

CHAPTER SEVEN

NATIONAL FOOD SECURITY ACT: IMPLEMENTATION CHALLENGES

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The National Food Security Act (NFSA) was passed by the Indian Parliament in September 2013. For over four years, since the UPA government in June 2009 announced its intent to bring in legislation on food security until it was finally passed, there was intense debate and discussion on what the act must contain. Various drafts of the bill were put forward. The initial draft bill by the Ministry of Food was widely criticised for a lack of vision, being too narrow and only putting into law the PDS in the current form without addressing any of the well-known flaws in its implementation (See righttofoodindia.org for various versions of the NFSB and critiques). The National Advisory Council (NAC), under the Chairpersonship of Mrs. Sonia Gandhi, drafted its version of the bill, which was broader in its vision and took on many suggestions of the civil society, such as entitlements for children and women, community kitchens, destitute feeding, interventions for people living in starvation, and a strong grievance redressal mechanism. The NAC Bill however failed to address the issues related to production, procurement and adequate storage of food. Further, the system it laid out for entitlements under the PDS once again had the same problems that the existing targeted PDS was experiencing across the country. The bill then underwent further changes based on the recommendations of the Parliamentary Standing Committee. At this stage, the framework for the PDS was changed, delinking it from the poverty line based targeting, but was still not universal. Based on the standing committee recommendations, however, the Government also deleted provisions for community kitchens and destitute feeding programmes which were part of earlier versions. Therefore, the act that was finally passed in Parliament is a mixed bag, taking us forward as far as the PDS and maternity entitlements are concerned but miles away with regard to adequately addressing all aspects of food security such as

ensuring sufficient production, protecting farmers' livelihoods, meeting nutritional requirements and reaching out to the most vulnerable sections such as the urban homeless, migrants, the aged and the disabled.

However, now that the bill has been passed and we have an act in place, it is time to look at what is required to ensure that the entitlements provided reach the people, while the larger battle for a more comprehensive legislation continues. This paper looks at some of the aspects of the act which do not provide enough clarity and therefore affect implementation. These are the issues to be kept in mind when the rules are being made.

Identifying Beneficiaries for the PDS

The central issue related to PDS consists of the exclusion errors resulting from the system of targeting. Under the Targeted PDS, the Central Government fixes the quota of grains each state is allocated at BPL (below poverty line), with the prices based on the poverty ratio in the state according to the NSS consumption expenditure survey data and official poverty lines fixed by the Planning Commission. In state after state, it has been seen that it is almost impossible to accurately identify the number of poor as determined by the poverty ratios. As a result, in spite of different criteria being used to conduct a BPL Census that would identify BPL households, there have been many exclusion errors. The NSS data itself showed that about 50% of households below the official poverty line did not have BPL ration cards (Saxena Committee Report, GoI 2009). The pilot survey of the Socio-Economic Caste Census (SECC) conducted across the country by the Ministry of Rural Development also found that it is not possible to identify them on the basis of pre-fixed "caps" (derived from poverty ratios) without large exclusion errors (Himanshu & Murgai 2011).

It has therefore been recommended by many that the PDS must be universalised (Himanshu 2010; Drèze 2010; and many articles available on www.righttofoodindia.org). Universalisation has other benefits, such as providing support to a large number of households that are food insecure or are just above the margin. Further, when a large number of people are included in the PDS, there is a greater chance of public pressure. On the other hand, any system that is targeted only for the poor tends to be poorly monitored.

This will also result in higher procurement which, if done in a decentralised manner, can provide much needed price support to small farmers. In India, half the population is undernourished and almost 80% of the people are living at very meagre levels of income. The calorie consumption in the country is reducing and more than 80% of people are consuming less than the required amount of food. In such a situation, a targeted PDS linked to some arbitrarily defined poverty line is bound to fail.

While the NFSA is fairly limited in its outlook, it could still have a significant impact on hunger if it is implemented properly. By moving the PDS away from targeting on the basis of the poverty line, it provides an opportunity to set right one of the structural problems in the public distribution system. The NFSA does not universalise PDS entitlements but has significantly expanded coverage and has also put in place a mechanism of uniform pricing. The NFSA provides 5 kg of cereals per person per month for 75% of the rural population and 50% of the urban population. The price of rice will be Rs 3 per kg, wheat Rs 2 per kg and millet Rs 1 per kg. Those who are currently beneficiaries under Antyodaya Anna Yojana will continue to receive a household entitlement of 35 kg per month at the same prices, irrespective of the number of members in the household.

The coverage across different states will be in such a manner as to reflect their levels of development, so that the national average is what the act proposes to cover. The NFSA gives a schedule with the amount of food grains that will be allocated to each state. Therefore, no state will get a lesser allocation while many will get a much larger amount of food grains at a much lower price. The state-wise coverage of the populations in rural and urban areas under the NFSA is given in Fig. 7.1 below. The critical step for the proper implementation of the act is therefore the proper identification of beneficiaries. The NFSA does not specify any identification criteria and only says that it is to be finalised in consultation with the state governments. The act further provides a period of one year for the identification of beneficiaries and roll-out of the entitlements.

As mentioned earlier, developing identification criteria has been one of the most contested issues right from the beginning of a targeted PDS. As a second-best option to universalisation, many have suggested (and this is also backed by the SECC pilot) that an “exclusion-approach” would work best (Drèze & Khera 2010; Government of India 2009; Mehrotra & Mander 2009). The proposal here is to identify the rich and exclude them from the benefits, while including all the rest with uniform benefits. Several simple, objective and verifiable exclusion criteria have been suggested by various people including the Saxena Committee, the SECC pilot survey and the Chhattisgarh Food Security Act.

With some states getting coverage of about 80% or more in the rural area, this can be a chance to identify beneficiaries based on an exclusion approach so that nobody is left out. However, the experience so far (for example in Rajasthan and Delhi) has been that even after the NFSA, the states are coming up with complicated identification criteria that might once again result in inclusion and exclusion errors. Further, it has also been seen that states are not willing to start afresh, and only want to build on the existing systems. Therefore, those who already have BPL cards are not being scrutinised.

The best way to approach the issue would be to wait for the SECC to be completed and use this data to develop exclusion criteria for rural and urban areas for each state so that the included population matches the allocation for that particular state. Further, state governments can also decide to universalise the PDS, if not in the entire state then at least in the poorest districts. This will save them from the hassle of identification in areas where most of the population will in any case be included. Especially in states such as UP, Bihar and Jharkhand, where there will be a doubling of coverage, an exclusion approach will be the best method and will also ensure that no poor household is left out. In states such as Tamil Nadu, Andhra Pradesh and Chhattisgarh, where the coverage has already been expanded or is universal, they can continue with their current systems. New ration cards will have to be distributed in the name of the eldest adult female of the household, as the act recognises her as the head of the household.

PDS Reforms and Implementation Mechanisms

Along with the issue of identification, reforms in PDS need to be addressed for the NFSA to be implemented properly. Here again, while there are now a proven set of reforms, the act only specifies these in a recommendatory manner and it is not clear how many states will actually adopt them. Based on the experiences of well-performing states, clear guidelines need to be given for the identification of beneficiaries as well as reforms in the PDS. This includes the de-privatisation of ration shops, doorstep delivery of food grains to the ration shops, the computerisation of PDS records, activating vigilance committees and introducing transparency and accountability mechanisms (most of these have been done in Tamil Nadu and Chhattisgarh, and some in other states such as Andhra Pradesh and Odisha).

Further, the cost sharing norms between the central and state governments for expenses such as transportation, commission to FPS dealers, grievance redressal mechanisms and so on also need to be worked out. In doing so, it needs to be kept in mind once again that the states where the NFSA has the potential to make the greatest impact, such as UP, Bihar and Jharkhand, are also very poor states that cannot afford to invest much from their own budgets.

Maternity entitlements

One of the historic achievements of the NFSA is that it introduced a universal maternity entitlement of Rs 6,000 for every pregnant woman who is not otherwise eligible for maternity benefits because of being employed in the Government or public sector undertakings. While there have been small maternity benefit schemes, and a pilot central scheme (Indira Gandhi Matritva Suraksha Yojana, IGMSY), other than in the states of Odisha and Tamil Nadu such a large-scale maternity entitlement programme has not been put in place. The maternity entitlements find a place in the NFSA primarily because this is an enabling intervention to ensure exclusive breastfeeding, the only “food” for children aged under six months. The act specifies that this entitlement shall be provided through schemes designed by the government.

Since there is already a pilot scheme in place and schemes in two states, lessons from these need to be taken on board while rolling out this entitlement. There are some concerns which need to be addressed. For

instance, in all the current schemes, the entitlements are restricted only to the first two births. Studies have shown that this leaves out some of the most vulnerable women and most risky births. Further, from a rights perspective it is not correct to discriminate against the third child just because of the order of birth. In a situation where there is such inadequate access to health care and contraceptives, and where women do not have complete control over reproductive decisions, such a conditionality goes against women and only serves to exclude those who most need support. Similarly, the IGMSY also includes conditionalities such as completing immunisation and attending nutrition counselling, and while these are very desirable, the onus of delivering these services should be on the government rather than punishing the women in cases when the services are not available. The government can impose such conditionalities only if there is a service guarantee from its side (Sahayog 2012).

Along with this, there are other issues that need to be resolved. One is the practical issue related to opening bank accounts for all women and ensuring easy and smooth payments. Second, and more importantly, a system needs to be worked out to ensure that the woman gets her entitlement irrespective of where she is currently living. This affects a large section of women who might go to their natal homes for delivery (as is the case in many parts of the country) but are “resident” and therefore registered at an Angan Wadi centre in their marital village. This is also applicable to migrant women working in brick kilns, construction sites and other informal sector employment across the country.

Grievance redressal system

For the entitlements under the NFSA to reach people, there is a need for an effective grievance redressal system. The act provides for a District Grievance Redress Officer (DGRO) and a state commission. It also has some provisions for imposing penalties and awarding compensation. While it has been criticised that this is too weak a system, for even this to work the systems have to be put in place. Rules have to be formulated for the appointment of DGROs, appointments to state commissions and for prompt responses and action. Further, over time, it is necessary that a more decentralised grievance redress system that is independent and starts at the gram panchayat level, is put in place. One possible way of doing this would be to bring the NFSA entitlements under the legislation on grievance redressal that is pending in Parliament.

Conclusion

Although the NFSA has been disappointing in its content, it also has a potential to address acute hunger and improve the PDS, particularly in states where it has not been doing well. But for this to happen it is important that the rules are worked on soon and systems are put in place to ensure that the identification of beneficiaries is done in a transparent and effective manner, that reforms in PDS are mandated, and that the good experiences in some states are replicated across the country. Similarly, the delivery mechanisms have to be thought about and put in place for the other entitlements under the act, such as the school midday meals, supplementary nutrition under ICDS and maternity entitlements. The provisions in the act must be used to set up an effective, decentralised and transparent grievance redressal system.

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