

DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO. 196 of 2001

August 10, 2010

The Registrar,
Supreme Court of India

Dear Sir,

Subject: Issues regarding the Above Poverty Line Families raised in the interim order of the Supreme Court dated July 27th, 2010.

The CVC headed by Justice (Retd.) D P Wadhwa has submitted a very comprehensive report on the PDS. The Report examines in-depth the Public Distribution System. Pursuant to the submission of the report of Justice Wadhwa, the Honorable Bench had made observations on the APL in its order of July 27th, 2010.

The Central Vigilance Committee has rightly observed that the number of BPL cards is completely inadequate and has rightly questioned the basis of the poverty line that has been set. In fact the poverty line, followed by the Planning Commission so far is very low and the per day expenditure stands at approximately Rs.17 per day for urban areas and Rs.11 per day for rural areas. The recommendation of the CVC therefore to enhance the number of BPL families is appropriate. **Any person who has a per capita per day expenditure of Rs.12 and Rs.18 (at 2004-05 prices) in rural and urban areas respectively is currently considered to be in the Above Poverty Line category.** Thus the discontinuation of APL would affect all such poverty-stricken people.

Even if the recommendations of the Tendulkar Committee (which has enhanced the poverty line overall to 37%) are accepted by the Government, any person who has a per capita per day expenditure of just Rs.16 and Rs.20 in rural and urban areas respectively will be considered above the poverty line. The Below Poverty Line therefore, in reality, is not a poverty line but a "starvation line". Abolishing the APL category without giving serious thought to the enhancement of the BPL therefore will ensure that a very large number of poor on the verge of starvation will be removed from the ambit of food security.

We would also like to bring to the notice of this Honorable Court, the fact that as per the results of the National Sample Survey Organisation (2008), as many as many as 64% of the poor do not have any BPL/ AAY card. A large number of these poor are therefore currently depending on the APL card for their rations. The table below gives the breakup of the BPL / AAY cards with the poor and it is apparent therefore that the APL cards are in possession of a very large number of poor who are dependent on them.

	% of poor with no ration card	% of poor with BPL/ AAY ration card
Rajasthan	5	23.6
Uttar Pradesh	16.4	22.9
Bihar	25.5	21.2

Office of the Supreme Court Commissioners
B-68 2nd floor Sarvodaya Enclave, New Delhi 110017
Telefax: +91-11-41829631; phone: +91-11-26851335/339; Email: sc.commissioners@gmail.com,
website: www.sccommissioners.org

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO. 196 of 2001**

Assam	25.7	23.3
Jharkhand	22.1	31.9
Orissa	29.3	54.8
Chhattisgarh	24.1	47.9
Madhya Pradesh	30	41.9
All India	19.1%	36%

Abolishing the APL at this stage therefore would mean that 64% of the poor who are currently drawing rations from the APL would be directly affected.

The logic of enhancing the number of families under the poverty line also emerges from multiple sources of information and data sources of the Government of India. That the Government has chosen not to act on this data and enhance the poverty line remains a matter of deep concern to us.

The data from the third round of the National Family and Health Survey (NFHS 3), released in 2007 shows that the rate of child malnutrition in India is a staggering 46%. The fact that half of the children in the country are underweight is serious enough. But what is even more disturbing is that there has been virtually no change in the rate of malnutrition since the NFHS 2 survey of 1999 which estimated the percentage of malnourished children at 46%. This is completely unacceptable since it is double the rate of malnutrition for Sub-Saharan Africa, which has some of the poorest countries in the world.

Absolute Weights – A 25 year trend (Mean in Kg)

Age	Rural 1977		Rural 1996		Rural 2003		NCHS Median Values	
	F	M	F	M	F	M	F	M
01+	7.5	8.1	8.1	8.7	8.1	8.6	9.5	10.2
5	13.7	14.1	13.6	14.4	14.1	14.6	17.7	18.7
10	22.0	21.6	22.4	22.6	23.1	23.1	32.5	31.4
20-24	42.9	48.1	43.5	50.3	43.8	50.9	56.6	68.9
>70**	-	-	39.1	47.3	41.5	49.2		

Source:** Quoted by Arvind Wadhwa et al, from NNMB 1990-91.

- I. National Nutrition Monitoring Bureau Report, 1977
- II. National Nutrition Monitoring Bureau Report, 1996, 2002
- III. WHO, 1983, Quoted by Hanumanth Rao & Vijayaraghavan, 1996.

An age wise distribution of Absolute weights for the population as compared to the International norms (NCHS Median Values) shows that for every age group the weight is much lesser than the international norms. At the age of one, male children in India are 1.4 kg than the

DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO. 196 of 2001

international norm and girl children are less 1.6 kgs less than the international norm. This increases to 3.6 kg and 4.1 kg respectively for boys and girls by the age of five. In the age group of 20-24 the difference in weight of Indian adult males as compared to the international average is 12.8 kgs and it is 18 kgs for women.

This represents a situation of alarming proportions since the difference with regard to the international standards is so high.

This trend is evident for heights as well. While it is well known that weights represent a robust indicator of nutritional status, it is now scientifically established that heights also represent nutritional status similarly. The table below shows us that the difference in heights, as compared to the international standards has also remained largely unchanged over the decades. From a difference of 5.9 cms for male children and 6.7 cm for girl children, at the age of five, the difference in heights of the Indian population as compared to the International standard by the time they reach adult hood becomes 15.2 cms for adult males 13.5 cm for adult females.

These figure show that the average Indian population is not only underweight but also stunted and that there has been no significant increase in the weights or the heights of the Indian population over a period of time.

Absolute Heights – A 25 year trend (Mean in cm)

Age	Rural – 1977		Rural-1996		Rural-2002		NCHS Median Values	
	I		II		III		IV	
	F	M	F	M	F	M	F	M
01+	71.9	73.1	72.8	75.0	73.8	75.3	74.3	76.1
05+	99.6	100.5	100.4	102.1	102.5	103.2	108.4	109.9
10+	125.7	125.1	126.8	127.9	128.5	128.7	138.3	137.5
20-24	151.2	163.4	151.5	164.0	151.1	163.3	163.7	176.8
>=60	147.9	162.3	147.9	161.0	146.8	160.0	-	-

Source:

NNMB Reports, 1977, 1996, 2002

The most robust indicator of nutritional status, according to nutritionists today is the Body Mass Index (BMI). Any individual with a BMI of less than 18.5 is considered to have Chronic Energy Deficiency and therefore malnourished.

If we this to calculate the Body Mass Index (BMI) of the Indian Population, and take a 20 year trend analysis, we would find that nearly 40% of the adult population in the country have a BMI of less than 18.5. The World Health Organisation classifies such a situation as alarming.

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO. 196 of 2001**

**% DISTRIBUTION OF ADULTS ACCORDING TO BMI
CLASSIFICATION 20 YEAR TREND**

BMI CLASSES		1974-79* (RURAL)	1988-90* (RURAL)	1996-97** (RURAL)	1993-94*** (URBAN)	2002* (RURAL)
<18.5 (CED)	F	51.8	49.3	47.7	36.7	38.9
	M	55.6	49.0	45.5	42.8	36.6
(NORMAL) 18.5-25.0	F	44.8	46.6	46.3	51.7	52.4
	M	42.1	48.3	50.4	51.8	57.2
(OBESE) >=25	F	3.4	4.1	6.3	11.6	8.7
	M	2.3	2.7	4.1	5.5	6.2

* NNMB, 1991, quoted by N,Nadamuni Naidu et al, 1994.

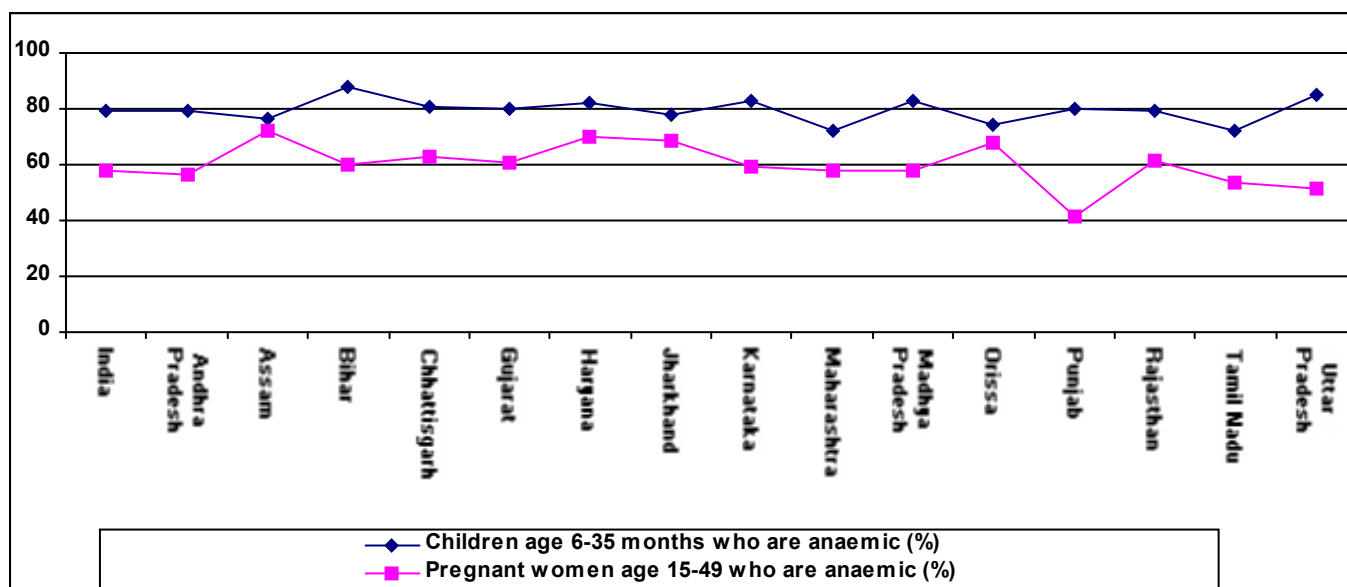
* Rural, 2002

** NNMB, Rural surveys, 1996; *** NNMB Urban Surveys, 1994

We are also enclosing the figures for states where the prevalence of anemia among pregnant women and children is more than 70%. This is the data from NFHS 3.

Prevalence of anaemia among pregnant women and children

(States with anaemia levels more than 70% among children)



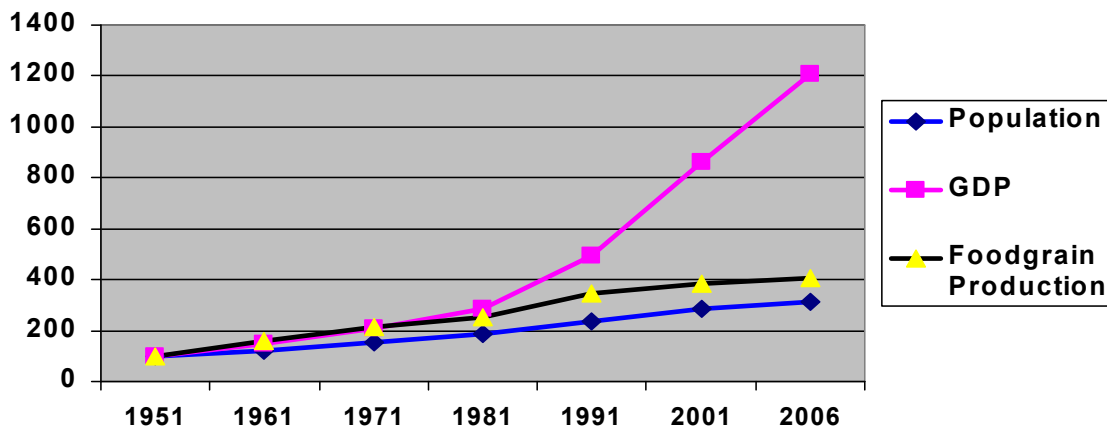
Source: NFHS-3(2005-06), IIPS, Ministry of Health and Family Welfare, GoI.

DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO. 196 of 2001

It is important to reflect on the reasons for this situation and correlate it with the declining consumption and availability of food grains in the country. The paper by Prof. Utsa Patnaik which we are annexing with this report shows the clearly declining trends on consumption and availability of foodgrains that has led to this situation.

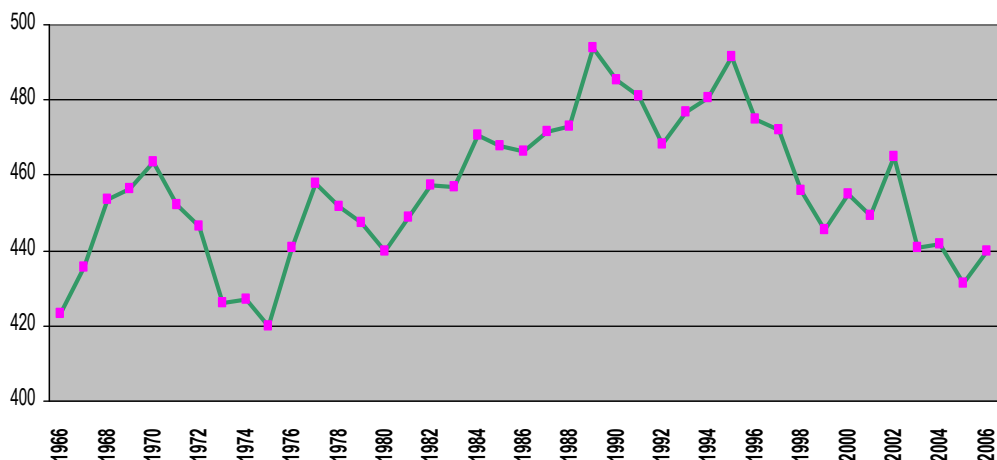
The first graph below shows that overall food grain production in India has kept pace with the growth in population after the 1960's. The growth in GDP has outpaced both the foodgrain production and the growth in population.

Population, GDP and Foodgrain Production



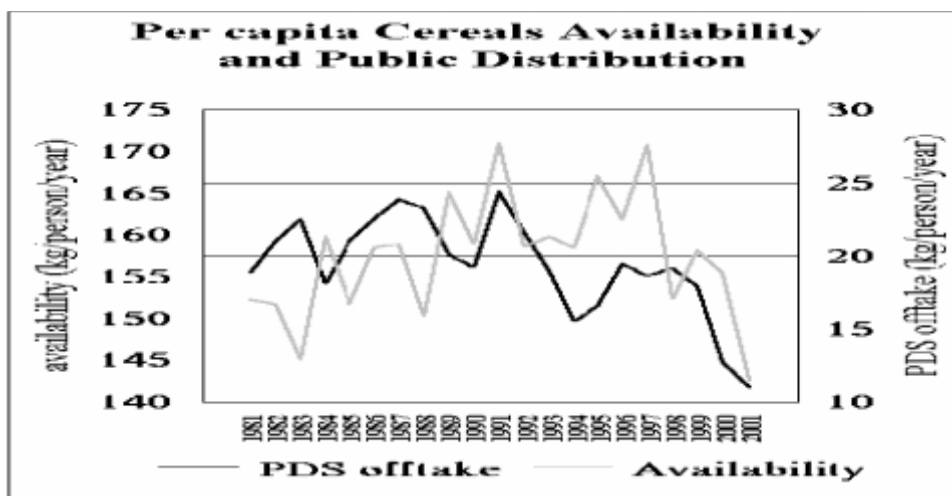
Yet when we examine the per capita availability of foodgrains in the country, we see a clearly declining trend.

Per capita foodgrain availability per day in gms



DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO. 196 of 2001

The steepest decline in availability of food grains, in recent years is from 1997. This is the year when Government of India moved from a universal Public Distribution System when food grains were available at subsidised rates for the entire population to a system of targeting it to a BPL population based on the poverty line drawn up by the Planning Commission. There has been a reversal of this trend marginally now with the focus on food schemes that has been brought about because of the PUCL case and the subsequent monitoring by the Supreme Court. The Government of India acknowledged this gap in availability of food grains with the reduced offtake from the PDS in the Long Term Grain Policy Report (Abhijit Sen Committee Report) way back in 2001. The graph reproduced below, from the Long Term Grain Policy Report, shows the stark reduction in the offtake and availability of grain from the PDS after 1997, when it was targeted.



If we look at the trend state-wise on the decline for both rural and urban areas as we have examined in the table below we find that this trend is across States and holds true both for rural and for urban areas.

Changes in average per capita cereal consumption in physical terms over the last decade in the major States

Year	RURAL							
	Monthly per capita cereal consumption (kg.) in							
	AP	ASM	BHR*	GUJ	HAR	KTK	KRL	MP#
1993-94	13.3	13.2	14.3	10.7	12.9	13.2	10.1	14.2
1999-2000	12.65	12.63	13.75	10.19	11.37	11.53	9.89	12.94
2004-05	12.07	13.04	13.08	10.07	10.66	10.73	9.53	12.16
	MAH	ORS	PUN	RAJ	TN	UP^	WB	IND
1993-94	11.4	15.9	10.8	14.9	11.7	13.9	15.0	13.4

DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL Vs UOI & ORS. WRIT PETITION (Civil) NO. 196 of 2001

1999-2000	11.32	15.09	10.58	14.19	10.66	13.62	13.59	12.72
2004-05	10.50	13.98	9.92	12.68	10.89	12.87	13.18	12.12

Year	URBAN							
	Monthly per capita cereal consumption (kg.) in							
	AP	ASM	BHR*	GUJ	HAR	KTK	KRL	MP#
1993-94	11.3	12.1	12.8	9.0	10.5	10.9	9.5	11.3
1999-2000	10.94	12.26	12.70	8.49	9.36	10.21	9.25	11.09
2004-05	10.51	11.92	12.21	8.29	9.15	9.71	8.83	10.63
	MAH	ORS	PUN	RAJ	TN	UP^	WB	IND
1993-94	9.4	13.4	9.0	11.5	10.1	11.1	11.6	10.6
1999-2000	9.35	14.51	9.21	11.56	9.65	10.79	11.17	10.42
2004-05	8.39	13.11	9.01	10.84	9.48	10.94	10.39	9.94

* includes Jharkhand

includes Chhattisgarh

^ includes Uttaranchal

As we have shown in the analysis using multiple source of official data, there is a drastic decline in the availability and consumption of foodgrains over the years and this is directly linked to the foodgrain availability through the Public Distribution System.

Sincerely Yours,

Dr.NC Saxena

Harsh Mander