Chapter One
Right to Food and Child Rights: Various Approaches

Rights are defined as the \textit{triumph} through which individual’s development could be shaped and also rights take priority over promoting general utility or the common good.\textsuperscript{1} Rights are seen as a protection against the abuse of the state or its various institutions. Rights establish the institutional basis for achieving justice, both social and economic.\textsuperscript{2} Therefore rights are not subject to the whims of others, even of the state itself.\textsuperscript{3} The generality of rights offers protection to individuals against arbitrary treatment, while focusing on the social and political arrangements.\textsuperscript{4} Rights are of supreme importance to human beings because they are necessary for having a worthwhile or a fully human existence. But these rights have to be institutionalized or made possible or practicable and embodied in actual societal or legal rules that promote and protect the interests to which the right question is directed. Indeed providing for citizens who are unable to provide for themselves with a minimal level of nutrition, shelter and clothing are given much importance.\textsuperscript{5}

Right to food is a claim of individuals from the State for the fulfillment of their basic entitlement. The State as the highest institution of authority has to ensure that every citizen is adequately fed or nourished. It is a fact that everyone has the right to a standard of living where food plays a significant role.\textsuperscript{6} Recognizing children as a vulnerable group and protecting their rights are significant due to their fragile stage. These rights or legal principles spell out in human rights laws and legal institutions. While every individual and organization has certain obligations with regard to the rights of the child, it is the national as well as the international institutions that have to carry the primary obligation to assure that children, like any other vulnerable group, 

\begin{itemize}
  \item \textsuperscript{2} Ibid, P-93.
  \item \textsuperscript{6} Article 25 (1) the Universal Declaration of Human Rights, adopted and proclaimed on 10 December 1948 by the General Assembly of the United Nations.
\end{itemize}
live with dignity and get adequate food for their existence. Thus, there must be serious steps from the governments, civil society and private individuals at international, national and local levels to assure the well being and security of the future generations by safeguarding their rights, especially the right to food.

Right to food or right to freedom from hunger is the most essential right of the individual without which existence is impossible. Poor physical development and an empty stomach deprive the child of proper growth and from a qualitative future. Accordingly, proper child nutrition is one of the prerequisites for the exercise of right to health and education. The most serious consequences of malnutrition and hunger are related to cerebral and mental developments which consequently result in failure at school, inability to take up skilled employment in future, etc. Malnutrition also creates apathy among children or lack of interest for learning or discovering what they could and should during the specific period of their development. If this state is prolonged, the children fall behind to such an extent that it is difficult for them to catch up and compete. Hunger and malnutrition also lead to infectious diseases like measles and poor health and mental disorder. It impairs the concentration, skillfulness and activity of the children. Children’s height and weight will be proportionately less as compared to what it should normally be at their age. Food and nutritional deficiency can also cause brain damage or faulty integration of the sensory perceptions, which makes learning difficult. This leads to a grave problem which could particularly damage the intellectual resources of the nation.

Right to food also includes securities for the unemployed, the sick, the disabled, the widows, and the senior citizens. The main cause of hunger and malnutrition are not the lack of food but the inavailability of food. Thus, availability

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7 Here the author argued that in India’s food grain case, where resources are abundant there is a positive obligation to provide life-saving assistance to the needy and importantly to the children. According to her, when resources are enough in the world as a whole, should there be a positive obligation on the international as well as the national community to provide life-saving assistance to those who are extremely needy? There is urgent need of international humanitarian assistance mostly from the United Nations agencies, such as the World Food Programme, that provide such assistance. However, the assistance should be obligatory than voluntary. Suzanne Rose’s, “Food Available, But Not for the Needy”, Executive Intelligence Review, November 27, 1992, P-19.
10 Ibid, P-86.
11 Ibid, P-87.
of food is necessary to satisfy the dietary needs of individuals and free them from adverse substances and thus make them acceptable within a given culture. Hence, it is not enough for food to be physically available but it should be adequate to satisfy the dietary needs. An important aspect of right to food includes accessibility. Accessibility of food relates to the distribution of resources and the ways in which the benefits of the process reach everybody without discrimination, especially the most vulnerable and marginalized sections of the society.

Access to food, which is sufficient, nutritionally adequate and safe, ensures individuals freedom from hunger. Access to food could be divided into two categories such as physical accessibility and economic accessibility. Physical accessibility of food means that people must have easy access to food. State and its agencies should give priority to a certain group of people who need food immediately. This includes people living in disaster prone areas and other disadvantaged groups, which are identified as deserving groups and in need of special attention. Economic accessibility implies that individuals or households should have economic capacity to purchase food, which is available. The financial cost of buying food grain should not be so high as to compromise other basic needs. Government should give proper attention to raising the level of income through special programmes to facilitate economic accessibility.

However, on the other hand, it is evident that women and children are the worst victims of hunger and hunger related deaths. Moreover, hunger throughout history, has been the result of withholding of food by humans and not by the nature. Most importantly, the situation prevails when the state possesses the largest hoard of surplus food, which puts a question mark on the politics of hunger and underdevelopment. Secondly, it is argued that the absolute lack of will and political strategies prevent people’s access to food and State resources. Consequently, it gave rise to a human right approach that everyone has right over the State resources and most importantly on food, as it is vital for human existence. The human rights approach while dealing with right to food built the notion that State is an organized society whose citizens shape their rights expressed under the notion freedom from or

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12 Asbjorn Eide, Wenche Barth Eide, Susantha Goonatilake, Joan Gussow and Omawale, Food as a Matter of Right, the United Nations University, 1984, P- V.
Therefore, freedom from hunger and deprivation and demand for access to food is covered under the right to food.

The most important aspect of child rights is that the child’s right to survival includes health, nutrition and shelter. The enjoyment of the highest attainable standard of living is one of the fundamental rights of every child without the distinction of race, religion, political belief or economic and social condition. The right of every child to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right to be free from hunger was reaffirmed at the World Food Summit. The representatives at the World Food Summit consider it intolerable that more than 800 million people throughout the world, particularly in developing countries, including India, do not have enough food to meet their basic nutritional needs and therefore pledged their political will and commitment to achieve food security and to eradicate hunger from the world.

1.1 Child Right to Food: Historical Context

Historically, the humanitarian ideas and actions to protect the rights of the child became popular in India from the beginning of the 19th century. Abolition of child marriage, female infanticide, widow remarriage, etc. had been initiated by various reform movements to protect children from abuse and neglect. Gurukul and ashram schools were also created to look after the growth of the children in ancient India. These movements and activities could have been major factors that continued

13 The human rights system is built upon the notion of a State, which is an organized society whose citizens have rights expressed under international law as freedom from or demand for. The State is obliged, under the human rights law, to provide its citizens with freedom from the violation (either by the State itself or by others) of each individual’s integrity or freedom of action. In addition, the State is required to create conditions under which its citizens can fulfill the needs expressed in the human rights system including the right to work, right to food, right to education and right to health and so on. In this regard, not only do States have obligations, but so has the international community. One aspect of this is to supervise the performance by states, in realizing the right to food. Another aspect is for the international community to bring about a structural transformation that will allow each to use its own resources in an optimal way for the purpose of food security for every one of its inhabitants. Ibid, Pp-VI-VII.


15 FAO, 13th November 1996.

16 Mahatma Gandhi’s Antyodaya System and Sriniketan and social work of the Ramakrishna Mission and other institutions fought for the cause of children. See: Tara Ali Baig, Our Children, Publication Division, Ministry of Information and Broadcasting, Government of India, New Delhi, 1979,, p-50-51. And also the right to food concept shows up in some form in the basic texts of many different religions. The historical roots of the right to food in India have been analyzed by R. S. Khare in his study, “The
the modernization process for the success of various child related schemes. The operation of child welfare work all over the country during the post independence period could be inspired from its past. The concern for children’s needs, the care of their physical and mental growth and various educational movements led to the establishment of different children’s organizations in the pre independence period in India.

These organizations looked after a large number of orphans and destitute children in homely institutions, and also gave excellent schooling to children over the years. These organizational movements influenced the shaping of various actions, policies and laws by the government before independence indicated that the child issues were a matter of serious consideration and drew the attention of the national leaders. Further, various committees were appointed by the government from time to time to render advice regarding child issues. In this connection, the problem of

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17 Ibid, P-51.
18 In 1920, Balkan-jee-bari with headquarters in Bombay was perhaps the first children’s organization created with child membership. In the same year Nutan Bal Sikshan Sangh in Gujarat and Maharashatra was created and later extended to Southern India. In 1927 the Children’s Aid Society in Bombay was created to look after the street children and to put them in into residential care. The Moni Mela in Bengal, the Kishore Dal in Bihar, in Assam the Maina Parijat, in Andhra Pradesh the Balananda Sangam were created and maintained an excellent services and training programme for pre-school children. Many small centers which did not develop into any notable movement, took care of some of the immediate problems of children in Karnataka, Kanpur, and Dehra Dun, were an indication of the trend in public consciousness to undertake activities that improved the life and entertainment of children. Ibid, P- 52.
19 An important Children’s Theater Movement centre for the children was created in Bengal that pioneered programmes that made the adults realize the value of the children. In 1952 some of the voluntary actions became centralized in the Indian Council for Child Welfare (ICCW), which remains the major national organization for child welfare today with branches in every State.
20 The Abolition of Sati in 1829, Slavery in 1811, Female Infanticide in 1830, the enactment of the Indian Penal Code in 1860 was directly or indirectly meant for protection of basic rights of Women and Child in India. For preserving female children who were the victims of early marriage, early widowhood leading to sati, the Age of Consent Act of 1891 and the Abolition of Child Marriage Act of 1929 were passed. In addition, the Madras Government passed the Madras Children Act and the Madras Elementary Education Act in 1920 to safeguard children and provide better education at the primary level. S M. Sundara Raj, “Awakening of Human Rights”, in Chiranjivi J. Nirmal’s (ed) Human Rights in India: Historical, Social and Political Perspectives, Oxford University Press, New Delhi, 1999, Pp- 6-7.
21 During pre-independence in 1943 the government appointed a Health Survey and Development Committee called Bhore Committee with Sir Joseph Bhore as its Chairman. The Committee submitted its report in 1946 and recommended for the organization of maternal and child health services in the country and made a special mention of the need for organizing services for children. Children’s issues became the point of highlights as according to Committee children are the most vulnerable sections and need special care and protection. The Committee emphasized on the plan for improving the health of
child issues enunciated in the Bhore Committee formed the basis of maternal and child health programmes detailed in the Constitution as well as in various Five Year Plans.

In this context, the Indian Council for Child Welfare (ICCW) mobilized voluntary activity in every Indian state and pioneered in the planning for children’s rights. The ICCW became the training centre for the child welfare workers, the balsevikas, and established balwadis, or nursery schools, in villages, slums, tribal areas and in cities. This laid the foundation of Integrated Child Development Services (ICDS), a popular child welfare programme of the government. But with the framing of the Constitution, the Government of India gave legal sanction to child rights while bestowing upon the children various rights which have been discussed throughout the dissertation. The Constitution of India clearly pointed out that a child unlike an adult may not necessarily comprehend the meaning and importance of his/her rights. Therefore, he/she depends entirely on his/her family and the society and most importantly on the State for the enjoyment of all the benefits of these rights. It is for this reason that the prosperity of the children’s enjoyment of constitutional rights depends upon the national commitment.

In this regard, every individual and organization has certain obligations with regard to the protection of rights of the child. It is the national as well as the international institutions that have to carry the primary obligation to assure the children, including all other vulnerable groups.

The recognition by the international community that all children are objects of international law requiring legal protection and stage specific substantive rights has been granted. Access to justice is the primary need and right of all children and they

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22 Ibid.


24 Here she argued that in India grain case where resources are abundant; there is a positive obligation to provide life-saving assistance to the needy and importantly to the children. According to her, when resources are enough in the world as a whole, should there be a positive obligation on the international as well as the national community to provide life-saving assistance to those who are extremely needy? There is urgent need of international humanitarian assistance mostly from the United Nations agencies, such as the World Food Programme, that provide such assistance. But, the assistance should be obligatory than voluntary. Op Cit, No-7.
need special protection and certain rights to meet their basic needs and to expand their opportunities to reach their full potential. Thus, children need rights for their survival and growth, protection from harmful influences, abuses and exploitation, and to participate fully in the familial, cultural and social life.

But it is also seen that the needs of the children were badly met and simultaneously their rights were sidelined from the State activities. However, after the First World War, international organization like the League of Nations brought attention to the needs of the children and in this context, the Vienna played a leading role among other developed and progressive countries. They studied more intensively the problems and needs of children, childhood and child psychology. Simultaneously, the legal system at the global level was also strengthened; a comprehensive policy on children was debated to look at the children’s issues because children as a class need the support of legal protection.

The children and their rights were sidelined since they were considered the property of the family and therefore very private in nature. The suffering of the children and their neglect in the world became a regular and universal phenomenon. Children suffered from destitution, disease, war and social injustices. Millions of them were victims of poverty, social inequality and most were malnourished and away from schooling. In a developing country like India, children are more vulnerable and most are victims of neglect, abuse, illiteracy, inequality, child labor, poverty and so on.

Looking at the gloomy situation of the children throughout the world, the UN General Assembly approved the adoption of the Universal Declaration of Human Rights in 1948. The freedom and rights of the children were discussed and implicitly included in the Declaration. But the Assembly thought that this action was not enough for putting child rights in human rights periphery and that this group needed special and independent importance. For the first time, child issues received momentum internationally, when the General Assembly adopted the Declaration of the Rights of the Child unanimously in the year 1959 with the support of seventy eight nations. The

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Declaration of the Rights of the Child brought out various principles for the protection of child rights without any discrimination on account of race, color, sex, language, religion, and so on.\(^{26}\)

The Declaration emphasized the special protection of children, different opportunities and facilities for their physical, mental, moral and social development and the promotion of their freedom and dignity and their best interest.\(^{27}\) It also widened the scope for the child to enjoy the benefits of social security including health care and protection before and after birth along with the right to adequate nutrition, food, recreation and medical services.\(^{28}\) It has been agreed and emphasized that, the society and the State both have the duty to care for the child beyond the family. Most of the countries including India realized that the children’s issues should come first because they are the most sacred trust and future of the nation.\(^{29}\) It is also asserted that the state of childhood would improve when the State takes children’s rights more seriously being party to various international treaties and making domestic legislations and teasing out the moral argument for the recognition of children’s rights. In this context, it is argued that rights are never given but are fought for. The children do not have an organized voice, hence it is the civil society organizations which must fight for their protection and development. They must play an instrumental role in persuading governments for the international legal protection of children’s rights.

However, the Convention on the Rights of the Child (CRC-1989) is considered to be the turning point in the international movement on behalf of child rights and significantly 191 countries are party to the Convention among which India is one. Basically this contains a legal standard for the protection and well being of children in the world. The Convention on the Rights of the Child stemmed from the League of Nations Declaration of the Rights of the Child of 1924, the United Nations Declarations of the Rights of the Child of 1959 and from a whole set of international legal instruments dealing with the promotion and protection of human rights. The Convention realized that since the children always constitute a major component of

\(^{27}\) Ibid, Principle 2.
\(^{28}\) Ibid, Principle 4.
\(^{29}\) Op Cit, No-25, p- 15.
society, the teaching of rights and bestowing of rights upon them is a must and should continue. In this process not only the international organizations but also all the nations should take up the child issues seriously and make child rights laws stronger for their overall development.\textsuperscript{30}

It is agreed that every child is entitled to enjoy rights covered under the Convention, including the right to rest and leisure, to engage in play and recreational activities along with right to life, survival and development. Rest and leisure, recreation and cultural activities are necessary for their survival and development.\textsuperscript{31} The Convention recognizes the child as an active subject of rights rather than as the property of the family or the subject of the rights of adults. By constituting a natural environment for the growth and well being of children, the family is recognized as the fundamental group of society to afford all necessary protection and assistance.\textsuperscript{32} Therefore, State must ensure the survival and development of the children.\textsuperscript{33}

Like the socio-economic rights, the civil, political and cultural rights of the child\textsuperscript{34} were ensured through this convention. The convention also protected the child’s right to freedom of expression (Article-13), the right to have access to appropriate information (Article-17), freedom of thought, conscience and religion (Article 14), right to freedom of association and peaceful assembly (Article 15) and the right to protection from interference in privacy as well as from attacks on their honor and reputation under Article 16. The Convention recognizes the right to education of child as to prepare the child for a responsible life in a free society and to grow properly. The Convention stipulates that primary education should be compulsory and free for all children (Article 28 and 29).

However, the Social and Economic Rights of the Child\textsuperscript{35} are important for the growth and development of the child. The State shall implement policies using

\textsuperscript{31} Article 6 and Article 31 of the Convention on the Rights of the Child.
\textsuperscript{32} \url{http://www.unhchr.ch/html/menu3/b/k2crc.htm}
\textsuperscript{33} Article 2 of the Convention on the Rights of the Child.
\textsuperscript{34} \url{http://www.unhchr.ch/html/menu3/b/ccpr.htm}
\textsuperscript{35} \url{http://www.unhchr.ch/html/menu3/b/cescr.htm}
available resources with international co-operation (Article-4). In this context, the role of International Non Governmental Organizations and bilateral co-operation is also emphasized. The State is expected to render assistance to parents in the performance of their child-rearing responsibilities and to ensure the development of institutions, facilities and services for the care of the children.

Provisions were also made through which children could be entitled to benefit from social security (Article 26), a decent standard of living (Article 27) and need not perform any hazardous work which may be harmful to their health or development. And this is possible when the State implements all policies which support children not going for hazardous employment and this could be possible only through the establishment of a minimum age for admission to employment. These general principles concern non-discrimination, the best interests of the child, the rights to life, survival and development, and respect for the views of the child. All the rights of the child set forth in the Convention are expected to be respected and ensured by State. Therefore, the Convention on the Rights of the Child recognized certain principles and norms as minimal standards for children’s rights. By implementing children’s rights, society proves its commitment to future generations.

The significance of the Convention, further, is that it called for the involvement of parents and family for the welfare, care and protection of children with special emphasis on the community, society and finally the State when required. Moreover the Convention provides a framework within which the children make the difficult transition from infancy to adulthood. The Convention urgently gave emphasis on issues like reducing infant and maternal mortality, completion of primary education covering 80 per cent of primary school age children, improving protection of children from malnutrition under the age group of five years, lastly, the universal access to safe drinking water, and so on.

36The obligation to use resource has been arranged within the framework of the United Nations Children’s Fund (UNICEF), the World Health Organisation (WHO), the International Labor Organizations (ILO), United Nations Educational, Scientific and Cultural Organisation (UNESCO), the United Nations High Commissioner for Refugees (UNHCR) and other United Nations organs and specialized agencies.

Therefore, rights are essential for children for their proper growth and development. Childhood is the most important stage for a child where rights can be taken seriously for a better future, not a worse one. To restructure childhood, shaping children’s lives and the surroundings there is an urgent need for involvement of family, society and finally the State. Children in most societies are unable to redefine themselves as competent beings, which lead to somebody else deciding which of the claims made by children should be recognized.

The basis of child security and the well being of the community are established through a system of obligations and claims as a matter of right within the State boundary. These provide the foundation of responsibilities held by the authority or institutions to protect children who fall into difficulties, especially those in distresses and not in a position to manage it. And in this context, the main responsibility of the State is to assist the needy.38

1.2 Child Right to Food in Post-Independent India

India has adopted special orders or laws on the legal status of the child to protect childhood under the guidance of a legal framework. It is noteworthy that it has many common features reflecting the contents of the United Nations Convention on the Rights of the Child. Being a party to UN-CRC, India has followed various laws and policies to strengthen its child rights schemes. A number of important considerations enabled India to set up human rights codes and recognized them as international instruments. Opening up of a child rights commission itself signifies the State’s commitment to protect its children from any sort of exploitation, even though it came into force after many years of national independence. And in this regard, the

38 Raymond Plant while narrating his point argued citing the example of a child drowning in the water. He argued that the child had a right to expect protection from the lifeguard or protector. The lifeguard’s role according to Plant is partly protective, partly instructive and facilitating. The same point is highlighted by Jean Dreze and Amartya Sen (1989&1991). Plant argues poverty elimination demands the presence of a lifeguard who can rescue a child who falls into difficulties and demands that the lifeguard serves also as swimming instructor who can teach the child to swim more effectively such that he/she is better able to avoid falling into similar difficulties in the future. Raymond Plant, *Modern Political Thought*, Blackwell, Oxford, 1991, P-281.
State is making and securing the development of children through intervention and planning.39

In India, the post-independence era has experienced an unequivocal expression of the commitment of the government to the cause of children through constitutional provisions, policies, programmes and legislations. A new spirit emerged in the minds of the framers of the Indian Constitution during late 1940s in the sphere of child rights and child welfare. While framing the constitution, its framers referred the constitutions of various countries, and also to the UN charter on political, economic and social matters related to children. The Fundamental Rights and the DPSP were formulated to enhance humanitarian and legal principles.40

As party to the International Convention, the Indian State has committed to honor the right to adequate food as a part of child survival. The Government of India has ratified the UN Convention on the Rights of the Child and various legislative and administrative measures are being taken for implementing the Convention by various departments.41 Since independence, the political leadership gave priority to child welfare and development realising the urgent need for bringing attention to the problems and needs of the children.42 Accordingly, policies were formulated to protect the future of the children as they are the future of the nation. Five Year Plans have earmarked funds for child welfare under social welfare and child welfare schemes. A milestone in the fortunes of children was reached when the United Nations International Children’s Emergency Fund (UNICEF) was created in 1946 and India became party to it. UNICEF was considered a major institution which would fight for the children’s issues at international level.


41 Answer of a question raised in Parliament regarding the status of children’s nutrition rights.

The post-independent Indian State perceived the constitutional provisions as the instrument to create the conditions for successful development planning. Beyond this, India has adopted special orders or laws on the legal status of the child to protect childhood under the guidance of the constitution. The framers of the Constitution stressed on the development of the children as they are country’s first priority since the foundations for long life and human development are laid in the crucial years of their childhood. With these ideas in mind the policy makers decided that during childhood even a small positive change can yield long term social benefits and even a temporary deprivation can inflict life long damages. Thus, the opportunities of early childhood development determine the present and the future human resource development of a country. Further, realizing the fact that the children have neither a voice nor a political constituency, the State has the sole responsibility to formulate policies to ensure their welfare, protection and development and thereby protect their rights. The child, always being dependent, needs the protection of the family and of the State.

As a result the respective governments both at the centre and at the states took up various programmes and policies to protect the rights of the child. A number of policies and separate laws have been formulated and enacted to protect the basic rights of children and to overcome hunger, starvation, and malnutrition. Policies were made to target the children directly or indirectly through self employment programmes to generate wage employment, food for work programmes and food security programmes. To ensure child rights and to safeguard their interests, the Constitution created an independent Commission for the Protection of Child Rights.

1.3 Child Right to Food and Indian Constitution

The framers of the Constitution made the State accountable for protecting and promoting child rights and expected the State and its institutions to maintain the dignity of the children, protect their basic rights from violation and shield them from

the State’s arbitrary action. The Constitution made the government answerable to itself regarding child rights. However, after continuous debates in the Constituent Assembly and the Bhore Committee’s recommendations, the Constitution makers put forward different provisions that directly or indirectly affected the children and thereby had given responsibilities to the State to formulate special provisions for them.

Based on the international human rights principles, India established constitutional, statutory and institutional mechanisms for the protection and promotion of child rights. Certain principles of the Declaration of the Rights of the Child were included in the Indian Constitution under the section called Directive Principles of State Policy (DPSP) or part IV of the constitution. It has become the guiding principle in the policy formulation as well as judicial decision and also in the resolution for the National Policy for Child Welfare which was adopted in 1974. Further, the basic rights of the children were protected in part III of the Indian Constitution under Fundamental Rights, which became their entitlements and DPSP places obligation on the government to follow these directives while formulating policies for the children. Even though these principles are not justiciable, it is directed to the governments to be responsible for the sake of children’s issues. The Constitution also provided an integral judiciary for the protection of these rights and most importantly the rights of the vulnerable groups like senior citizens, orphans, women and the children. The Constitution has a clear separation of power among the three branches of government i.e. legislature, executive, and judiciary. And most importantly the action of the legislature and executive are subjected to the control of judiciary through judicial review and judicial activism.

44 The rights of the Indians are protected in the Part III and Part IV of the Constitution. When the Fundamental Rights in Part III are enforceable in courts, the Directive Principle of State Policy in Part IV are guidelines and principles that are fundamental to the governance of the country. It is the duty of the State to apply these principles in making laws. If the fundamental rights are violated, a writ petition can be filed in the Supreme Court or High Courts (Article. 32 and 226). Because of judicial intervention and interpretation, many of the directive principles have now become enforceable through legal actions brought before the courts (for example right to education, right to food).

45 Article 39 (F) has been derived from the Declaration of the Rights of the Child and introduced in the Indian Constitution which states that the children are given opportunity and facilities to develop in a healthy manner and in condition of freedom and dignity and that the childhood and youth are protected against moral and material abandonment. Durga Das Basu, Introduction to the Constitution of India, 10th Edition, Prentice Hall of India, Calcutta, 1983.

46 Judicial Activism has been on the increase in India over the past two decades. Since the 80’s, the Supreme Court has, through Public Interest Litigation (PIL) cases, helped to promote and protect
Besides Fundamental Rights and DPSP, children’s rights in general and their right to food in particular are seen in various laws. Rights of the children are protected in different ways by State institutions like the executive, the legislature and the judiciary. While Parliament is solely responsible for legislation, judiciary is made the guardian of these rights. This is done by bestowing upon it the writ jurisdiction under Article 32 (Right to Judicial Remedies), where legislative and executive actions are controlled by Court’s interference.47

While Article 15 (3) permits special provision for women and children and thereby empowers the State to formulate special provisions in favour of children, Article 21 of the Constitution ensures the fundamental right to life and personal liberty for all human beings, including children.48 It considers Article 21 of the Constitution of India a basis for the justness of the right to food. Article 24 prohibits employment of children below 14 years of age in any factory or mine or any other hazardous occupation.49

According to Article 39, the State directs its policy in such a way that the health and strength of workers, whether they are men or women or children, are not abused and that they are not forced by economic necessity to enter a vocation unsuited to their age or strength. The children are thereby given opportunities and facilities to develop in a healthy manner, in conditions of freedom and dignity. Their childhood and youth are protected from exploitation, moral and material abandonment.

Article 41 on the other hand states that the State shall create effective conditions for securing the right to work, education and public assistance in case of

47 If people’s fundamental rights are violated a writ petition can be filed in the Supreme Court or the High Court (Article 32 and Article 226 respectively).
48 Article 21, Right to Life of the citizen is interpreted by the Supreme Court in the PUCL Vs Union Of India Case, SCC 196 of 2001, petition filed by PUCL (People’s Union for Civil Liberties). PUCL is a voluntary organisation fighting for civil liberties in Rajasthan. PUCL filed a case against the Union of India, Food Corporation of India and other six state governments regarding its inaction in protecting food rights of its people.
unemployment, old age, sickness or disablement and in other cases of unnoticed want within the limits of its economic capacity and development. Most importantly, it directs the State to raise the level of nutrition and standard of living of its people and to consider the improvement of public health one among its primary duties as mentioned in the Article 47 of the Indian Constitution. Article 45 also declares, “The State shall endeavor to provide within a period of 10 years from the commencement of the Constitution for the free and compulsory education of all children until they complete the age of 14 years.”

The importance of education simultaneously has been recognized in Indian Constitutional framework. The Constitution of India has stipulated that the State must provide free and compulsory education for all children below 14 years of age. But a significant step in the development of education is the interpretation by the Supreme Court that Article 45 of the Constitution is a legal source for claiming elementary education as a fundamental right. Likewise before 2001, children’s right to food was insignificant. Even in government’s record the percentage of child mortality, starvation and malnourishment ranked high.

Besides, fundamental rights and the presence of a strong judicial system, a National Human Rights Commission (NHRC) was established under the Protection of Human Rights Act, 1993 at the national level, to investigate, issue notice to people, and summon witnesses of evidences against crime. NHRC is also empowered to inquire into complaints of violations of human rights and can also intervene in any court proceedings involving an allegation of violations of human rights. Like NHRC

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50 Ibid, P-146.
51 Due to the persistent and continuous advocacy campaign, the Parliament passed the 93rd Amendment Bill 2001 to make education as a fundamental right of every child up to the age of 14 years in India. Lok Sabha passed the Amendment in the Winter Session of 2001 and Rajya Sabha in the budget session 2002. The judgment derived from a case of Unni Krishnan, J.P Vs State of Andhra Pradesh in 1993. AIR SC 2179-2254. The judgment lent strength to the demand for right to education and judicial activism. The apex court observed in the Unni Krishnan case that ‘the citizens of this country have a fundamental right to education. In other words, every child/citizen of this country has a right to free education until he completes the age of 14 years. Vimala Ramachandran, Getting Children Back to School, Sage Publications, New Delhi, 2003.
52 Striking down a provision of the Delhi School Education Rules, 1973 which provided for corporal punishment of children in school, as unconstitutional, the court underscored the importance of children receiving education in an environment of freedom and dignity, free from fear. The Court’s ruling was based on Article 14, 21 and 39 of the Constitution, interpreted in the light of the convention on the rights of child 1989 and the National Policy on Education. “Children to be Spared the Road”, The Hindu, 2nd December, 2000, P-4.
at the national, there is also Human Rights Commission in each state to enquire into violation of human rights only in respect of matters in state list and concurrent list of the Constitution. The protection of Human Rights Act, 1993 stipulates the setting up of a Human Rights courts for providing speedy trial of alleged human rights violations. Likely the National Commission for Women (NCW) was set up in 1992 under the National Commission for Women Act 1990.53

Like NCW, there is also a Commission for Minorities established in 1992 to evaluate the progress of the development of the minorities, to monitor the safeguards provided by the Constitution and by laws, to suggest measures to safeguard the interests of minorities, to investigate specific complaints regarding deprivation of rights of the minorities. The Commission has all the powers of a civil court. But it enjoys all powers without the power of enforcement. Not only this, the NHRC also launched a campaign to create awareness against child abuse under the chairpersonship of Justice Venkatachaliah. Citing an example, the Delhi High Court intervened in a corporal punishment which is violative of children’s fundamental rights to equality before law and their life and personal liberty.

An Alternative Report on India submitted by Butterflies, an Indian NGO, to the United Nations Rights of the Child Committee in 1998 and simultaneously to the Government of India regarding the situation of children in education, health, enjoyment of civil liberties, child labour and street children indicted the government for its inaction and failure of the political leadership and for its eagerness to withdraw from the social sector under the Structural Adjustment Programme. The Report also reveals an alarming fall in the enrolment of children in schools at primary level, particularly in the case of lower class families.54

Above all, National Commission for Protection of Child Rights (NCPCR) which came into force in 2007 was constituted to protect the rights of the child and to

53 It was set up to review the Constitutional and legal safeguards for women, recommend remedial legislative measures, facilitate the redressal of grievances, advise the government on all policy matters affecting women, investigate complaints, undertake promotional and educational research, inspect places of custody of women, fund litigation etc. but the body has no power to enforce its orders except giving recommendations.

discuss the various issues of children. It is a statutory body for the protection of children’s rights and also an independent ombudsman for children, dealing exclusively with the status and development needs of the children. It is mandated to safeguard the interest of the children, guide government policy on child related issues and review the laws and programmes relating to the children’s development.

Moreover, the concept of nutrition rights of the child was also discussed and defined by the CRC and the UNICEF which combined the access to food, health and necessary care. These three components are felt necessary to guarantee adequate nutritional security to children. Further, the provision of child right to food, health, education or nutrition is given to the state. But since the health, education or nutrition was not included in the list of Fundamental Rights (Part-III of the Indian Constitution) or contained in DPSP (part IV) they were not justiciable in courts. Article 21 which deals with Right to Life is a fundamental right and justiciable in courts, and is interpreted to include the right to live with human dignity and what goes along with it, namely the bare necessaries of life such as adequate food and nutrition, clothing and shelter.55

Followed by Court’s directions, a number of programmes for improving the status of children were implemented from time to time. Among the important are: (a) Maternal and Child Health (MCH) to provide comprehensive health care to mothers and children. (b) Integrated Child Development Services (ICDS) to raise the level of supplementary nutrition of the mothers and children. Children in the 0-6 year’s age group are covered and a holistic approach to growth and development is attempted by means of health, nutrition and pre-school education. (c) Day care programmes to provide day care for the children (0-6 years) of women workers. (d) The Reproductive and Child Health Programme (RCH) to reorient the health programme to make them more clients oriented with an emphasis on the quality of services and care for the women and child. (e) National Programme of Nutritional Support to Primary Education or Mid-Day Meal Scheme (NPNSPE or MDMS) to universalize primary

55 Francis Coralie Mullin V. the Administrator, Union Territory of Delhi and others, 1981/1 SCC/608.
education and improving the nutritional status of students of primary standards (I-Vth in the age group of 7-14 years).

Therefore, the State is obliged to ensure for the individuals under its jurisdiction, access to the minimum food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger. There are different kinds or levels of obligations of the State which is categorized according to the following:

- **Obligation to Respect** - The obligation to respect includes existing access to adequate food requires States parties not to take any measures that result in preventing such access.

- **Obligation to Protect** - The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food.

- **Obligation to Fulfill (Facilitate)** - The obligation to fulfill (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security.

- **Obligation to Fulfill (Provide)** - Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfill (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.

Therefore the primary responsibility of the government is to facilitate, which means assuring that there are enabling conditions that allow people to provide for themselves. However, where people are not able to feed themselves adequately, governments have some obligation to provide for them. At any condition people must not go hungry. State has a core obligation to take the necessary action to mitigate and alleviate hunger and is obliged to ensure for everyone under its jurisdiction, access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger and deprivation.

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Beyond this, the most important aspect of State’s responsibility is formulating policies and programmes in solving the food insecurity. The policies and programmes that considered for solving food insecurity are:

- Income generating programmes like, public works including food for work programme, employment generation programmes like Integrated Rural Development Programme (IRDP), Jawahar Rozgar Yojana (JRY), etc. and finally informal sector support including importance on cottage industries, handloom and handicraft business, etc.

- Direct income transfer programmes, which touch direct economic aspects of food insecurity and that are easier and faster to implement. For example, Food Stamp Programme (food stamps are a mechanism of direct income transfer. Under this programme, food coupons are issued to households with incomes below a specified level. This coupons can be exchanged for specified food items at authorized shops at non-subsidized prices), unemployment compensation. Food stamp programme is not available in India but is a scheme prevalent in Cuba and Sri Lanka, etc.

- Food price subsidies like Public Distribution System (PDS), which helps increasing the purchasing power of the beneficiary households, since they cannot buy food at the market price. They also reduce the price of food relative to the prices of other goods. In this context PDS has a greater role to play in the context of food insecurity because of market domination and inadequate delivery system.

- Food supplementation schemes like the school feeding programmes in Jamaica, Cuba, Africa and America and Supplementary Nutrition Programme (SNP) in Kerala-India, Mexico and Brazil. In Supplementary Nutrition Programme (SNP) pregnant women and pre-school children, and primary school children are given meals. These programmes are meant for specific groups of people and helpful for better targeting and reaching the most vulnerable groups.

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• Other programmes include: on site feeding scheme, take homes schemes and nutrition rehabilitation centers meant for providing food security to those vulnerable groups who can neither work nor are able to purchase food.

A National Plan of Action on children has been adopted under which goals have been fixed and it seeks to cover the programmes in the areas of child and maternal health. Moreover, a number of child care programmes like ICDS for improving the nutritional status of children are implemented. It is a major intervention for providing a package of services including supplementary nutrition to 1.63 crores children less than 6 years of age. Nutrition supplementation is also being provided to children under the schemes of crèches (3 lakhs children) and Balwadi Nutrition (2.29 lakhs children).

Even though the Government of India has taken a number of steps to protect the interest of the children the Constitution, which is the highest law of the land does not have explicit provision for the child right to food either in the fundamental rights or in DPSP which has been discussed earlier. Child rights were enshrined in the Indian Constitution in Fundamental Rights and in the DPSP in a broader sense. And the Article 21 of the Constitution which ensures fundamental right to life and personal liberty includes the issues of right to food. And it was included only after the interpretation of the Article by the Supreme Court during a 2001 case.

Simultaneously, the governments also had their own child welfare schemes. The Government of Madras created 500 pilot projects for child welfare in 21 Community Development Projects. It merged the Social Welfare Board Administration with the Department of Women’s Welfare of the state. Followed by the Government of Andhra Pradesh and Delhi those of other states took initiatives to create integrated projects for child welfare. Some states decided to create separate divisions/departments of child welfare to give intensive attention to the child welfare programmes.\(^{59}\) It was also observed that most of the states found difficulty in coordinating the children’s scheme during their implementation. The issue of

\(^{59}\) The child welfare programmes are dealt with by various departments like Public Health, Women and Child Welfare, Education, Panchayati Raj, Social Welfare, Labor, Law, etc. Various departments are involved by the central government to face the growing policy requirements of children and for the effective implementation of the various schemes. Ibid, P-328.
coordination was given utmost importance by the central as well the state government looking at the pros and cons of the child welfare schemes. It was suggested that non-official agencies should have a greater responsibility for the introduction and modification of legislation whilst the administration must ensure the enforcement.60

However, the programme related to child welfare had shifted from one ministry to another either in the name of development or for the sake of better coordination. Since independence to the beginning of the Five Year Plans, there was not a single group or body working for child welfare or rights. There were different departments dealing with different aspects of child welfare. But the overall administrative responsibility of child welfare and coordination was put on the Ministry of Education. From 1958 to 1960 the Ministry of Social Welfare, which was under the Ministry of Education, was looking after the overall activities of child welfare. But during 1960-1961, it was shifted to the Department of Social Security which was under the Ministry of Law and Social Security.

Child welfare, which was under the purview of the Ministry of Education, shifted to the Ministry of Education, Social Welfare and Culture during 1961-64. Again, from 1964 to 1966, the child rights issue was dealt with by the Ministry of Law and Social Security and then managed by the Ministry of Planning in 1969. During 1969 to 1979 it was handled by the Department of Social Welfare under the Ministry of Education. But in 1979, the Government of India took initiatives while establishing Ministry of Social Welfare as an independent ministry composed of different units for women and children which was renamed as the Ministry of Human Resource and Development in 1985 and kept under a cabinet minister.

But there was no explicit provision for children’s right to food in the Constitution of India until the PUCL Vs the Union of India case of 2001.61 Rights related to food and nutrition was included in the Fundamental Rights and the DPSP. Child issues were given weightage during the making of the Constitution in the

60 The state governments of Gujarat, Mysore, West Bengal, Punjab, Kerala, Jammu Kashmir, Rajasthan, Orissa and Andhra Pradesh stated the difficulty in co-ordination due to large area and absence of private bodies in implementing the schemes. All most all the state governments expressed need of greater resources, better trained and qualified persons for the execution of the schemes. Ibid, Pp-330-331.
61 http://www.righttofoodindia.org
Constituent Assembly. Its members argued in the Assembly that children and young people have certain rights especially linked to their status as minors and to their need for special care and protection. Children are particularly vulnerable to certain human rights violations and therefore require additional protection.\(^62\) As mentioned in the constitution at different stages, children have every right\(^63\):

- To freedom from discrimination based on gender, age, race, colour, religion or on the status of their parents’ socio-economic conditions,
- To a standard of living adequate for a child’s intellectual, physical, moral and spiritual development,
- To a healthy and safe environment,
- To equal access to food and nutrition for their physical and mental growth, etc.

Various State institutions, including the Constitution deals with various children’s issues like food, education and health, etc. Therefore, education policy at the primary level is given emphasis on increasing enrolment, retention and wiping out of illiteracy and reducing disparities among gender. So, the Government of India has initiated a number of schemes to enhance primary education. Some of these are District Primary Education Programme (DPEP), Sarva Siksha Abhiyan (SSA), Mid-Day Meal Scheme (MDMS), Operation Black Board, and so on. These schemes have not only received state cooperation but also international assistance to make it a success.

### 1.4 Child Right to Food in India

#### 1.4.1 Legal Approach

Legislation is one of the main weapons of empowerment of children as they are the most vulnerable group that needs special legal protection from the State. Legislation reflects the commitment of the State to promote an ideal and progressive value system. Legislation of laws compels the State to take action. While legislation is

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\(^62\) Op Cit, No-44, Pp 51-52.
\(^63\) Op Cit, No-44, P-53.
important, its protection is simultaneously essential. Therefore, Indian government
follows an adversarial legal system with a Constitution as fundamental law of the
country and the main source of protective umbrella under a strong judicial system for
the protection of child rights. It is to ensure that children are given opportunities and
facilities to develop in a healthy manner and in conditions of freedom and dignity
under legal protection. It is estimated that there are more than 250 central and state
statutes which are meant for the protection of child rights in India.

Besides legislation, there are provisions that concern children in various
general statutes. Provisions relating to children have also developed in the areas of
criminal law, family law, employment law and other aspects of childcare and welfare.
Even several criminal laws give special protection to children. These statutes include
the Indian Penal Code 1860, the Evidence Act 1872, and the Code of Criminal
Procedure 1973. These Acts are mainly created and amended at different periods of
times to protect the child from any sort of abuse, neglect and exploitation. In this
regard a number of cases were brought to the notice of the judiciary and a few
significant cases are discussed below.

The most important judgments by the Indian judiciary is made and widened in
Francis Coralie Mullin Vs Administrator, Union Territory of Delhi in 1981 with the
Supreme Court’s observation that “the right to life under Article 21 includes the right
to life with human dignity and all that goes along with it, namely the bare necessaries
of life such as adequate nutrition, clothing and shelter and facilities for reading,
writing and expressing oneself in diverse forms…” At the same time in Bandhua
Mukti Morcha VS. Union of India in 1984, the Supreme Court held that the Right to
Life must include protection of the health and strength of workers, men and women,
and of the tender age of children against abuse, opportunities and facilities for
children to develop in a healthy manner and in conditions of freedom and dignity,

64 Article 39(f) under the Directive Principle of State Policy of the Constitution of India.
Publications Act 1956, Probation of Offenders Act 1958, the Orphanages and other Charitable Homes
Act 1960, Apprentice Act 1961, the Medical Termination of Pregnancy Act 1971, the Child Labour (Prohibition and Regulation) Act 1986, the Children (Pledging of Labour ) Act 1933, the Infant Milk
66 Ibid.
educational facilities, just and human conditions of work and maternity relief…. Neither the Central Government nor any state government has the right to take any action which will deprive a person of the enjoyment of these basic essentials. The petition also cited the case *Paschim Bangal Khet Mazdoor Samity Vs. State of W. Bengal (1996)* to argue that the State cannot avoid this constitutional obligation due to financial constraint. Furthermore, the petition argues that the right to life is secured only when a man is assured of all facilities to develop himself.

The Supreme Court recognized the right to food as part of the right to life, under the Constitution of India and stated that in case of famine there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst the very poor and the destitute is scarce, leading to malnourishment, starvation and other related problems. Thus, not only did the Supreme Court recognize the right to food as part of the right to life, but also included distribution and access to food as part of the right. While Court has reiterated in several of its decisions that the Right to Life guaranteed in Article 21 of the constitution in its true meaning includes the basic right to food, clothing and shelter, it is indeed surprising that the justiciability of the specific right to food as an integral right under Art 21 had never been articulated or enforced until 2001! Prior to the Right to Food petition filed by PUCL in 2001, the only other case concerning specifically the right to food, went up to the Supreme Court in 1986 was the case of *Kishen Pattnayak vs State of Orissa*. In this petition, the petitioner brought the

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67 1986 (Supp) SCC 533.
68 In this case, the Supreme Court held that providing adequate medical treatment, regardless of cost, is one of those restrictions that inhibit growth. All human rights are designed to achieve this object. The Right to Life guaranteed in any civilized society implies the right to food, water, shelter, education, medical care and a decent environment. These are basic human rights known to any civilized society. The civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Conventions or under the Constitution of India cannot be exercised without these basic human rights.”
71 The case of starvation deaths due to poverty in two of the poorest villages of Orissa was brought to the Supreme Court in a PIL in 1989, but the petition did not articulate a violation of the right to food on the part of the State. The Supreme Court in that judgment noted that on evidence, ‘starvation deaths could not be ruled out’, but failed to recognise that the right to food, an integral part of the right to life was being violated. In this case the court reviewed governmental plans and responses to poverty and starvation in that area and merely ordered increased participation of community members on the Natural Calamities Committee to oversee working of all social welfare measures designed to alleviate poverty. *Kishen Patnaik and Anr v State of Orissa*, AIR 1989 SC 677.
attention of the Supreme Court on the extreme poverty of the people of Kalahandi in Orissa where people were dying due to starvation and were forced to sell their children. The letter prayed that the State Government should be directed to take immediate steps in order to ameliorate this miserable condition of the people of Kalahandi.

This was the first case specifically taking up the issue of starvation and lack of food. In this judgment, the Supreme Court took a very pro-government approach and gave directions to take macro level measures to address the starvation problem such as implementing irrigation projects in the state so as to reduce the drought in the region, measures to ensure fair selling price of paddy and appointing of a Natural Calamities Committee. None of these measures actually directly affected the immediate needs of the petitioner – i.e. to prevent people from dying of hunger. More importantly, the Supreme Court did not recognise the specific Right to Food within this context of starvation.

Following the Kishen Pattnayak case in 1986, there were no other cases going up to Supreme Court or the High Courts concerning the right to food, until 2001. The significant development relating to the child right to food happened with the intervention of the Supreme Court taking up Public Interest Litigation cases of PUCL vs. Union of India and others. The PIL petition, seeking the enforcement of the

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72 It is not surprising that the next judgment concerning right to food and the right against starvation deaths again emerged from the State of Orissa, one of the poorest states in India. In 2001, there was a massive drought in several states in India especially Orissa, Rajasthan and Madhya Pradesh. Due to the drought, which had been going on for months and the extreme poverty and complete lack of access to food grains, people were starving in large numbers. While the poor were starving in the drought hit villages, the central government had excess food grains in its storehouses, which were not being disbursed and were rotting! The agitation in the country over lack of access to food grains in the drought hit states took rapid momentum after shocking incidents of people in some of the poorest districts of Orissa dying due to starvation. Despite these facts, the central government maintained that there were no incidents of starvation deaths! ‘No Starvation Deaths’ the Hindu, Bangalore, India, August 3rd 2001.

73 With regard to Public Interest Litigation in India, the Supreme Court has laid down that where a legal wrong or legal injury is caused to a person or to a determinate class of person by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any Constitutional or legal provision or without authority of law or any such legal wrong or legal injury of illegal burden is threatened and such person or determinate class of persons, is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the Supreme Court for relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Courts under Article 226 and in the case of breach of any fundamental right in the Supreme Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons. Op Cit, No- 47, P-24.
right to food, was filed by the People’s Union for Civil Liberties (PUCL) in the Supreme Court on May 2001 against the Union of India, Food Corporation of India (FCI) and six state governments. A case was filed seeing rising instances of people starving in various parts of the country and the State’s inaction in preventing starvation-related problems. The petition drew attention of the fact that in spite of 50 million tons of food grains lying in FCI store houses, 208 million Indians are affected by chronic hunger.

A serious issue was brought to the attention of the court regarding the State’s inaction in protecting the basic necessities of its population. This was especially true of children who neither have a voice to raise nor a representation in the legislative bodies. The petition raised questions about whether article 21 of the Constitution of India includes the right to food, and whether the right to food implies that the State has a duty to provide food, especially in situations of drought, to its population who have been affected and are unable to purchase food. It also asked if the right to life does not mean that people who are starving and too poor to buy food grains should be given grains free of cost by the State from the surplus stock lying unused with it.

The petition held the State responsible for children’s deprivation, underdevelopment and non-fulfillment of the right to food. Expressing children’s right seriously, the court took the child’s right to food seriously and broadened the scope of the petition from six states to the whole country. The Court realized that food insecurity of children is not only a problem for the State, but also a major barrier for children’s growth. Therefore, to overcome these, the nation-state must take appropriate measures. Simultaneously, the State must look into the matter of

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74 Orissa, Rajasthan, Chhattisgarh, Gujarat, Himachal Pradesh and Maharashtra.
75 Drought in Orissa: The Question of Access to Food was brought to the fore with the reports of starvation deaths in Orissa in 2001 KBK (Kalahandi, Balangir and Koraput, the Western hilly parts of Orissa) districts were the worst affected by drought in 2001. The phenomenon of starvation in Western Orissa is rooted in the growing population, lacks in purchasing power to buy food even at the PDS rates and the distress sale of whatever food surplus exist, is the main reasons for starvation deaths in KBK region. Archana Prasad, “Hunger and Democracy”, the Frontline, Vol-8, No-20, 29th September, 2001.
76 Starvation deaths in Rajasthan, where 12 people mostly children under 10 years of age, died of starvation in two blocks of Singlakundi and Baran districts of Rajasthan and adjoining Madhya Pradesh. The fall in employment and a consistency declining local income has been considered as the reason for the chronic hunger in the area, The Hindustan Times, 17th October, 2002.
77 PUCL vs. Union of India, 2001. www.righttofoodindia.org.in
increasing the income or the purchasing capacity of the parents so that they could purchase food to feed children as well. Besides, lack of job opportunities, political instability and violence (religious, ethnic or caste) in many states received higher attention than the children’s right to food.79

The Supreme Court in its order of July 23, 2001 held that food has to be provided to the disabled who are in danger of starvation. It stated that while everybody need to be protected by the State, these groups (children) need special attention as they cannot sustain themselves without State’s intervention. In its order of 17 September 2001, the Supreme Court directed the State to find out the number of people living Below Poverty Line (BPL) and to provide food security to the destitute and to implement the food-for-work programme. On 28 November 2001, the court came with an interim order which directed the State to implement eight centrally sponsored food security programmes.80 These eight food security programmes not only included children but also covered different groups who neither had the physical capacity to get food nor had purchasing capability. Thus, it directed the state governments/UTs to introduce cooked MDM in all government and government aided schools by 28 February 2002 in half the districts and within six months in all districts.

Subsequently, the court empowered the Gram Panchayats and Gram Sabhas in the overall implementation of these schemes, in identifying the BPL families and ensuring the availability and accessibility of the ration shops in their respective localities. Overall monitoring of the implementation of the MDMS is entrusted to the panchayat. The Court made the Chief Secretaries of the state responsible for starvation deaths. Moreover, the court directed the state governments and UTs to implement the MDMS by providing every child in every government and government aided primary schools with cooked meals with a minimum content of 300 calories and 8–12 grams of protein each day of school for a minimum of 200 days in a year.81

The Court also appointed N. C. Saxena and S. R. Sankaran as Commissioners of the Court to redress complaints on food schemes that had not been resolved by the collectors and the Chief Secretary of the respective states. They were appointed to monitor the implementation of the schemes after the intervention of the court. The court held that each State will appoint one officer as an assistant to the commissioner. The Commissioners were directed to submit reports to the Supreme Court and seek interventions beyond existing parameters on the larger issue of the right to food in India. Making the Chief Secretaries accountable, the Supreme Court of India demanded that there be a State which would be accountable and responsible to its population and protect and fulfil their minimum basic needs.

The Commissioner on the MDMS highlighted various lacunae in the initial years of implementation of the scheme. These are a lack of government’s will to protect the child’s right to food, inadequate funds for the scheme leading to financial pressure on the state governments. Beyond this, diversion of food grains and open corruption are major factors that hinder the implementation of the scheme. Secondly, supply of cooked meal within two years of the starting of the scheme was decided for the success of the programme but could not be achieved, even after four years of the introduction of the scheme except five states. The objective of qualitative health standard, improved retention and attendance was not achieved as expected. Only eight states followed the criterion of distributing food grains with the stated 80 per cent attendance of students. Enrolment of students declined instead of increasing in Assam, Bihar, Haryana, Mizoram, Nagaland, Punjab and Sikkim even after introduction of MDMS.

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82 Op Cit, No-81
83 In their report to the Supreme Court submitted on 29th October 2002, the Commissioner stated that the States of Bihar, Jharkhand, Utter Pradesh, Assam, West Bengal, Chhattisgarh and Gujarat had not given reasons for the failure of the PDS’s to ensure food grains reached the poor nor did they provide any feedback on their compliance with the order to introduce MDM scheme, or with the process of identifying the BPL ration cards. The report reaffirms the States’ lacklustre approach in eliminating hunger and starvation and ensuring the right to adequate food. Ibid.
84 Besides, this was not a big achievement as the scheme had not been introduced before 1995 in these mentioned five states (Gujarat, Kerala, Madhya Pradesh, Orissa, Tamil Nadu and Pondicherry). In some states, the food supplied was of inferior quality. The rest of the states distributed uncooked food grains to the children. The scheme of supplying cooked MDM to the students of classes I to V remained a non-starter, with most students either not covered by the programmes or not provided a cooked meal.
Simultaneously, at the state level, the High Courts of states have started monitoring the implementation of the centrally sponsored MDMS. Though states are the implementing agency at the state level, the task has been entrusted to the High Courts to regulate the activities of the states and protect the basic minimum rights of the child. This was due to the increased evidence of gross violation of Supreme Court’s order regarding implementation of the MDMS. In this context, the best example can be cited on Calcutta High Court which has ordered the West Bengal government to introduce the MDMS as soon as possible. In 2003, when the government of West Bengal indicated the impossibility of the implementation of MDMS due to operational, administrative and financial difficulties, the court ordered the state government to take necessary action to implement the scheme as early as possible and to check malpractices in the scheme.

Likewise, Madras High Court in one of its Right to Food case (G. K. Moopanar and other Vs. State of Tamil Nadu, 1990) recognized that access to food as a ‘Constitutionally Protected Right’ coming under the purview of Fundamental Right to Life (Article-21) of the Indian Constitution. It empowered the people’s right to go against the State or any State authorities for the protection of their fundamental rights to which they are entitled. In another case, the Bombay High Court intervened as 12,000 children in Amaravati, a district in central Maharashtra, were diagnosed with grade-IV malnutrition. According to a report published in Asian News 2003, large scale malnutrition among tribal children had reached alarming proportions, mandating the interventions of the Bombay High Court. The High Court ordered the Maharashtra government to take immediate steps to provide interim relief to children living in tribal areas. It also asked the secretaries of various government departments to assess the situation of the children and submit the report to the Court. Significantly, the Orissa High Court intervened seeing the unsatisfactory child development, slow growth in reducing child mortality and dropout rates even with the presence of a

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86 The Court ordered the Government of West Bengal to file a criminal law suit against the Inspector of schools of Midnapore district on charges of selling MDM rice in collusion with a local Block Development Officer, Anandbazar Patrika, a local English daily, Calcutta, 20th February 2003.
87 Op Cit, No-35, p-237.
88 The medical terms grade-IV malnutrition is the most serious State of the condition, children who reach this level seldom recover.
89 Malnutrition Deaths in Maharashtra, the Hindu, August 2005.
number of child welfare schemes including the ICDS and MDMS. The court asked the government of Orissa to submit the report for the cause of such failure. The Court also intervened while observing the growing corruption in the monitoring and implementation of the MDMS, fake information regarding increase of enrolment, misuse of funds meant for the children.\textsuperscript{90}

However, due to the intervention of the judiciary relating to the implementation of MDM, majority states introduced cooked MDM in primary schools. Measures were taken to enhance the nutritional status of children attending primary schools. The Supreme Court’s interventions pushed the government a step closer to perceive food/MDM as a matter of constitutional right of the children. In addition, the court also warned those states for not introducing cooked meals and therefore provided a new guideline to implement the scheme. The states were strictly directed to provide MDMS immediately in at least 25 per cent of their districts with priority being given to the poorest districts.\textsuperscript{91} However, SC was instrumental in implementing the MDMS and protecting the best interests of the children in India. Although India has the largest democratic system and legislature, in the case of the MDMS, the judiciary rather than legislature, which purportedly protects the interests of the people, became proactive in enforcing the scheme and protecting the child rights.

The Supreme Court’s intervention and ruling on MDMS has had several impacts on the child’s right to food. At the first place, it gave a stimulation to the national right to food campaign, in which MDMS received the highest attention. The Court’s decision on enforcing a large number of already-existing food schemes galvanized activists who were concerned with the issue. After the decision, the right to food campaign took off and hundreds of activists joined the campaign to bring awareness throughout the nation. Simultaneously, the right to food campaign became organized as a decentralized and informal network of organizations and individuals working on right to food issues.

\textsuperscript{90} The report was published in \textit{The Dharitri}, Oriya daily, March 2007. www.dharitri.com

\textsuperscript{91} Op Cit, No-83.
The court’s ruling along with the campaign led to public hearings, rallies, dharnas, conventions, action-oriented research, media advocacy, and lobbying of Members of Parliament. In addition, the campaign has held annual national conventions on right to food issues since 2004 with specific focus on the issue of MDMS. A nationwide survey took place regarding the implementation of the MDMS. During the survey various positive and negative factors of MDMS were brought out so as to attract the attention of the government. A number of comparative studies were conducted for the success and failure of the scheme in different states in India.

1.4.2 Planning and Policy Approach

Deriving strength and support from the constitutional commitments and judicial interventions, the Indian State brought into effect many policies and programmes relating to child development. Along with the formulation of the policy, a number of actions were adopted to achieve the children’s right to food. This was followed by a framework of partnership between central and state governments through a number of Centrally Sponsored Schemes related to children’s nutrition, health, education, etc. Emphasis was given on the numerous investigations among school children which showed their poor state of nutrition with consequent impairment of physical and mental growth.

92 Ibid.
93 While some states embraced the programme, others delayed its implementation. For instance, Rajasthan embraced the mid-day meal programmes despite continued problems with funds from the Central government. This was likely due to the attention hunger issues were already receiving in the state, both from the government and the activists. One of the biggest problems that faced Rajasthan was that supplies for the meals were provided based on the previous years’ enrolment figures, but because the meals were being provided, enrolment had increased radically. In a state survey of 63 schools, enrolment had gone up by 23 per cent in total and 36 per cent for girls. (The Hindu, MDM in Rajasthan, November 13, 2002). While perhaps not all of this is due to the provision of meals, some of it likely is. The same year the MDM began to be provided, the state governments had started a universal education drive, so separating the effects of the meals and the education drive on enrolment is difficult. On the other hand, in July 2003, the Leader of the Opposition alleged that the Municipal Corporation of Delhi had failed to provide the meals, in violation of the Supreme Court order. (The Hindu, MCD failed to supply MDM, July 5, 2003). This accusation was found to be true, when the Municipal commissioners looked into the issue and found that MDM were being provided in less than 400 of the Municipal Corporation’s 1,900 primary schools. The Hindu, Officials Taken to Task over Mid-Day Meal, July 17, 2003).
The well-being of children has been given priority in India’s planning and development. In the initial years, the major responsibility of developing child services had primarily rested with voluntary organizations. The recognition to child welfare was given only in 1956 while establishing the Central Social Welfare Board (CSWB). Later, within child welfare services, greater concentration was given to the sectors of health and education. In Five Year Plan, the government initiated different policies for the protection and welfare of child while establishing institutions with the broader goal of protecting their rights as they are the most vulnerable segments of the society and overall a dependent group. Realizing the need, the CSWB appointed a committee to prepare a comprehensive plan for the care and training of children between 0 and 6 years of age. Emphasis was given to the need to promote the growth and development of children through pre-school education. The Committee approved certain programmes and activities for child welfare which included domiciliary services, pre-school children’s park and playground, recreation centres and MDMS.

With the advent of the era of planning and the establishment of Planning Commission in 1951, child welfare started receiving greater attention within the framework of national policy. Special attention was given to the needs of the children. During 1952, Indian Council for Child Welfare (ICCW) was formed as the first National Organization to mobilize voluntary activities in every state in favour of children’s needs. Through the CSWB grants were given to non-governmental agencies and voluntary organizations all over the country. But it was only during the Fifth Five Year Plan (1974-1979) that child welfare was given a major thrust in terms of allocations and introduction of new schemes.

Simultaneously, the budget allocation was increased. In 1951 the First Plan’s provisions in this sphere were 0.5 per cent of the total budget. But during the Fifth Plan in 1976 it rose to Rs. 86.13 crores, approximately 7 per cent of the total budget.

95 The Committee was inaugurated on 25th March 1961 by Smt Durgabai Deshmukh, Chairman of the Central Social Welfare Board. The committee was intended to work on child welfare in future planning and to give highest priority to child and child welfare. The Committee also emphasized on the environment of national organisation for child welfare through various research projects, and guidance from social scientists and researchers. Report of the Committee on Child Care submitted to the Chairman Central Social Welfare Board, Government of India, New Delhi, 1961-62, Pp- 4-6.

96 Ibid, P- 323.
or all aspects of Social Welfare in the Centre and in the states. Out of this only Rs. 2.40 crores were specifically earmarked for the Family and Child Welfare Programme carried over from the Fourth Plan, and Rs. 22.09 crores for pre-primary integrated children’s projects centred on the Anganwadi trained balsevikas. For the Nutrition programme, covering Applied Nutrition Projects, MDM and Minimum Needs Programme, Rs. 115.67 crores was allocated. For education of all categories, the Plan budget was Rs 1,285 crores. At the end of the Second Plan, 44 million children were at school and projected for further increase of up to 20 million.

Since the objective of all plans is human betterment and the country’s development, it was decided that planning must logically begin with the child; and to attain it, the following are the detailed policy interventions through Five Year Plans by the governments regarding child development. The first Five Year Plan (1951-56) included various recommendations for child development based on the suggestions of the Health Survey and Development Committee and the Health Survey and Planning Committee. Emphasis was given to child health and the reduction of child mortality which was quite high during independence. Therefore, nutrition, health, supplementary and school feeding of the children received greater attention.

The budget allocation also included education, health, nutrition, water supply and sanitation as well as welfare schemes for the handicapped, which came as grants in aid through the CSWB, women’s welfare, planning, research and evaluation. A special nutritional section was created in the State Public Health Departments to supervise through their Maternity and Child Welfare Services, nutrition of mothers and infants. Recommendations were given to develop the school feeding programmes for school going children. Looking at the acute Infant Mortality Rate necessary actions were taken up which include: large scale catering in school premises, appointing dieticians and education of specialized nutrition workers. UNICEF, Statistical Profile of Children and Youth in India, November 1975.

Ibid.


The government’s awareness of the health problems and the need for health planning during the post-World War-II period and the pre-independence era which resulted in the appointment of Health Survey and Development Committee (Bhore Committee) in 1943 with Sir Joseph Bhore as its Chairman, which submitted its report in 1946. The committee delineated a new trend in the organization of Maternal and Child Health Services in the country and made a special mention of the need for organizing services for children. Children became the point of highlight for the committee as they are the most vulnerable. The committee also emphasized that any plan for the improvement of health of the community must pay special attention to the development measures for the adequate health protection of children. It further recommended that ‘Maternal and Child Welfare Organizations should be an integral part of the child health programme in India’. This was the first time that the problem of maternal and child health was highlighted on a government report. The concepts enunciated in the Bhore Committee formed the basis of the maternal and child health programmes detailed out in the various Five-Year Plans. http://www.ndc-nihfw.org/html/CommitteAndCommunications.htm

First Five Year Plans, the Planning Commission, Government of India, 1951-56, P. 503.
On the other hand, child education also received attention with special emphasis on the responsibility of the State in providing free and compulsory education to all the children till the age of 14 years (as mentioned in the Article 45 of the Indian Constitution). It aimed at providing educational facilities to approximately 60 per cent of children in the age group 6 to 11. The plan also gave importance to pre-school education of all between the ages of 3 and 5.

Nutrition and child health became priority during Second Five Year Plans (1956-1961) with the integration of MCH with PHC. The plan while emphasizing the importance of nutrition of children, recommended a nutrition programme for expectant women and nursing mothers and MDM for infants and children of school going age.\footnote{Second Five-Year Plan, the Planning Commission, Government of India, 1956, P- 287.} In the education sector, efforts were made to achieve free, compulsory and universal education of children up to 14 years with special emphasis on the enrolment of the girl child. A Child Care Committee was constituted by the Ministry of Education to prepare a comprehensive plan for children of ages 0 to 6. Activities of the Central Social Welfare Board strengthened by adding new schemes like Welfare Extension Projects (Urban) and Holiday Homes for Children of the age group 10 to 16.

The role of the voluntary agencies to carry out work for the children was highlighted in Third Five Year Plan (1961-1966).\footnote{Ibid, P -88.} The Government decided to replace the haphazard, spasmodic and unregulated child welfare activity with a coordinated and systematic plan. Emphasis was given to create the balsevikas with special emphasis on the education and nutrition security of the both pre-school and primary school children with special focus on the qualitative nutritious food.\footnote{Third Five-Year Plan, the Planning Commission, Government of India, P-350.} Under the purview of the Central Government, a school health programme was established which reported that the incidence of sickness and disease among school children due to malnutrition and other preventive causes is extremely high. It suggested that the Health Programme drawn upon the Third Plan in the states should ensure certain

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minimum services\textsuperscript{105} for the care of the child health in the schools. Simultaneously, Applied Nutrition Programme, which was in a few states, was extended across the entire country.

The scheme for providing MDM for primary school going children above six was initiated with the cooperation of local communities for the health and nutrition of children and to help children from the poorer background.\textsuperscript{106} Along with MDM, concentrated efforts were made to increase production and improve the economic conditions of the family. Improving nutrition was undertaken in two ways: first, by educating the public regarding nutrition and secondly, involving the community in its implementation.\textsuperscript{107} Among the vulnerable groups, although importance was given to children in general, specific importance was given to school children through MDMS. The Central Government urged the states to establish a specific section for nutrition in the Public Health Department in their respective states.

During the Fourth Five Year Plan (1969-1974), child welfare programmes were integrated with the women welfare programmes and the state and local bodies were called upon to involve in child welfare activities and coordinating with other departments.\textsuperscript{108} Two types of feeding schemes were initiated. One related to nutritional services provided through Balwadi and day care centres to the children in the age group 3 to 5, and the second was called Special Nutrition Programme (SNP) for the pre-school children and expectant women, nursing mothers in tribal areas and urban slums. During the period, the government realized the policy neglect of the pre-school and young children’s right to education and nutrition. Increasing nutrition of the children was needed to stop damage to their proper growth and development. It was decided that children between 0 and 14 should get adequately nutritious food.\textsuperscript{109}

Welfare programmes were geared up during the period to check socio-economic deprivation of children and fostering their overall development. Emphasis

\textsuperscript{105} These minimum services include clean drinking water, and sanitation facilities in schools, arrangement of medical inspections, follow up services in association with the primary health unit in the development block and instruction of teachers in health education. Ibid, P-351.
\textsuperscript{106} Ibid, P-352.
\textsuperscript{107} Ibid, P-351.
\textsuperscript{108} Fourth Five Year Plan, the Planning Commission, Government of India, P-125.
\textsuperscript{109} Ibid.
was given to the creation of institutional and non-institutional services for children. An effort to provide MDM for school going children continued to be the first priority. The Social Welfare Department and the State Department of Health were involved in school feeding programme. Emphasis was given to the development of Balahar. While the MDMS was undertaken by the Department of Education, the Department of Social Welfare continued to promote the programmes as a matter of child welfare.

The Fifth Plan period (1974-1979) saw a major breakthrough in the concept of child development with a shift in approach from ‘welfare’ to ‘development’, and subsequently the formulation of the National Policy for Children in 1974. Under the policy, it was proposed to set up Integrated Child Development Services (ICDS). Nutrition came under the purview of the National Programme of Minimum Needs along with elementary education and nutrition. Special care was taken to arrange MDM to reduce mortality and morbidity. The fifth plan gave high priority to supervision and monitoring as an important part of MDM implementation.

To check permanent impairment and mental disabilities on account of nutritional deficiencies, the specific proposal to deal with the problem was through an integrated programme of supplementary feeding, which would be carried out for pre-school children for 300 days and school-going children for 200 days. And for this CARE donated Rs 200 crores in the form of food mainly for MDM. During this plan SNP became an integral part of Minimum Needs Programme (MNP).

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110 By the end of the Fourth Five Year Plan, the Mid-Day Meal Scheme in school covered above 11 million school children. Ibid, P-126
111 Food which is especially meant for the small children, looking at their physical and mental growth, has to be protein-rich; such food is provided by the government through Anganwadi and Balwadi centres. Similar blended food had made available, items of high nutritional value which promised to standardize feeding.
112 Social Welfare Department executed a special programme on Mid-Day Meal Scheme by covering 10 lakh children in tribal areas of metropolitan cities.
113 Fifth Five Year Plan, the Planning Commission, Government of India, P-244.
114 Ibid, P-245.
115 Ibid, P-256.
During the Sixth Plan (1980-1985), emphasis was on the distribution of food through the Public Distribution System. Under MDMS, the coverage increased from 4.2 million in 1962-63 to 13.2 million beneficiaries at the end of the March 1980. The government attempted to unite health check up with MDMS. The Infant Mortality Rate (IMR) was recorded declining. Most importantly, during the sixth plan, the problem of working children/child labour was highlighted for the first time by the government. The government decided to have corrective measures to minimize child exploitation and to improve their working conditions. The plan emphasized appropriate programmes to improve the health, nutrition and educational status of this section of labour force.

The health care programme for school age children (4-16) was given emphasis in the Seventh Plan (1985-1990). Simultaneously, supplementary feeding programme was evaluated to determine their cost effectiveness and impact on the beneficiaries. For school going children of ages 6 to 11, MDM were provided with 300 calories and 8 to 12 grams of proteins for 200 days in a year. During the plan, the government stressed upon qualitative improvement in the MDMS than the quantitative coverage, and decided to consolidate other programmes including health, potable water, sanitation, and so on. Emphasis on the universalization of elementary education and eradication of illiteracy in the age group above 15 was highlighted.

In 1986, the National Policy on Education (NPE) was formulated which recognized the importance of early childhood and investment regarding the development of the

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117 The coverage increased to 20 million beneficiaries by the end of the sixth plan. The coverage of children under Supplementary Nutrition programme increased. Ibid.
118 There was a sharp decline in the Infant Mortality Rate from 27.4 per cent in 1941-51 to an estimated 14.2 per cent in 1978. It further declined from 146 during the 50’s to 129 in 1976 during Sixth Plan. Child birth rate was declined by about 8 per cent in about 16 years- from 41 per 1000 population in 1966 to 33 in 1982. Sixth Five Year Plan, the Planning Commission, Government of India, P-366.
119 The Applied Nutrition Programme that was introduced in 1960 got emphasis with the more quality aspects like the concept of balanced diets, production and consumption of protective foods, etc. The Special Nutrition Programme (SNP) continued to be the major intervention feeding programmes and tried to provide 300 calories and 8.2 grams of protein per beneficiary in the age group of 0-6. Pramila Pandit Barooah, *Handbook on Child: With Historical Background*, Concept Publishing House, New Delhi, 1992, Pp-122-124.
120 Seventh Five Year Plan, the Planning Commission, Government of India, P-400.
121 Introducing improper selection of beneficiaries; lack of continuity in food supplies, poor community support; sharing of food by non-beneficiaries or other members of the family; pilferage in the channels of distribution; non-adherence to the minimum number of feeding days; lack of proper infrastructure for supervision, monitoring and implementation at the field level.
122 Op Cit, No-121, P-401.
children from poor background. Emphasis was also given to child enrolment, retention and bridging the gender gap. Girl’s education and reduction of their dropout rates from the primary education brought attention of the government.\textsuperscript{123}

The Eighth Five Year Plan (1992–1997) saw accelerated expansion of the MDMS. During the period IMR declined from 129 in 1971 to 80 in 1990\textsuperscript{124}. Since human development was the main focus of the Eighth Plan, policies and programmes relating to child survival and development received high priority. The Programme of Nutritional Support to Primary Education or MDM was also launched in 1995 as a centrally sponsored scheme. All school children in primary schools, both government and government-aided ones, were part of it. A hot cooked meal was provided to the children at school for ten months in a year. Institutional mechanism for MDM was fixed for the first time with National Guidelines.\textsuperscript{125} The Government of India for the first time took a major step for the school going children nationally while making the MDM as a national programme.

The programme was intended to give a boost to universalization of primary education, by increasing enrolment, retention and attendance and simultaneously impacting on nutrition of students in primary classes.\textsuperscript{126} The power of implementation of the scheme was entrusted to the local bodies. Local bodies were expected to develop institutional arrangements for providing cooked/ pre-cooked food within a period of two years from the date of the commencement of the programme in the local areas. State governments were entrusted power for supervision and monitoring along with over all implementation.\textsuperscript{127}

The Ninth Plan (1997-2002) reaffirmed the priority it gave to the development of childhood services as an investment in Human Resource Development. It stressed on the involvement of women’s group in the management of MDMS under the decentralized Panchayati Raj system. The seven basic services were identified for priority attention, including the extension of MDMS in primary schools, to all rural

\textsuperscript{123} Op Cit, No- 120, P-124.
\textsuperscript{124} Eighth Five Year Plan, Planning Commission, 1992, P-322.
\textsuperscript{125} Ibid, P- 402.
\textsuperscript{126} Guidelines of National Programme of Nutritional Support to Primary Education or Mid-Day Meal Scheme, Department of Elementary Education and Literacy, Government of India, New Delhi, 1995.
\textsuperscript{127} Ibid.
blocks and urban slums and disadvantaged sections. During the plan period, *Panchayati Raj* Institutions were asked to get involved completely for the success of the MDMS. A special package was introduced during ninth plan to prevent/control the deficiencies of micro-nutrients like Vitamin-A, Iron and Iodine which are extremely important for the well-being of the children. At the state level, departments were designed which could be overall responsible or act as nodal department for the implementation of the MDMS. And the cost of the scheme was decided to be borne by the Education Department.

During the Tenth Five Year Plan (2002-2007), the Government of India made a major shift on MDM scheme relating to malnutrition and education, the school attendance and drop-out rates, and the low level of educational attainments. A new objective in the scheme was included while providing nutritional support to students of primary stage in drought affected areas during summer vacation. According to the plan, cooked food in the school was made compulsory due to SC’s intervention. The Government of India increased additional assistance to the states. Supplementary nutrition was provided to 105 million school going children under MDMS.

In 2001, the Supreme Court of India converted the MDMS into a legal entitlement by which the state governments were asked to provide nutritious cooked meals for all children in government and government-aided schools. However, except a few state governments, many were not able to start the cooked MDM in their schools due to financial constrains and lack of infrastructural facilities. On December 2003, the Planning Commission asked the state governments to earmark a minimum 15 per cent of Additional Central Assistance (ACA) under the Pradhan Mantri

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128 *Panchayati Raj* Institutions were authorized to set up committees such as Village Education Committees (VECs) with their popular participation to create awareness of the programme, to generate community support to the programme, to universalize participation of all children in primary education and to ensure that the scheme functions in terms of the broad objectives it seeks to achieve. Op Cit, No-127.

129 Guidelines of Revised National Programme of Nutritional Support to Primary Education or Mid-Day Meal Scheme, Department of Elementary Education and Literacy, Government of India, New Delhi, 2004.

130 Ibid.


132 Until 2001 (before the intervention of the Supreme Court), only the states of Kerala, Orissa, Gujarat, Tamil Nadu, Madhya Pradesh, Chhattisgarh, Karnataka and Delhi were providing cooked meals under the scheme, while remaining states and Union Territories continued to provide food grains wheat or rice).
Gramodaya Yojana (PMGY) from the financial year 2004-2005, for meeting the cooking costs under the MDMS.\textsuperscript{133} And a cooked MDM was provided with 300 calories and 8-12 grams of protein content to all children studying in classes’ I-V in government, government aided\textsuperscript{134}, EGS and AIE Centres.\textsuperscript{135}

During the plan period, the government undertook various measures to provide policy advice to Central and state governments and to identify voluntary agencies and other appropriate institutions to undertake training, capacity-building, monitoring, evaluation and research connected with the MDMS at the national level.\textsuperscript{136} Simultaneously, The Government of India decided to establish an independent commission for the protection of child rights, which finally came into existence in 2006. Despite Constitutional guarantees of opportunity and civil rights, millions of children still face wide-spread deprivation and discrimination. A large part of this stems from being seen through the lens of adults who make decisions for them, and who prefer to address their welfare rather than their rights.

1.4.3 Right to Development Approach

The main focus of the Right to Development approach (RTD) is to focus at removing the major aspects of poverty, hunger and deprivation.\textsuperscript{137} The RTD approach, while incorporating elements of the other human rights approach to development, highlights on the individual as the centre of development and asserted that elimination of violations of human right to food is a necessary part of development. And the policy related to right to food and right to development should be integrated for a sustainable human development. Moreover, fair distribution of

\textsuperscript{133} Ibid.
\textsuperscript{134} Government aided school means a school in receipt of regular annual recurring aid from the Central or state governments, or from a competent Local Body.
\textsuperscript{135} An EGS/AIE Centre means a centre run by a State Government/ UT Administration, Local Body or non government agency, and receiving central assistance in accordance with the EGS/AIE scheme of the Ministry of HRD. Children studying in Madarsas/Maqtabs which fall within the category of a Government-aided school or EGS/AIE Centre as defined above would be covered under the Mid-Day Meal Programme. \textit{Handbook for Education Guarantee Scheme and Alternative and Innovative Education}, Government of India, Ministry of Human Resource Development, Department of Elementary Education and Literacy, 2001.
\textsuperscript{136} Guidelines of National Programme of Nutritional Support to Primary Education or Mid-Day Meal Scheme, Department of Elementary Education and Literacy, Government of India, New Delhi, 2006.
benefits of development\textsuperscript{138} and non-discrimination in development\textsuperscript{139} are parts of the right to development and crucial for ensuring right to food.

The right to food being an important aspect of the Right to Development (RTD) refers to a process that lead to the realization of the food security with State intervention. According to the RTD approach, the primary responsibility for implementing the RTD and right to food belong to the States and the beneficiaries are the individuals.\textsuperscript{140} In this regard, Article 8 of the Declaration on the right to development states that in taking steps to realize the right to development, the State shall ensure equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and fair distribution of income.\textsuperscript{141}

Since the State is regarded as the main player in protecting individual’s right to food, there are certain obligations for the State to fulfil, which is classified into obligation to respect, obligation to protect and obligation to fulfil. The obligation to respect prohibits the State to interfere with the individual’s avocation. The State is expected not to prevent individual’s access to adequate food. The obligation to protect requires measures by the State to ensure that no one, including the State itself, must prevent the violation of the rights of the individual of their access to adequate food. The obligation to fulfil refers that the State must proactively strengthen individual’s access to food and utilization of resources and means to ensure their livelihood, including their food security. Finally, whenever an individual or group is unable to enjoy the right to adequate food by the means at their disposal, the State has the obligation to fulfil that right directly.\textsuperscript{142}

1.4.4 Welfare Approach

The Constitution of India provides a comprehensive understanding of child rights. A fairly comprehensive legal regime exists for their implementation. India is also a signatory to several international legal documents including the Convention of

\textsuperscript{138} Declaration on the Right to Development, Article 2 (3).
\textsuperscript{139} Ibid, Article 6 (1) and 8 (1).
\textsuperscript{140} Ibid.
\textsuperscript{141} Article 8 of the Declaration on the Right to Development.
\textsuperscript{142} Op Cit, No-58.
the Rights of the Child (CRC). However, the government seems to be more comfortable with the idea of well-being rather than rights (with its political overtones). Child rights activists are faced with challenges of promoting and protecting rights as a positive social value.

The needs of children and their fulfilment are seen as an integral part of government’s welfare approach. A child’s needs are not perceived as a matter of his rights or entitlement as the child is seen as a dependent being for which his parents or his family or the State would take decision. Hence, the government gives more importance to the welfare of the children. The Government of India is to adopt a single comprehensive code that addresses the provisions of the CRC. Clearly the draft National Policy (Charter) for Children which has been recently passed in parliament, and is envisaged as being such a code, is inadequate as it does not address the full range of rights. It does not make any reference to the CRC.143

1.4.5 Institutional Approach

Feeding through the institutions is a major means by which food is distributed to the children. The school plays the most significant role in relation to a child because it is the place where children’s overall development could be observed properly. School feeding is meant to improve the nutritional status of the beneficiaries and to act as incentive to children to attend school. Aid in terms of food to schools helps to improve proficiency and regularity of attendance, reduces the drop-out rate and increases the range of candidates for entry.144 School feeding appears to be a convenient way of implementing food programmes, distributing of food grains and finding out the target group. However, it is important to consider the nature of the target group, the children who go to school.145 The school is the best place to distribute food since the children get to eat a comparatively less amount at home where their food is divided among the whole family.146

145 Ibid, P-14.
The argument for feeding at school, however, not only emphasize on nutritional impact but also on the incentive. It is assumed to provide for pupils to attend school and on the educational benefits that it creates. There is some evidence of a positive impact on school attendance as a result of supplementary feeding. It is reported during a study that there is 5-10 per cent increase in attendance in India, especially in the lower classes of primary schools and among tribal children and among girls. The studies are not able to find any impact on performance of the food aid programme except in some parts of Tamil Nadu where food aid programmes have had significant impact on the mental ability and behavioural characteristics.147

The 1979 evaluation done for USAID148 (United States Agency for International Development) in India found that the impact of school feeding on attendance was satisfactory. From the numerous visits and inquiries, the team concluded that the main benefits of the MDMS were the role of the food as an incentive to the children themselves and to their parents for their attendance at school. Everyone including the Government of India, the local officials, CARE personnel teachers and parents were also unanimous on this point.149 However, the 1980 AID assessment of the educational impact of school feeding in India questioned the extent of these improvements. For example, in the state of Madhya Pradesh, it took approximately seven months of participation in the programme to increase school attendance by a single day.150

148 18.4 million children were receiving US food aid in the form of school lunches during 1978-79. In many countries like Egypt, Upper Volta, India, the Philippines, Sri Lanka and Haiti, school feeding is the largest project food aid programme sponsored by the US. Beyond USAID, donor agencies like MCH, WFP, and OXFAM also provided food aid to other institutions such as day care centre, orphanage, old people’s homes and hospitals. They considered it as a long-term relief or can be described as welfare measures in the sense that people confined to such institutions would not have the necessary sustenance of life without such aid. And most importantly, these institutions are not self supporting. Tony Jackson and Deborah Eade, Against the Grain, OXAM, Oxford, 1982, p-57.
149 Community Systems Foundations, An Evaluation of the PL 480 Title-II Programme in India, Ann Arbor, Michigan, 4 June 1979, P-73.
150 The investigation concluded that “…the evidence…lends little support for a strong relationship between increasing school attendance and the presence of the school feeding programme. Thus, while the programme appears to have increased attendance rates, reduced absentee rates, and stabilized the month to month variations in attendance and enrolment, particularly among the lower primary grades, these impacts, even though significant, are extremely small”. The evaluator points out that in India “the average state government is 1978/79 spent Rs. 164 per student to educate a child in primary school. Compared to this, an expenditure of Rs 60 per year to feed a child in the Mid-Day Meal Programme was sizable, equivalent to over one third the amount of educational resources expanded on that child.”
However, children of pre-school and school age are the most nutritionally vulnerable. A WFP report on a school feeding programme notes this aspect. “It is said that those at the age of beginning school suffer in their studies due to their poor nutritional status entry. This suggests that greater emphasis should be placed on pre-school and school feeding for younger children.” But the negative side of the study is that school feeding does not provide children with food throughout the year; most feeding takes place only when classes are in progress usually five days a week and only during those months when school is in session. Indeed in India meals are provided for only 200 days. However, the school is recognized as an institution that not only provides food but also is the only institution that can offer all other rights to children. The Supreme Court’s order to provide MDM through school indicated than children will have access to the meal if they are in school. Therefore children will enjoy their right to food if they are put in school.

1.4.6 Child Rights and the Issue of Poverty

There were debates regarding the manner in which poverty acts as a constraint on the schooling of children in India. While examining the relationship between poverty and schooling, certain arguments were highlighted. While traditionally, it was assumed that poverty hindered enrolment and completion of primary education by children, certain studies found out the relationship between the poverty and child underdevelopment. The fact that poverty is in no way a hindrance to schooling is argued by many scholars like Shantha Sinha, Dreze, Narayan, and Bhatt in their research. These instances and exceptions go to show that the relations between poverty and schooling must be seen in the proper context and not in isolation.


152 The fundamental belief on which the MVF project is based is that parents, even poor parents, are not only capable of sending their children to formal daytime schools but are also willing to do so. The project rejects the Poverty Argument and its implication of the inevitability of child labour. Consequently it also rejects the need to provide for education to working children outside the working hours and has adopted the formal school as the only means to universalize education and simultaneously eliminate child labour. The project, by viewing all children out of school as child labour irrespective of the nature of the work done by them, treats the problem of elimination of child labour and the universalization of elementary education as inseparable processes the success of one automatically leading to the success of the other. *The Poverty Argument*, an Annual Report of MV Foundation, Secunderabad, Andhra Pradesh, 1997.
The fact that poverty leads to educational deprivation is supported by large scale survey based statistics which is shown in the table (2.1). In a study of 15 states conducted by NCAER in 1994, it was found that the children of poor families are less likely to be enrolled in schools than children of better-off families. It showed that the ever enrolment rates in the lowest annual income household was, on an average, 25 per cent points lower than the rates for the highest income household.

Table 1.1: Ever-Enrolment Rates (%) for States

<table>
<thead>
<tr>
<th>States</th>
<th>Enrolment Rates (%) for Household Income Groups (Rs. Per Year)</th>
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<tbody>
<tr>
<td></td>
<td>Up to 20,000</td>
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<tr>
<td>Haryana</td>
<td>69.2</td>
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<tr>
<td>HP</td>
<td>90.6</td>
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<tr>
<td>Punjab</td>
<td>83.3</td>
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<td>Bihar</td>
<td>49.8</td>
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<td>UP</td>
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<tr>
<td>MP</td>
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<td>NE Region</td>
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<td>WB</td>
<td>59.9</td>
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<tr>
<td>Gujarat</td>
<td>74.0</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>82.8</td>
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<tr>
<td>AP</td>
<td>77.4</td>
</tr>
<tr>
<td>Karnataka</td>
<td>75.9</td>
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<tr>
<td>Kerala</td>
<td>98.6</td>
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<tr>
<td>TN</td>
<td>86.0</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>53.9</td>
</tr>
<tr>
<td>Orissa</td>
<td>65.2</td>
</tr>
<tr>
<td>All India</td>
<td><strong>65.3</strong></td>
</tr>
</tbody>
</table>


The argument regarding poverty and child rights is also made by the Shantha Sinha and the MVF.\(^{153}\) According to her, poverty or the economic factor is not the reason for child deprivation and it is not true that child labour persists in India due to poverty of the parents. And for the sustenance of the family, the child needs to work. And figures relating to enrolment show that more than 95 per cent of children are

\(^{153}\) Mamidipudi Venkatarangaiya Foundation (MVF) is an Andhra Pradesh based NGO working and fighting for the cause of child rights. It is basically working for stopping child labour and putting them in the best place, namely, the school.
enrolled in schools at the age of 5-6 years, when they are too young to work but this figure drops when children cross the ages 8 and 9. Figures also show that a majority of children engaged in work today come from families who belong to the lower strata in terms of their economic conditions. Parents belong to the lower economic background are neither willing nor able to send their children to school.

In terms of the elimination of child labour, it demands that any programme seeking to achieve this objective must have an in-built mechanism for compensating the family for the loss of the income earned by the child. Otherwise, it is argued that the family will face economic stress and therefore most schemes have cash incentives plans to the family. She argues differently after her field and practical experience that poverty and child labour/ rights do not go together and cannot be the cause of other. Sinha feels it is the poorest that drop the school first than the better off. Similarly, in terms of enrolment in school, especially in the higher classes, the relatively better off would have greater representation than the economically backward class. In fact she argues that in certain situations, it is evident that better off families have engaged their children in work while parents with lower income have retained their children in school. On the other hand, there is some evidence that a number of families with income below the poverty line send their children to schools but not to work.

The real danger in blindly accepting the poverty argument for child rights is that every case of child labour tends to be judged as another instance of the harsh reality of child labour without examining all the factors. It is in this context that the empirical evidence generated by MVF is of enormous significance. Therefore, there are factors other than the economic compulsions arising out of poverty, which dictate whether a child is sent to work or to school. Factors such as parents’ literacy status, their levels of motivation, social background, and accessibility of schools have to be invoked to make sense of the behavioural patterns of parents and children. The poverty factor in these circumstances becomes only one of the other factors, which govern the situation.

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154 The success of the project which seeks to eliminate child labour without in any way attempting to increase family income clearly suggests that the critical level of income is quite low and that most families who put their children to work have incomes in excess of this. Op Cit, No- 153.
1.4.7 An Approach from Civil Society

As discussed earlier, right to food seeks the intervention of the State and its institutions for its protection due to the growing difficulty people face in accessing food. But the state-centric model of development with the dominance of State institutions is being seen as excluding people from the decision-making process and their accesses over its resources. It is perceived that people are unable to reap the benefits of development as the Indian State has failed to fulfil the aspirations of the people and their basic entitlements. In this backdrop, there has been an ever increasing demand from people belonging to the lower rungs of the society for a better access to basic necessities. A greater realization of a right-based approach in the new millennium towards the fulfilment of people’s basic necessities has emerged.

When the State is seen abdicating its welfare functions, suddenly there is an urgent need for an agency to fight against the State, to remind it the cause of its formation and to pressurize it to do its function. An agency is urgently required to battle the growing vulnerability of the millions of Indians, especially women and children, to undernourishment and malnutrition and starvation deaths in most parts of the country like Orissa, Rajasthan, Madhya Pradesh and Maharashtra, etc. The situation is so bad that people sell their children to get rid of hunger. Starvation deaths have not been fully eradicated and remain serious obstacles to the realization of the right to food.

It is found that lack of political will rather than that of resources are the reasons behind this sorry state of affairs. The institutional structure, which is established to ensure appropriate delivery systems, has failed to perform its duty. There is a demand to reinvent the role of the State in ensuring food to its people.

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157 In August 2005 seeing the growing starvation death reports, a six-member team, led by the state advisor to the Commissioners of the Supreme Court in the right to food, visited the Baran district of Rajasthan and confirmed deaths due to chronic hunger among the tribals (The Hindu 2005a and Hindustan Times 2005). The commission also found that growing poverty and purchasing capacity among the population in different states of India led to starvation and starvation related death even though FCI was overburdened with food grains. Bob Currie, the Politics of Hunger in India: A Study of Democracy, Governance and Kalahandi’s Poverty, Macmillan India Ltd, Delhi, 2002.
and the possible role of Civil Society Organizations (CSOs) in making the food-related schemes workable. It is also recognized that the rights approach to development would be useful to achieve right to food or right to be free from hunger and starvation. In this context, the role of the civil society in the foundation of the people’s involvement in achieving the right to food is felt to be significant. Its participation and encouragement through a democratic process is required in strengthening the State institutions and processes while making the government accountable to the people and raising the voice of the poor.\textsuperscript{159}

Intervention of civil society in the form of public pressure, free press, independent judiciary, Non-governmental organizations (NGOs) could help in shaping the government policy and enhancing the political will in fulfilling the right to food of the vulnerable groups including children. Pressure from the civil society is expected to be a motivating factor for the government to initiate the policy necessary for safeguarding children’s access to food. With the presence of a strong civil society, the government cannot neglect public needs or allow people to go hungry. If it does so, there will be an upsurge of popular movements against the State.\textsuperscript{160} It may also be stated here that social movements are the weapon of the weak (common people) against the strong (the State) and also a mechanism to transform power from the authority to the people in democratic way.\textsuperscript{161}

Citing an example, campaign started in India during 2001 by the civil society organizations, such as People’s Union for Civil Liberties (PUCL), a Rajasthan-based NGO who raised voice against the Indian State regarding its silent observation on starvation deaths throughout the country. It later led to a national movement against


\textsuperscript{160} Neera Chandhoke rightly observed that ‘civil society in India is seen by most theorists as a fluid association of social groupings…….and mobilization as much as on voluntary social associations. Consequently, in India, the meaning if not the terminology of civil society has been widely used to delineate the upsurge of popular movements against the State.’ The social movements are a unified effort on the part of the deprived social categories to bring about social change or a force against the status quo. It happens when State acts only as a police State and could not treat itself as a welfare State. At certain point of time State has had to mobilize its vast masses into collective action. Or otherwise, the State has to be an instrument of change and development. Neera Chandhoke, \textit{State and Civil Society: Explorations in Political Theory}, Sage Publications, New Delhi, 1995, P- 28.

the Indian State for its apathy towards the protection of child interest.\textsuperscript{162} The campaign pursues its goals through a wide range of activities, including public hearings, action-orientated research, and filing PIL on the right to food in the Supreme Court. It seeks for legal action which is an important instrument in asserting the right to adequate food.\textsuperscript{163} The Supreme Court while, giving utmost importance to the PIL petition, highlighted the issue as a matter of child rights. Therefore, it directed the State to implement eight different centrally-sponsored schemes on food security including implementation of cooked MDM in all government and government-assisted schools.

Civil society has therefore been proclaimed by democratic theory a vital precondition for the existence of democracy. An active civil society leads to an unresponsive State; a politically self-conscious and vibrant civil society imposes limits upon State power.\textsuperscript{164} Social mobilization through a participatory approach has emerged while initiating a rights perspective to the government's policies in ensuring food and nutrition to the children. The government has realized that securing child rights cannot be possible in the State without the presence of a strong civil society\textsuperscript{165} as it is seen as having every potential to launch the food related programmes because it has been historically associated with attempts to control the State and the citizens.\textsuperscript{166}

As a result of this, due to various campaigns and public interest litigations (PIL) over the last 4 to 5 years, the Supreme Court of India interfered and started

\textsuperscript{162} Public campaign was emerged to pressure the State to address nutritional deficiencies, hunger and starvation deaths and demanded on the basis of Article 21 of the Indian Constitution (Right to Life) that everyone has a fundamental right to be free from hunger and undernutrition. Beyond the fulfilment of right to food, the campaign demanded guarantee of livelihood security, such as the right to work, to information and to social security.
\textsuperscript{163} Op Cit, No-161, P-9.
\textsuperscript{164} Ibid, P-10.
\textsuperscript{166} As the State can only play a paradoxical role in the life of individuals and collectivities. On the one hand, it is a coercive institution; on the other, it provides certain benefits and protections to its members such as access to citizenship rights, social services, and items of collective consumption which no other institution is able or willing to do. And although it represents the interest of the community can be formulated. Further, if it establishes the legal, political and the coercive framework within which society exists, it also establishes a sense of belonging to a wider political community. If it is an instrument which maintains law and order, it is equally an institution which dispenses justice as cited by Neera Chandhoke. Op Cit, No-165, P-47.
monitoring the battle for the children right to food. The directions issued by the Supreme Court are one of the major components for implementing the right to food along with the aggressive campaign done by the Right to Food Organizations based in Delhi. The anxiety of the court is to see that the poorer and the weaker sections of the society, including children, should not suffer from hunger and starvation in a democracy.167

Over the last decade, civil society has procured legal support for fighting for the basic rights of the citizens. For example, Food First Information and Action Network (FIAN), Right to Food Campaign, NANDI Foundation, MV Foundation, PUCL, are certain NGOs which are fighting for food of the citizens and involved in promoting the right to food and denouncing violations in different regions of India. Not only this, the Right to Food Campaign has held public hearings in Orissa, Madhya Pradesh, Jharkhand, Maharashtra, Rajasthan as well as Delhi, created awareness among people and put pressure on the State to take appropriate measures for ensuring the right to food. Additionally, a wide range of national networking has been developed and is working on many issues related to food security and human rights. The Right to Food Campaign is an informal network of organizations and individuals committed to the realisation of the right to food in India.168

The Right to Food Campaign169 has also brought government officials to hear personal testimonies of people living in communities suffering from hunger, and has also performed a monitoring role in trying to ensure the implementation of Supreme Court orders under the PUCL case. The Campaign also uses the 2005 Right to Information Act to challenge corruption, demanding that information on entitlements and ration cards be made publicly available. The campaign also demands that employment and working conditions are seen as part of the right to food, and have had success with the passing of the national Employment Guarantee Act. And it

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167 SC, People’s Union for Civil Liberties v. Union of India & Ors, 2001.
168 Op Cit, No-78.
169 The Right to Food campaign is an informal network of civil society organizations. They hold campaign to raise concern and press for their demands for universalisation of Integrated Child Development System with quality and dignity, increasing minimum wages to Rs 133 per day and that in public distribution system, entitlement is given to beneficiaries with dignity. Both these networks are committed to the realization of the right to food and work. They believe (rightfully so) that the primary responsibility for guaranteeing basic entitlements rests with the State.
realized that only a participatory approach would give the government’s policies on food and food security a more humane shape and a much-needed impetus. Moreover, due recognition needs to be given to the fact that all pivotal rights—such as the right to food, to health, education and any other economic or social rights—are interdependent. For example, providing sufficient food to eliminate undernutrition will not eliminate the chronic health disorders that have already set in. Providing adequate health care is also necessary. Similarly, to realize the right to food, people should have access to education and information. The Right to Food Campaign has been using legal strategies as well as broader social mobilization strategies to call for public action to fight starvation and chronic hunger.

MKSS (Mazdoor Kisan Shakti Sangathan) of Rajasthan has also started fighting for the cause of the common people. Since the state has proven that it is not amenable to discuss a matter involving the lives and livelihoods of millions, it has decided to start agitation against the state and its administration. MKSS decided to begin plans to lay siege on FCI’s warehouses where the central government’s burgeoning stocks of food were wasting away. The agitation was to continue until the government opened up the granaries and established a welfare programme to relieve the suffering of society’s most vulnerable sections. A number of demonstrations against the State monopoly took place in various parts of the state which were the worst affected by the drought and had a number of deprivation-related deaths. This agitation had resulted in a number of corrective governmental actions, and in making the state government responsible to the people.\(^{170}\)

Likewise, in KBK (Kalahandi - Balangir-Koraput), the most underdeveloped and hunger affected districts of Orissa, ‘AGRAGAMI’, an NGO, is working for food right of the region. Its basic objective is to see the proper distribution of food grains and fulfilment of the need of the beneficiaries in the region. In Delhi, ‘PARIVARTAN’, consisting of a group of social activists launched a campaign in poor neighbourhoods to collect information on the money that has ostensibly been spent on public works while highlighting the failure of state governments to enforce

minimum wage regulations on drought relief works, mismanagement in the functioning of the PDS, massive corruption in public works.\footnote{171
http://www.india-seminar.com/2005/545/545%20neera%20chandhoke1.htm}

1.5 Conclusion

The Indian State has progressed significantly in matters of food production and in food grain self-sufficiency. Although food grain production has increased significantly from about 50 million tons in 1951 to about 200 million tons in 2001, the increase in food grain production could not protect the interest of the vulnerable and mostly of the children.\footnote{172
http://indiabudget.nic.in and Economic Survey 2002-2003.} The children have a special place in the society as since time immemorial they have been thought of by many as the face of God and the kingdom of God belongs to them. Children constitute the most fundamental and valuable resource of any society and therefore any developmental activity has to include the child rights perspective to protect the best interests of the children. Unless the life of the child in the family and community improves, all development efforts would be meaningless as they are the future of a nation. There is, therefore, a need to raise awareness and create an ethos of respect for the rights of the child in society to meet his or her basic developmental needs.\footnote{173
With India’s ratification of the UN Convention on the Rights of the Child, the ‘right approach’ to child development is gradually gaining importance and henceforth forms the basis of Government’s strategy towards child development. India Country Report on the Convention on the Rights of the Child, Government of India, 1997.}

For centuries, adults’ attitude towards children has been patronizing, treating them as dependants who do not have the capacity to demand and always kept them under a notion of personal possessions. But with the growth of the maturity of the society, children’s issues emerged with a new definition and with a far greater demand upon the conscience of mankind. Children were treated as an important segment of human resources and action was taken to evolve systems that would ensure their full growth and protection. The child issues have consequently become the focal point for an assessment of what needs to be done for making a man or the future of the nation.
With the uneven economic condition of the large populations of India, the government has one option, letting the children grow haphazardly, without minimum basic services of health, education, and nutrition. In all the Five Year Plans, there have been some elements of meeting these needs which the government has tried to initiate, without the fundamental recognition that like others, children have certain rights which are more urgent and that need urgent recognition. Even if children constitute 40 per cent of the total population, the State’s action towards their growth and development is not significant.

In the present context, child right has gained momentum with increasing awareness among the community. In a democratic country like India, the State has the major role to play. Regarding the child rights, it seems that the State is not sensitized enough towards their access to basic services and immunities like right to food, health, and education. The process of ensuring that every child is taken care of as a matter of right involves societal pressure through public action and democratization of all public institutions. Seeing India’s normative ideas, legal and its institutional framework, the child survival has become a question mark. Whatever the case may be, the issue of children’s right seldom finds space in contemporary political discourse of the country. However, seeing the condition of the Indian children, the Government of India launched MDMS to overcome various issues related to them. MDMS was introduced and few states implemented it and few lagged behind. The overall issues related to MDMS have been discussed in the next chapter thoroughly. As the study focuses on child right to food, MDMS has been taken as a case to understand how far the State has been able to fulfill child right to food as well as education. In the Chapter –II, the operationalization of MDMS in India is discussed to understand its functioning in various states.