

Right to Food, Food Security and Discrimination in the Indian Context

Jona Aravind Dohrmann and Sukhadeo Thorat

Summary

The right to food is a much-debated issue throughout the world. This paper shows how India has accepted the concept of a right to food through its constitution, its legislation and court decisions that give the broadest legal meaning to this indispensable human right. At the practical level, India has achieved independence regarding its food supply and is even able to export excess food grain today. Debatable policies have led to the accumulation of food stock, while at the same time most of the undernourished in the world live in India. Another aspect aggravates the situation of the needy: discrimination against certain sections of society. Part of this paper is based on a survey conducted by the Indian Institute of Dalit Studies that highlights the specific discrimination Dalits have to face when trying to avail themselves of government schemes such as the "mid-day meal scheme" or the public distribution system. The discrimination of Dalits varies from region to region. In a nutshell, the paper suggests that even though the legal framework and the means of producing sufficient food may be available, this does not mean that food is actually secured for everyone. It requires the political and societal will of various stakeholders to overcome the discriminatory situation in order to give the right to food a real meaning. NGOs may play a vital role in this process to abolish "hunger amidst plenty".

Manuscript received 2006-04-16, accepted 2006-10-02

Keywords: Right to Food, Directive Principles of State Policy, Food Security, Dalit Discrimination, Mid-day Meal Scheme, Public Distribution System

The Problem facing the country today is not one of shortage of food grains but of managing the surplus (Planning Commission of India, *10th Five Year Plan*¹).

1 Introduction

India is a country which is commonly attributed to starvation and distress, not a country of plenty. According to FAO-(Food and Agricultural Organisation-)figures, India still is home to the largest number of malnourished people in the world. The Planning Commission of India announced in its tenth Five Year Plan that the state is holding food grains surplus in its storehouses, as monsoons were good and the agricultural methods have been improved. But on a more cautious note the Commission adds, that:

¹ *10th Five Year Plan*, Chapter 3.4 (Public Distribution System), downloaded on 25th October 2006 from: http://planningcommission.nic.in/plans/planel/fiveyr/10th/volume2/v2_ch3_4.pdf.

Ironically, even as the godowns of the FCI [Food Corporation of India] are overflowing, stray cases of starvation deaths are still being reported. A civilised society in the 21st century cannot allow this to happen.²

The abundance of food grain is a misleading indicator of the Indian food grain supply situation on at least two accounts: the fact, that the godowns are overflowing insinuates that the farmers must be well and at the same time, as India is a net exporter of food grains, the population should be well-fed, which obviously is not the case. At the same time activists, jurists, non-governmental organisations (NGOs) and at times the judicial machinery itself formulate everybody's Right to Food. Many years after the "Green Revolution" which brought India self-sufficiency, food security is once again widely discussed among various circles and on different levels.

This article highlights the strongly emerging demand for the Right to Food as an inalienable Human Right of every Indian citizen as well as the food situation in India. Issues of Right to Food and Food Security are in turn closely knit and entangled with the discrimination of certain sections of the Indian society – here the Dalits –, who in spite of state support, are discriminated against and thus deprived of one of the most indispensable Human Rights. The first seven chapters will focus on the legal status of the Right to Food based on the overarching concept of the Right to Development, on how the Indian state has taken cognisance of this concept and has through various means attempted to secure for its citizens a degree of Food Security. Chapters eight to ten will then show how in spite of food surplus and in spite of targeted government poverty alleviation programmes the ultimate aim of Food Security has been frustrated in regard to the Dalits.

The emphasis will lie on the access of Dalits to important programmes like the Mid-day Meal Scheme (MMS) and the Public Distribution System (PDS). Based on a survey of the Indian Institute of Dalit Studies (IIDS), the paper goes on to show that tradition and customs concerning Dalits hinder the effectiveness of the otherwise praiseworthy food delivery system as the Dalits encounter widespread discrimination in varying degrees while accessing these public services. The concluding remarks in chapter eleven suggest that though there may be sufficient legal framework, though Food Security may have been achieved to a high degree, the societal treatment of certain sections of the Indian society frustrate the goal of Food Security for all in a very specific way.

2 The Human Right to Food

2.1 Right to Development as the Overarching Right

The Human Right to Food must be seen in the larger context of the overarching Right to Development. The broader stream of discussion concerning Human Rights

² 10th Five Year Plan, Chapter 3.4.1, p. 365.

emerged immediately in the aftermath of the Second World War. But the discourse on this today well-known category of rights initially failed to combine with the simultaneously budding discourse on development.³ The Right to Development itself is very intricate as it has an individual as well as a collective component which distinguishes it from the earlier known "classical" Human Rights. The Right to Development is, speaking in legal terms, not accepted as a right in the normative sense. It is much rather a formation or structure which has been created as a Human Right by the United Nations (UN) whose conceptions are diverse and still prone to constant change and alteration.⁴ The adoption by the United General Assembly of the Declaration on the Right to Development in 1986 was the culmination point of a long process of re-establishing the unity of Human Rights. The unity split up in the sequel of the Second World War when two categories emerged: the Civil and Political Rights and the Economic, Social and Cultural Rights. Therefore the originally all-encompassing Universal Declaration of Human Rights, 1948, which enumerated all Human Rights within a single document, was complemented with two distinct legally binding instruments: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In all this a link between the discourse on Development and Human Rights was missing. This gap was filled by the concept of Right to Development. The full meaning of the Right to Development can only be understood if one transcends the narrow meaning of "right" as an instrument with solely legalistic force.

2.2 The Right to Food as Part of the Right to Development

A triad of rights (Food, Health Care and Education) has been identified for immediate action as part of the process in realising the Right to Development. For our purpose, we just concentrate on the Right to Food which is complementary to the "Mother" of Human Rights which is the non-derogable Right to Life. The Right to Food is recognised in many international instruments, of which the Universal Declaration of Human Rights, 1948, (UDHR) is supreme. Art. 25 UDHR runs thus:

1. 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, housing and medical care and necessary social services [...].⁵

In order for the Right to Food to have any meaning for its subjects, two conditions must be fulfilled: food must be available and accessible. It is not enough for food to be physically available. To achieve adequacy it must further:

³ A good and comprehensive overview on the Right to Development is found though in German Language in Holger Scharpenack, *Das "Recht auf Entwicklung"*, Peter Lang, Frankfurt am Main 1996, p. 21-59.

⁴ Scharpenack (1996), p. 277.

⁵ Further sources of the Declaration of the Right to Food may be found in CDHR (2003), pp. 74-75.

- satisfy dietary needs (energy and nutrients including the micronutrients like iron, vitamin and iodine);
- be culturally acceptable (fit in with prevailing food or dietary culture);
- be safe (free of toxic elements and contaminants);
- be of good quality (in terms of, for example, taste and texture).⁶

Accessibility encompasses both physical and economic ease of access whereby the *economic accessibility* implies that the personal or household financial cost associated with the acquisition of food for an adequate diet should not be so high as to endanger the accessibility of other basic needs. *Physically* food must be accessible to everyone in a reasonable reach from their respective home, at a reasonable time under reasonable conditions. Also, an element of *sustainability* should be observed, which means that the long-term availability and accessibility of food must be safeguarded.

Naturally the Right to Food has to be embedded in the state's constitution or guiding principles so that the state has to look towards the welfare of its subjects. The times, when the state was mainly guaranteeing security and order as well as protection against external aggressors,⁷ are long gone. Nowadays, the state shall not only vouchsafe for individual rights, as John Locke was still demanding in the end of the 17th century.⁸ The constitutional development in most states in the last century reveals a tendency towards specifying the obligations of the state and directing state action towards a certain goal. Thereby, minimalist constitutional models, which guarantee only basic Fundamental Rights, are more and more abandoned in favour of constitutions which not only provide for a state order but also for a social order. Thus in the context of Right to Food it is the state's obligation to

- *respect* existing access to adequate food and not to take any measures that result in preventing such access;
- *protect* the individual from being deprived of his access to adequate food, may it be by enterprises or individuals or the state itself;
- *facilitate* people's access to and utilisation of resources and means to ensure their livelihood, including food security;
- *provide* the Right to Food – if necessary – directly, whenever an individual or a group is unable, for reasons beyond their control, to enjoy the aforementioned

⁶ CDHR (2003), p. 86.

⁷ Jain, *Indian Constitutional Law*, 4th Edition Wadhwa Nagpur 1994, p. 737; see also Seckendorff, cited in: Karl-Peter Sommermann, *Staatsziele und Staatszielbestimmungen*, Siebeck Mohr Tübingen 1997, p. 14: "die innerliche Ruhe des Landes und Sicherheit von den Feinden" ["internal peace of the country and security regarding enemies". Translation by Jona Aravind Dohrmann].

⁸ John Locke, "The Second Treatise of Civil Government", cited in: Karl-Peter Sommermann (1997), p. 31: The *raison d'être* of the State used to be reduced to: "the mutual preservation of their lives, liberties and estates." Or differently put: "The great chief end, therefore, of men's uniting into commonwealths and putting themselves under government is the preservation of their property."

right by means at their disposal. This obligation also applies for persons who are victims of natural or other disasters.

According to the UN's reading a state is considered having violated the Right to Food when it has failed to "ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger".

Even if it is not the state's fault to comply with its obligation to ensure the Right to Food it has to demonstrate to the Committee on Economic, Social and Cultural Rights (CESCR) that it "has done everything in its power to ensure access to food, including appealing for support to the international community". Violation of the Right includes discrimination in the access to food as well as to means and entitlements for its procurement "on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status."⁹

Although International Covenants may sound conducive for and protective of the Right to Food, these are not worth its paper unless they have been translated into indigenous law, either by signing, ratifying and implementing these normative exigencies or promulgating similar rules as the law of the land. India has done both.

2.3 Right to Food in Indian Law

Much before signing any of the International Covenants¹⁰ India gave itself a legal framework with a welfarist notion. The Indian Constitution guarantees all the basic rights identified in the Universal Declaration of Human Rights in its section pertaining to Fundamental Rights (Part III of the Constitution). Beyond the classical freedoms and assurances the Constitution expressly provides for socio-economic rights although formulated as non-enforceable directives or goals for state action in its Directive Principles of State Policy (Part IV). In this regard, Art. 39 lit. a and Art. 47 of the Indian Constitution are most prominent.¹¹ While Art. 39 lit. a requires the state to secure for its citizens the right to adequate livelihood, Art. 47 obliges the state to raise the quality of life through enhancing the level of nutrition and more generally the standard of living. As these socio-economic rights are mere Directive Principles, they are not, at least not directly, enforceable by any court of law. This has also long been recognised by the Supreme Court of India.

⁹ UN Committee on Economic, Social and Cultural Rights in its General Comment No. 12 of 1999 on the right to adequate food (GC 12: Para 15).

¹⁰ For a list of those refer to CDHR (2003), p. 124.

¹¹ Art. 39. Certain principles of policy to be followed by the State. – The State shall, in particular, direct its policy towards securing.

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood [...].

Art. 47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health. – The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties [...].

But the Indian Apex Court has gone a long way in elaborating its stand on the Directive Principles. In the Indian jurisprudence, there was an extensive debate revolving around the two legal categories of Fundamental Rights and the Directive Principles of State Policy. Whereas it was obvious that Fundamental Rights are directly enforceable by way of invoking the High or Supreme Court according to Art. 226 and 32 of the Indian Constitution, the exact position concerning the Directive Principles had to be evolved. Only very few eminent Indian jurists understood the intricacies of both categories of laws and distinguished between enforceability of rights and their power of legal bindingness or justiciability. Whereas the mostly socio-economic rights are justiciable, in the sense that a court of law would take cognisance of them, the Directive Principles are not offhand enforceable, which means that nobody can derive any subjective right from them. Until the Supreme Court by way of its discretionary powers to create law itself read the Directive Principles more and more "into" the Fundamental Rights, the Directive Principles had no real significance. The Supreme Courts with its wider stance began utilising the socio-economic rights to illuminate and expand the meaning of the Fundamental Rights.¹²

Thus the courts in India arrived at reading obligations from the Directive Principles into Fundamental Rights of Part III, especially into the Right to Life promulgated in Art. 21. In this way the Supreme Court declared that the Right to Livelihood is an integral facet of the Right to Life.¹³

The joint reading of Art. 21 together with Art. 39 lit. a and Art. 47 places the issue of Right to Food on a high constitutional level, or as the National Human Rights Commission puts it "in the correct perspective, thus making the Right to Food a guaranteed Fundamental Right which is enforceable by virtue of the constitutional remedy provided under Art. 32 of the Constitution."¹⁴ This reading of a Right to Food is surely too enthusiastic. A Fundamental Right can only be conferred to its subjects when promulgated in the constitution. Supportive Court orders are certainly helpful, but they are in no way a substitute for a guaranteed right. Right to Food activists will experience a breakthrough only when, like in the case of the Right to Education, Supreme Court rulings were forged into Art. 21A which guarantees that the state shall provide free and compulsory education to all children of the age of six to fourteen years. Even the Supreme Court of India is in a deplorable situation in safeguarding any kind of Right to Food. In the leading case regarding this right –

¹² Vide Dohrmann, *Directive Principles of State Policy in der indischen Verfassung*, ERGON, Würzburg 2002, p. 249-252 (English summary of the findings in the German doctoral thesis paper).

¹³ Art. 21. Protection of life and personal liberty. – No person shall be deprived of his life or personal liberty except according to procedure established by law. See *Narendra Kumar v. State of Haryana*, JT (1994) 2 SC 94.

¹⁴ Case No. 37/3/97, Proceeding of the NHRC dated 17.03.2003, p. 12-13; FIAN reiterates the same words obviously derived from the NHRC in its Document d 39e, *Update on the Enjoyment of the Right to Food and Water in India*, FIAN Publication, Heidelberg 2004, p. 7/8.

People's Union for Civil Liberties (PUCL) vs. Union of India¹⁵ – the highest Indian court referred to its earlier orders beginning from 28.11.2001 and was at pains to observe that its orders directed and the Union of India to enforce a famine code and to immediately release surplus food grains had not been complied with by some state governments.¹⁶ Thus, the legal battle for the Right to Food in India is not won yet.

3 State Intervention as a Means of Securing Food

Securing the Right to Food, be it a constitutionally guaranteed right or not, requires in any case that the state has sufficient stock and resources regarding the essential food grains. India's state intervention in the food market commenced in the mid-1960s. The interventionist approach was sparked of by the famine of 1966/67. The government wanted to give the farmers an incentive to enhance their production. The measures included *inter alia*: a) Price guarantees for producers (System of Minimum Support Prices = MSP); b) continuous price stability through interventions in the open market; c) accumulation of sufficient food stock and d) distribution of basic nutrition at moderate prices (Public Distribution System = PDS) through state or state licensed agencies (Fair Price Shops = FPS). After the aforementioned famine the Indian government wanted to ensure that Indians would never have to starve again. It was also necessary to feed an ever growing population. At the time of Independence there was a population of 350 million Indians, which grew to more than one billion until 2001. The Institute of Economic Growth expects further growth till the year 2025, when the population is projected to be 1.4 billion people.¹⁷ To achieve food security the government aimed at balancing yearly and seasonal price fluctuations by guaranteeing the producers of food grains a Minimum Support Price. At the same time the consumer prices were to be controlled and kept on a low level, whereby the poorest of the poor should avail of food at a subsidised rate.

To a certain extent the state intervention was successful. India now boasts of being a net exporter of food grain. At first, these policies led to stable prices, although the positive effects were mostly seen in irrigated areas. Unfortunately, the interventionist policies have evoked a situation in the 1990s in which the fiscal capacities are overburdened and in which the demand for food grain is ironically declining fast. This in turn has created the accumulation and overflowing of the national food re-

¹⁵ *PUCL vs. Union of India*, (2001) 7 SCALE 484.

¹⁶ For a brief overview of the development in the PUCL-case vide *Annual Survey of Indian Law 2004*, p. 544.

¹⁷ P. N. Mari Bhat, "Demography", in: R. K. Sinha (Hrsg.), *India 2025: Social, Economic and Political Stability*, Shipra Publications, New Delhi 2004; Registrar General & Census Commissioner, India on: www.censusindia.net (downloaded on 08.05.2005).

serves in the godowns of the Food Corporation of India (FCI). Surplus co-exists with severe cases of malnutrition.¹⁸

4 Intervention Since the 1990s

Any kind of interventionist policies must strike a balance between demand, purchase price and distribution price. Until the economic reforms of 1991 the MSP was almost entirely aligned according to the domestic market. The key factor was the cost of production neglecting international pricing. This led to lower MSP than what was being paid in the world market. Farmers and producers of food grain were up in arms as they pointed out that the MSP in reality meant a secret taxation in their regard. In the end, the government succumbed to the pressure exerted on them by this influential vote bank and raised the MSP considerably. Thus, the procurement price for wheat was hiked by more than 20 per cent in the years 1990-91, 1991-92 and 1992-93 each. In the financial year 1996-97 the wheat price was again raised by another 25 per cent. The price for rice also was raised significantly. Between 1989 and 1994, the government augmented the MSP between 11 and 17 per cent annually. These subsidies totally ignored the demand side and the production cost. What is even more astonishing, is, that the government continued this policy even at a time when international prices were falling rapidly from 1997 onwards.¹⁹

5 Accumulation of Food Stock

The Indian government intervenes also in another way in the food policy. Through the accumulation of food stock the government tries to avoid future famines. According to the rules and regulations pertaining to buffer stocks the central government together with the state governments have to maintain a certain level of food grains in its store houses at given cut-off dates in every year (vide table 1). It is self understood that these benchmarks cannot be adhered to exactly. There is always bound to be a degree of fluctuation which is not harmful as long as surpluses in one year are compensated in another. Persistent overriding of the required food stock on the other hand gives reason to question the food policy. Table 1 shows the development of food grain stocks between 1992 and 2006 as well as the deviation from the benchmark.

In the years 1992 to 1997 the food stock oscillated more or less close to the promulgated target. Initially, surpluses of previous years were reduced swiftly, latest within two years. There was hardly any deficit in this period. But since 1998, there is a stark upward trend leading to triple the amount of stocks required. Excessive stock

¹⁸ According to World Bank figures, around 20 per cent of the Indian population is malnourished (World Bank (2002), *World Development Indicators 2002*, World Bank, Washington DC).

¹⁹ Ramesh Chand, "Whither India's Food Policy?", in: *Economic and Political Weekly (EPW)* 2005, p. 1056.

cost the taxpayer dearly²⁰ regarding storage, interest and maintenance of the godowns as well as the depreciation and quality loss of food which has been stored for a long period.

Table 1: Central Food Grain Reserves Between 1992 und 2006 in Million Tonnes

Year	January (Actual)	Deviation	April (Actual)	Deviation	July (Actual)	Deviation	October (Actual)	Deviation
Target 1992 till 1998	15.4		14.5		22.3		16.6	
1992	13.9	- 1.5	11.1	- 3.4	13.9	- 8.4	9.5	- 7.1
1993	11.8	- 3.6	12.6	- 1.9	24.2	+ 1.9	20.9	+ 4.3
1994	22.0	+ 6.6	20.5	+ 6.0	30.7	+ 8.4	26.5	+ 9.9
1995	30.1	+ 14.7	26.8	+ 12.8	35.6	+ 13.3	29.8	+ 13.2
1996	28.5	+ 13.1	20.9	+ 6.4	27.0	+ 4.7	19.8	+ 3.2
1997	20.0	+ 4.6	16.4	+ 1.9	22.4	+ 0.1	15.3	- 1.3
1998	18.3	+ 2.9	18.2	+ 3.7	28.5	+ 6.2	24.2	+ 7.6
Target 1999 till 4/2005	16.8		15.8		24.3		18.1	
1999	24.4	+ 7.6	21.9	+ 6.1	33.1	+ 8.8	28.0	+ 9.9
2000	31.4	+ 14.6	21.7	+ 5.9	42.2	+ 17.9	40.0	+ 21.9
2001	45.7	+ 28.9	44.7	+ 29.7	60.4	+ 36.1	58.3	+ 40.2
2002	58.0	+ 41.2	51.0	+ 35.2	62.5	+ 38.2	51.4	+ 33.3
2003	48.2	+ 31.4	32.8	+ 17.0	35.2	+ 10.9	23.7	+ 5.6
2004	24.4	+ 7.6	20.0	+ 4.2	29.9	+ 5.6	20.3	+ 2.2
2005	21.6	+ 4.8	-----	-----	-----	-----	-----	-----
Target since 4/2005	20.0		16.2		26.9		16.2	
2005	-----	-----	17.4	+ 1.2	24.5	- 2.4	15.1	- 1.1
2006	18.8	- 1.2	N. A.		N. A.		12.4	- 3.8

Source: Updated from table 1 from Chand (2005) in EPW, p. 1056, with the help of (free) official websites of the Ministry for Consumer Affairs, Food & Public Distribution (Department of Food & Public Distribution) and the Food Corporation of India (last seen on 31st October 2006): http://fcamin.nic.in/dfpd/EventDetails.asp?EventId=1119&Section=Annual%20Report&ParentID=1119&child_continue=1&child_check=0; [http://fciweb.nic.in/stock_management/stock_ma](http://fciweb.nic.in/stock_management/stock_management.htm)
[nagement.htm](http://fciweb.nic.in/stock_management/stock_ma)

Soaring reserves may have various reasons: increase in crop, reduction of dependency on state food distribution system or the decline of the net import or a melange of all these factors. Table 2 shows the wheat production and its availability.

In the 1970s and the 1980s, production grew faster than the population. The quotient of per capita production per year in table 2 shows that the cereal production²¹ per person was then relatively stable in the decade from 1992 onwards.

²⁰ In 2000, the costs for storage amounted to around EUR 500 million; vide Dohrmann (2002), p. 207.

²¹ Cereals include wheat, rice (*paddy*), barley, maize, rye, oats, millet (*Sorghum*) and "others".

Table 2: Production, Import and Availability of Cereals (1992-2001)

Year	Population (million)	Net production (million tonnes)	Net import (million tonnes)	Quotient of per capita production per year (Production / population)	Per capita net availability per day (grams)
1975	603.5	78.6	+ 7.5	0.1302	365.8
1976	617.2	94.5	+ 0.7	0.1531	373.8
1977	631.3	87.3	+ 0.1	0.1382	386.3
1978	645.7	100.1	- 0.8	0.1550	422.5
1979	660.3	104.8	- 0.3	0.1587	431.8
1980	676.6	88.5	- 0.5	0.1308	379.5
1981	688.5	104.1	+ 0.5	0.1512	417.3
1982	703.8	106.6	+ 1.6	0.1515	415.6
1983	718.9	103.0	+ 4.1	0.1433	397.8
1984	734.5	122.0	+ 2.4	0.1661	437.8
1985	750.4	116.9	- 0.3	0.1558	415.6
1986	766.5	119.9	- 0.1	0.1564	434.2
1987	782.7	115.2	- 0.4	0.1472	435.4
1988	799.2	113.2	+ 2.3	0.1416	411.8
1989	815.8	136.6	+ 0.8	0.1674	452.6
1990	832.6	138.4	0.0	0.1662	435.3
1991	851.7	141.9	- 0.6	0.1666	468.5
1992	867.8	136.8	- 0.7	0.1576	434.5
1993	883.9	145.8	+2.6	0.1650	427.9
1994	899.9	149.6	+0.5	0.1662	434.0
1995	922.0	155.3	-3.0	0.1684	457.6
1996	941.6	147.1	-3.5	0.1562	442.5
1997	959.8	162.0	-0.6	0.1688	466.0
1998	978.1	156.9	-2.9	0.1604	414.2
1999	996.4	165.1	-1.5	0.1657	429.2
2000	1,014.8	171.8	-1.4	0.1693	422.7
2001	1,033.2	162.5	-4.5	0.1573	386.2
2002	1,050.6	174.5	-8.5	0.1661	458.1
2003	1,068.2	143.2	-7.1	0.1341	408.5
2004 (Provisional)	1,085.6	173.7	-7.7	0.1600	427.4

Source: *Economic Survey of India 2005-06* to be seen under <http://indiabudget.nic.in> (last seen on 31st October 2006).

The reason for this was that the growth rate of the cereal production was concurring with the population growth. Thus the increasing food stock cannot be traced back to production growth. Import of cereals also does not account of for the growing reserves as India is a permanent net exporter of food grain since 1995. But it is conspicuous that just in this period towards the end of the 1990s the availability per

person has tremendously dropped. The availability dropped from an all-time high of 468.5 grams per person per day in 1991 to just 386.2 gram per person per day in 2001. Of course, this trend was revised remarkably from 2002 onwards. Hence, the reasoning behind the ever accumulating food stock is to be searched in the reduced food off take. Why then, did the availability plummet so deeply from the end of the 1990s? Why did the food grain pile up in the godowns rather than being consumed?

6 Reasons for the Decline in Demand

Basically the Indian consumer covers his basic food necessities from purchases in the open market (91 per cent) as well as to some extent in Fair Price Shops. Availability of cereals reached its peak in the year 1991 with 468.5 grams. It then remained on the slightly higher side only to fall to a low level of 386.2 grams per person per day in 2001. Since 1998-99 there also is a sharp decline in the availability of cereals in the Fair Price Shops (FPS). From a high at 44.68 grams the figure diminished to only 27.73 grams in 2000-2001. As research by Chand reveals, the reasons for this development are to be found in the reduced demand for cereals owing to their price development.²² In the decade from 1980 to 1990 the increase in price for wheat and rice was partly significantly below the Consumer Price Index. In the following decade till 2000 the situation changed considerably to the detriment of the consumer. The procurement, the wholesale market and sales price touch the Consumer Price Index.

More astonishing is the fact, that the prices in the Public Distribution System (PDS) surpass the increase in living costs remarkably. This means, that the procurement cost for wheat and rice has been comparably low in the 1980s. In the 1990s, the wheat and rice price hiked equally and then surpassed the Consumer Price Index. These developments are a starting point for the explanation why the demand for basic food commodities has sunk drastically, although the per-head production has remained stable as could be seen from table 2. The off-take from FPS thus has declined due to the sharp rise of the PDS price which increased thrice as fast as in the second comparative decade (1990-2000). This unsurprisingly had a negative impact on the demand as the price difference between the open market and the FPS was narrowed down beyond the "incentive threshold" to avail of the PDS. This trend was not even interrupted when there were low harvests in 2000-2001. Against that, the demand in the FPS rose in the year 2001-2002 when PDS prices were slashed by 27 per cent.

Recapitulating the aforementioned regarding the accumulation of basic food commodities, it can be held, that the increasing per-head cereal production in the 1970s and the 1980s was accompanied by an increasing per-head consumption. This synchronous development was enabled by the stable prices in the food market, in the

²² Chand, pp. 1057f.

open market as well as in the FPS. Prices for livelihood commodities rose more moderately than those of other consumer goods. This meant that cereal prices were effectively sinking. In the 1990s, there was a paradigm shift. The demand-side could not keep pace with per-head production after the state more and more took to interventionist policies in the field of food production. In effect, this discharged into the vicious circle of rising sales prices in the open market as well as in the FPS, which in turn resulted in a reduced demand of basic food commodities. Eventually the factors mentioned, created a situation in which the state started – maybe against its will – accumulating ever larger food reserves, although the production was not enhanced.²³ However, in the last few years, with policies targeted more towards the needy the course could be altered.

7 Food Secured?

Catching up with parts of the title of this article, it can be asked whether food is secured for the teeming millions of Indian people. Policy-makers of every stratum were making promises in this regard, like the previous BJP-led NDA government, which in its Agenda for Governance (1998) stated, that it would "ensure food security for all [and] create a hunger-free India in the next five years".²⁴ These election campaign promises have not been observed by the NDA government. Especially during the reign of the BJP in Delhi the food supply situation and along with that the food security for the most disadvantaged groups was further aggravated. This can be proven through the gradual but steady decline in demand for cereals.

According to current research conducted by the Food and Agricultural Organisation (FAO) roughly one fifth of the Indian population has to suffer chronic hunger. In fact, India is one out of 17 countries in which the number of malnourished persons has risen significantly in the latter half of the 1990s. In three comparative time periods of three years each – 1990-92, 1995-97 and 1999-2001 – the FAO has recorded incidences of hunger which at first declined from 214.5 million to 194.7 million people after which the trend was reversed and the number of undernourished reached again old heights of 213.7 million people. The Indian Nobel Prize Laureate Amartya Sen (together with Jean Drèze) has found out that approximately half of the Indian children are undernourished. More than half of the adult Indian women suffer under anaemia. Anaemic pregnant women then run the risk of giving birth to malnourished babies. Here, gender and discrimination questions are woven into the

²³ For more details (in German) see Dohrmann, "Ernährungssicherung in Indien", in: *Südasieninformationen* Nr. 10, December 2005, last seen on 28th October 2006 and downloadable from http://www.suedasien.net/publikationen/infos/nr10_nahrungssicherung.pdf.

²⁴ <http://www.bjp.org/nagenta.htm#food> (last seen on 28th October 2006).

food issue.²⁵ Some newspapers assert that the food supply for the underprivileged group is worse than during the The Great Bengal Famine.²⁶

Drèze and Sen criticise in the concise and pointing chapter 'Hunger amidst Plenty' of their latest research regarding India's development²⁷ that the food stock which is meant to mitigate any shortfall in food supply is not utilised in an earmarked way, as they are being accumulated at the cost of the poor who at the same time are excluded from the benefits of the PDS. They especially disapprove of the government's opinion according to which the high Minimum Support Prices have a distributional effect. Obviously, the government still believes high food prices do support the needy, because the food production is the basis of most people's livelihood earnings. This argumentation is at best incomplete, if not absurd, as by far the most people cover their daily food necessities on the market. These are Indians who are to be seen at every corner in daily life, such as daily wages and migrant workers, slum dwellers, riksha-wallahs, craftsmen, sweepers etc. They are very much prone to high and rising prices. Admittedly, the farming sector functions like a "sponge" (Rothermund) which soaks up the vast availability of workforce. But most of these workers are daily wages workers or small scale farmers who both permanently or in times of crisis have to meet their requirements on the markets and are exposed to any price development. Lower purchase costs for food would therefore benefit this section of the society directly.

Unfortunately, the Indian government in the past sent out wrong signals to the producers and bought cereals in huge quantities, even in times of famine. The prices should under all circumstances be kept stable – on a high level. One has to concede, though, that the government has tried to ameliorate the situation of drought-stricken farmers through employment and poverty alleviation programmes. However, the income-generating effects were swallowed up almost entirely by the high food prices. Sen and Drèze have through all the years been faithful to their long-standing argumentation and still assert, that positive development impacts have to be initiated and directed by the state. But they do not regard state intervention as a gigantic subsidy machinery which satisfies the interest of a few. Both scientists concede that food security will not be achieved just through governmental providence and planning. In their opinion it will be indispensable to create strong antipoles in the form of political outfits of the underprivileged against the established stakeholder from the farmers' side. In this regard, there will also be an important role for non-governmental organisations (NGO) to play. Wherever there are state supported programmes or wherever there should be state responsibility for its citizens, NGOs like

²⁵ Drèze and Sen (2002), p. 336.

²⁶ This was in 1943 under the British Rule. The estimated death toll is said to have been around three million.

²⁷ Drèze and Sen (2002), p. 336-340.

FIAN²⁸ or discussion forums like India Together²⁹ can and have to establish publicity in order unveil failures and shortcomings. Hereby, the desideratum for appropriate food has to be understood as a right or entitlement. This will show a paradigm shift in the notion of the Right to Food: this right will not any longer be understood as concession of the rich towards the have-nots, but as inalienable right of every human being. Although – as shown earlier – the Right to Food cannot yet be regarded as a recognised Fundamental Right, every promotion of the Right to Food can build on the Supreme Court's perception of this right which regards the Right to Food as an integral part of the Right to Life which is safeguarded in Art. 21 of the Indian Constitution.

Even the previous Indian government had already recognised the necessity to alter the state directed food policy in the *10th Five Year Plan* of the Planning Commission with a remarkable openness. Eventually, the Planning Commission also subscribes to the view and argumentation of Sen, Drèze and FIAN, according to which the allegedly sufficient and abundant food surplus in the godowns of the Food Corporation of India and its regional outlets will not suffice to feed the most vulnerable groups of population appropriately in future. The Commission admits that,

the capacity of the poor to purchase food can be ensured in two ways – by raising the incomes or supplying food grains at subsidised prices. While employment generation programmes attempt the first solution, the PDS is the mechanism for the second option.³⁰

The aforementioned contemplations and plans still hail from the reign of the BJP-led National Democratic Alliance (NDA). It is to be welcomed that still under the auspices of the old government, which was mainly responsible for the abundant procurement of the last years, a paradigm shift in food policy was considered. The United Progressive Alliance (UPA) under the tutelage of the Indian National Congress (INC) has positioned itself as the government of the poor and rural people, thus refuting the "Shining India" campaign of the predecessor government. It has to be awaited, whether the INC with its coalition partners can fulfil the hope and aspirations of the poor and needy at least to a certain degree. First available data (see tables 1 and 2) suggest that the government is on the right path to reducing its enormous stocks making these available for the people.

8 Discrimination

Having discussed the Right to Food and the state's obligation and capacity to give meaning to the Right to Food, this overview regarding food-related matters in India would be incomplete without referring to severe discriminatory practices which can be observed on a daily basis. As a customary system of social and economic govern-

²⁸ Food First Information & Action Network: www.fian.org (last seen on 28th October 2006).

²⁹ www.indiatogether.org (last seen on 28th October 2006).

³⁰ Drèze and Sen (2002), p. 367.

ance based on graded hierarchy, caste in Indian society lives in tension with the legal system of the Indian state, which is based on ideals of liberty and equality. Dalits, i.e. the Scheduled Castes or "untouchables" constituting almost one-fifth of the Indian population, suffer most acutely from the socio-economic violence of the caste system, which prescribes their position as uniquely at the bottom of the graded hierarchy. In response to the growing Right to Food movement of recent years, the Supreme Court has required the central government, when introducing new food-related schemes in response to drought, unemployment, starvation, and so forth, to include specific provisions to prevent caste discrimination and exclusion in the implementation of these programs. Conventional caste forces, however, are often able to subvert, evade, hijack or manipulate the progressive legal framework of the state, nullifying the transformative potential of its anti-discriminatory measures.

Even in government schemes designed specifically for the welfare of communities traditionally discriminated against, members of those communities often find themselves excluded both from participation/partnership in the implementation of the scheme, as well as from the material or other benefits of the scheme. This is notably the case in Right to Food-related government programs such as the Mid-day Meal Scheme (MMS) and the Targeted Public Distribution System (TPDS). The Indian Institute of Dalit Studies (IIDS), therefore, undertook a study to look at caste discrimination and exclusion against Dalits specifically in the implementation of these Right to Food-related government welfare schemes. The purpose of the IIDS survey was to obtain an accurate, current, ground-level view of how, where, and to what degree caste discrimination and exclusion operate in the above-mentioned government programs as they are implemented in villages across India.

9 The Mid-day Meal Scheme

In November 2001, in response to a Public Interest Litigation filed by the People's Union of Civil Liberties (PUCL), Rajasthan, the Supreme Court of India ordered all state governments to implement the central government's lagging 1995 National Programme of Nutritional Support to Primary Education, providing free, cooked meals to all children in government primary schools, within six months. Till today, not all states are complying with this directive.

The IIDS surveyed data from three states in which the MMS has been implemented (Rajasthan, Andhra Pradesh and Tamil Nadu) will provide the substance of the following discussion. Later and separately, the manifestations of exclusion and discrimination evident in Bihar and Uttar Pradesh's pre-MMS system of distribution of dry grain will be discussed. Altogether 531 villages were surveyed in the IIDS study; Bihar and Uttar Pradesh (MMS non-implementing states) account for 225 of the villages, while Rajasthan, Andhra Pradesh and Tamil Nadu (MMS implementing states) account for 306 villages. IIDS survey data clearly identifies the strong points and shortcomings of the MMS as it is being conducted in India today, in terms of

exclusion and caste discrimination as barriers to Dalit attainment of the Right to Food. A review of this data highlight the primary issues Dalits face in the MMS, and brings forth interstate variations that indicate possible solutions.

Access to the Mid-day Meal Scheme is first and foremost contingent on the implementation of the scheme by state governments. On this point, Uttar Pradesh and Bihar, where one third of India's Dalits live, deny Dalit and other poor children access to their legislated entitlements from the very beginning, by simply refusing to implement the shared, cooked, Mid-day Meal Scheme. In the distribution of dry grains to government school children that continues to substitute the MMS in Bihar and Uttar Pradesh, regularized corruption and caste-based discriminatory distribution are widely reported, and in some cases outright exclusion of Dalit children from distribution is reported. Uttar Pradesh and Bihar, then, are currently blocking, rather than facilitating, Dalit children's access to food through the MMS.

The governments of Rajasthan, Andhra Pradesh and Tamil Nadu, on the other hand, have achieved the initial step towards access, by implementing the MMS. Out of 306 villages surveyed in these three states, 301 villages, or 98.4 per cent, have a functioning MMS in the government school in their village. A functioning MMS, however, does not always assure access. In a small number of respondent villages in Andhra Pradesh and Tamil Nadu, Dalit children are completely barred from functioning MMS by dominant caste communities.

A second critical factor affecting Dalits' access to the MMS is the setting and location of the program. About 93 per cent of respondent villages in Rajasthan, Andhra Pradesh and Tamil Nadu hold the MMS in the school building itself, as is appropriate. Requiring immediate relocation, however, are two villages in Tamil Nadu in which the MMS are currently held in temples, spaces from which Dalits are excluded. In Uttar Pradesh, on the other hand (data is not available for Bihar), in only 57 per cent of respondent villages is the pre-MMS distribution of dry grain to government schoolchildren conducted in the school building itself, while in another 37 per cent of villages it is conducted in "(an)other place", unacceptably often the home or shop of the PDS dealer.

If the physical setting of the MMS is important, the locality in which that space is situated is equally if not more significant. Rajasthan and Tamil Nadu have very low percentages of villages in which the MMS is held in a Dalit locality (12 per cent in Rajasthan and 19 per cent in Tamil Nadu), whereas villages in more than double that percentage in both states hold the MMS in dominant caste localities. In notable contrast, 46 per cent of respondent villages in Andhra Pradesh hold the MMS in a Dalit locality, which goes a long way toward assuring Dalit access, and should help erode dominant caste prejudices against entering Dalit localities. In Uttar Pradesh, in 85 per cent of respondent villages, the distribution of dry grain to government school children takes place in dominant caste localities, while in less than 10 per cent of villages is the distribution conducted in Dalit localities. In Uttar Pradesh, Rajasthan

and Tamil Nadu, then, the vast majority of Dalit children must enter an area of heightened vulnerability, tension and threat, in order to avail themselves of the Mid-day Meal or its dry grain equivalent. Access for Dalit children is thus conditional, and hostage to the fluctuating state of caste relations in the village or region.

In measuring Dalits' participatory empowerment in and ownership of the MMS, the IIDS survey data unearths interesting patterns both in terms of national trends and interstate variations. In hiring practices, Rajasthan is consistently the least likely to employ Dalits, with 8 per cent of respondent villages having a Dalit cook, and not a single respondent village having a Dalit MMS organiser. Tamil Nadu hires proportionally more Dalits, while still keeping them firmly in the minority, with 31 per cent of respondent villages having Dalit cooks, and 27 per cent having Dalit organisers. Andhra Pradesh leads the three states in indicators of Dalit empowerment and ownership of the MMS, with 49 and 45 per cent of respondent villages having Dalits as cooks and organisers, respectively.

One argument against hiring Dalit cooks is that where the society is not prepared to accept a shared meal cooked by a Dalit, it will "create tension", schools will be paralyzed and (dominant caste) children's attendance will drop, thus defeating the purpose of the MMS. Significantly, however, opposition to Dalit cooks is the most frequently reported problem. In other words, Andhra Pradesh's success in hiring a significant proportion of Dalit cooks is not due to lack of opposition; but is rather a matter of political will (generated by sustained pressure from people's movements). That Andhra Pradesh's relatively progressive hiring practices have not been accompanied by a corresponding crisis of dropping school attendance or paralysis of the school system suggests that the above argument against hiring Dalit cooks, speculative in nature anyway, is in fact spurious.

Measurable indicators point to an extremely low level of Dalit participatory empowerment and ownership of the pre-MMS dry grain distribution system in Uttar Pradesh. In 94 per cent of respondent villages in UP, the distribution organiser is of the dominant caste; Scheduled Castes and Scheduled Tribes (SC/ST) organisers are found in a combined 6 per cent of the respondent villages.

In terms of treatment of Dalits in the MMS, 27 respondent villages in Rajasthan, Andhra Pradesh and Tamil Nadu reported segregated seating in the MMS, and eight villages reported segregated meals altogether. In another eight villages, respondents reported that Dalit children are served food inferior to or in lesser amounts than their dominant caste classmates.

A three-state national average of 37 per cent of respondent villages report, that caste discrimination does, in fact, afflict the MMS in their village. Opposition to Dalit cooks is the single most common problem (48.3 per cent), followed by segregated seating (31 per cent), segregated meals (9.2 per cent), and unfavourable treatment in food allotment (9.2 per cent).

Taking a closer look at the 37 per cent national average, considerable interstate variation comes to light. In Rajasthan, 52 per cent, in Tamil Nadu, 36 per cent, and in Andhra Pradesh, 24 per cent of respondent villages report caste discrimination in the MMS. It can hardly escape one's notice that this configuration is a nearly exact inverse of the interstate variation for percentage of villages with Dalit cooks, percentage of villages with Dalit organisers, and percentage of villages in which the MMS is held in a Dalit locality. That is to say, Andhra Pradesh, which has the highest percentage of Dalit cooks, Dalit organisers, and MMS held in Dalit localities, simultaneously has the lowest percentage of reported caste discrimination in the MMS. Rajasthan, which has the lowest percentage of Dalit cooks and organisers and Mid-day Meal Schemes held in Dalit colonies, simultaneously has the highest rate of reported caste discrimination; and Tamil Nadu stands about midway between Rajasthan and Andhra Pradesh in each of these variables.

A look at Andhra Pradesh further supports this understanding of the data. What sets Andhra Pradesh apart? Does the lower incidence of reported caste discrimination in the MMS in Andhra simply reflect a more caste-free, egalitarian society than neighbouring Tamil Nadu or distant Rajasthan? To take one commonly used indicator, rates of reported crimes committed against Dalits are higher in Andhra Pradesh than in Tamil Nadu, Bihar, Karnataka or Orissa, while lower than in Rajasthan or Uttar Pradesh.³¹ Andhra Pradesh's relatively lower levels of reported discrimination in the MMS, then, cannot be linked to lower levels of casteism in the society generally. Instead, the higher percentages of Dalit cooks and organisers and higher percentage of villages in which the MMS is held in Dalit localities appear to be responsible for Andhra Pradesh's relatively low incidence of reported caste discrimination in the MMS. But how is it that Andhra Pradesh has come to have these higher levels of Dalit participatory empowerment, and MMS held in Dalit colonies? One primary reason is that the Andhra Pradesh government conducts the MMS through local women's organisations known as Development of Women and Children in Rural Areas groups (DWACRA). As an alternative to implementing the scheme only through the usual channels of entrenched government machinery, known for corruption, casteism and unaccountability, having a joint set-up between the government and local social organisations, appears to have an invigorating effect on all actors involved. Given the opportunity to take up leadership roles and local level government employment, mothers of government school children take an increased interest in and engagement with the school and the MMS, and begin to demand access and extract accountability from government machinery.

Sustained mass action by mobilised people's movement in Andhra Pradesh should be credited with creating the political atmosphere in which the state government has been forced to engage and cooperate with local non-governmental organisations in

³¹ National Commission for Scheduled Castes and Scheduled Tribes, *Sixth Report, 1999-2000 & 2000-2001*, Delhi.

implementing its schemes. While DWACRA groups are government sponsored, they are clearly influenced by the models provided by social movements. Just as people's participation has a proven record of decreasing corruption by government officials, so likewise it seems that people's participation, particularly Dalit people's participation, is beginning to bring down levels of exclusion and caste discrimination in government schemes.

All of that being said, it would be misinformed to suggest that the DWACRA group model is alone sufficient to eradicate the problems of the MMS or that Andhra Pradesh has "arrived" in terms of enabling Dalits' Right to Food through the MMS. There is still a 24 per cent rate of reported caste discrimination in MMS in Andhra Pradesh, meaning that Dalit children in one out of four schools face segregated seating, opposition to their community's cooks, segregated meals altogether, or other forms of discriminatory treatment.

A study of Andhra Pradesh's MMS provides not an ideal model, but a work in progress, with mixed success, from which some directional ideas can be taken. The following are the policies/approaches which seem to be working there and could be applied in other states: First, increase the proportion of schools and MMS centres in Dalit colonies. Second, promote Dalit participatory empowerment and ownership of the MMS through hiring and promoting larger proportions of Dalit cooks and Dalit organisers. This can be catalysed partly by implementing the MMS through or with the collaboration of people's movements and local organisations such as Dalit women's self-help groups.

The IIDS survey data, from Uttar Pradesh's dry grain distribution system to Rajasthan, Tamil Nadu and Andhra Pradesh's cooked MMS, sketches two vivid pictures of possible Mid-day Meal Schemes, at different ends of a broad spectrum. On one end is a government welfare scheme, in which the entrenched, dominant caste intermediaries of the government machinery are entrusted with giving monthly handouts to poor children. In practical terms, this scheme is conducted strictly on the terms of the dominant caste intermediaries, in their locality, with preferential treatment for their children, routine embezzlement, corruption, unaccountability, and anything from apathy to contemptuous hostility toward the children and parents of the Dalit community. On the other end of the spectrum is a government program jointly operated and monitored by the government and local, empowered community groups with Dalit leadership and/or representation, in which Dalit children and dominant caste children daily share a hot, cooked, nutritious meal, as often in a Dalit locality as in a dominant caste locality, and as often with a Dalit cook as with a non-Dalit cook. In practical terms, the only exclusion in this picture is the elective self-exclusion of the more conservative elements in dominant caste society, who withdraw their children from the program initially, but eventually, when their pressure tactics on a government committed to actualising its Constitution and laws fail, re-enrol their children and slowly adjust to a truly democratic society. Dalit access to

and fair treatment in the MMS in this picture is assured through Dalit decision-making empowerment and real ownership stakes in the program, which as part of the fabric of a vigilant civil society keeps the government accountable.

10 The Public Distribution System

The Indian government's Targeted Public Distribution System (TPDS, or, often, simply PDS) is reputed to be the largest system of controlled food distribution in the world. In it, government stocks of essential food commodities, notably rice, wheat, sugar and oil, are distributed through the Food Corporation of India to needy areas, where people of Below Poverty Line (BPL) status can purchase the goods at subsidised, below-market prices fixed by the government. At the local level, stocks are provided through government-recognized "Fair Price Shops", or PDS shops, run by the local, government-recognized PDS dealer.

Unlike the Mid-day Meal Scheme, the TPDS is more or less functioning throughout India.³² In the IIDS study, all 531 villages surveyed in Rajasthan, Uttar Pradesh, Bihar, Andhra Pradesh and Tamil Nadu, addressed the PDS in the survey.

The PDS is arguably the strongest available tool with which poor and marginalized populations in India can at present actualise their Right to Food. Whether it is operated well or poorly can – indeed does – make the difference between sustenance and preventable starvation for SC and ST communities in certain areas. While the intent of the PDS is to bring the food from where it is most plentiful to where it is most needed, and to deliver it into the hands of those who need it most, there are problems with the system's practical implementation, such that the food often ends up in other hands than those of the neediest. Avoidable starvation therefore does occur in India today. The study examines Dalits' experience of the PDS to identify, locate and measure the points of caste discrimination and exclusion that cripple the PDS and keep it from fulfilling its intended purpose.

Dalit access to the PDS is first contingent on the existence of nearby, functioning PDS shops. In this regard, the data is, for India as a whole, mostly positive. A national average of 87 per cent of respondent villages have at least one functioning PDS shop. Uttar Pradesh, however, in which 39 per cent of respondent villages have no PDS shop, needs to address this issue. Bihar also, with 16 per cent of villages without PDS shops, needs to work on this issue. Andhra Pradesh can perhaps offer advice, as 44 per cent of its respondent villages have more than one PDS shop per village, potentially increasing access for all.

Access is then conditioned by the location in which the PDS shop is situated. Nationally, 17 per cent of respondent villages have PDS shops located in Dalit locali-

³² Latest reports from Maharashtra describe the PDS as non-functional in the first three months of 2006 caused by irregular dispatch of the monthly quota to the FPS, in: *the Hitavada* (Nagpur edition), 02.04.2006, p. 5: "Wheat shortage hits poor; FP shop owners".

ties, while over four times that percentage are located in dominant caste localities, and the rest are located elsewhere. In individual states the picture is even sharper: Rajasthan has zero percent respondent villages with PDS shops in Dalit colonies, and 91 per cent of PDS shops are located in dominant caste localities. Among Andhra Pradesh's respondent villages, by contrast, 30 per cent have PDS shops in a Dalit locality, 48 per cent are in dominant caste localities, and 22 per cent are located elsewhere. As a national average, the PDS shops of 81 per cent of respondent villages are owned and run by dominant caste dealers. In Rajasthan, Uttar Pradesh and Tamil Nadu the percentage of dominant caste dealers is even higher, at 85 per cent, 90 per cent and 91 per cent, respectively. Dalit participatory empowerment, as expressed through ownership of PDS shops, is quite low in most states, with the exception of Andhra Pradesh, where Dalits manage PDS shops in 32 per cent of respondent villages.

In terms of treatment of Dalits in the PDS, caste discrimination in various manifestations is reported commonly, if not overwhelmingly, throughout the states. Caste-based favouritism toward their own communities by dominant caste PDS dealers (and inversely proportional dis-favouritism toward Dalits) is the most frequently reported problem nationally at 48 per cent. Discrimination against Dalits in the quantity of goods given at the PDS shop is second most common, at 40 per cent, followed by discrimination in price, at 28 per cent. A national average of 26 per cent of respondent villages per state reports that dominant caste PDS dealers practice "untouchability" in the physical act of distribution of PDS goods.

So long as the intended beneficiaries of the PDS are kept out of the decision-making and implementation process, the corruption and discrimination for which the PDS has become notorious should continue to flourish. A 70 per cent of PDS shops are located in dominant caste localities, where Dalits are necessarily on the defensive. Around 81 per cent of PDS shopkeepers are from the dominant caste and more than one out of four PDS shopkeepers continues to practice "untouchability" when dealing with Dalit customers. When asked in the IIDS survey "Do you feel that SCs/STs should have separate PDS shops from those owned by the dominant castes?" a national average³³ of 75 per cent of respondent villages answered in the affirmative (in Bihar, 100 per cent answered in the affirmative).

As with the MMS, so here also, Andhra Pradesh's levels of reported caste discrimination in the PDS are relatively low in comparison to most other states. The increased degree of participation by Dalits in PDS implementation – through PDS ownership – seems to have helped decrease levels of discrimination, and increase accountability in the government machinery. A higher percentage of PDS shops located in Dalit colonies also seems to have increased Dalit access to the PDS and decreased scope for practicing "untouchability". Empowerment through participa-

³³ Rajasthan is left out of this national average, as all but four respondents in Rajasthan skipped this question.

tion and ownership, as well as empowerment through sensitive relocation into Dalit areas, emerge from the data as potentialities currently being realised in Andhra Pradesh, and that can be realised also in other states.

11 Concluding Remarks

As could be seen from the previous, by far not exhaustive deliberations, the Right to Food, Food Security and Discrimination are closely knit and interrelated issues which require constant vigilance by the government, the stakeholders and matter-related NGOs. Whereas the Right to Food, universally accepted as one of the Social Rights, forms the basis or starting point for further emanating thoughts, the government through its policies, directions, its manifested will has to safeguard for all its citizens a high degree of security. It can also be observed that in spite of the existing legal framework, which clearly addresses the problem of food security, the legislation itself does not ameliorate any of the dreadful situations. Neither are they really taken care of by court decisions or directives, may they be also pro-poor or pro-discriminated, as they can only heal individual grievances with no wider meaning for the society at large. The blatant refusal of legislated entitlements can be seen in an exemplified way in the discrimination against Dalits regarding access to food and food-related programmes which is a widespread evil in varying degrees across India. This is not to say, that this is the only kind of discrimination to be faced by the needy people. One can at least name also discrimination of various kinds regarding the Right to Food against tribal families, women and children, especially the female children.

Although large parts of this article may suggest a sense of helplessness and frustration, there are also signs of understanding and improvement in the Indian society. As the IIDS data suggests, wherever there is a political will or a stark will and interest of a stakeholder, food-related situations do change and improve, however slow and unwilling the dominant stakeholder may concede a share of the most common and inalienable Right to Life in form of Right to Food. The observation regarding the crucial role of the "will" is shared by eminent scientists like Sen and Drèze and should be an incentive towards pressure groups, NGOs, stakeholders and well-meaning politicians to pursue this will towards securing the Right to Food to as large a number of people as possible. The will to implement the existing laws plays such an imperative role, because the problem lies within the social set-up of the diversified Indian society where custom-based and age-old behaviour cannot be wiped out with the stroke of a pen.

While on the one hand this article suggests that through the abundance of food stock which has been accumulated through mostly wrong policies and is now gradually being reduced, food is secured towards everybody in principle. India could otherwise not justify its net exports. But, as these deliberations suggest: it is a long way from the legislated right via the state machinery to the actual exercise of the right.

This situation is even more aggravated in a country like India whose society was rather driven by duties than by rights.³⁴

References

- Aravind, H.M. (2003), "Parents 'Caste' Aside Govt Mid-day Meal", in: *The Times of India*, 4 July
- Centre for Development and Human Rights (2003), *The Right to Development – A Primer*, Sage Publications, New Delhi
- Chakrabarty, G./Ghosh, P.K. (2000), *Human Development Profile of Scheduled Castes and Tribes in Rural India: A Bench Mark Survey* (New Delhi: National Council of Applied Economic Research)
- Dohrmann, Jona Aravind (2002), *Directive Principles of State Policy in der indischen Verfassung*, ERGON, Würzburg
- Draguhn, Werner (ed.) (1999), *Indien 1999: Politik, Wirtschaft, Gesellschaft*, Institut für Asienkunde, Hamburg
- Drèze, Jean/Sen, Amartya (2002), *India – Development and Participation*, Oxford University Press, New Delhi
- Drèze, Jean/Goyal, Aparajita (2003), *The Future of Mid-day Meals*, Centre for Equity Studies, Delhi
- Government of India/Planning Commission (2002), *10th Five Year Plan 2002-07*, downloaded from <http://planningcommission.nic.in/plans/planrel/fiveyr/welcome.html> (this website will soon shift to www.planningcommission.gov.in), last seen on 31st October 2006
- National Commission for Scheduled Castes and Scheduled Tribes, *Sixth Report, 1999-2000 & 2000-2001*, Delhi
- Pathania, Kulwant Singh (2005), *Public Distribution System*, Kanishka Publishers, New Delhi
- Sainath, P. (2001), "Hero by Name and Deed", in: *The Hindu*, 21 January
- Sakshi, A.P., Human Rights Watch (2003), *Dalit Human Rights Monitor 2000-2003*, Andhra Pradesh, Secunderabad
- Scharpenack, Holger (1996), *Das "Recht auf Entwicklung"*, Peter Lang, Frankfurt am Main
- Sinha, R. K. (ed.) (2004), *India 2025: Social, Economic and Political Stability*, Shipra Publications, New Delhi
- Sreenivas, Janyala (2003), "These kids told: you are Dalit, go eat elsewhere", in: *The Indian Express*, 16th December

³⁴ See regarding the concept of Human Rights in India: Dohrmann, p. 113, "Ursprung und Entwicklung der Menschenrechte in Indien", in: Nicole Janz/Thomas Risse (eds.) (2007), *Menschenrechte – Globale Dimensionen eines Anspruchs*, NOMOS, Baden-Baden.