The National Food Security Act 2013

An Analysis

BY

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The much spoken about Food Security law eventually saw the light of the day through the promulgation of an Ordinance called the National Food Security Ordinance 2013 (No.7 of 2013) in July 2013 followed by the National Food Security Act 2013 in September 2013, Act No.20 of 2013.

Some think that this is a landmark effort. How much will it do for the people can be determined only on the basis of what the law claims it would achieve and what it actually promises in its various provisions. We also have to place the Act in a historical framework to understand its significance.

The concept of food security that has evolved over the decades is represented by the formulation, as the FAO put it in 2002, that food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life. Household food security is the application of this concept to the family level, with individuals within households as the focus of concern. We can strengthen this further by the understanding that nutrition security is the bigger whole of which food security is a part. In simple terms we may say that food security is about hunger and all that it implies while nutrition security is about hidden hunger and all that it implies and people need a security from both these onslaughts. A balanced diet of foods like cereals, pulses, oil, oil seeds, vegetables, fruits, milk and flesh foods in sufficient and adequately balanced quantities, which provide us with the nutrients like proteins, carbohydrates, fats, vitamins and minerals would answer the needs of food and nutrition security. Where such a security is not achieved in a daily diet, serious health hazards occur like anemia, failure of immunity to a variety of infections and other manifestations of diseases including morbidity. Pregnant women and infants and children and adolescent girls, especially of the socio-economically marginalised and poorer sections of society, are the most vulnerable to food and nutrition insecurity as exemplified by the fact that according to the National Family Health Survey (NFHS) – 3, 2006, 59.5% of all pregnant Indian women in the rural areas and 54.6 % of all pregnant women in urban areas and 81.2 % of all rural children were anemic with inter-generational implications; 46% of all Indian children under-3 were underweight while 37% under-3 children in Andhra Pradesh, which has a mighty agricultural and food base, were underweight. Safe drinking water and access to toilet facility are two necessary adjuncts to food and nutrition security affecting absorption and retention of the food consumed with implications for dangerous infections. The number of households using piped drinking water in rural India was 27.9 % while 40% did not have it in rural Andhra Pradesh. Access to toilet facility in rural India was 25.9 %, while for Andhra Pradesh it was 26.9%. All these have direct impact on infant and child mortality and the low birth weight of babies, which according to the UNICEF was as high as 28
% of all babies born during the period 2000-2007. These are just a few of the dismal figures we have for India and Andhra Pradesh and it has been discussed in the context of this situation to be at least as bad as what obtains in sub-Saharan Africa and worse than in our neighbourhood. It is therefore clear that a long, long overdue state intervention is called for to provide food and nutrition security to the marginalised classes of our people till poverty is comprehensively eradicated in India and people of all sections including in particular the poor and the marginalised can take care of their own food and nutrition, and therefore their health and education needs. **We need direct state intervention in the form of rights-based schemes and programmes relevant to food and nutrition security backed fully by laws that guarantee the delivery of rights promised in those programmes. This duty of the state is what the Indian Constitution and various international human rights covenants, declarations and conventions sponsored by the United Nations mandate.**

An important strategy for providing, defending and expanding the rights of the poor in any law that claims to guarantee a particular right is to fine-tune it to the other related laws in a manner that all those laws pull together all the rights that govern those sought to be empowered in such laws. This makes for synergy that multiplies many times the benefits of the rights sought to be imparted to the poor in any single specific law. Every law should be looked upon by policy makers in Governments as an opportunity to improve upon laws previously made to the extent they are inter-related in their objectives and influence one another. Viewed this way, each law should bring in its wake new strengths to other related laws eliminating their weaknesses. A simple example would be the linkages that exist between the MGNREGA, 2005 and the present National Food Security Act 2013. **The challenge to implementation of any law is about improved governance that it presents as an opportunity to the rulers. Further, implementation of a law is about the quality and the comprehensiveness of the preparations that go into the making of a law because if the law itself is inadequate or defective, its implementation however good, cannot improve its policy content. The analytical tool we need to employ while examining a law is to see whether the law endeavours to answer these imperatives.**

This food security Act 2013 has taken so long to formulate by the combined efforts of the heavily-publicized work of the Government’s National Advisory Council (NAC); of the scrutiny of the Parliamentary Standing Committee on Food, Consumer affairs and Public Distribution of the National Food Security Bill 2011 earlier introduced in the Lok Sabha in December 2011; and of the Government itself, the people of India in general and those in hunger in particular would be well justified in expecting the emerging law to be one that would liberate them fully from their food and nutrition security predicaments.

Has this happened in this Act?

The Act claims in its preamble that it provides for food and nutritional security in a human life cycle approach, by ensuring access to adequate quantity of quality food to people to live a life with dignity. In Section 2 it defines food security to mean the supply of the entitled quantity of food grains and meal specified under Chapter II in the Act. What the Act provides in Section 3 (1) by way of entitlement is that every person belonging to priority households, identified under sub-section (1) of section 10, shall be
entitled to receive five kilograms of food grains per person per month. This works out to 25 kg per month to an average Indian household. It is universally acknowledged, and as analyst Gargi Parsai wrote in the Hindu of 6th June, 2013 “five kg of grain does not meet an individual’s requirement, which is assessed at 10 to 14 kg a month”. On average the quantity of food grains required by an average person per month in India is in the range of 12 kg of food grains or about 60 kg of food grains per month per household. Since priority households in this Act constitute 75 % of all the rural population and 50 % of all the urban population of India, a law which condemns these vast populations of the poor to less than half its food grains needs cannot be called as one that provides for “adequate food” or “food and nutritional security”, as this Act claims.

The Act does provide a 35 kg entitlement to the households covered under the Antyodaya Anna Yojana but their number is a fraction of the priority household population entitled or eligible to receive subsidised food grains in this law. The total population of India according to the Census 2011 was 121 crores. The urban population was 27.8% while the rural population was 72.2 %. With the population in 2013 projected as 124 crores, the urban population would be 34.7 crores and the rural population 89.3 crores. 75 % of all the rural population and 50 % of all the urban population of India in 2013 would therefore constitute 67 crores and 17.4 crores respectively making a total eligible population of 84.4 crores. Those who would be outside the coverage would be about 40 crores. The coverage currently made of the beneficiaries under the Antyodaya Anna Yojana is 2.43 crore households or an estimated 12.2 crores population. It can thus be seen that only 14 % of the households that will benefit from the proposed Targeted Public Distribution will receive 35 kg per month while the rest 86% will receive only 25 kg per month. Even at 35 kg per month per household the entitlement is nowhere near the actual food grains requirements, even for 14% households, what to say of the rest of the 86%. To call it therefore a rights-based food and nutrition security law is a gross misnomer. We cannot help recall the fact that the original National Food Security Bill 2011 introduced in the parliament had promised 35 kg of food grains to every poor household and the Union Minister of Food in the statement of objects and reasons had referred to the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, to which India is a signatory, as casting responsibilities on all State parties to recognize the right of everyone to adequate food. The provision of 35 kg food grains was mentioned as being in pursuance of the constitutional obligations and obligations under the international conventions and that providing food security has been focus of the Government’s planning and policy. He had claimed in that Bill that food security means availability of sufficient food grains to meet the domestic demand as well as access, at the individual level, and added that the proposed legislation marked a paradigm shift in addressing the problem of food security— “from the current welfare approach to a right based approach”. After all these claims, we now find that even this inadequate quantity of 35 kg per month per household promised earlier to the parliament has been cruelly slashed down further to 25 Kg. for 86 % of the targeted poor. This constitutes a violation of the expectations generated among the poor by the draft bill and this Act can therefore only be described as a rights-violating law and not a food rights- empowering one.

Much has been claimed for this Act as a law that provides for nutrition security. This claim has been made for the entire period this law has been touted by the NAC. Given their nutritional value, the
absolute need for and the desirability of the Government providing coarse cereals in the Targeted Public Distribution System as promised in this Act is beyond question. Even within the arena of cereals, rice and wheat are not the most nutritious. The coarse cereals like bajra, ragi, jowar, maize and other minor millets grown mostly in dry lands would be the cereals of choice to naturally improve the nutrition security of the people. However, the Government is in no position to offer these nutritious cereals in the PDS with immediate effect or even in the near future, considering the inadequate area of coarse cereals under cultivation, levels of productivity and overall production and availability of marketable surpluses for procurement or the stocks of coarse grains held in the central pool over the years or today. The main reason for this is the absence of a policy that is especially supportive to these nutritious grains. Yet, the promise of making available nutritious coarse grains at Re. 1 per kg has been incorporated in this Act. This is a misleading promise, which was never going to be possible of fulfillment without an agricultural policy relevant to these grains being put in place as a condition precedent and which would bear fruit over a period of time only. Such a policy is missing in this Act. This promise of coarse cereals at Re. 1 per KG was in the original decisions and recommendations of the NAC to the Government earlier as well resulting in its incorporation in the 2011 Bill that went to the parliament that year. The Act now passed in 2013 continues this myth. How can any responsible Government say it will make available a variety of cereal emphasizing its price as just one rupee when it does not have it to deliver it in full or even substantially? Is that fair to the poor? The sad response to this criticism has been to camouflage the folly by playing with words by defining the entitlement of “food grains” to mean a combination of all food grains! Words and self-serving definitions will not make food nutritious; only agricultural policies that would promote its production and distribution will. There is no specific mention of that in Schedule III, which deals with provisions for advancing food security. Among the provisions that the Schedule III mentions for advancing food security are incentivizing decentralized procurement including procurement of coarse grains and geographical diversification of procurement operations. While this is vital and therefore correct, what the country needs is a specific policy to enhance agricultural production including coarse food grains in the dry land areas. This is not the same thing as to say procurement would be incentivized. Production must be there first before you incentivize procurement. In otherwise we need a decentralized agricultural strategy enabling geographical diversification of availability for decentralized production and consequent procurement. That would constitute the sovereignty of both the nation and the all-important farmer. Omission of this recognition ignores the role of the farmer.

Otherwise, this Schedule III is nothing more than a generality of platitudes in regard to agriculture and farmers, so essential for a nation’s food sovereignty. It bristles with jargon like agrarian reform but not land reforms; like “livelihood security” and “investment in agriculture” and even “giving top priority to movement of food grains and providing sufficient number of rakes” (as if railway rakes should get mention in an Act) but not specific action for promoting agriculture in dry land tracts linking it to the need for public-funded research and remunerative prices and decentralized procurement in these tracts. It is in these vast dry land tracts that India’s poverty and dismal indices of human development reside. In this specific context, the Act passed up a golden opportunity to promote India’s food sovereignty so essential for food security, by ensuring stable production and availability in these areas.
This failure has also nullified the claim made to “nutritional security” including in the future, given the nature and nutritive value of the grains produced in dry land tracts.

There can never be a doubt about the importance of encouraging diversity in consumption of food grains both for reasons of ensuring availability and nutritional quality. However, let us look at the immediate scenario. In a context of availability being comfortable in regard to rice where it is most consumed and the need for promoting coarse cereals and millets, appropriate efforts need to be made to honour the cultural rights of the people to foods they prefer and are accustomed to. Internationally, it is a well-established principle that in the definition of food security as a right, culturally compatible and preferred food is an essential constituent. As for cultural rights in food, the definition of “food grains” in Section 2 (5) to mean “rice, wheat or coarse grains or any combination thereof” would imply that when the ration card holder wants only rice, for example, she may be denied her choice because the Government had failed to deliver enough stocks of rice to the fair price shop but yet can legally impose on her wheat or even wheat flour as provided for in Section 3 (3), which she may not want to eat, in lieu of the entitled quantity of food grains. This forcible imposition would conflict with her cultural right and choice of what she wants to consume, thus violating a fundamental ingredient of her right to food security supposedly guaranteed in this Act. Her entire entitlement should be available to her in the form of the grains of her cultural preference as her right to food, if the concept of food security should have any meaning for her. Thus this Act neither guarantees quantity, nor quality of food as claimed in its intent in terms of the citizen’s cultural right to preferred food.

Also, the nutritional standards specified in Schedule II for pregnant women, nursing mothers and children in the 3 to 6 years group have been compromised in this Act by defining their entitlement in Section 4 to a meal to mean ready to eat meals also in Section 2 (9) by defining a meal to include a meal pre-cooked and heated before it is served, and including take home rations (THR). Similarly compromised are the nutritional standards for pregnant women, nursing mothers and children in the 6 months to 3 years age-group by providing for take home rations in Schedule II. It has been conclusively established, including by the social audit conducted by the Council for Social Development, New Delhi in Anantapur district recently that nutrition interruptions for unconscionable periods ranging up to scores of days in a year even accumulating to more than hundred days often occur in our anganwadis because of use of ready to eat meals transported over hundreds of kilo metres by contractors, and the inevitable delays, leakages and corruption involved (vide the book Integrated Child Development Services Programme, a Flagship Adrift, Konark Publishers, Delhi 2012). Also, the inedible nature of the ready to eat foods supplied in the anganwadis pointed out in this study was acknowledged by the CAG of India in his 22nd Report on the ICDS tabled in the parliament in 2013. As for take home meals for the pregnant and nursing mothers it is an open secret, unknown only to the authors of this Act, and confirmed including in the Anantapur study that this meal is shared by the family members of the woman particularly the husband when taken home, making a mockery of her nutritional status. Most of the time, it is some of the “better off” among the pregnant women that come to receive supplementary nutrition at the Anganwadi Centre, who prefer not to eat at the Anganwadi Centre for “social” reasons but like to take the food home. In such cases ready to eat foods are found to be
“convenient” by the anganwadi staff as well for it means less work. There is near unanimity amongst the pregnant women beneficiaries that they would prefer locally cooked foods made out of locally procured material, cooked at the Anganwadi centre and served hot, as also mandated by the Supreme Court. Local foods would further help varied recipes being cooked instead of the same monotonous items. Such meals served in appropriate privacy would encourage pregnant women and nursing mothers and the under-3 children to come to the anganwadi rather than a “take home” meal. Exceptions can be made where absolutely essential circumstances, on a case by case basis in each anganwadi centre. Instead this Act has allowed proven discredited types of nutrition practices to be perpetuated.

The provision in Section 6 which requires that the State Government shall, through the anganwadi, identify and provide meals, free of charge, to children who suffer from malnutrition, is not new to the ICDS. This, however, would be a non-starter if ready to eat meals bedeviled by corruption, delays and interruptions and the practice of take home meals being shared by other members of the family are not deleted from the Act. Further, overcoming malnutrition where detected cannot be a simple measure of providing enhanced nutrition but would involve facilities for institutionalized nutrition rehabilitation facilities. The Act has failed to recognize this.

Given all these well-known realities, this Act cannot deliver on its claim on nutritional standards without reforming these.

The provision in Section 5 (1) (a) of the Act that for children below the age of six months, exclusive breastfeeding shall be promoted is an important, positive element in this Act. However, but for it to be credible an urgent institutional reform is required to the ICDS programme to facilitate the coming to the anganwadi of children in the 0-3 year age group, regarding which no mention finds place in the Act. The 0-3 cohort hardly comes to the anganwadi centre and that is no secret. For that to happen, the crying need is the conversion of the anganwadi centres into full time crèches. The key to the success of the ICDS concept is enhancing the attention of the system to the 0-3 cohort in terms of all its early childhood care and stimulation needs. There is remarkable failure in reaching out to the 0-3 year cohort in the ICDS programme. There can be no human resource development if this does not happen as the window of opportunity for handling neurological development delays could by and large close, in a manner of speaking, at 36 months especially in the context of absence in rural India of technological knowledge and the concomitant facilities of latest neuroscience advancements made in the West in regard to brain plasticity. Says the WHO: “first three years are forever”. Children of this age group need breastfeeding of course, and also stimulation from the time they are born and appropriate nutrition complementary to mother’s milk after they are 6 months old. Given the poverty of our target households and the fact that all adult women in labour households have to work, special efforts are needed to provide children below 3 with these essential growth needs and proper early childhood care and stimulation and complementary nutrition, in addition to what is available in their own immediate environment. The current idea and practice that children below 3 need to be taken to the AWC only once in a while for weighing and receiving “take home” supplementary food has, therefore, no validity. They need to spend time in an environment that guarantees them required care, appropriate stimulation and complementary nutrition. Such an environment needs to be created at the AWC. The
design of the AWC services should be consistent with these needs of the below-3 year cohort. However, it is observed that the rural, working women do not feel confident about leaving their under-3 children at the Anganwadi Centre as they are uncertain that the close care and security that such very young children would need, would be given at the Anganwadi Centre as presently staffed, trained or timed. Because of this uncertainty, these mothers prefer to leave such children quite often in the care of their elder girl siblings, jeopardizing the latter’s right to education. If not the mothers they have to stay home foregoing their right to work. Cases are there where these and even the children above three are taken by their mothers along with them to the fields where the mothers worked, depriving them of stimulation and Pre-school Education. It is obvious, therefore, that in order to safeguard the educational interests of the siblings; the livelihood interests of the bread winning mothers; the early childhood care and stimulation needs of the below-3 year old child; and the pre-school needs of the children above 3 years, changes are required to extend the working hours of the Anganwadi Centre from 8-30 AM to 5 PM or as required to suit local conditions so as to be consistent with the working hours of the rural mothers in the fields or elsewhere. A crèche that provides services during the day for 8 to 9 hours, six days in a week, is what we need with expanded staff, infrastructure like sanitation, safe drinking water, kitchen garden, cooking space and provision of nutrition twice or thrice to the children. In short, to convert the anganwadi centres in the ICDS programme into crèches (day care centres) is the reform required urgently. This Act shows no awareness for the need for this reform in the ICDS programme to address the needs of a child at its very birth though it claims in its very first few words that it provides for nutrition security “in a human life cycle approach” and then goes on to self-servingly define an anganwadi set up under the ICDS scheme of the Government, as a “child care and development centre” which alas it is not as currently designed.

The provision In Section 5 (2) in regard to midday meals that in urban areas facilities of centralized kitchens for cooking meals may be used is not a wholesome idea. These large scale centralized kitchens have not been uniformly serving fresh and healthy meals to school children in urban areas, not even in Hyderabad as some credible activists have pointed out. Since such a need for its mention in the Act reflects the lack of infrastructure of public-funded schools, and a reference has been made elsewhere in the Act to improve the same in schools, a time limit has to be incorporated for the provision of infrastructure in public-funded schools and the idea of the use of centralized kitchens limited to small clusters of nearby schools under close supervision.

Section 8 provides for food security allowance in in case of non-supply of the entitled quantities of food grains or meals to entitled persons and that such persons shall be entitled to receive such food security allowance from the concerned State Government to be paid to each person, within such time and manner as may be prescribed by the Central Government. The Government must recognize that such non-supply could result from using ready to use meals in anganwadis transported over hundreds of kilometers. This food security allowance in Section 8 of this evidence inevitably brings memories of the MGNREGA, 2005 which has a
provision for employment allowance. In that law in the context of the claim made to guaranteed employment, if a person is not provided with employment despite the existence of that guarantee, the Act provides in Section 7 (2) for an unemployment allowance at a rate that shall not be less than “one-fourth of the wage rate for the first thirty days during the financial year and not less than one-half of the wage rate for the remaining period of the financial year.” This is gross violation of the right to life of the participating poor. That provision still exists in the MGNREGA, 2005. Though this food rights Act has not incorporated such a rights-denying provision explicitly, neither does it have in it a positive provision to compensate adequately those who could be denied their food and nutrition security guaranteed to them in this law. It has been left for a future date for future implementation in the manner as may be prescribed by the Central government. This is not consistent with either the food rights of the poor nor the transparency claimed on behalf of the government. Vigilance is called for on behalf of the poor and the hungry in regard to this provision including in the parliament when it comes up there for consideration. In fact, if a Government fails to fulfill its promise of the entitlements made it should have the moral and legal responsibility to pay a penalty to the person deprived of food in addition to the prevailing market rate for the food grains quantity denied. Only a measure of that kind would make the grievance redress machinery projected in this Act credible. Also, care should be taken against government pleading “economic capacity” as done in the MGNREGA. For a right is a right granted in law, and a law that projects food rights cannot take away that right by resorting to alibis. The parliament should amend the Act to provide for full food security allowance based on market rates with appropriate penalty and fix a time frame of no more than a fortnight for making payment for every day of food grains denied. The State Governments should demand a similar principle vis-à-vis the Central Government in regard to short supply of food grains as apprehended in Section 23 of the Act as this short supply could cause non-supply of entitled quantities of food grains or meals to entitled persons.

The final blow delivered to the entire concept of any kind of right at all comes at the very end of this Act in the concluding section of the Act. I refer to Section 44 of this Act. Section 44 is a Force Majeure section which states that the Central Government or the State Government shall be liable for a claim by any person entitled under the Act “except in the case of war, flood, drought, fire, cyclone or earth quake affecting the regular supply of food grains or meals”. This contradicts all the so-called rights, meager as they are, guaranteed in all the previous sections in this Act. This clause should altogether be dropped because, apart from hunger, these are the very raison detre for a food security law. War alone can, perhaps, be justified as an extenuating circumstance but during all other contingencies mentioned in this section, food security becomes even more relevant and urgent and a sine qua non. As for war, if it comes, the Indian people will be the first to understand the Government’s predicament or the Government can always suspend this right if such a situation becomes inevitable. Under all other circumstances, a force majeure clause of this kind ill-suits a rights-based law and requires to be summarily removed. This is a tragic provision and no less and is made more poignant by adding insult to injury when the proviso to this Section says that the Central Government may
consult the Planning Commission to declare whether or not any such situation affecting the regular supply of food grains or meals has arisen or exist! Planning Commission? Not the Agriculture Ministry! Not the Food Ministry or the Food Corporation of India! Where do the buffer stocks of millions of tons built at tax payer’ expense leave us then?

Section 12 gives a list of reforms that would be undertaken in the Targeted Public Distribution System. Eight measures have been listed and some of them are elementary though relevant and require no comment. These are doorstop delivery of food grains; application of information and communication technology tools to prevent diversion; and diversification of commodities distributed under the Public Distribution System. However, the most worrisome is the last reform mentioned in the Act, which is, “introducing schemes, such as, cash transfer, food coupons, or other schemes, to the targeted beneficiaries to ensure their food grain entitlements”. This is not a reform measure but a retrograde measure for this is bound to nullify the very concept of the public distribution system set up in India over a period of strong struggle as an alternate market designed for the poor who stand banished from the disempowering markets. The Aadhar-linked direct cash transfer which was being forced at breakneck speed on the consumers, even much before the advent of this Act, is nothing but privatization of the public goods essential for the poor. When it comes the PDS commodities would be sold at market rates with the poor consumers having to pay the Government’s economic cost for the food grains and market rates for goods like the LPG cylinder which would be beyond their capacity driving them to borrow in the marker even for their food grains and gas in the first instance. For example, an identified card holder could be expected to pay Rs. 25 per kg of rice in the first instance where she has been paying Re 1 today and Rs. 1, 200 for an LPG cylinder where she may be paying about Rs. 400 today. After doing so she would have to make visits to banks to check if her subsidy amounts have been remitted by the Government into her bank account. All this would be backbreaking in a system where the majority of the poor would have no bank accounts. Empowering a woman by issuing a card in her name is very good but leveraging her unique identity card to make her subsidy entitlements to circulate in the banking system as liquidity against a given possibility that the husband may make her borrow to get the food grains in the first place and then use for alcohol the subsidy amount if and when it comes, at least in a number of cases, would be the opposite of empowerment. After all, Government itself is encouraging sale of liquor to enhance its revenues and even if a husband does not drink away what is the guarantee the cash would be spent for nutrition, which is deemed a right in this Act? Who will supervise that or guarantee that? If the intention is to “reform” the PDS, which means transferring cash to ensure food grains as the Act says, then why the drama of an elaborate food and nutrition security law purported to be “rights-based”, deliberated over so many years in the NAC? Is this law about right to cash or right to food and nutrition? Space does not permit a complete analysis of this direct benefit scheme in this article, but it is a dangerous game and not a game changer as one of our ministers had said. This idea should be quashed once for all whether it is applied to food grains or scholarships (who will guarantee the student is attending classes?). In the beginning It would be “feel good” for people to see money in their hands and also for the political beneficiaries but there is no way
to ensure it converts into food and nutrition security or education. This provision should be deleted by the parliament.

That part of the Schedule III, which mentions provisions for advancing food security mentions nutritional, health and education support to adolescent girls. This is a good provision that already exists in the ICDS programme. It is, however, not clear why the Schedule III has omitted to mention the promotion of nutrition and health education for all, which would be at least as important as food or nutrition or drinking water or sanitation itself because nutrition and health education will multiply and deepen the benefits of the quality of such food and nutrition as may be accessed by even the very poorest women and families. That the Act gave it a miss is to say the least surprising. It is not late to do this even now by an amendment.

Sections 22 and 24 of the Act speak of the responsibilities of the Central and State governments for the implementation of this law. However, a reading of these sections shows the Centre has taken no real responsibility for implementation excepting for allocation of food grains and bearing the cost of delivering the food grains to the fair price shop level. In regard to the local authorities, no responsibilities have been specifically given excepting to say in Section 25 that they “shall be responsible for the proper implementation of the Act in their respective areas”. From a reading of Section 26 it would appear that they have “obligations” to discharge duties assigned to them by many Ministries of the Central and State Governments but not a participative role in decision making especially in identification of beneficiaries through Gram Sabhas. Section 29 has a strange provision for the Vigilance Committees set up at all levels from the State to the fair price shop “to regularly supervise the implementation of all schemes” under the Act! Supervision is the job of the Government at any and all times. The Vigilance Committees can visit, inspect and monitor but that is not to be confused with supervision which always includes giving directions including in exercise of powers under the Essential Commodities Act, 1955. As if an afterthought, the same section then says that they would “inform the District Grievance Redress Officer in writing of violations, if any, of the provisions of the Act and malpractices or misappropriation of funds found by it.” Informing in writing is not the same thing as supervising. This Act, therefore, lacks seriousness and if further proof is needed it can be seen from the fact it gives the power in Section 33 of imposing a paltry penalty of Rs. 5,000 on persons violating its provisions “willfully”, that too on appeal to the State Commission and by the State Commission, after an exceptionally long procedure. Further, this punishment is not for causing in the first instance of loss of entitlement to the poor but for non-implementation of providing relief ordered by the District Grievance Redress Officer. The District Grievance Redress Officer himself, in this Act, is not empowered to impose a penalty on erring authorities.
This paper has highlighted the areas requiring further amendments. However, there is one issue on which this law needs to be unequivocally upheld and credit given to the Government for that. The foremost reason why the Government deserves to be congratulated is that it resisted and stood up to the calls for a so-called Universal Public Distribution System as against a Targeted Public Distribution System, from the activist members of the NAC itself, - a call taken up later by almost the entire civil society. Some genuinely progressive political parties and editors, whose integrity or knowledge is beyond reproach also have regrettably subscribed to this idea. To say there should be a Universal PDS that should cover the non-poor as well everywhere in the country, including, by implication, the non-poor in the district of Tanjore in Tamil Nadu or West Godavari in Andhra Pradesh or in most areas of Punjab, Haryana and Western Uttar Pradesh is to confuse altogether the discourse on the rights of the poor itself. The protagonists of a Universal PDS criticize the TPDS based on arguments like its unreliability because of exclusion errors; that there is no real way to identify poor households; that a household may be well off today but may become poor tomorrow; and that the power equations in the rural areas are such that any BPL survey is liable to be manipulated etc. None of these arguments is tenable. Identification is an admittedly difficult exercise in our politically partisan milieu but to come to an irrevocable conclusion that the power equations in the rural areas are such that any BPL survey is liable to be manipulated and rendered unreliable is the voice of desperation and defeatism. It fails to recognize the rising struggle of the marginalized in rural India. It also questions the potential for change by which we have set a lot of store in amending our Constitution in 1993 and introducing decentralized governance, including in particular the empowerment of the dalits, backward classes and women through reservation in the Panchayat Raj Institutions (PRIs). Nobody is pretending that the millennium of emancipation has arrived for the marginalized in rural India but to make sweeping statements to the effect that we are helpless against power equations in the rural areas in the context of the identification of the poor and should, therefore, live resigned to such a belief is wrong. If such arguments are right, we may abolish all Gram Sabhas. “That a household may be well off today but poor tomorrow” is a fact of life in monsoon-bound India but now that in the Act Government has rightly jettisoned the poverty figures dished out by a self-serving Planning Commission by covering 67 % of the population, this argument of the protagonists of the UPDS is not relevant. Repeated references to Tamil Nadu’s success as a successful user of the UPDS without exclusion errors is not borne out by facts. The idea that by their inclusion in the PDS, the well-to-do in the population will raise their voice in solidarity with the marginalized if targeting goes in the PDS is a non-starter. Given the existing social cleavages in Indian society, to say of all things PDS targeting is socially divisive, as argued by an eminent thinker, is facetious. As for Tamil Nadu, even when they had a PDS based on income limits before they came to adopting a PDS that abolished income distinction, their PDS was always well managed because they simply have always had good governance in that state. A more convincing explanation for the success of their PDS lies in the fact that an overwhelming majority of the fair price shops in Tamil Nadu are run by the cooperatives and the Tamil Nadu Civil Supplies Corporation. We must make the system work, which is the function of improving overall governance. Such steps that make for good governance would be necessary even in a so-called Universal PDS, for even in a UPDS
identity cards will have to be issued to the households and if governance is not set right the poor households in a UPDS would still be excluded. Therefore, the problems in the PDS are not to be found in a TPDS or a solution in a Universal PDS that subsidizes the non-poor but in eliminating in the PDS defects in identification and eliminating spurious cards and fighting corruption, by involving participatory mechanisms including apolitical SHGs at the Gram panchayat level in the governance of the PDS.

Therefore, the provisions in Section 10 of the Act about identifying the eligible households and in Section 11 placing their lists in the public domain are absolutely in order. The State Governments should involve the elected Panchayat Raj Institutions and their Gram Sabhas in the identification process backed up by training to be imparted by District Collectors and Joint Collectors to the identifying machinery. District Collectors should do personal random checking of work during the identification process and also do actual identification so as to demonstrate to the identification teams how this has to be done. Needless work can be avoided by ignoring identification in scheduled areas and dalitwadas and Lambada tandas and urban slums so that actual focus on the areas where identification has to be rigorous to avert bogus cards can be ensured. It should be fully understood that identification is never a one-time function but an ongoing one like electoral rolls so that bogus cards could continue to get eliminated and the case of the deserving continues to receive attention for inclusion. In India, if there is one category of people who can be instantly identified, it is the poor. All we need is honest work, sternly enforced.

The provision in Section 22 of the Act is commendable for the Centre’s readiness to provide assistance to the State Governments towards cost of intra-State movement, handling of food grains and margins payable to fair price shop dealers. This is a progressive step.

Section 4 of the Act provides for nutritional support to pregnant women and nursing mothers. The associated Schedule II to this section lays down the standards to meet these nutritional needs. The section also provides for a dynamic and credible right to a maternity benefit of not less than Rs. 6,000 to women during pregnancy and the period of nursing in appropriate installments. This is a very positive highlight of this Act.

These are some of the strengths and many of the weaknesses of this Act. This paper does not deal with issues like cost sharing between the centre and state. These are less relevant than what the law does for the people. However, what certainly needs to be stated is that on the part of the Central Government, a rights-based food and nutrition law calls for an altogether more sophisticated conceptualization of the issues involved than seen in this Act. This could be a reflection of the absence of negotiations vitally required between the Centre and the States pertaining to it. For example, though the Government of India’s FCI does the procurement of food grains for the central pool financed by the Reserve Bank of India, the
actual nitty-gritty of this work is carried out by the State governments and their agencies. It is a particularly difficult job where rice is concerned since it involves the implementation of the levy orders made under the Essential Commodities Act, 1955 and dealing with one of the most economically and politically powerful groups in India namely the rice milling industry. Unlike in the northern states of Punjab and Haryana and western Uttar Pradesh where wheat procurement involves no levy but purchases based on regularly upwardly-revised MSPs every year, and because of the trading middlemen playing their own games, huge quantities of paddy and wheat land up in the central pool. On the other hand wherever rice has to be procured as in the southern states the mechanism of compulsory levy comes into play involving strict enforcement of the laws against the rice millers. A good MSP brings in large quantities of wheat and paddy with no effort to specifically acquire the grain, except in storage and movement. The productivity levels achieved in wheat in the north western states and the fact that paddy is grown more as a commercial crop than as a consumption crop as it happens in Andhra Pradesh or Tamil Nadu, help in nearly effortless levels of purchases for the central pool in the north western states. Today, it appears simple when we speak of a 30-40 lakh tons procurement of rice from the rice millers of Andhra Pradesh but let it never be forgotten that the foundations for this were laid in 1983 by N.T. Rama Rao’s administration when the forerunner of today’s food security law was architected in Andhra Pradesh. The average annual procurement of rice in the 5 or 10 years preceding N.T. Rama Rao’s government would not have crossed 5-6 lakh tons per annum, not to mention the quantities, especially boiled rice that AP did not consume and which went to the central poll. In 1983, AP revised the procurement graph spectacularly taking levy procurement to 16.23 lakh tons and when the Centre for obvious political reasons threatened the State by stopping it from further procurement so that the Rs 2 per KG may flounder, the state procured another 9.25 lakh tons through the Andhra Pradesh State Civil Supplies Corporation from the rice millers by paying just Rs. 5 above the Government of India-fixed levy price. In other words, AP procured 26 lakh tons of rice from the milling industry in the year 1983, achieving a quantum jump in the history of rice procurement in Andhra Pradesh. The benefits of this effort are seen today in Andhra Pradesh but then let it be remembered that did not happen by the waving of a magic wand. It happened because of a corruption-free political leadership and dedication of a band of neutral senior civil servants some of whom brought their domain expertise and experience in food security issues to the programme; and the great traditions of the institutional leadership of the district collectors of those days and the efforts of thousands of lower level staff members of the revenue and civil supplies departments. Of course, the rice millers “cooperated” but not before they were made to do so including through the Government’s victories in court battles. It needs to be placed on record that the Rs 2 per kg of rice programme succeeded against every prediction of failure by the opposition Congress and constant efforts at political sabotage from within the Telugu Desam party. This was thanks to Chief Minister NT Rama Rao’s determination and the political will he showed. The point that needs to be highlighted here is that a massive programme of this kind calls for day-to-day interaction between all stakeholders, all key actors involved, and if this has to succeed at the national level it also has to meet successfully the challenges of a federal
system of governance in India. It calls for skills in taking on board States and that would be
difficult even in a one-party rule all over India given the internal sabotage for which India’s
political parties are justly famous. Then, what to say of today’s fractured politics of our
country! Against this background, a look at the National Food Security Act of September,
2013, or what we know from the repeated upstaging of its Government by the NAC as if two
hostile powers were contending for political space, give no confidence that any kind of
homework so essential for putting on ground a programme of this magnitude preceded this
law. We shall see in the days to come how easy it is to promulgate an Act and how difficult
it is to deliver people their food rights, unless the strategy is to go for cash transfers
immediately for reasons of the electoral needs of 2014. That will not guarantee food
security whatever else it may guarantee.

This brings us to the question of how these things play out at the federal level. In 1986 a
note was sent by this writer at the request of the then Prime Minister Mr. Rajiv Gandhi on
the need for a national PDS programme on the lines of what had been done in Andhra
Pradesh. Let it be reiterated that this was sent at the specific request of the Prime Minister.
Nothing concrete happened on that note despite several meetings at the PMO taken by the
then secretary to the Prime Minister. Obviously, his economist-advisers were against it.
When Mr. P.V. Narasimha Rao came to power, he certainly gave the impression he wanted
it should be done but never in fact showed the determination to take the leap. Probably his
then finance minister frightened him out of it, though the Prime Minister’s instincts were
distinctly pro-poor. However, enormous amount of home work on a massive national public
distribution system, which would also take care of the needs of the ICDS and a rural
employment programme, was done in the Prime Minister’s Office (PMO) to introduce a
programme of the kind in Andhra Pradesh. It was so intense that a series of discussions
were held in the PMO and a power point presentation was made to the Prime Minister, with
the cabinet secretary invited to be present, and the Prime Minister’s secretary himself
sitting on meetings taken by the Union Civil Supplies Secretary with the Food Secretaries of
the States to discuss all relevant modalities, and the subject coming up in the National Food
Advisory Council meetings of State Food Ministers presided over by the Prime Minister
himself. The next step came about in March, 1993 when the Advisory Council on PDS
adopted a resolution “urging the Government of India to evolve a national Policy on PDS
which should focus on the need to allocate larger and more meaningful quantities to the
really needy and deserving sections of society”. In pursuance of this the Union Government
constituted a Committee of Ministers from three State Governments including Shri
Narendra Nath Dey, Minister of Food and Civil Supplies, Government of West Bengal to
examine all relevant issues and make appropriate recommendations. This Committee of
Ministers after holding discussions with the Ministers and other representatives of States
and UTs and also with representatives of political parties in Delhi and some State capitals
made the recommendation, among others, that “in order to ensure that larger and more
meaningful quantities of food grains reach the really needy and poorer sections it is
inescapable that the relatively better off sections of the population are excluded from
access to the PDS in respect of food grains”. In another recommendation the Committee
directed the Central Government to issue guidelines on the categories to be excluded and
gave an illustrative list that included income tax assesses; sales tax assesses; professionals
like doctors, lawyers, engineers and chartered accountants, and employees of the
government, the public sector and the private sector, subject to an income ceiling. In the
rural areas categories other than land less labour; rural artisans; share croppers; small and
marginal farmers; all IRDP beneficiaries and others in similar economic situation, would be
excluded. These were merely illustrative lists and freedom was given to the state
Governments to take decisions based on relevant socio-economic factors and local
conditions. This report called the “National Policy on Public Distribution System – Report of
the Committee of Ministers, New Delhi - July, 1993” should be available with the
Government of India and in the Prime Minister’s Office. This was how the concept of a
Targeted Public Distribution for India to sharply focus on the poor was born, by an inclusive
national level consensus. Not by World Bank dictates or neo-liberal proclivities as some
“progressive” omniscient social activists, political parties and academics darkly hint.

All these massive efforts, regrettably, did not result in a decisive conclusion of rolling out a
programme as had been done in Andhra Pradesh. The Prime Minister did not take the
decisive leap which Rama Rao had taken in Andhra Pradesh. He was oversold with the
threat of fiscal deficits, a hardly sustainable argument, an argument never validated by his
then finance minister when he subsequently became the Prime Minister.

So, here we have a paradox in the food security history of India. In 1986 a Prime Minister
showed keen interest in the subject. In 1992-93, a Prime Minister after all required
preparation was meticulously done for bringing in a food security programme, failed to push
a decision to put the scheme actually on ground. And in 2013 we have an Act with no
evidence of the kind of preparations involving all stakeholders so essential for a massive
effort of this kind to succeed in a federal polity that is fractiously divided! Not only no
preparation by or involving the Government, but in fact even extensive political messages
have been sent to the people that this is a programme exclusively emanating from the NAC
with the Prime Minister or the Government having no heart, or shall we say more
contextually, no stomach, for it.

However, still this Act needs to be commended for certain important reasons as described
above but not for the reason that a worthwhile law for Food and Nutrition Security has
actually come into existence in India, as explained above. It has come too late and it has too
little in it. The United Nations and Prof. Amartya Sen have given high praise to this effort, the
UN saying it showed that the issue of hunger was being taken “seriously”. As for Prof.
Amartya Sen’s expansive approval, to put it respectfully, it must be owing perhaps to his own
surprise that even this kind of a truncated effort materialized at all. This article would show
that he is mistaken in his claim that the only argument he had heard against it was regarding its cost. There is much more wanting in this Act, “seriously”. Considering that affordable rice was introduced so far back into the PDS as in the 1960s in Tamil Nadu by C.N. Annadorai, and in the early 1980s by N.T. Rama Rao, this 2013 Act is no new step, leave alone a revolutionary step. That this law has not gone beyond what had been done in terms of quantity per household 30 years ago in Andhra Pradesh makes it hardly an improved scheme over that concept. It can be no doubt argued that this is a law as against the previous efforts which were not but it would be naïve to believe that the people of these states or the protagonists of this law today would have welcomed these measures if the people decades ago had actually not accessed the benefits promised to them, never mind whether it was a law or not. In any case a law based on rights must give enough of those rights for it to be meaningfully called a law.

While we can discuss what this Act gives and does not give that would be at best a reaction. If we have to go beyond that and think of what eventually would give India food and nutrition security the answer would lie in moving on a much broader front in agriculture than now, including in particular strengthening production and productivity in the vast areas that have little or no assured irrigation. That would usher in a stable availability and prices. That is a function of agricultural research and technology, including the time-honored wisdom residing in our farmers in regard to seeds and storage. The support the state would provide in pricing would ensure that productivity increases, which in turn would lead to the emergence of an autonomous public distribution system based on community-led procurement and storage. Such a system would not depend on grains moving across the country with all the accompanying evils of leakage and corruption but would support nutritional needs of all sections of our people across the country whether they are participants in the PDS or ICDS or MDM or rural employment programmes. It is that autonomy and sovereignty for producers and consumers together that we should aspire for in our search for food and nutrition security for India.

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1. “Deliverance from Hunger, - The Indian Public Distribution System”- Sage Publishers, Delhi 1992, and released by the Prime Minister, and