

Abandoning the Right to Food

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The proposed legislation on the National Food Security Act has been steadily watered down since it was first mooted in 2009. The Parliamentary Standing Committee that examined the 2011 Bill has disappointingly continued with “targeting”. If the government passes the bill incorporating the committee’s suggestions, a historic opportunity to combat hunger and malnutrition would be lost.

About four years have passed since the United Progressive Alliance government promised to enact a law which would contain guarantees for food security for every child, woman and man in India. It first entrusted the task of drafting the proposed bill to an empowered group of ministers, who resorted to a very minimalist interpretation of the idea of national food security, and reduced the government’s resolve to end hunger to the mere distribution of 25 kg of foodgrains (wheat and rice) a month to the 37.2% of the country’s population considered below the poverty line (BPL) according to the Planning Commission estimates. Faced by severe opposition to this truncated and untenable understanding of food security, the government then passed on the task of drafting a National Food Security bill to the National Advisory Council (NAC).

The NAC draft of the bill, negotiated for over a year, was criticised by the left parties and the Right to Food campaign for failing to universalise the entitlement of subsidised food rations under the public distribution system (PDS). This draft contained many robust guarantees for ensuring nutrition of vulnerable groups such as children, women and people in conditions of starvation, homelessness, emergency or disaster. But these provisions were curtailed in a weakened bill introduced by the government in Parliament in December 2011. The following month, this bill (henceforth referred to as the government draft of the bill) was sent to the Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution for scrutiny.

The Parliamentary Standing Committee received about 1.5 lakh representations, many of these reflecting enormous expectations from those who were disappointed with the highly reduced entitlements of the government draft of the bill. Over a period of one year, the committee sought views of several state/union territory governments, ministries, Members of

Parliament and representatives of organisations and researchers working on various aspects of food security, and finally submitted its report on 11 January 2013. But the many hopes pinned on the standing committee are substantially belied. With the notable exception of recommending uniform entitlements for everyone covered under the PDS and extending the school midday meals to children up to 16 years of age, the standing committee recommendations have further eroded the guarantees of the bill.

The standing committee recommendations disappointingly continue the targeted approach to food security. The government draft of the bill and the standing committee suggest restricting PDS to only 67% of the country’s population – 75% of the rural population (as opposed to NAC’s recommendation of 90%) and 50% of the urban population. By setting arbitrary ceilings on the number of households that would be covered under the PDS, the committee is in effect continuing with targeting, which has repeatedly proven to be divisive, unreliable and impractical. These “caps” are then arbitrarily imposed at the state, district, block and gram panchayat levels. At the most, some simple, verifiable and transparent criteria can be used to exclude households, but all those who do not meet these criteria should be entitled to subsidised food rations.

The NAC recommended minimum per capita monthly foodgrain entitlements of 7 kg for the “priority” category (at Rs 3/kg for rice, Rs 2/kg for wheat and Re 1/kg for coarse grains) and 4 kg for the “general” category (at maximum 50% of the minimum support price (MSP) for wheat and coarse grains and 50% of derived MSP for rice). The government draft reduced the “general” category entitlement to 3 kg. The standing committee recommended giving every person covered under the PDS 5 kg of foodgrains a month at “priority” category prices. This would be roughly 25 kg of foodgrains a month per household, much less than the Supreme Court order in the “right to food” case (*PuCL vs Union of India & Ors.* CWP 196/2001) of 35 kg of foodgrains per household per month, which is the quantity that BPL and Antyodaya households of several states are currently entitled to.

The authors would like to acknowledge their colleagues of the Right to Food Campaign and the Centre for Equity Studies, who have contributed significantly to their understanding of food security. One of the authors was convener of the Working Group of the NAC mandated to draft the National Food Security Bill. Therefore the opinion on the merits of this draft may not be objective.

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The standing committee quotes the Rangarajan Committee which says that given the average annual procurement of the last five years of 60.24 million tonnes, it is not possible to legally entitle even 67% of the country's population 7 kg of food-grains a month, which would increase the total foodgrain requirement of the bill to 76.32 million tonnes. The Rangarajan Committee was appointed in 2010 and since then annual procurement – which has been steadily rising – has crossed 70 million tonnes. The food stocks in the Food Corporation of India godowns have reached unprecedented levels; but the government seems to prefer letting this food rot rather than distribute it among the hungry.

Even graver is the complete elimination of the Integrated Child Development Services (ICDS)¹ from the ambit of the law, on the recommendation of the Ministry of Women and Child Development which cautions against giving legal entitlements to the services of this scheme, because of “programmatically and operational gaps” in it. This is absolutely unacceptable, considering that since 2001, the Supreme Court has passed several orders on universalising the ICDS services with quality. In a country whose acknowledged “national shame”² is its stubborn levels of child malnutrition – afflicting nearly every second child – Parliament cannot accept public officials' refusal to fulfil legal duties to ensure good health and nutrition of the country's children.

The standing committee recommends giving pregnant and lactating women 5 kg of foodgrains a month. Programmes of “take-home rations” neglect the reality of gendered intra-family inequalities which would ensure that this additional grain will be added to the family pot, very little of it actually adding to the nourishment of the mother. Cooked meals for mothers and locally prepared complementary foods for children below three years are more effective alternatives. In addition to meeting their own nutrition requirements, mothers are expected to feed their children below two years of age from this additional quota of food, and will no longer be entitled to nutritious take-home rations. The committee's recommendations in effect exclude children below two years of age from any

nutritional support, although there is ample evidence which shows that malnutrition sets in – often irreversibly – during the first two-three years of life (see for instance, Bryce et al 2008). Unlike the NAC draft, the standing committee does not recommend any support for breastfeeding (crucial for the good health of children below two years of age), or counselling on optimal infant and young child feeding practices. The committee recommends daily midday meals in schools for children in the age group of 2 to 16 years “or the age at which they start school”. But since children enter government schools only at the age of six years, this recommendation excludes those in the age group of two to six years.

Child Malnutrition

The committee further removes the safeguards of the NAC draft which protected every child from denial of a daily freshly cooked nutritious meal. The excised provision was that no child under the age of 14 years could be turned away from any public feeding centre under any circumstances. This was a crucial entitlement for out-of-school children, who are likely to be the poorest and most food insecure among all children, and who are currently ineligible to school midday meals or any other form of support which assures them regular nutritious meals.

The committee also deletes all responsibilities of states to detect and address malnutrition among children. The NAC draft enjoined state governments to identify children with all grades of malnutrition and entitled their parents or guardians to nutrition counselling for appropriate therapeutic foods, health check-ups and referral services. It also entitled severely malnourished children to care at a Nutrition Rehabilitation Centre or in the community in which they live. Such drastic reduction in entitlements for children – which should in fact have been a focus of the bill – will lead to persistence of the abysmally high burden of malnutrition among Indian children, which in our opinion is the most unconscionable feature of the standing committee recommendations.

Another unfortunate suggestion of the standing committee is the restriction of

monthly maternity benefits of Rs 1,000 for six months to only the first two children of a couple, for the stated reason of “population stabilisation”. This restriction will be unjustly punitive for those who lack access to contraceptives and women without a say in crucial matters such as the number of children they are expected to bear. It is a gross violation of the rights of pregnant and lactating women to nutrition and rest, and of children of higher birth order to exclusive breastfeeding, who are anyway more susceptible to malnutrition. Past experience has demonstrated that such disincentives do not even contribute to their intended goals. India's fertility rate has been steadily declining and anyway approaching the level required for population stabilisation.

The standing committee recommendations also sadly and surprisingly leave those most vulnerable to food insecurity – the destitute and homeless – to fend for themselves. It removes the entitlements of affordable meals through community kitchens for groups such as the homeless people (which was even a promise made by the Congress Party in its manifesto for the 2009 general elections), on the specious grounds of difficulty in identifying “eligible beneficiaries”. It further justifies this decision by saying that such an entitlement risks “breaking the social fabric as non-earning members of the family may be pushed out of homes to feed for themselves” – a preposterous claim with no empirical basis, and one that constructs poor families as those that would turn away their dependents only because of free meals. For decades now, the state governments of Tamil Nadu and Odisha have been implementing programmes which provide free meals to people in destitution. Evaluations of these programmes have revealed that they are administratively feasible, and without having any perceptible ill-effects on society, prevent many vulnerable people from slipping into starvation (Centre for Equity Studies 2010). The standing committee failed to add the crucial entitlement of pensions for disadvantaged sections such as the aged, single women and persons with disabilities or debilitating illnesses, depriving them of means for purchasing food.

A right to food law is meaningless if it neglects people living with – and dying of – starvation. Current Scarcity and Drought Codes, inherited and modified from the colonial Famine Codes, contain no binding duties on states to prevent and address starvation (see discussion of Famine Codes in Mander 2012). In this light, the Supreme Court commissioners in the right to food case recommended adoption of a Starvation Code – a codified set of binding duties on public officials to respond to complaints of alleged starvation. The NAC draft accordingly provided comprehensive entitlements or persons suffering from starvation. These included cooked meals, higher maternity benefits for pregnant and lactating women, greater quantities of foodgrains and guarantees for wage employment. The draft also obliged state governments to proactively identify persons in starvation and enquire about the extent of their food denials. According to this draft, state governments were required to establish protocols for preventing starvation, providing relief in case of starvation, investigating starvation deaths and assigning accountability. These entitlements were heavily pruned in the government draft, and simply removed from the standing committee recommendations. Same is the case with safeguards for preventing hunger during emergency and disaster situations.

Reforming Public Distribution

The standing committee makes several recommendations for reforming the PDS, although none of these is legally binding. Also, one of these suggestions is, in our opinion, rather undesirable: the inclusion of fortified foodgrains and *atta* (flour) in the PDS. This opens the door for commercialisation of agriculture and the food system, which can threaten the country's food sovereignty, further impoverish farmers and increase food prices. Fortification of foodgrains would also allow for controversial, yet-to-be-proven-safe technologies like genetic engineering, with several potential hazards to livelihoods, health and the environment.

The final worrying feature of the standing committee's recommendations is the absence of clear safeguards against the replacement of PDS with cash transfers.

Since the beginning of this year, the government has started pilots of "direct benefit transfer" in which eligible beneficiaries are supposed to receive assistance such as scholarships and maternity benefits directly in their bank accounts. There is talk of extending these experiments to replace PDS with cash in the union territories; a move which will jeopardise food security of most of those for whom their monthly quotas of subsidised food rations serve as a lifeline. Given the high levels of poverty, illiteracy and inequality in gender relations and insufficient banking infrastructure in the country, India is currently ill-suited for the replacement of services with cash transfers. Dismantling the PDS will rob farmers – ironically among the most food insecure segments of the population – of guaranteed procurement at minimum support prices, and deepen the agrarian crisis. Since the government has failed to increase the amounts of current cash assistance such as pensions and maternity benefits commensurately with inflation, there is little reason to believe that cash transfers for food will also increase adequately with rise in food prices. Finally, given the fungible nature of cash, there is always the risk of money for food getting spent on other items.

While the standing committee claimed that it was consulting with several groups and individuals on the National Food Security Bill, the Chhattisgarh government quietly passed its own Food Security Act in December last year. This state legislation is much more comprehensive than the standing committee recommendations, conforms to, and in some instances, goes even beyond the provisions of the NAC draft. The most progressive feature of this state Act is its move towards a universal PDS. The Act entitles subsidised food rations to every household in the state, except those that meet the "exclusion criteria" of income tax payees, households in non-scheduled areas owning more than four hectares of irrigated land or eight hectares of unirrigated land and households in urban areas owning a pucca house with a carpet area of more than 1,000 sq ft and liable to pay property tax. Households in the Antyodaya and "Priority" categories of this Act are also

entitled to chana, pulses and iodised salt, which will go a long way in ensuring their good nutrition. The Act also gives specific entitlements to children starting from six months of age to those in upper primary classes, pregnant and lactating women, students living in hostels and ashrams and persons affected with destitution, homelessness, disaster or hunger.

According to media reports, the government plans to pass the National Food Security Bill in the coming budget session of Parliament after incorporating most of the recommendations of the standing committee. If this is allowed to happen, India will lose a historic opportunity to end hunger and malnutrition in the country. If a state like Chhattisgarh can legislate a comprehensive Food Security Act, there is no reason why the central government – which has far greater resources at its disposal – cannot do the same for the entire country. There can be few more urgent claims to India's public money than ensuring the nutrition and health of millions in the country, especially of children, who are among the most malnourished in the world. We can only hope that the government salvages this bill and delivers on its long-pending promise of ensuring food security for all.

NOTES

- 1 The ICDS is the only major national programme which meets the needs of children below six years of age, adolescent girls, pregnant women and lactating mothers through the services of supplementary nutrition, immunisation, health check-ups, referral services, pre-school non-formal education and nutrition and health education.
- 2 In January 2012, while releasing a report on the state of hunger and malnutrition in India, Prime Minister Manmohan Singh stated that "...the problem of malnutrition is a matter of national shame. Despite impressive growth in our GDP, the level of under-nutrition in the country is unacceptably high."

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