

RIGHT TO FOOD IN INDIA: MYTH OR REALITY

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Abstract

Food is one of the basic necessities of human life and existence. Without food, existence of human life cannot be imagined. But it is also true that more than 800 million people, many of them children, are today hungry and malnourished with serious impact on growth and learning capacity of children and the ability of adults to lead fully productive live. The right to food is a fundamental human right, entitling every person regular access to sufficient, nutritionally adequate and culturally acceptable food to lead an active healthy life, finds its place in premises of article 21 of the Constitution.

In this article author is going to study and analyze definitions, contents and obligations of right to food, how far India progressed in this regard as well as the judicial approach in protection of right to food. The main focus of author is whether food security act, 2013 is a step or a mere piece of legislation?

Keywords: Right to Food, Human Right, Food Security Act 2013, Fundamental Right.

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INTRODUCTION

India has a large history of famines and droughts which always resulted in the unavailability of food, hunger and starvation for enormous populations.¹ After the independence, some land reforms took place; the food grain production increased dramatically due to the onset of green revolution in 1960s and the State also enhanced the wide spread distribution of food grains through the vast network of Ration shops under the Public Distribution System (PDS).² These efforts reduced the danger and threats of food denials to a large extent. However, many sections of our society, in villages and cities, continue to grapple with the problem of hunger.

India has made progress from being a nation that used to import food to feed its population to a nation which now has its own reserve. It is not anymore dependent in the sector of grain production. Its agriculture sector is now the biggest contributor to gross domestic product, almost accounts for 33 percent.³ But the harsh reality is that many of the vulnerable and deprived groups including landless workers, dalits, single-woman-headed households, destitute, persons with disabilities and old people without care-givers continue to be afflicted by hunger. Various surveys show alarming rates of malnutrition among the children. Many of the schemes of the government to remedy the situation fail due to poor fund allocations, less coverage and the unaccountability of government officials who contribute to and are primarily responsible for the failures of the programmes and schemes.

The Constitution of India mandates the State to provide adequate means to all the people to live with dignity, irrespective of the fact of what they value and produce.⁴ Another means to empower poor is through clear acknowledgment of their human rights.

Over the centuries, many millions of people have gone hungry in India. Now, for the first time, the claim has been made that the government has a positive obligation to do something enforce this right, and if government does not meet its obligation, it can be called to account in the national courts. In terms of the law, the human right to adequate food is a part of the right to an adequate livelihood, which is a part of economic rights, which is a part of human rights generally.

¹ Right to food in Indian context, Available at: thejusticeandpeace.org/wp-content/uploads/PDF/Rightto%20Food.pdf

² *Ibid.*

³ George Kent, *The Human Right to food in India*, University of Hawaii

⁴ Lidija Knuth and Margret Vidar, *Constitutional and Legal protection of Right to food around the world*, Food and Agriculture Organisation of the U.N, Available at: <http://www.fao.org/docrep/016/ap554e/ap554e.pdf>

The core idea underlying human rights is simple. There are some fundamental things that people require if they are to live in dignity, and therefore they should be recognized as having rights to those things. These rights are spelled out in International Human Rights law. While every individual and every organization have certain obligations with regard to the human rights of the people they affect, it is national governments that carry the primary obligation to assure that people are able to live in dignity.⁵

RIGHT TO FOOD INTERNATIONALLY

The evolution of this right is to be traced back to many international documents, which are to be examined to understand the conceptual framework of this right. There is increasing recognition worldwide that food and nutrition is a human right, and thus there is a legal obligation to assure that all people are adequately nourished.⁶ This right is derived from a larger right under UDHR 1948 that is right to adequate standard of living. To be more specific, this right contained in Art. 25 say as follows:

*“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing and medical care and necessary social services ...”*⁷

India is also signatory to a number of International treaties which gives right to food, a strong legal foundation in India. The food and nutrition right were further reaffirmed in two subsequent binding treaties, one is International Covenant on Economic, Social and Cultural Rights, 1976 and the other one is Convention on Rights of the Child, 1990. The Article 11 of ICESCR says:

*“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing . . .” and also recognizes “the fundamental right of everyone to be free from hunger . . .”*⁸ and Article 24 of the Convention on Child Rights says, *“States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health . . . (paragraph 1)” and shall take 4 appropriate measures “to combat disease and malnutrition . . . through the provision of adequate nutritious foods, clean drinking water, and health care (paragraph 2c).”*⁹

⁵ Jessica Caplin, *Feeding an Elephant: Malnutrition and The Right to Food in India*, Harvard International Review, Vol. 30, No. 3 (Fall 2008), pp. 26-29.

⁶ George Cherian, *Enforcing the Right to Food in India*, ISBN 92-9190-916-5

⁷ Article 25 (1), Universal Declaration of Human Rights, 1948

⁸ Article 11, International Covenant on Economic, Social and Cultural Rights, 1976

⁹ Article 24 of the Convention on Child Rights, 1990

It further says, “*States Parties shall take appropriate measures to ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition [and] the advantages of breastfeeding . . .*”¹⁰

Article 27 of the same Convention says in paragraph 3 affirms that: “*States Parties shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing.*”¹¹

It is also to be noted that this right has been developed into what it is today after many deliberations, discussions by experts etc. for its better implementation after the mandate from the World Food Summit held in Rome in 1996. This effort was mainly initiated by UN High Commissioner for Human Rights for giving better meaning to this right and bringing out ways in which these can be better realized. The efforts lead to publication on May 12, 1999 by the UN's Committee on Economic, Social and Cultural Rights of its General Comment 12 on The Right to Adequate Food (Art. 11). This statement by the committee constitutes a definitive contribution to international jurisprudence. Paragraph 5 of General Comment 12 observes, “*Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food, inter alia because of poverty, by large segments of the world's population.*”¹²

The reference here is to the fundamental distinction between availability and access to food. This problem can be seen in India where there is over production of grains which sometimes rot but not provided to poor and hungry people.

Further Paragraph 6 presents the core definition that the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.¹³ Also, responsibilities in this regard, particularly with reference to women can be found under the Convention on the Elimination of All Forms of Discrimination against Women.¹⁴ The right to food is also at the heart of Food and Agriculture Organization's (FAO) mandate to ensure a world free from hunger.¹⁵

¹⁰ Article 24 of the Convention on Child Rights, 1990

¹¹ Article 27 of the Convention on Child Rights, 1990

¹² General Comment 12 on Art.11, ICESCR, 1976

¹³ *Ibid.*

¹⁴ Art. 12, CEDAW

¹⁵ George Cheriyan, *Enforcing the Right to Food in India*, ISBN 92-9190-916-5

Therefore, from the analysis of above provisions of various International Documents it becomes clear that Right to food has a strong legal foundation throughout world and since India is a member country of these covenants, it certainly becomes bound by obligations arising from them. These documents impose a primary responsibility on state to ensure the making of policies to improve both availability and access to food. Not only making but there must be proper implementation of such policies.

MANDATE OF THE CONSTITUTION OF INDIA

There are three Articles in the constitution of India and they are Art. 21, Art. 39(a) and Art.47, which give reference to the Right to Food.¹⁶ India has found the right to food to be both legally justiciable and deserving of national legislation. Explicitly, Article 47, located in the Directive Principles section of the Constitution, creates a duty of the State to raise the level of nutrition and the standard of living and to improve public health.¹⁷ Whereas Art. 39 (a) says: “State to ensure that all citizens have the right to an adequate means of livelihood”.¹⁸ But since Directive Principle of State Policy is not justiciable, the development of this right has been from expansive interpretation of Art. 21. The understanding of this aspect requires analysis of the circumstances prevalent at the time of drafting the Indian Constitution.

INSEPARABLE RELATIONSHIP BETWEEN FRS AND DPSPS

During framing of the Constitution, our drafters referred mainly constitution of Canada, USA, Irish Free State and British. These Constitutions pre dominantly emphasized CPR and not ESCR. ESCR do, nevertheless, occupy an important place in the Indian Constitution: India was ultimately established as a social welfare state and its Constitution has defined and recognized justice as social, economic, and political.¹⁹ But when the drafting again began after Independence ESCR were incorporated in DPSP and given non justiciable status whereas CPRs were incorporated in Fundamental Rights.

But it does not put DPSPs at any lower position than FRs and provides an inseparable relationship between the two. The Supreme Court during constitutional construction has always referred FRs, DPSPs and Preamble of the constitution. Additionally, the drafting history of the Constitution strongly suggests that the division into judicially and non-judicially

¹⁶ Constitution of India, 1950

¹⁷ Art 47, Constitution of India, 1950

¹⁸ Art. 39, Constitution of India, 1950

¹⁹ Lauren Birchfield, *Between Starvation and Globalization: Realizing the Right to Food in India*, Michigan Journal of International Law

enforceable sections was meant to be a temporary deference to India's status as a newly independent state still suffering under the weight of colonialism.²⁰ It was just to prevent infant independent state from being made accountable for all the new obligations put on it for the first time.

THE EXPANSIVE INTERPRETATION OF ARTICLE 21

The synthesis of CPR and ESCR in Indian constitution is evident from Court's interpretation of Art. 21 and the judicial activism. The Court has interpreted the right to life with dignity to include the right to food, affirmatively incorporating the right to food originally a directive principle into Article 21 and thereby transforming it into a justiciable and enforceable fundamental right. This has been made possible only because our drafters chose to keep Art. 21 language relatively broad and thus providing scope of reading DPSPs into it. But also, looking at the constitutional debates, one will not be able to find any reference to ESCR and therefore it is only judiciary that has given this article altogether a different colour. However, the interpretation of Article 21 as including the right to food is not without a constitutional basis. The drafting history of the Constitution is supportive of the flexible, human rights oriented approach to constitutional interpretation embodied by the expansion of Article 21.²¹

The judiciary has always looked to the object and purpose of the constitution as a whole and has evolved a basic principle whereby FRs shall be reviewed in light of both DPSPs and preamble. Referencing Article 37's imperative that the Directive Principles are "fundamental in the governance of the country and that it shall be the duty of the State to apply these principles in making laws,"²² judges have reasoned that they must use the Directive Principles as interpretive lenses for understanding both the Constitution and the laws passed by the legislature.²³ And therefore they have specifically laid down that Art. 21 must be interpreted in light of DPSPs.

ROLE OF THE SUPREME COURT OF INDIA

As a result of aggressive campaigns and public interest litigation, over last many years, the Supreme Court of India has monitored the battle for the right to food. The problem is so acute that the Supreme Court was forced to intervene heavily on state and central governments on

²⁰ *Ibid.*

²¹ *Supra* note 19

²² Art. 37, Constitution of India, 1950

²³ AIR 1981 SC 335

several occasions. Today, the directions issued by the Supreme Court are one of the major components for implementing the right to food.²⁴ Here some of the important cases will be discussed to highlight the Supreme Courts role.

In the case of, the petitioner wrote a letter to the Supreme Court bringing to the court's notice the extreme poverty of the people of Kalahandi in Orissa where hundreds were dying due to starvation and where several people were forced to sell their children. The letter prayed that the State Government should be directed to take immediate steps in order to ameliorate this miserable condition of the people of Kalahandi.²⁵

This was the first case specifically taking up the issue of starvation and lack of food. In this judgment, the Supreme Court took a very pro-government approach and gave directions to take macro level measures to address the starvation problem such as implementing irrigation projects in the state so as to reduce the drought in the region, measures to ensure fair selling price of paddy and appointing of a Natural Calamities Committee. However, none of these measures actually directly affected the immediate needs of the petitioner, i.e., to prevent people from dying of hunger. More importantly, the Supreme Court did not recognize the specific Right to Food. Further Further in case of *Chameli Singh*²⁶ it was held that right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical-care and shelter.

In case of *PUCL v. Union of India & Others*,²⁷ the starvation deaths had occurred in the state of Rajasthan, despite excess grain being kept for official times of famine, and various schemes throughout India for food distribution were also not functioning. In 2001, the People's Union for Civil Liberties (PUCL) petitioned the court for enforcement of both the food schemes and the Famine Code, a code permitting the release of grain stocks in times of famine. They raised contention that, whether article 21 covers right to food and thus entrusting the government with this duty? And when thousands were dying due to drought then why the government did not distribute the food and instead let it rot in the godowns. In order to deal with these issues, the Supreme Court had to deal with a no. of other fields like the National Food Security Act, Public Distribution System, Integrated Child Development Scheme, Mid-day Meal scheme. Looking at

²⁴ George Cheriyan, *Enforcing the Right to Food in India, Bottlenecks in Delivering the expected outcome*, United Nations University Journal, Nov 2006.

²⁵ Kishen Pattanayak v. State of Orissa, AIR 1989 SC 677.

²⁶ Chameli Singh v. State of U.P., AIR1996 (2) SCC 549.

²⁷ PUCL v. UOI & Others, Civil Writ Petition 196 of 2001.

the wide ambit of this case and the pronouncements on these fields this case is considered as a landmark.

The Court in this case has not just tried to justify Right to Food by bringing it under Article 21, but by also linking it to Article 39 (a) and Article 47 and although these two Articles are not by itself enforceable in the Court, they can be applied as an expression of the fundamental right to life.

This is a legally and politically important case and is one of the longest running mandamus cases of its kind. It has continued to have an increasingly positive effect in the lives of the poor and the hungry. This case has helped in asserting the right to food as a fundamental right under Article 21, which has proved to be a very valuable instrument in holding the state answerable and reduced the State's freedom to cut down on programs related to right to food.

FOOD SECURITY ACT, 2013 – A STEP OR A MERE PIECE OF LEGISLATION?

It is evident that, despite rapid economic growth, the urban livelihoods scenario is not encouraging for a significant part of the urban population, both those in paid employment and those self-employed. This has obvious implications for the access aspect of urban food security. What is particularly relevant for the absorption dimension of food security is the provision of safe drinking water, sanitation, drainage and shelter facilities. A careful examination of the data for India, as part of the FAO 2006 study, concludes that data suggest that there has not been much change in the predominantly cereal-based dietary intake in India over the last three decades, except among affluent segments of the population. In spite of increasing per capita income and reduced poverty, dietary diversity is seen mainly among the affluent. Under nutrition rates remain high; starting before birth; they are aggravated throughout infancy by poor infant feeding practices and perpetuated in childhood by poor intra-family distribution of food and poor access to health care.²⁸

THE SALIENT FEATURES OF THE ACT ARE AS FOLLOW

- Assured Food Security to BPL Families: Every BPL Family would be entitled to 25 kg food grains such as rice and / or wheat at subsidized issue prices fixed from time to time. Depending upon the availability, additional allocations of food grains may also be made at prescribed prices.

²⁸ V.B. Athreya, R. Rukmani, R.V. Bhavani, G. Anirudha, R. Gopinath, *Report on the state of Food Insecurity in Urban India* (Sept. 2010)

- Targeted Public Distribution System (TPDS): Centre and States would jointly implement a TPDS to ensure Food Security for BPL Segment. The Centre would allocate the required quantity of food grains to States in this regard.
- The State Government may, with its own budgetary allocation and independent of the TPDS, extend benefits of similar scheme to other families not covered by the Act.
- Assignment of Responsibilities: The State Governments may further assign, by notification, specific responsibilities for implementation of TPDS to the Panchayati Raj Institutions and Urban Local Bodies.
- Transparency and Accountability: The Central Government and State Governments shall take necessary steps within their respective areas of responsibility to ensure accountability and transparency in the PDS. All PDS-related records are to be placed in the public domain and open to public scrutiny.
- Allocation by Central Government: The Central Government is responsible for Procurement, Distribution and Transportation of Food grains to State Governments. In case of inability to do so, it must compensate State Governments "monetarily" through Central Food Security Fund.
- Role of State Governments: The State Governments must implement and monitor various schemes to ensure Food Security. Regarding TPDS the State Governments must "Coordinate" and "Manage" all issues pertaining to actual and effective providing of Food grains to BPL Families.
- Use of Information and Communication Technology: To make TPDS operations transparent and efficient, State Governments shall introduce use of information and communication technologies (ICT) in all TPDS transactions.
- Food Security Allowance: The concerned State Government shall also be responsible for making payment of food security allowance to identified BPL families in case of failure to supply in any month the entitled quantities of food grains to such families. Each State/Union Territory shall set up a dedicated Food Security Allowance Fund for the purpose.
- Vigilance Committees: For ensuring transparency in functioning of TPDS and accountability of the functionaries, every State Government shall set up a Vigilance Committee for each fair price shop. The Committee would certify monthly regarding compliance of the scheme.

- Social Audits: Periodic social audits of functioning of fair prices shops/TPDS and OWS shall be conducted and reports of such social audit shall be placed in the public domain as prescribed in the Rules.
- Penalties for Non-Compliance: Subject to the provisions of section 20, whosoever contravenes the provisions of this Act shall be liable for penalties as provided under Section 7 of the Essential Commodities Act, 1955. Notwithstanding anything contained in any Act for the time being in force, offences relating to PDS shall be cognizable.
- Act to have Overriding Effect: The provisions of this Act or the Schemes made there under shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law.

ARGUMENTS IN FAVOUR

Ajay Jakher of the Bharat Krishak Samaj says, farming simply isn't viable without subsidies and the Indian farmer gets a fifth of the subsidy given to a US farmer. He believes a drop in farm subsidies would lead to a fall in consumption and a drop in production. "If fertiliser subsidy is withdrawn, production could drop 18 percent," That would be catastrophic for food security. Currently, production and availability of food grain for implementing the Food Security Act does not appear to be an issue. We have had bumper crops every year — 259.32 million tonnes in 2012-13 and have enormous buffer stocks. On 1 March, India's food stocks stood at 62.8 million tonnes. Stockpiling by the FCI has led to an artificial shortage of wheat despite bumper crops and pushed up domestic prices. Food policy expert Biraj Patnaik sees no sense in building up such massive stocks at a huge cost. And then, unable to manage them, the government resorts to exports. "You are exporting food grain at subsidised rates feeding cattle and pigs in other countries instead of giving it to the poor." FCI Chairman Amar Singh admits it has lost money on exports. Given that the economic cost of wheat is Rs 19,100 per metric tonne and the minimum export price for wheat fixed by the government is in the region of Rs 16,200, the losses are estimated at Rs 1,700 crore for the previous year. According to *The Wall Street Journal*, "Global prices have tumbled in the past week below the government fixed minimum export price of \$300 a metric tonne to about \$270." Even so, the government is considering further exports to decongest its godowns.²⁹

²⁹ Amitendu Palit, *India's Food Security Bill: Grave digger or game changer?* 4 (Sept. 4, 2013) National University of

The National Food Security Act gives a right to receive food grains at subsidized prices by persons belonging to priority households and general households under the Targeted Public Distribution System. The government is bound to supply the food grains on the subsidized prices irrespective of the situation whether it is draught or flood. The National Food Security Act also casts an obligation on the state governments to provide some entitlements to some special groups like destitute persons, homeless persons or migrants and their families. If any individual who is entitled under the Act to get food grains on subsidized prices is not getting the entitled quantities or meal then such person shall be entitled to receive food security allowance from the concerned state government within such time and manner as may be prescribed by the central government.

The National Food Security Act provides for expeditious and effective redressal of grievances in matters relating to distribution of entitled food grains and meal and for this purpose a District Grievance Redressal Officer, with required staff, shall be appointed by the State Government for each District, to enforce various entitlements under this Act, and investigate and redress grievances, in accordance with the manner prescribed by the Central Government.

Jean Dreze, Visiting Professor at the Department of Economics, University of Allahabad has said that Food Security Act is an opportunity to end the leakages from the PDS and prevent wastage of public resources. The Act is an opportunity to clean up the mess of black marketing. Besides this, the act has abolished the Above Poverty Line (APL) quota and gives common entitlements to a majority of the population: 75 percent in rural areas and 50 percent in urban areas. In this new framework, people's entitlements will be much clearer, and there will be greater pressure on the system to work. Indeed, wide coverage and clear entitlements are two pillars of the fairly effective PDS reforms that have been carried out in many States in recent years. Seen in this light, the bill can be a good move not only for food security, but also from the point of view of ending a massive waste of public resources under the APL quota. Basically, PDS has been introduced to bring a sense of security in people's lives i.e. protection from hunger. A well-functioning PDS liberates people from the constant fear that it might be difficult to make ends meet if crop fails, or if someone falls ill, or if there is no work. The value of this arrangement has been well demonstrated in many States - Tamil Nadu, Chhattisgarh, Odisha, Rajasthan, among others. Whether a system of cash transfers could serve the same purpose at lower cost, and how long it would take to put in place, are issues that need further scrutiny and

debate. Meanwhile, the PDS is in place, there is a ration shop in every village, and huge food stocks keep piling up. It seems sensible to use these resources without delay. In any case, the food bill does not preclude a cautious transition to cash transfers if and when they prove more effective than the PDS.³⁰

The food security programme is a Rs. 1.25 lakh crore welfare scheme that aims to give cheap food to nearly 70 per cent of the population. The ambitious scheme will raise the annual food subsidy spending by 45 per cent. Under the scheme, rice will be available at Rs. 3 a kilogram, and wheat at Rs. 2 a kilogram. The monthly supply ranges from three to seven kilograms per person, depending on their level of income.³¹ The scheme itself shows that the government has been kind in maintaining the rate of food for the poor. Meaning thereby, a perusal of the scheme shows that the government has taken care of the status of poor people and has tried its level best to fix the rate of food at a specified price.

Food Security Act has clearly led a sheltered political life. The Act will absorb a bit less than one percent of GDP. It is a bit exasperating that critics jump to cry “unaffordable” only when the beneficiaries are the poor and the hungry, rather than the well-fed users of subsidised electricity, subsidised diesel, subsidised cooking gas, artificially cheapened fertilizers, or import-duty free gold from abroad.³²

The expenditure on providing food security will add minimally to India’s public spending which is less than what even lower middle income Asian countries spend on social protection. The National Food Security Act is a potentially revolutionary act that can have a huge impact on the economy. Well-crafted and effectively executed, it can transform the lives of people. Critics have argued that the cost of National Food Security programme is excessive. The Economic Times has referred to Food Security programme as a ‘money guzzling measure’. But this is not completely authentic. The Asia Development Bank has released a report on Social Protection in Asia covering 35 countries. It compares India with the other 18 lower middle-income countries in Asia. In lower middle-income countries, relevant expenditures (on social insurance, social assistance, and labour market programmes) are, on average, 3.4 percent of GDP. India’s is a mere half of that at 1.7 per cent. Even that low level is reached largely because of MGNREGA, not existing food security costs. Among low-income countries, the Kyrgyz Republic (whose

³⁰ Jean Dreze, *From the granary to the plate*, THE HINDU, (August 1, 2013)

³¹ Shamik Ghosh, *Mayawati lends support to Congress’ Food Security Bill, in principle*, (July 27, 2013), Available at: <http://www.ndtv.com/article/india/mayawati-lends-support-to-congress-food-security-bill-in-principle-397711>

³² Shougat Dasgupta, *Critics cry Unaffordable, only when the beneficiaries are the poor*, (July 17, 2013), Available at: <http://www.tehelka.com/critics-cry-unaffordable-only-when-the-beneficiaries-are-the-poor>

GDP per capita is only \$871 (2009)), invests eight percent of GDP in social protection. Upper middle-income countries spend four per cent of GDP on average, and high-income countries spend 10.2 per cent. Japan spends a massive 19.2 per cent of GDP on social protection and China 5.4 per cent. Even Singapore which can hardly be called populist still spends more than twice as much as India, at 3.5 per cent of GDP.³³ Government price policy can serve as an instrument of furthering the interests of poor farmers. Low and stable prices reduce poverty and vulnerabilities. So, a perusal of the above facts gives us an idea that Food Security programme launched by the government reflects the sort of help which has been provided by it to the poor. However, there have been certain critics mentioning the fact that the programme is simply a waste and is not going to help the poor people.

ARGUMENTS AGAINST THE ACT

The Food Security programme no doubt, has been appreciated and admired by lot of people, but there is no shortage of those who criticise the programme. The National Food Security Act creates the right to food as an expressed right. Apart from this, there are provisions regarding right to food but they are not sufficient because either they are not been expressly made or they are not been made justifiable so if there is violation of the right to food then there is no specific remedy available to the person who has been disintitled from his right to food. Though the coverage proposed in the act is an improvement over the existing PDS, it is lower than what was proposed in the original version put forward by the National Advisory Council (NAC). This is unfortunate because the argument for near-universal coverage is compelling. Most poor get excluded from the lists of below poverty line (BPL) households. A similar exclusion error might happen in distinguishing “priority” from “general” households. This will be the challenge for the new expert committee of the government. After all, the poor, unlike the rich, are difficult to identify. The Act has been heavily criticized for its adverse fiscal implications. Rating agencies and economists have joined hands in slamming the Government for introducing the bill at a time, when the fiscal health of the economy is precarious.

For the schemes like PDS, there is a major problem. If only those who are officially identified as poor can have access to food, then clearly the method has ensured accuracy. The prevailing method of identification is entirely unsatisfactory. There are two sets of estimates. The estimate that is linked to allocations of food grain is made by the planning commission.³⁴ Further, a

³³ Sabina Alkire, *This bill won't eat your money*, THE HINDU, July 29, 2013.

³⁴ Dr. Ruth Kattumuri, *Food Security and the Targeted Public Distribution System in India* 11.

dangerous concession by way of lowering of phytosanitary standards in the quality of wheat has been planned. This must be opposed strongly. India can spend thousands of crores to protect itself through nuclear might but can render itself completely vulnerable by losing its greatest achievement, the backbone of sovereignty food self-sufficiency.³⁵

Former Governor of Reserve Bank of India D. Subbarao has said that the impact of Food Security programme will be negative as it will put pressure on procurement, subsidy, and fiscal deficit which are closely related to growth and inflation.³⁶

Dhanraj Bhagat in his article has reflected the fact that the Government procurement price would be approximately Rs. 13.45 per Kg for rice and Rs. 12.85 per Kg for wheat. The subsidy portion works out to Rs. 10.45 per kg of rice and Rs. 10.85 per kg of wheat. When we take into account the total number of beneficiaries and the quantity of food grains that would be distributed, the burden on the exchequer is projected at a whopping Rs. 1.3 lakhs crores per year. The increase in subsidy burden will only add to the current fiscal account deficit.³⁷

People also question how the government plans to identify beneficiaries of the programme. Under an existing food program, subsidized grain is provided to individuals earning less than the benchmark poverty line, set at 33 rupees a day in urban areas and 27 rupees a day in rural areas. The new bill doesn't spell out the groups that qualify as beneficiaries or how the government plans to identify them. Food security experts have also raised concerns over distributing grains through a state-run channel riddled with irregularities and corruption.³⁸

CONCLUSION

The right to food has been recognized both internationally as well as in domestic legislations. One can see the Supreme Courts proactive role in widening the ambit of this right and therefore making Government of India realize its duties in this respect. For this it has given expansive interpretation to Article 21 of Constitution of India.

Ultimately reading the views of different scholars and researchers we can estimate a point that the Food Security Act, so formulated by the UPA government is a mixture of positives and

³⁵ *Ibid*

³⁶ Available at: http://articles.economictimes.indiatimes.com/2013-07-30/news/40895551_1_food-security-bill-ordinanceroute-fiscal-deficit

³⁷ Dhanraj Bhagat, *What Food Security Bill means for India's subsidy burden*, (July 20,2013), Available at: http://www.moneycontrol.com/news/economy/what-food-security-bill-means-for-indias-subsidyburden_921785.html

³⁸ Preetika Rana, *Fact Sheet: India's Food Security Bill*, Wall Street Journal (2013)

negatives. It will be wrong to say that the pendulum has swung in a particular direction either in favour of the positive or the negative. Every act or a programme has some good and bad qualities and so the Food Security Act has. The act, contains the provisions of providing food to the poor at a cheaper rate, but has not talked anything about the level of sanitation and the nutrition. Moreover, the government has not justified about its impact upon the economy of the country.

We see because of the long struggle we have National Food Security Act in place. It could be a game-changer for national food security if the government is able to overcome corruption and reduce leakage and wastage by involving the local bodies. Overall better results can be obtained by integrating various welfare schemes designed for the wellbeing of the poor masses. India can learn from countries such as Brazil, Ethiopia and Bangladesh, where income/food transfers were bundled with education and healthcare initiatives. The success of such initiative should be measured in terms of how many poor are able to pull them from poverty and become self-reliant in the coming years.

Another paradigm shift needed in India's food security strategy relates to nutrition security. The Food Bill has provision of free nutritious meals to children and pregnant and lactating women, which is very encouraging. Four decades ago, the Green Revolution made India surplus in wheat and rice that are high-calorie but low-nutrient food. The Act, complimented with proper implementation can reduce the problem of food insecurity in India.