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# Analysis of the National Food Security Act

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REET ANURAG<sup>1</sup>

## ABSTRACT

*The Indian Public Distribution System (PDS) plays an important role in alleviating food poverty by acting as a safety net by delivering staples at a reduced price. Despite the fact that the PDS is an important part of government food and nutrition policy, India still has a big population of hungry and malnourished individuals. The purpose of this study is to look into how the PDS works and how effective it is at achieving food and nutritional security in India. Using the key phrases "food insecurity" OR "food security" AND "Public Distribution System" OR "PDS" OR "TPDS" AND "India," a complete and systematic search yielded 23 articles that fulfilled the inclusion requirements. The scarcity of published material in the domains of PDS and food security in India is highlighted in this review. The review's findings underline the importance of PDS in combating hunger and malnutrition, while also emphasising its limited impact on food security and childhood mortality due to operational inefficiencies. If operational inefficiencies and environmental footprints are addressed by sufficient policy reforms, the PDS has the potential to be a solution to India's food shortages.*

## I. INTRODUCTION

On September 12, 2013, the National Food Security Act was passed. It is<sup>2</sup> “an Act to provide for food and nutritional security in the human life cycle approach, by guaranteeing access to an appropriate amount of quality food at reasonable costs to people in order for them to live a dignified life, and for issues connected with or incidental thereto.”

Its goal is to safeguard all children, women, and men in India from hunger and food insecurity. Its implementation was motivated by a variety of social, economic, and political factors. This Act's goals also include establishing new delivery, openness, and accountability criteria for social services. It also seeks to ensure appropriate nutrition, which is drawn from the right to food as part of the right to life under Article 21 (interpreted by the Supreme Court as a right to live with dignity)<sup>3</sup>, which is a basic right of all people.

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<sup>1</sup> Author is a student at Law College Dehradun, Uttarakhand University, India.

<sup>2</sup> National Food Security Act, 2013

<sup>3</sup> WP(C) No. 196/2001

Recently, in *Ami Prabal vs. Union of India and Others*<sup>4</sup>, the Madhya Pradesh High Court ruled that if the state has a responsibility to apportion food grains, the state must obey that order in order to provide food to residents. Families with BPL and APL cards were entitled to 35 kg of food grains each month, according to a Supreme Court judgement. However, state BPL and APL card holders were granted. However, BPL and APL card holders in the state received only 20 kg per month since the number of card holders under the Union of India differed from that of the state of Madhya Pradesh, implying that true BPL households were not receiving benefits as mandated by the Supreme Court. As a result, it was not a lack of food that was to blame for the hungry stratum, but rather the administration's lackadaisical attitude in identifying BPL and APL families. Furthermore, food grains might be preserved from waste due to insufficient storage capacity. Given that the right to food is a fundamental human right and a component of the right to life, the Court, while dismissing the petition, urged the respondents to remedy the discrepancy in the number of BPL and APL card holders in the state. This is one of the main incidents that drove the government to pass legislation to safeguard the right to food.

The act focuses on legal food entitlements i.e. the duty of central, state and local governments to provide food to the people, through subsidised grain, direct feeding programmes and related interventions. According to the act –“Every person belonging to priority households shall be entitled to receive five kilogrammes of food grains per person per month at subsidised prices specified in Schedule I from the State Government under the Targeted Public Distribution System.”<sup>5</sup>The entitlements of persons belonging to eligible households at subsidised prices shall extend up to 75% of the rural population and 50% of the urban population.<sup>6</sup> The act also includes special provisions for pregnant women and children up to the age of 14 years.<sup>7</sup>

This study compares and analyses several portions to establish the validity of the various components of the National Food Security Act, 2013.

## II. LEGISLATIVE HISTORY

Many attempts have been made to pass legislation to safeguard the Indian populace from malnourishment. In 2001, a public interest litigation (PIL) revealed that large amounts of food grains were decaying in government granaries, which might have been better used to feed the starving populace. HRLN filed a Public Interest Litigation at the Supreme Court on behalf of the People's Union for Civil Liberties (Rajasthan) in April 2001 – seeking legal enforcement

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<sup>4</sup> 2013(1)JLJ97

<sup>5</sup> *supra* note 1

<sup>6</sup> *ibid*

<sup>7</sup> *ibid*

of 'Right to Food.'<sup>8</sup> Formalized paraphrase According to the Government of India, there are 36 crore people living below the poverty level and more than five crore people suffering from famine.<sup>9</sup>

The Court intervened and issued multiple directions to address this threat in the public distribution system. It maintained the inevitability of the right to food and maintained Article 21 of India's Constitution, which ensures the fundamental right to "life with human dignity." The Food Corporation of India has been tasked with ensuring that food grains do not rot and are used properly. The following schemes were delegated to the states: the Employment Assurance Scheme, the Mid-day Meal Scheme, the Integrated Child Development Scheme, the National Benefit Maternity Scheme for BPL pregnant women, the National Old Age Pension Scheme, the Annapurna Scheme, and the National Old Age Pension Scheme. Antyodaya Anna Yojana, the National Family Benefit Scheme, and the Public Distribution Scheme for BPL and APL households are all available.

The PUCL petition focuses on two elements of the state's failure to provide food security: the collapse of the public distribution system (PDS) and the insufficiency of assistance initiatives in drought-affected areas. Following this, it petitioned the Supreme Court to intervene, instructing the government to supply subsidised food grain to all families, among other employment-related directives. In addition, the suit asks the court to require the central government to provide free food grain for all of these projects.

This is one of the largest and most complicated litigations. Until 2005, the petitioner and respondents submitted 382 "affidavits," 55 "interim applications," and 44 "interim orders". The Supreme Court of India has issued directions mandating the Indian government to: (1) offer cooked mid-day meals in all elementary schools; and (2) offer 35 kgs of grain each month at significantly subsidised rates. subsidised prices to 15 million destitute households through the PDS's Antyodaya component, (3) doubled resource allocation for the Sampoorna Grameen Rozgar Yojana (India's largest rural employment programme at the time, now superseded by the Employment Guarantee Act), and (4) made Integrated Child Development Services (ICDS)<sup>10</sup> universal On November 28, 2001, the Supreme Court issued an interim decision converting most food and employment-related programmes into "legal rights." The climate provided by the Right to Food Case aided the NREGA's formation. In an interim ruling issued

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<sup>8</sup> *supra* note 2

<sup>9</sup> Censusindia.gov.in. 2021. *Census of India Website : Office of the Registrar General & Census Commissioner, India*. [online] Available at: <<http://www.censusindia.gov.in/2011-common/censusdataonline.html>> [Accessed 27 July 2021].

<sup>10</sup> *Ibid*

on May 8, 2002, the Supreme Court also established an independent mechanism—the Supreme Court Commissioners—to guarantee that the state and federal governments follow the court's directives. The Commissioners report to the Supreme Court twice a year. The Supreme Court then orders the state and federal governments to react to the Commissioners' concerns.

Interim proposals presented by PUCL from time to time have expanded and consolidated these demands. The first petition focused on the drought conditions that existed at the time, particularly in Rajasthan, but the case is now considerably larger in scope. The primary objective is to put in place permanent measures to avoid hunger and famine, so fulfilling the idea of the right to food.

The case has proved that states cannot avoid the obligation of providing the Right to Food, and the organisation is still working to enhance the development and implementation of food-related social security systems. The case is also a driving reason for the national food security bill. The Congress had vowed to adopt a Right to Food Act in their national election programme in 2009. The goal of the law is to ensure that everyone has access to enough food. The National Advisory Council (NAC) produced a National Food Security Bill in October 2010, establishing legal entitlements for around 75% of the population. In January 2011, the Prime Minister appointed an Expert Committee, chaired by Dr. C. Rangarajan, to evaluate the Bill and provide many suggestions. In September 2011, the Ministry of Food, Consumer Affairs, and Public Distribution issued a draught Bill for public comment. The measure was introduced in Parliament for the first time in December 2011. The Indian government submitted a modified food security bill in the lower house of Parliament in May 2013, abandoning a previous idea for different categories of recipients in urban and the countryside. Following more revisions, deliberations, and discussions in both chambers of parliament, the law was eventually adopted in September 2013.

### **III. INTERNATIONAL RECOGNITION OF RIGHT TO FOOD**

The human right to adequate nourishment is recognised under international law. The key treaty in this respect is the International Covenant on Economic, Social, and Cultural Rights. According to Article 11.1 of the Covenant, “everyone has the right to an acceptable standard of living for himself and his family, including appropriate food, clothes, and shelter, as well as the right to continual improvement of living conditions.” Article 11.2 notes that more immediate and urgent efforts may be required to achieve “the fundamental right to be free from hunger and malnutrition.” The right to adequate sustenance is essential for exercising other rights. It states that the right to adequate sustenance is inextricably tied to the intrinsic dignity

of the human person and is required for the fulfilment of other rights. human rights recognised in the International Covenant on Civil and Political Rights.

The Covenant on Economic, Social, and Cultural Rights stated in General Comment 12 that “the right to enough food is achieved when every man, woman, and child, alone or in community with others, has physical and economic access at all times to enough food or means of procuring it.” According to the General Comment, the achievement of the right to adequate nourishment necessitates:

“the availability of food in sufficient quantity and quality to meet the nutritional needs of humans, free of harmful chemicals, and acceptable within a given culture, as well as the accessibility of enough food, including both economic and physical accessibility.”

#### **IV. FEASIBILITY OF THE BILL**

The National Food Security Bill (NFSB) proposes distributing approximately 61.2 million tonnes of cereals, primarily rice and wheat, through the existing public distribution system (PDS) and other welfare schemes (OWS), at a cost to the exchequer of Rs. 1,25,000 crore per year, or about 1.1 percent of GDP. The food bill will need the purchase of around 62 million tonnes of cereal grain.<sup>11</sup>

Even if the grain amount remains constant year after year, the subsidy cost will continue to rise since rising input costs for farmers will continually put pressure on the government to boost the minimum support price (MSP). This will raise the government's ineffective cost of grain; the selling price at the TPDS is unlikely to alter. It is also possible that, as the population grows, Food grain production will rise as well. As a result, given the scheme's escalating expenses in the future years, many question its long-term viability.

In truth, a significantly larger quantity is wasted each year as a result of rotting food grains stored at dangerous circumstances in the FCI's godowns. Furthermore, large savings from the FCI's expenditures are attainable if its policies are rationalised.

As a result, it is incorrect to assert that the Food Bill would result in any additional major spending by the government.

#### **V. ANALYSIS OF VARIOUS ASPECTS OF THE BILL**

##### **(A) Food Security**

The Bill states that the federal government, state governments, and local governments must

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<sup>11</sup> The National Food Security Ordinance, 2013.

work together to achieve the goals outlined in Schedule III. Access to clean and appropriate drinking water and sanitation, healthcare, nutritional, health, and educational assistance for teenage females are just a few examples. Pensions that are appropriate for old citizens, those with disabilities, and single women It is unclear why the Bill includes objectives that are not directly connected to food security.

Ideally, the Food Security Act should be a chance for the government to demonstrate its sincerity of purpose and commitment. However, it must go beyond piecemeal efforts to guarantee that food is a basic human right, addressing both acute hunger and, in the long run, all three components of availability, access, and nutritional results. The Bill states that the federal government, state governments, and local governments must work together to achieve the goals outlined in Schedule III. Access to clean and appropriate drinking water and sanitation, healthcare, nutritional, health, and educational assistance for teenage females are just a few examples as well as increased vigilance in ensuring the appropriate distribution and usage of allocated funds.

### **(B) Distribution**

The actual scope of the rights is unknown since they will cover up to 75% of the rural population and 50% of the urban population. This means that the real number of individuals eligible to food may be fewer than 75% of the rural population and 50% of the urban population. There are two problems with these privileges. First, there is no justification in the Bill for establishing exact cut-off figures for the proportion of the population included in priority and general groups. Second, the minimum criterion of incorporating 46 percent of the rural population and 28 percent of the urban population in the priority group indicates that the government will have no flexibility to alter this figure even if the proportion of the people living in poverty changes over time.

### **(C) Enforcement**

When the government is unable to supply food to the PDS system, the law provides for cash transfers in specific instances. Because the cash may be used to purchase non-food goods, the bill's core goal may be undermined.

While the Bill intends to establish a legal entitlement to subsidised food grain to 67% of the population, it poses a challenge of identifying recipients. It divides the population into two kinds of beneficiaries: general and priority, but does not specify how a priority family is determined. The law also lacks definitions for phrases like social audit, children care, and so on. The Bill requires states to give poor records, although it is uncertain whether they have

reliable information for this purpose. It might result in major sectors of the population being excluded from the designation of beneficiaries.<sup>12</sup>

Another problematic issue is that the Bill envisions a cost-sharing arrangement between the Centre and the states, with the states bearing the cost of all big programmes. All of these laws are beneficial, but they impose a tremendous cost on the states<sup>13</sup>. In terms of execution, it is questionable whether the Centre can compel states to allocate funds without infringing on the authority of state legislative assembly. If a state lacks finances for implementation or the state legislature refuses to grant them, the Bill's operation may be jeopardised<sup>14</sup>.

At the same time, the bill includes key proposals for improving enforcement and transparency, such as the separation of roles between implementation and redressal with parallel seniority at the district level; the establishment of People's Facilitation Centres (PFCs) to assist the poor in registering their complaints; and the establishment of a high-level credible, empowered, accessible, and independent appellate body. establishing People's Facilitation Centres (PFCs) to assist the poor in registering their complaints; and establishing a high-level credible, empowered, accessible, and independent appellate body at the district, state, and national levels to provide support, independent critical advice, and expertise to the implementing departments.

#### **(D) Mechanism**

The PDS method protects recipients from inflation and price instability while also ensuring access to food grains in rural regions. However, it causes significant leakages and diversions of subsidised food grain. There have been concerns about the poor quality of food grains provided through this system, as well as instances of food grain adulteration.

Cash in the hands of the impoverished enhances their options and reduces financial limitations to some extent under a cash distribution system. Furthermore, cash transfer systems have low administrative expenses since they do not require procurement, storage, or distribution infrastructure. However, this strategy necessitates a large financial network and may expose beneficiaries to price fluctuation and inflation.

#### **(E) Criticisms**

Many groups condemned the bill and following legislation for a variety of reasons —

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<sup>12</sup> Business Today. 2021. *Food Security Bill becomes a reality, but implementation remains a challenge*. [online] Available at: <<http://businesstoday.intoday.in/story/food-security-bill-becomes-a-reality-but-implementation-remain-a-challenge/1/198129.html>> [Accessed 27 July 2021].

<sup>13</sup> *ibid*

<sup>14</sup> *ibid*



### **Criticism by the Right to Food Campaign**

The Right to Food Campaign believes that the Bill is woefully inadequate in terms of food rights and that it requires significant changes before it can be passed. It has constantly called for a comprehensive food security law that encourages agricultural output, allows for local procurement and storage, and includes a decentralised PDS. It also seeks measures against commercial meddling in any food-related programmes.

### **Criticism by the National Commission for the Protection of Child Rights (NCPCR)**

The National Commission for the Protection of Child Rights (NCPCR) has criticised the bill on grounds such as the exclusion of children under the age of two years from the ICDS take-home ration scheme, the denial of entitlements to the third child under the two-child norm, and the lack of mention of the term malnutrition among children in the bill.

### **(F) No role for State governments in decision making**

According to the National Food Security Bill, state governments do not have the authority to select beneficiaries or to make steps to improve food security. At least 15 states, including Chhattisgarh, Bihar, Tamil Nadu, Madhya Pradesh, Delhi, and all four southern states, have their own subsidised food programme and beneficiary count. Beneficiaries' entitlements and the number of beneficiaries. The Central Food Act has distinct rights and a separate count of recipients, and the Act is expected to be executed by state governments. Most states give more comprehensive coverage than the Central Act<sup>15</sup>. The proposed Act's language appears to assume that there are no governmental food programmes. As a result, once the Bill is approved, there will be misunderstanding and implementation challenges.

Critics argue that eradicating malnutrition necessitates more than simply eliminating hunger. Simply supplying the bare necessities of food is unlikely to be sufficient to address India's high levels of malnutrition. Food security is important, but it is not enough to provide nutrition security. This criticism is not without merit. Children and women should be prioritised when it comes to nutrition. The Food Bill does take a step in that direction, though it might have gone farther.

Many activists argue that for the vast majority of the poor's beneficiaries, five kilograms a month per person is inadequate, and that the remainder of the ration must be purchased on the

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<sup>15</sup> Raman, A. and Singh, R., 2021. *An Abstract Hunger | Outlook India Magazine*. [online] <https://magazine.outlookindia.com/>. Available at: <<http://www.outlookindia.com/article.aspx?285476>> [Accessed 27 July 2021].

free market. Only around 70 to 75 percent of food demands will be met by the TPDS<sup>16</sup>. There is nothing in the Bill to help the poor and hungry.

While the Indian Council of Medical Research recommends that adults consume 14kgs of food grains per month and children consume 7kgs, the Bill limits entitlements to 5kgs per person per month. In addition, the PDS lacks rights to pulses and oil, which does not adequately address the problem of malnutrition.

## **VI. CONCLUSION**

The National Food Security Bill 2013 has the potential to be a game changer for national food security if the government can overcome corruption and decrease leakage and wastage by incorporating local governments. Much may be learnt from states such as Chhattisgarh and Tamil Nadu, which have boosted local engagement (for example, through cooperative ration stores) and made food distribution transparent and efficient.

Integrating several social systems meant for the well-being of the disadvantaged people can yield better overall outcomes. India can learn from nations like Brazil, Ethiopia, and Bangladesh, where cash and food transfers have been combined with education and healthcare efforts. The effectiveness of such an endeavour should be judged in terms of how many impoverished people are able to lift themselves out of poverty and become self-sufficient in the future years.

Nutrition security is another paradigm change required in India's food security plan. The Food Bill includes provisions for free nutritional meals for children, pregnant and breastfeeding mothers, and people with disabilities, which is extremely positive. The Green Revolution created a surplus of wheat and rice in India four decades ago, which are high-calorie but low-nutrient foods. The law, when properly implemented, has the potential to alleviate India's food insecurity crisis.

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<sup>16</sup> The Hindu. 2021. *India's food conundrum*. [online] Available at: <<http://www.thehindu.com/opinion/columns/Chandrasekhar/indias-food-conundrum/article4705855.ece>> [Accessed 27 July 2021].