

**RIGHT TO FOOD CAMPAIGN'S CRITIQUE OF THE NATIONAL ADVISORY
COUNCIL'S NOTE ON THE DRAFT NATIONAL FOOD SECURITY BILL**

7th March 2011

The NAC has put up a note on its framework for the National Food Security Bill (NFSB), along with an explanatory note for public comments on its website. This note has been discussed by campaign groups across the country and more than 37 groups and networks who are constituents of the campaigns have sent their comments to the NAC including college and student groups showing the significance and interest that this bill holds for people across the board. The NAC's framework falls short of our expectations of a comprehensive food security bill that addresses issues related to production, procurement and distribution of food along with protection of people's livelihoods, especially of those depending on agriculture and has provisions to improve the nutrition status of people and not just about access to an insufficient quantity of foodgrain for a few.

Ensuring Food Production and Protecting Livelihoods

For the Right to Food Campaign, food security can be achieved for all within a framework of development which is just, equitable, nature and human centric, where the first call on natural resources like land, water, forest is for food, and where development also does not mean displacement. We also believe that access to food for all is connected with development of sustainable and a viable production process with the producers having access and control over their productive resources. Along with ensuring livelihood and income security for the producers including agricultural workers, share croppers, small and marginal farmers, the framework bill also ignores another powerless and voiceless section - children, who are also amongst the most hungry sections of the population.

The Food Entitlements Bill¹ put forward by the Campaign therefore emphasized greatly on using an expanded and universal PDS which would not only provide cereals, millets, pulses and oilseeds at subsidized prices but would also become a means to revive agriculture, thus addressing the agrarian crises also. It also was clear that the issues relating to PDS reform along with procurement, storage were to be at the core of any law, however, with safeguards on use of technology as a means to ensure delivery.

It also demanded urgent implementation of all laws relating to land rights, including the Forest Rights Act, the Panchayat Extension to Scheduled Areas Act, while amending and repealing laws which change land use, displace people, acquire agriculture land, water bodies and pasture land for non-agriculture purpose

¹ Available at www.righttofoodindia.org

The NAC framework - A Minimalist conception of food security

The NAC's framework food production has been delinked from food security. Hence measures that could ensure food security through ensuring food production have been relegated to "Enabling Provisions". These provisions therefore are a wish list of what should be done, but there are no legal guarantees that these provisions are enforceable at any point of time, even in the future.

Basically the framework proposed by the NAC provides only five guarantees - a fragmented PDS, limited maternal and child rights, provision of cooked food to the vulnerable sections, ration cards in the name of women and portability of ration cards to migrant labour. It has provided for an independent redressal authority, along with civil and criminal liabilities on denial of entitlements. However, the framework has eliminated old age, widow's and family pensions from the framework of food security although the SC brought it into the regime as over 90 percent of the money of these schemes is spent on food by the beneficiaries.

The NAC on Public Distribution System

Even on the issue of access to minimum foodgrains, the NAC framework is extremely disappointing as it moves away from the idea of a universal PDS. The division of the population into categories of 'General', 'Priority' and 'Excluded' is just a continuation of the artificial division of households into APL and BPL which experience has shown excludes the majority of the poor. By proposing to continue with the system of targeting, the NAC has failed to seize the current opportunity of a proposed food security bill which will honestly address the issue of hunger, malnutrition and food insecurity amongst the people of India.

The Campaign has repeatedly focussed on the fact that government's own surveys have shown huge errors of exclusion in the identification of BPL families. For example, NSS data shows that about 50% of poor rural households did not have a BPL card in 2004-5 (rising to 80% in states like Bihar and Jharkhand). In fact, the explanatory note of the NAC indicates that while universalisation is the preferred option, it is not possible to do it because of constraints of foodgrain availability and also high subsidy implications.

We would like to ask why the NAC diluted its own proposal of phased universalisation, beginning with 150 poorest districts, which was announced on the 14th of July 2010 in its press release.

The NAC has also weighed the human right of freedom from hunger against costs in the name of fiscal prudence. The present proposals of the NAC are very limited in terms of what is proposed to be distributed through the PDS. 35kgs of foodgrains per month for 'priority' households and 20kgs of foodgrains per month for 'general' meets the requirements of a family for only about 10 to 15 days. Further, the present proposals provide for legal guarantees only for the distribution of cereal. There is no mention of other essential commodities such as pulses and edible oil as legal guarantees. Leaving out pulses and oils from the PDS food basket that is proposed to be legally guaranteed shows that nutritional security is a non - issue, even when adult male and female anaemia and malnutrition are so high, showing the non-seriousness of the NAC towards mitigating the glaring reality of hunger and malnutrition in the country.

Arguments of lack of resources cannot be accepted where on the other hand the same government provides tax exemptions and rebates of over Rs. 5 lakh crores (in 2009-10 and 2010-11) majorly to the corporate sector.

As far as the constraints on availability of foodgrains is concerned, the Right to Food campaign has repeatedly shown that the quantum of foodgrains required for universalisation of PDS can be made possible with a comprehensive food security bill that takes into consideration issues related to production, procurement and distribution together.

Children's Right to Food

While one of the main shortcomings of the NAC framework is its failure to protect the universality of the entitlements to food in general, it does better in terms of spelling out entitlements for children.

However, the NAC framework falls short on many counts. For instance, adolescent girls have not been included in the NAC draft, in spite of a far-reaching Supreme Court order dated 13 December 2006, directing Governments to universalize the ICDS to every child under the age of 6, all pregnant women and lactating mothers and all adolescent girls. It is impossible to understand the grounds or logic upon which an already existing legal entitlement for a group of children has been omitted in the proposed NAC framework.

The NAC has also fallen short of laying out the reforms required in the existing programmes such as ICDS, to meet these entitlements. For e.g. there is no mention of ensuring adequate human resources, better training, improving conditions of work for anganwadi workers, providing required financial investments for adequate infrastructure and quality improvements, enhancing the quality of supplementary nutrition through introduction of animal proteins, conducting awareness campaigns etc.

The NAC has broken new ground in spelling out some important preconditions for actualisation of children's right to food such as stating, "*Any child below the age of 14 years may approach any feeding facility ... for a freshly cooked nutritious meal, and will not be turned away on any ground*" and laying out a well thought out grievance redressal mechanism.

On the other hand in the case of maternity entitlements though the NAC has extended beyond Supreme Court orders by recommending universal benefits, it has only committed a half-hearted Rs. 1000 per month for six months which is not in consonance with rights available to women in the formal sector. At the very least maternity benefits should be linked to existing wages to prevent an inequity being created in the law.

Entitlements for Special Groups

The NAC has introduced some positive measures such as provisions for community canteens, a destitute feeding programme and portability of entitlements for migrants which at least recognise

the special needs of migrants, destitute, homeless and urban poor and emergency and disaster affected persons. However, the removal of a guarantee of pensions to the old, single women, differently-abled from the framework of entitlements on food security is a major step backwards, violating the framework evolved through the PUCL case in the Supreme Court on the Right to Food. It is well known that 94% of the money obtained through the paltry sum of pensions, has been used for food by the beneficiaries. Entitlements relating to pensions should be reintroduced in the framework of entitlements. The amount of pension must be fixed at half the minimum wages and connected with Consumer Price Index.

Protection against Starvation

The NAC framework note states that it will be the duty of every state Government “to prevent starvation; to proactively identify people living with starvation or threatened by starvation for any reason; and to investigate and effectively respond to end conditions of starvation.” This is the only section in the Note that deals with causes of hunger and makes it legally necessary for every State Government to take preventive action against starvation.

This section should be strengthened and should be extended to the Central Government also. It could if strong enough lead to the Government being forced for example to take action to re-open abandoned tea gardens where starvation is taking place amongst workers or for example to stop displacement when displacement is leading to hunger.

Silence on Conflict of Interest

The NAC Framework is totally silent on the issue of conflict of interest in connection with any role that the private sector may play in the provision of food security, except in the context of hot cooked meals in ICDS and Mid Day Meals.

Accountability and Transparency Measures

The delivery of the entitlement has been backed by putting in place a system of enforcement mechanism from the block to the State and national level as well as District Grievance Redressal Authorities along with ensuring transparency measures and fines and compensation. However, the system of Commissions put in place is weak as its recommendations are not binding. However, what is missing is redressal through the criminal justice system. It does not provide a binding bargaining status for those whom the law intends to serve. In developing such a framework the Prevention of Atrocities on Scheduled Castes and Scheduled Tribes Act, 1989, should be kept in mind. Penalty measures relating to neglect of duties, enhancement of punishment for subsequent conviction, presumption as to offence being carried out, penalty for non-compliance need to be introduced in the National Food Security bill too, within the criminal justice framework.

Demand for a Comprehensive Food Security Bill

The Right to Food campaign demands for the Nation a comprehensive food security act which should include legal provisions relating to:

1. An overarching obligation to protect everyone from hunger;
2. Promotion of sustainable and equitable food production ensuring adequate food availability in all locations at all times;
3. Protection against forcible diversion of land, water and forests from food production;
4. Protection of food sovereignty and elimination of the entry of corporate interests and private contractors in food production, distribution and governance;
5. Promotion of decentralized food production, procurement and distribution systems;
6. Protection of interests of small farmers especially ensuring that farmers are given remunerative prices for food items.
7. A universal Public Distribution System providing at least 14 kgs of grain per adult per month as well as 1.5 kgs of pulses and 800 gms of oil, with comparable quantities for children;
8. Special food and cash entitlements for households (including an expanded Antyodaya programme for single women, old, dalits, Tribals, Disabled, Transgender, landless and marginal farmers, daily wagers, slum dwellers, migrants etc.);
9. No use of technology for identification purpose which can violate the civil liberties and human rights of the people.
10. Consolidation of all entitlements created by recent Supreme Court orders (e.g. cooked mid-day meals in primary schools and universalization of ICDS);
11. Support for effective breastfeeding (including skilled counselling, maternity entitlements and crèches);
12. Universalisation with quality of the ICDS, crèches for young children, universal and unconditional maternity entitlements and cooked mid day meals for school children.
13. Elimination of all social discrimination in food-related matters;
14. Safeguards against cash transfers replacing food transfers under any nutrition-related scheme;
15. Provisioning of Ration cards in the name of women.
16. Strong accountability and grievance redressal provisions, including mandatory penalties for any violation of the Act and compensation for those whose entitlements have been denied.

We hope that the NAC reconsiders some of its decisions and ensures that the National Food Security Bill (NFSB) incorporates a comprehensive vision that lays the foundation for food security for all. The Right to Food campaign will continue to struggle on every platform to ensure that our demands are incorporated in the legislation.

The campaign's constituents across national networks and the state's have proposed to conduct district sammelan's to oppose this approach to the national food security bill, hold state level protests and a major protest outside Parliament at the earliest. An All India Bus Yatra to build

RIGHT TO FOOD CAMPAIGN SECRETARIAT
5-A, Jungi House, Shahpur Jat, New Delhi-110049
Tel: 011-26499563, Email: righttofood@gmail.com, Website: www.righttofoodindia.org

awareness on the campaign's food security bill along with rejection of the present draft bill will be undertaken in the next few months.

We are

The Steering group of the Right to Food Campaign

Anjali Bhardwaj, Nikhil Dey, Ankita Anand (National Campaign for People's Right to Information), Annie Raja (National Federation for Indian Women), Anuradha Talwar, Gautam Modi and Madhuri Krishnaswamy (New Trade Union Initiative), Arun Gupta and Radha Holla (Breast Feeding Promotion Network of India), Arundhati Dhuru and Ulka Mahajan (National Alliance of People's Movements), Asha Mishra and Vinod Raina (Bharat Gyan Vigyan Samiti), Ashok Bharti and Anup Srivastava (National Conference of Dalit Organizations), Colin Gonsalves (Human Rights Law Network), G V Ramanjaneyulu (Alliance for Sustainable and Holistic Agriculture), Kavita Srivastava and Binayak Sen (People's Union for Civil Liberties), Lali Dhakar, Sarawasti Singh, Shilpa Dey and Radha Raghwal (National Forum for Single Women's Rights), Mira Shiva and Vandana Prasad (Jan Swasthya Abhiyan), Paul Divakar and Asha Kowtal (National Campaign for Dalit Human Rights), Prahlad Ray and Anand Malakar (Rashtriya Viklang Manch), Subhash Bhatnagar (National Campaign Committee for Unorganized Sector workers), Jean Dreze and V.B Rawat (Former Support group to the campaign) and Representatives of All State Campaigns.