

Convention on the Elimination of All  
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Fourth and Fifth Review – India

**THE RIGHT  
TO ADEQUATE FOOD OF WOMEN IN INDIA**



Submitted by  
FIAN India

## 1. HUNGER AND MALNUTRITION IN INDIA

As per the State of Food Insecurity in the World<sup>1</sup>, India remains home to the largest number of undernourished people in the world: 213 million (17% of its population) between 2011 and 2013. Considering various poverty norms, about 75% of the Indian population suffers from hunger and malnutrition to varying degrees, 50% of it acutely. The Global Hunger Index (GHI) ranks India at 63 with a score of 21.3 among 120 countries, classifying its situation as within the 'alarming' category<sup>2</sup>. The report also noted that India continued to record one of the highest prevalences of children under five who are underweight, at more than 40%, and is among the countries with the highest prevalence of anemia, which affects 51% of women in the age bracket of 15-59 years and 87% of pregnant women. More than 70% of Indian women and children have serious nutritional deficiencies. Similarly, the level of adult malnutrition is high, affecting one-third of the country's adults. In this regard, Scheduled Tribes (STs), Scheduled Castes (SCs), and minorities (Muslims) are at a great disadvantage. As per India's State Hunger Index (ISHI), 12 of the 17 states surveyed fall into the 'alarming' category and one into the 'extremely alarming' category. These 17 major states comprise 95% of total population of India<sup>3</sup>.

About 68.84% of the population of India is rural, the majority of whom greatly suffers from hunger and malnutrition. Also, the majority of the remaining urban population (31.16%) – afflicted by poverty, hunger and malnutrition - is composed of rural migrants who landed in urban slums while exploring employment and income opportunities<sup>4</sup>.

## 2. NATIONAL LEGAL FRAMEWORK OF THE HUMAN RIGHT TO ADEQUATE FOOD

The human right to adequate food is a human right recognized under international law. It is legally recognized in Article 25 of the Universal Declaration of Human Rights and in Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), among others.

Aside from being a signatory to many of these instruments, also to the Convention on the Elimination of Discrimination against Women (CEDAW), India's national legal framework obliges India to ensure that its citizens are free from hunger. The nature of the state obligation to ensure the effective realization of the human right to food is laid out in the Constitution of India. Article 39 (a) – the Directive Principles – is fundamental in the governance of the country, requiring the State to direct its policy towards securing "that the citizens, men and women equally, have the right to an adequate means to livelihood". Article 47 must be read along with Article 39 (a) (d) (e) which spells out the duty of the State to raise the level of nutrition and standard of living and to improve the public health of its citizens, including women, as a primary responsibility. Article 21 guarantees protection of life. Thus, women's right to be free from hunger enshrined in Article 21 is to be ensured by the fulfillment of the obligations of the State set out in Articles 39 (a) and 47. The reading of Article 21 together with the obligations of the State under Articles 39 (a) and 47, places the issue of food security in the correct perspective. The right to adequate food is therefore a guaranteed fundamental right which is enforceable by virtue of the constitutional remedy provided under Article 32 of the Constitution. The requirements of the Constitution are consonant with the obligations of the State under the ICESCR, under which the human right to food is enshrined in Article 11, and to which India is a state party.

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<sup>1</sup> FAO, IFAD and WFP. 2013. The State of Food Insecurity in the World 2013. The multiple dimensions of food security. Rome, FAO, p. 44.

<sup>2</sup> IFPRI, Concern World Wide, and Welt Hunger Hilfe. 2013. Global Hunger Index. The Challenge of Hunger: Building Resilience 2013. Global Hunger Index to Achieve Food and Nutrition Security, p.15.

<sup>3</sup> <http://www.angoc.org/portal/wp-content/uploads/2012/09/12/vietnam-food-and-nutrition-security-situationer/India.pdf>

<sup>4</sup> <http://delhifoodbanking.org/index.php/about/the-big-issue.html>

### 3. SITUATION OF WOMEN IN INDIA IN THE CONTEXT OF THE RIGHT TO FOOD

The CEDAW does not only protect human rights, it also clearly states that all forms of discrimination against women constitute a violation of respect for human dignity. The right to adequate food is a fundamental right whose fulfillment is linked to many other rights, including the right to education, right to health, and right to housing, among others. World-wide, women suffer the most from violations of the right to food due to gender-based discrimination. Since human rights are interdependent and indivisible, the violation of one right leads to violations of other fundamental rights of women, inhibiting them from living a dignified life<sup>5</sup>.

Below, we outline the main obstacles Indian women face when attempting to realize their right to adequate food.

#### 3.1 CEDAW Article 7 – Political and public life

The violation and deprivation of women's right to adequate food not only has a direct bearing on their physical, mental and psychological health, but it has an equally strong impact on women's empowerment, gender stereotypes, structural positioning of women, their representation in the political spectrum and their role and position in society at large. In turn, this lack of participation by women as autonomous, participatory members of efforts to address hunger and malnutrition, along with the lack of women acting on behalf of their families and communities to the full extent of their capabilities, results in the perpetuation of violations of women's right to adequate food through the enactment of inadequate food-related policies that do not take gender into account.

Lack of access to food limits women's mobility. When women struggle for basic survival, then their representation in society at large is a big question mark. Women regularly face discrimination in their access to natural and productive resources, to equity in government policies and programs, and inclusion in decision-making processes at all levels. Despite the recommendation by the Indian Government to reserve 50% of seats for women at *panchayat* level, and 30% of seats for women at legislative bodies and at the parliament, the recommendation has not taken the shape of regulatory frameworks thus far, and the representation of women in the political world is still limited and narrow in scope<sup>6</sup>.

Development of women-friendly policies that ensure the protection of basic rights of women and their right to adequate food and nutrition, in particular, requires equal participation of women in the formulation and implementation of plans and policies aimed at protecting the right to life, including the right to adequate food, the right to water, the right to livelihood, and the right to health and nutrition.

**We kindly request that the CEDAW committee recommends that the state of India adopts all necessary measures to improve women's participation and ensure their active and meaningful role in political and public life. Towards this, below, we outline specific recommendations:**

- To mainstream gender sensitivity in the discussions and decisions taken to protect the human right to adequate food, food and nutrition security, and food sovereignty.
- To ensure women's participation, and provide for the protection of women's rights, in all social welfare programs. The processes should be transparent and clearly defined for the sustainable implementation of such programs.
- To ensure the equal participation by women in local governance, which needs to be strengthened and monitored from a gender perspective.

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<sup>5</sup> See UN Doc A/HRC/22/50, Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter: Women's rights and the right to food.

<sup>6</sup> [http://www.aicte-india.org/downloads/woman\\_empowerment.pdf](http://www.aicte-india.org/downloads/woman_empowerment.pdf)

- To formulate and implement women-friendly policies, enhance the participation of women in program and policy implementation, and create more opportunities for women to make decisions and show their leadership qualities as part of India's effort to change cultural attitudes towards women and their roles in various fields.
- To alter the current early socialization practices of the girl child in the household, community and school and to emphasize the role of women as active agents of society in every front through community-based practices, local governance, the creation of role models, change in traditional practices and the recognition of the true potential of women.
- To develop guidelines for processes to be transparent and participatory with equal participation of women, and for the accountability of concerned authorities to implement the gender sensitive policies at the ground level.

### 3.2 CEDAW Articles 10 and 11 - Access to Education and Employment

Gender-based discrimination, in particular with regards to the rights to education and employment of women and girls, has dire consequences for the realization of women's right to adequate food and nutrition. In India, gender-based discrimination starts at birth; the preference of having baby boys rather than girls still prevails, especially in rural areas. As a result, many parents do not allow their female children to go to school and they are married off at a young age instead. Thus, the female literacy rate (65.46%) is lower than the male literacy rate (80%)<sup>7</sup>. This low female literacy rate has a detrimental implication on the right to adequate food of children in India. Recent studies show that infant mortality is directly inversely proportional to the education level of the mothers – in other words, the children of illiterate mothers are much more likely to die young<sup>8</sup>. Furthermore, these women have a poor earning potential and little autonomy in the household, which influences the right to adequate food for women and her families.

While labor is the primary source of income for women in India, gender inequality persists in terms of women's participation in the labor force, inequality in the wages of women and their access to basic resources, e.g. infrastructure, the market, etc. Despite the fact that women constitute almost half of the Indian population, the work participation rate of women is only 26% as compared to 52% for men<sup>9</sup>. About 24.9% of women in rural areas and about 14.8% of women in urban areas were in the workplace in India 2004-2005<sup>10</sup>. In urban areas, on average, the wage/salary paid to females is only 75% of that which is paid to males, while in rural areas, females are paid 58% of what is paid to males due to the variation in bargaining power of women, available opportunities, and inequitable access to resources by women in both urban and rural areas<sup>11</sup>.

In addition, women who are employed in unorganized sectors are the most prone to violations of the right to adequate food and other associated rights. According to the National Commission for Enterprises in the Unorganized Sector, the unorganized sector constitutes around 86% of the total workforce, out of which around 65% are women<sup>12</sup>. The majority of the wage and self-employed women workers in rural non-agricultural unorganized sectors are landless and sub-marginal land-holders with very small land holdings of less than 0.4 hectares<sup>13</sup>. A woman's class and social origin determines the level of education, and correspondingly her status in the labor market if she participates in it. An All India study and many state-level studies have noted the lack of welfare measures such as crèches for children, rest-rooms for workers, separate toilets for women and potable drinking water. Contrary to regulatory norm, long working hours seem to be a norm for the unorganized sector

<sup>7</sup> <http://www.census2011.co.in/literacy.php>

<sup>8</sup> <http://www.freedomforourdaughters.org/child-brides.html>

<sup>9</sup> The source of this information is "Women and Men in India" (2006), Ministry of Statistics and Programme Implementation, GOI.

<sup>10</sup> <http://indianlabour.org/index.php/labour-laws-institutes/labour-laws/working-women-laws/>

<sup>11</sup> UNCTAD. 2013. How are the poor affected by international trade in India. New York and Geneva, p. 74.

<sup>12</sup> National Commission for Enterprises in the Unorganised Sector. 2009. Skill Formation and Employment Assurance in the Unorganised Sector. New Delhi, p. 18.

<sup>13</sup> National Commission for Enterprises in the Unorganised Sector. 2007. Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector. New Delhi, p.15.

in India and workers are engaged in work for 10 to 12 hours a day<sup>14</sup>. In some industries, the daily wage is for a fixed work day of 10 hours. A study<sup>15</sup> of the construction industry found that only male workers are registered as workers in the muster roll of the employer and the rest of the family remains invisible to statistics, policy and social protection provisions. A part of workers' wages is paid as informal commissions to the middlemen. Furthermore, the informalization process has generated a large segment of workers within the unorganized sector without minimum safe working conditions. A large proportion of unorganized workers remain outside the protection of the Minimum Wages Act in 2002. Casual agricultural workers in rural areas were worse off compared to non-agricultural workers with nearly 87% of the men and 97% of women receiving below the notional minimum wage<sup>16</sup>.

Social norms and exigencies of the double burden of work influence the choice of the place of work for women. More than half of women workers in the unorganised non-agricultural sector work from their own homes, another 10% work in the employer's home or in their own enterprises<sup>17</sup>. Rural non-agricultural women workers are even more likely to work at home than urban women. Rural women workers in India are involved in various agricultural works such as sowing, transplanting, weeding, irrigation, fertilizer application, plant protection, harvesting, winnowing, storing, etc. They are also involved in non-agricultural work, for example, cooking, child rearing, water collection, fuel wood gathering, household maintenance, etc. and similarly in allied activities such as cattle management, fodder collection, milking, etc. There are various hidden costs of home work: the rejection of the product on the ground of poor quality, deferred or delayed payment, the use of own infrastructure and electricity, the supply of poor quality and inadequate raw material, and the lack of a designated business place of work.

Gender discrimination at the workplace is elusive or subtle and is reflected in the nature of work performed, valuation of the skills and the technology used by men and women. Home-workers face problems of seasonality of work. Such seasonality of work reduces the income that they are able to earn. Migrant workers, particularly at the lower end, including casual labourers and waged workers in industries and construction sites, face adverse work as well as living conditions. Migrants, especially women migrants, are highly disadvantaged because they are largely engaged in the unorganized sector with weakly implemented labour laws, without any accountability and with an absence of effective redress mechanisms<sup>18</sup>.

#### **Case of Migrant Labourers, New Delhi**

Migrant populations living and working in the slums in Delhi are by and large engaged in the unorganized sector, earning much below the stipulated minimum wages issued by the Labour Department of Govt. of NCT (National Capital of Territory) of Delhi. Further, it is the women who are facing the brunt of gender-based wage discrimination. While the working men in one particular slum, Sanjay Colony, earn INR 175 on an average per day, their female counterparts only earn a daily wage of INR 118 on average. Gender-based discrimination in this regard has a direct impact on the status of the women in Sanjay Colony, so much so that in a large number of families, the husbands regard their wives as housewives and not as earning members of the family. Discrimination at the workplace exacerbates the situation; if a woman leaves her workplace for more than an hour (the time she usually gets off for lunch), her entire half day's wages are cut. The break might be unavoidable, for example, when women collect water from the tankers which might arrive in their lane at any hour of the day<sup>19</sup>.

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<sup>14</sup> Ibid, p. 36.

<sup>15</sup> Ibid, p. 37.

<sup>16</sup> Ibid, p. 46.

<sup>17</sup> Indrani Mazumdar, Emergent Contradictions: Globalisation and Women Workers in India, CWDS, p.15.

<sup>18</sup> Ibid.

<sup>19</sup> Case information has been obtained from case work conducted by FIAN India in 2013. Last community meeting took place in April 2014.

**We ask that the CEDAW committee recommends that the state of India adopts all necessary measures to ensure equal rights in education and employment opportunities for women. Towards this, below, we outline specific recommendations:**

- To ensure the education of communities to remove societal and cultural norms and stereotypes and inform them about the rights of women and girls in their different roles to guarantee the equality and equal ability of women and girls to claim their rights as individuals and not just as members of a household.
- To fix a uniform and fixed rate at national level regarding minimum wages. While formulating policies of minimum wage, special attention should be given to women workers in the unorganized sector. Monitoring and redress mechanisms that incorporate a gender perspective shall also be in place.
- To provide workers in the unorganized sector, especially in home-based occupations, proper social security, well-defined minimum wages, and with the necessary safeguards against occupational hazards and exploitation. Monitoring and redress mechanisms shall be put in place.
- To ensure the amendment and effective implementation of social welfare programs with a gender sensitive approach.
- To make available details on all the benefits meant for women under national programs and policies and entitlements towards non-fulfillment of the provisions at the *Panchayat* level in order to make women more aware so that they can access those benefits.
- To ensure that education, training and capacity building cuts across all levels of policy implementation towards the empowerment of women.

### **3.3 CEDAW Article 12 - Access to Health care and Nutrition**

While there are various welfare schemes in place with the potential to improve<sup>20</sup> the health and nutrition situation of the poor in the country,<sup>21</sup> these schemes lack a holistic understanding of the intrinsic links between health, nutrition, food, socio-economic status and gender, thus failing to fully realize the right to adequate food of all women and girls in India.

According to the specific case of ICDS programs, around 3.82 lakh of Anganwadis (“courtyard shelters”) have opened so far, providing basic health care to Indian villagers. In the meanwhile, programmes like midday meals for schools, nutrition for children and pregnant mothers through the ICDS rural livelihood have been scaled down<sup>22</sup>, a retrogressive measure negatively impacting women’s and young girls’ right to adequate food.

As per the analysis by FIAN India on the recently enacted National Food Security Act (NFSA), which aims to provide subsidized food grains to approximately two thirds of India’s 1.2 billion people, does not refer to any nutritional requirements of people, nor the importance of access to natural resources and its link to the right to adequate food. Inadequacy and quantity of food provisioned in the act is not enough for the healthy growth of people. Limiting the average size of eligible family members to receive food to five restricts the right to adequate food of other family members, if it is a larger family. This will result in women sacrificing themselves for the sake of their families, which will have various negative impacts on women’s nutrition and health. In addition, this act talks of only distribution of food without much focus being given to food production, innovation, technological inputs, and access to adequate food, and it lacks an inclusive and sustainable approach, thus making people become dependent on government welfare schemes, rather than being empowered to lead a sustainable life with dignity.

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<sup>20</sup><http://timesofindia.indiatimes.com/india/Chidambaram-squeezes-poor-to-balance-books/articleshow/30691599.cms>

<sup>21</sup> Such programs are for example, Integrated Child Development Services (ICDS), National Rural Health Mission (NRHM), Mid-Day Meal Scheme, Indira Gandhi MatritvaSahyogYojna (IGMSY) as direct-targeted interventions. In addition, indirect multi-sectorial interventions include Targeted Public Distribution System (TPDS), National Food Security Mission, Nirmal Bharat Abhiyan, and National Rural Drinking Water Programme, among others.

<sup>22</sup> Ibid.

Women experience lack of self-confidence because of societal lifelong discrimination, lack of opportunities, lack of decision-making powers, lack of access to health care and family planning, and the struggle for day-to-day survival needs. Isolation limits women's ability to secure even the most basic resources and this has a strong negative impact on their health status. As already stated above, hunger and malnutrition have a distinct gender dimension and are widespread among women in India. The National Family Health Survey of 2013 showed that over half of the women were anemic and 36% of women were underweight<sup>23</sup>. Gender inequality in nutrition is present from infancy to adulthood. Women never reach their full growth potential due to nutritional deprivation. Malnutrition in women is related to the less-empowered status of women, the backward socio-economic conditions of women, poverty, lack of development, and lack of awareness and literacy.

**We request that the CEDAW committee recommends that the state of India adopts all necessary measures to ensure adequate access to health and nutrition for women and girls. Towards this, below, we outline specific recommendations:**

- To develop awareness programs at the local and national levels on existing programs and policies to improve the health and nutritional status of women and girls.
- To place maternal and child nutrition at the center during the formulation of health plans and policies. In this regard, the NFSA should pay special attention to the nutritional values of food distributed under this Act.
- To ensure that rules and regulations on maternity benefits are sensitive enough to ensure women's Right to Health.
- To mandate women's education on health and nutrition at all levels of the education system.
- To develop better infrastructures to guarantee adequate access to facilities (like roads and transportation to ensure access to hospitals or health care centers, safe water and sanitation facilities, health education, better management of hospitals and health care centers, and qualified doctors, etc.) to guarantee the non-discriminatory access to health care by all women.
- To establish women-friendly administrative procedures and single-window mechanisms where violence and women's right to adequate food intersect and specific actions need to be taken in that regard.
- To implement a synergetic approach at the micro and macro levels of social welfare program implementation in order to mobilize resources towards sustainable and speedy implementation of programs and projects.
- To follow an inclusive and integrated approach towards nutrition, health, agriculture, education and livelihood in the formulation and implementation of related programs.
- To strengthen monitoring mechanisms, including Social Audit, State Food Commission, Joint Food Commission, among others, as part of NFSA. There should be stringent follow-up at all levels of implementation and periodic reviews of programs in the field.

### **3.4 CEDAW ARTICLE 14 – Rural Women**

India's rural women – in part due to their unique role in food and nutrition security as producers of the majority of food grown or harvested and their deep dependency on natural and productive resources, as workers who are often left out of labour protection legislation, and as women and girls with inadequate access to services and information – face specific hurdles when attempting to realise their right to adequate food and nutrition.

#### **a) Access to natural resources**

The Government of India has passed several acts related to women's access to land and community rights over common property resources: The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of forest

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<sup>23</sup> <http://timesofindia.indiatimes.com/home/news/Hungry-for-votes-but-no-neta-to-fix-malnutrition-problem/articleshow/33714275.cms>

Rights) Act, 2006<sup>24</sup>, the Mines and Minerals (Development and Regulation) Act 1957<sup>25</sup>, and the Coal Bearing Areas (Acquisition and Development) Act 1957<sup>26</sup>. Historically many of the community-managed ecological resources have been led by women, especially tribal rural women. Despite this, the participation of women at policy level relating to implementation is very minimal. There are no clear-cut guidelines relating to this. Poor status of implementation of the above-mentioned acts has led to evictions and denial of access to natural resources, especially affecting women.

**Case Example: Kusumtola, Jharkhand**

*The plight of rural women in India is further illustrated by the following case of the Kusumtola village in Jharkhand. This village is a small hamlet of about 150 Adivasis (indigenous population) families with a population of approximately 1000 people, of which about 53% of the total population are women and girls. Adivasis have a history of a rich agricultural economy. They are known to grow enough food to adequately feed themselves and their families. Their income is supplemented by minor forest produce and seasonal labour work in the off-season. However, over the years, these local villagers have been facing serious violations of their access to and control over natural resources, mainly land, water and forests, owing to the continuous open cast coal mining in the area. Lack of access to natural resources has further violated their right to adequate food and livelihood, degrading their education and health status, and compelling their forced displacement, migration and even trafficking in certain cases. In such times of difficulty, women and young girls are the worst sufferers. Firstly, women in this region are not receiving employment from the coal company as opposed to their male counterparts who are receiving jobs as part of a compensation package. So far they had their land, and thus access to its produce, but now, they are left with neither traditional opportunities for livelihood, nor the opportunities to work in the company. They have now become completely dependent on the earnings of their male counterparts and if they go out for work, they will only get the job of daily wage laborer as they are mostly illiterate. Women are also disproportionately impacted by poverty and hunger, including having lower access to education and health care facilities as compared to men. It is especially so in crisis situations where food is in short supply that women and girls are more likely to reduce their food intake as a coping strategy in favour of other household members. This has led to severe anemia among women and girls in this region<sup>27</sup>.*

**b) Property rights and access to land by women**

Despite the enactment of the Hindu Succession (Amendment) Act, 2005, which strengthens the rights of Hindu women to inherit property, giving them equal rights with men, a daughter who claims her share of property is still often seen as a defect<sup>28</sup>. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, provides for fair compensation to people and transparent process when land is acquired by the Government bodies for industrial purposes. The act aims towards the betterment of communities involved in land acquisition; however, it fails to recognize the role of women or impact on women in land acquisition, rehabilitation and resettlement. There is no social impact assessment of the resettlement area, and no livelihood options are provided for women under this act. Monetary compensations are not enough to ensure the same quality of life that women enjoyed before resettlement. The resettlement areas are often dingy with unhygienic conditions for survival. Money received as compensation is often wasted by men of the household and soon the women are left with no option but to get involved in menial jobs for survival. There is no mandatory participation of women in consultation processes for land acquisition though they are the worst affected stakeholders of such decisions.

<sup>24</sup> The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of forest Rights) Act, 2006 aims to recognize and vest the forest rights and occupation in forest land for forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. The act also provides for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

<sup>25</sup> The Mines and Minerals (Development and Regulation) Act 1957 provide for the development and regulation of mines and minerals under the control of the Union.

<sup>26</sup> The Coal Bearing Areas (Acquisition and Development) Act 1957 which is established in the economic interest of India has provided for greater public control over the coal mining industry and its development by providing for the acquisition by the State of un-worked land containing or likely to contain coal deposits or of rights in or over such land, for the extinguishment or modification of such rights accruing by virtue of any agreement, lease, license or otherwise, and for matters connected therewith.

<sup>27</sup> Case information collected since 2012 and last community meeting was held in the month of February 2014.

<sup>28</sup> <http://www.thehindu.com/news/national/other-states/she-wins-her-share-of-land-from-brother-but-loses-her-family/article5259208.ece>

### **c) Agricultural inputs**

Despite the fact that women in developing countries provide nearly 70% of the agricultural labor, they continue to account for over 60% of the world's hungry<sup>29</sup>. Lack of gender equality limits a woman farmer's access to agricultural inputs, credit services and a market to sell her products. These constraints lead to lower crop yields, produce being sold at a lower price and, ultimately, continued poverty and hunger for her and her children. Equal access to these agriculture inputs and services could increase the average woman farmer's crop yields by 20-30%. Given the opportunity to generate and control an income, women routinely invest significant portions of their income in food, healthcare and education for their families. Women's knowledge in agriculture needs to be tapped and used in research. An integration of nutrition, health and agriculture needs to be adopted through diverse democratic participation in food policy from the local to global levels. Women's knowledge in sustainable use of resources for food security needs to be recognized and women farmers need to have more access to information, markets and technology in forms relevant to them.

### **d) Right to water**

Due to a lack of availability of water at or near their homes, women have to travel long distances to fetch water. This has health hazards especially in erratic weather conditions. In this case they often use the water from local and polluted water bodies for their daily use. This affects the health and hygiene of women and their families. This in turn causes water borne diseases and infections. Acute Diarrheal diseases affected more than 10 million people in India and this number went up to over 11 million in 2012 and in 2013<sup>30</sup>. Although 99.6% of urban and over 97% of rural households surveyed had access to safe water, as defined by the United Nations Millennium Development Goal (MDG) target 7c indicator, water was contaminated in 41.5% and 60% of rural households<sup>31</sup>. Improved access to water can reduce women's workloads, increase productivity and provide more time for income generation, political participation and leisure. Accessible domestic water supplies, even if shared by a large number of households, can make more and better-quality water available for family needs, reduce female drudgery and reduce the incidence of debilitating water-borne diseases.

#### **Case: Kolleru Lake, Andhra Pradesh**

The Dalits or the outcaste villagers in the Kolleru Lake District of Andhra Pradesh, continue to face discrimination and atrocities by upper caste people which have, over generations, led to their loss of traditional livelihood opportunities owing to decline in local natural vegetation and fish extinction caused by environmental degradation. In addition, they face the serious problem of indebtedness. Though each household is entitled to get 100 days of work per annum under the National Rural Employment Guarantee Act (NREGA), they seldom get it due to inaction by the district administration. Lack of livelihood opportunities combined with inadequate access to natural resources and subsidized food grains under the public distribution system of the government, leads to grave violations of right to adequate food of the target group in this area. However, it is the women and girls that are the most affected amongst this target group. This is mainly due to lack of concern within the family as well as community towards them. Women are also disproportionately impacted by poverty and hunger, including having lower access to education and health care facilities as compared to men. It is especially so in crisis situations where food is in short supply that women and girls are more likely to reduce their food intake as a coping strategy in favour of other household members. This has led to severe under-nutrition and anemia among women and girls in Kolleru Lake district<sup>32</sup>.

**We kindly request that the CEDAW committee recommends that the state of India adopts all necessary measures to ensure the full realization of rural women's right to adequate food and related human rights. Towards this, below, we outline specific recommendations:**

- To acknowledge, document and use women's knowledge in the sustainable use of resources for food and nutrition security and food sovereignty.

<sup>29</sup> [http://www.thp.org/learn\\_more/issues/gender\\_discrimination](http://www.thp.org/learn_more/issues/gender_discrimination)

<sup>30</sup> [http://en.wikipedia.org/wiki/Traveler's\\_diarrhea](http://en.wikipedia.org/wiki/Traveler's_diarrhea)

<sup>31</sup> <http://www.thehindu.com/news/national/60-per-cent-rural-homes-get-contaminated-water-report/article5927267.ece>

<sup>32</sup> Case information collected by FIAN India since 2013.

- To take actions that ensure the realization of women farmers' rights to adequate access to productive resources, relevant information, markets and technology.
- To ensure that Panchayat plays a key role in spreading awareness of legal rights of women and access to the same.
- To develop relevant policies and programs as per the FAOs Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests, which have emphasized the role of women in protection of the basic right to food and sustainable development.

### 3.5. EXTRA-TERRITORIAL STATE OBLIGATIONS

States are obliged to respect, protect, and fulfill the right to food of people living under their jurisdiction, even if these are located beyond the borders of their territory. The obligations that a state has beyond the borders of its territory are called Extraterritorial Obligations of States (ETOs). A main regulatory framework facilitating the analysis of cases of violations of the ETOs of a specific state are the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, 2012<sup>33</sup>. Extraterritoriality also applies for women's human rights.

#### **Case: Lakshmanpur Dam, Nepal**

Every year the livelihoods of thousands of people living in six Village Development Committees (VDCs) -- Holiya, Betahani, Mattaiya, Fattepur, Bankatti and Gangapur-- of Banke District of Nepal are destroyed and the villagers are displaced from their lands and homesteads due to recurring floods and erosion by river Rapti. Lakshmanpur Barrage and an added 22.5 km of Kalkalwa Afflux Bund, both constructed by the Government of India in 1985 and 2000 respectively, are barriers which obstruct the natural flow of river Rapti and two streams, Sotahiya and Gandhaili. This has caused the changing of the river course resulting in annual inundation: Agricultural lands are not only flooded but also very often totally eroded with massive river cutting. Loss of lives (human and livestock), properties (erosion of land, damage of homes and property), crops, and harvested grains, are the repeated reality, as a consequence. About 2,000 ha of agriculture land is deteriorated by river cutting and inundation. Currently, the Government of India is constructing another highway similar to Kalkalwa Afflux bund from Pirahawa VDC to Hirminiya VDC, Masitpurwa village, pillar no. 26, near SSB camp, which is tentatively 3.5 km long. This construction is in Indian Territory but hardly 10 meters away from the No Man's Land.

According to the affected communities, the temporary relief packages (containing tea, sugar, beaten rice, instant noodles, biscuits, salt, oil) and other items (blankets, tents, life jackets) distributed to them by the Government of Nepal are not sufficient to survive the flood period (the packages are even frequently damaged or lost by water). People go hungry for days. They also have difficulties in getting clean drinking water. As water collection and cooking is mainly the task of women they are facing an additional burden. Many of them are being forced to live in temporary sheds, which are also damaged by the rains. Especially for women it is very difficult to go to the toilet during times of inundation, and, as a consequence they are facing health problems. In cases of pregnancy, access to hospitals is impossible. The area has seen a drastic change from a food surplus area to a food deficit area. The food production has declined, affecting food availability and thereby forcing people, especially males, to migrate and take up labor works, while women are left behind alone with the burden of entire household works. Before, they grew most of the food items on their own; however, in recent years, the communities are buying these from the wages earned. Quality of the food purchased from the market is lower compared to homegrown food products. As such the economic condition is much more difficult. It was reported that frequency of meals has reduced as well as the intake regarding variety of food items.

As immediate response to affected communities' claims, the construction of a permanent embankment on both sides of Rapti River of at least 28 Km is necessary. The Government of Nepal has taken some initiatives in terms of construction of the permanent embankment. Recently, the Government of Nepal has started the construction of 700 meters of permanent

<sup>33</sup>The Maastricht Principles constitute an international expert opinion, restating human rights law on ETOs. The Maastricht Principles were issued on 28 September 2011 by 40 international law experts from all regions of the world, including current and former members of international human rights treaty bodies, regional human rights bodies, as well as former and current Special Rapporteurs of the United Nations Human Rights Council. The Maastricht Principles do not purport to establish new elements of human rights law. Rather, the Maastricht Principles clarify extraterritorial obligations of States on the basis of standing international law. Please see the principles under: [http://www.etoconsortium.org/nc/en/library/maastricht-principles/?tx\\_drblob\\_pi1%5BdownloadUId%5D=23](http://www.etoconsortium.org/nc/en/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUId%5D=23)

embankment at Holiya VDC ward No. five. In March 2014, 70 million Nepalese Rupees (NPR) were released from the Ministry of Irrigation for the construction of the permanent embankment. As per the demand by the local communities, an additional 50 million (5 Crore) NPR has been released for the ongoing construction of the permanent embankment at Holiya. It is just an initiative to protect Tepri and Ghodihanpurwa villages of Holiya VDC; however, there are several other locations which remain at high risk. Support from the Indian government is required to protect the life and livelihood of those in the most affected areas. Although the construction of the 700-meter permanent embankment began in March 2014, only 25% of the work has been completed and the remaining 75% seems impossible to complete prior to this monsoon. Local communities express their worry that even the 25% of work that has been completed will be washed away by the flood if the construction is not completed on time. As per the various treaties and agreements between the two countries, India has a responsibility to ensure its actions do not have such devastating results for its bordering country. India needs to take measures to ensure that its actions do not harm those in the nearby region in Nepal<sup>34</sup>.

**We kindly request that the CEDAW Committee recommends that the state of India complies with its extraterritorial obligations regarding the women of the Lakshmanpur case in Nepal, in light of the Maastricht principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights. Measures towards ETO compliance should include inter alia:**

- To adopt all necessary measures to ensure that the damage caused by the dam to the Lakshmanpur Communities does not create additional damages to the affected communities, especially women.
- To conduct a human rights impact assessment in order to establish the impact that the Dam has had on the human rights of the women of the affected communities and adopt all necessary measures to ensure gender sensitive remedies to the victims, including compensation, restitution, rehabilitation and guarantees for non-repetition.

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<sup>34</sup> Case information collected by FIAN India since 2012.