

Draft National Food Security Bill

Explanatory Note

**National Advisory Council
New Delhi**

February 21, 2011

National Food Security Bill

Explanatory Note

1. The National Food Security Act (NFSA) is envisaged as a path-breaking legislation, aimed at protecting all children, women and men in India from hunger and food deprivation. There are compelling economic, social, political and ethical imperatives for such a legal guarantee of protection from hunger. Aside from creating new food entitlements, the Act would place a range of existing food-related schemes on a new footing and set new standards of delivery, transparency and accountability for social programmes.

2. **Motivation:** The motivation for the proposed NFSA to provide a guarantee of adequate nutrition is derived from the right to food as an aspect of the right to life under Article 21 (interpreted by the Supreme Court as a right to life with dignity), which is a fundamental right of all citizens. It is also in keeping with the statement by Smt. Pratibha Patil, President of India, to the Indian Parliament on 4 June 2009 in which she affirms: 'My Government proposes to enact a new law - the National Food Security Act - that will provide a statutory basis for a framework which assures food security for all'.

3. **Objectives:** The proposed NFSA aims to ensure public provisioning of food and related measures, to enable assured economic and social access to adequate food with dignity, for all persons in the country, at all times, in pursuance of their fundamental right to be free from hunger, malnutrition and other deprivations associated with the lack of food and related matters. Although the right to adequate nutrition connects with a wide range of provisions, the main focus of the NFSA should be on legal *food entitlements* that underscore the duty of central, state and local governments to provision food to the people, through subsidised grain, direct feeding programmes and related interventions. Other aspects, such as adequate sanitation and water facilities, enhanced food production, and social security pensions should be included mainly as 'enabling provisions' that are enjoined upon governments but not legally enforceable in a court of law.

4. **Two qualifications.** One, even though the NFSA focuses mainly on food entitlements, the NAC recommends that it should take a broad view and not restrict itself only to the Public Distribution System (PDS). The PDS, while important and essential, is only one of several interventions needed to ensure food security for all. Two, the NAC recommends adopting a life cycle approach to food security. The food entitlements created by this Act should cover the entire life cycle of a human being, starting with overcoming maternal and foetal under-nutrition resulting in low birth weight babies, and extending up to old and infirm persons. The first 1000 days in a child's life (starting with conception up to the end of 2 years of age) ought to receive special attention especially because nutrition deficiencies at this stage lead to lifelong physical and cognitive deficiencies.

5. **Contents:** This Explanatory Note highlights the rationale and major considerations that form the basis of the NAC proposals on food security. It supplements (i) the NAC recommendations on food security released on 23 October 2010; and (ii) the NAC Framework Note on the Draft National Food Security Bill released on 21 January 2011.¹

¹ Recommendations of the National Advisory Council released on 23 October 2010 are accessible at http://nac.nic.in/images/recommendations_oct.pdf and the subsequent Framework Note on the Draft National Food Security Bill released on 21 January 2011 can be accessed at <http://nac.nic.in/foodsecurity/nfsb.pdf>

Part 1

Food entitlements through the Public Distribution System

6. **Coverage and Entitlements:** Deliberations in NAC started with the premise that India should progressively move towards ensuring universal entitlements to the essentials of life such as food, basic education and health care. In the context of food, offering subsidized grains principally to families below the poverty line alone fails to adequately address the very high levels of food and nutritional insecurity (evident from the available data on child under-nutrition) among a large majority of India's population.

7. The NAC recommends a much higher coverage of the population to subsidized food than is currently available drawing on the evidence that:

- there are far more food-insecure families than those presently categorized as 'below-poverty-line' (BPL) families
- consumption standards of a majority of Indians are extremely low. Close to 836 million, categorized as 'poor and vulnerable' constituted 77% of the population in 2004-05 and had a per capita daily consumption expenditure of less than Rs. 20.²
- the existing system of using BPL as the eligibility criterion for accessing subsidized food is flawed on account of serious inclusion and exclusion errors (discussed later in this Note)

8. **Food entitlements:** Recognizing the need to urgently offer food security to a large majority of India's people, the NAC proposes the following:

Table 1: Individual food entitlements proposed by NAC			
Individual food entitlements (kgs. per month)			
	Priority category	7 kgs.	
	General category	5 kgs.	
Price to be paid by the consumer			
	Priority category	Rs.1-2-3 for millets-wheat-rice	
	General category	Price not exceeding 50% of the Minimum Support Price for millets-wheat-rice	
Coverage			
		First Phase	Final phase
	Population coverage	72%	78%
	Rural population covered	85%	90%
	Urban population covered	40%	50%
	Rural	85%	90%
	Priority	46%	46%
	General	39%	44%
	Urban	40%	50%
	Priority	28%	28%
	General	12%	22%

² National Commission for Enterprises in the Unorganized Sector (2007), "Report on Conditions of Work and Promotion of Livelihoods in the Unorganized Sector", New Delhi.

9. Given that the NFSA is likely to take time before it is fully rolled-out across the country, the NAC has assumed a somewhat lower coverage (of at least 85% rural population and 40% urban population) in the first phase increasing to a rural coverage of at least 90% and an urban coverage of at least 50% over time.

Salient features: The following features of the NAC proposal are important to note:

10. Switch to individual entitlements: The NAC endorses the recommendation of the Planning Commission as well as the practice in a few states to shift from household food entitlements to individual food entitlements. There are two arguments for this. First, per-capita entitlements are 'fairer': households with more members will be entitled to more food. Second, per-capita entitlements would do away with the need for a precise definition and identification of 'households', which tends to be difficult and prone to manipulation. Safeguards are however needed to protect the entitlements of small and vulnerable single-member households (such as widows or elderly people living on their own). One option to consider is to guarantee a minimum entitlement of 14 kgs. per household for 'priority groups' irrespective of household size.

11. Differential food entitlements: The NAC advocates differential monthly entitlements of 7 kgs. per person for those in the 'priority category' and 4 kgs. per person in the 'general category' on two grounds. One, some people are significantly poorer than others, and so deserve higher food entitlements to make up for their higher levels of food deprivation. The recommended 7 kgs per month as the entitlement for individuals in the 'priority' category is the same quantity as the current entitlement of Antyodaya families. Two, the lower monthly entitlement of 4 kgs per month to individuals in the 'general' category is recommended keeping in mind the food constraints as well as the fact that many of these families are likely to be somewhat better-off than the poorest (though this might not necessarily be the case at the margin).

12. Differential pricing: The NAC proposal allows for differential prices by recommending that the price to be paid by individuals in the 'general category' should not exceed 50% of the Minimum Support Price (MSP). This leaves open the option of uniform pricing should any government decide to do so.

13. Inclusivity: By making the eligibility for food entitlements much more inclusive, the NAC proposal does away, to a large extent, with the problems of exclusion and wrongful inclusion. Available evidence suggests that the abuse of the BPL methods of identifying the poor has resulted in the frequent and widespread exclusion of the most deserving. For instance, a recent study by Planning Commission's Programme Evaluation Office (PEO) reveals that more than half of the poor either have no card or have been given APL cards, and are thus excluded from the BPL benefits. On the other hand, almost 60% of the BPL or Antyodaya cards have been given to households belonging to the non-poor category (see Table 2)³. It could be presumed that the excluded will comprise largely of poor tribal groups, women headed households, and people living in remote hamlets where the reach of public services is poor. Such problems of inclusion and exclusion are sought to be addressed through an inclusive approach that provides legal entitlements to nearly 78% of the

³ Planning Commission (2007), "Eleventh Five Year Plan 2007-2012" - Volume 2, Chapter 4, page 149, accessible at http://planningcommission.nic.in/plans/planrel/fiveyr/11th/11_v2/11th_vol2.pdf

population. This proposed feature of the NFSA goes hand in hand with a strong element of affirmative action, in the form of special entitlements for priority groups.

	% poor having no ration card	% poor having BPL/AAY cards	% BPL/AAY cards with
Rajasthan	5.0	23.6	65.2
Uttar Pradesh	16.4	22.9	48.7
Bihar	25.5	21.2	45.1
Assam	25.7	23.3	56.0
Jharkhand	22.1	31.9	42.4
Orissa	29.3	54.8	38.1
Chhattisgarh	24.1	47.9	47.0
Madhya Pradesh	30.0	41.9	46.2
All India	19.1	36.0	59.8

Note: BPL = Below Poverty Line; AAY = Antyodaya
Source: NSS 61st Round, 2004-05 - excerpted from Planning Commission (2007), Annexure 4.1.4, Chapter 4 "Nutrition and Social Safety Net" Page 159, Volume 2, XI Five Year Plan

14. Identification of eligible individuals: The NAC recommends the adoption of a 'social inclusion approach' that involves (i) identifying socio-economic categories of households presumed to be highly vulnerable to food insecurity (e.g. because of well-identified economic or social disadvantages), and (ii) including all such households among the 'priority groups'. Government of India shall specify the criteria for categorization of population into "priority" and "general" households in a manner that is transparent, objective and verifiable in order to minimize inclusion and exclusion errors. The proposed NFSA should provide for mandatory inclusion of highly vulnerable groups, as given below, to protect these groups from exclusion errors. These groups also from part of the recommendations of the Saxena Committee Report submitted to the Ministry of Rural Development in August, 2009:

- Households belonging to "Particularly Vulnerable Tribal Groups" (PTGs).
- Household designated as most discriminated against Scheduled Caste (SC) groups, called "Maha Dalit Groups" if so identified by the state
- Single women headed households.
- Households with disabled persons as bread earners.
- Households headed by a minor.
- Destitute households which are dependent predominantly on alms for survival.
- Homeless households.
- Households where any member is a bonded labourer.

15. After the inclusion of these categories, the highest priority should be given to the inclusion of Scheduled Castes and Scheduled Tribes in the identification of "Priority groups" under the NFSA.

16. Issue prices: There are three issues relating to subsidized prices of food grains.

- a. One, appropriateness of subsidized (issue) prices for the 'priority groups': The NAC recommends the current issue prices to Antyodaya households (Rs 3 per kg

for rice and Rs 2 per kg for wheat) as the issue prices for 'priority groups'. An even lower price, Re 1 per kg, is proposed for millets in order to promote their consumption on nutrition grounds. The subsidy to consumers is summarized in Table 3.

Table 3: Subsidy to consumers			
Rs. Per kilogram	Rice	Wheat	Weighted average (assuming 60% rice and 40% wheat)
Minimum Support Price (MSP)	15.37	11.00	13.62
Economic Cost (MSP plus handling costs and losses)	20.43	15.46	18.43
Price paid by individuals			
Priority category	3.00	2.00	2.60
General category (taken at 50% MSP)	7.69	5.50	6.81
Subsidy (Economic cost less price paid by consumer)			
Priority category	17.43	13.46	15.83
General category	12.75	9.96	11.62

b. Two, appropriateness of subsidized prices for 'general category': The NAC recommends that the issue prices to the 'general category' should be substantially below the market prices and not exceed half of the respective Minimum Support Prices (MSP) for rice, wheat and millets. This is because high and rising food prices have seriously eroded the food security of families in the 'general category' as well even though they may be earning marginally higher incomes.

c. Three, revision of prices over time: The NAC recommends

- For the 'priority category', issue prices could be indexed to the Consumer Price Index. However, the savings involved in indexing are likely to be small. In view of this, the NAC recommends that issue prices for the 'priority category' be held constant at least till the end of the XII Five Year Plan.
- For the 'general category', issue prices can be expressed as a ratio of MSP. This will ensure automatic revisions in line with changes in MSPs.

It is suggested that issue prices should be announced as round numbers and not be frequently revised. At best, they could be revised once in two or three years.

Based on a review of outcomes following implementation of the NFSA, the Government could consider preserving the entitlements until the numbers of malnourished children, women and men are reduced to less than 10% of the population.

20. Diversifying the food basket: The NAC strongly recommends inclusion of other nutritious cereals (such as *bajra*, *jowar*, *ragi*, and maize) as part of the food security basket for a number of reasons:

- they have a very high nutritional value
- inclusion of millets would expand the quantum of food that can be procured and at the same time, promote climate resilient farming
- they would more appropriately cater to the food habits of different regions; and

- they could impart an element of 'self-selection' in the PDS

There is also a high potential for extensively using millets in several nutrition-related schemes, including Integrated Child Development Services (ICDS), mid-day meals, community canteens and destitute feeding programmes.

21. **Population estimates:** The NAC has taken the following estimates of population as of March 1, 2011 for purposes of estimating eligible populations and food requirements.

Table 4: Population estimates	
(projected for 1 March 2011)	Population (in crores)
Rural population (in crores)	83.46
Urban population (in crores)	35.79
Total population (in crores)	119.25
Source: Office of the Registrar General	

22. **PDS food requirements:** The NAC has worked out the food requirements for public distribution based on the population assumptions, the recommended food entitlements, and different levels of off-take by consumers. Table 5 gives the estimates of food requirements under different assumptions of off-take by consumers from the fair price shops.

Table 5: Estimates of food requirements under different conditions of off-take			
		First Phase	Final Phase
Population coverage			
	Total population covered	72%	78%
	Rural population covered	85%	90%
	Urban population covered	40%	50%
Rural coverage			
	Priority	46%	46%
	General	39%	44%
Urban coverage			
	Priority	28%	28%
	General	12%	22%
Food requirements (in millions of MT) based on different estimates of off-take by consumers from the fair price shops			
	75% off-take	43.6	46.3
	80% off-take	46.5	49.4
	85% off-take	49.4	52.5
	90% off-take	52.3	55.6
	95% off-take	55.2	58.7
	100% off-take	58.1	61.8

23. In the **first phase**, the NAC estimates a total PDS food requirement of **49.4 million metric tonnes** based on a lower rural and urban coverage as well as a lower off-take of 85% because putting in place a well-functioning system of food procurement and distribution is likely to take some time.

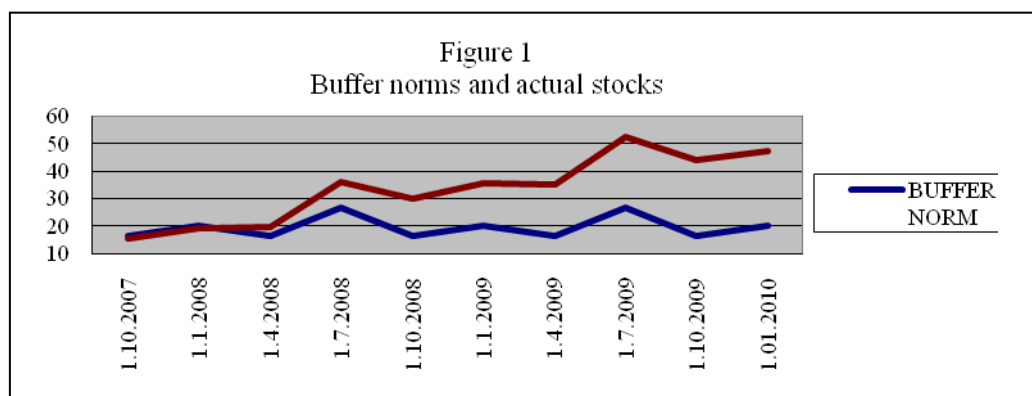
24. In the final phase after the full roll-out, the NAC estimates a total PDS food requirement of **55.6 million metric tonnes** based on a rural coverage of at least 90% and an urban coverage of at least 50% of the population as well as an off-take of 90%.

25. The assumption of 90% off-take at the proposed prices is considered reasonable. The experience of Tamil Nadu (with a near universal PDS system) shows that the off-take tends to be much lower than 100% at even lower prices (*Rs.1 per kg of rice*) than what is being proposed under the NFSA⁴. This due to both self-selection (people tend to drop out voluntarily), and imperfections even in the best-running systems. Moreover, it should be noted that the higher off-take among current Above Poverty Line (APL) families could be attributed to the significantly reduced APL allocations post-2006.

26. **Non-PDS food requirements:** Based on data made available by Government, the NAC has taken into consideration the following non-PDS related food requirements:

Table 6: Estimates of non-PDS food grain requirements	
	Million metric tonnes
Mid-day meals	3.5
ICDS	2.0
Welfare hostels	0.5
Contingency for natural disasters	2.0
Total	8.0

27. Two comments. One, the provision of 2 million metric tonnes for ICDS is subject to discussion as it assumes the replacement of a system of cash transfer to state governments by actual provision of food by the Centre. Two, the buffer and strategic reserves norm for the country varied between 21 - 31 million metric tonnes. The current holding of stocks is in excess of 50 million metric tonnes. There may therefore no need to additionally provide for contingencies over and above what is proposed and indicated in Table 6.



⁴ NSS report no. 510; Vol 2 "Public Distribution System and Other Sources of Household Consumption, 2004-05" NSS 61st round. Table 6R: Per 1000 break-up of households by source of consumption of items of food, fuel and light; Tamil Nadu Rural (Page No. A-475). Table 6U: Per 1000 break-up of households by source of consumption of items of food, fuel and light; Tamil Nadu Urban (Page No. A-727)

28. **Total food requirements:** The NAC estimates the total food requirements – PDS plus non-PDS – to be around **64 million metric tonnes** when the NFSA is fully rolled out. Table 7 shows the food requirements in the two phases.

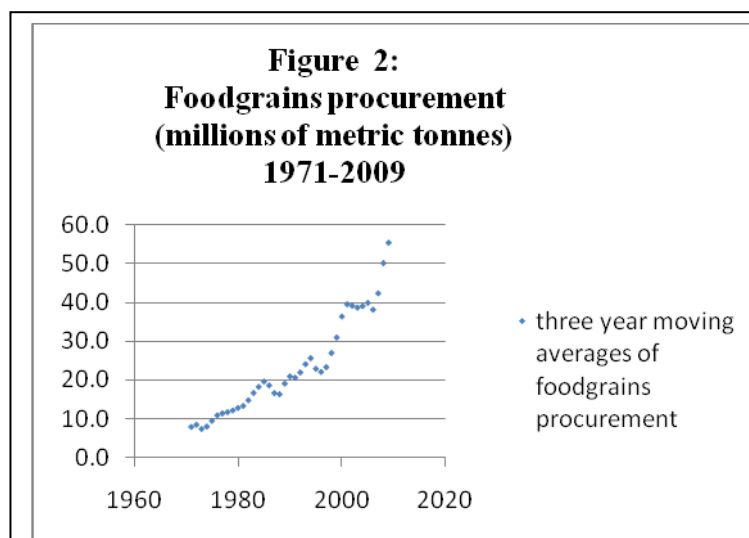
	First Phase	Final phase
PDS requirements	49.4	55.6
Non-PDS requirements	8.0	8.0
Total	57.4	63.6

29. **Food procurement:** Procuring **60-65 million metric tonnes** of food grain annually should not be difficult. By its own admission, the Ministry of Agriculture concurs that arranging for 60-70 million metric tonnes for the vulnerable sections may not pose serious constraints. Table-8 below presents recent data on the production and procurement of rice and wheat since 2003-04.

	Production (in mn MT)			Procurement of rice and wheat (in mn MT)	Procurement as % of production
	Rice	Wheat	Total		
2003-2004	88.5	72.2	160.7	39.6	25
2004-2005	83.1	68.6	151.7	39.5	26
2005-2006	91.8	59.4	151.2	36.9	24
2006-2007	93.4	75.8	169.2	36.2	21
2007-2008	96.7	78.6	175.3	51.4	29
2008-2009	99.2	80.7	179.9	59.1	33
2009-2010	89.1	80.7	169.8	54.0	32

Source: Economic Survey 2010 and Monthly Food Bulletin October 2010
Department of Food and Public Distribution, Ministry of Agriculture and Cooperation

30. There has been a steady increase in the food grains procured by Government.



31. The NAC recommends an expansion of *decentralised procurement* as the path to *higher procurement*. More and more states should be encouraged to procure locally. This is far superior to FCI procuring food grains from a few states and distributing them across the country.⁵ The examples of Chhattisgarh and Orissa show that systematic reforms including decentralized procurement can double the procurement and convert erstwhile ‘food deficit areas’ into ‘surplus areas’ apart from benefiting small farmers through MSP and incentivizing production. Decentralised procurement would also specifically facilitate the distribution of millets through the PDS.

32. Incentivizing states appropriately can significantly boost procurement and reduce economic costs of long distance transportation. The existing ‘Decentralised Procurement’ (DCP) scheme is seriously flawed. One way to address this could be for the Central Government to give presumptive procurement funds to the states, and to let them choose between buying from the FCI at ‘economic cost’ or doing their own procurement locally. This would create strong incentives for local procurement at minimum costs, and, quite likely, lead to a major increase in overall procurement levels.

33. There are additional reasons why procurement of adequate food grains could be higher than in the past.

- There is considerable untapped potential to broad-base the source areas for expanded procurement needs. For instance, the present procurement of wheat is largely from 3-4 states. Stepping up procurement to 20% of wheat produced in states like Uttarakhand, Rajasthan, U.P. Bihar, Gujarat and Maharashtra could yield an additional 9-10 million metric tonnes.
- Procurement is often limited not by market arrivals, but by the inability of the Government to lift market arrivals at MSP. In many states, farmers are forced to sell below the MSP to rice millers because there is no arrangement to buy paddy from them either by the FCI or by the state governments.
- A better system of procuring other nutritious cereals such as millets and maize could further augment food procurement. Barely 4% of the total output (around 35 million metric tonnes) of millets and maize was procured in 2008-9.⁶ Procurement of millets would also lower the procurement costs as the economic cost of millets is substantially lower than that of rice or wheat.

34. Government has been exporting some 7-14 million metric tonnes of cereals every year (see Table 9). Restrictions on exports of cereals could potentially augment food procurement to some extent (if needed) even after making provision of reasonable amounts for humanitarian and strategic reasons.

	Net exports of cereals (in mn MT)
2002	8.5
2003	7.1
2004	7.7
2005	7.2

⁵ Some estimates suggest that the average distance from procurement point to distribution point in the FCI system is around 1500 kilometres!

⁶ Calculated from *Economic Survey 2009-10*, p. A 17 and Table 8.21.

2006	3.8
2007	7.0
2008	14.4
Source: Economic Survey 2010	

35. Finally, suitable safeguards, should be built into the Act to deal with emergency situations arising out of recurrent droughts and other contingencies.

36. **Storage:** Urgent efforts are needed to expand, improve and modernize storage of foodgrains in the country in order to arrest the wastage of foodgrains. The NAC has been informed that the government has already finalized a plan for foodgrain storage that will extend storage capacities to 58 million metric tonnes over the next 2 years.

37. A final comment: Aiming for a higher level of procurement for the food entitlement programme is not likely to have an inflationary impact on domestic food prices. If the quantities procured are distributed outside the domestic market, there is reason to fear a reduction in domestic supply and a consequent rise in prices. Similarly, when food is procured and 'hoarded', then too market prices could go up. On the other hand, when food is procured *and* distributed domestically, the upward pressure on prices due to procurement is likely to be offset by a downward pressure on account of distribution. Such an argument is put forward by the government in the case of other commodities such as onions and pulses. In other words, procurement accompanied by wide and expanded distribution is not likely to create an inflationary impact. As a matter of fact, it could contribute significantly to price stabilization.

38. **Food production:** There is a large potential for higher food grain production. India has a vast untapped production reservoir in most farming systems, even with the currently available technologies. The gap between potential and actual yields ranges from 100 to 300% in both rainfed and irrigated areas, as per official data. The possibilities of increasing productivity in rice-growing areas is particularly good as rice yields in India are only about half as high as in China.

39. The NAC underscores the importance of a long term strategy for increasing agricultural productivity and food production as key to attaining food and nutritional security. Enhancing food production is also important both to make food more affordable and because food production is a major source of livelihood for the rural poor. Expanded procurement itself is likely to encourage higher production by ensuring more remunerative and predictable prices to farmers (Chhattisgarh's recent experience is quite instructive in this respect).

40. There is a strong case for revitalization of agriculture and food production (with special focus on smaller farmers in rainfed areas, and promotion of millets, pulses and oilseeds). Government should endeavour to promote agrarian reform, and revitalize agriculture through ensuring remunerative prices, credit, irrigation, crop insurance and technical assistance; endeavouring to prohibit unnecessary and unwarranted diversion of land and water from food production; and promoting decentralized food production, procurement and distribution systems. A major segment of the food insecure in India are food producers themselves, and increasing their productivity and ensuring them remunerative prices would protect small and marginal farmers from hunger.

41. **Subsidy implications:** The subsidy implications of the NAC PDS proposals are shown in Table 10.

	First phase	Final phase
Total Subsidy (Rs. crores)	71,837	79,931
Current subsidy (Rs. crores)	56,700	56,700
Additional Subsidy (Rs. crores)	15,137	23,231

42. The present food subsidy of the central government is estimated at Rs 56,700 crores. There is scope for reducing this amount by introducing major reforms in the food procurement, storage and public distribution system.

43. Government of India will need to budget sufficiently in the 12th Five Year Plan for most of the non-PDS entitlements. Similarly, provisions for sufficient funds will need to be made under the 12th Five Year Plan for new schemes that are proposed under the NFSA such as an expanded programme for maternity entitlements, destitute feeding and community kitchens.

44. **Implementation Arrangements:** It is recommended that the Ministry for Consumer Affairs, Food & Public Distribution should serve as the nodal Ministry for the implementation of the NFSA. Entitlements shall be realised through specific food related schemes such as PDS, ICDS and MDM with appropriate reforms, and other necessary new programmes and schemes. These schemes will be implemented by state and local governments, consistent with national guidelines set by the Government of India.

45. **PDS reforms:**⁷ Critical for the successful implementation of the NAC proposals is urgent reform of the Public Distribution System. The reformed PDS should have a transparent structure, where food transactions can be tracked all the way to the cardholders and Fair Price Shops will be managed by community institutions accountable to their customers. As indicated in the Framework Note of January 21, 2011⁸, the Act should mandate comprehensive reforms in procurement, distribution and management of PDS to include, among other things, decentralised procurement, procurement of millets and other nutritious grains, creation of adequate storage and distribution infrastructure at state, district and block level, incentivising states through timely disbursements based on transparent norms as well as access to cheap credit for food grain procurement, storage and operational costs, doorstep delivery of PDS grains, and ensuring community management and financial viability of Fair Price Shops. Effective transparency measures ought to be introduced. Appropriate technology and Monitoring and Information Systems should be introduced along with effective community monitoring and social audits. State Governments should ensure end-to-end computerization of the Public Distribution System including pro-active disclosure of the following on the internet: stocks and flows of grain at each level (down to the Fair Price Shop/Cardholders), with dates; financial transactions; issues of licenses; and other relevant details. They may also apply ICT, Smart Cards and other innovative technologies subject to successful pilots.

⁷ See detailed Section in Note on the Draft National Food Security Bill

⁸ The Framework Note on the Draft National Food Security Bill released on 21 January 2011 can be accessed at <http://nac.nic.in/foodsecurity/nfsb.pdf>

Non-PDS Entitlements

46. Other non-PDS legal entitlements proposed by the NAC and outlined in the Framework Note of 21 January 2011 relate principally to:

- maternal and child support for pregnant and lactating mothers as well as for children in different age groups - 6 months to 3 years, 3-6 years, and 6-14 years; and
- special groups such as migrants, destitute persons, homeless persons and the urban poor as well as emergency and disaster affected persons.

47. The recommended child-related entitlements are derived from recent Supreme Court orders, including the universalization of ICDS. Other essential provisions include maternity entitlements, nutritious take-home rations for children under three, counselling and support for optimal breastfeeding, and rehabilitation of children suffering from severe undernutrition. The NAC also recommends that the current provisions for guaranteeing at least one cooked nutritious meal to children in the pre-school and elementary school age-groups should be consolidated and brought under the ambit of the proposed NFSA.

48. **Rationale:** India has unacceptably high levels of malnutrition with almost one in two children being underweight. Given that the first three years of life are most critical for nutritional well-being, and damage done by inadequate nourishment or health care at the early stage is very hard to reverse later on, the delivery of ICDS services should focus on two distinct phases of a child's life:

- first 1000 days in an infant's life starting with conception when the child can only be reached through the mother
- second 1000 days between the ages of 2-5 years

49. The NAC underscores the importance of maternity benefits and for ensuring exclusive breastfeeding for six months. This is because a large majority of Indian women across all ages suffer from undernutrition and are especially vulnerable during pregnancy and while nursing their infants. Maternity benefits are therefore essential in order to compensate for income loss in pregnancy and maternity, provide financial support for adequate nutrition during this period, ensure women get adequate rest, and enhance their food intake.

Features: The following features of specific non-PDS recommendations contained in the Framework Note of January 21, 2011 are worth noting:

50. Universalization with Quality of ICDS: The NAC recommendations on inclusion of ICDS entitlements are consistent with Government of India's efforts at universalization with quality of ICDS as well as the orders of the Supreme Court that mandate the universalization of ICDS - namely 'extending all ICDS services (supplementary nutrition, growth monitoring, nutrition and health education, immunization, referral and pre-school education) to every child under the age of 6 years, all pregnant women and lactating mothers and all adolescent girls'.⁹ Given that this a food security Act, the emphasis is on ICDS *services* being extended to all children under six, pregnant and lactating women, and adolescent girls. The Framework Note leaves room for the ICDS *scheme* itself to be modified, reformed or restructured, as long as the core services remain available to all concerned.

51. Anganwadi centres: The NAC recommends a full-fledged Anganwadi (ICDS Centre) in every habitation of at least 300 persons. Anganwadis should be open to all

⁹ Supreme Court order, 13 December 2006.

children (including those of migrant workers), with no eligibility criterion other than age. In habitations of less than 300 persons, ICDS services may be provided through extension services or mini-Anganwadis, linked with the nearest Anganwadi. In addition to existing food entitlements, the NAC also recommends a freshly cooked mid-day meal for all children who attend the Anganwadi for pre-school or day care, every day of the year, except during holidays (and in any case for at least 300 days).

52. Mid Day Meals: The many benefits of school mid day meals in ending classroom hunger, encouraging enrolment and attendance, making the school environment more child-friendly, helping break social barriers among school children, and providing employment to large numbers of underprivileged rural women are well established. Though school meals are already mandatory under Supreme Court orders, there is a strong case for making them permanent entitlements under the NFSA. NAC recommends that the school meal should also be available to every out-of-school child, provided during school holidays as well as during droughts and natural or human-made disasters. Further, the mid-day meal should have a different menu on each day of the week. As with ICDS, all this is substantially in conformity with existing orders of the Supreme Court.

53. Counselling and support for breastfeeding: Though counselling and support (through home visits) for continuing breastfeeding along with adequate and appropriate complementary feeding is a service unlike the provision of food, its inclusion as a legal entitlement is recommended given the critical importance of nutritional counselling for preventing and ending malnutrition.

54. Supplementary feeding: Supplementary feeding can potentially fill gaps in nutrition intakes, extend 'nutrition education', demonstrate to people the nutritious value of local foods, and contribute to diversification of diets. These are reasons for ensuring that supplementary feeding is based on diverse local foods and is not in the form of 'ready to eat' packaged foods. Further, decentralising the process of production and procurement of supplementary foods allows for greater community participation and control. The Supreme Court orders bar the use of private contractors in the supply of food in the ICDS programme. The Orders also recommend that all supplementary nutrition should be provided through local groups such as Self Help Groups (SHGs) and mahila mandals. Similarly, the NAC proposes that production and supply of supplementary foods (and school meals) should, to the maximum extent possible, be handled by the public and non-profit sectors and by local groups such as mahila mandals and SHGs and not by commercial interests that could jeopardize the nutritional well-being of women and children.

55. Maternity Benefits: The NAC endorses the Planning Commission's decision to provide maternity benefits to all women, except those who or whose spouses are in formal employment and therefore eligible to other sources of maternity benefits. This is consistent with the pilot maternity benefit scheme of the Government of India (Indira Gandhi Matritva Sahyog Yojana) that extends maternity benefits to all women not currently employed by the Central or State government. The NAC recommends unconditional maternity benefits, especially given the many hurdles that poor women are likely to face in obtaining services and ensuring compliance. It is suggested for consideration the inclusion within the maternity benefit schemes of women below 19 years and those with more than two children.

56. Treatment of malnutrition: Besides preventing malnutrition, it is equally important to *treat* children who are malnourished as this condition alone accounts for almost half of all child deaths. Further, once a child is malnourished she is prone to infections, and this leads to a vicious cycle of malnutrition and infection. The NAC therefore recommends that all

malnourished children who require treatment should have access to appropriate care, including regular growth monitoring; enhanced supplementary nutrition and therapeutic food if required as part of the treatment protocol; nutrition counselling for improved locally appropriate feeding and care; health checkups and referral services and special care at a Nutrition Rehabilitation Centre or in the community as appropriate.

57. **Special Provisions for Vulnerable Groups:** The NAC recommends that the NFSA must create special protections for those segments of the population who are most vulnerable to hunger and food insecurity, and prescribe mandatory duties to protect persons threatened by starvation, and those hit by natural or human made disasters. The Act should also define special entitlements for persons threatened by starvation, and by natural and human made disasters. It is recommended that inclusion of guarantees of social security pensions for the aged, single women and disabled persons should be incorporated in an alternative legislation for social security. In addition, the NAC underscores the importance of the following:

58. No denial to children: No child below the age of 14 years should be turned away from receiving a freshly cooked nutritious meal by any feeding facility such as anganwadi centre, school, destitute feeding centres, etc. The term 'cooked nutritious meal' or 'cooked meal' whenever used refers to a freshly cooked culturally appropriate meal that contains nutritive value appropriate for the respective age-group or gender, as specified by the relevant departments of the Government of India.

59. People living with HIV and others: Special provisions for accessing subsidized food should be made for categories of people such as leprosy patients, people living with HIV and those suffering from tuberculosis who require a food-cum-drug regimen as part of the treatment.

60. Migrant Workers: Arrangements should be made to ensure that migrant workers and their families can claim their food entitlements wherever they are. For instance, the children of migrant workers should have access to the local Anganwadi, and migrant workers should be able to access their PDS rations at their current place of work. While recognizing that putting in place these arrangements may take time, the NFSA should at least create an obligation to initiate the required financial, technical and institutional innovations.

61. Destitute Feeding: The Act would guarantee one nutritious cooked meal daily free of charge to all destitute people who seek it. Destitute people are those who lack the economic or social means required for dignified survival. At present, two state governments (Tamil Nadu, and Orissa for KBK districts) operates such destitute feeding programmes linked with school and ICDS feeding. It has been found that these programmes provides a vital last defence against starvation for those who are most vulnerable to it. The introduction of destitute feeding would be a new programme for the country as a whole. Governments would need to decide on various modalities, including where this would be organised and by whom, and whether the facility should have some gate-keeping or be open to all destitute persons who seek it.

62. Community Canteens: Studies confirm that there are large numbers of highly food insecure urban homeless persons, and single migrant workers, who require subsidised and affordable cooked meals in cities. The NAC recommends a programme of Community Canteens. Such canteens, called soup kitchens, form a major element of food security entitlements in countries like Brazil. Since this will be a new programme, the Framework

Note is not prescriptive about the numbers of such canteens and modes by which they would be organised. This would be subject to successful pilots, binding on all governments to undertake within a specified time frame. The legal right would come into force after the successful pilots are translated into viable schemes.

63. Starvation: The Framework Note guarantees that all persons will be protected from starvation, and prescribes a legally binding protocol for those individuals, households or communities which may be threatened by starvation. Starvation is a condition when prolonged food denial threatens survival itself. Famine Codes from colonial times prescribe state actions in the event of large-scale famines, but there are no such binding duties in the event of individual starvation. The NFSA should try to remedy this major gap in state accountability, by prescribing duties of governments at various levels to prevent, investigate and respond to starvation.

64. Victims of disasters: All disasters, natural or human-made, place affected populations at risk of food insecurity and starvation. The NAC therefore prescribes that such populations at risk should be entitled to subsidized foodgrains on the same terms as designated 'priority groups' and be guaranteed special ration cards for at least one year after the disaster

Enabling Provisions

65. As noted earlier, nutritional outcomes depend on a wide range of factors, including not only adequate food intake (in quantitative and qualitative terms) but also health care, safe drinking water, adequate sanitation, and so on. Accordingly, the section on 'enabling provisions' in the Framework Note calls on central, state and local governments to revitalize agriculture and promote agrarian reform, prohibit unnecessary and unwarranted diversion of land and water from food production; and to diversify commodities available under the Public Distribution System (PDS) and include over time pulses, millets, oil and cooking fuel. All efforts should be made to provide universal access to safe and adequate drinking water and sanitation as well as universal health care. Other enabling provisions should provide universal access to crèche facilities, universal access to adolescent girl children aged 14 -18 years to nutritious food and appropriate health, nutrition and education services, universal access to vitamin A, iodine and iron supplementation, and special nutrition support for persons with stigmatised and debilitating ailments such as HIV/AIDS, leprosy, and TB. At the same time, Governments should endeavour to provide residential schools for all children in need of care and protection who are deprived of responsible adult protection; and make effective provisions for universal access to adequate pensions for aged, disabled and single women, at rates that are not less than the prevailing statutory minimum wages for unskilled workers.

66. The delivery of ICDS services needs to be restructured keeping in mind the specific requirements of two distinct phases of a child's life:

- first 1000 days in an infant's life starting with conception when the child can only be reached through the mother
- second 1000 days between the ages of 2-5 years

67. An equally high priority should be given to increasing agricultural productivity, so as to meet the food requirements of 1.2 billion human population and one billion farm animals. The formulation of a comprehensive National Policy for Farmers as 'new deal' for farmers is recommended. Appropriate recommendations of the Report of the Farmers

Commission presented to Parliament in 2007 should be considered, especially the proposals for enhancing income security of farmers as well as for empowering *mahila* and *yuva kisans*.

68. Equally critical for achieving nutritional security will be the prioritization and effective implementation of the Rajiv Gandhi Drinking Water Mission, the Total Sanitation Programme and the National Rural Health Mission. Nutrition considerations should be mainstreamed into both the National Horticulture Mission and the Food Security Mission. The success of the NFSA in the end would depend substantially on the well-being and enthusiasm of small farmers.

Part 2

Systems of Enforcement and Transparency

69. A rights-based legislation requires robust and reliable systems of enforcement and accountability through institutions that are credible and independent. At the same time, it is important to recognize that very often, less literate and impoverished groups unfamiliar with government working are at a disadvantage when it comes to recording of complaints in any grievance redressal system. The NAC proposals address this concern and build on the lessons learned from the provisions for enforcement and transparency contained in existing major rights-based laws.

70. Some of the key proposals for improving enforcement and transparency are given below:

- separation of roles between implementation and redressal with parallel seniority at the district level
- setting up of People's Facilitation Centre (PFCs) that can help the poor register their complaints.
- establishment of a high-level credible, empowered, accessible and independent appellate body at the district, state and national level - to provide support, independent critical advice and expertise to the implementing departments, allow for the chain of appeals to extend to the national level, and address issues that those busy with regular implementation otherwise cannot.
- creation of District Grievance Redressal Officers (DGROs) - drawn from the vast pool of various serving professionals, university professors, lawyers, doctors, private sector managers and others willing to give some time for public service. These lateral entry officers should be centrally appointed by the UPSC or a National Appointments Committee for a term of 5 years extendable only for an additional term after due assessment of performance. They could come on deputation from their respective organizations if they so wish. It is critical to identify and appoint persons with integrity and talent as DGROs. The DGROs should work under appropriate state and national commissions. All appointments to the National and State Commissions would be made by an Appointments Committee that would follow a transparent process of inviting applications and nominations, and placing in the public domain, the evaluations and reasons for selection and appointment.
- requiring an Action Taken Report to be submitted within a prescribed time, say 10 days, so as to make the Grievance Redressal Officer (GRO) work proactively to sort out complaints quickly and avoid any personal liability.
- empowering the appellate agencies to offer compensations and levy penalties in order to allow for better administrative and supervisory functioning of the grievance redressal system

71. The Framework Note also contains a number of provisions to secure transparency at all stages of the implementation of the various rights guaranteed under the law. These incorporate and also build on the Right to Information Act. The Framework Note also provides for mandatory concurrent and periodic post-facto social audits. Each programme, at each level, will have appropriate, open and accessible fora for conducting social audits. Each of these audits will be appropriately facilitated by an independent social audit authority, and have necessary legal consequences as per laid out procedures. The social audit findings will be communicated to the District Grievance Redressal Officer for appropriate action. This will provide a necessary framework for community based

monitoring, and participatory auditing of quality, performance, financial expenditure, of services and entitlements and outcomes of all the programmes and schemes that this Act covers.

72. Matrix A summarises the NAC proposals for an independent redressal mechanism at different levels and indicates the composition, mode of appointment and roles and responsibilities.

Matrix A: Key proposals for an independent redressal mechanism		
Mechanism	Composition & Appointment	Roles & Responsibilities
Block People's Facilitation Centre (PFC) in rural areas and Ward People's Facilitation Centre (PFC) in urban areas	<ul style="list-style-type: none"> • Non official person or group with expertise • Independent of the implementing authorities and the block office. • Contractual appointment • Can be either a NGO or a special service provider with expertise in facilitation 	<p>The People's Facilitation Centre shall help with the filing of complaints; the filing of appeals advice on who to approach on any redressal of grievances receive by telephone, fax, email, sms or in person complaints or grievances from beneficiaries ensure that they are reduced in writing in an effective manner within the framework of the Act register complaints and issue dated receipts forward the complaint to the relevant authority dealing with the particular scheme; and also copy the same to the District Grievance Redressal Officer (DGRO)</p> <p>The PFC will be:</p> <ul style="list-style-type: none"> • accountable to and monitored by the DGRO and be easily accessible to every citizen by virtue of being located at the Block level in rural areas and the ward level in urban areas the Ward level. • be linked to other common service centres in each state.
District Grievance Redressal Officer (DGRO)	<p>DGROs to:</p> <ul style="list-style-type: none"> • be in the age group 30-45 years • come on deputation from government or NGO • have term of five years extendable for a maximum of an additional term based on strict independent evaluation • be appointed centrally, possibly by the UPSC or a National Appointments Committee • be under the administrative control of the state commissions, with mandatory logistical support from the State Governments 	<p>The DGRO shall:</p> <ul style="list-style-type: none"> • have a 5 year term that would include 6 months training, 6 months probation and 2 years in a district • receive complaints through various means including through the block or ward level GRO, resolutions of gram sabhas, vigilance committees, etc. • be empowered to mandatorily initiate departmental action • be a quasi- judicial authority empowered to impose fines and award compensations as per the Act, including summary procedures while following the principles of natural justice. • have a technical support group capable of conducting investigation and facilitation so that complaints can be disposed off within one month

Matrix A: Key proposals for an independent redressal mechanism		
Mechanism	Composition & Appointment	Roles & Responsibilities
	<ul style="list-style-type: none"> regularly report to the State Commissions <p>Appropriate provisions will be made for the removal of the DGRO if found unsuitable or not discharging duties</p>	<p>The DGRO can assist the state commissions in playing a proactive role for ensuring implementation of the Act</p> <p>Appeals against the orders of the DGRO can be made to the state commissions but not to any civil courts. It will only be amenable to the jurisdiction of the High Court</p>
State Commission	<ul style="list-style-type: none"> State Commissions will have 3 to 5 members selected by a State Appointments Committee consisting of Chief Minister leader of opposition and possibly Chief Justice of the High Court, and possibly heads of all statutory state commissions All members in the first term will be chosen on the basis of applications and nominations From the second term onwards, a majority of the members will selected be from among DGROs who have completed 5 years and on the basis of an objective performance appraisal. 	<p>The State Commission shall:</p> <ul style="list-style-type: none"> be a full time Commission with a functioning Secretariat have administrative and supervisory control over the DGROs in the State. hear appeals against the orders of the DGRO receive complaints against officials at the district and state level and also complaints against DGROs monitor the implementation of the all schemes in the state in co-ordination with the respective departments evaluate performance of schemes under this Act and place a report annually in the Legislative Assembly assist the National Commission in carrying out its tasks in the state look at issues of access to food during conditions of starvation, natural and man-made disasters. be responsible for disposal of all complaints and appeals in 60 days. be empowered to investigate complaints against the DGRO, through a reference from the Governor, or the President, or on its own findings, and where it finds sufficient grounds for removal of the DGRO it will make a recommendation to the President, for the removal of the DGRO. <p>Grounds for removal of the DGRO will be proven misbehaviour or</p>

Matrix A: Key proposals for an independent redressal mechanism		
Mechanism	Composition & Appointment	Roles & Responsibilities
		incapacity.
National Commission	<ul style="list-style-type: none"> National Commissions will have 5 to 8 members selected by an Appointments Committee consisting of Prime Minister, leader of opposition and possibly Chief Justice of the Supreme Court, and possibly heads of all statutory national commissions All members in the first term will be chosen on the basis of applications and nominations From the second term onwards 3 out of the 8 members will be selected from members of state commissions who have completed 5 years and on the basis of an objective performance appraisal (or rotation system from state commissions) The National Commissioners may be removed only on the order of the President, on grounds of proven misbehaviour or incapacity, after the Supreme Court, on a reference made to it by the President, has, on enquiry, reported that the National Commissioner ought, on such grounds, be removed. 	<p>The National Commission shall:</p> <ul style="list-style-type: none"> be a full time Commission with a functioning Secretariat hear appeals against the orders of the state commissions receive complaints against officials at state and national level and also complaints against DEAs and State Commissioners monitor the implementation of the all schemes in the state in co-ordination with the respective departments evaluate performance of schemes under this Act and place a report annually in Parliament look at issues of access to food during conditions of starvation, natural and man-made disasters be responsible for disposal of all complaints and appeals in 3 months be empowered to investigate complaints against the State Commissioners, through a reference from the Governor, or on its own findings, and where it finds sufficient grounds for removal of the State Commissioner it will make a recommendation to the Governor, for the removal of the State Commissioner. <p>Grounds for removal of the State Commissioners will be proved misbehaviour or incapacity.</p>