

The National Food Security Bill, 2011 *Right to Entitlement to Food and Nutrition*

On December 22, 2011, the Union Minister of State (Independent Charge) for Consumer Affairs, Food and Public Distribution introduced the National Food Security Bill in the Lok Sabha (the Lower House of the Indian Parliament). On January 05, 2012, the Bill was referred to the Parliamentary Standing Committee on Consumer Affairs, Food and Public Distribution. This Committee is expected to submit its report to the Parliament in the first week of April 2012.

The Bill which aims “to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity” marks a “shift from the current welfare approach to right-based approach to address the problem of food security”.¹

The Bill at a Glance

Highlights

- ◆ Creates a right for some sections of the population to certain entitlements to food and nutrition
- ◆ Mandates reform in the public distribution system (PDS) including addressing its transparency and accountability aspects
- ◆ Endeavours to empower women and other marginalised sections of the society
- ◆ Sets up national and sub-national bodies for grievance redressal as well as monitoring the implementation of the Bill
- ◆ Tries to address issues related with revitalisation of agriculture – procurement, storage and movement of food grains and other important elements for the advancement of food security

Lowlights

- ◆ Limited treatment of “food security” as an understood concept; focuses only on entitlements, and ignores production and trade aspects
- ◆ Division among three groups – priority, general and excluded – and adopting a complex, impractical and politically contentious ‘inclusive’ criteria that too to be provided at later stage
- ◆ Fails to design a decentralised mechanism for procurement, storage and distribution of food grains and letting *status quo* to continue
- ◆ Non-inclusion of more nutritious food items such as pulses and oil in the benefit package
- ◆ Not proposing a much-needed pan-political body for monitoring the implementation of the Bill
- ◆ Non-inclusion of farmers and community-based organisations in the National and state food commissions as members
- ◆ Provisions related with revitalisation of agriculture in the context of advancing food security have important missing elements such as the impact of climate change and soil health on agricultural productivity

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Introduction

The Right to Food was first recognised in the United Nations Declaration of Human Rights, 1948. In the United Nations Guidelines for Consumer Protection, 1985, the right to food was mentioned as the first right under the Right to Basic Needs.

In 1996, the formal adoption of the Right to Adequate Food by the World Food Summit paved the way for the possibility of a right-based approach to food security.²

In India, Article 47 of the Constitution of India, *inter alia*, provides that “the State shall regard raising the level of nutrition and standard of living of its people and the improvement of public health as among its primary duties”.

The present Bill is a result of these international and constitutional obligations. The Bill is about some specified entitlements to “right to food and nutrition” to certain sections of the population.

This brief does a critique of several provisions of the Bill, highlights some contentious issues and makes some recommendations for its improvement.

General Issues

Food Security: A Misnomer

Although the efforts that are being made by the Government of India to enact the National Food Security Bill, 2011 is laudable, its nomenclature (food security) is a misnomer.

The present internationally acceptable definition of food security, as adopted by the 1996 World Food Summit, states: “Food security exists when all people, at all times, have physical and economic access to sufficient safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life”.

From this definition, four major dimensions of “food security” are as follows:

- Physical *availability* of food
- Economic and physical *access* to food
- Food *utilisation*
- *Stability* of the above three dimensions over time

For the realisation of *food security* objective, all the four dimensions must be fulfilled *simultaneously*.³

The definition of “food security” as provided in Section 2(7) of the Bill

clearly fall short of the internationally accepted definition.⁴ First, the Bill does not adequately address ‘physical availability’ of food – the supply-side of food security.

Schedule III of the Bill, read with Section 39, apart from being deficient in many other respect, contains mere “best endeavour” provisions that are non-enforceable, amounting to non-obligation on the part of the Centre and state governments.

Secondly, the Bill is deficient with respect to “economic and physical access” because of its ‘non-universal in coverage’ and ‘inadequate procurement and distribution mechanism’, although it contains some positive provisions about reforming the PDS.

Not only the present accepted definition, but through out all the stages of evolution, the notion of “food security” has included “all people, at all times” approach.⁵

Even the version of the Food Security Bill dated July 2011 prepared by the National Advisory Council, headed by Sonia Gandhi tends to follow the universality of access approach to food security.⁶

Table 1: Four Dimensions of Food Security

| | |
|---|--|
| Physical AVAILABILITY of food | Food availability addresses the “supply side” of food security and is determined by the level of food production, stock levels and net trade. |
| Economic and physical ACCESS to food | An adequate supply of food at the national or international level does not in itself guarantee household level food security. Concerns about insufficient food access have resulted in a greater policy focus on incomes, expenditure, markets and prices in achieving food security objectives. |
| Food UTILISATION | Utilisation is commonly understood as the way the body makes the most of various nutrients in the food. Sufficient energy and nutrient intake by individuals is the result of good care and feeding practices, food preparation, diversity of the diet and intra-household distribution of food. Combined with good biological utilisation of food consumed, this determines the <i>nutritional status</i> of individuals. |
| STABILITY of the other three dimensions over time | Even if your food intake is adequate today, you are still considered to be food insecure if you have inadequate access to food on a periodic basis, risking a deterioration of your nutritional status. Adverse weather conditions, political instability, or economic factors (unemployment, rising food prices) may have an impact on your food security status. |

Source: *An Introduction to the Basic Concepts of Food Security; United Nations Food and Agriculture Organisation, 2008*

Later, a Committee headed by C. Rangarajan, Chairman of the Economic Advisory Council to the Prime Minister rejected this approach, presumably because of expected fiscal stress that it would bring to the exchequer.

Thirdly, “food utilisation” aspect is also weak in the Bill. While nutrition requirements for pregnant women, lactating mothers and children have been mentioned, those belonging to “priority and general household” have been skipped.

For instance, among other things, access to safe drinking water, which is necessary for better biological utilisation of food, finds place only in Schedule III, a non-obligation on part of the state.

Finally and as far as ‘stability’ aspect is concerned, the Bill does not reflect upon the possible effects of climate change on agricultural productivity, which is recognised as a major challenge.

On the contrary, the government has kept itself out of liability for *force majeure* conditions, including flood and drought which are happening more frequently in recent years understandably due to, among other causes, climate change.

More so, the Bill is weak with respect to the more modern concept of ‘sustainable food system’ that has correlation with ‘stability’ and includes ‘climate change’, ‘land use’ and ‘soil’ as important ingredients.⁷

In light of this analysis, it is clear that the use of “food security” as the title of the Bill is misplaced and liable to confuse people as well as national and international institutions working on food security issues.

The Bill, in its present form, can at best be called “the Right to Entitlement to Food and Nutrition Bill”.

Inclusion vs. Exclusion

Even after accepting constraints on part of the government to provide

universal entitlement for access to food, an important question remains: whether to follow a complex approach of identifying those who are to get such entitlements (as is the case of the present Bill) or to follow a more simple approach to exclude those who are not entitled by defining an exclusion criteria. There is a general consensus across the board on adopting the latter approach.

The Bill segregates households into three groups: priority, general and excluded to have major entitlements, token benefits and nothing, respectively – Section 3(1).⁸ Furthermore, entitlements will be extended up to 75 percent of rural and 50 percent of urban population, provided not less than 46 percent of rural and 28 percent of urban population are designated as “priority household” at all India level – Section 3(2) and Section 14(1).

There can be differences in such percentages in different states, which would be determined by the Centre – Section 14(2). The Centre may prescribe guidelines for identification of priority and general households and exclusion criteria and states (or any other agency decided by the Centre) would have to identify such households in accordance with the said guidelines – Section 15(1) and Section 15(2).

The task of periodically updating the lists of eligible priority and general households will be carried out by states but in a manner prescribed by the Centre – Section 17.

Any person having some knowledge on contemporary issues of Centre-State relations in India would understand the kind of problems that the above-stated approach will invite. First, there will be tension with respect to mandates of Centre and states in the covered subject areas.

Secondly, it is expected that there will be disagreement about the number of eligible households that a state will count and its acceptance by the

Centre, and this tension will be in perpetuity because such counting would have to be a dynamic exercise.

Even if the Centre decides to assign this task of counting eligible households to an independent agency, states may object because of the normative nature of the subject.

A good policy is the one that takes into account probable gaps that could arise during its implementation. True that it is impossible to visualise an exhaustive and mutually exclusive list of implementation gaps while formulating an act, but several observable fact from the implementation of similar welfare schemes in India points to some possible gaps in the present case. They should be avoided and addressed at this stage itself for better implementation of the Bill.

A simple framework for counting eligible households, which is practical, transparent, equitable and politically appealing and suggested by many experts, is to “abolish the distinction between general and priority groups and give all households a common minimum entitlement under PDS unless they meet well defined exclusion criteria”.⁹

The definition of ‘entitled households’ could be: “those households which do not meet the exclusion criteria given under section...” It would be better to have categories as “entitled households” and “excluded households” as against the present three categories.

A dynamic mechanism should be in place so as to enable “entitled households” to self-declare their graduation from subsidised entitlement.

As far as constraints related to food production and procurement (and this formed an important basis, apart from fiscal stress, for capping entitlements and adopting a calibrated approach to such entitlement by the Rangarajan

Committee) is concerned, it can be addressed under a two-tier system as well.

Depending upon the capacity of the government to procure (say 30 percent of total production) and subsidise (say ₹17 per kg of rice and a total subsidy of say ₹100,000 crore a year), an exclusion criteria can be formed and revised periodically by taking into account changes in the given constraints.

Even the Minister for Consumer Affairs, Food and Public Distribution has reportedly said that the financial burden would not be “unusually big” if an approach of eliminating the Above Poverty Line category is followed.¹⁰ The idea is: *simpler the framework, lesser the likelihood of implementation gaps.*

Procurement and Distribution
Regarding “procurement and distribution” there is a duality in the Bill. According to Section 30(5) of the Bill, the Centre is mandated to procure food grains for the Central pool and subsequently allocate food grains to the states for the purpose of meeting the entitlements.

At the same time it demands the Centre, the State and local authorities to strive to progressively realise decentralised procurement – Schedule III (2)(a) and Section 39 of the Bill. The difference between the two provisions is that while the former is enforceable, the latter is non-obligatory.

It is recommended that not only the procurement be done by the states and the institutions of local governance but also the responsibility of storage and distribution be vested in them.

Even a note dated March-April 2010 from Union Finance Ministry meant for the concerned Empowered Group of Ministers

seems to advocate locally bought grain “to the extent possible” in the context of PDS reform.¹¹

This will not only save significant transportation costs of foodgrains, but could also make “the expansion of rakes and line capacity of railways” – Schedule III (2)(d) of Bill – unnecessary or at least less prioritised.

Most importantly, this will empower farmers, a vast majority of whom are not able to make use of the present centralised public procurement system of foodgrains consequently obtain much lesser remuneration than even the minimum support price (MSP) from non-state buyers.

State governments should maintain a certain portion of procured food grains in a reserve pool and that cannot be used for forward trading and other speculative activities.

The Centre’s role in this regard should be, as far as possible, limited to the creation of a national grid for coordinating food distribution (from surplus to deficit states) and its price (that a deficit state will pay a surplus state).

The modalities of defining MSP are to be relooked. State governments may be left to decide the MSP of a product, which should be remunerative to farmers (say average cost of production plus its 50 percent). To compensate any additional fiscal stress on this count, subsidies on inputs (fertiliser etc.) can either be reduced or eliminated all together.

Specific Issues

- The definition of “food grains” under Section 2(6) does not include ‘pulses’, which is an important source of protein and integral to daily dietary

preference of all Indians. At least half-a-kg of pulses per person per month should be included in the entitlement even if it requires cutting on entitlements to other food grains. If possible some quantity of cooking oil may also be added to the package. This will not only make the programme more nutritious but will also incentivise farmers to grow more pulses¹² and oil seeds.

- Link benefits to lactating mothers with obtaining birth certificates for their child – Section 4. *Anganwadi* workers need to be trained to flag this to such mothers when they start receiving benefits on account of their pregnancy, and subsequently facilitate in obtaining it.
- Instead of providing cooked meal in schools, if feasible, there could be a centralised facility (e.g. community kitchen) at the *anganwadi* level – Section 5(1)(b) and Section 5(2). It has been observed that cooking in schools is adversely affecting the quality of education, a national concern. As far as possible, the cooking of meals should be physically managed by “special groups” – Section 8 and Section 10. Apart from managing cooking, destitute persons should be engaged in other community services, particularly in urban areas, such as cleaning.
- Food security allowance as under Section 13 should be coupled with proposed reforms in the PDS. There should be well-defined mechanism to disincentivise “excluded groups” from entering into “entitled groups” who would be eligible for cash entitlements.

- Proposed reforms in the PDS are a welcome step – Section 18. However, much more are needed. The PDS should be linked with the local procurement and storage system as far as possible – Section 18(2)(g). Consumer cooperatives should be encouraged to manage the public distribution – such an in-built mechanism for public action will make it more transparent and accountable.
- Proposed structure for grievance redressal (Chapter IX) is good but it should be taken to the level of local governance institutions. Those who will be engaged with the procurement, storage and distribution of food grains (including managing the PDS at the local level) should not be part of the institution of grievance redressal.
- The penalty as provided under Section 41 against defaulting public servant and/or authority is low and should be increased to have a minimum threshold level of deterrence.
- Section 52 should read “any other act of God” instead of “any act of God” as flood, drought, cyclone, earthquake are included in “act of God”.
- There should be a mandatory review clause in the Bill, which will make it mandatory to review its implementation after a certain time period, say five years.
- Provisions under Schedule III should be looked at as part of an enabling environment for addressing the ‘stability’ aspect of food security and they should be dynamically monitored with some additions and rearrangements, such as:
 - ◆ A new section on “climate change and agriculture”

- ◆ Add provisions for ‘improving soil quality’ as part of revitalisation of the Indian agriculture
- ◆ Make ‘ensuring remunerative prices for farmers’ a standalone provision
- ◆ Irrigation and energy requirements should be placed under separate provisions from financial issues like credit and insurance
- ◆ Specific provisions should be made underlining the importance of public investment in agriculture (particularly in respect to developing new and large irrigation facilities, research and development, and agricultural extension services) and its complementarity with private investment (including investment in minor irrigation)

Conclusion

Although it took a long time for the government to adopt a right-based statutory approach to address the issue of food security in India and despite being deficient on several counts, the effort of the government should be applauded in a non-politicised and non-dogmatic manner.

As discussed earlier, the Bill, in its present form, cannot be called an expected Act on ‘food security’ understood as a concept. But with some suggested amendments the Bill would eventually lead the country toward attaining the goal of universal food security.

Critics of the Bill should be more objective in their critique. A popular criticism is that there may not be

enough food to fulfill the proposed statutory entitlements and it would increase food grain prices in the open market.

According to an estimate done by the Department of Consumer Affairs, Food and Public Distribution, Government of India, at present about 30 percent of India’s food grain production is procured (mainly for public distribution) and the rest is available in the open market.

As per this estimate (which is made up to the year 2040), there will be no shortage of food grains to fulfill statutory entitlements as well as in the open market.

This is not to say that in future food grain prices will not increase but that (price increase) is happening and will happen unless anticompetitive practices in the Indian food grains markets and its procurement system are addressed.

Another criticism is that the proposed Bill will put more fiscal burden to the Centre and state governments. Again, as per an estimate of the Department of Consumer Affairs, Food and Public Distribution, Government of India, annual fiscal subsidy requirement for implementing the Bill in its present form will be between ₹100,000 to 120,000 crores, which represents just over one percent of India’s gross domestic product. Even the revenue forgone by the government is five times this amount.¹³

Also it is to be noted that at present India spends ₹60,572 crores for the existing food supply programme under the Targeted PDS, which is pegged to the 1993-94 estimate and the population figure of the year 2000 census.

Application of the year 2011 census and updated poverty estimate for the purpose of targeted PDS will raise food subsidy to ₹109,795 crore even if this Bill does not come into force.¹⁴

Therefore, it is clear that India's fiscal deficit is not likely to become unmanageable following the

enactment of the National Food Security Bill.

Moreover, in the long-run, as more and more households are expected to self-declare their exclusion from such entitlement at subsidised rates and as they get mainstreamed into revenue-generating activities, proportional

subsidy burden is expected to decrease.

To conclude, let this Bill be enacted with some necessary amendments and let its implementation be monitored in a non-politicised and non-dogmatic manner. Long-term expected returns are too high from this social and economic investment.

Action Points

- Change the title from “the National Food Security Bill” to “the Right to Entitlement to Food and Nutrition Bill” and specify that “it does not create a fundamental right to food for citizens” if the present form of the Bill is retained
- Abolish the distinction between general and priority groups and give all households a common minimum entitlement under the PDS unless they meet well-defined exclusion criteria
- Have explicit provisions for decentralised procurement, storage and distribution of food grains through institutions of local governance
- Include pulses, oil and other nutritious food items in the entitlements, thus increasing nutritious value of the benefit package
- Make chief ministers and Prime Minister *ex officio* chairperson of state food commissions and National Food Commission, respectively, and include at least a farmer and a community representative as members in both institutions
- Bestow more emphasis, as done for the PDS reforms, to the provisions under Schedule III of the Bill including adding provisions with respect to climate change, soil health and a built-in mechanism for monitoring the progress on key elements mentioned therein

Endnotes

- 1 Preamble to the National Food Security Bill, 2011; Statement of object and reasons, annexed to the Bill
- 2 United Nations Food and Agriculture Organisation, Policy Brief, June 2006, Issue 2
- 3 An Introduction to the Basic Concepts of Food Security, United Nations Food and Agriculture Organisation, 2008
- 4 Section 2(7) of the Bill: “food security” means the supply of the entitled quantity of food grains and meal specified under Chapters II, III and IV
- 5 The FAO in 1983, World Bank in 1986, World Food Summit in 1996, FAO again in 2001 adopted definitions of “Food Security” that have “all the people, all the time” as the coverage
- 6 See the Preamble and Section 4 of NAC’s Food Security Bill
- 7 See, for example, *Looking Back, Looking Forward: Sustainability and UK Food Policy 2000-2011*; Sustainable Development Commission, UK
<http://www.sd-commission.org.uk/publications.php?id=1187>
- 8 Dreze, Jean, *Just Target The Rich*, Times of India, February 04, 2012
- 9 *Ibid*
- 10 Zia Haq, *Government likely to tweak food bill to widen coverage*, Hindustan Times, February 29, 2012
- 11 *How 3 pages changed government approach*, Mint, February 01, 2012
- 12 National Sample Survey data show that there is a steady decline in protein intake by the Indian population
- 13 In the financial year 2010-11, total revenue forgone on account of income tax, excise and custom duty was ₹511,630 crore – www.indiabudget.nic.in
- 14 *Supra* 10

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