

**Note on the
Draft National Food Security Bill**

National Advisory Council

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Executive Summary

Draft National Food Security Bill: Essential Features

The draft Bill is in two parts. The first part deals with *food entitlements* and their operational framework. These entitlements are to be realised through specific *food-related schemes* (listed in Schedule I), implemented by state and local governments with support from the Central Government. The second part develops a framework of *grievance redressal for food-related schemes*, with potential for being extended to other economic and social rights.

Part I: Food Entitlements and Related Matters

Essential Entitlements

This part is based on the NAC note of 23rd October 2010. The essential entitlements are:

Public distribution system: 35 kgs per household per month at Rs 3/2/1 for rice/wheat /millets for Priority category; 20 kgs at (at most) half of MSP for General category.

Maternal and child support: (1) Universalization of ICDS (as per Supreme Court orders); (2) counselling and support for optimal Infant and Young Child Feeding; (3) nutrition take-home rations for children under 3 and pregnant/lactating women; (4) cooked midday meals up to Class 8 in government and government-aided schools; (5) maternity entitlements of Rs 1000/month for 6 months for pregnant women.

Special groups: (1) Daily, free cooked meal for destitute persons; (2) Portable entitlements for migrants; (3) Community kitchens (subject to successful pilots) for homeless persons and the urban poor; (4) Emergency relief for disaster-affected persons; (5) unconditional protection from starvation.

Note: The PDS entitlements shall not be reduced in any manner until at least the end of the 12th Five Year Plan period. Other entitlements cannot be reduced except by amendment of the Act.

PDS Reform

The reformed PDS is to have a transparent structure, where food transfers can be tracked all the way to the cardholders and Fair Price Shops are managed by accountable community institutions. The Act will mandate extensive PDS reforms, such as: decentralised procurement; community management of Fair Price Shops; doorstep delivery to FPSs; assured financial viability of FPSs; strict transparency safeguards; end-to-end computerization; tamper-proof receipts; regular social audits. The Act will also create space for innovative uses of ICT.

Enabling Provisions

Enabling provisions call on the central, state and local governments to strive towards progressive realization of (inter alia): (1) revitalization of agriculture and food production; (2) universal access to safe drinking water and sanitation; (3) universal health care; (4) universal access to crèche facilities; (5) special nutrition support for persons with stigmatised and debilitating ailments; (6) provision of pensions for the aged, disabled, and single women.

Part II: Grievance Redressal

Essential Provisions

The draft Bill attempts to build a strong system of grievance redressal for all food-related schemes, to ensure that food entitlements are realised. Grievance redressal provisions include:

- 1 Strict *transparency standards* for all food-related schemes.
- 2 Swift *fines* for any violation of the Act.
- 3 “*Duty to fine*” whenever irregularities are found.
- 4 Principle of “*vicarious responsibility*”.
- 5 *Compensation* in the event of any loss of entitlement.

Institutional Setup

All food-related schemes will come under a common grievance redressal framework, involving:

- (1) Block-level **facilitation centres**: A non-official person or group appointed to help people with filing complaints, submitting appeals, resolving disputes, etc.
- (2) District **Grievance Redressal Officers**: See below.
- (3) State- and national-level **Food and Nutrition Commissions**: These will hear appeals, monitor the enforcement of the Act, and advise governments on food-related schemes.

District Grievance redressal proceeds in 3 steps: (1) internal redressal (within concerned departments); (2) intervention of the District Grievance Redressal Officer; (3) appeal to state or national Commission.

Grievance Redressal Officers

The linchpin of the grievance redressal system is the District Grievance Redressal Officer (DGRO) at the District level. The DGRO is envisaged as an independent officer with extensive powers to investigate, fine and compensate. DGROs are to be recruited through an objective national selection process (possibly entrusted to the UPSC), with a non-extendable term of five years.

Transparency Standards

All food-related schemes will have to meet common minimum standards of transparency. These include: (1) All information in the public domain; (2) Pro-active disclosure of essential information; (3) Web-based MIS with conversion to Janata Information System at the village level; (4) “Open office, open inspection, open records” regime; (5) mandatory social audits; (6) mandatory provision of individual transaction records (e.g. ration cards) to all beneficiaries; (7) right to information within 15 days at no more than photocopying cost. At least 1% of the cost of food-related schemes will be ear-marked for transparency measures.

Wider significance of this grievance redressal system

Over time, the proposed grievance redressal system could possibly be extended to other similar legislations such as NREGA and Right to Education Act. This would be a major breakthrough.

Framework of Proposed National Food Security Bill

Part I

1. Introduction

1.1 This Framework Note presents the contours of a draft National Food Security Bill, consistent with the NAC's resolution of 23 October 2010. The National Food Security Act is envisaged as a path-breaking legislation, aimed at protecting all children, women and men from hunger and food deprivation. Aside from creating new food entitlements, the Act would place a range of existing food-related schemes on a new footing and set new standards of transparency and accountability for social programmes.

1.2 The draft Bill is in two parts. The first part deals with food entitlements and their operational framework. These entitlements include: (1) legal PDS entitlements for at least 90% of rural and 50% of urban populations in the country; (2) expanded coverage and norms for maternal and universal child nutrition programmes; (3) provisions for new food security schemes such as maternity allowances and destitute feeding. These entitlements are to be realised through specific 'schemes', implemented by state and local governments with support from the Central Government.

1.3 The second part develops a framework of grievance redressal for food-related schemes, with potential for being extended to other economic and social rights. This includes (1) the creation of an empowered Grievance Redressal Authority called the District Grievance Redressal Officer at the district level, (2) grievance facilitation centres at the Block level, (3) clear assignment of responsibilities in all food-related schemes; (4) penalties for a range of well-defined offences; (5) accountability of supervisory authorities; and (6) high transparency standards including pro-active disclosure of essential information. These are also briefly described in this note.

2. Objective

2.1 An Act to ensure public provisioning of food and related measures to enable assured economic and social access to adequate food with dignity, for all persons in the country, at all times, in pursuance of their fundamental right to be free from hunger, malnutrition and other deprivations associated with the lack of food and related matters. The food entitlements created by this Act will cover the entire life cycle of a human being, starting with overcoming maternal and foetal under-nutrition resulting in low birth weight babies, and extending up to old and infirm persons. The first 1000 days in a child's life (starting with conception up to the end of 2 years of age) will receive special attention.

3. Essential Entitlements

3.1. Public Distribution System

3.1.a. Rural areas: Every rural household shall be entitled to a monthly quota of subsidised food commodities under the Public Distribution System (PDS), unless it meets one of the notified "exclusion criteria". Households in the priority category shall be entitled to 7kg per person per month at Rs. 3/2/1 per kg for rice/wheat/milletts respectively. Those in the "general" category shall be entitled to 4kg per person per month at no more than half of the Minimum Support Price (MSP). At least 90% of rural households in the country shall be entitled to subsidised foodgrains

under the PDS, of whom at least 46% shall be priority groups. The NAC recommends a 'social inclusion' approach, under which certain vulnerable social and economic categories of persons are identified and fully covered as a right under this Act.

3.1.b. Urban areas: The same norms shall apply to priority and general households in urban areas together covering at least 50% of the urban population, of which at least 28% shall be in the priority groups. Once again, a 'social inclusion' approach appropriate for urban areas is recommended, which would ensure that homeless and slum residents, and others who are occupationally and socially vulnerable are fully covered.

3.2. Maternal and Child Support

All children in the age group of 0-6 years shall be entitled to basic nutrition, health and pre-school education services available under the Integrated Child Development Services (ICDS) as of 1 April 2010, and enforced already as legal rights by the Supreme Court of India, namely: (1) supplementary nutrition; (2) immunization; (3) health check-ups; (4) referral services; (5) growth monitoring and promotion; (6) pre-school education.

3.2.a. Pregnant and Lactating Mothers

- a) Nutritious take-home rations and/or freshly cooked nutritious meals, provided throughout the year through the local anganwadi or any other suitable institution.
- b) Maternity benefits of Rs. 1000 per month, for a period of six months, to all pregnant women for care, nutrition and rest during pregnancy and after delivery.
- c) Support for practising exclusive breastfeeding for 6 months through assistance at birth, breastfeeding counselling, and related assistance; and counselling on optimal Infant and Young Child Feeding to promote appropriate complementary feeding upon the completion of 6 months, along with continued breastfeeding for two years or beyond.

3.2.b. Children Aged 6 Months to 3 Years

- d) Nutritious take-home rations and/or age-appropriate freshly cooked meals, provided throughout the year through the local anganwadi or any other suitable institution.

3.2.c. Children Aged 3-6 Years

- e) At least one freshly cooked nutritious meal and a nutritious snack at the local anganwadi, for at least 300 days in a year.

3.2.d. Children Aged 6-14 Years

- f) At least one freshly cooked nutritious midday meal in all schools run by local bodies, government and government-aided schools up to Class 8 everyday of the year, except school holidays.

3.2.e. No Denial to Children

- g) Any child below the age of 14 years may approach any feeding facility such as anganwadi centre, school mid-day meals, destitute feeding centres etc., as

defined under this Act, for a freshly cooked nutritious meal, and will not be turned away on any ground.

3.2.f. Prevention and Treatment of Child Malnutrition

- a) Until the age of six years, children of all grades of malnutrition, as well as those experiencing growth faltering or nutritional deterioration, shall be identified and supported through nutrition counselling for improved locally appropriate feeding and care, health checkups and referral services.
- b) Severely underweight, undernourished or sick malnourished children shall be entitled to supplementary nutrition and special care at a Nutrition Rehabilitation Centre or community as appropriate.

3.3. Entitlements for Special Groups

- (i) **Migrants:** Arrangements shall be put in place to ensure that migrants are able to claim all entitlements under this Act at their current place of residence.
- (ii) **Destitute persons:** All destitute persons who seek it shall be entitled to at least one freshly cooked nutritious meal per day without any charge.
- (iii) **Homeless persons and Urban Poor:** Each state government shall put in place and progressively expand, subject to successful pilots, a scheme of Community Canteens to facilitate and ensure that homeless persons and the urban poor, in addition to their entitlements to subsidized foodgrains under the PDS, have access to affordable freshly cooked nutritious meals. Subject to these successful pilots, minimum numbers of such Canteens will be prescribed for every city.
- (iv) **Emergency and Disaster Affected Persons:** All individuals and households affected by emergency or disaster shall be entitled to special ration cards under the PDS (with entitlements no less than those of Priority Groups) for a minimum period of one year. Open feeding centres, accessible free of charge shall also be set up immediately. Special measures shall be taken to ensure that all food entitlements under this Act continue to be fulfilled.

Explanation: In Sections 3.2 and 3.3, wherever the word ‘cooked nutritious meal’ or ‘cooked meal’ is used, what is meant is a freshly cooked culturally appropriate meal, which contains nutritive value appropriate for the respective age-group or gender, as specified by the relevant departments of the Government of India. All commercial interests will be barred from supplying ready-to-eat or any other items for all child nutrition programmes.

3.4. Protection from Starvation

Any person or household living with starvation, or at risk of starvation, shall be entitled to additional assistance that is immediate, free and unconditional through all means required to avoid starvation. It shall be the duty of every state government to notify a set of procedures and fix duties to prevent starvation; to proactively identify people living with starvation or threatened by starvation for any reason; and to investigate and effectively respond to end conditions of starvation.

3.5. No Reduction of Entitlements

The minimum entitlements PDS shall not be reduced, whether through diminution of quantity, or increase of issue price, or in any other manner until at least the end of the 12th Five Year Plan period. All other entitlements cannot be reduced except by amendment of the Act. The cash value of all food and non-food assistance will be suitably pegged to inflation.

4. Implementation Arrangements and PDS reforms

4.1. Implementation Arrangements

4.1.1. The nodal Ministry for this Act shall be the Ministry for Consumer Affairs, Food & Public Distribution.

4.1.2. Entitlements shall be realised through specific food related schemes such as PDS, ICDS and MDM. These schemes will be implemented by state governments, consistent with national guidelines set by the central government. These institutional arrangements may be amended, streamlined and reformed.

4.1.3. Meeting the proposed food entitlements within a reasonable time frame (say two to three years) would require a continuation of the current growth rate of food procurement, as well as enhanced buffer stock norms. This appears to be feasible, judging from consultations with the concerned ministries. However it would require a significant expansion of production and decentralised procurement, based on an improved incentive structure.

4.2. PDS Reform

The proposed Act includes reform, drawing on recent experience in various states. The reformed PDS is to have a transparent structure, where food transactions can be tracked all the way to the cardholders and Fair Price Shops will be managed by community institutions accountable to their customers. The main body of the Act will mandate comprehensive reforms in procurement, distribution and management of PDS, such as:

- a. **Decentralised procurement:** The Central Government shall expand procurement in states which produce surplus. State government will be encouraged to undertake a bottom-up decentralized planning process, and to procure, store and distribute foodgrains in a manner as to minimize transportation costs and losses. The government will open procurement centres within a radius of 10 kms wherever feasible and provide on spot payment to farmers.
- b. **Procurement of millets and other nutritious grains:** Central and state governments shall take measures to promote and facilitate the procurement of millets and other nutritious grains, by ensuring appropriate quality standards, timely announcement of support prices, and adequate procurement arrangements.
- c. **Storage and Distribution:** The Central and state government shall take necessary steps to develop adequate infrastructure on scientific basis for storage at state, district and block level for minimum buffer norms.
- d. **Incentives:** The Central Government shall incentivise states through timely disbursements based on transparent norms as well as access to cheap credit for food grain procurement, storage and operational costs.
- e. **Doorstep delivery:** PDS grain shall be delivered to Fair Price Shops by the State

Government, as far as possible through the State Civil Supplies Corporation, and FPS operators discouraged from lifting grain directly from FCI. At the time of delivery, the grain shall be weighed in public in the presence of members of the Vigilance Committee.

- f. **Financial Viability of Fair Price Shops:** The state government shall ensure that the financial viability of the Fair Price Shops (FPS) is maintained through various measures including reasonable commissions that cover all operational costs. Allocation to the FPS shall be done online on basis of card holders and its stock position.
- g. **Community management of Fair Price Shops:** Preference shall be given to licensing Fair Price Shops to community institutions or public bodies such as Gram Panchayats, Self-Help Groups, Cooperatives, etc.
- h. **Management by women:** Fair Price Shops shall be managed by women or women's collectives.
- i. **Transparency measures:** A system of uniquely numbered food coupons shall be initiated by each State Government to track the distribution of grain to card holders. Food coupons (booklets of monthly coupons for at least one year) shall be printed in the ration card. In the event where coupons are replaced with Smart Cards or similar devices, they shall not replace the printed ration cards. Each shop shall display list of card holders and their category, along with price list per unit of PDS commodity.
- j. **Use of Technology and Monitoring and Information System:** State Governments shall ensure end-to-end computerization of the Public Distribution System including pro-active disclosure of the following on the internet: stocks and flows of grain at each level (down to the Fair Price Shop/Cardholders), with dates; financial transactions; issues of licenses; and other relevant details. They may also apply ICT, Smart Cards and other innovative technologies subject to successful pilots.
- k. **Community monitoring:** Extensive facilities shall be put in place to promote community monitoring of Fair Price Shops, including Helplines, SMS alerts, social audits, and Vigilance Committees. Every Fair Price Shop shall have a Vigilance Committee of 5 members. At least 3 of the Vigilance Committee members shall be women, and a majority shall be PDS card holders attached to that Fair Price Shop. The Vigilance Committee shall not include anyone involved in the management of the Fair Price Shop.
- l. **Social audits:** A social audit of each Fair Price Shop shall be conducted at least once a year at the Gram Sabha. This shall include reading aloud in public of a summary of transactions in the previous 12 months.
- m. **Design of ration cards:** Every ration card shall include a clear "entitlements page", written in simple words in the local language, with details of PDS entitlements as well as helpline numbers and grievance redressal facilities. Ration cards will be in the name of an adult woman member of the family, if any.
- n. **Ration card entries:** The manager of each Fair Price Shops shall be responsible for ensuring that details of food transactions are promptly entered in the ration cards of the recipients, in legible writing, along with the manager's signature.
- o. **Tamper-proof and people-friendly receipts:** Each Fair Price Shop shall be equipped with a device to generate tamper-proof records of food transactions along with receipts that can be

understood and approved by the card holders.

5. Enabling Provisions

For further advancing food and nutritional security, central, state and local governments shall strive to progressively realize the following:

- (i) Governments shall endeavour to revitalize agriculture and promote agrarian reform, through measures including securing the interests of small and marginal farmers through ensuring remunerative prices, credit, irrigation, crop insurance and technical assistance; endeavouring to prohibit unnecessary and unwarranted diversion of land and water from food production; and promoting decentralized food production, procurement and distribution systems. Greater attention is needed for women and youth farmers who constitute the majority of the farming population.
- (ii) Governments shall endeavour to diversify commodities available under the Public Distribution System (PDS), to include over time pulses, millets, oil and cooking fuel.
- (iii) Governments shall endeavour to provide universal access to safe and adequate drinking water and sanitation.
- (iv) Governments shall endeavour to provide universal health care.
- (v) Governments shall endeavour to provide universal access to crèche facilities
- (vi) Governments shall endeavour to provide universal access to adolescent girl children aged 14 -18 years to nutritious take home rations and/or freshly cooked meals and appropriate health, nutrition and education services.
- (vii) Governments shall endeavour to provide universal access to vitamin A, iodine and iron supplementation.
- (viii) Governments shall endeavour to provide special nutrition support for persons with stigmatised and debilitating ailments such as HIV/AIDS, leprosy, and TB.
- (ix) Governments shall endeavour to provide residential schools for all children in need of care and protection who are deprived of responsible adult protection.
- (x) Governments shall make effective provisions for universal access to adequate pensions for aged, disabled and single women, at rates which are not less than the prevailing statutory minimum wages for unskilled workers.

Part II:

Systems of Enforcement and Transparency

The experience with rights based legislation is that the actual delivery and realisation of these rights depends critically on the systems of enforcement and accountability, as well as transparency, which are incorporated within the legislation. Prior to RTI and NREGA, these tended to highly neglected in most laws to prevent discrimination and exploitation, including in

laws to ban bonded labour, manual scavenging and domestic violence, and for protection of inter-state migrants and persons with disabilities, to name only a few. RTI and NREGA tried to address these earlier failures, with partial and mixed results. RTE again has weak enforcement mechanisms.

The need therefore has been long felt to create independent enforcement institutions at district (and below if possible), state and national levels, with powers to penalise public officials who fail to enforce these rights. But it has been difficult to define how these independent institutions would be constituted, how appointments to them would be fair and appropriate, what powers these enforcement institutions should have, what should be the consequences of violations of rights and so on.

In discussions around the National Food Security Bill so far, attention has largely been on the entitlements which the law would create, and not on how these entitlements would be realised and enforced. This section therefore focuses on suggestions for enforcement and transparency. These have been developed in the context of the National Food Security Bill, but could be extended easily to other rights legislations as well, if it is felt appropriate.

1. Grievance Redressal and Monitoring

Block People's Facilitation Centre: In every block a non official person or group with expertise in facilitation will be appointed as a special service provider. Any aggrieved person can approach them to help facilitate the filing of complaints, and appeals, give advice on how to file and pursue their grievances.

District Grievance Redressal Officer (DGRO): One major proposed innovation is of District Grievance Redressal Officers, centrally appointed by lateral entry from a wide range of young professionals who would come in for tenured depositions of 5 years non- extendable, and would be drawn from various serving professionals, university professors, lawyers, doctors, private sector managers, and others who wish to give time for public service. They would be entitled to enforce the various rights under this Act, and investigate and redress grievances through fines and compensation.

National and State Commissions: For the National and State Commissions, also proposed under this Act, all appointments would be made by an Appointments Committee, after a transparent prior process of inviting applications and nominations, and their evaluation with reasons, all in the public domain. These will hear appeals, and evaluate and monitor the functioning of various schemes through which the entitlements are to be met.

2. Fines and Compensation

A necessary condition for any right to become legally enforceable is that there should be consequences for violations or withholding of such a right. These consequences are what are described both in law and in popular usage as 'penalties'.

The agencies envisaged under the draft Bill to enforce these rights are: the District Grievance

Redressal Officer, the State Commission and the National Commission.

The law proposes that public authorities will be specifically charged at various levels of government – local, state and central – with ensuring entitlements under this law. These public officials will be liable to be punished with fines for violations. We believe these will act as a deterrent mainly because of the additional provision of entry of all such fines into the service records of public officials. Fines will depend on the severity of the violation, its recurrence, and the level at which it occurred. Fines will be charged at the level at which the violations of rights was caused. Higher fines will be imposed at higher levels of government, and for repeated violations. The principle of vicarious responsibility will be invoked to ensure that not just junior officials are punished, but more senior officials are also liable for failures of supervision. The law also proposes a duty to fine when violations occur.

Fines are a personal liability on the official who is found responsible for any violation. In addition, government will also be liable to pay compensation to the individual or group of individuals whose rights have been violated. The levels of such compensation will be 3 times the cash equivalent of the entitlement which has been violated, in all cases in which it is possible to measure these.

3. Transparency and Social Audit

One of the main features of the Act will also be strong mandatory transparency provisions where any person can at any point of the planning, implementation, or evaluation process ask questions and demand answers about the functioning of the act. For this, the law will provide for a wide range of transparency measures which advance on the existing transparency framework and RTI, as below. These shall be applicable to all the schemes under this Act.

1. Ensuring that all NFSA information is in the public domain;
2. Outlining the process and level of proactive mandatory disclosure by all public officials;
3. Mandating an enabling transparency framework that would allow every beneficiary to have an individual record of the entitlement received or denied, and proof related to every disbursement i.e. every beneficiary have a card with a record of disbursement-date, time etc;
4. Combining the needs of a transaction based online web based MIS with a Janata Information System (JIS) which would involve taking web based information to the people through other means of communicating information;
5. Allowing for open inspection, open records, open office, and open decision making;
6. Providing copies of information applied for within 15 days;
7. Providing copies information at no more than the cost of photocopying;
8. Ensuring that a violation of provisions of proactive disclosure as well as providing information will attract penalties (and where appropriate compensation) within this Act;
9. Providing information for social audit and public vigilance in a form and format that people can understand;
10. Providing for finances for carrying this out by reserving a portion of the money kept for administration expenses for carrying out transparency measures. In other words, in most cases, the person seeking information should not have to use the RTI Act. This will also

demonstrate how the RTI Act can be built upon and developed within Indian social sector legislation.

The Act also includes mandatory concurrent and periodic post-facto social audits. This will provide a necessary framework for community based monitoring, and participatory auditing of quality, performance, financial expenditure, of services and entitlements and all outcomes of all the programmes/schemes that this Act covers.

4. Cost Sharing: Provisional Formulation

The Central government shall make timely supplies of foodgrains in adequate quantities to meet the entitlements both for PDS and non PDS schemes.

PDS: The Central Government shall meet the costs of providing food grains to priority and general categories, including the cost of delivery at the FPS to meet the entitlements of ration card holders in accordance with minimum norms specified in the Act/Schedule.

For Priority category -

The Central Govt shall provide financial assistance for coverage of 46% of 2011 population in rural areas and 28% in urban areas

For General category -

The Central Govt shall provide financial assistance for coverage of 44% of 2011 population in rural areas and 22% in urban areas

In case of decentralized procurement being undertaken by any state government, the Central government shall meet necessary costs and incentivise the states for decentralized procurement, storage and distribution. The Government shall prepare detailed guidelines for the same. This is necessary in view of inordinate delays in reimbursements to states what do their procurements as per existing practice.

For all other non –PDS food and nutrition related schemes: The costs shall be shared between Central and State Governments as per ratios applicable on 1 April 2010 or based on a 70:30 ratio whichever is higher. The cost norms shall be inflation indexed and revised periodically.

Administrative Expenses –In addition to the above, the Central government shall make a separate provision of at least 6% of the Central share towards administrative expenses for strengthening grievance redressal and monitoring systems and promoting awareness and transparency measures .

The Central Govt shall prepare rules for allocation and expenditure of administrative expenses provided under the Act.