

Democracy and Right to Food

It is widely accepted that the right to food forms one of the basic economic and social rights essential to achieve 'economic democracy' in India. This right is nowhere near realisation in India, where undernutrition levels are among the lowest in the world. The right to food moreover, does not easily translate into well-defined entitlements and responsibilities. Though serious difficulties are involved in making the right to food fully justiciable, new interventions are possible in at least three ways – through legal action, through democratic practice and through changing public perceptions. More importantly, the right to food needs to be linked to other economic and social rights relating to education, work, health and information, which together hold the promise of radical change in public priorities and democratic politics.

JEAN DRÈZE

The right to food can be seen from at least three different perspectives. One is the perspective of the Indian Constitution, especially, the Directive Principles of State Policy. Secondly, we can refer to international declarations and conventions on this matter, starting with the Universal Declaration of Human Rights. Thirdly, it is possible to argue for the right to food as a moral and social right, independently of all these documents. Indeed, it is a basic premise of the human rights movement that all human beings have some fundamental rights, whether or not these rights are already incorporated in national or international law. To illustrate, one can argue that a child has a right to protection from physical punishment at school, whether or not physical punishment is legally permissible.

These three perspectives, of course, are not mutually exclusive. In fact, they complement each other. In this paper, however, I shall concentrate on the first approach, and particularly on the right to food as one of the economic and social rights affirmed in the Directive Principles.¹ There are two reasons for this. One is that this approach appears to me to be particularly coherent and far-reaching. The other reason is that it is important to place the right to food in the larger context of the need to revive the Directive Principles, and their underlying vision of radical social change.

The Directive Principles are chiefly due to B R Ambedkar, and they build on his visionary conception of democracy. This vision, in turn, was intimately related to his notion of the good society as a society based on 'liberty, equality and fraternity'. Democracy, as he saw it, was both the end and the means of this ideal. It was the end because he ultimately considered democracy itself as synonymous with the realisation of liberty, equality and fraternity. At the same time, democracy was also the means through which this ideal was to be attained.

Indeed, in Ambedkar's perspective, democracy was intrinsically geared to social transformation and human progress. In one of the most inspiring definitions of the term, he described democracy as "a form and method of government whereby revolutionary changes in the economic and social life of the people are brought about without bloodshed".² For this to happen,

it was essential to link political democracy with economic and social democracy. This was one of the main objectives of the Indian Constitution, and particularly of the Directive Principles. Ambedkar himself put it as follows:

Our object in framing the Constitution is really two-fold: (i) To lay down the form of political democracy, and (ii) To lay down that our ideal is economic democracy and also to prescribe that every government whatever is in power shall strive to bring about economic democracy. The Directive Principles have a great value, for they lay down that our ideal is economic democracy.³

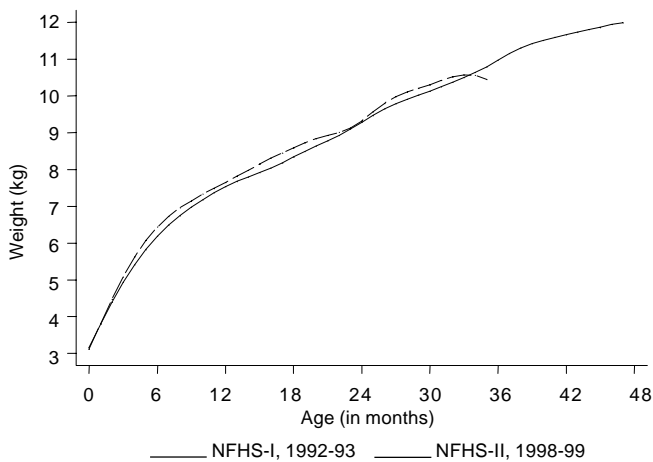
This revolutionary conception of democracy, however, fell into oblivion soon after independence. Indian democracy essentially went the same way as parliamentary democracy in Europe, which Ambedkar considered as 'a name and a farce'.⁴ Fifty-five years down the road, economic democracy has been quietly buried as a principle of public policy, and even political democracy is not exactly in the pink of health.

The Nutrition Emergency in India

With this background, let me turn to the question of food. On this, the first point to note is the catastrophic nature of the nutritional situation in India. The second National Family Health Survey (1998-99) provides ample evidence of the problem. To illustrate, according to this survey, 47 per cent of all Indian children are undernourished, 52 per cent of all adult women are anaemic, and 36 per cent have a body mass index (BMI) below the cut-off of 18.5 commonly associated with chronic energy deficiency.⁵ These nutritional deficiencies have devastating consequences for the well-being and future of the Indian people. To start with, hunger and undernutrition are intrinsic deprivations and severely diminish the quality of life. Further, undernutrition is associated with reduced learning abilities, greater exposure to disease, and other impairments of individual and social opportunities.

In international perspective, India is one of the most undernourished countries in the world. According to the latest *Human*

Figure: Average Weight of Indian Children at Different Ages



Source: Alessandro Tarozzi, unpublished analysis of National Family Health Survey (NFHS) data. The graph relates to boys and girls combined, in rural and urban areas combined.

Development Report, only two countries (Bangladesh and Nepal) have a higher proportion of undernourished children than India, and only two countries (Bangladesh and Ethiopia) have a higher proportion of infants with low birthweight.⁶ Even after taking into account various gaps and inaccuracies in the international data, there is another indication here that undernutrition levels in India are extremely high.

The second National Family Health Survey contains a wealth of further evidence on different aspects of the nutrition situation in India. Consumption data, for instance, bring out the frugal nature of food intakes for the majority of the population. Only 55 per cent of adult women in India consume milk or curd at least once a week, only 33 per cent eat fruits at least once a week, and 28 per cent get an egg. The evidence on child morbidity is no less sobering. Among children under the age of three, 30 per cent had fever during the two weeks preceding the survey, 19 per cent had diarrhoea, and another 19 per cent had symptoms of acute respiratory infection.⁷ Even after allowing for some overlap between these different groups, this suggests that at least half of all Indian children below three suffer from one of these conditions within any given interval of two weeks.

All the figures cited so far are national averages. It goes without saying that the situation gets worse – far worse – as we consider the poorer states (e.g. Jharkhand, Chhattisgarh, Orissa), and the more deprived regions within these poorer states (e.g. Palamau in Jharkhand, Sarguja in Chhattisgarh, Kalahandi in Orissa), not to speak of the poorer communities within these deprived regions. Among the sahariyas, musahars, kols, bhuiyas and other marginalised communities, the nutritional situation can only be described as a permanent emergency. To illustrate, in a recent survey of 21 randomly-selected households in a bhuiya hamlet of Palamau district in Jharkhand, 20 reported that they had to ‘skip meals regularly’.⁸ At the time of the survey, most of the households in this hamlet survived on ‘chakora’ (a local spinach) and gheti (a wild root), supplemented with some broken rice on lucky days. Some had nothing to eat but plain chakora.

Another disturbing aspect of the nutrition situation in India is that it shows little sign of major improvement over time. There is evidence of a steady decline of extreme hunger and severe undernutrition.⁹ But the general progress of anthropometric

indicators (e.g. the heights and weights of Indian children) is very slow. The point is illustrated in figure, which shows the average weight of Indian children at different ages in 1992-93 and 1998-99, based on the first and second rounds of the National Family Health Survey. There is some improvement, but it is not exactly dramatic. Based on the weight-for-age criterion, the proportion of undernourished children declined from 53 per cent in 1992-93 to 47 per cent in 1998-99.¹⁰ If the child undernourishment figures continue to decline at this sluggish rate of 1 percentage point per year, it will take another 40 years before India achieves nutrition levels similar to those of China today.

The comparison between the two surveys also points to the growth of nutritional inequality in the 1990s: anthropometric indicators improved more for urban areas than for rural areas, and more for boys than for girls. For instance, the proportion of undernourished children (based on weight-for-age criteria) declined by 7 percentage points for urban boys between 1992-93 and 1998-99, but only 3 percentage points for rural girls. In other words, the time required for rural Indian girls to ‘catch up’ with their Chinese counterparts if present rates of improvement continue is not 40 years, but 80 years or so. These patterns are consistent with independent evidence of a sharp increase in economic inequality in the 1990s.¹¹

Democracy and Social Rights

Perhaps the most startling aspect of the nutrition situation in India is that there is virtually no discussion of it, outside specialised circles. Chronic hunger rarely figures in public debates and electoral politics. To illustrate, consider the coverage of nutrition issues in the mainstream media. *The Hindu*, one of the finest English-medium dailies, publishes two opinion articles every day on its editorial page. In a recent count of these opinion articles over a period of six months (January to June 2000), it was found that health, nutrition, education, poverty, gender, human rights and related social issues combined accounted for barely 30 out of 300 articles. Among these 300 articles, not one dealt with health or nutrition.¹² As this simple exercise illustrates, the basic needs of the Indian people count for very little in public debates and democratic politics, and nutrition issues are particularly out of focus.

This neglect of social issues in general, and of chronic hunger in particular, is often attributed to ‘lack of political will’. This diagnosis is plausible enough, but it does not take us very far since it begs the question as to why there is no political will in the first place. In a democracy, political will is an outcome of democratic politics. Seen in this light, the deafening silence surrounding hunger and nutrition issues in India is an invitation to reflect on the nature and limitations of Indian democracy.

As far as democratic institutions are concerned, India is doing reasonably well in historical and international perspective. To illustrate, in comparison with the US (the self-proclaimed torch-bearer of democracy in the contemporary world), India fares much better in many respects. For instance, India has much higher voter turnout rates (the US are near the rock bottom of the international scale in that respect); it has more extensive provisions for the political representation of socially disadvantaged groups; and it is less vulnerable to the influence of ‘big money’ in electoral politics. There is also far greater pluralism in Indian than in US politics. Dozens of political parties, from extreme left to extreme right, are represented in India’s lower house, in contrast with

two parties (with virtually identical political programmes) in the US. Even the quality of the Indian press is much higher, in many respects, than that of its counterpart in the US. The comparison is not entirely to India's advantage (for instance, the US fare better in terms of the freedom of information), and there is, of course, plenty of scope for improving democratic institutions in India. Nevertheless, by contemporary world standards, Indian democracy appears in a reasonably good light as far as its institutional foundations are concerned.

Having said this, Indian democracy has one minor flaw, namely that most people are unable to participate in it due to economic insecurity, lack of education, social discrimination and other forms of disempowerment. Voter turnout rates may be reasonably high (about 60 per cent for parliamentary elections), but informed participation in democratic institutions on a sustained basis is confined to a tiny minority. And even voting is a very limited form of democratic participation when most people are unable to distinguish clearly between the different political parties and their respective programmes.¹³

In short, Indian democracy is trapped in a vicious circle of exclusion and elitism. Because underprivileged sections of the population are excluded from active participation in democratic politics, their aspirations and priorities are not reflected in public policy. The elitist orientation of public policy, in turn, perpetuates the deprivations (poverty, hunger, illiteracy, discrimination, etc) that disempower people and prevent them from participating in democratic politics.

The root of the problem was identified quite clearly by B R Ambedkar in the context of his argument for linking political democracy with economic and social democracy. "On the January 26, 1950," he said, "we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality". The contradiction is still with us today, and in some respects at least, the problem is even intensifying at this time of growing inequality and elitism. India is in some danger of becoming a "business-driven society", to use Noam Chomsky's telling characterisation of US democracy.¹⁴ It is in this context that there is an urgent need to revive the concern with economic and social rights expressed in the Directive Principles of the Constitution, including the right to food. Indeed, as mentioned earlier, the main object of the Directive Principles was precisely to lay the foundations of "economic and social democracy".¹⁵

Two Illustrations

An example or two may help to convey the potential empowerment value of economic and social rights. One interesting example is the right to education. Until quite recently, the right to education was out of focus in education policy. For instance, the issue is not mentioned in the National Education Policy of 1986. The basic assumption in those days was that large proportions of children were beyond the pale of the schooling system, and that this situation would continue to prevail for many years. Since then, however, there has been a healthy revival of public concern for the right to education. Today, the notion that every child has a fundamental right to elementary education has gained wide acceptance. For instance, if a village does not have a school, the case for providing one immediately does not need to be made – it is taken for granted. And even children belonging to highly disadvantaged families or communities, such as migrant labourers

or (so-called) primitive tribes, are widely considered to have an inalienable right to elementary education. This broad recognition of elementary education as a fundamental right of every child (recently incorporated in the Constitution) has contributed to the relatively rapid expansion of schooling facilities and school participation in the 1990s.¹⁶

This does not mean that spectacular progress has been made in realising the right to education. Indeed, there are also tendencies on the other side (i.e., tendencies inimical to the right to education), such as the crisis of state finances and intense hostility to the 'welfare state' in the corridors of power. Some recent developments, such as the growing reliance on low-quality, 'second-track' schooling facilities to raise enrolment figures, can even be seen as an attack on the fundamental right to education.¹⁷ Nevertheless, it is interesting that the reach of the schooling system has expanded so fast in a period of structural adjustment and general disengagement of the state. The growing recognition of elementary education as a fundamental right of every child has played a part in this achievement. Also, the wide acceptance of elementary education as a fundamental right of every child has given education activists a powerful foothold to resist any attempt to dilute the constitutional commitment to free and compulsory education until the age of 14.

There is an instructive contrast here with the corresponding situation in the field of health care. Unlike elementary education, health care is yet to be widely accepted as a basic right of all Indian citizens.¹⁸ This ambiguity has facilitated the continuation if not intensification of state abdication in this field in the 1990s. Public expenditure on health has declined as a proportion of GDP, from an abysmally low base (about 1 per cent).¹⁹ And the lack of any major initiative in the field of health care during the last 10 years contrasts with wide-ranging innovations in the field of elementary education. Correspondingly, the pattern of accelerated progress in educational achievements in the 1990s does not apply to health indicators. In fact, there have been major setbacks, such as the slowdown of infant mortality decline, and (more recently) the reduction of child vaccination rates in some states.

Another enlightening example is the right to information. Anyone who has worked in rural India is bound to be familiar with the tremendous disempowerment experienced by ordinary citizens due to lack of information and the inaccessibility of public records. Many examples can be given: some people have ration cards, but do not know what they are entitled to buy from the ration shop and at what price; others take bank loans without understanding the conditions of borrowing; TB patients are sent away from public health centres with cough syrups; labourers are unaware of the legal minimum wage; and so on.²⁰ Another manifestation of the problem is corruption in public life, which thrives on secrecy and the dissimulation of information.

In response to this situation, one could try a 'case by case' approach, in the form of addressing the problem in the specific domain where it occurs. The visionary insight of the 'right to information movement', however, is that the problem can also be tackled across the board, in a lasting manner, by demanding a blanket right of access to all public records at all times for all citizens.²¹ This led to a campaign for 'right to information laws', combined with efforts to enable people to use these laws. Going beyond this, the right to information movement can be seen as a step in the larger journey towards public accountability and participatory democracy.

The right to information movement has already led to some concrete results. In Rajasthan, for instance, it has played a crucial role in eradicating the earlier practice of endemic ‘fudging’ of muster rolls on relief works.²² This may look like a small victory, but it is actually a significant breakthrough, which paves the way for further action in this field. Ten years ago, the suggestion that corruption in public life can be eradicated, or even substantially reduced, would have seemed very naïve. Today, there is a new sense of possibility in this respect.

The Right to Food

The right to food is, in some ways, a more complex right than the right to education or the right to information. To start with, the entitlements and responsibilities associated with the right to food are far from obvious. In the case of, say, the right to information, some basic entitlements and responsibilities are easy to identify: every citizen has a right of access to public records (subject to specific exceptions, pertaining for instance to ‘national security’), and conversely, every civil servant has a duty to part with the relevant records under pre-specified terms. If he or she refuses to do so, action can be taken. To a large extent, the right to information can therefore be translated into legal entitlements and enforced in a court of law. In other words, it is justiciable.

In the case of the right to food, however, matters are more complicated. Broadly speaking, the right to food can be interpreted as a claim of individuals on society (starting but not ending with the state). It is an entitlement to be free from hunger, which derives from the assertion that the society has enough resources, both economic and institutional, to ensure that everyone is adequately nourished. However, difficulties arise as soon as we try to flesh out this broad definition and translate it into specific entitlements and responsibilities.

The term ‘freedom from hunger’, for instance, lends itself to several interpretations: getting two square meals a day, meeting specific calorie norms, avoiding nutrition-related ailments, and so on. Ideally, the right to food should be seen as a right to ‘nutrition’, as in Article 47 of the Constitution.²³ However, good nutrition itself depends in complex ways on a wide range of inputs: not just adequate food intake but also clean water, basic health care, good hygiene, and so on. Even if we confine our attention to food intake, the constituents of good nutrition are a matter of debate among nutritionists. For instance, there is some controversy about the importance of various ‘micronutrients’ for good nutrition. For all these reasons, it is hard to translate the right to food into a specific list of entitlements.

Similar difficulties arise in clarifying the responsibilities associated with the right to food. The primary responsibility is surely with the state, because the state alone commands the resources (economic and institutional) required to protect everyone from hunger, and because the state is generally responsible for safeguarding constitutional rights. However, the right to food is not the responsibility of the state alone. To illustrate, suppose that I come across someone who is dying of starvation on the street. If I am able to do something about it, and if I recognise that every citizen has a right to be free from hunger, it would clearly not be right for me to wash my hands of the situation and say that it is the responsibility of the state. The fact that the state bears the primary responsibility for letting this happen does not absolve me from the duty of intervening, if I am in a position

to do so. In other words, in some circumstances at least, the responsibility for protecting the right to food is a shared responsibility, involving not only the state, but also other institutions or individuals.

To take another example, suppose that a girl is undernourished because she does not get a fair share of food within the family. Clearly, her right to food would be violated. But who is responsible? At some level, state responsibility would be involved, since the state has an overarching duty to eradicate social discrimination. But surely, the girls’ parents (or whoever controls the distribution of food within the family) would also bear a substantial part of the responsibility for this situation. Here again, there is a difficulty in apportioning responsibilities for protecting the right to food.

The last example also brings out a related problem, namely, that the right to food is not always ‘justiciable’, in the sense of being enforceable in a court of law. If a girl is undernourished because of discrimination within the family, I doubt that the best response would be to take her parents to court.²⁴ Other means of intervention would be required. It is in the light of these and related problems that legal enforcement of the Directive Principles (including the primary duty of the state to raise “the level of nutrition and the standard of living of its people”) was explicitly ruled out in the Constitution.

At this point, the reader may wonder whether the right to food has any ‘teeth’ at all, if it is so difficult to define and so hard to enforce. I would argue that it does have a cutting edge, for at least three reasons.

First, even if the right to food is not always justiciable, some aspects of the right to food (at the very least) are amenable to legal enforcement. This is one crucial lesson of the public interest litigation initiated by the People’s Union for Civil Liberties (Rajasthan) in April 2001 with a writ petition to the Supreme Court.²⁵ The litigation is far from over, but some useful orders have already been passed, such as the interim order of November 28, 2001, directing all state governments to introduce cooked mid-day meals in primary schools. We can plausibly envisage that entitlements of this kind might become part of the law of the land, just as the right of access to public records has found expression in ‘right to information laws’.

Indeed, this approach would be highly consistent with the scheme of things initially envisaged by the Constitution. It is often forgotten that while Article 37 explicitly states that the Directive Principles ‘shall not be enforced by any court’, it goes on to stress (i) that these principles are nevertheless ‘fundamental to the governance of the country’, and (ii) that “it shall be the duty of the state to apply these principles in making laws”. The application of these prescriptions to the right to food is potentially far-reaching. Some good work has been done, for instance, on the possibility of introducing a ‘framework law’ that would translate a wide range of aspects of the right to food into legal provisions.²⁶

I submit that this approach would be more productive than the common proposal that the Directive Principles should somehow be declared “justiciable”.²⁷ For one thing, there are serious difficulties in making the right to food fully justiciable. Much of it ultimately belongs to the domain of democratic politics rather than of legal enforcement. For another, even if the right to food is deemed fully justiciable, it will remain necessary to spell out the constructive interventions through which this right is to be protected. Leaving it to the courts to settle this issue as and when it arises would be both risky and inappropriate. The need would

therefore remain for additional legislation, framed through democratic processes, clarifying how the right to food is to be realised. And this is precisely what I am advocating in the first place.

The approach proposed here does not detract from the possibility of claiming the right to food in court as a corollary of the fundamental 'right to life' under Article 21. Indeed, this claim is one aspect of the public interest litigation initiated in April 2001 by the People's Union for Civil Liberties. And the Supreme Court itself has already clarified on various occasions that the right to life implies the right to food.²⁸ In some circumstances, this recognition can be invoked with good effect. Yet, the persistence of mass hunger in India more than 20 years after the Supreme Court effectively accepted the right to food as a fundamental right clearly indicates that more specific legal provisions are required.

The second reason why the right to food does have a cutting edge, even when it is not enforceable in a court of law, was clearly spelt out by Ambedkar in his defence of the Directive Principles. Essentially, he argued that in a democracy, legal action is not the only means of holding the state accountable to its responsibilities. In cases where rights cannot be enforced through the courts, they can be asserted through other democratic means, based for instance on parliamentary interventions, the electoral process, the media, international solidarity, street action, or even civil disobedience.²⁹

This process has worked relatively well with respect to one specific aspect of the right to food – the prevention of famines. As Amartya Sen has noted, in a democratic political system, allowing a famine to develop would be political suicide for the party in office. This is the main reason why every threat of famine in independent India has been boldly dealt with (at least in terms of avoiding excess mortality). The latest example is the drought of 2002-03 in Rajasthan. In the absence of public intervention, drought-affected people would have perished in large numbers. With assembly elections round the corner, however, the government did not take any chances. In late June 2003, close to four million labourers were employed on relief works and related programmes in rural Rajasthan.³⁰ This was one of the largest public employment programmes ever, in terms of the proportion of the population employed. Famine was averted, not because there is a law against it but because of other democratic safeguards.³¹

Outside the specific context of famine prevention (and other extreme circumstances, such as 'starvation deaths'), democratic practice has delivered rather little, so far, in terms of holding the state accountable to its responsibility for protecting the right to food. However, this situation is not immutable. In fact, I would argue that there are vast possibilities of radical change in this field. These possibilities arise mainly from the growing participation of underprivileged groups in democratic politics, and the fact that food security is one of their main concerns. Another positive development in this context is that the tools of democratic participation are becoming more diverse over time. In his defence of the Directive Principles, Ambedkar focused on the electoral process as the principal means of holding the state accountable outside the courts. Since then, we have learnt not to expect too much from electoral competition in this respect, for reasons discussed earlier. But at the same time, we have good grounds for enhanced confidence about the possibilities of public action outside the traditional arena of electoral politics. These possibilities have already been creatively harnessed for various

causes, ranging from gender equality and dalit liberation to war resistance and the defence of civil liberties. There is no reason why these initiatives should not be extended to the assertion of economic and social rights, as is already happening to some extent.

The third argument for asserting the right to food is that, even when they are not enforceable in court, economic and social rights can have a profound influence on public perceptions of who is entitled to what. These perceptions, in turn, can make a concrete difference in diverse ways. For instance, in situations where the effectiveness of food security programmes depend on the vigilance of the public, perceptions of rights can matter a great deal.

To illustrate, consider the public distribution system (PDS). One reason (among others) why the PDS is not in very good shape today is endemic corruption. Now, recent analyses indicate that the extent of corruption in the PDS is much higher in north India than in south India. In north India, about half of the grain meant for distribution to poor households through the PDS seems to end up in the black market, rising to 80 per cent in Bihar and Jharkhand. In south India, the 'leakages' are much smaller, to the extent that they do not show up in secondary data.³² One reason for this contrast is that people's perceptions of their entitlements under the PDS differ radically between the two regions. In large parts of north India, poor people have very little awareness of their entitlements and how they can be enforced.³³ They are sitting ducks for corrupt PDS dealers, and consider themselves lucky if they get anything at all.³⁴ In this respect, the situation is very different in the southern region. In Tamil Nadu, for instance, even illiterate dalit women seem to have a sharp awareness of their entitlements, and of the redressal mechanisms that are available in the event where they are cheated.³⁵ The two factors (awareness of rights and accountability mechanisms) reinforce each other and preserve the integrity of the system. If India's public distribution system is to be revitalised, close attention needs to be paid to the circumstances that shape people's perceptions of their rights as well as their ability to enforce them.

It is in this respect, among others, that the recent division of the rural population between 'BPL' and 'APL' households (below poverty line and above poverty line, respectively), with PDS entitlements being effectively restricted to BPL households, is so pernicious. This division undermines the notion that PDS entitlements are a matter of right, since no-one has a 'right' to a BPL card. It also weakens the ability of BPL households to enforce their rights, by destroying the solidarity between APL and BPL households, and sometimes even pitching one group against the other. The fact that 'vigilance committees', the local watchdogs of the public distribution system, often turn out to consist mainly of APL members, who have no stake in the integrity of the system, does not help either. The need of the hour is to empower disadvantaged households vis-à-vis PDS dealers, but the present targeting system goes in the opposite direction.

Mid-day Meals and Their Wider Significance

These diverse roles of the right to food can be further illustrated with reference to the issue of mid-day meals in primary schools. This is one aspect (perhaps the only aspect) of the right to food that has been significantly consolidated in India in recent years. I believe that this experience is of some significance not only

from the point of view of child nutrition but also as a pointer to the scope for further action in this field.

The case for providing cooked mid-day meals in primary schools is very strong. At least three arguments can be invoked in this connection. First, mid-day meals boost school attendance, especially among girls. Second, they protect children from classroom hunger and also enhance child nutrition, if the meal is nutritious. Third, mid-day meals contribute to social equity, in several ways: they teach children to share a common meal irrespective of caste and class, act as a form of income support for poor households, and provide employment opportunities to poor women. The wide-ranging personal and social benefits of mid-day meals have been well demonstrated in states that made an early start down this road, notably Tamil Nadu and Gujarat. More recent experiences in Karnataka, Rajasthan and elsewhere suggest that similar achievements are possible all over the country. In Rajasthan, for instance, girl enrolment in Class 1 jumped by nearly 20 per cent in a single year after mid-day meals were introduced.³⁶

On November 28, 2001, the Supreme Court directed all state governments to introduce cooked mid-day meals in primary schools within six months. This interim order came up in the context of the public interest litigation mentioned earlier. Several states (notably Bihar, Jharkhand, Uttar Pradesh and West Bengal) are yet to implement this order. Nevertheless, the coverage of mid-day meal programmes is steadily expanding. Fifty million children are already covered, making this the largest nutrition programme in the world by a long margin. With adequate public pressure, another 50 million children are likely to get on board within a year or so, and the quality of mid-day meal programmes could also be radically enhanced. This would be no small achievement at a time of growing abdication of state responsibility for the well-being of Indian citizens.

With this background, let me clarify how recent experience with mid-day meals illustrates the three possible roles of the right to food discussed earlier. To start with, this experience shows the possibility of bringing some aspects of the right to food within the ambit of legal enforcement. Some commentators are quite unhappy about the Supreme Court 'meddling' with policy issues such as the provision of mid-day meals in primary schools. Having witnessed the court's deliberations at close quarters, I share some of these apprehensions.³⁷ Yet, the interim order on mid-day meals seems quite reasonable to me, considering that we are dealing here with very basic rights of Indian children (not only the right to food but also the fundamental right to education), and that the effectiveness of mid-day meals in furthering these rights is well established. As things stand, the directive on mid-day meals is only an 'interim order', but there is no reason why mid-day meals should not be given permanent legal status, just as the right to work has found expression in Maharashtra's "employment guarantee act".

Secondly, the mid-day meal story also highlights the importance of campaigning for economic and social rights outside the courts, using all democratic means available. Indeed, had the Supreme Court order on mid-day meals been allowed to take its own course, it is doubtful that it would have been implemented. In this connection, it is worth noting that on the same day (November 28, 2001), the Supreme Court also issued a similar order relating to the Integrated Child Development Services (ICDS), calling inter alia for the provision of functional anganwadis (child care centres) in 'every habitation'. This order, however,

has made no impact so far, and one reason for this is the failure to supplement the court order with active public pressure. Mid-day meals, by contrast, have been the focus of lively campaigns in many states during the last two years. The steady progress of mid-day meals reflects this effective combination of legal action and social action.

Thirdly, mid-day meals provides another useful illustration of the role of economic and social rights in shaping people's perceptions of their entitlements and enhancing their determination to get their due. Here again, the point can be appreciated by looking at contrasts between different states. In Tamil Nadu, where mid-day meals go back to 1925, and were universalised in 1982, the whole arrangement is widely accepted as a basic entitlement of all children and has been internalised by all parties concerned – parents, teachers, cooks, administrators, and children themselves. Mid-day meals are provided on every day of the year, including holidays, and any lapse in this regard would be considered a serious matter. In (say) Chhattisgarh or Madhya Pradesh, by contrast, mid-day meals are still far from being perceived as a basic entitlement of all children. This is one reason why the implementation of mid-day meals remains quite casual in these states, to the extent that the meal often fails to materialise on a particular day, without anyone making a fuss.³⁸

Beyond these specific lessons, there is a larger message here about the possibility of bringing democratic politics to bear on issues of hunger and nutrition. The point emerges most sharply in Tamil Nadu, where mid-day meals have been a lively political issue ever since M G Ramachandran (alias 'MGR') threw his weight behind this idea in the early 1980s. In fact, many observers consider this initiative as one of the pillars of MGR's lasting popularity.³⁹ The prominence of social development issues in Tamil Nadu politics (at least in comparison with other states) is also a major reason for the relatively good quality of nutrition and health services in general, from anganwadis to primary health centres.⁴⁰ Elsewhere in India, social issues are nowhere near getting the same attention in state politics, but as argued earlier, this situation is not immutable. There are growing possibilities of public mobilisation on these issues, and the future course of the right to food depends a great deal on the extent to which these opportunities are seized.

Conclusion

The basic argument of this paper is something like this. First, the Indian Constitution and its underlying ideas (chiefly due to Ambedkar) provide a sound framework for thinking about the right to food. In this framework, the right to food is one of the basic economic and social rights that are essential to achieve "economic democracy", without which political democracy is at best incomplete. Indeed, there is an obvious sense in which mass hunger is fundamentally incompatible with democracy in any meaningful sense of the term.

Second, the right to food is nowhere near being realised in India. In fact, undernutrition levels in India are among the highest in the world. Further, the improvement of nutrition indicators over time is very slow. There is also some evidence of increasing disparities in nutritional achievements (between rural and urban areas as well as between boys and girls) in the 1990s. The recent accumulation of nearly 70 million tonnes of grain against a background of widespread hunger is a particularly startling violation of the right to food.

Third, the nutrition situation in India is a sort of ‘silent emergency’: little attention is paid to it in public debates and democratic politics. This illustrates a more general feature of Indian democracy – its tremendous lack of responsiveness to the needs and aspirations of the underprivileged. Against this background, economic and social rights have a crucial role to play as built-in safeguards against the elitist biases of public policy.

Fifth, the right to food is a somewhat complex right that does not readily translate into well-defined entitlements and responsibilities. The scope for enforcing it through the courts can be significantly enlarged (e.g., by consolidating legal provisions for the right to food), but serious difficulties are involved in making it fully justiciable. Nevertheless, the right to food can bring new interventions within the realm of possibility in at least three different ways: through legal action, through democratic practice, and through public perceptions.

Sixth, I have illustrated these different roles of the right to food with reference to the provision of mid-day meals in primary schools. It goes without saying that I am not proposing mid-day meals as an answer to India’s massive nutrition problem. Yet, this experience is a helpful illustration of the possibility of effective action in this field. Similar things can be done with respect to many other means of upholding the right to food: employment guarantee acts, the public distribution system, social security arrangements, anganwadi facilities, and land rights, among others.

I end by reiterating that if the right to food is to be achieved, it needs to be linked with other economic and social rights, such as the right to education, the right to work, the right to information and the right to health. These economic and social rights complement and reinforce each other. Taken in isolation, each of them has its limitations, and may not even be realisable within the present structure of property rights. Taken together, however, they hold the promise of radical change in public priorities and democratic politics. This is why it is so important to revive the Directive Principles of the Constitution as well as the visionary conception of democracy that informs them. **EW**

Address for correspondence:
j_dreze@hotmail.com

Notes

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- 1 On the international perspective, see, e.g., Raghav Gaiha (2003), Mahendra Dev (2003) and Harsh Mander (2003).
- 2 Quoted in Bhagwan Das (n.d.), p. 61. Strictly speaking, this was not so much a definition of democracy as a “test” of it. Ambedkar added: “It is perhaps the severest test. But when you are judging the quality of a material you must put it to the severest test.” Note also that in other contexts he insisted that democracy was not just a method of government but also a “form of social organisation” and a “way of life”.
- 3 Proceedings of the constituent assembly of India, Friday November 19, 1948; available at <http://www.parliamentofindia.nic.in/debates/vol17p9.htm>.
- 4 “The second wrong ideology that has vitiated parliamentary democracy (in western Europe) is the failure to realise that political democracy cannot succeed where there is no social or economic democracy... Democracy is another name for equality. Parliamentary democracy developed a passion for liberty. It never made a nodding acquaintance with equality.

It failed to realise the significance of equality and did not even endeavour to strike a balance between liberty and equality, with the result that liberty swallowed equality and has made democracy a name and a farce”, (quoted in Rodriguez, 2002, p. 62).

- 5 International Institute for Population Sciences (2000), pp 246, 250 and 270. The ‘child undernutrition’ figures are based on weight-for-age data for children under the age of three.
- 6 United Nations Development Programme (2003), pp 258-261.
- 7 International Institute for Population Sciences (2000), pp 219 and 244.
- 8 Bhatia and Drèze (2002).
- 9 To illustrate: (1) according to the National Sample Survey (unpublished data), the proportion of households that are not getting “two square meals a day throughout the year” declined from 19 per cent in 1983 to 3.3 per cent in 1999-2000; (2) according to the National Nutrition Monitoring Bureau (NNMB), the proportion of “severely undernourished” children (weight-for-age criterion) in eight sample states declined steadily from 17.2 per cent in 1975-80 to 6.4 per cent in 1999-2000, and clinical signs of acute undernutrition such as marasmus and kwashiorkor have virtually disappeared. See National Institute of Nutrition (1997), pp 69-70 and 104, and National Nutrition Monitoring Bureau (2002), p 74. On related matters, see also National Institute of Nutrition (1991, 1997), Sachdev (1997, 2003), Gopalan (2003), among others.
- 10 International Institute for Population Sciences (1995), p 283, and International Institute for Population Sciences (2000), p 266. A similar picture of sluggish nutritional improvement emerges from independent surveys carried out by the National Institute of Nutrition, Hyderabad; see, e.g., National Institute of Nutrition (2000, 2002).
- 11 See, e.g., Deaton and Drèze (2002); also Ahluwalia (2000), Kurian (2000), Nagaraj (2000), Banerjee and Piketty (2001), among others.
- 12 Drèze and Sen (2002), p 302. When I repeated the exercise for the period of January-June 2003, I did find an article dealing with health – it was about the SARS crisis in China!
- 13 See, e.g., Bela Bhatia (2000). The author describes the predicament of dalit women during the 1995 assembly elections in central Bihar as follows: “Most of the women I interviewed had never voted before, nor did they understand the meaning or significance of ‘chunav’ (elections), vote or parties. While some of them were able to recognise some party symbols, they were often unable to relate the symbol to the party, and none of them could relate it to a particular candidate or programme.”
- 14 See, e.g., Chomsky (1998). There are many interesting similarities between Ambedkar and Chomsky’s views on democracy, even though Ambedkar was rather less critical of state power. It is perhaps not an accident that both were strongly influenced by John Dewey, an outspoken critic of the concentration of power who viewed politics as “the shadow cast on society by big business” (quoted in Chomsky, 1998, p 87).
- 15 Whether the Directive Principles went far enough in that respect is another matter. Ambedkar’s own blueprint for a ‘socialist constitution’, sketched in an early memorandum submitted to the constituent assembly (Ambedkar, 1948), included more sweeping changes in economic institutions, especially property rights.
- 16 On the accelerated progress of literacy and school participation in the nineties, see Drèze and Sen (2002), pp 151-52 and 327-29. On the right to education in India, see Ravi Srivastava (2003), and the literature cited there.
- 17 See, e.g., Anil Sadgopal (2003).
- 18 There is, however, rapid change in this respect; see, e.g., Ravi Duggal (2003) and Abhay Shukla (2003).
- 19 The ratio picked up again towards the end of the nineties, but mainly because of rapid increases in salaries (based on the recommendations of the Fifth Pay Commission), with little increase – if any – in real inputs.
- 20 I recently observed an extreme example of such situations in Allahabad district, where some dalit labourers had land titles (received under some “land distribution” scheme) but did not know where their land was. The gram sevak would not show it to them without a hefty bribe, and they were unable to pay. Some of them even suspected that they were working as casual labourers on their own land, encroached by powerful landlords.
- 21 The right to information movement has been particularly active in Rajasthan during the last 15 years or so, but it has deep roots, going back at least to Jayaprakash Narayan. Another interesting precursor is Jotirao Phule, who was apparently checking muster rolls more than a century before Mazdoor Kisan Shakti Sangathan: “[Phule] enjoyed the company of the labourers and organised them... [He] studied for two or three years how corruption was practised by high officials and engineers.

- He knew well how they made up accounts by showing false attendance of labourers and how they divided the profits among themselves” [Keer 1964, p 90].
- 22 See Drèze and Sen (2002), pp 367-68, and Vivek S (2003). For further discussion of the right to information movement, see particularly Neelabh Mishra (2003).
 - 23 More precisely, one could say that a person’s right to food is realised if her life is not impaired or limited by nutritional deficiencies of any kind, or (in a similar vein) that a person’s right to food is violated if nutritional deficiencies of any kind prevent her from leading a dignified life. The last definition would make it possible to link the right to food with recent judicial interpretations of the fundamental right to life (Article 21) as a right to ‘live with dignity’. I leave it to others to unravel the full implications of this approach, e.g, whether a professional weight-lifter has a right to “more food” than an unemployed clerk.
 - 24 This does not mean that it is pointless to make intra-family discrimination illegal. Most of time, laws are enforced by institutions other than the courts. Legal provisions can also have important effects on public perceptions of what is right and wrong. This is one reason, for instance, why compulsory education could make a difference even if the state refrains from enforcing it through the courts, or even from enforcing it at all.
 - 25 Writ Petition (Civil) 196 of 2001, PUCL vs Union of India and others; for further details, see www.righttofood.com.
 - 26 See, e.g, Margret Vidar (2003) and Gerald Moore (2003).
 - 27 Variants of this proposal include: (i) converting some Directive Principles into Fundamental Rights (as happened with the right to education), (ii) elastic interpretations of the Fundamental Rights to encompass these Directive Principles (as with the argument that the right to food is implicit in the fundamental “right to life”), and (iii) a constitutional amendment making all Directive Principles justiciable (see, e.g, Ravi Duggal, 2003, in the context of the right to health). On related issues, see Mahendra Singh (2003) and the literature cited there.
 - 28 For instance, in *Shantistar Builders v Narayan Khimalal Totame* (1990) 1 SCC 520, the Supreme Court stated: “The right to life is guaranteed in any civilised society. That would take within its sweep the right to food...” On this and other legal foundations of the claim that the right to life implies the right to food, see Human Rights Law Network (2002).
 - 29 Ambedkar himself focused mainly on electoral politics as the means of holding the state accountable to the Directive Principles: “[The party in power] may not have to answer for their breach in a Court of Law. But [it] will certainly have to answer for them before the electorate at election time...” (in Rodriguez, 2002, p 490). The point, however, can be extended to other tools of democratic practice.
 - 30 See http://www.rajasthan.gov.in/relief2002/relief2report_2.pdf.
 - 31 As it turns out, the Congress Party lost the 2003 elections in Rajasthan. But this does not invalidate the argument. It simply shows that preventing famines is not a sufficient condition for winning elections.
 - 32 See Drèze (2002); also Government of India (2002), p 158. These estimates are obtained by “matching” foodgrain offtake from FCI godowns with National Sample Survey data on household purchases from the public distribution system.
 - 33 To illustrate, a recent study of the PDS in Allahabad district found that only 1 per cent of the 1,400 sample households had correct knowledge of their entitlements (Mazumder, 2003, p 21).
 - 34 See, e.g, Drèze (2003a). In one village of Sendhwa (Madhya Pradesh), the PDS dealer has apparently struck a deal with the local residents, whereby he keeps all their cards, gives them 20 rupees in cash each month, and takes care of the rest. The most interesting part of the story is that the villagers are apparently satisfied: “20 rupees is better than nothing,” they say. This contentment reflects their low expectations of the PDS in ordinary circumstances (Sachin Jain, personal communication).
 - 35 Personal observations based on field work in Dharmapuri district, one of Tamil Nadu’s most deprived districts (see also Drèze, 2003b). In one village, dalit women were intrigued by the suggestion that the local dealer might be cheating them. “Where would he go after doing this?,” they said. “He lives here, and we will catch him if he cheats us.” Their confidence was refreshing, especially in comparison with the

- disempowerment and helplessness commonly observed among poor households in north India.
- 36 For further discussion, see Drèze and Goyal (2003), and earlier studies cited there.
- 37 The proceedings often reminded me of Kropotkin's indictment of the lawyers of his time: "... a race of law-makers legislating without knowing what their laws are about; today voting a law on the sanitation of towns, without the faintest notion of hygiene, tomorrow making regulations for the armament of troops, without so much as understanding a gun; ... legislating at random in all directions, but never forgetting the penalties to be meted out to ragamuffins, the prison and the galleys, which are to be the portion of men a thousand times less immoral than these legislators themselves." (Kropotkin, "Law and Authority", quoted in Bose, 1967, p 266.)
- 38 Personal observations in Tamil Nadu, Chhattisgarh and Madhya Pradesh. In both Chhattisgarh and Madhya Pradesh, it is not uncommon to find that the mid-day meal has failed to materialise for trivial reasons such as alleged lack of firewood. In one such school, visited at four o'clock in the afternoon, the teachers were least concerned about the fact that the children had not eaten anything since early morning, and even since the previous evening in a few cases. In response to a pointed question about the Supreme Court order, one of them promptly argued that the order required mid-day meals to be served on "200 days in the year only".
- 39 See, e.g. Anita Pratap (2003).
- 40 For further discussion, see Drèze and Sen (2002), pp 213-18; also Drèze (2003b).

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