

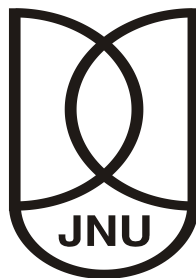
Social Citizenship and Right to food in Indian Context

*Dissertation Submitted to Jawaharlal Nehru University in Partial Fulfillment
of the Requirement for the Award of the Degree of*

Master of Philosophy

Submitted by
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Submitted to
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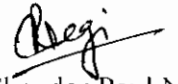


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DECLARATION

I, **Chander Paul Negi**, hereby declare that the dissertation entitled “**Social Citizenship and Right to Food In Indian Context**” submitted by me for the award of the degree of **MASTER OF PHILOSOPHY** is my bonafide work and that it has not been submitted so far in part or in full, for any degree or diploma of this university or any other university.


(Chander Paul Negi)

CERTIFICATE


It is hereby recommended that the Dissertation may be placed before the examiners for evaluation.


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Chapter 1:

Introduction

Citizenship as a modern concept found its birth with the creation of nation states. Citizenship as a status bestows the members of a political society with certain rights and obligations. This status concomitant with its rights and obligations is established by virtue of membership to a political society notably the nation state. Citizenship confers membership, identity, values, and rights to its members to participate in the society, and it assumes a body of common political knowledge. There are both social and political aspects attached to citizenship. Political aspect deals with the legal rights and duties of a citizens and how a citizen should govern her affairs in the society. The state also provides to its citizens certain welfare goods and provides security of person and property. State also facilitates the growth of individual so that every citizen can reach to the full potential. This in turn is in the interest of the state as productive and active citizens are an asset to the state. The state therefore provides for as well as facilitates the development of its citizens. This is carried out by the state through its various institutions. These institutions provide avenues for the development of the citizens into well functioning active members of the society. The various institutions involved in this endeavour are institutions of education, healthcare, institutions of employment and welfare.

Citizenship and welfare, though distinct, are integrally attached concepts. The idea of provision of welfare by the state emanates from the position of the state with its capacities, economic and social, to undertake such activities. One can also trace the roots of such a development in the social contract theory. Whereby the state is entrusted by the citizens to govern them and the state cannot interfere with the exercise of the rights relating to life, liberty and property by its citizens. State is entrusted to provide security to the people and security also involves the protection, promotion and facilitation of the rights of the citizens.

In the 21st century a democratic state is popularly perceived as a welfare state and the state actively takes part in distribution of welfare goods to its citizens. Citizenship in theory aspires to provide for the citizens a society where all can reach to their full potential. But in reality various forces are at play and various societal institutions

compete with the institutions of the state. Secondly, the capacity of the state to undertake various welfare measures is constrained by various political, social and economic factors. This is the reason for maintaining clauses in international conventions, binding the member states to pursue progressive realisation of welfare goals in consonance with their particular realities.

We see a huge diversity and difference in the social and economic position of different nations today. This is because of many historical, social and economic factors. The industrialised and developed countries of the west have attained a high social and economic development. They are also the forerunners in provision of welfare goods to its citizens. The developing nations are faced with a host of problems in provision of welfare services. They are constrained by their peculiar social, political and economic situations. Most of the developing nations are economically weak and the political institutions are also not so robust due to various pulls and pressures of the social structures.

Social citizenship is a concept propounded by T.H. Marshall and deals with the rights of citizens to a minimum economic welfare and security to the highest attainable potential in the society and to share in the enjoyment of such avenues provided by the society. Thus social citizenship is a concept which confers upon the citizens the right to economic welfare and security and the state has to take active role in provision of such rights.

The state devises various ways to grant the welfare rights to its citizens depending upon the economic position of the state. It can accord the welfare rights to all its citizens universally or target it to a particular section of the society or group which it deems warrants the protection the most. It is a contentious issue whether who should be prioritised get the welfare protection of the state. Rawls has argued that it is the most vulnerable of the society who should be prioritised in giving the welfare protection.

Social citizenship entrusts social rights to its members which entail providing minimum level of income, education, housing and health care. These are welfare rights which the state is most suitably positioned to administer. The social rights guarantee a citizen to a minimal welfare by the state.

Right to food is the most basic of human rights. It is a right which allows one to sustain oneself so as to be able to carry out other rights and obligations in the society. Deprivation of food is a cause as well as an end of various other deprivations. Deprivation of food renders a person unable to perform other rights and function to attain a capacity to earn food for sustenance. The disability to obtain food can also stem from the deprivation of other rights as well or from some condition natural or societal. Right to food thus is a crucial right to be exercised so that the person is able to take part in societal life and be a valuable asset to society. This entails that for citizenship to be a viable status; basic rights such as right to food have to be guaranteed. Alternatively, a healthy and active citizenry is an asset to the state and function in its development. Right to food is also very essential for the person to reach his/her full potential. Social citizenship aims to bring in qualitative equality not quantitative equality. It seeks to achieve an equality of status of a person and not equality of income. Equality of status derives from the principle of human worth by virtue of being born as equal, which is also affirmed by various international and national conventions, treaties, declarations, constitutions and laws. Right to food when provided allows a person to be able to function and discharge the duties of citizenship. The most important duty of social citizenship is duty to work. This duty in turn allows a person to sustain himself. Thus social citizenship and its content and objectives flow in directions which further the realization of right to food. Social citizenship thus is a necessary and enabling criterion for the realisation of right to food.

Right to food is a basic human right recognised as the integral part of human sustenance and being by various international bodies, conventions, treaties as well as national constitutions and legislations. This right is inherently an economic and social right, which enables the citizen to function and take part in social life as a full member of society. This inter-linkage between the idea of citizen as an active member of a society and right to food enabling a citizen to take part in social and community life, establishes that social citizenship and right to food have a symbiotic relationship. The development on one leads to the development of the other. Thus in this framework it is essential that we look into the details of both these issues.

In a country like ours, where poverty is a permanent feature of our society and debilitates a vast majority of our population to live without square meal a day. It is the

duty of the state to provide for these poor people who cannot feed themselves. The situation is ironical as well because there is no scarcity of food grains in our country. India is self sufficient in food and has food stocks in excess of the mandated buffer stock quantity.

This study seeks to analyse the concept of social citizenship and the right to food as it exists today. The first chapter looks into the concept of social citizenship and the various emendations to it in the later years. It also seeks to look at the criticisms of the concept and approval of the same.

The second chapter looks into the right to food as a theoretical concept and its development in various international documents especially ICESCR and the affirmation of the same by UN.

The third chapter looks at the institutional mechanisms towards the furtherance of right o food in India and it seeks to briefly analyse the contentious areas of the National Food Security Bill, 2011.

Chapter 1

T. H. Marshall's Concept of Social Citizenship

Citizenship is a nebulous concept of rights and duties; it confers on the citizen certain rights and demands certain duties, which emanate by virtue of his/her membership of a political community or nation state. If membership is the criterion of assigning such rights and duties, then the people who are outsiders or aliens; are not conferred the benefit of these rights and are not expected to perform the duties which accompany such a membership status. "Citizenship, at least theoretically, confers membership, identity, values, and rights of participation and assumes a body of common political knowledge."¹

Citizenship, as a theoretical endeavour is limitless and two concepts of citizenship are popularly understood, first, citizenship-as-a-legal-status and, second, citizenship as a desirable goal or activity.²

In theory, citizenship aspires to move from the legal status to the goals that society, perceives as being worthy of achievement. This has been the constant feature of evolution of citizenship. Citizenship accords an equal status to all its members thus treating everyone as equal in legal terms of rights and duties. Every member of society is invested with same rights and can enjoy the fruits of the same. But citizenship is not the only force operating in society, there are many competing forces operating, which move in opposite direction to citizenship. These forces, in western industrialised democracies, have largely been class and capitalism. Class system was the old enemy whereas capitalism grew alongside citizenship.

T.H. Marshall in his classic essay *Citizenship and social Class*, traces the development of citizenship, through the history of Britain, from 17th century to the 20th century. He seeks to understand the effect of citizenship on social inequality, largely stemming from the class system. Marshall's endeavour in this essay was to see whether there can be an achievement of equality of status, which puts the value of an individual by virtue of being a citizen higher than his economic worth.

¹ Kathleen Knight Abowitz and Jason Harnish, 2006, 'Contemporary Discourses of Citizenship', *Review of Educational Research*, vol. 76, no. 4, p. 653.

² Will Kymlicka and Wayne Norman, 'Return of Citizen: A survey of recent work on Citizenship Theory', *Ethics*, vol. 104, no. 2, 1994, p. 35.

Marshall's greatest contribution lies in his exposition of social citizenship and social rights. Social rights pertain to a person's enjoyment of minimum economic well being to full extent of the societal riches.

Thus, it becomes pertinent to put Marshall's work in the framework of present circumstances, where economic inequality is prevalent all around instead of such abundance of riches. The system of governance and advances in science and technology, have brought a well being not seen before but still a large majority of the population continues to live a life of squalor. Marshall says that if we enrich the social rights a person can be raised to certain standards that he can have a status of dignified life though not of economic abundance. Marshall's aim was to bring equality of status rather than economic equality.

It is essential to see the right to food in terms of social citizenship because right to food is only sought by the destitute and the poor. It is a form of social security measure and, as such, similar to the social rights which Marshall propounded. Social rights are thus rights of welfare and the state is the prime guarantor of the welfare of its citizens. Right to food is a minimal right to sustenance, which is affirmed by international human rights documents and conventions. Social and economic rights guaranteed in these conventions aim to protect the right to welfare and right to food as well. It is thus, pertinent to see how the interaction of social rights and right to food in Indian context is guaranteed.

T. H. Marshall analyzed the impact of rapidly developing concept of rights of citizenship on the structure of social inequality in an essay titled *Citizenship and Social Class*.³ Marshall took the theme of this essay from a paper read by Alfred Marshall in 1873 to the Cambridge Reform Club, titled *The Future of the Working Class*. In this essay Alfred Marshall posed the crucial question "whether there be valid ground for the opinion that the amelioration of the working class has limits beyond which it cannot pass"⁴. By asking this question, Alfred Marshall did not imply the idea of universal equality or meant that all men shall be equal but his quest lay in enquiring "whether there can be a progress, by occupation at least, which shall end up in making every man a gentleman." It is interesting to note that 'occupation' used

³ T.H. Marshall, 1992, *Citizenship and Social Class*, London: Pluto Press.

⁴ Ibid., p. 4.

here can be understood akin to, the 'right to work', that is, to take up a work of one's choice and in a place of one's choice, as it is understood in modern liberal thought. This understanding of occupation is used by T. H. Marshall when he talks about 'right to work' as the basic civil right in the economic field.⁵

T.H. Marshall exchanged the term 'gentleman' to 'civilised man', for he considered that Alfred Marshall meant by it a standard of civilised life according to the conditions prevailing in the society. T.H. Marshall says that claim of all to enjoy the conditions of 'civilised life' are "the claims to be admitted to a share in the social heritage, which means a claim to be accepted as full members of the society, that is, as citizens."⁶ The sociological hypothesis latent in Alfred Marshall's essay is apparent when he states that "the inequality of social class system may be acceptable provided the equality of citizenship is recognised."⁷

So taking a cue from this hypothesis, T.H. Marshall poses the question afresh as: "is it true that basic equality, when enriched in substance and embodied in the formal rights of citizenship, is inconsistent with the inequalities of social class?"⁸ Marshall believed that the two are still compatible in the sense that today citizenship itself has become in certain respects an architect of legitimate social inequality. Marshall also raised another crucial question that whether the "basic equality can be preserved without invading the freedom of competitive market?" and also sought to look into the effect of shift of emphasis from duties to rights as had happened since Alfred Marshall delivered the lecture.⁹

To seek answers to the questions posed, Marshall proposed to analyse historical development of citizenship through British history till later part of twentieth century. He divided citizenship into three elements as civil, political and social. "Civil element is composed of the rights necessary for individual freedom - liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice."¹⁰ The institutions corresponding to the civil element are the courts of justice. The political element meant "the right to participate

⁵ Ibid., p. 10.

⁶ Ibid., p. 6.

⁷ Ibid.

⁸ Ibid., p. 7.

⁹ Ibid., p. 7.

¹⁰ Ibid., p. 8.

in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body.”¹¹ The institutions corresponding to the political element are the parliament and the councils of local government. The social element meant “the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to standards prevailing in the society.”¹² The institutions Marshall linked closest to the social element are the educational system and the social services. It is pertinent to note here that the minimum here is an economic welfare and security which extends to a full participation in the life of society according to the highest prevailing in society. The minimum economic well being is thus a precursor or precedes the maximum social achievement here which seems to be linked not *only* to economic well being and prosperity. Thus, there are many other elements and factors which, apart from economic or material prosperity, are essential for a full realisation of life in the society according to the standards prevailing there and then. These factors range from material, psychological to intellectual ingredients which go into making a life fuller and richer.

In early times these three elements of citizenship were amalgamated together and evolution of citizenship is characterised, then, by a process of differentiation of these rights. This evolution process is characterised by a twin process of fusion and separation; fusion was geographical and separation was functional.¹³ Process of differentiation led to two important consequences, firstly, institutions corresponding to the three elements of citizenship separated and developed through history and it was only in later part of the nineteenth century that they have come abreast to each other. Secondly, the institutions which were national and specialised could not resonate and belong intimately to the life of the local social groups, whom they served. The process of fusion and separation led to reshaping of the machinery giving access to institutions on which the rights of citizenship depended.

Social rights were also a part of the same amalgam and were derived from the status of an individual. This status also determined the kind of justice one would get, where

¹¹ Ibid.

¹² Ibid.

¹³ Ibid., p. 9.

he would get this justice, and also determined the way in which he could take part in the administration of the affairs of the community of which he was a member. This status was a hallmark of class and the measure of inequality.

Many changes came about with this fusion and separation, for example, in case of political rights, franchise and qualifications of membership of parliament underwent change. In case of civil rights, changes were brought in the jurisdiction of various courts, the privileges of the legal profession, and in the area of liability to meet the costs of litigation. Similarly, in case of social rights, changes were brought in the Law of Settlement and Removal and in the various forms of means tests. All these changes determined the nature and extent of rights of citizenship.¹⁴ Marshall says that each right can be assigned a particular century as being its formative period and of development, such as - civil rights to the eighteenth, political to the nineteenth and social to the twentieth.¹⁵

Evolution of civil rights in the 18th century was mainly due to the handiwork of courts in terms of daily practice as well as in the form of judgments in many famous cases.¹⁶ A crucial civil right in the economic field was right to work, that is, “the right to follow the occupation of one’s choice in the place of one’s choice, subject only to demands of preliminary technical training.”¹⁷ Both the prevailing statutes and customs denied this right to work, for example, Elizabethan Statute of Artificers confined certain occupations to certain social classes. Local customs and regulations reserved employment in the towns to its members only and apprenticeship was used more as a tool of exclusion than as of recruitment.¹⁸ Recognition of this right led to changes in the attitude that such restrictions were against liberty of the people and a menace to the prosperity of the nation. Customs and Statute Laws were obstacles to the change and courts played an instrumental role in changing or abolishing them.

Civil rights grew gradually with the addition of new rights to the status that already existed, women were excluded from this status, and the character of this status arose naturally from the fact that it was a status of freedom - democratic and universal. This

¹⁴ Ibid., pp. 9-10.

¹⁵ Ibid., p. 10.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid., p. 11.

status was characterised by ‘one law for all men’ and when freedom became universal, citizenship grew from being a local to a national institution.

Political rights grew differently both in time and character. The political rights developed, unlike civil rights, not by creation of new rights but by way of expansion of the old rights to new sections of population. In 18th century political rights were defective, not in content but in distribution, that is, defective by the standards of democratic citizenship.¹⁹ The right of franchise, accorded by the Act of 1832, was restricted to a small group of people and thus was akin to a group monopoly but it was not a closed monopoly rather an open monopoly. The political rights, by the Act of 1832, were extended beyond the earlier boroughs to leaseholders and to some tenants. Though the character of political rights resembled that of a privilege extended only to a limited class of propertied people but it could not be said that it was completely meaningless. It did not confer a right, but it recognised a capacity.²⁰ From the privilege inherited from belonging to a certain status, it became a right which could be achieved by personal effort, so now political rights came to be attached with economic achievements. In the 19th century, capitalist society treated political rights as secondary products of civil rights. The 20th century saw a change in this outlook as political rights now came to be attached directly and independently to the status of citizenship as such. This shift came about with the Act of 1918, by adoption of manhood suffrage, which shifted the basis of political rights from economic substance to personal status as male citizen.²¹

Social rights originated out of local community memberships and functional associations. Poor Law and system of wage regulation, supplemented and replaced this original source and, were nationally conceived and locally administered. The system of wage regulation was contrary to emerging concept of civil rights in the economic sphere, where emphasis was placed on right to work and at what you pleased under a contract of your own making. “Wage regulation infringed this individualistic principle of the free contract of employment.”²² System of wage regulation decayed with the development of civil rights, especially in the economic sphere such as with development of capitalism, *laissez faire*, freedom of contract and

¹⁹ Ibid., p. 12.

²⁰ Ibid., p. 13.

²¹ Ibid., Enfranchisement of women also came at the same time

²² Ibid., p. 14.

right to work, as wage regulation infringed the individualistic principle of free contract of employment.²³

Poor Laws were started as means of suppressing vagrancy and destitution and characterised a kind of primitive social rights. The object of Elizabethan Poor Laws was not to create a new social order but to preserve existing one with minimum social change. Poor Laws as a system tried to adjust the real income with social needs and status of citizen and not solely to the market value of his labour.

By the Act of 1834, Poor Laws could not tread into the territory of wage regulation or interfere with the forces of free market. Now Poor Law as a measure of social security was detached from the status of citizenship. Claims of social security were granted through Poor Laws only if one ceased to be a citizen such as to those groups of people who through age or sickness were incapable to fend for themselves or those weaklings who accepted defeat and cried for mercy.²⁴

The stigma which attached to Poor Relief or social security meant that relief could be extended to those who detached themselves from the community of citizenship and crossed over the boundary to live as destitute, giving up the civil and political rights.²⁵ This stigma is also attached with the food distribution system present in India, through the Public Distribution System, which entitles the persons belonging to below poverty line to subsidised food grains. The division of the beneficiaries into above poverty line (APL) and below poverty line (BPL) categories on an arbitrary income based test is stigmatising and is against social cohesion and the principles of human rights. This division tends to create fissiparous tendencies as the people belonging to APL category do not consider their lot to be any worse than the BPL and look at BPL beneficiaries as getting unwarranted benefits. Also because of corruption in the system, many well-off people take undue advantage of the system by getting BPL cards and this fosters alienation towards the institutions of the state.

It becomes pertinent here to note, as to, how the content and formulation of social rights be defined, so that they are not detached from the status of citizenship. How can the stigma associated with social security measures for the poor be removed? How, by

²³ Ibid., p. 15.

²⁴ Ibid.

²⁵ Ibid.

provision of social rights and social security measures, can the cohesion of community be maintained and the dignity of individual maintained while she is a recipient of social security benefits?

Right to education is, claimed by Marshall as, a genuine social right of citizenship because the aim of education during childhood is to shape the future adult. Marshall characterises the right to education, “not as the right of child to go to school, but as the right of the adult citizen to have been educated.”²⁶ He says that in case of right to education, a personal right is combined with public duty to exercise the right. The duty to improve and civilise oneself is therefore a social duty, and not merely a personal one, because social health of society depends upon the civilisation of its members. For Marshall, growth of public elementary education during the nineteenth century was the first decisive step on the road to re-establishment of social rights in the twentieth.²⁷

Social right to education, as defined here by Marshall, resonates with the capabilities approach as enunciated by Amartya Sen and Martha Nussbaum. The right to education as a social right is also an essential entitlement of a person as well as an integral and indispensable capability which renders an individual self-sufficient to take active part in the social life. The emphasis by Marshall on education is also in the similar vein, as it instils in the person qualities necessary for a fuller realisation of citizenship, as social citizenship.

Marshall’s primary concern was mainly with citizenship and his special interest lay in its impact on social inequality. Social class occupied a secondary position in his scheme. Citizenship is a status bestowed on those who are full members of a community. All people who possess this status are equal with respect to rights and duties with which this status is endowed. The urge forward along the path thus plotted is an urge towards a fuller measure of equality and an enrichment of the stuff of which the status is made and the aim is to expand this status to all members of the community.

²⁶ Ibid.

²⁷ Ibid.

Social class on the other hand is a system of inequality. Growth of citizenship in England was parallel to the growth of capitalism, which is a system not of equality but of inequality.

Marshall while analysing the class system with citizenship differentiated between two types of class systems. First type of class is feudal class system which is based on hierarchy of status and the difference between one class and another as expressed in terms of legal rights and of established customs which have the essential binding character of law. This type of class is an institution in itself and has a plan of its own in the sense that it is endowed with a meaning and purpose and is accepted as a natural order.²⁸

The second kind of class is not an institution in its own right but a by-product of other institutions. In this system class differences are not established and defined by the laws and customs of the society, but emerge from the interplay of a variety of factors related to the institutions of property, education and the structure of national economy.²⁹

Social inequality in society is regarded as necessary and purposeful as it provides the incentive to effort and designs the distribution of power. But there is no overall pattern of inequality, in which an appropriate value is attached, a priori, to each social level. But inequality though necessary may sometimes become too excessive. Poverty incentivises one for effort and riches but poverty also breeds destitution and indigence, a state which renders families to lead an inhuman and degrading life. The more we attach value to wealth as an absolute measure of success and merit, the more we are inclined to consider poverty as an evidence of failure but this penalty for failure, most of the times, is greater than the offence warrants.

Class abatement in such circumstances is pursued as a measure to check or curb nuisance of poverty, not as an attack on class system but to make class system less vulnerable to attack by shedding less defensible consequences of class system.³⁰

The benefits received by the unfortunate did not flow from an enrichment of the status of citizenship. Benefits when given by the state were in such manner that took the

²⁸ Ibid

²⁹ Ibid., p. 20.

³⁰ Ibid., p. 21.

shape of alternatives to the rights of citizenship rather than being additions to it. Early rights of citizenship, which were granted by the state, were not in conflict with the inequality of the capitalist society; on the contrary, they were necessary to the maintenance of a particular form of inequality.

The progress of society has been termed by Maine as 'a movement from status to contract', but contract was a feature of feudal societies as well. But the contractual element in feudalism coexisted with a class system based on social status and as contract hardened into custom, it helped to perpetuate class status. Contract in modern societies did not grow out of feudal contracts. Modern contract is essentially an agreement between men who are free and equal in status. Differential status, associated with class, function and family, was replaced by the single uniform status of citizenship, which provided the foundation of equality on which the structure of inequality could be built.

Marshall contends that the blatant inequalities in society are not due to defects in civil rights, but due to lack of social rights. The Poor Law was an aid, not a menace to capitalism because it relieved industry of all social responsibility outside the contract of employment, while sharpening the edge of competition in the labour market. Elementary schooling was also an aid, because it increased the value of the worker without educating him above his station.³¹

The later part of the nineteenth century was characterised by recognition of the value of social justice and an appreciation of the fact that formal recognition of an equal capacity for rights was not enough. This happened with the realisation that narrow conception of equality of natural rights were not sufficient but equality was to be understood in broader terms as equal social worth. This shift in attitude of mind has an integrating effect as citizenship is a bond of different kind, characterised by "a direct sense of community membership based on loyalty to a civilisation which is a common possession."³²

Social rights entail a sense of duty as well as it seeks to provide oneself a certain standard of civilisation which is conditional on the discharge of the general duties of citizenship. The duties here imply the duties not of certain specific kind but those

³¹ Ibid., p. 21.

³² Ibid., p. 24.

which lead to the well being of a person as well of the community as a whole, as earlier specified with respect to education. Education is a personal duty as well as a social right of an individual because by educating oneself a person rises above his station as well as contributes to the civilising of the society as a whole.

By the end of the nineteenth century social rights were minimal and were not recognized as an integral part of citizenship. The legal and societal efforts were geared towards minimising the nuisance of poverty rather than changing the societal structure, of which poverty was the most unpleasant consequence. Advances in social rights in the beginning of nineteenth century were influenced by the rise in money incomes of all members of society and increase in the savings. Secondly, a steeply graduated direct taxation led to reduction in the disposable incomes. And thirdly, because of the production of mass goods by the industry for consumption by a wide variety of population from different classes, the less well to do could also enjoy an array of material benefits which were hitherto not available and now were not so different from the ones enjoyed by the rich.³³ Marshall attributes the rise in all these material benefits as contributing factors which led to diminution of class differences. He says these are instances of diminishing economic inequality, so is it plausible to say that quantitative equality or economic equality is the first step in bringing qualitative or social equality? This is a problematic question, as there is no doubt in understanding that economic equality to a certain level is necessary and sufficient condition to enable a person to acquire certain resources to enhance one's capabilities but beyond that what role economic equality plays is an area worth investigation. This is because, beyond material well being, the pursuit of happiness is dependent on a lot of other social-psychological and intellectual factors.

Marshall, while analysing the social services, as means of class abatement, says that in the provision of these services, the state guarantees a certain minimum of goods and services to the beneficiaries such as medical attention and supplies, shelter and education; or a minimum of money income to be spent on essentials, for example, in case of old age pensions, insurance benefits and household allowances. Marshall says that "the degree of equalisation achieved depends upon four things - whether the benefit is offered to all or to a limited class; whether it takes the form of money

³³ Ibid., p. 28.

payment or service rendered; whether the minimum is high or low; and how the money to pay the benefit is raised.”³⁴

This analysis is very relevant to food provisioning in India as it is also in the form of a guaranteed minimum supply of subsidised food grains by the state to the people. Earlier the scheme of PDS was universal and since 1992 targeting was introduced, firstly on the basis of backward areas and later since 1997 targeting was introduced on the basis of an income criterion. Targeting is criticised mainly on the issues of the determination of the select beneficiaries consisting of people living below poverty line (BPL) which is based on very low income expenditure criteria linked to a standard daily calorie intake norm. The National Food Security Bill, 2011 (NFSB), also seeks to introduce cash transfers or coupons in lieu of direct food grain provisioning and, the food subsidy is provided by the government in case of PDS.

Marshall says that income based services have limited achievement in class abatement as they remove the inequalities at the bottom of the scale and but the people who are just above the poverty line remain unequal as they are deprived of the benefits of state provisioning. This induces inequality and does not bring any change in the unequal social structure which the state scheme sought to achieve. The size of this bottom depends on the minimum income set as the limit, so if the income limit set is very low then a small population is benefitted and the equalisation is limited. If the target group is a large population then it is economical to provide a universal service which is more equalising as it provides equal benefits to all members and thus the poorest stand to gain the greatest in such a universal scheme. Also economic equalisation is accompanied by psychological class discrimination. The stigma which is attached to the people who fall in the BPL category also discourages the beneficiaries from taking up the services as well as it has social-psychological stigma which stays with the beneficiaries and is destructive of the social solidarity and cohesion.

Thus, this raises pertinent questions with respect to the PDS scheme prevailing in India as to whether the scheme should be universal or targeted; should cash transfers be used in lieu of food grains; what is the effect of keeping the poverty line very low and; how the government raises money to subsidise the food grain. The money can be raised from various sources such as through progressive taxation. These all issues

³⁴ Ibid., p. 32

have been at the centre-stage of the debate on PDS and NFSB, which are discussed in detail in later chapters.

The provision of social services is not primarily aimed at equalising incomes. The aim is to bring equality of status than equality of incomes. Marshall says that for social services an individual is considered as a class of its own and thus equalisation is sought between individuals, and he says the aim is to bring a qualitative equality and “what matters is that there is a general enrichment of the concrete substance of life.”

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Benefits rendered in the form of services attain a qualitative element. The services rendered in any form such as education have a profound impact on the social differentials and play a double role of social equalisation as well as social differentiation. The aim of providing a guaranteed minimum is to demarcate the difference between the essentials and the luxuries. Benefits in the form of services also create a situation where the right of a citizen cannot be precisely defined. A modicum of rights may be granted but the citizens want fulfilment of their legitimately expected demands. Legislations therefore are stated in terms of policy goals that strive for the attainment of these goals in future. The state has to seek a fair balance between the collective and individual elements of social rights and it is vital for a democratic socialist state.³⁶

This balancing act of the state, between individual and collective claims, is more pronounced in the field of education. Citizenship acts as an instrument of social stratification via education and its relations with occupational structure. The status acquired through education is considered as legitimate as it is given by the institution which is designed to give the citizen his just rights. Marshall says that the social rights today are characterised by an invasion of contract by status, subordination of market price to social justice and the replacement of free bargain by declaration rights and all these principles are entrenched within the contract system itself.³⁷

The site of citizenship is local and it gets strengthened by local ties and community membership but Marshall emphasises on national citizenship. The national spirit is

³⁵ Ibid., p. 33.

³⁶ Ibid., p. 35.

³⁷ Ibid., p. 40.

evoked only on certain occasions whereas the local and community ties bind the members most of the time and it is most times attached to their identities. The social solidarity is achieved by this fellow feeling and by the feeling of equality of status.

Citizenship entails rights as well as the corresponding duties of the citizenship. It means that citizen should act with a lively sense of responsibility towards the welfare of the community. Duties do not mean that citizens forgo their liberties or give in to governmental orders without question. Marshall concludes by providing answers to the four questions he raised in beginning of the essay. He says that with the enrichment of the status of citizenship preservation of inequality and hierarchy has become difficult. There is less scope for the prevalence and continuation of inequality and if it is practiced there is a greater chance that it shall be challenged. The quest is not for absolute equality and the egalitarian movement moves in a double process. It operates partly through citizenship and partly through the economic system. Aim in both the systems is to remove inequalities which are not regarded as legitimate. The standard of legitimacy in citizenship is social justice whereas in economic system legitimacy is tested on social justice with economic necessity.³⁸

Thirdly, the changing balance between rights and duties is analysed. Citizenship rights are precise and have developed almost fully whereas duties are vague and general, barring a few and; they are owed to an indeterminate large community. Amongst all duties Marshall says the duty to work is of paramount importance and though an individual's efforts might seem miniscule to make a dent in the social well being but withholding from discharging that duty might culminate in a large harm to the society.³⁹

General criticisms:

There have been theoretical and substantive arguments against the theory Marshall has propounded. The theoretical claims against Marshall's theory are as follows, firstly, it is claimed that Marshall did not give a consistent and coherent causal analysis of the mechanism that triggered the expansion of citizenship. Secondly, Marshall failed to provide a comparative account to the different forms of citizenships which emerged from different historical trajectories and considered citizenship as one

³⁸ Ibid., p. 45.

³⁹ Ibid., p. 46.

coherent and uniform concept. Thirdly, Marshall turned a blind eye to the ethnic and racial divisions in British society in relation to the national citizenship, and finally, as a theory of rights Marshall paid scant attention to the duties and obligations of citizenship.

Yet Marshall's contribution is important because

[i]t is descriptively one of the best accounts we have of growth of social rights in twentieth century Britain. Second, it provides a theoretical framework within which civil liberties and social rights can be seen as necessary not antagonistic elements of citizenship, and it reminds us that no civilized society can exist without common patterns of membership leading to social solidarity.⁴⁰

Many authors have sought to bring in various other types of citizenships, owing to the developments and changes that have taken place after Marshall wrote his essay in 1949. Social citizenship has been subdivided into 'ideological social citizenship' and 'economic social citizenship'.⁴¹ Ideological social citizenship deals with rights such as right to education and cultural participation whereas economic social citizenship deals with rights such as occupational attainment and to direct economic subsistence. But this subdivision of social rights is not specific and many rights overlap and blur this distinction as the right to health care, which clearly is a substantive social right of citizenship. Social rights are heterogeneous because a varied assortment of services and facilities fall into its fold and each requires a different sort of allocation to its attainment.⁴²

On Formal and Substantive Citizenship:

Marshall's conception of citizenship has received considerable attention from academics and researchers interested in citizenship especially substantive citizenship and many have critiqued his theory and many have made emendations to it. Marshall has been critiqued mainly on the progression of citizenship or the periodization of development of civil, political and social rights; for the Englishness of his account of citizenship; and; for glossing over the struggle for attaining civil, political and social

⁴⁰ Ibid., p. 72.

⁴¹ Michael Mann, 1993, *The Source of Social Power, Volume II, The Rise of Classes and Nation States, 1760-1914*, cited in Anthony M. Rees, 'T.H. Marshall and the Progress of Citizenship' in Martin Bulmer and Anthony M. Rees ,eds., *Citizenship Today-The Contemporary Relevance of T.H. Marshall*, London, 1996

⁴² Anthony M. Rees, 'T.H. Marshall and the progress of Citizenship', in Bulmer, Martin and Anthony M. Rees.,eds., *Citizenship Today-The Contemporary Relevance of T.H. Marshall*, London, 1996.

rights. He is severely attacked for completely neglecting women's rights in his account.

Marshall's essay was influenced by the circumstances and the times which had witnessed the rise of socialist regimes and capitalism was in a nascent stage. But the world and especially England and Europe witnessed great upheaval and changes, from the 1950s to mid-1970s, which stalled or hampered the development of social rights.

There is a distinction made between *formal* and *substantive* citizenship. Formal citizenship is narrow concept of citizenship measured only in terms as a membership of a nation state, whereas substantive citizenship connotes a conception of citizenship similar to that of Marshall's, encompassing an "array of civil, political, and especially social rights, involving some kind of participation in the business of government."⁴³ This conception is influenced by the evolution of the traditions of nationhood and citizenship in that particular nation. Many nations have strict rules and notions about immigration and the assimilation of immigrants as citizens whereas others have relaxed rules and have assimilated aliens as citizens throughout the history.

Formal citizenship gained force after the post war migrations to the industrial nations as it led to influx of different ethnic and cultural minorities and unskilled or semi-skilled workers to these nations. Formal citizenship is concerned mainly with providing a legal status and a grid of legal rights and duties whereas substantive citizenship is concerned with rights and more specifically social rights and welfare measures. Formal citizenship is neither essential nor a pre-requisite for substantive citizenship. With globalisation and changing contours of citizenship and especially with emergence of notions like 'dual citizenship' and 'European Union', formal notion of citizenship is diminishing but it still holds considerable force.⁴⁴

Marshall like many social scientists of his time largely gender differences. Civil, political and social rights were all extended to women very slowly and still are unequally distributed. So today it is imperative to keep in mind the perspective of women, who are still in many countries and in many respects treated as second class citizens.⁴⁵ There has also been a rise in poverty also the number of people caught in

⁴³ Ibid., 1996,p. 66.

⁴⁴ Ibid., pp. 84-5.

⁴⁵ Ibid., pp. 67-8.

this trap. Poverty has the characteristic of imposing upon the poor such ‘gross and crushing disabilities’ as poverty has substantial effects on the quality of citizenship on those affected by it. The poor who receive charity are effectively regarded as second class citizens. Poverty deprives the poor of the capacity to exercise their civil rights as they cannot afford to pay for the fees which the exercise and execution of these rights entail. Many of the political rights also become inaccessible because of their marginalisation.⁴⁶ Also the ethnic migrant communities form the poorest of the members of a nation and thus they get doubly marginalised.

The substantive rights of citizenship are today considered as forming part of human rights spanning across national boundary limits. Their curtailment or breach affects all in similar manner. These rights are in a continuous phase of development and evolution and there can never be finality in their development. They are affected by external factors especially economy and reigning ideology.⁴⁷

On sequencing or periodization of progression of civil, political and social rights:

Marshall has been criticised as being too Anglocentric in his approach to citizenship and his sequencing of civil, political and social rights is not universally applicable. In Germany social rights were accorded prior to political rights under the ‘authoritarian-monarchist’ Whilhelmine rule. In France also certain social rights developed on an equitable gender lines than those in Britain. France has followed a policy of welcoming immigrants and assimilating them on their fulfilling certain conditions and rule of *jus soli* prevails there. In Germany though immigration rules are strict and rules of *jus sanguinis* are followed. But still Germany takes more immigrants than Britain. Though Britain emphasises formal citizenship and national identity but there is ambiguity regarding rules of assimilation and assimilation of immigrants in the country.⁴⁸

Marshall has also come under attack for ignoring the fact that rights of citizenship have been acquired through continuous struggle by groups of people, organisations, worker unions and many movements over the span of history. Many have imputed on

⁴⁶ Ibid., p. 70.

⁴⁷ Ibid., p. 89.

⁴⁸ Ibid., pp. 14-7.

him the charge of Whiggery⁴⁹ and some characterised him as an interpreter of British Butskellism⁵⁰. Also Marshall's emphasis that 'in twentieth-century capitalism and citizenship have been at war' is a war of principles than of actors. But this statement is now misleading as 'the spread and success of consumer capitalism seem to have become preconditions for citizenship'.⁵¹

In support of Marshall:

Marshall's conception of citizenship and its effect on social class has been considered as a very genuine and original idea by many authors. They have taken up Marshall as their starting point and extended his idea with respect to the later developments. Others have sought to take up the idea and propound similar theory on similar lines but with other factors than class. Marshall has stressed that the quantitative inequality is acceptable but qualitative inequality is not and it is through social rights that qualitative equality can be achieved. Others have construed it as difference of entitlement and provisions. "Inequalities of provisions are acceptable if and when they cannot be translated into inequalities of entitlements."⁵²

Citizenship bestows the members with rights and obligations. It is a real social role. It provides entitlements which are essentially rights, such as the right to enter into a free contract, or right to vote, or right to old age pension. The most common obligation is to comply with law. Dahrendorf claims that work cannot be construed as an obligation of citizenship as work is a private contract whereas citizenship is a social contract. Societies which do not have work as a private contract cannot have citizenship either as work without a private contract akin to feudal relations of dependence. "For when the general rights of citizenship are made dependent on people entering into private relations of employment, these lose their private and fundamentally voluntary character."⁵³ In an indirect manner labour becomes forced labour. Thus he says that

⁴⁹ A 'Whig' was a member of an 18th- and 19th-century British political party that was opposed to the Tories.

⁵⁰ Term popularized in Great Britain during the 1950s, coined in *The Economist* by merging the names of two successive Chancellors of the Exchequer, Labour's Hugh Gaitskell (1950-1) and the Conservative R. A. Butler (1951-5). Both favoured a 'mixed economy', a strong welfare state, and Keynesian demand management designed to ensure full employment.

⁵¹ *Ibid.*, p. 22.

⁵² Ralf Dahrendorf, 'Citizenship and Social Class', in Bulmer, Martin and Anthony M. Rees, eds., *Citizenship Today-The Contemporary Relevance of T.H. Marshall*, London, 1996, p.41.

⁵³ *Ibid.*, p. 33.

the obligations of citizenship should be general and public as they are.⁵⁴ Dahrendorf says that not only are the rights and obligations of citizenship *public* but also *universal*. Also rights of citizenship are not *conditional, but categorical*. The rights which come with the status of citizenship are not dependent on what people are ready to pay for. “Citizenship cannot be marketed.”⁵⁵

The issues of balance of distribution of provisions and entitlements can be broken down to analytical issues and normative issues. Analytical issue is concerned with the inter-relation of provision and entitlement and how the increase or decrease or decrease in one affects the other. Normative issues questions the grounds for acceptance of unequal distribution of provisions as long as they do not translate into unequal entitlements.⁵⁶ “Whatever citizenship does to social class, it does not eliminate either inequality or conflict. It changes their quality.”⁵⁷ “Citizenship has changed the quality of modern social conflict.”⁵⁸ Class and the privileges of status still prevail and many new hierarchies have also come up. Citizenship provides us with a new vantage point to create an equal and egalitarian social structure amid all these hierarchies.

There is an eternal conflict between equality of opportunity and equality of condition when one considers the choices to be made for the exercise of formal rights of citizenship for realisation of substantive rights of citizenship.⁵⁹ Equality of opportunity and equality of condition are in conflict as different classes demand and desire different entitlements over scarce resources and social services. The dominant class and ideology prevails over the policies which dictate what those entitlements should be and how they should be distributed in the society. This engenders the conflict over these entitlements and at times evokes a backlash or opposition from others who consider that their demands have not been neglected.⁶⁰

⁵⁴ *ibid*

⁵⁵ *Ibid* (emphasis supplied)

⁵⁶ *Ibid.*, p. 41.

⁵⁷ *Ibid.*, p. 43.

⁵⁸ *Ibid.*, p. 46.

⁵⁹ W.G. Runciman, ‘Why Social Inequalities are generated by Social Rights’, in Bulmer, Martin and Anthony M. Rees ,eds., *Citizenship Today-The Contemporary Relevance of T.H. Marshall*, London 1996, p. 55,

⁶⁰ *Ibid.*, p. 58-9.

The key principles in social citizenship involve first and foremost the granting of social rights. This entails a de-commodification of the status of individual with reference to the market. Second, social citizenship involves social stratification; one's status as a citizen will compete with, or even replace, one's class position. Third, the welfare state must be understood in terms of the interface between the market, the family, and the state.⁶¹

Workers are as commodities in the market and they entirely depend on the cash-nexus for their welfare. Social rights, if they have to be real, mean a de-commodification, that is, provision of means of welfare alternative to that of the market. De-commodification may refer to service rendered, or to the status of the person but it essentially means the degree to which distribution is detached from the market mechanism. The emphasis is on the real disjunction of dependence of individuals from the market for their welfare. De-commodification is quite difficult to achieve by many of the methods employed by welfare states to provide benefits such as means tested benefits, need based assistance and government insurance programs, these all have the characteristics of strengthening markets as these methods are not self sufficient in realising this effect. "In other words, it is not the mere presence of social right, but the corresponding rules and preconditions that dictate the extent to which welfare programs offer genuine alternative to the market."⁶²

A minimalist definition of de-commodification entails that citizens can freely, and without potential loss of jobs, income, or general welfare, opt out of work under conditions when they, themselves, consider it necessary for reasons of health, family, age, or even educational self-improvement; when, in short, they deem it necessary for participating adequately in social community.⁶³

Stratification is inherent in the welfare state as any policy mooted by it is bound to create dualisms within the population or working class as some groups will be attracted or included as beneficiaries while rest shall be distanced as they are left out of the purview of benefit of such a welfare measure.⁶⁴

Welfare states vary considerably in the way they perceive the principles of rights and stratification. This leads to different arrangements among state, market, and the

⁶¹ Gosta Esping-Anderson, 'The Three Political Economies of the Welfare State', in *The Study of Welfare Regimes*, *International Journal of Sociology*, vol. 20, no. 3, , 1990, pp. 92-123.

⁶² *Ibid.*, p. 107.

⁶³ *Ibid.*

⁶⁴ *Ibid.*, pp. 108-11.

family. Thus, welfare state variations are not linearly distributed, but clustered by regime types. The liberal welfare state cluster is characterised by a means tested assistance, modest universal transfers, or modest social insurance plans. The entitlement rules in this regime type are strict and often attached with stigma and benefits provided are modest. The state encourages market either passively or actively. In such societies the decommodification is minimum and social rights though present, do not do much to alleviate the poor. The welfare recipients are mostly working class who are all equally poor depending on the meagre state welfare provisions and market catering to the majority of the middle and upper class clientele. This regime type thus depicts a class-political dualism.⁶⁵

The second regime type is composed of the corporatist welfare states. These are characterised by a state providing social rights and providing for welfare provisions as well. But in these regime types the historical development of social rights and welfare provisions has been such that the status differentials are maintained as well which results in minimal redistributive effects.

The third type is composed of social democratic welfare states. In these states the principles of universalism and decommodification were extended to the middle classes as well. They pursued equality of highest standards rather than the equality of minimal needs as was pursued elsewhere in other regime types. The implications of such a policy were, “first, that services and benefits be upgraded to the levels commensurable even to the most discriminate tastes of the new middle classes, and, second, that equality be furnished by guaranteeing workers full participation in the quality of rights enjoyed by the better-off.”⁶⁶ This ends up in providing a mix of highly universal and decommodifying programs that simultaneously caters to differentiated expectations. Most salient feature of this is the fusion of welfare and work. The welfare state is committed to full employment guarantee and is dependent upon this achievement.⁶⁷ “The factors which lead to formation of classification of welfare regime types are mainly three, that is, the nature of working class

⁶⁵ Ibid., p. 111.

⁶⁶ Ibid., p. 112.

⁶⁷ Ibid., p. 113.

mobilisations, class political coalition structures and the historical legacy of regime institutionalisation.”⁶⁸

This scheme of analysis presents an alternative to the class mobilisation theory of welfare state development. It also provides us with the perspective which reinforces Marshall’s theory of social citizenship as being relevant and necessary condition for analysing and studying a welfare state. The constituents of social citizenship rights are the most essential preconditions for characterising a welfare state and it is this lasting contribution of Marshall which still informs our understanding of a welfare state.

On the crisis of Welfare state:

The thrust on social rights and its linkage with the welfare state has engendered a bureaucracy functioning through governmental institutions and at times in alliance with corporations tends to subject citizens. The police state tends to gather information on the citizens and its surveillance tends to curb the civil liberties of citizens. The welfare state tends to subject citizens in two ways, “first, the modern ‘citizen’ is not only a citizen, but a subject as well - an individual who, in possessing citizenship rights, has been required to subjugate himself or herself to the institutions of the modern state and market. Second, the practice of citizenship helps define modern communities often at a cost to the individual’s subjectivity.”⁶⁹ The welfare state today engages in provision of various goods and services to the citizens either through governmental institutions and organisations or through market or in collaborations with private corporate bodies. “In ‘providing’ rights, society and the state do not simply give them to citizens *gratis*; citizens must subject themselves to the procedures and institutions necessary to ensure that the state can continue to provide rights.”⁷⁰ “Social ‘provision’ means that the state not only provides economic security to the citizen, but exerts control and discipline over the subject. The state rewards the citizen with social rights while asking the citizen to relinquish, on occasion, civil freedoms like the right to privacy.”⁷¹ The welfare state in pursuit of social provisioning acts as a police state and at times tends to being such a police state.

⁶⁸ Ibid., p. 114.

⁶⁹ Eric Gorham, ‘*Social Citizenship and its Fetters*’, *Polity*, vol.28, no. 1, 1995, p. 27.

⁷⁰ Ibid., p. 29.

⁷¹ Ibid., p. 31.

The welfare state provides social rights so that the economic inequalities, arising out of the free and unbridled play of the market, do not become intolerable. Citizenship discourse only from the point of class relations in society tends to obfuscate other power relations at play. Power relations exist not only in terms of class relations but also between the individual and the state. Citizens have to negotiate with the state and its institutions, most notably, the bureaucracy for the provision of their entitlements.⁷² Secondly, there is a gender bias. It results, in terms of power relations, in the subjugation of women at these sites. This leads to perpetuation of gender inequality, especially as tied to class. Also this practice of women petitioning with the bureaucracy has a contrary effect of empowering some of these women especially those who represent these interest groups.⁷³ Thus the welfare state's process of provisioning also tends to further women's dependency on the largesse of the welfare state.⁷⁴ There exists a gender bias in the substantive rules governing entitlement to rights of social citizenship and many times the exercise of these rights takes place in institutions where women have only a subordinate voice. Even the range of universal rights of social citizenship and their means of implementation have been shaped by assumptions about the roles of women in family and community.⁷⁵

The welfare state's tendency to inflate the bureaucracy has also given rise to a government which is too large and inept. Citizenship becomes an experience of negotiating and petitioning with an arbitrary and inept bureaucracy. This is a catalyst of political instability, as it leads to political disenchantment and disillusionment and, at times political indifference amongst the citizenry. Also welfare states of industrial economies have been erected at the cost of the plunder of the colonies. The economic uplift of the lower classes in industrially advanced nations has occurred at the cost of subjection and plunder of the rest of the world.⁷⁶

The claim of social citizenship to be universal and furthering a civic culture and heritage is also contested. It also tends to be exclusionary than being inclusive. Within a nation there are various different paths of civilising and the idea of 'social heritage' or 'citizenship' also shifts from one region to another as well as from

⁷² Ibid., p. 33.

⁷³ Ibid., p. 34.

⁷⁴ Ibid., pp. 33-5.

⁷⁵ Ibid.

⁷⁶ Ibid., pp. 36-8.

person/community to person/community. Also the concept of rights and duties of citizenship vary across the English speaking nations. So the claim of social rights to be universal seems to be on weak foundations. The claim of citizenship and social rights being universal also are put to question when the foreigners are discriminated against in any nation. The experience of the foreigner is totally incomprehensible to the citizens of that nation.⁷⁷

Critical enquiry into the historical and ideological roots of citizenship reveals the extent and dimensions of social rights and the tussle between the various interest groups. The attack on welfare rights has also come from two fronts: firstly, the social rights of citizenship tend to make the recipients of welfare services dependents. Thus welfare state creates not a new kind of citizenship but a new kind of servitude. Secondly, whatever be the character of formal entitlements the reality of welfare provision quite fails to modify the inequalities created by markets.⁷⁸ In other words, while some object to the welfare state as being an inadequate guarantor of equal citizenship, others have a philosophical objection to it for trying to do too much.

It has been claimed that social citizenship benefits the rich more than the poor. This conclusion, claim the supporters of welfare states, has been reached due to many deficiencies in the analysis of the redistributive impact of welfare rights. These deficiencies are of three types, namely, “interpretational inadequacies, inappropriate counter-factuals, and illusory expectations.”⁷⁹ Interpretational inadequacies arise because the methods employed to calculate the distributive effects of welfare state are technically flawed and they seriously overstate the regressive effects of the distributional welfare services. There is confusion about the nature and function of the welfare state and this leads to the resort to inappropriate counter factuals by the critics of the egalitarian impact of welfare state. Welfare state functions to distribute the services and provisions equally but not to distribute provisions in such a manner as to modify the social inequalities in certain manner as created by market. Also there is excessive expectation from welfare spending and the redistributive capacities of welfare state and we have to keep in mind the limits on the fiscal powers of the welfare state and also the role of the market where majority of the households earn

⁷⁷ Ibid., pp.38-46.

⁷⁸ Michael Moran, ‘Crisis of the Welfare State’, in *British Journal of Political Science*, vol.18, no. 3, Jul., 1988, pp. 397-414.

⁷⁹ Ibid., p. 402.

their remunerations from the market only.⁸⁰ In other words this crisis of resources stems from the popular belief that the welfare spending or the 'burden' of welfare state is unacceptable due to various reasons and the state should curtail this unproductive spending and the market should take its place to let individuals partake in this share of the resource.

This resource crisis is also a major component of fuelling the legitimacy crisis. It arises from the belief that the capacity of institutions of welfare state have declined to such an extent that they no longer command any support and obedience. The decline in support for the welfare state is not occurring across the spectrum for all the services and welfare activities that it indulges in. There is considerable support for some services which are seen by citizens as necessary and essential to be left for the market and there are many services which are considered as wasteful to be provided for by taxpayer's money. This ambivalence is a product of the social location of different people and the ideology of welfare that these individuals form, influenced by their social location in the market society. This leads to cementing of these ideas and thus it results as a slowness to change in social policy or popular belief about the welfare state. The decline in the support for welfare state is evident in political elite and it depends on the intellectuals and political elite, depending upon their ideology and interests, whether they argue for the rightness and justness of the welfare state.⁸¹

Crisis of welfare state as predicted by the critics has not occurred though there are tensions and stresses of fiscal balance and competing social and economic interests. The welfare states have weathered these storms and have resolved them in their own peculiar ways. Different nations have resorted to different mechanisms to overcome and negotiate the problems and claims arising out of welfare spending characterising various different versions of welfare.⁸²

Welfare provisions have nonetheless been there and carried forward by various nations and still form an integral part of the government plan and expenditure. The role of a government is seen as a providing stability to the plans people make for their lives and also as providing a safety net if those plans do not materialise. Citizenship has come to be associated with a status of member of a community who has the rights

⁸⁰ Ibid.

⁸¹ Ibid., pp.410-12.

⁸² Ibid., p. 414.

to live a life of dignity and state had duty to provide and safeguard such rights. Marshall when he associates social right with citizenship not only gives us a view as to “how welfare should be handled in a society but also how welfare provisions can be defended.”⁸³

On the defence of the Welfare state:

The normative claims to defend social rights can be from various grounds. One of the grounds is equality, on which Marshall also focussed in his essay. Citizenship for Marshall is about “expanding and enriching society’s notion of equality by extending its scope through civil, political and social rights.”⁸⁴ There are two ways to look at citizenship providing a defence to social provision. Firstly, citizenship as traditionally understood as providing for welfare rights and social rights enriching the quality of life of citizens for the fuller realisation of citizenship. Secondly, even if it is not so then alternatively a concept of citizenship which aims to provide for social provisions for its members is better and preferable and more attractive a notion.⁸⁵

Citizenship as a notion not only connotes political participation or political rights alone but also social and economic standing of the citizens. Equality of citizens, though not absolute equality, has been ideal inherent in the notion of citizenship. This equality amongst members is an ideal to be desired and strived for because it fosters amongst them a sense of solidarity and belonging to the community on equal worth. Thus it provides stability and solidarity to the society. Apart from this the equality is desired as it tends to breed a sense of independence amongst the citizens. No one is dependent upon the other for his or her survival. This is to say that there should not be rigid equality but this is a case against extreme inequality. No one should be so poor and helpless that they can be bought by the rich. Poverty has been characterised as a hindrance to the effective realisation of the goals of citizenship as poor person cannot participate in the civic duties and deliberations with a free mind. Extreme poverty also corrupts the fabric of society as rich can buy the poor and influence their opinion and choices. This opens the floodgates for corruption and violence in the political realm.⁸⁶ “If we take the idea of universal suffrage seriously, then we should not be content

⁸³ Desmond S. King and Jeremy Waldron, ‘Citizenship, Social Citizenship and the Defence of Welfare Provision’, in *British Journal of Political Science*, vol. 18, no. 4, Oct., 1988, pp. 415-443.

⁸⁴ *Ibid.*, p. 423.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*, pp. 425-431.

simply to give everybody a vote; we should set about the task of giving them the economic security, which... is the necessary precondition for good citizenship.”⁸⁷

The welfare provisions provided for in a society lead to the formation of legitimate expectations by citizens around them and they plan their life accordingly. To attack these welfare provisions, attacks the very idea of the planning and expectations people build around them. These attacks from the right can be countered on certain grounds which are wound around the activity of welfare provision and the idea behind them. Firstly, welfare provisions form a part of citizenship as it is understood to be today. The idea of membership is not static but it is subject to change and expandable as benefits can be distributed in the society relative to the societal configuration and demands. Secondly, the concept of citizenship as understood here is wider than mere political participation but suggests what it is to be a member of a society. It means how people perceive themselves as social selves and how they organise their lives. Thirdly, once welfare provisions are established they no longer are confined to the reasons for which they were instituted but people build legitimate expectations around such benefits and plan their lives around it. So to dismantle and break such provisions betrays the legitimate welfare expectations of the citizens.⁸⁸ “To violate these expectations is not merely to disappoint people; it is also to radically disrupt their personal planning.”⁸⁹ People structure their plans for risks and make their life choices based on the society and the safety net prevailing over there. Generally these plans are long term plans and to disrupt welfare provisions is to radically disturb their plans. Thirdly, there is a cost incurred when such plans are shattered or disoriented when the welfare measures are disrupted or taken back by the government. The costs involved are not merely financial or economic costs but also the disruption of their plans and long term expectations. The public provision sought or argued for is not some widespread social welfare state bordering socialism but “for public provisions of a minimum level of welfare as universal entitlement, defining a threshold below which people will not be allowed to fall without diminishing their sense and their capacities of citizenship.”⁹⁰

⁸⁷ Ibid., p. 431.

⁸⁸ Ibid., pp. 431-33.

⁸⁹ Ibid., p. 434.

⁹⁰ Ibid., p. 436.

The normative justification for welfare provisions and a welfare state is also immanent in the social contract theory. People choose to form a society and give up certain inherent rights to the state in exchange for certain roles that the state can play. Social contract presupposes a society which is made to take care of the concerns of the people who come to form that society. And “a person is a member of a society if and only if the design of its basic institutions fairly reflects a concern for his or her interests along with those of everyone else... a society is just, and the people living in it are members rather than subjects, if we can show that its institutions satisfy certain principles that people would have agreed to as basic terms of co-operation, had they been given the opportunity to decide. If the institutions do not satisfy such principles, or if they are based on principles that would not or could not have been agreed to in advance by those who have to live with them, then they cannot be regarded as just, for they do not embody sufficient respect for the persons they apply to.”⁹¹

So the social contract theory conforms to the idea of a welfare state in the sense that the such a “political theory treats people as citizens and as members (as opposed to subjects) only if it concerns itself with what social arrangements those people would agree to and secondly, people would agree only to principles which focused concern on the plight of the poorest members of the society.”⁹² Such a theory presupposes a welfare state and may be even more. This provides a strong argument to connect citizenship or membership as such with at least basic welfare provision. Marshall’s conception of social citizenship embodies the essence of a welfare state.

⁹¹ Ibid., p. 440.

⁹² Ibid., p. 441.

Chapter 3:

Right to Food

Food is the basic source of one's sustainability and functioning. To function and to lead an active and healthy life, a person needs certain basic minimum level of food and nutrition. More often than not, the right to food is understood as an aid which has to be resorted to only in the crisis situation of famines and droughts. This misconception has led to the gross negligence and apathy from various state agencies and institutions in fulfilling the nutritional needs of the population. Today majority of the people, especially in the third world, are affected by malnutrition resulting in stunted mental and physical growth and underdevelopment. Many children are affected by severe malnutrition and thus rendered underdeveloped mentally and/or physically for the life. Many of these children do not live past five years of age. And all this is not a picture of a famine or drought stricken nations or societies. Protein-energy malnutrition (PEM), also called protein calorie malnutrition, is one of the most widespread forms of malnutrition. PEM is so rampant and widespread that it is referred generally as malnutrition, in cases where no other description or specifications are available for malnutrition. It is also referred to as undernutrition.

The UNICEF framework considers causes of malnutrition at different levels, distinguishing among the *immediate*, *underlying* and *basic* causes. *Immediate* causes of malnutrition are inadequate dietary intake and diseases. The two are interlinked as one can lead to the other or vice versa. The major *underlying* cause of malnutrition is food insecurity. Insufficient and unstable access to adequate household food forms the major underlying cause of malnutrition. *Basic* causes of malnutrition can be divided into three broad categories. First, there are the problems arising out of or relating to *human resources*, owing to inadequate knowledge, inadequate skills, or inadequate time. Second, these are problems relating to *economic resources*, referring to inadequate assets in terms of money income, land, or other factors. Third, these are arising out of problems relating to inadequate *organizational resources*, such as inadequate schools, health programs, or water supply or sanitation systems.⁹³

⁹³ George, Kent, 2005, *Freedom from Want: The Human Right to Adequate Food*, Washington DC: Georgetown University Press. pp. 9-12.

The conventional perception of hunger and malnutrition has focussed on clinical and household levels. We need to look at the societal level and systemic or institutional level and bring in changes at these levels to tackle malnutrition and hunger. The marginalization of the poor is the main cause of hunger and malnutrition across the world. Hunger is due primarily to the failure of entitlement rather than, say, to inadequate agricultural productivity or excessive population growth.⁹⁴ A distinction has to be made between the *availability* of food and the *access* to food. The availability of food in a particular society at a given time does not guarantee that every person has equal *access* and *claim* on the food available. Thus, at the bottom it is access to the means of production and decent opportunities for doing productive work that guarantee a person a decent and healthy life with adequate nutrition.

Food security has been defined by FAO as follows: “food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life”.⁹⁵ Food security is a situation wherein everyone has complete access to a wholesome food. The society has a role to play in according everyone food security. Access to healthy and nutritious food is a major component of nutrition status but care facilities and health facilities are also major complements to overall development. Access to healthy and nutritious food complemented with good care facilities and health facilities available at all times throughout the lifetime of people is now increasingly considered as integral component in achieving an overall development of one’s life. People are deemed to have a right to such basic facilities and welfare provisions and state is seen as the actor that has an increasing role to play in the provision of these facilities. The State may make these provisions on their own or in partnership with the market. But the market has to be allowed to function in such a manner that the people are not deprived of these facilities merely because they cannot afford the high costs involved. State thus has to play the role of stabilising market forces. Market forces cannot be allowed to run free on their own to the detriment of the people, especially the poor. It is the poor who have to bear the major brunt of the increase in prices of these basic facilities, as the expenditure on food and health covers a substantial chunk of their daily or monthly earnings.

⁹⁴ Jean Dreze and Amartya Sen, 1989, *Hunger and Public Action*, Oxford: Clarendon Press, p.22

⁹⁵ FIVIMS, 2004, Food Insecurity and Vulnerability Information and Mapping Systems, ‘Definition of food security’, in *FIVIMS glossary*; at <http://www.fivims.net/static.jsp?lang=eng&page=overview>.

The government has a role to play in according and securing to its people food and nutritional security. Governmental action can vary and there are various ways and means to achieve this. But there are always some groups who need assistance and help and state has a greater responsibility to provide for them. Governmental actions that can be taken to strengthen food and nutrition security can be broadly divided into four categories: respect, protect, facilitate and provide.⁹⁶

First, government should and must *respect* the manner and efforts in which people have traditionally been securing their food requirements and not interfere with them. This entails various actions on the part of state to refrain from interfering with the land, water and forest resources from which people have traditionally been feeding themselves.

Second, governments should and must protect the efforts and resources from which they feed themselves. This obliges the state to provide protection to such resources from damage and destruction by human, animal or natural forces.

Third, governments can and must *facilitate* the efforts of the people to feed themselves. This entails efforts on the part of the government to provide direct and indirect services and interventions to make the institutions and processes more suited to enable people to access food and livelihood sources more easily. These efforts may range from market interventions, credit and loan provisions, and various programmes such as food for work and market information and other services to help the people.

Fourth, in certain circumstances the government may have to *provide* for certain direct measures to provide food to people. These may be in the form of school meals, direct food provisions or subsidised foods and emergency measures.

In this fourfold scheme of governmental action of respect, protection, facilitation, and provision; the underlying emphasis is on the government to respect the dignity and autonomy of the people and take these steps so as to make the livelihood of people self-sustaining. The respect for people's right to self-sustainment in a manner which is dignified is echoed in the various international documents and conventions, which affirm the right of people to live a life of dignity, without any dependence and vulnerability.

⁹⁶ Supra note 1; p. 24.

The United Nations General Assembly approved Universal Declaration of Human Rights (UDHR) on December 10, 1948. UDHR was brought with the objective to achieve “*universal respect for, and observance of, human rights and fundamental freedoms for all without distinction to race, sex, language or religion.*”⁹⁷

Most of the norms in UDHR were given binding effect in the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR). There are two optional protocols to ICCPR. The first optional protocol allows individuals to bring in their complaints to the Human Rights Committee. The two covenants and first protocol were adopted in 1966 and entered into force in 1976. The second optional protocol was adopted to abolish the death penalty in 1989 and brought into force in 1991.

Human rights as posited in the UDHR and the two conventions and the two protocols form the Bill of Human Rights. The two protocols introduced the distinction between civil and political rights on one hand and economic, social and cultural rights on the other hand. The major emphasis and effort of the states has been in affirming and strengthening the civil and political rights and emphasis on economic, social and cultural rights has come late in the latter half of the twentieth century. But the economic, social and cultural rights have still not been strengthened as well as civil and political at the institutional level.

The distinction between civil and political rights on one hand, and economic, social and cultural rights, on the other, is justified by the argument that to implement these rights entails

a commitment to social integration, solidarity and equality including tackling the questions of income distribution. Economic, social and cultural rights include a major concern with the protection of vulnerable groups, such as the poor, the handicapped and indigenous people.⁹⁸

Economic, social and cultural rights are rights which have certain characteristics which differentiate them from civil and political rights. There are aspects of economic, social and cultural rights which may be similar to civil and political rights but economic, social and cultural rights are mainly about bringing a change in societal

⁹⁷ Supra note 1; p. 28.

⁹⁸ Asbjorn, Eide; Katrina Krause, and Allan Rosas (eds.), 2001, *Economic, social and cultural rights: A textbook*, Dordrecht, The Netherlands: Martinus Nijhoff, p.5 quoted in supra note 1, p. 45.

relations to a more equitable and egalitarian level in real terms. The essence of these rights is their call for the inherent dignity of human lives and the respect for human autonomy. This entails actions and omissions on the part of the state towards the people or groups of people. These rights also involve huge costs for their realisation but so do the civil and political rights, though this is less recognised. Governmental institutions and processes have been already developed to cater to civil and political rights but the economic, social and cultural rights are yet to find a fuller realisation. Economic, social and cultural rights can become effective only when the groups or communities or organisations take these rights seriously and ask the state to play an active role in their provision.

Economic, social and cultural rights have an inherent core which seeks for a dignified and adequate standard of living for all. Article 25, paragraph I, of the UDHR states:

Everyone has the right to standard of living adequate for the health and well being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Similarly, ICESCR in Article II echoes a similar intent. Paragraph I says:

The state 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 to the continuous improvement of living conditions.

The emphasis here is on food, clothing and housing but an adequate standard of living also envisages adequate health and care facilities as well. There is a difference in fulfilling one's *need* for food and fulfilling one's *right to food*. An authoritarian regime can be very successful in fulfilling the needs but to realise the right to adequate food envisages a scheme of governance and institutions which respect the individual dignity and autonomy. The right to food can be fully realised only if people are free to choose what they wish to eat in conformity to their beliefs and contexts and there is a duty upon the state to respect these beliefs as such. For example, one's religion might prohibit consumption of certain kinds of foods and it is the duty the state to respect these sentiments and to provide for the socially and culturally acceptable food. This is best realized in a situation and scheme of governance which respects the inherent dignity of human beings as such.

Human rights are mainly about upholding human dignity, not about meeting physiological needs. Dignity does not come from being fed. It comes from providing for oneself. In any well-structured society, the objective is to move toward conditions under which all people can provide for themselves.⁹⁹

The emphasis is on self sufficiency of an individual to a minimal level, where the aim is not to seek equality of incomes between the individuals, rather to bring an equality of status. It is the innate dignity of human beings which is sought to be enhanced, where everyone is able to live a life of dignity, without the patronage of another person. People should be capable enough to live on their own and claim their entitlements without any hindrance or charity from the other person. Right to adequate food is increasingly considered a part of a person's right to life with dignity.

International Covenant on Civil and Political Rights (ICCPR) in Article I, paragraph 2, says, "In no case may a people be deprived of its own means of subsistence." Also, article 6 says, "Every human being has the inherent right to life." This clearly includes rights to subsistence with dignity.

United Nations human rights treaty bodies elaborate the major treaties through their responses to national reports and by issuing *general comments or general recommendations* on specific themes. The Committee on Economic, Social and Cultural Rights had released *general comment 12* at its twentieth session on May 12, 1999 on the issue of *The Right to Adequate Food* as provided in Article 11 of ICESCR. This *general comment* forms an important part of the international jurisprudence on the right to food as well as a guideline for drawing up of laws and policies on the realisation of Right to food in national policies and legislations. The major aspects of the statement are the following:

In paragraph 4 the committee establishes that the right to food is related to the inherent dignity of human persons and is indispensable for the fulfilment of other rights. It states:

The Committee affirms that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies,

⁹⁹ Supra note 1, p. 46.

at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all.¹⁰⁰

It defines right to food, in paragraph 6, as:

The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively.¹⁰¹

Access to food here implies both physical as well as economic access, as explained in paragraph 13, which implies both economic and physical accessibility. Economic accessibility means that costs of the food and allied provisions should not be so high that it jeopardises the attainment of other essential necessities of life. Physical accessibility implies that food should be accessible to vulnerable sections of the population and the paragraph details the various people who are rendered vulnerable due to natural, physical or man-made causes.¹⁰²

It further elaborates on the core content of the right to food, in paragraph 8, to imply as:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.¹⁰³

Availability here implies either the direct possibility of feeding oneself from directly from the productive land or natural resources or from market or any other distribution system capable of moving food from productive regions to food scarce regions.

These guidelines clearly specify that the inherent dignity of an individual must be respected and must be kept in mind while framing a national legislation as well as implementation and realisation of the right to food. The right to food approach

¹⁰⁰ United Nations, Office of the High Commissioner for Human Rights, *CESCR General Comment 12 (Twentieth Session, 1999): The Right to adequate food (Art.11)*, Geneva: United Nations, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/420/12/PDF/G9942012.pdf?OpenElement>

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

focuses on the access to food in connection with its utility in securing freedom from hunger and malnutrition. Access relates to availability and provisioning by the person of the foodstuffs either directly or indirectly and also to the aspect of freedom from hunger and malnutrition which results not only from non-availability but also from the nature of foodstuffs with deficient nutrition owing to their bad quality or poor nutrient value.

The principal obligation is on the state to strive progressively towards the full realization of the right to adequate food. Obligation upon the state is to move expeditiously towards the realisation of this goal. State has to move its resources in the realisation of this goal.

In paragraph 15 the obligations of the state parties to fulfil the right to adequate food is elaborated. It states that right to food imposes the three kinds of obligations on the state, that is, obligation to respect; obligation to protect and obligation to fulfil. Obligation to fulfil incorporates two other obligations, namely, obligation to facilitate and obligation to provide. Obligation to respect prohibits the state from any commission or omission which hinders any pre-existing access to adequate food of the people. The obligation to protect puts a duty on the state to take measures to preserve and protect the loss of already existing access to food of people. The obligation to facilitate requires the state to take pro-active measures to strengthen the access to food and ensure food security and livelihood. Lastly, obligation to provide requires the state to directly provide food to the people who have lost their access to adequate food because of reasons beyond their control. The natural target group here are the victims of natural disasters.¹⁰⁴

The *general comment* envisages that in order to implement the right to adequate food states should adopt a framework law as a major instrument in the implementation of the national strategy concerning the right to food.¹⁰⁵

Thus, the national legislation should incorporate these benchmarks as the minimum standards and seek to improve upon them. These prescriptions as provided in the general comment should be considered as the minimal standards to be kept in mind when national policy and legislation is made and implemented. The contents of the

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

General Comment are now considered as the guiding posts for any policy or legal document to be legislated within the context of the national socio-economic limits. The contents of the *General Comment* form the core content of any document on the right to adequate food and should be kept in mind.

Human rights are understood to form the fundamental entitlements of persons. These human rights are like means to the ends of human dignity and social justice. Human rights confer on people the fundamental claim that puts an obligation on others to do or refrain from doing something. Governments are, in most cases, the primary agents responsible for the realisation of the goals of social justice, thus they are the primary agents on whom the duty lies of commission or omission for furthering the end of social justice. Thus, it is the states that are ultimately responsible for the failure or violation of human rights within their jurisdictions. The scheme of ICESCR also envisages the duty of the states to uphold human rights and especially those related to economic, social and cultural rights. The optional protocol to the covenant allows for individual complaints in cases of violation of human rights in the national jurisdictions to be brought to the treaty committee of the covenant. The states are mandated to uphold the core obligations of the treaty and the failure on part of the state to uphold these rights cannot be excused on the grounds of economic inability of the state to fulfil these rights. The state has to show that it has explored all the available options of tackling the situation and has asked all international agencies for economic help.

The essential character of human rights is that they are universal. It does not help to make a categorisation as international human rights as the specific local and regional instruments of human rights are made to further the universal human rights. The regional documents are made to further the universal human rights keeping in mind the local peculiarities and particularities in terms of culture and traditions. The human rights have to be implemented keeping in mind the local cultural values. The national instruments for upholding and furthering human rights will reflect the character of local peculiarities in them and are bound to differ in certain aspects from the national instruments of other nations. The core content of the human rights and international instruments is to be protected and promoted. The rights are universal but the means for ensuring their realisation may be tailored to regional and cultural considerations.

The legal formulations of human rights can take the form of *soft rights* and *hard rights*. Soft rights are the ones which are mainly general international human rights declarations which are outcomes of conventions or treaties etc. The hardening of rights takes place when these principles as enunciated in international documents are made specific and concretised in the national laws. The hardening of the laws takes place by their interpretation by the courts, jurists and various other bodies national as well as international. Hard laws contain specific obligations to be performed and contain certain penalties in case of violations or breach of those rights.

The human rights as enshrined in Declaration of human rights and other covenants are concretised in the national laws as specific entitlements. Entitlements and other commitments are nationalised versions of global human rights and their corresponding national obligations. Entitlements are given the form of enforceable claims against some specific third parties for the commission or omission of certain acts or obligations in pursuance of rendering the fulfilment of such a claim. When there are specific claims then these have to be specified in the national or local laws and the obligations and accountability of others have to be specified. Where there is an entitlement to something, there must be some sort of remedy that can be pursued if the right holder does not get that to which he or she is entitled. If there is no institutional mechanism through which one can press one's claims, there is no genuine entitlement. It is these institutional arrangements that make the claim enforceable.

To understand entitlements clearly it is pertinent that one understands the nature and characteristics. This is pursued here specifically in relation to food entitlement. Starvation and undernourishment occur because one does not have enough to eat. This does not imply that there is not enough food but implies that the person who is rendered starving and chronically undernourished cannot claim access to the available food due to various reasons. Starvation thus depicts a relation between the commodity and the person. This is characteristically an ownership relation between the person and the commodity. Ownership is a kind of entitlement relationship. An entitlement relation with respect to ownership is a nebulous relation that connects an ownership with the other and so on, and all these ownership relations are connected through rules of legitimacy. The typical types of entitlements one has in a market economy are *trade-based entitlements*; *production-based entitlements*; *own-labour entitlements*;

and *inheritance or transfer entitlements*.¹⁰⁶ These entitlements which a person owns can be exchanged in a market economy for any commodity or commodity groups.

Starvation as already stated is thus a result of failure of entitlements and not of food non-availability as such because endemic and rampant starvation can and has occurred in situations of availability of food as well. Starvation results thus from the inability of persons to establish entitlement on enough food and not from the non-availability of food. Poverty is a condition which restrains a person from holding and exercising entitlements. Poverty thus is a case of deprivation.

The entitlement approach, with respect to starvation and malnutrition, focuses on the aspect of whether a person has the ability to command food or avoid starvation. This approach concentrates on the person's entitlement to commodity bundles including food. It views starvation as resulting from the failure to establish entitlement to a commodity bundle with enough food.

The entitlement approach allows us to understand the causes and situation of, starvation, in general and famines, in particular. Starvation and famines occur not because of the non-availability of food but of the lack of entitlements of the persons on food. Thus, to prevent starvation and famines the entitlements have to be strengthened by measures which provide the people with at least employment or opportunities where they have access to exchange their entitlements for commodities especially food.

Undernourishment and starvation are influenced by and result from the working of the entire economy and society. So to understand starvation and famines it is crucial to take adequate note of the interdependences that govern and influence the incidence of hunger and famines. Emphasis and attention has to be paid not to the total availability and supply of food in economy but to the entitlement which the people have, that is, the ability to establish ownership and command over commodities or bundle of commodities available in the society. Hunger ensues when there is a failure in the establishment of entitlement over and adequate amount of food by the people. Poverty can be debilitating in disabling people from establishing their entitlements but other factors also play crucial roles. Entitlements are influenced by *endowments* which a

¹⁰⁶ Amartya Sen, 1981, *Poverty and Famines: An essay on entitlement and deprivation*, New York: Oxford University Press, p. 2; for this categorisation and elucidation.

person has, that is, “the ownership over productive resources as well as wealth that commands a price in the market.”¹⁰⁷ Secondly, *production possibilities* and their use also influence the entitlements. The production possibilities imply the use of technology and its use for harnessing the available resources to the optimum. Thirdly, entitlements depend on *exchange conditions*, that is, “the ability to buy and sell goods and the determination of relative prices of different products.”¹⁰⁸

Income deprivation is one form of lack of entitlement which results in starvation and undernourishment. But income is not the only or most important factor in ascertaining and deciding one’s well being. Capabilities are the essential and crucial entitlements which determine the well being and development of a person. Capabilities are factors which influence what people are actually able to do and to be. Sen emphasises that poverty must be “seen as the deprivation of basic capabilities rather than merely as lowness of incomes, which is the standard criterion of poverty.”¹⁰⁹ The concept of “functionings,” “reflects the various things a person may value doing or being.”¹¹⁰ “A person’s capability refers to alternative functionings that are feasible for her to achieve. Capability is thus a kind of freedom: the substantive freedom to achieve alternative functioning combinations.”¹¹¹ The capability perspective is novel in poverty analysis as it allows us to have an enhanced understanding of the nature and causes of poverty and deprivation by shifting the focus from the “*means* (especially income) to, primarily, the *ends* that people have reasons to pursue, and, correspondingly, to the *freedoms* to be able to satisfy these ends.”¹¹² Capabilities are thus entitlements which are essentially important for the full development of human beings. These entitlements allow one to express oneself in terms of the desired goals which one seeks to pursue a fuller and richer life.

The growth indicators in terms of incomes or Gross National Product (GNP) are now considered as incompletely representative of the quality of life as they obscure the conditions of the poor and deprived. They fail to depict the gross inequality prevalent in society and gender discrimination as well. The utilitarian measures also fail to show a full and real picture as the fetish with utility or preferences fails to take the notion of

¹⁰⁷ Amartya Sen, 2000, *Development as Freedom*, New York: Alfred A. Knopf, p. 162.

¹⁰⁸ Ibid, p. 163.

¹⁰⁹ Ibid., p. 87.

¹¹⁰ Ibid., p. 75.

¹¹¹ Ibid.

¹¹² Ibid., p. 90.

adaptive preferences or choices made by people who are living a life of second class citizens. Their preferences are not free choices exercised without any influence as the choices which the poor in a highly unequal society or women in a prejudiced environment make are informed by the conditions and choices open and accessible to them within those cultures. Thus they tend to prefer sub-optimal choices and consider it as their destiny. The utilitarian approach fails to provide a full picture of development in real terms. The capabilities approach provides the best basis to think about the goals of development.¹¹³

The capability approach allows us to look at equality as a goal to be pursued in the development of human beings and society and it should be the aim to strive for equality of capabilities for a fuller development.¹¹⁴ Thus, capability approach looks beyond the notion of income equality and strives for equating human status and human worth in a manner that people are equal in terms of certain aspects which enable them to live a healthy and dignified life.

Capabilities are closely connected to rights and also capabilities give “important precision and supplementation to the language of rights.”¹¹⁵ Capabilities give the language of rights an effective and practical shape. Capabilities provide the rights posited in legal instruments and constitutions a functioning which renders rights in terms of their exercise and realisation by people in the processes of governance and life.

The best way to secure fundamental rights to people is to think in terms of capabilities. The relevant fundamental rights are best thought of as secured when the relevant capabilities to function are present.¹¹⁶ “Thinking in terms of capability gives us a benchmark as we think about what it is really to secure a right to someone. It makes it clear that this involves affirmative material and institutional support, not simply failure to impede.”¹¹⁷

¹¹³ Martha C. Nussbaum, 2006, ‘Poverty and Human Functioning: Capabilities as Fundamental Entitlements’, in *Poverty and Inequality*, David B. Grusky and Ravi Kanbur (eds.), pp. 47-75, Stanford, California: Stanford University Press.

¹¹⁴ *Ibid.*, p. 51.

¹¹⁵ *Ibid.*, p. 52.

¹¹⁶ *Ibid.*, p. 53.

¹¹⁷ *Ibid.*, p. 54.

The phraseology of rights as provided in the U. S. Constitution is couched in negative terms and rightly called “negative liberties”, as it restricts state from infringing in people’s exercise of these rights. But this phraseology, Nussbaum says,

...[d]eriving from the Enlightenment tradition of negative liberty, leaves things notoriously indeterminate as to whether impediments supplied by the market, or private actors, are to be considered violations of fundamental rights of citizens.¹¹⁸

Whereas the Indian Constitution, she says, “provides for affirmative action programs to aid the weaker sections, women and the members of lower castes, which is not only compatible with the constitutional guarantees but also, are actually in their spirit.”¹¹⁹ The state should take active measures and affirmative actions for the traditionally marginalised groups and women to achieve full equality. Fundamental entitlements should be understood in this manner. The capability approach makes it clear that to secure a right to someone requires more than the absence of negative state action. It guides state programs and actions, which are geared towards understanding the handicaps that hinder the progress and realisation of effective equality in the society and to address these obstacles.

T. H. Marshall in his classic 1950 essay *Citizenship and Social Class* talks in a similar vein about social rights, specifically social services and their effect in *class abatement* or bringing in more equality in the hierarchical class structure. In the 20th century with the advent of material benefits and increase in the disposable incomes of larger number of people there was decrease in social inequality. Marshall talks more in terms of status equality rather than of economic equality. This demand for more equality came through social citizenship and the tenor of this demand of *class abatement* in 20th century social citizenship was markedly different from that of 19th century. Now the demand for abolition of social inequality was especially, greater in the field of social welfare provisions. The demand was put against the government to take measure to alleviate poverty and extend other forms of social services.¹²⁰

The aspiration for abolition of inequality, especially in case of a person’s selection for welfare provisions by the state, came about with the incorporation of social rights into the status of citizenship. This was a landmark shift and an event of great significance

¹¹⁸ Ibid., p. 54.

¹¹⁹ Ibid.

¹²⁰ T.H. Marshall, *Citizenship and Social Class*, London, 1992, pp. 27-8.

as social rights now formed an integral part of the body of citizenship status. A person's status of being a member of a community entitled him to claim for equal social treatment especially equal treatment in terms of his having an equal social worth rather than a value attached to him by the market. This paradigm shift created a universal right to real income which was not proportionate to the market value of the claimant.¹²¹

The aim of social rights and social citizenship in 18th and 19th century was expressed in terms of *class abatement* which meant bringing down the unequal structures of class and foster more egalitarian structure. The emphasis of social rights shifted a claim to be recognized by the state as an equal citizen in the 20th century and manifested itself in the claims for social services whereby the demand was made for recognition of social worth of an individual detached from the values attached to him by the market. Class abatement, now was not restricted to avoidance of nuisance of poverty but aimed to change the whole pattern of inequality prevalent in the class system.¹²²

Marshall analysed social services to ascertain whether the aim of reduction of structural and societal inequalities was implicit in the development of citizenship especially social citizenship. In analysing Legal Aid and Advice Bill, a social service legislation, to provide free legal aid to the needy. Marshall says that in such schemes which are limited by income criteria to persons falling in certain income group by way of means tests, there is a scope of arbitrariness by the officials determining the deserving people for such aid.

Also a measure of class abatement can become class privilege depending on the content of regulations but this difficulty can be overcome if the system was made universal or nearly universal. In other words means tests can be preserved but income limit dropped. This ensures that deserving group is chosen but arbitrary targeting can be dropped which in turn leads to social divisiveness. If the schemes were universally applied differences in money incomes would be meaningless.¹²³

¹²¹ T.H. Marshall, *Citizenship and Social Class*, London, 1992, pp. 28-9.

¹²² T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 29.

¹²³ T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 31-2.

The capability approach has room for the autonomy and choices of individuals. It allows people to do and be as they wish to and pursue the life they consider valuable and thus, respects the choices they make in their lives. This approach also respects autonomy as it doesn't push people into certain prescribed functionings as are considered good by a third person or the state.

In analysing social services, Marshall considers those services which are provided by state as guaranteed minimums. These are services in the form of goods or services such as medical attention and supplies, shelter and education. Food provisioning squarely falls in this category. Or the state can provide the minimum support in form of a minimum money income to be spent on essentials and it can take the form of old age pensions, insurance benefits and family allowances. These services are provided to those who cannot afford these minimums on their own. Marshall says that these services have the character of fostering equality in the sense of class abatement by changing the structure at the bottom of the class superstructure. But it needs careful scrutiny. Marshall says that the degree of equalisation achieved by such services depends on four things: Firstly, whether the benefit is offered to all or to a limited class; secondly, whether it takes the form of money payments or service rendered; thirdly, the minimum is high or low; and lastly, how the money to pay the benefit is raised.¹²⁴

Marshall says in cases where the beneficiaries of such services are chosen on an income criteria or income limit there is psychological class discrimination involved. This stigma which is attached with the beneficiaries of such services is a hindrance in broadening the base of such services and realising greater equality. This can be done away with by providing the services to all or universalising the services. Universal programmes or flat rate benefits do not bring about equalisation as is achieved by means tested services as these flat rate services do not bridge the gap of income between various groups. But the crucial and very important aspect of such flat rate schemes is that they bring higher percentage additions to lower income groups than the rich.¹²⁵ Extension of such services is not a means of equalising incomes. But what matters is, Marshall says, the improvement in the quality of life which these services bring rather than reduction in the income differentials. To quote Marshall, he says:

¹²⁴ T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 32.

¹²⁵ T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 33.

What matters is that there is a general enrichment of the concrete substance of civilised life...Equalisation is not so much between classes as between individuals within population which is now treated for this purpose as though it were one class. Equality of status is more important than equality of income.¹²⁶

This basic equality is the precursor to a dignity of an individual. This is essential element of realising the self worth. State is the primary agent responsible for providing these basic elements which go on to make a person realise and attain this self worth. Economic enrichment is necessary but not the only element for enjoying a fuller life. As Amartya Sen and Martha Nussbaum have described about the development of essential capabilities which contribute to make a person's life more meaningful and drive the pursuit of happiness.

Nussbaum endorses a list of ten basic capabilities, which are subject to change and amendment as and when according to the cultural, temporal and contextual specifications and needs. She says this list of ten capabilities is a list focussing on those entitlements which allow a person to lead a life with dignity. The list is open ended and subject to modifications. This list contains capabilities which are mutually supportive and reinforcing and promote the end of social justice.¹²⁷

The central capabilities are the ones that are very essential to the basic human functioning and cannot be done away with. Thus there we see a prioritisation of certain capabilities over others. To secure justice and equality some freedoms have to be curtailed for the furtherance of some freedoms considered as the core.

Nussbaum says that "all political societies that pursue a reasonably just political conception have to evaluate human freedoms, saying that some are central and some trivial, some good and some actively bad. This evaluation also affects the way we assess an abridgment of freedom. Certain freedoms are taken to be entitlements of citizens based on justice. When any one of these entitlements is abridged, that is an especially grave failure of political system. In such cases, people feel that abridgment is not just a cost to be borne; it is a cost of distinctive kind, involving a violation of basic justice. When some freedom outside the core is abridged, that may be a small cost or a large cost to some actor or actors, but it is not the cost of exactly same kind, one that in justice should no citizen should be asked to bear. This qualitative

¹²⁶ T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 33 (emphasis added).

¹²⁷ For an account of these capabilities; see *ibid.*, pp. 58-9.

difference is independent of the amount of cost, at least as figured in terms of standard subjective willingness-to-pay model.”¹²⁸

Thus the capability approach strives to provide a content of basic entitlements and capabilities essential for the human development. “The capability approach provides us with new ways of understanding the *form* of “primary goods,” and that is one part of the work that it does in providing a more adequate theory of care.”¹²⁹

The capability approach is a powerful tool in crafting an adequate account of social justice. But the bare idea of capabilities as a space which comparisons are made and inequalities assessed is insufficient. To get a vision of social justice that has the requisite critical force and definiteness to direct social policy, we need to have an account, for political purposes of what the central human capabilities are, even if we know that this account will always be contested and remade.¹³⁰

Thus, we see that to make social and economic rights entrenched and effective in social life and reality, we have to take the road of capabilities and tread on that path as it leads to a plain where the inherent human equality is realised and developed.

The rights discourse, though very popular, is not without its problems and shortcomings. The plausibility of a rights approach is questioned when we look at it at an abstract level and question the grounding of rights in philosophical enquiry. When one looks at rights and the nature of the rights and the corresponding obligations or duties on the others then complexity and ambiguity arises as to the specification of obligation on third parties.

In rights based reasoning, rights can either be claimed of *all* others (here the obligation is *universal*, such as an obligation not to injure) or of some *specified* others (here the obligation is *special*, such as a worker’s right to receive agreed payment from the employer)...Since the discourse of rights assumes that obligations are owed to *specified* others, *unallocated* right action, which is owed to unspecified others tends to drop out of sight.¹³¹

The cases where a right has obligations cast on specified others is easy to determine and enforce but difficulty arises where it is uncertain to determine on whom the obligation is cast of intervention or non-intervention for the realisation of the right.

¹²⁸ Ibid., p. 63.

¹²⁹ Ibid., p. 75.

¹³⁰ Ibid.

¹³¹ Onora O’Neill, 1986, *Faces of Hunger: An Essay on Poverty, Justice and Development*, London: Allen & Unwin, p. 100.

But right discourse is very effective when it is promulgated and cast into a legal instrument, which specifies the right holders and the bearers of obligations.

This shift from the discussion of right action to discussion of rights has the advantage that it moves from abstraction to practical terms which can be realised by way of incorporation into legislation and thus can be accessible to actual agents and agencies. By delineating universal rights in a grid one can go on to ascertain the salient features of the same and impute obligations on specified agents responsible to obligations. O’Niell takes the example of right to food to explain this, unless there is a legal instrument specifying obligations on certain agents to provide for this right the hungry cannot claim this right against some third parties in a court of law. This allocation of obligations to provide food on specified others make this a problem of others as well, those agents and agencies entrusted with the obligation to provide food. Unless obligation to feed is cast on ascertained specifiable others these rights remain manifesto rights.¹³²

This shift from discussion of right action to discussion of rights not only renders the right holders as passive recipients of others action but also puts this in a narrow perspective of claimants of others’ actions. Right discourse focuses on what ought to be done for the legitimate claimants. Also, in the rights discourse, there is a distinction made between *narrow or perfect* obligations or duties and *wide or imperfect* obligations or duties. Perfect obligations are those which can be *claimed* as a right and in case of imperfect obligations there is no specified others on whom the obligation is cast, so there is nobody who has a right to their performance.¹³³

When rights are institutionalized and put in the form of legal documents then they become the standards to which appeal can be made and which can be enforced within certain jurisdictions. However, such institutional rights can be enforced precisely because they are *statutory or customary* rights, whose correlative obligations have been located within an institutional structure.¹³⁴

But many scholars have argued that the liberty rights and claims which are considered as fundamental for the development of a person can be exercised freely and to a full

¹³² Ibid., p. 101.

¹³³ Ibid., p. 102.

¹³⁴ Ibid., p. 105.

extent only when the basic minimum social and economic rights which enable them to carry out these fundamental rights are granted to them. “There is no adequate way to respect others’ rights, including any rights to action, unless we also respect certain ‘welfare’ rights, including a right to minimal subsistence. Human rights are the conditions of human autonomy, or positive liberty. Hence *any* respect for rights needs some positive action, and not mere non-interference.”¹³⁵

The need is of a theory of *basic rights*, that is, those essential rights which if abrogated result in the abrogation or curtailment of enjoyment of other rights as well. This theory of *basic rights* must include welfare rights providing for sufficient physical security and subsistence enabling one to exercise these and other rights. To maintain that non-interference is a respect of right is a sham if non-interference results in defeating to provide for the basic minimum rights which enable a person to exercise other rights as well.¹³⁶

The main shortcoming of a rights discourse arises when there is a claim and the reciprocal or correlative duty of the right cannot be placed on certain specified person or group of persons. This lacuna gets resolved once the right/s in question is institutionalised and posited in the form of legal instruments and constitutional frameworks. International rights declarations and conventions also impress upon the need for a hardening of these rights by legislating national laws. The effect of putting these rights in legislation is that the state parties make themselves obligated to respect these rights and provide a concrete framework wherein there is assignable duty cast on certain person to uphold these rights and corresponding obligations. International instruments, especially the ICESCR, provides for an individual complaint mechanism in case of a breach of these socio-economic and cultural rights within national jurisdictions. This is a novel and comprehensive development in the field of rights discourse wherein state parties are mandated to respect the rights enumerated in the convention failing which they are liable for certain actions as provided in the covenant.

The dilemma of ascertaining the correlative duty of a right also is confounded by the distinction being made between the positive and negative liberties. Negative liberties

¹³⁵ Ibid., p. 113.

¹³⁶ Ibid., pp. 113-4.

are those liberties where the duty cast on the state is that of non-interference. Positive liberties are those where there is a duty to perform an affirmative action in pursuance of realization of the rights. Negative liberties encompass the civil and political liberties such as freedom of speech, expression, movement, association and life. Positive liberties are understood to be mainly the socio-economic and cultural rights. This distinction is instructive and cogent at the level of abstraction but at the level of practice the distinction is blurred. The negative liberties also entail similar efforts and costs on the part of the state for their realisation as do the positive liberties. The negative liberties are developed to certain extent as they have been emphasised and promoted in the post-enlightenment period and have been mutually co-existing and flourishing with the western *laissez faire* principles of market economy and capitalism. But socio-economic rights are basic fundamental rights and their essence and importance is second to none. The socio-economic rights are fundamental and basic in the sense that these rights are essentially important for the functioning of negative liberties as well. Thus, it can be seen that the distinction is misconceived and the relevance of the distinction remains at a metaphysical level only.

The shortcomings of the rights discourse are overcome to a great extent once we look at rights in terms of entitlements and capabilities. The capability approach emphasises on the freedom of choice and autonomy of individuals to pursue and be what they value as worthy for a healthy and dignified life. This approach thus seeks to put certain obligations upon the state to provide an environment conducive for such development within the limits of the resources of the state. The basic capabilities seek to accord to a person a healthy and full life with dignity and freedom. This approach is also comprehensive as it takes into consideration the rights of hitherto marginalised groups such as women, the disabled and the weaker sections of the population.

It can be seen that to realise the right to food in a comprehensive manner certain duties and obligations are cast on the state and various agents and agencies within the institutional framework for the realisation of this right. Also the people have to respect the dignity and worth of the other and seek to promote socio-economic and cultural rights. The weaker and marginalised groups have to be taken together and their rights also to be given a concrete form. Thus, it is the institutional framework which should be so established which is strong, resilient and comprehensive and at the same time malleable to accommodate changes which are deemed necessary with

contextual, cultural and temporal settings. The next chapter shall look at the institutional framework as in present in India for securing right to food.

Chapter 4

Institutional Mechanisms of Food Security in India

To assess the state of food security in a country, a few questions need to be asked, which can be instrumental to ascertain the nutritional achievement of that particular state. These questions, according to Jean Dreze and Amartya Sen are: “(1) Is the country *self-sufficient* in food? (2) Does the country have adequate *food availability*? (3) Do the people in the country have sufficient *food entitlement*? (3) Do the people have adequate *nutritional capability*?”¹³⁷ Self-sufficiency in food implies that a country is able to produce enough food products that it does not have to depend on external imports of food. But the issue of self-sufficiency does not automatically translate into adequate consumption or nutritional levels. Food self-sufficiency is distinct from adequate food supply and this has to be kept in mind. The two are often confused because of the experience of most of the Sub-Saharan African (SSA) countries which have seen the deprivation of the conditions for agriculture and food production because of various inevitable natural and man-made factors. This in turn eroded the domestic agricultural output and led to greater reliance on food imports. Inadequate entitlement leads to lowered consumption and results in deprivation of food and endemic hunger and malnutrition. But there are many instances where the countries which could not produce sufficient food for their people shifted to imports and have been able to maintain adequate consumption and nutritional levels. This cannot be ascribed, in a straight forward manner, to the sufficient availability of food in the country but to the institutions and policies which are in place ensuring the entitlement of the people and providing them with the capabilities to command access to adequate nutrition.¹³⁸

In countries where the production of food crops is hampered because of ecological problems and climatic uncertainties, as is the case with most Sub-Saharan African countries, the emphasis should not be solely to revamp agricultural production for food self-sufficiency but also to look for other avenues of production expansion and diversification. This is a prudent step as it provides other safer options to fall back upon in case there is a production failure in agriculture owing to any reasons natural

¹³⁷ Jean Dreze and Amartya Sen, *Hunger and Public Action*, Delhi, 1998, p. 165.

¹³⁸ See *Ibid*, for the country details of such instances and comparisons.

or man-made. The diversification of production allows other modes for ensuring a stable and permanent source of livelihood for the people and ensures that they have adequate capability to access and command food and nutrition both in times of endemic deprivation as well as in times of crisis in food production.

Self-sufficiency in food production does not automatically guarantee adequate nutrition and consumption levels. Food self-sufficiency is an important aspect to be taken into consideration but adequate nutrition and consumption is not limited to this. Enhanced food production and economic diversification are components which are instrumental in ensuring an adequate availability of food and providing adequate food entitlements but to maintain an adequate nutrition and consumption one has to look at the issue of ensuring adequate capabilities. The issue of adequate capabilities for a healthy and active life is wider and goes beyond the issue of food production and availability. The capability to be nourished depends crucially on other characteristics of a person that are influenced by such non-food factors as medical attention, health services, basic education, sanitary arrangements, provision of clean water, eradication of infectious epidemics, and so on. Eradication of hunger of course is dependent on the most important aspect of food and eating but this view is a narrow aspect of the broader aspect of adequate nutrition and healthy and active life, which depends crucially on other non-food factors to a great extent.

The broadening of emphasis from food entitlements to general entitlements has many crucial implications. This brings into focus the role of the state as a central player in provisioning of these services. In such matters as the operation of general health services, the provision of clean water, the eradication of infectious epidemics, and so on, the role of the state is typically even more direct and immediate. This brings into focus the issue that the entitlement guarantees in the context of these non-food items have to be seen in terms of public planning rather than enhancement of purchasing power in market.¹³⁹

The incidence of hunger and deprivation is sometimes assumed to be caused by the lack of income, not of food supply. This conclusion has obvious sense to it but this causal theory is misleading. Income is a dubious indicator of being nourished and more so as the indicators of income as Gross National Product etc. do not present a

¹³⁹ Ibid., p. 178.

clear picture of the distribution of income as well. Also as already stated the state of being nourished and healthy is dependent not only on income but also on other factors such as health facilities, sanitation, freedom from epidemics, clean water supply, care facilities and basic education and so on. Thus, the role of state and public support and provisioning plays a crucial part in ensuring an adequate nutrition and healthy life.

There are, in fact, two distinct - and in principle separable - causes underlying the dissonance between GNP and achievements of quality of life. First, the GNP gives a measure of the aggregate opulence of the economy, and the translation of this into pattern of individual prosperity would depend also on the distribution of income over the population. Second, as we have seen, the capabilities enjoyed by people depend on many factors other than the command over commodities which can be purchased in the market. Among such factors, public provisions made by the state for health, education, sanitation, etc., are especially important.¹⁴⁰

This is not to underestimate the role of income and affluence in making a person have command over goods and facilities which enable one to enjoy a healthy and active life. But the role of income is also influenced by the social intervention and public support in ensuring a healthy life with opportunities for development of capabilities to lead a fuller life. The simple analogy drawn between the quality of life of developed nations and the affluence and high GNP achieved by them is often misleading as it tends to ignore the historical development of such nations. The increase in life expectancy at birth in England saw a dramatic rise especially in the decades during the period of the two world wars, when the public provisioning was enhanced in all the fields such as public employment, food rationing and health care provisions, which were extended to all in an unparalleled scale.¹⁴¹

The role of enhancement of income and public support, in alleviating hunger and deprivation, can be channeled broadly in two ways. One approach is to promote economic growth and to make the best of the outcomes of such greater affluence achieved through economic growth in terms not only of enhancing private incomes but also of expanding the public support. This can be termed as the strategy of 'growth-mediated security'. The other alternative is to resort to *direct* support in wide ranging areas as employment provision, income redistribution, health care, education and social assistance to achieve removal of destitution and equitable growth without

¹⁴⁰ Ibid., p. 180.

¹⁴¹ Ibid., p. 181-2.

waiting for an increase in the general opulence to take these measures. This may be called the strategy of ‘support-led security’.¹⁴²

The success of both the strategies is dependent on a variety of factors and there are cases of countries which have resorted to either of the strategies and have attained success as well as failure in realizing the desired goals. Growth-mediated security has clearly been an important part of the experiences of Hong Kong, Singapore and South Korea. Also, United Arab Emirates and Kuwait can also be placed in this group, though they attained economic development mostly due to the oil exports and have utilized the revenue for economic and social development and expansion of the same. On the other hand, Chile, Costa Rica, Cuba, China and Jamaica have adopted the support-led security and have attained high rates of development in social development indicators despite having relatively lower levels of economic development.¹⁴³

Public support is crucial in improving the quality of life and enhancing the capabilities of the people. Growth-mediated security is not capable of single-handedly bringing about changes in the social and public lives.¹⁴⁴

Support-led security and public intervention is crucial to bring a change in the social life and development. The countries which are poor in terms of GNP but have resorted to support-led security have shown that public support can go a long way in conquering deprivation and raising the quality of life without waiting for economic development to happen and then raising the benefits of such an economic boom. This immediacy is an important aspect of support-led security and it can substitute for fast economic growth.

Prevention of endemic undernutrition requires public support not only for the protection of entitlements but also for the widespread promotion of entitlements on a long term basis. Essential entitlements to be promoted and protected for eliminating endemic deprivation and undernutrition include basic health care and elementary education in addition to food as such. They also include other necessities such as clean water, living space and basic sanitation.

¹⁴² Ibid., p. 183.

¹⁴³ Ibid., p. 185-6.

¹⁴⁴ Ibid., p. 186.

Public provisioning can play a crucial role in the promotion of basic capabilities and guaranteed entitlements such as entitlements to food, health services, medical attention good epidemiological environment and basic education. It is relevant not only in the case of developing nations but also has been a part of the development history of many developed economies as was seen in the case of England, where a direct and widespread public provisioning of basic facilities led to enhancement and dramatic improvement of certain basic social development indicators as levels of undernutrition, child mortality and mortality in general. Also, the role political pluralism, in relieving hunger and deprivation cannot be ignored. “Adversarial politics and a vibrant and diverse media plays a crucial role in making the state secure, promoting basic capabilities and ensuring that the institutions perform and deliver as instances of omission or commission leading to such deprivations are brought to light.”¹⁴⁵

In India, the government intervenes in the food grain market in four ways. Firstly, the state procures food grains through a system of public procurement. Secondly, the state manages food stocks through storage and buffer stock operations. Thirdly, the state distributes the subsidised food grains through a public distribution system (PDS). Fourthly, the government controls the availability and prices of food grains through many measures such as intervention in trade, controlling hoarding through legal measures and other internal aspects of trade and by putting restrictions on external trade or importing food grains.¹⁴⁶ A governmental agency, the Food Corporation of India (FCI), undertakes the activities of direct intervention in procurement and distribution of food grains.

The Public Distribution System (PDS) was started in 1939 by British colonial rulers as a war-time rationing measure in the metropolitan city of Bombay and later extended to six other cities and a few regions. PDS was made a universal system in 1970’s as the need of strengthening this system was felt in the wake of droughts and food shortages that occurred in the mid-sixties.

From its inception, the objectives of PDS have been (1) rationing during periods of scarcity, (2) maintaining price stability, (3) keeping a check on private trade, and (4)

¹⁴⁵ Ibid.

¹⁴⁶ Madhura Swaminathan, *Weakening Welfare: The Public Distribution of Food in India*, New Delhi, 2000, p. 6.

raising the welfare of the poor (by providing basic foods to the vulnerable population at reasonable prices).¹⁴⁷

Swaminathan¹⁴⁸ traces the growth of PDS in four broad phases. In the first phase (1939-60), PDS had a restricted coverage around the big cities. Rationing was abolished in 1947 and reintroduced in 1950, with the onset of planning, as a welfare measure. This phase was also marked by the import of grain and its distribution through PDS. Second phase (1960-78), was marked by crop failures and droughts and thus PDS was made permanent and a universal programme. The Food Corporation of India and the Agricultural Prices Commission (later renamed the Commission on Agricultural Costs and Prices) were also established during this phase in 1965. The third phase (1978-91) was marked by an expansion of the system coupled with the growth of buffer stocks and the introduction of schemes such as food for work programmes. This period saw the emergence of PDS as a tool to alleviate poverty. This period was also significant as it saw the highest amount of food grain distribution, which was 20.8 million tonnes, through the PDS in 1991. The fourth phase (1991-present) saw a decline of food grain distributed through PDS. This is attributed to various causes such as excessive holding of stocks by FCI, narrowing of price differential between PDS and market prices, and narrowing of the scheme from a universal system of distribution to a targeted system introduced in 1997. This period is also a period of structural adjustment characterised by liberalised trade, fiscal restructuring, increasing public sector 'efficiency', financial sector reform and specific programmes in the agriculture, industry, transport and energy sectors.¹⁴⁹

The present day free trade has been characterised as hampering agriculture in the developing nations and leading to lower per capita food output and falling nutrition levels. Agriculture was brought into the fold of WTO in the Uruguay Round of negotiations for the first time leading to the signing of GATT 1994. The causes of inclusion of agriculture have been mainly due to two reasons. Firstly, after the economic collapse of Russia and Ukraine as well as Eastern Europe, the advanced countries of North America and Western Europe needed markets for the export of their food and feed grains. Secondly, the rapidly growing trans-national agro-business

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid., pp. 9-13.

corporations needed access to these markets and thus pressurised their governments to push for the same.¹⁵⁰

The structural adjustment policies and the free trade regime has led to the opening up of the market of the third world countries for export of food grains produced in the advanced countries of Western Europe and North America. The farmers of these advanced countries produce food grains at highly subsidised rates and even after the export the cost of these food grains remains so low in the markets of developing countries that the farmers producing the food grains in developing countries cannot compete with these prices as the costs for them are too high and the returns too low.¹⁵¹

It is also argued that the incomes earned by export of primary goods can be used to import food grains by the developing countries but how feasible this strategy would be depends on the terms of trade as was witnessed in the in 1980's in the wake of loan-conditional programmes overseen by the Fund-Bank which led to the devaluation and deflation of the economies of many developing nations leading to a decline in absolute dollar price value of their primary exports.¹⁵² Thus given the fixed resources, mainly land, an inverse relation, obtains between export production and production for domestic consumption.¹⁵³

Hunger and malnutrition are widespread in India and the consumption of cereals per capita is also very low compared to the levels recommended for healthy life.

There are many indicators used to determine the level of hunger and deprivation and the ability to command access to food. Some of the many indicators employed are income poverty, levels of food consumption, calorie intake, and intake of micronutrients, nutritional status, and food share or share of expenditure on food in total household expenditure.

Income poverty is the most commonly used indicator for measuring the scale of poverty and commonly used measures of income poverty are the number and proportion of households that are below the official poverty line. "The poverty line is

¹⁵⁰ Utsa Patnaik, *The Republic Of Hunger And Other Essays*, New Delhi, 2007, p. 32-3.

¹⁵¹ *Ibid.*, pp. 41-5. See also, table 4, p. 37, depicting the drop in the level of nutrition in the six most populous countries in Sub-Saharan Africa and table 5, p. 43, which shows the percentage of producer subsidy equivalent to agricultural production in selected economically advanced countries of North America, Western Europe, Australia and Japan.

¹⁵² *Ibid.*, p. 36.

¹⁵³ *Ibid.*

a measure of income or expenditure required to purchase a food basket that generates a minimum number of calories".¹⁵⁴ The Planning Commission had estimated that the required per capita daily intake of calories is around 2,400K cal in rural areas and 2,100K cal in urban areas; this calorie level was accepted as an adequate minimum by the N C Saxena Committee, though since the Suresh Tendulkar Committee Report of the Planning Commission the revised calorie level is 1800K cal for all the persons. The Tendulkar Committee arrived at the poverty lines at Rs 22.42 for rural and Rs 28.35 for urban areas for daily expenditure. According to the National Sample Survey Organisation's 61st round of survey, for the period 2004-05, 28.3 percent in rural and 25.7 percent of people in urban areas live below poverty line. Even with this meagre poverty line there are 3017.20 lakh people in India who live below this poverty line.¹⁵⁵ In terms of per capita calorie consumption, average calorie consumption in India the figures are, 2047 Kcal in rural and 2020 Kcal in urban areas.¹⁵⁶ In 2004-5, the fraction of the population living in households with per capita calorie consumption below 2,100 Kcal in urban and 2,400 Kcal in rural areas was 63.9 and 79.8 respectively. In aggregate 75.8 percent of population was living below this calorie consumption in India.¹⁵⁷ So there is a glaring gap between the number of people whose consumption of calories is less than norm, and the number of people officially declared poor.

In terms of cereal consumption, the bottom 10 percent of the rural population consumes 10 kg per month, whereas the top 30 percent consume more than 12 kg per month.¹⁵⁸ There has been a decline in cereal consumption of the population as a whole since 1993-94, but the level of cereal consumption of the poorest 10 percent of rural population has been continuously 20 per cent less than that of the top decile of the population, despite the top decile having access to a diversified food basket.¹⁵⁹ This is attributable to the low purchasing power of the poor though over the years their

¹⁵⁴ Madhura Swaminathan, Op. Cit., p. 15.

¹⁵⁵ *Poverty Estimates for 2004-05*, New Delhi, 2007, p. 4. (<http://planningcommission.nic.in/news/prmar07.pdf>)

¹⁵⁶ *Perceived Adequacy For Food Consumption in Indian Households 2004-2005, NSS 61st Round, July 2004- June 2005*, Rep. No. 512, New Delhi, n.d. in *Report of the Expert Group to Advise the Ministry of Rural Development on the methodology for conducting the Below Poverty Line (BPL) Census for 11th Five Year Plan*, New Delhi, 2009, p. 5.

¹⁵⁷ Angus Deaton and Jean Dreze, 'Food And Nutrition In India: Facts And Interpretations' in *Economic and Political Weekly*, vol. 44, no. 7, February 2009, p. 45.

¹⁵⁸ *Report of the Expert Group to Advise the Ministry of Rural Development on the methodology for conducting the Below Poverty Line (BPL) Census for 11th Five Year Plan*, New Delhi, 2009.

¹⁵⁹ Ibid.

income has also marginally increased, but so have the expenses on non-food items for the poor. The expenditure on clothing, medical care and education has also become an integral part of the monthly expenses of the poor households, resulting in a distress situation, where they have to cut down on expenses on food and shift it to essential non-food items.

The data clearly points to the fact that the official poverty line does not portray a comprehensive picture of the real poverty in the nation and there are many poor people who are left out of the official poverty line but have to face deprivations in terms of food and nutrition. This results in the failure of the policies and schemes of the government to address the deprivations prevailing and face by the citizens. Subsidised food thus should be made available to a larger proportion of population, specifically those poor who face undernutrition as well as those who stand a chance of deprivation and undernourishment in future.

PDS functions all over India but its performance varies across the states and this has changed markedly after the introduction of targeting post 1996. The food grains distributed through PDS is dependent on the quantity allocated and the quantity of offtake by the various states. Every state is allocated certain quantity of food grain from the central pool and state purchases either the full allocated amount or less than the allocated amount to be distributed in the state through the fair price shops. In the period intervening between 1991 and 1995, with the post-structural adjustment and targeting, there has been a “*widespread decline in per capita offtake.*”¹⁶⁰ This suggests that, with the curtailment of the coverage of PDS from universal to targeted programme to the officially declared poor, the people who were unable to achieve normal nutritional requirements increased and their situation has worsened. The official poverty line is not the real signifier of real nutritional deprivation across the population and it leaves out many needy and poor people who need subsidised food to maintain their nutritional requirements with their low and meagre incomes.

The quantity of food grain offtake by states has no positive relation with the incidence of poverty, and thus the poor states did not show higher per capita offtake of food grains. This divergence across the states with respect to the effectiveness and scale of PDS is dependent on the political commitment to food security and does not bear any

¹⁶⁰ Jean Dreze and Amartya Sen, Op. Cit., P. 39.

relation to the incidence of poverty. But PDS has shown to play a crucial role in safeguarding from the worsening of the inequalities of consumption across the states.¹⁶¹ It has been noticed that in the state where the PDS was widespread with effective distribution networks, high coverage and proper functioning, the poor used the PDS more than the rich, whereas in states where PDS was functioning poorly, neither rich nor poor stood to gain from it and did not participate in PDS.¹⁶² FCI has seen a rise in the total costs of its functioning mainly owing to the increase in the costs of carrying buffer stocks. Also in terms of the costs relating to the PDS, there has been a rise in the procurement costs rather than the distributional costs. Thus, maintenance of buffer stocks and procurement costs has been the major cost components in the increased costs of the functioning of FCI.¹⁶³

PDS has been functioning very well in the state of Kerala since its inception and “Kerala’s experience shows that with political commitment, food and nutrition security can be enhanced through an effective system of public distribution of food.”¹⁶⁴ Firstly, the PDS in Kerala has been almost universal in coverage. Secondly, the monthly entitlement of food grain per adult through the PDS in Kerala has been above the Indian Council of Medical Research recommended level of 370 grams of cereals per day. Thirdly, the quantity of food grain purchased from the PDS in Kerala is high, higher than most of the other states, and caters to the nutritional needs of the people, especially the most vulnerable. Fourthly, though the scheme is universal, evidence has shown that the functioning of PDS in Kerala is progressive and it is the poor who are relatively more dependent on PDS than the rich. Fifthly, the functioning of the ration shops and delivery is much better than most of the other states and consumer response surveys have shown that the satisfaction with PDS in Kerala is more than other states. Lastly, with its scale and scope, PDS in Kerala has shown a real improvement in the consumption and nutrition.¹⁶⁵

Thus, it can be seen that though there is huge inter-state variation in the functioning of PDS, the southern states fare far better than the northern states. It has also been witnessed that in the states where the PDS is extensive and functioning properly, poor

¹⁶¹ Ibid. p. 40.

¹⁶² Ibid. p. 46.

¹⁶³ Ibid. p. 53.

¹⁶⁴ Ibid. p. 58.

¹⁶⁵ Ibid. pp. 58-61.

people have been the most benefitted and have taken part in the PDS actively, whereas in states where it is inefficient, limited in scale and expansion neither the rich nor the poor have participated in the PDS. Thus, the success of the PDS depends on making it more accessible to all and to put mechanisms in place so that it functions properly. Also, as has the Kerala example shown us, it is possible to meet the nutritional requirements of all the people through a well functioning PDS and the poor especially stand to benefit the most from a well functioning and widespread PDS. It has been evident that strong political commitment is crucial for a well functioning and effective PDS.

In the post-1991 period, the Government has followed a policy of structural adjustment resorting to many policies and cut backs in subsidies, including a reduction in food subsidies. This in turn is justified as a means to cut down the public expenditure. So many changes in policies and implementation have been brought about by the government to reduce the public expenditure. This reduction in food subsidies is argued would also help in bringing down the inflation.¹⁶⁶ The two most common strategies employed in adjustment are, firstly, a reduction in the total level of subsidy and secondly, to target the reduced subsidy to a limited group among the poor section of the population. These have been an integral part of the policy of the government of India post 1991.

The trend of annual growth food subsidies when analysed since 2001-02, shows that it has steadily decreased and reached the lowest in 2005-06, as shown in the data in table 1. After that it has shown growth but so has the total GDP and the subsidy has not crossed the growth percentage of 2001-02. We have to be careful to note that the share of food subsidies to the GDP has stayed almost constant and has not grown contrary to the claims that the food subsidy is large and putting excess pressure on the exchequer. Thus, the claim that the subsidies have grown over time and are rising and they are a fiscal profligacy does not stand its ground. Secondly, the food subsidy bill in India is not as high when compared to the food subsidy bill of the other developing nations.¹⁶⁷ In India, over the 31 year period, 1966-1997, food subsidy averaged 0.31

¹⁶⁶ *Economic Survey 1993-1994*, New Delhi, 1994, quoted in Jean Dreze and Amartya Sen, Op. Cit., p. 79.

¹⁶⁷ Ibid.

per cent of GDP and 2.35 per cent of central government expenditure.¹⁶⁸ This clearly shows that even elimination of food subsidies totally will not solve the fiscal problems of the government.

Table 1: Quantum of food Subsidy released by the Government:¹⁶⁹

Year	Food subsidy (₹ crore)	Annual growth (per cent)
2001-02	17,494.00	45.66
2002-03	24,176.45	38.20
2003-04	25,160.00	4.07
2004-05	25,746.45	2.33
2005-06	23,071.00	-10.39
2006-07	23,827.59	3.28
2007-08	31,259.68	31.19
2008-09	43,668.08	39.69
2009-10	58,242.45	33.38
2010-11	62,929.56	8.05

Source : Department of Food & Public Distribution.

This period post structural adjustment has also witnessed a rise in the prices of food grains. In the 1990's, the inflation in food prices has been high, and has raised the relative price of food. This rise in food prices is accompanied by a reduction in the food subsidies explicit as well as implicit. There was a repeated rise in the food prices sold through the PDS over a short period of time in the early 1990's as a result of the cut back in the food subsidies. This also influenced the prices of food grains sold in the open market and led to an overall rise in the cost of food. Prices of commodities sold through the PDS have risen via a number of small increases that were introduced since the 1990's and there was narrow difference in the prices of food grains sold in open market and the PDS. "Price data from a market in Delhi, for example, showed that the difference between market and PDS prices for wheat fell from Rs 1.11 per kg in January 1991 to 0.33 paisa per kg in February 1994."¹⁷⁰ Another feature of the changes in PDS post structural adjustment has been the decline of quantity of food

¹⁶⁸ Ibid. pp. 81-3.

¹⁶⁹ *Economic Survey 2011-12*, New Delhi, 2012. (<http://indiabudget.nic.in>.)

¹⁷⁰ Ibid. pp. 83-88.

grains supplied to be sold through them. Also the per capita offtake of food grain has declined post structural adjustment was introduced.

The incidence of decline in food grain offtake and distribution can be attributed to the change in the PDS from a universal to a targeted programme. Under the targeted system the major changes which were brought about were related to the reduction in the number of beneficiaries and, change in the system of distributing food on per head basis to household basis. PDS was changed post 1990's and called Revamped PDS (RPDS) and then in 1997 changed to Targeted PDS (TPDS). Now the National Food Security Bill, 2011 (NFSB) proposes to further divide the beneficiaries into three groups viz. the priority households, general households and the excluded households. Priority group shall be given subsidised food from the PDS, general households will have to pay more than the priority households and the excluded group is the population left out of the TPDS under the NFSB, which shall have no stake in PDS and would not get any food grain from the PDS. This approach is consistent with the policy of structural adjustment which focuses on reducing and narrowing the beneficiaries of public support in the name of reducing fiscal deficit.

Under the programme of structural adjustment, thus, specific changes were brought about in the PDS in the 1990's to bring in the principles of targeting. The Revamped PDS involved targeting of specific areas, with special attention to be given to "the population living in the most difficult areas of the country, such as drought-prone areas, desert areas, tribal areas, certain designated hilly areas and urban slum areas."¹⁷¹ In 1997, the government of India introduced Targeted PDS to target households on the basis of an income criterion, that is, used the income poverty line to differentiate between the 'poor' and 'non-poor' households. The stated objective of the government in introducing targeting was "to streamline the PDS by issuing special cards to families below the poverty line and selling essential articles under the PDS to them at specifically subsidized prices, with better monitoring of the delivery system."¹⁷²

The Revamped PDS system was introduced in 1992, to target selected backward areas of the country. The objectives of RPDS were, firstly:

¹⁷¹ *Economic Survey 1991-1992*, New Delhi, 1992, quoted in *Ibid*, p. 90.

¹⁷² *Focus on the Poor*, New Delhi, 1997, p. 1; quoted Jean Dreze and Amartya Sen, *Op. Cit.*, p. 90.

to increase coverage of the population in the target areas; secondly, to improve the access of income-poor consumers to the public distribution system; thirdly, to increase the range of commodities supplied by fair price shops; and to provide selected commodities at prices lower than in the general PDS.¹⁷³

Swaminathan (2000) conducted a field survey in 1995-96 to assess the impact of RPDS in Akhar village in Jawhar *taluka* of Thane district in Maharashtra. She found food grain entitlements to be lower in the RPDS areas than in the general PDS areas. So the families covered in the RPDS areas had reduced entitlements of food grains contrary to the objective of enhancing the food entitlements. Before 1992, the entitlement of food grain specified for each individual was 10 kg a month based on the number of members of the household; but after the introduction of RPDS a uniform ceiling of 20 kg per month of food grain per household was put in place. Thus, the entitlements to food grains for all households with more than two members got reduced under RPDS.¹⁷⁴ In addition to the reduction in the food entitlements there was a rise in the prices of the food grains sold through the PDS. The price differentials also fell between the food grains sold in PDS and in the open market.¹⁷⁵ This twin effect of reduction of food grain entitlements and rise in prices have culminated in the fall of quantities of food grains sold by the PDS. The findings of the survey showed that:

...[t]he coverage of RPDS was not universal and utilisation was low. The purchase of food grains from PDS was not a regular monthly feature for most households, and contribution of PDS to monthly cereal consumption was small. Clearly, RPDS did not improve the access of the poor to PDS.¹⁷⁶

Under the Targeted PDS some changes were introduced in the policy of distribution of food grains to the poor through the PDS. The amount of food grain entitlement for each poor household below the poverty line, as arrived at by the Expert Group appointed by the Planning Commission under Prof. Lakdawala, was fixed at 10 kg per month. Targeted PDS has certain differences from the earlier forms of PDS in many respects. Firstly, under this programme, for the first time, there was a distinction made between the 'below poverty line' (BPL) and 'above poverty line' (APL) populations, to be treated differently in terms of entitlements to quantities of food grains and prices of the commodities. Secondly, the principle of entitlements was shifted from per

¹⁷³ Jean Dreze and Amartya Sen, *Op. Cit.*, p. 91.

¹⁷⁴ *Ibid.*, pp. 91-92.

¹⁷⁵ *Ibid.*, p. 92.

¹⁷⁶ *Ibid.*, pp. 93-94.

capita norm to family or household norm. Thus, under this scheme every poor household is entitled to a uniform amount of food grain irrespective of the need or size of the household. Thirdly, under TDPS monthly entitlement of food grains to poor was fixed at a meagre 10 kg per month per household, which translates into 2 to 3 kg per person, contrary to the Indian Council of Medical Research advised norm of 15 kg per person norm. States are allowed to allocate extra amount of food grain to the poor but it will be priced at the normal prices prevailing for the APL categories resulting in extra economic hardship for the poor. Lastly, the APL categories do not have guaranteed entitlements to food grains under this scheme, they are provided for with a transitory allocation which is to be calculated based on the past levels of utilisation of food grains.¹⁷⁷ The figure of 10 kg per family per month was arrived at by calculating the whole food grain stock available to be distributed to the entire population but the APL category does not have any guaranteed fixed quantity of food grain entitlements. This disingenuous method has short-changed the poor who are left in the lurch and remain undernourished. Antyodaya Anna Yojana (AAY) was started in 2000 to provide subsidised food to very poor households from the PDS.

Targeting is seemingly a very promising idea and makes one believe that it ensures the needy and poor would benefit the most from it, but in practical terms, targeting is ridden with lots of problems and costs. So when one has to make a choice between targeting and a universal scheme these costs have to be kept in mind. Targeting has both practical and theoretical problems and costs attached to it. Targeting in India for food provisioning is done on the grounds of income criterion, which differentiates population into two groups living below poverty line and above poverty line.

Some practical problems which targeting includes are the following. Firstly, the income criterion is arrived at by the household surveys and the accuracy of such surveys is dubious. A large majority of the population is employed in the informal sector and the income is irregular and fluctuating, so in such a situation it becomes highly complex and unascertainable to measure clearly the income of a person. Secondly, for households whose income is earned by engaging in casual labour and by self-employment, income fluctuates on a daily basis and over time, so it is highly dubious to fix the income of that person based on the income on the day of the survey.

¹⁷⁷ Ibid., pp. 94-95.

Thirdly, those households who earn little more than the poverty line, vulnerability to deprivation and starvation are not much different than the persons falling in the BPL category. Thus, there is a great scope for misidentification and mis-targeting populations based on the income criterion.¹⁷⁸ After the introduction of TPDS and reduction in the entitlement of food grain sold through PDS to each household has led to the deterioration of the quality and functioning of PDS in the states where it had been functioning well and the state distributed more food to households before TPDS. This also leads to the overall increase in expenditure on food for the poor families as under TPDS a meagre amount is allocated and the rest of the food grain has to be bought at a higher price resulting in increased economic burden on the poor.¹⁷⁹

A choice for a universal programme of welfare or a narrow targeted programme depends on the weights one attaches to the costs or benefits of resorting to either. There are two types of errors that occur in any targeted welfare programme due to problems of measurement. Errors of wrong exclusion mean that the targeted programmes are too narrow and genuinely deserving persons or households of the welfare programme get excluded. This is called Type I error. Type II errors¹⁸⁰, namely, the errors of wrong inclusion are involved when non-deserving and non-eligible persons or households are included in a welfare programme.

Universal programmes tend to have large errors of wrong inclusion (that is, include the rich) but small errors of wrong exclusion. On the other hand, narrowly targeted programmes tend to have small errors of wrong inclusion but large errors of wrong exclusion. The more fine the targeting, the more the likelihood of Type I errors, that is, of wrongly excluding the needy.¹⁸¹

When one type of error is large the other type of error gets reduced. So in making a choice between the two, a trade off has to be made between them. If one attaches high weight to errors of wrong exclusion then a universal scheme will be preferable. If one attaches high weight to errors of wrong inclusion then a targeted programme would be preferable. Thus, in order to make a choice between a universal welfare programme and a targeted welfare programme one has to make a judgment about the relative importance one attaches to the costs of the two.

¹⁷⁸ Ibid., p. 96.

¹⁷⁹ Ibid., p. 99.

¹⁸⁰ G.A. Cornia and F. Stewart, 'Two Errors of Targeting' in *Journal of International Development*, vol. 5, no. 5, September 1993, pp. 459-90, in Jean Dreze and Amartya Sen, Op. Cit., p. 102..

¹⁸¹ Ibid., pp. 101-2.

Errors of wrong inclusion result in fiscal or financial costs, that is, higher expenditure due to inclusion of wrong or ineligible beneficiaries. Errors of wrong exclusion, however, lead to welfare costs, that is, the costs to individuals and society due to inadequacy of food, malnutrition, etc. While the fiscal costs are known and easy to measure, it is more difficult to measure the welfare costs of undernutrition.¹⁸²

There are various costs involved in the administration of a welfare programme and it depends on the nature of existing institutions, delivery mechanisms, and on the extent of information available. Targeting involves enhanced costs in terms of delivery and administration, as the target group has to be identified based on certain criteria, resulting in greater administrative capabilities and expenses. In a country like ours, where the structure of the economy is composed of large agricultural and self employed sector, it is near impossible for the administrative organisation to collect accurate information and employ a perfect targeting system. Thus, with the introduction of targeting the administrative costs have risen. Targeted welfare programmes also require greater administrative competence and cost more than the universal welfare programmes.

Targeting induces people to distort information as they see the incentives in doing so, in order to be included within the targeted group. This might result in misuse of processes and mechanisms used to ascertain the target group. Targeting can also bring with it social stigma in certain cases to the recipients of the welfare measure and can be invasive and intrusive and result in greater social divisions. The initial costs attached to participation in a targeted welfare programme as the take up involves costs and it is dependent upon information about the programme and about the conditions of eligibility. It is important to broaden the base of target group, that is, to employ a broad targeting as it fosters greater public support for the programme and thus there is greater political support for universal welfare programmes than for targeted programmes. If the middle class is also included in any target welfare programmes then “the non-poor play a crucial role in creating, expanding, sustaining, reforming and dismantling the welfare state.”¹⁸³ Thus, the middle class can play a crucial and positive role in the continuation of welfare programmes they benefit from and thus

¹⁸² Ibid., p. 102.

¹⁸³ R. E. Goodin and J. Le Grand, *Not Only the Poor: The Middle Classes and the Welfare State*, London, 1987, quoted in Ibid., p. 105.

support its continuation and also defend such programmes in those instances where a cut back is proposed in the scale of such programmes.

Universal welfare programmes affirm basic human rights and are consonant with them. Thus, universal welfare programmes are supported by a strong human rights rationale and principles. Secondly, universal welfare programmes draw strength from the argument of political support as universal programmes promote social cohesion and solidarity, and foster greater participation. Thirdly, universal welfare programmes lower the errors of wrong exclusion, thus, if the goal is to provide food security to all the vulnerable people and to reduce the costs attached to wrong exclusion then universal welfare programmes are the best mechanism. Fourthly, in the long-run universal welfare programmes may be more cost effective than the targeted welfare programmes. Also, universal programmes do not necessarily have to be uniform and selective taxes can be used to finance the universal welfare programmes.

Therefore we can see that the universal welfare programmes have certain substantial advantages over the target welfare programmes. Target welfare programmes are said to reduce fiscal burden but this is only true in the short-term, while in the long-term universal welfare programmes may be more cost effective. This is because in case of universal programmes there is no need for a large bureaucracy and allied state machinery; moreover the need for periodic massive country wide surveys and other tests, which entail huge public expenditure are needed to determine the target group on certain criteria, is done away with. Also, the costs attached with doing away with universal programmes are reflected in terms of loss in human development, which are very difficult to determine but likely to be very large in the long term.

In analysing social services, Marshall considers those services which are provided by state as guaranteed minimums. These are services in the form of goods or services such as medical attention and supplies, shelter and education. Food provisioning squarely falls in this category. Or the state can provide the minimum support in form of a minimum money income to be spent on essentials and it can take the form of old age pensions, insurance benefits and family allowances. These services are provided to those who cannot afford these minimums on their own. Marshall says that these services have the character of fostering equality in the sense of class abatement by changing the structure at the bottom of the class superstructure. But it needs careful

scrutiny. Marshall says that the degree of equalisation achieved by such services depends on four things: Firstly, whether the benefit is offered to all or to a limited class; secondly, whether it takes the form of money payments or service rendered; thirdly, the minimum is high or low; and lastly, how the money to pay the benefit is raised.¹⁸⁴

Marshall says in cases where the beneficiaries of such services are chosen on an income criteria or income limit there is psychological class discrimination involved. This stigma which is attached with the beneficiaries of such services is a hindrance in broadening the base of such services and realising greater equality. This can be done away with by providing the services to all or universalising the services. Universal programmes or flat rate benefits do not bring about equalisation as is achieved by means tested services as these flat rate services do not bridge the gap of income between various groups. But the crucial and very important aspect of such flat rate schemes is that they bring higher percentage additions to lower income groups than the rich.¹⁸⁵ Extension of such services is not a means of equalising incomes. But what matters is, Marshall says, the improvement in the quality of life which these services bring rather than reduction in the income differentials. To quote Marshall, he says:

What matters is that there is a general enrichment of the concrete substance of civilised life...Equalisation is not so much between classes as between individuals within population which is now treated for this purpose as though it were one class. Equality of status is more important than equality of income.¹⁸⁶

This basic equality is the precursor to a dignity of an individual. This is essential element of realising the self worth. State is the primary agent responsible for providing these basic elements which go on to make a person realise and attain this self worth. Economic enrichment is necessary but not the only element for enjoying a fuller life.

Thus, there is a very strong case for resorting to a universal distribution system in case of food entitlements in India as firstly, the target group is very large, and secondly, undernutrition is rampant even as there is burgeoning buffer stock in the FCI storage houses where they are rotting because of poor storage conditions and non-utilisation.

¹⁸⁴ T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 32.

¹⁸⁵ T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 33.

¹⁸⁶ T.H. Marshall, *Citizenship and Social Class*, London, 1992, p. 33 (emphasis added).

Thirdly, the costs entailed in pursuing a targeted system of food distribution are very large as it employs a huge number of people for conducting surveys to determine the target population based on certain criteria and large state administrative machinery is also employed to pursue this system of targeting. Fourthly, the costs due to leakages and corruption are large and induced by narrow targeting. Lastly, the universal system of food provisioning can go a long way in cutting down the loss of human lives which is incurred because of lack of food as the criteria used for targeting in India do not take into consideration a huge population of poor people who migrate to urban areas for work as wage labourers in various industries and other informal sectors.

In 2000-01, the per capita availability¹⁸⁷ of cereals had dropped to a very low level of 141.4 kg and that of pulses to 10 kg. per head annually, so total food grain availability was 151 kg per head. This is a very low figure and compares to the level of food availability of Sub-Saharan countries. This drastic drop in the per capita consumption of food grains is primarily because of a massive *deficiency of demand*, whereas there is around 40 million tonnes of food grains in the storage houses of FCI.¹⁸⁸ The deficiency in demand is caused by the twin factors of “absolute decline in real incomes and hence loss of purchasing power through unemployment and income deflation for a substantial section of the population, and targeting in the PDS.”¹⁸⁹ This has resulted in large inequalities in the access to food in Indian society especially village society, and traditional forms of employment have been broken down, in turn leading to a decline in the purchasing power of the rural poor, since the structural adjustment and liberalisation reforms introduced post 1990s. Secondly, the targeting of the population under the below poverty line and above poverty line categories resulted in disastrous outcomes, as per capita entitlement declined, many eligible poor households got excluded, and the system of universal food provisioning at subsidised rates was totally done away with.

The food grain availability per capita has decreased incrementally over the years in India and in the period from 1998 to 2003 it has dropped from 174 kg. to 155 kg., resulting in lower food entitlements and starvation for many. This drop in consumption of food grain has been attributed to a shift from direct consumption of

¹⁸⁷ Availability is defined as net output plus net imports and minus net addition to public stocks.

¹⁸⁸ Utsa Patnaik, *The Republic Of Hunger And Other Essays*, New Delhi, 2007, pp. 95-6.

¹⁸⁹ *Ibid.*, p. 102.

grains to animal products as milk, eggs and meat and so on, referring to the Engel's effect. Engel's law¹⁹⁰ states that there is a fall in share of grains as there is a rise in the income. But this is a misunderstanding of Engel's law as it refers to only the *direct* consumption of food grains. But it is well established that as income rises the consumption of total food grain, both from direct and indirect sources, rises.

There is a paradoxical development in India in terms of rising per capita income and falling per capita food grain availability. This is abnormal as under normal circumstances a rise in income should also lead to a rise in higher consumption levels. This has been observed worldwide in all developing countries. In China, with a per capita income double that of India's per capita availability of food grain was 325 kg., and in Mexico, per capita absorption of food grain was 375 kg. In case of developed countries with higher per capita incomes the per capita grain consumption was even higher such as in Europe it was over 650 kg. and in USA it was 850 kg. and a less than a quarter of it was as direct grain consumption and rest was indirect in the form of animal products.¹⁹¹

This abnormal phenomenon in the case of India can be explained in terms of

a very large *inequality in income distribution* during the nineties of specific type, namely income deflating policies reducing the absolute real income of a majority of population, and also in the poor being institutionally denied access to grain since 1997-98 owing to the misconceived targeting system under which a large number of the actually poor are not being identified as such and are not being issued BPL ration cards for accessing cheap food.¹⁹²

The low consumption of food per capita cannot be explained by Engel's law as both direct and indirect consumption of grain have to be taken into account and Engel's law talks of only the direct consumption. This low per capita consumption is a result of the low purchasing power of poor people caused by high unemployment and deflationary policies followed by India under the structural adjustment policies post 1990's. There is excess stock of food grains beyond the mandated buffer stock norms and it has ended up raising the storage costs of the FCI. The need is to start food-for-work programmes, which will have many benefits such as firstly, it will generate employment and thus reduce unemployment, secondly, this will raise the purchasing

¹⁹⁰ Ibid., p. 125.

¹⁹¹ Ibid., pp. 125-6.

¹⁹² Ibid., p. 106.

power of the poor as they will have steady income under these programmes, thirdly, it will lead to the provision of adequate nutrition of the poor, and lastly, it will bring down the fiscal costs as the excess amount of food grain which is stored in FCI stores beyond the mandated norm of buffer stock can be utilised and extra storage costs can be saved. This approach is in line with the human rights principles that seek to provide right to food while upholding the inherent human dignity.

It is essential to understand that apart from the supply side effect of food shortage, that is, physical output shortfall which curtails supply, there can be demand side constraints, that is, demand deflation wherein the effective demand, the purchasing power of the masses falls, even though there is physical supply or availability of food grain is there, people end up starving or move into hunger as they are unable to purchase food or access food. Amartya Sen¹⁹³ has also emphasised on this aspect of inability of people to access food, despite there being supply and availability of food, resulting in undernutrition, starvation and famine. Thus it is essential to enhance the *capability* of people so that they have access and claim to food entitlements.

The poverty estimation as done by the Planning Commission for the first time in 1973-74 followed a simple and direct method. The estimates were arrived at by analysing the NSS data on the calorie intake corresponding to the quantities of foods consumed. From this data the amount of expenditure incurred on food which gave 2400 calories for rural areas and 2100 calories for urban areas was obtained and this was called the poverty level income though correctly it is poverty level expenditure. This direct poverty estimation method was done away with by the Planning Commission in the later years and an indirect method of estimation of poverty was employed which is complex and not as transparent. *“In order to estimate the poverty for later years, it was assumed that the quantities people consumed, hence the pattern of consumer expenditure, remained unchanged from 1973-74, and a price index was applied to the old poverty line to update it.”*¹⁹⁴ Thus, present day poverty estimations by the Planning Commission are based on a consumption pattern which was prevalent forty years ago and thus is flawed and not reliable, as it does not present the real poverty level expenditure of today rather gives a very low level of poverty

¹⁹³ Amartya Sen, *Poverty And Famines: An Essay On Entitlement And Deprivation*, New York, 1981.

¹⁹⁴ R. E. Goodin and J. Le Grand, *Op. Cit.*, p. 139.

expenditure. It is utterly and abjectly fallacious to assume that the consumption pattern of people has not changed over the forty years.

The Ministry of Rural Development had constituted an expert group under the chairmanship of Mr. N. C. Saxena to advise on the methodology for conducting BPL census for the 11th five year plan and the report was submitted in August, 2009. BPL census is crucial as it determines who fall in the BPL category and thus are eligible to benefit from the various welfare programmes of central as well as state government. The expert group recommended that the BPL list should only be used in those cases where targeting has proved to be more effective than the universal programmes. The Committee found that the poverty line arrived at by adjusting the 1973-74 based poverty line to inflation does not correspond realistically with the real life needs of the minimum calorie norm.

For instance, for the year 1999-00 the monetary cut-off corresponding to the minimum calorie requirements norm should have been Rs 565 in rural areas and Rs 628 in urban areas, whereas by price updated methodology as used by Planning Commission the poverty line was Rs 328 and Rs 454 respectively.¹⁹⁵ Thus a large number of rural poor consuming between Rs 328 and Rs 565 per month were left out of the BPL benefits.

The poverty lines estimated after 1973-74, thus, undermine the true poverty existing in the country. This method assumes that the expenditure on non-food items of households has stayed the same and has also not broadened in scope from that of the 1973-74 level. The failure of Planning Commission's model to provide for the expanded basket of expenditure on non-food essential items results, it said, in an artificially low poverty line depriving large number of poor people from BPL status. The Committee recommended that the percentage of people entitled to BPL status be revised up to 50 percent from 28.3 per cent as determined by Planning Commission for the year 2004-05. This recommendation of revision up to 50 percent is based on the calorie consumption of 2100 K cal in rural areas and minimum cereal consumption of 12.25 Kg per month.

¹⁹⁵ Angus Deaton and Jean Dreze, *Nutrition in India: Facts and Interpretations*. Princeton University, 2008 in *Report of the Expert Group to Advise the Ministry of Rural Development on the methodology for conducting the Below Poverty Line (BPL) Census for 11th Five Year Plan*, New Delhi, 2009, p. 4.

This committee provided for a methodology to identify poor which involved three steps for the identification of the poor to be included in the BPL list. Firstly, it provided for *automatic exclusion*, that is, exclusion of households which are well off and rich from this BPL count at the first instance. This method ensures that the errors of wrong inclusion are minimised in the first instance and only the deserving people are included. Secondly, it provides for *automatic inclusion*, that is, inclusion of certain people into the list in the first instance, these are the groups of people who constitute the poorest and most vulnerable in terms of deprivations in society. Thirdly, it provides a grading of the rest of the households on a scoring criterion, but based on different issues than the 2002 BPL census, which shall ensure that the deserving households are included in the list of poor after examining their economic status arrived after the scoring exercise. The most prominent and crucial features of this report are the features of *automatic exclusion and inclusion*, which provides for the exclusion of non-deserving at the first instance and inclusion of the most needy and vulnerable persons or groups, who might otherwise get excluded, into the BPL category.

The Planning Commission appointed an Expert Group under the chairmanship of Prof. Suresh D. Tendulkar¹⁹⁶ to review the methodology for estimation of poverty, which submitted its report in November 2009. The expert group proposed some changes in the methodology for estimation of poverty from the earlier methods. The salient features of the new methodology are as follows:

1. It proposed to continue basing the estimation on private individual household consumption expenditure data collected from surveys conducted by National Sample Survey (NSS) Organization (NSSO).
2. It proposed to move away from the practice of basing poverty lines on the calorie intake norm as it found that there was no correlation between the nutritional outcomes and calorie consumption calculated by converting the consumed quantities in the last thirty days as collected by NSS, as had been proved by many specialised surveys over time or across space.
3. It proposed to adopt the Mixed Reference period (MRP), that is, consumption survey carried out by NSSO for the 365-days for low frequency items

¹⁹⁶ *Report of the Expert Group to Review the Methodology for Estimation of Poverty*, New Delhi, 2009, pp. 1-3.

(clothing, footwear, durables, educational and institutional health expenditure), which provides a better and satisfactory picture of the consumption expenditure of poor households than the earlier used 30-days recall period under the Uniform Reference Period (UPR).

4. The expert group proposed to recommend a MRP-equivalent of urban poverty line basket (PLB) corresponding to 25.7 percent urban headcount ratio as the new reference PLB to be provided to rural as well as urban population in all the states after adjusting it for within-state urban-relative-to-rural and rural and urban state-relative-to-all-India price differentials.
5. The new poverty line estimates are broader in scope in the sense that it takes into consideration the expenses incurred on education and health as well which earlier methods based on calorie intake did not take into consideration.
6. The Expert Group takes the FAO mandated calorie norm for India, that is, 1770 K cal per capita per day as the norm and states that the actual calorie intake obtained from the 61st round of NSS data is very close to the FAO mandated norm and thus the committee reducing calorie norm from the earlier level of 2400 Kcal for rural and 2100 for urban to 1770 K cal per capita per day.
7. The proposed consumer price indices are obtained from the 61st round of NSS data and are close to the actual expenditure and this new price indices take care of the criticisms raised against the earlier population-segment-specific consumer price indices with outdated base used for updating poverty lines.

The final poverty head count ratio after using the new method of the expert group for rural areas is 41.8 per cent and for urban areas is 25.7 per cent and for whole India it is 37.2 per cent.

This method employed by the expert group to calculate the poverty line improves upon the earlier method in terms of doing away with the outdated consumer price indices and poverty line basket of 1973-74. But still it has attributed the decline in per capita food consumption to Engel's effect, which as earlier shown is not true in case of the rural poor in India, where the large majority have been rendered in a distress situation and have resorted to selling the food grain intended for self-consumption in order to meet expenses in other essential non-food areas. As already stated that to attribute the fall in consumption of food grains and cereals with the rise in income, to

diversification of food habits, that is, shift from consumption of cheaper food grains and cereals to costly animal products, such as meat, milk, fish etc, is flawed as the total grain intake increases with a rise in income. The consumption of food grains and cereals constitutes the direct grain consumption whereas the consumption of animal product as meat and milk etc constitutes indirect consumption of food grains, as animals consume larger amounts of food grains to produce meat and milk. Engel's effect is true only for direct consumption of food grains, that is, only food grains and cereals. As income rises then due to diversification of diet people consume higher amounts of animal products thus tend to consume higher amounts of food grains in total, that is from direct and indirect consumption of food grains. Engel's effect is a flawed reasoning, because as the income increases total cereal consumption from direct and indirect sources always rises.

Further, the minimal poverty line of Rs 28.35 and Rs. 22.42, for daily consumption expenditure, in urban and rural areas respectively as suggested by the expert group is too low to meet even the basic needs of a person. This poverty line puts an individual near destitution level and to link this minimal poverty line with the government sponsored welfare programmes is bound to exclude many deserving millions from critical life saving benefits and breaches their right to adequate food and nutrition.

The Supreme Court of India has played an active role in the affirmation of right to food as a fundamental right of the individual under the Constitution and has read it to be falling within the purview of Article 21, that is, right to life and liberty. Right to life has been interpreted as a right to "live a life with dignity", which includes right to food and other basic necessities.¹⁹⁷ Article 39(a) of the Constitution requires the state to direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood. Article 47 casts a duty upon the state to raise the level of nutrition and standard of living of its people as a primary responsibility. Article 21 thus has to be read in conjunction with Articles 39 (a) and 47 in order to understand the duty cast upon the state to realise this right.

The Supreme Court established the inter-linkage of right to life and other rights, in the first ever case on right to food in *Kishen Pattanayak & another v. State of*

¹⁹⁷ See *Francis Coralie v. Administrator, Union Territory of Delhi and Ors. (1981) 1 SCC 608*; *Shantistar Builders v. Narayan Khimalal Totame (1990) 1 SCC 520*.

Orissa,¹⁹⁸ affirmed the close nexus between right to life and the right to food. In April 2001, Peoples Union for Civil Liberties filed a writ petition¹⁹⁹ on right to food in Supreme Court. Initially the case was brought against the Government of India (GoI), the Food Corporation of India (FCI), and six other states for inadequate draught relief. Later, the scope of this public interest litigation was enlarged to address issues of chronic hunger and undernutrition, and all states were made respondents.

The basic issues of contention raised in this petition pertains to the failure of the central and state governments to respond adequately to a drought situation while there was plenty of food in the FCI storages, resulting in violation of the right to food and right to life. The petition highlighted two aspects of negligence on the part of the centre and the states; firstly, the breakdown of the public distribution system (PDS); and secondly, inadequacy of drought relief works. The petition pleaded in the prayer for relief in the form of interim orders from SC directing the government, firstly, to provide immediate open-ended employment in drought affected villages, secondly, to provide gratuitous relief to persons unable to work, thirdly, to raise food entitlements under PDS, and lastly, to provide subsidised food grain to all families and the central government to supply free food grains to these programmes.²⁰⁰ Overtime the scope of the PIL has expanded and today it covers a wide range of issues related to right to food, including the implementation of food-related schemes, urban destitution, right to work, starvation deaths, maternity entitlements and even broad issues of transparency and accountability.

The case has overtime become voluminous as a number of affidavits have been filed by the petitioners, the respondents have filed a number of interim applications and the SC has issued a number of interim orders. The whole case document now runs into thousands of pages and interim orders passed by the court form the most important document from the point of view of action. As the interim orders constitute directions issued by the Court to, the government both central and state, to take certain actions.

¹⁹⁸ See (1989) AIR 677.

¹⁹⁹ *People's Union for Civil Liberties vs. Union of India and Others, Writ Petition (Civil) 196 of 2001.*

²⁰⁰ *For Interim orders issued by Supreme Court and State High Courts relevant to right to food case so far, visit <http://sccommissioners.org/CourtOrders/datewisecourtorders.html>.*

This is crucial because prevention of hunger and starvation is “one of the prime responsibilities of the government-whether central or state.”²⁰¹

The SC laid down specific lines of accountability and grievance procedures for the implementation of all interim orders.²⁰² Through this order the SC: (1) empowers Gram Sabha to conduct social audits of all food-related schemes; (2) holds the CEO/Collector responsible for ensuring compliance with the Court orders within the District; (3) makes the Chief Secretary accountable for the implementation of Court orders in the state; (4) gives the Commissioner's extensive powers to monitor the implementation of Court orders throughout the country; and (5) directs all concerned officials to fully cooperate not only with the Commissioner's but also with individuals or organisations who have been nominated by the Commissioner's to assist them.

The Gram Sabhas are empowered to monitor the implementation of the various schemes and have access to relevant information relating to, inter alia, selection of beneficiaries and the disbursement of benefits. The Gram Sabhas can raise their grievances in the manner set out in this order and the redressal of the grievances shall be done accordingly.²⁰³

Through this order, the court also appointed two commissioners to oversee the implementation and progress of the court orders.²⁰⁴ The functions and powers of commissioners are wide and include, (1) to enquire into any violations of the interim orders and to demand redressal, with the full authority of the Supreme Court; (2) to report to the Court from time to time, and may seek interventions going beyond existing orders if required; (3) to monitor and report to the court on implementation by respondents of various welfare measures and schemes;²⁰⁵ and (4) analysis of secondary data to monitor the performance of State Governments, seeking responses from them on specific issues, taking up complaints from grassroots organisations, setting up enquiry committees for verification purposes, and so on.

²⁰¹ *Supreme Court Order dated 20th August, 2001*, at <http://scccommissioners.org/CourtOrders/datewisecourtorders.html>. See also, *Chameli Singh and Others vs State of UP (1996) 2 SCC 549* and *Kishan Pattnayak and Another vs State of Orissa AIR 1989 SC 677*.

²⁰² *SC Order dated 8th May, 2002*, at <http://scccommissioners.org/CourtOrders/datewisecourtorders.html>.

²⁰³ *Ibid.*

²⁰⁴ Initially Dr. N. C. Saxena and Mr. S. R. Shankaran were appointed in 2002 and after Mr. Shankaran resigned in 2004, Mr. Harsh Mander was appointed as ‘special commissioner’ in 2005, to assist Dr. Saxena.

²⁰⁵ *Supreme Court Order dated 29th October, 2002*, at <http://scccommissioners.org/CourtOrders/datewisecourtorders.html>.

Thus the mandate and powers of the commissioners is wide and they can also inspect any measure or scheme related to food security even though it does not form a part of any specific court order. The commissioners are to be assisted by advisors, assistants and nodal officers to be appointed by the state governments in each state to assist the commissioners by giving them full information and assisting them in any matter relating to food schemes and food security.²⁰⁶

The first major interim order of the Supreme Court in this PIL was issued on 28th November 2001. This order focuses on eight food-related schemes: (1) Public Distribution System (PDS); (2) Antyodaya Anna Yojana (AAY); (3) National Programme of Nutritional Support to Primary Education, also known as Mid-Day Meals scheme; (4) Integrated Child Development Services (ICDS); (5) Annapurna; (6) National Old Age Pension Scheme (NOAPS); (7) National Maternity Benefit Scheme (NMBS); and (8) National Family Benefit Scheme (NFBS). Essentially, the interim order of 28th November 2001 converted the benefits of these eight schemes into legal entitlements. Thus any person eligible for benefits under these schemes can claim them as a matter of right and can approach the courts in case of violation thereof. The essence of this order was to make the government liable for those schemes which it claimed to be implementing in pursuance of its political goals or under obligation of its international treaty commitments.

The SC passed a detailed order and there were orders which were applicable across the board to all these schemes. These were similar to the ones already discussed as forming the component of lines of obligations of various actors instrumental in the implementation of these schemes. The orders which are applicable to all schemes are as follows: (1) in the instance of persistent default in compliance of the orders the Chief Secretaries of the concerned states shall be held responsible²⁰⁷; (2) gram sabhas are entitled to conduct social audit into the schemes and to report any misuse of funds to the respective authorities, who shall take appropriate action in response to such complaint²⁰⁸; (3) gram sabhas are empowered to monitor the progress of any schemes and to have access to information regarding beneficiaries and disbursement of

²⁰⁶ Ibid.

²⁰⁷ *Supreme Court Order dated 29th October 2002.*

²⁰⁸ *Supreme Court Order dated 8th May 2002.*

benefits²⁰⁹; (4) no scheme covered under the court orders shall be restricted or discontinued without the prior approval of the court²¹⁰; (5) the High Courts can take up cases and writ petitions relating to “right to food case” though the matter is sub judice.²¹¹

With respect to the Public Distribution System (PDS) the court received many complaints regarding leakages, instances of corruption and inefficient functioning. The Court took a note of this and formed a Central Vigilance Commission (CVC) to look into these complaints and propose remedial measures.²¹² The CVC submitted its report in August 2007.

The Supreme Court issued many orders specifically relating to each of the schemes associated with the right to food regarding PDS, it issued orders for completion of counting of BPL households, issuance of BPL cards, and distribution of the stipulated amount of grains to the beneficiaries²¹³; to open up new ration shops where they were shut down or in case none existed to open new ones²¹⁴; to open ration shops regularly, for the whole month and to supply them with grains regularly and to put notice regarding its activities on a notice board²¹⁵; to make PDS dealers more accountable by cancelling their licenses in instances where they do not open the ration shops regularly in accordance with the stipulated rules thereto, in case they sell grains at higher prices to BPL cardholders, keep BPL cards with them, make false BPL cards, and engage in black marketing.²¹⁶ As already stated, the court appointed a CVC to look into the malpractices in functioning of PDS and suggest remedial measures, the specific issues referred to the CVC apart from the ones already stated were to focus on the modes of appointing the PDS dealers, to determine ideal rates or commissions to pay the dealers, how to bring transparency in the sale foods at the PDS.²¹⁷

With respect to the Antyodaya Anna Yojana (AAY), which is a scheme started in 2000 to provide special food-based assistance to destitute households. The

²⁰⁹ Ibid.

²¹⁰ *Supreme Court Order dated 27th April 2004.*

²¹¹ *Supreme Court Order dated 1st May 2006.*

²¹² *Supreme Court order dated 12th July 2006.*

²¹³ *Supreme Court Order dated 28th November 2001.*

²¹⁴ *Supreme Court Order dated 23rd July 2001.*

²¹⁵ *Supreme Court Order dated 8th May 2002.*

²¹⁶ *Supreme Court Order dated 2nd May 2003.*

²¹⁷ *Supreme Court Order dated 12th July 2006.*

beneficiaries get special Antyodaya cards and are eligible for special grain quotas at highly subsidised rates. The Court issued orders to provide grains for AAY beneficiaries from the PDS only²¹⁸, to provide grains free of cost to AAY beneficiaries who are so poor that they cannot buy grains even at such subsidised prices.²¹⁹ The court asked GoI to include in AAY the members of society who are (1) Aged, infirm, disabled, destitute men and women, pregnant and lactating women, destitute women; (2) Widows and other single women with no regular support; (3) Old persons (aged 60 or above) with no regular support and no assured means of subsistence; (4) Households with a disabled adult and assured means of subsistence; (5) Households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house; (6) Primitive Tribes.²²⁰ Here it is worth noting that the court identified six priority groups to be accorded with the AAY benefits but the government is still to devise methods to ensure all eligible people in these groups are identified and accorded the rights.

The Mid-day Meals scheme is an instrument to provide nutritious cooked meal in the primary schools to all school going children. It is an integral part of a right to food as it ensures that children in the primary school level are free from undernutrition. Apart from this, the scheme has many positive externalities such as enhancing gender parity, dissolving societal divisions by community dining from the school level, increasing school attendance, providing nutrition to children from poor households etc. This scheme has been hailed and a rightful emphasis placed on its proper functioning and continuation by the court. The Court directed state governments to introduce cooked mid-day meals in case they were providing ready to eat foods or not providing any meal at all.²²¹ Apart from this the court issued orders for timely compliance and to provide free of cost mid-day meals, to employ cooks from SC or ST communities, to extend mid-day meals in summer vacations in areas affected by drought, to improve the quality of the meals, and to extend the mid-day meal scheme till class tX.²²²

²¹⁸ *Supreme Court Order dated 23rd July 2001.*

²¹⁹ *Supreme Court Order dated 28 November 2001.*

²²⁰ *Supreme Court Order dated 2nd May 2003.*

²²¹ *Supreme Court Order dated 28th November 2001.*

²²² *Supreme Court Order Dated 20th April 2004.*

Regarding the Integrated Child Development Services (ICDS), which addresses the nutritional needs of children below six years and seeks to provide them with an integrated package of services such as supplementary nutrition, health care and pre-school education, the court issued an important order on 28th November 2001. The nutrition of children below six years is intimately linked to the health and well being of adolescent girls, who would be mothers in future, pregnant women and lactating mothers, so ICDS focuses on them as well apart from children below six years. It directed the governments to make ICDS universal, to implement this scheme fully, stipulated certain minimum level of nutrition for adolescent girls, pregnant women and lactating women to be administered through ICDS centres or aanganwadis.

The Court gave a landmark judgment on ICDS on 13th December 2006 mandating the government to pursue universalization with quality. The salient features of the judgment are directions to government to sanction and operationalize a minimum of 14 lakh ICDS centres in a phased and time bound manner and to prioritise the backward regions especially those with majority of SC and ST populations; to maintain the upper limit of population for ICDS as 1000 and lower limit as 300; universalization of ICDS and the extension of its services of supplementary nutrition, growth monitoring, nutrition and health education, immunization, referral and pre-school education to all eligible beneficiaries.

Similarly, the court issued orders with respect to the functioning and improvement of National Old Age Pension Scheme (NOAPS), which is a scheme to give old age pensions to persons above the age of 65 years, and this scheme was launched as a part of the National Social Assistance Programme (NSAP). The SC directed the state governments to complete the identification of persons eligible under NOAPS²²³; payments of pensions to be made by the seventh day of each month²²⁴; not to restrict or discontinue the scheme without the permission of the court²²⁵; and not to divert the grants provided by the central government to state governments for this scheme to any other purpose.²²⁶

²²³ *Supreme Court Order Dated 28th November, 2001.*

²²⁴ *Ibid.*

²²⁵ *Supreme Court Order Dated 27th April 2004.*

²²⁶ *Supreme Court Order Dated 18th November 2004.*

The National Family Benefit Scheme (NFBS) is also a part of National Social Assistance Programme and seeks to provide financial assistance to poor households in case of death of the family breadwinner in form of a lump sum of Rs 10,000 in case of death by accident and Rs 5,000 in case of natural death. The court directed the state governments to implement these schemes. To provide the specified assistance promptly and mandated the village council head to disburse the money within four weeks of death²²⁷ and not to restrict or discontinue this scheme without the permission of the SC.²²⁸

The Annapurna scheme launched in April, 2000, is directed to assist senior citizens who are eligible for NOAPS but do not benefit from that scheme and this scheme entitles them to receive 10 kg of grain per month free of cost from the PDS. Similar to the NFBS this scheme cannot be discontinued or restricted without prior permission of the court and the court sought prompt implementation of this scheme. This scheme does not garner much support as NOAPS now is more attractive as the increase in pension of Rs 200 is favoured more and this scheme was launched with half hearted efforts as well by the government.

The National Maternity Benefit Scheme (NMBS) was introduced in 1995 as a part of NSAP and later transferred to health ministry. Under this scheme pregnant women from BPL families are eligible for a lump sum of Rs 500 up to two live births. The SC directed for prompt implementation of this scheme²²⁹; similar to other schemes this scheme is not to be discontinued or restricted without the permission of the SC²³⁰; and the court refused to phase out NMBS for another scheme called Janani Suraksha Yojana stating that the new scheme did not cover all the benefits associated with NMBS.²³¹

Under the Sampurna Grameen Rozgar Yojana (SGRY) a right to work is accorded to all rural unemployed who want to take up wage employment in manual and unskilled jobs around their village or habitat. Since the implementation of National Rural Employment Guarantee Act (NREGA) in 2005 SGRY is gradually being phased out. With the universalization of NREGA, the SGRY is being merged into NREGA. The

²²⁷ Supreme Court Order dated 28th November 2001.

²²⁸ Supreme Court Order dated 27th April 2004.

²²⁹ Supreme Court Order dated 28th November 2001.

²³⁰ Supreme Court Order dated 27th April 2004.

²³¹ Supreme Court Order dated 9th May 2005.

primary objective of the scheme is to provide additional wage employment in rural areas, thereby providing food security and minimum nutritional levels. The secondary objective is the creation of durable community, social, economic assets and infrastructural development in rural areas. While providing employment preference shall be given to agricultural wage earners, non agricultural unskilled wage earners, marginal farmers, women, members of the Scheduled Castes/ Scheduled Tribes and parents of child labour withdrawn from hazardous occupations, parents of handicapped children or adult children of handicapped parents who want to work for wage employment.²³²

The court directed for the speedy and expeditious implementation of SGRY²³³ and timely release and utilisation of funds for the same and non-diversion of funds to other schemes and purposes.²³⁴ The Court directed that the scheme be directed towards certain priority groups comprising of agricultural wage earners, non agricultural unskilled wage earners, marginal farmers and, in particular, SC and ST persons whose wage income constitutes a reasonable proportion of their household income and to give priority to them in employment, and within this sector give priority to women.²³⁵

In 2003, in the wake of drought conditions prevailing in large parts of country the SC directed the government to double the scale of SGRY.²³⁶ The Court also directed timely wage payments to be made on a weekly basis²³⁷ and banned the use of contractors²³⁸; directed the state and UTs to give minimum wages under this scheme²³⁹; gram panchayats to be involved in making a decision regarding the kind of work for employment generation and useful community assets through this programme²⁴⁰; gram sabha is authorised to take social audits of the programme and in case of finding of misuse investigating authorities to take actions according to law²⁴¹; and directed that any person who wishes to access the documents relating to the

²³² *Guidelines for Sampurna Grameen Rozgar Yojana*, New Delhi, 2002, p. 1.

²³³ *Supreme Court Order dated 8th May 2002, 20th April 2004 and 17th October 2004.*

²³⁴ *Supreme Court Order dated 8th May 2002.*

²³⁵ *Ibid.*

²³⁶ *Ibid.*

²³⁷ *Ibid.*

²³⁸ *Ibid.*

²³⁹ *Supreme Court Order dated 20th April 2004.*

²⁴⁰ *Supra* n. 92.

²⁴¹ *Ibid.*

scheme should have access to them on payment of cost of providing such documents.²⁴²

Thus it can be seen that the Court played an active role in overseeing and making the government take steps to implement the food related government schemes and making them functional. Many of these Court orders were flouted and not acted upon by the governments and the court took note of this and appointed the commissioners, empowering them to look into such specific instances. The case is yet to be decided but the interim orders have made an important and timely impact in making the government wake up from its slumber. Still these programmes are marred by rampant corruption, political apathy, politicisation of starvation and political parties do not miss a chance to cash in on these opportunities for electoral gains. “Indeed, there are apparently strong incentives for some politicians to ensure that the poor remain poor. The presence of a large class of impoverished people facing starvation and destitution in a particular area or region vulnerable to natural hazards (as in Kalahandi) creates clientelistic opportunities for political leaders to project them-selves as saviors.”²⁴³

The political-administrative response to the problem of chronic hunger and starvation has been short-term, ad-hoc, populist, and clientelistic in character. The remedial efforts are launched at the last minute when most of the damage has been done rather than taking a long-term view of the problem and devising methods and institutional mechanisms to prevent chronic hunger and malnutrition from recurring. Thus, the policy level approach should look at the problem in a long-term manner and devise mechanisms and rules to prevent such disasters from recurring. The Indian state had formulated a Food Security Bill, which has been tabled in the Parliament but is yet to pass it and metamorphose it into a law. It is pertinent now to have a look at and analyse the policy measure devised by our politicians and bureaucrats to tackle this silent catastrophe.

The National Food Security Bill, 2011 (NFSB) seeks “to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity.”²⁴⁴

²⁴² *Supreme Court Order dated 20th 2004.*

²⁴³ Dan Banik, ‘Growth and Hunger in India’ in *Journal of Democracy*, vol.22, no. 3, July 2011, p.103.

²⁴⁴ As the Bill states in the beginning akin to its Preamble.

The bill makes a threefold distinction between the recipients of its benefits for food security under the targeted public distribution system as: firstly, priority households; secondly, general households; and lastly, excluded households. In the rural areas 25 percent households shall be excluded and in urban areas 50 percent households shall be excluded from the benefits of PDS and not less than 46 percent rural population and not less than 28 percent of urban population shall be designated as priority households.²⁴⁵

The central government shall prescribe the guidelines from time to time for the determination of priority, general and excluded households and shall notify the same in official gazette. The state governments shall follow the guidelines and identify these households and notify the same.²⁴⁶

The central and state governments shall take up reforms in the TPDS and shall use “Aadhaar”, the unique identification method with biometric information of entitled beneficiaries for proper targeting of benefits under this Act.²⁴⁷ Also the Bill seeks to provide cash transfers or food coupons in lieu of food grain entitlements under the TPDS.²⁴⁸

A wholesome food security mechanism should not only look into and take care of the distribution aspects of the food but also look into the availability and production of food and make sure that the utilisation of the food consumed is also taken care of. The production aspect deals with the growing of food and making food available in adequate amounts for a healthy consumption. Utilisation or absorption aspects relate to other ancillary and incidental matters which foster healthy living condition such as clean environment free from parasitic diseases, clean water provision and clean sanitary provisions, which are equally crucial for a healthy and active life. The NFSB has been criticised for being silent on the production and absorption aspect of the food security and thus being too narrow in concentrating on distributional aspects of food security. Many have titled it as a revised PDS bill. The three pillars of food security are: production, distribution and absorption of food.²⁴⁹

²⁴⁵ Section 3, *National Food Security Bill, 2011*.

²⁴⁶ Section 15, *National Food Security Bill, 2011*.

²⁴⁷ Section 18(2) (c), *National Food Security Bill, 2011*.

²⁴⁸ Section 18(2) (h), *National Food Security Bill, 2011*.

²⁴⁹ Suman Sahai, ‘Need for a different food security law’ in *Seminar*, 634, June 2012, pp.14-17.

It is disturbing that the growth of food production has fallen to 1.7 per cent, below the population growth of 1.9 per cent.²⁵⁰ This makes it imperative that the emphasis should be placed on growing adequate amount of food for viable food security. This aspect of production becomes all the more crucial in light of the fact that there is a decline in the production of food grains in the international market and the prices of food grains have been sky rocketing since the shifting of maize for bio-fuels in the developed countries, whose farmers find it more profitable and are therefore shifting in large numbers from growing wheat to growing maize for bio-fuels.

Also the NFSB should be linked to the Rajiv Gandhi National Drinking Water Mission and the Total Sanitation Campaign, the two programmes launched by the government for clean drinking water provision and clean sanitation respectively.²⁵¹

The further division of population into priority, general and excluded households under this Bill is also been problematic in light of the ongoing debate on the division of population as APL and BPL. Firstly, NFSB does not clearly state how and on what grounds the Centre shall divide the population into these three groups; and secondly, the numbers fixed on excluded groups and priority groups seem to correlate to the numbers of non poor and poor as determined by the Tendulkar Committee Report.²⁵² This is problematic as the poverty line is the measure of expenditure incurred by an individual to a bare minimal level of sustaining oneself and this level of income cannot and should not be considered as sufficient to lead a healthy and dignified life. Ironically, the Tendulkar Committee Report claims that the poverty line ensures “*adequacy of actual private expenditure...on food, education and health*”.²⁵³ It does not take a rocket scientist to understand that Rs. 32 per person a day, the poverty line for urban areas according to the prices today, as determined by Tendulkar Committee, is too measly a sum to just live by, let alone spending on education and health as well. This estimation leaves Rs 1 only for a person for her health expenses today. This is a mockery of poor and makes the whole exercise of BPL measurement a sham.

²⁵⁰ Ibid., p. 15.

²⁵¹ Ibid., p. 17.

²⁵² For instance, the figure of 46% for coverage of priority groups in rural areas is based on the Tendulkar Committee’s estimate of 42% of rural poverty in 2004-5 and adding the margin of targeting errors to this poverty level.

²⁵³ Jean Dreze, ‘Poverty, Targeting and Food Security’ in *Seminar*, 634, June 2012, p. 25.

The proposed targeting in the NFSB is regressive as it puts some of the states which are actually providing universal or near universal food provisioning under the PDS to revert back to this narrow targeting system and depriving many a deserving households from such services. Such states include Tamil Nadu, Himachal Pradesh, Kerala, Andhra Pradesh, Rajasthan, Orissa and Chhattisgarh where the PDS is reformed by the states and is more inclusive today and functioning well.²⁵⁴ The Bill seeks to exclude 25 per cent of households from the purview of TPDS, against the proposal of 10 per cent by National Advisory Council; this figure is too high and arbitrary.²⁵⁵

Also one can see that the priority group is not so different from the BPL households, and the Socio-Economic Caste Census (SECC) which is expected to determine the priority households, seems to be very similar as the earlier BPL census. Also, the Bill leaves it to the central government to specify the identification criteria and the state governments to apply it. This is problematic given the centre-state relations and political structure and forebodes long delays and complexities.

There has been a revival of PDS in most of the states and the PDS is functioning better in some states such as Tamil Nadu, Andhra Pradesh, Himachal Pradesh, Chhattisgarh, Orissa and Uttar Pradesh. The survey²⁵⁶ found out that the BPL and AAY card holders are purchasing full entitled rations from the ration shops which are also functioning properly. Also the respondents were not so inclined to shift from the food entitlements to cash transfers or coupons as they showed reservations and apprehensions about the misuse of cash from food to other expenses and the viability of food coupons etc.²⁵⁷

The NFSB thus seeks to move a step forward and a step back as it seeks to provide for comprehensive benefits for children, pregnant women, lactating mothers and other focus groups. It also seeks to modernise the PDS system for transparency and efficiency. These steps are long needed and welcome. But the narrowing of targeting

²⁵⁴ Ibid., p. 27.

²⁵⁵ Ibid.

²⁵⁶ Reetika Khera, 'Revival of the PDS: Evidence and Explanations' in *Economic and Political Weekly*, vol. 46, no. 44-45, November 2011, pp. 36-50, where the author and others conducted survey on the functioning of PDS in nine sample states. They had selected three states in each category titled functioning, reviving and languishing states in terms of functioning of PDS for the purpose of the survey.

²⁵⁷ Reetika Khera, Op. Cit., pp. 36-50.

rather than universalization of such benefits is a regressive step and is mired in a lot of confusion and complexity.²⁵⁸ There is a scope to make the Bill comprehensive and cover the areas of production, distribution and consumption, so as to make it wholesome. Only then can NFSB achieve the total food and nutritional security which it aims to do.

²⁵⁸ Reetika Khera, 'One step forward, one step back?' in *Seminar*, 634, June 2012, pp. 28-33.

Chapter 5

Conclusion

The rights of citizenship are in a flux and in a continuous process of development. The social citizenship rights have also undergone change and development since they were first propounded by Marshall in 1950. Marshall analysed the effect of citizenship on social inequalities especially in that of class inequalities. Marshall charted the development of citizenship through British history and stated that the three components of citizenship, that is, civil, political and social. He says that these three rights of citizenship developed independently from the 18th century and it was in the later part of 19th century that they came abreast of each other. The civil element is related to individual liberties, political to political participation and governance and social to the economic welfare and security. The institutions related to these elements of citizenship are courts to civil, parliament and legislative councils to the political and education and social security institutions to the social element.

Social citizenship facilitates the welfare of the individual by institutionalising the right to minimum economic security and welfare. Social citizenship as an ideal seeks to establish equality in the society; it is equality not of income but of status. Many call this qualitative equality because the emphasis is not on securing the material equality but equality which bases itself in the idea of equal worth of all human beings. State has to play the role of facilitator in the achievement of this equality. State by virtue of its position is best suited to guarantee the citizens the social rights to economic welfare and security. It can use the institutions and the administrative machinery to realise this goal.

Right to food is a basic human right recognised as the integral part of human sustenance and being by various international bodies, conventions, treaties as well as national constitutions and legislations. This right is inherently an economic and social right, which enables the citizen to function and take part in social life as a full member of society. This inter-linkage between the idea of citizen as an active member of a society and right to food enabling a citizen to take part in social and community life, establishes that social citizenship and right to food have a symbiotic relationship. The development on one leads to the development of the other.

The social rights are influenced by a lot of factors and developments taking place in society. Various social forces influence as well as affect the evolution of social rights. The social rights seek to bring the equality of individual vis a vis another individual. It is the equality of status which is of paramount consideration.

Right to food is sought to be guaranteed in India by way of a national legislation securing a certain minimum quantity of grain to the poor through the public distribution system. The National Food Security Bill, 2011 is the institutional response to secure food entitlements of the poor in India. The Bill provides for subsidised food grain to the poor. Various problems are there in the systems which affect the proper functioning of food security system in India. There is food in excess of mandated buffer stock in FCI granaries and many citizens are suffering from chronic malnutrition in India. This is a peculiar situation and it can only be understood as decline of purchasing power of the poor. The poor in India are getting relatively poorer than the rich are getting rich. The cost of food is same for all and the inflation adds to the rising costs. The poor cannot meet the expenses related to education and health in such a situation where major chunk of their income goes on food expenses. To make things worse the government follows income based criteria to identify the poor to distribute subsidised food. The problem with income based criteria is that they tend to exclude a large chunk of people who deserve to be provided with subsidised food but are left out.

Right to food is to be accorded in a manner that the inherent social worth of individual is respected and maintained. Targeting is attached with stigma and beneficiaries face social ostracism. The universal provisioning allows for zero exclusion errors and benefits the needy the most. The rich opt out of PDS if the scaled prices are followed. This also brings down the leakages and losses due to diversion. The recent observation of some states such as Andhra Pradesh, Tamil Nadu and Himachal Pradesh shows that if universal or near universal PDS is followed then the poor participate in the PDS. The social pressure creates an incentive for the PDS to function well if more people take part in it. The NFSB is a step forward and a step back and it should take care of the contentious areas so that it works for the benefit of the neediest and the poor who bank on it to derive their sustenance.

As Amartya Sen has pointed out famines occur because of failure of institutions and governmental apathy not because of the lack of food. The endemic malnutrition and chronic hunger in India is a result of political apathy as there is surplus grain in the FCI granaries.

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