

# PUBLIC DISTRIBUTION SYSTEM AND THE RIGHT TO FOOD



**Study done for Gene Campaign  
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# CHAPTER I

## INTRODUCTION

### 1.1. Overview

The Public Distribution System was introduced during the Second World War as a system of rationing of food items to ensure food security in those times of stress.<sup>1</sup> This system was taken over by the Indian Administration after Independence and allowed to continue functioning, but had a very meagre scope. The Wars in the 1960s (against China and Pakistan) reinvigorated this system and led to its coverage being greatly extended. This kept the form of a general entitlement scheme for citizens to the Right to Food.

However, the PDS came to be widely criticized for its failure to effectively reach the poor, its urban bias, substantial leakages, poor quality of grain supplied due to deficient inventory management and relaxed specification for procurement. In addition, it was criticised for the lack of transparent and accountable delivery systems, and negligible coverage and low off-take in states with high concentration of poor due to nonavailability of stock in those states, and the inability to deliver large quantities of foodgrain due to an inefficient transportation system.<sup>2</sup> Therefore, the Central Government introduced the Targeted Public Distribution System in 1997 which was aimed to cure the defects mentioned above. This system had a two-tiered pricing system which divided entitlement holders into two categories (APL<sup>3</sup> and BPL<sup>4</sup>) based on an assessment on whether they were below the ‘poverty line’ as specified by the Government. The massive part of the subsidy burden was targeted towards those classified as Below the Poverty Line. Later on, APL card holders were also entitled to small subsidies, but never to the extent of the BPL category. In 2000, another category was created under the Antyodaya Anna Yojana (AAY) which was targeted towards the ‘poorest of the poor’ who were entitled to 25 kg (later enhanced to 35 kg) of foodgrain at Rs 2 per kg for wheat and Rs 3 per kg for rice.

The PDS system is a largely Centre-sponsored scheme with the Center funding and subsidizing a large part of the scheme, and the States responsible largely only for distribution of the foodgrain

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<sup>1</sup> Of course, the Great Bengal Famine in 1943 proved that there were critical problems with the system.

<sup>2</sup> Dina Umali-Deininger, Mona Sur and Klaus W. Deininger, “Foodgrain Subsidies in India: Are they Reaching the Poor?,” *Paper prepared for presentation at the American Agricultural Economics Association Annual Meeting, Providence, Rhode Island, July 24-27, 2005*, p. 5.

<sup>3</sup> Above the Poverty Line.

<sup>4</sup> Below the Poverty Line.

from Food Corporation of India godowns. The system is largely divided into three phases: procurement, storage and transportation, and distribution. The foodgrain under the PDS is procured by the Central Government from farmers under the central Minimum Support Price (MSP) regime that fixes minimum prices for the procurement of foodgrain from farmers which the Central government *has* to procure if a farmer offers to sell. The MSP is declared by the Center and changed regularly based on supply and production requirements, or political compulsions. The MSP being higher than market prices has led to the current massive buffer stock of the FCI, which is three times the requirement (In January 2003, actual buffer stocks stood at 48 million mt compared to the 17 million mt norm).

After procurement at MSP rates, the foodgrain is transported to FCI godowns where it is procured by State Governments at the CIP (Central Issue Price), which is substantially lower than the FCIs costs. From there, the foodgrain is distributed through a system of over 5,00,000 Fair Price Shops (FPSs). These FPSs are largely run by private contractors who receive a commission for a certain quantity of foodgrain distributed (for example, it is Rs 30/quintal of foodgrain in Delhi). In some states, such as Chhatisgarh, the FPSs are run by community institutions such as Panchayats, Cooperatives and Self-Help Groups (which seem to be much more effective, according to recent studies).<sup>5</sup>

However, the problems of the PDS continue with large scale pilferage (upto 43%, in 2007-08),<sup>6</sup> targeting errors (inclusion and exclusion errors), inefficient storage and transportation. In addition, the PDS has little variety when it comes to the foodgrain it offers, with little or no local coarse grain included in the system. In order to check these problems, and many more, the Central Government seeks to pass the National Food Security Bill, 2011, which will extend coverage under the TPDS, which is a largely watered-down version of the NAC Draft submitted to the Center.

The problems faced by the current system are many, and largely based on the way the PDS is conceived. It tackles the issue of food security by looking exclusively at the distribution of certain food grains. It completely ignores the vital aspects of production, or where and how the food is produced, and that of absorption, or whether the food is actually absorbed by the body.

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<sup>5</sup> See Raghav Puri, "Reforming the Public Distribution System: Lessons from Chhatisgarh," Vol. XLVII, No. 5, *Economic and Political Weekly*, pp. 21-23, for an interesting discussion on the same.

<sup>6</sup> Peter Svedberg, "Reforming or Replacing the Public Distribution System with Cash Transfers?", Vol. XLVII, No. 7, February 18, 2012, *Economic and Political Weekly*, p. 55.

Indian agriculture has been facing a crisis,<sup>7</sup> a crisis little helped by the Green Revolution, which increased the production of certain food grain in certain regions (Punjab, Haryana, West UP), and encouraged unsustainable practices of monoculture, pesticide and fertilizer usage, consumption of underground water (depleting aquifers), and largely escaped the majority of the agriculture in the country which continues to be dependant upon rain for sustenance and plants one crop a year on a largely self-sustenance basis. Therefore, per capita food availability has declined from 180 kg per capita per annum in 1994 to 150 kg per capita per annum at present. On the other hand is the nutritional emergency, with children not being able to absorb the food provided to them. A child with diarrhoea, for example, cannot absorb the food given to him. According to statistics of UNICEF (2006)<sup>8</sup>, the combined effect of inadequate sanitation and unsafe drinking water is responsible for 88 per cent of childhood deaths from diarrhoea, and out of every thousand children born, about seventy die before they reach five years of age. Therefore, it is necessary to address all three areas i.e. production, distribution and absorption in order to even come close to solving the food crisis.

## **1.2. Clinic Objectives and Scheme**

Our group was supposed to intervene in and analyse the functioning of the TPDS system in Delhi. Our project therefore, had two broad objectives:

1. To intervene in the TPDS system in Delhi to ensure foodgrain delivery to card holders.
  - 1.1. To ensure that people excluded from the 'lists' get included.
  - 1.2. To get non-functioning Fair Price Shops to open regularly.
  - 1.3. To make sure that people get correct quantities of food according to their entitlements.
  - 1.4. To spread awareness amongst stakeholders as to their various rights and duties.
2. To use our understanding gleaned from the above, and evolve a larger criticism of the TPDS system's defects.

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<sup>7</sup> Suman Sahai, "Need for a Different Food Security Law," Seminar 634, June 2012, Available at: <http://sumansahai-blog.blogspot.in/search?updated-max=2012-06-19T21:41:00%2B05:30&max-results=7>, Last Accessed on 2 December, 2012.

<sup>8</sup>UNICEF, A Report Card on Water and Sanitation (2006), 'Progress for Children'. Available at: [http://www.unicef.org/publications/files/Progress\\_for\\_Children\\_No.\\_5\\_-\\_English.pdf](http://www.unicef.org/publications/files/Progress_for_Children_No._5_-_English.pdf). Last Accessed on 10 November, 2012.

The research objectives outlined above are, of course, general in nature and were subject to change as we continued in our project, imparting necessary flexibility to the process. For example, we never expected to have to actually file an FIR against one of the FPS owners, but had to do so because of his continuous attempts to come in the way of people realising their entitlements under the scheme. We shall be outlining what the outcomes of our work were in the following sections.

### **1.3. Methodology Followed**

The methodology followed comprised of both active interventions and surveys into the TPDS(Targeted Public Distribution System) in Delhi. In active interventions, the following activities, amongst others, were undertaken:

1. Forcing Fair Price Shops to open and distribute foodgrain.
2. Sending formal complaints to officers responsible under the Food and Supplies Department at the District level and Circle Office levels.
3. Intimating the Police as to the problems faced.
4. Looking at the problems of documentation and the massive targeting errors (a major problem) with most people not getting rations anywhere near their requirements.
5. Spreading awareness through posters, community interventions and an appearance for a panel discussion on Food Security on Gyan Darshan.
6. Setting up a permanent PDS Desk at the NLU Delhi Clinic, and having a helpline for problems related to the TPDS (in the pipeline).

For data collection purposes: -

1. Continuous documentation of all the proceedings of our clinic work.
2. Video and photographic data regarding the functioning (largely non-functioning) of the TPDS.
3. Surveys undertaken amongst stakeholders according to questionnaires prepared.

The relevant documents have provided us with a reasonable corpus of primary data. The documents are included in the Annexures to this Report. At the time of submission of this report, much of the work remains to be done, which, of course, could not possibly have been done in the two-month period in this Clinic. In addition, substantial progress has been made in setting up a strong foundation for a permanent intervention in this field, a process in which we have included a substantial number of juniors (from nearly all batches) and our college in order to keep the

Clinic functioning over a long period. Juniors have been involved in most aspects of our work, both in the legal research and fieldwork and have shown enthusiasm for continuing the work.

## **CHAPTER II**

### **THE LAWS INVOLVED**

#### **2.1. The Essential Commodities Act, 1955**

The Essential Commodities Act provides the basic framework under which the Public Distribution System works. Under Section 2(a)(v), foodstuffs including edible oilseeds and oils are an essential commodity under the Essential Commodities Act. Section 3 of the Essential Commodities Act empowers the Central Government to control production, supply, distribution, etc., of essential commodities. The PDS Control Order, 2001 was brought into force under the aegis of this section.

Further, Section 7 of the Essential Commodities Act also provides for penalties in case of the contravention of any order made under Section 3. An offender may be subject to a prison sentence of a maximum of one year in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section<sup>9</sup> and between 3 months and 7 years for the contravention of any other order. As per Section 10A of the Act, all offences mentioned in the Act are cognizable and non-bailable. Section 11 provides that any aggrieved person may file a complaint under the Act.

#### **2.2. The PDS Control Order, 2001**

The PDS Control Order, 2001 was passed by the Central Government to specify certain procedures to be followed in the distribution of foodgrains under the TPDS. These procedures relate to the Identification of families living below the poverty line, Issuing of ration cards, Issue prices and scale, distribution, licensing of Fair Price Shops, Monitoring and Penalties under the Order. Fair Price Shops are mandated to ensure that foodgrains are available in the FPS within the first week of the allotment. In addition, various other obligations of the district authorities relating to administration of the PDS system are specified.

#### **2.3. The National Food Security Bill, 2011**

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<sup>9</sup> Clause (h) and (i) of Section 3 read as follows:

<sup>9</sup>(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

<sup>9</sup>(i) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;



The National Food Security Bill, 2011, is a bill which is planned to be introduced before Parliament in its next session. It has been modelled largely on the framework provided by the National Advisory Council's Draft Food Security Bill, 2011<sup>10</sup> but with a few substantial changes in definitions of the Right to Food and entitlements under the Bill, largely watering down the Right to Food, because of the massive 'subsidy' which apparently will strain government coffers (there is no talk of this strain when it comes to subsidies to the corporate sector<sup>11</sup>, which are several times the food subsidy). This is the main reason for the delay in passing the Bill, with Manmohan Singh and the PMO being opposed to the subsidy implications in the Bill, in opposition to the NAC.

However, the criticisms of the Bill are not limited to the problem of the food subsidy and whether an essential requirement for survival of the vast majority of the country is worth subsidising. It extends to criticisms involving the highly limited scope of the Bill and its complete ignoring of crucial production and absorption concerns. We have summarised the key provisions of the Bill below, in order to facilitate an understanding of what the government seeks to do in the near future.

The Preamble of the Act states that it is an Act "to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto."<sup>12</sup> The immediate impression is a stark contrast with the corresponding provision in the NAC Draft which states that it is an "An Act to ensure public provisioning of food and related measures to enable *assured economic and social access* to adequate food, for all persons in the country, at all times, in pursuance of their *fundamental right to live with dignity*." The language changes from a clear right-based approach to a weak welfare-based one. 'Assured' economic and social access would have made food an assured entitlement for everyone, whereas 'affordable prices' means little in terms of addressing economic and social access to food, and puts no obligation upon the state to ensure access to food at all. Similarly, the removal of any explicit mention of a right at all severely restricts the scope of the act and, of course, the responsibility of the state in it.

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<sup>10</sup> National Advisory Council, Food Security Bill, 2011, Available at [nac.nic.in/foodsecurity/nfsb\\_final.pdf](http://nac.nic.in/foodsecurity/nfsb_final.pdf), Last Accessed on 2 December 2012.

<sup>11</sup> P. Sainath, "Corporate Socialism's 2G Orgy," *The Hindu*, Op-ed., March 7, 2011.

<sup>12</sup> See Preamble, National Food Security Bill 2011, as tabled before the Lok Sabha.

The Food Security Bill, 2011 divides the populace into two primary categories: General Households, and Priority Households.<sup>13</sup> (Section 3) General Households are to cover 75% of the rural and 50% of the urban population, and are entitled to 3 kg of foodgrains per person per month at subsidised prices. Priority Households, entitled to 7 kg per person per month, are to cover 46% of rural and 28% of urban households (State-wise distribution can differ<sup>14</sup>). Households excluded from the the above two categories have to meet certain ‘exclusion criteria’ which will be defined by the State.

In addition to the above, there are several other categories of persons entitled to differing amounts of food under the Bill. Pregnant women or lactating mothers are entitled to one free meal everyday, or take-home rations. Children from the ages of 0-6 are entitled to free meals at *anganwadis* from 6-14 are to get one free Mid-Day Meal at their local school (except on school holidays), according to nutritional norms in Schedule II of the Bill. In addition, State Governments are obligated to proactively identify malnourished children in their States, to whom they are to provide meals, free of charge.<sup>15</sup>

There are two other special groups under the Bill as well: Destitute/homeless persons, and Emergency/Disaster affected regions. The entitlements are: -

1. Destitute/Homeless Persons<sup>16</sup> - Destitute<sup>17</sup> persons are entitled to one free meal everyday, and homeless persons to ‘affordable meals’ at community kitchens, for which they have to pay. Migrants too are entitled to the above.

2. Emergency/Disaster Affected regions - Two meals, free of charge, for upto three months after the date of the disaster.

‘Persons Living in Starvation’<sup>18</sup> constitute a special focus group of the Bill. State governments are obligated to proactively identify persons living in starvation as well. They are entitled to two free meals everyday, for upto a period of six months (not until their conditions of starvation are removed).

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<sup>13</sup> Section 3. Id.

<sup>14</sup> Section 14, Id.

<sup>15</sup> Section 6.

<sup>16</sup> Section 8.

<sup>17</sup> Definition: 2(3): “destitute person” means men, women or children who have no resources, means and support required for food and nutrition enabling their survival, to the extent that makes them vulnerable to live with or die of starvation.

<sup>18</sup> Definition: 2(24): “starvation” means prolonged involuntary deprivation of food that threatens survival of the person.

The Act provides for a ‘Food Security Allowance’ which is payable by State Governments to persons when the State Government has failed to supply foodgrain according to their obligations under the Bill. This is different from a cash-transfer scheme, as it does not replace foodgrain, but merely penalises State Governments for non-delivery. Possible cash transfer is envisaged under Section 18(2)(h) of the Bill (which provides a list of reforms which the State shall ‘endeavour’ to fulfill), which provides for “introducing schemes, such as, cash transfer, food coupons, or other schemes, to the targeted beneficiaries in lieu of their foodgrain entitlements specified in Chapter II.”<sup>19</sup>

The Bill mandates that the list of identified households be put up in the public domain and displayed prominently. Women are the heads of households under the Bill (if they are above 18).<sup>20</sup> States are mandated to set up State Food Commissions to monitor the implementation of the Act and perform certain other duties related thereto. Grievance Redressal Mechanisms are to be constituted as well. Other transparency measures include provisions for social audits, the setting and the setting up of Vigilance Committees as specified in the PDS Control Order, 2001 passed under the Essential Commodities Act, 1955.

The scheme of obligations under this Bill remains largely the same as they are under the current TPDS system. The Central Government is responsible for the formulation of policies and specification of the amounts of entitlements under the Act. The Central Government is directly responsible for procuring, allocating, transporting and storing foodgrains,<sup>21</sup> whereas it is the State Governments’ responsibility to take delivery of foodgrains from Central Godowns and deliver it to beneficiaries under the Act. In addition, State Governments are responsible for Identification of malnourished children and persons living in starvation, paying of food security allowance, providing Mid-Day Meals and meals at *anganwadis* etc., and local storage of foodgrains as discussed earlier. They are also in charge of the licensing of Fair Price Shops in their States. An interesting power given to the Central Government is that it can amend Schedules by notification.<sup>22</sup> These schedules include nutritional standards etc. which can be crucial to defining the very scope of the entitlements under the Act.

#### **2.4. The Consumer Protection Act, 1986**

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<sup>19</sup> Id.

<sup>20</sup> Section 19.

<sup>21</sup> Section 30, 31.

<sup>22</sup> Section 45.

The Consumer Protection Act, 1986, also comes into play in the PDS in a peripheral manner, in that the FPS owners are private vendors and therefore, ration card holders get classified as 'consumers' under the Act, as per Section 2: -

“Section 2 - d) "consumer" means any person who-

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) [hires or avails of] any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who [hires or avails of] the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person; (but does not include a person who avails of such services of any commercial purpose;)

1[Explanation.-For the purposes of sub-clause (i), "commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;]”<sup>23</sup>

Therefore, people under the PDS do come within this Act, because they do pay a consideration for the food they get, and the fair price shop owners are private vendors. However, there are no cognizable offences under this Act, except if a private vendor/consumer fails to follow directions of a consumer court (Section 27). Only actual consumers of the particular service or commodity (Section 12) i.e. under someone who is a ration card holder are allowed to make complaints under the Act. The Consumer Protection Act, 1986 is useful as a secondary tool in taking to task defaulting FPS owners. However, the Act remains limited in scope mainly because it is confined to private remedies, such as claims for damages. Further, Consumer Courts take the form of a judicial remedy to a problem which largely needs an executive one. Most ration card holders are unaware of their rights, and even if not, they will be extremely hesitant to take up the costs of

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<sup>23</sup> The Consumer Protection Act, 1986.

appearing before a consumer court. The solution to this problem therefore lies more in revamping the current system than in looking at such court mediated interventions.

## **CHAPTER III**

### **ACTION TAKEN**

After acquainting ourselves with the relevant laws governing the distribution of ration through the Public Distribution System, we as a group decided to make visits to some ration shops also called Fair Price Shops (FPS) to have a first hand experience of how the whole system works. We identified the following shops, falling mostly in the nearby village of Bharat Vihar in Sector 14, Dwarka, for our visitation.

1. M/S Singhala Store, Plot No. 183, Bharat Vihar, Kakarola, New Delhi,
2. M/S Dabas Store Bajaj Enclave, Fps 8405, Bharat Vihar, Kakarola, New Delhi,
3. M/S Bala Store, FPS No. 8406, Bharat Vihar, Kakarola, New Delhi,
4. M/S Dabas Store, Fps 8407, Bharat Vihar Kakarola, New Delhi,
5. M/S Rampal & Co., Fps 8719/3429, Bharat Vihar, New Delhi, and
6. M/S Sanjay Store Plot No 79 Uttam Nagar, New Delhi

#### **3.1. Field Visits**

##### **1) 30/9/2012**

After collecting all the necessary information including concerned rules and regulations, we went in search of the Fair Price Shops near our college. We were able to locate 3-4 shops in the village of Bharat Vihar, out of which none were open. We learned that these shops are closed most of the time, opening for not more than 2 days a month, when ideally as per the law they are required to open every day in a week except Wednesdays. The same is also written on the board outside these shops. Further, no formal notification is put as to when the shops would be open and it is only through word of mouth that the residents come to know if the ration shop is open on a particular day or not.

We also observed that although all the shops had a board in front of their shops, they never wrote the necessary information in that board about the next date on which the shop would be opened and what all will be distributed and when was the last day when the shop was opened in that particular month.

We also learned from our talks with the villagers that the owners sell a large proportion of grains, received for disbursement, in the black market, making a huge profit. This is usually the grain saved from giving inadequate or no rations to the entitlement holders.

We took pictures of these closed shops to keep as evidence to show in case we had to go to higher authorities for complaining against the owners of these shops.

## **2) 05/10/2012**

We went on a quick round to check whether the PDS shops we had located earlier were open or not. On finding that they were still closed, we again confirmed with a few people nearby, as to when the shops open, and they get their rations. They informed us that rations are given out only once or twice a month and the shops stay open only 1-2 days after they receive rations from godowns. Further, they often do not even know *when* the shops will open, and news of their opening is usually spread by word-of-mouth on the days they are open. Many who happen to be busy or unavailable on those particular random days miss out on their rations for the whole month. We then resolved to come on a day when the shops were open. We received intimation that some of the shops might be open on the October 9, when we made our next visit.

## **3) 09/10/2012**

We went to M/S Dabas Store, FPS No. 8405, and assisted/supervised the shop owner in distributing the ration. We observed that many people who were assigned that shop were not getting the correct quantities of rations as they were entitled to. We asked the owner to comply with the rules and give the prescribed amount. We also found the quality of the food grains was very bad as we could find insects and stones in the pile of rice. We noticed that the BPL card holders (*jhuggi*) were only getting 15 kg wheat as opposed to the the prescribed 25 kgs. Hence, we instructed and ensured that the shop owner thereon gave the BPL card holders the prescribed amount and further asked him to give the pending amount the next day.

We also pasted posters and distributed pamphlets to the nearby people. The posters and the pamphlets mentioned the exact quantity of ration different category of ration card holders were entitled to.

Thereafter we took note of the complaints of the people who came to us along with their contact details. In all, nearly 100-150 people came to us with their problems and queries.

## **4) 11/10/2012**

To make sure that the shops were open when we went for a visit, we had already given our contact numbers to a few villagers earlier. After intimation from them, we went to M/S Singhala Store and found a long queue of people awaiting the distribution.

Observing the process, we learned that the owner employed threats and coercion in his dealings with the public. We also learned from the people that he had previously even resorted to the use of physical force to prevent people from asking for their proper entitlements. We saw that he was not only giving less than the entitled amount but his method of weighing rations was very unscientific and usually resulted in disbursement of inadequate rations to recipients. Further, he was not making entries in the ration card against the amount delivered which was violative of PDS Control Order. After much persuasion, he reluctantly agreed to making entries in the card and giving ration at the prescribed price.

We were at a slight disadvantage in our dealing because of our ignorance of precise entitlements as per different categorization of ration card holders. Thereby, we decided to come equipped with all this information on our next visit.

The public response was very enthusiastic as we were able to have a direct conversation with more than a hundred people, making them aware of their proper entitlements. This way we tried striking a chord with them for future undertaking.

We also checked with the M/S Dabas Store, FPS No. 8405, if he had disbursed the remaining amount of ration to the people left in our previous visit. We were happy to learn that he had been distributing it and had because of our pressure even opened the shop.

#### **5) 12/10/2012**

We visited Bharat Vihar and after a regular check at the ration shops, we went to meet the Food Supply Officer, Mr. Meena at his office in Deenpur, Najafgarh. Initially, Mr. Meena was very reluctant to meet us, and it was only after introducing ourselves as law students working on a project on food security did he entertain our queries. We brought to his notice the present conditions of the FPS shops in Bharat Vihar. When we asked him to allow us to take a food inspector to Bharat Vihar and show how these PDS shops were functioning, he claimed that there was a scarcity of inspectors and only two inspectors were available for inspection of the entire Dwarka area. We lodged a complaint with him and he suggested us to go to the Assistant Food Commissioner, South West (Additional Charge) (Janakpuri) for lodging the complaint. We were also surprised to learn that the people were also assigned gas cylinders. However, as the majority of the people are not aware of this they do not claim it.

#### **6) 13/10/2012**



We visited the M/S Sanjay Store at Uttam Nagar. The store was half closed and there was no one there. The owner came after he was intimidated of our arrival at his shop. We checked if he was giving the right quantity and was weighing the ration properly. But, unfortunately his weighing machine was also faulty. Further, he hadn't mentioned the right quantity that the ration card holders were entitled to, anywhere in his shop. He ensured us that the same would not happen in future. We had prepared posters and pamphlets, highlighting the rightful quantity the ration card holders of different categories were entitled to, which we pasted outside his shop and distributed to the people nearby.

#### **7) 15/10/2012**

We went to Bharat Vihar Colony. We found that M/S Rampal Store was still closed. We then proceeded to M/S Bala Store. Fortunately, the owner of M/S Bala Store, Mr. Manoj Gehlot was present nearby. On meeting him, we inquired why the ration was not being given to the rightful people. We observed that here also there had been gross violations of the PDS Control Order, as he was not complying with the requirement of writing the quantity given to the ration holders on their ration cards. Further, even he was not giving the prescribed quantity to the ration card holders. The BPL ration card holders staying in '*jhuggis*' were eligible to get 25 kg wheat and 10 kg rice, whereas the other stamped holders were eligible for 18 kg wheat and 4 kg rice, but to our dismay they were not being given these quantities. The quantity these people are entitled to was to be written outside the shop, but this had not been done. A majority of these ration card holders were illiterate and did not know the right quantity they were eligible for. These people were routinely cheated by the owner of the shop and were given far less quantity than they would have got otherwise. The owner, on realising that he was guilty, accepted the same and tried escaping. We ensured that he doesn't leave. Then, we tried calling and collecting as many ration card holders registered at this store as possible. We got them all aligned in a line, and made the owner sign the slips for the ration. We were therefore able to ensure that these people were finally given their due.

We pasted posters, mentioning the exact quantity of ration different category of ration card holders were entitled to, outside his shop and distributed pamphlets, mentioning the same, to the people nearby.

This whole process took 4 hours.

### **8) 26/10/2012**

We went to Bharat Vihar to check whether the perpetually closed shop M/S Rampal Stores was open or not. We found it closed again. Then we went to M/S Dabas Stores, FPS 8407, which had a long queue waiting outside the store awaiting ration. We asked people, waiting there in line, a few questions and filled up our questionnaire. We pasted the posters and distributed pamphlets to these people. We also wrote our contact details for further problems related to PDS shops to be addressed. We checked and ensured that correct quantity was given each card. Here again, we noticed that in the ration card, where date and amount was prescribed to be written by the owner they were merely putting their signatures. We asked them to write the date on which the ration was being distributed and the amount which is being given. We cross checked the amount which was being measured. In one of the cases, we found that an old lady had got only 20 kgs when she was supposed to get 25 kgs. We got her ration measured again. We also later interviewed her on the current shortcomings of PDS system and on the proposed cash transfer system which is going to be implemented soon. We then met another old lady, who was not given ration, because the owner claimed her name was not in the list of registered ration holders with this shops. However, we immediately called up the FSO Office, Deenpur and checked the same with them. There was some flaw at the end of FSO Office and then we ensured that this old lady was given the ration for that month. Also, in another case a person was not getting ration for the past two years. His case was that he was transferred a few years ago, so his ration card got transferred to M/S Dabas Stores. However, he complained that despite having gone and checked with all the concerned authorities, the problem could not be resolved. Hence, we again called up the FSO's Office and got his ration card verified after which he was allowed to take ration for that particular month.

### **9) 28/10/2012**

We visited the Bharat Vihar Colony to check if the shops were open. M/S Rampal Store was still not open. We tried to enquire about the owner's address and telephone number so that we could speak with him and enquire as to why he was not opening the shop. The people also said that he never opened the shop. But we were not able to contact him. Despite this, we pasted posters, mentioning the exact quantity of ration different category of ration card holders were entitled to, outside his shop and distributed pamphlets, mentioning the same, to the people nearby.

Then, we proceeded to M/S Bala Store, which was also closed. We were told that the owner had distributed ration only for 2 days from our last visit and after that had kept the shop closed. We

called the owner, who despite our repetitive calls did not answer any call. We also observed that the posters which we had put on 15/10/2012, had been removed. We again pasted the same posters outside the store again.

We then proceeded to M/S Dabas Store, FPS 8405, which was open. The owner was very cooperative from the time we had visited him first. He ensured that there was no violation of any sort. He had been giving ration everyday and properly. We tried confirming the same from the registered ration holders, who answered in the affirmative. Also, the poster was still intact and it was benefitting the people.

Then, we proceeded to the other M/S Dabas Store, FPS 8407. The shop was closed. We were told that the incharge of the shop had left only a few minutes back but had otherwise been distributing the ration. The poster we had posted here last time had been removed. We put new posters in that place.

#### **10) 30/10/2012**

First, we visited the Bharat Vihar Colony for our regular check. Except M/S Dabas Store, FPS 8405, none of the other stores were open.

Then, we visited the office of Assistant Commissioner, South West (Additional Charge), Shri Hari Prasad in Janakpuri. We spoke to him on the phone, since he was not in the office at that time. He gave us an appointment for 05/11/2012.

#### **11) 02/11/2012**

We went to M/S Sanjay Store in Uttam Nagar, to check if we was functioning in the right manner. We were happy to learn that our last visit had made a difference and he was functioning in the right manner. Even the people were content with the shop owner from the last time we had visited. The posters and pamphlets proved very helpful and ensured that the shop owner did not dupe them.

#### **12) 05/11/2012**

We again visited the regional office of Assistant Commissioner, South West (Additional Charge) Shri Hari Prasad in Janakpuri. After keeping us waited for nearly half an hour, we were finally called by the officer to speak him. During the course of our meeting with him, we explained him the situation and the purpose of our project. Further, we asked for his help and support in the matter. But to our dismay, his response was very unsatisfactory and dismissive of our propositions. After our wasted efforts to persuade him to take some immediate action against the

shop owners (which essentially was his duty and needed no persuasion), we managed to present our application to him and also, obtained its receipt. We were given a vague assurance that he shall take an action against the shop owners within the next 2 weeks.

### **13) 13/11/2012**

Today, we went to the Bharat Vihar Colony. As always, M/S Rampal & Co., FPS 8719/3429, M/s Dabas Store FPS 8407 and M/s Bala Store FPS 8406 were closed. But to our utmost satisfaction, M/S Dabas Store, FPS 8405 and M/S Singhala Store were both open. Both these stores were giving proper rations to the card holders. The persons in charge were also making due entries of the quantity given in the cards.

We tried calling up the owner of M/S Bala Store, but much to our chagrin he did not pick up any of our calls. Also when we went to M/S Bala Store, we found the owner trotting there. We asked him to open his store in the evening, so that we could be present there.

We went in the evening again but found M/S Bala store still closed. We tried to contact the owner but to no avail.

We then went to the M/s Dabas Store, FPS 8405. The owner had brought from the PDS Officer (Deenpur, Najafgarh) proper records of ration card holders and was very compliant generally. Thereafter, we had our usual awareness discussion with the card holders and managed to get some survey forms filled.

### **14) 19/11/2012**

The group today went to M/S Bala Store. After seeing that it is closed, the owner Mr. Manoj Gehlot was called up, whereby, he presented himself after some 10 minutes or so.

Some card holders, observing that the shop was open proceeded to buy their ration. The quantity given out was proper, but the owner had not entered the quantity purchased in the ration cards, even when we had brought the same to his notice before on 15/10/2012. On pointing this out to him, he abruptly became aggressive and tried intimidating us. Not wanting to enter into an affray, we thought it best to later register an FIR against him.

We then called up the Assistant Commissioner, South West, (Additional Charge), Food and Supply, Mr. Hari Prasad, from Bharat Vihar itself, asking him if some action had been taken on the complaint, we had filed with him earlier on 05/11/2012, but unfortunately he gave a very annoying answer stating that nothing had been yet done on it. The application hadn't even proceeded to the next step.

We had earlier called some people who had problems in getting the ration despite their cards being stamped. They started pouring in front of the store; and shortly, around fifty people had collected there. We had initially planned to take them to the Food and Supply office in Deenpur, Najafgarh and held them check their card validity and find out the problems in the cards due to which they were not getting proper ration. One major problem was that those who had their addresses in the ration card, in the part of colony which is seemingly a '*jhuggi*', their cards mentioned them as APL, instead of it being APL-JRC, the latter meaning entitlement given to card holders from jhuggi. The other major problem was that there were ration card holders who though were registered at a particular PDS Shop, were not being given ration from that shop, as the ration shop owner did not have the names of such people registered with them.

We planned to take these people with us to the FSO officer Deenpur, Najafgarh. But as the college bus was busy in visit of another group of students, we planned the visit for the next day i.e. 20/11/2012 and asked people to be present along with cards and other proofs the next day at 11:30 am.

Later, that day we went to Sector 16 Police station for the purpose of registering an FIR under IPC and Essential Commodities Act against M/s Bala Store. After persistent effort, we were unable to get them to register an FIR but managed to get a DDR entry. We have the copy of the same.

#### **15) 20/11/12**

We went to Sector 16 Police Station again to get the FIR registered as opposed to the DDR entry made the last day. However, the police was not keen on registering our FIR at all.

Next, we reached Bharat Vihar, where we had asked residents with grievances/complaints to gather along with an application stating the problem, photocopy of their ration cards and other relevant documents to prove their residential address. To our pleasant surprise more than 100 people had turned up. But as our college bus only permitted us to take maximum 30 people, we only took that number of people with us, creating some resentment among the rest.

We classified the problems into few broad categories as most of them were facing similar problems. The first category was that of people who were not at all getting ration for many years even after having a valid stamped ration card. The second category was of the people who did not have their names in the computerised list which comes to the shop owners on monthly basis. The third category included the maximum number of people. They had been residing in J.J.

Colony, which as per them was demarcated as '*jhuggi*', but despite this they were only getting 18 kgs of wheat and 4 kgs of rice. There were other problems also which were brought to our notice, for instance, the ration being distributed to the residents of the J.J. Colony was very arbitrary, in the sense that while some of the households in J.J. Colony were getting 25 kgs and 10 kgs of wheat and rice, the others were only getting 18 kgs of wheat and 4 kgs of rice. Further, there were a few grievances relating to right address being not typed correctly in ration cards or duplicate ration cards not being issued.

For the third category of people who were living in J.J. Colony and not getting proper amount of ration, we drafted a common complaint and took a few representatives from amongst them along with those who were not at all getting ration to the FSO Office, Deenpur. However on reaching Dinpur we were told by the people at FSO office that the concerned person had gone to meet the minister and would not be available for that particular day. We were told by the office of FSO that the group of people are not needed to come to Deenpur and the photocopy of their ration cards would be sufficient along with the relevant documents to prove their residential address (like electricity bill, voter's i card). But somehow we still managed to get all our queries answered.

We further distributed pamphlets and other documents like application form for getting new/change address on the ration cards. We then distributed free application forms to the interested people in the village and gave necessary instructions for the whole process and documents required for getting a new or making changes to the existing ration card.

We reached the Food and Supply office at around 2 pm, by which time, their schedule for public dealing was over and thus we could not achieve the purpose of our visit, which was to get their ration cards verified along with a written response from the office as to why these people were not getting ration. But we were able to arrange for a meeting later on when we could go with the photocopies of the ration cards and obtain the required information on behalf of the villagers which we can give to them later on.

## **3.2. Observations**

### **3.2.1. Stakeholders**

The stakeholders of the PDS are as follows:

1. The Government: These include the offices of the Food and Supplies Ministry which provide for ration cards, the police, inspectors under the Essential Commodities Act etc.

2. Shop owners (private parties): These are individuals who have applied for (and received) permission to run a fair price shop. Often multiple shops are owned by the same people of the same family.

3. Ration Card holders: Ration cards are issued by household, based on the residential address, with no consideration to the actual size of the household.<sup>24</sup>

As per the Control Order, there are 5 different kinds of ration cards in use:

1. Above Poverty Line (APL) unstamped: Holders of this ration card are not entitled to collect rations at all. The ration card, for them, serves little purpose except as an identity card.

2. Above Poverty Line (APL) from colony (for people who reside in proper houses): Entitled to 18 kg wheat at Rs. 7.05/kg, 4 kg rice at Rs. 9.65 per kg. Actually getting 15kg wheat, 5kg rice at the correct prices.

3. APL from *jhuggis* (people resident in temporary houses, hutments etc.), Entitled to 25 kg wheat, 10kg rice at the same price as above; actually getting 15kg wheat and 10kg rice at the correct prices.

All APL cards are referred to as white (*safed*) cards. BPL card holders are referred to as yellow (*peela*) card holders.

4. Below Poverty Line (BPL) cards: Entitled to 24 kg wheat at Rs. 2/kg and 10kg rice at Rs. 3/kg and 6 kg sugar at Rs. 13.50 /kg. Actually given 20 kg wheat, 10kg rice and some shops did not give sugar at all while some gave 3kg sugar at correct prices.

5. Antyodaya card holders (AAY): Entitled to 25 kg of wheat at Rs 2/kg and 10 kg rice at Rs. 3/kg. We could not verify this as there were no such card holders in the area we visited despite the stated position of the Delhi Government that there were 1,02,945 such cards issued all over Delhi.

### **3.2.2. Major Issues observed during the field trips**

Due to the fundamentally flawed structure of the PDS, there are multiple flaws visible including:

#### **3.2.2.1. Systemic Problems**

These problems arise as a result of the policy decisions (or lack thereof) of the Government: -

1. The quantities of food actually given by the Government are woefully inadequate to meet household needs. A ration card is issued by address. Therefore, as an illustration, one family had

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<sup>24</sup> On one occasion, we were confronted by a resident of Bharat Vihar who asked us whether it was the intention of the Government to break up joint families so that each of the nuclear families could be granted one ration card.

22 members and only 1 ration card. The rations this family received lasted 2 days every month on average.

2. Only foodgrains are provided for in the PDS. This ensures that every family is forced to look beyond the Fair Price Shops for other food related requirements such as vegetables. We received numerous complaints regarding this inadequacy.

3. Some people have been issued ration cards but they do not have the requisite stamp to collect rations. This stamp has not been issued since 2009. There are many people therefore who have ration cards but are not eligible to receive rations. This means, effectively, that the Public Distribution System has become extremely exclusionary and is not actually effective in ensuring that the people who are entitled to subsidised foodgrain have access to such foodgrain. Arbitrary exclusion is therefore commonplace.

4. Further, each shop is issued with a list of ration cards which may draw rations from that shop. This has led to multiple problems including that clerical errors have led to the non inclusion of certain ration cards from the lists. This again led to the arbitrary exclusion of certain households from drawing rations.

5. There is no easily accessible complaint/grievance redressal mechanism available to people. Most people were forced to go all the way to the Circle Office in Deenpur. This involved a long trip at the expense of the ration card holder.

#### **3.2.2.2. Problems arising from shopkeeper conduct**

Due to poor inspection and the inherent corruption in the system, certain problems, sometimes localised to a few shops have arisen. These include:

1. Standards of documentation are extremely poor. As per law, the shopkeeper is required to mention the quantity of ration allotted and the date on which the rations are allotted. However, shopkeepers were extremely reluctant to do this. Further, there is no requirement for the recipient of the rations to countersign. Therefore there is large scale forging of rations actually allotted to ration card holders.

2. Because of the blatant disregard for opening times of ration shops, people are not aware when the shops will open. This is often done by word of mouth. As a result, those people who are busy/unavailable/unable to produce money at the required time are unable to procure rations. This again leads to the arbitrary exclusion of people from their entitlement.

3. There have been reports of physical intimidation at a few of the shops.



4. On some occasions we found that while weight measurement equipment was available, it was not being used. Rations were handed out without measurement.
5. As a result of the above practices, all shops sell a large proportion of their allotted rations to the black market, often to the same households who were getting less rations than were stipulated by the government.

## CHAPTER IV

### CASH TRANSFER SCHEME

One of the central issues concerning recent developments regarding PDS is pertaining to cash transfer scheme that the government has been mulling over for some time now.<sup>25</sup> The Cash Transfer Scheme entails the transfer of a said some of money into the Aadhar accounts of the targeted persons. “The Arjun Sengupta committee identified 77% of the country’s population as being vulnerable since they live on less than Rs. 20 per day. It is well known that almost half the children in the country are malnourished, 70% of women are anaemic and one-third of all adults have a low body mass index.”<sup>26</sup>

#### 4.1. Issues

Through the course of our research, the following points arise for consideration. The major points in favor of the current PDS system is that:

- a. it provides some semblance of food security to the people
- b. it largely, protects the people from price fluctuations in the food market

However, the discussion in the earlier portions of this submission has also indicated the presence of huge pitfalls in the status quo. At the risk of over-simplification, the problems can be summarized as follows:

- a. exclusion errors in identification of the target population
- b. irregular supply and
- c. foodgrain leakages

It is essential to emphasize here that the PDS systems in Andhra Pradesh and Chattisgarh are proof of the fact that these errors and problems can be ironed out.<sup>27</sup> Nevertheless, returning to the discussion pertaining to the Cash Transfer Scheme; the following issues accrue:

#### 4.1.1. Problems of identifications shall remain.

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<sup>25</sup> Cash Transfer Scheme is a Game Changer: Chidambaram, November 21, 2012, The Hindu, <http://www.thehindu.com/news/national/cash-transfer-scheme-is-a-gamechanger-chidambaram/article4140318.ece> as visited on 28/11/2012

<sup>26</sup> Recommendations of the Arjun Sengupta Committee, Press Information Bureau, Government of India, 30 August, 2012, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=87029> as visited on 27/11/2012

<sup>27</sup> Replacing PDS with Cash Transfer, [http://www.righttofoodindia.org/data/May\\_2011\\_Draft\\_note\\_on\\_replacing\\_PDS\\_with\\_cash\\_transfers\\_English.pdf](http://www.righttofoodindia.org/data/May_2011_Draft_note_on_replacing_PDS_with_cash_transfers_English.pdf) as visited on 28/11/2012

One of the most common problems that people in our target area faced were regarding exclusion errors i.e. errors in identification. Many of the persons did not have ration cards and of those that did; many did not have the requisite stamp on it (thence entitling them to receive ration). Every survey conducted by the government itself shows huge errors of inclusion / exclusion in the identification of BPL families.<sup>28</sup> For example, NSS data shows that about 50% of poor rural households did not have a BPL card in 2004-5 (rising to 80% in states like Bihar and Jharkhand).<sup>29</sup> This problem of incorrect identification of the poor will remain and when the benefit is in the form of cash, the incentive for people to self-select themselves out of the system will be even smaller. We can expect that all the current problems involved with setting a poverty line and identifying BPL families will get carried onto the cash transfer system.

#### **4.1.2. Leakages will remain**

The experience with direct bank transfer systems in other schemes<sup>30</sup> initiated across the country has not been very positive,<sup>31</sup> as to indicate that there would be no leakages compared to transfers in kind, in this case, foodgrains. For instance, social security pensions given to the aged, widows and disabled, in many states are directly transferred to the bank accounts of the beneficiaries but many people who are beneficiaries on government records are actually not receiving the money due to them.<sup>32</sup> There are problems in opening of bank accounts, availability of banks, presence of middle-men even when the money is transferred into the account, delays in release of amounts and so on.<sup>33</sup> In the case of NREGA as well there are instances of delays and corruption in the banking system.

#### **4.1.3. Banking Structure is limited**

The success of a cash transfer scheme depends to a large extent on easy accessibility to banks. Unfortunately, this is not the case in the many parts of the country where people have to travel

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<sup>28</sup> Performance Evaluation of Targeted Public Distribution System, Planning Commission, PEO Report No. 189, [http://planningcommission.nic.in/reports/peoreport/peo/peo\\_tpdsmarch05.pdf](http://planningcommission.nic.in/reports/peoreport/peo/peo_tpdsmarch05.pdf) as visited on 27/11/2012.

<sup>29</sup> Table I: Targeting Errors, Supra N. 15

<sup>30</sup> National Social Assistance Programme, Ministry of Rural Development, [http://rural.nic.in/nsap\\_1.htm](http://rural.nic.in/nsap_1.htm)

<sup>30</sup> as visited on 28/11/2012; *See Also*, Pension to be disbursed through Cash Transfer Scheme, 27 November, 2012, The Deccan Herald, <http://www.deccanherald.com/content/294751/pensions-disbursed-through-cash-transfer.html> as visited on 28/11/2012.

<sup>31</sup> Cash Transfers: A review of issues in India, Social Policy Working Paper Series - 1, UNICEF, 2012, [http://www.guystanding.com/files/documents/Unicef\\_cash\\_transfers\\_India\\_published.pdf](http://www.guystanding.com/files/documents/Unicef_cash_transfers_India_published.pdf) as visited on 27/11/2012

<sup>32</sup> Id. para 2.1.

<sup>33</sup> Id. para 1.3.

long distances to access a branch and the facilities in post offices are woefully inadequate to handle such large amount of transactions. It is being argued that this problem will be solved once the UID is distributed and by having in place a network of banking correspondents who will provide outreach services to the villages.<sup>34</sup> Keeping aside all the other problems with the UID, even if this were to work it will take at least another 20 years for such a system to be put in place. On the other hand, the PDS network is already in place and there are a number of PDS reforms (which have been successfully implemented by different state governments) that can be undertaken to make it more efficient and reduce leakages.

#### **4.1.4. Cash does not guarantee Food Security**

There is no guarantee that the cash transfers will be used to buy food. Poor families are often debt ridden and are usually in need of cash to meet their household, medical, educational or other expenses. Cash transferred to them may be used for these purposes rather than being used to purchase food. Women bear the burden for providing food for themselves and for the household, and struggle daily to access adequate and affordable food in today's market-oriented and neo-liberal world. While they have greater control over food, they have little or no decision-making power over money in the household. Replacing the PDS with a 'cash transfer' is therefore likely to further intensify not only their own struggle for food, but also make their families, further food insecure.

#### **4.1.5. No protection from inflation and fluctuations in the food market**

The prices of food grains under the PDS remain static despite fluctuations of the market and inflation. A cash transfer scheme in which the amount of cash transferred to each family will be fixed and will not vary as per the market prices, will not offer any protection to poor families against rising prices of food and kerosene oil. This is an extremely grave problem especially in the current scenario of very high inflation rates. For e.g. in 2007 the average price of rice in Delhi was Rs.15 per kg, wheat Rs.12 per kg and sugar Rs.17 per kg.<sup>35</sup> In 2010, these prices increased to Rs.23 per kg (rice), Rs.14 per kg (wheat) and Rs.34 per kg (sugar) respectively.<sup>36</sup> If

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<sup>34</sup> Implications of UID on Mobile Banking in India, Faculty, Indian Institute of Management, Calcutta, WPS No. 692/ January 2012, [http://facultylive.iimcal.ac.in/sites/facultylive.iimcal.ac.in/files/WPS%20692\\_0.pdf](http://facultylive.iimcal.ac.in/sites/facultylive.iimcal.ac.in/files/WPS%20692_0.pdf) as visited on 26/11/2012.

<sup>35</sup> Department of Food and Public Distribution, <http://dfpd.nic.in/?q=node/101> as visited on 27/11/2012.

<sup>36</sup> Id.

a cash transfer of Rs.1000 was fixed in 2007, that same amount would buy much less in 2010.<sup>37</sup> Based on experience of previous cash transfer programmes (such as old age pensions, school scholarships), we know that the amount of transfer is not increased even when prices increase.<sup>38</sup>

#### **4.1.6. Adverse impact on Agriculture**

If cash transfers replace the PDS, the government would not need to procure grain. On the other hand, procuring at minimum support prices (or higher) directly from farmers can incentivise further production of foodgrains, and also provide much needed support especially to small farmers. An expanded PDS can therefore also be an opportunity to revitalise agriculture

#### **4.1.7. Lack of transparency and accountability of privately owned shops**

With the dismantling of the PDS people would be entirely dependent on private shops for buying of foodgrains. Demanding transparency and accountability from private owners is virtually impossible for people. In Delhi, we have had a very poor experience dealing with private organisations providing public services/utilities- for example BSES providing electricity after the privatization of electricity distribution. Private operators such as BSES have taken stay orders from the Delhi High Court to ensure that they are not under the ambit of transparency and accountability laws such as the Right to Information Act.<sup>39</sup> It would be extremely difficult for people, especially the poor, to demand accountability from private shops and get their ration supplies.

#### **4.1.8. Trend towards privatization**

The system of cash transfers must be seen as part of the larger trend towards privatisation, where the government is slowly washing its hands away from its responsibility of providing basic services and social security to its citizens. We are witnessing such privatisation in different sectors including basic education, health care and now food. Such a move takes the power away from people to demand accountability and better service delivery systems for themselves. They are dependent on the market for even essential services to which they have a right

#### **4.1.9. Fertilizer and Kerosene Subsidies**

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<sup>37</sup> Report on Dharna by Rozi, Roti Adhikar Abhiyaan, 4 March 2011, Right to Food Organization, [http://www.righttofoodindia.org/data/report\\_on\\_dharna\\_by\\_rozi\\_roti\\_adhikar\\_abhiyan\\_4\\_march\\_2011.pdf](http://www.righttofoodindia.org/data/report_on_dharna_by_rozi_roti_adhikar_abhiyan_4_march_2011.pdf) as visited on 26/11/2012.

<sup>38</sup> Supra N. 18

<sup>39</sup> Annual Reprt 2010-2011, Delhi Metro Rail Corporation, [http://www.delhimetrorail.com/OtherDocuments/annual\\_report\\_2010-11\\_english.pdf](http://www.delhimetrorail.com/OtherDocuments/annual_report_2010-11_english.pdf) as visited on 28/11/2012

As mentioned above, the government has already announced the introduction of cash subsidies instead of fertilizer and kerosene subsidies. However, it is not yet clear on how this will be operational in terms of identification of beneficiaries, the amount of transfer and so on. While many of the problems mentioned above can be expected to apply even to these subsidies, in the case of fertilizer subsidy another issue of concern is that of lack of proper land records.<sup>40</sup> In a situation where many of the small and marginal farmers do not have proper land records, especially in the case of tenancy, there is the danger that the benefit of the cash transfer will go to those absentee landlords who ‘own’ the land but are not engaged in agriculture.

#### **4.1.10. The Dilli Annashree Yojana**

The Dilli Annashree Yojana scheme for food security scheme. Under this scheme, initially about two lakh families would be paid a sum of Rs. 600 per month from December 15.<sup>41</sup> However, the question pertaining to the quantum of the compensation i.e. Rs. 600 as sufficient

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<sup>40</sup> Supra n. 15.

<sup>41</sup> Gaurav Vivek Bhatnagar, New Food Security Scheme for the poor from Dec. 15, The Hindu, <http://www.thehindu.com/news/cities/Delhi/new-food-security-scheme-for-the-poor-from-dec-15/article4149990.ece> as visited on 26/11/2012.

## **CHAPTER V**

### **CONCLUSION**

The clinic work that we have done, in addition to the socio-legal research, has thrown light on many important issues regarding the functioning of the Targeted Public Distribution System in the country, especially in Delhi. There is little doubt that the need for reform in this sector is extremely urgent, both in the form of the laws and the way it is implemented. However, the way the problem needs to be tackled is through looking at production, distribution and absorption, and not merely the distribution of food. Improving production means reforming the entire agricultural sector, implementing land reforms, encouraging sustainable and healthy farming practices, and making farming viable again. Distribution involves plugging the leaks in procurement, transportation, storage, and conveyance of foodgrain. Absorption implies giving people the physical capacity to absorb the food given to them, which implies health schemes and improved sanitation.

Even if we focus just on distribution systems, such as the TPDS, we have seen that the solution does not lie in eliminating the issue altogether by converting food subsidies into cash transfers, but in finding different ways to conceive of it. We have seen many relatively poor states such as Chhatisgarh and Tamil Nadu which have excellent PDS mechanisms in place, which shows us that lack of funds cannot be the cause of the inefficiency of the current mechanisms. There are many relatively visible causes for the current systemic issues, as we have pointed out earlier, to which there are relatively clear solutions:

- a. The problem with a Targeted PDS as opposed to a universalised one, which leads to all sorts of inclusion and exclusion errors. A universal system with self-exclusion clearly works the most efficiently.
- b. Having private owners of Fair Price Shops as opposed to community driven initiatives.
- c. Making the pricing schemes of Fair Price Shops more viable.
- d. Diversifying the food basket to include coarse grains and other foodgrains whose procurement is not limited to the Green Revolution States of Punjab, Haryana, and West UP, and covers more of the majority of Indian agriculture which is still rainfed.
- e. Decentralising procurement to make local produce more viable, as was done in Chhatisgarh and dramatically improved agricultural production in the region.

- f. Using schemes like the MGNREGA to build community resources to ensure food security, such as local granaries, reservoirs, rainwater harvesting schemes etc.
- g. Improving the administration of food and supplies, which still remain largely understaffed and mismanaged.
- h. Spreading awareness amongst the people as to their legitimate entitlements under various schemes.
- i. Changing per family entitlements to per capita ones.

Of course, this is not an exclusive list in any way, and the issue still needs much more analysis and deliberation in order to cure it of its many problems. When it comes to clinical work in this area, we have shown that it is extremely conducive for small groups of legally aware activists to spread awareness and increase the efficacy of the TPDS, as has happened in many of the cases we have done. We have managed to get shops open and functioning, to distribute grain, ration card holders more aware of their rights and less fearful to demand them. We have interacted extensively with the people of the area and have built up a good rapport with them. We have also looked into the bureaucratic functioning of the Food and Supplies Department, filing many complaints, and seeking action. The scope for further action in this clinic is massive, and we have hence included juniors across batches who have become involved in our PDS project. This will help ensure that the permanent desk for PDS that we seek to install in the University's Legal Aid cell, with a permanent helpline, becomes, and stays, functional, becoming a form of permanent and continuing intervention by our University in this field.



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# **APPENDIX I**

## **MANUAL FOR OUR REFERENCE**

### **1. Food and Supply Department**

The whole system of Public Distribution System is regulated by Department of Food and Supply and is responsible for the following activities

- Public Distribution System(PDS) of essential commodities with a view to maintain and secure equitable distribution and availability of specified food articles at fair price shops by enforcing essential Commodities Act, 1955 and various Control Orders.
- Consumer Affairs for better protection of interest of consumers. Setting up of State Commission, and District Forum for the redressal of consumer disputes under the Consumer Protection Act, 1986.
- Enforcement of the standards of Weight & Measures Act, 1976 and Weight & Measures(Enforcement) Act, 1985 and Rules made thereunder.

#### **Organisational Structure**

- The Department consists of 70 circle offices situated at each Assembly Constituency and headed by an officer of the rank of Food & Supply Officer. These Circles have been divided into nine zones. Each zone is headed by the officers of the rank of Assistant Commissioner/Dy. Commissioner and they are further supervised by the Addl. Commissioner / Special Commissioner /Commissioner.

### **2. How to get ration card?**

- The head of a family or any member of the family can obtain prescribed application form No.1 for the preparation of ration card from the circle office free of cost. This form can also be downloaded from the Delhi Government website [www.delhigovt.nic.in](http://www.delhigovt.nic.in)

#### **2.1. Documents to be submitted with Application Form**

Two Passport size photographs of the Head of the Family, duly attested on front by a Gazetted Officer, Member of Parliament, M.L.A. or a Municipal Councilor.

#### **2.2. Proof of residence.**

**Case of House Owner:** Registration Deed, Allotment letter, Power of Attorney, house Tax Receipt etc. Besides this attested copies of Electricity and Water Bills can also be submitted as proof.

**In case of a tenant:** No objection certificate from the house owner, rent receipt and other documents in support of legal possession of premises by house owner.

If the house owner does not give no objection certificate or rent receipt, in that case may furnish the witness certificate of the neighbors or submit any other document, which may prove his stay at that address for a long time.

- If a person is not having surrender/deletion certificate in respect of his old Ration Card, he may submit an affidavit to this effect duly attested by Notary.

- The Circle Officer Shall issue the ration card within 45 days from the date of receipt of application, provided the application is complete in all respect.

**2.3. Time Frame for disposal of various applications.**

S No.	Work	Time limit	Final Authority
1.	Getting a New Ration Card	45 days	Food & Supply Officer
2.	Surrender of Food Card	Same day if the Ration card is submitted with the application form	Food & Supply Officer
	Deletion of name of a family member from the Ration Card	10 Days	Food & Supply Officer
4.	Addition of name by submitting deletion certificate from F&S Deptt. of Delhi and copy of birth certificate in case of minors	10 Days	Food & Supply Officer

	B. in other cases	10 days	
5.	Change in address within the same Circle	10 days	Food & Supply Officer
6.	Change of F.P.S./K.O.D. within the same circle	10 days	Food & Supply Officer

### **3. Special provisions for Below Poverty Line**

Families having total family income below Rs. 24200/-P.A. have been identified under this category. These families are distributed 35 Kg. of foodgrains per month at a subsidized rates of Rs. 4.65/- per kg. for wheat and Rs. 6.15/- per kg for rice and 6 Kg of sugar per card per month @ 13.50 per kg. Under this scheme a total of 209907 lakh as on Nov 2009 families are benefited.

### **4. Antyodaya Anna Yojana**

Under this Scheme 35 kg of foodgrains per month are provided @ Rs. 2/- per kg for wheat and Rs. 3/- per kg for rice and 6 Kg of sugar per card per month @ 13.50 per kg. Presently 129385 Lakh (approx.) as on November 2009 families are benefited under this scheme.

### **5. Annapurna Yojna**

Under this scheme destitute persons of more than 65 years of age having no regular source of income are distributed 10kg of foodgrains free of cost every month. The beneficiaries under the scheme of Below Poverty Line, Antyodaya Anna Yojana and Annapurna Yojana are finalized by Circle Advisory Committee consisting of Following:

- Area MLA, who is the Chairman

- Food & Supplies Officer of the concerned circle
- 10 members nominated by Chairman

**6. Welfare institutions**

The Welfare Institutions recognized by the Department of Social Welfare such as beggars Homes, Nari Niketan, hostels of SCs/STs and backward class students, homes for street children, destitute, neglected, delinquent and abandoned children, juveniles, old persons etc. are supplies foodgrains @ 15kg per inmate month at the prescribed rate for Below Poverty Line.

**7. APL Families**

Families of Above Poverty Line earning below Rs. 1,00,000 PA and those who have got there cards stamped are entitled for 35 kg of foodgrains per card per month @ Rs. 6.80 for wheat and Rs. 9.00 for rice.

**8. Who is entitled for Sugar?**

Card holders under Below Poverty Line and Antyodaya Anna Yojana are eligible for sugar 6 Kg of sugar per card per month @ 13.50 per kg

**9. Who is entitled for K. Oil ?**

Only those card holders who are not using cooking gas are entitled for kerosene oil @ Rs. 9.32 per litre.

**10. scale of Distribution**

**Food Grains (per month)**

Categories of family	Wheat	Rice
Wheat Eaters	25kg per card	10 kg per card
Rice Eaters	10 kg per card	25kg per card

**11. Information to be displayed by the P.D.S. Outlet**

- License/Name and number of Authority Letter;

- Stock as on date;
- Weekly Off;
- Rates of Commodities;
- Samples of sugar, wheat and rice;
- Timing of Fair Price Shop i.e. 9 am to 1 pm and 3pm to 7 pm on all working days of the concerned area.
- Procedure for making complaint.



**APPENDIX II**

FIR REGISTERED WITH THE POLICE

**APPENDIX III**

COPY OF THE COMPLAINT MADE TO THE ASST. COMMISSIONER, FOOD AND SUPPLY

**APPENDIX IV**

COPY OF THE POSTER UPMA

**APPENDIX V**

PAMPHLET -ANSHUMAN

**APPENDIX VI**

COPY OF THE QUESTIONNAIRE PARAMVIR

## APPENDIX

### Work Flow Steps for Preparation of APL Ration Cards within time frame of 45 Days

- Submission of APL Ration Card application form along with required documents duly self attested by the applicant with a departmental fee of Rs. 25/-.
- Capturing of Bio-metric impression of the applicant, inform date and time for collection of APL Ration Card / Rejection Letter with reasons.
- Inspector physically visits the premises for verification within two Weeks time period. In case of any shortcoming in the documents, the inspector handover a deficiency memo to applicant on the spot.
- Verification / field Report to be submitted Online by Inspector.
- FSO Accept / Reject the Application on the basis of Verification / field Report submitted by Inspector and verify the application online with the existing central database for finding of duplication, if any.
- The Computerized APL Ration Card prepared or rejection Letter with reasons generated.
- The List of Prepared APL ration Cards / Rejected Applications with reasons will be put on the notice board of the Circle Office and uploading on website.
- Deliver the APL Ration Card by matching the Bio-Metric impression of the Applicant / issue rejection letter with reasons as per given due date and time already intimated to Applicant.
- If Applicant fail to collect prepared APL Ration Card within Seven Days from the due date, the same will be included in the list of Undelivered Cards and further not entitled for PDS Allocation and applicant is informed by Post.

- Penalty in case of delay/failure of service within the stipulated time period is Rs. 10/- per day subject to a cap of Rs.200/-.

## APPENDIX

### RULES REGULATING THE PDS IN BRIEF

Sl No	Name of Act Rules, Regulation etc	Brief gist of the contents
1.	Guidelines for PDS outlets	Allotment of PDS outlets in NCT of Delhi
2.	Guideline for allotment of PDS outlets.	-do-
3.	Guidelines for allotment of PDS outlets.	-do-
4	Guidelines for allotment of PDS outlets. O. M. 1098	-do-
5.	Order for terms & conditions for change of constitution for PDS outlets.	These guidelines deal with terms & conditions for change of constitution of PDS outlets
6.	Order for eligibility terms & conditions for change in constitution in case of death only of PDS outlets.	This deals with eligibility, terms & conditions for change in constitution in case of death only for PDS outlets
7.	Delhi Specified Articles (Regulation of distribution order 1981).	This deals with the rules & regulations of PDS outlets
8.	Delhi Solvent Raffinate & Slop (Acquisition, Sale, Storage and Prevention of use in Automobiles) order 2002.	This deal the sale & distribution of solvent and prevention of adulteration of fuel used in automobiles
9.	Delhi Essential Articles (price control) order 1977.	-----
10.	Delhi display of price and stocks of scheduled essential commodities order	-----

	1977.	
11.	Public Distribution System Control order 2001	This deals with rules & regulations for functioning PDS system in Delhi
12.	Delhi Kerosene Oil (Export & Price) control order 1962.	This deals with the rules & regulations of kerosene oil depots in Delhi
13.	Liquefied Petroleum Gas(Regulation of Supply & Distribution	This deals with the rules & regulations of supply of LPG gas

## **APPENDIX VII**

### **NEWS REPORT ON PROPOSED CASH TRANSFER SCHEME**

#### **Govt to launch cash transfer scheme in 51 districts from January 1**

PTI Nov 27, 2012, 06.39PM IST

NEW DELHI: Benefits under 29 welfare schemes being operated by different ministries would be transferred through Aadhaar-enabled bank accounts in 51 districts spread over 16 states from January 1 next year, finance minister P Chidambaram said here on Tuesday.

The scheme of cash transfer into bank accounts, the minister said, would enable the government to extend benefits to the needy at the click of a button without any fear of misuse or duplication.

"...roughly about 29 schemes are ready to start from the January 1. It is possible that one or two schemes may start a few days or a couple of weeks late. But ultimately we want to load all these schemes on the system. Out of the 42, we think about 29, give or take one or two, will be ready," Chidambaram said while addressing a press conference at Congress office.

At present, government operates about 42 schemes, of which 29 would be covered by the cash transfer scheme that is to be launched from January 1, 2013 in 51 districts. The second roll-out to cover more districts would be launched in April 2013, he said.

The schemes which would come under the purview of the cash transfer scheme would include those of ministry of social justice and empowerment, human resources development (HRD) minority welfare, women and child development, health and family and labour and employment.

With the introduction of the direct cash transfer scheme, Chidambaram said, "falsification and duplication will be practically eliminated and I believe that (it) would result in considerable savings to the exchequer."

Prime Minister Manmohan Singh on Monday had directed all the ministries concerned to work in close coordination to ensure success of the scheme.

**APPENDIX VIII**  
**SOME PHOTOGRAPHS**