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## ABSTRACT

This paper focusses on two Indian laws that seek to guarantee socioeconomic rights: the National Rural Employment Guarantee Act (NREGA), an important example of India's recent history of legislation of social and economic rights, and the proposed National Food Security Act (NFSA), currently in Parliament. Various means of democratic politics, including a ten-year old public interest litigation (PIL) in the Supreme Court and public mobilisation through the 'Right to Food Campaign', contributed to the emergence of socioeconomic rights (in this case the right to food and work) on the agenda of mainstream politics. It attempts to shed some light on how the concerns of marginalised groups can find space in mainstream politics despite an overall political environment that is not particularly conducive. The paper analyses the parallels between the NREGA and the National Food Security Bill (NFSB) and contrasts the 'successful' enactment of the NREGA within two years with the slow movement on the NFSB tabled only in the third year of the second term. The developments around the food security law show that a favourable outcome cannot be taken for granted even though it may be perceived as a 'populist' measure.

Key words: Democratic politics, food security, employment guarantee, public distribution system

JEL codes: H75



## 1 INTRODUCTION

Since 2004, legislation related to social and economic rights has been taken up with renewed energy in India. In its first term, from 2004 to 2009, the United Progressive Alliance (UPA) government enacted the Right to Information Act 2005, the National Rural Employment Guarantee Act 2005, and the Forest Rights Act 2006; in its second term, the Right to Education Act came into force. In its 2009 election manifesto, the Congress party, which heads the UPA, promised to enact a food security law. On 22 December 2011, the UPA government tabled the National Food Security Bill (NFSB) in Parliament. Given India's slow progress on development indicators—in 2011, India ranked 134<sup>th</sup> among 187 countries on the Human Development Index—the emergence of these issues on the political map is itself a big step forward.

The promise and enactment of social and economic rights in India is of interest for several reasons. One, the impressive showing of the Indian economy has been accompanied by increasing economic inequality and the persistence of social (especially gender and caste) inequalities. Two, the overall economic and political environment is pro-business where the thrust has been on dismantling state intervention. For some observers it is surprising that such rights have been enshrined in law in such a hostile atmosphere; for others, it is precisely the hostile environment that is the main compulsion for the enactment of these laws.

Atul Kohli (2012) raises the question: 'how do the political elite manage the excluded groups in a poor, mobilized democracy?' It is the answer to this question that allows us to understand the emergence of the rights agenda in India. One strategy, he says, is 'to discover legitimacy formulas that will ensure electoral victories'. These formulae include the emergence of demagogues as leaders, caste politics, and political dynasties. The Congress' commitment to inclusive growth is another such formula (2012: 61). Kohli also highlights the role of 'politics of the excluded' (2012: 68-69)—caste politics, regional secessionist movements, violent conflict and suicides, among others. These together have allowed for socio-economic rights of the masses to keep a presence in mainstream political debates.

In the discussion on the politics of the excluded, Kohli does not discuss the role of 'non party political formations' (Kohli 2012). These, I argue, have played an important role in the case of the two laws discussed in this paper. I discuss how these groups have used 'democratic politics' to push their agenda for marginalised groups. Democratic politics here refers to the various democratic means of change that are available: electoral compulsions of party politics, public mobilisation and other strategies used by non-party political actors (often referred to as 'civil society'), including mobilising the media and

recourse to the judiciary. Democratic politics has allowed, and been used for, the struggles of marginalised groups and interests to flourish.

This paper briefly describes the trajectory of two such laws, the NREGA and the proposed NFSA. The paper traces the developments that put the right to food and work on the political agenda to understand how democratic politics contributed to the emergence of these rights on the mainstream political agenda in an overall economic environment that is not conducive to the provision of such legal rights. The choice of these two laws is motivated by the author's direct involvement—as a professional economist and campaigner—in the campaign and consultations for both laws. The paper is, thus, to some extent an insider's account of the trajectory of the campaign for these laws (MacAuslan 2006; Dreze 2011d).

This paper focusses on the key role played by the Right to Food Campaign, a non-party political group. Its strategic use of public mobilisation, the judiciary, and the media created a political compulsion to deliver on the promise of the NREGA. Whether a similar strategy will be successful in the enactment of the NFSA remains to be seen. If only by the time Parliament took to pass the law, we could label the campaign for the right to work a 'success' vis-à-vis the campaign for the right to food—the NREGA was passed in the second year of the UPA's first term whereas the NFSB is still in Parliament in the third year of the UPA's second term. The parallels and contrasts in the two campaigns are discussed in some detail.

## **1.1 The NREGA and NFSB**

The broad contours of the NREGA were determined by the Maharashtra Employment Guarantee Scheme (EGS), which was enacted by the Maharashtra state government in the 1970s. The EGS, however, guarantees individual rights and the guarantee for work is for 365 days of the year. The NREGA, enacted in 2005, guarantees 100 days of work per year per household whose adult members are willing to work at the statutory minimum wage. Although the NREGA guarantees less than the EGS, it is an ambitious programme: it is an opportunity to provide social security, create assets in rural areas, enhance women's economic independence, and revitalise institutions of local government (Panchayati Raj Institutions), among others

Using official data, Table 1 presents summary statistics on the performance of the NREGA for the first year of its implementation (2006–7) and the fifth year (2010–11). The scale of employment generation has been massive: 900 million person-days in the first year and 2570 million person-days in 2010–11, equivalent to 12 days of employment per rural household on average. Women formed nearly half (46 per cent) of the NREGA labour force

in 2010–11; a large share of total employment went to disadvantaged groups such as Dalits and Adivasis (Table 1). The government allocated approximately 0.5 per cent of GDP to the NREGA in 2010–11; over 60 per cent of this was spent on wages.

**Table 1** NREGA at a glance

	<b>2006-7</b>	<b>2010-11</b>
Person days of employment generated:		
Total (million)	900	2570
Per rural household <sup>a</sup>	17 days	12 days
Share of marginalised groups in total NREGA employment		
Women	40 %	46%
Scheduled Tribes (ST)	36 %	40%
Scheduled Castes (SC)	26 %	
Expenditure on NREGA		
Total expenditure (Rs. crores)	8,813	Rs. 37,100
Average wage cost per person-day <sup>b</sup>	Rs. 65	Rs. 86
Share of wages in total expenditure <sup>b</sup>	<b>66%</b>	<b>63%</b>

Source: Author's calculations using official data from [www.nrega.nic.in](http://www.nrega.nic.in).

In the case of the NFSA there is no precedent such as the EGS, so the contours of the Act have been widely debated. On the one hand (the Congress manifesto, for example), the provision of cheap grain alone would be adequate. On the other hand, activists believe the NFSA should ensure freedom from hunger, malnutrition, and other deprivations associated with the lack of food. This requires not only nutritious food (including a balanced intake of calories, protein, fats and essential micronutrients) but also attention to child care, clean water, hygiene, basic health care, and so on. Moreover, even with a narrow focus on food alone, an NFSA would have to link with a wide range of issues, such as access to land, water, and forests, which play an important role in people's livelihoods.

The government's draft bill is based on a framework broadly endorsed by activist groups, especially those associated with the Right to Food Campaign. The Campaign's vision in turn is influenced by the trajectory and scope of the right to food case (as discussed later).<sup>1</sup> There are three major positive aspects of the government's bill.

<sup>1</sup> Note, however, that there are different views on certain aspects even within the campaign. This lack of unanimity is discussed below. Drèze, an economist associated with the campaign, presents a compelling case for such a law, and a lucid enunciation of what the right to food would mean in terms of entitlements and how these can be given form. See Drèze 2004a.

One, initial versions of the bill adopted a (half-hearted) life cycle approach to food security. For instance, the needs of infants (a focus on breastfeeding and maternal health) are different from the needs of vulnerable groups such as the aged, disabled, and widows. They will require pensions and access to the public distribution system (PDS), a programme that provides subsidised grain). Community kitchens will be required to complement other interventions for the urban destitute.<sup>2</sup>

Two, certain entitlements will be universal (hot cooked meals provided through the Mid Day Meal Scheme (MDMS) and Integrated Child Development Services Scheme (ICDS), but not others (e.g, the PDS).

Three, the bill combines in-kind transfers (school meals and subsidised grain) with cash transfers (maternity entitlements of Rs 1,000 per month for six months for pregnant and lactating women).

Major gaps remain, though. Social security pensions supported by activists have been dropped by the government on fiscal grounds. An elaborate and creative framework for grievance redressal suggested by the National Advisory Council (NAC) has also been ignored by the government.<sup>3</sup>

The PDS has tended to be equated with the entire bill in the public debates on the NFSB for several reasons (including cost). Two issues have become particularly contentious—its desirability and framework.

The first issue is desirability. The PDS is widely regarded as corrupt and for some, it is irreversibly so. They propose replacing it with cash transfers (Subramaniam et al. 2011). However, recent data suggest large state-wise variations in PDS performance. In Tamil Nadu, for instance, the leakage in 2009–10 was only 4 per cent. More importantly, the PDS is now showing signs of revival in many states where it was indeed ‘dysfunctional’. According to NSS data, PDS leakage in Chhattisgarh dropped from 50 per cent in 2004–5 to 10 per cent in 2009–10; from 75 per cent in Orissa to 33 per cent; and from 54 per cent at the all India level to 41 per cent.<sup>4</sup>

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<sup>2</sup> Later versions of the Bill dropped social security pensions and community kitchens entirely.

<sup>3</sup> A summary and critique of the government’s draft Bill is available at [www.righttofoodindia.org](http://www.righttofoodindia.org).

<sup>4</sup> Evidence of revival of the PDS is also presented in Drèze & Khera 12 August 2011. Drèze & Khera 5 September, 2012 calculate the impact of the implicit transfers made through the PDS on the poverty gap.

The second contentious issue is the framework for the PDS: the bill, as tabled in Parliament, proposes a ‘targeted’ framework for the PDS whereby only those households that are classified as ‘priority’ or ‘general’ will be entitled to PDS grain (Table 2).

**Table 2** Framework for the PDS in the NFSB

	Coverage		Entitlements	
	Rural	Urban	Quantity	Price
Excluded	25	50	None	Not applicable
General	29	22	3 kg/capita/month	Half of MSP
Priority	46	28	7 kg/capita/month	Rs. 3/2/1 per kg

*Notes:* Entitlements of the third category (general households) are conditional upon initiation of ‘PDS reforms’ (3 kg/capita at half of the minimum support price).

The misclassification of households for this purpose is well documented.<sup>5</sup> According to NSS data for 2004–5, half the poorest households (the bottom quintile of the monthly per capita expenditure distribution) did not have a BPL card (Drèze & Khera 2010). There are conceptual problems in this process (what criteria are used to identify poor households) and implementation errors (surveyors may not visit each household or households may misreport their information). Further, since people move in and out of poverty, drawing up reliable BPL lists will always be problematic even if one is able to identify perfect indicators of poverty and implement the survey honestly.

Priority households (46 per cent in rural areas and 28 per cent in urban areas) are assured of substantial PDS entitlements under the current version of the bill. But this is similar to current PDS entitlements (in terms of proportion of households covered, quantity, and prices). For example, according to NSS data, 43 per cent of rural households and 28 per cent of urban households were buying PDS grain in 2009–10. The bill may force states such as Tamil Nadu, Andhra Pradesh, and Himachal Pradesh to cut current coverage or entitlements of some households.

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<sup>5</sup> See, for instance, Drèze 2011a. Section 15(1) of the current version of the bill says only that the Central government ‘may prescribe the guidelines for identification’. The bill does not say how these categories should be identified (see Drèze 2011b).

## 2 EMPLOYMENT GUARANTEE AND FOOD SECURITY

This section provides a chronological account of the campaigns for the right to food and work. It describes how democratic politics put the issue of the right to food and work on the political radar. The journey of these laws began on the streets in 2001 and found its way into the Supreme Court before journeying back to the streets. With media help, the court case and street campaign began to gain prominence in public discourse. The association of several prominent public figures with the street campaign helped garner media support. Greater public attention combined with larger political developments led to the inclusion of these issues in the election manifesto of the Congress, which was looking for ideas that would resonate with the ‘common man’. Once these issues (right to food and work) were incorporated in the election manifesto, they acquired a life of their own.

### 2.1 From the Streets to the Courts and Back

The Supreme Court has issued a series of orders pertaining to nutrition-related schemes in the ‘right to food case’ (*People’s Union for Civil Liberties vs the Union of India and others, Civil Writ Petition 196/2001*).<sup>6</sup> Briefly, the right to food case began during a drought in 2001, when the rural population was enduring severe hardship despite there being 60 million tonnes of food in Government of India stocks. The petitioner sought relief for the affected population in the form of employment on public work at the minimum wage; payment was to be made partly in cash and partly in kind. The Supreme Court asked the central and state governments what they were doing to combat the hunger situation in Rajasthan and elsewhere.<sup>7</sup> The central government responded that it had nine nutrition-related schemes to deal with the situation: Integrated Child Development Services, Mid-Day Meal Scheme, PDS (subsidised grain for the poor), Annapoorna (free grain for the elderly), Antyodaya Anna Yojana (grain with extra subsidy for the poorest of the poor), National Family Benefit Scheme, National Maternity Benefit Scheme, and National Old Age Pensions Scheme. The Court began reviewing the implementation of these schemes. It

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<sup>6</sup> There is a strong case for the enactment of an NFSA from the legal perspective. Article 21 of the Constitution of India guarantees the fundamental ‘right to life’. It has been interpreted several times to include the right to food (see Drèze 2004). Further, Article 47 of the Directive Principles directs the state to ‘regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties’. The Directive Principles of the Indian Constitution are supposed to be ‘guiding’ rather than ‘enforceable’—principles to be kept in mind while framing laws and policies. India is a signatory to international treaties and covenants on these issues, including the Universal Declaration of Human Rights 1949, Article 25 and the International Covenant on Economic, Social and Cultural Rights 1966, Article 11. For more on this, see Chopra 2009.

<sup>7</sup> The petition was against the Union of India and the Government of Rajasthan, but the Supreme Court brought in other state governments because the problem was widespread—there were reports of starvation deaths in Madhya Pradesh and Orissa.

instructed the central and state governments to implement nutrition-related schemes in letter and spirit. This effectively turned the benefits under these schemes into legal entitlements. This PIL suit lays the foundation for the recognition of both rights to food and to work as legal entitlements. The case also provided the broad framework of the NFSA.<sup>8</sup>

The 2009 election promise of a food security law may be seen as a complement to the NREGA. The ruling in the right to food case is that the right to food is to be realised by protecting people's entitlements through employment programmes and in-kind food transfers through various food schemes.<sup>9</sup> There is another way in which the two are complementary. The NREGA can protect, to a limited extent, entitlements of households with able-bodied persons. But the NREGA would be meaningless for several types of individual: the elderly, the disabled, pregnant and lactating women, and so on. It is important to protect the food entitlements of the households of such persons directly by giving them access to appropriate food schemes.

Another effect of the interim orders has been to galvanise public opinion and action in support for nutrition-related schemes. The case of the MDMS, initiated in 1995, is illustrative.<sup>10</sup> Most states were providing only monthly 'dry rations' (2 kg of grain each month to take home) until the Court intervened. On 28 November 2002, the Supreme Court ordered that cooked meals be provided to children. Activists and the media were then able to use MDMS-related orders to press state governments into action.<sup>11</sup> As the result of this combination of legal intervention and public action, 140 million schoolgoing children enjoy a cooked meal each school day as a matter of routine. The impressive improvement in the coverage and implementation extends to the ICDS—anganwadis, the centres through which ICDS services are delivered, have started coming to life in states such as Chhattisgarh, Orissa, and Rajasthan after the ICDS orders were issued.

## **2.2 From the Streets to Electoral Politics**

Public employment programmes in India pre-date independence. Even after independence, the government resorted to 'relief work' during droughts to protect rural livelihoods. In the

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<sup>8</sup> For more details on the court case, see Khera 2009, 2012.

<sup>9</sup> Sampoorna Grameen Rozgar Yojana (SGRY), a public employment programme, was also in the initial list, but this programme was phased out after the NREGA came into force.

<sup>10</sup> See [www.righttofoodindia.org](http://www.righttofoodindia.org) for all interim orders issued in this case. See also Secretariat of the Right to Food Campaign 2008.

<sup>11</sup> For more on the developments after the Court's intervention, see Drèze & Goyal 2003 and Khera 2006. On the improvements in the ICDS, see Citizen's Initiative for the Rights of Children Under Six 2006 and Working Group for Children Under Six 2007.

drought of the 1970s, the Government of Maharashtra enacted the EGS, which guaranteed individuals work throughout the year.<sup>12</sup> Since then, there have been campaigns for state acts; the drought of the early 2000s in several states led to the right to food case described above. Khera (2006) describes the campaign for scaling up the relief works in the state of Rajasthan in the 2000–2003 period. This state campaign for the right to work preceded and sowed the seeds of the national campaign. The Government of Rajasthan rejected the demand for the state employment guarantee act on fiscal grounds but referred it to the Centre. The Congress had just lost two important state elections (Rajasthan and Chhattisgarh) and had no hope of winning the national election; they agreed to put this demand on its national manifesto.<sup>13</sup>

The Indian National Congress pledges to enact a right to food law that guarantees access to sufficient food for all people, particularly the most vulnerable sections of society. The Indian National Congress pledges that every family living below the poverty line either in rural or urban areas will be entitled, by law, to 25 kg of rice or wheat per month at Rs 3 per kg. Subsidised community kitchens will be set up in all cities for homeless people and migrants with the support of the Central government. (Congress Election Manifesto 2009).

Some activists with the Right to Food Campaign believe that the biggest hurdle to the food security law is its journey to the election manifesto and that, once there, the law will acquire a momentum of its own. Even within an overall environment with poor accountability, the strategic use of democratic spaces can compel political parties to deliver on their electoral promises. Some of these mechanisms are described below.

### **2.3 Realising Electoral Promises**

Members of the NAC drafted the NREGA and NFSB and submitted it to the government. In both cases, the NAC started with a draft prepared by the campaign for the right to food and work. In fact, several members of the right to work and right to food campaigns were members of the NAC. The government made some changes to both bills before tabling those in Parliament. In the case of the NREGA, the government version was a mangled version of the NAC draft (Dreze 2004b). Hectic lobbying of political parties and the media and public mobilisation was required to resurrect it to the NAC version. In the case of the

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<sup>12</sup> Interestingly, in the campaign for the EGS in Maharashtra, non-party political groups played a crucial role. See Joseph 2006.

<sup>13</sup> This aspect has been analysed in detail in Drèze 2011; MacAuslan 2006; Chopra 2011; and Lakin & Ravishankar 2006.

NFSB, the government presented the NAC's draft without significantly altering the framework. However, significant efforts at lobbying and mobilisation were required while the bill was with the NAC. This stage of the process analysed in greater detail below, and especially in contrast with the NREGA.

### **3 NREGA AND NFSB: PARALLELS AND CONTRASTS**

This section focusses on the party and non-party political processes that led to the passage of the NREGA and to the emergence of a bill on food security. Several useful parallels and contrasts can be drawn between the passage of the NREGA and the proposed NFSB which is currently being discussed. Based on the developments so far, it is not clear whether the NFSB will culminate in a law. Further, whether the food security act will endorse a principle of the universality of certain basic social and economic rights, limited as the interpretation of these rights might be, remains to be seen.

#### **3.1 Party Politics**

Following the electoral victory of the coalition headed by the Congress in 2004, the UPA government was formed. There were high expectations in terms of social policy from the UPA government. The Congress's win in the 2004 elections was attributed to its stand against the National Democratic Alliance government's 'India Shining' campaign and its projection of itself as the party of ordinary people ('aam aadmi') (Reddy 2004). This perception exerted pressure on the Congress to deliver on its manifesto promise of an employment guarantee act. Similarly, in the 2009 general election, the Congress's improved electoral performance was attributed to the enactment of the NREGA.<sup>14</sup> There was an expectation that the NFSB would play the same role as NREGA in the first term of the UPA.

In both cases, the NAC has played a key role with some important differences. The NAC is in principle an advisory body but has significant influence as it is chaired by Sonia Gandhi, head of both Congress and the coalition. Though she remains an enigmatic figure, one is able to get some insights into her thinking from a letter dated 7 May 2010. She writes:

Although the last decade has seen India move to a path of high economic growth, the greater prosperity that is evident makes the continuing high levels of deprivation even more unacceptable. I have been acutely conscious that the

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<sup>14</sup> See, for instance, Bidwai 2009; Kumbhar 2009; *The Economist* 2009.

political inclusion fostered by our democratic system is incompatible with economic exclusion. Over the last few years, therefore, in addition to pursuing more inclusive economic growth we have begun to put in place a structure of rights, entitlements and safety nets such as the right to education for all children and guaranteed work for one hundred days for the unskilled unemployed. We are exploring other avenues of protection for the very poor such as the right to food security. Despite their limitations these initiatives might be said to constitute the first formal steps in the direction of building social democracy in our country.<sup>15</sup>

This suggests that she could be labelled a 'social democrat', who is heading a party that is otherwise a party of the rich in spite of its rhetoric of being the party of the 'aam aadmi'.<sup>16</sup> The composition of the NAC and the strong support she provided at the time of the passage of the Right to Information Act (RTI) and the NREGA lend support to this reading.

The NAC comprises mainly former bureaucrats, development professionals, and economists with a shared interest in social policy. Since such a body had been formed for the first time in 2004, it was not entirely clear in its first term what the NAC would achieve, especially perhaps to the government. The NAC 1 ended up being credited with several progressive legislations, and passed two other significant acts: RTI Act 2005 and Forest Rights Act 2006. When the NAC was reconstituted in 2010 under the UPA 2 with a similar composition, expectations from NAC 2 were high because of the impressive achievements of the NAC 1.

However, since its formation, some important differences have emerged in the role and functioning of the government and the NAC.

One, the Left parties played a significant role in the UPA 1 as the government was formed with their support. In its second term, the UPA is not dependent on the Left for its survival.<sup>17</sup>

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<sup>15</sup> Invitation to Indira Gandhi Conference (20–21 November 2011) organised by the Indira Gandhi Memorial Trust.

<sup>16</sup> One illustration of this, invoked repeatedly in recent public debates, is that the 'tax revenue foregone' in the 2012 budget was nearly five times the projected cost of the NFSA. The tax revenue foregone is, essentially, the tax relief to industry of various kinds. The divergence between rhetoric and reality is similarly reflected in the sympathetic attitude of the Minister for Women and Child Development in the UPA 1 to the proposal of replacing locally prepared hot cooked meals in the ICDS with 'ready-to-eat foods' to be supplied by manufacturer.

<sup>17</sup> The attitude of the Left parties towards the NREGA is quite perplexing—on the one hand, they claim that it was enacted because of their presence in the UPA 1 but, on the other, the NREGA performed poorly in West Bengal, where the Left Front was in power until 2011.

Two, the agenda of the NAC 1 was clearly set by the Common Minimum Programme (CMP) of the first UPA government. In the UPA, there was no such definitive agenda, though the NFSA, like NREGA in the previous term, was the first item on the agenda as listed in the minutes of the first meeting of the NAC 2.<sup>18</sup> In a comparative sense, therefore, the work of the NAC lacks the focus seen in the initial years of the NAC 1.

Three, the government did better in the NAC 2 at ensuring that its views were well-represented than in the NAC 1, perhaps because it was better prepared.<sup>19</sup> The NAC 1 included a senior Congress leader who enjoyed the confidence of chairperson Sonia Gandhi. Not only is such a person absent from the NAC 2, the secretariat (comprising senior Indian Administrative Service (IAS) officers) has been given a more active role.<sup>20</sup>

Government control has manifested itself in other ways too: the NAC 1 seems to have had more autonomy than the NAC 2 does; NAC members had much more say in the discussions over the NREGA than has been witnessed so far in the NFSB; and there was much more interaction with various government ministries and departments while the draft NFSB was being discussed within the NAC.<sup>21</sup> This included the Prime Minister's intervention in October 2010 when the NAC proposal was sent to the Prime Minister's Economic Council, headed by C Rangarajan. The NAC seemed to be laying out a vision—and a road map for realising that vision—in the UPA 1; that scope was much reduced in the UPA 2. Thus, the NAC 1 and NAC 2 differ in their functioning in important ways and, to some extent, the success of the NAC 1 has been the undoing of the NAC 2.

### **3.2 The Role of 'Non-Party' Politics**

The previous section highlights how party politics paved the way for the passage of the NREGA and provided an opening for an NFSA. An equally important development is the creation of a space (small as it might be) in party politics for poor people's issues. In this, 'non-party' politics has played a significant role. I use the term 'non-party political forces'

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<sup>18</sup> See, for instance, the minutes of the first meeting of the NAC 2 ([bit.ly/10Jg7Pj](http://bit.ly/10Jg7Pj)). Some of the areas of focus are highlighted in the minutes.

<sup>19</sup> This strategy of 'controlling' the NAC seems to have been more successful in the NAC 2 than in the NAC 1 (more on this below).

<sup>20</sup> The minutes of the first meeting of the NAC explicitly set out the Secretariat's role: 'The Secretariat of the Council will facilitate wider consultations involving the NAC members, experts from outside, expert institutions and Ministries of Government of India on the issues taken up for consideration by the NAC.'

<sup>21</sup> Although this could have made for better procedures in principle, many consultations in practice were chaotic and superficial ('experts' were selected arbitrarily; successive deliberations rarely had the same persons). The lack of continuity had obvious implications on the drafting of the Bill.

for NGOs, social movements, people's campaigns, etc., which are often collectively referred to as 'civil society'. This short section uses the examples of the NREGA and the NFSB to focus on how these forces contributed to the creation of this space for issues of the disadvantaged in party politics.

Jean Drèze and Amartya Sen discuss two complementary forms of action in bringing social change: 'self-assertion' and 'solidarity' (Dreze & Sen 2002). It is worth mentioning that the role of solidarity tends to be more prominent than self-assertion in the larger struggle for social change in India. Non-party political forces in India have continued to remain elitist in the sense that a handful of non-party actors wield influence in policy making. Individuals and groups that were important in the passage of the NREGA and RTI are also campaigning for the NFSB. This small group (often from an urban and privileged background) has, nevertheless, managed to achieve quite a lot through very strategic use of all democratic spaces available to them—pressure on party politics, public mobilisation, use of the media, and through the court.

Important non-party political players for the NREGA are the Right to Food Campaign and a campaign for people's RTI. Different sections of the campaign have played a leading role in the enactment of the NREGA and in the discussion of the NFSB.

As discussed earlier, the right to food case and interim orders by the Supreme Court have influenced the course of the discussions on the bill. Interestingly, both the NREGA and the NFSB have their roots in the drought of Rajasthan in 2000–2002 which led to the right to food case and the campaign for RTI. The Right to Food Campaign was successful in putting the issue of the right to work and food on the political agenda. The campaign also successfully used the NAC to push its demands further up on the political agenda. While questioning the 'legitimacy' of the NAC as an advisory body, non-party political groups welcomed its creation as a new space for such groups to be heard.

Another similarity is the role of the media in the public debate: the financial media has given disproportionate attention to problems, especially corruption—public works programmes in the case of NREGA and the PDS in the case of NFSB—and alleged that the acts would impose an unbearable fiscal burden on the economy.<sup>22</sup> On the other hand, influential members of these people's groups used the credibility and goodwill they enjoy with mainstream media to 'push back' the attack on the progressive agenda of the NAC.<sup>23</sup>

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<sup>22</sup> For the scare-mongering by the mainstream financial media, see Drèze 2005 (for the NREGA) and Drèze 2011a (for the NFSB).

<sup>23</sup> This was done through regular circulation of briefing material especially to columnists and for editorials, strategically timed press conferences, and a generally reasonably well-planned media strategy.

This is not to suggest that such groups were not heard at all in the absence of the NAC; on the contrary, it was due to their efforts that these promises (to work and food) were included in the election manifesto of the Congress (and other political parties) in the first place. In the case of the NREGA, the demand arose from influential grassroots organisations of Rajasthan. The NFSB has been heavily influenced by the demands of the Right to Food Campaign. For instance, the Congress's election manifesto only pledged to enact a food security law for the poor and vulnerable by providing cheap grain and subsidised kitchens (Congress Election Manifesto 2009). The success of the Right to Food Campaign has been in being able to set the terms of the debate and in widening the entitlements that will be created by the new law to include school meals, maternity entitlements, and so on.

The previous section highlighted how the NAC 2's work was 'restricted'. There have been limitations in the work of non-party political actors too in the case of the NFSB. These groups were better prepared for the NREGA than for the NFSB. For the NREGA, Maharashtra's EGS provided a robust precedent, and the campaign in Rajasthan for the enactment of an employment guarantee act provided a useful opportunity for preparatory work and building consensus among people's organisations. When an opening in the political sphere presented itself, civil society groups were well prepared.

In the NFSB, preparatory work began after the political opportunity appeared. Some might argue that the right to food case in the Supreme Court and the people's campaign that resulted from it provided 10 years for preparation. However, the judicial intervention and public mobilisation were not intended or envisioned as a stepping stone to the enactment of a law. Further, in some ways, the NFSB is a more complicated piece of legislation, making consensus-building more difficult in any case. As mentioned earlier, even defining the 'right to food' has not been easy, with some people alleging that the bill does too much and others that it does too little.

To the extent that the enactment of these laws involves a 'negotiation' between non-party political members and the government, the lack of clarity and unity among non-party actors has helped the government stick to its position in the case of the NFSB much more than in the case of the NREGA. The lack of a consensus and preparedness is most evident in the debate on whether the PDS should be universal or targeted. Some members of the NAC viewed the bill as an opportunity to end extreme starvation. Others were of the view that entitlements should be universal. This tension between the views continued to emerge in the discussions of the meetings of the NAC.<sup>24</sup>

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<sup>24</sup> In their meeting on 14 July 2010, the NAC endorsed the view of a universal PDS in the poorest one-fourth districts to be gradually expanded to other districts ([bit.ly/11TM1QB](http://bit.ly/11TM1QB)). By February 2011, the explanatory note placed on the website of the working group had shifted to the adoption of a three-way division of the population into excluded, general, and priority (discussed above).

The lack of a focussed and clear agenda in the NAC has had repercussions on the work of non-party actors as well. In the case of the NREGA and other proposed legislation that was part of the CMP, NAC members were able to pursue these objectives single-mindedly. Their energies have been more dispersed in the NAC 2. This has been a major stumbling block in achieving a consensus and presenting a united front against the government. Given the thinness of the leadership within and outside the NAC, its inability to present a consensus view on key issues at NAC meetings allowed the government to gain ground.

Progress on the NFSB has been slower and more fraught than in the NREGA. Why might this be the case? One can only speculate. In the UPA 1, perhaps the 'goodwill' of NAC members mattered more than it does in the UPA 2. Another plausible reason is that in the UPA 1, the Congress had fewer seats than its current tally. The Congress relied on the Left parties for the formation of the government, and the alliance depended on many more parties. The government needed as many friends as it could possibly get, including members of the NAC who had credibility as persons of integrity. Further, as mentioned earlier, the government was better prepared in the UPA 2 to deal with the pressures for putting in place social and economic rights.

It is partly because of these factors that while the NREGA draft was sent by the NAC 1 to the government within a month of its formation and enacted as law in the following year, the NAC's draft NFSB took nearly one year to be finalised for consideration by the government. The Parliament sent it to the Standing Committee for Food, which took 13 months to submit its report. As far as the role of the NAC in these two laws is concerned, one is drawn to conclude that the NAC's interventions facilitated the passage of the NREGA, but for the reasons discussed above, it would be hard to say the same of its intervention in the NFSB.

## **5 CONCLUSION**

This paper traces the recent history of activism and interest around the right to food and work in India. Public pressure through mobilisation and the media, and the intervention of the Supreme Court, have played a role in placing the right to food on the political agenda. The paper also discusses some of the contrasts between the passage of the NREGA and the debate on the NFSB.

The NREGA could be described as a 'successful' outcome of an initiative of non-party political groups, especially compared with the NFSB's journey so far. One contrast between

the passage of the NREGA and the NFSB is that the NREGA was passed quicker and smoothly. It is not possible to say what will happen next with the NFSB in July 2013, the fourth year of the UPA 2, what form it might take, or whether it will be passed at all. This is partly because non-party political actors were not prepared on the one hand and partly because a pro-business government was ready to resist their pressure on the other hand. Also, these factors have limited the NAC's role in the NFSB.

Concerted, continual effort is required to put the concerns of marginalised people on the agenda of mainstream politics, keep it on the agenda, and oversee the specific form the laws take; even then, that it will bear fruit cannot be taken for granted. Not one of the NAC's proposals (on communal violence, land acquisition and rehabilitation, and so on) had been enacted in the third year of the UPA 2. The support of high ranking individuals in the political establishment helps at each stage, but cannot guarantee either the enactment of these laws or the form. An important illustration of this is whether the laws create universal entitlements or for specific groups. Many recent laws have endorsed a principle of universality of certain basic rights (e.g., NREGA and Right to Education). However, universal entitlements were not automatically accepted, but achieved through considerable public pressure, in the case of the NREGA. For instance, the government's draft of the employment guarantee act had, in fact, attempted to introduce 'targeting'. Strong recommendations from the Standing Committee, itself heavily influenced by non-party political groups and a firm stand by the NAC Chairperson had helped in remedying various flaws in the government's employment guarantee bill. In the NFSB, while most entitlements are universal (e.g., school meals, maternity entitlements, etc.), in the case of PDS entitlements, the NFSB continues to rely on 'targeting' for identification of beneficiaries. A continuing campaign by the Right to Food Campaign as well as development economists may yet lead to something like a universal right. Going by the developments so far, it seems that universal entitlements are unlikely to be endorsed for the PDS.

It might be useful to place the Indian experience in the international context. Some tend to view the current emphasis on a 'blizzard of rights in India' as requiring explanation and even unique ('most countries around the world that have successfully implemented social welfare programmes have done so without such extensive or explicit use of rights').<sup>25</sup> On the contrary, the recent emphasis on basic social and economic rights (food, health and nutrition, education, work, land and so on) is welcome for reasons listed earlier. Further, it appears that India is not at all unique in focussing on rights—in many countries these rights are guaranteed by the Constitution (e.g., economic, social, and cultural rights are in the

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<sup>25</sup> As one commentator put it, 'When it comes to social policy in India, everywhere one turns these days you seem to find a right.' See Robinson 2012.

preamble of the French Constitution, and in Brazil's 1988 Constitution) and governed by a legal framework (e.g., the National Health Service Act and the Education and Skills Act in the United Kingdom). No doubt the Indian laws have limitations and face serious implementation challenges. They can, nevertheless, be seen as an important initial step towards the creation of a welfare state in India.

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