

Child Malnutrition in Karnataka

Adv. Clifton D' Rozario

Advisor to Commissioners of the Hon'ble Supreme Court

In the case: P.U.C.L. vs UoI & Ors.

(W.P. No. 196 of 2001)

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Child malnutrition in Karnataka¹

"We are guilty of many errors and many faults, but our worst crime is abandoning the children, neglecting the foundation of life. Many of the things we need can wait. The child cannot. Right now is the time his bones are being formed, his blood is being made and his senses are being developed. To him we cannot answer "Tomorrow".

His name is "Today"."

Gabriela Mistral, 1948

"The problem of malnutrition is a matter of national shame.

We have tried to address it by making the mid-day meal universal and massively expanding the anganwadi system. However, success requires sustained effort at the grassroots. Infants need to be breast-fed, have access to safe drinking water and health care. We need the active involvement of the community and panchayats to see that what we spend reaches our children. I appeal to the nation to resolve and work hard to eradicate malnutrition within five years."

Dr. Manmohan Singh, 2007²

1. Introduction

1.1 Over the past few weeks the issue of child malnutrition in Karnataka, specifically Raichur, has come to the fore. It would not be inaccurate to suggest that the field reports carried out by the TV channel, TV9, has highlighted the issue at the State level. Between 8th and 9th October 2011, we visited few villages in Raichur district and one slum in Raichur city in regard to the malnutrition prevailing in the district. The impetus of the visit came from the renewed and intense media coverage around starvation deaths in Raichur following a TV expose, which likened malnutrition deaths in Raichur District to the conditions in Sub-Saharan Africa. TV-9 showed clippings of one particular child Anjeneya, over and over again. What was deeply tragic about the news clipping was the shame of seeing children in Karnataka with distended bellies and bony hands and feet, literally being carried around as they lacked the strength to walk. What added a sense of heartbreaking loss was that, the child was 5 years old and had been officially recognized as being severely malnourished as early as 2010. However the apathy of the state system was such

¹ This report is based on several visits to villages and slums across Karnataka and information collected under RTI by several organisations working towards eradicating malnutrition in the State and is being filed by the Advisor to the Commissioners of the Hon'ble Supreme Court in the case of PUCL vs. UoI and Ors (Writ Petition No. 196 of 2001).

² Independence day Speech of Shri Manmohan Singh, Prime Minister, 15th August 2007

that the child quietly slipped through the cracks and finally died ironically one day after TV9 made his image an iconic representation of the fate of malnourished children in Raichur district. A copy of the TV programme broadcast on TV9 is produced in the form of a CD as **Annexure – 1**.

- 1.2 However, it is necessary to also point out that the rampant malnutrition problem has been highlighted previously by various organisation working across Karnataka including the Samajika Parivarthana Janandolana and the Right to Food Campaign – Karnataka. However, as evidenced by the prevailing ground reality and statistics, there is a desperate need for a focused and concerted effort on the part of the State Government if this issue is to be addressed.
- 1.3 This Report will comprise an analysis of the dire situation of malnutrition in Karnataka and go on to make a series of recommendations on how tragic deaths like that of Anjaneya can be prevented. In fact we dedicate this Report to Anjaneya, in the hope that his tragic and preventable death will not be in vain and will spur an uncaring state and society into action to make malnourishment a part of our history rather than continuing to be a part of our tragic present.

2. The state of malnutrition among children in India

- 2.1 Nutrition is essential for human development and the focal point of health and well-being. It is accepted that the lack of proper nutrition leads to irreversible effects, endangering survival and development. The reasons for malnutrition are myriad and include poverty, lack of nutritious food, inadequate food, improper infant and child feeding, among others. Malnutrition is a complex phenomenon and it is both the cause and effect of poverty and ill-health, and follows a cyclical, inter-generational pattern.³ This condition of under-nutrition, therefore, reduces work capacity and productivity among adults and enhances mortality and morbidity amongst children.⁴
- 2.2 Pre-school children are one of the most nutritionally vulnerable segments of the population. Nutrition during the first five years has an impact not only on growth and morbidity during childhood, but also acts as a determinant of nutritional status in adolescent and adult life.⁵ Moreover, the crucial period is birth to two years when maximum growth takes place and any deprivation at this stage, both nutritional and care related in development would be difficult to remedy later. The Mid-term

³ Food and Nutrition Board, Ministry of Women and Child Development, Government of India

⁴ National Nutrition Policy, 1993, Government of India

⁵ Nutrition Transition in India, Prema Ramachandran, Nutrition Foundation of India, 2007

appraisal of the 10th Five-year Plan highlighted that the lack of food security and poor nutritional status affects the physical growth, intelligence, behaviour and learning abilities of children and adolescents especially during the development of the brain in 0-3 years period.⁶

- 2.3 Malnutrition is the underlying cause of at least 50 per cent of deaths of children under five. Even if it does not lead to death, malnutrition, including micronutrient deficiencies, often leads to permanent damage, including impairment of physical growth and mental development. For example, iron, folic acid and iodine deficiencies can lead to brain damage, neural tube defects in the newborn and mental retardation.⁷
- 2.4 One of the recurring themes in the Independence Day speeches over the past few years has been that of malnutrition. Earlier this year on 15th August 2011, the Hon'ble Prime Minister stated that: *"Malnutrition in our women and children is a matter of concern for all of us. We have taken a number of steps to tackle this problem, including two new schemes. We have also decided that we will start implementing an improved Integrated Child Development Services scheme within the next six months so that the problem of malnutrition in children can be effectively addressed."* On 15th August 2009, the Hon'ble Prime Minister stated that *"...It is also our national resolve to root out malnutrition from our country"*, while on the same date in 2008 he declared the problem of malnutrition to be a "curse that we must remove" from India. Malnutrition remains a major threat to the survival, growth and development of Indian children. Keeping this in mind the Government of India framed the "National Plan of action for Children – 2005", inter alia, for reducing infant mortality rate and malnutrition.
- 2.5 Indeed, malnutrition is a national shame and a curse that needs to be rooted out from our country whose national treasure is its people, and whose future lies in the hands of its children. Ignoring the well-being and health of the future generations due to hunger and malnutrition would be crippling to future generations, which would cost the nation dear. In fact, M.S. Swaminathan goes as far as to say that after more than sixty years as an independent nation, we still have large numbers of

⁶ Sub-Group Report, ICDS and Nutrition in the Eleventh Five Year Plan (2007-2012), Ministry of Women and Child Development, Government of India

⁷ "A Leadership Agenda for Action: The Coalition for Sustainable Nutrition Security in India"

women and children who are suffering from malnutrition, and the cost to our nation in terms of health, well-being and economic development is tremendous.⁸

2.6 Even as India continues to take tremendous leaps in the arenas of information technology, science, among others, which, some argue, has led to the unprecedented economic growth in the country, there are some issues including growing poverty and inequality that are a major concern. On the Human Development Index, for the year 2010, India ranked a lowly 121 among 169 countries.⁹

2.7 It is rather obvious that the issue of poor nutrition causing other health problems in the country, including high infant mortality rate and malnutrition is extremely pressing. In fact, the lack of progress over the past decade and the current high levels of malnutrition have led to India being recognized as having, perhaps, the worst malnutrition problem in the world.¹⁰ The findings of the third National Family Health Survey (NFHS-3) reveals an unacceptable prevalence of malnutrition in our children:

- 42.5% of our children under the age of five years are *underweight* (low weight for age)
- 48 % of our children are *stunted* (low height for age – chronically malnourished)
- 19.8 % of our children are *wasted* (low weight for height – acutely malnourished)
- In poorer states the situation is even worse with over 50 % of children underweight

2.8 Rates of child malnutrition in India are among the highest in the world, higher even than sub-Saharan Africa and Latin America. More worrisome, the nutrition situation of Indian children has not improved significantly over the last decade. For example, according to NFHS- 3, there has only been a very slight 0.5 per cent annual decrease in the prevalence of underweight children over the past six years.

⁸ M.S. Swaminathan, Foreword to “A Leadership Agenda for Action: The Coalition for Sustainable Nutrition Security in India”

⁹ <http://hdr.undp.org/en/statistics/>

¹⁰ “A Leadership Agenda for Action: The Coalition for Sustainable Nutrition Security in India”

3. The state of Malnutrition among children in Karnataka

3.1 The NFHS-3 paints a rather dismal picture of Karnataka in regard to the health and nutrition status of children.

- The infant mortality rate in Karnataka is estimated at 43 deaths before the age of one year per 1,000 live births. The under-five mortality rate is 55 deaths per 1,000 live births.
- Infant mortality in rural areas (47) is 28 percent higher than in urban areas (37).
- Little more than half (55%) of children age 12-23 months are fully vaccinated against six major childhood illnesses: tuberculosis, diphtheria, pertussis, tetanus, polio, and measles.
- Although breastfeeding is nearly universal in Karnataka, only 59 percent of children under 6 months are exclusively breastfed, as the World Health Organization (WHO) recommends.
- The Government of India recommends that children under three years receive vitamin A¹¹ supplements every six months, starting at age 9 months, however, only 23 percent of last-born children age 12-35 months were given a vitamin A supplement in the past six months, and only 53 percent of children age 6-35 months ate vitamin A-rich foods during the day or night.
- Children's nutritional status:
 - 44% of children under age five are stunted, or too short for their age, which indicates that they have been undernourished for some time.
 - 18% of children are wasted, or too thin for their height, which may result from inadequate recent food intake or a recent illness.
 - 38% are underweight, which takes into account both chronic and acute under nutrition.
 - Children in rural areas are more likely to be undernourished; but even in urban areas, more than one-third of children under age five years suffer from chronic under nutrition.
- Children's nutritional status in Karnataka has improved slightly since NFHS-2 by some measures but not by all measures. Children under age three years are less likely to be wasted and underweight for their age than they were in NFHS-2, but they are about equally likely to be too short for their age, or chronically undernourished.

¹¹ Vitamin A deficiency can cause eye damage and a higher risk of dying from measles, diarrhoea, or malaria.

- 70% of children between the ages of 6 and 59 months are anaemic¹². This includes 29 percent who are mildly anaemic, 39 percent who are moderately anaemic, and 3 percent who suffer from severe anaemia. Children of mothers who have anaemia are more likely to be anaemic.
- More than half of women in Karnataka (52%) have anaemia, including 34 percent with mild anaemia, 15 percent with moderate anaemia, and 2 percent with severe anaemia.
- 63% of pregnant women are anaemic.
- Anaemia is also particularly high among women with no education, women from the scheduled tribes, and women in the two lowest wealth quintiles.
- Anaemia is much more widespread among children age 6-35 months than it was seven years ago at the time of NFHS-2.
- In regard to Integrated Child Development Services (ICDS), the NFHS-3 has found that:
 - Among the 93 percent of children under age six who are in areas covered by an anganwadi centre, 36% percent received services of some kind from a centre.
 - The most common services children under six years received are supplementary food (28%) and immunization (26%) services.
 - One-third of children age 3-5 years received early childhood care or preschool services.
 - Only 17-18 percent of children received health check-ups and growth monitoring services at an anganwadi centre.
 - Children from rural areas, children whose mothers have little or no education, children of mothers in the lower wealth quintiles, and children from the scheduled tribes and scheduled castes are more likely to take advantage of the services offered at anganwadi centres.
 - Among children under age six years in areas covered by an anganwadi centre, only 31 percent had mothers who received any service during pregnancy, and even less (20%) had mothers who received any service when breastfeeding.

¹² Anaemia is a major health problem in Karnataka, especially among women and children. Anaemia can result in maternal mortality, weakness, diminished physical and mental capacity, increased morbidity from infectious diseases, perinatal mortality, premature delivery, low birth weight, and (in children) impaired cognitive performance, motor development, and scholastic achievement.

3.2 According to the most recent information received under the Right to Information Act, which is placed as **Annexure – 2**, the details of malnourished children in Karnataka is as follows:

Grade	No. of Boys	No. of girls	Total
Mild	10,50,006	10,50,812	21,00,818
Moderate	5,61,224	5,68,723	11,29,947
Severe	33,039	38,566	71,605

The state of Malnutrition among children in Raichur district:

3.3 As pointed above the Advisor has repeatedly drawn the attention of the authorities and the State Government to the grave situation in Raichur district. Vide letters dated 12th November 2010 and 29th July 2011 the issue of malnutrition in Raichur district was brought to the attention of the Chief Secretary.

3.4 Between 8th and 9th October 2011, the Advisor visited few villages in Raichur district and one slum in Raichur city in regard to the malnutrition prevailing in the district. A copy of the report is placed as **Annexure – 3**.

3.5 Alarmingly since April 2009 to August 2011, 2689 malnourished children have died in the district of Raichur alone, and 4531 children are suffering from severe malnutrition. It is pertinent to note that all officials including the Hon'ble Chief Minister Shri Sadananda Gowda have admitted the same. A copy of the information received from the Department of Women and Child Department is placed as **Annexure – 4**. As per the official statistics:

Details of deaths of malnourished children:

Period	Deaths	Births
April – December 2009	811	20554
January – December 2010	1233	30014
January – August 2011	645	13049
Total for a period of 28 months	2689	63617

3.6 In our visit we came across incidents of deaths of children due to malnutrition, most notably in Malledervaragudda village where a brother and sister died within 1 ½ month of each other. The girl, Mahalaxmi was aged 2.2 years but weighed only 3.5 kgs while her elder brother Anjeneya was aged 5 years and weighed a mere 5 kgs.

3.7 It cannot be emphasised enough that the problem is not only about what happened, but also about what continues to happen even as this Report is being written.

3.8 Data on children at risk from severe malnutrition was collected from anganwadi centers in the following villages/ wards in Raichur are:

No.	Name	Taluk
1	Navalkal village	Manvi Taluk
2	Malladevara Gudda village	Deodurga Taluka
3	Marakamadinne village ¹³	Devdurga Taluk
4	Harijanwada (slum)	Ward No. 20, Raichur city
5	Chikkasuguru village	Raichur Taluk

The following are the list of children who are severely malnourished:

I. Navalkal village, Anganwadi Center I

No	Name	Parents Names	Age	Weight	Identified as malnourished on
1	Gangadevi	Rangappa Ravi	3 years	9kg	5/12/2010
2	Panchaiah	Thimappa	2 years	6.5 kg	5/12/2010
3	Channabasava	Ushaini	2 years 11 months	8kg	5/2/2010
4	Shambavi	Shantappa	2years 11 months	8.5kg.	1/10/2010
5	Lalita	Lakshmipathi	1 year 5 months	6.5kg	1/10/2010
6	Girija	Laxshmipathi	1 year 5 months	6.1kg	1/10/2010
7	Shweta	Rajappa	8 months	4.5 kg	1/10/2010

II. Malledevara Gudda village Deodurga Taluka:

Anganwadi I				
No	Name	Parents Name	Age	Weight
1	Rekha	Venkappa and Shantamma	1 year and 4	6.4kg.

¹³ The records maintained in the Anganwadi could be viewed since the visit was conducted past the anganwadi closing time.

			months	
2	Anita	Hanivesha and Hunamathi	1 year and 10 months	6.7 kg
<u>Anganwadi II</u>				
1	Rachappa	Mallaiah and Rangamma	4 years	11kg
2	Arun Kumar	Vasappa and Parvati	1 year 6 months	7.5 kg
<u>Anganwadi III</u>				
1	Jayamma	Malayya and Shantamma	1 year and 10 months	4 kg
2	Buyamma	Hanumanraya and Gangamma	1 year and 10 months	6.2kg

III. Marakamadinne, Devdurga Taluk

No	Name	Date of birth	Weight
1	Bhavna	13/07/08	9 kg.
2	Shashikala	17/05/09	5kg
3	Uday Kumar	24/03/10	9kg.

IV. AWC No 241 , Harijanwada, Raichur city

No	Name	Parents Names	Date of birth	Weight	Date on which became Grade III	Caste
1	Sashikala	Bolappa and Laxmi	22/10/09	7kg	10/01/11	SC
2	Tarun	Huliguppa and Kasturi	22/06/10	6.5kg.	10/01/11	SC
3	Thimappa	Ramappa and Yelamma	20/02/08	8kg	03/05/10	SC
4	Ramcharan	Chennabasava and Bhemavati	14/11/09	7.2kg	10/01/11	SC
5	Aishwarya	Chandrashekar and Usha	01/04/09	5kg	5/06/2010	SC

6	Shreja	Samshadappa and Gayatri	20/03/08	7.5	10/01/11	SC
7	Anusha	Mahesh and Huliyamma	13/02/08	9.5kg	10.1.2011	SC

3.9 Thus even in the five anganwadi centers, there were at least 23 children who were severely malnourished. The age of the children varies from three years to just over a year. What is shocking is that none of the children weight more than 10 kg, with the lowest weight being I year and 10 month old Jayamma at a mere 4kg. It should also be noted that the blight of severe malnutrition also disproportionately affects girl children with sixteen of the twenty-three children being girl children. The fact that the disproportionate impact is also on children from a SC background was also apparent in our investigations.

3.10 It bears repetition that unless the State government formulates a serious action plan to deal with this decidedly grim state of affairs in a sustained and urgent manner, the future prospects of these children does not look bright.

3.11 It should also be noted that while this field visit was only able to throw light on the situation and the number of children suffering from severe malnutrition, it is equally important to ensure that children who are in moderate stages of malnutrition do not slip into severe malnutrition. The Government of India¹⁴ has cautioned against neglecting moderate malnutrition:

- Since there is no provision for giving double the supplementary food to moderately malnourished children, these children gets neglected and the situation worsens.
- It is important to prevent the onset of malnutrition and to treat malnutrition in early stages.

4. Childhood malnutrition and its human rights implications

4.1 The starkness of childhood malnutrition has very serious human rights implications. It can render completely null every single human rights commitment undertaken by the state and make a mockery of the claims of the state to render to all its citizens, justice: social, economic and political. The legal obligations underlying the prevention of childhood malnutrition can be understood as under.

¹⁴ Guidelines for Management of Grade I & II Malnutrition in Children, department of Women and Child Development, GOI, New Delhi

Convention on Rights of the Child, 1990

- 4.2 The legal framework concerning the rights of children is embodied in the Convention on Rights of the Child, 1990 that is the most heavily ratified treaty in the world. Needless to say the CRC has also been ratified by the Government of India and thereby binds the government of India. It would be important to understand the issue of childhood malnutrition from the point of view of the basic principles underlying the Convention as the issue of malnutrition centrally involves the very core of the CRC.
- 4.3 The Committee on Rights of the Child has identified four general principles, which are referred to as the ‘soul of the treaty’. These four articles are essential to understanding the spirit of the Convention as they set out the overarching principles that guide the interpretation of all other provisions.¹⁵ These are in Article 2, (non discrimination), Article 3 (best interest), Article 12 (right to participate) and Article 6 (right to life)

Article 6 (Right to life)

- 4.4 Article 6 mandates that *every child has the inherent right to life*. Article 6(2) mandates that, *States Parties shall ensure to the maximum extent possible the survival and development of the child*. It is submitted that the question of survival and development of children are seriously impacted by childhood malnutrition.
- 4.5 The effects of chronic malnutrition on children below the age of five are irreversible. The life long implications are in terms of physical development as well as mental development (IQ).
- 4.6 As such the seriousness of childhood malnutrition as a issue of child rights is that it affects the very right to survival of the child as well as the physiological and psychological development of the child.

Article 2 (non discrimination)

- 4.7 Article 2 mandates that *State parties shall respect and ensure the rights set forth in the present Convention without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status*.

¹⁵ Rebecca Rios Kohn, *The Convention on the Rights of the Child : Progress and challenges*,5 GEOJFP 139.

4.8 It is submitted that the right not to be discriminated against (Art 2) is also key in any understanding of malnutrition. The documentation indicates that it is not all children who are equally at risk of suffering the consequences of malnutrition. The children who are more at risk of becoming victims of malnutrition are girl children as well as children from a Dalit background. As such it is clear that malnutrition among Dalit and girl children is also the result of discriminatory actions by a range of both state and non-state actors.

Article 12 (right to participation)

4.9 The child under Art 12 has the right to *express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

4.10 This principle is key to combating the problem of malnutrition. As documentation has revealed, the choice of food provided by the state to children under the age of six, does not seem to take into account the opinion of children themselves. If the food is not palatable and the children have expressed their opinion, this opinion needs to count in decisions made about the supply of food to children.

Article 3 (Best Interest Principle)

4.11 This is seen by the Committee on the Rights of the Child and various other commentators as a key provision, which guides the interpretation of the other articles in the Convention itself.¹⁶ The principle reads, *in all actions concerning children...the best interest of the child shall be a primary consideration.*

4.12 It is submitted that decisions regarding children including the choice of food, the number and quality of anganwadi centers etc should be conditioned by the principle of best interest of the child.

4.13 A number of rights are relevant when it comes to addressing the key issue of malnutrition in children. There are specific rights pertaining to standard of living, social security, health and mentally and physically disabled children that are centrally involved when it comes to addressing the issue of malnutrition in children.

¹⁶ Philip Alston, *The best interests of the child*, Clarendon Press, Oxford, 1994. Art 3 of the CRC reads

- Article 27 recognising the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
- Article 26 recognising for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
- Article 24 recognising the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
- Article 23 recognising that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

4.14 It is submitted that the state is mandated to ensuring that children are guaranteed above-mentioned rights. To ensure these rights the problem of child malnutrition has to be redressed urgently.

Millennium Development Goals

4.15 The particularly stark and indeed unacceptable nature of the violations of the very fundamental right to exist and develop as a human being due to childhood malnutrition has been widely acknowledged. In a meeting of 189 world leaders at the Millennium Summit at the UN General Assembly, the leaders agreed to eight time bound targets to end extreme poverty worldwide by 2015. Of direct relevance to the question of addressing child malnutrition are the following targets agreed to by the Indian government:

- The Millennium Development Goal 1: Eradicate extreme poverty and hunger
70 (u) Reaffirming the right of everyone to have access to safe, sufficient and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger, so as to be able to fully develop and maintain his or her physical and mental capacities;
 - Making special efforts to meet the nutritional needs of women, children, older persons and persons with disabilities, as well as those living in vulnerable situations, through targeted and effective programming;
- Millennium Development Goal 4: Reduce child mortality

74 (c) Taking action to improve child nutrition through an integrated package of essential interventions and services, including, in particular, access to nutritious food, appropriate supplements, prevention and early management of diarrhoeal diseases and information and support for exclusive breastfeeding and for the treatment of severe acute malnutrition

4.16 It is submitted that the nature of commitments imposed by international law through the ratification of the CRC as well as the voluntary assent to the Outcome Document following the Millennium Summit makes it clear that the Indian State is legally committed to eradicating child malnutrition.

Constitution of India

4.17 It is further submitted that these international commitments of the Indian state are reflected in the Indian Constitution itself. The Constitution of India shows great solicitude towards the rights of children below the age of six years. There is constitutional cognizance taken of the vital importance of early childhood care particularly of children below the age of six years.

Art 45. Provision for early childhood care and education to children below the age of six years — The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Art 39(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 39(f)'s mandate to protect children from 'material abandonment' in particular is a clear constitutional recognition of the responsibilities of the state to ensure that children are 'given opportunities and facilities to develop in a healthy manner'.

4.18 If the Directive Principles are read along with the mandate of the right to life under Article 21, then it is not merely that the state must endeavour to fulfil these rights but rather the state is obligated to protect and defend the right of children to be protected from 'material abandonment' through the provision of 'early childhood care and education'.

4.19 The fact that the right to life under Article 21 has been read widely has now been established in a plethora of Supreme Court decisions. The Supreme Court has read the Fundamental Rights and Directive Principles in a complementary manner, reading in Directive Principles into the Fundamental Rights.¹⁷ Chandrachud C.J. in *Minerva Mills v. Union of India*, AIR 1980 SC 1789, observed that, “*fundamental rights are not an end in themselves but are the means to an end*”. It was further observed that the Fundamental Rights and the Directive Principles “*constitute the core of commitment to social revolution and they together are the conscience of the Constitution.*”

4.20 It is submitted that in the light of the observations of the Supreme Court with regard to the complementary reading of the Directive Principles and Fundamental Rights as well as the expansive understanding of the right to life as going beyond mere animal existence, Article 45 and Article 39(f) should be read into right to life under Article 21. Children in India are entitled as a matter of right to effective early childhood care and education as well as protection from material abandonment.

4.21 Both from the point of view of international legal commitments undertaken by the Indian state as well as from a constitutional point of view, the protection of children from malnutrition particularly of children below the age of six is mandatory. It is this promise which is violated when children's very right to develop as human beings is destroyed through the entirely preventable blight of malnutrition.

PUCL vs Union of India and others (W.P. No. 196 of 2001) (commonly known as the Right to Food case)

4.22 The Hon'ble Supreme Court has further expanded the constitutional understanding of a basic entitlement to survival through a series of landmark orders in *PUCL vs Union of India and Others*, Writ Petition (Civil) 196 of 2001. The Hon'ble Supreme Court has laid down a series of orders that have emphasised the state responsibility to ensure survival of its citizens.

4.23 In our opinion, what is of the utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide

¹⁷ Unnikrishnan v. State of Andhra Pradesh, AIR 1993 SC 2178

food for them. (*PUCL vs Union of India and Others*, Writ Petition (Civil) 196 of 2001, order of 23 July, 2001)

4.24 The anxiety of the Hon'ble Court is to see that the poor and destitute and the weaker sections of the society do not suffer from hunger and starvation. The prevention of the same is one of the principle responsibilities of the Government – Central or State. (*PUCL vs Union of India and Others*, Writ Petition (Civil) 196 of 2001, Order of 20 August, 2001.)

4.25 The Hon'ble Supreme Court has also specifically addressed the issue of early childhood care by converting the ICDS scheme into a legal entitlement vide order dated 28th November 2001. This has also focussed on seven other food-related schemes namely, the Public Distribution System (PDS), Antyodaya Anna Yojana (AAY), the National Programme of Nutritional Support to Primary Education, also known as “mid-day meal scheme”, Annapurna, the National Old Age Pension Scheme (NOAPS), the National Maternity Benefit Scheme (NMBS) and the National Family Benefit Scheme (NFBS).

4.26 Essentially, the interim order of 28th November 2001 converted the benefits of these eight “schemes” into legal entitlements.

4.27 It is submitted that the orders of the Hon'ble Supreme Court in the above mentioned writ petition are recognition at the highest level of the supreme value placed by the Hon'ble Court on the state obligation to ensure the survival of its citizens.

5. Response of the State Government to the problem of childhood malnutrition

5.1 In the light of the above findings that childhood malnutrition is indeed a serious problem in Karnataka and the fact that childhood malnutrition violates several core human rights commitments at the international level as well as Constitutional commitments, it becomes necessary to ask the question as to what was the response the Government of Karnataka?

5.2 As things stand today, the following are the attempts of the Government to directly address child malnutrition in the state:

- Health (doctors visits and Rs. 750/annum for children with severe malnutrition) and nutrition (double dose of pre-packed food) under ICDS

- Bal Sanjeevani malnourished children aged below six years would receive medical services in 5 hospitals across the State and expenses upto Rs. 35,000-Rs. 50,000 would be paid by the government. The Karnataka State Commission for Protection of Child Rights has informed the government of certain shortcomings in the scheme and steps especially that it is limited to only 5 hospitals and has also made several important suggestions in regard to the scheme. A copy of the communication of the Karnataka State Commission for Protection of Child Rights in this regard is placed as **Annexure – 5**.
- Under a scheme in the NRHM treatment at the hands of a private paediatrician
- Nutrition Rehabilitation Centres in Gulbarga and Bijapur where severely acute malnourished children can be admitted and receive treatment
- Karnataka Nutrition Mission with World Bank funding of 1100 crores of which 19 crores disbursed for implementation on pilot basis in three taluks.

5.3 However, despite this child nutrition is growing and several organisations and institutions including the Advisor to the Commissioners of the Hon'ble Supreme Court has repeatedly tried to draw the attention of the concerned department and the State Government to the serious nature of malnutrition and the lack of quality food being provided to the children under ICDS.

5.4 Besides visiting anganwadis across the State and interacting with various organisations for the purpose, the Advisor has also travelled with the senior officials of the Department of Women and Child Development to various parts of the State for this purpose. The Advisor has consistently attempted to draw the attention of the officials and the State Government to some of the pressing issues in regard to ICDS and malnutrition. Communications to the Chief Secretary and the Department of Women and Child development dated 12th November, 2010, 28th December 2010, 26th July 2011, 29th July 2011 and 29th August 2011 emphasising the various problems in the implementation of ICDS and the issue of malnutrition as **Annexure – 6** to **Annexure – 10**. One of the primary issues raised with the Department was the contract entered into with M/s Christy Friedgram to supply food to the Anganwadis. Attention was drawn to the fact that the Hon'ble Supreme Court had strictly prohibited use of contractors in supply of food in ICDS, and, further that the food was not palatable and that there is a strong link to the lack of nutritious food being supplied and increasing malnutrition.

5.5 It is necessary to state that the issue of malnutrition in Raichur, Davangere and Belgaum districts, among other districts in Karnataka, has been highlighted in these communications and in the communication dated 26th July 2011, it was suggested that an immediate exercise to identify children with malnutrition has to be undertaken immediately and the programme to deal with malnutrition needs to be reviewed.

5.6 In February 2011, the Secretary, Department of Women and Child Development replied to the Advisor's communications denying that the employment of M/s Christy Friedgram was in violation of the orders of the Hon'ble Supreme Court and further offering rather lame explanations in regard to the malnutrition issues raised by the Advisor. A copy of the communication dated 10th February 2010 from the Secretary, Department of Women and Child Development to the Advisor is placed as **Annexure – 11**.

5.7 Several organisations across the State have also been raising these issues with the concerned officials and the State Government by repeatedly approaching them and also through conducting public hearings across the State, which were attended by Hon'ble Jst. Nagmohan Das, legal luminaries, numerous officers, Chairperson, Karnataka State Commission for Protection of Child Rights, academicians, etc.

- 14th May 2010 – Public hearing at Kolar
- 29th May 2010 – Public hearing at Kolar Gold Fields inaugurated by Hon'ble Justice Nagmohan Das
- 31st May 2010 – Public hearing at Raichur with the jury panel headed by Smt. Nina Nayak, Chairperson Karnataka State Commission for Protection of Child Rights
- 9th November 2010 – Public Hearing at Chikkaballapur with the jury panel headed by Justice A.J. Sadashiva
- 2nd December 2010 – Public hearing at Bangalore
- 9th December 2010 – Public hearing at Davangere
- 25th February 2010 – Public Hearing at Bijapur
- Public hearing at Gulbarga

Copies of reports and jury recommendations in the public hearings are placed as **Annexure – 12 to Annexure – 20**.

- 5.8 The Karnataka State Commission for the Protection of Child Rights has submitted an Interim Report to the State Government making several important observations and recommendations for strengthening ICDS including tackling malnutrition. A copy of the same is placed as **Annexure – 21**.
- 5.9 It would be pertinent to produce a copy of the memorandum dated 24/09/2011 handed over by an organisation to the Principal District Judge to be given to the Hon'ble Chief Justice of the High Court of Karnataka in this regard as **Annexure – 22**.
- 5.10 On 8th July 2011, a meeting under the Chairmanship of the Chief Secretary was held at the Vidhana Soudha, attended by Shri Harsh Mander, the Commissioner and the State Advisor and numerous officials. Yet again the issue of malnutrition and use of contractors in ICDS was raised. A copy of the proceedings of the meeting dated 08/07/2011 is placed as **Annexure – 23**. It is necessary to point out that the Lok Ayukta is investigating into the irregularities in engaging M/s Christy Friedgram in K.LOK.BCD-130/2010/ARE.1.
- 5.11 As can be noted, the response of the Government of Karnataka has been inadequate and deeply unmindful of the nature of its own constitutional obligations.

6. Key roadblocks in eliminating childhood malnutrition

- 6.1 Based upon the field visits undertaken, the study of material related to childhood malnutrition and human rights, the following can be identified as some of the key problems that prevent child malnutrition from being eliminated.

Poor quality of food

- 6.2 The key finding has been the serious complaints about the quality of the food. In Karnataka food is supplied in pre-packaged form through M/s Christy Friedgram. This pre-packaged food is prepared by mixing with hot water. There appears to be widespread consensus that it is unpalatable by the children, parents and anganwadi teachers (speaking on the condition of anonymity), and further that it is not nutritious. One consistent complaint was that the *bisibele* bath that is served every alternate day is inedible because of the smell. Repeatedly the request was for hot cooked meals of cereals, pulses, eggs, vegetables and fruits. Further, the food might also not be culturally appropriate for the children.

- 6.3 It is matter of grave concern that the situation in regard to child malnutrition appears to be deteriorating and this is a probable indicator of the lack of nutrition in the food being supplied to the children.
- 6.4 It is seen that for severely malnourished children a double dose of pre-packed food is given which has completely failed to arrest the slippage of the children deeper into malnourishment and closer to death.

Identification of children suffering from malnutrition:

- 6.5 It should be noted that the first problem lies in the identification of children who are suffering from malnutrition. Children are classified as normal, moderately malnourished and severely malnourished based on their weights and marking the same on charts provided for the said purpose. For the proper identification of children at risk from malnutrition what is required is that the Anganwadi Teacher perform this task well and identify children and forward a list of such children to the Supervisor. The Supervisor in turn is to take further action through referrals to the PHC or CHC and provision of special attention and medicines. However the lacunae in the functioning of this system are as follows:
- The weighing scales that have been provided to the angawadis needs to be replaced by stand-on weighing machines, and, moreover, every single anganwadi must be provided with the weighing scale.
 - The weighing has to be conducted every month and every single child has to be weighed. It was found that the children aged between 6 months and 3 years were weighed only if they came to the Anganwadi. This leads to the doubt that the numbers are underestimated.
 - The identification of children suffering from malnourishment is contingent on the Anganwadi teachers (ANWs) filling in the charts maintained for this purpose. It is necessary that proper training be imparted to them for this purpose, and further, the Supervisors and Deputy Directors (ICDS) monitor these charts/registers regularly. Any irregularity or error in this process would result in undernourished children being wrongly classified as normal.
 - There is the need for training of ANWs on how to undertake proper identification of children at risk from malnutrition.
 - There is a need for better maintenance of records in the ANWs as without these records it would be impossible to get a sense of the seriousness of the problem.

Failure of officials to take required and necessary steps in regard to malnourished children:

- It is seen that the Anganwadi teachers are required to submit monthly reports to the Supervisors in regard to the children suffering from malnutrition, yet the Supervisors have not taken any necessary and appropriate action. A copy of the Performa submitted every month by every single Anganwadi Teacher to the Supervisors is placed as **Annexure – 24**. This is a serious failure of responsibility as per the government statistics the government of Karnataka is well aware of the nature and seriousness of the problem.
- After identification of children as suffering from severe malnourishment, it is mandatory that special care should be taken and medicines of Rs. 750/- worth be supplied and supplementary food also be given. However, except for a handful of cases it was seen that no such actions have been taken in regard to severely malnourished children.
- Further, there is no special care for or provisions of children who are moderately malnourished to prevent them from sliding into the severely malnourished grade.
- There are no remedial steps for child with moderate malnutrition.
- Children between 6 months and 3 years do not regularly use the Anganwadi facility and therefore receive the pre-packed food once a month. Thus, the nurture and care of these children is not taking place in the Anganwadis. Also it was observed that not all the children are weighed, which is essential in monitoring malnutrition. Further, the weights that are being used do not appear to be the most appropriate for the task.
- Though on paper there are schemes for malnourished children, it does not appear to be adequate or translate into action. For instance most of the malnourished children only receive double dose of pre-packed food when they are identified as malnourished. It is doubtful if this would be of any value even if implemented properly due to the unsuitability of the pre-packaged food. Even those identified as severely malnourished do not receive the proper medical attention that is warranted.
- Even after the child is identified as moderately or severely malnourished no effective steps are taken to ensure that the condition of the child improves.
- Most often the medicines for Rs 750 have not been given to Grade III children.

- The ration for the children from 0 to 3 is given at home and it is not known whether the children are actually given the ration or not.

Lack of monitoring:

- The Government of India has come up with Guidelines for monitoring and reviewing the implementation of ICDS, which describe the role and responsibilities of the various officials.
- However, the failure to implement these in letter and spirit is defeating the purpose of the ICDS programme.
- Unless there is proper monitoring and review of growth progress and steps to address malnutrition, the situation is bound to worsen.

Failure of the health department to address the issue:

- It was seen that the ASHA activists are focussed only on immunisations while the Nurses visit the Anganwadis irregularly and do not take much interest.
- There is negligence and lack of interest by the Local doctor as well as the health department. It is seen that the doctors do not visit the anganwadis in several instances and when the parents take their children to the government hospitals they do not receive proper treatment.
- The implementation of the NRHM has been half-hearted and there are several instances of corruption in the matter. A copy of the letter from the Karnataka State Commission for Protection of Child Rights to the Lok Ayukta in this regard is placed as **Annexure – 25**.

Infrastructural problems:

- There are infrastructural problems with some of the angwanwadis being run in dilapidated buildings, which are not suitable for the proper care of young children.
- In Navalkal, one anganwadi is being run under a Neem tree while in several adivasis hadis it was found that the Forest Department was refusing to allow anganwadis to be established in some places like Kodagu
- Requests from the anganwadi teachers to the Supervisors and CDPOs for infrastructure including structures, safe spaces to store registers have not been acceded to and there is a failure to replace essential equipment like weights.

Responsibility of parents and socio-economic conditions:

- It should be noted that generally parents have tried their best to cope with very adverse circumstances and take care of their children's medical needs. However the adverse socio economic conditions makes it difficult. There are situations where parents leave the child at seven in the morning in order to go to work and only come back at 10pm at night. The larger condition of poverty is closely linked to the inability of parents to provide for their children.
- It is also seen that health status of pregnant women and mothers and their nutrition is not being taken care of in the required manner.

Other observations:

- Question of caste: It should also be noted that the vast majority of children suffering from severe malnutrition belonged to the SC community and particularly to the Madiga sub caste.
- Question of gender: It can also be seen from the visits conducted that the children affected were disproportionately female.
- The PDS Rations might not be adequate in terms of quantity as well as quality for the size of the family. It was seen that the families of the malnourished children had temporary ration cards and the quantity of foodgrains received was not sufficient. Further the complaints that they had against the running of the Fair Price Shops fall on deaf ears and they are entirely at the mercy of those running the shops and the officials.
- The drought this season has played havoc with the peoples lives and affecting their livelihood, especially the labourers.

7. Recommendations

Children at risk of death from severe malnutrition

*Immediate Measures*¹⁸:

7.1 The opinion of Dr. Veena Shatruguna requires that community based nutrition centres should be started in villages with severely malnourished children, which could be the anganwadis itself, and in which the children would be fed a special diet of khicri, eggs, milk, bananas, etc. All severely malnourished children should be medically examined and for children needing medical attention, it is imperative that they be fed in the hospital alongside receiving medical treatment. For this, the government should consider setting up Nutrition Rehabilitation Centres, linked to the Community Health Centres or District Hospitals.

7.2 According to Dr. Veena, malnourished children's calorie intakes at home are usually less than 50-60 kcal/kg per day. Their requirements are around 80-90 kcal/kg/day. Because the children must have a catch up weight the rehabilitation is based on the desirable weight of the child hence children need upto 150-200kcal per kg per day. The calories must of course come from a variety of foods. Hence the feeding protocol should be such as not to depend on pre packaged foods, they are of questionable quality. Further the feeding should be gradually increased over 2-5 days. In the first few days of admission, especially if the child has a poor appetite and is not able to eat, she/he should be given smaller feeds in the form of milk with sugar and supplemented with oil, and small quantities of bread introduced when the child accepts it.

7.3 Her advice on the meals are six daily meals being 2 milk feeds, 2 solid feeds, 2 snack feeds (fruits, snack, eggs).

Other immediate measures:

- State Government shall initiate health camps immediately to provide health support to malnourished children. During the health camp, workers will emphasis those children in any Grade of malnourishment are at risk of death or dangerous health issues and will recommend that children in all grades be targeted for treatment.

¹⁸ These short term measures are based upon the suggestions of Dr. Veena Shatrugna, Formerly Deputy Director & Head Clinical Division, National Institute of Nutrition, Jamai Osmania,

- The State Government shall establish as many Nutrition Rehabilitation Centres (NRC) as required and issue a circular stating that all children who require admission in Nutrition Rehabilitation Centre (NRC) shall be granted admission and no child shall be denied admission.
- Families of severely malnourished children must immediately be given AAY ration cards.

Malnutrition Deaths

7.4 Any complaint or news item on malnutrition deaths should be immediately inquired into by a senior officer and a report sent through the nodal officer to the Food Commissioner. The senior officer should also look into the progress of food based and other safety net schemes in that village/locality for the past six months.

Other Malnutrition related recommendations:

- The State Government should terminate its contracts with M/s Christy Friedgram and instead provide children with milk and hot cooked meals of rice, dhals, grams, eggs, vegetables and fruits. The food so provided should be age-appropriate, culturally appropriate, nutritious and locally procured.
- It is necessary that there be a comprehensive survey to identify children suffering from malnutrition, conducted by the department of Women and Child development and the health departments with the full participation of the local bodies, activists and NGOs.
- The Health Department must be directed to ensure that the ASHA activists, nurses and doctors visit the Anganwadis regularly and take all steps necessary to address the needs of children suffering from malnutrition.
- The State Government must frame a comprehensive Nutrition Policy, after public consultations with nutritionists, medical experts and practitioners, activists, NGOs, etc.
- Steps must be initiated on a war footing to address the needs of the children suffering from moderate and severe malnutrition. The State Government has initiated a Karnataka Comprehensive Nutrition Mission on a pilot basis in three blocks. It is necessary that the same be implemented in the villages that are most severely affected by malnutrition all over the State.
- Experience in Tamil Nadu, Maharashtra and other states indicate that individual growth monitoring of children is both feasible and extremely useful. Individual 'child

tracking' is particularly important to prevent extreme under-nutrition as well as prolonged illness (often evident in loss of weight).

- Anganwadi workers could be trained to publicly display a list of children at risk and report the progress of these children to the mothers, committee or panchayat. Supervisors, for their part, could be responsible for verifying the accuracy of these records and helping Anganwadi workers to maintain them.¹⁹
- It must be ensured that maternal benefit schemes are implemented in letter and spirit so that the pregnant and lactating mothers can ensure nurture and care of their children and themselves.
- It is necessary that the State Government increase the budgetary allocation for provision of nutritious food and other services under ICDS as sought by the Department itself vide letter No. DWC:ICD:PRC:52:2010-11 dated 27/05/2011 to the Secretary, Ministry of Women and Child Development, which is placed as **Annexure – 26**.
- It is also noticed from various visits across the State that one constant refrain for lack of proper implementation of ICDS is the lack of staff. In this regard it is required that all vacant posts must be filled and an additional worker needs to be appointed in the AWCs with the specific task of looking after children below the age of 3 years.

Proper health services

- As things stand, the linkages between ICDS and the Primary Health Care (PHC) system are somewhat disjointed and ineffective. There is much scope for better integration of ICDS with basic health services such as health checkups, growth monitoring, detection of under-nutrition, mass de-worming, disease surveillance, micronutrient supplementation, health education, etc.
- Innovative measures in this field could include:
 - a pre-fixed 'Nutrition and Health Day' each month, with mandatory joint presence of the Anganwadi worker and community health worker, and also serving as the designated day for the distribution of 'Take-Home-Rations' together with weighing of children below three;
 - common training programmes for health and ICDS staff;
 - joint monitoring of child growth by ICDS Supervisors and health staff; and
 - regular provision of medical kits with adequate stocks of common medicines such as ORS, anti-malarials, anti-diarrhoeals, etc.

¹⁹

Recommendations on ICDS (based on deliberations of the National Advisory Council on 28 August 2004)

- The health department must initiate steps to deliver its services to the children, especially malnourished children, through the anganwadi centres.

Drought related

7.5 Owing to the fact that several districts and taluks in the State have been declared as drought affected, it is necessary that drought relief should be started immediately to avoid hunger and starvation.

- Specifically, it must be directed that the State Government to continue the mid-day meal programme during the summer months in drought-affected districts, to protect children from acute hunger in those months. This has been held so by the Hon'ble Supreme Court which directed that in drought-affected areas, mid-day meal shall be supplied even during summer vacations.²⁰
- The Government of India should be directed to provide grain, free of cost, based on the usual norms, to enable this extension during the summer months.
- The Mahatma Gandhi National Rural Employment Guarantee Act must be implemented in the drought affected villages to prevent forced migration.

Other necessary steps towards ensuring nutrition security for children, adolescents, pregnant women and lactating mothers:

ICDS

- Towards ensuring universalisation of ICDS in compliance with the Interim Orders of the Hon'ble Supreme Court (28th November 2001), Anganwadis should be opened in all areas, with special emphasis on remote areas. The Government should comply with the order dated 28 November 2001, including the directions calling for an anganwadi to be available in each habitation, and for coverage of adolescent girls, pregnant and lactating women under the ICDS programme.
- All steps must be taken to ensure that all slums are within convenient reach of an anganwadi and urban homeless children are covered in Anganwadis.

²⁰ Supreme Court Order dated 20th April 2004.

- States should ensure that all slums are within reach of an Anganwadi and all urban homeless women and children are covered and provided all the services as well.
- Mini –anganwadis to be sanctioned for all remote settlements.
- State Governments should make available medical kits, toilet facilities, and drinking water in all ICDS projects.
- Minimum infrastructural standards for anganwadis should include (at the very least): (a) a well designed independent building with attractive appearance; (b) located in a convenient and accessible space; (c) with separate space for cooking and storage; (d) having toilet facilities; (e) source of drinking water on the premises; (f) storage space for the registers.
- The State Government must operationalise all sanctioned anganwadis and also open anganwadis where it has been demanded.

Antyodaya

- The Government should be directed to accelerate the issue of Antyodaya cards, especially to primitive tribes, in compliance of the 8 May 2003 order. Cards must be issued within four weeks to all primitive tribes and within eight week for other priority groups.
- Antyodaya cards should be provided to the families of all children suffering from severe malnutrition immediately.

Public Distribution System

- Ensure that the FPS are functioning in compliance with the law and strict action should be taken against any irregularity.
- Further the State Governments should not distribute less than the prescribed 35 kg. food grains per month to a BPL/AAY card holding.

Pensions to senior citizens

- All eligible senior citizens must be given the pension immediately.
- Further senior citizens in the households with children suffering from severe malnutrition must also be provide with old age pension