

National Food Security Act, 2013

By **Sneha Mahawar** - November 21, 2022



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This article has been written by [Naveen Talawar](#), a law student at Karnataka State Law University's law school. The article goes into detail about the National Food Security Act and major issues with its implementation, as well as the concept and evolution of food security, the international recognition of the right to food, and the right to food in India, along with certain judicial decisions.

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Introduction

Hunger and malnutrition are not new problems; they have been present throughout human history. Deprivation of food and other necessities of life has consistently been among the causal antecedents of the brutishness and brevity of human life, making life in many parts of the world short and difficult most of the time. Chronic hunger among a large number of people living without adequate food differs from violent outbreaks of famine that cause widespread deaths.

Food is necessary for human survival, and having access to food is a basic human right. However, the widespread hunger in the world serves as an illustration of the ongoing denial of the right to food. Despite unprecedented increases in the amount of food produced per person worldwide, hunger still affects a large portion of the world today.

According to a [report](#) from 2012, 868 million of the world's more than 7 billion people are severely and permanently undernourished, and a child dies of hunger or its complications every five seconds. There are 868 million people in the world, with 852 million in developing countries and 16 million in developed countries. The majority of them, 563 million, live in Asia, while 239 million live in Africa.

In addition, of the total number of undernourished people, 50% are small farmers, 20% are rural landless inhabitants, 10% are nomadic herders, and 10% reside in urban

poverty. Only 5% of people are affected by food emergencies brought on by armed conflict, severe weather (drought or floods), or abrupt economic change. The causes of undernourishment and death from hunger and malnutrition are enormously complex and cannot be simply attributed to war or natural disasters. They are primarily the result of social injustice, economic and political exclusion, and discrimination.

[The National Food Security Act, 2013 \(NFSA\)](#), also known as the “Right to Food Act,” was enacted by the Indian government on September 12, 2013, in response to the pressing need to address the problems of hunger, undernourishment, and poverty. Its primary objective is to provide subsidised food grains to approximately 67% (75% in rural areas and 50% in urban areas) of the 1.2 billion citizens of the nation through the public distribution system. Before proceeding with the National Food Security Act, it is important to understand the concepts of food security and the right to food, which are covered in the following section of this article.

Concept and evolution of food security

The concept of food security has changed over the last few decades to reflect shifts in official policy thinking. However, it wasn't until the [Rome World Food Conference](#) in 1974 that this issue was first explicitly acknowledged as affecting all of humanity. It stated, *“In order to maintain and fully develop their physical and mental faculties, everyone has the inalienable right to be free from hunger and malnutrition.”* Therefore, the abolition of hunger is a common vision of all countries in the international community, especially developed countries and other countries in a position of assistance.

In 1983, [Food and Agriculture Organisation \(FAO\)](#) research focused on food accessibility, primarily on a definition based on the demand and supply sides of food security. The highly influential [World Bank report](#) on poverty and hunger in 1986 focused on the temporal dynamics of food insecurity. [Sen's theory of famine](#) supplemented this by highlighting the impact of personal rights on food access, i.e., production, labour, trade, and transfer-based resources. The widely accepted definition of food security from the [World Food Summit \(1996\)](#) reinforces the idea of its multidimensional nature by including food access, availability, use, and stability.

Dimensions of food security

The following are the main prerequisites or dimensions of food security:

1. **Food availability:** The term 'availability of food' refers to the availability of sufficient quantities of food from either domestic production or imports. It speaks of the supply side of food security.
2. **Food Accessibility:** It refers to an individual's ability to obtain adequate resources (entitlements) for obtaining appropriate food for a nutritious and balanced diet.
3. **Food Utilisation/use:** Usage is generally understood to refer to the process by which the body utilises different nutrients from the food by maintaining a healthy diet, access to clean water, good hygiene, and sanitation.
4. **Stability:** An individual, household, or population must always have access to enough food to be food secure.

Food security in India

Over the last few decades, India's total food production has increased much faster than the population. The green revolution, which was launched in late 1967-68, was a significant watershed event that resulted in a phenomenal increase in crop production, particularly of food grains, which changed India's food security situation.

The green revolution introduced several unique agricultural innovative programmes that transformed India into a surplus producer of wheat, rice, cotton, and milk. The nation succeeded in rising to prominence as one of the largest agricultural producers and exporters in the world. Unfortunately, the green revolution did not last long. There were numerous issues with the Green Revolution. The new technology was primarily adopted by large farm owners. As a result, the green revolution benefited large farmers. Small farmers lagged behind. The Green Revolution accentuated the income disparities between the rich and poor because the rich farmers were already better equipped.

Food security and governance

In response to the severe levels of food insecurity, the Indian government launched three food intervention programmes in the 1970s. The programmes are the [Public Distribution System](#) (PDS) for food grains, [the Integrated Child Development Services](#) (ICDS), and Food-for-Work (FFW).

Public distribution system

The public distribution system evolved as a system for managing scarcity and distributing food grains at reasonable prices. The government of India distributes food grains through the TPDS (Targeted Public Distribution System) to states and union territories for APL and BPL families, including [Antyodaya Anna Yojana](#) recipients. The central government is responsible for procuring, storing, and transporting food grains from one state to another. The fair price shops are responsible for distributing the grains to the underprivileged groups in society. The number of food grains delivered to fair-price shops in various locations must be regulated by state governments. Families that are below the poverty line must be identified by the state government, which also issues ration cards and oversees and keeps an eye on the operations of the fair price shop.

Integrated Child Development Scheme (ICDS)

The largest programme for food supplements in India is the integrated child development scheme. With the help of supplemental food, this program aimed to improve the health and nutritional status of young children aged 0–6 years old. Food is distributed to children through anganwadi centres. The problem was that there weren't enough anganwadi centres to implement the program. The Supreme Court of India issued a directive to increase the number of anganwadi centres while hearing the public interest litigation brought by the People's Union for Civil Liberties v. Union of India and others (2007). The court ordered that the amount spent on food for each child be increased. The Court also ordered that children and lactating mothers be fed for 300 days per year, and every primary school must provide a mid-day meal.

Food for work

The right to be free from hunger implies that the government cannot interfere with a person's capacity for self-sufficiency. India has passed the [Mahatma Gandhi National Rural Employment Guarantee Act, 2005](#), which aims to improve people's livelihood security in rural areas by guaranteeing a rural household with adult members who volunteer to perform unskilled manual labour for hundred days of wage employment in a fiscal year. This has provided employment for one out of every four rural households.

International recognition of the right to food

The [Universal Declaration of Human Rights \(UDHR\)](#) was the first to recognise the right to a decent standard of living, which includes the rights to food, clothing, and shelter. The [International Covenant on Economic, Social, and Cultural Rights \(ICESCR\)](#) followed, with the goal of binding states to specific commitments and establishing procedures for upholding the rights enshrined in the UDHR. According to [Article 11\(1\)](#) of the ICESCR, everyone has the right to an adequate standard of living for themselves and their families, including adequate food, clothing, and housing, as well as the continuous improvement of living conditions. Article 11(2) states that every individual has a fundamental right to be free from hunger.

A standard of living that is appropriate for a child's physical, mental, spiritual, moral, and social development is guaranteed by the [Convention on the Rights of the Child](#) in [Article 27](#). According to the Convention, States must combat childhood malnutrition and take the necessary steps to help parents fulfil their primary duty of securing their children's right to an adequate standard of living, particularly in terms of nutrition.

The right to food is also recognised in some regional instruments, such as the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights](#), also known as the Protocol of San Salvador (1988), the [African Charter on the Rights and Welfare of the Child](#) (1990), and the [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#) (2003).

Right to food in India

All citizens of India have been guaranteed economic justice in the preamble of the [Indian Constitution](#). Economic justice cannot be attained if its citizens are not provided with two square meals each day. The Indian Constitution recognises the right to food both explicitly and implicitly, providing strong national protection that is possibly more accessible to Indian citizens than comparable safeguards offered by international bodies.

The right to life is recognised as a fundamental right in [Article 21](#) of the Indian Constitution. According to the judicial interpretation in [Kharak Singh v. State of U.P. \(1963\)](#), "life" in this Article refers to a life with human dignity rather than merely survival or animal existence. A three-judge Supreme Court bench ruled in [Chameli Singh v. State of U.P. \(1996\)](#) that: *"In any organised society, the right to live as a human being is not ensured by meeting only the animal needs of man... In any civilised society, the guarantee of the right to life includes the rights to food, water, a decent environment, education, medical care, and shelter. Every civilised society recognises these basic human rights"*.

The directive principles of state policy serve to guide the interpretation of fundamental rights, including the right to life guaranteed by Article 21. The right to food is inextricably linked to a dignified life. In order to ensure that its citizens don't experience hunger, the state must ensure food security. Among other primary duties, the state must strive to raise the level of nutrition and standard of living of its people and improve public health.

Considering the right to food under Article 21 of the Indian Constitution, the Supreme Court of India stated in [Kapila Hingorani v. State of Bihar \(2003\)](#): *"The right to food in the context of human rights does not mean that the state is a super-entrepreneur determining and carrying economic activities in its own wisdom. Rather, the right to food in the context of human rights means respecting, protecting, and fulfilling access to food-producing resources and work"*.

The Court further noted that the right to food refers to the freedom to meet one's own needs, which emphasises dignity and independence in contrast to government economic mandates. The right to food may not always be honoured when no one is in need of food. Therefore, in addition to putting an end to current hunger, future hunger and malnutrition can also be prevented by holding the government responsible for upholding the right to food through the appropriate course of action or other comparable means.

The Supreme Court stated in [Swaraj Abhiyan v. Union of India \(2016\)](#) that *"There is no question that the right to food is a constitutional right and not just a statutory one. In any case, even if the right to food is protected by law, the state is required to do*

everything within its power, and to guarantee that enough food grains are accessible to everyone, especially those who live in drought-affected areas."

The Supreme Court ruled in *In re: Problems and Miseries of Migrant Laborers (2020)* that "Every person has the right to life as guaranteed by Article 21 of the Constitution, including the right to access at least the most basic necessities of life. All states and governments have a duty to ensure food security to those who are in need".

The Allahabad High Court observed in *Haripal v. State of UP & Ors (2021)* that "Let no one die of hunger is a fundamental obligation stated in Article 47 of the Indian Constitution, which must be interpreted with the right to life under Article 21 for it is the right to food". In other words, the right to food is inherent in Article 21 of the Indian Constitution, obliging the State to ensure that its obligations are carried out in accordance with [Article 47](#) read with [Article 39\(a\)](#) of the Indian Constitution.

The National Food Security Act, 2013 : an overview

[The National Food Security Act \(NFSA\)](#), came into effect on July 5, 2013. It is clearly stated in the preamble of the Act that its purpose is to ensure access to adequate quantities of high-quality food at reasonable prices for people to live dignified lives, as well as to address issues that are related to or incidental to that goal in order to advance food and nutritional security using the human cycle approach.

The Act provides statutory support for the targeted public distribution system (TPDS). This legislation establishes the right to food as a legal right rather than a general entitlement. It establishes responsibilities for the centre and states, as well as a grievance redressal mechanism to address the non-delivery of entitlements. The following are the important provisions of the Act:

Transformation of welfare benefits into legal entitlements

The most significant provision of the Act is that it establishes a legal right to food. According to [Article 42](#) of the Indian Constitution, it is the responsibility of the state to improve public health as well as the level of nutrition and living conditions. All of these objectives can be achieved with the provision of the right to food.

Right to receive food grains

The provisions for food security are found in Chapter II of the Act. Following the targeted public distribution system, [Section 3](#) grants eligible household members the right to receive food grains at subsidised prices. The constitutional rights of the people to a minimum level of food security are granted by their legal entitlement to receive food grains. The state, on the other hand, has a duty under this landmark legislation to make sure that eligible individuals can access the grains they are entitled to.

According to [Section 3\(1\)](#) of the Act, each member of a priority household is entitled to five kilograms of rice per month from the targeted public distribution system. Before this Act, all BPL households received 35kg of food grain, regardless of the number of members in each household. The Act, on the other hand, accounts for differences in the number of members in each household by granting entitlements per person. However, the NFSA retains the pre-NFSA entitlements for [AAY \(Antyodaya Anna Yojana\)](#) households, who will continue to receive 35 kg of foodgrain per household. [Section 3\(2\)](#) of the NFSA expands TPDS coverage to 75% of the rural population and 50% of the urban population.

Nutritional support for women and children

The Act also includes provisions for pregnant women, lactating mothers, and children who need nutritional support. According to [Section 4](#) of the Act, the Central Government must provide a free meal through local anganwadis and maternity benefits worth at least INR 6,000 to women who are pregnant and lactating (up to six months after childbirth). In order to address malnutrition among children, any child under the age of 14, including those who are not in school, may approach any feeding facility, such as anganwadi centres or school mid-day meal centres, for a midday meal.

The Act also specifies provisions regarding food entitlement for children between the ages of six months and fourteen years. According to [Section 5](#) of the Act, all children between the ages of six months and six years are entitled to a free meal at an anganwadi, and all school-age children up to eighth grade are entitled to a free lunch. In accordance with the Act, these schools and anganwadis will also have kitchens, drinking water, and sanitary facilities.

Food security allowance

Under [Section 8](#) of the Act, if a qualified person does not receive the required amounts of food grains or meals, they are entitled to a food security allowance. Each person shall receive this payment from the state government. In January 2015, the central government notified the [Food Security Allowance Rules, 2015](#), which outlined the procedures for calculating and allocating this allowance. In order to determine the amount, the amount of non-supply is multiplied by 1.25 times the minimum support price (MSP) of the relevant foodgrain for that marketing season and the prices listed in Schedule I of the Act. This amount must be paid by the end of the third week of the month following the month in which the food grain was not supplied.

Identification of eligible households by state governments

In accordance with [Sections 10\(1a\) and \(1b\)](#) of the Act, state governments must, within a year of the implementation of the Act, identify the households that will be covered by the Antyodaya Anna Yojana and priority categories, and they must make the list of those households publicly available.

Reforms in the targeted public distribution system

The central and state governments are required by [Section 12](#) of the Act to gradually undertake necessary reforms of the TPDS, such as:

1. Food grains are delivered to a targeted public distribution system at their doorstep.
2. Implementation of information and communication technologies with the goal of fully computerising TPDS.
3. Transparency of documents.
4. Transferring FPS management from private owners to public bodies such as women's cooperatives.
5. Diversification of commodity distribution.
6. Making use of Aadhaar to identify beneficiaries.
7. Implementing programmes like cash transfers and food coupons.

Monitoring bodies

Grievance redressal mechanisms are provided in [Sections 14, 15, and 16](#). Every state government must establish a system for handling internal complaints, which may include call centres, help lines, and the appointment of nodal officers. Section 14 of the Act provides for such a mechanism.

According to Section 15 of the Constitution, the state government must appoint or designate an officer to act as the district grievance redressal officer in each district, and a state food commission shall be established by the state government in accordance with Section 16.

The Central Government must allocate the necessary amount of food grains from the central pool to the state governments. The central government must pay for food grain transportation, intra-state expenses, state government assistance, and the construction of modern storage facilities. The central government must make funds available, while state governments must provide food grains in times of scarcity or provide food allowances to the people. The central government must assist states with the cost of intra-state transportation, food grain handling, and fair price deals.

Penalties

Any public employee or authority found guilty of failing to provide the relief recommended by the District Grievance Redress Officer may be fined up to Rs 5,000 by the State Commission under [Section 33](#).

Major issues in implementation

Problems in targeting

Under the targeted public distribution system, BPL and APL households were distinguished. BPL households were identified based on household income, whereas households with any assets (such as televisions, fans, two or four-wheeled vehicles, or land) were classified as APL. Despite owning assets, these APL households were food insecure, and the removal of rations exacerbated their situation. The problem of targeting is aggravated by a lack of reliable data. There are no official estimates of household income, and many BPL households are denied BPL cards. Targeting has also exacerbated the availability of fake ration cards.

In 2015, the [CAG](#) found that many states had not completed the process of identifying beneficiaries, with 49% of the beneficiaries still unidentified. The use of Aadhaar as proof of identification became mandatory under the NFSA in February 2017. The goal was to eliminate bogus ration cards, detect leaks, and improve food grain delivery. As of January 2017, 73% of ration cards had been seeded with Aadhaar, and 100% of ration cards were digital.

Inadequate storage capacity

The total storage capacity of India in [2017](#) was 788 lakh tonnes. The capacity of the Food Corporation of India was 354 lakh tonnes, while state agencies had a capacity of 424 lakh tonnes. According to the CAG report from 2015, the state's storage capacity was insufficient for the number of food grains allotted. The report also observed that the Centre's stock of food grains was higher than the Food Corporation of India's storage capacity for four years between 2010-2015.

Poor infrastructure of Anganwadi centers

The infrastructure of [Integrated Child Development Scheme](#) centres is very poor, making it impossible for them to provide essential services. A [2016 study](#) of 36 AWCs in the state of Odisha found that more than 85% lacked a designated building for daily operations. There was also a severe lack of water, toilet, and electricity facilities, as well as a scarcity of play materials in the centres. As a result, there was scepticism about its benefits in the rural community.

Corruption

According to the [2015 CAG report](#), states diverted funds worth Rs. 123.29 crores intended for the mid-day meal scheme. According to the report, under this scheme, food supplies are being diverted, supplies are being cut in half, and there is a lot of waste. In the last three years, the government has received 52 complaints about corruption in the mid-day meal scheme, according to a 2019 MHRD report. Among the states, UP has received the most complaints, with 14, followed by Bihar, which has received seven.

Conclusion

In any organised society, the right to live as a human being is not guaranteed by meeting only his animal needs. It is only secured when he is assured of all opportunities to develop himself and is free of impediments to his growth. Any guarantee of the right to life in any civilised society entails the realisation of an essential right to food. The right to food is primarily the right to feed oneself with dignity, not the right to be fed. As a fundamental human right, the right to food guarantees everyone access to sufficient nutrition as well as the means to enjoy food security over the long term. The right to food imposes legal obligations on states to combat hunger and malnutrition and achieve universal food security.

The National Food Security Act of 2013 is an important step toward establishing a legally enforceable right to food in India. The Act contains several well-intended provisions that have enormous potential for achieving food security for all. The importance of rights-based legislation, such as the National Food Security Act, is that it confers rights and also imposes duties on the state. If well implemented, the NFSA, 2013, will have a significant and demonstrable impact on addressing the problems of hunger, malnutrition, and poverty.