

Legislative Brief

The National Food Security Bill, 2011

The National Food Security Bill, 2011 was introduced in the Lok Sabha by the Minister of Food, Consumer Affairs and Public Distribution on December 22, 2011. The Bill was referred to the Standing Committee on Food, Consumer Affairs and Public Distribution (Chairman: Vilas Baburao Muttemwar) on January 5, 2012. The Committee was due to submit its report in April 2012.

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Sakshi Balani
sakshi@prsindia.org

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Highlights of the Bill

- ♦ The Bill proposes foodgrain entitlements for up to 75 percent of the rural and up to 50 percent of the urban population. Of these, at least 46 percent of the rural and 28 percent of the urban population will be designated as priority households. The rest will be designated as general households.
- ♦ Priority households will be entitled to 7 kg of subsidised foodgrains per person per month. General households will be entitled to at least 3 kg.
- ♦ The central government will determine the percentage of people in each state that will belong to the priority and general groups. State governments will identify households that belong to these groups.
- ♦ The Bill proposes meal entitlements to specific groups. These include: pregnant women and lactating mothers, children between the ages of six months and 14 years, malnourished children, disaster affected persons, and destitute, homeless and starving persons.
- ♦ Grievance redressal mechanisms will be set up at the district, state, and central levels of government.
- ♦ The Bill proposes reforms to the Targeted Public Distribution System.

Key Issues and Analysis

- ♦ The Bill classifies beneficiaries into three groups. The process of identifying beneficiaries and placing them into these groups may lead to large inclusion and exclusion errors.
- ♦ Several entitlements and the grievance redressal structure would require state legislatures to make adequate budgetary allocations. Implementation of the Bill may be affected if states do not pass requisite allocations in their budgets or do not possess adequate funds.
- ♦ The Bill does not provide a rationale for the cut-off numbers prescribed for entitlements to priority and general households.
- ♦ The grievance redressal framework may overlap with that provided in the Citizens' Charter Bill that is pending in Parliament.
- ♦ Schedule III of the Bill specifies goals which may not be directly related to food security. It is unclear why these have been included in the Bill.
- ♦ The Bill provides similar definitions for starving and destitute persons. However, entitlements to the two groups differ.

PART A: HIGHLIGHTS OF THE BILL

Context

India is a signatory to the Universal Declaration of Human Rights (1948) and the International Covenant on Economic, Social, and Cultural Rights (1966), which recognise a right to adequate food. The Directive Principles of State Policy in the Constitution of India provide that it is the duty of the state to raise the level of nutrition and standard of living of its people, and improve public health.

In 1996, in *Chameli Singh v. State of Uttar Pradesh*, the Supreme Court declared that the “right to live guaranteed in any civilized society implies the *right to food*”, among other rights.¹ In 2001, the People’s Union for Civil Liberties (PUCL) filed a writ petition contending that the “right to food” is part of the fundamental “right to life” provided in Article 21 of the Constitution. In the ongoing litigation in the case, the Court has issued several interim orders. In 2001, the Court ordered the implementation of eight centrally sponsored schemes as legal entitlements.² These include the Public Distribution System (PDS), Antyodaya Anna Yojana (AAY), the Mid-Day Meal Scheme, and Integrated Child Development Services (ICDS), among others. In 2008, the Court ordered that Below Poverty Line (BPL) families be entitled to 35 kg of foodgrains per month at subsidised prices.³

In October 2010, the National Advisory Council (NAC) drafted a National Food Security Bill, proposing legal entitlements for about 75 percent of the population. In January 2011, an Expert Committee set up by the Prime Minister under the chairmanship of Dr. C. Rangarajan examined the Bill and made several recommendations, including reducing the proportion of the population entitled to benefits and computerising PDS. A draft Bill was circulated by the Ministry of Food, Consumer Affairs and Public Distribution for public feedback in September 2011. The current Bill was introduced in Parliament in December 2011.

Key Features

Entitlements

- **Targeted Public Distribution System (TPDS):** The Bill specifies that up to 75 percent of the rural population and up to 50 percent of the urban population shall be entitled to foodgrains under the TPDS. Of these, at least 46 percent of the rural and 28 percent of the urban population shall be categorised as priority (the rest are “general”).
- **Special groups:** The Bill proposes meal entitlements to pregnant women and lactating mothers, children, destitute, homeless, and starving persons, among others. It specifies nutritional standards for meal entitlements provided to children, pregnant women and lactating mothers.

Table 1: Entitlements under the National Food Security Bill, 2011

Group	Entitlement
Priority	7 kg foodgrains per person per month at Rs 3/kg for wheat, Rs 2/kg for rice, Rs 1/kg for coarse grains
General	At least 3 kg foodgrains per person per month at 50% of minimum support price (MSP)
Pregnant women and lactating mothers	Free meal during pregnancy and 6 months thereafter, and Rs 1000 per month for 6 months
Children, 6 months to 14 years	Free meal at local anganwadi (6 months to 6 years); Mid-day meal at school (6 to 14 years)
Malnourished children	Free meals
Destitute persons	One free meal per day
Homeless persons	Affordable meals at community kitchens
Starving persons	Two free meals per day for 6 months
Emergency and disaster affected persons	Two free meals per day for 3 months

- Entitlements to destitute and homeless persons shall be applicable only after notification by state governments, which shall take place within one year of commencement of the Act. State governments shall also prepare and notify guidelines for the prevention, identification and relief to cases of starvation.
- Migrants and their families may claim their entitlements at the place where they currently reside.

Identification of beneficiaries

- The central government shall determine the percentage of people in each state that will be in priority and general groups. It shall also prescribe guidelines for the identification of households in each group, including criteria for exclusion.

- Every state government will be responsible for identifying persons belonging to priority and general households as well as those suffering from malnutrition, starvation, destitution and homelessness. The list of the identified priority and general households shall be placed in the public domain.

Reforms to the TPDS

- The central and state governments shall undertake reforms of the TPDS, including: (a) doorstep delivery of foodgrains to TPDS outlets; (b) use of information technology; (c) leveraging aadhaar; (d) transparency of records; (e) preference to public bodies in licensing of fair price shops (FPS) and their management by women; (f) diversification of commodities offered; (g) support to local public distribution models and grain banks; and (h) schemes such as cash transfer and food coupons in lieu of foodgrains.

Grievance redressal and monitoring

- District Grievance Redressal Officers (DGROs) shall be appointed by state governments to enforce entitlements and investigate and redress grievances. Aggrieved persons may complain to DGROs regarding non-distribution of entitled foodgrains or meals.
- The central and state governments shall constitute National and State Food Commissions. Each Commission shall consist of a chairperson, five members and a member-secretary. At least two members shall be women and two shall belong to Scheduled Castes and Tribes. Members may be removed on certain grounds.
- Any person aggrieved by the orders of the DGRO may appeal to the State Commission. The next round of appeals will be heard by the National Commission. The National and State Food Commissions may either *suo motu* or on receipt of a complaint inquire into violations of entitlements. During inquiry, they shall have powers of civil courts. Public servants found guilty by the Commissions of failing to provide relief recommended by a DGRO may be fined up to Rs 5,000. The Commissions will have the power to forward any case to a Magistrate having jurisdiction to try the same.
- The State and National Commissions shall advise the respective governments on implementation of the schemes under the Bill. The National Commission shall also advise on synergising existing schemes and framing new schemes for entitlements.
- Every state government shall set up Vigilance Committees at the state, district, block and FPS levels. These Committees shall be responsible for supervising the implementation of all schemes under the Act and informing the DGRO of any violation of the Act or of any malpractice or misappropriation of funds.
- Every local authority, as authorised by the state government, shall conduct periodic social audits on the functioning of FPS, TPDS, and other welfare schemes, take necessary action, and publicise findings.

Responsibilities of central and state governments

- The central government shall allocate foodgrains to state governments with respect to entitlements for priority and general households at prices specified in Schedule I of the Bill. It shall also: (a) procure foodgrains for the central pool; (b) provide for transportation of foodgrains to state depots; and (c) create and maintain modern and scientific storage facilities. In case of shortage of foodgrains, the central government shall provide funds to state governments.
- It shall be the responsibility of every state government to: (a) organise delivery of foodgrains from designated depots in the state to the door-step of each FPS; (b) ensure delivery of foodgrains to the entitled persons; (c) create and maintain scientific storage sites; (d) suitably strengthen capacities of their Food and Civil Supplies Corporations; and (e) establish institutionalised licensing for FPS. State governments shall also pay a food security allowance to entitled persons in case of non-supply of entitlements.

Other provisions

- The eldest woman shall be the head of every priority and general household for the purpose of issue of ration cards. In the absence of an adult woman, the eldest male member shall be the head of the household.
- The Bill specifies that the central government, state governments and local authorities shall strive to progressively realise the objectives specified in Schedule III. These objectives include, among others, revitalisation of agriculture; procurement, storage and movement related interventions; and access to: (a) safe and adequate drinking water and sanitation; (b) healthcare; (c) nutritional, health and educational support to adolescent girls; and (d) adequate pensions for senior citizens, persons with disability and single women.

PART B: KEY ISSUES AND ANALYSIS

PDS and other delivery mechanisms

The Bill seeks to ensure food security through PDS based entitlements. Both the Planning Commission and the Justice Wadhwa Committee Report have highlighted challenges in the current implementation of the PDS. These include: targeting errors, low offtake of foodgrain by each household, large leakages and diversions of subsidised foodgrain to the open market, adulteration of foodgrain, and lack of viability of FPS due to low annual turnover.⁴

Cash transfers and food coupons may constitute alternatives to PDS. Beneficiaries are given either cash or coupons which can be exchanged for foodgrains. Some potential advantages of these include: reduced administrative costs, expanded choices for beneficiaries, and more competitive pricing among grocery stores.

However, the Rangarajan Committee commented that “barring some limited experiments at the state level with food coupons and smart cards tied to a designated FPS, no major scalable alternative to the PDS is currently available.”⁵ Table 2 summarises some advantages and disadvantages of PDS and other delivery mechanisms.

Table 2: Advantages and disadvantages of PDS and other delivery mechanisms⁶

Mechanism	Advantages	Disadvantages
PDS	Insulates beneficiaries from inflation and price volatility Ensures entitlement is used for foodgrains only Well-developed network of FPS ensures access to foodgrain even in remote areas	Low offtake of foodgrain from each household Large leakages and diversions of subsidised foodgrain Adulteration of foodgrain Lack of viability of FPS' due to low margins
Cash transfers	Cash in the hands of poor increases their choices Cash may relieve financial constraints faced by the poor, make it possible to form thrift societies and access credit Administrative costs of cash transfer programmes may be much less than that of centrally sponsored schemes Potential for making electronic transfer	Cash can be used to buy non-food items May expose recipients to price volatility and inflation There is poor access to banks and post offices in some areas
Food coupons	Household is given the freedom to choose where it buys food Increases incentive for competitive prices and assured quality of foodgrain among PDS stores PDS stores get full price for foodgrains from the poor; no incentive to turn the poor away	Food coupons are not indexed for inflation; may expose recipients to inflation Difficult to administer; known to have delays in issuing food coupons and reimbursing shops

Source: See Endnote 6; PRS

Identification of beneficiaries

Clauses 3 and 15

The Bill divides the population into three categories: a priority group, a general group, and others. Any scheme that separates the population into categories requires the identification and classification of beneficiaries. Targeting mechanisms have been prone to large inclusion and exclusion errors. In 2009, an expert group estimated that about 61 percent of the eligible population was excluded from the BPL list while 25 percent of non-poor households were included in the BPL list.⁷ Under the Bill, it is unclear how the problem of inclusion and exclusion errors will be addressed. A scheme that provides universal coverage would not be prone to such errors, but could have significantly higher costs.⁵

Financial implications

Financial impact on states and cost sharing with the central government

Clauses 4, 5, 6, 7, 8, 9, 11, 20, 21, 22 and 23

The Bill specifies entitlements to be provided by states. It also prescribes a specific administrative structure. In certain cases, costs will be shared between the centre and states. Costs imposed on states (partial or full) include: nutritional support to pregnant women and lactating mothers, mid-day meals, anganwadi infrastructure, meals for children suffering from malnutrition, meals for persons living in starvation, transport and delivery of foodgrains, creating and maintaining storage facilities, and costs associated with DGROs and State Food Commissions. This implies that state legislatures may be required to allocate funds to meet the provisions of the Bill in their annual budgets. If so, this may restrict their flexibility to allocate resources according to their own priorities.

On the other hand, implementation of the Bill may be affected if state legislatures do not make the requisite fund allocations or do not possess adequate funds to do so. A similar issue has been addressed in The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act). Unlike the RTE Act, the Bill does not mention what shall be done in case a state does not have enough funds to implement the provisions of the Bill. The RTE Act

provides for: (i) a percentage of central government revenue to be given to states as grants-in-aid, and (ii) for a reference to the Finance Commission to examine the need for aid to state governments.⁸ The lack of such provisions in this Bill may result in delays or non-implementation of entitlements in certain states.

Financial Memorandum

Financial
Memorandum

The Financial Memorandum specifies 26 items of expenditure, but provides an estimate only for buffer stocks, food subsidy, and maternity benefits (although budgetary allocations for many items are already provided through other ministries and schemes). The total annual estimate for these three items is about Rs 95,000 crore.⁹ This may not reflect the total cost of implementing the provisions of the Bill. Some experts have made estimates of the total cost, ranging from Rs 2 lakh crore to Rs 3.5 lakh crore.¹⁰

Schedule I of the Bill fixes the subsidised foodgrain prices entitled to priority and general households, which can be amended from time to time. Costs, including the Minimum Support Price for various items, may increase with inflation over time. Such costs will increase the required subsidy. This is not reflected in the Memorandum.

Percentage of population entitled to subsidised foodgrains

Clause 3

Since entitlements shall extend “up to” 75 percent of the rural and “up to” 50 percent of the urban population, the exact extent of the entitlements is not clear. This implies that the actual number of people entitled to food may be less than 75 percent of the rural and 50 percent of the urban population.

There are two issues with regard to these entitlements. First, the Bill does not provide a rationale for prescribing specific cut-off numbers for the share of the population included in priority and general groups. Second, the minimum requirement of including 46 percent of the rural population and 28 percent of the urban population in the priority group implies that the government will have no flexibility to revise this figure (without passage of an amendment by Parliament), even if the share of the population living in poverty changes over time.

Incomplete grievance redressal and overlap with Citizens' Charter Bill

Clauses 20-
22 and 26

The Bill creates a mechanism to redress grievances, consisting of DGROs, State Food Commissions, and a National Food Commission. This will establish a parallel framework to the one provided by The Right of Citizens for the Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011, (Citizens' Charter Bill) which is pending in Parliament. The Citizens' Charter Bill requires every public authority to appoint Grievance Redressal Officers at the local, state, and central levels, and creates State and Central Public Grievance Redressal Commissions.

Clauses
21(1), 21(5)

Under this Bill, persons may complain to DGROs “in matters relating to distribution of entitled foodgrains or meals”. It is unclear if a complaint may be made related to the exclusion of deserving households from the priority or general groups.

Ambiguities

Entitlements to starving and destitute persons

Clauses 8
and 11

The Bill entitles destitute persons to one free meal per day. It also entitles persons suffering from starvation to two free meals per day for six months. Since the definition of “destitute person” includes those vulnerable to live with or die of starvation, it is unclear why the Bill makes a separate provision for “persons living in starvation or conditions akin to starvation”. The Bill also lacks clarity on the following points: why the entitlements provided to these two groups differ; how persons identified as starving will be treated after six months from their identification; and how destitute and homeless persons will be identified.

Doorstep delivery of foodgrains

Clauses 32
and 18

Clause 32 provides that it *shall be the duty* of state governments to deliver foodgrains at the doorstep of each FPS. Clause 18(2)(a) requires that central and state governments *shall endeavour to progressively undertake* doorstep delivery of foodgrains to TPDS outlets. It is unclear whether the Bill aims to make doorstep delivery an immediate requirement.

Objectives not directly related to food security

Clause 39
and
Schedule III

The Bill specifies that the central government, state governments and local authorities shall strive to progressively realise the objectives specified in Schedule III. These include, among others, access to: (a) safe and adequate drinking water and sanitation; (b) healthcare; (c) nutritional, health and educational support to adolescent girls; (d)

adequate pensions for senior citizens, persons with disability and single women. It is unclear why objectives that are not directly related to food security have been included in the Bill.

Distribution of priority group across states

The Rangarajan Committee estimated the percentage of the population of each state in the priority group in order to arrive at a coverage of 46 percent of the rural and 28 percent of the urban population for the entire country. The estimated distribution is shown in Table 3.

Table 3: Estimate of proportion of population in each state in the priority group

State/UTs	Rural	Urban	State/UTs	Rural	Urban
Andhra Pradesh	35.5	25.7	Maharashtra	52.7	28.2
Arunachal Pradesh	37.0	25.9	Manipur	43.2	38.0
Assam	40.0	24.0	Meghalaya	15.4	27.2
Bihar	31.3	48.1	Mizoram	25.3	8.7
Chattisgarh	60.6	31.2	Nagaland	11.0	4.7
Delhi	17.2	14.2	Odisha	66.9	41.4
Goa	30.9	24.4	Punjab	24.3	20.6
Gujarat	43.0	22.1	Rajasthan	39.4	32.7
Haryana	27.3	24.6	Sikkim	35.0	28.5
Himachal Pradesh	27.5	5.1	Tamil Nadu	41.3	21.7
Jammu & Kashmir	15.5	11.4	Tripura	49.0	24.8
Jharkhand	56.8	26.2	Uttar Pradesh	47.0	37.5
Karnataka	41.3	28.5	Uttarakhand	38.6	28.8
Kerala	22.2	20.2	West Bengal	42.0	26.8
Madhya Pradesh	59.0	38.6	Puducherry	25.2	10.9

Source: Report of the Expert Committee on National Food Security Bill

Notes

1. *Chameli Singh v. State of Uttar Pradesh*. (1996) 2 SCC 549.
2. Interim order, November 28, 2001 *PUCL v. Union of India and Ors.*, Supreme Court Writ Petition [Civil] No. 196 of 2001.
3. Interim order, January 10, 2008 in *PUCL v. Union of India and Ors.*, Supreme Court Writ Petition [Civil] No. 196 of 2001.
4. Performance Evaluation of the Targeted Public Distribution System. Planning Commission, 2005. Justice Wadhwa Committee Report on Computerisation of PDS Operations, 2009.
5. Report of the Expert Committee on the National Food Security Bill (Chairperson: Dr. C. Rangarajan).
6. Kapur D., Mukhopadhyay P., and A. Subramanian. "The Case for Direct Cash Transfers to the Poor." *Economic and Political Weekly*. Vol 43, No 15 (Apr 12-18, 2008). Khera, R. "Revival of the Public Distribution System: Evidence and Explanations." *Economic and Political Weekly*. Vol XLVI, Nos 44 & 45 (Nov 5, 2011). Shah, M. "Direct Cash Transfers: No Magic Bullet." *Economic and Political Weekly*. Vol 43, No 34, pp. 77-79 (Aug 23-29, 2008).
7. Report of the Expert Group to advise the Ministry of Rural Development on the methodology for conducting the Below Poverty Line (BPL) Census for 11th Five Year Plan, 2009 (Chairperson: Dr. N.C. Saxena).
8. The Right of Children to Free and Compulsory Education Act, 2009 provides for: (a) the central government to prepare estimates of capital and recurring expenditure for implementation of the Act; (b) the central government to provide state governments with grants-in-aid equivalent to a percentage of revenue determined through consultations with states; and (c) reference to the Finance Commission to examine the need for additional resources to be provided to state governments.
9. The financial memorandum includes costs such as, Rs 2,061 crore for maintenance of buffer stocks, Rs 79,800 crore for the food subsidy, and Rs 13,500 crore for the maternity benefit to pregnant women and lactating mothers.
10. Ashok Gulati, Chairman for the Commission of Agriculture, Costs and Prices has estimated an expenditure of about Rs 6 lakh crore for the next three years. (See Gulati, Ashok and Jyoti Gujral. "Food Security Bill: Can we afford Rs 6 lakh cr food subsidy in 3 years?" *The Economic Times*. 17 Dec 2011). It has been reported that K.V. Thomas, Minister of Food and Consumer Affairs, has estimated the total cost of implementing the Bill at Rs 3.5 lakh crore. (See Press Trust of India. "Food Security Bill cleared: subsidy up by Rs 27,663 crore". *The Times of India*. 18 Dec 2011).

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