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## THE HUNGRY NATION: FOOD POLICY AND FOOD POLITICS IN INDIA

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### ABSTRACT:

*India has the largest number of hungry people in the world. Improvements in nutritional status have not kept pace with the country's impressive success in spurring economic growth in the past few decades. This essay revisits India's success in preventing famine and compares it to the country's inability to improve the food security of hundreds of millions of its citizens. Why is the Indian performance on reducing hunger not any better? And why is India's democracy able to prevent famines but not more effectively combat under nutrition? An important result of the right to food movement and the resulting judicial activism was the enactment of the National Food Security Act (NFSA) in 2013, which has attracted considerable attention regarding its potential to radically improve the food security of over 800 million Indians. I critically examine the historical development of the NFSA including its current provisions against the backdrop of heated debates over four broad sets of interrelated issues—availability of adequate funds, the specific roles and duties of various levels of government in India's federal political set-up, the distinction between food security and nutritional security and the extent to which the country proposes to reform existing social protection programmes aimed at improving food security.*



**KEYWORDS:** Food security . Food policy . Hunger . Famine . India

### INTRODUCTION:

There has been considerable interest in academic and policy circles regarding India's impressive economic growth rates over the past couple of decades. And many analysts have predicted, as recently as in January 2016, that the Indian economy will continue to grow at a fast pace. Although China is often praised for successfully distributing the benefits of economic growth and lifting over a half a billion people out of poverty between 1981 and 2005, India too has had several developmental successes. Indeed, India's achievements include a doubling of life expectancy at birth and a drastic reduction in child mortality rates. In addition to being the poster child of freedom and democracy for over six decades, India is now also firmly established as one of major economies in the world with a burgeoning middle class and corporate houses that have acquired control over iconic brand names on the global stage. Despite all its achievements, however, India tops the list of countries in the world with the largest share of the global extreme poor. And with 37.2 % of the population (more than 400 million people) that is officially estimated to be living in absolute poverty, the country has the unenviable record of being home to a third of the world's poor (Banik 2011). Although substantial improvements have taken place in the past six decades—e.g. the number of undernourished individuals decreased

from 210 million in 1990–1992 to 194.6 million in 2014–2016 (FAO 2015), there is now widespread consensus among scholars, practitioners and policymakers that improvements in nutritional status have not kept pace with the country's impressive success in spurring economic growth in the past few decades. With 15.2 % of the population categorised as undernourished—and a prevalence of stunting in children under 5 years at 38.8 %—India is ranked 80th among 104 countries in the current Global Hunger Index compiled by the International Food Policy Research Institute (IFPRI 2015). Indeed, as a recent FAO (2015, p. 15) report noted, 'Higher economic growth has not been fully translated into higher food consumption, let alone better diets overall, suggesting that the poor and hungry may have failed to benefit much from overall growth'. Over 3000 children die every day in India from poor diet-related illnesses and undernutrition accounts for 24 % of deaths of children under five years of age.<sup>1</sup> The brutal reality is disconcerting and poses a major moral dilemma. Despite being touted as a major economic power and a rising global power, India is also home to the largest number of hungry people in the world. The dilemma prompted the Indian Prime Minister to admit in January 2012 that the 'the problem of malnutrition is a matter of national shame'. He went on to add that the country has simply not managed to reduce hunger 'fast enough'.<sup>2</sup>

Why is the Indian performance in reducing hunger not any better? And why is India's democracy successfully able to prevent sensational famines on the one hand but unable to combat chronic undernutrition on the other? The essay, which is structured in two parts, discusses the potential impact of the recently enacted National Food Security Act (NFSA) on hunger and food security in the country. The discussion in the first part revolves around three dimensions of the problem: food policies pursued by the Indian government, the politics of food in India's democracy, and the role and impact of civil society and the judicial system on attempts to improve food security. I begin by providing a brief overview of the nature of food security policies implemented in the country, with a particular focus on the impact and functioning of major social protection programmes aimed at improving food security. Thereafter, I examine India's past successes in improving food security and preventing large-scale food crises from turning into famines, before highlighting the current extent and nature of acute and chronic hunger that continues to affect hundreds of millions of people in the country every day. In the concluding sections of Part I, I discuss the influence and impact of civil society organisations and the right to food movement on food and nutrition policies in the country, starting with a Public Interest Litigation in the Supreme Court by a group of civil society organisations that has resulted in some progressive court orders that have changed the food policy landscape in India.

In Part II of the essay, I discuss one of the most important outcomes of the India's right to food movement—the enactment of the National Food Security Act (NFSA) in 2013, which has attracted considerable attention both at home and abroad regarding its potential to radically improve the food security of over 800 million Indians. I critically examine the historical development of the NFSA including its current provisions against the backdrop of heated debates over funding, division of responsibility between various levels of government, potential impact on food and nutritional security and the ability to overhaul the country's expensive but largely ineffective social protection system.

## **PART I: Three Dimensions of Food Security**

### **Food Policy**

Social scientists have long compared the development performance of the two Asian giants—India and China—particularly in relation to the ability of the two countries to reduce poverty and hunger. The picture that emerges on India's performance in combating chronic (regular) hunger is very different to that of China. Indeed, as Yu et al. (2015) argue, all available evidence indicates that 'Food insecurity is a much more serious concern in India than China'. Nonetheless, India has witnessed some progress in that the incidence of severe undernutrition among children, and the incidence of certain nutritional-deficiency diseases like kwashiorkor, marasmus and pellagra have been greatly reduced. Chronic caloric and micronutrient deficiencies, however, remain widespread among children and adults. For example, between 1947 and 2000, mortality rates had been reduced by half, but the

corresponding reduction in undernutrition was only 20 % (Planning Commission 2000, p. 5). More recent estimates show that around

1.83 million children die before reaching 5 years of age, 50 out of 1000 infants die before their first birthday and 39 out of 1000 die during their very first month of life (Planning Commission 2010, p. 7). Particularly alarming is the fact that the number of underweight children has not declined significantly since the early 1990s, despite the Indian economy growing at an average annual rate of over 6 %.<sup>3</sup> And a study of 112 districts throughout the country concluded that child malnutrition is widespread throughout the country and 42 % of children under five were underweight and 59 % were stunted in the survey areas (Hungama 2011).

The main explanatory factors behind chronic caloric deficiency affecting large groups in the population are inadequate food intake (e.g. low dietary intake), infections (e.g. poor sanitation and inadequate health care) and poor caring practices (e.g. poor infant feeding practices). According to available evidence from the rather dated National Sample Survey (NSS 2005–06) results, the poorest 20 % of India's rural population consume on average 1900 cal or less per day against the average recommended daily allowance of 2400 cal. And the poorest 25 % of the urban population consume on average 1700 cal per day or less against the recommended 2100 cal. Hunger in India moreover has a regional dimension. For example, while the national average of moderately underweight children stands at 40.4 %, the corresponding figures for Madhya Pradesh, Bihar and Jharkhand are 57.9, 55 and 54.5 %, respectively. Smaller states such as Mizoram (14.3 %), Sikkim (17.3 %) and Manipur (19.5 %) enjoy the best record, while among larger states Kerala (21.2 %) and Punjab (23.6 %) exhibit impressive results (Banik 2011).

The nutritional status of the population is also considerably dependent on gender, age and ethnicity. For example, undernutrition is particularly high among children less than two years of age, rural women, and Scheduled Caste (SC) and Scheduled Tribe (ST) groups (Measham and Chatterjee 1999, p. 10). These findings are further confirmed by data that shows that the prevalence of undernutrition among ST children is 54 %, and far higher than the national average of 42.5 % (NFHS 2005–06; Planning Commission 2010, p. 9). Other studies conclude that undernutrition is not only higher among those who identify as Scheduled Castes or Schedule Tribes, but also among Muslims (Hungama 2011, p. 9). And the rates of underweight and stunted children are significantly higher among women with low levels of education (Ibid.).

The overall improvements in nutritional status that many groups in India have experienced in the past half a century are mainly due to an increase in foodgrain production, better diets, increased access to health care and the implementation of some of the largest and most expensive social protection programmes in the world. The Indian government's two main pillars for ensuring food security include improving access to foodgrains and increasing their availability or production (Yu et al. 2015). While food production has increased manifold—largely due to the success of the Green Revolution—hundreds of millions of Indians are not food secure in that they do not have 'physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life' (FAO 2014).

Over the years, the Indian government has intervened in private food markets in order to control and stabilize prices and supplies, and to prevent food shortages. Unlike China, which has adopted a policy of direct transfers to support agricultural incentives that many studies find to be less distorting and more efficient, India typically uses price-based input subsidies to support agriculture. The main (and most expensive) components of the policy include input subsidies on fertilisers, electricity for irrigation and irrigation water (Ibid: 407–408). In terms of market price support for foodgrains, the government operates with a so-called Minimum Support Price (MSP) for 25 agricultural commodities. It thus provides various forms of price support to producers, and encourages export (Pacey and Payne 1985; Planning Commission 2010). The government moreover regulates the rationing of subsidised food stocks, imposes movement restrictions on agricultural produce, imports food from other countries, and controls market prices through the Public Distribution System (PDS).

India currently has several active social protection programmes specifically aimed at improving the nutritional status of the population. These include the provision of subsidised food (through the Public Distribution System, PDS), targeted food supplementation (through the Integrated Child Development Services, ICDS); provision of a cooked meal once a day through the National Mid-Day Meals Programme, emergency feeding to the destitute, micro-nutrient programmes (e.g. distribution of iron-folate and vitamin A; salt iodization) and food/cash for work programmes (through schemes like the Mahatma Gandhi National Rural Employment Guarantee Act, MGNREGA). Typical problems associated with these programmes relate to identifying and reaching targeted groups in the population, weak purchasing power of food insecure households, corruption and leakage, lack of trained staff and equipment and inadequate storage facilities for foodgrains (Banik 2007).

An illustrative example of some of the challenges in implementing social protection programmes in India is the PDS—a (producer) price-support-cum-consumer subsidy programme—which aims to improve food security among poor households by subsidising rations of rice, sugar, kerosene oil, and other commodities that are distributed through Fair Price Shops by the Food Corporation of India (FCI). The PDS is the most expensive and far reaching of safety-net oriented programmes in India and the distributive leg of a chain of government interventions in the agricultural products markets. In the past couple of decades, the fiscal cost of the PDS has more than doubled due to a widening gap between procurement prices (i.e. the Minimum Support Prices) and the subsidized consumer prices through the PDS (Kishore et al. 2014; Yu et al. 2015). Although it plays an important role in promoting food security, the poor enjoy limited access to the PDS. And since the relative poverty levels across states have not played a major role in determining programme allocations, the programme has had an overall nation-wide urban bias with considerable inter-state variation. It has also continued to remain an expensive and largely untargeted intervention (Banik 2007; De Brauw and Suryanarayana 2015).

At the local level, there have been numerous difficulties with targeting the neediest groups despite an attempt to improve this very feature through a targeted PDS (TPDS), which was introduced in 1997. For example, methodological inadequacies in the compilation of so-called 'Below Poverty Line' (BPL) lists make it difficult, if not impossible, for many genuinely needy households to access food and non-food items as they do not have the required ration cards. Moreover, a large number of households cannot afford to purchase their allocated quota of subsidised products in one transaction, and given the considerable distance to the nearest Fair Price Shop, it is not always practical to make several trips to the store to pick up small quantities of rationed goods. The general lack of purchasing power also means that although certain items (e.g. kerosene and sugar) may be abundantly available at Fair Price Shops, there are few takers. Further, many districts in the country do not have the capacity to adequately store (given adverse weather conditions) agricultural products for long periods, which negatively affects the quality and durability of foodgrains that are procured, stored and transported for the PDS by the Food Corporation of India from other parts of the country. Moreover, newspaper reports frequently cite villagers and local NGOs throughout India who complain about PDS stocks that are routinely diverted to the free market by shop owners and wholesale dealers in charge of transporting the stocks. The incentive to divert is particularly strong as the sale of subsidised PDS supplies in the open market fetches a higher price and involves an extra profit for Fair Price Shop owners.

Another major social protection programme aimed at improving nutritional and health status of children below 6 years of age is the Integrated Child Development Services (ICDS). The ICDS combines several services to women and children: supplementary feeding, monitoring of child growth, immunisation against preventable childhood diseases, regular health check-ups and referral, health and nutrition education to adult women, preschool education to 3–6-year olds. The targeted groups are reached through more than 300,000 trained community-based 'Anganwadi' workers (trained village women) and an equal number of helpers, supportive community structures/women groups, through the 'Anganwadi centre', the health system and the community. However, the ICDS faces a similar set of challenges to that of the PDS. In a previous study, I found that that urban areas, and administrative

blocks close to urban centres, are far better covered by the ICDS than remote areas of the country where children are more likely to be severely undernourished (Banik 2007). Another shortcoming in rural areas is that there is generally little contact between Anganwadi centres and the district health system. Local level ICDS staff moreover complain of shortage of funds, which in turn results in many unfilled positions (low monthly salaries make it unattractive for qualified candidates) and generally low quality and uncoordinated service delivery. The programme has also been criticised for earmarking only a small portion of funds and staff time for children below 3 years of age (Planning Commission 2010). Some argue that the ICDS model should be redesigned to be much more 'outreach-based' rather than the current 'centre-based' practice whereby small children are often required to walk long distances to reach the ICDS centres (Saxena 2012). If staff were to visit the children at their homes, then in addition to mothers, perhaps also other members of the families could be made aware of crucial nutrition-related information (Ibid.).

### What is Food Security?

The concept of Food Security is multifaceted. Food is as essential for living as air is for breathing. But food security means something more than getting two square meals. It has following dimensions:

**Availability:** It means food production within the country, food imports and the stock stored in government granaries.

**Accessibility:** It means food is within reach of every person without any discrimination.

**Affordability:** It implies that having enough money to buy sufficient, safe and nutritious food to meet one's dietary needs.

Thus, Food security is ensured in a country only when sufficient food is available for everyone, if everyone has the means to purchase food of acceptable quality, and if there are no barriers to access.

### What is the Current Framework for Food Security in India?

**Constitutional Provision:** Though the Indian Constitution does not have any explicit provision regarding right to food, the fundamental right to life enshrined in Article 21 of the Constitution can be interpreted to include the right to live with human dignity, which may include the right to food and other basic necessities.

**Buffer Stock:** Food Corporation of India (FCI) has the prime responsibility of procuring the food grains at minimum support price (MSP) and stored in its warehouses at different locations and from there it is supplied to the state governments in terms of requirement.

**Public Distribution System:** Over the years, Public Distribution System has become an important part of Government's policy for management of the food economy in the country. PDS is supplemental in nature and is not intended to make available the entire requirement of any of the commodity.

Under the PDS, presently the commodities namely wheat, rice, sugar and kerosene are being allocated to the States/UTs for distribution.

Some States/UTs also distribute additional items of mass consumption through the PDS outlets such as pulses, edible oils, iodized salt, spices, etc.

**National Food Security Act, 2013 (NFSA):** It marks a paradigm shift in the approach to food security from welfare to rights based approach.

NFSA covers 75% of the rural population and 50% of the urban population under:

**Antyodaya Anna Yojana:** It constitute the poorest of-the-poor, are entitled to receive 35 kg of foodgrains per household per month.

**Priority Households (PHH):** Households covered under PHH category are entitled to receive 5 kg of foodgrains per person per month.

The eldest woman of the household of age 18 years or above is mandated to be the head of the household for the purpose of issuing ration cards.



In addition, the act lays down special provisions for children between the ages of 6 months and 14 years old, which allows them to receive a nutritious meal for free through a widespread network of Integrated Child Development Services (ICDS) centres, known as Anganwadi Centres.

### What are the Challenges Related to Food Security in India?

**Deteriorating Soil Health:** A key element of food production is healthy soil because nearly 95% of global food production depends on soil.

Soil degradation due to excessive or inappropriate use of agrochemicals, deforestation and natural calamities is a significant challenge to sustainable food production. About one-third of the earth's soil is already degraded.

**Invasive Weed Threats:** In the past 15 years, India has faced more than 10 major invasive pest and weed attacks.

Fall Armyworm (Pest) destroyed almost the entire maize crop in the country in 2018. India had to import maize in 2019 due to the damage caused by the pest in 2018.

In 2020, locust attack was reported in districts of Rajasthan and Gujarat.

**Lack of Efficient Management Framework:** India lacks strict management framework for food security. Public Distribution System faces challenges like leakages and diversion of food-grains, inclusion/exclusion errors, fake and bogus ration cards, and weak grievance redressal and social audit mechanism.

**Faults in Procurement:** Farmers have diverted land from producing coarse grains to the production of rice and wheat due to a minimum support price.

Further, there is a tremendous wastage of around Rs.50,000 crore annually by both improper accounting and inadequate storage facilities

**Climate Change:** The monsoon accounts for around 70% of India's annual rainfall and irrigates 60% of its net sown area. Changing precipitation patterns and growing frequency and intensity of extreme weather events such as heatwaves, floods are already reducing agricultural productivity in India, posing a serious threat to food security.

To increase domestic availability amid low Kharif Crop productivity this year (2022), the Government of India has banned the export of broken rice.

**Supply Chain Disruption Due to Unstable Global Order:** At a time when the Covid-19 Pandemic had already impacted food supply around the world in 2020, Russia-Ukraine War in 2022 has disrupted the global supply chain and resulted in food scarcity and food inflation.

Russia and Ukraine represent 27% of the world market for wheat, 26 countries, mainly in Africa, West Asia and Asia, depend on Russia and Ukraine for more than 50% of their wheat imports.

### What Should be the Way Forward?

**Moving Towards Sustainable Farming :** For ensuring Food Security in India , improvement in productivity through greater use of biotechnology, intensifying watershed management, use of nano-urea and access to micro-irrigation facilities and bridging crop yield gaps across States through collective approach should be at priority.

There is also a need to look forward towards establishing Special Agriculture Zones through ICT based crop monitoring.

**Towards Precision Agriculture:** There is need to increase the use information technology (IT) in agriculture to ensure that crops and soil receive exactly what they need for optimum health and productivity.

By adopting precision agriculture with high-tech farming practices, farmers' incomes will increase, input cost of production will be reduced, and many other issues of scale will be addressed.

**Revitalising Aadhaar Seeding of Ration Cards:** To speed up the process of Aadhaar linking to ration cards, ground monitoring measures must be taken that will ensure no valid beneficiary is left out of their share of food grains that can give thrust to the aim of zero hunger (Sustainable Development Goal-2).

**Direct Benefit Transfer (DBT) Through JAM:** There is a need to streamline food and fertiliser subsidies into direct benefit transfers to accounts of identified beneficiaries through the JAM trinity platform (Jan Dhan, Aadhaar, and Mobile) that will reduce huge physical movement of foodgrains, provide greater autonomy to beneficiaries to choose their consumption basket and promote financial inclusion.

**Ensuring Transparency in Food Stock Holdings :** Using IT to improve communication channels with farmers can help them to get a better deal for their produce while improving storage houses with the latest technology is equally important to deal with natural disasters.

Further, foodgrain banks can be deployed at block/village level, from which people may get subsidised food grains against food coupons ( that can be provided to Aadhar linked beneficiaries).

**Addressing Issues With an Umbrella Approach:** By looking at diverse issues from a common lens, such as inequality, food diversity, indigenous rights, and environmental justice, India can look forward to a sustainable green economy.

### Food Politics

In 1947, when the country achieved independence from Great Britain, India's political leaders were confronted with numerous challenges. Among the most serious of challenges resulting from widespread poverty and chronic energy deficiency due to a combination of low-literacy and poor access to safe-drinking water, sanitation and health care. In the first couple of decades after independence, progress on basic development indicators was slow and large groups in the population were plagued by infections, ill health and low life expectancy (Planning Commission 2000, p. 2). With the Great Bengal Famine (1942–44) fresh in memory, a related concern was the threat of new famines and mass starvation deaths resulting from low agricultural production. India's administrators, moreover, were confronted with the challenge of establishing an improved food distribution system that would enable the state to make adequate amounts of food available at regular intervals to a large number of food insecure people. India managed to gradually reduce (if not entirely eliminate) the threat of famine. As the Nobel laureate Amartya Sen has famously claimed, unlike its fellow Asian giant China, India has successfully prevented famine since independence mainly due to the functioning of its democratic institutions. Sen argues that the role played by opposition parties, a free press, and an active civil society has ensured that the political authorities are held to account if they are unable to prevent a major loss of lives in times of crisis. Indeed, India's achievement is all the more impressive when one considers that it averted famines despite producing less food per capita than the famine-hit countries of Africa in the 1970s and 1980s (Banik 2007). Although there have been several so-called near-famine conditions in 1965–67 1970–73, and during major droughts in ensuing decades, the last famine in India took place in Bengal in 1943–44— under British colonial rule.

The case of China, however, is very different. During its attempt to take the 'Great Leap Forward', China experienced a major famine in 1958–61, resulting in the deaths of tens of millions of people (Ashton et al. 1984; Drèze and Sen 1989). A major reason for this famine, according to Sen, was the absence of democracy in the country, which allowed Chairman Mao to pursue collectivisation policies that exacerbated initial food shortages. Thus, Sen (1984) claims that India's success in preventing famines is not because it drastically increased food production; indeed, famines have been prevented despite lower food production than in many Sub-Saharan African countries. Rather, Sen argues, a democratically-elected Indian govern- ment simply cannot afford to not take prompt action when large-scale starvation threatens. An independent and extremely adversarial news media plays a crucial role in this aspect in providing early warning information of impending problems and thereafter following up these initial reports with critical coverage of government response directed at affected communities. Similarly, opposition parties are always on the lookout for critical stories that can undermine the credibility of the ruling party, and use any ammunition they can find to criticize government policy in regional and national legislatures and other forums—especially during major calamities and visible crises. Hence, a political system which allows criticism and debate of official policies can 'spread the penalties of famine from the destitute to those in authority' (Sen 1990). The Chinese

political system exhibited neither of the two above features during the famine of 1958–61, and subsequent research by others largely substantiates Sen's claim. Without a democratic system of checks and balances, Chairman Mao's policy decisions on development and famine relief were never really questioned or held to account (Becker 1996).

India's impressive achievement in preventing famine, however, go beyond a simplistic idea of a well-functioning democracy. Rather, famines have been prevented due to comprehensive 'entitlement protection' efforts helped by two complementary forces (Drèze and Sen 1989). First, the Indian public administrative system has been largely efficient at recreating lost entitlements caused by major crises such as floods, droughts, and economic slumps. Specific interventions include provision of subsidized or free food and other basic necessities to vulnerable households as well as employment generation schemes such as food-for-work or cash-for-work schemes. Second, the political system has been very successful in pushing the administrative system to work as and when required. The major point here is that simply relying on the bureaucracy, not matter how efficient, is inadequate if there is no 'political trigger' that can be applied at regular intervals to prod efficient and timely response aimed at preventing large-scale suffering. And by influencing government policy via public action in the form of political activism, criticism and opposition, many actors in Indian society contribute towards triggering government response towards the successful prevention of famine.

Sen accepts that although democracy successfully helps combat famines in India, it fails to address problems of acute poverty and chronic malnutrition. However, he does not explain why this is so. I have argued elsewhere (Banik 2007) that in addition to the role of political parties and a free press, it is necessary and important to understand the actual interactions and relations between a whole set of actors and institutions at various levels—including the courts, voluntary organisations, the bureaucracy, institutions of local self government and national and regional legislative organs. This is important in order to better understand why public action in India is effective against famines but ineffective in reducing chronic hunger, which also often results in several hundred alleged 'starvation deaths' that although serious, do not warrant the same attention as a large-scale famine.

### Civil Society and Judicial Activism

Amartya Sen is, of course, correct in claiming that the media can play an important role in providing early warning information of impending crises and thereafter hold the authorities to account for their failure to mount an appropriate and timely response. Although India has a free press, it does not, however, appear that newspapers are necessarily always interested in covering the plight of those starving in an objective manner. Indeed, the influence of the press is also highly dependent on working conditions of journalists. The political ownership of newspapers in many Indian states moreover poses an additional challenge, and critical reports emanating in media outlets controlled by political parties and their leaders often lack credibility and risk being easily dismissed by the ruling party as being politically biased (Banik 2007).

Despite the above shortcomings, the Indian media does in fact provide regular coverage of food security-related stories. And it was particularly active in the late 1990s and the first couple of years in the new Millennium.

Following news reports of starvation deaths in the state of Rajasthan in 2000–2001 despite an abundance of food available in government storage houses, the People's Union of Civil Liberties (PUCI)—a coalition of 56 civil society organisations—decided to seek the help of the Indian judiciary, which has been widely acclaimed for developing innovative jurisprudence on economic, social and cultural (ESC) rights.<sup>4</sup> In particular, PUCI made use of Public Interest Litigation (PIL) which has become an extremely popular avenue for civil society to scrutinise the actions of the government. An important function of courts in India relates to 'judicial review', according to which the Constitution empowers the judiciary to protect the fundamental human rights of citizens and intervene when legislative and executive actions are found to be unconstitutional. In the past couple of decades, the Indian judiciary has been increasingly willing to don an activist garb following the decision of the Supreme Court to accept litigation that addresses matters in which interest of the public at large is



involved. Such PIL petitions can be moved by any individual or group of persons highlighting the question of public importance for invoking this jurisdiction.

With an explicit focus on human rights, the PUCL submitted a PIL to the Supreme Court in April 2001 questioning whether the right to life guaranteed under article 21 of the Indian Constitution also included the right to food.<sup>5</sup> Using the human rights language of duty-bearers who must act to respect, protect and fulfil the rights of the poor, PUCL identified central and state governments in India as the main duty bearers with the obligation to protect the right to food (Banik 2010). The petition argued that these duty bearers must be held to account for their failure to assist individuals and households facing acute hunger while large stocks of food remained in government storage houses. The petitioners further requested the Supreme Court to enquire government action aimed at addressing the implementation challenges associated with the country's main social protection programmes. They also questioned whether vulnerable groups in the population (e.g. impoverished women, children and the aged) were adequately covered and targeted by public policy. While the PIL was initially brought against the government of Rajasthan, thanks to civil society activism and mobilisation, it now applies to all state governments in India.

In a landmark judgement in November 2001, the Court ordered full implementation of the Public Distribution System (PDS) that offers subsidised food to below poverty line households, converted a previously voluntary programme (Mid-Day Meal Scheme) to provide cooked meals at schools to an obligation on the part of all states, and ordered improved implementation of the Integrated Child Development Services (ICDS), which provides assistance to pregnant and nursing women and children, and other programmes aimed at helping impoverished families whose primary breadwinner has died. With this particular order, the Court converted the benefits of the eight programmes into legal entitlements, i.e. all programme beneficiaries now have the ability to claim benefits as a matter of right, and seek judicial redress if such rights are violated (Right to Food Campaign 2005, p. 10). This particular order together with previous and subsequent interim orders has thus given rise to a set of 'umbrella orders' (applicable to all relevant social programmes) and more specific orders relating to the functioning of specific programmes. Although the Supreme Court is yet to award a final verdict in the case, it has held hearings at regular intervals since 2001 and issued over a hundred very detailed 'interim orders' that are considered applicable as law until the case is closed. These umbrella orders cover the identification of agent(s) or agency with responsibility for compliance (mainly Chief Secretaries in the various States), and village councils (or Gram Sabhas) that can monitor social protection programmes, investigate misuse of funds and hold the authorities to account by accessing all relevant information. The Court also established a new mechanism for ensuring compliance with, and the monitoring of, its own orders by appointing two commissioners to monitor and report on the implementation of a whole range of public welfare programmes. The commissioners were given powers to investigate potential violations of the interim orders and to demand redress from the political and administrative leadership, with the full backing of the Supreme Court. In addition to providing periodic reports to the Court, the commissioners were authorised to seek responses from state governments, investigate complaints from civil society organisations and set up relevant enquiry committees. A major impact of these initiatives has been the gradual increase in the amount of funds allocated by state governments for improving coverage of social protection programmes within their territories (Right to Food Campaign 2012).

Not surprisingly, there has been considerable debate over the nature, extent and validity of the Supreme Court's activism in the right to food as well as similar cases where PILs have been invoked by various actors to focus attention on the plight of the poor, who typically do not use legal channels to solve problems. In particular, political leaders at the state level, have expressed dismay at the additional costs associated with enforcing court orders. Indeed, politicians resent being lectured to by 'unelected' judges who do not have the mandate of the people (Banik 2010). Others are more supportive of the courts, arguing that judicial activism is necessary not only for the protection of the powerless but also due to the presence of corruption and inefficiency in the legislative and executive branches (Sateh 2002, p. 278-281, cited in Zwart 2009, p. 6-7).

The actions of the Supreme Court and the ensuing interim orders have had considerable impact, with the media and the political-administrative system paying close attention to the regular judicial pronouncements. It has also encouraged a few regional (state) governments in India to enact legislation of their own in order to improve service delivery. One prominent example is Chhattisgarh, a state which ranks low among other Indian states in relation to human development, where the government successfully enacted the Chhattisgarh Food Security Act in December 2012 with the aim of ensuring 'access to adequate quantity of food and other requirements of good nutrition to the people of the State, at affordable prices, at all times to live a life of dignity'. With several innovative features related to targeting of vulnerable food insecure households, availability and distribution of various types of food, and speedier mechanisms for service delivery, this piece of legislation has been hailed as a major success story amidst the general reluctance of state and national governments in India to abide by the directions of the central government and the Courts that are aimed at improving food security. It is particularly interesting to bear in mind at this stage that a state level legislation on food security came into force well before legislation at the national level.

## **PART II: The National Food Security Act (NFSA), 2013**

One of the most important impacts of the right to food movement in India, was the enactment of national legislation on food security—the National Food Security Act (NFSA), which was passed by the Indian Parliament in September 2013. The NFSA converted many existing food security programmes such as the TPDS into legal entitlements for recipients. It entitles up to 75 % of the rural population and up to 50 % of the urban population (thus covering two-thirds of the currently estimated population of 1.25 billion) to 5 kilograms (kg) of rice, wheat, or coarse cereals per person per month at a subsidised price of 1–3 Rupees per kg.

The Act highlights the importance of breastfeeding of children below six months while for children between 6 months and 6 years, it provides for a free age-appropriate hot-cooked meal. And for children aged 6–14 years, the Act provides for one free mid-day meal every day (except on school holidays) in all government and government-aided schools up to the eighth grade. Similarly, pregnant women and nursing mothers are entitled to a free meal every day during pregnancy and six months after childbirth, and there are provisions for basic maternity benefits. With the aim of promoting empowerment of women, the NFSA provides that women of 18 years of age or above will be considered to be the household head when 'ration cards' (that serve as proof of identity and status as programme beneficiary) for subsidised food programmes are issued. The Act also introduced a conditional cash transfer model to India by providing that households were entitled to receive food security allowance (or cash transfers) in situations when 'the entitled quantities of foodgrains or meals to entitled persons' are not available (NFSA 2013, Sec. 13.). The main responsibility for the implementation of the NFSA is given to state governments, 'in accordance with the guidelines, including cost sharing, between the Central Government and the State Governments in such manner as may be prescribed by the Central Government' (Ibid., Sec. 7). In addition, state governments are expected to constitute a seven-member State Food Commission for monitoring and reviewing the implementation process, with at least two women members and one member each from traditionally disadvantaged communities (Scheduled Caste and Scheduled Tribe communities). The NFSA also provides for the redress of complaints and grievances, including call centres and helplines.

From a human rights and ethics perspective, the most important step forward is the recognition in the NFSA of explicit duties or 'obligations' of various levels of government for the promotion of food security. Thus, the main obligation of the central government is to provide foodgrains (or adequate funds) to state governments at specified prices. State governments, however, have the main duty to implement the provisions of the Act together with local government institutions, and may extend the level of benefits with additional resources from their own coffers.

Despite the delays in enacting the legislation, and the innumerable compromises in the final draft, many societal and political actors hailed the NFSA as a watershed. Most parties and organisations agreed on the need for a NFSA and its main purpose—to redefine the basis for promoting food security in the country ensuring greater access to adequate quantity and quality food at affordable prices. There are some very obvious benefits of legislating the right to food and guaranteeing access to food to large sections of the population. Harsh Mander, an erstwhile civil servant and activist, and one of the architects of an earlier version of the food security bill, claimed that one the main advantages of the legislation is that it will ensure that foodgrains that are procured by the government are actually distributed to the needy rather than rotting in official storage houses (Mander 2012).

The enthusiastic—and often heated—public debate that took place following the introduction of the first draft of the Bill in Parliament in 2011 and subsequent enactment of the NFSA in September 2013 provide an interesting backdrop to understanding India's struggle to address specific challenges related to poverty and deprivation. The debates reveal considerable disagreement between political parties, think-tanks, scholars, civil society organisations and media commentators on the nature, extent and cost of state intervention in improving food security. Opposition to the NFSA has mainly come from two groups of people. There are those who argue the case for maintaining a high pace of economic growth with increased employment opportunities, wealth and fiscal prudence. They claim that the enormous costs associated with implementing the NFSA will slow India's economic growth rate. Others subscribe to the view that combating hunger should be the country's top priority and that the government should actually spend even more resources in combating hunger than it is currently doing. In the following sections, I will highlight four broad sets of interrelated issues that have characterised the Indian social and political discourse on food security in recent years. These four categories relate to the availability of adequate funds, the specific roles and duties of various levels of government in India's federal political set-up, the distinction between food security and nutritional security and the extent to which the country proposes to reform existing social protection programmes aimed at improving food security.

### **Can India Afford the High Cost of Food Security Programmes?**

The foremost criticism levelled against the NFSA relates to the huge cost of implementation. It did not help matters that ever since the legislation was first introduced in Parliament in 2011, it has been riddled with confusion over the exact amount of extra costs it will entail. The Congress-party led United Progressive Alliance (UPA) government—which put all its political might and prestige into getting the NFSA passed in Parliament—initially estimated that an additional cost of US\$ 4 billion<sup>6</sup> per year would be incurred. The Minister of Food significantly played down the costs after introducing the Bill in Parliament, claiming that it would require an additional amount of approx. US\$ 3 billion annually. However, it was later revealed that the figures provided by the Minister mainly concerned the food distribution arm of the NFSA. And costs related to improving the nutritional status of children and providing maternity benefits to women would make the NFSA even more expensive.

Recent estimates show that the annual cost of India's food subsidy programme is rapidly rising, having increased from US\$0.62 billion in 1992 to US\$16.67 billion in 2012 (Kishore et al. 2014, p. 31). And according to the Indian government's own projections, it was supposed to have used an estimated US\$21 billion in 2013–2014 to procure 61.2 million tonnes of cereals and deliver it to 820 million people at 1–3 rupees per kg through its existing retail network of 480,000 fair price shops (Ibid.). Moreover, the overall costs of the food subsidy component of the NFSA is projected to rapidly rise to US\$ 23.5 billion, although this figure does not include costs related to establishing new, and strengthening existing institutions that are required for the implementation of the Act.

Supporters of the Act argue that the cost of implementing the NFSA does not appear to be very high when compared to the roughly US\$ 62.5 billion that are annually written off by the Indian state in the form of exemptions and subsidies to the non-farm sector in addition to tax breaks for big businesses.<sup>7</sup> The economist Jean Drèze (2011), who has been an active campaigner for the right to food movement, has claimed that the critics of the NFSA mistakenly assume that all expenses will be borne

by the government right away when in reality, it will take a considerable amount of time for the government to start implementing the programme all over the country. Besides, he points out, not all states will be doing everything at the same time. Thus, the issue at hand relates not so much to the immediate financial impact of the NFSA, but 'the ability of the Indian economy and public finances to accommodate' the Act, and Drèze argues that current trends point towards a 'favourable environment for a food security initiative'. Perhaps the most powerful argument in favour of the high costs associated with the Act comes from Harsh Mander who observes: 'It is about our priorities ... what is worth spending and what is not. In a country where every second child is malnourished, what could be more important?'<sup>8</sup>

### Centre-State Blame-Game

India's federal political system has witnessed a long history of tension between the central government in New Delhi and regional ('state') governments. Financial assistance to states affected by widespread natural calamities has been governed through the awards of successive finance commissions appointed by the central government, which recommends the formula for the sharing of all resources between the centre and states for a period of five years at a time. Politicians and civil servants at the state level frequently complain about not having the resources to mount an adequate response during natural calamities, particularly in relation to the provision of drought relief. State governments therefore tend to blame the central government for either failing to provide adequate resources and/or not providing earmarked resources on time. The central government's typical response is to accuse state governments of underutilising available funds at their disposal and not planning in advance. Indeed, federalism is often under severe strain when the two levels of government do not agree on the extent and nature of assistance required to ameliorate various types of suffering, including those that are food-related. Since competing political parties often hold power at the centre and state levels, there is a constant tug-of-war for all potential sources that can be tapped. And this means that allegations of favouritism are hurled at the centre whenever a particular state does not get the amount it believes it is entitled to (Banik 2007, p. 130–140).

When the food security bill was first tabled in Parliament in late 2011, many state governments immediately went on to attack the provisions relating to coverage and costs. For example, Tamil Nadu claimed that the Bill was 'replete with confusion and inaccuracy'. In a memorandum submitted to the Prime Minister, the government of Tamil Nadu argued that the classification of the target groups was 'unscientific and unacceptable'.<sup>9</sup> As this particular state is well-known for running well-functioning food security schemes of its own—and since the Bill provided that states cannot provide subsidised food to anyone that the central government rules out of its beneficiaries list—Tamil Nadu expressed concern that it would either have to find a way to fund the entire burden of subsidy for additional beneficiaries or take the politically controversial step of excluding people from its programmes.<sup>10</sup>

The government of India's largest state, Uttar Pradesh, characterised the Bill as a 'political stunt' given the forthcoming legislative assembly elections in the state and alleged that it would place additional fiscal pressure on non-Congress Party ruled states.<sup>11</sup> It also claimed that the ambitious new measures provided in the legislation were not implementable as the central government had not taken into consideration the availability of the required amount of foodgrains. Moreover, Uttar Pradesh claimed that the central government did not have viable plans for funding new schemes that involved the new and innovative system of cash transfers. Similarly, other opposition party controlled states like Bihar demanded a radical revision of implementation criteria for food security programmes while Tamil Nadu requested to be exempted from implementing the legislation.<sup>12</sup>

Echoing the arguments of Tamil Nadu, Bihar and Uttar Pradesh governments, the main opposition party of the time—the BJP—characterised the initiative as unscientific and confusing, and part of the central government's political game. Several news reports in this period further claimed that many states were actually offering rice at Rs. 1 per kg, which was much lower than the Rs. 3 per kg proposed in the Bill. When confronted with such inconsistencies, India's Food Minister, while proclaiming that this was 'the world's largest experiment in providing food security to the poor.

### Food Security in the Absence of Nutritional Security?

Some critics have questioned whether the quota of 5 kg of cereals per person as provided for in the NFSA is adequate. They argue that the PDS is already notorious for distributing low quality foodgrains given the lack of storage facilities and difficulties of transporting food across large parts of the country. The influential group of NGOs that are a part of the Right to Food Campaign (2012) in India has forcefully argued that current food security initiatives, including the provisions of the NFSA do not adequately address issues of 'nutritional security'. They point to the highly centralised and extremely narrow understanding of the needs of people living in poverty in the NFSA. Indeed, while beneficiaries can only receive rice, wheat and coarse cereals under the provisions of the Act, some argue that pulses rather than cereals should be provided for better nutritional outcomes (Kishore et al. 2014). Others like Saxena (2012, p. 8) argue that 'food alone does not solve the problem of underweight children, which needs a multidimensional thrust in health, hygiene, quality of water' as well as cultural practices related to accessing adequate food that typically discriminate against women.

Like Saxena, many activists and administrators rue the fact that food security-related interventions in India often do not place adequate emphasis on identifying and linking existing strategies with 'non-food' items that are crucial to improving nutritional security—health, education, culture, infrastructure, storage, transportation, etc. In addition, de Brauw and Suryanarayana (2015) argue that the NFSA 'is not based on an explicit concept of food security' and that it grossly exaggerates the need for covering two-thirds of the population as it is based in outdated calorie norms. They further argue that the Act 'provides for a monotonous energy dense diet' that can 'at best ensure energy security only' rather than dietary diversity which is the need of the hour. Thus, some critics argue that this very feature—i.e. the neglect of nutritional security—is one of the major reasons that explain the failure of major programmes such as the Integrated Child Development Services (ICDS) to radically improve food security of vulnerable groups.

#### Reforming Defective Social Protection Systems and Ensuring Efficient Service Delivery

Many observers have criticised India's continued interest in persisting with flawed social protection programmes such as the PDS rather than radically improving or replacing them. Even after the PDS was reformed in 1997 to targeted PDS (TPDS), in order to enable it to better target food insecure households, the main challenge for it as well as other anti-poverty programmes in India continues to be that of identifying and targeting intended beneficiaries (Tanksale and Jha 2015). The PDS not only remains expensive (accounting for 1 % of the country's GDP in 2004–2005) but there is also little evidence of it having made a substantial contribution in reducing food insecurity.

The PDS is also already under pressure to distribute the current amount of foodgrains amidst considerable leakage caused by greedy shop owners who divert subsidised food items to the open market. Moreover, the lack of refrigeration and adequate storage capacity frequently results in damaged foodgrains, unsuitable for human consumption. Related to this is the absence of provisions in the NFSA regarding agriculture and concrete measures to increase food production to feed India's rapidly growing population that currently includes 1.2 billion people and over 1 billion cattle and other farm animals. For example, Hegde (2012) claims that the procurement policies of the central government, by which rice is purchased from northern states and distributed at cheap prices in other regions has actually forced many farmers in southern and eastern regions of the country to 'quit farming as it has become financially uneconomical and unviable'. Panandiker (2012) estimates that the total production of cereals (rice and wheat) in India in 2010–11 was 180 million tonnes (MT), of which around 36 MT is typically retained by farmers for self-consumption, another 36 MT is procured by the government for distribution through the PDS, and 109 MT is available in the open market. The NFSA accordingly will necessitate at least an additional 35 MT for government procurement to PDS, which will in turn drastically reduce supply in the open market and consequently having a negative impact on farmers.

Still others question the wisdom of replacing food subsidies with the introduction in India of a system of conditional cash transfers—a model that has worked very well in Mexico and Brazil. Many state governments are, however, reluctant to bear the costs of these cash transfers from their already



meagre resources. In addition to concerns over costs, there is widespread scepticism of providing income-based support without improving access to food in adequate quantity and quality. Moreover, given the existing challenges related to the implementation of social protection programmes, critics claim that it may be extremely difficult to monitor compliance to any conditions attached to these cash transfers. Some scholars have thus recently argued that direct but unconditional cash transfers that offer recipients more choice and create less risk of distortion may be more relevant in the Indian context as they are more cost effective (Kishore et al. 2014; Gangopadhyay et al. 2015). There are, in addition, numerous concerns whether cash will be used by recipient households for intended purposes (i.e. purchase of food) and how cash will be distributed in the absence of local bank branches and ATM machines. One solution envisaged by the UPA government that sponsored the passage of the NFSA in Parliament is the Unique Personal Identity (UID) number project, which advocates the use of smart cards to transfer benefits directly to the poor rather than through Fair Price Shops and middlemen. However, as Saxena (2012, p. 10) observes, while the use of individual biometric markers may make a difference in removing duplicate and fake beneficiaries and allowing people to withdraw food rations from any part of the state, the UID cannot in practice help target Below Poverty Line (BPL) households, for which other and more relevant criteria (for measuring deprivation) must be adopted.

## CONCLUSION

India has been very successful in preventing famines. Indeed, its food security record so far has been most impressive whenever 'crisis' has been clearly defined and when there is an unambiguous understanding and consensus among politicians and administrators on the seriousness of the situation. India has in the past witnessed, and will continue to experience in the future, numerous situations that can best be described as 'famine threats'. It has thus far managed to prevent such famine threats from escalating into famine and there is reason to believe that India will continue to enjoy success on this issue.

A more mixed picture emerges on India's ability to tackle undernutrition. Instead of sustained commitment to long-term policies that aim to reduce vulnerability to hunger, the political-administrative response in India is typically short-term, ad hoc, and populist in character. There is widespread attention to allegations of sensational and so-called 'starvation deaths', while the problem of chronic hunger or 'undernutrition' does not attract the same level of state response as it is not considered to be a 'crisis' such as a famine. Indeed, the political system fails to address fundamental issues related to daily susceptibility to hunger and the numerous flaws in the implementation of social programmes—including the need for correct diagnoses of the exact type of nutrition-related problem, early intervention, and meaningful interaction between policymakers and local-level bureaucrats. Thus, India's abysmal record at promoting food and nutritional security, despite managing to increase food production, is not necessarily a product of a lack of resources but rather due to political and administrative disinterest compounded by a lack of appreciation of the dangers of chronic (or less visible forms of) hunger.

The large and expensive social protection programmes run by India have no doubt made significant contributions to improving food security in the past few decades. However, they are ready for a major overhaul as many of the existing programmes are unable to identify and target beneficiaries and use available resources effectively. The importance of the right to food movement lies in the critical public scrutiny that the PDS and other programmes have attracted from the media, the legislature, the judiciary and not least civil society organisations as a result on the on-going case in the Indian Supreme Court. The resulting NFSA appeared to signal a new era where the rights of the poor would finally be respected, protected and promoted.

While the Act does possess many innovative features with the potential of improving food security in the country, I have highlighted four broad sets of challenges that it currently faces. These issues and challenges—which include endless debates over costs and available funding, division of responsibility between various levels of government, lack of linkages to health and education and a comprehensive overhaul of the country's expensive but largely ineffective social protection system—

are by no means new to India; but rather have characterised the debate on poverty reduction and the implementation of public policies for decades. The UPA government, which was accused by opposition parties of pushing the NFSA through Parliament in the hope of winning votes, ended up losing heavily in the 2013 general elections. The current government, formed by the BJP party and its allies, has been lukewarm to the NFSA. While in opposition, it was vocal in its criticism of the Act's provisions, the BJP now finds itself in government and bound by law to implement the legislation. Although the central government has been reluctant to put its weight behind the NFSA, several state governments are showing signs of willing to start implementing various measures in accordance with the Act. If this trend continues, the central government may feel pressured into devoting more attention and resources to successfully implementing the NFSA on a national scale. The challenge for India is to pursue policies that continue to increase food production in an environmentally sustainable manner while undertaking major steps to improve food storage facilities. In addition, the country must devise better methods to identify food insecure households and adopt a set of policy instruments—either subsidies or cash transfers or both—that take into account local realities. While India has achieved considerable success in reducing extreme poverty, it continues to top world hunger charts. This reality should indeed force politicians to place food security at the top of their policy agendas.

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