

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

October 15th, 2006

To
The Supreme Court of India

Subject: Additional suggestions on the recommendations of the Central Vigilance Committee (CVC) appointed by the Supreme Court on the Public Distribution System.

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. We would like to make the following suggestions with reference to the recommendations of the CVC.

1. Enhancing the number of BPL cards and restricting the APL cards:

The CVC 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. Infact the poverty line, drawn up by the Planning Commission is very low and the per capita income 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.

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 is 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 less than the international norm and girl children are 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 adulthood becomes 15.2 cms for adult males and 13.5 cm for adult females.

These figures 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 try 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.

% 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.

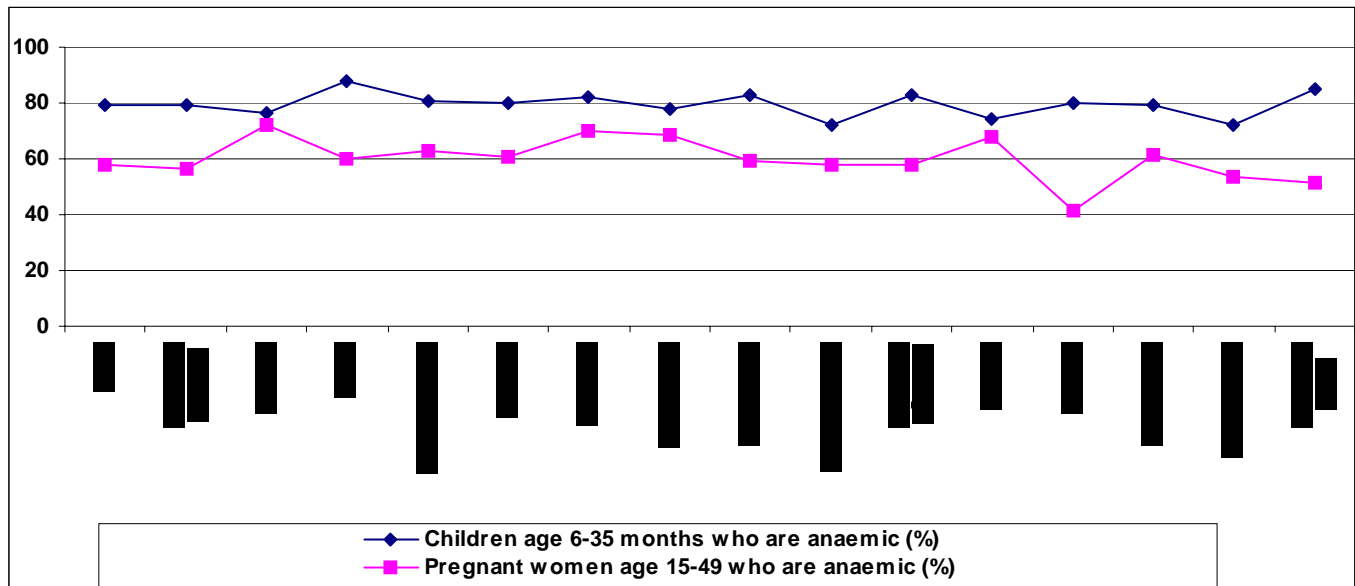
* Rural, 2002

** 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)

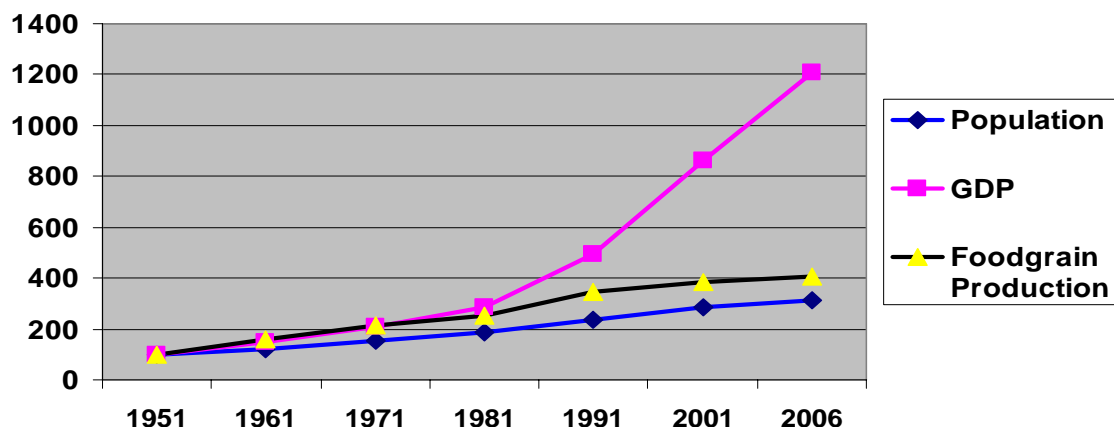


Source: NFHS-3(2005-06), IIPS, Ministry of Health and Family Welfare, GoI.

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.

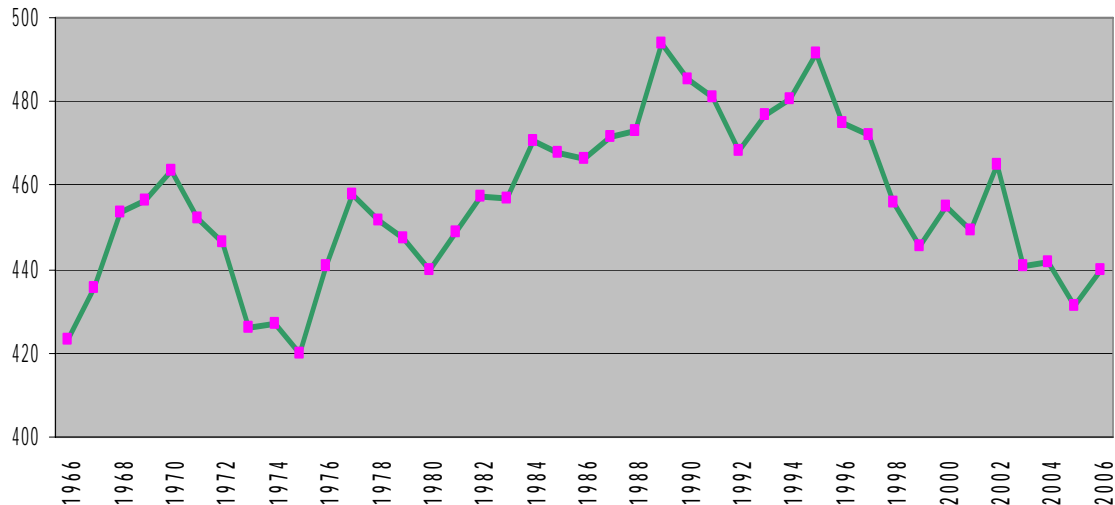
The first graph below shows that overall food grain production in India has kept pace with the growth in population after the 1960's. The growth in GDP has outpaced both the foodgrain production and the growth in population.

Population, GDP and Foodgrain Production

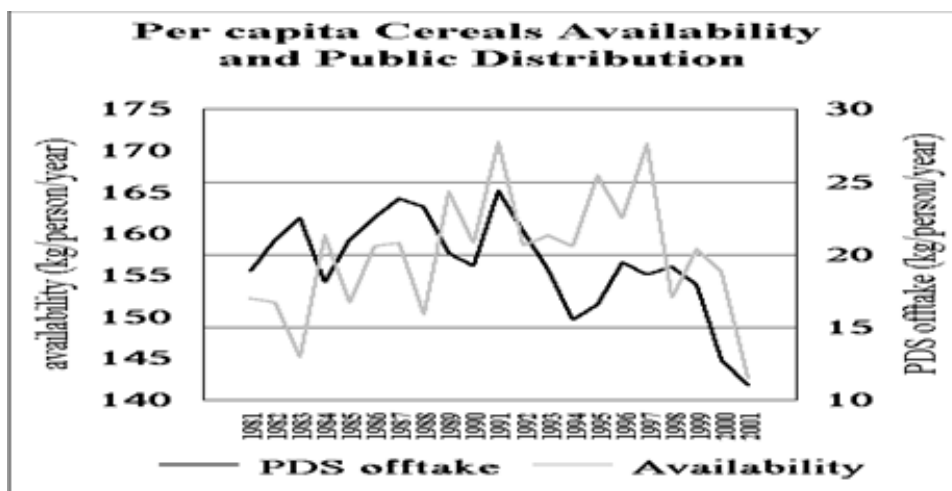


Yet when we examine the per capita availability of foodgrains in the country, we see a clearly declining trend.

Per capita foodgrain availability per day in gms



The steepest decline in availability of foodgrains, 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
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

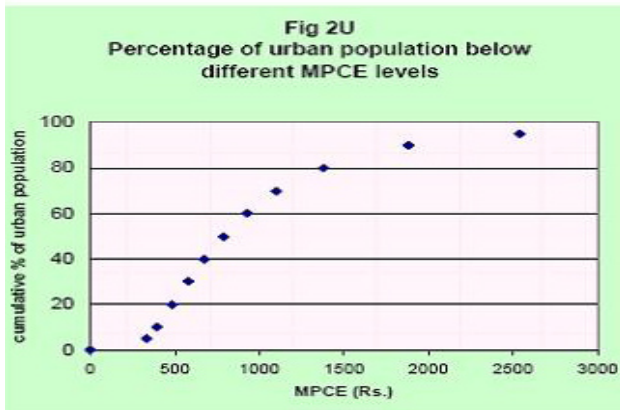
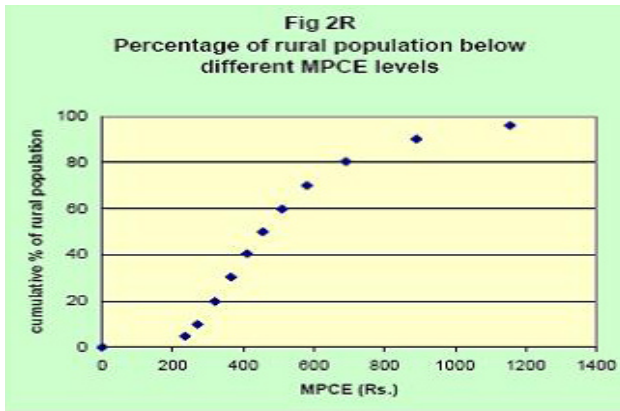
includes Chhattisgarh

^ includes Uttaranchal

We now move to the final details for the basis of the fixation of the poverty line. 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.

In order to look a the level at which the poverty line should be fixed, we will examine the the monthly per capita expenditure data for rural and urban areas and suggest the level at which the poverty line could be fixed.

The MPCE data of the Government of India (for urban areas) given in the table shows that



current MPCE data of the Government of India shows that the current level of Rs.500 per person per month (which is the poverty line for urban areas as defined by the Planning Commission) and corresponds to roughly 20% of the population.

We are of the view that this should be increased to the MPC.E band of Rs.915 – Rs.1120 for urban areas. This would comprehensively cover all the urban poor. **This would roughly cover 72% of the population.**

Since the same argument holds true for the rural areas, the Honorable Court may consider enhancing the MPCE limit for identification of the rural poor to Rs.525 – 615 for rural areas. **This would also roughly cover around 72 % of the urban population.**

The details of the MPCE categories are given in the table below:

Monthly per capita expenditure (MPCE) Rural			Monthly per capita expenditure (MPCE) Urban		
MPCE class	no. of persons per 1000	av. hh size	MPCE class	no. of persons/1000	av. hh size
0-225	24	6.19	0-300	20	6.05
225-255	27	6.65	300-350	30	6.48
255-300	64	6.01	350-425	64	6.05
300-340	83	5.98	425-500	69	5.72
340-380	96	5.85	500-575	91	5.58
380-420	96	5.66	575-665	85	5.36
420-470	108	5.5	665-775	117	5.31
470-525	100	5.29	775-915	103	4.96
525-615	122	4.93	915-1120	123	4.28
615-775	126	4.56	1120-1500	123	3.86
775-950	67	4.39	1500-1925	70	3.4
950+	88	3.9	1925+	106	2.87
All classes	1000	5.08	All classes	1000	4.43

The fixation of the poverty line for the purposes of identifying the poor at **72% for urban areas and 70% for rural areas** would not only realistically cover all the poor whom the PDS is meant to serve but would also be in line with the recommendation made by the CVC on the APL category.

2. Eligibility for Antodaya Card Holders for Urban Areas:

The Honorable Supreme Court in its interim order of 2nd May 2003, the Supreme Court deliberated on the Antodaya Anna Yojana (AAY) and directed the Government of India directed “to place on AAY category the following groups of persons:

- (1) Aged, infirm, disabled, destitute men and women, pregnant and lactating women, destitute women;
- (2) widows and other single women with no regular support;
- (3) old persons (aged 60 or above) with no regular support and no assured means of subsistence;
- (4) households with a disabled adult and assured means of subsistence;
- (5) households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house;
- (6) primitive tribes.”

Since the category of “primitive tribes” is relevant largely for rural areas, we would request the Honorable Court to consider urban homeless people instead of “primitive tribes” for the AAY card. The direction to Government of India could thus be to inc

We would submit that for urban areas, the Government of India may be directed to place on AAY category the following groups of persons:

- (1) Aged, infirm, disabled, destitute men and women, pregnant and lactating women, destitute women;
- (2) widows and other single women with no regular support;
- (3) old persons (aged 60 or above) with no regular support and no assured means of subsistence;

(4) households with a disabled adult and assured means of subsistence;

(5) households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house;

(6) Urban Homeless.

The finding of the CVC on there being a large number of inclusion and exclusion errors in the provision of BPL and AAY cards and the existence of a large number of bogus ration cards is further reinforced by the recently released data from the latest (61st) round of the National Sample Survey Organisation (NSSO) of the Government of India. This shows almost a fourth of the poorest families in the country do not have any access to any ration card. On the other hand 87.5% of the richest quintile of the population have access to ration cards. What is even more alarming that is that 16.8 % of the richest quintile has BPL cards whereas only 49 % of the poorest families in the country have either BPL or Antodaya cards, whereas 100% of the poorest quintile should have had access to Antodaya cards. Similarly only 43 % of the next poorest quintile have access to BPL and Antodaya cards.

Table 4.2

% of HH that possess ration card 2004/05 (NSSO 61st round)				
	Any card	BPL card	APL card	AAY card
Poorest	77.3	44.2	28.2	4.9
Q2	81.6	40.5	38.4	2.7
Q3	83.3	40	41.6	1.8
Q4	84.9	30.5	52.7	1.7
Richest	87.5	16.8	70.1	0.6

While for most rural areas, BPL census surveys have been carried out from time to time, we have found no systematic attempt to do so for urban areas. Government of India may therefore be directed to design and develop a comprehensive census survey for the identification of the urban poor in consultation with the Supreme Court Commissioners, as has been done for rural areas. This would be necessary to eliminate the bogus cards, as suggested by the CVC and also ensure that the food grains meant for the poor actually reach them.

3. Replacing wheat being supplied in the PDS with micro-nutrient fortified wheat flour (Atta):

The CVC has recommended the introduction of micro-nutrient fortified wheat flour (atta) in the Public Distribution System instead of wheat as another option. We sought the opinion of the National Institute of Nutrition (NIN), Hyderabad on this issue. NIN is the premier Nutrition institution of the Government of India and is a part of the Indian Council of Medical Research (ICMR) on the advisability of this measure based on current scientific and medical evidence, since fortification has for long been a contentious issue in scientific and medical circles. We had requested NIN to provide us with the international evidence from scientific studies on this.

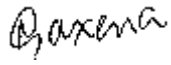
The summary of the response, of the National Institute of Nutrition, vide their letter, Ref No: VS/NIN/2007 dated October 1st, 2007) is, inter alia, as follows:

1. Wheat flour consumed in India, which would be provided through the PDS would be whole wheat Atta. Unless this is vacuum packed it will lead to rancidisation due to the oxidisation of essential fatty acids and will therefore have a shelf life of even less than a month (depending on the humidity, temperature, storage condition etc.). It may therefore not be feasible or cost effective to ensure quality of the wheat flour in India.
2. India already has a National Anemia Prophylaxis Programme which provides Iron and Folic Acid to pregnant and lactating mothers and children. The dosage of Iron supplementation in this programme is between 60 – 120 mg. This is amongst the highest dosages in the world and adding to the dosage consumed would lead to iron toxicity.
3. Wheat flour consumed in India has a higher fibre content because of which the content of phytate is also higher than the wheat flour consumed in developed countries. Phytates reduce the bio-availability of iron and inhibit their absorption of iron in the body. Therefore further fortification may not be beneficial.
4. Lab studies have shown that the oxidative stress caused by increasing the dosage of Iron in the body may lead to damage of the epithelial cells in the intestine. Iron supplementation in countries like China have therefore been reduced to once in five days based on this growing body of evidence.

Our experience with the other food schemes of the Government of India which have been monitored as part of the mandate in this petition has shown that the involvement of the private sector and especially with regard to centralised systems for food grains leads to large scale corruption. The interim order of October 7th, 2004 by the Honorable Supreme Court banning contractors in the ICDS and putting in place a decentralised system using SHGs/ Mahila Mandals etc. has had a far reaching impact in reducing centralised corruption. We apprehend that if private millers are brought in large numbers for centralised milling, it will lead to the same set of problems. The collusion of rice millers (for milling of paddy to rice) and agencies like the State Food Corporations and the Food Corporation of India is well documented and has been the finding of many State CAG reports.

In our considered opinion therefore, and in line with the opinion provided by the National Institute of Nutrition, that it may not be advisable at this stage to switch the PDS from wheat to fortified wheat flour.

Sincerely Yours,



Dr. N.C. Saxena



Harsh Mander