

# Mapping the Accessibility of Right to Food through Aadhaar

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## **Abstract**

*This article is an attempt to explore major shifts in the food policy framework of India. Though the food policy in India experienced various changes in pre-reform period i.e before 1991 and during the reform period i.e after 1991 onwards. But the momentous transformation in the food policy of India came after the Supreme Court verdict of 2001 which formulated the policy of Right to food as a legal entitlement and directed the states to explore the mechanisms to make it more accessible to the people. Acknowledging this, the government of India explored the mechanism of Aadhaar, a technological initiative to provide effective, transparent and convenient access of Right to food to the intended beneficiaries. On the basis of existing literature, recent technology initiatives, the field experiences of few states and particularly with regard to ongoing COVID-19 pandemic, this article argues that the implementation of right to food specifically in the context of Aadhaar and its further extension beneath “One Nation One Ration Card” (ONORC) paved the way for the successful implementation of right to food on the part of states seeing its connection with right to life. Thus, overall the major thrust of food policy always remained towards the poor and*

*vulnerable sections of Indian Population, predominantly in the wake of Aadhaar and ONORC program.*

**Keywords:** *Right to Food, India, PDS, Constitution, Aadhaar, ONORC, Pandemic, State.*

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## **Introduction**

In September, 2013, the Indian Parliament passed the landmark National Food Security Act (NFSA 2013) which is popularly known as 'Right to Food Act'. The Act has recognised the right to food as justiciable right. It states that 75 percent rural and 50 percent urban populations have to be covered under the Act. This Act has divided Indian population into two major groups namely: (a) Priority Households (b) Antyodaya Households. Antyodaya households are entitled to get 35 kg of food grains every month at subsidised prices i.e Rs. 3 for per one kg rice, Rs. 2 for per one kg wheat and Rs.1 for per one kg coarse cereals.

The success of legally justiciable right to food solely depends upon its accessibility mechanism. In India, for the accessibility of right to food Public Distribution System (PDS) is a nation-wide programme to distribute subsidised food grains through the channels of Fair Price Shops (FPSs). Further, for the effective, transparent and convenient delivery of PDS food grains and commodities, Aadhaar Act, 2016 is a milestone step. Aadhaar Act works upon the premises of upholding dignity of the individuals and the empowerment of marginalised sections of society.

The legally entitled, effective, transparent and convenient accessibility of right to food in India has moved through various phases for its development. This article presents an account of

historical, constitutional, legal and technological aspects of right to food in India while elaborating on its contemporary concerns specifically in the context of 'One Nation One Ration Card' (ONORC) and its authenticity during the time of COVID-19 pandemic.

Threefold points have been discussed in the article. First, in India before the judgement of the Supreme Court in 2001, the discourse of right to food was implicitly non-justiciable in nature. The momentous twist in the ambit of right to food was realised with the Supreme Court judgement in 'right to food case' wherein the Court has further elaborated the domain of 'right to life' under Article -21 of the Indian Constitution through the inclusion of numerous bare necessities of life viz: the right to food under its arena. The said judgement has made many other socio-economic rights as legally justiciable including the right to food. Through this judgement the dynamic and evolving nature of the Constitution came to the forefront.

Second, in pre-reform period, particularly before 1965 the nature of food policy in India was initially a war-time rationing program (1939-45) meant to fulfil the food needs of defence personnel's on one hand and on the other for those who are greatly helpful for the Britishers in their development efforts. Later on, after independence the urban orientation of food policy came into existence. The major turning point in the nature of food policy came after 1965 and continued till 1990s especially before the reform period. In the period of 1965-1990, the nature of food policy was more inclusive in nature which helped to characterise it as 'universal food policy'. This universal nature of food policy got the major setback 'during the reform period' wherein the efforts were made to recognise it as the 'targeted food policy'. The main objective of this targeted food policy was to balance the fiscal deficit on account of heavy expenditure on

subsidies and to give the benefits of ‘social safety net’ programs exclusively to the poor people.

Third, the major transformation in the targeted nature of food policy came with the implementation of NFSA, 2013 which has changed the nature of food policy under the objective of ‘more inclusive’ nature of food policy. The main objective of more inclusive nature of food policy was to give the maximum benefits to the poorest section of the population namely to Antyodaya. Moreover, for the necessity to fulfil the main objective of food policy wherein efforts were made to give its transparent, effective and convenient access to the intended beneficiaries Aadhaar and ONORC programs are the policy measure of government which came into being. The COVID-19 pandemic has made it ardently significant to implement the policy of ONORC at the earliest for the fulfillment and easy accessibility of right to food in terms of food grains towards the intended beneficiaries.

The first section of this paper traces the idea of rights and explores the insights of right to food in India from the constitutional, legal and civil society perspectives. In the second section, food policy has been explored in detail from the perspective of ‘pre-reform period’ and ‘during the reform period’. In the third section, contemporary policy debates and their implementations have been discussed and in conclusion future policy concerns have been discussed.

## I

### **(a) Framing Political and Socio-Economic Rights: The Constitutional Perspective**

The Indian Constitution has several provisions relating to socio-economic and political rights. Part-III of the Indian Constitution deals with political rights known as fundamental rights whereas Part-

IV relates to socio-economic rights profoundly known as Directive Principles of State Policy. Article-21 of the Constitution of India has enshrined ‘right to life and protection of personal liberty’. Implicitly, Article -21 does not make the provision of ‘right to food’ rather Article-39 and 41 of directive principles of state policy deals with the right to food. Explicitly, Article 47 of the Directive Principles of state policy creates a duty on the part of the state ‘to raise the level of nutrition and the standard of living and to improve the public health’. With respect to right to food as the part of Directive Principles of State Policy explicitly it is essential to highlight the debate among the justiciable and non-justiciable nature of political and socio-economic rights from the perspective of the Constituent Assembly.

The framing of Indian Constitution was one of the stupendous tasks on the shoulders of constitution makers of India. The Indian citizens experienced an oppressive regime of colonial government which gave a life of abject poverty, hunger and malnutrition. The traditions of caste system and untouchability exposed bitter lessons in front of the constitution makers of India. Corbridge and Harris(2000) argue that the high reliance on anti-poverty schemes reflects Nehru’s vision of independent India which conceived protection of the poor as an integral part of development: this was structured throughout the national history, in the form of multiple interventions in favour of the poor and vulnerable (Masiero 2014).

Therefore, the framers of Indian Constitution were determined to build such a nation where the dignified existence is the birth right of citizens. Thus the framers of Indian Constitution were greatly in favour of providing not only political freedoms but also socio-

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<sup>1</sup>The right to food entails to provide ‘human life with dignity’ free from hunger and malnutrition. [www.righttofood.org](http://www.righttofood.org).

economic freedoms. In this context, the framers of Indian Constitution did not make any kind of difference between socio-economic rights and political rights. The fundamental rights committee was entrusted with the task of framing the fundamental rights and directive principles of state policy. Initially, the socio-economic rights and political rights were designed as the parts of fundamental rights. Viewing the administrative and practical difficulties, the list of fundamental rights was further segregated into two parts, one that could be easily assured to citizens and enforceable in a court of law and second those which are for some reasons difficult to be ensured fell into the category of non-enforceable in a court of law. Moreover, Article 37 of the Directive Principles clearly states that “directive principles are ‘fundamental in the governance of the country’ and it shall be the duty of the state to apply these principles in making laws”. Furthermore, it was assured that as and when the state is capable of ensuring socio-economic rights to citizens then ultimately these rights will take nature in the same manner as of fundamental rights (Markandan: 2005). Mr. B. N. Rau, the constitutional advisor to the Advisory Committee suggested that such rights as were normally enforceable should be listed as justifiable fundamental rights and those which are required administrative action should be incorporated in the Constitution as non-Justifiable directives to the state (Shankar and Tyagi 2009).

The foregoing discussion establishes the point that the directive principles of state policy are the principles of ‘social revolution’ in India (Austin 1999). The directive principles are the directives for the state to create positive conditions for the betterment and upliftment of the society to a large extent. But in the 21st century one of the greatest challenges experienced by socio-economic rights is the marginalisation of it in the legal system. Moreover, the provisions contained therein the fundamental rights namely, Article 32 related to

constitutional remedies fulfil the aspect of justifiable nature of fundamental rights whereas the Article 37 in itself makes the provision of 'shall not be enforceable' and in many of cases the court while giving the reference of this Article bestowed superiority to fundamental rights in comparison to Directive Principles of State Policy. Sometimes while delivering judgments in numerous cases the judiciary held both fundamental rights and directive principles of state policy equally significant. Considering directive principles of state policy as the aspirations of millions of people, the court paved the way for their effective implementation. The integrated approach of judiciary in the context of both the Fundamental Rights and Directive Principles of State Policy is one of the commendable milestones. The court while adopting the assimilative approach started the tradition to read socio-economic rights as an integral component of fundamental rights.

**(b) Interpretation of Political and Socio-Economic Rights: A Judicial Perspective**

It is significant to reassert here that viewing the violations of 'right to food' merely grounded on the pretext of non-justifiable nature of right to food, the Supreme Court of India performed a commendable role in this direction through the assimilation of many socio-economic rights (Directive Principles of State Policy) into fundamental rights. The year 2001 is the milestone in the history of 'right to food act' (NFSA 2013) which took a shape under the prevalence of 'hunger amidst plenty'. The notion of hunger amidst plenty originally was dealt with two important aspects. One, the food grains stocks in India reached unprecedented levels. Two, starvation deaths in India was a common phenomenon in drought affected areas and later on this trend was visible in the majority of states and Union Territories in India. In regard to excess food grains stocks with Food

Corporation of India (FCI), the level of hunger and malnutrition was at peak. Dreze (2003) argues that “when millions of people were under-nourished, if not starving, holding food on this scale at enormous cost is nothing short of implicit mass murder. In the midst of 2001, the stock of food grains was 61.96 million tonnes which constituted 22.75 millions of rice and 38.92 millions tonnes of wheat (quoted in Freddy 2013).

As per the estimates of Global Hunger Index 2019, India ranks at 102 out of 117 countries of the world<sup>2</sup>. The state of Food Security and Nutrition in the world, 14% of population is undernourished in India<sup>3</sup>. The right to food’ case was filed by the People Union of Civil Liberties (Rajasthan) against the Government of India, Food Corporation of India and six state governments on the ground that it is basically the responsibility of the state to protect the life of its citizens. Moreover, it is basically the state that controls the material resources and thus it is the obligations of the state towards its citizens to provide the essential conditions which are necessary for the development of individuals. People Union of Civil Liberties (PUCL) in its writ petition raised their voice that the prevalence of hunger, poverty, malnutrition and deaths due to starvation are the failures on the part of the state to protect and implement the provisions related to the right to food of its citizens. The petition was dealt with two important aspects which caused the state’s negligence in providing food security. One, the breakdown of PDS in India owing to the availability of food security only to the Below Poverty Line (BPL) population.<sup>4</sup> Two, the violations of famine codes for government

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<sup>2</sup><https://www.globalhungerindex.org/india.html>

<sup>3</sup>Indiafoodbanking.org

<sup>4</sup>The availability of foodgrains provided through PDS does not meet with the nutritional standards put forth by the Indian Council of Medical Research (ICMR).

relief work operational in many states by the Rajasthan government through the ceiling of 5% drought affected population.<sup>5</sup>

Correspondingly, in response to the writ petition filed by PUCL, Supreme Court in its judgement declared that ‘right to life’ entails the right to ‘live human life with dignity’ and all the conditions that go along it to make it worth, namely adequate nutrition, shelter and clothing. Moreover, the state governments cannot deny from its constitutional obligations merely on the foundation of shortage of funds. The court has also given directives to states whereby states were asked to ensure that all the shops concerned to PDS were reopened and to identify the BPL households in a fixed period of time and sought the information in the said context at the earliest<sup>6</sup> (Gaiha 2003). Additionally, the court has also directed the central and state governments to provide mid-day meals in government and government assisted schools with a minimum content of calories.

The aforesaid discussion broadened the meaning of life through the incorporation of ‘dignity’ component into it. Broadly, the court has also opened the gateways for many socio-economic rights as an integral part of ‘right to life’ given under Article-21 of the Constitution of India. Thereupon, one can argue that a major transformation in the role of the Supreme Court could be visualised as a major player in the making of socio-economic policy at national level. Moreover, the Supreme Court judgement held it is the responsibility of the state to ‘respect, to protect and to fulfil’ the right

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<sup>5</sup>“The Right to Food Case”. <http://www.righttofoodcampaign.in/>

<sup>6</sup>The court in quest of regulating the licenses of distributors issued few of the guidelines which are related to provide transparent, accountable and easy accessibility of right to food. Rehan Abeyratne. Socio-Economic Rights in the Indian Constitution: Toward a broader Concept of Legitimacy .Brook Journal of International Law, 39(1), 2014. Rights in the Indian Constitution: Toward a broader Concept of Legitimacy .Brook Journal of International Law, 39(1), 2014.

to food of the individuals (Chopra 2009 ). Internationally, the Committee on Economic, Social and Cultural Rights (ICESCR) implies the core content of adequacy of right to food are three A's namely: Availability, Accessibility and Affordability. (Kumar 2017).

Keeping into considerations the aforementioned three As, the Supreme Court appointed a committee headed by Justice Wadhwa to give its report on the accessibility of subsidised food grains at the level of poorer segments of Indian society or not. Contextually, the report submitted by the appointed committee in this regard was negative with respect to the accessibility of subsidised food grains at the level of poor owing to many difficulties namely, inclusion and exclusion errors, leakages, corruption and also due to many socio-political reasons.

The present discussion at this moment requires thorough examination of PDS in India. PDS<sup>7</sup> is one of the mechanisms to provide food at subsidised rates to the intended beneficiaries through the network of Fair Price Shops on the basis of a type of ration card.<sup>8</sup> (FPSs). The following table shows the expenditure of the government on food subsidy during different years.

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<sup>7</sup>It can also be inferred that it is one of the social safety net programs for poverty alleviation and social welfare through the mechanisms of price stabilisation.

<sup>8</sup>Ration card is a document wherein the classification of households has been made whether the specific household belongs to a APL, BPL or Antyodaya category.

**Table:1 Expenditure on Food Subsidy during the period 2009-10 to 2019-20 (Rs. Crore)**

Year	Food Subsidy	% increase over previous Year	% of Union budget
2009-10	58,443	34%	5.7%
2010-11	63,844	9%	5.3%
2011-12	72,822	14%	5.6%
2012-13	85,000	17%	6.0%
2013-14	92,000	8%	5.9%
2014-15	1,17,671	28%	7.1%
2015-16	1,39,419	18%	7.8%
2016-17	1,10,173	-21%	5.6%
2017-18	1,00,282	-9%	4.7%
2018-19	1,71,298	71%	7.0%
2019-20	1,84,220	8%	6.6%

Source:<https://www.prsindia.org/parliamenttrack/budgets/demand-grants-analysis-food-and-public-distribution>

As per the Economic Survey 2019, the government in its interim budget presented in February said that it has spent 1,84,220 Cr for food subsidy bill in 2019-20 as against 1,71,298 Cr last year. In India, there are 5.33 lakh FPSs and over 23 crore ration card holders as on March, 2019 ([www.financialexpress.com/budget/economic-survey-2019](http://www.financialexpress.com/budget/economic-survey-2019)).

### **(c) Realisation of Socio-Economic Rights: The Civil Society Perspective**

Efforts have been made at the level of Right to Food Campaign (RTFC) which constitutes the network of sixteen national

organisations, including women organisations, farmers rights organisations, trade unions, law networks, and human rights organisations, played praise-worthy role in the realisation of right to food as an legal entitlement in the form of National Food Security Act, 2013 (Krishnan and Subramaniam 2014). The three key demands raised by RTFC were the universalisation of PDS, making women as the head of household and to provide maternity benefits to pregnant and lactating women.

Through the network of social activists, the RTFC has brought the issue of right to food under the domain of Indian courts, mainstream media and public arena (Hertel 2016). RTFC has brought into forefront the issue of food as a matter of rights not charity to the individuals and established it as a legal obligation on state. The said campaign has addressed the root cause for hunger in India and drawn the attention of the government for policy formation in this concern. Mander (2012) in this context argued attuned to the wider struggles among groups in Indian civil society over how best to address the country's long standing social and economic inequalities, the campaigns leadership has opted for a pragmatic approach to advancing social change by focusing on one of India's greatest sources of shame: its remarkably high rates of childhood malnutrition and overall undernutrition which prevail in the face of seemingly intractable inefficiencies in public distribution of food and widespread public apathy around hunger.

Therefore, it can be argued that on account of the efforts of PUCL, the intervention of Supreme Court and the role played by RTFC especially to protect the rights of marginalised sections of society, the goals enshrined into the Constitution of India and the kind of commitments done by the members of Constituent Assembly obliged the government to take concrete steps in this direction. The passage of NFSA, 2013 is one of the commendable steps initiated by the government of India in this direction.

Before looking into the further discussions on the final legislation in the context of NFSA ,2013 for the realisation of right to food as an legal entitlement it is of utmost significance to understand and shed light on the PDS system since its beginning.

## II

### **Public Distribution System in India: An Analysis**

This section is an attempt to highlight the nature of food policy from two perspectives such as Pre-Reform Phase i.e before 1991 and During the Reform Phase i.e after 1991

#### **(a) Pre-Reform Phase-Before 1991: Origin of PDS and its Universalization**

Historically, the rationing system in India was a war-time programme intended to support only those segments of population who were helpful for the colonial government in their war efforts (Sriraman 2018). Secondly , shortage of food grains due to drought and less imports of food grains from other countries were the prominent factors to keep the rationing system limited only to those individuals who helped the colonial government in their developmental activities. Later on, the Britishers invented many other methods to bring the larger segments of population under the ambit of rationing system, though the aim was to limit the supply of food grains with cautious manners. After independence, the rationing system in India visualised many developmental phases and finally in the 1970s and 80's the scope of food policy has broadened considerably because of the inclusion of rural areas into its ambit. At the end of the 1980s, approximately 75% of ration shops were located in rural areas. More than 70% of PDS rice and more than 55% of PDS wheat was sold in rural areas (Mooij,1998).

It can be said in nutshell that the ‘social construction’ of food policy was started from 1965 to 1990’s onwards with the establishment of many FPSs that too in rural areas and due to launching of many state based food schemes viz.: the Green Card scheme in Karnataka to provide the access of food grains to the landless agricultural and rural labourers and small and marginal farmers. Moreover, the changing position of food policy wherein the issue of food has got a political momentum and the linking of many food schemes especially in Southern India with leading political personalities. Thus, the issue of food has become an important agenda for the political parties and leaders to claim their legitimacy on state power. The basic difference during this phase could be visualised in terms of ‘universalisation of food policy’ as in the beginning it was narrowly targeted.

#### **(b) During Reform Phase-After 1991**

The major shift in food policy came ‘during-reform phase, i.e. after 1991’. The increasing level of subsidies during the pre-reform period due to heavy expenditure on subsidies was the issue of greatest concern among the policy makers. The size of subsidy which represented 0.04% of GDP in 1970-71, increased to 0.5% in 1990-91 (Masiero 2014).

To curtail the level of subsidies and to give the access of subsidised food grains specifically to the targeted population under its ‘structural adjustments policies<sup>9</sup>’ the government initiated the policy of ‘Revamped PDS’ (RPDS) in 1992 and ‘Targeted PDS’ (TPDS) in 1997. The main objective of RPDS is to provide the access of food grains only to the population residing in geographically inaccessible

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<sup>9</sup>The main objective of these policies was to cut the level of subsidies through the provision of food grains only to the targeted beneficiaries.

areas (tribal, remote, hilly and arid). The TPDS households were classified into two categories namely: Above Poverty Line (APL) and Below Poverty Line (BPL). Its aim was to provide the access of subsidised food grains mainly to the BPL households (Dreze and Sen 2013) on the basis of economic status<sup>10</sup> whereas efforts were made to eliminate the APL households from this benefit (Khera 2011).

The main focus of the novel policy of TPDS was to contain the mounting fiscal burden through cuts in the level of subsidies and to accelerate the efficiency of PDS through making it accessible to the beneficiaries households. The year 2000 witnessed another milestone in the history of food distribution system wherein another classification: Antyodaya Anna Yojana (AAY, poorest of the poor) came into forefront to give the highly subsidised food grains for the people with abject poverty (Bhattacharya, Falco & Puri 2017).

However, the provision to provide subsidised food grains only to the poor in India was largely criticised on the ground of inclusion and exclusion errors, leakages (as per 2011 data 46.7% leakages), corruption and diversion of subsidised food grains in open market. Exclusion errors refer to the percentage of poor households that are entitled to but do not have PDS cards. Inclusion errors occur when ineligible households are getting undue benefits. The following table highlights the said trend.

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<sup>10</sup>The census conducted in 1992, 1997 and 2002 to identify the households below the poverty line explored the criteria based on economic status of the households. This said criterion was criticized on the foundation to exclude actual beneficiaries and include fake beneficiaries into the list of BPL households. In this context it is important to highlight that the planning commission is the agency to identify the poor households in India with the association of the Ministry of Rural Development. Few critics suggested the other criterions to identify the poor on the basis of certain other parameters while describing the earlier census as faulty one. Harsh Mander and Suresh Mehrota. "How to Identify the Poor: A Proposal". *Economic & Political Weekly* 44, no.19, (2009): 37-44.

**Table: 2 Exclusion and Inclusion Errors (in Percentage)**

<b>Year</b>	<b>Exclusion Errors</b>	<b>Inclusion Errors</b>
2004-05	55%	29%
2011-12	41%	37%

Source: [www.prsindia.org/parliamenttrack/budgets/demand-grants-analysis-food-and-public-distribution](http://www.prsindia.org/parliamenttrack/budgets/demand-grants-analysis-food-and-public-distribution). Accessed September 12, 2020.

Despite these flaws in PDS policy, the identification of targeted populations further adds to the fiscal burden because of heavy administrative expenditure on the process of identification. Finally, the year 2001 again witnessed the release of subsidies for the APL households also. With the intervention of the Supreme Court in 2001, mainly in the context of PUCL's case, the right to food has taken the shape of legal right. Primarily through the judgement of the Supreme Court, the right to food has been declared as an inseparable part of 'right to life' under Article-21 of the Constitution of India.

### **National Food Security Act, 2013 : Fulfilment of Three As**

In 2013, the passage of NFSA, 2013 was a commendable step in the direction to provide three As and to recognise right to food as legal entitlement. This legislation tried to accommodate all the demands raised by RTFC. The NFSA, 2013 constitutes the entitlements for three core programs:(1) TPDS (This program is meant for poor households (2) Mid-day meal program (a feeding program for school going children from 6-14 years of age) and (3) Integrated Child Development Services (a nutrition related program for the pregnant and lactating women and for children aged 6 months to 6 years). Though the nature of the said legislation was not universal but 'inclusive' wherein efforts were made to cover 75% of rural

population and 50% of urban population. Under this act the beneficiary population was categorised into two groups: (1) Priority and (2) Antyodaya (AAY). The following table illustrates the central issue Prices (CIP) for various categories as per the NFSA, 2013.

**Table: 3 Central Issue Price (Rs. / Kg)**

<b>Commodity</b>	<b>AAY</b>	<b>BPL</b>	<b>APL</b>
Rice	3.00	5.65	7.95
Wheat	2.00	4.15	6.10

Source: [www.prsindia.org/parliamenttrack/budgets/demand-grants-analysis-food-and-public-distribution](http://www.prsindia.org/parliamenttrack/budgets/demand-grants-analysis-food-and-public-distribution)

Antyodaya households are entitled to get 35 Kg food grains at the cost of Rs.3 for one kg rice. Similarly, wheat is provided at Rs. 2 for per one kg and coarse grains at Rs.1 kg. Priority households are entitled to have 5 kg food grains per person in every month at the rate of Rs.1-3 per kg (Kishore and Chakrabarti 2015). The following table illustrates the coverage of population in percentage through the NFSA, 2013.

**Table 4: Percentage Coverage Based on 2011-12 NSSO Data**

State/UT	Rural	Urban
Andhra Pradesh	60.96	41.14
Arunachal Pradesh	66.31	51.55
Assam	84.17	60.35
Bihar	85.12	74.53
Chhattisgarh	84.25	59.98
NCT of Delhi	37.69	43.59
Goa	42.24	33.02
Gujarat	74.64	48.25
Haryana	54.61	41.05
Himachal Pradesh	56.23	30.99
Jammu and Kashmir	63.55	47.10
Jharkhand	86.48	60.20
Karnataka	76.04	49.36
Kerala	52.63	39.50
Madhya Pradesh	80.10	62.61
Maharashtra	76.32	45.34
Manipur	88.56	85.75
Meghalaya	77.79	50.87
Mizoram	81.88	48.60
Nagaland	79.83	61.98
Odisha	82.17	55.77
Punjab	54.79	44.83
Rajasthan	69.09	53.00
Sikkim	75.74	40.36
Tamil Nadu	62.55	37.79
Telangana	60.96	41.14
Tripura	74.75	49.54
Uttar Pradesh	79.56	64.43
Uttarakhand	65.26	52.05
West Bengal	74.47	47.55
A & N Island	29.94	1.70
Chandigarh	38.54	47.26
Dadra & Nagar Haveli	84.19	51.54
Daman & Diu	26.66	56.47
Lakshadweep	35.30	33.56
Puducherry	59.68	46.94
<b>ALL INDIA</b>	<b>75.00</b>	<b>50.00</b>

Source: Government of India, Department of Food and Public Distribution

Viewing the numerous stumbling blocks in the way of the right to food and its accessibility through the mechanism of PDS in India, it creates an emergency situation to control them. Therefore, Aadhaar, a flagship program invented by Unique Identification Authority of India (UIDAI) is a commendable step in the direction to control various drawbacks in the PDS.

### **III**

#### **Aadhaar: A Tool for Effective, Transparent & Better Governance**

To provide the effective, transparent and accessible PDS in India, Aadhaar is one of the technological mechanisms based on individuals identification on 12 digit numbers under the supervision of Unique Identification Authority of India (UIDAI). By 2015, 600 million Indians will be issued a Unique Identification Number (UID), a number linked to a resident's fingerprints, iris scan and facial photograph (Guha 2010). The main objective of Aadhaar is to give the social benefits to the intended beneficiaries in a more transparent way and to eliminate the fake and bogus beneficiaries from the roll of government sponsored schemes (Noy 2012). The Aadhaar has two significant reasons: One, it is a tool for better governance and the life-long validity of unique identity number. Through the UID number printed on ration cards, the intended beneficiaries can attain their quota of ration anywhere in the country. Earlier, the prospective beneficiaries had to show his or her ration card based on his residential address within the administrative jurisdiction to access his quota of ration. The invention of the 12 digit number has rolled back the identity of individuals based on residential address. Therefore, the UID authorities believe that the real reform of the PDS should free the

family ration card<sup>11</sup> from the constructing norm of a fixed residential address (Sriraman 2011).

Before 2009, there were a lot of problems on the way to accessing welfare and social services effectively by the poor section of Indian population. Chaudhary and Somanathan (2011) while arguing in favor of Aadhaar based bio-metric methods cited that Rs.20,000 crores were spent on grain subsidy in India in 2004-05 only about 2000 crore, or 10% benefits reached the poor. Another 19% went to the non-poor, 43% was diverted and 28% was excess cost due to the inefficiency of the government management of procurement, storage, transport and distribution. That is fully 71% of the government expenditure on the grain subsidy was either stolen or lost due to the waste. Thus, the animating principle behind Aadhaar is to deliver the social and welfare services effectively. Moreover, Aadhaar is an identity infrastructure over which the foundation of many welfare services can be built. While speaking in favor of linking ration cards with Aadhaar numbers for the sake of giving benefits to the intended beneficiaries, Union Minister of Food and Public Distribution, Ram Vilas Paswan argued that through the help of Aadhaar we had eliminated about 15 crores bogus beneficiaries out of the total 81 crore. So far, 89 percent ration cards have been linked with Aadhaar.<sup>12</sup> The supporters of Aadhaar urged that Aadhaar has empowered the people not the state in the context of making the life

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<sup>11</sup>During the colonial period rationing cards was an evolving and fluid entity, constantly acquiring and shifting shape instead of being fully formed at any given time.

<sup>12</sup>Union minister of consumer affairs Food and Public Distribution Ram Vilas Paswan has given an interview to “The Indian Express”, 29th October, 2019 titled “We are making PDS more poor friendly and efficient, while rolling back cash transfers”..

of people more convenient and hassle free (Kelkar et al 2014). The role of Aadhaar is also laudable because it has given the 'identity' to most vulnerable sections of Indian society like migrants, tribals and women through its nature of 'inclusiveness'.

In contrast, the critics of Aadhaar argue that Aadhaar is dangerous to the 'fundamental right to privacy'. The infrastructure of Aadhaar is also criticised on the ground that it is a tool of denial and exclusion (Ramanathan 2010). In this context, the death of Jharkhand girl was in limelight who was denied ration on the ground that her ration card was not linked to Aadhaar which caused her death (Muralidharan et al 2020). Sriraman (2018) argues that Aadhaar has made it extremely difficult for the beneficiaries to cope with a welfare ecology without possessing the number identifier and without complying with all the infrastructural requirements of cross-walked databases. The other apprehension raised with Aadhaar is clause 3(1) of UID bill which states that every resident shall be entitled to obtain a UID number but nowhere in the bill is the clause that no agency may refuse services to a person because they do not have such a number, which reflects the compulsion of Aadhaar number.

However, while upholding the constitutional validity of Aadhaar, the Supreme Court of India has given the justification that Aadhaar Act does not create a 'surveillance state' rather it is a milestone step which meets the concept of good-governance, limited government and constitutional trust. For the limited use of data and personal information of individuals, the Supreme Court of India has put restrictions on the usage of databases beyond a certain period of time. Moreover, the Supreme Court verdict in the context of 'alternative methods of identity'<sup>13</sup> paved the way wherein it has clearly been stated that the denial of benefits of subsidies and services cannot be

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<sup>13</sup>Alternative methods of Identity entails PAN Card, Voter ID, and Driving License.

grounded on the basis of paucity of Aadhaar number. In the Puttaswamy judgement case, the Supreme Court of India reiterated that Aadhaar only deepened the dignity of the individuals in providing them a painless service of quick and unique authentication. In the same judgement, the Court in its verdict conferred equal significance to the political rights of the poor as well as to the socio-economic and civil rights. (Sriraman 2018).

Therefore, it is argued that Aadhaar is one of the significant inventions of the government of India to make the governance more 'inclusive' to provide the access of social welfare schemes in a more transparent way. Moreover, to provide better governance and to fulfil the interests of vulnerable sections of society in a more convenient way the idea of 'One Nation One Ration Card' (ONORC) is largely in debate among the policy makers in present time.

### **One Nation One Ration Card : Justification and its Implementation**

The ONORC is a flagship programme launched by the government of India with the basic objective to bestow effective and easy accessibility of food grains to the intended beneficiaries. Under this initiative if any beneficiary migrates from one place to another especially in the case of migrants who used to migrate often in search of employment then they can easily access their quota of ration anywhere in India from the nearest shop of his locality. The ONORC not only provides the monthly entitlements to migrant workers rather it will also improve their nutritional status (Negi and Bathla 2020).

The idea of ONORC has removed the boundaries of any fixed designated locality. The underlying principle behind this programme is to widen the 'choice of beneficiaries' for the need to purchase their quota of food grains from the ration shop which they like the most. The idea proved to be beneficial also to the non-migrants like tribals,

women, elderly and disabled. Santoshi Kumari's death in Jharkhand in the absence of seeding Aadhaar number with ration card which denied her access to ration was the main culmination point behind this idea.

Additionally to the system of ONORC, few scholars argue that PDS portability mechanisms (Khera 2019) could be the most viable options to provide the access of food to the seasonal migrants. In this sense Tamil Nadu's Amma Canteen and Jharkhand's Dal Bhat Kendras are the most significant discussions among the policy makers to provide food security to the migrants. Beyond this initiative, the 'CORE-PDS'<sup>14</sup> mechanism is in great debate among the policy makers wherein the dearth of Aadhaar number the beneficiaries under this flexible system can access the ration and they are not denied for their entitlements merely by saying that the ration shop is out of stock. Till August 2020, 24 states are the part of ONORC. It is expected that by 31st March 2021, the government will make functional the ONORC programme throughout India. But due to few infrastructural barriers wherein the inability of centre to connect all the fair price shops through electronic point of sale (e-POS) machines and unwillingness of different states to implement the said scheme on the foundation of many reasons<sup>15</sup> are the major problems to implement this scheme till March, 2021.

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<sup>14</sup>Under this system a ration shop holder will get a message on the basis of digitized records that in case of limited ration in his shop whether he would like to have another delivery of ration or not.

<sup>15</sup>In few of the states the infrastructure needed for the implementation of the said program is not adequate yet. Secondly, few of the states like Chhattisgarh has already installed E-PDS mechanisms and few other states have started their own food distribution programs for the urgency to meet with the demand of foodgrains especially during this pandemic. Thus, these said reservations of the few states are the hurdles in the way to implement ONORC program at the earliest. Devesh Roy and Mamta Pradhan.. "Improving India's Public Distribution System: What Can we Learn from Covid-19?" 2020. [www.IFPRI.org](http://www.IFPRI.org).

Hence, it is argued that the major trajectories of Aadhaar and ONORC could pave the way to make the governance more inclusive, transparent and to give the effective and convenient accessibility of food grains for the quest to fulfil the right to food to the Indian citizens.

**COVID-19 and the Significance of ONORC: Road Map Ahead**

The Covid-19 pandemic was officially declared on 24th March, 2020 in India. During this time of crisis, the PDS emerged as an important policy intervention in India. To meet this unprecedented situation, the Finance Minister of India on 26th March 2020 had announced the provision of double entitlements from the current entitlements for the period of next three months under Pradhan Mantri Garib Kalyan Ann Yojana (PMGKAY). Through this Yojana, 80 crore people and roughly 2/3rd Indian population will be benefitted. The following table highlights that under the NFSA, the government distributes 43 lakh tonnes of grain every month whereas under PMGKAY 26 lakh tonnes were distributed in April and 29 Lakh tonnes in May. Thus, the amount of grain distribution under the PMGKAY was too short than NFSA.

**Table:5: Distribution of Grain through the National Food Security Act and the PM Garib Kalyan Ann Yojana in March, April and May (Upto, May 22) 2020 Lakh Tonnes.**

Commodity	March		April		May		April+ May
	NFSA	PMGKAY	NFSA	PMGKAY	NFSA	PMGKAY	
Wheat	20.4	0.0	18.7	3.8	15.1	3.3	41.0
Rice	22.9	0.4	24.8	22.3	18.5	26.1	91.7
Coarse Grain	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	43.2	0.4	43.5	26.1	33.7	29.4	132.7

Source: Raval et al, 2020.

During the pandemic, the media reported that many households in different states have not received the extra grain as promised by PMGKAY more than their NFSA entitlements. As a preventive measure, the government under the Atmanirbhar Bharat economic package made the provision to provide free 5 kg food grain and one kg to eight crore migrants who were not registered under the NFSA in the region where they initially worked for the period of two months. Later, it was extended till November, 2020. Data from the Ministry of Consumer Affairs, Food and Public Distribution has revealed that mere 33% of the eight lakh tonnes of food grain (wheat and rice) and 56% of 29,132 tonnes of gram, meant to be distributed among migrants under the Atmanirbhar Bharat package, has reached them (<https://thewire.in/rights/migrant-food-distribution-atmanirbhar-bharat>).

The various drawbacks persisted in the PMGKAY urged the policy makers and critics to debate those issues which remained unattended in the NFSA, 2013. The main focus is given on the issues of universal PDS in poor states (Dreze 2020), setting up community kitchens (Kundu 2020), inclusion of nutritious food such as pulses and edible oil. To make Universalisation of PDS, India has enough food grain stocks. According to the official Foodgrains Bulletin, the “central pool stock” (including rice equivalent of unmilled paddy) was as large as 80 million tonnes on April 30, 2020, when wheat procurement was still in full swing (Dreze 2020).

However, the COVID-19 pandemic taught us many lessons to improve the existing PDS system taking into consideration the interests of migrants and vulnerable sections of society who were deprived from right to food during the pandemic due to the lack of ration cards. Fortunately, many Indian states have started their own programs to distribute food grains among the migrant laborers in free of cost.

The current pandemic highlighted many problems in the delivery mechanisms and urged for the need to strengthen the ONORC system at the earliest keeping in mind the food entitlements of individuals. ONODRC (One Nation One Divisible Ration Card) is the policy measure suggested for the need to provide food grains to the individual migrant stranded in different parts of the country during this time of crisis<sup>16</sup> (Roy & Pradhan 2020). In a way, the proposal of ONORC is a right step in the direction to bring migrant labourers under the domain of PDS and to fulfil the states obligation to provide right to food to each and every citizen of India.

### **Conclusion**

For the fulfilment of human rights of individuals taking of many steps and to make them the part of their legal system is the most familiar practice in the countries of the world. The Indian Constitution also makes the provision for the fulfillment of many socio-economic rights through the process of incorporating them into the list of justiciable rights. The inclusion of many welfare based socio-economic rights like the right to food, right to education and work under the domain of political and justiciable rights are the praiseworthy steps of Indian Judiciary. Moreover, to give the effective and transparent access of many welfare based social security programs through the network of Aadhaar (a single identity document) is one of the laudable steps of the government of India. Recently, the discovery of ONORC to provide the extended choice and convenience to the migrants, tribals, women, and elderly is the most viable option. Covid-19 pandemic seriously posed the way for the implementation of ONORC at the earliest. Such a policy initiative is the need of the hour specifically in context of migrants for the fulfillment of their legally justiciable right to food because migrants are the driver of growth in the industrial and construction sector. In future, many hopes are from state governments to install the

technological mechanisms for the early implementation of ONORC programme at national level.

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