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Rethinking of national food security act, 2013 under human right prospective

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Abstract

India is a welfare State and as a welfare state it has the obligation towards the health and nutrition of its people. The framers of Constitution bestow the obligation of public health upon the State under Article 47 of the Constitution of India. Article 47 states that the State has the duty to raise the level of nutrition and standard of living and improve the public health. It is the primary obligation of the State to improve the health and nutrition of the citizens. Although, Article 47 is placed in Part IV of the Constitution as Directive Principle of State Policy and it cannot be enforceable as Fundamental Right, it is fundamental in the governance of the country. Based on that directive India has passed the National Food Security Act (NFSA) in 2013 which aims to provide subsidized food grains to approximately two-thirds of India's 1.25 billion populations. The introduction of this Act in 2013, marks a major paradigm shift from a welfare based to a rights based approach to address food insecurity. This article attempts to understand the effect of NFSA on food security outcomes in India and the ground reality in implementation of this Act.

Keywords: Agricultural Production, Global Hunger, Malnutrition, Public Distribution System, Right to Food

1. Introduction

Food is a basic essence of life – no food no life ^[1]. Unfortunately, approximately 795 million people in the world do not have enough food to lead a healthy active life. That amounts one in nine people on earth is in chronic hunger in 2014-2016. The vast majority of the world's hungry people live in developing countries, where 12.9 percent of the population is undernourished ^[2]. In Global Hunger Index published by the International Food Policy Research Institute, India rank 97 on the list of 118 nations ^[3]. India's rank is worse than its neighbours Nepal, Bangladesh and Sri Lanka, but marginally better than Pakistan. According to the annual report released by the Food and Agriculture Organization of the United Nations, India is home to 194.6 million undernourished people, the highest in the world. This translates into over 15% of India's population is malnourished people in the country's population ^[4]. Despite the steady increase in GDP, the nation is suffering with serious malnutrition problem. Almost one third of the total malnourished children of the world are living in India ^[5]. In this situation it is the challenge for the government and the policy makers to feed the every undernourished people of the country.

2. International development of food security

The concept of food security has been evolved by the long period of 75 years or more. For discussion of the evolution of the concept of food security, we can simply divide the periods in four stages based mainly on the global situation of food security.

a) Post-World War-I and League of Nations (1930-1945)

After the First World War, the League of Nations was created to re-establish peace and harmony among States and this united forum first realize the need of food security in the international arena. However, it is also that it was not possible to establish peace without addressing health and living conditions. Therefore, the health department of the League of Nation conducted a survey on the global availability of the food. Probably, that was the first survey on the food security on the global aspects. A report was submitted by the Health Division of the League of Nations in 1935 and it was observed that there was an acute food shortage in the poor countries.

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This was the first documented account of the extent of hunger and malnutrition in the world. Reviewing the report, the League of Nations directed co-ordination and co-operation from those concerned countries to achieve food security. The League of Nations finally agreed that proper action plans should be framed and implemented for increasing food production to meet human needs in future ^[6].

b) Post World War II, United Nation and FAO (1945-1970)

After the World War II, United Nations Organization has been established to keep peace in the world and Food and Agricultural Organization (FAO) has also been established as a specialized body to ensure food security to the world population and to raise levels of nutrition, improve agricultural productivity, better the lives of rural populations and contribute to the growth of the world economy. The newly established FAO conducted its first World Food Survey in 1945. The basic object of the survey was to find out whether there was sufficient food and macronutrients for every individual on earth. After the World War II, widespread use of pesticides, fertilizers and other farm chemicals create the surplus in the food production. At this period overproduction of the agricultural products soon became a concern for many countries including USA. As a result, between 1948 to 1953 large amount of food grains was transferred from US to Europe within the framework of the Marshall Plan. In 1952 the FAO established a Committee on surplus Commodity Problems (CCP) to provide advice on surplus problems arising out of overproduction of agricultural products.

In the same year the CCP was requested to examine the feasibility of establishing an emergency food reserve to make that available to countries threatened by famine and also recommended to establish a permanent committee to deal with surplus disposal. As a result, the Consultative Subcommittee on Surplus Disposal (CSSD) was established in 1954 in Washington D.C to monitor continuously the impact of surplus disposal on agricultural production and international trade. The CSSD is still functioning and reporting periodically to the FAO Council through the CCP ^[7]. Further, on 27th October 1960, the United Nations General Assembly passed a resolution on “the provision of Food Surpluses to Food Deficit people through the United Nations Systems” ^[8]. The basic object of this resolution was to utilize the surpluses as a solution for chronic hunger and malnutrition in various developing countries.

c) Food Crisis (1970-1990)

Since 1970 unexpected climates change has occurred in various regions of the world resulting in a dramatic reduction in the food grain production. As a result, the price of the food grain became higher than its average one. At the same time, OPEC ^[9] has increased the price of the petroleum to unprecedented record level. This adversely affected to the agriculture sector as the cost of fertilizers and transport of the food products became costly. It gradually became out of the reach of the developing countries. Commercial imports were getting more expensive for developing countries ^[10]. In view of the international food crisis, a number of countries from both developed and developing world requested the United Nations to organize an international conference to review the situation.

Accordingly, the United Nations World Food Conference took place in November 1974 in Rome to agree on measures to ensure that within a decade nobody would suffer from food insecurity. The Conference approved an International Undertaking on World Food Security which for the first time recognized that food security was a common concern of all nations. Moreover the result of the conference may be divided as two-fold. First was the passing of Universal Declaration on the Eradication of Hunger and Malnutrition ^[11]. The representatives of 135 signatory States, including India, promise to work together towards eliminating hunger and malnutrition from the world. The Paragraph 1 of the declaration ensures that every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties ^[12]. Second outcome of the Conference was establishment of the International Fund for Agricultural Development (IFAD). IFAD is now playing an important role in food security within the guidance of FAO.

d) Golden Years of Food security (1990-2005)

This period can be called as the Golden period of the Global Food security as in this period at least fifteen international conferences have been held on food security and fruitful recommendations have been adapted by international authorities. The main development of this period is that the multidisciplinary dimension of the food security has been realized by the state as well as international actors.

Among these conferences, First International Conference on Food and Nutrition was organised in December, 1992 in Rome. The objectives of this Conference were to examine the magnitude of the problems related to hunger, malnutrition and dietary diseases ^[13]. The said conference came to the conclusion that there is sufficient food for all people and we have both the knowledge and the resources to eliminate hunger and all forms of malnutrition. However, due to the corruption and inefficiency in the Public Distribution System the food is not equally access by the people ^[14].

Probably the biggest success at that period was commencement of The World Food Summit. The World Food Summit which was taken place in Rome, November, 1996. Under this Summit the Rome Declaration on World Food Security was adapted. Under this declaration the participating nations has made the commitment to achieve the food security for all around the world, with an immediate view to reducing the number of undernourished people to half their present level no later than 2015 ^[15]. The Declaration reaffirmed the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger ^[16].

3. Food Security in India

From the historical area, shortage of food was a familiar event in respect to the Indian society. The prime reason for that India's agriculture mostly depends upon the quantum of the monsoon rains ^[17]. Kautilya, the great statesman of ancient India, in his exhaustive chronicle on statecraft *Arthashastra* (321-301 BC), has advised the kings that during famine, the king should show favour to his people providing them with seeds and provisions ^[18]. In *Vedic* era, the parting direction of Guru to his disciples was to go and grow food grains. The saying '*Annam Brahmam*' (Grain is

God) also illustrate the importance that was given to food grains. The *Mauryas* under whom India received her first unity-both cultural and political-laid down elaborate instructions to the higher officers with respect to the measures for dealing with famine and other natural calamities. According to some historical sources, there were 14 famines between 11th and 17th century. Moreover, there were more than 20 famines from the time period of 1860 to 1909 [19].

Situation seems to have changed drastically on the eve of the Second World War and the Bengal Famine of 1943 is known to have claimed around 3.5 million lives. This led to the British Government to appoint an official Famine Inquiry Commission and which had figured out at 1.4 million deaths due to the Bengal Famine [20]. Soon after becoming an Independent Nation on 15 August 1947, India opted for planned economic development to improve the standard of life and food security in India. Partition of the country in 1947 left India with 82% of the total population of undivided India but only 75% of the cereal production. The surplus province of Punjab was partitioned and West Punjab, which had a well-established network of irrigation canals, went to Pakistan, Sind province, which too was a surplus province also went to Pakistan [21].

India's food policy seeks to achieve the social justice through proper food price and public distribution system. In order to achieve its cherished goal India has introduced world's biggest public distribution system and various poverty alleviation programmes. The food policy of independent India was examined by a Food Grains Policy Commission under the chairmanship of Sir Purshottam Das Thakur Das in 1947 which submitted its report in April 1948 [22]. Food policy being necessarily a dynamic concept, the 1947 Commission was followed by a number of Commissions which examined the food policy from time-to-time.

The next important step was setting up of the Food Corporation of India (FCI) and the Agriculture Prices Commission in 1965. Further, the Commission for Agricultural Costs and Prices (CACPC), was established to advise the Government on price policy for agricultural commodities. The First Five Year Plan, launched in 1951, gave highest priority to Agriculture and even though the investment priority shifted to industries in the Second, the foundation laid by the First Plan continued to be the guiding spirit for planning and implementation of agricultural development programmes in India [23]. In December 2011, National Food Security Bill was introduced in the Lok Sabha for the first time to address the issue of food security in a comprehensive manner. Finally, the welfare based paradigm has been shifted to right base paradigm to the citizen of India.

4. Basic features of the food security Act, 2013

The basic features of the Food Security Act, 2013 are followings:

a) **Coverage and entitlement under Targeted Public Distribution System (TPDS):** The Act provides coverage up to 75% of the rural population and 50% of the urban population under TPDS [24], with uniform entitlement of 5 kilo grams food grain per person per month. However, before the introduction of the Act, under *Antyodaya Anna Yojana* (AAY) [25] the subsidized food grain had been provided to the poorest

of the poor families. According to AAY scheme 35 kilograms of food grain per household per month has been allotted to the eligible households under the Target Public Distribution system [26].

- b) **State-wise coverage:** Corresponding to the all India coverage, State-wise allocation of food grain will be determined by the Central Government. Planning Commission has determined the State-wise coverage by using the NSS Household Consumption Survey data for 2011-12 [27].
- c) **Subsidized prices under TPDS and their revision:** Food grains under TPDS will be made available at subsidized prices. As per the Act eligible households will get rice per kg not exceeding Rs. 3, white not exceeding Rs. 2 and coarse grains not exceeding Rs. 1. However this price fixation is valid for three years from the date of commencement of the Act and Central Government is entitled to fix the price from time to time. But the price should not exceed the derived minimum support price for the rice and minimum support price for the wheat and coarse grains [28].
- d) **Identification of Households:** Within the coverage under TPDS determined for each State, the work of identification of eligible households is to be done by States/UTs [29].
- e) **Nutritional Support to women and children:** Pregnant women and lactating mothers and children in the age group of 6 months to 14 years will be entitled to meals as per prescribed nutritional norms under Integrated Child Development Services (ICDS) and Mid-Day Meal (MDM) schemes. Higher nutritional norms have been prescribed for malnourished children upto 6 years of age [30].
- f) **Maternity Benefit:** Pregnant women and lactating mothers will also be entitled to receive maternity benefit of not less than Rs. 6,000 [31].
- g) **Women Empowerment:** The eldest woman who is not less than eighteen years of age, in every eligible household, shall be head of the household for the purpose of issue of ration cards [32].
- h) **Grievance Redressal Mechanism:** There is requirement to establish Grievance redressal mechanism at the District and State levels. States will have the flexibility to use the existing machinery or set up separate mechanism [33].
- i) **Cost of Intra-State transportation & handling of food grains and FPS Dealers' margin:** Central Government will provide assistance to States in meeting the expenditure incurred by them on transportation of food grains within the State, its handling and FPS dealers' margin as per norms to be devised for this purpose [34].
- j) **Transparency and Accountability:** Provisions have been made for disclosure of records relating to PDS, social audits and setting up of Vigilance Committees in order to ensure transparency and accountability [35].
- k) **Food Security Allowance:** Provision for food security allowance to entitled beneficiaries in case of non-supply of entitled food grains or meals [36].
- l) **Penalty:** Provision for penalty on public servant or authority, to be imposed by the State Food Commission, in case of failure to comply with the relief

recommended by the District Grievance Redressal Officer^[37].

5. Critical analysis of the Food Security Bill, 2013

i) Vote security not Food Security

The Act has been criticized as it was passed by the UPA Government keeping in mind the General Assembly Election 2014. It seems that the Act work as a vote security rather food security. At the time of the passing the Act, the fiscal deficit for year 2013-14 has been contained at Rs 508149 crore (provisional) which is 4.5% of the GDP^[38]. So, the financial circumstance of the Nation was not favourable to afford the burden of food security^[39].

Table 1: Central Government Subsidy Burden:^[41]

Commodities	2012-13 (Budget Estimate in Crore)	2013-14 (Budget Estimate-in Crore)	2012-13 (Share in Total)	2013-14 (Share in Total)
Food Subsidy	Rs.85,000	Rs.90,000	34.3%	40.7%
Fertilizer Subsidy	Rs.65,974.1	Rs.65,971.5	26.6%	29.8%
Petroleum Subsidy	Rs.96,879	Rs.65,000	39.1%	29.4%
Total	Rs.247,854	Rs.220,971.5		

The table shows that in order to increase the food subsidy the petroleum subsidy has been decreased. Although the food subsidy has been increased the total estimated budget subsidy is decrease from the year 2012-13. Thus, the greater fiscal discipline is essential for successful running of the food security programme.

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

The National Commission for the Protection of Child Rights (NCPCR) has criticized the bill on grounds such as exclusion of children under the age of two years from take home ration scheme under ICDS, the denial of entitlements to the third child under the two child norm has also been criticized.

iv) No role for State governments in decision making

Under the National Food Security Act, 2013 the Central Government has the sole power to identify the percentage of targeted group from the rural and urban areas of each State on the basis of estimated population as per the census^[42]. The State Government only has the power to identify the households covered under *Antyodaya Anna Yajana*, and has the responsibility to update the same. The State Government has no power to increase the number of beneficiaries. Fifteen States including Chhattisgarh, Bihar, Tamil Nadu, Madhya Pradesh, Delhi and some southern States already have their own subsidized food security programme and their own count of beneficiaries. The Act also fails to address the fate of these State’s programme. Thus, there may be some confusion regarding the implementation of the said Act.

v) Eradication of Malnutrition has been ignored

Malnutrition is one of the most vivid problems of Indian society. Though the Act in its preamble specifically mentioned the objectives of the Act are to provide not only food security but also nutritional security to the Indian citizens, its operative portion has failed to emphasis the nutritional aspect. It shows that the legislators were enthusiastic to eradication of hunger but overlooked the nutritional aspects. This is more important in case of women

ii) Heavy burden on the fiscal policy

The Food Security Act, 2013 is a good move but probably the time is not suitable for it. The fiscal deficit for 2013-14 has been contained at Rs 508149 crore (provisional) which is 4.5% of the GDP^[40]. This Act further add heavy burden on the Indian economy. On the other hand, revenue collections from the domestic industry and exports are not very commendable in this year. In this situation an expansive food security programme is apprehended to worsen the deficit as well as Indian economic stability.

and children. In India 42% of the children are suffering with malnutrition^[43]. So without noticing the nutritional aspect of food security, the Act will fail to serve the purpose.

vi) No person Judicial Background

The Act constitutes State Food Security Commission with a Chairperson and five other members^[44]. None of these members and Chairman requires judicial background. It seems that to adjudicate the disputes relating to food security the members and chairperson should have some judicial knowledge and experience. As the commission has the discretionary power to take *suo motu* action in case of the violation of the Act, the Chairman and the members should have some judicial knowledge to exercise the discretion.

vii) Penalty for the offence is not adequate

The Said Act does not provide any real power to the State Commission to punish the offender in case of violation of any provision of the Act. The Commission can only charge fine upto five thousand rupees. Considering the rampant corruption in public distribution system this much penalty is not adequate. Moreover, the amount of the penalty is very trifling to the offenders.

6. Suggestion and Conclusion

India has launched the largest food safety programme in the form of the National Food Security Act, 2013^[45]. By the Act the Government of India has consolidate the existing programmes like TPDS, ICDS and Mid-day meal system under the one roof. However, the Act fails to consider the nutritional value of the food, as a result, it becomes limited and confined. We must not deny the multi-disciplinary character of the food security.

Following suggestions can be considered for the better implement of the Food Security in India:

- a) Farmers are the backbone of the Indian agriculture. The production of the agricultural commodities highly depends upon the security of the farmers. If they have been provided insurance against natural calamities and climate changes or cash money is transferred as their crop security, they may produce more^[46].

- b) The Food Security Act does not include pulses in the food distribution items. However, the major source of the protein in Indian vegetarian diets is pulses. Recent, price hike due to inflation have pushed pulses out of the reach of the poor citizens. There have been suggestions from the all parts of the nation to include pulses along with the cereals in the food security items ^[47].
- c) Similar suggestion can also be made for oils, sugar and iodized salt, because these commodities are also necessary for the proper nutrition. Although, it is neither prudent nor possible to include everything to the food subsidies, it is advisable for the government to look at possibility to add more goods in the Food Security Programme ^[48].
- d) For the better food security the cooking medium or the cooking fuel must also be considered. If the medium of cooking is not hygienic, the nutrition value of the food may be affected. Most of the Indian poor household use kerosene as the cooking fuel. Kerosene emits a toxic gas which adversely affects to the respiratory system.
- e) For the proper food security equal importance should also be given to the healthcare and sanitation along with food. Sanitation is one of the major problems in India. Therefore, the real food security cannot be achieved without nutritional security to the people of India.

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