

## Implementation of the National Food Security Act in Haryana

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*On 10 September 2013, the Indian Parliament enacted the National Food Security Act. This Act represents an important step towards meeting India's domestic and international obligations with respect to the Right to Food. However, significant challenges remain. The Targeted Public Food Distribution System, which the Act seeks to streamline and improve, has proved cumbersome to operate. Difficulties include the failure of state governments to properly and uniformly identify families eligible for food-related schemes, a lack of infrastructure for the supply and distribution of grain, and high levels of corruption, particularly with regard to local authorities who ensure that food supplies reach their intended destination. While the Act aims to remedy these problems, it will take concerted efforts from the central and state governments as well as civil society to ensure its provisions are properly implemented.*

### Introduction

India today faces continued and widespread malnutrition. In 2012, approximately 20% of India's total population suffered from malnutrition. The statistics are more daunting for children. In 2013, nearly 50% of India's children were underweight, and 75% were anemic. In light of these statistics, in August 2013, the Indian Parliament enacted the National Food Security Act (NFSA or Act), which seeks to provide "food and nutritional security" by ensuring "access to adequate quantity of quality food at affordable price to people to live a life with dignity." The NFSA is one of the most ambitious food distribution schemes ever devised, and guarantees access to subsidized food grains to more than 810 million people, roughly three-quarters of India's population.

The Socioeconomic Rights Clinic at Jindal Global Law School recently studied how the state of Haryana has implemented the NFSA thus far. Based on interviews with key stakeholders and statistical data, the Report concludes that Haryana must improve its food supply and distribution policies to effectively implement the Act. Given that, in 2015, an

estimated 13% of Haryana's population lives below the poverty line and 43% of its children are underweight,<sup>1</sup> it is crucial that the NFSA is properly implemented in this state. We will briefly set forth the legal framework on the Right to Food and then summarize our findings and recommendations.

### The Right to Food Litigation and NFSA

*People's Union for Civil Liberties v. Union of India* [Writ Petition (Civil) No. 196 (2001)] established the Right to Food as a constitutional right. PUCL filed a writ petition before the Supreme Court in April 2001, requesting relief from the Court for the Rajasthan drought victims. The petition argued that the Right to Food was an essential component of the right to life (Article 21 of the Indian Constitution) and that the response of central and state governments to the drought violated this fundamental right.

The petition included the Food Corporation of India as a respondent for its mismanagement of foodgrain stocks. It had left thousands of tonnes of foodgrains to rot in silos, unavailable for distribution or consumption. The petition also brought to light central and state

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### Editors

Dr. Ashish Bharadwaj  
Saptarshi Mandal  
[jgls-lpb@jgu.edu.in](mailto:jgls-lpb@jgu.edu.in)  
[www.jgu.edu.in](http://www.jgu.edu.in)  
[www.jgls.edu.in](http://www.jgls.edu.in)



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government failures in the formulation and implementation of the PDS and the Rajasthan government's failure to provide adequate relief to famine victims. Some of the problems with the PDS identified in the petition included: the failure of state governments to uniformly identify Below Poverty Line (BPL) families; a lack of infrastructure that impeded the supply and distribution of grains; and widespread corruption among Fair Price Shop owners. The Supreme Court held that the Right to Food is part of the right to life, and brought within the ambit of Article 21. Thus, the Supreme Court interpreted the Right to Food as a fundamental right under the Indian Constitution.

To effectively address the large scope of this Public Interest Litigation (PIL), the Supreme Court has invoked the doctrine of continuing mandamus to keep the litigation open since hearing the original petition in 2001. It has since passed a number of interim orders to realise this right. These interim orders include general guidelines regarding the Right to Food, as well as concrete measures to implement the right. For instance, on 23 July 2001, the Supreme Court passed an interim order establishing that the state must provide food to the aged, infirm, disabled, destitute men and women in danger of starvation, pregnant and lactating women, and destitute children.

The Supreme Court issued its most significant order regarding the implementation of the Right to Food on 28 November 2001. This order ensured that the Government would be held accountable for its food-related schemes and enabled beneficiaries of existing food schemes to approach the courts for relief if denied the benefits to which they were entitled. This order pertains to eight food-related schemes, including the Targeted Public Distribution System (TPDS) – an extensive food distribution system that provides subsidised foodgrains to impoverished families through Fair Price Shops; Antyodaya Anna Yojana (AAY) – that provides food-related assistance to poor households, focusing on six priority groups (including widows, “primitive tribes”, the aged, and the disabled); and the Integrated Child Development Services (ICDS) – India's primary social welfare scheme to tackle malnutrition and health problems in children below 6 years of age and their mothers.

Despite the Supreme Court's efforts to improve the TPDS, the evidence suggests that India's food security situation did not improve much, if at all, in the decade following PUCL's initial petition. The Government has conceded its food programs have had only limited success. For instance, the daily caloric intake of India's poorest citizens, who might be expected to benefit most from food-related schemes, has decreased since 2009.

In light of these challenges, Parliament enacted the NFSA in September 2013. The legislation provides for “food and nutritional security,” by ensuring “access to adequate quantity of quality food at affordable prices.” The NFSA reformed existing food schemes in important ways. Chapter V of the Act prescribed several reforms to the TPDS. These include doorstep delivery of foodgrains to TPDS shops, computerised record-keeping, and the use of *aadhar* cards to ensure greater transparency throughout the system. The *aadhar* system ensures that state governments accurately identify and target eligible households. Computerised record-keeping and doorstep delivery ensure that foodgrains are not diverted to other locations and can be fully traced until they reach eligible households.

Chapter VI of the Act focuses on women's empowerment. It deems the oldest woman in every eligible household (over eighteen years of age) the head of the household when issuing ration cards. If the oldest woman is under eighteen years of age, the Act deems the oldest man the head of the household until the woman turns eighteen. By placing women in positions of responsibility, the Act aims to empower woman and to make them less vulnerable to exploitation.

Chapter VII requires state governments to establish grievance redressal mechanisms. This involves appointing District Grievance Redressal Officers who are responsible for resolving disputes regarding foodgrain distribution and enforcing the Act's various entitlements. State governments are also responsible for setting up State Food Commissions. The Commissions consist of seven members and must include at least two women and two members from Scheduled Castes and Scheduled Tribes, to ensure varied representation. The State Food Commission is responsible for overseeing implementation of the Act, and has the power to respond to complaints and undertake inquiries regarding violations.

Yet, these reforms have not been effectively executed. As of July 2015, only seven out of twenty-nine states had implemented the “core provisions” of the NFSA, while an additional five states had partially implemented them.<sup>2</sup> Corruption has also hampered food grain distribution. Economist Jean Dreze estimated in 2004 that approximately fifty percent of the grains slated to be distributed through the PDS ended up in the black market.<sup>3</sup> While Dreze has noted that such “leakage” has reduced by ten to twenty percent since the passage of the NFSA, a significant amount of grain is still not reaching its intended beneficiaries.

### **Implementation of the NFSA in Haryana**

In Haryana, the TPDS covers 23.35% of people in rural areas and 17.91% in urban areas. Wheat, sugar, and kerosene are distributed at subsidised rates, with the price of wheat being Rs.2.12 per kg/litre for AAY consumers and Rs.5.20 per kg/litre for BPL consumers. Both AAY and BPL consumers get 35kg of subsidised wheat per month. Both categories pay Rs.13.50 per kg/litre for sugar, of which they get 2kg subsidised per month. Both categories are also entitled to 6 litres of kerosene oil per month, and pay between Rs.13.63 and Rs.14.52 per litre based on transport charges. There are 9,174 Fair Price Shops in Haryana, with approximately 6,500 of them in rural areas.

Although the NFSA did not alter the specific distribution rates under the previous distribution system, Section 12 of the Act added safeguards to increase accessibility and transparency to the previous system. The reforms made under Section 12(2) are:

- (a) doorstep delivery of foodgrains to the Targeted Public Distribution System outlets;
- (b) application of information and communication technology tools, including end-to-end computerisation in order to ensure transparent recording of transactions at all levels, and to prevent diversion;
- (c) leveraging “aadhaar” for unique identification, with biometric information of entitled beneficiaries for proper targeting of benefits under this Act;
- (d) full transparency of records;
- (e) preference to public institutions or public bodies such as Panchayats, self-help groups, and co-operatives, in licensing of Fair Price Shops and management of Fair Price Shops by women or their collectives;
- (f) diversification of commodities distributed under the Public Distribution System over a period of time;
- (g) support to local public distribution models and grains banks;
- (h) introducing schemes, such as cash transfer, food coupons, or other schemes, to the targeted beneficiaries in order to ensure their foodgrain entitlements specified in the NFSA, in such area and manner as may be prescribed by the Central Government. NFSA will enhance TPDS coverage in Haryana, bringing it up to 49.89 per cent of the total population.

One other scheme is also noteworthy. In September 2013, the Chief Minister of Haryana inaugurated the “Dal Roti Scheme”. It involves the distribution of 2.5kgs of pulses per household at the subsidised price of Rs.20 per kg to qualifying families. This scheme is entirely a state government initiative, which is not mandated by the NFSA.

The perspective of the local community in Sonapat District cast doubt on the effectiveness of the NFSA in actually delivering benefits to the intended beneficiaries. Through interviews with all the major stakeholders, we examined respondent’s knowledge of the Act, their perceptions of its effectiveness, and the extent to which it has delivered what is required by law.

Our findings indicate that awareness of the NFSA varied among stakeholders. For instance, village Sarpanches were generally aware of the Act. The Sarpanch of one village stated that the Act was a major step forward towards providing food security to the people of his village and will improve their standard of living. He also mentioned that there had been problems with the implementation of the Act that needed to be addressed immediately. However, among the beneficiaries interviewed, many did not have much knowledge or understanding of the Act. While many were generally aware of the TPDS, AAY and individual schemes, they were not aware that the Act imposed additional requirements on state and local government officials. These findings suggest that awareness of the Act may be correlated with the social and economic status of the stakeholders. The Haryana government and local NGOs must undertake informational campaigns to spread greater awareness of the rights and benefits conferred by the NFSA, particularly among the Act’s potential beneficiaries.

Ration cards appear to be widely available in Haryana, but the processes for identifying the targeted beneficiaries are problematic. One Sarpanch explained that, following the enactment of the NFSA, the Haryana government conducted a survey to determine to which category each beneficiary family belonged. In his view, the survey was improperly conducted and many eligible BPL families were not identified. Another Sarpanch village similarly noted that the last survey conducted to determine BPL-eligible families had not correctly identified families in his village. He also voiced a separate concern about the allocation of ration cards. He said that ration cards had not been renewed in ten years and therefore did not reflect the current needs of families in his village. This suggests that many of the intended beneficiaries require assistance to even apply for ration cards. Indeed, a majority of the beneficiaries interviewed said they possessed ration cards, but many said that they did not obtain these cards on their own. In many cases, ration cards were obtained through the village Sarpanch.

Views on the TPDS varied among authority figures and intended beneficiaries. While the sarpanches interviewed noted problems with identifying beneficiaries for food-related schemes, the beneficiaries expressed more

fundamental concerns. Many claimed that the TPDS is marred by irregular supply of food grains and lack of efficiency, which they attributed to the whims of those in authority. According to some beneficiaries, there is also caste and class-based discrimination in distributing foodgrains to the intended recipients. Along similar lines, there was a widespread belief among the workers interviewed that that leakage and corruption were rampant, which prevented foodgrains from reaching their intended beneficiaries.

Many beneficiaries also noted that Fair Price Shops are not open throughout the month. This posed serious problems for several beneficiaries, who did not have the necessary funds to purchase grains in the limited periods when these shops are open. Several beneficiaries were not aware that entitlements provided to them in Fair Price Shops depended on the category (e.g., BPL or AAY) in which they were placed. This suggests that the Fair Price Shops, like the PDS generally, is subject to corruption and leakages and does not sell grain according to the relevant provisions of the NFSA.

In contrast, the Haryana-specific Dal Roti Scheme seemed to function as the lawmakers had intended. Both sarpanches and beneficiaries expressed how effectively it had been implemented.

### Conclusion

Overall, the findings suggest that the NFSA faces several challenges in delivering on its broad aims. The surveys to identify beneficiaries have been improperly conducted. Food is not delivered to the Fair Price Shops in a timely fashion and the shops are not open for business on a consistent basis. More fundamentally, many of the beneficiaries interviewed were not aware of their entitlements under the Act. There appears to have been no serious effort by the Haryana Government to inform intended beneficiaries of their rights. There was also a widespread belief among community members that leakage and corruption were rampant, which was preventing foodgrains from reaching their intended beneficiaries.

In light of these findings, we propose the following recommendations:

1. The Indian government should develop clear and uniform guidelines to monitor the state governments' selection of households eligible for food-related schemes. It should curb leakage and diversion of food grains to unintended beneficiaries by preventing hoarding and embezzlement. It should reduce malnutrition by ensuring that the food grains distributed are varied and should conduct studies to ensure that the food supplies meet nutritional requirements.

2. The Haryana government should develop greater coordination between various state government entities in charge of distributing food grains. It must ensure rigorous screening in the appointment of officers responsible for resolving disputes regarding food grain distribution and enforcing food-related schemes. The state should also license a range of institutions such as Panchayats, self-help groups, co-operatives and women collectives, to operate Fair Price Shops for the local sale of government-subsidized food grains.
3. Civil society should spread awareness of the rights and benefits NFSA provides to its intended beneficiaries. Civil society groups should independently monitor the implementation of the Act and assist the Haryana government in correctly identifying the families eligible to receive benefits under various schemes.

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### About the Authors

Anna Lamut [B.A. (Brown); J.D. (Harvard)] is Assistant Professor of Law and Co-Executive Director of the Centre for Public Interest Law at Jindal Global Law School. Her research and teaching focuses on human rights law, international commercial litigation, competition law, and intellectual property law.

Rehan Abeyratne [B.A. (Brown); J.D. (Harvard)] is Associate Professor of Law and Co-Executive Director of the Centre for Public Interest Law. His research and teaching interests include comparative constitutional law, human rights law, and public international law.

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### Editors and Conveners of the Law and Policy Research Group

Ashish Bharadwaj, Assistant Professor, Jindal Global Law School Ph.D. (Max Planck Institute, Munich), LL.M. (Rotterdam, Hamburg, Manchester), M.Sc. (Chennai), B.A. Hons. (Delhi)  
Saptarshi Mandal, Assistant Professor, Jindal Global Law School LL.M. (Central European University, Budapest), B.A. LL.B. Hons. (National University of Juridical Sciences, Kolkata)