

FIAN INDIA, 5/26-A, JUNG PURA-B, NEW DELHI-14,
WEB: WWW.FIAN.IN, PHONE-011-24371223,
EMAIL-fiaindia2011@gmail.com

Report of Consultation on National Food Security Ordinance

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Table of Contents

BACKGROUND	3
OBJECTIVES OF CONSULTATION	4
EXPECTED OUTCOMES	4
PROGRAMME AGENDA	5
KEY PROCEEDINGS	6
INTRODUCTION AND WELCOME	6
SHARING OF SCOPE AND OBJECTIVES	6
KEY NOTE ADDRESS	7
CONTEXT SETTING	8
OPEN DISCUSSION	9
RECOMMENDATIONS	12
ANNEXURE	15
LIST OF PARTICIPANTS	15

Background

Ensuring adequate nutritious food is of crucial importance for the enjoyment of all other rights and for achieving social justice. Without adequate food, people cannot lead healthy active lives. Furthermore, hungry people cannot meaningfully participate in the political life of a nation, which undercuts the fundamental principle of democracy. Hence, the right to food cuts across the entire spectrum of human rights. As India is a state party to numerous international human rights instruments relating to the right to food, the ordinance should be in coherence with all the international obligations stipulated in the human right treaties ratified by the Government of India, as well as with its own constitution and laws.



In the recent past, the wide ranging and enthusiastic discussions were hectic among different actors including the Government, economists, voluntary organisations, activists, on the Food security Bill (FSB). Looking through the time line, in December 2011 a first attempt to bring legislation on food security was made but the Bill lapsed. The National Food Security

Bill, 2013 (NFSB) was taken up for debate in the Lok Sabha again during the budget session in March 2013, but could not be debated owing to a chaos witnessed in the house on the coal gate issue. Then amid wide spread discussions, the Government adopted the ordinance route to implement the different provisions of Food Security Bill. The National Food Security Ordinance (NFSO)¹ was been tabled and received the President's assent on July 5, 2013.

The ordinance was seen helpful as a step to expedite the implementation of the provisions enshrined in the bill, nevertheless, the bill being passed through the ordinance route, was being criticized by many, as it had marred the scope of a constructive argument and discussion on issues plaguing the field of right to food in general.

FIAN India was actively involved in the advocacy and campaign of the Bill, since it was first enunciated, in 2011. FIAN over the period, had organized various consultations, workshops and

¹ The ordinance was aiming to provide food grains to 67% of the population of the country at a subsidized rate

meetings to contemplate more on the issue. FIAN had placed position paper and an alternative bill for discussion at various platforms. Even though there were a number of areas wherein a discussion was inevitable, it was thought that the civil society and human right groups could have gained enough space to place adequate lobby and advocacy in the democratic process to attain the fulfillment of this right. It was in that backdrop, FIAN India organized a consultation involving stakeholders from different arena, to contemplate more on the implication of the decision of the government and to explore the scope to amend the contents of the ordinance.

Objectives of Consultation

- One of the objectives of the NFSO consultation was to understand the provisions of the NFSO and to vet its efficacy in translating the different provisions into practical realization.
- The consultation was envisaged to enable different organisations and individuals, to change and/or customize their operations, movements and campaigns, primarily focused on food security, in the light of recent development.
- The workshop was expected to conclude with definite recommendations for the government to be considered and introduced in the NFSO for better realization of food security.

Expected Outcomes

Some of the expected outcomes of the workshop were thought out in the beginning:

- Increased understanding on the implication of ordinance on different dimensions, amongst stakeholders
- A ready to refer, set of recommendations for the government to be introduced in NFSO for better realization of food security.

Programme Agenda

Time	Item	Facilitation
10.00 AM-10.30 AM	Registration and Tea	FIAN India
10.30 AM-11.00 AM	Inviting Mr. D. Gurusamy, the President of FIAN India to chair the session Welcome of participants Self Introduction by the participants	Mr. Rahul Chaudhary (National Coordinator FIAN) Mr. Sanjay Rai (Secretary FIAN)
11.00 AM-11.15 AM	Sharing of Scope and Objectives of the Workshop	Ms. Suman (Vice President FIAN)
11.15 AM-12.00 PM	Key Note Address: Shree Krishna Bir Chaudhary (President Bhartiya Krishak Samaj, former Chairman state farmers' corporation of India and Sugarcane development Council , Ministry of Agriculture, Government of India	Mr. D. Gurusamy (President FIAN)
12.00 PM-1.30 PM	Open Discussion, involving participants, including, but not limited to; Dr. Arun Gupta (Breast Feeding Promotion Network of India), Ms. Kristin (FIAN Norway), Dr. Srivella Prasad (NCDHR), Ms. Yifang (FIAN IS), Mr. Kumaran (Oxfam), Ms. Surabhi (TDH), Ms. Pradnya and Ms. Kaur(WFP), Mr. Santosh Upadhyay (FIAN Bihar), Mr. Mayank Srivastava (Label Step) etc.	Mr. John Bosco (Treasurer FIAN)
1.30 PM-1.45 PM	Consolidation of Recommendations	Ms. Supriya Yadav (Programme Associate, FIAN)
1.45 PM-2.00 PM	Concluding Remarks	Mr. D. Gurusamy (President FIAN)
2.00 PM	Lunch	

Key Proceedings

Introduction and Welcome

The Workshop was started with a formal welcome of the participants. Mr. Rahul Chaudhary, in his introductory address, oriented the participants on the need of organising the workshop at the very crucial moment. He discussed briefly the timeline of food security bill from beginning upto promulgation of NFSO by the President of India. His briefing was further proceeded by a welcome note by Mr. Sanjay Rai. Mr. Sanjay Rai elaborated on the work done by FIAN India in right to food and ancillary rights. During his deliberation he explained, that FIAN India has been associated with various movements and has been part of various campaigns related to right to food. All participants made brief self-introduction. In the end of the session Mr. Rai invited Mr. Gurusamy to chair the proceedings of entire day.

Sharing of Scope and Objectives

Ms. Suman, discussed the scope and objectives of the workshop. She put impetus on perceiving the whole issue of right to food in tandem with livelihood and control over natural resources. She emphasized that merely, distribution of grains shall not solve the issue of hunger and malnutrition in India. She said that the government should focus more on devising enabling policies for the people of this country so that they can earn their livelihood in dignified manner. She emphasized that the prudent access and control of the poor people over resources such as land, forest is one of the many measures Government can think of. She shared that how the people in one of the mining areas, located in Jharkhand, are being coerced to leave their Agriculture land for mining. She added that the people in Jharkhand mining area are demanding their right to earn their livelihood in dignified manner. She says that the people in that area prefer their land back on free food distribution under PDS. She as well factored the issue of forest rights and local self governance in overall Right to Food paradigm.



Key Note Address

Shree Krishna Bir Chaudhary, who is serving as a president Bhartiya Krishak Samaj, and in the past, held positions as Chairman state farmers' corporation of India and Sugarcane development Council , Ministry of Agriculture, Government of India, addressed the participants. He flagged the issue of wastage of food and raised his concern over production, storage of grains and the supply chain. He said that a vast tract of cultivable land in India is rain fed which results in erratic production rates. Over the last several years, the cultivation/irrigated area has not increased whereas 64% of population of India is dependent on agriculture. He says that if 64% of the people of this country are producers then how the figure of 67% target has been derived by the government to be covered under the act. During his key note address, he emphasized over the need of reforms in production and supply value chain, and decentralize local procurement of grains. He expressed his concern over flawed Public Distribution System and reiterated plugging the leakage through PDS. He concluded with asserting that it was too early to say that implementation of the bill would be easy as system was not created for proper distribution



Context Setting

Mr. Gurusamy outlined plan of action with regard to NFSO. He stated the Government's move to be a legal exercise- creating a law to provide food security. During his deliberation, he said that there should be a legislative intent behind every legislation and the legislative perspective should be pushed to meet the objectives of food security. During the session, he made a brief introduction of the NFSO and did not refrain from highlighting the political agenda behind the law. He also had taken into account the opposition, witnessed along the ordinance and said that the political capacity has to ascertain which way they are going to fight.

He analyzed the NFSO threadbare, and tried to highlight, the progressive and critical articles and sections of the legislative piece. Speaking on the quantity and coverage he termed these two provisions of the Act inadequate. He said that, the people working/fighting towards the implementation of fulfillment obligations of the State shall hither to employ the “tool of



intervention” as recognized in the international human rights system and more over embodied in CHAPTER III of the Indian Constitution.

He discussed the issue of eligible household and termed it, a matter of grave concern as it has to be defined how they can be classified.

Speaking about the progressive side of the NFSO he said that the

provisions are laid down in the NFSO to meet the nutritional standards for every pregnant women and lactating mother and coupled with maternity benefit. The card is also issued on the name of woman and she is considered as head of the family.

Analyzing the issue of Minimum Support Price (MSP) he pointed out that while fixing the MSP State Govt is overlooked, while pulses etc have not been included in the food basket.

Concluding his reflection he said, that the political fallout of our country compels us to accept the NFSO at this stage, while CSOs can do the best to improve further, either by working together with the Government or if necessary by struggling for the same.

Open Discussion

After the context setting, Mr. John Bosco moderated the open discussion, and invited views and opinions from the participants. In the following section, the views expressed during open discussion are consolidated. Please note that the participants have interchangeably used the terms, ordinance, bill and act while expressing their point of views.

- The NFSO is a very ambitious piece of legislation and taking the state of present delivery infrastructure, into consideration, it is hard to believe that the implementation of the same will be in letter and spirit. The NFSO is nothing but mere a blind extension of PDS, which itself is on the verge of failure. The quantity, as mentioned in the NFSO is inappropriate and sans the nutrition component.
- Periodic evaluation and timely follow up is a very important part of any legislation. Looking at the bill, it gets clear that the real issue of hunger and malnutrition is marred under the political ambitions. The access and coverage of the bill is poor and this has to be assessed periodically for better implementation of law.
- The role of Civil Society has not been considered prudently anywhere in this act whilst civil society could have played a wonderful role in implementation, conducting social audits etc. If we are looking for a decentralized program, the mechanism has to be clear. Civil society participation is important as experiences from MGNREGA, suggests.
- Mid day meal scheme is strongly advocated component in the act while there has nothing been said about the structural reforms, a mandatory step for better implementation of the scheme.
- The quality of food grains, stored to be further distributed through PDS is an issue of grave concern. In majority of cases, the food is stored in moisture and not resilient to the erratic climatic conditions. The country does not have the required storage capacities, which is a prerequisite to meet the challenges of distribution under the act. In theory, Act tries to cover the issue of Micro nutrients in Schedule III nevertheless, drastically gets failed to articulate on how the micronutrients rich food, be procured and distributed to the target populous.

- The term priority household would remain the bone of contention across the implementation process of the act. Planning commission has not yet reached to a reflective definition of poverty, and waiting Rangrajan committee report to be tabled, for future reference. India could not develop a scale to gauge the poverty hitherto, and this situation creates doubts in the minds of people. The guidelines of Supreme Court (SC) however, gives more legal strength to the document, but whether it is serving the purpose or not is something to be time tested.
- Bringing women as a head of household in the legal ambit is a very innovative and progressive step per se. The present NFSO is a water down version, of, what was previously created. The legislation, tries to address the food security of school going children through Mid day Meal scheme, however lacks provisions, while addressing the large of number of children who are out of school. The entire piece of legislation is poorly marked with complete absence of operational time lines. The act does not speak about the scope of further amendments.
- The act embodies, the grievance redressal system. Although the responsive complaint system is installed at district level, yet in majority of rural areas districts are located far flung from the habitation. The complaint system be brought down to block/cluster or panchayat level for functional viability. Force Majeure cannot be excluded from the NFSO and it should be more universal. The bill does not talk about food sovereignty through agrarian reforms.
- The act sans ICDS reforms. A majority of ICDS centers are running in one room and there is no kitchen facility. The quality of food being cooked and served to the children is pathetic and act does not cover these issues in specific.
- The intent of food distribution through schemes like Mid day meal, ICDS program etc. was drawn from the fact that at the time of war and famine people should have enough food to eat. There are various programmes being operated in the country in the name of food security however at implementation level the situation is pathetic and there is no centralized authority to take the onus to rectify the gaps. The right to food should be seen as a one broad single component, while all the schemes (ICDS, MDM, Antyodaya) should be dovetailed under it. This will ensure a better

functionality of all the schemes and people will get a single window delivery of food grains and other related provisions.

- Definition of food security does not take health element into consideration. Micro nutrients have not been defined, while the bill is poorly endowed with the road map on how schedule III will be implemented. Diversification of locally used food grains should be promoted. Given that the malnutrition figure are high, in India the schedule does not take micronutrients issue into consideration. Cash transfer again, raises questions as it is not adequately equipped to respond to the volatile food inflation. Exclusion error might be there because of improper identification of priority households to be given cash. A dynamic and elaborative identification procedure of priority households should be laid down.
- NFSO is focused on providing food while other issues like gender, health, sanitation and hygiene are ignored.
- There is an immense need to capacitate and revamp the local governance system for a better implementation of the legislation. After the tragedy of Bihar Mid day Meal, parents are not sending their children to schools. Cooks under the Mid day Meal scheme are poorly paid, untrained and badly compensated. The PDS system of Chhattisgarh should be analysed. Chhattisgarh has reduced leakage and completely de-privatize fair price shops (PDS shops).
- The bill criminalizes the women for giving birth to more than 2 children. According to the act, maternity benefit will not be given to those women who have more than 2 children. The bill is not farmer friendly. Women farmers are not recognized in the bill.

Recommendations

- The entire piece of legislation is poorly marked with complete absence of operational time lines. A clear time frame to implement all the provisions of the act is required. Additionally, government needs to devise an institutional mechanism to introduce changes/amendments in NFSO in democratic purview.
- A policy intervention is required to check the excessive use of chemical fertilizers for agriculture production. Farmers should be provided with grants for soil improvement and use of locally available manure.
- There is a need to contemplate the right to food issue in a broader perspective. It should be factored with right to work, right to livelihood and access to natural resources.
- Efforts should be made to make the bill a farmer friendly piece of legislation. Women farmers should be recognized properly in the bill. Government should come up with a plan on how to meet the challenges of increased demand of production without disturbing the ecological and social system of food and through promoting food sovereignty.
- For a better utilization and distribution of procured grains, it is important to plug the leakage in PDS system. Examples from Chhatisgarh can be referred. While closely analyzing the bill, it gets clear that the government has actually reduced the quantity from 35 Kg to 25 Kg (given that the average household size in India is 4.5 persons). There is a need to relook this issue from nutritional point of view.
- Periodic evaluation and timely follow up is a very important part of any legislation. A periodic, stock taking of implementation status, is important. A mechanism needs to be developed to do the same. The role of Civil Society should be considered



prudently in this regard . Successful experiences from MGNREGA, can be taken into consideration.

- Structural reforms in Mid day meal scheme are strongly recommended.
- Government should incur heavy investments in reforming the supply value chain. The first step can begin with reforms in grain storage capacities. In majority of cases, the food is stored in moisture and not resilient to the climatic conditions. The country does not have the required storage capacities, which is a prerequisite to meet the challenges of distribution under the act.
- There should be a justifiable and inclusive mechanism to zero in the priority households. Planning commission should reach to a reflective definition of poverty.
- The legislation, should try to address the food security issue of the large of number of children who are out of school.
- The complaint system under grievance redressal be brought down to block/cluster or panchayat level for functional viability. Force Majeure cannot be excluded from the NFSO and it should be more universal.
- The act should address the fundamental lapses in ICDS operations. A majority of ICDS centers are running in one room and there is no kitchen facility. The quality of food being cooked and served to the children is pathetic and act does not cover these issues in specific.
- The right to food should be seen as a one broad single component, while all the schemes (ICDS, MDM, Antyodaya) should be dovetailed under it. This will ensure a better functionality of all the schemes and people will get a single window delivery of food grains and other related provisions.
- There should be a road map on how schedule III will be implemented. Diversification of locally used food grains should be promoted. Given that the malnutrition figure are high, in India the schedule should take micronutrients issue into consideration.
- Cash transfer should not be promoted, as it shall not be adequately equipped to respond to the volatile food inflation.
- There is an immense need to capacitate and revamp the local governance system for a better implementation of the legislation.

- State coalition group, including, state departments, and civil society needs to be formed. Mechanism needs to be developed to discuss the issues and concerns under implementation of the bill on regular basis.
- The Food and Agriculture Organisation guidelines on food and nutrition security, need to be referred and prudently included in the final bill.

Annexure

List of Participants

Sn	Name	Organization/ Post Held	Contact Numbers	Email ID
1.	Dr. R srivastava	Director. IASDS	9910447575	srivastava_ravindra@yahoo.com
2.	Ms. Manmeet Kaur	WFP	8800477011	manmeet.kaur@wfp.org
3.	Mr. Mayank srivastava	Country representative India	9415005651	indra@label_step.org, mayank2772@yahoo.com
4.	Dr. Kavya Dashora	Senior scientist, CABI	9968354317	k.dashora@cabi.org
5.	Mr. Subramanian Pattabiraman	European Union	9910220245	subramanian.PATTABIRAMAN@eea s.europa.eu
6.	Dr. S Dutta	FFI - India	9899599136	
7.	Mr. D Guruswamy	President, FIAN INDIA		fiantn@rediffmail.com
8.	Ms. Suman	Vice- president, FIAN INDIA	9810333754	sumanfian@yahoo.com
9.	Mr. Sanjay kumara rai	Secretary, FIAN INDIA		sanjaykrai@yahoo.com
10.	Mr. Prakash Tyagi	FIAN		prakash@gravis.org.in
11.	Mr. Balvir Singh Tomar	FIAN UP	09358043631	fianup@yahoo.com
12.	Mr. M. Kumaran	Oxfam India	8447748892	kumaran@oxfamindia.org
13.	Ms. Swarupa	FIAN Odisha	9437287882	sakar_Swarupa@rediffmail.com
14.	Mr. G. Ranganayaki	BSVD, TN	9790161829	bsvdpalacode@gmail.com
15.	Mr. Pradaya Pathankar	PO TPDS	9868186749	pradnya.paithankar@wfp.org
16.	Mr. Joeh Jose	Asst Manager Livelihood, WFP IGSSS	9555868574	joel@igsss.net
17.	Mr. Santosh Upadhya	FIAN Bihar	8986463504	fianbihar@gmail.com
18.	Ms. Kristin	FIAN Norway	+4790138264	kristin@fian.no
19.	Ms. Neetu Sharam	NLSIU, Bangalore	9740981570	shnitu@gmail.com
20.	Mr. Kripa Basnyat	PWESCR, Delhi	8860894075	kbasnyat@pwescr.org
21.	Ms. S. Mathur		9958201005	surabhi_Sinha@hotmail.com
22.	Mr. Dinbandhu Vats	PAIRVI	9718669103	dinbandhuvats@gmail.com
23.	Mr. Joachim schwarz	welthungerhilf e	9818707992	joachim.schwarz@welthungerhilfe.de
24.	Ms. Vaishali Mishra	welthungerhilf e	9818707992	vaishali.mishra@welthungerhilfe.de

25.	Ms. Ekta Purohit	Central Hall Magazine,	8750025707	ekta.purohit@gmail.com
26.	Ms. Subrata	Christian AID	8287755001	subratade@christian-aid.org
27.	Ms. Reena Gupta	Rajiv Gandhi Foundation		gupta.reena@gmail.com
28.	Mr. pramod	Naya India	9871842744	pramod_pachauri77@yahoo.co.in
29.	Mr. Santosh K Joy	Research Division, parliamentary committee	9810206326	santoshkjoy@gmail.com
30.	Mr. Iyta mallikarjuna & Mr. AK Awasthi	co- founder, Believe India	9312326189	believeindia2020@gmail.com
31.	Mr. Ashok Gupta	Journalist, Advocate		
32.	Ms. Yifang - Tang			slot-tang@fian.org
33.	Mr. Krishan Bir Chaudhary			
34.	Mr. Rahul Chaudhary	National coordinator, FIAN INDIA	8375987816	nc.fianindia@gmail.com
35.	Ms supriya yadav	Program associate, FIAN INDIA		fianprogramme.associate@yahoo.co.in
36.	Mr. Rohit	Program assistant		fianassistant@yahoo.com