 1, 2010. The court directed that it in view of record procurement of foodgrains which the Central Government was unable to properly store and preserve, it would be appropriate for the Government to take some longterm and short-term measures to solve the problem. While the permanent solution lay in constructing more storage facilities, the court suggested the following interim measures to deal with this problem of rotting foodgrains: Augmentation of food supply to the BPL population; Opening of FPSs on all 30 days in a month; and Distribution of foodgrains to the deserving population at a very low cost or no cost at

³⁵ Order dated August 31, 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 <https://www.sci.gov.in/jonew/bosir/orderpdfold/1148757.pdf> Last visited on October 11, 2018 at 1130 hours.

³⁶ Supra Note 389 at p. 74.

all.³⁷

In pursuance of the directions issued by the court, the Union of India also took a number of important steps to preserve the foodgrains which had been procured by them. In the affidavit submitted by the Joint Secretary, Department of Food and Public Distribution in September 2010, it was acknowledged that 12,418 tonnes of foodgrains stored in FCI godowns had been damaged (as of August 1, 2010). In order to prevent the reoccurrence of such wastages, the FCI was introducing modern technology in the storage of foodgrains. Some such storage facilities had already been constructed through private sector participation in states like Haryana, Karnataka, Maharashtra, Punjab, Tamil Nadu and West Bengal for the purpose of storage of wheat. In the short run, the FCI was also endeavouring to hire more capacities.

As a result of these measures, the total capacity increase in last two years (2008-09 to 2010-11) was 55.5 lakh tonnes and capacity utilization of FCI warehouses had also increased from 74% in 2008-09 to 91% in 2010-11 as against an accepted norm of 75%. As a long-term measure, the Central Government was looking to create additional storage capacity and reduce the dependence on CAP storage. Towards this purpose, the Government, informed the court that it had announced a scheme for incentivizing private sector participation in the construction of scientific godowns.

As part of this scheme, the FCI was also arranging short-duration training programmes for officials of State Governments in order to share knowledge on scientific storage and quality control of foodgrains. Lastly, the Joint Secretary informed the court that the Government of India's procurement policy had a twin objective of ensuring payment of MSP³⁸ to farmers, while also meeting the requirements of foodgrains for distribution under the PDS. The court was assured that whenever the quantity of procured foodgrains increased, higher storage facilities would also be provided.³⁹

³⁷ Supra Note 36 at p. 10

³⁸ Supra Note 390 at p. 74.

³⁹ Order dated September 6, 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 <https://www.sci.gov.in/jonew/bosir/orderpdfold/1151015.pdf> Last visited on October 1, 2018 at 1500 hours.

Constitutional position of Right to Food in India:

The Right to Food, like any other social or economic right, has been recognised only in recent times and its specific nature - moral or legal, absolute or conditional, individual or collective, is still under discussion⁴⁰. Our Constituent Assembly while emphasising the need to provide constitutional basis for a welfare State, enacted the Directive Principles of State Policy and included the right to food in this category⁴¹. 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.

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 Constitution⁴². 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 years⁴³.

National Perspective on the Right to Food Historically

Indians have placed a great deal of importance upon growing food in abundance. However, the distribution of foodgrains 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 attests to the fact that distribution of foodgrains did not take place in a proper manner during this period in our history 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. 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 today⁴⁴.

⁴⁰ Supra Note 20, See 10.

⁴¹ Supra Note 21 at p. 7.

⁴² Id

⁴³ Supra Note 518 at p. 101.

⁴⁴ undernourished and nearly all of them live in developing countries. Available at <http://www/fao.org/nens/story/en/item>
Last visited on July 23, 2016 at 1330 hours

Court decisions pertaining to the 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 & Ors⁴⁵ wherein the Hon'ble Supreme Court of India, in its order issued after the very first date of hearing i.e. September 17, 2001, the Apex Court was pleased to affirm as under, "...We direct all the State Governments to forthwith lift the entire allotment of food grains from the Central Government under the various schemes and disburse the same in accordance with the schemes"⁴⁶. 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"⁴⁷.

Conclusion

The present study was undertaken for the purpose of understanding as to whether there was a nexus between the enactment of a legislation to tackle the problem of hunger and the impact of such a legislation on the problem itself. This research comprises of a total of seven chapters, of which chapter one deals with a brief introduction of the subject matter of the study. This study has been carried out using a doctrinal research methodology, which is centred around the study of various international covenants, legislations in India and abroad, various governmental measures to tackle this problem and various court judgments delivered in this regard. One chapter of this study is devoted to an

⁴⁵ Writ Petition (Civil) No. 196 of 2001 filed before the Hon'ble Supreme Court in April 2001 following a large number of starvation deaths in the state of Rajasthan. The matter was argued by noted Senior Advocate Colin and alleged that these persons were deprived of the required employment and food relief as mandated by the Rajasthan Famine Code of 1962. This case took place at a time when the parts of the country continued to face hunger and malnutrition. The Apex Court, through a series of directions in this matter from 2001 onwards, has attempted to lay down the law with regards to ensuring nutritional security in the country. Available at <http://www.pucl.org/reports/Rajasthan/2001/starvation-writ.htm> Last visited on July 17, 2016 at 1540 hours

⁴⁶ 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://supremecourtindia.nic.in/jonew/bosir/orderpdf/18655.pdf> Last visited on April 19, 2017 at 2300 hours.

⁴⁷ 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://supremecourtindia.nic.in/jonew/bosir/orderpdf/1139485.pdf> Last visited on March 1, 2018 at 2300 hours.

empirical study which was conducted by the researcher to study the impact of the Right to Food legislation in India on the problem of hunger at the ground level.

Suggestions

The author has seen during the course of his study that various definitions of 'food security' restrict themselves to the provision of adequate affordability of foodgrains to all or substantial segments of the population. However, predictability is also important. The greater the speed at which foodgrain prices increase or their supply dwindles in the markets, the greater would be the speed with which they take consumers, producers, and governments by surprise. Today, when the economies of the world are more closely linked with each other than ever before, global grain production and international trade are necessary evils and need to be factored in at all times, so that necessary measures can be taken in advance. Therefore we in India not only need to keep an eye on domestic production, procurement and supply of foodgrains but also have to be on the lookout for the sugar crop in Brazil and Cuba or the wheat crop in Australia and USA. Furthermore, since agriculture in large parts of the world continues to remain rainfall-dependent even today, crop failures are frequent occurrences.

In the absence of adequate buffer stocks, vagaries of the weather Gods can cause havoc with the domestic foodgrain production and distribution system. There are also large areas of the world where the area under cultivation is either inadequate or unsuitable for agriculture, and dependence on food imports may be the only way out of the situation. In the view of this researcher, future strategies should involve the following focus areas: At the global level, there is an urgent need to augment production and increase buffer stocks in order to cater to problems like reduced production and failure of rainfed agriculture. At the country level, improving access to imports at affordable prices would certainly help to tackle the problem of food insecurity.

At the household level, there is a need to ensure food security by increasing the income of the resource poor by means of various employment generation schemes, and providing subsidised foodgrains for the poor and other disadvantaged sections of society like the disabled, the Dalits and the Adivasis.

At the household level, there is a need to curtail intra-household disparities and ensure greater access

to foodgrains for women and children. It is hoped that the measures that have been discussed hereinabove would prove to be effective and useful in tackling the problem of hunger, which is one of the most horrific problems that confronts our society and affects the right to life itself.

It is humbly submitted that enacting legislations in this regard and taking steps for the effective implementation of these laws, can prove to be beneficial in this regard. The researcher also hopes that the present research work and the suggestions made hereunder, will prove to be impactful and fruitful in myriad ways. It is hoped that the present research should be beneficial not only for the purposes of academic advancement, but should also be of use to lawmakers, policymakers, members of the legal fraternity and students of law, economics and social sciences.

