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# **Feeding the People:**

## **Deliberative Democracy and the Politics of India's National Food Security Policy**

A thesis submitted to the University of Sussex for fulfilment of the degree of  
Doctor of Philosophy in Sociology

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September 2021



## Abstract

In the summer of 2013, India's Parliament enacted the National Food Security Act, a global landmark in efforts to materialise the right to food. It was the culmination of a long political process involving an umbrella campaign of national and local pressure groups and an extended Supreme Court case, before the eventual adoption of the issue by political parties. The NFSA was also one of a series of flagship rights-based social policies legislated by the Congress-led coalition government; it would ultimately prove to be the last, as the general election of 2014 delivered a majority to the right-wing, Hindu nationalist Bharatiya Janata Party. Given the longstanding and widespread problems of malnutrition and the country's history of starvation deaths and, under colonial rule, famine, this legislation carried the potential to address a deep-rooted inequality which has left its marks on the bodies of those who make up the world's largest democracy. Despite its reasonable pride in the eradication of famine since independence, India has fared poorly in comparison with its authoritarian neighbour China when it comes to quotidian hunger and malnutrition, with surveys showing persistently high levels of low calorie intake and micronutrient deficiency, along with the physiological results in terms of wasting and stunting. Reports of deaths from starvation have repeatedly haunted governments. Children, women, and members of protected caste and ethnic minorities (Scheduled Castes and Tribes) are at especially high risk of adverse outcomes. The NFSA thus represented an opportunity to deal with the apparent failure of the democratic process to protect India's citizens from suffering the lack of the most basic necessities of life. Focusing primarily on the period from 2001 to 2013, this thesis engages with Habermas' theory of deliberative democracy to analyse the political processes and argumentation around the development of the National Food Security Act. Through documentary analysis and the use of interview data from a period of fieldwork in Delhi, I examine the evolution of the legislation in order to consider the relevance of the theory to India and what the Indian experience has to teach us about the advantages and limitations of such a normative approach to politics.

## Acknowledgements

This PhD has been a long road for all involved, and there will doubtless be several people breathing a collective sigh of relief to see it finished. Over the seven years since I started my MSc in Social Research Methods, there have been a huge number of people who have in ways big and small kept me going. First, I must thank my wonderful supervisors, Gerard Delanty and Catherine Will, who have displayed incredible patience through this process and especially an unruffled acceptance of a large disruption, in the shape of a baby, which came along right in the middle. Your joint and individual feedback and support has been invaluable and I have always felt confident in your directions. Special thanks also to James Hardie-Bick for stepping in for the last mile.

In Delhi, I would like to thank my respondents for their gracious gift of time. Whatever critiques I may make herein, I would like to record my respect and admiration for all your work and your clear commitment to the well-being of all India's people. Special thanks to Nabeela Ahmed for her original introduction to Dipa Sinha. A great deal of affection and gratitude to Ruth and Paul; to Anna, Elizabeth, and Miriam; and to Shaun, Serenity, Stuti, Yatharth, and others at Covenant Church. Hindi lessons with Sabrina Osborne at King's College London helped greatly with everyday interactions while on fieldwork.

I feel it would be remiss of me not to mention here Brighton & Hove Albion Football Club, whose promotion to the Premier League in 2017 gave an exceedingly helpful boost to both finances and morale in the Spicer household.

In the School of Law, Politics, and Sociology, I would like to thank Director of Doctoral Studies, Aleks Szczerbiak, as well as Lindsey Allen-Cavell and Mike Davy.

At the University of Sussex, I have been fortunate to work alongside and learn from a wonderful group of peers and friends; in no particular order, I would like to mention Katy Joyce, Julius Baker, Andrea Carboni, Rich Lane, Anna Gumucio Ramberg, Mareike Beck, and Patrick Kane. Extra thanks to Evie Browne and Sarah-Jane Phelan for providing constructive and encouraging feedback on chapter drafts. Special love and gratitude to Morgan Williams, Maria-Silvia D'Avolio, and Kai Heron.

My parents, Alison and Dorab Fox, have supported me through all the wild ventures of my life and this thesis would not have been possible without their help. Thank you for everything. Love and thanks are due also to my sister, Kathryn, and the other Aggarwals, and to my Spicer family, especially Christine and Richard.

Joel and Jamie – we have made it through together, and I couldn't have done it without you. I hope I have done something to make you proud. Here's to whatever comes next.

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## List of Acronyms

**AA** Antyodaya Anna Yojana

**APL** Above Poverty Line

**BJP** Bharatiya Janata Party

**BMI** Body Mass Index

**BPL** Below Poverty Line

**CACP** Commission on Agricultural Costs and Prices

**CPI** Communist Party of India

**FAO** Food and Agriculture Organisation of the United Nations

**FCI** Food Corporation of India

**FDI** Foreign Direct Investment

**IAC** India Against Corruption

**IAS** Indian Administrative Service

**ICDS** Integrated Child Development Services *centres also known as Anganwadis*

**INC** Indian National Congress *or Congress*

**J&K** Jammu & Kashmir

**MDMS** Midday Meal Scheme

**MGNREGA** Mahatma Gandhi National Rural Employment Guarantee Act

**MISA** Maintenance of Internal Security Act 1971

**MP** Member of Parliament

**MSP** Minimum Support Price

**NCMP** National Common Minimum Programme

**NFHS** National Family Health Survey

**NFSA** National Food Security Act 2013

**NFSB** National Food Security Bill

**NGOs** Non-Governmental Organisations

**OBC** Other Backward Class

**PDS** Public Distribution System

**PIL** Public Interest Litigation

**PUCL** People's Union for Civil Liberties

**RBI** Reserve Bank of India

**RTF** Right to Food Campaign

**SCs** Scheduled Castes *or Dalits*

**STs** Scheduled Tribes

**UP** Uttar Pradesh

**UPA** United Progressive Alliance

**UT** Union Territory

Without counsel, plans go wrong,  
but with many advisers they succeed.

- *Proverbs 15:22 (NRSV)*

The vast and wonderful knowledge of this marvellous universe is locked in the bosoms of its individual souls. To tap this mighty reservoir of experience, knowledge, beauty, love, and deed we must appeal not to the few, not to some souls, but to all. The narrower the appeal, the poorer the culture; the wider the appeal the more magnificent are the possibilities.

- *W.E.B. Du Bois (2016:81)*

## Introduction

In September 2013, India's parliament took the potentially momentous step of enacting the National Food Security Act (NFSA), legislation meant to guarantee that all the people of the world's largest democracy would be shielded from hunger, malnutrition, and starvation. The details of the bill had been much debated, but it was passed with support from all sides of the Lok Sabha (house of the people) in spite of their critiques and in the face of opposition from large parts of the country's active, if frequently partial, media. The path to the bill stretched back over a decade to the decision by a group of activists to bring a case to the Supreme Court, in a bid to force government action over starvation deaths in Rajasthan. A vibrant campaign arose around this legal case and, in combination with judicial orders, pushed the issue of hunger into public consciousness and onto the mainstream political agenda.

The NFSA was the final high point of a wave of human rights laws passed since the National Rural Employment Guarantee Act (NREGA) in 2004, which also included the Right to Information Act 2005, the Forest Rights Act 2006, and the Right to Education Act 2009. An unusual aspect of these laws was that, except perhaps for the RTI, they sought to guarantee not the civil and political rights associated with western liberal ideas of democracy, but rather economic and social rights – work, schooling, food – essential to human survival and thriving, but not recognised as critical to democratic functioning. Though not explicitly framed as such, the NFSA was broadly understood as a right-to-food law.

Despite the promise of the NFSA, within less than a year the government had fallen, losing by a wide margin in the general elections of spring 2014. Having criticised the bill as inadequate while in opposition, the new government showed little interest in implementing it and repeatedly allowed states to fall behind on plans for executing the law's provisions, while cutting social welfare budgets and moving from a rights-based model to one which centred responsibility on the poor rather than the state.

In this thesis, I use the case of the National Food Security Act, its genesis, development, and enactment, as well as the debates around its formation, to explore India's democratic system. I look at this case as a way of reflecting on Habermas' theory of

deliberative democracy in the context of an exceptionally large and diverse country, and use the theory as a framework for analysing the debates which surrounded this major piece of policy-making. In contrast to classic liberal understandings, which rely on the presence of voting systems and civil and political rights as markers of democracy, deliberative democracy as outlined by Habermas among others is a more normatively demanding model, in which major decisions should be reached after relatively open and public debate. This is not to suggest that everyone must participate in all decisions, but that the discussions which guide decision-making should in principle be open to all those affected by the matters at hand.

The process which eventually produced the NFSA involved many areas of India's public life, and makes an excellent case study for thinking about how decisions can be made in an inclusive and deliberative way in a country with more than a billion people, many languages, and a host of social and economic divisions. Moreover, food policy is a particularly interesting area to consider, because of its entanglement in India with the history of colonialism and governmental legitimacy, as well as the divergent experience post-independence between what might be termed spectacular famines – no longer a feature of Indian life – and the spectre of quotidian hunger and malnutrition, which continues to haunt the country. Food is one of the basic necessities of life, and yet in the world's largest democracy hundreds of millions of people continue to bear the marks of inadequate nutrition.

In this thesis, I look at the process which led to this issue being taken up as worthy of political attention, and at how the law reflected the different arguments and interests of those involved in deliberations. I highlight the deliberative elements and principles at work in India's democratic practices, and consider what the case shows us about deliberative models of democracy and their limitations. Briefly, I argue that India has a demonstrable history of deliberative democracy and that this law was the result of such a process working well. However, the focus on procedure over outcomes is a critical problem, in that an apparent consensus does not guarantee action; where politics is directed above all by capitalist considerations, democracy will be insufficiently robust to ensure that promises are followed through, and the struggle for material change will have to continue even where victory appears rhetorically achieved. The experience of India under Modi underscores the

fragility of democracy even where well-established, and the contingent nature of progress, which must continue to be fought for.

In addition, this thesis contributes towards a greater understanding and clarification of deliberative democracy by showing how it operates at the national level in India. As a work of political sociology, it intersects with political theory by an empirical exploration of deliberative democracy at work at the national level in India, adding to the strand of research described by Kuyper (2015) as the “systemic turn”. In light of Curato et al.’s (2017:34) argument as to the settled aspects of the debate around deliberative democracy, it seeks to focus on what I would suggest is one of the “real vulnerabilities” and “unresolved issues” of the project: that is, the critical disconnect between procedure and outcome, between apparent consensus and practical action.

### **Thesis outline**

Following this introduction, the thesis is comprised of eight chapters and a short conclusion. The first chapter lays the theoretical groundwork, and the second deals with the background for the case study, exploring debates about food security. The remaining chapters are empirical, engaging with various aspects of India’s democratic system in an order roughly guided by the chronology of the case study.

In the first chapter, I establish a theoretical framework for the thesis, based on Habermas’ theory of deliberative democracy. Most explicitly laid out in *Between Facts and Norms* (1997), Habermas’ theory of democracy is underpinned by his broader philosophical interest in communication. Drawing on his earlier work on discourse ethics, Habermas’ vision of democracy revolves around the giving of reasons in an intersubjective exchange which is, in principle, open to all those potentially affected by decisions. In this way, individuals in a democracy can understand themselves as the authors of the laws which govern their lives and which they agree to follow as members of society. According to Habermas, communication is underpinned by assumptions including sincerity, openness, and a shared commitment to finding consensus, and although these will not be guaranteed in any factual situation, these principles nevertheless exert a normative power over actual practices of deliberation.

As well as further details, the first chapter contains a defence of this theory as the basis of the thesis, particularly in preference to other variants of deliberative democracy, especially that of Rawls (2005). Rawls' version of deliberative democracy stands firmly within the traditions of liberalism, and while I would argue that Habermas' work has drifted too close to this strand, his roots in the Frankfurt School allow for a more critically oriented perspective and methodology. Habermas' version prioritises mutual understanding and learning rather than merely accommodating difference treated as immutable. I engage with critiques of Habermas from broadly within the democracy perspective (including John Dryzek (1996, 2000, 2010), Chantal Mouffe (2009), and Jacques Rancière (1999)), and from a more radical view (Ellen Meiksins Wood (1995), Fredric Jameson (2014), and Jodi Dean (2009)). I here anticipate the eventual argument of the thesis regarding the insufficiency of democracy in securing material change, and its critical value nevertheless. Finally, I consider the appropriateness of deliberative democracy as a framework for investigating Indian democracy and review existing scholarly work on deliberative democracy in India as a way of both justifying the exercise and highlighting the original contribution of the thesis as a sustained and cohesive analysis of systemic deliberation across the political public spheres of India, at the national level.

In chapter two, I outline the case study and place it in the context of the political economy of food. An apparently natural object, food is deeply imbricated in social, cultural, and economic systems. It operates as a marker of class as well as forming the basis of religious rites and social gestures of hospitality, friendship, and solidarity. I undertake a literature review around political ideas of food security, the right to food, and alternative understandings of food, such as the food sovereignty movement. I use this to situate India's case within these discourses and within the global food system and its problems. As a large country which is usually self-sufficient in the most common food grains, India has more room to manoeuvre in determining national food policy than other "developing" economies, but even here, the political economy restricts the possibilities considered viable under democratic regimes.

Having laid the theoretical and empirical bases for the thesis and its case study, I turn in chapter three to the question of how food came to feature as a subject of political attention in India in the first decade of the twenty-first century. Having tolerated a

persistently high rate of malnutrition for fifty years after independence, even with occasional reports of deaths from starvation, why did the problem begin to register at the national political level at this time? In chapter three I analyse the role of civil society and the Right to Food Campaign which gathered around this issue, initially sparked by a legal intervention. In 2001, a handful of activists brought a case to the Supreme Court of India, arguing that the failure of state governments to prevent starvation deaths from an ongoing drought was a violation of the constitutional right to life, which should be taken to include a right to food. From this beginning, a supporting movement coalesced, comprising numerous existing organisations as well as interested individuals, which eventually became a large popular campaign with an active presence in many of India's states and territories. Chapter three investigates the campaign's role in bringing attention to the neglected issue of chronic hunger; I explore the composition of the campaign, its tactics, and the narratives and arguments it used by analysing significant documents and statements, supported by data from interviews with a number of leaders within the campaign. I also reflect on the uses of deliberation within and by the campaign, and endeavour to show where the movement fits within and potentially reshapes understandings of civil society in India, with reference to the work of Partha Chatterjee (2004, 2008).

In the following chapter, I turn to the other side of this catalyst by looking at the role of the Supreme Court in centring the issue of hunger within Indian public and political awareness. After briefly considering the deliberative role of judicial systems, I look at the special role held by India's "activist" Supreme Court and the legal instrument used by the campaign, public interest litigation. The Court played a vital role in accepting the campaign's suit and in its ongoing use of interim orders; the case was brought in April 2001 and continued with regular hearings for more than a decade. The order of 28<sup>th</sup> November 2001 was the most significant, since it established legal backing for the right to food and sought to provide some shape to the content of this right. I examine the court's orders and draw out both the practical directions and the underlying arguments, including the surprisingly prevalent use of emotional and moral language. While activists were largely grateful for the court's efforts to secure concrete government action, and would incorporate these rulings in their advocacy work, there were criticisms that the judiciary had overstepped its authority by effectively making policy decisions. Moreover, the justices held



little power to ensure that their orders were implemented. In concluding this chapter, I suggest some of the pitfalls in relying on courts as a route to social transformation.

Under combined pressure from a large popular movement and the judiciary, the issue of food emerged onto the agenda of what might be called the formal political system prior to the 2009 Lok Sabha elections. Seeking to regain the initiative from the courts, and to follow up a series of social rights acts passed during its term in office from 2004 to 2009, the Congress party manifesto pledged to enact food security legislation if re-elected; the opposition BJP followed suit. In chapter five, I examine the role of political parties and the parliament, the heart of the deliberative system as Habermas views it. The empirical analysis here takes in the party manifestos and parliamentary debates, as well as additional interventions by political figures, such as an open letter from Narendra Modi, then leader of the opposition, to Prime Minister Manmohan Singh. As representatives of “the people”, politicians and parliamentarians of all stripes were eager to be perceived as supportive of the right to food, but the content of the legislation as well as the later implementation process suggests that these deliberative commitments were treated lightly.

In the two ensuing chapters, I consider two other major elements of India’s deliberative system: experts and the media. In chapter six, I explore the place for expert advice and input within deliberative models of democracy, given the value of specialised knowledge but also the risks of a technocratic derailing of collective decision-making, something which has long been a concern for Habermas. In India, Nehru’s interest in science and technology, alongside his faith in directed development, led to the creation of the powerful Planning Commission, which offered a consistent source of expertise in pursuit of public goals until its disbanding in 2014. However, in the period of this study, this technical body was supplemented by the National Advisory Council (NAC), convened by the Congress-led government as an alternative source of expertise; alongside academics and bureaucrats, the council featured members more known for their involvement with civil society, including two leaders of the Right to Food Campaign. The council was chaired by Sonia Gandhi, whose peculiar structural position within the administration had a crucial influence on the direction of the deliberations underpinning the legislation.

In addition to analysing the key outputs of the NAC relating to the food security legislation and a significant response from the prime minister’s Economic Advisory

Council, I tease out how ideas about expertise and its qualifications impact the acceptance of advice from different sources. In turn, the weight attached to various sources of expertise, priorities, and narrative framings may constrict the approach taken by participants in deliberation with negative consequences for the efficacy of their arguments. In this case, a perceived need to advocate for the bill's contents primarily on the basis of economic logic directed strategic attention by the council and campaign towards arguments of efficiency and human capital development, away from their original case to the Supreme Court which was characterised by ideas about justice and rights. While this move was perfectly understandable in the light of a public sphere dominated by neoliberal concerns about affordability and fiscal responsibility, it trapped them in unwinnable negotiations over numbers and resulted in repeated and frustrating rounds of budget cutting.

These narratives carried over into and dictated the shape of debates in the media also. A lively, diverse, and critical media is a key feature of a well-functioning democracy, and India's is large enough to encompass these conditions. However, as with its politics more widely, most of the Indian mainstream media caters overwhelmingly to a proportionately small section of the population, favouring middle class (and usually urban) interests at the expense of the far more numerous poor members of society. In chapter seven, I explore the Indian media landscape and analyse a set of articles from various published sources which relate to the NFSA. Having become increasingly corporate since the liberalisation of the Indian economy in the early 1990s, India's media scene is pitched towards those with disposable income and the aspiration to live a particular consumer lifestyle; there appears to be a mutual feedback process at work between media and political subjectivity, as argued by Leela Fernandes (2006). Marketing and advertising have displaced the priority of news and reporting to such an extent that several of the largest media houses have been openly engaged in a practice of "paid news", wherein businesses can enter ongoing contracts with media outlets to produce positive copy presented as regular news stories.

Given these conditions, it is perhaps unsurprising that the bill and its supporters received a mostly hostile reception. Again, focus was unrelentingly on the cost of the legislation, with potential beneficiaries positioned as passive recipients of dole rather than equal citizens being persistently denied their most basic rights. The campaign endeavoured

to contextualise the sums required, and some members were able to use the media to present their case to a wider public, as well as to potentially exert pressure on those in power. The breadth of India's media means that there are outlets more amenable to popular movements, and some individual journalists were supportive of the campaign's aims. However, the domination of the political and media class by those of privileged class and caste backgrounds created obstacles to the open processes of exchange which are supposed to form the basis for deliberative decision-making. In these circumstances, even the highly attenuated form of the bill which was eventually enacted represented a significant victory.

In chapter eight, I discuss developments since the NFSA was passed in 2013. This thesis mainly covers the preceding years, from 2001 to 2013, but in this chapter I present some of the data produced on nutrition since 2013. The government of India intermittently undertakes extensive reviews of various health indicators, the National Family Health Survey – the last complete round was NFHS-4, with data collected in 2015-16, with NFHS-5 partially finished when fieldwork was disrupted by the coronavirus pandemic. Using this information, I draw some indications as to the possible effects of the NFSA.

In addition, chapter eight traces the changing political environment in India over the past several years. The change of government in May 2014, after ten years of rule by a Congress-led coalition, represented a significant shift in the character of India's democracy, with Modi's BJP enjoying a large popular mandate and a parliamentary majority. Despite a similar economic outlook, this degree of political security, combined with an ideological orientation to Hindu nationalism, rendered the political sphere less open and the government less receptive to pressure by external groups like the Right to Food Campaign. I discuss how my interviewees understood and responded to the passage of the act and the altered political opportunity structures they faced under the BJP government. I analyse the experiences of popular movements under the current administration and what they indicate about the state of deliberative democracy in India at the present time.

I conclude with some reflections on the case in retrospect, as well as possible directions for future research. I argue that the National Food Security Act, while virtually

exemplary as a deliberative procedure, illuminates the flaws in pursuing significant material transformation through this medium.

### **Notes on method**

This thesis is written as a sustained engagement between the extremely abstract and idealised theoretical work of Jürgen Habermas and the empirical study of India's democratic politics. The case study I have chosen – the development of a policy to tackle the longstanding and widespread problem of malnutrition – touches on the major public spheres and political systems within which deliberation and decision-making take place at the national level. It is thus an excellent case for exploring the nature of deliberation, understood systemically, within Indian democracy. However, it is not intended as a comprehensive statement on India's politics, something which would surely be impossible in a single work no matter how lengthy, especially given the diversity and significance of local and state politics across such a large and populous country. More importantly, it is not to be understood as a normative assessment by an impartial outsider. It is not my purpose to compare India's democratic systems against a fixed ideal and to assign credits and demerits as it matches or fails to meet these external criteria. Rather, it is to explore India's practices of democracy and deliberation, to reflect on where existing theory might be useful in aiding our understanding, and to indicate where these practices might show the flaws and gaps in our theoretical approaches. Habermas, discussing his work in a 2006 article, suggests that normative theory can act as a regulative ideal, retaining its power of guidance even where it is not realised in practice. I here argue instead, from a perspective of political sociology, that empirical study may reveal the limitations of such normative ideals, where the pursuit of such unattainable ideals may distract our attention from alternatives with greater transformative potential.

Moreover, while I was certainly an outsider in Delhi, I make no claims to being impartial. On mentioning to one of my Indian friends that my grandad came from India (his branch of my family were Gujarati-speaking Parsis from Mumbai), he outright laughed because, “you’re so white!” – a statement which is irrefutable and which I was aware shaped my interactions with people while I was in India, to whom my foreignness was immediately apparent. On the other hand, I was not and am not emotionally detached from the subject

of this study, and have the greatest respect and admiration for the work of the campaign and those involved. I share their belief that no one should go hungry, that in any rightly ordered society there is a collective responsibility to ensure that everybody should be able to access food which nourishes them and is appropriate to their preferences. *Access to the means of survival should not be conditional.* This is as pertinent a problem in my society as it is in India. My analysis in this thesis is surely shaped by my sympathies with the movement as well as by my other beliefs and commitments, amongst them my Christian faith and my general adherence to certain forms of Marxist thought. I believe such positionality to be inevitable in social thinking and research, so I have chosen to make these explicit. Equally, however, I have sought to follow careful and consistent methods of analysis and be guided by an overarching methodology drawn from the tradition of critical theory.

In studying the National Food Security Act, I explored different aspects of India's public life, outlined above. I have proceeded primarily by documentary analysis based on argumentation theory, as laid out by Fairclough and Fairclough (2012), and backed this up by a series of research interviews with key figures involved in the campaign and the expert committee which initially drafted the law, as well as a journalist who had covered these issues extensively. Fairclough and Fairclough's political discourse analysis is inspired by Habermasian ideas of politics as deliberative, oriented to argument by the exchange of reasons, and is therefore especially relevant to this study.

The main source of empirical analysis in this thesis are the core documents which record important contributions and interventions into the deliberations surrounding the development of the NFSA. These documents varied with the area under study: for the campaign, there are two websites (one current, one archived) which contain a great deal of information about the campaign, its history, and its evolving goals and activities; for the Supreme Court, the key documents are the orders and rulings emanating from the right to food case; for formal politics, there are party manifestos for the 2009 election and the official transcriptions of parliamentary debates; for expert advice, there are some records of the internal debates of the NAC in addition to their updated plans and drafts, and a report responding to them from the Prime Minister's Economic Advisory Council. The most difficult chapter to select appropriate material for was the chapter on the media. While the others had relatively obvious and delimited sources to draw on, the volume of writing on

this issue within the media was overwhelming. I used the LexisNexis database to search for “national food security bill” and then read through a large number of articles, selecting around fifty for analysis. These were chosen with several criteria in mind: a range of sources, covering major broadsheet outlets as well as new media; a range of views, supportive, neutral, and hostile; different times within the window of my study; news reports as well as opinion and editorial pieces. A list of these articles is included as appendix IV.

In addition, I spent a period of four months living in India, based in Delhi as the capital and political centre, arriving just before Independence Day in August 2016 and leaving in mid-December 2016. During this time, I was able to interview ten people; the interviewees are listed in appendix I. Of these, eight had been closely involved at a high level with either or both of the Right to Food Campaign or the National Advisory Council; several had also been involved with the Office of the Supreme Court Commissioners for the Right to Food. Of my other two respondents, one was a journalist who had worked on social issues for a long time, and was recommended to me by another interviewee, and the other was a social worker whom I met at the Uttar Pradesh (UP) Right to Food Campaign’s state convention in Lucknow, in November 2016. Regrettably, I was unable to meet with any politicians during my time in Delhi; though the former Food Minister offered to meet me in London, he suggested a date a week before I was back from India, and a follow-up request for a remote interview received no response. Others did not reply at all. This is certainly a disappointing lacuna within the thesis, and it would be interesting to investigate further how Indian politicians understand democracy and their roles within a deliberative system.

Interviews were semi-structured; a list of questions was prepared in advance, but these were not followed rigidly, with new questions arising over the course of conversations and over the fieldwork period, and others omitted. An example schedule is included in appendix I. Respondents were contacted prior to thesis submission with their citations in context so that they could suggest amendments, and I am grateful for their feedback.

The period of fieldwork was extremely useful in allowing me to meet my interviewees and see the environments in which they worked, and in giving me the opportunity to catch glimpses of India and its democracy at work in small ways: the voter enrolment stand in one of the Metro stations (below left); my several trips to the protest

site at Jantar Mantar, including for an anti-genetic modification demonstration (below right); being able to attend a day of the campaign convention in UP; the political murals which abounded on the campus of Jawaharlal Nehru University. While minor, these things added to my understanding of the ways politics is expressed in the everyday life of the capital and the ways in which ordinary citizens try to make their views and experiences heard. In this thesis, I hope in a small way to recognise this struggle, of those fighting for democracy and the rights of all to access their basic needs, as well as arguing that we may need to go further to ensure that all can flourish.



## Chapter One: Habermas' Theory of Deliberative Democracy and its Application to Indian Politics: A Theoretical Framework

In a 2006 article, Habermas highlights the following as the heart of deliberative democracy: “the cooperative search of deliberating citizens for solutions to political problems” (2006:413). This is the core of Habermas' democracy: citizens seeking through dialogue to establish mutually acceptable answers to their common problems. The vision set out in *Between Facts and Norms* (1997) is an elaboration of this approach, drawing on Habermas' previous work on the theory of communicative action and discourse ethics. This chapter introduces Habermas' theory of deliberative democracy as the theoretical framework for the thesis and addresses some critiques; this theory allows us to reflect on and appreciate the democratic elements of India's political system, while using it to think through the case of the National Food Security Act may help us to highlight some of the limitations of this approach.

### Deliberative democracy in the work of Jürgen Habermas

This theory [of deliberative democracy] starts with the socially integrating force of rationally motivating, hence non-coercive processes of reaching understanding states Habermas in *Between Facts and Norms* (1997:6). For Habermas, what holds a political community together and makes decision-making and problem-solving democratically legitimate is the practice of communication free from contaminating influences of threat or coercion, from the kinds of power which operate in other spheres of society. It is through open, sincere, and equal processes of communication that the different interests and beliefs which exist in a society and which might otherwise threaten to break it apart can be, not simply balanced, but somehow reconciled. Harnessing the potential of rational communication can draw society together, feeding solidarity across difference, and offering the basis for democracy.

In his theory of deliberative democracy, Habermas both built on and broke from his previous work, drawing from the moral theory of discourse ethics but going beyond a simple application to political philosophy to ground a still morally-informed politico-legal theory of democracy and legitimate rule (Finlayson and Freyenhagen 2011:7). He is keen to stress that the theory cannot be simply an abstract ideal, “constantly in danger of losing



contact with social reality,” but must have a connection with the political arrangements of societies as they exist (Habermas 1997:6). It is in the tension between facticity and validity, between facts and norms, that this theory must base itself.

Habermas finds the grounds for building his theory on this tension in the concept of communicative action. In contrast to strategic action, in which actors are oriented to success, communicative reason arises from what Habermas (1997:4) regards as the necessary “presuppositions” which underpin language use. Here, language use is geared towards mutual understanding and entails a performative commitment to certain assumptions:

that the participants pursue their illocutionary goals without reservations, that they tie their agreement to the intersubjective recognition of criticisable validity claims, and that they are ready to take on the obligations resulting from consensus and relevant for further interaction (1997:4).

These principles which underlie communication “are also imparted to the forms of life reproduced through communicative action” (1997:4). These idealised principles of communication Habermas considers to be universal and transcendent, though limited, norms.

While Habermas’ theory of deliberative democracy contains important normative elements, these are procedural rather than practical directives. His theoretical work aims less to set out prescriptive goals or standards for a democratic polity than to define how a decision-making process in a complex modern society can provide a democratic basis for that society. For Habermas, “the central element of the democratic process resides in the *procedure* of deliberative politics” (1997:296, emphasis added). It is the nature of the decision-making process which defines a polity as democratic or not, as legitimate or not. This concern with legitimacy is carried over from Habermas’ earlier work, seeking to understand how decisions can be grounded and recognised as valid in a world no longer subject to the integrating force of a shared lifeworld paradigm, such as a common religion.

Habermas draws a contrast with the liberal and republican understandings of the democratic state, which he finds respectively too little and too greatly demanding. For the liberal, democracy consists in voting, relying on a mechanism of balancing and compromise between private interests, which are protected by a system of basic rights; civic republicans have promoted a more far-reaching ideal of democracy as “the political self-organisation of society as a whole”, with a corresponding relation to the ethical vision of particular societies

(Habermas 1997:296-297). Deliberative democracy creates a way between these two alternatives, avoiding the homogenising effects of republicanism's ethical integration but insisting on something normatively stronger than liberalism's competition between individual interests.

This emphasis on procedure over substance is self-justifying, rather than relying on external validation. Since modernity and the Enlightenment have unmoored us from the traditional bases of justification, and the twentieth century has shown us the lethal dangers of a purely instrumental rationality, Habermas (1997:xli) argues for a "reason that puts itself on trial". This reliance on procedural measures stems from the realisation that there is "neither a higher nor a deeper reality to which we could appeal" (1997:xli); legitimisation must be sought in the form of the decision-making procedure itself, which is constantly under review.

The critical element of communicative action is that it cannot be coercive; rather, decisions must be rationally convincing and acceptable to those affected by them.

A justified truth claim should allow its proponent to defend it with reasons against the objections of possible opponents; in the end she should be able to gain the rationally motivated agreement of the interpretation community as a whole (1997:14).

When putting forward propositions, those engaging in communication must be able to present reasons which are convincing to other participants in deliberation; further, this must be understood as ultimately "extend[ing] ideally across social space and historical time", with a degree of transcendence (1997:15).

This practice of reason-giving lies at the heart of the Habermasian model of deliberation. Deliberation can be understood as a dialogic process of putting forward positions, or "critisable validity claims", which can be justified and supported with reasons (1997:20). Habermas' stress on the intersubjective nature of this process is worth emphasising, as it is a key difference from other versions of deliberation, notably that of John Rawls (2005). This process is weighted with "ideal tension", since validity claims are "Janus-faced", addressed to the unlimited audience of communication and to the context in which they arise and must be (temporarily) settled, transcendent and yet socially grounded (1997:20-21). The precise nature and form of acceptable deliberation has been

expanded by critics friendly to Habermas, but this remains the crux of his theory of democracy.

Habermas transfers this understanding to everyday speech. Even quotidian communication ultimately relies on the “idealising force of context-transcending anticipations”, including the potential exchange of reasons and the “ideally expanded audience of the interpretation community” (1997:19). In a modern and increasingly complex society, where lifeworld certainties are diversifying and crumbling, communicative action comes under growing pressure as a mechanism for social integration (1997:25-26). Here law enters the equation, as law and the system of individual rights are the form in which the tension between the idealising claims of communicative structures and the facts of social reality becomes embodied in political systems.

Habermas’ theory sets out to establish the conditions for adequately democratic arrangements in any society. Where decision-making processes are ordered according to deliberative principles, citizens should be able to conceive of laws as in some way stemming from themselves, as self-legislated and capable of rational acceptance (1997:30). Although the law must still be protected via a coercive apparatus, this should be generally unnecessary, as most citizens should be rationally willing to acquiesce in decisions which they can recognise as validated by the deliberative process, seeing themselves as the authors of these laws even when they disagree with them. Law embodies both *facticity*, in its ability to rely on sanctions where necessary, and *validity*, in that its rational acceptability guarantees that it must be possible for communicatively acting individuals to “obey its rules out of respect for the law” (1997:31). This procedural model of law-making through deliberative claim-making ensures legitimacy in deliberative democratic systems.

There are several other important principles which regulate the characterisation of politico-legal systems as democratic in Habermas’ terms. Deliberation must be “inclusive and public”, with all who are potentially affected by decisions able to take part (1997:305). Participants should be “bound only by the presuppositions of communication and rules of argumentation”, and should take part on equal terms, with “an equal opportunity to be heard, to introduce topics, to make contributions, to suggest and criticise proposals” (1997:305). Habermas extends the range of topics open to deliberation to “any matter that can be regulated in the equal interest of all”, and particularly mentions questions of

the unequal distribution of resources on which the actual exercise of rights of communication and participation depends (1997:306).

This invokes some sense of a common good and directs attention to the material conditions which affect how deliberation might function in practice. It also suggests that questions around hunger and the right to food are suitable topics for deliberation. Openness, inclusiveness, and equality are central values of this theory.

One of the most controversial aspects of Habermas' theory is the orientation to consensus. Communicative reason is "inscribed in the linguistic telos of mutual understanding"; that is, the ultimate goal of language use is to converge on understanding, a shared view about "something in the world" (1997:4). The presuppositions and obligations of communication include the commitment to "take on" any obligations stemming from this consensus (1997:4). This is conceived as a "performative attitude" requisite for subjects entering on communication with a view to co-ordinating action, to acting together in a way that is not based on individual interests, competition, and force (1997:18). Only in this manner can communicative action accomplish the role of societal integration which Habermas assigns it. Consensus with a view to co-operative action is held as the end of communication.

Consensus remains as a regulative ideal, but is not expected in ordinary political practice. While deliberations are pointed towards "rationally motivated agreement" and remain in principle revisable, in practice, a majority decision is sufficient; where this decision is connected with a prior deliberative process, there is a justified "presumption that the fallible majority opinion may be considered a reasonable basis for a common practice until further notice" (1997:306). This allows for majority voting to be used to conclude deliberations even where full consensus is absent, with the condition that such decisions can always be revisited.

Despite this proviso, the centrality of consensus in Habermas' theory has been the focus of much critique. I return to this later, but it is worth noting that Habermas has subsequently lessened the normative weight placed on consensus and accepted its conceptual as well as its empirical impossibility (Thomassen 2008:28). Nevertheless, the goal of reaching rational agreement and shared understanding continue to play a significant role for Habermas as necessarily orienting deliberative communication.

Habermas wishes to show how this abstract normative model finds its shape in political arrangements. Further, he believes that the normative aspects of his theory are, in however partial and distorted a way, actually present in the political practices of democratic societies (1997:287). He therefore endeavours to show how institutions can be arranged to reflect his procedural understanding of democratic legitimacy, how decisions can be treated as justified by deliberative processes in actually existing democracies.

One of Habermas' main concerns is how the formal political elements of a society relate to and are responsive to wider society. Habermas makes use of the sociological concepts of civil society and the lifeworld. The lifeworld is the fundamental context for society, the private and public spheres of relationship and communication which make up the lives of individuals and collectives outside of formal spheres such as law, politics, and the economy. It is the source of the background knowledge which we use without being aware of it, which structures our thoughts and speech, which is beyond challenge or falsification until it is explicitly brought into question and collapses as an unconscious certainty (1997:22-23). Civil society refers to those public aspects of a society which are not part of the state or economic system, and is made up of diverse and relatively autonomous public spheres; it is from here that solidarity arises to hold society together, along with the less normatively charged steering mechanisms of public administration and money (1997:299). This does not mean that only communicative reason is at work in civil society; interest-based bargaining, money, and social power are relevant too. However, civil society, fed from the lifeworld, carries the normative load of societal integration in Habermas' theory. How is institutional politics connected to and affected by civil society?

Again, the key here is law and the legal institutionalisation of communicative practices. According to Habermas (1997:354), law and its language act as the link between the ordinary communication of the lifeworld and the formal, specialised systems of money and administrative power, keeping the latter grounded in the former. Using a model proposed by sociologist Bernhard Peters, Habermas outlines a political system of core and periphery, the second divided into two: the core comprises the political system of administration, judicial system, and parliamentary system as against the inner periphery of various institutions with responsibilities delegated by the state (such as universities, professional bodies, and charities), and the outer or real periphery, which is the public

sphere (1997:354-356). This outer periphery is the site of public discussion and action beyond the state, the space designated for civil society.

In a democratic political system, legitimacy is secured by flows of communication originating from the periphery, which proceed along constitutional lines through the parliament or courts, and possibly exert a steering effect on the implementation or administration side (1997:356). Habermas acknowledges that the practice of politics in Western democratic societies does not match up to this arrangement; most of the time political systems operate according to set patterns and processes. The issue is the power relations embodied in these patterns and their openness to change, whether they can be affected by “renovative impulses from the periphery” (1997:357). Where social problems become conflicts, there must be the possibility for another mode of decision-making to take over.

Within this schema, civil society plays an important but strictly limited role. The concept of civil society is a contested one, especially in the case of India, as I discuss in chapter three. As a term in political theory, it is so widely used as to be practically unavoidable, but tends to lack clarity. Here I follow Habermas’ usage in *Between Facts and Norms*: civil society is

composed of those more or less spontaneously emergent associations, organisations, and movements that, attuned to how societal problems resonate in the private life spheres, distil and transmit such reactions in amplified form to the public sphere (1997:367).

Civil society is that part of society which is neither the state, nor (in this case) the economy. It is based in the lifeworld and its “connections and voluntary associations” form the link between the social lifeworld and the broader public sphere (1997:366). The network made up from these “associations” provides a basis for discourse on questions and problems which touch on the public interest, creating and institutionalising patterns of communication around an “egalitarian, open form of organisation” (1997:367). While not as visible in the public sphere as the mass media, marketing, public relations and so on, civil society provides an “organisational substratum” for the wider public of citizens; this is the primary route through which citizens can put forward their experiences and seek to influence political opinion and decision-making (1997:367). Referring to the work of Jean Cohen and Andrew Arato, Habermas notes the significance of basic rights, especially

freedom of speech and association, in securing modern civil society, though also that civil society must be active in order to maintain and strengthen a functional public sphere (1997:368-369). Habermas' understanding of civil society offers an optimistic vision of discursive associations which connect private lifeworld experiences with the political public sphere and the circuits of formalised power in the administrative core of the state.

Individuals and groups in civil society can be engaged in either interest-based bargaining or in more normatively inflected discourse, acting to "give voice to social problems, make broad demands, articulate public interests or needs" (1997:355). Communication of the latter form is the heart of deliberative democracy in action. Activists, organisations, and social movements which aim to influence politics and law in the public interest contribute to this crucial communication. The proper place of civil society in a deliberative democracy is to maintain this ongoing communication so that it draws the attention of the formal political sphere.

Its primary function in this model is therefore one of problematisation. The public sphere should act as a "warning system", be alert to problems arising throughout society, and direct attention to these issues; the public sphere must,

not only detect and identify problems but also convincingly and *influentially* thematise them, furnish them with possible solutions, and dramatize them in such a way that they are taken up and dealt with by parliamentary complexes (1997:359, emphasis in original).

Civil society, whether as individuals or groups, should create awareness of social problems so that it becomes necessary for the formal political structures to take notice and act upon them. The public sphere is not capable of solving the problems which it brings forward to wider notice, though it continues to have a role in monitoring how problems are managed once they have passed into the political system (1997:359).

Rather than being an institution or organisation, civil society is the "*social space* generated in communicative action" (1997:360, emphasis in original). This space is in principle open to multiple partners in communication, and creates the conditions for the development of public opinion, which is not the same as the aggregation of individual opinions as represented in survey data. Public opinion must be the result of an informed process of debate, in which contributions must be oriented towards convincing reasons and

shared values. Through communication by those potentially affected, drawing on their private experiences, this public sphere can influence the political system, converting into political power when it affects the decisions of actors in these formal systems (1997:361-366). Civil society picks up on social problems affecting private life spheres and passes this knowledge on to the public sphere.

### **Deliberative democracy as radical democracy?**

At this limit, Habermas' account of civil society stops. He stresses that within the public sphere, actors can only hope to achieve influence, not political power (1997:371). The public is relieved of the "*burden of decision making*", reserved for institutionalised political bodies (1997:362, emphasis in original). An ideal civil society is characterised by the ability to raise social problems to broader awareness, to provoke informed debate based on shared interests, reasons, and values, and to prod the political system into action.

It is necessary to consider how this ideal system may work in practice, especially the difficulties posed by powerful actors pursuing their own interests. Habermas argues that because the reasons which inform public debate must be convincing to a wide audience, social power cannot be straightforwardly converted into political power. Public opinion can be "manipulated but neither publicly bought nor publicly blackmailed" (1997:364). The conditions necessary for a qualified public opinion entail that certain criteria must be met within the public sphere, since "fruitful and clarifying", quality debates are by nature excluded from public spheres characterised by oppression and unequal power relations (1997:362). Basic rights, including the protection of privacy, and a liberal political culture are prerequisites to a properly constituted public sphere (1997:368-371).

For Habermas, this understanding of a political system influenced by communication from civil society and governed by a deliberative decision-making process equates to a radical vision of democracy. He contrasts his model with a typical liberal view of democracy as merely electoral, where citizens vote every few years according to their personal interests and duly elected politicians then proceed to take all decisions by balancing these contrasting interests. Rather than countering this normatively skeletal model by embracing republicanism's idea of a mysterious and monolithic "will of the



people”, Habermas emphasises the significance of communication arising from civil society to direct actors in the formal political sphere to matters of public concern. The deliberative process is crucial in preserving a link between the “anarchistic core” of civil society and the formalised structures of public administration where decisions are taken and enacted. The vitality of open and intersubjective deliberative discourse in the wider public spheres of the periphery provides material for conflict resolution and problem solving in the core. Real power is reserved within these formal bodies, with civil society, that is, the majority of citizens, playing at best a supporting, steering role. Nevertheless, Habermas insists on the importance of radical democracy and presents his model as such (1997:xlii-xliii).

Although Habermas’ early work in *The Structural Transformation of the Public Sphere* (1999, originally published in German in 1962) traced the decline of the liberal-bourgeois public sphere under the pressure of the capitalist system, in his later work he appears more sanguine about the continuing potential for public deliberation leading to legitimation and democratic renewal. This is despite the limited role that he assigns to civil society, even where this is not subject to corruption and distortion by powerful social interests. I would agree with Dryzek’s (2000) assessment that Habermas’ critical theory has ceded too much and drawn too close to liberal democratic theory. Emphasis is on the proper conditions for deliberation leading to the formation of opinions which may encourage formally anointed political actors to make decisions, and seems to exclude or minimise the possibility of reflection on or significant change to the nature of political systems themselves. Civil society may help to set the agenda for political discussion, and no more.

Perhaps, as Grodnick (2005) argues, these criticisms are unfair, and based on a misreading of key elements of the text. On this argument, Habermas reserves only the technical matters too complex to be broadly understood to the sole domain of the administration, while normative matters are under the control of the public, with formal political actors taking fairly immediate direction from civil society. I have two objections to this line of thinking. Firstly, it does not seem to be well supported by the text. Habermas makes it clear that the role of the public is to bring problems and conflicts to light, but that decisions and actions are left to the formal institutions uniquely capable of handling them. In later summaries of his work, Habermas has dropped the language of “radical democracy” entirely, and presents his theory as a variant of liberal democracy, a question of emphasis

rather than divergence (Habermas 2006). Secondly, I would reject Grodnick's suggestion that a clear line can be drawn between technical and normative matters. In this study, the normative matter could be the premise that people have a right to food and that the state has a responsibility to prevent chronic hunger and starvation. However, the conversion of these principles into policy has clear implications for equity and justice, and these details were fiercely and rightfully contested by civil society actors during the legislative process.

While Habermas' theory contains ideal elements, in its tension between facticity and validity it is tied to and upholds the status quo in a way which may inhibit more significant social change (Dean 2009). Nevertheless, by deepening our understanding of democracy beyond the shallowness of liberalism without falling into republicanism's normatively overwhelming visions, this theory can help us to consider, evaluate, and appreciate democratic practice beyond occasional voting in the lived experience of modern democratic societies. Moreover, Habermas' theory has important advantages over alternative models, of which the most influential is perhaps that of John Rawls.

### **Rawls' model of deliberative democracy**

Rawls' *Political Liberalism* was published in 1993, just a year after the German publication of *Between Facts and Norms*. Like Habermas' work, Rawls' theory was the culmination of several decades of previous thought. Whereas discourse ethics was a more purely moral theory and Rawls' *Theory of Justice* was a work of political philosophy, the later works moved the two into a shared space of political-legal theory, with an underlying concern for moral values and a common focus on legitimacy (Finlayson and Freyenhagen 2011:7). In *Political Liberalism*, Rawls laid the basis for an alternative understanding of deliberative democracy, which has also been influential in the development of the field (Dryzek 2000). Here I explain how it differs from Habermas, and why I prefer to use the latter in this study.

For Rawls, like Habermas, a critical question facing democratic theory is the diversity and pluralism of modern societies:

how is it possible that there can be a stable and just society whose free and equal citizens are deeply divided by conflicting and even incommensurable religious, philosophical, and moral doctrines? (2005:133).

Rawls' answer is that the various "reasonable doctrines" in a society should each be able to accept the ruling political arrangements from within their own point of view (2005:134). This is his idea of the overlapping consensus.

According to Rawls (2005:134), philosophers including Plato, Aristotle, Augustine, and Aquinas embraced the idea that there is only one reasonable conception of the good; institutional arrangements were justified insofar as they promoted this good. By contrast, modern democratic societies are forced to reckon with different and even conflicting ideas about the good which arise from divergent but still reasonable comprehensive doctrines. Thus, "no comprehensive doctrine is appropriate as a political conception for a constitutional regime" (2005:135). Although in a democracy this power rests with the public, "political power is always coercive power", with law backed up by sanctions (2005:136). It is therefore critical to establish how power can be justifiably used where there is a recognition of different conceptions of the good.

Like Habermas, Rawls locates justification in the idea of common rational acceptance by citizens with varied worldviews and experiences. However, Rawls differs from Habermas in laying stress on the constitution as the critical site of this agreement; it is the constitution which

all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason (2005:137).

The constitution is underpinned by political values which Rawls argues are "freestanding", separate from and in the case of politics taking priority over other kinds of values; these values can be jointly held even where citizens hold a variety of comprehensive doctrines (2005:140). In addition to this constitutional consensus, the overlapping consensus includes certain rights and principles relating to the idea of justice as fairness:

certain substantive rights such as liberty of conscience and freedom of thought, as well as fair equal opportunity and principles covering certain essential needs (2005:164).

This overlapping consensus, endorsed by all reasonable citizens, grounds Rawls' understanding of deliberative democracy.

Rawls' theory is inextricably tied up with liberalism. He argues that this is the "most reasonable political conception of justice for a democratic regime", in that it protects and prioritises basic rights as well as setting requirements for meeting citizens' material needs such that they can participate politically (2005:156-157). This commitment to liberalism is problematic in that it tends to emphasise the individual over the collective and seeks to avoid discussion of "the most divisive issues", which might threaten social harmony (2005:157). Unlike Habermas, who insists on the power of communication as social learning, allowing a move towards shared understanding, Rawls sees people agreeing on limited topics from within their existing beliefs. While it permits a degree of agreement and action, public reason does not seem to change anything. Although Habermas may be too optimistic in his view of how far consensus can be achieved, Rawls seems to simply bury difference, pushing divisive issues out of sight.

It is perhaps unsurprising that Rawls assigns public reason only a small role in his theory of deliberative democracy. Rawls restricts deliberation to "questions about constitutional essentials and matters of basic justice" (2005:137-138). The latter might include the provisioning of basic needs and still cover hunger and food rights, the subject of this study, but it unnecessarily closes off many topics and problems which might confront societies; in Habermas, it is generally for civil society to bring these forward for public consideration. Moreover, while Habermas stresses the intersubjective, therefore necessarily collective, nature of deliberation, public reasoning in Rawls' sense only involves weighing various considerations, potentially by an individual (Dryzek 2000). Rawls (2005:231) offers the US Supreme Court as the institutional exemplar of public reason, but this is an exceptionally small and elite body, suggesting that deliberation is best kept out of the everyday run of politics (Dryzek 2000). Rawls' theory is characterised by exclusion in several senses. Liberal versions of deliberative democracy have tended to locate deliberation within the state, as here, in contrast to Habermas' emphasis on the role of civil society and the broader public. For these reasons, I prefer Habermas' theory of deliberative democracy to that of Rawls.

Liberal proponents of deliberative democracy, including Rawls, stress the values of liberal constitutionalism which underpin their models. However, they fail to reckon with significant material forces in society which affect political practice and the exercise of

power, and which are not accounted for by the constitution, most notably the role of business and money, but also discourses and the media (Dryzek 2000:17-18). These sources of disproportionate influence are not accounted or controlled for by liberal democratic theory, which underestimates the distorting impact of capitalism.

Habermas' work in *Between Facts and Norms* arguably draws very close to liberal constitutionalism, tending to ignore extra-constitutional agents, not requiring any deep changes to political or economic structures, and extending an "easy legitimacy" to existing democracies (Dryzek 2000:26-27). This "easy accommodation with the prevailing liberal political economy" (Dryzek 2000:8) is perhaps understandable in the light of the twentieth century, from the horrors of World War Two to the collapse of Communism as a plausible alternative. Confronted with these events, the impulse to defend what has been achieved may seem reasonable, preferable to risking democracy as it exists for the chance of greater authenticity and equality. Habermas' roots in critical theory may make it easier to recover a more critical edge to democratic theory, while also appreciating the operative practices of deliberation in existing democracies like India. In the next section I deal with critiques of deliberative democracy before defending the use of Habermas' theory in this study with reference to the case, India's National Food Security Act 2013.

### **Consensus, difference, and dissent**

In the following three sections I deal with critiques of deliberative democracy from sources hostile to the concept, rather than an alternative vision of the same theory as with Rawls. I address first the objections of those troubled by deliberative democracy's tendency to minimise difference and the political value of dissent. Next, I reflect on the arguments of post-colonial theory about the dangers inherent in applying theory across different contexts, an important consideration especially in approaching research in a society which is not my own. Finally, I raise the concerns of Marxist theorists about the limitations of democratic theory in confronting the material inequalities and injustices of capitalist societies. Although these critics raise valid points, I believe that with care, Habermas' theory of deliberative democracy can be justifiably used to highlight democratic practices in India while also acknowledging and revealing the limits of this theory.

Scholars sympathetic to the idea of deliberative democracy have raised concerns about Habermas' emphasis on rational argumentation and agreement. These critics worry that the insistence on rational argumentation, reason giving, and the common good unnecessarily narrow the scope of acceptable forms of communication (Young 1996:120). This may have the effect of reducing politics to a formal debating society, privileging the contributions of those able to express themselves in the correct way; empirical studies in India and elsewhere have suggested that the exclusion of those less able to put forward their claims in an acceptable way can be a problem (Bhattacharjee and Chattopadhyay 2011:51, Karppinen et al. 2008:16). Habermas' theory can be modified to allow different kinds of contribution, including recognition of social action and protests, given the importance he places on the role of civil society (Curato 2012:424). It is this wider model that I use as a framework in this study.

One of the main lines of attack on Habermas' theory of deliberative democracy is a deeper critique that his insistence on an orientation towards consensus is problematic and ultimately self-defeating. For critics such as Mouffe (2009) and Rancière (1999), the very idea of consensus as a goal in politics is flawed, since it contradicts the pluralism and disagreement at the heart of democratic life.

For Habermas, the idea of rational consensus is important, though limited: there is no anticipation that consensus will come about through deliberation in practice, but the concept is crucial to communicative action as "counterfactual '*idealising suppositions we cannot avoid making*'" (Thomassen 2008:18). Rational consensus remains as a guiding principle, a regulative idea as society moves through a learning process, gradually coming closer to truth (Thomassen 2008). Even if as an unattainable ideal, rational consensus remains as the *telos* and condition of communication.

The lingering claim to transcendence and consensus can be considered problematic in pluralistic societies. For Mouffe (2009:8), the orientation to consensus is dangerous because it suggests that "antagonism can be eradicated", which she denies. She criticises Rawls for his erasure of confrontation in politics, "thereby expelling any legitimate opposition from the democratic public sphere"; because Mouffe believes that politics requires an us and a them, antagonism is always a possibility, and the role of democracy is to reduce its likelihood (2009:12-14). Within limits, difference is something to be

embraced, rather than reduced or suppressed. Treating consensus as an aim covers over relations of power, as well as difference and dissent, posing a threat to the very existence of democracy (Mouffe 2009:22). Habermas' approach to democracy is suspect because the goal of consensus, however idealised and counterfactual, represents an unacceptable risk to difference in a pluralised society.

In his later work, Habermas has shown a desire to acknowledge difference and include the other without violating their otherness; this has led to a greater openness towards alternative forms of argument and social difference (Thomassen 2008:22). Nevertheless, Habermas retains the idea of rational consensus as necessary and unavoidable, inescapably linked with practices of justification. The idea of rational consensus as the end of communication is logically contradictory, since achieving rational consensus "would be the end to discourse, rational or not" (Thomassen 2008:27). Habermas still appears to prioritise consensus over dissent in a way that Thomassen (2008:29) finds problematic. For Mouffe (2009:113), dissent and difference are just as necessary as consensus, while for Rancière (1999:xii-xiii) the "rationality of disagreement" is itself the rationality of politics, with democracy separated from the "practices and legitimisations of the consensus system". The emphasis on consensus in Habermas' model, though modified, may continue to threaten recognition of the necessary place of disagreement, division, and dissent.

Empirical scholars on deliberative democracy have displaced consensus as the goal of politics. In practice, given that consensus may be difficult or impossible to achieve, various outcomes are acceptable for decision-making: "voting, negotiation, or workable agreements that entail agreement on a course of action, but not the reasons for it" (Curato et al. 2017:31). Deliberation can nevertheless improve decision-making as part of the process. These authors argue that the end is not substantive consensus, but a meta-consensus, entailing a recognition and acceptance of different values. This leaves unanswered questions about how to treat actors who are genuinely not committed to these values, such as activists of the alt-right who have claimed free speech rights in order to campaign for precisely the abolition of such rights; even the meta-consensus suggested here seems to rely on this diluted conception of the Other, which Žižek calls the "decaffeinated

Other” (Heron 2020). This is especially the case within an ongoing commitment to liberal democracy.

While the theoretical disagreement between Mouffe and Habermas persists, the political implications do not go very deep (Khan 2013). Mouffe (2009) is happy to criticise Habermas and Rawls as the main thinkers of deliberative democracy, and to condemn them as purveyors of a Third Way politics which ignores difference and the power relations involved in the necessary exclusions of democratic societies. Her proffered alternative is couched as a balance between liberalism and democracy, which she presents as ultimately contradictory and in tension, in need of negotiation through politics (2009:5). Thus, like Habermas, she embraces liberal democracy as the basis for legitimate politics. Moreover, she accepts that consensus “is indeed necessary but it must be accompanied by dissent” (Mouffe 2009:113). Mouffe’s critique is therefore not fatal to Habermas’ model, but could be useful to bear in mind during this study, in directing attention to the exclusions that might be operating in public spheres.

### **Post-colonial critique**

One of the problems in pursuing this study is the difficulties posed by the Eurocentric nature of much social and political theory. Post-colonial theory is a broad field, but several of the major Subaltern Studies authors (Partha Chatterjee, Dipesh Chakrabarty, Ranajit Guha) come from India and draw on the history of India in making their claims. These theorists have drawn attention to the ways that many works of social and political theory are built on culturally and historically specific experiences and ideas which are then held out as universally valid and appropriate models. In particular, Subaltern Studies theorists have criticised the way theorists have produced, promoted, and relied upon narratives of Western history as a gradual triumph of Enlightenment ideas and liberal values, an endogenous process which provides a normative model of progress for all. These narratives have tended to centre the experiences of a few, mostly European countries, positioning the remaining countries as Other, while obscuring the constitutive role of colonialism, slavery, and violence in the making of the modern West.



Even where theorists have written from critical perspectives, these problems have been present. In *Provincialising Europe* (2008), Chakrabarty highlights Marx as belonging to a parochial European intellectual culture, influenced by traditions shared with others even with quite contrary views to his own. Although Marx's work has "undoubted international significance", it is limited by the embeddedness of his thought in his origins, and cannot be simply applied across different contexts (Chakrabarty 2008:x). Likewise, in their study of the process by which capitalism became established across the world, Anievas and Nisancioglu (2015) are critical of Marxist theorists including Ellen Meiksins Wood and Robert Brenner who develop their explanations of capitalism as internal to Europe. These theorists elide the decisive part played by slavery and colonialism in the accumulation of wealth and establishment of exploitative labour relations which laid the basis for capitalist progress and the industrial revolution. As Chakrabarty argues (2008:xvi), "critical thought fights prejudice and yet carries prejudice at the same time", so a critical orientation is not automatically a defence against Eurocentrism.

Habermas states explicitly in *Between Facts and Norms* (1997:xl) that his theory is drawn in relation to the Federal Republic of Germany and the USA, the two political systems with which he is most familiar. He stresses that the theory of communicative action, while normative in one sense, is not prescriptive about particular forms of life or courses of action; it is not intended to set rules about what people *should do* (Habermas 1997:4-5). Neither does his framework for democracy specify configurations for deliberative political institutions. There are therefore clear limits which Habermas sets regarding the reach of his theory.

The explicit normative claims which can be found in Habermas are ones of process, rather than substance. The presuppositions which he finds encoded into communication are universal, common to all languages and language users. He believes that these principles, which determine the legitimacy of processes of deliberation and decision-making, are transcendent, valid across different times and cultural contexts. Although Habermas is apparently set on avoiding substantive ethical claims, his work places high normative value on concepts like democracy and liberalism, which are used and defined in relation to the historical experiences of a small number of countries.

The invocation of supposedly universal concepts like democracy, human rights, civil society, and others is problematic if not handled carefully. As Chakrabarty notes (2008:xiii), these concepts may seem “meant for all”, but their development is inevitably enmeshed in the histories of the places where they were formulated, so their direct and wholesale import into other contexts is inappropriate. Some aspects may not be valid in all circumstances and should be recognised as historically particular, rather than generally binding. There is a risk that European history will be taken as the standard, the “universal history of progress” (Chatterjee 1993:238). Caution is needed in applying theoretical ideas across cultural contexts.

Theoretical work must always pay close attention to the specificity of its origins and the meaning of terms in the place of study. Such work can be fruitful in reshaping our understanding of concepts, opening up new meanings as well as demonstrating the limits of universal claims. This is perhaps especially the case where ideas and values have influenced the development of institutions, as Mahajan (2013) discusses in her study of political ideas in India. Political and cultural figures before and during the struggle for independence were inspired by ‘universal’ notions like freedom, equality, and secularism, but the way they imagined them and their instantiation into the Indian constitution and political system reflected the particularities of the country and its history. For example, secularism is an important value of the Indian state, but where in North America and parts of Europe this meant the disengagement of the state from religion, in India it is expressed in equality of treatment and equality of support by the state for the various religions followed by its citizens.

Similarly, theorists should pay attention to the ways contemporary understandings of political terms like freedom have been shaped by the experiences and struggles of the colonised against imperial rule. In *Insurgent Empire* (2019), Indian literary scholar Priyamvada Gopal explores the history of dissent and resistance to the British Empire, challenging the idea that “political and intellectual influence” purely flowed outwards from the core to the periphery, that “the most significant conceptions of ‘freedom’ are fundamentally ‘Western’ in provenance” (2019:loc.277). Instead, she argues that these concepts were subjects of dialogue and contestation, their content influenced by ideas and experiences of insurgency against the empire. Although the power differential meant that

the impact was not evenly distributed, intellectual and political influence over ideas moved in both directions. Gopal notes (2019:loc.421) that concerns about Eurocentrism have had the somewhat ironic effect of

a fixation on rejecting European thought generally... without a consideration of multiple lines of cultural and political engagement in the making of the entity called “Europe”.

The consequence is a suspicion of universalist thought, ignoring the multiplicity of contexts in which ideas of rights, freedom, and social justice have been theorised (Gopal 2019:loc.428). These projects should not be abandoned, but, following the lead of anti-imperial thinkers and insurgents, “reconstituted and reframed” (2019:loc.493). Rejection of Eurocentric thinking should not mean rejection of universalist ideas, but rather a critical acceptance which takes into account their history and their translation in varied contexts.

This kind of work has the potential to alter our understanding of widely embraced political concepts. Kaviraj (2015) argues that India’s success as a democracy is made too much of a mystery because it is assumed that the conditions of democracy’s emergence in Europe are its universal pre-conditions, instead of being understood as contingent. The intention of this study is rather to examine the practices of democracy in India in order to suggest what might be missing from our understanding of democracy as deliberative, than to critique Indian democracy against an abstract imported model. I discuss below previous studies which have used deliberative democracy to read Indian politics.

### **Marxism and the limits of democracy**

Before turning to empirical work on deliberative democracy, there is a further category of objections to explore, namely, the deleterious impact of capitalism on democracy and its ability to make significant changes in social and political life. These objections typically emerge from a perspective influenced by Marxism of various persuasions, with valuable critical insights. However, pursuing this line of thinking too far can leave us in a position of extreme scepticism where it becomes impossible to recognise or explain the value of actually existing democracy.

Scholars John Dryzek and Ellen Meiksins Wood have, from differing perspectives, highlighted the corrosive effects of capitalism on the possibilities for substantive democracy, even as both recognise capitalism as having in some sense enabled the emergence of modern democracy. Dryzek (2000) writes from a position within the ranks of deliberative democratic theorists, though he disagrees with Habermas over the latter's accommodation with liberal democracy. From a more critical perspective, he has analysed the structural and ideological obstacles which capitalism creates for deeper forms of democracy, while seeing no real possibility for moving beyond it in the foreseeable future (Dryzek 1996).

Writing in the mid-1990s, shortly after the demise of the Soviet Union, Dryzek argued that those seeking to promote and deepen democracy must resign themselves to doing so within capitalist systems. Arguments from all sides of the political spectrum couched themselves in terms of democracy, while capitalist economic systems had spread across the globe, quickly establishing themselves in the ruins of the former socialist economies: "democracy is all we want, and capitalism is what we all have got" (Dryzek 1996:vii). Capitalism has "historically been a friend of democracy", playing a facilitating role through the rise of a working class which has pushed for greater inclusion in political power structures (1996:11). However, this role is now over, with capitalism only threatening to undermine any push for further democratisation, and even the maintenance of what has been achieved (1996:3).

The problems which a capitalist economy raises for the practice of deeper democracy are twofold, according to Dryzek (1996). Firstly, the structural nature of capitalism obstructs certain reforms: governments must make policy with the interests of businesses in mind, because of the risk of disinvestment and economic downturn, which in turn would undermine government legitimacy. Greater income redistribution or increased worker representation (economic democracy) are ruled out as posing unacceptable risks to business interests. The existence and persistence of the welfare state can be understood as "the alleviation of some of [capitalism's] negative symptoms", necessary but minor reforms in the service of perpetuating and legitimating the system (1996:29). Alongside these material constraints are ideological pressures, dominant though not, Dryzek argues, hegemonic discourses, which help to shape individual members of society to behave as rational actors and to value what they are offered by capitalist liberal

democracy, effectively screening out alternatives (1996:117). Dryzek (1996:34) stresses the particular ability of liberalism to assimilate its critics, a critique he repeats elsewhere (e.g. Dryzek 2000). The increasing individualism promoted by capitalism undermines collectivism and decision-making for the public good (Dryzek 1996). Capitalist democracy is an unstable political-economic system, with democracy constantly at risk of erosion.

Despite the threat posed to democracy by capitalism's structure and ideology, Dryzek in the 1990s maintained that capitalist democracy was all that was on the horizon, and that deeper and more authentic democracy could and should be pursued within this system. There are "spaces for political innovation" and greater public involvement, including workplace decision-making; above all, Dryzek (1996:14) rests his hopes in civil society, "public spheres constituted by democratic opposition to the state and its imperatives". While he criticises Habermas for conforming to liberal democracy and usefully highlights the dangers and limitations posed by capitalism, Dryzek does not here go much further in the direction of radical democracy. The intervening years have brought abundant evidence of the fragility of democracy in a capitalist regime.

As a Marxist scholar, Ellen Meiksins Wood takes this critique a step further. Wood (1995) contrasts the democracy of ancient Athens with the "formal" democracy of modern capitalism; for her, the defining feature of ancient Greek democracy was the presence of a large class of peasant-citizens able to resist economic coercion and subordination, such that, "political equality not only coexisted with but substantially modified socio-economic inequality" (1995:202). By contrast, because the development of capitalism encourages the separation of the economic as an autonomous sphere of life from the political and the social, "democracy could be confined to a formally separate 'political' sphere while the 'economy' followed rules of its own" (1995:203). Contemporary models of representative democracy, while extending citizenship to previously excluded population groups, do little or nothing to challenge economic relations of domination and exploitation. Instead of a true rule of the *demos*, Wood argues, modern capitalist democracy is a largely passive form in which power is alienated to representatives, who act as a filter against popular rule and insulate the economic system from demands for change. Wood (1995:233) especially criticises the "liberal domestication of democracy" in which a separate political system is considered the legitimate limit of popular power. Although she recognises that certain

liberal principles are valuable and worth defending, even in its ideal form, liberalism “is not equipped to cope with the realities of power in a capitalist society” (1995:237).

The idea of deliberative democracy put forward by Habermas argues for a greater involvement of people in processes of decision-making, with a less passive role assigned to citizens through the interventions of civil society, raising social problems and bringing new issues onto the political agenda. While appreciative of liberal civil rights, Habermas shares some of Wood’s critique of liberalism as over-reliant on the election of representatives who balance different interests to reach acceptable compromises. However, there is little sense in his work of a serious radical challenge to the existing arrangements of liberal democracy, especially of the separation which Wood observes between the political, social, and economic spheres. Indeed, Habermas’ model of the political institutions of deliberative democracy, with its distinction between core and periphery, seems to reinforce the division of labour which allows the capitalist economic system to coexist with formal democracy and declared political equality.

Whatever their differences from each other and from Habermas, Wood and Dryzek both embrace the language and concept of democracy as the basis of their claims for a different arrangement of power in society. There is a strain of Marxist-inflected thought which goes further, questioning the very nature and desirability of democracy as an aspiration and target for political organisation and utopian thought.

This strain can be represented by Fredric Jameson, who simply dismisses the relevance of constitutional political theory under capitalism. Constitutions are in themselves “always a counterrevolutionary construction designed to foreclose change”, obstacles in the way of political action, reliant on ideas of representation which Jameson believes to be impossible (2014:139). Moreover, the state has been so completely taken over by capital that it cannot be regarded as an “autonomous entity”, and neither political nor economic theory can be satisfactorily pursued as separate fields (Jameson 2014:140-141). Given the enmeshing of capital with the state, normative constitutional concepts are no longer adequate, and democracy above all, “always a pseudo-concept... becomes a misleading illusion” (Jameson 2014:140). Political action motivated by the desire for democracy takes the form of small changes designed to attenuate the worst effects of capitalism, which succeed only in perpetuating it, rather than doing the necessary work of

dismantling the system as a totality (Jameson 2014:147). In this view, democracy under capitalist conditions is no more than a dangerous distraction, serving the interests of those who hold political and economic power by diffusing pressure for more radical change.

Aimed more directly at accounts of deliberative democracy is the work of Jodi Dean, who critiques Habermas' work by describing the rise of "communicative capitalism" (2009). While communicative action is aimed at reaching understanding, this orientation is unnecessary for messages in communicative capitalism, where exchange-value counts for more than use-value and circulation is the most significant indicator of success (Dean 2009:27). This is not to deny that political messages and communications can have an impact, but this matters less than the system in which they circulate.

Relatedly, new technologies which expand the reach of communications and make it easier for people to contribute are celebrated as improving accessibility and inclusivity, yet with little acknowledgement of the "resulting devaluation of any particular contribution", or of the inequality built into these networks (Dean 2009:28). The consequence is a "fantasy of participation", a belief by individuals that their communications are registering, that they are engaging in communicative action, which dissipates the potential for alternative forms of political engagement by disguising passivity as activity (Dean 2009:31). As "doing is reduced to talking", the problems and issues raised in political discourse are left neglected, because energy is consumed by rounds of discussion and commentary (Dean 2009:32). Even when the actions of governments and corporations are observed and publicised, they continue acting with impunity because access to and discussion of this knowledge does not imply the ability to force change. Dean sees this reduction from action to speech as inherent to models of democracy like Habermas' which are characterised by deliberation.

This critique can be extended into a general scepticism about the emptiness of democracy as an aspirational target for societal transformation or as an organising goal for the left. With democracy so ubiquitous in political thinking, demands from all sides are couched in this language, a tendency noted by Dryzek (1996) as well as Dean (2009). The problem is that this sets exceptionally confined limits to the potential for transformation, trapping politics "in a field of already given possibilities" (Dean 2009:76). This is especially so with Habermas' theory, which seeks to establish the presence of normatively ideal

elements within the existing social system; these elements are “always already present possibilities”. The result is to “bring utopia inside”, diverting attention away from more fundamental change, because it is taken for granted that the answer to any political problem is more democracy: “*We already know how to get there. We already have the procedures. Anything else is mere tweaking*” (Dean 2009:78, emphasis in original). Democracy might have problems, but these can be fixed by more democracy. Since democratic theory presents democracy as essentially adequate, Dean argues that the problem is with democracy itself. This critique seems to have been given empirical support by the political developments of the past decade, but with its only visible counterpart an increasingly authoritarian nationalist tendency, often itself dressed in the language of democracy (for example, the Brexiteers’ slogan of ‘taking back control’).

The tendency that Dean highlights here is evident even in more critical versions of democratic theory such as Dryzek’s. Dryzek (1996:4) argues that,

one of the goals of democracy always has to be more democracy... the democratic life consists in large part of searching for democracy,

mirroring almost exactly the language that Dean finds so problematic. This is reinforced by his insistence that corners and pockets of resistance to capitalism are all that is attainable, that this endeavour, modest as it is, is “not futile” (Dryzek 1996:12-13). To an extent, I share the concerns of Wood, Dean, and Jameson about the nature and possibility of democracy under capitalism, and the constrictions placed around social transformations towards equality and solidarity.

However, such scepticism can make it hard to appreciate the varying forms of democratic practice and the successes, even limited, which political groups can achieve within existing systems. Kaviraj (2015:loc.107) notes the tendency within Marxism to dismiss democracy as “simply a masked version of political rule in which the bourgeoisie imposes its class will on all other subordinate classes in society”. He argues that while this was largely true as Marx, Engels, and Lenin were writing, it is no longer the case, when democracy is “structurally, in its character and consequence, fundamentally different”. Thus, when Marxists continue to argue that “the executive of the modern State is but a committee for managing the common affairs of the whole bourgeoisie” (Marx and Engels 2015:5), they are making a category error, assuming that the persistence of the name



democracy implies also the persistence of the underlying political-economic system. To acknowledge that democracy as it exists now is not the same as it was a century and more ago is not to suggest that it is completely emancipatory and unproblematic, in theory or in practice.

The methodology of critical theory prompts us to build critique from an appreciation of the existing normative elements in society, an affirmative moment alongside critical and disclosing moments (Strydom 2011). This is essential to understand how we can overcome the pathologies of our current political and social systems, ameliorate them, and create new ones in which people are more equal, more able to flourish, individually and collectively. To pursue the line of thinking represented by Jameson and Dean may leave us unable to appreciate or defend the positive aspects of current institutions, however imperfect. If democracy is merely an illusion, then why prefer it to authoritarianism? My case here shows that democratic institutions do allow social actors to raise issues, to force changes to the political agenda, and that this can lead to material change, albeit limited.

Much of Dean's analysis strikes me as useful and valid, and I would tend to agree with her assertion that arguing for more democracy can be a distraction from the need for fundamental change in the face of capitalism's encroachment into all spheres of society. However, I believe that Habermas' theory of deliberative democracy can be a basis for analysing the practice of democracy in existing political systems, showing the spaces for groups to raise claims for social justice, and how such claims can break through against dominant discourses. At the same time, a critical stance influenced by the Marxist understanding of the distortions of capitalism can guard against a too-comfortable acceptance of the current conditions and limitations of liberal democracy.

In the next section, I discuss existing empirical work on deliberative democracy, before looking at its use in India specifically. This leads into a justification for the case of the National Food Security Act, as a serious political problem touching on important constitutional issues which was raised by actors within civil society and eventually rose to the national political agenda, becoming the subject of deliberation within different public spheres, and necessitating action by the formal institutions of government.

### **Empirical studies and the systemic turn**

Despite Habermas' efforts to root deliberative democracy in sociological theory and to identify elements of normative ideals within existing practices, it remains largely abstract. This is consistent with his desire to maintain a transcendental aspect to the theory, not tied to particular institutional arrangements. However, the theory is intended to have something to say about, and to, actually existing democracies. While Habermas may have drifted away from the Marxist roots of the Frankfurt School, it surely remains the case that the point of philosophy is to change the world rather than merely interpreting it.

Since the flourishing of interest in deliberative democracy in the 1990s and 2000s, numerous studies have tested or given shape to the concept empirically. Initially, these studies focused on the micro-level, looking at various "mini-publics" such as citizens' assemblies. These small-scale studies made it possible to examine some of the claims about the possible effects of deliberation on collective decision-making, including on the views of individuals involved in communicative processes.

This deliberative forums have had direct impacts on political processes; the Irish Convention on the Constitution (2012-2014) and Citizens' Assembly (2016-2018) are prominent examples, though there have been cases in the Netherlands, parts of Canada, and elsewhere. In Ireland, these assemblies were made up of citizens selected at random from different social strata (66 members in the first, 99 in the second) and a chairperson. The Convention on the Constitution also included 33 politicians, 31 from the Irish parliament and two from the Northern Ireland assembly (Farrell et al. 2013, Farrell et al. 2019). They met roughly one weekend each month for 18 months, sitting in rotating groups, hearing from various experts and advocacy groups, including personal testimonies, and having chance to ask questions and discuss topics between themselves, with facilitators to ensure all members could contribute. The discussions led to the endorsement of some constitutional reforms, with nationwide referenda held on the legalisation of gay marriage, the liberalisation of abortion laws, and the abolition of the constitutional ban on blasphemy (Farrell et al. 2019).

These small-scale examples provide interesting evidence of the effects of deliberation, as well as in certain cases having direct political consequences (Suiter et al. 2016). However, as Habermas (2006:414) states, they offer only “limited support” as empirical grounding for his account of deliberation as legitimation at the level of national democracies. Even where, as in Ireland, these mini-publics have had a national impact through the resulting referenda, both the existence of the assemblies and the topics under discussion have been in the gift of the government (Farrell et al. 2019). Restricting the deliberative aspect of democracy to such small and contingent arenas is to diminish its meaning and significance as a deeper form of democratisation.

There has therefore been a shift in emphasis towards imagining what it would mean for democracy to be deliberative at the broadest social scale. This has been termed a “systemic turn”, though Dryzek (2010) emphasises that in their insistence on the importance of public spheres, theories including Habermas’ have been fundamentally systemic from the start. This tendency has been in part a response to criticisms concerning the feasibility of deliberative democracy given the complexity of modern societies and the conditions which make it impossible for deliberation to proceed along ideal lines or for the outcomes to be implemented as desired (Kuyper 2015). Kuyper (2015:54) argues that this development is not merely concerned with defending the plausibility of a fondly-held normative theory, but with attempting to “cultivate and promote deliberative values within and across a specific system”, that is, identifying how institutional design can reflect and encourage deliberative values. By taking a systemic view, defects in some deliberative arenas and unevenness in knowledge and participation can be compensated for elsewhere. Not all spaces for discourse must be ideally structured; not all subjects must be decided deliberatively; not all citizens must participate in every debate.

This line of thinking is supported by the arguments of other social scientists working empirically with the theory of deliberative democracy. Curato et al. (2017) contend that while mini-publics like citizens’ assemblies are small-scale and therefore cannot define an entire democracy as deliberative or not, the evidence from such forums is encouraging proof of the plausibility of deliberative ideas about the capacity of citizens to engage communicatively and the resulting impact on preferences, sometimes transformed but at least more reflectively established. These authors argue that there is scope for small bodies

of this kind, chosen by lot, to be systematised, but also that thought should be given to promoting desired deliberative values throughout political systems.

The intention of this thesis is to take a single issue, fundamental and complex, to understand more about the role of deliberation in Indian democracy. The political question of universal access to sufficient food appeared in multiple venues of discussion, moving through several formal political bodies as well as being debated in the media and in civil society more broadly. By following the development of this political issue through to its (partial, still contested) resolution in the National Food Security Act 2013, I hope to trace the outlines of a deliberative system at the broadest level in India's democracy.

### **Deliberative democracy in India**

The study of deliberative democracy in India is not novel. Previous studies have used deliberative democracy to study Indian politics. This is encouraging in that it suggests that others have found this a useful tool for understanding aspects of Indian politics. To return to post-colonial critiques, it is essential to avoid imposing theories into a different context, especially where normative issues are concerned. My intention is not to judge Indian democracy against an arbitrarily chosen, idealised standard, based on the political systems of (West) Germany and the USA (Habermas 1997). Rather, it is to use the ideas of deliberative democracy as a way of ordering the experience of democracy beyond voting in India, to see if this theory is a useful framework for understanding democracy outside its context of origin, and to see how the Indian experience might provide corrective feedback on this theory. Hopefully this should help to mitigate any Eurocentric tendencies.

India became independent from British rule in 1947, following several decades of mass mobilisation against colonialism. Its constitution was drawn up by an elected Constituent Assembly, with the main work of drafting undertaken by Dr B.R. Ambedkar, and established India as a “sovereign socialist secular democratic republic” (Constitution of India, preamble). Social and political scientists have treated the persistence of a democratic state in India as surprising given its social conditions, especially widespread poverty, low literacy rates, and large divisions along lines of gender, religion, caste, class, and language (Guha 2007). This has sometimes been credited to the commitment of elite

leaders (e.g. Khilnani 1998), especially Jawaharlal Nehru, independence leader and first prime minister of India, who dominated the government until his death in 1964. However, as Kaviraj argues (2015), this democratic success story need only be seen as anomalous if one takes the conditions of democracy's emergence in Europe and North America as universal and necessary, rather than contingent. Except for a brief Emergency period in the mid-1970s, India has maintained democracy since independence, and done so "in ways that are distinctly Indian" (Parthasarathy and Rao 2017).

Elections are held regularly, with the latest round of parliamentary elections in April and May 2019 electing the members of the Seventeenth Lok Sabha. Commentators have perceived a deepening of democracy in other senses from the 1980s onwards (though this trend is arguably in abeyance, as I discuss in chapter eight). Anthropologist Lucia Michelutti (2007) calls this the "vernacularisation" of democracy in India, and argues that it is related in no small part to the decline of Congress party domination of the political system, with the concomitant rise of regional and caste-based parties as well as the less democratically promising growth of Hindu nationalism. Others have pointed to the suspension and restoration of democracy during the Emergency as the catalyst (Mitra 2011:10, Chatterjee 2004:49). With the exception of Hindu nationalism, the trend has mostly involved increased political participation by poor and less privileged people, seeking social justice and economic advance through the political and legal systems (Michelutti 2007:642, Carswell and de Neve 2015). The increasing popularity of exclusive and even violent Hindu nationalism, including the now-ruling BJP and the Mumbai-based Shiv Sena, has been interpreted as an elite revolt in the face of this mobilisation (Corbridge and Harriss 2000:xix). Struggles over "material and symbolic resources" have led to violence as well as identity assertion by those long marginalised (Hansen 2001:9). While sometimes disruptive, unruly, and occasionally troubling, there has been evidence of deeper and wider public participation in politics in the past two to three decades.

The revitalisation of the third tier of government, the *panchayati raj*, has been an important part of this picture. A constitutional amendment in 1992 reformed local government and established a system of *gram sabha* (village parliaments), inspired by the village parliaments instituted by the state of Karnataka in 1985 (Parthasarathy and Rao 2017). These elected local councils affect around 840 million people in rural India and

have been described as the “largest deliberative institution in human history” and the “largest experiment in direct democracy” (Rao and Sanyal 2010:147; Bhattacharjee and Chattopadhyay 2011:50). In Kerala, the state government actively supported the reforms, directing 40% of the state’s development budget to the village parliaments, giving them “substantial powers”, and launching a “People’s Campaign” to “raise awareness and train citizens about how to exercise their rights and become active participants” (Parthasarathy and Rao 2017:11). While no other states have been as enthusiastic in their embrace of decentralisation, the *gram sabha* are an extremely significant deliberative institution.

Studies of deliberative democracy in India have usually focused on the *panchayat* system. Some studies have shown that the absence of formal and substantive equality has not made deliberation in India an impossibility; rather, people have used deliberative spaces as an opportunity to “assert their dignity and demand social equality”, inverting the pattern of cause and effect that Rawls suggests (Parthasarathy and Rao 2017:3). However, poverty and low literacy do create barriers to deliberation and may undermine conditions for it in India (Gupte and Bartlett 2007, Rao and Sanyal 2010, Parthasarathy and Rao 2017). The ability of the poorer citizens in India to argue for their needs in deliberative spaces may be compromised by their limited access to information due to the deficiencies of the media, and because they may struggle to present their arguments in formally acceptable ways (Bhattacharjee and Chattopadhyay 2011). The recognition of discursive styles of the poor as part of a vernacularisation of deliberation and the acknowledgement of the role of emotions could help to shift understanding of deliberative democracy away from the formal debating society model which is sometimes suggested by theoretical models (Rao and Sanyal 2010, Parthasarathy and Rao 2017).

Existing studies have made a promising case for the relevance of deliberation in India’s democracy. These go alongside more theoretical work which shows the historical roots of deliberative practice in the Indian subcontinent, stretching back to open interfaith dialogues in the fifth century BCE and the rules for public discussion, emphasising mutual respect, which Akbar set down in the sixteenth century (Sen 2006). More recently, the freedom to discuss collective interests was an important part of the liberty sought by the independence movement (Mahajan 2013). This work contradicts the idea that deliberation is a specifically Western concept or that it demands the conditions of Western modernity

(Gupte and Bartlett 2007). Together, this empirical and theoretical work supports the case for exploring the theory of deliberative democracy as a framework for understanding Indian democracy.

Most empirical work on deliberative democracy in India has focused on the local level. While the network of *gram sabhas* is impressive and participation has the potential to reshape relations within communities, their reach is quite restricted, not only in the sense that they have limited powers over local issues, but also in that India's increasing urban population are not covered by such institutions at all (Parthasarathy and Rao 2017). Moreover, as He and Warren (2011) have shown in their study of Chinese deliberative institutions, it is possible for these to co-exist at a local level with a national authoritarian system.

A recent edited collection (Joseph and Joseph 2018) brings together studies which engage with deliberative democracy at the systemic level in India, demonstrating the continuing interest in this as a framework for understanding Indian democracy. The introduction singles out Habermas as the leading influence on this area of theory (Joseph and Joseph 2018:9). Chapters deal with a range of issues, from the coherence of deliberative democracy with Gandhian ideas, to civil society, digital democracy, the media, and Dalit and environmental movements. There is some overlap with the discussion in my thesis, and I draw on several of the chapters, but there is no overarching narrative addressing the systemic nature of deliberation, and my thesis covers important areas which are omitted, including the role of the judiciary and expert advice.

The intention of this thesis is to outline a deliberative system at the national level of Indian politics by following the development of chronic hunger and food insecurity from its rise to prominence as a political issue through to its (inevitably partial and temporary) resolution as the National Food Security Act of 2013. In doing so, I draw on Habermas' theory of deliberative democracy as a framework for understanding the connections between different elements of India's political system and public sphere, considering how deliberation and arguments in disparate arenas can contribute to a deeper and more authentic experience of democracy in complex, pluralised modern societies. At the same

time, the discussion of India's experience with deliberation over the question of how to manage widespread chronic hunger should offer grounds for reflecting on what the theory misses, especially in the context of a non-Western society. In the next chapter, I introduce and justify the choice of the National Food Security Act as a case study for the thesis, setting it in the context of shifting understandings of food politics.



## Chapter Two: Food Security and the Right to Food

Food is one of few basic necessities of human life and plays a central role in all societies. Although it is not often a subject of reflection and generally appears natural and given, what is considered good and fit to eat varies considerably in different societies and over time. Food as an object of human consumption is socially and culturally constructed. It is also deeply implicated in social relations, including relations of power. Food frequently functions as a source of social capital in Bourdieu's sense, seen in the popularity of aspirational televised cooking shows, *haute cuisine*, and exclusive restaurants presided over by celebrity chefs (Guptill et al. 2013). Food, both as necessity and status marker, has a politically significant role in society.

The political importance of food has been examined from various perspectives. Historical anthropologist Sidney Mintz (1986) in his study *Sweetness and Power* outlines the role of sugar in supporting industrial development and promoting capitalism in Britain. Sugar evolved from a luxury good and status symbol into an essential commodity, intertwined in global processes of economic development and imperialism. The vast quantities consumed as cheap and quick calories to power metropolitan workers through long hours in mines and factories were imported from colonial plantations employing slaves or indentured labourers, often themselves fed with the same product. The drive to suppress industrial unrest in the centre by sourcing an abundant supply of low-cost food was a major motivation for imperial expansion (Patel 2007:84-85). Food knitted together distant parts of the world in a complex web of domination, exploitation, and interdependence.

The strongly political nature of food is made evident by its use as a weapon and form of control. The constriction of food supplies in sieges is only the most blatant example. Ancient armies, including the Romans, salted the ground in the territory of their enemies to undermine their capacity to grow food, and with it, their potential military threat (Fraser and Rimas 2011:116). In the nineteenth century, the British took advantage of famines in Ireland and India, reshaping these societies by imposing disciplinary practices and policies, including enclosure, on subject populations (Davis 2001:326-327, Edkins 2000:81). The enduring relevance of such approaches is visible in the direction and

targeting of humanitarian food aid during conflicts including in Ethiopia and Sudan (Edkins 2000, Keen 1994). Its alternative use as carrot rather than stick was plain in the USA's overtly political food aid programme during the Cold War (Edkins 2000:69). Control over food has been and continues to be used as a means of enforcing domination.

However, food has also been used as a rallying point for those seeking to contest unequal relations of power. Historian John Bohstedt (2016:1037) has connected the food riots of early modern England with those following the food price crisis of 2007-08: a relatively powerless citizenry can assert itself through mass action, risking itself but also threatening the state: "food riots are trials by ordeal for both rulers and rioters". Protesters act on their sense of moral economy, an assumed agreement that a legitimate state will not allow its people to starve, which may constitute a semi-stable politics of provisions as part of society's political economy. Even non-democratic governments, typically regarded as less responsive to the needs and demands of populations, have faced adverse consequences as a result of failing to prevent famines. The lack of governmental response to the Wollo famine of 1973 was used as a potent symbol to discredit the Ethiopian emperor Haile Selassie, who was overthrown in the revolution of 1974 (De Waal 1997:107-108). Similarly, the Famine Codes, introduced by the British in India to limit the government's liability for action, were then employed by Indian nationalists to call the imperial rulers to account for the mass mortality in the famines of the 1890s (De Waal 1997:12). The role of food in connecting rulers and ruled has been used to posit a relationship between democracy and the prevention of hunger.

Food has a long history as a political object and is entangled in networks of meanings, relations, and discourses, from social and political to economic and scientific. These are so intimately entwined that they cannot properly be understood as separate, as demonstrated by contemporary food policy, which is constituted through these interconnected areas of interest (Lang et al. 2009). The nutritional advice published by governments may appear to be primarily a scientific matter, but the food industry, through its political influence, has a significant impact on the content of these guidelines, making it more accurate to understand them as emerging from an inseparable mesh of economic, political, and social relations (the same could be said of science itself) (Nestle 2003, Barad 2007). Food, essential to human life, yet inevitably entangled in relations of political and

economic power as well as broader social and cultural networks, is an excellent object of focus in studying democracy and the role of deliberation and discourses in shaping social decision making.

### **Securitising discourses and the evolution of food security**

While food has occupied a political role for centuries, in the past few decades most discussion of food in political terms has centred on the concept of food security. The idea of food security emerged in literature produced by international developmental institutions, including the UN's Food and Agriculture Organisation (FAO) and the World Bank, in the mid-1970s (Jarosz 2011). Many definitions of food security have been proposed since (almost two hundred by the mid-1990s, according to Maxwell 1996), but the Rome Declaration of the 1996 World Food Summit is commonly cited (e.g. Candel 2014, Cloke 2013, Ericksen 2008, Jarosz 2011). This definition states that,

food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food to meet their dietary needs and food preferences for an active and healthy life (FAO n.d.).

In contrast to earlier uses of the term, this definition emphasises *access* to food, rather than production or supply (Ingram 2011). The scale of reference is individuals, rather than communities, states, or other collectives (Jarosz 2011). As a socially constructed idea, the definition of food security has changed and been shaped through its use by different groups of people with varying interests.

The priority of access over supply in the FAO's definition is a major development since the term was first used. When the expression initially appeared in the 1970s, it was in the context of concerns about food supply amid a short-term decline in agricultural production as well as anxieties about population increase and rising demand (McDonald 2010:17-18). The economic crises of the decade, associated with the oil price shocks, were also a contributory factor, especially given the central role of fossil fuels in the modern agricultural system. These neo-Malthusian apprehensions resulted in a focus on increased production, in a continuation of earlier policies surrounding the so-called "Green Revolution", with the extensive introduction in certain regions of new scientifically bred seeds and artificial fertilisers. Though concerns about the adequacy of food production are

longstanding, its explicit framing as an issue of security was an innovation, and it is worth briefly exploring the implications.

Traditionally, the state and the military or the use of force have been defining elements of security as a concept. This narrow view has been challenged, and the discourse of security has been widened to encompass areas including the environment, the economy, or particular diseases (Buzan et al. 1998:98, Elbe 2006). According to scholars from the Copenhagen School of security studies, a security issue can be classified as such if it is “presented as posing an existential threat to a designated referent object”, generally the state, with the consequence of mobilising and legitimising special powers to resolve the issue (Buzan et al. 1998:21). Whether this definition applies to food security is questionable; these authors appear to think not, because they take food security to be a matter for individuals, and argue that, “it is not clear that the individual can legitimately be securitised in the economic sector” (Buzan et al. 1998:104). However, this is qualified as applying beyond basic needs, and it is difficult to see how food could be regarded as anything else. The somewhat expanded definition of security that these authors offer may itself be overly restrictive (Mason and Zeitoun 2013). Regardless of whether food is an appropriate subject for security studies, it is important to be alert to the consequences of securitising discourses, because such moves promote certain solutions at the expense of others.

The emergence of food security discourse was influenced by the geopolitical context of the Cold War. The United States, fearful that the poor, hungry masses of developing countries might seek salvation in the embrace of Communism, exported its government-funded agricultural surplus as food aid on a massive scale through the 1950s and 1960s (Clapp 2012, Patel 2007:89). The development and promotion of Green Revolution technologies was largely motivated by the same considerations. The problem was defined as dearth or insecurity of food supply within states, so the answer to world hunger was to be found in technological boosts to agricultural productivity. This solution was firmly technocratic, ignoring political-economic questions of distribution; the course of action was outwardly premised on the basis that expanded supply alone would effectively eliminate world hunger.

### **Sen's entitlement approach**

The shift in emphasis from supply to access came during the 1980s. Perhaps the critical moment is represented by the publication of Amartya Sen's *Poverty and Famines* in 1981. Sen's work has had a profound impact on thinking about food security, and the developments in his work reflect the broader trends in the academic and policy fields, from the importance of access rather than supply, to the relationship between hunger and democracy, to the centrality of adequate nutrition in the concept of human development, which is strongly linked to rights-based approaches. *Poverty and Famines* challenged the widespread, not entirely eradicated assumption that all famines are caused by a lack of food, by demonstrating that historic famines, including the devastating Bengal famine of 1943, had taken place without any significant decline in food production. With this crucial intervention, access replaced supply as the primary focus in discussions of food deprivation.

Rather than "food availability decline", Sen (1982) argued, the determining factor in famines was "food entitlement decline". Entitlement refers to the ability of individuals or households to legally access food, whether directly through production or indirectly via exchange or transfer. Despite the connotations of the word 'entitlement', it is a descriptive rather than normative term and does not imply a right to food (Devereux 2001:246). Even in the absence of production failures, price increases or a crisis of livelihoods can place food beyond the reach of poor citizens; if this affects many people simultaneously and appropriate steps are not taken, famine is likely. The movement of food follows a market logic of demand failure when the destitute segments of local populations can no longer afford to purchase what they need; food exports from famine affected areas are relatively common (Sen 2001:170). The market and the law may both fail to protect against starvation.

Sen's thesis does not discount the role of food supply and production altogether, since the price of food is a key factor. In a market economy, the contraction of supply without a corresponding decline in demand would typically lead to price increases. Hence a failure of production, however caused, could result in higher prices and reduced access to food; dearth could still be a trigger for famine (Devereux 2001:248). While arguably Sen's thesis was not novel to people working in this area, he presented a cogent challenge to the prevailing common wisdom that famine is always related to a steep decline in food production, most likely as a result of a natural disaster (even in the mid-1980s, the impact

of war and displacement in the Ethiopian famine was minimised in media coverage, in favour of an easier narrative of catastrophic drought (Devereux 2001:246, Edkins 2000:6)). The essential falsity of this belief can be seen in more economically developed states such as Australia, where agriculture is a huge industry yet severe droughts and crop failures in recent years have not led to mass starvation – clearly, other factors must be at work. By emphasising that people's ability to attain sufficient food depends more on their financial situation and government support than on local production and supply, the economic and, to a lesser extent, political aspects of hunger were brought into food security discourses. Access to food subsequently became the basis of definitions such as the FAO's.

### **The role of public action**

The political aspect of food security was developed further later in the 1980s when a connection was theorised between democracy and the elimination of mass starvation. Again, much of the seminal work in this area was done by Sen, sometimes in collaboration with fellow economist Jean Drèze (Drèze has since become a noted activist in India and was involved in the Right to Food Campaign and NAC; I interviewed him in November 2016). They argued that the occurrence of famine was precluded by an active democratic system, and compared the performance of democratic post-independence India with its authoritarian neighbour China (Drèze and Sen 1991). While China suffered perhaps the worst famine of the twentieth century when millions starved in the period 1959-1961 (estimates range from 16.5 to 29.5 million deaths), independent India has avoided mass starvation and mortality (Drèze and Sen 1991:210-211). Famines had been recurrent in India under British rule, especially in the latter half of the nineteenth century but right up to the Bengal famine during World War Two, when sharply rising food prices, lack of employment, and a related cholera epidemic, combined with British indifference, killed an estimated two to three million people (Davis 2001, Sen 1982). Post-independence, the difference in outcomes could be attributed to the variance in political systems, according to Drèze and Sen.

Famines are generally understood to be crisis situations in which a considerable proportion of the population of a region or country are severely undernourished, leading to atypical excess mortality. A definition of this kind underpins most humanitarian policy

and decision making (De Waal 1997:23-24). Famines are multicausal: contributing factors may include drought or flooding which ruins cropland or pasture; sudden contraction of employment opportunities or terms of trade; epidemics of livestock diseases; or the displacement, violence, and insecurity of conflict (Devereux 2009). However, there is now a strong understanding of the actions which can prevent humanitarian disasters (Devereux 2009). Interventions to replace lost entitlements, whether as food or income, can act to support those affected and avoid the worst effects. Ideally, interventions should come early enough to prevent the sale of assets driven by desperation, which undermines the ability to cope with future shocks (Keen 1994:6). Since famines can be prevented, their occurrence is in large part a political choice.

Anti-famine interventions have not always been popular, sometimes for ideological reasons. The British justified their failure to ameliorate famines in the nineteenth century on the grounds that any action would constitute unwarranted interference in the free market (Davis 2001, Edkins 2000). Of course, markets were unlikely to come to the rescue of destitute peasants, and food was redirected to more profitable areas. In conflict situations, both sides may use control over access to food, including international humanitarian aid, to further their strategic goals (De Waal 1997, Edkins 2000, Keen 1994). While famines are preventable in principle, in practice there may be considerable interests – military, economic, or political – involved in famines; as repugnant and disconcerting as it may be, famines have both functions and benefits (Keen 1994). Ignorance and inertia may also have an influence on the likelihood of an effective response. It is the probability of intervention that democracy is thought to affect.

The success of democracies in preventing famine is argued to stem from governments' increased responsiveness to citizens' suffering, and the ability of populations to draw public attention to their needs. In India, when an acute threat to lives and livelihoods arises, the independent and politically diverse media can direct the attention of government and public to the situation, highlighting the urgent need for action (Drèze and Sen 1991:126,212, De Waal 1997:16). Democratic governments are motivated to act because electorates will usually punish an administration which permits mass starvation. While authoritarian governments have sometimes faced consequences of inaction – as with Haile Selassie – information about crises is likely to be much less widespread in the absence

of a free press, and accountability mechanisms are absent or at least contingent, making this much more difficult. A causal relationship has thus been posited between a democratic political system and freedom from famine.

In addition to the possibility of electoral defeat, democracies offer more immediate and positive aspects which can promote timely action against famines. In China's famine, a combination of perverse incentives and controls on information meant that government leaders in Beijing may not have been aware of the true extent of the devastation. The applied to the wider population as well; even decades later, many Chinese people did not know about this horrifying event (Drèze and Sen 1991:210). In India, news of poor harvests or other situations threatening entitlements can spread quickly through the media, who are typically vigilant in reporting on such events. Opposition parties, effectively absent in Communist China, are likely to cry up the failings of their rivals, putting pressure on the government. Groups within civil society can be mobilised to raise the issue in the public sphere, ensuring that there is political will to act (Currie 1998:877). This ability to bring such needs to public attention is one of the advantages cited for deliberative democracy. In crisis situations, these aspects of democracies, muted or missing from authoritarian regimes, can shift patterns of benefits and costs to the advantage of those affected (Sen 2001). Governments have incentives for action which go beyond moral considerations and can counteract potential benefits, so that remedial action is taken to avert famine.

This argument has been critiqued on two main fronts, though without undermining the general connection of democracy and food security. The first approach is to contest Sen's (2001:16) claim that, "no famine has ever taken place in the history of the world in a functioning democracy" by offering potential counterexamples. There have been famines in at least minimally democratic countries, such as Sudan in the 1980s or Malawi in the early 2000s (Keen 1994, Devereux 2009). In both cases, democratisation may actually have increased the vulnerability of certain groups to famine; democratic transition can undermine existing understandings on famine prevention between authoritarian rulers and populations (Devereux 2009:31). The majority-oriented nature of democracies may leave minority groups particularly exposed. In the 1980s, the Dinka people of southern Sudan were left vulnerable to militia raiding leading to livelihood shocks after the transition to democracy undercut their previous representational structures (Keen 1994). Three famines



in different African countries in the early 2000s did not lead to democratic governments losing power, since the most dominant groups were protected while marginalised minority groups suffered (Devereux 2009). Alienation between rulers and ruled, and between different groups within a population, can significantly decrease the likelihood of effective protective action by the government, even in a democracy (Sen 2001:175). Sen's definition of democracy includes multiparty democracies and an active free press, and can be used to dispute the counterexamples, though at the risk of excluding precisely those new and emerging democracies which may be most susceptible to famine.

While India has successfully prevented famines, understood as situations of mass starvation, it has done far less well than its neighbour in eliminating food insecurity and excess mortality. Drèze and Sen estimated at the time of writing that India's higher mortality rate meant as many Indians died from poor standards of nutrition and healthcare every eight years as had died in China's great famine, making the Indian death toll much higher (1991:214-215). Though these statistics are now rather old, the Global Hunger Index 2020 classifies China as having "low" food insecurity, while India remains in the "serious" category and has had much higher scores than China in the period since 1990; it also comes behind neighbouring states Nepal, Bangladesh, and Pakistan (Von Grebmer et al. 2020). India's democratic government has acted to prevent spectacular crises, but the Chinese government has performed much better in ensuring that the population has sufficient food and basic healthcare on a quotidian basis. While the peculiar urgency of acute food crises sparks media interest and public support, endemic poverty and hunger are not considered newsworthy, and there is lower pressure for and expectation of government action (Drèze and Sen 1991). This complicates the overall link between democracy and food security.

These critiques have led to a more complex understanding of the role of democracy in promoting food security. Alex de Waal (1996, 1997) argues that democracy may be a necessary but not sufficient condition for food security, and that India is therefore less a typical democracy than a paradigm case of a country with a specific social contract against famine, which does not extend to chronic hunger and malnutrition. Banik (2007) contends that it would be curious to enter into a contract against famine while accepting a high ongoing level of material deprivation. Nevertheless, he concurs that government officials

in India do not expect to be held accountable for continuing food insecurity. Democracy does not guarantee food security, but a connection remains. This explicitly political perspective influenced the development of the human rights approach to food through the 1980s and 1990s.

### **The post-Cold War period: the right to food**

The right to food was included in the 1948 Universal Declaration of Human Rights, but its recognition was hindered by Cold War rivalries. Economic and social rights were associated with Communist countries and their claim to alternative forms of democracy, hence were ignored or neglected elsewhere (Fredman 2008). The influence of human rights on food security discourse grew throughout the 1980s, but was especially able to flourish in the 1990s, following the collapse of the Soviet Union (for example, Haddad and Oshaug 1998, Marchione 1996, Oshaug et al. 1994). Arguments weaved ideas about access to food together with notions of democracy and economic development, as in the human development approach, again associated with Sen's work, including *Development as Freedom* (2001). The idea of food security as guaranteed by a right to food gained prominence.

The human rights approach to food security coheres well with the argument that democracy helps to ensure freedom from starvation. Communist countries have claimed that their support for economic rights qualifies as an alternative form of democracy, and indeed, as China shows, improved standards of nutrition, healthcare, and education have been reflected in impressive gains in rates of child mortality, literacy, and the like (Drèze and Sen 1991:204, Sen 2001:42). However, these results are contingent on policy choices by elites, which can change quickly and may fail altogether in a crisis, as the 1959-1961 famine showed. To have power, rights must be guaranteed, and people must act to pursue them and ensure that they are protected (Lang et al. 2009:283). The information and argument sharing which characterises deliberative forms of democracy are particularly useful, raising the possibility that people can use this right as a rallying point to demand action on their needs, whether acute or ongoing. Despite widespread lip service to the concept of a right to food, few national governments have acted to ensure that it is fulfilled (Lang et al. 2009:283). This makes the National Food Security Act relatively exceptional.

Initial discourses on food security focused on increasing food supply through technologically enhanced agricultural production, so the human rights approach was a noteworthy development. Rather than relying on increased supply to ensure universal, safe, and continuous assurance of adequate food for everyone, there was at least a formal acknowledgement of economic and political aspects of the problem of hunger. However, there had also been a change in the level of reference in most food security discourse, and many observers were critical of the mainstream solutions.

In the 1970s, food security had been understood as a concern for states; the human rights perspective of the 1990s worked at the level of individuals or households (Jarosz 2011). The subject of the right to food was conceived as a self-contained individual, not as part of a group or in the context of wider social connections. This emphasis on individuals accorded with the prevailing neoliberal hegemony, which seeks to minimise governmental action and replace it with market forces and personal responsibility (Jarosz 2011). The more radical implications of Sen's work, questioning a reliance on market-mediated provision, have been swept aside (Edkins 2000:48). Individual food security is supposed to be assured through access to markets.

The emphasis on individual food security ensured through free trade and a technologically underwritten abundance of cheap food, despite notional deference to a right to food, renders the political element of mainstream discourse oddly hollowed out (Jarosz 2011:120). Even the food crisis of 2007-2008, which spread spiking food prices throughout the developing world and led to riots in numerous countries, was used to retrench this dominant conception of food security as a matter to be solved through the increasingly integrated capitalist world market (Sommerville et al. 2014). Productivist concerns, never entirely dormant, made a forceful re-entry onto the agenda, with blame for the crisis partially ascribed to the failure of certain countries to embrace industrial agriculture, and the "Alliance for a Green Revolution in Africa" promoting the putative benefits of high technology for agricultural development (Bello 2009, McMichael and Schneider 2011:121). Evidence about the previous Green Revolution's destructive environmental legacy and long-term failure in reducing poverty is overshadowed by promises of affluence and plenty courtesy of genetic technology mostly emanating from – and patented to – a handful of large corporations headquartered in the core capitalist

countries (Jarosz 2012). Even the seemingly political understanding of food and hunger suggested by the human rights perspective has evaded the potentially fundamental and far-reaching implications of a right to food for the structure of economic and political systems.

### **The world food problem**

The lack of genuine political engagement in mainstream discourse on food security has provoked a proliferation of critical academic literature as well as an international activist movement centred on the alternative concept of food sovereignty. Ideological commitments often underlie the use of a particular narrative about food security, influencing the range of acceptable solutions (Tomlinson 2013:82,85). The stated aims and principles of food security are such that it is a rather difficult idea to oppose. However, the narrow understanding of hunger and food security offered by dominant framings has generated frustration and attempts to engage with the fundamental and systemic nature of these issues.

An unwillingness to confront the systemic implications of ongoing hunger and malnutrition characterises much food security discourse. A concentration on increasing production overlooks or disguises the fact that massive increases in production alongside falling prices over the past several decades mean that there is much more than enough food for all globally, yet more than one billion people in the world remain hungry or undernourished (Lang et al. 2009:257, McMichael and Schneider 2011:119, Sen 2001:206-207). While Malthusian approaches assume that increased production is necessary to prevent future catastrophe, for a large percentage of the world's population, that catastrophe is already here (Scanlan 2009:295). The mainstream policy approach to food security which continues to privilege production simply refuses to acknowledge that this failure is a function of the current global food system.

The existing system is characterised by inequality and corporate dominance, covered over by a rubric of free trade and consumer choice. Despite the rhetorical commitment to human rights, its implementation in policy has the result that individual food security is contingent on access to markets and on personal economic performance; food is not treated as a right in any meaningful sense (Jarosz 2011:120, Rai and Selvaraj 2015:168). In the interconnected capitalist systems which constitute the global food system,

food becomes a commodity, human needs are given a lower priority than profits, and people who could be fed are left to starve (Weis 2007:13, Wood 2002:194). While free trade is promoted as improving efficiency and as an effective solution to local shortages, developing countries which have pursued agriculture for trade over production for local consumption have become increasingly dependent on imports of staple foods, rendering their populations vulnerable to the vagaries of the world market. Even in India, which is mostly self-sufficient in grains, participation in the world food trade has led to the import of the world price with its associated instability (Otero et al. 2013:264,282). In light of the failure of most mainstream discourse on food security to engage with the systemic implications of its own rhetorical commitments, it is necessary to reconsider the very nature of the world food problem.

Mainstream discourses on hunger treat it as an aberration, an impersonal fault in the system. Critical observers have argued instead that hunger and famine should more accurately be interpreted as an effect of the system in its functioning (Edkins 2000:37). Hunger is not anomalous, but rather “structural violence” or a “systematic spatial injustice” (Shepherd 2012:196, Cloke 2013:632). Meanwhile, much food security discourse makes invisible the systematic nature of the processes leading to the “enduring famine” of global hunger (Cloke 2013:623, Weis 2007:11). When the profit imperative is set above all else, and where narratives of scarcity drive competition and accumulation, basic necessities are not rights but exchange-values, commodities whose acquisition is subject to command of purchasing power.

A pattern of rising obesity and related health problems has been noted among less wealthy citizens in the global North and increasingly also the global South, alongside continued hunger (Cloke 2013:631). Citizens even in the wealthier countries are generally not in control of the production of their food, and their options too are limited by their income and what is made available to them for purchase (Edkins 2000:37, Patel 2007:1-2). The world food problem is not merely a matter of hunger, nor is it confined to lower income countries. The advantage of the term food insecurity over hunger may therefore be to acknowledge this systematically shaped malconsumption as well as underscoring the need for policies to address more than just feeding people (Guptill et al. 2013:145).

The recasting of hunger as food insecurity has some important adverse effects. The first is to encompass the atrocity of hunger in a world of abundance within the neoliberal framework of securitisation (Nally 2011:46). The use of technical terminology as opposed to more familiar words like hunger or starvation may help to insulate food politics from ordinary discussions and mute its emotive power (Edkins 2000:156-157). Food can be an important source of resistance to the system, making its inherent injustice particularly clear (McMichael 2000:21). Choice of terms can have a significant impact in setting the parameters of deliberations and should be subject to scrutiny.

In this context, it is interesting to note that, in India, the term food security seems to imply a broad understanding of such issues. The Right to Food Campaign (see chapter three) called its draft legislation the “Food Entitlements Act” because it focused on short term relief in food provision rather than addressing the wider frameworks affecting nutrition for all. A similar sensibility can be seen in the letter from Narendra Modi and in the parliamentary debates (chapter four). Subsidised grain was not sufficient to guarantee food security, which was understood to require something more substantial.

### **Reclaiming control: food sovereignty**

An alternative narrative of food sovereignty has attempted to correct the depoliticised nature of much food security discourse. If food security remains a “proto-hegemonic” discourse on food politics, then food sovereignty offers a “counter-hegemonic” response (Hopma and Woods 2014:774). Proponents seek to repoliticise the issue of food and make good on the radical promises of the human rights approach (Dunford 2015:250-251). The counter-narrative draws attention to the dispossession of the poor through enclosure, the commodification of food, and the embedded nature of hunger and malconsumption in the current global food system (Sommerville et al. 2014:258).

The concept of food sovereignty has arisen from a diverse and international activist movement oriented around peasant groups in the global South; these include the international collaboration La Via Campesina (the Peasant Way) and the Brazilian MST (Landless Rural Workers Movement) (Patel 2007:16). These movements aim to challenge the existing systems which marginalise their lifeways and voices, and to offer a positive vision of more equitable, sustainable, and local food systems (Bello 2009:132-133). An

essential element is to give due attention to the voices and needs of the affected; it represents a reclaiming of control and is based on a notion of agency and human rights, but understood in a collective sense (Rai and Selvaraj 2015:168, Dunford 2015:240). While contradictions and obscurities have been noted by observers, particularly around definitions of sovereignty, the role of the state, and issues of choice, this is surely to be expected in a movement characterised by diversity and democracy (Agarwal 2014:1265, Hopma and Woods 2014:779). Neither food security nor food sovereignty are monolithic, uniform, or consistent discourses. Each of them are invoked by actors with different interests and in different contexts. Nevertheless, while these discourses may be adapted and transformed by their use in particular settings, they continue to have power to shape and constrain the deliberations in which they are employed.

### **Conclusion**

Discourses constituting food security and food sovereignty are profoundly concerned with democracy as an essential element in ensuring that everyone has a sufficient, appropriate, and sustainable diet. The theory of deliberative democracy suggests that more socially just decisions can be reached through open processes of deliberation; the central role of democracy in food politics, and the complex nature of hunger and food, make this a good site for investigating deliberation in practice. This must be done at a concrete level.

If the political claims of food security and food sovereignty are taken seriously, then a democratic approach based on a conception of collective as well as individual rights has the possibility of challenging the current profit-driven food system and achieving a fairer, more humane alternative (Jarosz 2011:135, Dunford 2015:240). This makes India's National Food Security Act a particularly interesting case, since it is one of very few efforts to translate the right to food into an effective policy. The restrictive effect of existing discourses and global systems raises questions about the ability of deliberative processes to fundamentally change material conditions and promote greater equality. This thesis seeks to investigate these issues by using the National Food Security Act as a case study into the nature of deliberative forms of democracy in India.

### **Chapter Three: Setting the Agenda: Activism in the Public Sphere**

This chapter lays the basis for the case study on the National Food Security Act by exploring how the issues of chronic hunger and public food provision came to register on the national political agenda in India. While the following chapters examine how the idea of food security developed in the formal political sphere and was eventually codified into legislation, in this chapter and the next I consider the background context in which the concept attained meaning and salience in Indian political discourse. How did the longstanding problem of widespread malnutrition become so visible that political parties felt driven to respond?

Chapters three and four deal with the interlinked roles of two groups of actors who played essential parts in pushing chronic hunger and governmental responsibility to greater prominence: activists of various kinds (this chapter), and the judiciary (chapter four), which heard the case these activists brought on the right to food, beginning in April 2001. This public interest litigation case came before the Supreme Court of India and marked a significant turning point, both in bringing the idea of a right to food into wider public use, and in establishing the problem of hunger on the political agenda at national and state level.

#### **Social movements and activism on food**

In this chapter, the focus is on the pivotal role played by activists in bringing attention to the deeply rooted problems of chronic hunger and malnutrition in India. The work of these individuals and organisations was essential to the eventual passage of the National Food Security Act in 2013, even if this was far from being their goal originally. It was through their efforts that the Supreme Court heard the case on the right to food, and their activism, alongside pressure from the judiciary, pushed the major political parties to think of food as a worthwhile – and possibly unavoidable – topic for electoral politics. In exploring the deliberative nature of Indian democratic politics, it is essential to look at how these activists operated as part of the public sphere, forcing attention onto a neglected issue, and the extent to which they were successful in shaping the terms of debate and achieving their goals.



In my field research, I found that the Supreme Court case was a touchstone for those who had participated in the campaign. It was mentioned in several interviews, generally in relation to the question of when people had become involved with these issues. Even for those who had not themselves worked on the case, it was an important reference point. However, social movement activity around the issue of food continued and developed separately from the long-lasting court case.

In the next section, I briefly touch on Habermas' thoughts on the role of civil society. This is followed by an analysis of the Right to Food Campaign which formed initially around the case brought to the Supreme Court of India and dominated popular mobilisation over food right up until the NFSA was passed in 2013. The final part of the chapter makes use of this empirical work to reflect on the implications for the theory of deliberative democracy.

### **Habermas on civil society**

The overarching theoretical framework for this thesis is drawn from Habermas' work on deliberative democracy, especially as laid out in *Between Facts and Norms* (1997). Much of this work is relatively abstract and focuses on deliberation on high constitutional values and under idealised circumstances. However, democratic theory cannot afford to ignore the realm of quotidian politics, or the messiness of political practice in the world as it is.

Habermas' understanding of the importance of civil society is grounded in his critique of sociological theories of democracy which strip out the normative content in favour of empirically-based conceptions of politics focusing on the encroachment of "normatively 'illegitimate' power" (1997:329). In Habermas, civil society refers to the everyday world of citizens, the spaces where communication takes place outside of the formal spheres of politics and economy. This does not imply that all communication in civil society is ideal, free from coercion or interest-based bargaining. However, it is through civil society that problems can be brought to public notice; civil society must, "perceive, interpret, and present society-wide problems in a way that is both attention-catching and innovative" (Habermas 1997:358). By acting as a "warning system" (Habermas 1997:359), civil society can bring about change by forcing action on the part of the political system. How did this happen with the right to food in India?

In the remainder of this chapter, I take Habermas' suggestion of using his outline as the basis for an empirical exploration of public opinion making and political influence in the context of struggles over the right to food in India. Groups grounded in India's public sphere used the channels proposed above, initially the law courts, to provoke debate and political action on this longstanding social problem.

### **The Right to Food Campaign**

If one were to set a tentative date as to when food and hunger began to figure as a problem at the broad political level in India, April 2001 is a strong contender. In this month, the Supreme Court of India agreed to hear a case brought by several non-governmental organisations arguing that the government should have to answer for the apparent starvation deaths of several people in the state of Rajasthan. The case was put forward as public interest litigation (PIL), a legal form developed by the Supreme Court in the 1980s, and based its argument on a purported right to food, ancillary to the right to life as guaranteed in the Indian constitution. The court case, public interest litigation, and the response of the judiciary are discussed in chapter four. This case was highly significant as the foundation for a broad-based popular movement focusing on food and hunger, the Right to Food Campaign. This loose grouping of interested individuals and organisations played a major part in forcing food onto the political agenda and keeping it there over the next decade or so.

The Right to Food Campaign was established in April 2001 to support the Supreme Court case. It is not a single organisation so much as an umbrella network bringing together a diverse collection of individuals and existing civil society groups. Its stated purpose is to unite those with an interest in hunger and food, to bring attention to these often-neglected issues, and to secure action towards their amelioration in Indian society. These aims – to raise public awareness and to prompt action by the state – appear to be very much in line with the role that Habermas projects for civil society.

The campaign is made up of numerous autonomous grassroots organisations, as well as individuals. The groups involved represent various social groups and interests, but of those on the national steering committee at the time of writing, there are some observable patterns:

- general human rights organisations (the National Alliance of People's Movements, the National Campaign for People's Right to Information, the Human Rights Law Network, the People's Union for Civil Liberties)
- women's rights and well-being (the National Federation for Indian Women, the Breastfeeding Promotion Network of India, the National Forum for Single Women's Rights, the National Alliance for Maternal Health and Human Rights, Bhartiya Muslim Mahila Andolan (Indian Muslim Women's Movement))
- groups representing other marginalised people (the National Conference of Dalit Organisations, the National Campaign for Dalit Human Rights, Rashtriya Viklang Manch (National Confederation of Disabled People))
- occupational bodies (the New Trade Union Initiative, the Alliance for Sustainable and Holistic Agriculture, the National Committee for Unorganised Sector Workers, the National Fishworkers Federation)
- Jan Swasthya Abhiyan (People's Health Movement) and Bharat Gyan Vigyan Samiti (a people's science movement).

One of my interviewees, then a member of the steering committee, told me that it is, "quite an informal, hard to define thing", being "quite open... basically anybody who agrees with the collective statement" is able to join, so long as they share the movement's goals and values (the collective statement is analysed below).

According to this statement, member groups are expected to organise their own funding; there is an explicit exclusion of funding agencies or donor-led networks. This was also mentioned by my respondent, who told me that,

whoever believes in that can be part of the campaign, not as a representative of a funding agency or a global organisation led member, but anyone otherwise.

The campaign's Collective Statement allows for acceptance of "institutional grants from Indian sources... in exceptional circumstances", subject to the "unanimous approval" of the steering group (RTF 2008:II.22). The refusal of most institutional as well as all foreign funding is perhaps related to the ambiguously democratic cast to the growth of NGOs in India post-Emergency and their frequent incorporation into state bodies or use as conduits for "transnational engagement in local affairs" by donor bodies, sometimes occasioning

backlash from the state (Gupta and Sivaramakrishnan 2011:11). By relying on individual donations, the campaign aimed to avoid dependence or outside influence.

The movement has a steering group which gives direction to the activities of the campaign, although it is supposed to be “chiefly guided by the mandate and policies laid out at the annual convention” (RTF 2008:II.4). The steering group was founded, with the agreement of the plenary session, at the national convention in Bhopal in June 2004, two years on from the group’s first activities. Its role was envisaged as co-ordinating the “flow of information within the network”, mediating between the different organisations involved in the campaign, and arranging network-wide events such as the conventions (RTF n.d. update 31). National networks which participate can expect to have a representative on the campaign’s steering committee. Others on the steering group are designated members from state-level campaign groups, where these exist, and “committed” individuals or members of other groups who are invited to join; at the time of my research, this included Harsh Mander and Biraj Patnaik of the Supreme Court Commissioners office, as well as Jean Drèze and Reetika Khera. Harsh Mander, Jean Drèze, and Colin Gonsalves were all mentioned as having been part of the original “support group” which guided the campaign prior to the establishment of the more formal steering group (RTF n.d. update 1, from approximately July-August 2002).

The national networks represented on the steering group include the People’s Union for Civil Liberties; it was Kavita Srivastava who filed the original Supreme Court petition in her role as general secretary of the Rajasthan branch of the PUCL, and she has had a prominent role within the campaign throughout. The PUCL was the first national human rights advocacy organisation in India, founded during the Emergency from 1975 to 1977, when Prime Minister Indira Gandhi suspended democracy (Epp 1998:97-98). Jayaprakash Narayan, a former independence activist and critic of Indira Gandhi, established the People’s Union for Civil Liberties and Democratic Rights as a non-partisan organisation; the body split and almost dissipated entirely with the end of the Emergency (PUCL n.d., Epp 1998). Prompted by outcry over alleged police brutality and the re-election of Indira Gandhi following the collapse of the coalition that had defeated her in the 1977 election, the PUCL was refounded in 1980. It is membership-based and avowedly non-partisan.

Also represented is the Human Rights Law Network, a group of lawyers and activists who use the law to advance the cause of human rights in India and provide pro bono legal work to marginalised people. The group began as a legal firm in the late 1980s in response to the introduction of public interest litigation by the Supreme Court (HRLN n.d., see chapter four). Colin Gonsalves, the lawyer who represented the case in the Supreme Court, is the founder of this network and sits on the steering group of the campaign. There are at the time of writing 13 further organisations listed as having representatives on the steering group, covering various issues. There are representatives from 15 states and one union territory (Delhi), out of 29 states and seven UTs in total.

The Right to Food Campaign has its own small secretariat. The office is in Sarvodaya Enclave in south Delhi, and is funded entirely from individual donations. The secretariat exists to support the work of the campaign and works under the direction of the steering group. The campaign's website appeals for volunteers to help in the secretariat.

The steering group and the secretariat make up the administrative structure of the campaign and provide a sense of leadership direction. However, the campaign is supposed to be relatively decentralised, building on "local initiative and voluntary cooperation" (RTF 2008: preamble). Although this is clearly very difficult to achieve in India, with its vast, dispersed, and diverse population, its stated intention is to be a grassroots movement driven from below more than a top-down organisation. Even the secretariat is meant to take direction from the annual convention as much as from the steering group (RTF 2008:II.11). In one of my interviews with a member of the campaign, she stressed that there was a lot of local consultation and debate within the small groups carrying out specific actions, such as drafting their ideal legislation, but also that there was inevitably a large gap between these small groups and the grassroots activists. A high degree of trust and various checks and balances were necessary to keep the campaign running smoothly.

The annual convention is somewhat of a misnomer, as it usually occurs every two years, but it is a national gathering of the campaign group, held in a different city each time. According to the campaign's website, the 2014 convention in Sanand, Gujarat had 1,800 attendees. The programme for the Ranchi meeting in 2016 included a rally, plenary sessions, workshops, and meetings with representatives from political parties (RTF n.d.). There is some detail below on the state-level convention I attended.

The national conventions have been opportunities for the campaign to meet, discuss important developments in the case and in the political world, and to decide on future directions for action. They have changed in focus over the years with the evolution of the political debate around food. In 2014, the convention was reviewing the details of the National Food Security Act which had been passed the previous year, whereas in 2016, the focus was on the practical outcomes of the legislation, its failings in many cases, and on the changed, more hostile atmosphere for political organisation under the contemporary government (RTF 2016). Major discussions affecting the campaign, its goals and aims, have taken place at the convention, including the resolution to write a collective statement at Bodh Gaya, Bihar in 2007, which was carried out by the steering group and revised by groups at state level before the final draft was approved, again by the steering group. Although there is a stated intention of decentralisation, there is naturally a strong overarching role played by the steering group, and certain other individuals have special influence without being on the committee. Nevertheless, the conventions are significant as sites for learning, discussion, and feedback.

### **Activities and methods**

The campaign began as a support group for the case in the Supreme Court. This would continue to be an important part of the work of the campaign, but it also developed to carry out activity around and beyond this. There was a recognition that the legal case “would not go very far on its own” (RTF n.d.); though this is a later statement, the early reports from the campaign’s website show evidence of a wide range of supportive activities, engaging with court orders and hearings, supplying information to the commissioners, meeting with politicians, and organising and publicising demonstrations and other political actions (RTF n.d.). The aim was to extend the reach of the campaign and build wider public support for the right to food. The activities of the campaign fall roughly into two groups: those aimed at various parts of the formal political system and those directed towards the Indian public, though this distinction is not always very clear-cut.

- *Formal political activity*

The Supreme Court case which began in 2001 directed a major part of the work of the campaign in the years to follow. According to Colin Gonsalves' introduction to the first two *Right To Food* reports, the case came about almost accidentally, an offshoot of an unrelated encounter:

We were in Jaipur for a meeting organised by Kavita Srivastava of the People's Union for Civil Liberties unconnected with starvation deaths, where we met Jean Drèze, a professor of economics in Delhi. He suggested that we go with him to a village nearby to see the extent of hunger in the countryside. An hour's drive from Jaipur and we were in another world – that of the dispossessed. People had no food at all... Mere miles away were the godowns of the Food Corporation of India (FCI) – full of grain, some of it rotting and a feast for rats. This is the spectre of starving India (HRLN 2009:v, republished in report's fourth edition).

The impetus to launch the Supreme Court case thus apparently arose from a meeting between likeminded individuals who, deciding to go out into the countryside, were moved spontaneously to action by the sight of rural suffering. Gonsalves' introduction to the fourth edition strikes a similar note, recalling the “rather casual beginning” of the case over a breakfast meeting on police reform (HRLN 2009:3). By contrast, in the same document, Kavita Srivastava recounts a “desperate attempt by more than 54 groups in Rajasthan” to demand that the government open its food stores in the face of widespread starvation (HRLN 2009:ixx). These quite strikingly different accounts may simply reflect the divergent experiences of a lawyer from those of an activist, but Gonsalves' version may also be a quiet endeavour to sidestep the suspicion that sometimes lingers around civil society organisations in India. As Sara Ahmed (2014) has put it, “when you expose a problem you pose a problem... you become the problem because you notice a problem”. Activist groups in India may be accused of raising or exaggerating issues with ulterior motives, or being unpatriotic, because they bring to light problems that could otherwise be quietly forgotten in the great drive for development. By stressing the casual, unplanned germination of the right to food case, Gonsalves may be trying to show that there was no conspiratorial or subversive aspect to the actions of the original petitioners.

There were regular hearings in the early years of the case. Gonsalves, as the original counsel, continued as the lawyer for the case as a recognised advocate of the Supreme

Court. The campaign gathered supporting material in response to requisitioning by Gonsalves and Srivastava, the petitioner. The volume of submissions was such that one participant recalled on occasion having to carry files into the courtroom using a wheelbarrow (Mander 2012:18). This evidence was used to convince the justices of the scale of chronic hunger and the necessity of government action to prevent continued suffering.

Beyond the courtroom, the campaign targeted the legislative and executive branches of government. The proposal for legislation was put forward by the Congress Party in their manifesto for the 2009 general election. In response, the campaign had to consider what it wanted from such a law. One respondent told me it took the campaign “more than a year to come up with our vision, which everyone in the campaign agreed with and was comfortable with”. This took the form of a shadow draft, an alternative version of the legislation.

The campaign then turned its attention to promoting its views to people in positions of influence. This was first the National Advisory Council (NAC), a panel of experts who advised on policy issues under the UPA government. The campaign encouraged the members of the NAC to take its broader approach to the legislation, rather than the narrower vision being pushed by the food ministry and much of the media. The NAC included two men who had been significant figures in the campaign: the former IAS officer and Supreme Court Commissioner Harsh Mander, and the economist and activist Jean Drèze. They headed the NAC working group drafting the legislation, so it is likely the campaign received a relatively receptive hearing at this stage, though there were other pressures at work (see chapter six).

Following this came the parliamentary stage. There were two main strategies that the campaign employed at this time, targeting individual MPs and the bill’s standing committee. The campaign organised meetings with MPs from all main parties; one of my respondents estimated that the group had met with more than 150 parliamentarians in total (the Lok Sabha has up to 552 members and the Rajya Sabha up to 245). Three or four activists from the campaign would meet with an MP to explain what they wanted from the legislation. During the bill’s committee stage, they organised a postcard campaign, encouraging members of the public to submit comments, as well as appearing themselves to testify. More than a hundred thousand postcards were sent calling for the Public



Distribution System (PDS) to be made universal. When the bill returned to the house, focus switched back to parliamentarians and parties, trying to persuade them to introduce the campaign's desired amendments. An ongoing media campaign continued alongside these efforts.

The campaign tried to play an active role in shaping the NFSA as it was being designed and debated, as it had earlier been active in gathering materials and presenting arguments to the Supreme Court. When asked which arena seemed most open to public input, a member of the steering committee told me that "we felt that we were at least making some change" in their meetings with MPs. However, although they used the campaign's talking points during debates, ultimately these MPs would revert to party lines when it came to voting on amendments. There was a frustrating disjunction between the language of the debates and the eventual content of the legislation. For this activist, the balance was still positive, in that parliamentary debates engaged with the broader issues the campaign had raised, such as the significance of pulses; moreover, these meetings had had an educative function, which,

if not immediately, for the legislation, in the long run hopefully, has given them a perspective, will help us as we go down in future.

Even if there was no immediate impact, this campaigner was optimistic that the group had had some success in altering how food and hunger were thought about politically.

#### *- Wider public activity*

The campaign's early focus on the legal system shifted as the court began to produce rulings and orders related to the case. Although these were interim orders, they carried the force of law until the final settlement. The campaign started expanding its activities in response, trying to ensure their intended impact was translated into practice for the beneficiaries. Dipa Sinha, co-convenor of the steering committee when we met in October 2016, recalled that her involvement with the campaign dated to 2004, when she had been in south India, working on child malnutrition at the community level. When the orders came from the Supreme Court case, she was "excited" to start using them, and the programmes involved,

in her work. It was through this that she became aware of and involved in the Right to Food Campaign.

This memory speaks to an important aspect of the campaign's activity: raising awareness of and encouraging people to make use of the services to which they are entitled. On the campaign's website, and available at the state level convention I attended in November 2016, are several "primers", booklets written by members of the campaign which summarise the content of laws or court orders. The primers are available in English and Hindi. Topics include the National Food Security Act, the Integrated Child Development Services, and the Midday Meal Scheme, and related areas including the National Rural Employment Guarantee Act and Forest Rights Act. The aim of these primers is to make people aware of their rights and entitlements and what the government should be providing. With this knowledge, people should be able to seek out these services and bring pressure to bear on officials where there are gaps and deficiencies.

This informative function is an important element in public meetings. Although I was not able to attend the national convention in Ranchi in September 2016, I went to the second day of the state-level campaign convention in Lucknow, Uttar Pradesh, in November 2016. I was invited by the leader of the UP campaign, whom I had contacted requesting an interview. She asked a couple of the young women there to sit with me and translate, which they kindly agreed to do for most of the day, and it was mainly through this that I was able to follow the discussions, since I could only pick up odd words in Hindi. The meeting blended education with information sharing, mutual encouragement, and movement building.

The meeting was held in a public building in the centre of Lucknow. Most people sat on the floor on mats, though there were a few seats at the edges of the room as well as a table and chairs at the front for the main speakers, including Dipa Sinha. Those attending had come from different parts of the state, the largest in India. There were a few hundred people present, the large majority women, including the speakers, and a range of ages, including some small children. I am not able to say what the backgrounds of most of those present were, though at least some seemed to come from rural villages. One man I spoke with briefly was a social worker who was involved with these issues in his work.



The day included a mixture of speeches by those at the front, with opportunities for those in the audience to share as well. The second day was mainly concerned with maternity benefits and children's entitlements; the first day had been focused on the Public Distribution System (PDS) and the rural employment guarantee scheme (NREGA). Much of the discussion was about the rights and entitlements that people were legally guaranteed, and the gaps in the provisions for these in practice. When discussing maternity benefits, the speaker asked the audience what facilities existed for pregnant women in their local areas. A woman from the floor stood up and explained that women were having to work right up until the point of birth and soon after, with their families not supporting them in having time to rest, or to spend much time looking after their babies. People seemed to appreciate having the opportunity to speak, although there was a variable level of interest; when a young boy spoke, people were very encouraging and remained quiet, whereas at other times conversations continued over someone's contribution. There were also points of disagreement, as one man's comment caused a heated debate.

The meeting seemed to serve an important role in helping people feel involved. In such a big country, political actions and organisations at the national level are inevitably quite remote from many people for much of the time. The convention I attended would therefore be significant for bringing people together, allowing grassroots activists to see each other, develop closer bonds, and compare their experiences. This function of encouragement and solidarity was suggested by the fact that there were sometimes rounds

of chanting or singing between speeches. Several times people used the word “*zindabad!*”, literally “long live”, as a cheer. The main intention of the meeting appeared to be making sure that people were aware of their entitlements and building them up to go back to their communities encouraged to continuing fighting for those rights.

The campaign engages with and tries to spread their message through the media. The nature of the Indian media landscape is discussed in chapter seven, but it is probably fair to say that much of the national-level media is unreceptive to the perspectives of groups like the Right to Food Campaign. One interviewee described the media’s attitude towards them as “tough”, although another described the media as more or less helpful to the cause. There were sympathetic journalists who covered the campaign, as well as outlets in which members of the campaign were able to publish articles. This included *Economic & Political Weekly*, which is something of a forum for debate on social issues. Social media was relatively new at the time and was not used at all by the campaign. Whatever arguments or messages came from the campaign were, perhaps inevitably, almost exclusively filtered through the leadership. The campaign had some ability, albeit limited, to promote its message through the media, an important area in public debate, since it appeals to the general public, but potentially also reaches influential policy-makers.

A final and more direct method used by the campaign to promote its messages is through public gatherings, as rallies or protests. In central Delhi, between Connaught Place and the Parliament of India, there is an area of Jantar Mantar Road which is a known site for political demonstrations. The picture below shows a protest against the introduction of genetically modified mustard seed in October 2016, which the campaign promoted through its mailing list. The campaign has organised events at Jantar Mantar and at relevant ministries, in addition to those organised locally by constituent parts of the movement. These demonstrations are quite typical of those used by activist movements and feature a mixture of speeches, chanting, and singing. Again, though usually oriented towards the state in some form, there are educative and solidarity building aspects which may be the more significant outcome.



### Data analysis

In this section I analyse the content of several key statements made by the campaign to shed greater light on the nature of the organisation, its aims, values, and approaches to the issues. The main document is the Collective Statement from 2008 (RTF 2008), requested by the convention as a charter for the campaign, bringing together content from previous statements.

The first point to note is the name of the group: the Right to Food Campaign. This immediately stakes a claim about the nature of its demand; it is not just a campaign for food, but for something more, for the recognition and fulfilment of a human right. The use of this phrase makes the directly political nature of the demand clear, while also linking the campaign to democratic power arrangements. This language of rights is an important theme in the document, which states that the campaign is, “committed to the realisation of the right to food in India” and that, “everyone has a fundamental right to be free from hunger and undernutrition” (RTF 2008:I.1). This positions the campaign not as asking for a boon from a benevolent state, but as requiring action to satisfy a legal entitlement. In addition, it aligns the campaign with the politically palatable notion of human rights, which tends not to pose a challenge to existing political and economic structures in democratic systems.

The statement stresses that the right to food is not just a question of “equitable, decentralised, and sustainable food systems” (RTF 2008:I.1). This is already a greater claim than simply access to sufficient food. However, the campaign is also concerned with related areas, including the right to work, land reform, and social security. The statement goes on to list various threats to the right to food, including the dismantling of the PDS, agrarian crisis, and discrimination against groups including women, children, Dalits, and Scheduled Tribes (indigenous tribal people). These are considered to be “structural roots of hunger”, and are an indication of the broad vision of the campaign in approaching food and hunger (RTF 2008:I.2). The right to food is not something to be easily met with the provision of cheap grain, but rather requires wider social transformation.

Relatedly, the document commits the group to arguing for the universalisation of key programmes, for “*universal provision* of quality basic services and facilities related to nutrition, health, and education” (RTF 2008 I.5, my emphasis) and specifically mentions the PDS, ICDS, and Midday Meal Scheme. With special attention and priority for disadvantaged groups and young children, this collective statement advocates universalisation in service provision. The PDS was originally a universal scheme, but was cut back in the 1990s as part of economic liberalisation. I heard from one respondent that “any social programme for the poor is condemned to be poor”, because they lack political influence, and that the PDS had functioned better when it had included the middle classes, who would be less likely to accept subpar services. Another respondent argued that a right to food required that such schemes be open to all; “why for one person and not another?”. This had been a point of controversy and debate within the campaign when the legislation was brought forward, as some prominent figures including Harsh Mander, the Supreme Court Commissioner and NAC member, favoured a more targeted approach. He eventually accepted the majority view of the campaign in its commitment to universalisation.

The collective statement also makes clear the campaign’s orientation towards the state. While social movements and activist organisations can have various targets, here activity is primarily directed towards the state, the core of the formal political process. The statement designates the state as having “primary responsibility” for ensuring the fulfilment of people’s entitlements. The campaign undertakes to combat the neglect of basic needs by

using “all democratic means” to persuade the government to take necessary action. This is very much in line with Habermas’ ideas on the role of civil society.

Finally, the statement is explicit in its commitment to democracy and equality, both within the campaign organisation and in Indian society. The campaign links the struggle for the right to food with the broader aims of equality and fighting discrimination. Within the campaign, the statement calls for “collective action” and “participatory decision making” as part of a decentralised alliance of groups and individuals (RTF 2008:II). Although this was difficult to achieve in practice, my respondents stated that there were efforts by the campaign’s leaders to consult with people and to keep them informed, in addition to local actions being carried out by grassroots groups within the campaign network.

### **Arguments and deliberation in the Right to Food Campaign**

An analysis of the campaign’s documents can help to develop an insight into their practices and values, as well as giving some indication of the lines of argument in their contributions to the public discourse around the right to food. While the collective statement is a good expression of the campaign’s avowed principles, it is understandably light on the kinds of means-ends argumentation that would characterise the debates elsewhere, as it focuses on the nature and boundaries of the campaign rather than on routes towards their collective goal. The campaign website has several documents related to the proposed right to food legislation and these indicate some of the arguments put forward by the campaign as to what such a law could achieve.

These documents include the “Essential Demands” of the campaign, dating from July 2009, and “Primer of Minimum Demands” from August 2010, as well as a brief critique of the draft legislation tabled in December 2011 (all available on the website as of 30.03.2021). Especially significant is the draft Food Entitlements Act 2009, a 40-page document created by the campaign as their ideal model of what the legislation could look like, published on their website in September 2009<sup>1</sup>. This mock-up version of the law contains various asides indicating disagreements or ongoing discussions within the

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<sup>1</sup> the website’s archive lacks the draft bill, but it is available as of 30.03.2021 online at [http://admin.indiaenvironmentportal.org.in/files/rtf\\_act\\_draft\\_charter\\_sept09.pdf](http://admin.indiaenvironmentportal.org.in/files/rtf_act_draft_charter_sept09.pdf)



campaign (e.g. pp.10, 11, 13 17, and the missing chapter V on fishers' rights, p.19). This clarifies the August 2010 primer's statement that "this primer is still evolving and we welcome your feedback" (RTF 2010:4); the creation of a written draft did not represent a fixed consensus on all issues, and the principles of openness and debate were at least in theory still operative even when some agreement had been reached. The primer makes similar claims as to the deliberative and discursive nature of the draft bill on which it is based: "the working draft came out of collective deliberations" with more than 40 named people as well as "many others... actively participating in discussions and responding with views and comments" (RTF 2010:4). This underlines the campaign's rhetorical commitment to democratic and deliberative processes.

The concept of the human right to food was central to the campaign's language and framing of the issues. The language of the "right to food" features prominently in both shorter documents, while the draft bill opens with a list of legal commitments to this and related rights, from the Indian constitution and from international covenants (RTF 2009:5). The framing of the draft bill is indicated by the choice to put as the first right listed not the right to life (article 21) or the government's obligation to raise the level of nutrition (article 47), but instead article 39:

where the ownership and control of the material resources of the community are so distributed as best to subserve the common good and everyone has a right to an adequate mean [sic] of livelihood (RTF 2009:5).

Rather than seeing the legislation purely in terms of cheap or free food to be supplied by the government, as critics would later charge, this working draft aimed for a much more far-reaching approach and associated social change.

While dealing in considerable detail with the practical aspects of the programmes to be established for the relief of hunger and malnutrition, the bill gestures beyond this to a vision of a society where the basic needs of the community are recognised and met. In chapter II of the campaign's draft, "Availability and Accessibility of Food", there is an opening statement that "all persons have a fundamental right to be free from hunger and to have access to safe and adequate food". This is followed by a list of various duties of the state, which include promoting sustainable food production, supporting indigenous and local farming, preventing diversion of agricultural land, protecting the existing livelihood



rights and traditional knowledge of local communities, and promoting food sovereignty (RTF 2009:9). The subsequent clauses contain further directions as to the role of the state: to encourage moves towards organic agriculture; to impose a moratorium on GM food seeds; to set Minimum Support Prices for grain procurement well in advance of sowing season; to ban exports of staple grains and to prevent imports except in urgent need; to oppose international trade agreements which allow transnational corporations a major foothold in Indian agriculture; to oppose seed patenting and biopiracy; to take steps to prevent hoarding and speculation in food grains (RTF 2009:9-10). There is also a commitment, in clause xv, that “under no circumstances shall the state introduce food coupons or cash transfers in the food programmes” (RTF 2009:10); economists would later argue strongly for the greater efficiency of cash transfers despite their drawbacks (see chapter six). This chapter outlines a wider view of what the bill should set out to achieve than simply adding legal weight to existing subsidy schemes. For the campaign, the point was not just to ensure that grain made it into the hands of the needy, but to make changes to the whole system of Indian agriculture, to reorient it from capital and corporations towards the needs and interests of local people, workers, small farmers, and the environment. It is a holistic vision, reflecting the notion that food should not be treated like a commodity as any other. Very little of these ideas would make it into the final law, but these concerns continued to motivate the campaign.

Similar arguments can be seen in other documents. The primer of minimum demands from August 2010 (RTF 2010:3,7) argues for expanding the procurement system to include millets and pulses, important sources of protein, on the basis that this would also help to “incentivise[] and revitalise[]” Indian agriculture. In the same document, the government is criticised for its interest in genetically modified seeds instead of sustainable agriculture. The Green Revolution, which promoted industrial farming with high levels of inputs and resulted in crises of debt and farmer suicides, is used to demonstrate the dangers in pursuing this approach rather than seeking more equitable solutions. The question is not simply one of cheap food supply, but requires attention to other aspects including employment, land control, and care for the environment. This reasoning combines means-ends argumentation with value premises: the establishment and flourishing of a true right to food requires more than subsidised grain, rather a different way of ordering society so that the poverty and discrimination which produce hunger are addressed.

There is, of course, a limit to what a single piece of legislation can achieve. Given the range of interests represented by the campaign as well as its character as a network of existing groups and assorted individual members, the risk of overburdening or incoherence is relatively high. One of my respondents told me that the campaign had deliberately used the term food entitlements in the draft's title rather than food security, because,

if it's food security, then there are these hundred other things that need to come in and if you're not talking about it then let's not claim that this is what food security's all about.

The draft represented a pared down version of the changes that the campaign hoped for and believed to be necessary. Nevertheless, there is a breadth of vision in the arguments presented, which reached beyond the alleviation of immediate need to consider the social conditions in need of transformation.

### **Politics of social activism in India**

The Right to Food Campaign is an informative example of social activism oriented towards political change at the level of the national state in India. The nature and actions of the campaign give an insight into organising across the multiple lines of difference and division in an exceptionally large and populous country; Indian society is characterised by a multiplicity of languages, several major religions, and not infrequently by oppression and discrimination on the basis of caste, class, and gender. This can render it difficult to build truly mass movements based on solidarity or to be certain of how far assertions to representativeness can be trusted.

Subaltern studies scholar Partha Chatterjee has written influentially on civil society in India. In his 2004 book *The Politics of the Governed*, Chatterjee argues that there is a distinction in India between civil society as it appears in Western theoretical models of bourgeois democracies and the unruly bodies which the state seeks to govern as a population, external to the much smaller group of true rights-bearing citizens:

Civil society, for instance, will appear as the closed association of modern elite groups, sequestered from the wider popular life of the communities, walled up within enclaves of civic freedom and rational law (Chatterjee 2004:4).

Civil society is, he states, a “sanitised fortress” (2004:74). It operates in a different sphere, a different mode to the rough and tumble of what he terms political society, the more ad

hoc and sometimes questionably legal associative politics of those excluded from the count of citizens, those to be managed rather than those with rights.

In a later article, Chatterjee (2008) links his ideas about the division between civil society and political society with a class analysis of India and the shifting balance in its elite. While older analyses saw hegemony as split between the corporate class, the rural landlord class, and the managerial bureaucratic class, he argues (2008:56) that the years since liberalisation have seen “a distinct ascendancy in the relative power of the corporate capitalist class” against the landed elite. Meanwhile, driven by the necessity for economic growth, primitive accumulation – the separation of labour from the means of labour – has increased and the state has come to play an especially important role in offsetting the effects on the dispossessed, those left without means to live a decent life (Chatterjee 2008:54-55). Chatterjee here draws on Kalyan Sanyal’s *Rethinking Capitalist Development* (2007:39-41), where Sanyal argues that capitalism in post-colonial countries including India is characterised by the destruction and re-creation of pre-capital (or non-capital). Those dispossessed by ongoing primitive accumulation, capitalism’s constitutive outside, must be reunited with some means of labour – part of the surplus extracted by capital – to permit their survival while avoiding any threat to capitalist hegemony (Sanyal 2007:58-59). The supply of food becomes part of the “politics of provisions” (Bohstedt 2016) as the state seeks to secure both its own legitimacy and the conditions for capital accumulation.

Chatterjee (2008:55) thus argues that policies such as NREGA and NFSA can be considered “direct interventions to reverse the effects of primitive accumulation”. Peasants, the urban poor, and other marginalised Indians have come to rely much more heavily on the state, while the middle class have become suspicious of the corruption they perceive in the political class and have “largely come under the moral-political sway of the bourgeoisie”, that is, the capitalist class (2008:57). As a result, while the middle-class is comparable with norms of bourgeois civil society elsewhere, Chatterjee argues that India’s experience continues to diverge from that of the Western democracies through political society, the “vast bulk of democratic politics in India” (2008:57), where most negotiation is direct, and responses take the form of contingent exceptions.

India in recent years has certainly been a site for political movements of the kind that Chatterjee terms civil society. In addition to associations of homeowners in various

cities demanding slum clearance in the name of urban hygiene and beautification, a significant anti-corruption campaign with a large bank of middle-class support arose in 2011, centred on the figure of Anna Hazare. Hazare is a veteran activist and former winner of the Magsaysay Award, a prize awarded by the Ford Foundation for “Emergent Leadership”; two of his fellow leaders are also Magsaysay winners and head NGOs supported by multinational corporations (Roy 2015:28-29). Hazare had previously led campaigns for the right to information and against corruption when he started his fast in April 2011.

India Against Corruption (IAC), headed by “Team Anna”, called for public protest and received a large response from the middle class of various cities: “unemployed youth and college students... doctors, engineers, lawyers and technocrats”, “youth, middle class, women’s associations, social activists and followers of Mahatma Gandhi”, “old and young, men and women, professionals and students” (Sajad Ibrahim 2018:83). Many were disgusted by the corruption of the political class, displayed by various bribery scandals, and were attracted by the Gandhian rhetoric and methods of Hazare. Of those involved were many “who may not have voted even once” (Sajad Ibrahim 2018:84). This accords with the suggestion of political scientists that in India, contrary to usual patterns, it is the poor who are more likely to vote, while wealthier citizens have in recent decades increasingly withdrawn their participation from the open public sphere (Varshney 2000:729, Corbridge et al. 2013:167). It was from the “educated, urbane” middle classes that IAC drew its strength, its “foot soldiers” (Sajad Ibrahim 2018:84). Moreover, while he may have borrowed from Gandhi’s political practices and language, Hazare did not follow his commitment to decentralised power; IAC was clearly oriented towards the state, calling for the passage of the Lokpal Bill and the foundation of a huge counter-bureaucracy to police corruption within government bodies (Sajad Ibrahim 2018:85, Roy 2015:51).

IAC and Team Anna fit extremely well within Chatterjee’s model of civil society. As both supporters and critics concur (Sajad Ibrahim 2018, Roy 2015), the class profile of Hazare’s followers is relatively well-off urban dwellers, secure in their rights, and critical of the government; Roy additionally accuses Team Anna of concentrating their fire on the government, helpfully deflecting attention from corporate corruption. Corporations are not mentioned in the bills which arose from the protests and neither IAC’s draft nor the

substantially weaker law passed by parliament contemplates including media, NGOs, or corporations under the purview of the anti-corruption bureaucracy. Again, this accords well with Chatterjee's account, especially given the tendency to conflate those involved with the protests with the Indian public as a whole; this is evident in Sajad Ibrahim's account even as he specifies the middle-class nature of the protests. He regards the movement as,

a landmark in the history of civil society in the country as it attracted the attention of *the people* in a big way and ended with some success (Sajad Ibrahim 2018:85, emphasis added).

The relatively privileged composition of the anti-corruption movement and the nature of its goals is here elided with the common interests of the Indian people. This judgement overlooks the success of other mass movements which focused on issues of more immediate concern to the poor and marginalised citizens of India, especially those around food, work, and forest rights.

## Conclusion

Thinking about the Anna Hazare movement can help us consider where the Right to Food campaign might fall within Chatterjee's schema. Like IAC, the campaign focused on the state as having responsibility to address the problem being brought forward, and it was likewise headed by members of the middle class, though without the same focus on one individual. Especially in its use of legal action and its rhetorical focus on human rights, the campaign's methods largely answer to Chatterjee's ideas about the practices of civil society.

On the other hand, by pushing forward issues of basic livelihood, including the right to food and work, the campaign falls into the category of political society, demanding action from the government to counteract the forces of accumulation which leave so many dispossessed. Despite the relatively privileged class status of many of its leading figures, the movement had a far more diverse and varied character. In contrast with the generally laudatory media presentation of Team Anna, the reception to the campaign ranged from sympathetic to (more commonly) indifference or hostility (see chapter seven). While the enactment of a national legislative framework contradicts Chatterjee's argument (2008:57) that responses to demands from political society are met through "temporary, contextual and unstable arrangements arrived at through direct political negotiations", my

respondents told me repeatedly that they had not set out to achieve such a law and that they perceived it as the political class endeavouring to reclaim moral leadership from the judiciary. Taken together, this suggests that the Right to Food Campaign occupied a hybrid or liminal position in relation to civil society and political society.

This may indicate that Chatterjee's analytical distinction is drawn too sharply, but could suggest that the campaign was successful at least to a degree in bridging the two worlds. Through their activities and deliberations, the campaign was able to convert advocacy for the relief of immediate suffering into a long-lasting movement, to translate widespread need into the politically palatable framework of human rights, and to gain mass support to direct and provide backing for their argumentative contributions to political discourse. The movement maintained Habermasian-style commitments to deliberation and openness, albeit inevitably limited, whilst encouraging mass participation. It could be argued that the movement implicitly went beyond the ordinary scope of civil society in the deliberative model and touched on what Rancière (1999) refers to as politics, opening up the question of who counts, of who has the right to have rights. The main vehicle through which the movement was able to raise these issues was the staid institution of the Supreme Court, as discussed in the next chapter.

## Chapter Four: India's Supreme Court and the Judicialisation of Politics

In the previous chapter, I looked at the Right to Food Campaign, the movement which launched the issue of food security into public and political discourse in India. Here, I discuss the legal case which brought this activist coalition together, and analyse and situate the role of the judiciary and legal sphere as part of the deliberative system in India. This case has been extremely influential and followed with great interest by observers outside of India as well as domestically. It is an unusual example of economic and social rights being given explicit protected and justiciable legal status (Banik 2010, Birchfield and Corsi 2010). I analyse key rulings from the case, paying particular attention to the language used by the justices in their reasoning. By close reading of these orders, I trace the arguments made by the Supreme Court justices, considering how these overlap and diverge with those brought by the Right to Food Campaign, and how these may have contributed to and shaped the actions of politicians, the subject of chapter five.

The Indian judiciary, in accepting the case and through its subsequent rulings, was vital in bringing greater public attention to food and hunger from the early 2000s onward. However, the Supreme Court proved relatively toothless in ensuring that its orders led to changes on the ground, despite having access to certain powers which might be considered extra-judicial. With this in mind, I extend one of the main arguments of the thesis: that by privileging the deliberative process, theories of deliberative democracy may underestimate or simply ignore the material constraints which prevent successful arguments being translated into practice.

### **Legal deliberation and PUCL vs. Union of India**

Rajasthan is a large state in the north west of India, bordering Pakistan in the west and touching the National Capital Territory of Delhi on its north-eastern border. In 1999, the state of Rajasthan estimated in a memorandum on scarcity that 73.6% of its villages were affected by drought and needed relief (Birchfield and Corsi 2010:697). By 2001, with the drought in its third year, national newspapers were reporting deaths from starvation in Rajasthan and other states (Birchfield and Corsi 2010:698, Banik 2010:265). In December 2000, the Union Minister for Consumer Affairs and Public Distribution had admitted that

around five crore (50 million) people were suffering starvation, a landmark acceptance that the government was failing to protect its people (Basu and Dasgupta 2011:7-8). Although almost 50 million tons of grain were being held by the governmental Food Corporation of India (FCI) in warehouses in Rajasthan, distribution and relief was inadequate at both state and national levels (Birchfield and Corsi 2010:698). Indeed, a few days later the Chief Minister wrote to the Food Minister complaining about a proposal to dump tons of grain into the sea to make space for the new crop (Basu and Dasgupta 2011:8, HRLN 2009:v). Neither the state nor the union governments were taking sufficient action to protect the lives of citizens despite their mandated responsibility to do so.

In response, the Rajasthan branch of the People's Union of Civil Liberties brought a petition to the Supreme Court of India, asking them to force the government into action. The petition argued that the Government of India had a duty to protect the right to food, so they should be instructed to take urgent action to provide relief. Further, the petition demanded release and distribution of the food stocks held by the FCI and requested the reform of government programmes including the Public Distribution System (PDS) (Birchfield and Corsi 2010). Although originally addressed to the national government and FCI, this was widened to include all state governments and to cover broader issues of

food insecurity, urban destitution, right to work, transparency and accountability in government and the implementation of social security programmes (Banik 2010:266).

The problem of hunger cannot be considered or solved in isolation, and the scope of the court case reflected this recognition.

The case's formal title was Writ Petition (Civil) 196 of 2001 (PUCL vs. Union of India and others). However, it became known informally as the right to food case because the petitioners made the existence and enforceability of this right the foundation of their argument. Food is typically classified as a socio-economic right and these have generally not been subject to legal enforcement, including under the explicit terms of the Indian constitution.

Aside from acting as the highest court of appeal, the Supreme Court of India has a special role in protecting the rights of citizens under the country's constitution. Article 32 gives the Supreme Court "power to issue directions or orders or writs... for the enforcement



of any of the rights conferred by this Part” (Constitution of India). However, the constitution divides citizens’ rights into two categories, only the first of which are open to legal appeal in case of violation. Part III of the Constitution lays out the Fundamental Rights which should apply to all Indians; it is these rights which are referred to in outlining the powers of the Supreme Court above, and the right to appeal to the court is likewise guaranteed by article 32. This article was considered the most important in the whole constitution by its principal author, the Dalit leader, lawyer, and independence campaigner Dr B.R. Ambedkar (Epp 1998:81). Part IV sets out the Directive Principles. While there is a “duty of the State” to apply these principles in making laws, they are “not enforceable by any court” (Constitution of India, art.37). It is here that the constitution declares,

The State shall 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 (Constitution of India, art.47).

Thus, the closest reference to a right to food is in a section of the constitution which is deliberately excluded from judicial review.

The petitioners therefore had to establish a constitutional foundation for their claimed right to food. They drew on a previous Supreme Court case, *Francis Coralie Mullin vs. The Administrator*, in which the court had ruled that the right to life included the right to food (Birchfield and Corsi 2010). The right to life is protected by article 21, one of the Fundamental Rights. This precedent was used to argue that the state had a duty to protect the right to life, thus an implied duty to provide food to those without, in this case those affected by drought and without the ability to purchase food (Birchfield and Corsi 2010). The court’s previous recognition of the right to food as a component of the essential and protected right to life provided the grounds for the petitioners’ claims against the government bodies.

This case has raised considerable interest globally. The division between the Fundamental Rights and Directive Principles is line with constitutional practice internationally. The Fundamental Rights include the right to equality before the law, freedom of speech, freedom of religion, the right to life, and various protections relating to arrest and detention and to minorities. These are mostly civil and political rights, sometimes equated with what Isaiah Berlin called negative liberties (Fredman 2008). In his view, liberty is freedom from interference, and since the state must remain neutral between

conceptions of the good, it must avoid pursuing goals such as equality, which might justify coercion in the name of freedom (Berlin 2002:212-213,216). Civil and political rights are thought to impose only negative duties on the state: these are things it *must not* do, rather than entailing any requirement to act.

The Directive Principles are more concerned with the material welfare of citizens, with the “right to an adequate means of livelihood” (Constitution of India, art.39a), of fair sharing of resources, the right to work, and support in cases of want. These articles are largely the work of Dr Ambedkar and his belief that political democracy must be linked with economic and social democracy (Drèze 2005:46). These are primarily socio-economic rights. For Berlin, these positive duties threaten individual freedom by infringing on citizens’ own choice of the good (Fredman 2008). The attempt to extend equality through positive duties on the state is thought to come at the expense of individual liberty. The constitutional separation of socio-economic from civil and political rights in India and elsewhere reflects this view, with these rights aspirational rather than binding.

However, as Fredman (2008) suggests, this distinction may not be so easy to defend. The assumption is that negative liberties entail certain limited duties and primarily involve the state refraining from interfering with individuals. The fulfilment of these rights in fact entails positive duties, requiring action and resources on the part of the state in establishing and maintaining functioning political and legal systems. The cost and indeterminacy of which positive liberties stand accused apply also to their negative counterparts. Finally, as the petitioners in the right to food case argued, the absence or violation of socio-economic rights may fatally undermine civil and political rights; where people are starving, the assurance of a right to life becomes meaningless. Neither can destitute or homeless people make full use of their civil and political rights, including recourse to the legal system (Fredman 2008). “Negative” civil and political rights and “positive” social and economic rights cannot be neatly isolated, but instead mutually require and support each other.

### **Public interest litigation and judicial activism**

This was the constitutional basis of the arguments put forward by the petitioners in appealing to the Supreme Court. The legal mechanism under which the activists, spearheaded by the PUCL, brought the case is also worth noting. In 1982, the Supreme

Court of India relaxed the requirements around standing to allow public interest litigation (PIL) to be brought on behalf of others rather than directly by those involved in a situation. Thus “any member of the public who is not a mere busybody or a meddlesome interloper, but one who has sufficient interest” can bring forward a case to the notice of the court (SP Gupta vs. Union of India 1981 supp. SCC87:212, quoted in HRLN 2009:7). “Sufficient interest” could take the form of a “genuine concern” for the rights of affected people (Epp 1998:86). The PUCL as movers of the petition were appealing on behalf of a wider public of people suffering the effects of drought and hunger, who were unable themselves to access the court.

The creation of PIL by then-Chief Justice Bhagwati sought to address the problem of government action adversely impacting the public interest. It is quite unique, in offering the possibility for legal recourse where there is clear damage to the public interest but nobody with the necessary standing to bring a case directly (Birchfield and Corsi 2010:716). It helps to offset the problem that the most vulnerable people in society may well suffer “social harms” which prevent them from seeking legal remedy (Birchfield and Corsi 2010:716). Chief Justice Bhagwati also effected a change in the court’s approach to economic and social rights by declaring that the Directive Principles should be used to review the actions of the government. “Active intervention” by the state to secure these rights was considered essential (quoted in Birchfield and Corsi 2010:716). The court expanded its jurisdiction and oversight of other state bodies with the explicit intention of securing economic and social rights.

This development is best understood in its historical context. From June 1975 until March 1977, India was officially in a state of emergency, declared at the behest of Prime Minister Indira Gandhi. The declaration was accompanied by the imprisonment of various oppositional figures, including leaders and lawmakers from rival parties, trade unionists, and student activists (Guha 2007). Thousands of people were arrested and held under the Maintenance of Internal Security Act (MISA). In the face of this assault on democracy, the Supreme Court effectively acquiesced, showing “extreme deference” to the government (Chitalkar and Gauri 2017:292). When lawyers challenged the detention without trial of those held under MISA, only one of the five justices on the bench dissented from the

finding that the new settlement made this legal (Guha 2007). As a result, the Supreme Court and judiciary came out of the Emergency period with a tarnished reputation.

In the early 1980s, the court was attempting to rebuild a role for itself as a defender of democracy and rights. Its energetic commitment to equality and due process can be seen as part of its effort to regain the respect it had lost by its docile response to the Emergency. This was demonstrated in its drive to expand access and its active encouragement of public interest lawsuits (Epp 1998:85). The court made a clearly stated commitment to upholding the rights of the poor, vulnerable, and marginalised, and the new mechanism of PIL offered simpler and “relatively inexpensive” access to the Supreme Court (Chitalkar and Gauri 2017:289). At the same time, “intellectuals and political leaders began looking to the courts... for a means of checking the power of the state” (Epp 1998:76). While the Supreme Court had facilitated human rights violations during the Emergency, it began to pose strong opposition. This increasing judicial activism led one commentator to dub the Supreme Court of India the “most powerful court in the world” (Dhavan 1980, quoted in Epp 1998:72).

The activity of the Supreme Court in encouraging PIL, the change in attitude towards socio-economic rights, and the more spirited defence of human rights have improved the standing of the judiciary in public perceptions. Epp (1998:80) describes the Supreme Court as “greatly revered among the educated classes” and notes its high level of popular support. The presentation of the judicial system in the Indian media, mostly focusing on the higher tiers, is generally positive, in contrast with other branches of government, with the public viewing the Supreme Court as “far more active and reliable” than Parliament (Banik 2010:265). This made approach to the court an accessible choice for those bringing the right to food case. The court had declared its commitment to human rights even beyond the Fundamental Rights and would perhaps be willing to challenge the government.

#### *- Earlier food-related PIL cases*

The writ petition filed by the PUCL in April 2001 prompted a 15-year legal investigation of the right to food and the means of securing it, which would eventually propel the issue

into the party political, legislative, and executive arenas of Indian public life. However, it was not the first time that PIL had been used to try to bring about action on hunger.

In 1985 and 1987, two PIL cases were filed relating to reports of deaths from starvation in the impoverished district of Kalahandi in Orissa (now Odisha), which had experienced repeated drought crises in the 1980s (Banik 2007). Both cases pointed to the poverty in the district and the inadequacies of social security provisions, and accused the government of a callous failure to fulfil its responsibilities as laid out in the Orissa Relief Code. Although the local and national press and opposition parties had been reporting on the problems in Kalahandi, this had had little impact on the administration of relief, and the Congress government at the centre continued to deny that starvation deaths were occurring.

The Supreme Court appointed a commission to investigate the deaths. The district judge in charge of the inquiry rejected allegations of deaths from starvation in a report which was “overwhelmingly” in favour of the government, largely blaming the population for their “laziness” (Chitalkar and Gauri 2017:294, Banik 2007:77). The response from petitioners was unsurprisingly critical, pointing to delays in starting the investigation and the judge’s failure to visit the worst affected areas because of heavy rains and poor roads (Banik 2007). The court opted for a non-committal stance, stating that it could not rule out starvation deaths, but refusing to take any further action (Chitalkar and Gauri 2017). Two further PIL actions were submitted to the Orissa High Court in 1988; in its ruling of February 1992, the court upheld some central claims of the petitioners, including that starvation deaths had occurred, and ordered the state government to pay compensation to victims’ families (Chitalkar and Gauri 2017). They also issued some recommendations for improving relief efforts.

Although these legal cases were widely reported and aroused considerable public interest, they did not lead to sustained political attention or material change. In the wake of the negative publicity from the Supreme Court cases, the Congress government (which had never ceased to deny that the deaths resulted from starvation) lost the elections of 1989, replaced by the Janata Dal party, who in turn blamed their predecessors and refused to act when the Orissa High Court gave its ruling in 1992. The Janata Dal lost the elections of 1995 amid concerns about “corruption and administrative neglect” (Chitalkar and Gauri

2017:296). In this period, court cases and related public attention produced little more than a way to attack political rivals. Change on the ground and improvement in people's lives were minimal. This hints at the limitations and drawbacks of the legal system as a deliberative arena in creating material change, but makes the PUCL case especially interesting. Why was this case able to succeed in pushing food onto the political agenda in a way previous ones could not?

### **Analysis: court rulings and legal arguments**

The court case which began in April 2001 was a lengthy one, with regular hearings for more than a decade. The case was closed – without a formal final judgement – only in February 2017, on the basis that the National Food Security Act of 2013 left nothing in the petition to be addressed (Vishwanath 2017). From an early stage, the Supreme Court issued rulings which held the status of law until the final judgement. These rulings were detailed and practical, requiring concrete steps by the government, and were used by activists, including one of my respondents who then became involved in the Right to Food Campaign. In addition, the court established an Office of Commissioners to monitor the implementation; I was able to speak with both current commissioners during my fieldwork. Another significant change was that the court made the Chief Secretaries of the Indian states and territories responsible for ensuring compliance, as well as for cases of confirmed starvation deaths (Basu and Dasgupta 2011). Specific figures within the governing administration could be held accountable for failings in the system.

The results of the court case were potentially materially transformative; if the rulings were carried out as the justices intended, then the many millions of poor and hungry people in India should have found that the social security services available to them were greatly improved and expanded. If not, then at least theoretically they would now have the option of seeking legal redress. The Office of Commissioners could also act as a spur to practical change, by providing an independent body to ensure that orders were complied with and that continued failings were noticed and reported.

Equally significantly, the court case had an impact in bringing the problem of hunger and the concept of the right to food to a broader audience in India, eventually bringing this often-neglected issue onto the political agenda at the national level.

Irrespective of the effect on the ground, the regular hearings and rulings helped keep the attention of the press, while prompting state and central governments towards action. By contrast with the earlier food-related PIL cases, the drive to establish a meaningful right to food did not simply dissipate. In combination with the energetic efforts of the Right to Food Campaign, the Supreme Court and their commissioners contributed to keeping the problem of hunger alive (Chitalkar and Gauri 2017). As one of the commissioners reflected, the right to food was “an idea of which the time had come” (Mander 2012:17; he also used this phrase in our interview in December 2016). Ultimately, the impetus from the court case, alongside the work of the campaign, helped to set the political agenda by making it harder for the major parties to continue ignoring the problem of hunger.

- *Government programmes as legal entitlement*

The earliest orders focused on the government’s weak performance in identifying the poorest households (“Below Poverty Line” or BPL), and demanded that this be corrected so that social security programmes reached those most in need (Banik 2010). However, in its order of 28<sup>th</sup> November 2001, the Supreme Court made a significant step towards bringing the right to food into effect in India. It ruled that eight government programmes related to food should be converted into legal entitlements, allowing recipients to claim these benefits as a matter of right and seek legal redress if they did not receive them (Banik 2010). As entitlements, these schemes could not be stopped or significantly abridged by the government. Further, it ordered that these schemes should be publicised by the government through Doordarshan and All India Radio, the public service broadcasters, so that people would be made aware of their entitlements (Basu and Dasgupta 2011). Two legal scholars (Birchfield and Corsi 2010: 700, 701) describe the Supreme Court’s actions here as “strikingly close to law-making” and “quite radical” in the way it pursued the goal of ensuring action against hunger. The court took a somewhat controversial role, arguably legislating the relief it demanded from the government, although these programmes had existed previously without always functioning adequately.

*Targeted Public Distribution System:* The Public Distribution System (PDS) had been in place in India since the 1950s, providing grain (usually rice or wheat, sometimes millet) at a subsidised rate through a network of ‘fair price’ shops. Eligible households could

purchase 25kg of grain each month at very low prices (this was changed to 5kg/month for each household member, up to 35kg, in the NFSA). The central government procures grain from farmers at a minimum fixed price<sup>2</sup>, acting as a support for farmers and a way of stabilising market prices (Chitalkar and Gauri 2017). Originally a universal benefit open to all Indians, in the cost-cutting days of the 1990s it was reformed into a targeted programme for the less well-off, requiring a ration card to access. Studies have found that this targeting has often been done poorly, with numerous non-poor households acquiring a card to access subsidised food (Banik 2010). Moreover, since the poverty line is so low, many struggling households were not entitled to cards, “thus making what might be a deliberately identified right into a divisive privilege” (Chitalkar and Gauri 2017:291). When the Supreme Court issued its order, the PDS was in desperate need of reform.

The court issued detailed instructions as to how implementation should be carried out. It ruled that all closed fair price shops should be reopened, that these shops should lose their license if they were found to be closed when supposed to be open or if engaged in black marketeering, that poor families should be identified immediately, and that ration cards and grains should be swiftly distributed. State governments were told to draw up guidelines for accurately identifying BPL households and that no names should be removed from their lists until the courts had deliberated (Chitalkar and Gauri 2017). These directives were intended to correct the problems of the existing system.

*Integrated Child Development Services (ICDS)*: One of the biggest concerns about hunger in India is its impact on children; government surveys have shown that indicators for malnutrition in children are amongst the very highest in the world, outstripping several countries in sub-Saharan Africa which have much lower per-capita incomes than India (Drèze and Sen 2013). The ICDS aims to begin intervention early, with local centres (*anganwadis*) providing take-home rations or cooked meals for pregnant and lactating mothers, children up to the age of six, and adolescent girls (a particular risk group) (Chitalkar and Gauri 2017). The court order of 28<sup>th</sup> November 2001 set requirements as to calories and protein to be given to the different categories of recipients and ruled that a disbursement centre should be established in every settlement (28.11.01).

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<sup>2</sup> Changes to the Minimum Support Price (MSP) system is one element of the controversial Farm Bills brought by Modi’s government in 2019, provoking mass protests (see chapter eight)



*Midday Meal Scheme (MDMS):* The MDMS is designed to provide food to older children while also encouraging school attendance. The MDMS as established by the court in November 2001 required that all children in government-funded primary schools should be given a cooked meal. The court even specified that meals should provide a minimum of 300 calories and 8-12 grams of protein (28.11.01). The court ruled that preference should be given to Dalits or members of Scheduled Castes and Tribes in appointing cooks and helpers, promoting employment opportunities for these vulnerable groups, and laid down quality safeguards for the meals.

*Antyodaya Anna Yojana (AAY):* The AAY targeted the so-called “poorest of the poor”, the most deprived within identified BPL households. These families received a special ration card which allowed them to purchase 35kg a month of subsidised grain from the government’s fair price shops. The court order of 28<sup>th</sup> November 2001 recommended that the government should consider providing grain to these households for free if they were unable to afford even the subsidised cost.

*Other programmes:* in addition, the court’s order applied to the National Old Age Pension scheme, the Annapurna scheme, the National Maternity Benefit scheme (providing each BPL pregnant woman with Rs.500 for each of her first two births), and the National Family Benefit scheme (Rs.10,000 paid to BPL families on the death of the primary breadwinner).

The schemes covered by these court orders were, as the Supreme Court stressed in its ruling of 21<sup>st</sup> November 2001, created by the government; the court was merely insisting that union and state authorities implement social security programmes that already existed in theory, although the orders did extend some provisions. In this sense, the role of the court was not legislative, as Birchfield and Corsi (2010:700) suggest, though it did spur the parties into taking on the issue.

#### - *Office of Commissioners*

In May 2002, the Supreme Court issued a ruling establishing an office of commissioners to oversee and monitor implementation of the above schemes (RTF 2005:6). They were also to act as a further arbiter for the redressal of grievances where these were not resolved

by those the court had nominated as responsible for compliance. The original commissioners were S.R. Sankaran and Dr N.C. Saxena; Mr Sankaran was replaced as commissioner by Harsh Mander in 2004 and died in 2010. All three men had been members of the Indian Administrative Service (IAS), the prestigious Indian bureaucracy: Mr Sankaran had been Secretary of the Ministry of Rural Development, Dr Saxena had served as Secretary of the Planning Commission and as Food Secretary in the government of Uttar Pradesh, and Mr Mander had worked as an IAS officer in Madhya Pradesh and Chhattisgarh for more than two decades, as well as being part of the initial group filing the PIL. I was able to speak with both commissioners at the time of my research, and visited their office to interview Biraj Patnaik, then Principal Advisor to the Commissioners, in November 2016. The office has since been disbanded with the closing of the case in February 2017.

The commissioners played a vital role in supporting the court's efforts to make the right to food effective. They acted "as agents of the people and the Court", going between the Supreme Court and the centre and state governments to see if orders were being put to use, while working with the petitioners to collect information and feed this back into the legal proceedings (Basu and Dasgupta 2011:6). The commissioners produced numerous reports, beginning in October 2002, when they reported several states for non-compliance with the court's interim orders and suggested widening the scope of the case as a broader issue than the failings of the state's mechanisms for dealing with hunger (Basu and Dasgupta 2011:13). Related issues such as homelessness and employment were drawn into the case as a result (Chitalkar and Gauri 2017:303). They functioned as an important part of the deliberative process.

The commissioners were empowered to issue recommendations to state governments as to the implementation of food-related programmes, with administrations then required to comply with these instructions. The commissioners were permitted to draw support from "individuals and reliable organisations", with "all officials... directed to fully cooperate with such persons/organisations" (RTF 2005:6). This opened the way for extensive collaboration between the office of commissioners and the Right to Food Campaign, with the latter as the commissioners' "allies within civil society" (Chitalkar and Gauri 2017:304). Indeed, though formally independent, Biraj Patnaik told me that

informally there was a large overlap with the campaign. Two of my interviewees, Dipa Sinha and Dr Vandana Prasad, were advisors to the Commissioners in addition to being heavily involved with the work of the campaign, and Harsh Mander told me he had stepped back from the campaign on being appointed as a commissioner. The work of the commissioners offered an opportunity for activists not directly involved in the litigation to have an input into the ongoing legal deliberations. In turn, the court's orders were used by the campaigners in their continuing activism.

### **Argumentation in the Court's rulings**

In this section I consider the key orders collectively, drawing out the forms of argumentation put forward and paying special attention to the language used by the justices. The orders and rulings can be found on the Supreme Court's website, in the Case Status section, and a list of key orders is included in appendix II; dates in this section refer to these orders<sup>3</sup>. Over the decade and a half that the case lasted, there were many rulings issued, though a significant proportion of these were very short, often merely noting that hearings had been postponed or adjourned to a later date. It is noticeable that their frequency declined heavily in the later years of the case, reflecting the decreasing significance of the Court in the political discourse around food and hunger. The culmination of this process, with its lack of a formal final judgement, was a disappointment to activists; despite the passage of the NFSA, they had hoped for a definitive declaration of judicial commitment to the right to food. The trend strongly suggests that the attempt by the political parties to regain control over the issue was successful; the final ruling explicitly cites the NFSA as concluding all the issues within the original petition, though this assertion may not have been endorsed by the campaign.

One of the most striking aspects of the court's rulings, and a fairly consistent pattern across the years, is the use of highly emotive language. In a ruling from January 2004, a report on the circumstances of tea plantation workers in West Bengal is described as "alarming"; the same expression is used in a ruling of April 2004 regarding the nutrition status of 0-6 year olds (16.01.04, 27.04.04). Elsewhere, in rulings from October 2004 and July 2007, the justices note their "shock", in one case at the lax attitude of the union

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<sup>3</sup> <https://main.sci.gov.in/case-status>

government and in the other at the failure of previously sanctioned ICDS centres to reform themselves (07.10.04, 25.07.07). A ruling from October 2010 notes that, “All through our anxiety has been that the procured foodgrains be properly preserved”; two months later, in the middle of a harsh winter which threatened the lives of unhoused people in Delhi, the Court declared, “This is a matter of great anxiety and concern” (29.10.10, 16.12.10). In a ruling from 2013 (06.08.13), the court noted that it had “given [its] anxious consideration” to submissions relating to the reported provision of rations by big contractors at ICDS centres in Gujarat (food is meant to be cooked onsite by local staff). The language used in these instances appears to contradict the image sometimes portrayed in theoretical work on deliberative democracy about the abstract and detached nature of deliberation, especially in ideal settings such as court rooms. Emotional rhetoric is commonly supposed to be reserved for other spheres, perhaps political debates or activist appeals. The use of such language here could underline the court’s degree of involvement with the case and its understanding of its importance. By exceeding the restraints of more typical legal language, the court highlights the urgency of the problem in the impossibility of maintaining emotional distance from the suffering of affected citizens.

Perhaps the peak of this language is in an order from April 2004, one of the more substantial rulings. The justices report that it is a “matter of anguish” that after the lapse of so much time since the landmark ruling of 28<sup>th</sup> November 2001, the orders have not been fully implemented everywhere. They note that, while permission was given to make a partial start, this was not intended to signal any laxity as to their commitment to the contents of the order. The use of such strongly emotional language here appears alongside what is, effectively, an admission of the Court’s powerlessness in enforcing its decisions. This is echoed in a later order, from December 2010, regarding the Delhi Development Authority’s demolition of two night shelters:

This indeed is a matter of *great anguish, disappointment and astonishment*. How could the concerned authority be *so insensitive, impervious and callous* to demolish night shelters when the bitter cold winter has already set in? (16.12.10, emphasis added)

Here, moral judgement is added to emotional appeal in an effort to shame the governing authorities into action; I return to this point below. These examples suggest that emotional rhetoric may be used in compensation for the justices’ lack of effective agency.

This possibility is supported by the comparable use of positive language used on numerous occasions in recognising and praising efforts made by officials to act on the court's directions. This is especially noticeable in the response to dangerous winter conditions in 2010 and 2011, where there are repeated instances of the court recording a "deep sense of appreciation", to the Additional Solicitor General and other officials (27.01.10), to the government of Delhi (10.02.10), to the states of Delhi, Madhya Pradesh, Tamil Nadu, Rajasthan and Uttar Pradesh "for dealing with the human problem in its proper perspective" (15.11.10); there are similar records relating to Madhya Pradesh (again) in April 2011, and Assam and Jharkhand in May 2011. Elsewhere, the justices report themselves to be "happy" with the actions or attitudes shown by the union government (10.01.11) and state governments in Bihar (19.04.11), and West Bengal and Gujarat (18.07.11). This use of positive enforcement further suggests that the Court habitually used recourse to emotional language and moral suasion to try to elicit the desired response from authorities which could not be compelled to follow its orders.

The use of moral language is an explicit and unusually prominent use of value-based argumentation. As well as drawing on the constitution and its declaration of various rights, as one might expect an apex court to do, there are invocations of shared moral beliefs about the importance of human life and the ability to live with dignity. On at least three occasions, the justices stressed the overriding duty on the state to preserve the life of its people: "It is the duty of each States/Union Territories to prevent deaths due to starvation or malnutrition" (29.10.02); "It is the bounden duty of the Union of India and the State Governments *to ensure at all costs that no death takes place* because of lack of night shelters or basic facilities" (16.12.10, emphasis added) "*Nothing is more important for the State than to preserve and protect the lives of the most vulnerable, weak, poor and helpless people*" (23.01.12, emphasis added). The Court makes clear that this obligation goes beyond the bare preservation of life to encompass a "life with dignity" (05.05.10, 18.07.11); this point is made even more strongly in the order from 23.01.12, which states that, "Shelter for a human being... is not a mere protection of his life and limb". The justices repeatedly argue from an assumed shared moral belief in the importance of a life where people can enjoy and exercise their rights.

This value-laden argumentation is also used in a way that appears more problematic. At times, the value premises of the judges' arguments seem to rest on the powerlessness of recipients; this is seen in the citation above, where the state is called on to act to defend the "most vulnerable, weak, poor and helpless people" (23.01.12). While undoubtedly those at greatest risk of starvation are likely to be extremely materially deprived and may well suffer from other forms of discrimination or vulnerability (say, on the grounds of gender, caste, age, or disability), the language of the court renders them as dependent, utterly stripped of agency. There is a certain disjuncture with the insistence on the right to life with dignity, but references to "rightful beneficiaries" or "deserving beneficiaries" appear to bring in questions of desert, rather than entitlement, and of recipients of largesse rather than claimants (13.12.06). Legal language elsewhere in the orders may counteract this image to some extent.

Although the circumstantial premises of the legal arguments are probably largely situated elsewhere, in the documents brought by the parties to the case, there is a certain degree of this form of argumentation in the orders and rulings. At times, the justices used statistical data to provide support for their decisions, to demonstrate the necessity of action. This is perhaps clearest in the order of 10.05.11, where the court notes,

This roughly translates to 75,000 (seventy five thousand) children dying every month due to malnutrition and an astounding 2,500 child deaths every day. More than a hundred children are dying every hour across the country due to malnutrition... Both learned Solicitor General and learned Additional Solicitor General assured the Court that the Union of India would do all what is possible to eradicate the problem of malnutrition as early as possible.

Here an immediate connection is made between the data and the call to action. There is a similar comment about poverty and malnutrition in India in the order from 29.03.11, which draws on an international ranking to unfavourably compare India to "Sudan, Zimbabwe, Togo, and Cambodia" as well as pointing to the government's own poverty line figures. The court had appointed the Commissioners in part to produce regular reports on social conditions and the status of the court's programmes, supplying relevant, up-to-date information. Given the potential controversy surrounding (effective) policy-making by judges, the use of such information – especially where it was drawn from the government's own sources – would have been helpful in supporting their case.

Another factor to think about is the means-ends premises contained in the rulings. While most of the orders rely on either legal concepts of rights or value-based premises for their justification, there are at least a few cases of means-ends arguing, in particular around school meals, BPL/APL, and computerisation. The Mid-Day Meal Scheme (MDMS) was one of the outstanding achievements of the right to food case. The programme is the biggest of its kind in the world, with a hot cooked meal meant to be guaranteed to every child in any government-supported school in the country. In critiquing a lack of action by several states, the court argues,

The Report of the Commissioners, on the basis of their earlier experience, states that nutritious mid-day meal at schools can be a highly effective way of protecting children from hunger and *can also boost school attendance among girls...* *None can question the desirability* of extension of this facility even during vacations in drought affected areas where children are deprived of even one day meal (20.04.04, emphasis added)

The justices here draw on the expertise of their commissioners to support their conclusions and delegitimise counter-arguments by what is, in effect, another value-based premise regarding the desirability of extending the programme into school holiday periods. While from a deliberative perspective this is perhaps a questionable tactic, it is truly difficult to conceive of an argument against feeding desperately hungry children in times of drought. They make an additional argument by anticipating another positive consequence: that school feeding programmes encourage school attendance among girls. At the population level, Indian girls are more likely to be malnourished and less likely to be in school (Singh and Mukherjee 2018). Though the justices do not go into detail, it is interesting to see this argument that their advocated policy would bring about not only the original intended goal (protecting children from hunger) but also help to achieve another desirable aim (promotion of education).

While the petitioners would generally have welcomed these arguments, there were means-ends premises employed by the justices elsewhere which they may have found more difficult to accept. Whereas the campaign was committed to universalisation, the Supreme Court was less convinced of its merits and even suggested getting rid of the APL category, claiming to see “no rationale or justification” for providing subsidised grains to those with annual incomes above Rs. two lakhs (approx. £1,950, order of 31.08.10). The court would later recognise that the central government’s numbers differed from those of state

governments, and that the existing poverty line, based on the controversial Tendulkar Committee report, was grossly inadequate (29.03.11, 14.05.11). They would nevertheless continue to insist that the system of subsidised food is “primarily meant for very poor, weak, and vulnerable sections of our society” (14.05.11); while they could accept that those just above the poverty line might be eligible, they did not engage with arguments that universal systems are particularly effective at reaching the vulnerable – and potentially less susceptible to corruption – because of their openness (see chapter six).

The Supreme Court argued strongly at various times in favour of computerisation as a solution to the ills plaguing the system, corruption most of all. This was a feature of the later years of the case, with references beginning in August 2010 and in a further six orders through to 2012, when the Court proposed to discuss the issue with Nandan Nilekani, then head of the Unique Identification Authority of India, a government body which assigns Aadhaar identity numbers based on biometric data. While theoretically voluntary, there have been repeated criticisms of the government’s insistence that citizens in receipt of benefits must have an Aadhaar card. The justices appeared sanguine about the possibilities of technological developments to combat corruption:

computerisation of the operations under P.D.S. is being undertaken in order to make the system transparent and minimise leakages or diversion so that the intended benefits of subsidized foodgrains actually reach the targeted population (10.05.11)

There seems to be a general consensus that computerization is going to help the public distribution system in the country in a big way (16.03.12)

While technology is a potentially useful tool in creating greater oversight within a system like the PDS, it is not necessarily empowering to beneficiaries. The campaign were generally tepid about technology and have campaigned against the use of Aadhaar, preferring to promote social audits which create direct relations of accountability between ration card holders and responsible officials. The court mentioned such audits only twice, one of these instances appearing in the early days of the case (08.05.02). The perspective of the court would be the one that came to dominate broader political discussions of the issues. The right to food case was hugely important in bringing hunger onto the political agenda in India and activists welcomed the rulings as enabling their work, but the establishment of certain lines of argument by a relatively unaccountable body in the Supreme Court demonstrates the potential pitfalls of such an approach.



### **Politics of judicial activism**

The continued deficiencies in the functioning of the schemes now designated as entitlements by the court help to indicate one of the problems with judicialisation, an apparently increasing reliance on the legal system to deal with political issues. As individuals or civil society groups turn to the courts for redress of various grievances, this throws up questions about the legitimate role of the judiciary in a democratic society, as well as about the equity and effectiveness of seeking to replace executive or legislative action with judicial action.

Since judges are unelected, in a democratic system there is the potential for courts to be going against decisions with popular backing, taken by elected representatives (Banik 2010). In India, Epp (1998:83) argues that the Supreme Court has been an “active policy-maker since Independence”, its policy direction often differing from the national government. In the early years of the Indian republic, cases brought to the court resulted in social legislation being struck down in defence of property rights, prompting parliament to amend the constitution. The court responded by reasserting its jurisdiction and insisting that the basic structure of the constitution must not be amended, though the threat of “legislative override” continued to serve as a constraint on the court (Fredman 2008:102). This is a reminder of the possibility for tension between the role of the courts in upholding the constitution and its principles and the government’s endeavours to deal with political, social, and economic problems.

With regard to positive rights, such as the rights to food or health, the court’s decisions may involve the allocation of significant financial resources; as resources are finite, this may mean reductions elsewhere. In Brazil, a rising number of people using litigation to seek expensive treatments under the right to health has taken up an increasing share of the health expenditure for treatments (Biehl and Petryna 2013). For poor citizens of Brazil, litigation offers an alternative route to treatment and a way to avoid passively waiting for healthcare access to trickle down; on the other hand, the equation of a right to health with access to medicines can serve to cut off debate about policy approaches and resource constraints (Biehl and Petryna 2013). This entrenches a particular approach to public health, directing attention away from prevention, and potentially skewing budgets

and increasing inequalities, since cases are not dealt with consistently and not all patients will be able to pursue litigation. In India, PIL mitigates the risk of increased inequalities, since cases are brought in the name of the public interest and orders apply to population groups. However, the court's detailed rulings on the food schemes represented a major demand on government budgets and priorities, arguably an area where politicians are better suited to make decisions (Banik 2010). It may also have curtailed a broader exploration of the possible options for addressing hunger, since activist energy may be overwhelmingly directed to legal processes.

In the right to food case, activists used the PIL process to seek accountability for the government's neglect and violation of its own stated policies on relief. Although the court's rulings expanded some of the schemes, their policy bases already existed, and the court case affirmed the duty of care that the government owed to marginalised and vulnerable members of the population. However, there is no guarantee that courts will be a reliable ally in fighting for rights. This was demonstrated in the Emergency period, when the Supreme Court acquiesced in Indira Gandhi's government's imprisonment of thousands of possible opposition figures.

A more recent example is the long-delayed ruling in the Babri Masjid case. This sixteenth-century mosque was supposed to have been built on the site of the birthplace of Rama, an avatar of Vishnu and popular Hindu deity. In 1992, despite the lack of evidence of a reputed earlier Hindu temple on the site, the mosque was destroyed by Hindu supremacists; riots ensued, especially in Mumbai, in which many (disproportionately Muslims) were killed (Guha 2007:639-642). Overturning a 2010 ruling from the Allahabad High Court which gave Muslims a third of the area to build a mosque, the Supreme Court in November 2019 gave the entire site over for the building of a Hindu temple. The state government was ordered to assign a site for the building of another mosque; this was eventually assigned to a village almost twenty miles from the site of the Babri Masjid (Rautray 2019). Activists criticised the Supreme Court for appearing to support a majoritarian mob against an already beleaguered minority. This ruling was followed by the acquittal, due to lack of evidence, of all leaders accused of involvement in provoking the destruction; no one has ever been convicted of the temple's destruction (Gaur 2020). The mere fact of judicial involvement does not guarantee progressive outcomes.

A related concern is the potential for subversion of PIL by well organised and wealthy civil society groups. The intention of PIL was to expand access to judicial review beyond those privileged with the necessary resources typically involved in legal cases. The number of petitions has grown massively since the 1980s, revealing a problem with the expansive nature of the term “public interest”. While the original intention was to enable the poorer and more marginalised sectors of society to be represented in the highest court, this mechanism has been used as well by more privileged groups seeking to protect their interests. For example, PIL has been used against slum dwellers by middle class groups in the name of a clean urban environment (Fredman 2008, Chatterjee 2004). Petitioners, by initiating cases, have an important advantage in their ability to frame the argument, potentially shaping the perspective of the court. The risk is that PIL, “easily captured by articulate and well-organised interest groups”, can function as another tool for promoting and entrenching existing structures of inequality and privilege (Fredman 2008:139). Making access to legal redress easier and more open does not mean that barriers to deliberative participation are removed.

Finally, there is the question of implementation. While the right to food case has generally been celebrated as a success for the petitioners, its material impact has been mixed. Although the commissioners, their assistants, and the Right to Food Campaign were active in monitoring and reporting back to the court on implementation, the latter was relatively powerless to enforce its orders where local authorities flouted them. Banik (2010:273) describes state governments as “habitual violators” of court orders; with the judiciary unwilling to impose heavy sanctions such as jail, its primary response is to issue further orders which continue to be ignored.

### **Results of the Supreme Court case**

Taken together, the schemes mandated by the court offered the possibility of substantial material change in the lives of the intended beneficiaries. The PDS provided coverage for the poorer sections of the Indian population, while other schemes targeted groups at heightened risk of destitution or nutritional deficiencies: children, the elderly, and pregnant and nursing women. If functioning effectively, they should have helped to ensure

that those most vulnerable to hunger and malnutrition would no longer be allowed to suffer without state intervention or accountability.

In practice, implementation has been quite varied. Looking at the period before the passage of the NFSA in 2013, data on compliance is “extremely thin”, but what there is suggests considerable differences on implementation between programmes and between states (Chitalkar and Gauri 2017:299-300). In general, implementation of the MDMS, AAY, and pension schemes appears to have been better than that of the PDS and maternity benefits, and the performance of the states of Bihar, Jharkhand, and Uttar Pradesh have been repeatedly criticised. Activism, particularly at local levels, may account for some of these discrepancies. The MDMS has perhaps the highest levels of compliance and was the focus of a “national day of action” organised by the Right to Food Campaign in April 2002 (Fredman 2008, Chitalkar and Gauri 2017). In some cases, there may be genuine constraints relating to resources limits and logistical difficulties (Chitalkar and Gauri 2017, Banik 2010). Similar patterns of uneven implementation emerged in relation to the NFSA; I return to this in chapter eight.

The cooperation between the court, the commissioners, and the petitioners and campaigners was a significant factor in the successes of the court case and in bringing the problem of hunger onto the public agenda. Chitalkar and Gauri (2017:306) speak of a “triangular relationship” between the court, the commissioners, and the campaign, with the latter carrying out on the ground monitoring and raising public awareness, with information then fed back to the court via the commissioners. The continuous nature of this feedback process could then shape policies to be more effective and inclusive, since alterations could be introduced as problems arose (Basu and Dasgupta 2011:10). The rulings issued by the court were taken up by the Right to Food Campaign, which publicised them and used them to make demands on the state.

This relationship could be characterised as practically dialogic, with the court case and the campaign engaging in mutual processes of listening and feedback, facilitated by the commissioners, whose work also built on the input of grassroots activists. The court and commissioners maintained a similar approach in their dealings with state authorities, largely avoiding previous experiences of tension between the judiciary and the executive. The commissioners tried to work with state governments to improve implementation and

build political will, rather than relying on court intervention and sanctions to punish non-compliance. Likewise, the court

has adopted a communicative rationality to move parties from an adversarial mode towards defining a problem and finding its solution (Chitalkar and Gauri 2017:300).

This is virtually the definition of deliberative discourse in the Habermasian sense. Fredman (2008:133) characterises this approach as “judicial conversation”, whereby courts do not arrogate inappropriate power to themselves, but rather act as facilitators for a broader social debate involving the government and various social and political groups. In collaboration with the commissioners and civil society, the Supreme Court of India fulfilled this role with regard to the right to food, helping to reshape hunger, malnutrition, and starvation from implicitly accepted aspects of Indian society into a political problem requiring urgent attention.

### **Conclusion**

This is the positive side of the legal sphere’s contribution to public deliberation over the right to food. In a situation where politicians and bureaucrats proved unwilling to take responsibility for starvation deaths or to do more to ameliorate severe and ongoing malnutrition, the Supreme Court stepped into the breach and defended those suffering. Moreover, they did this in the name of a right to food; by turning government programmes into entitlements, these were no longer gifts from a benevolent patron, but something which people could demand. The Supreme Court ordered the government to act and pushed the executive and the parties competing for power to bring food onto the political agenda. The regular hearings and significant rulings helped to maintain interest from the media, spreading awareness of people’s expanded entitlements and the very concept of the right to food.

This was made possible because of the action of the original petitioners in filing the PIL, and because of the ongoing supporting work and activity of campaigners, especially those in the Right to Food Campaign, who helped to gather evidence, raise public awareness, and maintain the pressure on politicians. Through their joint and sustained effort, the court and its commissioners alongside activists made the right to food a meaningful term in Indian public discourse and induced actors in the formal political

sphere to take up the idea as a salient theme for electioneering and legislating. This process, which culminated in the National Food Security Act 2013, is the subject of the next chapter.

## **Chapter Five: Formal Politics: Parties, Parliament, and the Executive**

Having considered in the previous chapters how chronic hunger in India first came to widespread public attention as a political issue, in this chapter I deal with the formal sphere of politics. According to Habermas, this is where matters thrown up by civil society are transformed through public deliberation to be acted upon by the central political system. For Habermas, this is where power really lies in a democratic system, since civil society cannot act for itself. The connecting point is political parties, which thematise social concerns and problems and bring them forward for deliberation and resolution. Since consensus remains open to further arguments and perspectives, any resolution remains contingent and temporary. Nevertheless, the formal political arena is where we should expect change to materialise.

### **Political parties in India**

The nationwide elections to the Lok Sabha in 2009 were the fifteenth such elections since Independence in 1947. As the world's largest democracy, with an ever-growing population, each successive election is the largest such democratic exercise ever seen. Turnout rates in India tend to be relatively stable, but if anything, have grown over the past several decades, bucking a trend of decline elsewhere. Breakdowns of voting figures suggest that turnout in recent elections has been higher among poorer and more marginalised groups, an unusual pattern which may have the effect of offsetting declining turnout among wealthier groups whom some have seen as gradually withdrawing from the noisiness and disorder of the political public sphere (Varshney 2000, Carswell and De Neve 2014). The ruling Congress-led United Progressive Alliance was returned to power in May 2009. Despite this positive – and rather unexpected – result, the party's position was far removed from its dominance in the first decades after Independence. Below, I outline the changing nature of India's party system, before analysing the major parties' 2009 manifestos and other political material.

- *Indian party system since Independence*

The party system of India in the first few decades after Independence has been regarded as something of an anomaly by political scientists and political sociologists. The Indian National Congress was founded in 1885 on the initiative of retired civil servant Allan Octavian Hume, seeking to better represent the interests of the Indian people in the face of colonial hostility or indifference (Diwakar 2017). Though not originally committed to national independence, this quickly became the stated aim of the party, and the INC became a major vehicle of the nationalist movement. Mohandas Gandhi and Jawaharlal Nehru were involved in the leadership of the party during the two decades and more preceding independence. Despite the growing religious division which eventually led to partition, the INC maintained that it stood for the interests of the entire nation, regardless of religion, class, gender, or caste. By committing to the values of secularism, democracy, and development as the basis for the drive for national independence, Congress was able to function as a coalitional party containing different interests and ideological beliefs. In the years before independence, led by Gandhi, Nehru, and other respected figures, it was a truly mass movement commanding support across a broad swathe of British India.

The significant role played by Congress in the campaign for Indian independence, as well as its stated commitment to open and inclusive ideals, put it in a position to dominate national politics after 1947. Until 1977, Congress held the role of prime minister and had a continual majority in the national parliament. Even after losing control of the government in 1977, following Indira Gandhi's Emergency period, the party continued to be the largest in parliament until the late 1980s. At local levels, other parties gradually gained in stature, especially communist parties in Kerala and West Bengal and regional parties in the south.

India's party system in the first three to four decades after 1947 has therefore been characterised as a "'system' of 'one-party dominance'", often referred to as the Congress system (Diwakar 2017:45). This is somewhat unusual; the overwhelming nature of Congress power at the national level means it conformed neither to a two party or multi-party model as in other democracies, but neither could it fairly be seen as a simple one-party system characteristic of more authoritarian societies. In this period, the INC's claim to represent the interests of the Indian people as a whole could be given some credence,



particularly in light of the diversity of views within the party at least until the late 1960s and early 1970s, when the party fractured under the stress of Indira Gandhi's controlling leadership (Guha 2007).

The Emergency was independent India's brief experience with dictatorship, lasting around 18 months from 1975 to 1977. When Indira Gandhi chose to declare elections in 1977, a group of smaller parties formed the first non-Congress government of independent India. Since their primary point of agreement was opposition to Congress and the suspension of democracy, this government was consumed by infighting within a few years, and Indira Gandhi became Prime Minister again (Guha 2007:525,547). Elections held soon after her assassination in 1984 were won by Congress, the last time that any single party would hold a majority in parliament until 2014.

The elections in 1989 were an early indication of a trend which would continue into the 1990s and beyond, of a party system characterised by fragmentation and what could be described as identity politics (Diwakar 2017). The most notable strand is the rise of Hindu nationalism, represented above all by the Bharatiya Janata Party. The BJP originated as the political wing of a broader religious movement called the Rashtriya Swayamsevak Sangh (RSS). This emphasised the Hindu heritage of India, which it represented as under attack from secularism and minorities, above all, India's sizable Muslim community. Since India had been divided, with Pakistan established as an explicitly Muslim nation-state, the RSS had argued for India to be a Hindu state. This view was sidelined at the time of India's founding, partly through the commitment of Congress leaders to secularism, and the RSS was temporarily banned after Mohandas Gandhi's assassination in January 1948 (Diwakar 2017:72, Guha 2007:98,100). The rise of the BJP from the late 1980s, along with similar movements at local levels (like the Shiv Sena in Mumbai (Hansen 2001)), presented a challenge to India's notional commitment to secularism. While around 80% of India's population are Hindu, the BJP has argued that this identity is under attack from a system that privileges minority populations – rendered as “undeserving, pampered/appeased” – at their expense; primarily this is aimed at Muslims, but also Christians, Dalits, and women (Rai 2019:263). The BJP provoked tensions between different communities, leading to the razing of the sixteenth century Babri Masjid mosque in Ayodhya in 1992, which they claimed was built on the site of Rama's birth. Violent inter-

communal clashes followed in Mumbai in 1992-93 and an effective pogrom against Muslims occurred in Gujarat in 2002 (Guha 2007:639-642,657); Modi, a former member of the RSS, was Chief Minister of the state at the time and faced legal investigation over suspicions that he had abetted the violence, though he was never charged for lack of evidence.

Another strand of party fragmentation was the rise of parties based on regional identities. Several Indian states are geographically large, and some are more populous than most countries. Moreover, the Indian constitution recognises more than twenty languages, some from entirely different language families, completely unrelated to Hindi or English, the two official languages of the Union. While the original state boundaries tried to avoid division by language, a major public movement in the 1950s led to substantial redrawing, primarily along linguistic lines, in 1956 (Guha 2007). Several states have been created since to give representation to linguistic minorities. This is particularly important in the south of the country, with languages from the Dravidian family, and regional parties catering to these identities have flourished, especially in Tamil Nadu. While regional parties obviously have a restricted appeal at the national level, these parties have been important within states and have participated in or supported coalition governments nationally.

A final source of party proliferation has been the rise of parties based on caste identity. The existence of caste is relatively unique to India and defies typical categories of political sociology, combining religious, class, and even racial elements (Rao 2009). Speaking simplistically, it is a religiously-derived system of occupational class, based on a fourfold hierarchical division into *varnas*, from the Brahmins (priests and scholars) at the top, to the Kshatriya (administrators and warriors), then to the Vaishya (farmers and merchants), and finally the Shudras (labourers). Below all of these stood the Untouchables or Atishudras, those outside the caste order. The latter have been known by different names, but in contemporary politics they are usually known as Dalits, from a Sanskrit word meaning broken to pieces or ground down. It is an identity based on a collective history of suffering and injustice (Rao 2009). The term Scheduled Castes (SCs) is also used, referring to castes identified by the constitution as historically subject to severe discrimination and violence. While an attempt to secure separate representation failed in the 1930s – Ambedkar was overruled by Gandhi, who employed a fast unto death to “blackmail” the

Dalit leader (Anderson 2013:loc.545) – the constitution of India abolished the status and practice of untouchability, at least in theory. Over the following decade came special protections from caste-based violence and affirmative action policies known as reservations, which kept a percentage of government posts for SCs in line with their proportion in the population. In the light of disputes about the status of Dalits and the need for such policies, hotly contested by upper caste groups, parties providing representation for lower castes began to emerge from the late 1980s. These have been particularly powerful at state level, especially in Uttar Pradesh and Bihar, both relatively poor states in the Hindu-speaking north of India (Adeney and Wyatt 2010). In response, some areas have seen a corresponding emergence of parties dedicated to defending the interests of middle or upper castes (Carswell and De Neve 2015).

The party system in India had thus undergone quite a radical transformation in the past few decades. From being dominated by a single party at the national level, though with some regional divergences, the political landscape has become fragmented, with increasing numbers of parties participating in elections and in government, and administrations since the 1980s being run by coalitions rather than single parties. Alongside this, there has been a shift in the character of these parties. The INC has been relatively open, but could historically be considered a vaguely left-progressive party, with a commitment to the role of the state in promoting national economic development and social prosperity. Earlier challengers at sub-national level, particularly in Kerala and West Bengal, were ideologically driven; in these two states, power has been held for long periods by various factions of the Communist Party of India (CPI). By contrast, the parties which have risen to prominence more recently have been united by identities of different kinds more than ideological stances.

These changes in the party system can be read in various ways. The late political scientist Peter Mair (2013) regarded the collapse of mass participation in political parties in Western Europe as a disaster for democracy, contributing to the hollowing out of democratic processes in these countries. For Mair, the disaffiliation of most of the population from political parties has been both an indication and a driver of an increasing distance between ordinary citizens and the political elite. Political parties are thought to play a mediatory function linking people with the government which governs in their name;

this applies in India as well, where parties “remain an important link between the state and the citizens” (Diwakar 2017:xv). In the Habermasian model of deliberative democracy, political parties are the most likely place for problems thrown up by debate in the wider public sphere to register and be drawn into the more formal setting of the “political public sphere and parliamentary will-formation” (1997:351). It is therefore essential for political parties to be connected with broader social processes of debate.

The fragmentation of the Indian party system and the proliferation of parties can cut two ways. Mair’s concern about the collapse of political parties in the European context does not really seem to apply to the Indian case, since the country has seen an increase in the number of parties operating, presumably all contributing to the mediatory function of linking common concerns of citizens with the high-level political elites who debate and enact policy. Changes in the Indian party system have been interpreted as the “vernacularisation of democracy” (Michelutti 2007), a process of local adaptation which brings democratic forms into closer alignment with the experiences and practices of people on the ground. This is suggested by the evidence of increased voter participation encouraged by identity-based parties (Carswell and De Neve 2015). From this perspective, India’s democracy has deepened over time.

However, as Samaddar (2016:116) argues, political parties have experienced pressures similar to those confronting democratic governments as a whole, in the tension between,

representing the people, yet resisting the pressures from below, the subaltern levels from where passion, fury, unexpected kindness and various other forms of emotion sprang and threatened to overwhelm rational politics.

If democracy in the deliberative ideal is oriented towards an idea of the common good, reached through open and inclusive processes of public reasoning, this would seem to be contraindicated by the growth of parties organised around narrow identities and exclusive interests. This is particularly pertinent to Hindu nationalist parties, which conceive the boundaries of the national community in a much more restrictive mode. Parties organised around regional or caste identities may suffer from similar problems, although these vary between narrower clientelism and more programmatic approaches with wider appeal (Carswell and De Neve 2014). Hansen (2019:33) expresses concern about the changes in India’s democracy, seeing them as centring emotional contributions motivated by anger

and outrage and measuring their strength by numbers; this goes beyond Hindu nationalist organisations, though they have played “an exceptionally important role in this process” (see also chapter eight). Identity-based politics and outbursts of negative emotion offer difficult foundations for an understanding of democracy which centres the role of deliberation drawing on reasons accessible to all.

The shift from ideological to identity-based parties may have encouraged a change in political parties and how they function. Parties in India have tended increasingly to become about power rather than ideas; parties have become primarily “apparatus of power” or “instruments of power” (Samaddar 2016:116, Diwakar 2017:153). While parties may have increased in number, they have become more centralised and less internally democratic (Samaddar 2016). They are increasingly oriented to the short-term pursuit of power and are characterised by “extreme personalisation” and “extreme opportunistic politics” in coalition formation (Diwakar 2017:154-155). The identification of these trends as recent developments may belie a certain idealisation of the post-independence period. As noted by Adeney and Wyatt (2010), the occupational background of MPs has changed over time from being mostly upper- and middle-class members in the early years to a greater representation of farmers and lower castes, suggesting a greater diversity of perspectives and interests has come along with the increase in the number of parties. However, if parties are primarily geared towards the acquisition of power for its own sake, this poses problems for the exercise of public reason oriented towards the public good. The fragmentation of the Indian party system thus has unclear effects on the quality of deliberation and democracy.

#### **2004 election and UPA-I**

In 2004, observers expected the governing coalition led by the BJP to retain power. Since the early 1990s, India had been following a programme of liberalisation, with much higher growth rates than in the decades since Independence. The BJP emphasised this aspect of its term, under the slogan “India Shining”. It referred to a sense of positivity and progress, appealing to mostly affluent or aspiring urban voters, those either on a path to or hoping for social mobility. The campaign apparently failed to connect with many in the electorate, for whom India Shining was an illusion utterly detached from their experience of daily life (Wilkinson 2005:160-161). The election of 2004 was won by the Congress-led United

Progressive Alliance (UPA). From 2004 to 2009, the UPA did not command a majority in the Lok Sabha and relied on support from several Left parties which supplied sufficient confidence to keep the government in place without formally joining the administration.

With such a fragile hold on power, the UPA-I government was forced to remain open to outside influences and perspectives. In particular, the Left parties in parliament which provided external support pushed the government to pursue various progressive, rights-based social policies. The INC had written its manifesto for the 2004 election without much expectation of having to implement its programme (Jenkins 2006:150); it contained some redistributive policies which certain of the government's key figures would rather not have committed to.

The years from 2004 to 2009 were a quite extraordinary period in terms of progressive social legislation. Major bills included the Right to Information Act 2005 (a law for freedom of information), the Forest Rights Act 2006 (relating to access and use of forests and their resources especially by tribal communities), and the Right to Education Act 2009 (which consolidated existing education policies into entitlements). At the vanguard of this wave was the landmark National Rural Employment Guarantee Act 2004, commonly known as NREGA or MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act). NREGA is effectively a right to work law, guaranteeing 100 days of employment each year to people in rural areas at a set wage; the labour is intended to be on works of public utility, such as the construction of roads or irrigation works. These acts, especially the Forest Rights Act, were also the result of major public campaigns in the preceding years. These social policies had been converted from matters of public concern into enacted policy via the party system and a process of deliberation in parliament, overseen by the Congress party.

#### **General election 2009: the need for social policies**

Congress leaders believed their focus on progressive social and economic policy had been the key to their electoral success in the 2004 election and would secure them a second term. Above all, it was held that the promise of NREGA had won them the election. In fact, several of my respondents were sceptical about this interpretation, pointing out that the INC's increased vote share in 2009 materialised in urban centres, rather than the rural

areas where NREGA had most impact. Nonetheless, it was clear that this was the view of Congress leaders, and it shaped their strategy in approaching the 2009 election and their second period of government.

Whether justified or not, this interpretation was a helpful one from the point of view of the campaigners pushing for action on the right to food. With various areas of social and economic policy already covered by legislation passed in their first term, Congress needed something new to appeal to progressive voters, something to build on the success of NREGA. The ongoing court case and public campaign on the right to food made this issue an obvious choice. Both major parties devoted manifesto space to food security, committing to putting this principle into legislative form.

The election results in 2009 again somewhat wrong-footed observers; Congress increased their vote share and the UPA government was returned with a majority, allowing it to operate independently of the Left parties which had supported it through most of the 2004-2009 period. The party leadership read these results as an affirmation of their social policies, and though with varying degrees of enthusiasm, sought to begin the process of implementing the promised food security legislation as the flagship social policy of UPA-II.

### **Reading political promises**

#### *- 2009 manifestos and President's speech*

The party manifestos for the 2009 Lok Sabha elections set out the promises and priorities of the parties, and provide useful information for contextualising their understandings of the issues surrounding chronic hunger and food provision in Indian society, as well as how the parties perceived themselves and their political approaches. In this section, I discuss the manifestos of both major parties for the 2009 election, as well as the opening speech to parliament made by President Pratibha Patil following the Congress victory, which gives further shape to the promises made in the INC manifesto.

When I discussed the appearance of food security legislation on the national political agenda, Harsh Mander said that he and others had informally advised the Congress party to put this promise in the 2009 manifesto, though, he added, "I don't think they expected very much to get elected". Another interviewee put it much more strongly:

“because we put it in there”, he responded when asked about the presence of the issue in the manifesto. According to Biraj Patnaik, the party had sent the draft manifesto to Harsh Mander for comment and he and Patnaik jointly wrote the section on the “Right to Food law”. This direct involvement was something both mentioned separately and not at my prompting. Both had been involved with the Right to Food Campaign and latterly with the Supreme Court Commissioners office. If taken literally, it certainly underscores the centrality of the foregoing public campaign and court case in establishing the right to food as a live and urgent political issue. This claim marks a sense amongst campaigners that they had successfully shifted political debate towards their perspective.

Further proof of how established the issue had become lies in the fact that not only does the BJP manifesto promise action on the “right to food” (BJP 2009:17), but this section is far more detailed and developed than that in the INC manifesto, and the provisions more generous (the manifesto is more than twice as long as the Congress’). Though there are references elsewhere, the section in the Congress manifesto is short:

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 kgs 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 (INC 2009:11).

The relevant section of the BJP’s manifesto takes up almost a full page, and promises 35kg a month of rice or wheat at Rs.2 to each BPL household – a considerably higher allowance, and at a lower cost. There are also promises for action to: improve the PDS; prevent families falling into poverty; establish community kitchens in deprived areas; “aggressively” act to deal with malnutrition; prevent conversion of farming land; and establish grain stocks and make imports more difficult (BJP 2009:17-18). These are the main proposals for addressing the problem of chronic hunger put forward by each party. The president’s speech contains much the same provisions, though also mentions introducing “hot cooked meals in anganwadis” as part of the “revamped” nutrition element of the National Rural Health Mission, and changes to the PDS (Patil 2009, pt.19,24).

The nature of party manifestos means that there is little in the way of direct arguments to support these proposals for action. The quoted segment above reflects this;



while there is an appeal to the right to food as an implicit argument from values, this is more a call to action than a defence of the specific policies suggested. The BJP's manifesto (2009:17) states that the party "believes people have the right to food", but this is a relatively passing reference within the larger section, which is clearly framed in terms of food security. In chapter two I discussed the changing valences of the term food security; here, it appears explicitly as "integral to national security", along the lines of the original meaning of the term which saw the spectre of food shortages as an existential threat to the state (BJP 2009:17). This impression is strengthened in the section on health, where the party proposes to declare a "multi-pronged war against malnutrition" and promises that "all resources will be provided" in the pursuit of this aim (BJP 2009:41). While the details are left unclear, the militarised language confirms the framing of hunger as predominantly a security problem.

The BJP attacks Congress over its neglect of agriculture and for India having become a net importer of food, which it presents as a security threat: the government

has been more interested in importing food grains and selling them at a high price than in securing the needs of the people (2009:17).

When these documents were written, the world had only recently emerged from a period of very sharp rises in the price of food, leading to riots in around thirty countries (see Hossain and Kalita 2014). In India, this was experienced not as spikes but as a steadier, but more prolonged period of inflation, partially caused by an "artificial scarcity" resulting from excess stockpiling and exports (Sinha et al. 2014:8). The government were culpable, though in a different sense than their accusers alleged. However, the argument that Congress were risking national security by overreliance on imports fit better with the overall tenor of the BJP's manifesto appeal.

One interesting feature is the way that both parties attempted to present undernutrition as a newly arising issue, despite it being of very long standing. For the Congress party, this was a potentially delicate manoeuvre since they had already been in government for five years. In her speech, President Patil claims that, "malnutrition has *emerged* as a major health challenge needing urgent response" (2009, pt.19, emphasis added), perhaps suggesting that the need for rapid action was not previously recognised even if the problem had been in existence for longer. The campaign should perhaps take

credit for raising this awareness. The BJP had held power as leaders of a coalition from 1998 until 2004, so the “widespread malnourishment” they speak of is positioned as a novel problem, emerging from the Congress’ “gross mismanagement of the economy” (BJP 2009:7,17). This fits with the BJP’s focus on what it portrayed as the poor record of the UPA government.

A better sense of the policies put forward by the parties on food and hunger can be gained by looking at them within the context of the whole manifestos. These express – tacitly as well as explicitly – politicians’ priorities and wider values, and these documents can be read as arguments for the programmes of action written by the parties seeking power. In terms of argumentation strategy, both endeavoured to use the evidence of the past five years to support their case, projecting their visions of the future based on the experience of the recent past; for the BJP, this was naturally done in a mostly negative sense, depicting the UPA-I period as a falling away from the sensible and successful policies of their government.

Although the title of the BJP’s manifesto was *Good Governance; Development; Security*, it was the latter of these that took priority in the document. Dismissing the UPA’s 2004 victory as a “quirk of fate”, the writers attack Manmohan Singh as “the weakest Prime Minister the country has ever had”, blaming him and the UPA for the various terrorist attacks suffered by India in the 2000s (2009:7). The Mumbai terrorist attacks of November 2008 would have been in very recent memory when the manifestos were written. Other problems laid at the government’s feet include job losses and slowing economic growth. In mentioning social problems such as farmer suicides or slum populations, the BJP (2009:8) conclude that these “contradict this nation’s aspirations. They are obstacles to India’s emergence as a great power”, indicating that these problems are understood primarily in terms of their perceived threat to the country’s reputation and standing, more than as intrinsic issues.

This orientation to national greatness is reflected throughout the manifesto, which opens with an address from Murli Manohar Joshi, a veteran BJP leader and former minister. Joshi expresses veneration for India’s past, blaming the British for inculcating a loss of national self-confidence and the Congress for aping Western development models instead of,

creating a socio-economic and political paradigm of governance drawing from the civilisational consciousness of India (BJP 2009:4).

He cites a statement allegedly made by Thomas Babington Macaulay (almost certainly a fabrication according to *The Hindu* and *The Wire* (Natarajan 2016, Mitra 2017)), in which the colonial educational reformer praises India's "spiritual and cultural heritage" and insists that this must be destroyed if the British are to conquer the country (BJP 2009:4). While the total identification of this heritage with Hinduism is never made fully explicit, it is the "Bharatiya or Hindu world view" that is praised as "inclusive", "the most ennobling experience in spiritual co-existence", unique in its recognition of the "essential unity of mankind" (BJP 2009:5). Though Joshi (2009:5) attributes a "belief in harmony of religions" to Hinduism, there is tension between the claim to value diversity and the firm aligning of India's past and India's spirit with Hinduism. For Habermas, such arguments would be illegitimate, since religious reasons are by nature private rather than public; in India, with its idiosyncratic version of secularism, this is still a difficult line to balance as the BJP must make democratic claims for all while appealing to their strongly religious base.

The friction between democratic ideals and other party values appears elsewhere in the document. For example, the counterpart of the denigration of Singh's premiership as weak is the assertion of the strength of leadership that will be shown by the BJP if elected: the country needs "a determined and decisive leader". However, this leader must be someone "who values consensus over conflict, consultation over confrontation" (2009:8). These commitments sit somewhat uneasily beside each other, as does the lip service paid to the idea of diversity while disparaging "identity politics" and the classification of Dalits and Muslims as minorities (2009:36,39). For Dalits, the proposal is to "boost opportunities for entrepreneurship and commerce", suggesting that the party are anxious to bring these groups within the normalising structures of the existing economic system.

The Congress manifesto shares some features with that of the BJP. The governing party also focused heavily on security; though it does not dominate the framing of the whole to the same degree, it is the first area of policy discussed, occupying a leading position. As the BJP promised good governance, development, and security, the Congress pledges "security, dignity, and prosperity" (INC 2009:1). However, the INC manifesto appears to be organised most centrally around the economy. The BJP manifesto criticises the UPA for their economic performance, with the rate of growth slowing in the year before the election

(during the Great Recession), but the INC points to the average growth rate across 2004-2009, which is higher than during the BJP government (INC 2009:9).

While economic performance seems to be the key metric for success, there is a sense of this being contextualised with reference to the needs of the people, the *aam aadmi* (common man), a traditional cornerstone of Congress rhetoric. The Hindi slogan on the cover of the manifesto can be rendered approximately as, “India rises at every step of the common man’s progress”. Again and again, the manifesto links economic growth with increased well-being, “especially... of the weaker sections of our society” (INC 2009:1,6,21). Likewise, the text pairs “economic growth and communal harmony, and economic growth and social justice” as “two sides of the same coin” (INC 2009:1). The INC document contains five mentions of social justice and identifies it as a core value of the party; by contrast, this phrase appears as a passing reference in the section on Dalits and OBCs in the BJP manifesto (INC 2009:1,6,21, BJP 2009:36). The former is also keen to stress their difference from the latter by emphasising the self-consciously broad nature of their appeal, as opposed to their rivals’ implicit sectarianism, and draws on the language of democracy, liberalism, and secularism to add moral weight to these claims: the party “practices the politics of consensus and co-operation”, it “unites, while the BJP divides” (INC 2009:3). While the BJP looks back to India’s ancient history and culture, Congress claims the glories of the more recent past, with reference to Nehru, Gandhi, and Ambedkar (INC 2009:2).

The parties’ positioning on food and hunger can be best understood within their overall programmes and priorities. For the Congress, this was the maintenance of a high growth rate, with the justification that these resources could be used to ensure better lives for the people of the country, with great emphasis on inclusivity. For the BJP, economic performance was also important, but their principal concerns were security and national status; economic growth, combatting malnutrition, and other policy areas are all seen in this light. It is notable that the BJP, perhaps seeking to offset the Congress’ reputation as a party of the poor, put forward a decidedly more favourable policy offer for the PDS. The level of detail on policy in general is greater, possibly reflecting their disadvantage as challengers to a sitting government. However, in light of the long-term and widespread problem that they were addressing, both sets of promises are rather limited, with neither sincerely engaging with the systemic obstacles to food access under capitalism.

- *Modi's 2013 letter*

There is one partisan intervention from later in the process which is interesting to reflect on. This is a letter written by Narendra Modi in August 2013, prior to the final passage of the Act, when he was still Chief Minister of Gujarat but preparing to lead the BJP to victory in the general elections of May 2014 (see appendix III). This letter hints at the hegemony achieved by ideas of the right to food within Indian politics at the time; although Modi is critical of the policy details, he shows support for the idea of the right to food and the role of the state in securing this.

Modi, speaking on behalf of the Gujarati government, opens the letter by stating his “serious concern” at the contents of the bill as it currently stands (Modi 2013:1). By focusing on the “major deficiencies” in the bill, the absence of “the basic tenets which any food security legislation should meet”, he makes it clear that his opposition is to the specific features of the law and not to the legislation itself (BJP MPs would ultimately vote for the NFSA to be passed, it being politically inadvisable to vote against making food more accessible to the poor). Modi makes what Fairclough and Fairclough (2012) regard as the strongest form of argument, argument from the consequences, that the legislation as written is “unlikely to achieve [its] objectives”, that the bill is so poorly conceived that it will not be able to assure food security for all.

Modi raises several objections, including the eligibility criteria and extent of coverage and the shift from per household to per person entitlements. He refers to the standing committee report (see below), noting the recommendation that the central government should work in consultation with the states to determine uniform national criteria. He argues that the law, by specifying in advance the number of beneficiaries, is in effect working backwards since “any logical law” should first set guidelines for identifying those living with food insecurity and thence determine the necessary degree of coverage (Modi 2013:1-2). He later adds that the discrepancy between the official declaration of falling poverty and the provision of food to two-thirds of the population is an “illogicality” (Modi 2013:3).

Modi attacks the provisions of the law as insufficient. The move from 35kg per household to 5kg per person will, he argues, mean a substantial reduction for the “average

family of 5 persons” (Modi 2013:2), though the law protected the entitlement to 35kg for the poorest households under the AAY. Even so, he makes the case that the allowance is still insufficient, insofar as 5kg of grain a month meets only a small part of the calorie requirements of a labouring adult:

This does not address even the calorific security, not to talk about nutritional security which is the main objective of food security. This... is totally unacceptable if providing adequate food security is the objective of the Ordinance (Modi 2013:3).

Here, Modi comes close to suggesting that the government has a responsibility to provide people’s full calorie requirements – a potentially surprising belief for a party politically to the right of centre. He concludes by asserting that there should have been greater consultation with the chief ministers, given the degree of responsibility devolved to the states in the implementation. Much of Modi’s criticism is valid, though arguably it was rather late in the process to interject. Implementation of the NFSA would largely fall to his government and I return in the final chapter to the lacklustre efforts of his administration to act on the statements made here.

### **Executive: UPA-II**

The role of the executive is not very clearly delineated either in Habermas’ (1997) major explication of deliberative democracy, or in the practice of power in India. In India, the executive is made up of party-political figures drawn from the legislature alongside supposedly neutral and specialised functionaries in the bureaucracy, whose role in theory is to advise and implement, but not to deliberate and decide. This awkward mixture means that it sits uneasily within the deliberative democratic system; deliberations within the government tend not to be public and transparent, open to view as in the legislature where debates are recorded for posterity. The bureaucracy is a critically important aspect of democratic systems of government, especially given Habermas’ longstanding concern about the dangers of technocracy displacing public reasoning with instrumental rationality, threatening legitimation. This is dealt with in the next chapter, on the role of expert and technical voices in a deliberative system

Here I am focusing on the government composed of politicians from the ruling party or coalition. India’s system of government is based on the Westminster model, with

the executive drawn from the legislature, typically led by the party with the largest number of seats in the Lok Sabha (lower house), and headed by the prime minister. The prime minister is usually, though not always, a member of the Lok Sabha (Manmohan Singh has never held a Lok Sabha seat, but was a member of the Rajya Sabha from 1991 to 2019). Cabinet members may be drawn from either house and if outside experts are appointed, they are expected to occupy a seat in parliament within six months (Adeney and Wyatt 2010). The prime minister is theoretically *primus inter pares*; they chair the Council of Ministers and, until its abolition in 2014, chaired the influential Planning Commission. Although the president, indirectly elected by the two houses of parliament and state assemblies, is the head of state and may act as a “constitutional umpire”, this is first and foremost a formal role (Adeney and Wyatt 2010:70). In practice, the prime minister wields executive power and by and large “the president does his or her bidding”. The president decides which party to ask to form the government and can dissolve parliament and call fresh elections, though again, this is usually done on the advice of the prime minister (Adeney and Wyatt 2010:74-76). While the legislature is the primary site of public deliberation at the governmental level, it often comes second to the executive in policy making.

The UPA government which ruled India from 2004 to 2014 was led by Congress in a coalition with numerous smaller parties. From 2004 to 2009, it was a minority government relying on support from Left parties to pass legislation their participation in the coalition. After the election in 2009, the UPA increased its representation, particularly thanks to an improved tally for the INC. UPA-II therefore operated under quite different conditions from its predecessor. In its first term, the coalition was “very fragile”, per one respondent, and the Congress party was forced to make concessions to its coalition partners and supporters, and to remain open to external demands from civil society. This was reflected in the rights-based legislation passed in this period, partly in response to popular campaigns.

In their second administration, this pressure was alleviated by the coalition’s parliamentary majority, but internal tensions within Congress manifested quite strongly. The Congress party is something of a coalition, with different factions, interests, and ideologies held together. The split was primarily between a centre-right tendency led by

Prime Minister Manmohan Singh and a more left-wing, progressive strand headed by the party's president, Sonia Gandhi. Manmohan Singh had previously been Finance Minister and had overseen much of India's economic liberalisation in the early 1990s. He had become prime minister in 2004 when Sonia Gandhi chose not to take this role herself; though a naturalised Indian citizen and the widow of former prime minister Rajiv Gandhi, she had been born in Italy, and this had been used as a point of attack by the BJP (Wilkinson 2005:154). Her choice to stand back from the premiership had given her an "inflated public image", according to one of my interviewees, but the sheen had gone from this by the time of the second election. Nevertheless, as party leader she remained in a position of such influence as to rival the power of the prime minister. The government was unusually vocal about internal frictions, and these were assiduously covered by the media.

The peculiar structure of the government with its rival power bases, combined with the shift in external political conditions, created possibilities and difficulties for the evolving right to food legislation. Because Congress was no longer reliant on the Left parties, their influence declined, and the government was no longer so open to external pressure. On the other hand, deliberation was pushed into new spaces because the government had committed to the implementation of a food security law and felt that it must provide some follow up to NREGA. The manifestos showed that the right to food had become a meaningful term in public discourse, and that the argument that the state should act to protect this right had achieved some measure of consensus. The next step would be to determine precisely what form this action should take; this would be debated by elected representatives in the parliament, as discussed below, and in non-elected bodies, namely the Economic Advisory Council and National Advisory Council, which are discussed in the next chapter.

In Habermas' theory of deliberative democracy, it is difficult to comprehend the role of particularly influential figures. Although the two tendencies within the Congress party were ideologically grounded, it is not clear that the outcome can be seen purely in terms of a reasoned debate which eventually reached a joint conclusion. Rather, the outcome was at least in part the result of a private competition between the leaders of these factions, that is, the market-oriented approach backed by Manmohan Singh against the more progressive welfare tendency represented by Sonia Gandhi. Gandhi occupied a



peculiar position within the governing structures. She was frequently perceived as more powerful than Singh despite her lack of a formal position, which made both subject to attack by the opposition. Her status created difficulties within the administration too; in the memoir of his time as Singh's media adviser, Sanjaya Baru (2015:66) recalls the struggle to determine where to seat Gandhi at public events – as an MP, she was not entitled to a front row seat, but a suitable accommodation was justified by her status as the widow of a former prime minister.

### **Parliament of India**

The Parliament of India is the primary seat of the country's democracy. Its structure is largely based on the British model, with modifications for a more federal structure given the size of the country and its population (Adeney and Wyatt 2010). There are two chambers: the Lok Sabha, or House of the People, and the Rajya Sabha, or Council of States. As of 2009, the Lok Sabha, which is the lower house, had 545 members; except for two Anglo-Indian appointees, all were directly elected from single member constituencies using a first-past-the-post voting system. 84 seats were reserved for members of SCs and 47 for members of STs; while these seats were still contested, parties had to field candidates belonging to one of the relevant groups. The average population of members' constituencies was more than 1.3 million people in 2009, though because all territories and states must have at least one representative, some were much smaller and others larger. This gives some sense of the challenge for members in fairly representing their constituents.

The Rajya Sabha is the upper house, and members are elected indirectly by the directly elected state legislatures. Unlike the US Senate, in which states are equally represented, Rajya Sabha members are allocated with some reference to the size of states' population. There are up to 250 members at any time, including 12 members nominated by the president on the basis of "special knowledge or practical experience" in literature, science, art, or social service (Adeney and Wyatt 2010:87).

There is some divergence between the intended role of the legislature and its functioning in practice. Elections to the Lok Sabha are held at least every five years. The one exception to this was when elections were postponed by Indira Gandhi's declaration of a public emergency, during which she ruled using special powers invested with the

president. At this time, the parliament was “a talking shop, a rubber stamp for the whims of the executive” (Adeney and Wyatt 2010:87). Although in general parliament is not so restricted, it is “frequently marginalised in the policy-making process” (Adeney and Wyatt 2010:74). The number of days on which the parliament works can vary quite radically; in 2005, the Lok Sabha sat for 85 days in total, but in 2008, only 46 (Adeney and Wyatt 2010:87). When parliament is not sitting, the government can pass legislation using presidential ordinance. This is subject to parliamentary approval retrospectively, but rejection would involve overturning legislation already being enacted (Adeney and Wyatt 2010:89). The National Food Security Act was initially passed through this method. The nature of the system makes it difficult for parliament to act independently or to seriously check the government. While the legislature plays a central role in our understanding of a deliberative democratic system, as a site in which we can expect high quality public reasoning and consensus-oriented decision-making, it is more difficult to see how this might be the case in the messy practice of Indian democratic life (though this hardly applies only to the Indian case).

The functioning of parliament as a deliberative arena can be affected by considerations other than orientation to consensus and the collective good. Party politics continue to exert an influence on the members of the house. During the UPA-II government, the BJP regularly disrupted proceedings of the Lok Sabha and effectively blocked the operation of parliament, making it difficult for the government to enact any legislation (HT Correspondent 2013). Several of my interviewees told me that this was precisely because the BJP knew that the food security legislation was a priority and wanted to prevent Congress from implementing it effectively before the elections in May 2014. The legislation was voted through parliament in September 2013, and with only a few months before the election, the INC did not gain political credit as they might have hoped. These respondents thus highlighted the variegated motivations on both sides.

Speeches in parliament echoed the lines of argument set forth by the Right to Food Campaign, focusing on the concept of food as an entitlement, furthering the common good by protecting the poor and marginalised from chronic malnutrition and starvation. In offering critiques of the legislation, as we have seen in Modi’s letter, opposition parties took the position that the proposed law was inadequate to deal with the problem. These views

were expressed in the type of language we would expect in democratic deliberation: an emphasis on the protection of rights and the promotion of some common interest. However, a gap seems to appear between the arguments raised and the private motivations of the actors, which would have an impact on the practical outcome of the process. Electoral fortunes hung in the balance. For Congress, the law appeared as a potential vote winner. While critics dismissed the NFSA as populism, as a “vote security bill” (ANI 2013), there was not essentially any contradiction between Congress’ stated arguments and their desire to pass the legislation to shore up their electoral support. As at least one interviewee pointed out, in a democratic society it is not unreasonable for a government to enact policies which enjoy public support, as the right to food did at this time.

In a deliberative democratic process, it is not wrong for actors to have private motivations; we cannot shed our socially embodied selves, our lifeworld with its background beliefs, and it is acceptable to argue for our own needs where this is consonant with publicly acceptable reasons. The difficulty lies in the contradiction between the apparent agreement reached between the parties and the action that resulted, which suggested that the actors held different motivations than the ones they professed publicly. The government’s desire to use the law to garner popular support may have caused them to ignore policies which might have been more effective but less immediately appealing. One interviewee told me that Congress was only really concerned with the law as it touched on the PDS, and not the other provisions – maternity benefits, the Midday Meal Scheme, and the Integrated Child Development Services – which were if anything more important in achieving the broader aim of food security. On the other hand, if the BJP accepted that state action was essential to safeguard the rights and lives of those who stood to benefit from the new law, it is difficult to articulate this with their extensive prevarication in parliament and with their actions in government. The fissure here between the decision-making process and its practical outcome suggests the failure of the deliberative model in neglecting the material nature of social structures, risking a fetishization of procedure divorced from a consideration of consequences. This is an argument that I will return to in the final chapter, in reflecting on what happened after the NFSA was passed.

### **Standing Committee report**

The National Food Security Bill was approved by the Union Cabinet on 19<sup>th</sup> December 2011 and introduced into parliament a few days later. In January 2012, the bill was referred to the Standing Committee on Food, Consumer Affairs, and Public Distribution; its report was published a year later, in January 2013. Page numbers in this section refer to this report. One of the reasons for this extended process may have been the determination of the committee, as agreed in one of its earliest meetings on the subject, that the “wide ramifications” of the bill necessitated serious consultation with a broad range of interlocutors (p.6). A press release invited comments from the public, and around 150,000 submissions were received, though this included identical letters calling for a universal PDS organised by the Right to Food Campaign (p.18). In addition, the committee deposed numerous experts, ministers, officials from various states (including on study visits to these regions), and representatives of movements including the Right to Food Campaign (pp.18-19). The resulting report attempts to include the deliberations which arose from the consultation process, giving verbatim citations from the state and contributors as well as responses from ministers. The committee then offers its recommendations.

Perhaps the most striking observation made by the committee is the unanimously positive response towards the bill, at least in principle. In all its discussions, despite disagreements over the details, “not a single objection was raised on the National Food Security Bill per se” (p.22). This is indicative of the reach achieved by the idea of hunger as a problem requiring state action. The committee added its support to this consensus as an “important step towards the elimination of hunger and undernutrition”, but added that the bill, to be “simple yet effective”, should concentrate on the PDS, a much narrower focus than the campaign and NAC had argued for (pp.22-23). Further, the report urged, the government must

implement the Act in a transparent and efficient manner on a sustainable basis without any adverse implications on the economy (p.24).

As so often in this process, the needs of the economy were invoked to ensure that the project of ameliorating hunger stayed within the limits acceptable to capital.

One of the chief arguments dealt with in the report is the question of numbers: of beneficiaries and of grain allowances. One of those interviewed by the panel was the veteran geneticist and Green Revolution leader M.S. Swaminathan, who argued that the bill should

follow the example of Tamil Nadu and Kerala in having a universal PDS with “well-defined and transparent exclusion criteria”, which he suggested would,

mark the beginning of an important social protection measure built on the foundation of a culture of honesty (p.27).

This position was supported by Jean Drèze and Reetika Khera; otherwise,

we are going to create a constituency of powerful people who will have no stake in the PDS and who would try to sabotage it (p.27)

The government, in response to states concerned that the new bill would affect their already more extensive PDS, merely replied that states could choose to do more than required by the bill, but at their own expense (p.28). The committee noted that numerous contributors had argued for a higher ration of grain – some for 7kg, some for 11kg – but concluded that this was not economically feasible (p.29). They recommended that the draft’s division between priority and general households be scrapped, that the government should consult with the states to determine uniform exclusion criteria (Modi would later complain that this had been ignored), and that the remaining eligible citizens should uniformly receive 5kg a month (pp.40-41). These proposals were largely followed in the final legislation, to the disappointment of some of my interviewees who felt that the committee had further weakened a draft that they already found lacking.

The remainder of the report deals with supporting conditions for the bill, especially around procurement, storage, and distribution of food grains. The central focus was clearly on the PDS, rather than the other elements of the bill relating to the life-cycle approach; the report calls for modernisation as a priority, since the bill “would make the Right to Food a Legal Entitlement,” and links these reforms to computerisation (pp.66-67). It rejects the idea of a move towards cash transfers due to the absence of banking infrastructure in much of the country but calls for this to be remedied (p76). In the final section, the committee rejects the bill’s careful refusal to guarantee food to citizens in cases of natural disaster or acts of god: “the Government cannot shy away from its responsibility towards their citizens under any circumstances” (p.153). The committee report overall represents a tentative balance between an embrace of the right to food and the need for state action, and a desire to maintain the existing structures of the political economy and the set bounds of the possible.

### **Parliamentary debates**

For this section, I draw mostly on the debates held in the Lok Sabha on 26<sup>th</sup> August and in the Rajya Sabha on 2<sup>nd</sup> September 2013, on the days when the houses agreed to confirm the bill already passed as an ordinance in July. Page numbers in this section refer to the debates in the respective houses. These were very substantial debates, occupying hours of parliamentary time and with so many speeches entered for the Lok Sabha that the Speaker of the House “as a special case” allowed them to be tabled (that is, the speeches were entered in the record without being delivered (LS 131)). MPs were responding here to the final version of the bill – albeit amendments were voted on during debate – as well as to discussions over the previous several years.

Some of the contributions to the debates were extensive and carefully argued, but there was also bombastic rhetoric, partisanship, and even mockery: when the Food Minister, KV Thomas, addressed the Rajya Sabha to commend the bill, he was apparently difficult to hear, leading one MP to comment that, “the hon. Minister lacks conviction in the bill” and another to quip, “sir, there is no voice security!” (RS 49). One Congress MP offered a quotation from a Tamil freedom fighter and poet: “if a single person does not have food, I will destroy the world”, adding that the government was “making the dream true in reality” (LS 137). In addition, there was a certain lack of respect for the protocols of deliberation, with frequent interruptions which had to be dealt with by the Speakers. This was particularly the case in the Lok Sabha debate, as the statutory resolution to disapprove of the ordinance was brought by a member of the CPI, who was thus allowed to speak first, drawing the ire of BJP leaders who repeatedly objected.

Despite these lapses from ideal deliberative behaviour, there were a large number of considered and well-argued deliberative contributions. Whether from within the governing party or from the opposition benches, critiques focused on a few common areas. The first of these was the bill’s passage as an ordinance. Arun Jaitley, leader of the BJP in the Rajya Sabha, and fellow BJP MP Venkaiah Naidu both excoriated the government, as did Prabodh Panda of the CPI in the Lok Sabha. The latter accused the government of trying to “ignore the democratic functioning of the parliamentary system” (LS 93), while

Naidu attacked the government's response that the bill could not bear delay, pointing to the manifesto and president's speech:

From 2009 to 2013, how many days, how many years, how many hours, how many minutes and how many lives have been lost?... why did you delay it for four years? You have to answer the nation (RS 51).

In the lower house, a response was given by a member of the Kerala Congress (M), that the length of the process permitted "all stakeholders to put their mite in the consensus process" (LS 144). That the unusual length of time allowed for greater participation, media scrutiny, and deliberative input was an argument also put to me by one of my interviewees.

There were numerous accusations that the timing of the legislation proved that the NFSA was pure electioneering, inappropriate for such an important issue: "the Government is trying to get vote security in the name of food security" (RS 52). One MP, pointing to the gap between the pledges of 2009 and the passage of the Act in 2013, quoted the Right to Food Campaign as saying that the delay demonstrated the lack of political will by the governing party (LS 139). Members of the campaign had mentioned to me that they had recognised their statistics and points being raised in the parliamentary debates, but this MP was more unusual in effectively ventriloquising the campaign to make their argument.

Another area of concern was the potential overriding of state governments, also raised by Narendra Modi. This was a particular irritant for members whose own states had functioning PDS that were more effective and more generous than the provisions of the legislation; these included Kerala, Tamil Nadu, and Chhattisgarh. A. Ganeshamurthi of the Tamil Nadu-based MDMK asserted that the bill would "completely hamper" the existing PDS (LS 142). He accused the government of "interference" with states' rights, a point also made by Venkaiah Naidu in the upper house, who urged: "please don't attack the federal system of the country... don't make [the states] villains" (LS 141, RS62). There is an appeal here to India's democratic system and the importance of consulting with those affected. Jaitley, referring to the letters sent by anxious chief ministers, disparages the imposition of the policy by the centre (RS 46). Given the long process of designing the bill, the absence of consultation does appear a surprising omission.

In her address to the house, Sonia Gandhi argued that the Congress' series of rights-based laws was "bringing about an empowerment revolution in our country", that the

people were more in control because these laws were making the government more accountable. Moreover, she added that the bill was “only a beginning... we will be open to constructive suggestions; we will learn from experience” (LS 125). Such a declaration is, rhetorically at least, an affirmation of democratic openness and in line with Habermas’ argument that in practice, deliberations will need to be brought to some conclusion, with any such decision remaining open to later amendment.

The cost of the programme was raised repeatedly. MPs were generally anxious not to be seen opposing the bill, so objections were formulated as arguments on the consequences. This included the argument that the cost would make entitlements unsustainable or that high levels of procurement would have other adverse effects. In his lengthy speech, Venkaiah Naidu quoted Manmohan Singh, the RBI, and a former governor of the bank to question the financial viability of the legislation, citing the inflationary risks of high spending and its harsh impact on the poorest (RS 59-60). There was, however, little effort to contextualise this within the government’s budget; conversely, a Congress MP accused the government of “reluctance” to pass the NFSA because of the cost, which was

unacceptable since the Government is subsidising in so many other areas and the Government can cut the non-plan expenditure (LS 137).

For this speaker, the subsidisation of food would continue to be necessary, even “inevitable” until the country reached a sufficient state of economic development.

A related issue raised by many speakers in both houses was the effect of the proposed NFSA on farmers. Farmers have a high status within Indian politics, as representatives of the ‘authentic’ rural India, but the sector has long struggled with lack of investment and growing debt. The rate of suicides among farmers is notorious. MPs argued that the law was too ambitious in its procurement targets (this was a subject of contention, with the NAC and EAC diverging in their assessment; see chapter six). While pro-government MP Jose Mani claimed to be reassured by the bill’s link with the minimum support price, others were less sanguine (LS 144). Venkaiah Naidu stated that the MSP was below production cost, worsening farmers’ already vulnerable financial position (RS 56-57). CPI MP Prabodh Panda criticised the proposal to fix the MSP for three years:

This is not rendering justice to the farmers. Rather, you are exploiting them; rather you impoverish the poor farmers (LS 98).



The language of justice and exploitation adds a strongly moral valence, bringing in an argument from values.

This was on display throughout the debates as MPs addressed the persistence of malnutrition and hunger. There was a striking repetition of the word “shame”: the “shame of acute hunger”; the government “should be ashamed” of continuing hunger; farmer suicides are “a shame for all of us, not just the ruling party” (LS 139, LS 141, RS 57). The invocation of shame suggests a moral obligation, a duty to action which the government has failed.

This agrees with the overall approach taken by the speakers. As the standing committee noted in its report, no one opposed the bill in principle, and this attitude is restated by numerous MPs from rival parties. The argument is not that the government should not be bringing a food security law, but that the one on offer is inadequate, flawed. MPs questioned the meaning of a food security law which would still require even the poorest to obtain much of their food through the open market:

If you say that this is the law for food entitlement of the poor, that can be understood. But this is not food security to the poor people (LS 97-99).

While this speaker, a member of the CPI, was arguing for a universal system, the BJP urged adoption of their own model, while affirming that “the concept of food security is nobody objecting” (RS 62). Many reasonable arguments were raised that the law was highly flawed. However, ultimately the standing committee proved correct: faced with the bill that Congress presented, both houses agreed overwhelmingly to enact it as law.

## **Conclusion**

While the analysis above can give us a certain insight into how food was taken up and argued around as a political issue, it was interesting to discuss this process with my interviewees. Unfortunately, I was unable to speak to any of the politicians involved, so these insights come from the perspective of observers with a greater or lesser distance from the debates which shaped party policies.

One of the main points which emerged from these interviews was my respondents’ sense of the importance of the political environment in determining how receptive the political class was to the voices of those in civil society. Several respondents drew a

distinction between the first and second UPA government; some also discussed the changes since 2014, as detailed in chapter eight. The position of the leading party changed after the election in 2009, with its hold on power more secure. The perception was that the government was more open to the influence of civil society in the first period, when the Left parties were providing support. One of my respondents remarked that the facilitating conditions for major social rights-based legislation were absent under UPA-II. Although the government continued to make space for some civil society voices, for example on the NAC, the potential for public input into deliberation on social issues was more confined after 2009.

This observation, which was shared by several respondents, is not necessarily easy to fit within the framework of deliberative democracy. Certainly, the ideal speech situation is not intended to be an exact model of political practice, and we should not expect to find normatively optimal conditions for deliberation existing in a pristine state. Yet the observation of these civil society actors was that the choices of whether and how to invoke deliberative processes to guide policy decision-making was in the gift of the government, who would enlarge or contract this space according to their calculations of electoral advantage and political necessity. This does not contradict the theoretical understanding of deliberative democracy, but it does indicate that this quality is not something inherent in formal political structures. If political conditions are not conducive, arguments on matters of public concern may not be taken up, regardless of their strength. Again, this points us back to the wider structures of society which channel power and influence, setting limits to the range of voices and perspectives which can effectively contribute to public reasoning and decision-making.

My respondents were broadly in agreement that the popular campaign led by the Right to Food Campaign had been successful in shifting the terms of the argument, bringing the previously neglected issues of chronic hunger and malnutrition onto the public agenda. In combination with the ongoing Supreme Court case, public pressure had built so that political parties of all stripes were forced to engage with the issue of food. Moreover, these parties accepted and repeated the view that food was a human right and should be protected and promoted by the state, even if this position was at odds with their general ideological orientation. Despite an “unstated bipartisan consensus that was much

more market-oriented”, as one interviewee put it, both major parties affirmed the right to food and the need for extensive public action to ensure its realisation. By the time of the 2009 election campaign, the right to food had, in the words of one respondent, reached “political maturity”. Under pressure from a mass public movement and the judiciary, the governing party and its primary opponent both embraced this framing and committed to public action.

While the material outcome of the process is critical, it is important to appreciate the significance of this achievement. India’s political class had long ignored starvation and hunger, even as statistics showed the brutal effects of malnutrition on the country’s population. At a time when India was being feted as an ‘emerging economy’, the presence of an immense number of poor and hungry citizens was a political embarrassment, at odds with the image the Indian elite wished to present to the world. The backlash against the BJP’s “India Shining” campaign was a reminder of the sharp contrast between the affluence of some and the grinding deprivation of many others. The introduction of the right to food onto the political agenda and the efforts of both parties to accommodate this issue within their proposed political programmes, demonstrated a recognition of food as a political problem. The Marxist distinction between base and superstructure has perhaps resulted in a tendency to stress the material at the expense of the symbolic. While Habermas’ model seems in danger of ignoring the material altogether, it is nonetheless essential to understand this recognition as a substantial achievement. In the moral economy of India’s democracy, extensive efforts have been made to avoid the spectacle of mass death in famines, but omnipresent hunger and malnutrition had not roused the same indignation or provoked state action. In the first decade of the twenty-first century, this appeared to have changed, thanks to mass public pressure.

## Chapter Six: Many Advisers: The Deliberative Role of Experts

Thus far I have discussed the generation of interest around the right to food in India through the work of the Right to Food campaign, which successfully amplified its political significance through engagement with the judiciary. The Supreme Court affirmed a constitutional right to food and took action to promote this, guaranteeing existing programmes as legally enforceable entitlements. The issue was then taken up and turned into a law formally guaranteeing food security to all Indians under the auspices of political parties, the parliament, and the executive. However, the public campaign and the various branches of the government were not the only actors who played a part in shaping the legislation and the debate around it. There are two further roughly defined groups who were influential in this process: experts and the media. Both perform critical tasks in the functioning of a deliberative democratic system.

Epistemic claims for deliberation regard it as promoting better outcomes through acting as a social learning process. Arguments are intersubjectively considered and the most convincing reasons win out, while narrow and selfish interests are side-lined. Experts facilitate this process by providing information which can be used in the assessment of claims. Habermas has long been concerned about the dangers posed by too prominent a role for expertise, however, warning about the loss of legitimacy where technocratic rule is insulated from popular input or control. More recently the position of ‘experts’ in public discussion has come under renewed suspicion and attack even from government ministers. Anxieties about the displacement or devaluing of expertise within public deliberation may intersect here with concerns about the reliability of the media (see chapter seven).

### **Expert knowledge in deliberative democracy**

The epistemic argument for deliberative democracy suggests that legitimating decisions through public and open processes of argumentation results in rationally justified and better-informed collective choices. For Habermas, the practice of political deliberation even offers a “truth-tracking potential” (2006:411). Communicative reason, underpinned by idealising presuppositions, allows for the development of mutual understanding and social learning (Habermas 1997). It is from the network of such communicatively ordered

discourses at the widest social scale that collective public opinions are formed and “democratic authority emerges” (Habermas 1997:4-5). The exercise of power is legitimate insofar as it is based on positions which have been successfully justified through discursive processes of reason-giving.

Modern societies face complex issues and the general population arguably lacks the knowledge to fully comprehend many of these concerns (Somin 2010). Societies must confront questions involving levels of technical detail which are out of reach of the vast majority. This is particularly pertinent with regard to scientific and technological developments, but applies in other areas too, including economics. Science and technology studies scholars, including Jasanoff (2005), have explored how scientists have responded to public resistance to various technologies, often understood as based in a lack of knowledge. This has led to attempts to use communication and participatory mechanisms to promote public understanding and acceptance of scientific innovations, although as Jasanoff notes (2005:250), there is

little evidence that public ignorance of specific scientific facts correlates in any meaningful ways with collective responses to science and technology.

The proper relationship between specialised, expert knowledge and public decision-making is thus contested. Promoting the idea that science can produce value-neutral knowledge of the most efficient solution to social issues depoliticises problems, removing them from processes of public discussion and deliberation.

Habermas has long been concerned with the risk posed to democratic legitimacy by technocracy. Writing in the late 1960s, Habermas (1971:316) critiqued the “positivist self-understanding” of science for contributing to the “substitution of technology for enlightened action”. Habermas’ rejection of the claims to value-neutral science – part of the positivist dispute in Germany – is now decades old, and the idea of knowledge as purely objective fact has been thoroughly problematised at least in the social sciences and humanities. However, the risks of technocratic rule remain a relevant concern.

There is a genuine need for specialised knowledge in the management of modern societies; Habermas (1997:320, emphasis in original) notes the possibility of the “*cognitive overburdening*” of democracies. The danger is that the monopolisation of knowledge can result in paternalism, with control concentrated into the hands of a few who exercise an

“inconspicuous domination over the colonised public of citizens” (Habermas 1997:317). This can lead to blockages and distortions in the public sphere, with experts’ understanding of problems displacing that of citizens. Writing about the European Union, Habermas argues (2015:11-12) that technocracies which lack democratic oversight lack both the ability and the will to correctly assess the value attached by the electorate to goals such as social justice or public services where these clash with the requirements, say, of economic growth. Knowledge must be treated in a comparable way to other arguments and subject to the same processes of public discussion, entering consideration in the “*first stage* of opinion- and will-formation”, but with the understanding that this is “naturally fallible and rarely value-neutral” (Habermas 1997:164, emphasis in original). This knowledge becomes subject to “political evaluation”, which proceeds according to the usual practice of communicative discourse, including preferences, interest positions, and value orientations (Habermas 1997:164). Expert knowledge should not be used to override or circumvent public deliberation, but as a contribution to an improved process of public will formation.

### **Expertise in India**

In the Indian political system, there is one institution which stands out in post-independence history for expert advice: the Planning Commission. This body was established by India’s first Prime Minister, Jawaharlal Nehru, in 1950, and remained in operation until its abolition by Narendra Modi’s government in August 2014. Over more than sixty years, the Planning Commission acted as a core site for scientific and expert input and direction on economic and social development. However, a second and more ad hoc body with claims to relevant knowledge, the National Advisory Council, was unique to the United Progressive Alliance government which ruled from 2004 to 2014, and its composition raises questions about the nature of expertise.

The Planning Commission was set up to harness scientific and technical knowledge for the social good of the country. As Nehru put it, “planning is science in action” (Nehru 1946, quoted in Scoones 2006:49). Nehru chose various advisors from the worlds of science and technology, perhaps most notably P.C. Mahalanobis, a physicist and statistician who founded the Indian Statistical Institute in Kolkata and would later draft the second Five-Year Plan (Guha 2007:206-207). The Planning Commission held primary responsibility for

designing and implementing the Five-Year Plans, which set the direction and targets for development, and was chaired by the prime minister and composed of “high Cabinet ministers as well as experienced members of the Indian Civil Service” (Adeney and Wyatt 2010, Guha 2007:206).

Although the Planning Commission was established only after the passage of the constitution in 1950, its existence was foreshadowed by the Congress party’s National Planning Committee (NPC), founded in 1938 and headed by Nehru himself (Guha 2007, Scoones 2006). This was a reflection of Nehru’s own enthusiasm for science and technology, and his belief in the urgent necessity of state-driven action for achieving both industrialisation and greater economic justice. As Guha (2007:205) emphasises, this view was shared by leading capitalists, and the committee was made up of roughly equal numbers of scientists, politicians, and industrialists.

The committee defined planning as,

the technical co-ordination, by disinterested experts, of consumption, production, investment, trade, and income distribution, *in accordance with social objectives set by bodies representative of the nation* (Shah 1948, quoted in Guha 2007:205, emphasis added).

This definition is a succinct statement of one understanding of the ideal function of scientific and technical expertise in a democracy. Firstly, it expresses the idea that the proper use of scientific or technical knowledge is as a tool to execute decisions taken elsewhere; expert knowledge is at the service of wider society, pursuing goals but not setting them. Despite the central importance which Nehru attributed to science, his vision was not straightforwardly technocratic. He understood that it was “good politics” to involve people and experts in his grand drive towards economic development; indeed, he saw it as having the potential to bring the Indian people together across the various divides in society (Guha 2007:210-211). Rather than the rule of experts,

science must be made the handmaiden of economic progress, with scientists devoting their work to augmenting productivity and ending poverty (Guha 2007:215).

This was the premise which was carried forward from the Congress’ NPC into the Planning Commission of newly-independent India.

However, there are assumptions within the NPC's definition of planning which suggest complications in this ideally non-technocratic view. The mention of 'disinterested experts' points back to the impossibility of totally objective knowledge discussed above. More than this, there is the question of determining where the boundary lies between technical knowledge and politics. If the role of the public, or its 'representative bodies', is to set overall objectives, how detailed should these be? What should be left to the determinations of experts and what should be the subject of more general deliberations? The NFSA is a good example of the difficulty in drawing this line, given the debates over the best way of fulfilling the social goal of universal food security.

From this apparently ideal situation at the time of independence, the position of scientific knowledge as serving the public interest was subject to degradation. The Planning Commission was intended to embody Nehru's ideals regarding the role of the state in promoting development. However, the independence of the planning body from various special interests was "very rapidly eroded" (Fuller and Harriss 2001:8). The advice emanating from the Planning Commission reflected wider shifts in political priorities; from a broader understanding of poverty and its causes in the first five-year plan, the second and third plans were focused almost exclusively on poverty as "mainly the result of low productivity and a lack of continuous work" (Corbridge et al. 2005:59). Nehru believed in the importance of public participation in the planning process, but if this was ever a true reflection of practice in India, it seems to have drawn closer to the model of political insulation which has concerned Habermas. Commenting on their own field of agronomy and specifically on the proposed introduction of a genetically modified strain of brinjal (aubergine), a group of Indian scientists wrote that,

this context is characterised by a dominant view within the scientific establishment that favours pathways that are in line with national and international corporate interests, leaving little space for consideration of alternatives (Shambu Prasad et al. 2012:176).

These scientists dissented from the majority position and had been involved with the development or promotion of alternatives to controversial genetically engineered food crops, noting increasing pushback from civil society on these issues. Nevertheless, their account suggests that Indian science culture echoes the same attitudes highlighted by



Jasanoff (2005): that the problem is one of ignorance and that certain questions should not be open to public debate (Shambu Prasad et al. 2012:176).

The nature and place of scientific expertise in Indian policy-making appears to have shifted over time. Nehru was deeply interested in science and technology and committed to the place of expert knowledge in state-led models of development. Even after his death, this interconnection of science with the state through planning continued; the Green Revolution, “a state project *par excellence*”, is a particularly notable example, taking funding and advice from abroad but led by Indian scientists and the Indian state (Scoones 2006:49). The closeness of the ties between the state and scientists may have been supported by “close caste ties between the ‘Brahmin knowledge elites’” connecting scientists and bureaucrats in the post-independence period (Scoones 2006:54). Although reservation policies designed to promote inclusion of previously shunned caste groups will have had some impact,

such informal ties associated with class, caste, education and social position remain important links in the creation of a knowledge elite (Scoones 2006:54).

Under Nehru and his immediate successors, scientists were drawn into and directed state-led projects and often came to occupy bureaucratic roles. While the state is still important, scientists have come more and more to be embedded in the private sector, and to intervene in public policy from this setting. Science and technology experts are often given considerable power, even if this takes the form of “notionally advisory” committees, yet are not necessarily visible or accountable (Scoones 2006:80). Expertise can be used by politicians and bureaucrats to deflect criticism, with the result that debates are foreclosed, taking place within elite networks away from public deliberation. This situation appears to justify Habermas’ concerns about the anti-democratic potential of technocratic approaches.

The demise of the Planning Commission may be an instructive suggestion of the current place of expertise in Indian democratic practices. The Planning Commission and its five-year plans may seem almost impossibly quaint in the second decade of the twenty-first century, survivals of a twentieth century faith in a techno-socialist utopia. Its abolition by the Modi government, in August 2014, was perhaps a surprise, yet in keeping with a reduced state role and liberalised economy, its “relevance” already in question years before (Samaddar 2016, Scoones 2006:50). Its dismantling reflected a changed understanding of the role of expertise and of government, since planning “is finally social intervention in the

process of economy”: planning, as Nehru intended it, is ideally dialogic and deliberative, encouraging participation (Samaddar 2016:xiv). Its replacement, policy-making, is characterised by its “in-built flexibility, non-accountability and target-oriented approach” (Samaddar 2016:xiv). The establishment of NITI Aayog (Policy Commission/National Institution for Transforming India), a self-described “thinktank”, as the substitute for the Planning Commission, bears this out. No longer a conscious, collective endeavour towards long-term goals, its role is reduced to commentary.

In the period of the case study, there was another body providing expertise and feeding specialist opinion into the process of law-making. The National Advisory Council (NAC) was an institution peculiar to the UPA coalition government. Established after the election in May 2004 to oversee implementation of the National Common Minimum Programme (NCMP) of the coalition and its supporting parties, Sonia Gandhi was appointed as its head in June that year; her participation garnered much of the influence and prestige of the body. Gandhi resigned from the council in March 2006 amidst a dispute about whether her chairing constituted “holding an office of profit”, and its power declined until it was disbanded in March 2008 (Sankaran 2010:10). It was re-established, again with Sonia Gandhi as chair, in March 2010. The NAC represented an alternative source of expertise.

In contrast with the Planning Commission, staffed by civil servants and with a clearly established place in the formal political system, the NAC was relatively ad hoc and, particularly in its second period, provided a different kind of input into the legislative process. While some of those involved were experts in a more traditional sense, with backgrounds in academia and civil administration, some were chosen for their links to civil society. This was the way that the NAC was presented on the Government of India’s website: as an “interface with civil society” (Sankaran 2010:11). Under the second UPA government, there was no NCMP to monitor, so the body set its own agenda, focusing on social policy and “the rights of disadvantaged groups”.

In thinking about the role of expert knowledge in a deliberative process, the differences between the Planning Commission and the NAC may be quite instructive. The Planning Commission at this time was still a large and powerful body, with a staff numbering in the hundreds and making budget grants to the states; one of my interviewees

compared its role to that of finance ministries elsewhere. The NAC was made up of 12 or 13 members, appointed for renewable periods of one year, along with support staff. This staff was only one secretary with two officers in the first period, but by the second period, when the NFSA was being developed, this had increased to 15-25 staff. Although this suggests an increased importance over time, one of the members of the NAC throughout told me that these staff members were able to “usurp” the powers of the council members: “bureaucracy can stall every inch of the road”. His understanding was that other parts of the government did not support the aims of the council and therefore caused delay and frustration, continually requiring revisions to the NFSA, especially relating to its financial cost. The significance of the NAC, as attested to by various of my interviewees as well as other sources (e.g. Sankaran 2010, Pandey and Singh 2017), was due to the presence of Sonia Gandhi, someone “seen as more powerful than the prime minister”. Because of her, the advice of the NAC was “taken seriously even when it wasn’t acted on”. The advice of these experts mattered not in itself, nor through their relation with the wider public, but because of the proximity to power of its political head. Sonia Gandhi’s influence even had a critical impact on the content of the draft bill, as discussed below.

In my interviews, I met with four members of the NAC in UPA-II; two had also been members in the first period. One of my interviewees from the first period seemed dubious about the inclusion of what might be termed activist members from 2010 onwards; he described the participants of the first NAC as more “professional”. Again, this raises the issue of the forms of expertise that are recognised as valid, since, of the two new members I interviewed, one is an economics professor who has worked closely with two Nobel laureates, and the other is a former IAS officer and Supreme Court Commissioner. However, they had both earlier been involved with the Right to Food campaign as well as other work with marginalised people and thus tend to be seen as activists rather than objective experts.

A further question relating to expert knowledge concerns the balance between the lived experience of affected individuals against the broader views produced by formal research. For instance, one of the arguments around the PDS was about the potential for introducing direct cash transfers in place of subsidised grain distributed through fair price shops. Many economists have been enthusiastic proponents of direct cash transfers, seeing

them as more efficient than the current system; they avoid the massive costs involved in government procurement, storage, and transportation of grain, as well as the potential for “leakage” through dealers (see Kishore et al. 2014). However, one of my interviewees had done research on a pilot scheme for direct cash transfers in Delhi. Delhi is a promising site for such a project, as it is a large city with extensive banking infrastructure, in contrast with many rural areas where banks and cash machines are relatively scarce (Kishore et al. 2014). Nevertheless, following the trial period, many participants preferred to continue purchasing subsidised food from the fair price shops rather than receiving cash (SEWA Bharat 2012). My interviewee noted that the central government, which has enthusiastically promoted the Jan Dhan scheme to encourage poor Indians to open bank accounts, was extremely keen to push on with direct cash transfers and was trying to do so in centrally-controlled Union Territories including Chandigarh; he doubted that it would be taken up by state governments. The question of whether the experiences and preferences of those in receipt of the benefit should count for more than the perceived efficiency of the alternative is certainly an intricate one, but it is difficult to make a democratic argument for simply pushing them to the side without debate in favour of pursuing best practice as defined by expert outsiders.

Since the NAC was a relatively small group of individuals, each picked by Sonia Gandhi and Manmohan Singh, the idea that it could act as a genuinely representative body or conduit for Indian civil society as a whole seems questionable (Sankaran 2010:11). Nevertheless, the council created a draft version of the bill which reflected a different set of priorities to those which guided the Planning Commission, as I discuss in the empirical analysis.

It may be useful to consider how actors conceive of their own positioning in deliberation. Reetika Khera is an assistant professor of economics at the Indian Institute of Technology in Delhi. She has worked closely with Jean Drèze, her former thesis supervisor, another academic economist who was one of the leads in drafting the NAC’s bill. She has also worked with the Right to Food Campaign, though as an outside supporter rather than a member.

During our interview, I asked her about her experience of working as a researcher with deep political and social commitments, and the impact on the reception of her work.

She described an attitude of constant “questioning” and a sense of having her expertise undervalued due to a presumed lack of objectivity, telling me that as someone seen as progressive or left of centre, she would be presented in media interviews as an “activist”, whereas “if you comment on the same issue from the right side [i.e. right wing], then you’ll be called an expert”. She spoke of her frustration at being judged by academics in the US, passing judgement sometimes based on outsourced data collection, far removed from the “researched”: “the closer you get to them, the more it shapes you as a person”. In her own work of data collection, out in the field, she reported that they try to do it “rigorously, as carefully as possible”, but that their conclusions might be dismissed because of these perceived biases, “but what can you do, no?”

From the perspective of this interviewee, her role was to use her work to support the pursuit of progressive social and political goals, including securing adequate food for all. By refraining from involvement in public discourse and remaining within the academy, one might stay “Brahminical and pure”; undertaking field research and participating in media work would render one “polluted”, open to the suspicion of not being objective. Though she recognised that this suspicion of political commitments was a broader problem, she felt that it might be exacerbated in India due to the influence of casteist mindsets (though she stressed that this did not apply to her personally), and due to gender discrimination. Brahmins still occupy a wholly disproportionate percentage of high-level government, media, and academic roles (Roy 2014). The caste system is not my focus and I cannot give it the attention such a complex topic deserves, but it continues to affect the quality of life and opportunities of many Indians. Khera’s comments about caste are echoed in Scoones’ remarks above about the reach of the Brahmin knowledge elite.

Implicitly or otherwise, participation in knowledge production and exchange entails political commitments, since information cannot be presented pure; any attempt to shear the context is inherently contentious. This complicates the picture of ideal scientific or expert involvement, since it may be impossible to directly inform the public without adding subjective views.

### **Empirical analysis: expert panels**

In this section I analyse key documents from the two expert forums which had the most direct impact on the shape of the National Food Security Act: the National Advisory Council and the Prime Minister's Economic Advisory Council. I look at the NAC's draft legislation, dated January 2011, along with earlier recommendations dated October 2010, and an 'explanatory note' to accompany the draft bill, from February 2011. The report from the expert committee is from April 2011 and was a response to the NAC's draft bill.

### **National Advisory Council documents**

The draft legislation from January 2011 divides the bill into two parts, the first dealing with the details of the legal entitlements, and the second with the accompanying grievance redressal mechanisms. These were intended to ensure the fair running of the food distribution schemes through the ongoing involvement of the beneficiaries, underscoring the council's commitment to a democratic vision of the legislation. This was supposed to help secure the efficiency of the scheme.

Although the phrase did not appear in the earlier recommendations, both the draft bill and the supplementary explanatory note refer to the right to food as an explicit goal of the legislation. In the January 2011 draft, this is expressed expansively as the

fundamental right to be free from hunger, malnutrition and other deprivations associated with the lack of food and related matters.

This expresses the wide-ranging commitment of the NAC. Rather than a narrow focus on subsidised food alone, the draft bill and accompanying note outlined a "life-cycle" approach, an integrated view of human nutrition. This included special provisions for pregnant and nursing mothers and infants, noting the scientifically founded focus on the first 1000 days of life (from conception) as crucial to future well-being, alongside support for other named groups including the homeless, migrants, and the destitute. The bill states that,

Any person or household living with starvation, or at risk of starvation, shall be entitled to additional assistance that is immediate, free and unconditional through all means required to avoid starvation.

This is an absolute commitment that the government will act where necessary to assure survival for all its people.

The bill also details plans for implementation, including reference to a process of grievance redressal. This is an essential part of the bill's approach, since it invests significant authority for ensuring that the intentions of the legislation are carried out with those affected. The bill creates a way for the beneficiaries to be involved in implementation, from overseeing the drawing up of lists of those who should receive the subsidised ration to holding officials accountable if food is not delivered. If done well, this offers the opportunity for ongoing participation and deliberation, a sense of ownership over the law, a properly Habermasian goal.

The section on grievance redressal helps counter an accusation made repeatedly by critics, that the food schemes are a waste of money because of "leakages", that is, corruption, as well as other wastage through, for example, food rotting in inadequate storage facilities. The recommendations from the NAC in October 2010 are particularly interesting as they list the various innovations which could be used to support the bill's goals, including:

decentralised procurement and storage... application of ICT including end-to-end computerisation of the PDS... use of Smart Cards and biometrics subject to successful pilots (NAC 2010).

However, the use of such strategies and technologies are embedded within an approach which emphasises enhanced accountability; the aim is to ensure an efficient system that prioritises the agency and control of those affected. These ideas were, as noted in the bill (NAC 2011a part I.4.2), drawn from the experiences of states who had recently reformed their own PDS, and had empirical backing.

From the point of view of both the Right to Food Campaign and some of the NAC members themselves, one of the most disappointing aspects of the draft bill was that it was restricted to only a proportion – albeit a large one – of the Indian population. The explanatory notes states that,

Deliberations in NAC started with the premise that India *should progressively move towards ensuring universal entitlements* to the essentials of life such as food, basic education and health care (NAC 2011b point 6, p.2, emphasis added).

This would have been in line with the (somewhat contentious) consensus reached by the Right to Food Campaign. While the bill goes on to insist on the inclusion of a "large majority" of the Indian population, on the basis that food insecurity goes far beyond the highly limited Below Poverty Line (BPL) category, the language of universality immediately

disappears. Instead, the bill proposed to extend differentiated entitlements to groups identified as “priority” and “general”, covering in total 90% of the rural and 50% of the urban population (NAC 2011a). The reasons for this retreat from universalism are discussed below but would have a damaging impact on the NAC’s ability to argue its case coherently.

These documents constitute the NAC’s case for its vision of the National Food Security Act. The contents of the draft bill’s framework and accompanying documents outlined above act as stages of deliberative argumentation as suggested by Fairclough and Fairclough (2012).

The circumstantial premises of the argument revolve around the need for such a legislation in the context of Indian society. The framework of the bill does not directly address this, but in point 7 of the explanatory note, the authors state that,

consumption standards of majority of Indian are extremely low. Close to 836 million... constituted 77% of the population in 2004-05 and had a daily consumption expenditure of less than Rs.20 (NAC 2011b:2).

There is reference to “available data on child undernutrition” as further evidence of food insecurity, though references are not given. The report additionally stresses that the current system of BPL measurement is flawed, both in “serious inclusion and exclusion errors” and in that it fails to take account of many more Indians technically above the poverty line who remain deeply food insecure. This establishes the need for broad-based and widely inclusive food access programming and justifies the proposal to reform the existing system due to its inadequacy.

The value premises of the argument are expressed in the bill’s framework 2.1, subtitled “Objective”, as well as the “Motivation” and “Objectives” sections of the explanatory note. The motivation states that the bill is to “provide a guarantee of adequate nutrition”, and further that this “is derived from the right to food as an aspect of the right to life”, drawing on the Indian constitution (NAC 2011a). The primary value argument is based on human rights with an implicit appeal to ideas of equity and justice. Moreover, the objectives paragraph stresses that this bill covers “economic and social access” and mentions “dignity” as an essential aspect of the right to food. This shows the council’s understanding



that the purpose of the bill is not to distribute food as if bestowing charity, but to create a legal compact between the state and its citizens that all their lives are valued.

This commitment is taken further in the same paragraph, which continues that this right holds good “for all persons in the country, at all times”. This is a very broad commitment, hinting at a universal approach which would potentially stretch even beyond citizens to others living in India (including external migrants, as well as covering internal migrants who frequently slipped through the cracks of the previous PDS because of locally-limited ration cards).

The documents suggest that universalism was the starting position of the NAC in approaching coverage, and that the original value premise of the argument was that the right to food should in principle apply equally to all. The argument from human rights lost some of its rhetorical and ethical force when the NAC retreated from the universal position. This would become a major point of contention within the council, revealing limits to the power of deliberation in this forum which are suggestive of its broader structural restraints.

In describing the composition and role of the council above, I mentioned the critical role of Sonia Gandhi. Gandhi was, at this time, seen as being more powerful than the prime minister. The BJP would later accuse her of having been a “super PM”, controlling the government “by proxy” without the accountability required by a formally defined role (Pandey and Singh 2017). However, at least in the first period of UPA government (2004-2009), she had considerable moral standing through her choice not to take on the premiership herself. I should stress that the following analysis is my understanding of what I was told by interviewees, and should not be taken as a reflection of their views. I am not questioning Gandhi’s sincere belief and commitment to the legislation and its goals, but seeking to highlight the structural power relations which inevitably affected this forum regardless of any intention on her part.

In general, according to my respondents, Gandhi endeavoured to remain largely quiet during NAC debates and not take a strong position, since she was aware that her opinion would be difficult to ignore. One respondent told me that Mrs Gandhi was almost always silent during the “intense debates and fights, animated, agitated” that sometimes characterised NAC meetings: “she would just quietly listen”. In retrospect, he greatly

appreciated her reticence as allowing discussions to continue freely, since her opinion would have had additional weight. Gandhi was aware of the influence that she potentially had over the course of deliberations and was careful to refrain from using this. As far as this member could recall, the debate over universalisation was the only time she broke from her habitual quiet neutrality.

This impression was strengthened in my interview with another member of the council. He brought up this issue of Sonia Gandhi's role in answering a question about key discussions within the NAC; I had not mentioned her.

Mrs Gandhi talked very little. She's a shy person and doesn't talk much, but on the other hand she obviously carried a huge amount of weight, because she was the chairperson and also the chairperson of the UPA and so on. At one point she clearly conveyed that she was not in favour of universalisation, she said you know, why should we give food to the rich and that kind of thing, and so that was the end of that discussion, more or less.

My interviewee highlighted the power that Gandhi had over the course of discussion, both because of her direct relationship to the council members as chair, but also due to her wider political standing as the leader – as chairperson and Congress president, though not, of course, prime minister – of the UPA government. Although participating in a national council to deliberate and lay out a plan for a major social policy in their area of expertise, their views could be gently set aside, and discussion curtailed, by the decision of one person.

Gandhi's argument in favour of a targeted approach seems to have relied on a value-based premise of justice:

She raised a very simple question. She said, you know, suppose that we go to a village, and I find that there is a poor woman sitting by the roadside with three children next to her, and opposite her is this big house, where there is also a person with three kids and cars, how do I justify to this woman, that you will also get five kilos and he, the person, will also get five kilos?

That this was the essence of her argument appears to be confirmed by the remark above, that Gandhi's argument was, "why should we give it to the rich". For Sonia Gandhi, providing the same access to food to both poor and rich was a serious injustice as well as politically insupportable. This is certainly a reasonable position, though the commitment to a universal system would have had other advantages, such as the removal of inclusion and exclusion errors in determining eligibility for the subsidised ration. Involving those less disadvantaged and politically marginalised may also help to improve the quality of services,

since these groups are more likely to successfully resist substandard provision. According to one member, the council alternatively proposed limited universalisation in the poorest 200 districts of the country, where surveys suggest that at least 80-85% of the population live below the poverty line; he felt that the inclusion of the relatively small proportion of wealthier (though not necessarily rich) people would not represent an unreasonable additional burden, especially as some might self-select out of the ration. This idea too was discarded. Gandhi's argument was not without merit, but it is significant that she was able to forestall further discussion of the issue.

This points to a serious underlying difficulty with the deliberative model. This panel of experts with a range of experience and links with civil society groups should have been as close to ideal as is likely possible for deliberating together and designing a well-thought out and robustly argued policy. Albeit with some resource constraints, the panel had the potential to craft this flagship legislation, at least in draft form, according to their joint understanding of best practice. However, the presence of someone with great structural power meant that the original starting position of most members, that provision should be universal and uniform, had to be abandoned, due not to the forceless force of the better argument, but because one participant was able to impose their view, however delicately this was done. On the other hand, as my respondents recognised, without Sonia Gandhi the NAC would not have existed at all, and it is difficult to see how the committee members could have had such a direct influence over the shape of the legislation.

In an interview with a senior journalist, he commented that in joining the NAC, the members of the Right to Food campaign became "quasi-government". In the process, however, these high-profile representatives of the campaign had to accept being ultimately constrained by the views of the person to whom they owed their position, even though she largely refrained from asserting them. Moreover, the acceptance of this argument created problems in constructing a coherent case for the bill. This trade-off between insider status and greater influence as against maintaining a more radical and confrontational approach from outside is a familiar one for social movements, as Dryzek et al. (2003), amongst others, have discussed. In this case, the power the campaign could exert through the NAC was considerable, and the movement was able to continue its activities beyond as well.

Nevertheless, it is a reminder that deliberation can only take place within the limits set by power.

The value premises of the argument as ultimately determined by the influence of Sonia Gandhi would have a further impact on the pragmatic, means-ends premises of the NAC's case. Evidence from the period following the shift to targeting showed that the reformed PDS was more prone to leakages and less effective at price stabilisation, with only "negligible improvement" in access by the poor (Himanshu and Sen 2011:39). A universal system has a significant advantage over a targeted system in terms of its efficiency; the same applies with regard to uniformity of provision. A remnant of this argument lingers in the NAC's proposed legislation, with the claim in the explanatory note that, in making eligibility

much more inclusive, the NAC proposal does away, to a large extent, with the problems of exclusion and wrongful inclusion,

noting that evidence suggests that "abuse" of the methods for identifying BPL households has meant "the frequent and widespread exclusion of the most deserving" (NAC 2011b:3, para.13). However, this premise is weakened by the fact that the NAC proposal, though aiming at excluding the wealthy rather than targeting the poor, embraced both a non-universal and differentiated approach; as the Rangarajan committee would pick up in their response, a non-universal system no matter how broadly targeted will always require the specification of the grounds on which individuals or households are to be included, and in which category, as well as identifying beneficiaries. The result of the NAC's deliberation was a proposal which one member described as, "horrendously complicated and just not workable"; he consequently withdrew from the working group.

In addition to these complications, the ability of this expert group to present a proposal which they collectively found satisfactory was hampered by the external constraints applied by the Finance Ministry, responsible for allocating resources for the programme. As an initial figure, one interviewee told me, the group had taken the amount of 40,000 crore rupees (40 billion INR, or around \$538m), the approximate budget of the National Rural Employment Guarantee Scheme at the time. The NAC through the process of refining their proposals was repeatedly given new, tighter budget estimates, from their original figure to 28,000 crore rupees, then to Rs.25,000 crore, then to just Rs.20,000 crore. The results of

these cuts were “arbitrary” decisions as to where to make exclusions or by how much to decrease allowances, along with frustration for council members. While resources are not infinite, the NAC had made a strong case for what they considered a reasonable level of expenditure and sensed that the continual driving down of the bill’s financial support was driven by the antipathy of the prime minister, Manmohan Singh. For the members of the of NAC, their role ended with the final submission of their proposed bill in a “gloomy” meeting overshadowed by the latest round of cuts. The clash between the values and priorities of the NAC and the expert panel formed by the prime minister would be further made visible in the report of the Rangarajan committee.

#### **Expert committee of the Economic Advisory Council to the Prime Minister**

Following submission of the NAC’s completed draft bill, the prime minister formed a panel of economic advisors to study and respond to these recommendations. The expert committee and the EAC were chaired by C. Rangarajan, an economist who had been Governor of the Reserve Bank of India (RBI) from 1992 to 1997. The panel also included the member secretary of the Planning Commission, the Chief Economic Advisor, and the Secretaries of the Departments of Agriculture and Cooperation, Expenditure (part of the Ministry of Finance), and Food and Public Distribution. Both Manmohan Singh and C. Rangarajan have backgrounds as academic economists and the former was finance minister from 1991 to 1996, introducing wide-reaching economic liberalisation measures, while the latter was serving as Governor of the RBI. The report of the Rangarajan committee was explicitly responding to the NAC’s draft bill and is limited to analysing the arguments made by others rather than formulating alternative solutions.

Unlike in party and parliamentary politics, the dynamic here is less critically oppositional. Political parties typically take opposing views, disagreeing almost as a matter of principle, but this does not apply to an exercise of this kind where an independent panel is reviewing and giving feedback on the work of another group of experts. The argument set forth in this report may be less clearly critical than was the case for the parliamentary debates.

The circumstantial premises of the argument are presented in paragraphs 2 and 3 of the report in the form of statements about the problem of hunger in India and the wider

economic context. Citing from the National Family Health Survey 3 (2005-06), the report (EAC 2011:para.2) notes that, among other “disturbing statistics”, 22% of Indians are undernourished, just over 40% of children under age 3 are underweight, a third of women aged 15-49 have a below-normal BMI, and almost 80% of children aged 6-36 months suffer from anaemia. The committee apparently sees these statistics as in tension with the country’s “high economic growth rate in the past decade” and recognises the extent of the problem that the bill sets out to address. This is hardly surprising; it is politically next to impossible in India to present an acceptable argument refuting the underlying issue of chronic hunger and malnutrition. Moreover, this is accompanied by a sense that the government has a responsibility to do something about the situation.

However, the way in which the problem is presented and understood here is still significant. Hunger is seen as an economic problem, but not truly as a problem of political economy; people don’t have enough money to buy sufficient or nutritionally adequate food, but there is no apparent thought beyond this as to why a large part of the population lacks the ability to acquire the basic means of subsistence. The continued prevalence of hunger alongside high growth rates is seen as anomalous, the relationship left largely uninterrogated. This has implications for the rest of the argument, as the focus rests on making up this shortfall within the economic system (carefully seeking to avoid too much disruption to markets or growth), rather than considering if more fundamental changes might be required where an economic system leaves hundreds of millions of Indians consistently malnourished. This report was produced by economists and as such this is perhaps unsurprising, but it is nevertheless indicative of one problem around the role of expert input in a democracy, which is the potential for a narrowness of view to effectively impose unstated and unrecognised limits to the solutions considered to social problems.

The value premises at work in this argument are less clear than in the NAC’s report. There is an acceptance that people should not be experiencing hunger and malnutrition, especially when economic growth is creating resources to ameliorate this, and that the Indian government should take action to tackle this problem. However, the whole is framed and justified in primarily economic terms, as in the argument that dealing with hunger should be seen as an investment in human capital (EAC 2011:para.3). The case for public provisioning programmes is cast as functioning “in ways directly analogous to the support

given for increasing other forms of capital investment". Health is recognised as an end in itself, but requires further justification from its potential economic impact. The implication is that people are valued first as workers, producers, consumers.

The report starts out from the draft bill produced by the NAC, but despite its wide-ranging nature, the committee report focuses almost exclusively on the PDS as the most financially costly element of the legislation. For my interviewees from the campaign and the NAC, these other aspects, including special programmes to promote child and maternal nutrition, were vital to the life-cycle approach underpinning the bill. The expert committee chose not to engage with these broader commitments.

Instead, the guiding principle is that the bill cannot be too expensive or cause too great a disruption to markets; food is positioned as a commodity rather than as an essential use-value. The approach of the panel was, in the words of the report, "to secure the wholly laudable underlying objectives in a way that is sustainable and administratively feasible" (EAC 2011:para.5). Several pages of the report are taken up with details of the requirements of the system in terms of food-grains as well as money, including emendations to the estimates given by the NAC and repeated expressions of concern about the impact on open market food prices (the NAC had deliberately been working with population data from 2010 in order to hold down cost estimates, according to one interviewee). In para.9, the EAC warns that, "it may be imprudent to assume an average procurement level of more than 30 per cent", noting that "a larger procurement has the danger of distorting the food prices in the open market", which is problematic because the proposed subsidised ration is insufficient and even those households eligible for the PDS would still need to purchase more.

While this information is important and relevant for building an argument, it is not always adequately integrated as part of a case. There is a table of estimated costs of the subsidy requirement, including the additional resources for the new system, but these are not contextualised within the budget of the Indian government or in comparison with spending in other areas. There is simply an implication that the bill is expensive – perhaps too expensive – without any further effort to substantiate such a claim. Likewise, as one of my interviewees stressed, the subsidy involved in provisioning the PDS carries a "dual burden", in that government procurement through the Minimum Support Price is a vital

source of support for farmers in several Indian states. Given the proportion of rural Indians supported by agriculture and the high level of poverty among Indian farmers, the fact that this aspect of the subsidy is not even mentioned by the report seems a glaring omission.

The expert committee rejected universalisation as a goal of the legislation, which would have cut out concerns around inclusion and exclusion errors and possibly market distortion. The NAC had already conceded the position of universalisation, proposing instead “near universal coverage” (EAC 2011:para.5). This made it easier for the expert committee to reject their argument, since “the need for proper identification of beneficiaries still exists”. In terms of arguments based in pragmatism and efficiency, this was the most powerful line of defence for the system originally envisaged by the NAC, but this disappeared with the switch to targeting, no matter how broad. In dropping the case for universalisation, the NAC had effectively ceded a strong argument for treating food as a right; if it is not the same for everyone, then there is no clear or necessary boundary for how far this should extend, and the Rangarajan committee could push it back as much as they pleased in light of the twin constraints of economic viability and political plausibility.

Like Manmohan Singh, they recognised that merely dismissing the bill was not an option, and their proclamations as to its worthy character are likely sincere. Indeed, in the “recommendations” section of the report they state that “few can quarrel with” the goal of the bill in providing to the “vulnerable” a base level of food entitlements at affordable prices (EAC 2011:para.17). In the same paragraph, there is a tacit acceptance of food as a human right, but this is immediately pegged back by concerns for the consequences of “failing to meet” legal entitlements or the state being accused of “reneging on such an important right”. The framing of the report prioritises what is considered a reasonable expenditure over the achievement of food security for India’s people without clearly justifying this ordering or specifying the financial limitations.

It may be necessary, in implementing social and economic rights, to aim for progressive realisation rather than having the capacity to enact programmes immediately, as Fredman (2008) argues. Here the focus is rather on the need to trim back the proposals of the NAC without any statement of intent regarding future expansion, or even much explanation of why the current proposals are unfeasible. It seems unlikely that the council would have agreed to a universal system without great struggle; given Singh’s animosity to



the project as a whole and Gandhi's opposition to the principle of uniformity, it was surely a political non-starter. Nevertheless, this argument was made much easier for the Rangarajan panel by the NAC's concession, since the shift from a language of rights to that of efficiency moved the debate into territory much more suited to the former.

The report of the expert committee leaves out or brushes over several aspects of the proposal made by the NAC. As well as overlooking the dual nature of the subsidy, the report deliberately only engages in discussion around changes to the PDS, merely noting the economic burden of other programmes without further comment (EAC 2011:para.7). The result is a restricted vision of the legislation and its possible impact. Moreover, the report does not respond at all to the NAC's proposal for social audits to help deal with grievances arising from unmet entitlements. In some ways this is unsurprising, since it is not clearly an economic issue and could be considered outside their remit. However, given the report's documented concern about the efficiency of the scheme and the possible wastage of resources due to leakages (a key argument of the bill's opponents), it seems less acceptable to skip over a proposal which is designed to tackle precisely this problem.

### **Conclusion**

If the Habermasian ideal of deliberation centres inclusion as a normative value, then exercises involving only specially chosen experts appear suspect. Habermas has expressed concern about the delegitimising impact of technocracy; when decisions are taken out of people's hands, they can no longer see themselves as the author of the rules which govern their lives. Expert panels of the type represented by the Rangarajan committee or the NAC are therefore potentially problematic in representing a diversion of power away from the deliberating public as a whole.

However, expert advice in the form of such panels is not anathema to a properly deliberative political system. Bodies of this kind can play a justified role insofar as they contribute to discussion without dominating or overwhelming it. Ideally, experts should add to the quality of deliberation by providing specialist information or additional perspective on issues which are outside the ordinary scope of knowledge. Experts can provide important input into democratic arguments especially in light of the significance of consequences, as highlighted by Fairclough and Fairclough (2012), since their knowledge

and experience may make them better able to anticipate possible unintended adverse consequences of actions resulting from political decisions. With this information, the broader public can feel more confident about what might follow from the courses of action being debated.

For the role of experts in democratic discourse to be valid, it is essential that the contributions they make conform to Habermas' requirements of deliberation, such as truth, sincerity, and normative appropriateness. A commitment to truth and sincerity must be extended as a goodwill assumption for such groups, as for participants in wider public debates, since this is difficult to prove and communication is, according to Habermas, only possible where this trust can reasonably be applied. This does not mean that all such bodies will appear equally trustworthy to those involved in deliberation; committees of experts which are perceived as partisan may have difficulties in convincing others of the validity of their claims, and this may have been a problem for the National Advisory Council, which was founded and chaired by Sonia Gandhi and was closely associated with her and her own political commitments. On the other hand, this opens interesting questions as to which values are seen as problematic and which are so entrenched as not to appear as possible distortions.

The disagreement arising between the NAC and the Rangarajan committee appears to be explicable, albeit at a somewhat implicit level, as a clash between values and their prioritisation. The crux of this matter is the relative significance attached to human life and well-being, on the one hand, and capital formation (couched as the national economy) on the other. The National Advisory Council takes as its priority the maintenance and improvement of human life. This is reflected in the life-cycle approach advocated, which takes a broad view of what is necessary to achieve the goal of a meaningful right to food. While the expert committee under C. Rangarajan agreed with the aims of the legislation, they were more focused on ensuring that the economic cost would not be too high; the impact on people's lives was subordinated to the impact on the government's budget.

Habermas' understanding of democracy as deliberative relies on a normative commitment to speaking across boundaries and difference, to finding mutually acceptable reasons for actions. This is a requirement for those seeking to pursue political goals according to deliberative ideals of democracy: they are obligated to present their arguments

in a way which others can reasonably comprehend and accept. However, this pressure has the potential to trap movements into pursuing politically self-defeating strategies. The NAC tried to make their argument acceptable to their interlocuters by presenting it in terms of its economic viability and efficiency, but this pushed them to fight on unequal territory where they were at a disadvantage compared to the team of academic economists in the prime minister's EAC. The core of the NAC case was not an economic calculation. It is of course impossible to know if a different strategy of argumentation would have been more successful in achieving a more expansive and holistic scope to the final legislation; certainly, there were powerful voices arrayed against such an outcome. However, the approach taken by the NAC in trying to build a deliberative argument seems to have made it easier for their opponents to set aside the strong legal and moral case and to focus instead on picking apart the financial side of the bill, treating a fundamental right as an accounting problem.

## Chapter Seven: The Indian Media and the Indian Middle Class

In discussing the impact of the media in shaping the debate around the NFSA, it is crucial to bring in the question of class. The massive growth in India's media system over the last three decades is directly related to the liberalisation of the economy. The rise of India's "new middle class" as a significant political (though not necessarily electoral) constituency is also related to liberalisation, as this rough coalition represents a group, no matter how heterogeneous, who are in favour of liberalisation and convinced of its benefits (Fernandes 2006). These groups are intertwined by a more direct relationship insofar as much of the new media environment exists to cater to those with disposable income, and the character and aspirations of the new middle class are shaped by and in response to media images and narratives of the modern good life. While considerable diversity obtains in India's media, there is an overarching bent towards subjects and positions favourable to the more comfortable members of Indian society.

### Indian media before liberalisation

The initial flourishing of the media in India centred on the establishment of printed news in the form of newspapers and magazines. In contrast with the countries explored in Habermas' *Structural Transformation of the Public Sphere*, however, in India this development was shaped by the presence of the British as an occupying colonial power. Some of the first newspapers in the country were created by the British for themselves, in English rather than vernacular languages. Even these publications were regarded with some suspicion by the government, as the

English press in India came to be associated with a liberal, reform-minded agenda that challenged the authorities both to justify their own actions and to respond to public demands (Athique 2012:15).

These papers were a way of learning more about the system of British colonialism in India and about events across the subcontinent, prompting the formation of a "pan-Indian public sphere" and a sense of national consciousness (Athique 2012:16). The reach of these newspapers was limited to those able to read English; while this group grew with the expansion of English-language education as the Raj sought to staff its bureaucracy, it remained a restricted, upper- or middle-class affair.

The creation of vernacular publications represented the possibility of a massive expansion in media consumption. Initially partially shielded from government scrutiny by British ignorance of local languages, and drawing from a wider base, these developed a stronger critique of imperial rule and directed public discussion “through indigenous traditions, often couched in classical and spiritual terms” (Athique 2012:16). Eventually, the British would monitor these papers more closely and regulate them much more strictly than their English equivalents, which would continue to dominate through to the end of the colonial era.

The English- and Indian-language press would be significant contributors to the incipient nationalist movement, helping to create and shape a sense of unified nationhood, and spreading and translating nationalist ideas within the Indian context. The press was a consistent supporter of Congress, whether backing home rule or outright independence (Athique 2012:17), and nationalist leaders including Gandhi used both English and vernacular media to promote their messages (Sonwalkar 2002).

This interdependence became problematic after 1947, when the print media was expected to act as the “‘fourth estate’, upholding citizens’ freedom of speech and acting as a watchdog” against the government (Rodrigues and Ranganathan 2016). The press continued promoting and explicating government policy in a way that “often translated into unthinking support for the Nehru government” (Sonwalkar 2002:824). In the Emergency of the mid-1970s, the media faced censorship, and more than two hundred journalists were detained. Thereafter, the press has largely maintained a more critical and confrontational approach to the state.

Direct engagement with printed news media relies on functional literacy, and while literacy rates are much higher now than during the colonial era, many Indians are still in practice excluded. This is particularly the case because it remains true that the English-language press is the only national press (Sonwalkar 2002:821); Indian languages vary widely by region, so it is the English newspapers, often based in Delhi, which dominate on the national stage and have the broadest reach to those in positions of influence. As Sonwalkar (2002:822) notes,

since the power structure is dominated by the educated, the written word carries weight that is out of proportion to its reach.

While cinema, radio, and increasingly television have been important, the print media – particularly English-language papers – are especially influential in reaching privileged and powerful individuals and in setting political agendas.

Film and broadcasting have been central to the Indian public sphere for decades, though broadcasting has really matured only since liberalisation in the early 1990s. Though the post-independence government largely retained the British system of press regulation, they permitted the print media to operate as a series of private businesses, while maintaining the existing state monopoly on broadcasting in the form of All India Radio (AIR, established 1930) and later Doordarshan, the state television network founded in 1959. While radio news is still reserved to the various AIR stations, hundreds of privately funded, commercial radio and television channels have come into operation since the early 1990s, accompanied by an influx of foreign capital.

Radio and television were incorporated into Nehru's vision of a modernising nation. Wider attitudes saw the potential for radio and film in "underdeveloped" countries with relatively low literacy rates, as educational tools to promote appropriate developmental mindsets (Athique 2012:36). Resources were directed into the creation and programming of radio and documentary film production, controlled by the government:

The content of Indian state media provided an endless celebration of scientific progress and state policy, along with a kaleidoscope of what the government regarded as authentic Indian lives – heavily biased in favour of the rural India (Athique 2012:38-39).

Television was originally seen as costly and unnecessary in a country in which so many were living in extreme poverty. While film making in Bollywood and other regional centres would continue throughout the post-independence period, offering popular entertainment, this didactic government programming would dominate the airwaves right through until liberalisation began.

The advent of liberalisation brought huge changes to the media environment of India and a shift in its class orientation. Television, least developed prior to the 1990s, showed particularly significant and rapid changes. Until 1991, the only TV channels available were those of Doordarshan, "a notoriously monotonous and unimaginative state monopoly" (Thussu 2007:594). By 2005, there were more than 200 channels, and by 2014, almost 800 private channels had licences to operate, with Doordarshan having

commercialised and offering 21 channels. Of the private channels, 389 offered news and current affairs programming, and already in 2005, cable and satellite connections were thought to provide coverage to around 400 million people (Thussu 2007:594, Rodrigues and Ranganathan 2016).

Prior to liberalisation, the focus of the state monopoly broadcast media was didactic. Governments were not unaware of the possibility of using media for propaganda purposes; in Thussu's words (2007:594), Doordarshan was "uncharitably labelled as being a mouthpiece of the government of the day – a status that it rarely challenged". Indira Gandhi especially was insistent on the use of television for broadcasting the government line (Athique 2012:41). On the other hand, the state mandate directed attention towards social issues and perspectives which might otherwise have been neglected, especially the lives of rural Indians. These, and the lives of "the labouring masses of the country" have been almost entirely displaced from Indian broadcast media with the advent of private television, which serves the more commercially attractive upper- and middle-class, typically urban, market sector (Athique 2012:70). Even Doordarshan has been pushed by commercial pressure to try to win back this audience. The result is a dearth of social diversity, with a lack of representation for "religious and ethnic minorities, the poor, the old and the politically old-fashioned", and a television environment which is "Hindu and upper-caste in character" (Athique 2012:70). A large part of the Indian media effectively renders invisible the lives and problems of hundreds of millions of people, with political consequences.

The development and spread of satellite technology, particularly rapid after the collapse of the USSR left many devices out of use, meant that the entry of widespread television availability in India was chaotic. The government essentially chose not to regulate the sudden abundance of new channels and operators which had sprung up on a semi-legal basis. This absence of regulation allowed for a considerable diversity of broadcasters, including those with directly political, partisan linkages. Rodrigues and Ranganathan (2016) highlight the southern state of Tamil Nadu, where the major media operator is Sun TV. Founded in 1993 by a close relative of DMK party politicians, it became by 2012 the second largest network in India, hugely dominant over TN's television audience, with 80% of viewership. Though the relationship between the party and the network has not always

been straightforward, the news branch of the latter has acted as the media cheerleader for the DMK, especially in the lead up to elections and when the party has been in opposition. It has also provoked other parties to follow suit, with the DMK's main rival, the AIADMK, establishing Jaya TV in 1999. Smaller parties have their own channels too, though all have struggled to challenge the commanding position of Sun TV. Tamil Nadu is unique in the extent to which partisan news channels control the mainstream broadcast media, but similar operations exist elsewhere; for instance, the current prime minister, Narendra Modi, established the channel NaMo while Chief Minister of Gujarat. In contrast with the national media market, the dominance of Sun TV over the Tamil Nadu news market is amongst the highest in the world, though its regional identity limits its growth potential beyond south India (Mehta 2015:58-59).

As Rodrigues and Ranganathan (2016) make clear, there is no immediate correlation between such networks and political outcomes. Despite the dominance of Sun TV, the DMK won elections to the state assembly in 1996 and 2006, but lost in 2001, 2011, and 2016 to their arch-rivals, the AIADMK. In fact, Rodrigues and Ranganathan argue, these partisan channels have performed a limited type of deliberation, engaging in dialogic struggle in responding to and countering each other's perspectives on the news of the day. Moreover, according to these authors, the prevalence of hyperpolitical news in TN has driven an appetite for more objective information and a degree of media literacy, in that consumers can easily recognise the interests at play and filter out these elements to construct their own understanding of political issues. On the other hand, as they acknowledge, this is hardly what Habermas has in mind as an open and inclusive public sphere and may have deleterious effects on democratic deliberation by "limit[ing] the scope for debate and dissent" (Rodrigues and Ranganathan 2016). By effectively making a television presence necessary for entering politics, barriers have been raised against those without funding, while less partisan channels have been driven out by the increased competition in an unprofitable market (Mehta 2015). Neither influence nor legitimacy can be acquired with a broadcasting licence, but a media landscape heavily dominated by representatives of narrowly defined interests is unlikely to be conducive to wide-ranging democratic deliberation which can help to secure the well-being of all in a highly unequal population.



This overlap with modern class politics is perhaps the most widespread critique of the Indian media and was echoed repeatedly in my interviews. There is a common perception, dating back to at least the late 1990s, that the Indian middle class, unleashed by liberalisation from the austere spirit cultivated by Nehru, has become increasingly consumerist and selfish. Political and media attention has shifted from national development and uplift of the poor to the promotion of prestigious, high-value industries (ICT above all), the ‘beautification’ of urban spaces by the exclusion of the poor, and the satisfaction of middle-class aspirations to social mobility and the acquisition of status markers. Anthropologist and political scientist Leela Fernandes (2006) touches on this debate in her book on India’s “new middle class”, citing Pavan Varma and Rajni Kothari as examples. However, she argues that as well as being based in an idealised view of the past, these views are in part motivated by an anxiety about the “ability of a consumerist Westernised middle class to fulfil this role of national representativeness” vis-à-vis both Western countries and India’s internal “complex social structure of subaltern groups and vernacular elites” (Fernandes 2006:71). That is, the middle class are supposed to act as a universal representative class for the whole of Indian society, in the face it presents to other countries, laden as these relations implicitly are with the history of colonialism, and within, mediating between other classes and the state. The idea that the Indian middle class is no longer willing or able to fulfil this role properly is closely linked with the development of the media since liberalisation.

### **Post-liberalisation**

Although there were undoubtedly ideological drivers of liberalisation, including the economic beliefs of Manmohan Singh, its most proximate cause was the Indian government’s foreign debt crisis and the coercive loan conditions applied by the International Monetary Fund (Rodrigues and Ranganathan 2016). The government’s approach to the deregulation of the broadcasting industry was to remain uninvolved as various companies scrambled to secure their participation in a rapidly growing and potentially lucrative market. This was largely a new development, occasioned by the expansion of satellite technology. The print media was eventually opened to greater investment, including by foreign companies. While the print media generally backed liberalisation, its application within the industry was more controversial; some welcomed

the potential for more investment and the prospect of increased professionalism and growth, whilst others were concerned about the implications of foreign input into the news and possible political influence (Rodrigues and Ranganathan 2016). Overall, there was greater resistance to globalisation by the print industry, meaning that foreign ownership was only permitted in 2005 and remained capped at 26% as of 2013 (Kohli-Khandekar 2010, Rodrigues and Ranganathan 2016). Despite this, there has been extensive growth in the number of publications and in their circulation figures, rising in India as the industry declines elsewhere. Media is a vast and often profitable business in India and several large corporations have extended their holdings to include media concerns. Corporate behemoth Reliance Industries owns Network 18 alongside its interests in telecommunications, petroleum, biotechnology, and other sectors. As Athique (2012:7) indicates, changes in the Indian media environment since the early 1990s “have been consciously oriented towards private investment”, with consequent impact on the nature of the media, its relation to its audience, and the way it uses its influence.

Crucially, there is an increasing reliance on advertising, entailing a heightened sensitivity to the audience. This is not inherently negative; the monopolistic hold of pre-liberalisation Doordarshan is not likely to be much missed, even if the replacements leave something to be desired (Athique 2012:70-71). However, the more affluent sectors of society are the most attractive to advertisers, and the media is incentivised to pursue a “special focus on potential consumers” (Drèze and Sen 2013:265). There is little to encourage media outlets to spend resources exploring experiences of those Indians without purchasing power, reinforcing the focus on “fashion, gastronomy, Bollywood, and cricket”, to quote Drèze and Sen (2013:266). The contention is not that these things are bad, nor that interest in them is limited to a narrow slice of Indian society (certainly this would not be true of the latter two), but rather that other topics are arguably of more pressing significance in a country where hundreds of millions of people are permanently malnourished. Drèze and Sen (2013:267) echo above-mentioned sentiments about the declining social awareness of the Indian upper and middle classes by laying much of the blame for this on their “lack of interest and engagement... on matters of social inequality and deprivation”. I return to this below.

Beyond the question of content being driven by the wealthiest consumers, there is the issue of increased corporate influence over the Indian media industry. This tendency has been framed as “Murdochisation without Murdoch” (Sonwalkar 2002:827, see also Thussu 2007); Indian media outlets are seen as having embraced the business-friendly model of Rupert Murdoch’s News Corp, with consolidation of ownership and the prioritisation of marketing over editorial (Sonwalkar 2002:827-828). This has a potentially detrimental impact on the media’s ability to play its democratic function, since operators see it primarily as a business, rather than a public forum, increasingly “distanced... from its social obligations” (Sonwalkar 2002:827). In its reliance on “what is effectively corporate sponsorship”, the media may be driven to self-censorship in topics and positions, a “general tendency to pander to corporate culture and values” combining with an unwillingness to investigate business malfeasance and corruption (Drèze and Sen 2013:265). These strands come together in the phenomenon of “paid news”, whereby those with sufficient means can pay outlets for positive coverage on an ongoing basis (or, alternatively, negative coverage of a rival), a form “more subtle and invidious than advertising” because it does not appear to the reader as such (Rodrigues and Ranganathan 2016). This trend was first institutionalised by the *Times of India* in 2003, but has been copied by other outlets.

Sonwalkar (2002:829-831) argues that it is the English-language newspapers which have been most affected by “Murdochisation”, while also being highly influential in playing “an agenda-setting role”. The result is a media environment in which there is extensive and yet generally implicit bias, an imbalance which is “almost invisible” to the dominating classes to whom the media overwhelmingly caters (Drèze and Sen 2013:267). Mehta (2015:61-62) even suggests, following C. Wright Mills, that politicians and corporations are acquiring “command posts” in the media, a form of “media-industrial complex” which will consolidate their position as a new power elite. These commentators argue that something is fundamentally awry in the practice of the Indian media, sharply curtailing its ability – and possibly its willingness – to perform its democratic function, with material effects on the lives of the poor.

It is important not to overstate the extent of the issues here, and certainly India is not a unique example of corruption or bias in the media. As the term “Murdochisation” suggests, this is a much wider problem, and one which Habermas discusses in his 2006

article on media society. Where social and economic power can be converted into influence through the media, there is a risk of pressure being brought to bear in an illegitimate way on the political system to the benefit of special interests. Habermas (2006:422) raises the risks to political deliberation from the media models that can be seen in India: “personalisation, the dramatization of events, the simplification of complex matters, and the vivid polarisation of conflicts”. These developments emerge in the context of trends towards the commodification of news and the rise of entertainment as the primary media form, highlighted in India’s case by Sonwalkar, Athique, Thussu, Rodrigues and Ranganathan, and others. These trends are present in many countries, however.

India, indeed, has certain advantages in correcting for these trends, namely the size and diversity of its media sphere, as of its population. With tens of thousands of publications and hundreds of TV channels in operation, there is a range of opinions on offer, and a relatively settled resolution in favour of freedom of expression is extended by the government towards even quite extreme views on both right and left (Drèze and Sen (2013:262) offer the example of an article by radical writer and activist Arundhati Roy that was largely supportive of the Maoist insurgency in central India). There are opportunities for sufficiently prominent activists or academics to publish articles or participate in broadcast interviews with mainstream outlets. The plurality of sources means that there are publications offering greater coverage of rural affairs, food security, farmer suicides, and other issues affecting underserved populations. Compared with other countries with extensive media markets, at a national level India is less dominated by a small number of players (Mehta 2015:56). With possible lacunae around national security – especially Kashmir – and religious sensibilities (cf. Drèze and Sen 2013:246,263), Sonwalkar (2002:821) is probably correct to argue that India’s press is “as free and functional as any”. This perhaps underlines the broader problems affecting the media globally as to the subjects deemed worthy of attention and the range of views considered legitimate.

### **Perceptions of the media**

I was keen to ask interviewees about the media, since it forms such a vital part of the democratic system, and is a key platform for engaging in deliberation and seeking to influence political debates. Jean Drèze’s views are already touched on in this section, but in

our interview, he stressed that there were supportive voices in the media as well as critical ones, and that media interest had played a part in moving the issue of food from the courts to the party-political system. Other respondents varied in their assessment of the media, but there were certain commonalities, especially with regard to the framing of the National Food Security Act.

One of these more supportive voices, recommended to me by another interviewee, was the journalist Nitin Sethi, working at the *Business Standard* at the time of our interview, but previously of *The Hindu* and *The Times of India*. He had worked on related issues since around 2000, even before the drought in Rajasthan and the Supreme Court case, and had followed the Right to Food Campaign over the years as part of his reporting. He remarked that the so-called “national” dailies are somewhat mislabelled, being based in Delhi and rarely going beyond to speak to people in the country, but also that this would be difficult to do in a balanced or unbiased way. These papers tend to cover differences in opinion at the level of policy-makers; divisions within the government on the food security bill had allowed them to present alternative perspectives on the draft legislation. When we met, Sethi had been working for English-language dailies for nearly a decade and could be expected to know this sector of the media best, but he told me that there was a great deal of variation nationally, with regional vernacular papers often doing more reporting on these issues.

He echoed the perception that the national English daily newspapers are biased towards their audience in the (upper) middle class, “really the elite”. He felt that the apathy of this group towards the poor and working classes was exacerbated by the media’s complicity, that there was a lack of belief in the possibility of change through programmes such as the NFSA, and that the media were unaware of their own potential power in supporting this, for example through social audits, which could help to ensure the better functioning of the PDS. In this, he saw a reflection of social beliefs against involvement of people or greater local control, instead relying on “the guys at the top” to fix problems. Sethi praised the Right to Food Campaign for their work and the successes that they had had, bringing the concept of a right to food into use as a meaningful term in public discourse, and pushing the government to honour its commitment to enact the legislation,

achieving progress “against the grain of time and politics”. In the face of antipathy from certain parts of the government and the media, these victories were not insubstantial.

In speaking to my respondents who had been involved with the campaign, it was interesting to see that there was some difference of opinion as to the openness of the media, but a consensus about its elite bias. Asked which public arenas were most amenable to the influence of the campaign, convenor Dipa Sinha told me that the media was “a tough one... It’s only briefly, not really related to the act, it’s very few things on which we’ve managed to get the media on our side”, remarking later in the interview that “it is a corporate-driven media”, and that this affected attitudes to government spending. Vandana Prasad of the Public Health Resource Network told me that the media had played a big role in the campaign and was “more or less helpful”, but that the mainstream was middle class, “completely divorced from the poor”. In this context, the NFSA and its related entitlements were typically presented as a dole, as a populist measure, rather than as a transfer to “equal citizens who’ve been discriminated against for centuries”. Harsh Mander has also been severely critical of the Indian media’s failure to draw due attention to the problems of the country’s poor. In his book *Looking Away* (2015:11-12), he recalls being “stunned by the ferocity of upper-class rage” in response to the bill; though responses ranged from calling it “a freebie, a dole, a hand-out, a give-away, a subsidy, an investment in human capital or a moral obligation”, he reports facing a largely hostile, angry media, anchors included.

Economist Reetika Khera had been frustrated by the media’s insistence on referring to her as an “activist”, in contrast with their presentation of centre and right-wing economists as academics, which she felt undervalued her expertise, and by the “casteist mindset” of much of the mainstream media. On a more positive note, she told me that there had been a shift in the media around the period 2001-2012, with greater coverage of food security issues, but that an increasing technocratic influence had favoured the dominance of a strictly economic perspective in the public debate over the legislation.

The dominance of a narrow economic framing in media discussions of the food security bill was another area of agreement, along with the negative impact this had for the goals of the legislation. There was general agreement that the media had insistently focused on the cost of the bill and its fiscal implications; as Dipa Sinha put it:

If you look at the absolute numbers, they're huge numbers... just the Public Distribution System was 134 thousand crore rupees per year. That is huge. But that is one percentage of the GDP. But what you get in the media is that, six lakh crores to be spent on food security over the next five years. Six lakh crores is, we don't even know how many zeros it has, it sounds very horrible, and a scary amount<sup>4</sup>.

In fact, she argued, in comparison with Brazil or even the USA, “the most free market capitalist” country, India laid out less in relative terms on social spending, including health and education, “so it's also how the media plays it up”. Nitin Sethi agreed that the media “fed the beast” in respect of the bill by pushing an economic narrative. Debate was largely circumscribed to arguing about numbers rather than the potential effects of an improved food security system. As Jean Drèze said in our interview, “one percent of GDP to ensure no one goes hungry seems fair”. However, it was clear that the campaign had struggled to find purchase for their framing of the legislation in the face of the prevailing media discourse.

The campaign and its supporters had tried to argue for the bill within the terms effectively dictated by the media's approach. Certain statistics and examples, including the one percent of GDP figure, were brought up separately by different interviewees. Another common example was the treatment of subsidies, especially to the jewellery sector; while subsidies to the poor are labelled as ‘populism’, tax waivers to the corporate sector, costing equal if not greater amounts in lost revenue, are accepted with little controversy. Drèze and Sen (2013:271-272) highlight the exemption of gold and diamond imports from customs duty, which the Finance Ministry in its official report of revenues foregone (now discontinued) estimated as costing Rs.57,000 crores a year. Even allowing for an overestimate, this figure is likely to far outstrip the annual sum eventually allocated to the NFSA, “but there has been little clamour about its unaffordability in public discussions”. A brief attempt in 2012 to introduce “a small import duty” was abandoned by the UPA government in the face of protests from the sector (Drèze and Sen 2013:253). Dipa Sinha and Reetika Khera mentioned this in our interviews and it is raised by Harsh Mander (2015:xl) in his book. For the campaigners with whom I spoke, this was positive proof that the question was not one of affordability, but of priorities and political will.

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<sup>4</sup> A lakh is one hundred thousand, a crore is ten million. Six lakh crores would be six thousand billion rupees; as of January 2021, this was equivalent to around \$82.3bn USD or just under \$16.5bn a year. If eight hundred million Indians are eligible, this would be around \$20.50 per person each year.

The dominance of the economic framing was a cause of serious frustration for several of my interviewees. Biraj Patnaik, who worked in the Office of the Supreme Court Commissioners, went so far as to say that the economic narrative was “based on falsehood”. He stated that the claims about the cost of the bill by what he called the “neoliberal lobby” (conservative economists including Kaushik Basu, chief economist of the World Bank from 2012 to 2016) were wildly inflated, “completely ridiculous”; further, he believed that these false claims were “deliberately spread at the behest of certain people in government”. It is impossible to say whether there is any factual basis to this belief, but it suggests a degree of persistent aggravation at the apparent lop-sidedness of public and media deliberation.

Other interviewees did not go so far. Most seemed relatively resigned to the media’s bias; “the media is the way the media is, I think”, was one comment. Dr Saxena and Dr Shiva Kumar of the NAC both expressed sympathy with the media’s concerns around cost and efficiency. The centrality of the PDS to the public debate was another problem. For the campaign, this was just one part, albeit highly important, of the overall programme of the NFSA, which they hoped would take a more holistic approach. Instead, “the media particularly and the government managed to make this an act about the PDS”, with the result that the focus was on numbers even where it was not directly about cost: about the numbers of people covered, the amount of rice or wheat, and how many rupees should be charged per kilo. This made it harder for the discussion to take in the broader objectives and context of the legislation and what it might achieve. This limited debate “I think was one of the failures of the campaign, if you can call it a failure”, according to Dipa Sinha, suggesting that she felt the campaign could perhaps have done more to engage a wider audience with their perspective. Overall, there was a collective sense that the campaign had been working against the bias of the media and maybe, more subtly, its primary audience. The successful passage of the bill was thus an achievement to be celebrated despite its shortcomings.

A repeated thread has been the reference to a ‘selfish’ Indian middle class, to whom the media and politicians cater. This was mentioned in interviews and has been discussed at greater length in written work by Jean Drèze (with Sen, 2013) and Harsh Mander (2015), among others. The latter (2015:xi) opens with a castigation of,



the extraordinary indifference that people of privilege [have] for the intense and pervasive levels of human suffering all around them... a startling absence of compassion among a majority of well-to-do Indians... A dispassionate external observer would be bewildered by middle-class India's capacity to look away when confronted with enormous injustice and suffering; by our society's cultural comfort with inequality.

Similar sentiments were expressed in interviews, with respondents speaking of the “apathy” of the elite, their resistance to the social justice aspects of the case, the selfishness, the “complete divorce” of the middle-class and their media from the country's poor. This was not a universally shared view – Dr Saxena believed that people are “not generally against these schemes”, if implemented efficiently – but it was common amongst those I interviewed.

As an “external observer”, albeit not a dispassionate one, I am not in a position to pass judgement on the moral character of the Indian middle class, though there is much evidence globally from recent years that widespread indifference to inequality and suffering is hardly so unique to India as Mander (2015) suggests above. In our interview, I asked him about this perception and where this apathy stemmed from; in his response, he connected the election of Modi with that of Trump and the vote for Brexit, as built from prejudices and indifference already existing in society, which these actors had “reflected, preyed upon, amplified, legitimised”. While he maintained that a “true statesperson” would try to mould society and encourage people to rise above these sentiments, “final culpability is with us”, the people. Others pointed to more structural influences, with one saying that “neoliberalism has made the middle class very selfish”, unable to see the interests of others, and mentioning the shift from universal to targeted programmes as a contributing factor, having removed an opportunity for interaction between classes. Another blamed India's experience with “accelerated capitalism” for the “beating” that rights were taking, connecting this with right-wing trends globally.

With the exception of a social worker whom I met briefly at the state Right to Food Campaign meeting in Lucknow, all of my respondents were clearly within the privileged middle class they spoke of; they were professionals, with advanced education, fluent in English. Some of them had held high posts in state institutions. They could definitely be considered members of the elite class which they told me repeatedly did not care, despite the fact that they themselves plainly cared very deeply. Evidently, they felt that they were

having to work against the mindset of most members of their own social class, and that this had been true for years. If deliberation relies on the tacit assumption by participants of the good faith and sincerity of their interlocutors, it is difficult to see how it can flourish in an atmosphere where a group feels itself an embattled minority with the weight of the political and media class, as well as their peers, against them. My respondents were not cynical, however, but tended to express continuing faith in the democratic process alongside their frustration at its exclusions and limitations.

### **Analysis of media sources**

In this section, I analyse articles from different media sources which relate to the National Food Security Act, mostly dating between 2011, when the bill was introduced into the Indian parliament, and 2013, when the Act was passed into law. While I have tried to ensure some variety in these articles, there are some caveats here, most notably that all were published in English. It is entirely possible that a different perspective on the bill would emerge from an analysis of vernacular sources; however, at the national level and especially at the policy-making level in Delhi, English-language sources remain the most dominant and influential. Likewise, I am only assessing output from written sources and not broadcast media, though it is probable that these debates would have followed similar patterns to those discussed here. I have included articles from different perspectives, especially the main English national daily newspapers, more specialist publications like the business papers and *Economic & Political Weekly*, and a handful of magazines and web-based outlets. A list of articles is given in appendix IV with references for this section.

One of the most consistent and pervasive approaches to the bill was to frame the issue in economic terms, above all centring the cost of the proposed system. The sums of money required to establish a legally mandated food subsidy and nutritional support system for more than 800 million people are vast (especially when expressed in rupees), and it is unsurprising that virtually every article discussed the anticipated budgetary needs of the programme. However, there was considerable variation in the estimation of the amounts involved and in the way that these figures were contextualised.

Many articles led with the figure of Rs.1.25 lakh crore, as offered by the Food Minister K.V. Thomas. This was the official government budget estimate and appeared

quite consistently in articles across the time frame. Some noted that this amount was not wholly new expenditure, but the total revised cost of the food subsidy budget; the increased cost of the bill would be around Rs.21 crore. Other articles centre alternative estimates, such as those produced by the Commission on Agricultural Costs and Prices (CACP), which suggested that the costs for the first three years of the programme could be as high as Rs.6.82 lakh crore (see Raj 2013, MintAsia 2013). Ashok Gulati, chairman of the CACP, argued that the government estimate failed to take into account additional costs, such as requisite improvements to storage and transportation facilities. Some articles cited these arguments, but highlighted that some costs, like investments in agriculture to raise production to the levels needed for procurement, would be required in any case to meet existing government commitments. This additional context is generally given in articles with a more positive attitude towards the bill.

Some articles refer to the financial effects of the bill without directly discussing the cost. One article from the *Times of India* which reports the passage of the NFSA through the Rajya Sabha states in passing that “the financial implications of [the bill] has caused some jitters in the stock market” (*Times of India* 2013b). There is no further detail about the costs of the bill, nor any evidence to show that the movement in the stock market was related to the NFSA. Others use the cost of the bill to make logical leaps as to its fiscal impact; having cited the figure of Rs.1.25 lakh crore, one article argues:

Government should not become a charitable trust. If Government will do charity continuously then country will be bankrupt soon. If government is continuously wasting money on freebies and subsidised items or foods, then the deficit will definitely increase (*Afternoon Voice* 2013).

The author merely mentions the cost of the bill and extrapolates negative financial outcomes up to national bankruptcy. There is, however, no argument for why the bill is unaffordable within the context of the Indian government’s budget, expenditure on other areas, or international comparisons as to the percentage of GDP on social spending. Equally significant is the characterisation of such spending as charitable, rather than redistributive, and inherently wasteful. The article acknowledges that starvation is a problem, “the worst form of human deprivation”, and suggests that a better model would be that of Tamil Nadu, where the government offers meals at low cost as well as a universal PDS. It remains unclear

what would be an acceptable level of spending for such a programme, and why this would not count as charity as the NFSA subsidy does.

In many cases, the framing of the argument in financial terms is linked to corruption within the existing system. Several articles cite a figure of up to 50% of food distributed through the PDS being diverted. This an argument based on the consequences, that the action proposed will not lead to the desired outcome, because the money and resources put into the PDS will not benefit the intended recipients but will be lost to pilfering and the illegal resale of grain on the private market. Responses broadly fell into two camps, with some arguing that the government should instead implement a system of direct cash transfers, while others found it sufficient to argue that the draft bill was flawed without making alternative suggestions.

In a few cases, there was an acknowledgment that the bill deserved support insofar as nothing else was likely to be on the horizon and that many people would suffer ongoing deprivation and permanent harm before, say, a direct cash transfer system could be viably implemented. In an open letter published in the *Hindustan Times*' financial sister paper *Mint*, economists argued for the expansion of coverage as proposed by the draft bill, but also called for the government to "actively and urgently explore alternative models of subsidy delivery", adding that while "the theoretical case for direct monetary transfers... is quite strong, we are not advocating an immediate switch over to such a system" (*Mint* 2011). Likewise, an article in the *Economic & Political Weekly* criticised the Right to Food Campaign and NAC for its total resistance to the idea of direct cash transfers. The authors make a detailed case in favour of cash transfers, but from a position sympathetic to the NFSA, which they describe as a "worthy goal":

When good policy goals are frittered away through wasteful government schemes, it gives fodder to those who had little sympathy with such goals in the first place (Kotwal et al. 2011).

They support near-universal coverage but argue that moving to a monetary system would cut costs incurred by transportation and storage as well as reducing the potential for leakages. However, they conclude by stating that while they believe a shift towards cash transfers is preferable, such experiments should not be required, but left to the states. Articles like this demonstrate the range of views articulated in the Indian media within the economic framing, including constructive and reflective debate, though as these authors

obliquely anticipated, such sympathetic critiques were used against the bill by those less interested in its goals. Some of these interventions were interpreted as at best unhelpful or at worst hostile by my respondents in the campaign, even though the authors appear to be sincere in their advocacy for the goals of the policy; this perhaps goes back to the embattled feeling noted above.

The media's presentation of the debates around the Act are interesting in the way they present, centre, and attribute agency to certain actors. Sonia Gandhi is mentioned in numerous articles as being the driving force behind the NFSA, with the legislation as her "key project" or "pet project" (e.g. Asian News International 2013c, ET Bureau 2011b). This aligns with her image as more left-wing, interested in 'populist' anti-poverty schemes. K.V. Thomas, the minister for food, was most often called upon to justify the plans in the press; in one case, when asked if India could afford to implement the scheme, his response was simply, "can we afford not to?" (Kang 2013). Several articles focused on the divisions within the government over the bill, with the agriculture minister Sharad Pawar and Prime Minister Manmohan Singh expressing concerns over rising costs, positioning them as more fiscally responsible, though this would not ultimately protect Singh from accusations of prioritising politics over economics (see *The Telegraph* 2013).

Outside of the government, certain names recurred. One of these was Ashok Gulati, chairman of the CACP, whose scepticism and heightened estimates as to the bill's costs made him a key point of reference for its opponents. Jean Drèze is cited repeatedly promoting the bill; despite his disappointments with the legislation, he appears to have been the leading expert in favour as far as the media were concerned. While this is not surprising given his role in writing the NAC's draft, there were other prominent economists including Jayati Ghosh (2010) writing in support of the legislation, and the extensive reliance on just one figure may have belied the extent of specialist backing. In an article from *The Economic Times*, published when the bill was introduced into parliament, three of the four "experts" quoted – including Gulati – are sceptical about the law, its costs and potential impact (ET Bureau 2011b). The other, a former IAS officer, expresses a mixed view, that as a "welfare state" India needs to reach all its people, and makes the economic argument that "if you have a healthy person, it adds to his [sic] productivity"; nevertheless, these statements are tempered by concerns about wastage. Those cited as experts by the

press were largely critical of the legislation, creating an impression of scepticism from this quarter.

Equally significant is the relative absence of popular agency. The beneficiaries of the legislation appear in this debate, but as objects rather than subjects; they are discussed but do not feature as participants, even in terms of opinion polling. It would be extremely difficult to source anything approaching a representative sample of views from across the affected population, especially given the constraints of distance and language. As Nitin Sethi noted, the sources I have mainly drawn on here focus on the level of policy-makers and the national-level political scene. There is some input from the perspective of those who would benefit from the legislation through the contributions of the Right to Food Campaign, but this is very limited, since it presents a large and diverse movement univocally. While the campaign made sincere efforts to maintain a lively internal debate and take into account the views of ordinary members, in the context of a media interview this is inevitably flattened out and places the entire weight of representation onto one movement, albeit one composed of multiple associations working together.

This appears especially problematic because of the way that the beneficiaries of the legislation are discussed, their opinions treated as known. There are repeated references to these subsidies as “handouts”, freebies, populist bribes. The BJP, as the main opposition party, ultimately supported the legislation but nevertheless characterised it as “vote bank politics”, in pursuit of “vote security” rather than food security (Asian News International 2013e). The implicit suggestion of this argument is that those targeted for support by the food security act are easily manipulated, responding to stimuli with an almost Pavlovian reflex; offered the carrot of cheap food, they will simply fall into line to vote for the government presenting it. Aside from the problems with the accusation of populism – in a democracy, it is hardly unreasonable for a government to design policy with an eye to what people want – there is something insulting in this attitude. With hundreds of millions of Indians lacking secure access to adequate food and many chronically hungry, the deliberation about how to improve their situation seems markedly detached from their experiences. There is little recognition of their expertise about their own lives and what they need. This is noticeable in both the political and economic debates: for example, when advocating for the merits of a cash transfer system over the current food distribution

network, there is little to no discussion of the relative popularity of the PDS or monetary transfers. The Indian government's decision to invalidate most of the country's currency overnight in November 2016 (demonetisation, see chapter eight) caused huge disruption and suffering and illustrated the fragility of the country's banking infrastructure. While many of the experts pushing for direct cash transfers accepted that this move could not be made very rapidly, there was little recognition that beneficiaries might have valid reasons beyond basic accessibility for continuing to prefer food to money.

Another group marshalled for use in arguments critical of the food security bill was farmers (FE Bureau 2013). Farming unions Shetkari Sanghatana and the Bharatiya Kisan Union claimed that the bill would effectively nationalise Indian agriculture by making the government the largest buyer, allowing them to set prices. These farming bodies are relative outliers – the Shetkari Sanghatana has supported the 2020 Farm Bills (see chapter eight), and the BKU represents an unusually high percentage of cash crop farmers; nevertheless, their objections could be used for arguments sceptical of the NFSA. Groups in north eastern India were concerned that the bill would undermine agriculture in the region, as there was no requirement for local procurement; they worried that grain imports from the core agricultural states of north-central India would lead to depressed local prices and push families out of farming (*Times of India* 2012). Jean Drèze characterised the PDS as carrying a “dual burden”, being a subsidy for producers, who could sell their grain through the government procurement system, as well as those buying the cheap ration. As suppliers, farmers are an essential part of the system, frequently in economically precarious situations, and their perspective is important. It is worth noting that the vast majority of those working in Indian agriculture are not independent commercial farmers, but wage labourers or subsistence farmers, often themselves food insecure and malnourished. Rural Indians are by no means a homogeneous class with identical interests.

Another group of actors in these discussions were state leaders and representatives. There is overlap here with politicians, especially given that state assemblies and chief ministers are elected separately to the central government and thus these offices are often held by opposition parties. As at the national level, where chief ministers were critical of the legislation, it was typically from a position of avowed support for its goals. In addition to Modi's letter, discussed in chapter five, significant critiques were offered by Mamata

Banerjee (West Bengal, All India Trinamool Congress), J. Jayalalithaa (Tamil Nadu, AIADMK), Naveen Patnaik (Odisha, Biju Janata Dal), Raman Singh (Chhattisgarh, BJP), Nitish Kumar (Bihar, Janata Dal (United)), and Akhilesh Yadav (Uttar Pradesh, Samajwadi Party) (Tiwari 2013). These critiques can be roughly grouped into two kinds: firstly, that the proposed changes would undermine or worsen the states' own provisions for food security, or alternatively, that the centre was unilaterally imposing a system which would be unfair to the states.

A common thread was complaints about the central government enforcing a uniform system, voiced by Mamata Banerjee and J. Jayalalithaa, and by the CMs of Odisha, Bihar, and Uttar Pradesh. These latter states have relatively large populations living under the poverty line, and their leaders expressed discontent at having to abide by what they saw as largely arbitrary percentages for coverage (i.e. 50% of urban and 75% of rural populations), which would be the same across states regardless of their economic status. For states with a well-functioning and more generous PDS, there were concerns that the new law would cause disruption and cutbacks. Chhattisgarh is a particularly interesting example because until a few years before, its PDS had been notoriously corrupt; the BJP administration of Raman Singh (2003-2018) had shown considerable political will in reforming the system while expanding coverage to good effect in one of India's poorer states (Kishore et al. 2014). The experience of Chhattisgarh was then used by the BJP to demonstrate its support for the principle of food security, while blocking and criticising the bill drafted by the Congress-led UPA government. The final draft responded to some of these arguments by guaranteeing that states would not experience any cuts to their allocations of money and grain from the central government, but several state leaders remained critical.

## **Conclusion**

The use of presidential ordinance to pass the National Food Security Act gave rise to a further round of arguments about the motivations of the Congress-led government (*Times of India* 2013a). The economic arguments around the bill were usually based on the potential consequences, whether positive or negative, even if sometimes implicit or without adequate substantiation. Although future consequences are inherently a matter of



speculation and probability, where supported with evidence, they can provide some of the strongest arguments for or against courses of action. In contrast, some of the political arguments around the food security bill seemed less to address the details of the proposed policy changes than to attack the legitimacy of the system itself.

Legislation on the right to food had been promised by the Congress party as one of its major manifesto pledges in 2009, when it won 28.55% of the vote, almost 10 percentage points ahead of the BJP, and 206 of the 543 seats in the Lok Sabha (Diwakar 2017). The government delegated the NAC to work on the draft legislation, which responded to feedback from the executive and the Rangarajan committee before submitting its outline to be approved by the union cabinet, before proceeding through parliamentary scrutiny. The standing committee received tens of thousands of public comments and made changes before submitting its report on the bill in January 2013, more than a year after its introduction to parliament. With a general election due in spring 2014, the government chose to pass the legislation by presidential ordinance rather than risk further delay in parliament. Although the bill still required confirmation in both houses, this move was seen to curtail additional debate and incited criticism of the bill as rushed, a “pre-poll sop” (Raj 2013). While the ordinance route may have been controversial, it seems odd to characterise legislation promised in a manifesto and developed over more than three years as overly hasty; indeed, one of my interviewees had commented on the length of the process as allowing a greater level of deliberation and participation. Over the UPA’s second term, the parliament had met less and less regularly, with sessions frequently derailing into squabbles, and Congress spokespeople had blamed the BJP for deliberately preventing it from functioning to delay passage of the act. The BJP responded with similar accusations (Asian News International 2013b). A couple of my respondents agreed that they felt that the opposition had not wanted the legislation to be passed in a timely way, making effective implementation by the election impossible, and denying the ruling party the hoped-for political rewards. Given the drawn-out procedure through which the National Food Security Act was designed, scrutinised, amended, and discussed, it is difficult to understand the grounds on which the BJP could offer a good faith argument that it had been rushed. It would certainly have been more politically appealing to critique the bill on procedural lines or as inadequate to the problem rather than directly attacking its principle or even its substantial cost, as some media voices were happy to do. Unlike the media, political parties

cannot wholly manage without a broad appeal beyond the upper and middle classes, as the BJP had learnt from its experience in the 2004 election. Insofar as it is possible, the National Food Security Act had probably had an exemplary deliberative evolution, yet it did not produce anything approaching true consensus, and even those who argued most strongly for it were deeply dissatisfied with its final provisions. One interviewee had noted, with regard to the coalition building around the right to food movement, that accommodating diverse interests is very difficult, “some will always be disappointed, but you have to carry everyone with you”. It seemed, despite having secured sufficient support to pass into law, the NFSA represented a consensus only of disappointment.

## Chapter Eight: After the Act: Deliberative Democracy in Modi's India

In September 2013, India's parliament granted assent to the National Food Security Act (NFSA), officially establishing it as law. Eight months later, Congress experienced crushing defeat in the general elections; the BJP swept into power with its own majority, though it honoured its compact with its alliance partners. After a decade of UPA rule, the BJP's victory marked a turning tide. The NFSA, with implementation barely begun before the election, now stood as the last in a series of rights-based acts over the preceding ten years. In this chapter, I give an overview of developments since the act's passage in 2013, and the implications for India's deliberative system. With the wave of rights legislation seemingly relegated to the past, what has deliberative democracy achieved, and what can it hope to achieve? Can India's deliberative tradition help its democracy survive a rampant BJP?

### What has the Act achieved?

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 (Government of India 2013:1)

- so opens the National Food Security Act 2013. An unusual, if not globally unique, attempt to pass an economic right into law, it promised to have a transformative impact on the lives of hundreds of millions of poor Indians living with chronic hunger and malnutrition.

Given the urgency of these problems in much of India, and the lengthy process of securing the legislation, it might have been expected that state governments would have made plans for implementation when the bill was passed in the late summer of 2013. India is a huge country, and many states have extremely large populations, and there were bound to be details to be contended with in the final draft of the legislation. However, when I arrived in India in August 2016, some states were still appealing for extra time to put the law's provisions into place and the commissioners were threatening action against six states for reducing numbers of AAY beneficiaries (*Economic Times* 2016, Chauhan 2016). The states with well-functioning food distribution networks were, in the main, those which had already committed care and resources to their operation before the NFSA was passed.

There was considerable variation in the extent of implementation of the different aspects of the new law. While the campaign had advocated for a broad vision of the act, and the NAC had endeavoured to secure an understanding of the life-cycle approach, these had failed to make much impact in the wider public debates. The overwhelming focus was the Public Distribution System. While other elements were written into the act, including the ICDS and the maternity benefit scheme, these have been relatively neglected.

Perhaps the best source of data on people's consumption and nutrition status in India is the National Family Health Survey (NFHS), carried out at irregular intervals under the aegis of the Ministry of Health and Family Welfare. Specially trained teams collect data from questionnaires and measurement of biometric markers for representative population samples in all states and UTs. The survey looks at health-related topics including fertility, maternal care, and infant mortality, as well as education and nutrition. The last completed survey, NFHS-4, was undertaken in 2015-16; NFHS-5 was partially complete when work was suspended due to coronavirus. Data for several states and UTs was collected in 2019-20, with factsheets available online. This includes major states like Gujarat, Bihar, Maharashtra, and West Bengal, but other populous states including Uttar Pradesh, Madhya Pradesh, Tamil Nadu, and Haryana are missing. However, some information can be gleaned as to the possible impact of changing food policy. While the data from NFHS-4 (2015-16) is also useful, the slow pace of implementation means that the NFSA is unlikely to have had any significant impact at that point.

For states surveyed prior to March 2020, the picture is mixed. I have looked at five datapoints relating to food and nutrition: for 0-5 year olds, stunting (low height-for-age, an indicator of chronic malnutrition), wasting (low weight-for-height, suggesting acute hunger in the time prior to the survey), and underweight (low weight-for-age, a combined indicator). Taken together, these provide an indicative picture of nutritional status for young children. I have also looked at rates of low body mass index (BMI, underweight) in adult men and women. This data is presented in a table in appendix V. A highlight in pale green or red indicates a change of more than 0.5% but less than 3.0%, while a highlight in bright green or red represents a change greater than 3.0% from NFHS-4.

Of the 22 states and UTs for which data is currently available, none had seen a deterioration in all five indicators, though several saw consistent increases in measures of

child malnutrition. Only Karnataka showed an improvement on all five indicators. Encouragingly, almost all areas saw a decline in the rate of women with low BMI. The rate of underweight for men showed clear improvement in most states and UTs listed, though with slight increases in a few places. While largely positive, low BMI is only a very rough proxy for nutritional status, and as the national report from NFHS-4 emphasised, rates of overweight are a growing problem in India, including among the less well-off. With that caveat in mind, it is nonetheless worth underlining that progress on adult nutrition is apparent between the two rounds of the NFHS.

In the NFHS-4, child nutrition statistics had shown definite improvements, though figures remained worryingly high. 38% of children under five were stunted (small for their age), 21% were wasted (thin for their height), and 36% were underweight (thin for their age). In the 2005-06 survey, the figures had been 48%, 20%, and 43% respectively. The figures suggest that shocks or disruptions were still a factor, causing acute hunger and posing barriers to the raising of healthy, well-nourished children. While stunting had declined significantly, more than a third of Indian children appeared to be suffering from chronic hunger. The NFSA had only been passed two or three years prior to the survey, but the feeding programmes mandated by the Supreme Court had been in existence longer. It seems likely that at least some of the improvement in the nutritional status of children can be attributed to these interventions.

Despite this encouragement, it is unclear from the data available from NFHS-5 whether these trends have continued. The picture for children's nutrition seems mixed (see table in appendix). Several states have seen rates of wasting, stunting, or underweight decline, but almost all have seen deterioration in at least one aspect. Six states have seen deterioration in all three indicators, and a further five have seen only deterioration or stagnation. For some states, particular events in the previous years may have contributed to these poor figures; in Jammu & Kashmir, wasting leapt from 12.2% in NFHS-4 to 19% in NFHS-5, which may be related to the military lockdown in 2019 (discussed further later in this chapter). There is little sign of an overall trend towards improved childhood nutrition. While the data is very partial, it is difficult to draw much encouragement from the NFHS-5, especially bearing in mind the likely effects of the coronavirus pandemic. Given that children's future health and well-being is strongly related to good health and nutrition in

the early years, it is desperately sad to see that so many children are continuing to grow up hungry and malnourished.

Two major national events are likely to have adversely impacted nutrition for vulnerable Indians since the bill was passed, one being the coronavirus pandemic. In November 2016, the Modi government announced the overnight cancellation of much Indian currency (in March 2016, the RBI had estimated that around 85% of the value of Indian cash was in 500- and 1000-rupee notes (Nag 2016)). The move to demonetise 500- and 1000-rupee notes was enacted on 8<sup>th</sup>-9<sup>th</sup> November, the night of the US presidential election, so Indians woke to the discovery that much of their money was now worthless as well as the news of Trump's election.

The declared rationale for demonetisation varied, but a major claim was that it would flush black money out of the Indian economy (Kohli and Ramakumar 2016). Corruption and tax evasion is rife in India, but economists disagreed over whether the move would have the desired effect. Most 'black money' was held in the form of assets or in off-shore accounts, and only a relatively small proportion as cash (Teltumbde 2016). As hundreds of millions of people – myself included – spent hours queuing to exchange invalid bank notes or trying to obtain sufficient cash for daily needs from rapidly depleted ATMs, rumours were everywhere as to how the targets were evading detection (principally, since there were caps on the amount that could be paid in or exchanged, this involved paying poor people to do the work of queuing and exchange). The replacement of the Rs.1000 denomination by Rs.2000 notes created further problems, since most small traders could not make change for the larger amount, especially with the dearth of new Rs.500 notes and the premium on Rs.100. While there had been some preparation for the exchange, the new notes were a different size to the old and would not fit into cash machines, and there was still a noticeable lack of the new currency when I left Delhi more than a month later. The government repeatedly issued new updates regarding the rules for exchange, causing further confusion.

One of the odder experiences I had in Delhi is illustrative of India's functioning, particularly in this time. My housemates heard a rumour that if you went from our flat in Lajpat Nagar II, crossed Lala Lajpat Rai Road into Defence Colony, and went into a particular Standard Chartered kiosk in the main market, then you could take out more

cash than was officially allowed. The screen would appear not to be working after a certain point, but if you pressed the buttons anyway, you could take out up to Rs.20,000 (the limit was then set at Rs.2500, though few machines actually had the new Rs.500 notes) – *but only if you had a non-Indian bank card*. I tried taking out Rs.12,000, needing cash to pay my last month's rent, and it turned out to be quite true, even to the detail that the screen stopped working. My housemates were delighted with the bounty of notes I brought home, though I disappointed two Indian men who entered the kiosk to see if I was, in fact, getting money out of the machine by having to tell them that, as far as I knew, it would only work with foreign cards. Information travelling by rumour; an apparently non-functioning machine; different rules for those with a certain privilege; and all set against the backdrop of government-created chaos.

For me and for my housemates, demonetisation was a shock, but primarily it was an inconvenience. I was in Leh Ladakh that night. Fortunately, our hotel was happy to put our restaurant bill on a tab to be paid with card at the end of our stay, or we might have struggled to get enough cash for food for a couple of days. In Delhi, I could usually pay with card. But cash is essential for much of life in India, and for many millions, demonetisation was little short of a disaster. Entire economic sectors – construction, tailoring, small manufacturing – floundered as employers lacked cash to pay their workers, leaving many casual workers without income (Teltumbde 2016). Auto- and rickshaw-drivers struggled as even the more affluent were unable to pay cash for fares and looked for alternatives (I began using Uber more at this time, since I could use a non-Indian card on my account, though I mostly used the Metro). There were reports of farmers watching their sale crops rotting as village markets withered. *Economic & Political Weekly* even reported a case of an indebted farmer in Telangana who fatally poisoned himself and several family members when demonetisation meant that he was no longer able to sell part of his land (Rahul M 2016). Several people were said to have died, been injured, or fallen ill while waiting in line at banks or in squabbles over scarce notes.

This demonetisation was not wholly unprecedented in India; high denomination notes were withdrawn in 1946, under British rule, and again in 1978. However, whereas the previous rounds had withdrawn truly high value notes, affecting only a small – and wealthy – percentage of the population, the 2016 demonetisation cancelled around 85%

of the currency by value (Rajakumar and Shetty 2016, Nag 2016). This had an immediate and direct impact on far more people, with the effects quickly spreading. While economists were divided as to the impact of demonetisation, there appeared to be a consensus that, if it was intended to tackle corruption and the black economy, there were far better instruments available with greater chances of success and less collateral damage. The fact that around 99% of currency was exchanged or deposited by the government's deadline supports the view that the exercise was largely ineffective at flushing out tax evasion or black money held as cash (Guérin et al. 2017); targets clearly found ways to 'clean' their cash holdings.

A group of researchers associated with the French Institute of Pondicherry published an insightful article about the effects they observed in rural Tamil Nadu, where they were carrying out surveys before and after Modi's announcement (Guérin et al. 2017). They found that many respondents had struggled during the crisis, some cutting back on their food intake. Employment was adversely affected, with many people in informal work (the vast majority of Indians) experiencing reduction in wages or hours; some of these changes were dramatic and seemed likely to be permanent (for example, migrant workers to Kerala had delayed travelling, only to find that they had been replaced by workers from north India). The effects appeared to be worse for women. Some workers had payments delayed, or had been paid their seasonal advance in old cash, creating additional hassle as they had to spend time queuing to deposit or exchange the money. Most middle- and upper-class respondents had had to manage a certain amount of disruption, but with little real negative impact, including the targets of the move, who had used various methods to dispose of their old cash while avoiding official scrutiny. The authors found that people had relied heavily on informal networks to cope, thus the hardest hit were those already marginalised, who had little support to fall back on (Guérin et al. 2017:52-53). A policy theoretically intended to punish black economy activity and promote formal economic structures had the paradoxical effect of strengthening informal networks.

While the coronavirus crisis continues, it is difficult to make definite statements as to its impact on the nutritional status of vulnerable Indians. Given the negative effects of the much shorter demonetisation period, it seems reasonable to suppose that many Indians will not have been able to access sufficient food. Research based on interviews with migrant



women in Delhi revealed reduced food intake with significant impacts on nutrition and health (Ghosh 2021). The cuts to social security and NFSA budgets made by the current BJP administration have weakened support structures. Some state governments have made it easier for ration cards to be used regardless of their origin, rather than tying them to a particular state or shop, while Delhi made its PDS universal (Kunduri et al. 2021). This should make it easier for those displaced to access the food they desperately need.

While the pandemic is global and, unlike demonetisation, is not a direct consequence of government action, there have been widespread criticisms across the political spectrum of the BJP's handling of the crisis. Amid reports of oxygen and vaccine shortages, I received an email from the Ministry of Railways (having bought train tickets online during my fieldwork), adorned with a large picture of Modi and boasting that "government measures and reforms have attracted highest ever FDI inflow" – a rather staggering indication of the ruling party's priorities and commitment to self-promotion. Meanwhile, the island archipelago of Lakshadweep, a Muslim-majority UT, has become one of the worst-affected areas of India after a new administrator, a close ally of Modi, was appointed in December 2020 and abandoned the previous strict quarantine rules which had kept cases to zero (Ellis-Petersen and Hassan 2021). By the start of June 2021, more than ten percent of the islands' population had been infected (Smitha 2021). In addition, Praful Khoda Patel has imposed a beef ban (in an area where more than 90% of the population is Muslim), lifted a locally-set ban on alcohol sales, and appears set on turning the ecologically vulnerable islands into a tourist destination against the wishes of the local population, forcibly acquiring land in the name of 'development'.

While the NFSA and related provisions could have been crucial lifelines for people in these crises, the current administration has directed funding and attention away from such programmes in the intervening years, leaving people precariously exposed. In the next section, I consider how my respondents viewed the legislation and the changes in the political environment.

### **The Right to Food Campaign after the National Food Security Act**

I interviewed my respondents more than three years after the passage of the NFSA, and over two years since Modi's election. For them, the process leading up to the legislation was

a finished chapter, and our interviews were in the nature of a reflective reconstruction rather than an ongoing narration. This had an impact on the way they discussed the legislation and their involvement with it.

For most respondents, the National Food Security Act in its final form appeared to represent a source of both pride and frustration. The law was an achievement in itself; there was an official recognition of the need for state support to ensure the health and well-being of all Indians, and a commitment, framed as an entitlement, that people should not go hungry. The government, despite dissent within its own ranks, had accepted responsibility for the continuing problem of malnutrition.

The Right to Food Campaign had originally been convened to support the legal case in the Supreme Court. The eventual emergence of the NFSA had arisen from their actions, a response from the government to reassert control over the issue. Required to act by the orders emanating from the Court, the proposed legislation represented the potential for the government to regain the initiative, while perhaps also gaining political advantage from a popular policy. The presence of a mooted right to food law in the major parties' manifestos for the 2009 elections (see chapter five) was not something which could have been foreseen by the original campaigners back in 2001, but – along with being asked to draft the manifesto pledge – was proof that they had influenced the public discourse. In the words of one respondent, the movement along with the court case had created a societal argument for the existence of the right to food:

Able to say this, in meaningful way, that no one should go hungry, which wasn't the case before.

This statement was reiterated by the journalist Nitin Sethi, who affirmed that, “the right to food has definitely come into meaningful public discourse”. For the campaign, he said, there was “victory be seen, even if not complete”. Even if some of the higher political class wished to dodge the implications, the campaign had effected a shift in the public understanding of hunger to such an extent that it was taken up as a policy imperative. My respondents noted the way that MPs of various parties repeated the campaign's facts and arguments during parliamentary debates, showing that they had pushed their ideas into the heart of the political system. This identification and thematization of neglected issues is the

most essential role granted to civil society in Habermas' theory of deliberative democracy, and in this the campaign was undeniably successful.

Elements of the legislation gave particular satisfaction to my interviewees. While the focus of the media and political classes was the PDS, the provisions for maternity entitlements and extra nutritional support for young children were especially welcomed by my respondents. One described the universal entitlement to maternity benefits as the "most exciting thing" in the law. Another agreed that this was a "dramatic shift", but expressed uncertainty about whether everyone in the campaign was equally enthused, as she felt that some people appeared to regard women's rights and the rights of children as somehow in contention. Changes to the ICDS in the NFSA were minimal, its provisions having largely been established by the Supreme Court. Nevertheless, the new maternity benefits were mentioned by several people as a clear example of what they had achieved with the law.

There was a sense that the campaigners had worked well to present the case for a right to food. While there were issues of contention within the campaign – the struggle around universalisation being an especially significant one – there had also been mutual learning. Respondents described their greater understanding of the importance of child nutrition or the logistical aspects of production, procurement, storage, and distribution. There had been genuine efforts to address issues in their widest context and to involve people at many levels, seen in local and state level actions and meetings, as well as in the shifting location of the general convention. Dr Shiva Kumar argued that there had been "good coalition building" in creating the case for the law, bringing together the civil society groups with agricultural scientists and economists, but the campaign itself was also a coalition. Nitin Sethi, as a sympathetic observer, noted the federated nature of the movement in contrast with top-down NGOs and reckoned it to be, "one of two really mass movements to influence policy since liberalisation in the 1990s" (the other having been the campaign preceding the Forest Rights Act 2006). There was much to celebrate and potentially to build on in the process of the law's genesis and development.

However, alongside the inevitable frustrations of watching the government's failure to properly implement its provisions, the passage of the law had brought the campaign to something of a standstill. Just as the Supreme Court case wound down with the passage of the NFSA, the movement which had gathered around the problem of food insecurity

faltered with its main objective apparently attained. Though a right to food law had not been the original goal of the movement, once this was in place the primary focus of the previous several years was dissipated. Perhaps, had the law contained more of the NAC's social audit provisions for grievance redressal, there would have been more for the campaign to do and it would have been easier to maintain energy levels. Instead, the campaign seems to have retreated into a kind of stasis. A direct assault on the new law might have provoked a joint response, but the government's strategy of postponement avoided this danger.

At the time of my visit, the movement appeared to be at a low ebb, even as I was told that implementation was severely lacking. Three years on, the maternity provisions were completely neglected, and there was an ongoing effort to draw attention to this. The lack of momentum to defend existing provisions was commented on by at least one of my interviewees, who believed there was a "leadership gap" and that the campaign needed a "process of rejuvenation". When I reached out to a state-level leader of the campaign in one of the north-eastern states to request an interview, he declined, though kindly allowed me to quote from his response:

For the past few years, I had got disillusioned with the way the Right to Food got rolled out, and hence had become very inactive. The campaign in Assam also fizzled out and frankly no one out of the campaign members if asked would know whether NFSA has been implemented in Assam or not, except what we know from newspaper ads saying thay [sic] they have started rolling it out.

This example reflects some of the difficulties in organising after the NFSA.

There was a common feeling apparent among my respondents that the change of government had had an impact on the implementation of the NFSA. Because of the delays to the passage of the Act, there was little time for the law to be enacted before the elections of April-May 2014. The UPA was unable to take political advantage, as beneficiaries did not have the chance to observe any impact in their lives. In the words of one respondent, "when this new government came, initially, the feelers that they gave was that they don't want this". She referred to various directions and conditions the new government had imposed around implementation, sowing confusion and further delay: compulsory computerisation, ID requirements, cash instead of grains. She simultaneously stressed that a lot of the responsibility under the law lies with state governments and that some had

taken the initiative to put the law into practice. This included states run by BJP administrations, such as Madhya Pradesh; it was not simply an issue of partisan antipathy.

At least two areas of implementation were particularly associated with the new government and were regarded with frustration by my respondents. One was the introduction of Aadhaar, an identification scheme assigning an ID number to all Indian residents. While the scheme existed before 2014, the Aadhaar Act of 2016 allowed the government to make enrolment mandatory for receipt of various benefits, and this was applied to food in early 2017 (*Economic Times* 2017, see also Jakobsen 2019:1228). This was despite the objections of the Supreme Court, who ruled in 2015 that the right to privacy should prevent the government from making receipt of benefits dependent on Aadhaar registration, though this ruling has since been updated. Aadhaar is part of the digitalisation of the PDS, an attempt to make the system more transparent and less susceptible to corruption. While important, campaigners were concerned that there was an unacceptable risk of people being denied benefits, especially given the number of recipients for whom biometric information might be incomplete (e.g. missing fingerprints due to manual labour).

Another aspect of concern was the increasing tendency towards corporate involvement in the provision of food entitlements. One of my interviewees, Vandana Prasad, is a doctor and the founder of the Public Health Resource Network; she noted that within the NFSA, malnutrition is treated as a medical emergency, “which is very convenient for industry”. The definitions of supplementary nutrition are relatively detailed, posing difficulties for the kinds of community-based kitchens which have been the basis of food provision in anganwadis (ICDS centres) and schools. These prepare freshly cooked hot meals potentially appropriate to local tastes and offer employment opportunities, typically for women, with preference given to those from SCs and STs. Where specific nutritional standards appear in law, these can only be guaranteed “by labs and labelling, and only companies are in a position to supply this”. Even by 2016, there had been moves to introduce pre-packaged food within anganwadis and as “therapeutic foods” for children diagnosed with severe acute malnutrition, potentially privatising the system. The running of some ICDS centres has been contracted out to corporate players (Rajalakshmi 2016).

This development – especially marked in a few states, including Gujarat – was queried in some of the last hearings in the right to food case (see chapter four).

The UPA's failure to win re-election in 2014 was not seen as a reflection on the popularity of the NFSA. I asked if, given the strength of the BJP's victory, they would have been justified in scrapping the act. However, the BJP did not have a majority in the Rajya Sabha, and this would have been an unpopular move, according to my interviewees, since the Act was seen as a good policy. At the state level, BJP administrations had made good progress and gained plaudits in improving local food security arrangements including the PDS, especially in Chhattisgarh.

Overall, my respondents perceived a considerable change in the political environment between the two governments, but this was not primarily a case of ideology or partisanship. The political circumstances of the government had changed, with concomitant impact on the prospects for social activism. While the UPA government had been reliant on the support of the left and needed to attract wide support, this was not the case for the BJP. The unexpected margin of victory enjoyed by the BJP in 2014 meant that putting pressure on the government via the opposition was almost completely non-viable as a political strategy, while the government was likewise less responsive:

I think spaces have shrunk in terms of dealing with the government directly, because they are much more secure government, these things, they can do what they want to.

In the view of this activist, the ideological orientation of the respective parties was more or less irrelevant, but their opportunity structures had shifted dramatically.

Members of the Right to Food Campaign mostly perceived the BJP central government as hostile towards their goals, if tacitly so. The BJP had voted for the NFSA and strongly criticised Singh's government for its flaws and omissions, and Modi had made a public intervention in support of the act. Withdrawing the new law would have been politically hazardous. His administration found alternative methods of undermining the NFSA's provisions.

While the NAC had had to contend with repeated rounds of budget-cutting, and its advocates had tried to set the amounts involved in context, there could be no doubt that, for the food policy to be successful, it would require considerable resources. This

became a weak point for the BJP to exploit. Without needing to take the politically risky step of completely dismantling the scheme, they could “contain” and “reduce” it: “a hundred cuts rather than a sword” was the government’s strategy according to one interviewee. This approach was less likely to provoke opposition than any move towards abolition. Social welfare spending was estimated to have been cut by Rs. 1.75 lakh crore within the first year of the Modi government, causing disquiet even within the government as Maneka Gandhi, then Minister for Women and Child Development, wrote a dissenting note to the Finance Ministry (Sampath 2015). Even in the midst of the coronavirus crisis, the budget presented in February 2021 contained a real-terms decrease in spending on the ICDS and maternity schemes, despite evidence of nutritional decline even before the pandemic hit (Sharma 2021).

It is important to stress that my respondents did not view the government’s stance in ideological terms, or romanticise the UPA by nostalgic comparison. They were alive to the problems of the previous administration and, as one respondent told me, Manmohan Singh was, if anything, “even more purely neoliberal” than his successor. Singh had not wanted the NFSA and his government had delayed legislating, with the result that implementation at the centre was left to the dubious commitment of the BJP. The difference was seen by my respondents in more pragmatic terms, whereby Congress for largely historical reasons functions as something of a “rainbow coalition” and has to carefully ensure broad political appeal; this was especially the case during UPA-I when the government relied on the Left parties in parliament and was seen as having achieved victory by appearing pro-poor when the BJP’s India Shining campaign gave an impression of ignorance and apathy towards the country’s vulnerable. Combined with Sonia Gandhi’s more vocal commitment to social justice, Congress could be pushed into action. The BJP, once installed, were virtually immune from pressure.

There was a sense from my interviewees that they understood Modi’s election as heralding a change not just in Indian politics, but in the democratic mood more globally. Donald Trump was elected US president during my fieldwork period, and Britain voted to leave the EU two months before I arrived in Delhi. Recep Tayyip Erdogan made the move from prime minister to president of Turkey in the summer of 2014 and cracked down hard on dissent, including in academia, after an attempted coup in July 2016. In June 2016,

Rodrigo Duterte was elected leader of the Philippines after a campaign in which he advocated for the extrajudicial murder of drug users and dealers; he himself was suspected of having links with death squads in his role as mayor of Davao (Holmes 2016). Across Europe, far-right nationalist parties flourished, and in Australia, the Liberal/National coalition elected in 2013 imprisoned asylum seekers in off-shore detention centres in Papua New Guinea and Nauru. Modi's election victory appears as an early marker in this rightward shift and was explicitly set in this context by several interviewees. As one remarked, the passage of the NFSA was achieved "against the grain of time and politics", the last high-water mark of a period of rights-based legislation. According to Harsh Mander, the political class was "reflecting a certain form of popular sentiment among relatively privileged people". Another respondent pointed to the global conditions but emphasised also the role of "accelerated capitalism" in India, leading to the marginalisation of rights. However, she viewed this not as an absolute regression, but as another turn of the wheel:

I think that it was a marginal view earlier, it continues to be even a more marginal view now. At the same time, it's not that its time has gone, because for me these things are archetypical, they survive across aeons and aeons of history, and they are sometimes and mostly marginal, but in rare circumstances... there's a sharp shift and then again there's an absorption into the mainstream, and then again, the struggle starts from the beginning. There's a cyclical kind of process here.

Rights and democracy could not be taken for granted, even where written into law, but would continue to have to be fought for.

### **India's democracy under Modi**

The BJP's election victory in May 2014 was expected, though the strength of it was not, as the party gained 282 of the 543 Lok Sabha seats. For the first time since the 1980s, a single party had achieved a majority in India's lower house, refuting assumptions about the advanced fragmentation of India's party system (Diwakar 2017:126). The BJP had been gaining in popularity alongside the gradual crumbling of the Congress' one-party dominance. While Congress has amply demonstrated the tenuousness of its commitment to democratic ideals – from Nehru's imprisonment of Sheikh Abdullah, to Indira Gandhi's Emergency, to the murderous backlash against Sikhs after her assassination – the INC's history as a catch-all movement against British imperialism, along with the inclusive



principles of Nehru, has tethered it to attempting to maintain a broad appeal. In the early independence period, it was the only party able to command support across most of the country.

Unlike Congress, the BJP is not overly concerned with appealing widely. Connected to the Rashtriya Swayamsevak Sangh, a Hindu-chauvinist paramilitary ‘volunteer’ organisation of which Modi is a former member, it has unabashedly promoted Hindu supremacy for much of its existence. BJP ideology combines social conservatism with neoliberal economics under the banner of Hindu nationalism, or *Hindutva* (Chatterji et al. 2019:1-2). Despite India’s long history of coexisting religions and cultures, the party opposes the constitution’s stated commitment to secularism – in India, equality of government support for different religious communities – and argues that India should be officially a Hindu country. The party has frequently demonised members of other communities, especially Muslims, and has argued that Hindi should replace English as the linguistic medium of the union. This last point is not entirely without merit, as the constitution originally suggested that the use of English should be a temporary measure (Guha 2007:120). Hindi is more widely spoken than English in the sense that there are a greater number of Hindi speakers in the country, but it is geographically concentrated in north India, and is completely separate from the Dravidian languages of the south. English is an elite language, but is spoken nationwide as a second language. For those in the south, to whom Hindi is incomprehensible, the proposal to make its use compulsory resembles a new form of colonialism. This association between *Hindutva* and Hindi domination is one of the reasons why the south has generally been more resistant to the BJP’s appeal.

Though the BJP has been on the Indian political scene for more than forty years, and led the national government from 1998 to 2004, their ascent to power became truly meteoric with the successes of Narendra Modi as Chief Minister of Gujarat from 2001 to 2014. In February 2002, a fire broke out on a train of Hindu pilgrims returning from the site of the demolished Babri Masjid in Ayodhya, and almost 60 people burnt to death (Guha 2007, and see chapter four). The origin is uncertain, though several Indian government investigations have suggested it was most likely an accident.

In a context of flying rumours, Modi announced that it was a terrorist attack by agents from Pakistan. Violent reprisals against Muslims occurred in the three days following the fire, with further outbreaks across the state throughout the next year. As many as 2,000 Muslims were killed, and many times more made homeless (Guha 2007). While official investigations concluded that there was no evidence that Modi or his government were at fault for directing or inciting the violence, there was widespread dissatisfaction with the state's handling of the situation, with the police especially criticised for failing to restrain the perpetrators and protect the victims in several instances. Moreover, on 2<sup>nd</sup> March, Modi declared the violence a “natural reaction” to the fire on the train; his words were taken as an implicit endorsement of the pogrom, gaining him support from followers of Hindutva (Ghassem-Fachandi 2019:88, Chatterji et al. 2019). Some of these were emboldened in further use of vigilante violence on his coming to power as prime minister, with his lengthy silences and vague, qualified condemnations taken as “tacit approval” (Manor 2019:124). His popularity was hugely strengthened in the aftermath of the 2002 pogrom; in the Gujarat state elections later the same year, the BJP achieved a two-thirds majority (Guha 2007).

I have discussed how my respondents contextualised Modi's ascent as part of a rightward political shift in democracies across the world. In several cases, including India, this has involved the election of quasi-authoritarian leaders. Modi has been the focal point of much of the BJP's electioneering and political communications; the email I received from the Ministry of Railways is a case in point, though it was difficult to miss Modi's dominance during my time in India. Images of him were common, appearing on posters at petrol stations highlighting subsidised fuel and on banners promoting Make in India and *Swachh Bharat* (“Clean India”). The personalisation of policy programmes is quite normal in Indian politics, with Congress naming policies after Mohandas Gandhi (e.g. MGNREGA) or members of the Nehru-Gandhi dynasty (e.g. the Jawaharlal Nehru National Solar Mission, Indira Gandhi Matritva Sahyog Yojana, Rajiv Gandhi Watershed Management Mission). However, the relentless centring of Narendra Modi is more unusual, including within the BJP; Rai (2019:261) notes Modi's “absolutist” leadership as a significant change for the party. It is also somewhat at variance with a concept of democracy in which power ultimately rests with all citizens. Modi's popular appeal is

unquestionable, domestically and with non-resident Indians; he has held rallies drawing large crowds during visits to the USA.

There have been numerous incidents causing observers to question the security of India's democracy since the election of the BJP in 2014, including the handling of the volatile region of Kashmir. Following partition, India has administered its area of this Muslim-majority territory as part of the state of Jammu & Kashmir. The people of the Kashmir Valley have never been offered the chance to determine the best option for their government, whether as part of India, Pakistan, or an independent state, but the Indian constitution's article 370 granted the state a degree of autonomy and its people certain privileges, including preventing the sale of land to outsiders. Violence has flared up repeatedly in the region since 1989, with residents reacting against the harshness of India's rule and an effective military occupation; Indian-administered Kashmir is one of the most highly militarised zones in the world (Rai 2019). Flying to Leh Ladakh, then part of J&K, in November 2016, there were additional security controls, including a ban on hand luggage, and a noticeably greater military presence even compared with Delhi. My phones, whether Indian or British, would not work; mobile connections are only available to those with local SIM cards. India justifies this on security grounds, claiming that Pakistan and its intelligence services foment unrest and support terrorism. In 2016, the Valley was put under curfew after the killing in July of Burhan Wani, a 22-year old local Islamic militia leader whose brother had been beaten and killed by security forces. Non-violent protests to mourn his death were brutally suppressed by the armed forces. By the end of the year, more than one hundred Kashmiri civilians had been killed, and thousands had been injured or arrested (Rai 2019:271-272).

The Armed Forces Special Powers Act of 1958 grants extraordinary powers with little oversight to the security services to act in areas of unrest, and this has been widely used by governments in Kashmir as well as in the jungles of central India where 'Naxalite' Maoist insurgents have battled the state for decades. There is little discussion of such powers and their use in the media, which appears to regard itself as bound to silence on topics related to national security (Drèze and Sen 2013:246). There is widely documented evidence of human rights abuses by the Indian armed forces, including extrajudicial killings, unlawful detention, torture, and sexual violence (Sundar 2016). The constitution's

commitment to democracy means little here, and there is little deliberation on these abuses, with some of those who have tried to speak out imprisoned on flimsy evidence as being Maoists themselves.

These are longstanding issues and there is little to choose between parties when it comes to the violence with which state rule is imposed; India's democratic character appears to falter in these regions regardless of the affiliation of those in power. However, in the summer of 2019, the BJP government unexpectedly forced through the revocation of most of article 370, removing J&K's special status. Ladakh, which is majority Buddhist and close to Tibet, was split off and made into a centrally-controlled Union Territory. The remainder of Jammu & Kashmir was also rendered a UT, centrally administered, no longer having its own constitution, and automatically bound to follow all Indian laws. Most significantly, land sales were opened to those from the rest of India (Pandey 2019). The government argued this would bring development, but there has long been a suspicion in Kashmir that the Indian government would try to change the demographic and religious character of the area by allowing settlement from the outside (Rai 2019).

Perhaps especially given the BJP's status as a Hindu-majoritarian party, many people in Kashmir anticipated that their culture would come under threat, and there were protests, quashed by a military-enforced curfew which lasted for several months (*BBC News* 2020). Communications were shut down, including the internet, mobile services, and landlines, and thousands were detained, among them three former chief ministers. The lockdown finally ended only a few months before the state was shut down again due to the coronavirus pandemic. Education suffered in the pandemic as high-speed internet remained unavailable. In August 2020, the government again imposed a curfew to prevent protests on the anniversary of the revocation.

Though the extremity of the move took many by surprise, the BJP had promised to revoke J&K's special status in their manifesto for the Lok Sabha elections in the spring of 2019. Having returned to power with an even stronger majority than in 2014, they could reasonably claim to have support to act on their pledge. Outside Kashmir, many Indians seemed to approve of the government's actions, and as one article noted, the opposition parties were unlikely to bring a legal challenge for fear of being labelled anti-national

(Pandey 2019). The issue was compounded by severe travel restrictions into the region during the initial curfew, with opposition politicians barred. The communications blackout meant that journalists struggled to send reports to outlets based outside the state (Vincent 2019). Combined with a tacit pact of silence around Kashmir in much of the mainstream media, there was little in the way of public deliberation about the substantial constitutional change being wrought. While the BJP's manifesto promise gave Modi democratic cover for his actions, the failure to consult with the Kashmiri population and the repressive response to their reaction are flagrant violations of deliberative principles. The 'problem' of Kashmir even has benefits for the BJP in seeking to extend its hegemony; the restiveness in the Valley permits increased state militarisation, while the perceived threat of the 'violent Muslim' "has provided a valuable foil against which both dissent and difference in India itself has been sought to be erased" in the quest for a monolithic, upper-caste dominated Hindu nation (Rai 2019 264-265). The brutal suppression of free expression and protest in Kashmir is mirrored in the restricted room for dissent in the rest of Modi's India.

The Modi government's treatment of Kashmir and its people has been echoed in the handling of other protests. There have recently been mass protests against two mooted policies, the Citizenship Amendment Act of 2019 and the Farm Bills in 2020. The former offered a path to citizenship for those fleeing religious persecution in Afghanistan, Pakistan, and Bangladesh, but significantly, this pathway is only open to religious minorities and excludes Muslims, even though there are Muslim groups which have been harassed by these governments; neither are religious minorities from other, non-Muslim majority neighbouring countries eligible. There was particular concern that, in combination with a proposed National Register of Citizens, the bill could be used to make Indian Muslims stateless if they were unable to meet the strict requirements to prove birthplace or identity. In certain north-eastern states, there were protests against the law by those fearful of demographic change, while students at Jamia Millia Islamia in Delhi and Aligarh Muslim University fought it on the basis of its discriminatory character (Kumar Sarma and Hazarika 2020, Sharma 2020). In Delhi, the Muslim-majority neighbourhood of Shaheen Bagh became a centre of resistance until the coronavirus pandemic allowed the government to order dispersal, and there were violent attacks on Muslims in the city in February 2020 (Sharma 2020). Protests were met by repression, sometimes violent, and the suspension of communications.

The protests against the Farm Bills are reported to have been some of the largest in history. The three bills proposed to reshape Indian agriculture by allowing greater scope for farmers to sell their crops privately to agricultural corporations, rather than through the central procurement system or the government-controlled wholesale markets, the *mandi* (EPW Editorial 2020a). While the government argued that this would benefit farmers, encouraging higher prices and greater investment, many were doubtful, believing that the result would be the eventual withdrawal of the Minimum Support Price (MSP), which provides security especially for those in northern fertile states like Punjab and Haryana. Without the government procurement system to fall back on, farmers would be constrained to sell their crops to private companies even if they lowered the price paid. The high rate of indebtedness of many small and medium farmers further undermines their bargaining power (Veeresha 2020). India's farmers would be exposed to the vagaries of the international commodity market.

While there are reasonable criticisms of the current system, many commentators agreed that the proposed law would leave agriculture-dependent Indians – more than half the population – dangerously vulnerable (EPW Editorial 2020b). Most farmers work small plots of land, many without excess crops to sell, and few can access the *mandi* system. Most crops are already sold privately. Despite extensive provisions of fertiliser subsidies and other support, many farmers are in debt and there has been a notorious and tragic rate of suicides over the past couple of decades. As mentioned in chapter seven, the mainstream national media has focused on the interests of urban Indians and has largely ignored the urgent but unglamorous needs of farmers and the rural poor. The difficult lives of those dependent on agriculture have failed to make much impact in political deliberations until the Modi government pushed through its controversial legislative package, raising concerns it was simply “replicating its proverbial approach of dodging accountability” by shifting responsibility to the free market (EPW Editorial 2020a:7).

The bills were passed in the autumn of 2020, though with some criticism of the speed of the process, which was not prompted by any critical food emergency. One critic, economics professor Pritam Singh, suggested that agribusinesses might have pushed the BJP government to use the distraction offered by the coronavirus pandemic to pass the laws quickly and without sufficient oversight or deliberation (Singh 2020). The lack of

discussion occasioned protests from farmers' unions and from state governments who were angry at not being consulted. An editorial in *Economics & Political Weekly* argued:

Coercing the bills through by the sheer dint of power instead of their deliberated merits is to ride roughshod over both federalism and democracy (2020a:7).

It was in sharp contrast to the extended process which preceded passage of the NFSA – which, ironically, the BJP had accused the UPA government of rushing through.

In response, farming unions called for strikes. From November 2020, hundreds of thousands of farmers converged on Delhi, encamping on roads leading to the capital. The government and police attempted to barricade the area surrounding Delhi to prevent protestors from reaching the city, and used violence and tear gas in efforts to subdue them. The camps, which had been developed to include community kitchens and libraries, were barricaded off and cut off from electricity and water supplies (*BBC News* 2021, Ellis-Petersen 2021). Under pressure from the Supreme Court, the government agreed to stay the legislation for eighteen months, but rounds of negotiation with farmers' representatives made little progress. The government's actions have damaged trust with the farmers and hindered the possibility of finding a deliberative solution to the impasse – a pattern which appears to be repeated across the years of BJP rule, suggesting the Modi government has little interest in this form of democracy.

## Conclusions

The process leading to the passage of the National Food Security Act was a long one, spanning more than a decade and engaging many aspects of India's political life. A capacious, diverse, and country-wide popular movement brought attention to endemic chronic hunger. In forcing this issue into the public and political consciousness, the movement performed admirably its function as assigned by Habermas in his theory of deliberative democracy (see chapter three). Despite the difficulties facing deliberation in such a collective, there were genuine efforts to hear from members at all levels, mutual learning, and an endeavour to reach decisions together after discussion and reflection.

The campaign took root when a group of activists brought a case to the Supreme Court, discussed in chapter four. Deliberative theorists have praised courts as excellent forums of deliberative practice, relying on the presentation of arguments with clearly stated chains of reasoning. In India, this takes on a special dimension, as the introduction of public interest litigation in the 1980s has allowed easier participation by those seeking to defend rights, while the activist nature of the court has encouraged this as a route for campaigners. The court's ruling of 28<sup>th</sup> November 2001, which declared the right to food an integral part of the constitutionally guaranteed right to life, was a pivotal moment in the movement towards societal acceptance of this right. While the court's detailed rulings sometimes prompted executive action, the judiciary lacks the power to enforce its decisions, and arguably has at times overstepped its authority in its policy prescriptions. Other experiences have shown that the courts are not always a reliable ally in the pursuit of social justice.

In response to the popular movement and the continuing court case, the issue of chronic hunger was picked up by political parties, becoming a feature of party manifestos for the 2009 Lok Sabha elections, discussed in chapter five. Both major parties promised legislation on the issue, though each had a very limited vision of possible solutions. As the process unfolded, it was evident that elements on both sides harboured severe antipathy towards the legislation, and it took more than four years for the bill to be passed. One positive aspect of this was that the issue received a full process of deliberation, by groups of



experts and by the media, with the opportunity for further input from the public as well as the ongoing campaign.

In chapters six and seven, I analysed these discussions and considered how deliberations were framed. While the earlier movement and the court case had been centred on the notion of rights, later debates shifted drastically into economic language, reflecting the interests of the special advisory group appointed by the prime minister and the subsection of the Indian public which is primarily represented in the nation's media. The campaign, and the National Advisory Council headed by Sonia Gandhi, endeavoured to present a strong economic case for the bill, but were hampered by the necessity of fitting their arguments into a framework acceptable to their interlocuters, as demanded by deliberative theory. The abandonment of the principle of universality was arguably a critical strategic misstep, as it undermined some of the strengths of their position, notably the elimination of the need for targeting with its cumbersome bureaucracy and manifold opportunities for corruption. However, such a policy would have potentially had the effect of removing basic foodstuffs from the sphere of the market, and thus would have represented an unacceptable threat to the fundamentally capitalist and neoliberal orientation of India's political economy; even in its weakened form, Prime Minister Singh reportedly regarded the bill as "Stalinist".

Despite an extended and in many ways an exemplary deliberative process, the bill as it finally emerged was a weak compromise, unsatisfying to virtually all. Arriving almost in the dying days of a tarnished government, it was neglected, with the new government allowing states to repeatedly push back plans for implementation, while simultaneously cutting funds for social welfare, or directing them to more market-friendly programmes. The Supreme Court case dwindled to a quiet end, with not even a final ruling to restate the essential nature of the right to food. Meanwhile, the popular campaign suffered a loss of momentum, having apparently attained their central purpose. Yet the statistics produced by the NFHS-5 show a mixed picture of the nutritional status of Indians several years after the act was implemented, with many areas in decline even before the coronavirus pandemic.

This thesis has shown that the process of deliberation which produced the bill appears to have been one with strong normative grounding, following the lines of Habermas' theory. A social problem of long duration was identified by groups in civil society, which were able to raise the alert at the national level through use of a legal instrument designed for such a purpose. With the backing of the court, this triggered a response from the core institutions of the state, as well as wider public deliberation. My analysis has demonstrated that, in the arenas comprising India's deliberative system, communications were typically expressed as arguments, with an orientation to providing reasons, and frequently informed by powerful normative ideas, including rights, dignity, and justice. Moreover, this political practice of argumentation has roots in India's history, supporting the use of deliberative democracy as a way of understanding contemporary Indian politics.

However, the aftermath of the bill's passage, discussed in chapter eight, emphasises both the fragility of the achievement and the limits of deliberation in practice. Despite having secured a working consensus around the concept of a right to food and even a legislative commitment to its implementation, after several years there was little sign that the law was having an impact on the underlying issues of chronic hunger and malnutrition raised by the campaign. Restricted by the requirements of economic viability in the post-liberalisation era, the debate was never able to encompass the structures which keep too many of India's people poor and hungry; where these issues were raised by the campaign, they were disregarded in the wider public deliberations.

While many of my respondents were ambivalent about the final details of the law, even these limited provisions have been ignored in many parts of the country. This has left the most vulnerable Indians subject to continued hunger and the risk of starvation, especially in the crises of demonetisation and the coronavirus pandemic. Having outwardly – and perhaps quite sincerely – supported the NFSA, the current government has shown little interest in extending its reach, and instead, as Jakobsen (2019) as well as my respondents have noted, has endeavoured to quietly undermine the existing structures of provision. I would therefore suggest that deliberative democracy, though valuable as a system which centres collective discussion and determination of social goals, is severely

limited by its inability to ensure change, by the prioritisation of procedure over execution. Agreement is cheap if action is not required in consequence.

One of the absences from this thesis is the voices of those involved from the political side, the politicians who drew the issue into the heart of the political system and shaped its development as an act of parliament. In a future study, it would be fascinating to understand more about how Indian politicians see their role and whether deliberation and consensus are central to their ideas, especially given the recent changes in India's political landscape. Moreover, the ongoing protests against the Farm Bills show that, while the focus has changed, food remains a vital aspect of Indian politics. These struggles around the future of agriculture and the places of sustenance and accumulation are critically important, especially in the light of the global environmental crisis, and offer grounds for further exploration of how capital intersects with deliberations over the public good in a highly unequal post-colonial setting.

While the deliberative process around the National Food Security Act 2013 was generally a positive example of Habermas' theory in action, its results were rapidly undermined, and while there were promising aspects of the bill, most of this seems to have been forgotten. The election of the Modi government has intensified these tendencies, with his large popular following and parliamentary majority ensuring that he rarely has to pay attention to those marginalised, whether by society's prejudices or the vagaries of capitalism. Fundamentally, deliberation appears to have been unable to secure the fruits of its outcomes and was unable to even suggest a sufficiently radical solution to the problems it confronted. Constricted within the bounds of capitalism, it could not find a way to resolve the issues raised by the campaign, and the basic needs of many members of the world's largest democracy continue to go unmet.

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## Appendices

### Appendix I: Interview Schedule

Date	Interviewee	Role	Location of interview
03.10.16	Dipa Sinha	Academic, co-convenor of RTF, advisor to Supreme Court Commissioners	Jawaharlal Nehru University
10.10.16	AK Shiva Kumar	NAC member	UNICEF
19.10.16	N.C. Saxena	Supreme Court Commissioner, NAC member	United Nations Development Programme
12.11.16	Devendra	Social worker, activist	UP Right to Food Convention, Lucknow
15.11.16	Biraj Patnaik	Principal Advisor to the Supreme Court Commissioners, RTF steering group member	Office of the Supreme Court Commissioners
18.11.16	Jean Drèze	Academic, RTF steering group member, NAC member	Delhi School of Economics Campus
25.11.16	Nitin Sethi	Journalist	Office of <i>Business Standard</i>
28.11.16	Reetika Khera	Academic, RTF steering group member	Indian Institute of Technology, Delhi
05.12.16	Harsh Mander	Supreme Court Commissioner, NAC member, RTF steering group member	Centre for Equity Studies
09.12.16	Vandana Prasad	Advisor to the Supreme Court Commissioners (Delhi), steering group member	Public Health Resource Network

Example interview questions, adapted from an interview with a member of the Right to Food Campaign:

- To begin with, could you tell me about your involvement with the process of passing the National Food Security Act and what was your role in the development of the legislation?
- Can you tell me about how you first became involved with the campaign, and how did the campaign get started? When were you first involved with that?
- It's a group of NGOs working together, isn't it?
- The meetings of the campaign, what sort of activities were involved?
- Coming back to the legislation more specifically, can you think of any particular important events or discussions which happened when you were campaigning for

this legislation?

- In terms of the legislation, it came more to prominence in 2009 with the election. What do you think the motivation was driving the legislation? Was it economic, political, social justice, or something else?
- In 2007-2008, globally there were food price rises. Do you think that had an effect as well, or was that less important?
- Do you think that your view changed at all over time, were there any arguments or perspectives that were put forth in the debates that changed your view of what the legislation should look like?
- As people campaigning, and trying to influence the legislative process, what ways did you find that that process was open to, and took account of, different affected groups?
- Talking about the implementation, what are your views on how it's worked out? Obviously there was the change of government not very long after it was passed, do you think the new government's been sufficiently supportive? Given that the UPA government lost, would they have been justified in getting rid of it, or would they not have gone there?
- The legislation had elements about grievance redressal and social auditing, do you think enough has been done to implement these?
- A lot of the media coverage focused on criticisms of whether it was too expensive. What's your sense of what the balance should be between economic efficiency and social goals, how should a government prioritise between those, is there such a thing as too expensive for legislation like this?
- Why do you think there's that perception? [that the legislation was too expensive]
- Do you think there have been any unexpected consequences from the legislation, or what did you think could have been improved about it?
- You talked a little bit about the different spaces that the campaign focused on throughout the process of the legislation. In general, which of those political and public spaces do you think are the most responsive to public opinion, where is it easiest for campaigners, is it MPs, the local government, the advisory committees, the courts, the media?

- Have you been involved in other campaigns on other issues?
- In comparison with those, would you say, how much attention was given to public campaigning groups, have you noticed differences?
- How have you been involved in campaigning around implementation and related issues since the law was passed?
- Is the convention for people to get more involved at the grassroots level?

### Appendix II: List of Major Supreme Court Rulings and Orders

All available Supreme Court rulings and orders can be found at <https://main.sci.gov.in/case-status> by entering the search terms: case type: Writ Petition (Civil); number: 196; year: 2001. Many of these orders are brief notices, for example, of adjournments. I have listed below the dates of the more substantial rulings I consulted for my analysis.

17.09.01	10.02.10	20.04.11
21.11.01	26.03.10	09.05.11
28.11.01	07.04.10	10.05.11
29.10.02	05.05.10	13.05.11
03.03.03	21.07.10	14.05.11
19.08.03	27.07.10	18.07.11
16.01.04	12.08.10	14.09.11
20.02.04	31.08.10	20.09.11
20.04.04	06.09.10	12.12.11
27.04.04	21.10.10	09.01.12
29.04.04	29.10.10	16.01.12
17.08.04	15.11.10	23.01.12
07.10.04	24.11.10	03.02.12
09.05.05	26.11.10	16.03.12
13.12.06	16.12.10	17.09.12
09.07.07	03.01.11	04.03.13
25.07.07	07.01.11	10.07.13
30.08.07	10.01.11	06.08.13
20.11.07	17.01.11	01.09.14
22.04.09	07.03.11	11.03.16
20.01.10	29.03.11	17.02.17
27.01.10	19.04.11	

### Appendix III: Open Letter from Narendra Modi to Manmohan Singh

The letter appeared in several media outlets; as of 31.07.21, it is accessible at <https://www.firstpost.com/politics/full-text-modis-letter-to-pm-opposing-food-bill-in-current-form-1028889.html> but the full text requires a subscription to view

**Narendra Modi**  
Chief Minister, Gujarat State



2013/07/00X 125

August 07, 2013.

***Respected Pradhanmantriji,***

The Government of Gujarat has noted with serious concern the final formulation of the National Food Security Ordinance promulgated by the Central Government recently. In my clear view, this does not contain the basic tenets which any food security legislation should meet and is unlikely to achieve the objectives for which the Union Government has taken this step. I would like to bring to your notice the following major deficiencies in the Ordinance which your government has promulgated, in which unworkable statutory responsibilities have been devolved on the Central and State governments as well as poor families have been made food 'insecure' through this Ordinance.

These key deficiencies are as follows.

1. This is the first time any law has attempted to fix the number of beneficiaries in macro terms first and then cast on the States the responsibilities to specify eligibility criteria and fix individual entitlements so as to reach the macro figure fixed by law. Any logical legislation should provide for fixation of criterion first and the identification of the citizens who are food insecure, and then come to a conclusion about the total eligibility at the State level in terms of numbers. This legislation actually does the reverse by not providing criteria or entitlements to ensure food security of the insecure families and individuals. It is clear that each State will lay down identification criteria specific to the

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state to reach the numbers prescribed by the Ordinance. There could be wide regional disparities. Such variations would be open to judicial scrutiny and would create confusion. I would like to add here that **none of the drafts had this provision**. Even the Standing Committee of Parliament on Ministry of Consumer Affairs, Food & Public Distribution System had recommended as recently as in January, 2013 that Government should formulate eligibility criteria in consultation with State Governments. This was a wise recommendation as it would have resulted in uniform eligibility nationwide which is a must for legal entitlement under a Central legislation. Sadly, the Central Government has chosen to ignore the recommendation of its own Parliamentary Committee.

2. I have noted with deep concern the fact that the Ordinance proposes to reduce the entitlement of BPL families from 35 kg per family to only 25 kg per average family of 5 persons. Surely this cannot be the objective of any food security legislation which reduces the entitlement of those who have been identified as being below the poverty line. Without the statutory "Right to Food", the BPL families were so far already getting 35 kg per month and the Food Security Ordinance proposes to reduce it to 25 kg.
3. I am further saddened to note that as per the proposed pricing structure for the grain, the BPL family will now have to incur Rs. 85 more net expenditure per month for availing 35 Kg which they were getting without "Right". This can be seen from the attached sheet. Though details are for Gujarat but more or less similar situation would prevail for the poor of each State.
4. I am also pained to note that the Food Security Ordinance does not assure an individual of having 2 meals a day. I fail to understand that how food security for the individual is being



assured. The proposed entitlement of 5 kg per month per person implies the supply of only 165 gm per person per day. Persons involved in labour intensive activities require about 2500 calories per day as per NIN 2009 recommendations. As 100 gm of food grain gives about 350 calorie, 165 gm would provide only 500 calories per day which is hardly 20% of his daily calorie requirements. Even in the Mid-day Meal scheme, administrated by the Ministry of Human Resource Development, Government of India, school going children are entitled to about 150 gm of food grain, and 30 gm of dal for one meal i.e. about 180 gm of grain. As against this, an adult food insecure person is proposed to be given only 165 gm for 2 meals per day. This does not address even the calorific security, not to talk about nutritional security which is the main objective of food security. This, I am sure you will agree, is totally unacceptable if providing adequate food security is the objective of the Ordinance.

5. I also note that while on one hand the Central Planning Commission has been claiming the reduction of numbers below the poverty line, on the other the Central Government has deemed it fit to provide food support to about 2/3 of the population. This illogicality is not understandable and requires to be discussed with States.

Looking to the issues raised above, it is clear that the Food Security Ordinance, 2013 has been brought about with undue haste and has major flaws. As it is going to have far reaching implications for the citizens of this country and also on the agriculture sector, it would have been more appropriate to have the issue suitably debated and discussed at proper forums. A meeting of the Chief Ministers of States needs to be called before the matter is finalised by Parliament, a step which should have been taken on such an important Centre-State issue and which has not been taken so far.

I hope my thoughts above will receive your thoughtful consideration and appropriate action.

With warm regards,

Yours sincerely,

  
(Narendra Modi)

**Dr. Manmohan Singh,**  
Hon'ble Prime Minister of India,  
PMO, South Block,  
New Delhi - 110 001.

### Effect of proposed National Food Security Ordinance (NFSO) on a BPL Family (monthly)

#### Before NFSO (Quantity : 35 Kg)

Quantity in Kg	Rate in Rs.	Expense in Rs.
13	2.00	26.00
3	3.00	9.00
16	7.50	120.00
3	7.00s	21.00
Total		176.00

#### As Per NFSO (Expenditure for 35 Kg for a family of 5 persons)

As Per NFSO : 25 kg  
Open Market : 10 kg

Quantity in Kg	Rate in Rs.	Expense in Rs.
19	2.00	38.00
6	3.00	18.00
5	19.00	95.00
5	22.00	110.00
Total		261.00

**Additional Expenses Rs. 85 per month**

#### **Appendix IV: Media Articles for Chapter Seven**

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**Appendix V: Data from NFHS-5**

Table created using data from <http://rchiips.org/nfhs/NFHS4Report.shtml> and [http://rchiips.org/nfhs/factsheet\\_NFHS-5.shtml](http://rchiips.org/nfhs/factsheet_NFHS-5.shtml) accessed 12.09.21

State/UT	Stunting (%)		Wasting (%)		Underweight (%)		Low BMI (F) (%)		Low BMI (M) (%)	
	19-20	15-16	19-20	15-16	19-20	15-16	19-20	15-16	19-20	15-16
Andaman & Nicobar Islands	22.5	23.3	16.0	18.9	23.7	21.6	9.4	13.1	4.0	8.7
Andhra Pradesh	31.2	31.4	16.1	17.2	29.6	31.9	14.8	17.6	16.5	14.8
Assam	35.3	36.4	21.7	17.0	32.8	29.8	17.6	25.7	13.4	20.7
Bihar	42.9	48.3	22.9	20.8	41.0	43.9	25.6	30.4	21.5	25.4
Dadra & Nagar Haveli and Daman & Diu	39.4	37.2	21.6	26.7	38.7	35.8	25.1	23.4	18.3	16.3
Goa	25.8	20.1	19.1	21.9	24.0	23.8	13.8	14.7	12.5	10.8
Gujarat	39.0	38.5	25.1	26.4	39.7	39.3	25.2	27.2	20.9	24.7
Himachal Pradesh	30.8	26.3	17.4	13.7	25.5	21.2	13.9	16.2	11.8	18.0
Jammu & Kashmir	26.9	27.4	19.0	12.2	21.0	16.6	5.2	12.2	4.3	11.5
Karnataka	35.4	36.2	19.5	26.1	32.9	35.2	17.2	20.7	14.3	16.5
Kerala	23.4	19.7	15.8	15.7	19.7	16.1	10.1	9.7	10.0	8.5
Lakshadweep	32.0	26.8	17.4	13.7	25.8	23.6	8.0	13.5	5.5	8.2
Ladakh	30.5	30.9	17.5	9.3	20.4	18.7	4.4	10.5	2.1	11.2
Maharashtra	35.2	34.4	25.6	25.6	36.1	36.0	20.8	23.5	16.2	19.1
Meghalaya	46.5	43.8	12.1	15.3	26.6	28.9	10.8	12.1	9.0	11.6
Manipur	23.4	28.9	9.9	6.8	13.3	13.8	7.2	8.8	8.0	11.1
Mizoram	28.9	28.1	9.8	6.1	12.7	12.0	5.3	8.4	5.1	7.3

Nagaland	32. 7	28. 6	19. 1	11. 3	26.9	16. 7	11.1	12.3	7.5	11.5
Sikkim	22. 3	29. 6	13. 7	14. 2	13.1	14. 2	5.8	6.4	4.9	2.4
Telangana	33. 1	28. 0	21. 7	18. 1	31.8	28. 4	18.8	22.9	16. 2	21.5
Tripura	32. 3	24. 3	18. 2	16. 8	25.6	24. 1	16.2	18.9	12. 4	15.7
West Bengal	33. 8	32. 5	20. 3	20. 3	32.2	31. 6	14.8	21.3	15. 1	19.9