



Lesson Series 38

The Right to Food

Summary

This lesson introduces the right to food, which is a fundamental human right falling under the grouping of economic, social and cultural rights.

There are innumerable people around the world who struggle daily to find enough food to survive. This lesson examines particular situations regarding this struggle in India and Burma. It further discusses the link between the right to food and the rule of law, as well as the enforceability of the right to food in a court of law.



THEME: The Right to Food

THE ISSUE

While the right to food or the right to be free from hunger is a fundamental human right, there are millions of people who struggle on a daily basis to find enough food to survive. This occurs even as a minority of the world's population lives with overabundant food supplies.

The denial of the right to food does not occur merely due to natural disasters or a lack of resources. All too often, it is caused by systemic negligence and misguided state policies. Hunger is also a result of socio-economic and cultural factors; the factors responsible for hunger usually target certain groups of society. This belies the equality of all individuals, which is the basis of all human rights. For this reason, it is essential to ensure the protection and promotion of the right to food. One way to do this is to ensure that this right, like other rights, is enforceable in a court of law.

THE LESSONS

This is the first of a two-part lesson series on the right to food. This first series has two lessons and introduces the nature of the right to food.

Lesson 1 introduces the right to food.

Lesson 2 examines the right to food in the context of a breakdown in the rule of law.

Cover photograph of internally displaced children in Burma. Source: Burma Issues

LESSON 1

A. Hunger and denial of the right to food

To be hungry and to be denied the right to food represents the denial of one of the most basic human rights. It also affects many other human rights, such as the right to life, to health, to livelihood. The following cases speak to this denial of the right to food and the nature of hunger.

1. 'Households regularly skip meals'

(Bela Bhatia and Jean Dreze, 'Starvation and the Right to Food in Jharkand',

<http://www.righttofoodindia.org/data/bhatiadreze.pdf> Accessed on 3 June 2004.)

A fact finding team visited Kusumatand village, Manatu block, Palamau district, Jharkand in India in late June and early July 2002 to investigate three starvation deaths that had been reported in May. The team observed that the entire hamlet was in a state of permanent semi-starvation. Most people survived on small quantities of broken rice, supplemented with whatever wild food was available in the season, such as mahua, saag or gethi (local root). The team reported that at the time of their visit many people were eating lumps of plain saag without rice. Twenty out of 21 randomly selected households reported that they had to regularly skip meals. Most households drank contaminated water from shallow wells—a sample from one of the wells was full of worms.

The residents of Kusumatand were all landless or virtually landless and survived on seasonal labor migration and whatever other casual labor they could find. Households reported that their expenditure on non-food items was nil in an average month—clothes were bought once a year if at all and luxury items such as tea or *bidis* was done without. Only seven of the 21 households owned a blanket or quilt.

The children in the village were rarely seen running or playing. Instead, they tended to stand by listlessly, ill-clad and undernourished. At the time of the team's visit, many children were suffering from conjunctivitis, possibly due to contaminated water. There were no health facilities in the village and most children were unvaccinated. While private treatment was available in Manatu, few could afford it. In such a situation it is not surprising that the villagers

frequently perish from the combined burden of malnutrition, weakness and hunger-related diseases. This, it appears, is what happened to Sundar Bhैया, Kunti Devi and Basanti Devi – the three victims of 'starvation deaths'. These deaths ... can be seen as the extreme manifestation of a much larger problem of endemic hunger in the area. In each case, the tragedy began

with chronic hunger and exhaustion, followed by a prolonged period of precarious survival on wild food, culminating in a brief and fatal illness ... Even today, the surviving members of these families live in dreadful poverty and could die any day of starvation-induced illness.

Consider for instance the surviving members of Kunti Devi's family. Her husband, Bageshwar Bhuiya, suffers from TB and is unable to work. His illness goes untreated because he has no money and the staff at the local health centre charge patients for TB drugs that are supposed to be available for free. The burden of looking after him and his six children falls on his mother, a courageous 70-year old widow who walks to Manatu from time to time to glean broken rice from the local rice mill. Aside from the little rice she brings from the mill, which is barely fit for human consumption, the family survives exclusively on wild food. The house collapsed a few months ago and the family had to take refuge in a corner of Bageshwar's brother's house. Except for one cooking pot and a few rags, the family owns absolutely nothing – not even a blanket or a single pair of chappals (Bhatia & Dreze).

Although India has a food assistance system, it was paralyzed not only in the village of Kusumatand, but in the entire block. The fact-finding team noted that a survey of 36 villages in Manatu showed that not a single BPL (below poverty line) family in those villages had received grain from the system for the last two years. And this in spite of the fact that the Food Corporation of India (which has about 65 million tonnes of wheat and rice lying in storage) has a warehouse across the road from the block office in Manatu.

2. 'Even officials steal rice and cooking oil from government warehouses'

(Elizabeth Lee, 'I can't even feed my children: More voices of the hungry nation', *article2*, vol. 2, no. 2, April 2003, pp. 39-54)

Burma is a country where people are struggling daily to obtain enough food to eat. This situation has been linked to military rule and the agricultural policies of the state.

Rice is the staple food of people in Burma, but from the middle of 2002 there were reports of a domestic rice shortage. Poor weather conditions had damaged the rainy season crop, but the government forged ahead with exports, even raising its target. The result was that

The people in Mergui (Beik), Tenasserim Division are running out of staple rice supply and they have to survive by drinking rice porridge. Rice merchants are hoarding their stocks in other villages and rice vendors are only stocking a small amount of rice in their shops and charging people more than the normal price. The people of some quarters in Mergui have to be content with broken rice soup (quoted in Lee, 40).

With the value of the Burmese currency plummeting, the cost of feeding a family is rising, with the result that many families in once relatively prosperous urban areas are spending 70 per cent of their household income on food. The looting of rice has become common, with even officials stealing rice and cooking oil from government warehouses.

The government needs rice just as much as the people, to feed the army and provide subsidized rice and other basic goods to the civil service and army families, which are major incentives for persons becoming soldiers, teachers and government clerks. Subsequently, the government continues to pressure farmers to grow dry season paddy crops in areas where there is not enough rainfall or irrigation to do so. When the farmers have failed to do so, their land has been confiscated. Land confiscation is often arbitrary, but it does have the backing of the law. In some cases local landholders have been pushed off their farms to make way for big commercial croppers, while in other instances the army has taken over land for its own use or for anti-insurgent activities. Not only does such land confiscation drastically curtail the right to food, but it also increases internal displacement, forced migration and labor. In fact, it has been noted that among those with the least to eat are those who are internally displaced. While some of these people go to the relocation sites set up by the state, others hide in the mountains and jungles. According to one such woman,

The suffering endured by our people here is very hard. Every village is suffering. The enemy entered our area and tortured us hard, but we couldn't do anything. We fled to the jungle. Some people have run out of paddy and rice. We run to borrow it from other people. If we can borrow it we can eat, but if we can't then we don't eat for two or three days. The [army] people came down and burned all [of] our paddy and rice in our village. We have to suffer hard. We are one of the groups which has had to flee to stay in the jungle (quoted in Lee, 49).

The right to food is one of the most basic human rights, without which there can be no right to life. The right to food is about freedom from hunger, which can be interpreted in two ways. One is the more immediate way, where people are suffering from hunger and do not have enough food to eat, i.e. food scarcity. The second way is to look at a broader context, examining the factors that contribute to not only a person having a lack of food, but also the type of food that is available and the conditions that determine this availability, including water and land—in other words, what is known as food security. While it is the broader context of food security that is the ultimate concern, this concern must begin with the narrower, more immediate situation, where people are suffering from a lack of food.

B. Why food?

Hunger is man's first and most tenacious enemy, a primal threat to human security that attacks both the individual and society alike. Hunger taunts the stomach and disturbs the mind. Hunger evicts families from their customary homes and sentences them to new lives as refugees. Hunger divides communities into the fed and the unfed, or the overfed and the malnourished.

Hunger distorts the marketplace. It transforms the humblest sack of rice or beans into a delicacy priced beyond the means of an average wallet. It refutes the farmer's fundamental economic formula: land plus labour plus a modicum of good fortune equals food. Replacing it is a more vicious theorem: labour produces, but neither producing food nor possessing it guarantees that one will eat. For its part, luck abandons the hungry.

Hunger corrodes the machinery of the state. Taxes, flowing ever upward, are paid in paddy. Soldiers receive their wages in paddy, or just as frequently in permission to take what they wish with impunity. Civil servants respond to the call of hunger by appropriating the functions of office to serve their own gnawing pangs—a special fee here, an added service there, the expedition of paperwork, the granting of a permit. It intrudes on the classroom and corrupts the largesse of teachers, transforming a profession of giving into a corps of takers forced by their empty stomachs to accumulate whatever they can from the state and students alike.

Hunger is both highly personal and thoroughly social. It is physiological and economic; emotional and mechanical; simple and complex. Because it is natural, hunger is everywhere a native, capable of appearing in every hamlet and town, but nowhere a citizen to be named, apprehended, and called to account for its crimes and prejudices. Hunger preoccupies its victims with implications—they must find food, take to the road, borrow a cupful of grain, ration their meals, bury their stores, seek a bribe, avoid the taxman, tell lies at the checkpoint, hide their chickens, eat quickly and move on, feed the children first—rather than its origins. And why bother searching for causes, when hunger, our familiar enemy, is simply the absence of food? (Chris Cusano, 'The making of a people's tribunal', *article2*, vol. 2, no. 2, April 2003, p. 35).

Inherent in the protection of the right to food is the protection of human dignity and equality. The right to food is a measurement of the equality of human beings; denial of the right to food negates a person's very humanity and dignity, thereby establishing their inequality. This is illustrated by the billions of people daily denied access to adequate food and water, while a minority of the world's population lives with an oversupply of food. These inequalities relating to food and water have an explicit link to authoritarian rule:

It is not possible for a government to win popular consent until it has satisfied its people's basic nutritional needs. Therefore, societies where large numbers of people are going hungry are inevitably ruled without popular consent and participation, perhaps even by force, and without democracy in spirit or in structure (Editorial board, 'The Permanent

People's Tribunal on the Right to Food and the Rule of Law in Asia', *article2*, vol. 2, no. 2, April 2003, p. 2).

Genuine democracy is thus essential for the legitimate guarantee of the right to food. Similarly, effective rule of law is also necessary, without which there can be no equality before the law. Ineffective rule of law also means that law enforcement agencies have become instruments to perpetuate inequality, including the unequal distribution of food and water. This is done through state approved violence. Torture, detention and extrajudicial killing become normalized, preventing people from the enjoyment of their rights as well as closing avenues for redress. In this sense the struggle for food and the struggle for justice is one: "The fight against torture, illegal detention, extrajudicial killing and other violations of civil and political rights is essential to create and maintain the space necessary to struggle for adequate food and water" (Editorial board, "The Permanent People's Tribunal on the Right to Food and the Rule of Law in Asia', *article2*, vol. 2, no. 2, April 2003, p. 4).

C. Questions For Discussion

1. Discuss situations where you know there to exist food scarcity or food insecurity while answering these questions:
 - a. Who are the people suffering in these cases (indigenous peoples, laborers etc.)?
 - b. Who is immediately responsible for the relief of these people? What are the relevant domestic laws that can be applied in this situation?
 - c. What is presently being done to help the people and to address the systemic problems that cause hunger?
2. What is the link between access to adequate food and military rule; between right to food and right to land; between food scarcity and working children?

LESSON 2

It has already been mentioned that there is an important link between rule of law and the right to food. This lesson examines the issue of law in more detail: the legal provisions that enable the right to food to become justiciable and the effective enforcement of these provisions.

A. Legal framework

One of the primary factors regarding the right to food is **justiciability**. A justiciable right is one that can be enforced and adjudicated by courts of law, just as other civil and political rights. Justiciability is essential in the fight for the right to food as

making the right to food justiciable means that people can seek remedy and accountability, if their right to food is violated. If Governments are to be properly held to account for not meeting their obligations under international law, then justiciability of the right to food must be fully established. Accountability requires justiciability (Asian Legal Resource Center, ‘Reports of the Special Rapporteur on the right to food’, *article 2*, vol. 2, no. 2, April 2003, p. 22).

Under the international legal system, the right to food (and many other economic, social and cultural rights) requires states to take up positive obligations and duties to ensure that the right is upheld at international and regional levels. However, victims still cannot bring cases regarding the violation of the right to food before any international tribunal, making the right to food not properly justiciable.

The right to food is mentioned most comprehensively in the *International Covenant on Economic, Social and Cultural Rights*. In article 11 of the Covenant, state parties recognize ‘the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions’. Furthermore, the article states that measures may be needed to guarantee the ‘fundamental right of everyone to be free from hunger’.

The *International Covenant on Civil and Political Rights* enshrines the right to life in article 6. According to the Human Rights Committee, the body responsible for monitoring the implementation of this Covenant,

this right should not be interpreted in a restrictive way ... In its General Comment No. 6 on article 6, the Committee considers that “States have the supreme duty to prevent wars, acts of genocide and other acts of mass violence causing arbitrary loss of life” ... States parties are required to take positive steps “to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics” (quoted in ‘Reports of the Special Rapporteur on

the right to food', *article2*, p. 19).

The above paragraph of the Human Rights Committee indicates that the right to food is necessary for the right to life. This being the case, all those covenants and constitutions protecting the right to life also protect the right to food. While too few national frameworks allow specifically for the right to food, they all refer to a related norm, particularly the right to life. In so doing, they are bound to protect all that is necessary for individuals to enjoy the right to life. This is an argument that was concisely made by the Supreme Court of India in response to a petition of 2001, which we can study in some detail.

'Article 21 includes the right to live with dignity and all that goes along with it, including the right to food'

(PUCL petition to Supreme Court of India, April 2001, <http://www.righttofoodindia.org/case/petition.html> Accessed on 3 June 2004.)

Article 21 of the Constitution of India guarantees the right to life of every citizen, and imposes the duty to protect this right upon the state. The Supreme Court of India has previously stated that the right to life includes the right to live with dignity and all that goes along with it, including the right to food.

This being the case, the People's Union for Civil Liberties (PUCL), Rajasthan, approached the Supreme Court with a writ petition on the 'right to food' when hunger intensified in drought affected areas and elsewhere in mid 2001, even as India's food stocks reached unprecedented levels. Initially the case was brought against the Government of India, the Food Corporation of India (FCI), and six state governments, in the specific context of inadequate drought relief. However, the case was subsequently extended to the larger issue of chronic hunger, with all states and union territories as respondents.

The petition pointed out two aspects of the state's negligence in providing food security: the breakdown of the public distribution system (PDS) and the inadequacy of government relief works. The breakdown of the PDS occurs at various levels: its availability has been restricted to families living below the poverty line (BPL), even as the monthly quota per family cannot meet the nutritional standards set by the Indian Council of Medical Research (ICMR). Even this is implemented erratically: a survey in Rajasthan indicated that only one third of the sample villages had regular distribution in the preceding three months, with no distribution at all in one sixth of them. The identification of BPL households is also highly unreliable. All in all, the assistance provided to BPL households through the PDS amounted to less than five rupees per person per month.

With regard to government relief works, there are Famine Codes operational in various states that govern the provision of these works and make them mandatory when drought is declared. Despite being required to give work to “every person who comes for work on a relief work”, the Rajasthan government has followed a policy of ‘labour ceilings’, which restrict employment to less than five per cent of the drought affected population. Actual employment has been even lower, and failure to pay the legal minimum wage has been reported at many places.

One official excuse for both these problems has been the lack of funds. However, the Supreme Court has already held that shortage of funds cannot excuse the failure to fulfill constitutional obligations. According to the PUCL petition,

45. Not only is shortage of resources an unacceptable excuse, it is also untrue and misleading. Close to 50 million tonnes of grain (mainly wheat and rice) are lying idle in public godowns across the State and the country. In some cases, there is barely a distance of 75 kms between the location of these godowns and the places where starvation is rampant.

Furthermore, the current stocks are about 17 million tons in excess of what is required for the purposes of food security and price stabilization, according to the FCI’s own ‘buffer stock norms’. These excess stocks are not only being kept at enormous public expense, but are often stored in sub-standard conditions. Some of it is not even fit for animal consumption, and may end up being dumped in the sea.

In light of the above, the legal grounds on which the PUCL petition was brought against the state governments are as follows:

- B. Because the Respondents have abdicated their constitutional obligation under Article 21 of the Constitution of India which makes it mandatory for the respondents to ensure the right to life of the citizens which includes the right to live with dignity with at least two square meals a day.
- C. Because the Respondents have failed in discharging their responsibilities by not utilizing the resources available for the purposes of drought relief, prevention of starvation and alleviation of misery...
- E. Because in a welfare state the primary duty of the Government is to secure the welfare of the people. Article 21 imposes an obligation of the State to safeguard the life and liberty of every person. Preservation of human life is thus of paramount importance. The State cannot avoid its constitutional obligation in that regard on account of financial constraints.

In response to this petition, the Supreme Court has judged that the state governments are indeed violating Article 21 of the Constitution of India. The Court's judgment in its very essence recognizes the justiciability of the right to food, and the protection of this right under the Constitution. The Supreme Court affirmed that where people are unable to feed themselves adequately, governments have an obligation to provide for them, ensuring at the very least that they are not exposed to malnourishment, starvation and other related problems. Therefore, on 28 November 2001 the court passed an interim order directing all state governments to provide cooked midday meals in all government schools by January 2002, subsequently extended to September 2004. The court also ordered that the Integrated Child Development Scheme (ICDS) be extended to provide universal coverage for all children below the age of six. The court has made numerous other orders, all focusing on alleviating the plight of those denied their right to food and towards improving the access to food within the country. A summary of one such order is given below.

Supreme Court interim order of 2 May 2003

(<http://www.righttofoodindia.org/orders/interimorders.html> Accessed on 3 June 2004.)

- The Sampoorna Gramin Rozgar Yojana (India's revamped Employment Assurance Scheme) scheme to be doubled for an interim period of three months (May—July).
- Famine codes will be binding in the months of May, June and July. However, if better measures are incorporated in other schemes, these may be implemented instead.
- The Government of India is to clarify its response to the Abhijit Sen Committee report by 8 August 2003.
- The Government of India has to evolve a system of ensuring that all poor families are identified as BPL (below poverty line).
- Licenses of ration shop dealers are to be cancelled if they (i) do not open on time, (ii) overcharge, (iii) retain ration cards, (iv) make false entries in BPL cards, or (v) engage in black marketing.
- BPL households are to be permitted to buy grain in instalments.
- The following groups are to be given Antyodaya Anna Yojana (a scheme under which the poorest of the poor get grain at Rs. 2 per kg) cards:
 - (1) Aged, infirm, disabled, destitute men and women, pregnant and lactating destitute women;
 - (2) Widows and other single women with no regular support;
 - (3) Old persons (aged 60 or above) with no regular support and no assured means of subsistence;
 - (4) Households with a disabled adult and no assured means of subsistence;
 - (5) Households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house;
 and

(6) Primitive tribes.

- States that have not yet implemented the order on the midday meal scheme to immediately start providing midday meals in at least 25 per cent of the districts (with priority to poorest districts).

B. Rule of law

In most instances food scarcity is not a result of commonly spouted causes such as natural disasters or a lack of resources. What does in fact heighten the denial of the right to food is the absence or breakdown of the rule of law in society. As already mentioned, there is a significant link between rule of law and the right to food. The collapse of the rule of law in a country can prevent the implementation of practices that enhance the access to the right to food, which is shown in the example of **India**.

Although the rule of law exists in India to the extent that a petition was brought before the Supreme Court and the Court stated that the rights to food and life were indeed being denied and remedial action should immediately be taken, three years after the petition was brought, the Court's rulings have yet to be fully implemented. While the judiciary in India in many instances attempts to uphold the law as it is written, without any body to ensure that the Court's rulings are enforced, the judiciary remains ineffective.

Even after the Court's outlining of specific steps to ensure that the right to food is protected, there has been little improvement in the food situation of most people. This is because the state governments have not taken those steps and there is no accountability to ensure that they do so. This lack of accountability in fact, is the reason for India's existing food and employment schemes being so ineffectual and chaotic.

After its November 2001 interim order directing state governments to provide midday meals in all government schools by January 2002, the court anguished over the order's non-implementation in most states. Apart from Madhya Pradesh and Karnataka, which made modest beginnings at implementation, most other states had done little, including Bihar, Jharkhand, Uttar Pradesh, West Bengal, Orissa and Punjab. Assam and Haryana had failed to even make a beginning, while Maharashtra and Mizoram were apparently asking parents to pay cash to meet a part of the costs. Delhi proposed the distribution of biscuits and corn instead of cooked food, while reports of caste discrimination in the appointment of Dalits as cooks came from Rajasthan, Karnataka and Chhattisgarh.

In fact, some states such as Maharashtra and Kerala are still contending that there are no cases of starvation in their states. This seems to be a common illusion throughout the country, with state governments preferring to believe that food security is not a serious concern and thereby engaging themselves with other things. In such an environment, there is no administrative structure available to investigate food issues or to implement court directives

regarding food. According to Colin Gonsalves, “most officials do not know of the schemes in their own jurisdiction. There is no way for people in a village to know what schemes they are entitled to ... As long as priorities do not change, half of India’s population will be kept deliberately hungry by State policy. Only a revolution can change that” (Colin Gonsalves, ‘The Spectre of Starving India’, *Combat Law*, vol. 1, no. 3, August-September 2002, p. 6). As for the issue of resources,

hunger spreads not because the state lacks the funds to act but it chooses to use its money elsewhere in what V. R. Krishna Iyer once called ‘a perverse expenditure logic.’ A second aircraft carrier for the Navy, to be purchased soon, will cost a thousand crore, an amount that could feed all of this nation’s children (Gonsalves, ‘The Spectre of Starving India’, p. 4).

In a country that has close to 50 million tons of surplus food grain, there is no reason for its citizens to go hungry, let alone die of starvation. The inequality in the government’s food policies results in cases such as that of Thane district, Maharashtra, where the ration cards of scheduled tribe members “showed full offtake though the tribes had not purchased food from the ration shops. Other researchers have found bogus ration cards, poor quality grains and short weighing of foods” (Gonsalves, ‘The Spectre of Starving India’, p. 8). Similarly, in demarcating who fell below the poverty line and who did not, an arbitrary and irrational system was used, leading to the current situation of most poor people not falling below the poverty line.

The income criteria was not followed in most states and particularly in the rural areas as, following the stated income criterion would result in 90% of households falling below the poverty line. Reports from many rural areas indicated households were classified as falling below the poverty line on the basis of visual inspection as to whether the household had a tiled roof or a mud floor. In many tribal areas poor families were excluded if they stated that they ate meat! (Gonsalves, ‘The Spectre of Starving India’, p. 9).

The food situation in India cannot be addressed merely through the judiciary, even though the Supreme Court’s ruling in this instance was remarkable. Apart from the judicial process taking an amount of time that can rarely address the short term needs of individuals who are hungry, the right to food is an issue that comprises of various factors. State food policies, administrative and distributive practices, employment opportunities and allowances all play a role in the access to food. While the Supreme Court has given the issue a much needed boost into the public forum as well as lambasted the credibility of the state governments, the right to food for all can only be enjoyed when pressure is put on these governments to change their policies and address the issues of concern to its constituents. This requires civil society to mobilize and ensure that the governments know what its concerns are.

The situation in **Burma** is much worse than that of India both in terms of the rule of law as well as the denial of the right to food. Burma typifies how military rule and indifference to the rule of law is a major cause of food scarcity. During the 1990s, people throughout the country were having trouble obtaining the food they needed to survive from day to day. However, “this nation of farmers had not stopped growing rice, expanding arable lands, pursuing more advanced agricultural technologies or transporting food from place to place. There was no great drought choking the paddy fields, and no mass infestation of pests that stripped rice from its stalks before the harvest. Still, people weren’t getting enough to eat (Cusano, ‘The making of a people’s tribunal’, p. 35).”

The reason for this lack of food was the militarization of the country. Such militarization involved “a society and government dominated by military values, ideology, and patterns of behaviour ... [as well as] the authoritarianism, oppression, and violence that had become a routine part of government business in Burma (Asian Human Rights Commission, ‘The People’s Tribunal on Food Scarcity and Militarization in Burma (1996-2000)’, *article2*, vol.2, no.2, April 2003, p. 32).”

This militarization means that there is little rule of law, and the law that does exist or is upheld, is of a kind that does not promote or protect the universal principles of human rights. For this reason, soldiers in Burma are able to arbitrarily take over or destroy land and crops, kill livestock, levy exorbitant fees on farmers, while the state pursues policies highly detrimental to farmers and agriculture, all of which directly affect the population’s right to food. For instance,

6a. In northern Shan State the Government of Myanmar issued orders that in 2003 only a foreign strain of paddy (DU.527 Sin Shwe Li) could be cultivated. Villagers had to destroy paddy crops that had already been planted or risk having their lands confiscated. Rather than recycling their indigenous seed, farmers had to buy the new seed at 11,000 kyat per basket (US per 32 kilograms) as well as chemical fertiliser so that the crop would grow. The farmers were also ordered to sell their paddy harvest back to the government at the standard rate of 400 kyat per basket (US.40 per 32 kilograms). If farmers could not sell back the required amount, they had to pay 3,000 kyat per basket (US per 32 kilograms) in cash (ALRC written submission to UN Commission on Human Rights Sixtieth Session, ‘Food scarcity in Myanmar’, [E/CN.4/2004/NGO/29], <http://www.alrc.net/doc/mainfile.php/60written/229/> Accessed on 31 August 2004).

Such authoritarian rule has an explicit link to the inequalities relating to food and water as exists in Burma: it is not possible for a government to win popular consent until it has satisfied its people’s basic nutritional needs. Therefore, societies where large numbers of people are going hungry are inevitably ruled without popular consent and participation. Furthermore,

3. Legal equality is also intrinsically connected to the right to food. Equality before law has little meaning when adequate food and water are denied. In fact, law enforcement agencies often become instruments to suppress aspirations to equality,

and in so doing commit gross violation of human rights ... The willingness to ignore or suppress the rule of law goes hand in hand with the willingness to ignore basic economic rights. To maintain inequality in the distribution of food and water requires state-managed violence. Torture is used to keep people hungry. Fear is instilled to deprive people of basic economic rights and retard their capacity to react. Detention and extra-judicial killings become normalised. This denial of the right to food, then, is accompanied by a breakdown in the rule of law ...

6b. For women from displaced communities in contested areas, tending to remote fields and searching for food in the forest place them at risk of sexual violence. For example, in April 2003 a woman who was gathering bamboo shoots near her village in eastern Shan State's Tachilek township was gang raped by government troops. Similarly, in central Nam Zarng township during June 2003, five girls under the age of 16 were detained by government troops while tending to a soya bean field and were raped over a period of two days and nights ... (ALRC, 'Food scarcity in Myanmar').

A militarized society such as Burma also means that there are no avenues for redress for the victims of these situations. This is further seen by the behaviour of Burma's government with regard to the use of violence in the suppression of popular sentiment, such as the Depayin Massacre of 30 May 2003. Such use of violence destabilizes society and retards people's capacity for expressing their discontent. As ALRC stated in a separate submission on the massacre, "When lawless elements are given a free hand, it sends the message that there exists ... only the un-rule of law. The effect on the collective consciousness is not only to prevent the possibility of democracy, but also to prevent the realization of even the most fundamental rights: those to food, water and other basic necessities" (ALRC written submission to the UN Commission on Human Rights Sixtieth Session, 'Myanmar: Massacre at Depayin', [E/CN.4/2004/NGO/38] <http://www.alrc.net/doc/mainfile.php/60written/239/> Accessed on 31 August 2004).

And thus the People's Tribunal concluded that the source of hunger in Burma was "social rather than natural, rooted in the structure and actions of the state rather than vagaries of land and climate" (quoted in AHRC, 'The People's Tribunal on Food Scarcity and Militarization in Burma (1996-2000)', p. 33).

C. Questions For Discussion

1. Do you know of other situations where the breakdown in the rule of law has caused food shortages or has prevented citizens from access to food? What is behind the collapse of the rule of law?
2. What are the legal provisions for the right to food in your own country? Are these provisions enforced?
3. Discuss how the Indian Supreme Court ruling could be used in other cases to protect the right to food. Are you aware of similar judgments in other countries?