

Issue Brief

No. 3

**Droughts, Famines, and Scarcities
Time for a Proactive State Mechanism**

Harsh Mander



THE HINDU CENTRE

for

Politics and Public Policy

The Hindu Centre for Politics and Public Policy is an independent platform for an exploration of ideas and public policies. Our goal is to increase understanding of the various aspects of the challenges today. As a public policy resource, our aim is to help the public increase its awareness of its political, social and moral choices. The Hindu Centre believes that informed citizens can exercise their democratic rights better.

In accordance with this mission, The Hindu Centre's publications are intended to explain and highlight issues and themes that are the subject of public debate, and aid the public in making informed judgments on issues of public importance.

All rights reserved.

No part of this publication may be reproduced in any form without the written permission of the publisher.


ISSUE BRIEF

Droughts, Famines and Scarcities Time for a Proactive State Mechanism



In this May 11, 2016, photo, an Indian farmer sits in the front of his destroyed crop of cotton, alongside a road in the drought affected region of Marathwada, Maharashtra. Photo: AP

Harsh Mander
Director, Centre for Equity Studies


THE HINDU CENTRE
for
Politics and Public Policy

ABSTRACT

In the summer of 2016, at least a third of India's rural residents are battling drought, often for the third consecutive year. Where rains have failed, farmers who depend mainly on rainwater to irrigate their crops – the large majority - have no yields or very low yields. Those who rely on irrigation are scarcely better off, with groundwater sinking and streams and reservoirs drying up. The extent of the crisis is compounded by chronic agrarian distress reflected in a massive slowdown in agricultural growth to as low as 0.2 per cent in 2014-15, with no imminent signs of recovery.

In this Issue Brief, **Harsh Mander**, a former officer of the Indian Administrative Service (IAS), civil rights activist, and author of books on public policy, traces the evolution of state responses to famines in India.

The first four decades after Independence saw the gradual expansion and democratisation of state obligations and responses to droughts and scarcities. Though public policy traversed in more progressive directions of protecting people from desperate want created by drought and food scarcities, paradoxically many unacceptable elements of public policy and practice continued to be carried over from colonial times. Post-liberalisation, the Indian state has gradually changed course and become entirely unconscionable towards its poorer and distressed citizens, in some instances more so than the colonial rulers.

The way forward is to create a more proactive state that recalibrates its warning systems and a well-gearred administrative machinery that can reach out to those in distress.

TABLE OF CONTENTS

I	Introduction	1
II	Colonial Famine Codes	4
III	Hunger in Independent India	5
IV	Outmoded Warning Systems	9
V	Towards Rights-Based Relief	12
VI	Visiting Areas of Rural Distress	14
VII	The Magnitude of the 2015-16 Drought	18
VIII	Entrapped in Subsistence Wages	22
IX	The Need for a Proactive State	26

I. INTRODUCTION

Colonial Famine Codes in India were created on the principle of minimum cost to the exchequer. After Independence, State governments drafted drought and scarcity codes that were theoretically more humane, though their implementation was patchy and influenced by the colonial stress on subsistence assistance.

The turn of the century coincided with a raft of rights-based legislation, which collectively gave the impression of a more socially progressive state. The reality, however, has been quite the opposite. The liberalised Indian state has been shockingly unconscionable towards its poorer and distressed citizens, in some instances more so than the colonial rulers, as is evident from the official amnesia over the continuing conditions of drought affecting at least a third of the population. Indeed, so unresponsive have State Governments and the Centre been to persistent conditions of drought, scarcity and distress that it required the Supreme Court to take them to task and spell out a detailed framework for addressing the looming crisis.

In the collective memories of the people of India's villages are centuries of calamitous losses of sometimes millions of lives in famines. Famines have been banished into history, unarguably one of free India's greatest accomplishments. But we find that in contemporary India, droughts continue to extract an enormous toll on human suffering, with large-scale endemic hunger, parched fields, scorched crops, starving livestock, dry water sources and distress migration.

In the summer of 2016, at least a third of India's rural residents are battling drought, often for the third consecutive year. Where rains have failed, farmers who depend mainly on rainwater to irrigate their crops – the large majority – have no yields or very low yields. Those who rely on irrigation are scarcely better off, with groundwater sinking and streams and reservoirs drying up. The extent of the crisis is compounded by chronic agrarian distress reflected in a massive slowdown in agricultural growth to as low as 0.2 per cent in 2014-15, with no imminent signs of recovery.

The impact of this adversity for millions of small and marginal rain-fed farmers, and even larger numbers of farm workers, is that there is little food and almost no work. Around 55 per cent of rural households have no land at all¹, and are entirely dependent on manual labour to bring food to their families. But since farming itself is stricken, and there are few employment opportunities in villages outside farming, there is little work for them in the countryside. The human

consequences of this massive distress movement of populations is inestimable. Add to this the old and the infirm who are left behind, to beg for food or just quietly die. The cattle for whom there is no fodder, that are sold at distress prices or just abandoned to fend for themselves. And the drying up even of sources of water to drink. And the picture is beyond dismal.

Even colonial governments were guided in times of scarcity by Famine Codes, which contained detailed guidelines to employ all persons who seek work in low-paid public works, to enable survival. These were combined with programmes of distress feeding of children, the old and sick, and starving, fodder camps for cattle, and the transportation of water. In the decades I worked in the civil service, we still regarded the prevention of distress and saving of human and animal life during scarcities, (along with protection of persons from caste and communal violence), to be among the highest duties of public service.

The times today are dramatically different. The agony of daily survival of millions of people in rural India is barely a passing concern for people of urban middle-class India. This official amnesia about millions of the rural poor battling drought should be intolerable in a country that boasts of being the fastest growing major economy in the world, with stocks of grains in government warehouses ranging from 50 to 80 million tonnes. But the avoidable suffering of millions of children, women and men in today's India because they lack food, work and water, still does not create public outrage, much less demand elementary accountability from governments.

In this paper, I will trace the evolution of state responses to famines in free India from 1947-1990, and further to their unconscionable dilution in contemporary neo-liberal India. The first four decades after Independence saw the gradual expansion and democratisation of state obligations and responses to droughts and scarcities. Though public policy traversed in more progressive directions of protecting people from desperate want created by drought and food scarcities, paradoxically many unacceptable elements of public policy and practice continued to be carried over from colonial times.

Since the 1990s, and more rapidly after the turn of this century, technological advances like satellite imagery and growing public resources potentially greatly advanced the prospects for early prediction and more effective and humane state responses to prevent human suffering in droughts. However, we find instead that neo-liberal influences have in fact resulted in governments moving in the opposite direction, sometimes worse even than colonial times, with extraordinary and unconscionable state indifference, denial and invisibility to human suffering during droughts, with

the dominant impulse mirroring the colonial priority to minimise public spending rather than humane spending to avoid human (and animal) suffering during droughts.

II. COLONIAL FAMINE CODES

During the 18th and 19th centuries, the people of India were ravaged by a series of cataclysmic famines, precipitated less by failures of nature and more by colonial policies such as those of rack-renting, both legal and illegal, neglect of agriculture, ‘free-trade’ policies and additional levies for wars. There are terrifying contemporary accounts of these famines, such as of rivers ‘studded with dead bodies’², of whole settlements being wiped out by hunger and epidemics that followed in their wake, of desperate loot and plunder, and the cumulative tragic loss of a numbing fifteen million women, men and children.³

Bankim Chandra Chatterji’s *Anandamath*, written in the late 18th century, crafts an evocative and terrible description of classical famine that was part of our collective history through centuries of suffering:

Every house was quiet. The shops were closed, and no one knew where the shopkeepers had gone. Even the street beggars were absent. The weavers wove no more. The merchants had no business. Philanthropic people had nothing to give. Teachers closed their schools. Things had come to such a pass that children were even afraid to cry. The streets were empty. There were no bathers in the river. There were no human beings about the houses, no birds in the trees, no cattle in the pastures. Jackals and dogs morosely prowled in the graveyards and in the cremation grounds.
 ... [The reason was that] God frowned again. Not a drop of rain fell. The rice fields dried into heaps of straw.
 ...So people began to starve again. At first they began to live on one meal a day. Soon, even that became scarce, and they began to go without food at all. The crop was too scanty, but the government revenue collector sought to advance his personal prestige by increasing the land revenue by ten per cent.
 ...Beggars increased in such numbers that charity soon became the most difficult thing to practice. Then disease began to spread. Farmers sold their cattle and their ploughs and ate up their seed grain. They sold their homes and farms. For lack of food they soon took to eating leaves of trees, then grass and when grass was gone they ate weeds. People of certain castes began to eat cats, dogs and rats.
 ...Even in the wealthiest houses the bodies of men, women and children rotted unto decay.
 [*Anandamath*, 2006, pp: 29-31]⁴

Initially, the colonial government had no cohesive policy to deal with these emergencies, except to prevent hoarding and crime, which was followed by *ad hoc* relief measures such as stray food kitchens, poorhouses and public works⁵. Colonial administrators, after the devastating famines of the 1870s that took upwards of five million lives, developed Famine Codes in the 1880s that carefully spelt out the duties of colonial administrators during famines. It was the Famine Commission appointed in 1878 that developed the first Famine Code (based substantially on one written by Elliot in 1883 for Mysore) that was adopted as a national model⁶, to be suitably adapted in different regions of British rule. The codes evolved under the influence of two subsequent Famine Commissions in 1898 and 1901, to provide comprehensive institutionalised guidelines to colonial administrators.

III. HUNGER IN INDEPENDENT INDIA

In the decades after freedom, during episodes of food scarcity caused by drought and failures of the rains, district authorities in many regions of the country were still substantially guided in crafting their responses by locally updated, adapted and amended versions of the Famine Codes initially developed by colonial administrators. These codes detail the duties of governments in times of great human distress, and include instructions on how to anticipate famines, and to save life but explicitly at the lowest possible cost to the exchequer, by providing employment at subsistence wage, and ‘gratuitous’ relief to the ‘unemployable’.. These remarkable, almost legendary documents were compiled by colonial rulers to regulate the declaration of food scarcity and famines. They were based mainly on sample field crop assessments to decide the range of subsequent administrative measures required to be taken by local administrations to address the impacts of food scarcities as and when they occurred.

Although the codes prescribed elaborate duties, the response of the British colonial administration to famines and food scarcities was ultimately built on the principle of avoiding public scandal caused by catastrophic losses of millions of lives in famines; the obligation was to save lives but *at minimal cost to the colonial exchequer*⁷ by opening public relief works for able-bodied persons. The codes incorporated interesting requirements of ‘tests’ of truly desperate need, by mandating wage seekers to agree to undertake hard monotonous work in bleak and austere camps far away from homes. The codes also prescribed minimalist quantities of gratuitous relief for those who are not ‘able-bodied’.

However, an enormous amount of water had flowed through the Ganga in well over a century since many of these codes were written. Epochal changes occurred in the context of these codes since India became an independent democratic socialistic republic. The nature of food scarcities dramatically transformed from cataclysmic events leading to huge numbers of deaths due to starvation, to periodic local scarcities precipitated by a range of factors such as the vagaries of the monsoon and fluctuations in forest produce and agricultural prices, with very little mass loss of life but otherwise considerable human tribulation. Famines gave way to the persistence even in normal times of endemic hunger and widespread malnutrition; the most affected were children, the disabled and infirm, old people without caregivers, single women in particular and women in general, and socially most vulnerable groups such as Dalits, Adivasis, minorities, urban slum dwellers and homeless people.

In independent India, State governments variously adapted and amended the colonial Famine Codes. In States carved out of the former Bombay and Central provinces—Maharashtra, Gujarat, Madhya Pradesh and Chhattisgarh—these were renamed Scarcity Relief Manuals, scarcity being defined as a marked deterioration of the agricultural season due to failure of rains or floods, or damage to crops due to pests, resulting in severe unemployment and consequent distress among agricultural labour and small cultivators⁸. Odisha wrote and adopted its Relief Code in 1971, updating the Odisha Famine Code of 1930, and further updated it in 1996.

The Madras Famine Code has remarkably not been amended since 1901. In many States, administrative circulars and government directives have tinkered with the old codes but not substantially rewritten these to reflect the imperatives of a democratic polity. The Andhra Pradesh government used the colonial Madras Code to guide its district officers until 1981, when it drew up its own Handbook on Drought⁹, which builds substantially on the Madras Code. The Andhra Pradesh Handbook was further updated in 1995.

Even where the codes, manuals or handbooks made significant advances on their colonial predecessors, the objectives were not met in practice. The Odisha code expands its mandate to go beyond mere relief in crises to the ‘maintenance of a certain standard of economic health of the people’. The aim of the Madhya Pradesh Code is to prevent physical deterioration and loss of morale of its people because of unemployment, to enable them to restore their ordinary pursuits when better times return¹⁰. But as noted above, most codes do not live up to their stated objectives and aspirations, let alone help the democratic state fulfil its obligations towards its vulnerable citizens as pledged in its Constitution. These codes are severely handicapped also because they are not backed by consistent and sufficient fiscal and administrative arrangements.

An exploitative mechanism

The first continuity after Independence from colonial times is that no famine, drought and scarcity codes, both colonial and contemporary, could be enforced in any court of law. The codes lay down the duties of various public authorities but contain no provisions that enable citizens (or subjects) to take these authorities to court or to penalise them if they fail in performing these duties, even though penal provisions can act as deterrents against death and suffering of people.

In other words, the codes are not rights-based. They do not create legal entitlements and still depend, as the last resort, on the will of the state to act in specific ways. In colonial times, the

timing, nature and extent of state support to people affected by drought and famine, depended on the 'benevolence' of the state, which was guided by considerations of doing the absolute minimum for containing unrest and crime born out of the desperation of mass hunger. It may be argued with merit that democratic polities hold state authorities accountable through the electoral process, and this binds them to their duties. But it is also true that the bureaucracy charged with most responsibilities under these codes never faces elections. Further, people most in need of state assistance are often also the most powerless and disenfranchised. They therefore cannot often influence electoral outcomes in any substantial way.

As already observed, the architecture of the colonial codes was built around the objective of minimising relief expenditures. The British Codes were explicit in casting a duty on public officials to spend the minimum that was necessary, only to prevent the loss of lives, and nothing beyond that. The 1941 Bengal Famine Code, for instance, puts it starkly:

'Government is obliged to limit its assistance to what is absolutely necessary for the preservation of life. When life is secured, the responsibility to the afflicted ceases and the responsibility to the tax paying public begins¹¹.'

Administrators were warned not to undertake relief works on such a lavish scale as to impair 'thrift and self-reliance' among the people and the structure of society¹².

As also observed, this minimising of relief was accomplished in part through a series of stern 'tests' of the desperation and urgency of want, in order to discourage all but those most in need to report for work. These included the distance test which prescribed that that the work should be far away from the relief-seekers' homes so as to make it unattractive; the residence' test, which required them to live at the worksite for the duration of their employment away from their families; and the 'labour' test, by which the work was required to be monotonous, arduous and compensated at very low wages.

Together the tests were carefully calibrated to ensure that they enabled nothing more than the purchase of bare essential food¹³. Men engaged in hard labour were paid enough to buy 1.5 pounds of foodgrains a day (and little else) which amounts to 2,500 calories, women 'a little less', and working children from seven to twelve years, half the male rate. Despite the fact that children laboured even at such a young age in famine works, contemporary British commentators like Charles Blair describe the multitude of children as 'the bugbear of famine relief-works'¹⁴, even though most children above seven years were also required to work. One result of this minimalist approach to levels of relief meant that households could not save anything from their wages, and therefore suffered at least two or three months of negligible access to food between the closure of

relief works and the next harvest. All efforts to expand the wages and duration and improve and humanise the conditions of work were rejected peremptorily as wasteful.

After Independence, there was a positive continuity with the past in relying on public works for ensuring adequate food to households through public employment in such trying times. There was some improvement in that smaller public works closer to the homes of people affected by scarcity were now recommended (most codes require the works to be located at less than five kilometres from the place of residence), and legislation ensured equal wages for men and women and banned child labour (although some field studies report that children continued to be observed in some relief works, helping their parents)¹⁵. Test works to verify need were discontinued in States like Andhra Pradesh and Odisha, although the colonial practice persisted in Rajasthan.

But wages were still fixed at bare subsistence levels, just sufficient for the survival of the person and dependents. Scarcity and Drought codes of most state governments still contained no provision for raising wage rates in times of great distress. Instead they actually reduced it on the specious grounds of reaching larger numbers¹⁶. The Rajasthan code (paragraph 83) explicitly stated that the principle of the famine wage scale is to pay the lowest amount sufficient to maintain a healthy person in health. The exception was the Odisha government, which authorised Collectors to enhance wages up to 20 per cent in times of dire need.

Workers in practice were paid not just on the basis of daily attendance but on the amount of work done¹⁷, an illegal and exploitative ‘double whammy’. The worker could not leave if the work required was completed early, and was not paid more if more work was done. In effect, the minimum wage was also the maximum wage¹⁸. In practice, workers were paid less than minimum wages in public relief works, which has been challenged in a series of public interest petitions in the higher courts. A landmark case was *Sanjit Roy vs the State of Rajasthan* (1983), in which the Court held that payment of wages lower than the statutory minimum wages in famine relief works violated the Constitutional right to equality, and that the State government should not take advantage of the helplessness of people living in conditions of drought and scarcity. It deemed such work at wages lower than minimum wages to be forced labour, punishable under law.

IV. OUTMODED WARNING SYSTEMS

The persisting view of scarcity as the outcome mainly of natural failures, especially of rainfall, was that codes, as in the colonial past, continued to depend on diagnosing ‘scarcity’ principally on the basis of sharp shortfalls in total rainfall, and in agricultural production. The latter was measured by processes prescribed in the codes and variously described by terms such as *annawari* or *paisawari*. Crop-cutting data, or sample checks of production compared with the average production, is required, for instance, in Rajasthan, Andhra Pradesh and Odisha. In Odisha, drought is declared when there is 50 to 75 per cent damage loss in paddy, ragi and maize crops, which are the basic cereal crops of the area. Unlike Andhra Pradesh, the Odisha code does not recognise irregular spacing of rain as contributory to drought.

The complicated and long-drawn-out administrative procedures (sometimes called ‘crop-cutting experiments’, which I have personally supervised year after year as District Collector) seek to assess whether crop production in particular regions of specific food crops are alarmingly below the average for that region and crop. These tests are possible only at the time when crops are ready for harvest. One outcome of this is that drought is declared well after the neediest people have migrated and pulled back on their food intake, usually only late in December of the year in which monsoon rains have failed, or even later. The code contains a progressive provision that allows government to start labour intensive works even before drought is formally declared, but this is rarely acted upon.

Up until the late 1980s, when large-scale scarcity relief works, employing sometimes more than one hundred thousand persons daily in a district, were still the norm in many regions like Chhattisgarh and Rajasthan, the declaration of scarcity used to be an intensely politically fraught process. I have myself handled such scarcities. District Collectors were frequently placed under great pressure (informally) to even fudge these statistics, in order to entitle the district to large funds for relief works. I have observed first hand that such political pressure frequently arose from lobbies of contractors, bureaucrats and politicians, rather than from impoverished people.

The Andhra Pradesh Handbook includes not only unusual migration of people and herds but also many offbeat and insightful early signs of scarcity, such as decline in rail travel and festival participation, increase in crime and consumption of liquor. In practice, however, relief works are still linked only to rainfall failures or aberrations¹⁹. A three-year average is taken as the baseline,

but this is misleading in chronically drought-prone rural districts where the baseline is itself too low to secure well-being. The handbook does not recognise failure of non-timber forest produce as a source of drought, which discriminates against the food survival needs of the poorest forest dependent communities.

There are many problems with these outmoded methods of early diagnosis of impending food scarcity. Not only do they lend themselves to manipulation but they establish scarcity only when it is well on the way, and therefore are less preventive and more enabling of fire-fighting after much avoidable suffering. They neglect many early signals of distress and decline into destitution, such as changes and reduction in food intake, distress migration and sale of assets, distress wages, and so on. They overemphasise rainfall failures, and neglect rainfall variations, which may be more damaging to crop production. Also ignored are price fluctuations that can be devastating for farmers producing for an increasingly globalised market, damage to forest produce such as mahua or *tendu* leaf, on which local populations may be more dependent, or the flowering of bamboo, or fall in water table and consequent drying up of sources of drinking water²⁰. Most gravely, they focus on symptoms and not the systemic causes of intense localised food scarcities.

The institutionalisation of official apathy

In colonial times, there was a culture of official denial, of ‘masking famines’ and indeed of often blaming the victim. I would suggest, maybe provocatively, that such a culture survived in milder and disguised forms even after India became free, and has become even more pronounced in neo-liberal times in contemporary India. A drought or failure of monsoon may trigger food scarcities, but it is not in itself the cause of food shortages.

Students of famine suggest that bureaucracies tended to ‘mask’ famines as separate episodes of mass deaths rather than ongoing processes of pauperization, denial and inequality, and constructed these as the unfortunate outcomes of rainfall shortfalls, floods or other production failures, thus projecting them as acts of nature with little human responsibility. But in fact food scarcities in contemporary droughts are primarily the outcome of state failures. The ‘masking’ of these state failures as ‘acts of nature’ creates the normative framework of minimalist interventions, mainly in the short-term character of crisis management²¹.

Droughts may not result in serious food scarcity situations and famines if people have enough food reserves and opportunities for employment at fair wages²². International Food Policy Research Institute (IFPRI), in a major study of food scarcity in sub-Saharan Africa concludes that ‘production failures caused by drought, even those lasting several years, do not translate into

famines unless other socio-economic conditions are prevalent' that are usually the direct result of failures of public policy. These include policies on agricultural technology, the scarcity of non-farm technologies, lack of savings, poor public health facilities and lack of infrastructure²³.

It is, therefore, appropriate to describe the post-colonial codes not as drought manuals (as is done, for instance in Andhra Pradesh) but as scarcity manuals (which is the name in Maharashtra and Madhya Pradesh) because this at least tacitly admits to scarcity that occurs due to factors that may extend beyond natural failures like drought and floods. New forms of agrarian distress have also surfaced such as farmers' suicides, which have spread like an epidemic through many parts of rural India, resulting from exploitative private credit, cost intensive agricultural technologies and forced unprotected integration into global markets. Codes provide for remission of loans from the formal banking sector but leave untouched usury by the private moneylender.

Blaming the victim was explicit, even racist, in many colonial records. I can do no better than quote Charles Blair, an executive engineer of the Indian Public Works Department who writes in 1874 of the 'bigotry, fatalistic attitudes, apathy, or any of the other subtle influences that prevail in the East (which) was the cause of the sufferers concealing their necessities, or of refusing proffered work, wages, or food...'²⁴. He quotes a journalist of the *Daily News* covering the great Orissa Famine of 1866, who wrote: '*Kismet!* It is their fate: it has been the fate of their forefathers, of their caste, from times immemorial, to toil when toil and wage are offered; to hunger and to starve when wage and food failed them²⁵.' He even suggests duplicitly, that starvation can be a deliberate ploy to get state relief without honest work: 'Able-bodied men who were offered work would refuse it, and would sit under a tree till they got thin enough to get gratuitous relief'²⁶.

Denials of starvation by public officials today are not often so openly racist, but they still routinely blame the victims, citing for instance, tribal folk neglecting their health due to superstition and ignorance, as the actual reason for deaths as against claims by activists and journalists that these were starvation deaths; officials also often claim that poor rural people are indolent and prefer to live on relief rather than with self-reliant and self-respecting honest toil. The Bombay Sanitary Commissioner of 1880 attributed mass deaths to cholera, measles, small pox, malaria and diarrhoea but tellingly left out starvation. The same happens today when starvation deaths occur: these are blamed on medical ailments rather than food denials. Census data is also never allowed to reflect deaths due to starvation or migration due to intense food scarcity²⁷. There is also a neglect of psychosocial care, as well as rehabilitative measures for survivors in codes, past and present, suggesting an indifference to the enormity of human suffering associated with mass and individual hunger.

V. TOWARDS RIGHTS-BASED RELIEF

After the 1990s, and especially from the turn of the century, there are three positive developments that should have greatly improved state responses to droughts. The first is that whereas Scarcity and Famine Codes were not legally enforceable, several state duties – such as opening rural public works and state food provisioning – are now enshrined in rights-based laws. In recent times, some related rights have been turned into legal entitlements. This has been done most importantly by the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (NREG Act) which provides a statutory guarantee to every rural family that demands 100 days of wage employment at statutory minimum wages a year. The state cannot lawfully plead fiscal or administrative constraints in providing such employment, and there is even a token fine on the public exchequer for failures to provide work in the legally prescribed time. The Supreme Court²⁸, and later the National Food Security Act, 2013 (NFS Act), converted government schemes of school meals and supplementary nutrition for infants, small children and nursing and expectant mothers into legal entitlements. The NFS Act has also created obligations to supply very cheap cereals to three-fourths of rural households. Duties of the Union and State governments during disasters including droughts have also been codified into the Disaster Management Act, 2005 that includes the mandate to develop a disaster response plan and create a National Disaster Mitigation Fund.

The second positive development is that rapid economic growth has led to an expansion of fiscal resources with governments, even though tax rates were not raised adequately. A third positive development is that dramatic strides in satellite and electronic technologies have made possible enormous improvements in the time-frame of state responses to drought. The Manual for Drought Management of the Ministry of Agriculture in the Government of India of 2009 prescribes abandoning of the protracted and cumbersome process carried over from colonial times of assessing drought through ‘crop-cutting experiments’ or *annawari*, and replace this with accurate real-time information now available from the use of technology, satellite imagery, weather stations etc. According to the Manual, drought should be assessed and monitored by State governments by obtaining information on four key indicators: rainfall; storage water levels in reservoirs; surface water and ground water level; sowing and crop conditions.

Positive developments fail to make an impact

However, these many potentially positive developments that should have greatly prevented and mitigated the suffering of rural populations due to rain and crop failures have not on the ground resulted in more effective and compassionate state responses to drought. As observed at the start of this paper, the reality is quite the reverse. India has transformed spectacularly in innumerable ways in the last two decades. One of the least noted changes is in the way the country – governments, the press and people - respond today to drought and food scarcities.

Back in the late-eighties, many States across India were reeling under back-to-back drought for three consecutive years, not much different from the circumstances of India in 2015-16. I was District Collector in districts of MP and Chhattisgarh during those years. At that time, for central and State governments, as for the media and public opinion, there was nothing weightier than responding – or being seen to respond – to the on-going drought. District Collectors had extraordinary rights to draw on the state exchequer without any prior sanctions. Our mandate was paramount and unambiguous - to do all we could to save lives, and mitigate food, fodder, drinking-water and migration distress. We organised feeding centres for the destitute, fodder stalls for cattle, and transported drinking water long distances. I remember that at the peak, we were creating one lakh person days of work in relief works every day in the district in which I was the Collector, and took pride in creating one thousand new water bodies through relief works undertaken in a single year.

During the long, dusty, hot summers, officers like me would be out in our jeeps from 5 in the morning until late at night, inspecting relief works, and ensuring that people and livestock had food and water to survive those hard months. Administrations did slip and falter: runaway corruption in particular was not uncommon. But there was no doubt what the preeminent duty of the state was when its people were assaulted by drought. To do all it takes to ensure food, water and work to all. To save lives.

VI. VISITING AREAS OF RURAL DISTRESS

It is a lesson completely forgotten in the India of today. Farmers and landless workers in eleven States have been crushed by the 2016 drought, the third in the row in many cases, but if you scan the newspapers or television screens or debates in Parliament and meetings in State secretariats, it would appear that this is a figment of the imaginations of some vested interests. This, indeed, is what some senior journalists and officials said to me, or implied: that we are inventing the story of drought hunger. I decided to travel to the rural backwaters of Bundelkhand in Uttar Pradesh to see for myself.

In villages that I visited in district Banda, followed by a public hearing attended by 500 people, I encountered desperate people eating just one meal a day, and that too coarse ground grain mixed with wild leaves. I bit into one such roti, and found it bitter and foul. Villagers said it was difficult to persuade children to eat this, but they had no option as there was nothing else for them to eat. They explained the virtues of these wild leaves: once you eat them, you don't feel hungry for a full day. A rapid survey by some activists and lawyers found that already 86 per cent families reported cutting down their *dal* intake, 79 per cent were eating roti and rice with salt or chutney, and 84 per cent had cut down milk for their children. In an estimated seven out of ten households, not just men but often entire families had migrated, to places as far as Punjab, Hyderabad, Surat and Delhi. Schools therefore were rapidly emptying out.

I found evidence of widespread intense food and drinking water distress – and this when the summer months were not even upon us during my visit. There were also alarming reports of farmer suicides. The current drought was preceded ironically by a hailstorm that destroyed all the standing crop. Many farmers, unable to pay off mounting crop debts, killed themselves after these recurring crop losses. But unlike in many other regions of endemic farmer suicides, we heard of landless labourers and marginal farmers also ending their lives. Their debts were not to banks, but to usurious moneylenders, who loaned at interest rates of 5 per cent per *month* compounded. Shakuntala of Oran village, for instance, owns just two bighas of land. After sowing, her husband went to Punjab to find wage work, but came back empty-handed. Back home, he found that hail had destroyed their crops. Interest on loans to moneylenders of Rs. 50,000 was mounting relentlessly. He needed to get his 18-year-old daughter married. Crushed, one day he hanged himself.

District Administrators Turn a Blind Eye

The response of the state administration to looming drought is disgracefully dismal and listless, lacking entirely in both urgency and compassion. People showed us empty job cards; public works under MGNREGA, the most effective instrument to prevent distress migration, were nowhere to be found. Wages from earlier work had not been paid for over a year. Even more gravely, neither the central nor State government is serious about rolling out the NFS Act that should lawfully have commenced a year and quarter earlier. It would have ensured availability of half of each household's monthly cereal requirements almost free for more than 80 per cent of households.

In addition, I found no plans under way for feeding the destitute, old persons left behind when families migrate, the disabled and single women headed households. Integrated Child Development Scheme (ICDS) centres were in a shambles, otherwise they could have been upgraded to provide emergency feeding to the destitute during the drought. Schools only occasionally supplied *khichdi* to a small number of children. There were no arrangements to augment drinking water supply, including ensuring that Dalit and Muslim hamlets had functioning tube-wells, and transporting water where necessary. I found no attempt to create fodder banks and cattle camp for cattle, including those owned by households forced to migrate.

All of these are the fundamental elements of sound district administration, for which every young civil servant of earlier generations was trained and held strongly accountable. But no longer. As I observed earlier, even British colonialists developed elaborate protocols for such times which were codified into Famine Codes. I demonstrated in the start of this paper how they did attempt to save lives but at minimal cost to the exchequer, disrespectful of human dignity and the equal worth of subjects. However, in contemporary neo-liberal times, the attempt to avoid 'burdens' of high public spending for people coping with acute drought and hunger has revived. Worse, there seems even less preoccupation with saving the lives of dispensable, invisible rural poor populations.

Censure by the Supreme Court

For the executive in both the union and State governments, it should be a matter of abiding shame that it required the Supreme Court of India in one of its most socially significant judgments in recent times²⁹ to issue extensive directions to stir the central and State governments into taking effective and timely measures to prevent, declare and respond to droughts. It begins its judgment in the *Swaraj Abhiyan* case of 2016 by quoting Lokmanya Tilak: 'The problem is not lack of

resources or capability, but the lack of Will.’ The court in particular indicts the States of Bihar, Gujarat and Haryana, ‘hesitant to even acknowledge, let alone address, a possible drought-like situation’, as well as the Union government, which it declares ‘cannot hide behind the claim of “federalism”’ and if ‘a State Government maintains an ostrich-like attitude, a disaster requires a far more proactive and nuanced response from the Union of India’.

The Court observes that Bihar failed to consider that a drought is not necessarily a State-wide phenomenon and a declaration of drought might be limited to a few areas. Further the State also failed to consider that monitoring the possibility of a drought does not end in July or early August but continues till the end of September and in some situations till the end of November. Gujarat, it observes, still relies on the age-old *annawari* process, and treats a village as drought-hit only if production is below 4 annas, whereas neighbouring Maharashtra uses the threshold of under 50 per cent yields.

Gujarat delayed declaration of drought, doing it only after repeated nudging by the Supreme Court, but this delay was costly for those in distress. ‘The purpose of an early declaration of drought is preventive, but the route taken by Gujarat is palliative and relief centric. Risk assessment and risk management gives way, in Gujarat, to crisis management. This is hardly of any advantage to those whose distress can be avoided’. The Court notes that Haryana too resisted declaring drought despite low rainfall figures. Government of India guidelines mandate that the best time to declare a drought, if necessary, is October, but some States in 2015-16 have declared a drought in November and December and in the case of Gujarat and Haryana in April of 2016. Obviously this is far too late to prevent a great deal of human and animal suffering, including food and water shortages and distress migration. The union government cannot brush off its Constitutional responsibility, the Court avers, with the language of ‘federalism’.

The Supreme Court in the *Swaraj Abhiyan* matter directs the formulation of a National Plan relating to risk assessment, risk management and crisis management in respect of a disaster as was mandated to have been done ten years earlier by the Disaster Management Act, 2005, and establish a National Disaster Mitigation Fund as mandated by this Act. It stresses the imperative for timely declaration of drought, for which the union government must insist on the use of modern technology to make an early determination of a drought or a drought-like situation. It declares that there is no need to continue with colonial methods and manuals that follow a colonial legacy.

The Union Finance Minister, Arun Jaitley, hit out at what he felt was judicial over-reach in a statement in Parliament. The Court had pointed to many grave aspects of executive inaction in droughts, and called for many steps that had budgetary implications. 'India's budget-making is being subject to judicial review', the Minister complained. 'Step by step, brick by brick, the edifice of India's legislature is being destroyed'.

VII. THE MAGNITUDE OF THE 2015-16 DROUGHT

The Court goes on to observe that even on a conservative estimate, more than 330 million people are affected by drought in 2015-16, with varying degrees of distress and intensity. When at least a third of the country's rural population is affected by drought, State Governments must ensure at the minimum that the statutory requirement of food grains under the NFS Act is made available to the people in the drought affected areas of the country. In addition, and to the extent possible, the State Government should take appropriate measures to provide dal/lentil and an appropriate cooking medium and any other items of necessity to persons affected by the drought, and if a request is made by a State Government to the Government of India, it must consider the request with compassion. It further affirms that the right to food is actually a constitutional right and not merely a statutory right.

The Court registers its surprise that even though the NFS Act was passed by Parliament and it extends to the whole of India and is deemed to have come into force on July 5, 2013, some States have not implemented it. It notes for instance that the State of Uttar Pradesh has partially implemented the NFS Act only in 28 of its 75 districts. Gujarat has admittedly implemented the NFS Act only from 1st April 2016. 'A State Government, by delaying implementation of a law passed by the Parliament and assented to by the President of India, is effectively refusing to implement it and Parliament is left a mute spectator. Does our Constitution countenance such a situation? Is this what "federalism" is all about? Deliberate inaction in the implementation of a parliamentary statute by a State Government can only lead to utter chaos or worse'.

The Court also deems it unfortunate that neither milk nor eggs nor other nutritious foods are provided under the Mid-Day Meal Scheme in Bihar, Haryana and Uttar Pradesh. 'No one can doubt that children are the future of our country and if there is some stinginess in providing them with adequate nutrition, the country as a whole is deprived in future of taking the benefit of their potential.' It also deems it unfortunate that of the 11 drought affected States only Karnataka, Madhya Pradesh and Chhattisgarh have proposed to continue school meals during the vacations for drought areas, even though this is provided for in the rules.

The Court directed that in the States in which drought has been declared or might be declared in the future, all households should be provided their monthly entitlement of food grains in terms of the NFS Act regardless of whether they fall in the category of priority household or not. Further, no household in a drought-affected area shall be denied food grains as required under the NFS

Act only because the household does not have a ration card, and this can be substituted by an appropriate identification or proof of residence that is acceptable to the State Government. The court directed the States of Bihar, Haryana and Uttar Pradesh to make adequate provision for the supply of eggs or milk or any other nutritional substitute for children under the Mid-Day Meal Scheme besides mandating that they extend the Mid-Day Meal Scheme for the benefit of children during the summer vacation period in schools.

The highest priority of the central government in times of scarcity should be to ensure the creation of millions of additional person-days of work in all affected villages. Instead we find that it continues a policy of false claims, low resourcing and poor management of highly delayed financial flows. It is a sad commentary on contemporary politics and governance that this once again required the intervention of the Supreme Court in the Swaraj Abhiyan matter to remind the union and state governments of their legal and moral duties to ensure sufficient and timely wage-work to persons battling drought.

The duty of states to provide employment in public works to all drought-affected persons was admitted even from colonial times. But as already observed, in no Famine or Drought or Scarcity Code is work *legally* guaranteed to all who seek it, and in fact the Rajasthan Famine Code actually applies ceilings. But today these duties are embedded even for normal times in a rights-based NREG Act. The objectives of the Act are well summarised in its pithy preamble ‘to provide for the enhancement of livelihood security of the households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work...’

In its legal guarantees of extending wage work to all rural households who seek it near their homes, the NREG Act is a great step forward, but it is still a conditional and not open-ended guarantee, which applies to an upper limit of 100 days per household. There are further problems in implementation. Public works continue in many states to be closed before the onset of the rains, rather than with the reaping of the harvest, as in colonial times, and these can be times of the most severe food deprivation. This timing is specifically laid down in many codes, such as the Andhra Pradesh Handbook. Indeed, it has been observed that even NREG Act works are in practice closed when rains start (and many state governments have issued written orders to this effect, even though these contravene the law which requires works to be run whenever there is a demand by workers for them). It can be speculated that this is done in order to keep agricultural wages depressed during the agricultural season, to benefit larger farmers. Agricultural wages are typically

well below the statutory minimum wage, and if workers have options of higher wage payment through assured employment in public works, it would force large farmers to offer higher wages.

The Court in *Swaraj Abhiyan*³⁰ regrets the low allocations to States and high amounts of delayed payments to NREGA workers without compensation. It notes that the union government acknowledges that job cards have been issued to about 13.26 crore households all over the country; however, the number of active job cards is about 5.72 crores and the total households that have worked in the financial year 2015-16 is even less at about 4.77 crores. Not just this. The Court observes with dismay that the total number of households that have been provided 100 days of employment in the year 2015-16 across the country is just 47 lakhs (as on April, 2016) and in the drought affected States the number of such households is around 27.6 lakhs.

Failures to create sufficient wage work are compounded because the union government releases lower funds to the States than their demand. As the Court observes: ‘There is, therefore, a chicken and egg situation – the release of funds by the Government of India is low because the performance of the State Government is poor and the performance of the State Government is poor because the release of funds by the Government of India is low. The suffering is of the unemployed unskilled manual labourer as an individual and the society as a whole’.

There is no doubt that the functioning of the NREG Act has been stymied by deliberately low central allocations and releases to the states. The Finance Minister claimed he had allocated the highest ever resources to MGNREGA in the 2016 budget. This claim needs to be measured against two realities. One, currently the backlog and liabilities under the Act are at a record high. Two, allocations have actually fallen significantly in real terms from the peak of 0.6 per cent of GDP in 2010-11 to 0.26 per cent of GDP in 2016-17. Also, if the 2010-11 allocations are adjusted for inflation, allocations in 2016-17 should have been higher than Rs. 66,000 crore, to actually qualify as the highest ever. The allocation made in the current budget is Rs. 38,500 crore. Of this, as much as Rs. 12,590 crore is required to meet the record-high pending liabilities at the end of the financial year 2015-16. What is left to meet wage demands in the current year is only Rs. 25,910 crore.

What does this huge bill of pending liabilities represent? It means simply that workers have not been paid wages for work done, often for several months. If wages are delayed so extensively, then a precariously surviving impoverished person cannot rely on NREG Act to extend wage and social protection in normally lean times. Even less in times of acute distress during drought scarcity. In effect, by deliberately delaying fund releases to states, the central government ensures that fewer and fewer workers actually demand work under the programme. Under the Act, which is rights-

based and demand-driven, the central government is legally bound to provide all the resources needed to meet demands for work up to 100 days per rural household. Chronically delayed payments amounts to a killing of demand for work, and thereby subversion of the purposes of the law.

The Court also notes that there is an existing wage and material component liability to States in excess of Rs. 12,000 crores, including Rs. 2,723 crore for 10 drought affected States where the unemployed need their wages the most. ‘We can understand delayed payment of a few days or weeks to a few people, but in this case it is delayed payment of a few weeks (if not more) to lakhs of people. Given the enormous number of persons involved, this is really unfortunate’. The Court also expresses anguish that the Government of India has made no provision for compensation to the wage workers as prescribed in the Act. ‘This is extremely unfortunate and certainly does not behove a welfare State in any situation, more so in a drought situation. Social justice has been thrown out of the window by the Government of India’. It observes further: ‘We have not been given any explanation whatsoever why a person would want to work without wages or at least work with an uncertainty in timely receipt of wages. It just does not stand to reason’.

Accordingly, the Supreme Court in *Swaraj Abhiyan* issued a bunch of guidelines for the implementation of the NREG Act in drought areas. The State Governments should present a realistic budget which should then be pragmatically considered by the union government. The Government of India should release to the State Governments adequate funds in a timely manner so that the workforce is paid its wages well in time, and that compensation for delayed payment is made to the workers whose wages have been delayed beyond 15 days as postulated by the NREG Act. Both the State Governments and the Government of India are directed to make all efforts to encourage needy persons to come forward and take advantage of the Scheme. ‘A success rate below 50% is nothing to be proud of’. The Court also directs that the Central Employment Guarantee Council is immediately constituted, as also similar bodies in the States.

The union government made the grand announcement of 50 days’ additional work in drought affected areas, but did not back this with the allocation of a single additional rupee. An additional 50 days of work only for drought affected job-card holders would require an additional allocation of Rs. 15,000 crore rupees, over and above the normal requirements of the programme that have not been made. And the sad reality is that all ten states ended the year with a negative balance of pending liabilities because of long-delayed releases from the centre, and as a result of these delayed payments and poor implementation, a mere 7 per cent of households in these states crossed 100 days of work.

VIII. ENTRAPPED IN SUBSISTENCE WAGES

One issue that remains unresolved is whether wages paid to workers in relief, and now NREG works, can be below the statutory minimum wage. In colonial times the policy, as we observed, was to offer dirt-low wages – in addition to hard and monotonous work at distant locations – to ensure that only those who were really needy came to relief works. This perversity was erased in post-colonial India, but the idea persisted that wages in relief works should be kept very low, and not bound by statutory minimum wage legislation.

This policy was challenged by Sanjit Roy in 1983 in his landmark petition against the Rajasthan government, which was paying wages in relief works that were well below minimum wages. The Rajasthan government submitted that it would not be possible to pay the minimum wage to persons undertaking famine relief work as that would cripple the potential to provide employment to the affected persons. Rejecting this contention, Justice Bhagwati³¹ held:

‘Whenever any labour or service is taken by the State from any person, whether he be affected by drought and scarcity conditions or not, the State must pay, at the least, minimum wage to such person on pain of violation of Article 23....’

However, this dispute has not been resolved even with the NREG Act, as governments frequently do not pay statutory minimum wages in NREG works. This is a matter on which the *Swaraj Abhiyan* petitioners sought directions. The Court referred to the matter but did not pass specific orders.

The dispute dates back to the previous government. In 2009, the government froze wages for workers under the Mahatma Gandhi National Rural Employment Guarantee Act (MG NREGA) to Rs. 100 per day. As a result, with time, wages in many States fell below minimum wages, aggravated further by rising food prices. This decision adversely impacted unorganised workers across the country and was widely criticised by labour organisations and activists groups. In response, the government agreed to index this wage for inflation but remained – and to this day remains – unyielding about paying minimum wages.

The minimum wage ensures only bare subsistence, or in the words of the Supreme Court ‘it sets the lowest limits below which wages cannot be allowed to sink in all humanity’. It is much less than a ‘living wage’, which the Court decrees should be ‘sufficiently high to provide a standard family with food, shelter, clothing, medical care and education of children’, but also ‘a fair measure of frugal comfort to provide for old age and evil days’.

The government's defence was that NREG Act is not conventional employment but more social security payments to unemployed persons. Government had resorted to a similar plea to deny minimum wages for famine relief works. Justice Bhagwati had clarified: 'It is not as if a dole or bounty is given by the [s]tate', nor is their work 'worthless or useless to the society', any less eligible for minimum wages than other work.

In three independent judgements, the Supreme Court categorically decreed not only that the minimum wage is inviolable but also that failing to pay it amounts to 'forced labour'. It held that 'force' may also arise from 'hunger and poverty, want and destitution' which 'leave no choice of alternatives to a person in want'. Government's decision to withhold minimum wages amounts to reducing millions of workers to forced labour, which is barred by the Constitution.

Government must be a model employer, and to the extent it offers works at higher wages, it will push wages up even in private employment, because workers will have alternative recourse. Studies such as by Chandrashekhar and Jayati Ghosh³² establish that that MG NREGA has indeed pushed up wages for workers, even more so for women.

However, this matter remains unresolved with the new government as well, and in many states NREG Act wages are below the statutory minimum wage for the state. The Government of India is primarily unwilling to pay even a bare subsistence wage to those who toil in public works, because of the burdens this would impose on the exchequer. But the Court as far back as 1967 enjoined that the minimum wage must 'in any event be paid, irrespective of the extent of profits, the financial condition of the establishment or the availability of workmen on lower wages'. This surely applies at least as much to government as to a private employer. Even if a resource constraint exists, can we therefore justify short-changing our poorest people and depriving them of a subsistence wage?

This is a sad and sobering reminder that when the welfare and rights of India's poorest are concerned, the more things change, the more they remain the same! 'The least that every worker in field and factory is entitled to is a minimum wage which will enable him to live in modest comfort, and humane hours of labour which do not break his strength or spirit... ', Jawaharlal Nehru had declared stirringly in his Presidential address to Congress in Lahore in 1929. Nine decades later, the central government of free India resolved that government itself would *not* pay the minimum wage established by law to workers in public works.

The farm sector in perpetual distress

In *Swaraj Abhiyan*, the Court stopped short of passing orders on other pleas made by petitioners related to crop relief, restructuring agricultural loans, grants to farmers in affected areas and fodder banks. The petitioners had sought directions for farmers to be given immediate relief for crop loss for the year 2015-16. The relief or subsidy, they said, should not only be adequate but should also be given timely with the entire process being transparent so that there is no allegation of corruption. They also sought that necessary directions should be given to banks to have a more realistic deferment of arrears and re-structuring of loans, particularly in respect of farmers in drought affected areas.

The Union government stated that the purpose of relief is not compensation for the losses but immediate relief. It also stated that it cannot order a moratorium on the recovery of old loans, as these have nothing to do with the current situation of drought. The Court however refused to pass orders on this, suggesting that these are technical matters.

But this does not obscure the critical imperative for a clear binding policy for a moratorium on the recovery of all crop loans in affected regions, as well as compensation levels that are high enough to cover the actual costs of cultivation. It needs to be borne in mind that there is an endemic on-going crisis in Indian agriculture, reflected in farmers' suicides because of their inability to repay farming and irrigation loans. The situation of the farm sector is of an on-going chronic disaster situation, on which the acute and immediate calamity of drought is superimposed. There are larger measures that the Indian farmer desperately needs even in normal times, including inter alia farmer income protection, protection against crop loans, remunerative minimum support price guarantees, and much higher public investments in small-farm agriculture. Agricultural productivity and growth are floundering alarmingly. In this scenario, the consequences of droughts are even more catastrophic, and need far greater farmer protection and relief that the union and state governments are prepared to extend.

And then there is the question of animals during drought. The petitioners in *Swaraj Abhiyan* sought effective management of the Fodder Banks in the drought affected areas and for the establishment of Fodder Banks where no such bank has been established in a drought affected area. Fodder Banks are expected to facilitate procurement and storage of fodder from surplus areas or areas where rainfall is satisfactory and this fodder can be then distributed to cattle camps and deficient

areas. The response of the union government is routine, that it is for the State governments to take initiative and seek support from the Union government where necessary.

Most farming communities also keep livestock for food and supplementary income. Their capacity to feed these animals declines in times of drought. Particularly hard hit are pastoral communities. The shrinking of commons and curbing of forest rights and access have led to reduced pastures and fodder availability to pastoral communities, dependent on livestock. This has led to still greater dependence of these communities on state support for their fodder needs. Various State codes include provisions for cattle camps and *gaushalas* for starving cattle in times of acute scarcity³³, but the scale remains small, and the specific needs of these communities remains substantially unaddressed both in situations of crisis and normal times. The Andhra Pradesh Handbook, for instance, provides for cattle camps where starving cattle are fed at government expense, and fodder banks which supply farmers with cattle feed at half cost, but there is no special focus in any of this for the specific protection of the small pastoralist. These are more general reliefs in which these most vulnerable segments can also try to seek some succour. Besides, there is no assurance that these camps will actually be started, and if so when, therefore affected people do not know whether or not they should migrate³⁴.

In practice, in the drought of 2016, reports abound of the inability of farmers to supply fodder and water to animals in areas like Marathwada. But there are few cattle camps, and farmers are being forced to make distress sales of these animals, and in many cases to abandon them.

IX. THE NEED FOR A PROACTIVE STATE

The danger of starvation during droughts is highest among persons from socially vulnerable sections, like the aged, disabled, those with serious ailments, single women, and orphaned children or children whose parents are unable to feed them. School meals in vacations are a welcome measure, but how will food be reached to children forced to work or migrate with impoverished families? Recognising this, even colonial famine codes provided for gratuitous feeding in community kitchens. It is tragic that governments in democratic India neglect this life-saving measure for the most vulnerable.

Significantly, this measure was not even the subject of the *Swaraj Abhiyan* petition or the court orders, which otherwise contained several far-reaching directions for the union and State governments for the succour of people battling drought. The Court restricts itself to a broad direction that ‘humanitarian factors such as migrations from affected areas, suicides, extreme distress, the plight of women and children are some of the factors that ought to be kept in mind.’

Gratuitous relief is the provisioning of food, cash or other life needs like clothes without requiring labour or collateral from the people who receive this form of relief. British relief policy reluctantly incorporated programmes of gratuitous relief for persons physically incapable of working on relief sites (or were culturally barred because of purdah and ‘high’ caste). There was a provision in the Bengal Relief Code³⁵ for instance, to ‘distribute such gratuitous relief, in the forms of money or food, as may be necessary’ and to ‘open and maintain such temporary hospitals, poor houses, orphanages, and places for the gratuitous distribution of food as may be necessary’. The quantum of assistance and numbers thus served, however, were severely restricted.

In independent India, in some major scarcities, large community kitchens were set up and dry rations distributed, but by and large these have been forgotten as the years passed. The Andhra Pradesh Handbook contains provisions for gruel kitchens and relief camps, but the quantum of assistance is not specified, and these are rarely set up. The rules themselves exclude those who benefit from pensions and other schemes, neglecting their enhanced needs in such times, and there is no special targeting of single women and children. Feeding of dependents such as children and elderly relatives of those who migrate, which is sorely needed, is not found in many Codes. The Andhra Pradesh Handbook³⁶ provides for supplementary feeding to children below fifteen years, to pregnant and lactating mothers, and old people. The Rajasthan code mentions only ‘famine

orphans' for special feeding. There are no operational details and much of this remains on paper³⁷. Some Codes also specifically include out of school children for feeding, and people who may have migrated from some other district or place.

It may be argued that 'gratuitous' relief as a form of state charity has given way gradually to social security as rights, the public distribution system (PDS) and entitlement feeding programmes like the ICDS, midday school meals and pensions for aged and disabled people and widows. However, these are rarely adapted to the heightened special needs created by situations of food scarcity, except for stray instances such as recent orders to distribute meals to school-going children at schools even during vacations in districts reeling under drought. Even this was not initiated by executive order but by intervention of the Supreme Court in writ petition 196 of 2001, PUCL vs the Union of India and others, and again in the 2016 *Swaraj Abhiyan* judgment. A large emergency feeding programme was introduced in the 'KBK' (Kalahandi, Bolangir and Koraput regarded as the poorest and most vulnerable to food crises) districts of Orissa infamous for endemic hunger, again at the intervention of the statutory National Human Rights Commission.³⁸

With the universalisation of ICDS and midday meals, there is need now for greater convergence with food schemes of normal times, and for augmenting these with higher allocations per head in times of scarcity, and inclusion of excluded groups like out of school children for midday meals.

The state also continues to view vulnerable people with special needs, in effect, as unemployable. It overlooks the fact that most people are disabled not by the limitations of their bodies, but by social attitudes which do not create opportunities and conducive environments in which they can study, play and work. In this sense, disabilities are social rather than biological constructions, and schemes can be sensitively designed for the dignified employment of disabled people, single women and aged people, but these have to break out of the overarching model of conventional public works. The Rajasthan code specifically debar disabled people from employment in relief works, and at the same time (in violation of the law) permits children to labour in relief works³⁹. The State rules of the NREG Act also rarely list tasks and rates for persons with disability.

The Famine codes of the past recognised that non-farm rural poor persons, like artisans and weavers, may be very hard hit by famine. But they did little to address their food needs, even while recognizing that they were not equipped physically and culturally to participate in the kind of manual labour required in public relief works. This required the design of public works that catered to their specific skills. This was never done, except for casual references in some public documents

of those times to the effect that the distribution of cloth as part of gratuitous relief would hopefully create some opportunities for work for weavers. Although weavers and other artisans continue to suffer enormous setbacks today, even more so because of their highly unequal integration with global markets, and reports pour in of both starvation and suicides by weavers, they are neglected also in modern codes and even the NREG Act. The Andhra Pradesh Handbook, for instance, contains just one section that requires the listing of village artisans affected by drought but follows this with no specific relief. The Rajasthan Code provides for loans against collateral for *ambar charkebas* (or modified spinning wheels) for weavers, with no provision for marketing or to ensure them a daily living wage during the period of scarcity. The NREG Act contains no provisions for alternative forms of public employment for weavers and artisans.

Distress migrants to cities, both in normal times of want and in extraordinary emergent situations of food scarcity, are neglected both in contemporary codes and by the food schemes. Because they are not local residents in the places they have migrated to, they are routinely deprived of ration cards; they have to buy food from private shops in an unfamiliar market, and often forced to subsist on grains fit only to be fed to cattle. Their children are debarred entry into ICDS feeding centres, and aren't allowed to access to both education and midday meals in schools. Women are denied maternity benefits as well as the services of ICDS, and aged and disabled people get no pensions. These problems are aggravated in instances of cross-State border migration, where the host State refuses to spend its resources on migrants who have come to it in search of work, often in semi-bonded conditions. The Andhra Pradesh Handbook, as well as the Rajasthan Code, are both silent about the food needs of migrants from other states. The Andhra Pradesh Handbook entitles women, children and the aged who are left behind when able-bodied members migrate, to gratuitous relief and supplementary nutrition, but the Rajasthan Code is silent on this.

With all these limitations, post-Independence codes did recognise at least some need for gratuitous relief to most vulnerable populations after drought. They were partially and imperfectly implemented in the past. But once again, in contemporary neo-liberal times, humane life-saving state support in terms of gratuitous relief is almost absent, representing both an extraordinary official and social amnesia about the poorest and most vulnerable victims of drought. They are left now to struggle, suffer and possibly die, unseen and unmourned.

Note: This paper builds on my book *Ash in the Belly: India's Unfinished Battle Against Hunger* (Penguin India, 2010) and my other writing about drought and famines in India.

Endnotes:

- ¹ Socio-Economic Caste Census 2011.
- ² Alamgir, Mohiuddin. (1980) *Famine in South Asia, Political Economy of Mass Starvation*, Cambridge, Massachusetts: Gunn & Hain Publishers Inc.
- ³ Government of India. (1989) *The drought of 1987: Responses and Management*. Vol. I, New Delhi: Ministry of Agriculture.
- ⁴ Chatterji, B. C., 1882, *Anandamath*. (Translated and adapted by Basanta Koomar Roy, 2006) Noida: Orient Paperbacks.
- ⁵ Alamgir (1980), refer end note 46 for details.
- ⁶ Ibid.
- ⁷ (1941), *Famine Manual*, Government of Bengal: Revenue Department.
- ⁸ Government of India. (1989), refer end note 47 for details.
- ⁹ Ibid.
- ¹⁰ Das, Sana. (2001) *A Critique of Famine Codes in India: A study of the Relief Code & Vulnerable People's Entitlements*, New Delhi: Action Aid.
- ¹¹ Government of Bengal, (1941), *Famine Manual*, Revenue Department.
- ¹² Das (2001) refer end note 52 for details.
- ¹³ Singh, K.S. (1993) The Famine Code: The Context and Continuity, in Jean Floud and Amrita Rangasami (eds.) *Famine and society*, New Delhi: The Indian Law Institute.
- ¹⁴ Blair, Charles. (1986) *Indian Famines their Historical, Financial and Other Aspects*, New Delhi: Agricole Reprints Corporation.
- ¹⁵ Das (2001) refer end note 52 for details.
- ¹⁶ Ibid.
- ¹⁷ Singh (1993), refer end note 55 for details.
- ¹⁸ Das (2001), refer end note 52 for details.
- ¹⁹ Das (2001), refer end note 52 for details.
- ²⁰ Government of India. (1989), refer end note 47 for details.
- ²¹ Floud, Jean., and Amrita Rangasami. (1993) 'The masking of famine: the role of the bureaucracy', in Jean Floud and Amrita Rangasami (eds.) *Famine and Society*, New Delhi: The Indian Law Institute.
- ²² Das (2001), refer end note 52 for details.
- ²³ Von, Braun. (1991) *A policy Agenda for Famine Prevention in Africa*, Washington D.C: IFPRI.
- ²⁴ Blair (1986), refer end note 56 for details.
- ²⁵ Ibid.
- ²⁶ Ibid.
- ²⁷ Floud and Rangasami (1993), refer end note 61 for details.
- ²⁸ in the writ petition 196 of 2001, *PUCL vs the Union of India and others*.
- ²⁹ SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION WRIT PETITION (CIVIL) NO. 857 OF 2015, *Swaraj Abhiyan versus Union of India & Ors*.
- ³⁰ SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION WRIT PETITION (CIVIL) NO. 857 OF 2015. *Swaraj Abhiyan versus Union of India & Ors*.
- ³¹ AIR 1983 SC 328.
- ³² Ghosh, Jayati and Chandrashekar, C.P (2011), *Public Works and Wages in Rural India*, Macroscan. Available at: <http://www.nregaconsortium.in/resources.html>
- ³³ Singh (1993), refer end note 55 for details
- ³⁴ Chattopadhyaya, Boudhan. (1991), *Food Security and the Social Environment-Food Systems and the Human environment* (Vol. 1) Calcutta: K.P Bagchi Co.
- ³⁵ Government of Bengal. (1941), *Famine Manual*, Bengal: Revenue department.
- ³⁶ Ibid.
- ³⁷ Das (2001), refer end note 52 for details.
- ³⁸ "Recommendations of the Commission with regard to the Starvation Deaths in KBK Districts of Orissa- right to Food", national Human Rights Commission, New Delhi, India, <http://nhrc.nic.in/disparchive.asp?fno=83>
- ³⁹ Das (2001), refer end note 52 for details.

Harsh Mander can be contacted at: manderharsh@gmail.com

About the Author

Harsh Mander, a former Indian Administrative Service (IAS) officer, who worked in Madhya Pradesh and Chhatisgarh for almost two decades, is a human rights and peace worker, author, and researcher. He coordinates the production of the annual India Exclusion Report. He is Director, Centre for Equity Studies, and Special Commissioner to the Supreme Court of India in the Right to Food case.

His books include *Unheard Voices: Stories of Forgotten Lives*, *The Ripped Chest: Public Policy and the Poor in India*, *Fear and Forgiveness: The Aftermath of Massacre*, *Fractured Freedom: Chronicles from India's Margins*, *Untouchability in Rural India* (co-authored), *Ash in the Belly: India's Unfinished Battle against Hunger*, and *Looking Away: Inequality, Prejudice and Indifference in New India*. Mander's columns appear in *The Hindustan Times*, *The Indian Express* and *Scroll*. For over 12 years, he wrote a fortnightly column in *The Hindu*. He also contributes frequently to scholarly journals. His real-life stories have been adapted for films, such as Shyam Benegal's *Samar*, and Mallika Sarabhai's dance drama *Unsunni*.



THE HINDU CENTRE

for

Politics and Public Policy

Published by :
The Hindu Centre for Politics and Public Policy
Kasturi Buildings, 859 & 860, Anna Salai,
Chennai - 600002. Tamil Nadu, India.

Web: www.thehinducentre.com
Phone: +91-44-28576300
Email: thc@thehinducentre.com