

Chairperson and Friends,

Let me state at the outset what a great privilege it is for me to address all of you here. I am breaking with an ancient Indian tradition which probably came to us from Sicily. And the tradition is that you never speak after your consigliore has spoken and the Right to Food family in India whom Colin Gonsalves represents is quite happy to allow him to have the last word, especially if it is in the Supreme Court of India.

The Office of the Commissioners of the Supreme Court was created by the Court under extraordinary circumstances in India. In a situation where widespread chronic hunger persists despite high economic growth rates, despite some of the largest food schemes, despite institutions like the NHRC and despite a very vibrant civil society.

The Commissioners owe their existence to the Right to Food Case that we have just heard about, which is the longest continuing case and perhaps one of the more innovative instances of an intervention of the Courts on justiciability to ensure the Right to Food. Our office monitors all the food and employment schemes of the Government of India on behalf of the Court. It ensures that national policies are not in violation of Supreme Court orders and that we move decisively to the mandate on the Right to Food that have been enshrined in the 55 interim orders of the Supreme Court.

Let me share some of the key lessons that we have on this journey.

The first lesson was that it is extremely important not just to enunciate the principles on the Right to Food but to translate them into durable legal entitlements that can then be made justiciable. In doing so, the approach that we have followed is to get the Supreme Court of India to create specific entitlements which are unique to every age group, and every vulnerable section in the country. The examples of the school meal programme for all children studying in primary schools and the supplementary nutrition provided to children below of the age of six are examples of this detailing. For children under six for instance, we have further disaggregated it to distinct Right to Food entitlements for infants below six months of age, children under the age of three and children in the age group of 3-6 years .

The second key lesson for us was that the battle of the justiciability of these entitlements is a battle of the detail. Our ability to analyse budgets, critique allocations, and understand expenditure is the key to influencing the judiciary and policy makers. We produce some voluminous and I must warn you terribly dry and boring reports which are known as (Commissioners Reports) which not only informs the Bench for passing directions against the State but also helps civil society in challenging local governments. I must say that in all these years there hasn't been a single instance where our analysis could be challenged in the Supreme Court by the Government. Indeed, we now find ourselves as part of very many official bodies of the Government to assist in developing programmatic inputs.

The third key lesson, early on, was that the powers we have been granted by the Supreme Court of issuing directions to the State and Central Governments which enjoy the force of law or recommending contempt of court proceedings against the senior most officials of the national government – are powers that are best exercised in restraint. Our approach therefore with the Government has been that of “co-operating where we can” and “resisting where we must”. It has been an approach that has served us well since we are able to influence state policy way beyond the mandate of the Supreme Court orders. The formal involvement of the Commissioners Office in the processes of drafting the Eleventh Five Year Plan process through participation in various committees of the Planning Commission is an example of such an intervention. In many states, like Chhattisgarh we have managed to put in place greater accountability and transparency through the use of information technology for programmes like the Public Distribution System. In Delhi we are assisting the Government in convergence of all the social sector programmes including the food schemes and putting in place a mechanism of identifying the poor that uses vulnerability criteria for identification of the poor rather than just income and expenditure criteria.

The fourth key lesson and perhaps one of the most important one for us has been that of working closely with civil society. The fact that most of us in the Commissioners Office have been very active with people’s movements has enabled us to draw from their strengths and mobilise more than a thousand institutions across the country including trade unions, NGOs, people’s movements, the media, professional bodies and associations and even faith based organisations into our work. A defining feature of the Right to Food Movement in India has been the combination of legal action and strong local action – of communities and interest groups coming together at every level to assert their rights and hold the State which is the principal duty bearer - accountable.

Lastly, our key learning has been that ensuring the right to food is a continuous and on-going process. It is the persistence of the goldsmiths hammer not a single revolutionary stroke that is most likely to ensure the right to food. And newer challenges keep coming up every single day. For instance the fact that public spending has gone up five to seven folds in the last few years for our entitlement feeding programmes because of the interventions of the Supreme Court has led to the emergence of strong private sector lobbies and industries trying to wrestle control from local communities for the procurement and supply of food. The recent food crisis has again brought to the fore a series of newer challenges that we had not envisioned before.

We are constantly being forced to open new fronts and fight against these emerging challenges.

While we are proud of some of our achievements, we are also fiercely possessive about our failures. Let me therefore focus now on the major challenges that continue to besiege us.

Michael Windfuhr touched briefly on other policies and laws which have a bearing on the Right to Food. In India, the neo-liberal orthodoxy which has political leadership, is

obsessed with double digit growth rates at costs, and continues to alienate land, forest and natural resources from communities, for industries and projects like large dams.

As a prominent Urdu Poet Sahir Ludhiannvi said, “the world gives with one hand and takes away with a hundred hands”. As Court Commissioners we are only monitoring utilisation and outputs of that one hand of Government that is in the domain of monetary policy. Yet the pressures of globalisation is snatching away the rights and entitlements of the very poor and marginalised communities over what they hold most dear – land, water and forests. And we are unable to challenge this within the present framework of our case and the mandate that we hold.

Our inability to influence these policies is likely to prolong the struggle for the right to food in India.

The second major drawback has been our inability to develop a national consensus on the setting up a decentralised system that will supplement or even perhaps replace the Office of the Commissioners to deal with individual grievances more effectively. As you will understand an institution of five and half people located in the national capital, constituted from the aristocracy of civil society, can never be a corner stone of justiciability of the Right to Food in a country of more than a billion people. We need a system of a thousand or even five thousand such institutions spread across the length and breadth of the country to effectively address the issue of justiciability in India. The test of our

If I sound overtly pessimistic in stating these challenges, I must hastily add this is merely the pessimism of the intellect, and has in no way diminished the optimism of our will. The battle of the right to food is for all of us far too important a battle to give up on. The 46% child malnutrition figure that we have in India has another side as well. It means that the hardest lesson that fifty percent of the mothers in India have to teach their children is the lesson of how to live with hunger. It is therefore a battle that we cannot afford to lose.