

# Co-existence of Widespread Hunger and Right to Food

## Impact of Withdrawal of Welfare State on Malnutrition Among Children in Karnataka

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*The conditions of nutrition among children in Karnataka, despite steady improvements, raise several concerns over the tendency of the State to abdicate its constitutional responsibility of upholding the right to food. This paper will present findings that demonstrate the unsatisfactory standards of implementation by the State government with respect to food distribution schemes and locate the reasons thereof in a trend wherein the State is deliberately minimising its role in welfare. The slow death of the welfare state formally and substantially is manifested in the increasing role of private entities in food distribution, reluctance to grant minimum wages, convenient short cuts in distributing nutrients and government apathy to the working conditions of workers responsible for food distribution.*

**Keywords:** right to food, Karnataka, death of welfare state, food distribution, government apathy

**W**elfare state is loosely understood as a principle of politics and governance where the state ensures that the basic needs of all its citizens are met with, irrespective of their status, through regulation and positive actions. The aims of the welfare state may include equality, access to food, health and education and employment for all. There is little agreement on a precise definition of welfare state (Singh & Bhusal, 2014, p.111). In India, while the term welfare state is not mentioned in the Constitution, its blueprint is evident in the document, through the Directive Principles of State Policy in Part IV of the Constitution. Nehru stated that our national aim that of a welfare state (Agrawal & Aggarwal, 1989, p.50).

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Article 39(e) and (f), in Part IV of Constitution of India, asserts the commitment of the Indian state to the health of its citizens:

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(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.

The Indian government, with support from United Nations Children's Fund started the Integrated Child Development Services (ICDS) programme, with 33 projects in 1975, in Tamil Nadu, to address the cyclical problems of malnutrition, impaired development in children and infant mortality. ICDS was subsequently expanded much further and has become one of the flagship programmes of the government to address the nutritional needs to children.

The objectives of the ICDS are as follows :

- “Extending Solidarity to farmers costs Pricol Workers Rs.65 lakhs in penalty” (Thozhilalar Koodam, 2017b).
- To improve the nutritional and health status of children below the age of six years and that of pregnant and lactating mothers as well as of adolescent girls;
- To lay the foundation for proper psychological, physical and social development of the child;
- To reduce the incidence of mortality, morbidity, malnutrition and school dropout;
- To achieve effective co-ordination of policy and implementation amongst the various departments to promote child development; and
- To enhance the capability of the mother to look after the normal health and nutritional needs of the child through proper nutrition and health education (Government of India, Planning Commission, 2011, p.2).

However, many decades into its existence, the ICDS scheme, as is evident from the data cited in Table 1, is far from achieving an eradication of malnutrition.

**Table 1 Comparison of Nutrition Indicators in Karnataka**

	Children under 5 who are stunted (per cent)	Children who are wasted (per cent)	Children under 5 who are underweight (per cent)	Children under 5 who are anaemic (per cent)	Women age 15-49 years who are anaemic (per cent)
NFHS-3 (2005-06)	43.7	17.6	37.6	83.9	51.2
NFHS-4 (2015-16)	36.2	26.1	35.2	57.2	44.8

**Source:** Government of India, Ministry of Health and Family Welfare. (2006). *Key indicators for Karnataka from NFHS-3*. Retrieved August 21, 2017, from <http://rchiips.org/NFHS/pdf/Karnataka.pdf>

Government of India, Ministry of Health and Family Welfare. (2016a). *National family health survey-4 State fact sheet Karnataka*. Retrieved August 21, 2017, from [http://rchiips.org/NFHS/pdf/NFHS4/KA\\_FactSheet.pdf](http://rchiips.org/NFHS/pdf/NFHS4/KA_FactSheet.pdf)

Through this paper we seek to understand why the ICDS has not achieved the results it should have.

### **The right to food case and ICDS**

In April 2001, the Delhi branch of the Human Rights Lawyers Network, a national organisation of human rights lawyers, filed a Writ Petition in the Supreme Court, on behalf of the People's Union for Civil Liberties (PUCL), a Human rights organisation. This public interest litigation (PIL) was then popularly referred to as the Right to Food case. The case originated from news reports about food rotting in the godowns of the Food Corporation of India, while drought-affected parts of India were experiencing starvation and hunger. The case was soon, however, extended to larger issues of malnutrition, hunger and the various schemes meant to address it. All the State governments were also then listed as respondents in the matter. (Human Rights Law Network, 2009).

During the course of the hearing, the Supreme Court passed several orders related to the ICDS scheme and thus increasing its reach and impact. Some of the important orders are as below –

1. Order dated April 29, 2004 directed the Central government to file an affidavit stating the period within which the number of *anganwadis* (courtyard shelter- a type of rural mother and child care centre) will be increased to 14 lakh.
2. Order dated October 07, 2004 directed the government to open *anganwadis* in all SC/ST habitations/hamlets across the country and that contractors shall not be used for supply of nutrition in *anganwadis* and that preferably ICDS funds should be spent, as far as possible, by making use of village communities, self-help groups (SHGs) and *mahila mandals* (women's group).
3. Notices of contempt were issued to chief secretaries of several states on July 25, 2007, asking them reasons for non-compliance of earlier orders on ICDS.

Additionally, when it was brought to the court's notice that in several states, adolescent

girls were completely left out of the ambit of the scheme, even though they were beneficiaries, the court passed orders to rectify the same.<sup>1</sup>

Some of the other significant parts of the court's order included the following:

- 1) It sought to ensure that the government of India does not revise its norms for opening *anganwadis* upwards under any circumstances.
- 2) It sought to create a new entitlement for *anganwadis* in slums and rural areas, called *anganwadis* on demand; wherein an *anganwadi* would be set-up where there were at least 40 children under six, within three months of the demand being made.
- 3) That all the benefits of the *anganwadi* system was not only to be provided to children under the age of six, but also to be extended to all pregnant women, lactating mothers and adolescent girls.

It is important to note that the Supreme Court did not develop a path-breaking jurisprudence on fundamental rights in this case; it merely sought the implementation of existing schemes, and reiterated the constitutional imperatives of the welfare of children. However, as we shall see in the subsequent sections, several infractions of the Supreme Court's orders have been recorded, and the promise of the right to food case remain far from fulfilled

### **Status of implementation of ICDS in Karnataka**

The data collected has been primarily through official communications<sup>†</sup> made by the advisor and assistant advisors to the relevant government department in Karnataka, which is the Department of Women, to the Supreme Court Commissioner, to the Department of Women and Child Development, Government of Karnataka (DWCD). Data collected through these correspondences, media and government reports have been relied upon to illustrate the status of implementation of the schemes.

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<sup>1</sup> Some of the official communication are as follows

- A. Letters dated 17/02/2017 to the Principal Secretary, Women and Child Welfare Department asking for information on actions taken to ensure that:
  - a. The 29 lakh (out of 68 lakh) children who are out of the ICDS programme in Karnataka, are being brought into the programme fold
  - b. Anganwadi centres have been opened in those slums and tribal hamlets which do not have one
- B. Letter dated 26/12/2016 which lists down 20 letters which have been sent to the department, for which there has been no response. The letters were pertaining to data on malnutrition, steps taken to ensure the implementation of the recommendations of the Justice N.K. Patil report, issues with supply of food in various *anganwadis* etc.
- C. Reports filed after Inspecting *anganwadis* in the following areas, to check if the recommendations of the Justice N.K. Patil report are being implemented and to examine the status of implementation of the scheme:
  - a. DJ Halli (Bangalore City) on 18/11/2016 and 19/11/2016 4)
  - b. Tribal hamlets in Mysore District and Chamarajanagar District on 20/10/2106 and 22/120/2016
  - c. Bidar District on 24/11/2016 and 26/11/2016

## **The Justice N.K. Patil Committee on malnutrition in Karnataka**

On 22 May 2011, TV9, a Kannada news channel, reported the death of children due to malnutrition in Markaldinni village, Deodurg Taluk, Raichur District of Karnataka. After which, the president of Vimochana Sangha, a non-governmental organisation based in Athani, Belgaum sent a letter to the Chief Justice of the High Court of Karnataka, bringing his attention to the issue of malnutrition in Karnataka through this report. The letter was admitted as a PIL by the High Court of Karnataka (*B.L. Patil v. State of Karnataka, 2016*). The High Court then directed the Karnataka State Legal Services Authority (KSLSA) to conduct an investigation into the issue and submit a report. KSLSA conducted an investigation and submitted a report before the High Court. After reviewing the report, the High Court constituted a nine members committee under the chairpersonship of Justice N.K. Patil, a judge of the Karnataka High Court, to look into malnutrition among children in Karnataka and submit an action plan to counter the same. The Justice N.K. Patil Committee subsequently submitted a report titled Prevention of Malnutrition of Children in the State of Karnataka to the High Court on August 23, 2012. The report consisted of 112 wide-ranging recommendations to the State government, to fight malnutrition under the following broad categories –

- Identification, medical assessment and treatment of children covered under ICDS.
- Nature of food provided, procurement and distribution of the same.
- Awareness through information, education and communication about malnutrition.
- Provision of basic infrastructure to *anganwadis*.
- Qualifications/eligibilities, duties, roles and responsibilities of anganwadi workers, helpers and accredited social health activists.

On January 29, 2013, the principal secretary, DWCD filed an affidavit with the High Court stating that the State government shall implement all 112 recommendations of the committee. It also shared with the court that a special task force had been constituted for the monitoring and implementation of the recommendations of the High Court committee.

While the State government did indeed start work, the recommendations are far from being implemented. Justice Patil has been quoted (Kanathandal, 2017) as saying that the government has failed to effectively implement the schemes started to check malnutrition and that they are yet to implement some of the recommendations of the N.K. Patil Committee. A letter written by the advisor and assistant advisor to the government on the status of these recommendations has not even been replied to.

The lack of commitment to implement the recommendations of a committee headed by a sitting High Court judge, after promising to do so in court, only shows the lackadaisical attitude the government has towards curbing malnutrition. The situation has been aggravated by increasing privatisation of many of the services provided by the State.

## Privatisation of the scheme

The bouquet of State-supported schemes that form the ICDS are aimed at tackling malnutrition comprehensively. However, privatisation at various levels has diluted the impact of these schemes. This is coupled with steadily decreasing budgetary allocation for ICDS, creating a further impetus towards privatisation. In this section we will see how this is taking place.

The Supreme Court has repeatedly emphasised the importance of local communities in urban and rural areas in the functioning of the ICDS. Moreover, the Supreme Court has also highlighted the importance of locally-sourced produce to be fed to children. The focus, therefore, is on local conditions being fortified to serve the needs of children.

However, while most people view ICDS as a crucial first step towards the elimination of malnutrition in the country, private companies view it as a new venue for profiteering. Contractors have vied for sizeable contracts to procure and supply food under the supplementary nutritional programme. Over time, contractors managed to nudge out smaller SHGs and corner most of the procurement and supply contracts for ICDS, which in turn inevitably lead to widespread corruption. This was documented in the *Fifth Report of Commissioners (2004)*, by Dr. N.C. Saxena and Dr. N.R. Sankaran, Supreme Court-appointed commissioners in the Right to Food case. The Report highlighted the problems of having state-level contractors for the provision of supplementary nutrition. It was observed across several States such as Assam, Madhya Pradesh and Orissa, that the use of state-level contractors led to widespread corruption. The Report recommended further decentralisation by making village committees buy produce and prepare meals for children.

On the basis of this Report, the Supreme Court, in its order dated October 7, 2004, stated that “contractors shall not be used for supply of nutrition in *Anganwadis* and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals for buying of grains and preparation of meals” (*People’s Union for Civil Liberties v. Union of India & Others*, 2004).

However, despite the Supreme Court’s directions, private firms continued to penetrate the ICDS. In 2008, the Indian Biscuit Manufacturer’s Association (IBMA) lobbied with the Ministry of Women and Child Welfare to replace hot-cooked meals with biscuits in the mid-day meal schemes. The IBMA wrote to all members of Parliament, extolling pseudo-scientific reasons for the superiority of biscuits over hot-cooked meals. This proposal was however shot down by the Supreme Court appointed commissioners.

Karnataka is no stranger to the dangers of subcontracting. However, strangely enough, despite Supreme Court orders based on observable instances of State-level contractors failing, the State government is insistent on entering into public-private partnerships with large subcontractors to supply food to children in *anganwadis*. The cases of Christy Friedgram and Spirulina are examples of how private firms continue to seek entry into ICDS.

In 2009, the Karnataka government entered into an agreement with Christy Friedgram. According to their website, Christy Friedgram is “one among the pioneer food processing companies in India to implement the Integrated Child Development Scheme (ICDS) [sic] scheme” (“Who We Are,” n.d.). Based in Tamil Nadu, the company manufactures processed food supplements and fortified foods such as edible groundnut cake flour, processed cereal-based complementary food, and others, aimed at infants and young children. The April 2009 agreement between the Karnataka Government and Christy Friedgram was for the setting up of *Mahila* Supplementary Nutrition Production and Training Centres, which were to produce, package and supply supplementary nutritional food in the form of fortified food to *anganwadis* in 27 districts in Bangalore. Christy Friedgram was to train the staff to run the centres independently by 2012.

However, investigations revealed that even after three years of setting up of the training centres, Christy Friedgram continued to exercise control over their functioning, and the women were employees on the roll of the company. Moreover, even the food items being supplied, which included powdered *upma*, powdered rice and powdered sweet rice, were being manufactured in Christy Friedgram’s own production units and supplied to the centres for packaging. In other words, the women were effectively being employed by Christy Friedgram to only package and supply the company’s own proprietary food to *anganwadis*. The food being thus supplied was also found to be of substandard quantity. Multiple reports were made of children falling sick, or refusing to eat the supplement provided to them (Bageshree, 2012).

Therefore, while Christy Friedgram had been contracted for capacity-building and not direct supply of supplementary nutrition to *anganwadis*, they were effectively functioning as contractors, in violation of the directives of the Supreme Court. Post investigation, Karnataka government vide a government order cancelled Christy’s contract in 2012, and the *Lokayukta* (appointed by the people) police launched an investigation into possible corruption by bureaucrats, in the form of kickbacks received to grant the contract to Christy. Subsequently, the Karnataka High Court quashed the First Information Report (“Corruption case,” 2015). Consequently, Christy Friedgram filed a claim for ₹574 crore in damages for breach of contract against the Karnataka Government (“Christy Friedgram claims,” 2015).

## **Spirulina<sup>2</sup>**

Christy Friedgram episode was not the last time that the Karnataka government found itself entering into questionable public-private partnerships, putting the health of children on the line. In 2016, it was found that private companies such as Biocon, JSW Foundation and Scania were supplying Spirulina<sup>‡</sup> supplements to undernourished and malnourished children in *anganwadis* in Bangalore. In fact, the government had previously stopped supplying Spirulina to *anganwadis* on the advice of the Justice N.K. Patil Committee.

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<sup>2</sup> **Spirulina** represents a biomass of cyanobacteria (blue-green algae) that can be consumed by humans and other animals. Dried spirulina contains five per cent water, 24 per cent carbohydrates, eight per cent fat, and about 60 per cent protein. However, Spirulina may have adverse interactions when taken with prescription drugs, particularly those affecting the immune system and blood clotting.

However, the DWCD set aside ₹3.6 crore for the supply of two grams of Spirulina to 25,000 children in Karnataka for a period of 180 days. This decision was defended by the DWCD on the basis that a pilot programme in Bellary district, conducted in association with the JSW Foundation had decreased malnutrition levels from 33 per cent to 8 per cent. However, this claim was not backed up with any data. Researchers and community health activists alleged that private companies such as Biocon were influencing government decision-making and pushing for the introduction of Spirulina in the Supplementary Nutrition Scheme, because of their own vested interests in Spirulina production (Karpagam & Shatrugna, 2016). Increasing pressure from civil society organisations finally led to the State government abandoning this scheme.

Quick-fix solutions such as biscuits and Spirulina supplements not only expose the State's increasing reliance on the private sector for essential functions, but also are illustrative of its failure to address the socio-economic factors that contribute to malnutrition. Moreover, private interests can determine the nature of supplementary nutrition in more ways than one. For example, there has been a long-standing controversy in Karnataka over the provision of eggs to children in *anganwadis*. Eggs are widely held to be a cheap and easily available source of protein, and therefore ideal for supplementary nutrition. However, Karnataka is one of the many States in India where, despite its obvious nutritional benefits, and repeated demands from civil society groups, eggs are not served in midday meals. Several Hindu groups opposed the introduction of eggs, saying that this would cause division in the society. This stand was also supported by one of the largest suppliers of midday meals in Karnataka, *Akshaya Patra* (inexhaustible vessel, is an object from Hindu mythology), which is an initiative of International Society for Krishna Consciousness (ISKCON). *Akshaya Patra* has consistently opposed the introduction of eggs in midday meals. In 2013, a Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes called for examination of allegations against *Akshaya Patra* and ISKCON, including their refusal to serve eggs at midday meals. When contacted, ISKCON responded saying that those who wanted eggs were free to get them from elsewhere. In Andhra Pradesh, there have been multiple reports of *Akshaya Patra* refusing to serve eggs at midday meals, and serving groundnut candy instead. Since February 2017, however, eggs are being served by the Karnataka State government in *anganwadis* across Karnataka.

The examples of Christy Friedgram, Biocon and *Akshaya Patra* are indicative of how private interests, even if not strictly motivated by profit, can distort the outcome of a supplementary nutrition programme. Moreover, one underlying objective of the ICDS is to provide employment to local residents and use locally sourced food for children, which is subverted through the entry of private players.

We will now turn our attention to other issues related to its implementation.

### **Lack of coverage**

Out of the 68 lakh children in Karnataka between the age 0 -6 (as per the census report of 2011), as per a circular (dated 01/10/2013, No MaMaaE: ICD: CNP18:12:13-14) issued by the Director, DWCD, Government of Karnataka, only 39 lakh children were

covered in the ICDS scheme. The circular then outlined various steps which the deputy directors and child development officers were to take to bring the children not covered into the scheme. The advisor then wrote a letter to the director, DWCD, asking for the reports on what steps have been taken to ensure that the “out of *anganwadis*” children were brought in to ICDS fold. There was no response to this report. A letter was again written in 2017, there was no response again. The website of the DWCD claims that 58.26 lakh children are currently enrolled in the ICDS. However, these figures do not match with evidence from the ground as seen from the reports of the advisor, Karnataka.

The third report of the advisor states that out of 68, 55,801 children below the age of six years, only 37, 74,267 children are enrolled in *anganwadis*, i.e., 55 per cent. As per the information furnished by DWCD the government of India sanctioned 63377 *anganwadi* centres for Karnataka. Out of the above 57344 (90 per cent) *anganwadi* centres are located in rural areas, 3510 (6 per cent) in tribal area and 2523 (4 per cent) are in urban areas (Core Committee, 2012, p.37).

As per the aforesaid report, out of the 63377 *anganwadis* in Karnataka: only 34957 *anganwadis* have their own buildings (55.2 per cent); Only 28474 *anganwadis* have kitchens (44.9 per cent); Only 26218 *anganwadis* have water facility (41.4 per cent); Only 2407 *anganwadis* have electricity (3.8 per cent).

On July 23, 2011, the DWCD decided to open *anganwadi* centres in all tribal hamlets. However, five years later, in November of 2016, this was still not done. The report shows that there are several areas which are yet to have even one *anganwadi*. In H.D.Kote Taluk of Mysore district, e.g., out of 116 hamlets, only 51 hamlets have *anganwadi* centres. In Hunsur taluk of the same district, out of 52 hamlets, only 36 hamlets have *anganwadis* (as on November 02, 2016).

In violation of the directions of the Hon’ble Supreme Court vide its order dated October 7, 2004 mandating that all SC/ST habitations should have an *anganwadi*, none of the four ST hamlets in Chamarajnagar district, as per the report, namely Kaniyanapura colony (120 households), Kunagalli colony (64 families), Mogavinahalli colony (35 households) and Deshipura colony (18 households), are provided with *anganwadis*.

Thus, what one can see is that neither are all eligible children covered, nor are all areas covered. Though, on paper as of 2017, 58 lakh of the 68 lakh children are covered the reports show otherwise

### **Issues observed at the *anganwadis***

While *anganwadis* are supposed to be nodal centres to provide nutrition to infants, pregnant women and lactating mothers, in terms of implementation several problems have not yet been addressed. According to the aforesaid reports by the advisor and assistant advisor, the observations made on *anganwadis* in the cities, in tribal hamlets and other rural areas were that–

1. The supply of nutritious food is erratic and many times the quality of food supplied is sub-standard. As a result, children are underfed or fed with low quality food, with nutritious food not being distributed in some cases for two months (Dasanapura *Anganwadi* Kendra, Hunsur Taluk, Mysore district between 31/08/2016 –

20/10/2016). Similar is the case with take home ration that is to be provided for children between six months – three years and pregnant and lactating mothers and adolescent girls.

2. Toilets, cooking gas, water, fans, electricity, kerosene and mats are not provided in a large number of *anganwadis*. Many *anganwadis* are in huts and some even in closed toilets.
3. The health department according to the Justice N.K. Patil Committee recommendations was to conduct health camps every two months. The department did this for a year or so.
4. Supervisors who were to make monthly visits did not do so. The Child Protection and Development Officer are to visit *anganwadis* once in 3 months, but rarely do so.
5. The number of children in the *anganwadis* is significantly lesser than those on the attendance rolls.
6. Anganwadi teachers are often absent even when they had not taken leave.

The reports from the visit clearly establish that a provision of basic supplies (food and infrastructure) is absent, and that the regulatory mechanism of the DWCD is in disarray. Over 20 official communications from the State advisor and the assistant advisor to principal secretary of the concerned department in this regard were not answered.

### **Reduction of ICDS budget nationally**

The Central government has the power to allocate budgets for the ICDS scheme. As per the information furnished by DWCD, 63377 anganwadi centres are sanctioned by the Government of India for Karnataka State. While the implementation of the existing scheme itself is a challenge as shown above, what compounds the problem is that the Central government has effectively started reducing the amount of money being spent on ICDS. Ganotra (2017) points out how the ICDS Budget utilisation has actually decreased from ₹15,483.77 crore in 2015–16 to ₹4,375.6 crore in 2016–17. It is ironic that the allocation of ₹15,245.19 crore in 2017–18 was referred to as an increase of ₹1,245 crore, even though it is less than the amount spent on ICDS in 2015–16. However, the surest sign of withdrawal of the Central government's commitment to ICDS is the fact that the total allocation for the scheme has been ₹78,203 crore as against ₹1,23,580 crore proposed during the Twelfth Five Year Plan. What is also to be noted is the fact that the Central government which would earlier fund 90 per cent of the funds required for the scheme for each State (requiring that the States fund only 10 per cent) will now fund only 60 per cent of the scheme. This is evident from the communication sent out from the under secretary, Ministry of Women and Child Development, Government of India on 29/12/2015 (Letter no. –CD-II-14/162015-CD-II) (Government of India. Ministry of Women and Child Development. Under Secretary, 2016) to the chief controller of accounts of the same ministry. With reduction in the amount spent and universalisation not achieved, and workers of the scheme not being paid fair wages, ICDS is set to be further crippled.

Thus, we are now at a place where on one hand, numerous Supreme Court and High Court orders, recommendations of committees on ICDS are not being implemented, and on the other, governments of the day are reducing the budget for scheme. The ICDS scheme has the potential to address the problem of child malnutrition. It is, nonetheless, almost being deliberately under-utilised on the one hand and misused on the other, either for private profit or philanthropic reputation enhancement of corporates.

Other equally important factors like design flaws, identitarian bias in the locations where *anganwadis* or public distribution shops are established and several other reasons that leads to exclusion of *Dalits*, *Adivasis*, Muslims and women must also be acknowledged. The focus on State withdrawal in no way undermines the significance of these problems. The critique this paper sets out to present is directed at the sheer lack of willingness on part of the Central and State government to remedy the situation. This, we see, as a very fundamental problem becoming the new norm, among other problems in implementing the schemes.

Thus it is clear that it is not possible to deal with malnutrition in Isolation. As stated in the Justice N.K. Patil report, poverty is also a key factor contributing to malnutrition. It is to the aspect of poverty and wages that we now turn our attention.

### **Wages and Malnutrition**

It is widely accepted that there is a direct link between wages, poverty and nutrition levels. In fact, as discussed earlier, the Justice N.K. Patil report on malnutrition clearly states that poverty is one of the main reasons for malnutrition. A working paper (Mukherji, Rajaraman & Swaminathan, 2010) on the link between inequality, economic development and malnutrition in India shows that people with a low body mass index have a low wealth index. Speaking about the research study conducted by the Public Health Foundation of India and Oxford University, one of the authors of the study stated clearly that poorer households had the greatest risk of malnutrition (Ghosh, 2015).

The Centre for Workers Management in association with the Garment and Textile Workers Union, a Karnataka based garment workers' union, undertook wages and expenditure survey of garment workers, in the years 2012, 2013 and 2015. The survey report (Centre for Workers Management, 2016) throws up serious concerns regarding the expenditure of the garment workers, on food and provisions. Firstly, the data from the report shows that the amount spent on provisions per person in their families was an average of ₹834 per month per person for an average family size of 4.5, which works out to a food basket consumption of ₹27.89 per day (30 days in a month).

Another observation of concern is as follows:

It is of interest that family expenditure on provisions (cereals, greens, meat and fish, milk) remained nearly constant over the four year period. This meant that in real terms, the worker in 2015 spent on the average around 20% less per month on commodities than in 2012-13. The share of spending on commodities of total expenditure also declined from 41per cent in 2012 to 36-38% for the subsequent years. One explanation could be that the sample in 2012 was drawn largely from

the Mysore Road area which is one of the oldest garment industry location, and the workers in the sample would therefore have less rural support to subsidise their expenses. This would still not explain fully the substantial decline in real terms on expenditure on basic provisions. This is a matter of serious concern. (Centre for Workers Management, 2016, p.20)

It is grave that between 2012 to 2015, the expenditure on provisions as a total of the expenses per month actually decreased, as evidenced by the figures below:

**Table 2 Expenses on Provisions in a Garment Worker's Household**

Expense in	2012	2013	2015
Provisions (month)	3855	3858	3755
(per cent total)	41 per cent	36 per cent	38 per cent
Education (month)	436	695	601
(per cent total)	5 per cent	6 per cent	6 per cent
Health (month)	476	428	311
(per cent total)	5 per cent	4 per cent	3 per cent

**Source:** Centre for Workers Management & Garment and Textile Workers Union. (2016). Wage and work intensity: Study of the garment industry in Greater Bangalore. Retrieved September 24, 2017, from <http://sanhati.com/wp-content/uploads/2016/05/Wage-and-Work-Intensity-in-Garment-Sector-in-Bangalore-and-Karnataka.pdf>

The report further concludes that the curtailing of expenditure on basic commodities may be attributed to low wage levels, and at this level, consumption of commodities is sensitive to wage increase. While there is no mention of nutrition in the report, it is safe to assume that a decrease in the expenditure on food and other provisions will lead to a decrease in nutrition of the workers and their children.

It is in this context that an analysis of the constitutional mandate regarding wages is essential.

### **Constitutional mandate on minimum wages and living wages**

The impact of low wages on malnutrition has already been discussed. While the welfare state often implies provision of shelter, food, water and other essentials, the provision of a decent income is often forgotten.

*The Report on the Working of the Minimum Wages Act, 1948*, (2002) states in no uncertain terms India's commitment to a sound wage policy:

India as a welfare state is committed to secure social and economic justice, inter alia, for its working population. One of the basic steps in this direction is the formulation of sound wage policy primarily for the amelioration of the conditions of the working class. In the Indian context, evolving of such a wage policy assumed greater importance as a majority of the workforce is employed in the unorganised sector and is vulnerable to exploitation by their employers. (Government of India, Director General, Labour Bureau, 2005)

Thus, while speaking of the withdrawal of the welfare state in the context of nutrition, it is important to analyse the role of the state in fixing wages.

Article 21 of the Constitution envisages a right to life of dignity and the right to livelihood for all persons, the realisation of which is possible only through the assurance of wages commensurate with such life. Minimum wage is regulated under the provisions of the Minimum Wages Act, 1948. The Act is a beneficial piece of social legislation, which protects the day-to-day living conditions of the workers employed at the lowest level of wages by fixing minimum wages that the employers must pay. In *Workmen Represented by Secretary v. Management of Reptakos Brett*, (1991) it was laid down that minimum wage should take into account: minimum food requirement based on net intake calories, basic clothing requirements, house rent, fuel, lighting, children's education, medical requirement, minimum recreation including festivals/ceremonies and provision for old age, marriages, etc.

While the statute provides for the provision of minimum wages, one must not lose sight of the Directive Principles of State Policy in Part IV of the Constitution which are to be fundamental in the governance of the country provides for a living wage. Article 43 provides that the State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. This provision is also required to be read with the other principles laid down under this section, which the State is duty bound to apply in its functioning.

### **The role of the state in fixing minimum wages**

The essential aspect of the concept of minimum wages is that it is a dynamic. The minimum wage consists of two components – the basic wage and the cost of living allowances, commonly known as the variable dearness allowance. The Act mandates that the basic wage is reviewed and revised at such intervals, not exceeding five years. It would be pertinent to note that the Supreme Court held in *People's Union for Democratic Rights v Union of India and Others*, (1982) (also commonly known as the Asiad Games Case) that compelling a person to work for less than minimum wages would amount to forced labour prohibited under Article 23 of the Constitution of India.

The Government of Karnataka has a shocking record in the revision of minimum wages, often not revising wages for over ten years at a stretch even though it is in violation of the Minimum Wages Act of 1948 that mandates the minimum wages should be revised every five years. While automobile engineering has had only three revisions in 37 years, from 1979 to 2009, printing press has had four revisions in 49 years and hostels have had one revision in 15 years; the story of others are no different. Minimum wages in the tailoring industry, of which garment workers are a part, have been revised only every seven to nine years (Centre for Workers' Management, 2016).

While on one hand the State has failed to revise minimum wages in a timely manner, any attempt at revision has been opposed by the private sector. Between July-August, 2015, the Department of Labour, Government of Karnataka issued notifications

revising the wages for seven industries, being foundry, hostels, oil mills, printing press, automobile engineering (including servicing and repairing), ceramics, stoneware and potteries works and veneer. The notifications revised the basic wages payable to these industries from April 1, 2015; though the revision ought to have taken place latest by March 1, 2014. The notification of 2015 was challenged by various establishments as being excessive and damaging to the industry. In the course of the hearings before the High Court, it turned out that the then Minister for Labour, had not signed the order revising the wages, and hence the Karnataka High Court struck down these notifications. The High Court, which directed an enquiry to be conducted in regard to the lapse by Chief Secretary in not obtaining the relevant signatures, observed that “(o)n account of the glaring lapse on the part of the officials and officers concerned in the Labour Department, interests of thousands of sweated employees is getting affected” (as cited in Prasad, 2016).

Subsequent notifications revising the minimum wages were issued by the State government on December 27, 2016, and were made applicable only from January 1, 2017, and not retrospectively. Had the minimum wages been revised on 01.03.2014 as the law mandated, a person earning the highest in the automobile engineering sector, a fast-growing industry, would have earned ₹12,376 x 34 (months). Instead he has been paid merely ₹6,523.20 x 34 (months) for the said period, resulting in a loss of ₹1,98,995.20 for each worker. This loss would have been significantly lesser had the notification not been set aside by the Karnataka High Court for the failure of the approval of the labour minister; the loss to the worker would have been for a period of 13 months, being an amount of ₹51,334.40. Similarly, in the case of garment workers, a 2009 revision of the minimum wage from ₹2,644.20 to ₹3,302 was challenged by apparel producers. Subsequently, the Labour Department revoked the notification citing ‘a clerical mistake’. However, due to the intervention of the Garment and Textile Workers Union the Karnataka High Court struck down the revocation. (Mohan, 2017).

In a nutshell, as the study conducted by Centre for Workers Management has revealed, the workers’ minimum wages are far below the living wage necessary to support the nutritional needs of their families. This has continued despite the courts orders.

## **Conclusion and Discussion**

Despite the Supreme Court’s repeated orders it is evident that in the absence of palliative measures that address the structural reasons behind malnutrition the problem cannot be resolved. These structural issues include contractualisation and privatisation of essential government services and the denial of living wages to the vast majority of the country, and issues within the ICDS further compound these challenges.

In addition, the fact that courts have had to issue repeated contempt notices to government agencies for non-implementation and violation of its orders on malnutrition, only establishes how the State continues to drag its feet over addressing malnutrition.

This paper aimed at throwing open some of these debates on the role of wages and contractualisation in the fight against malnutrition. In light of this, it is important to view proposals such as direct cash transfers in lieu of food, and the new proposed

labour code, with a critical eye, to understand their potential impact on malnutrition in the country.

### *Discussion*

The definition by Briggs (1961) comes closest to the Indian imagination of the welfare state:

A welfare state is a state in which organised power is deliberately used (through politics and administration) in an effort to modify the play of market forces in at least three directions – first, by guaranteeing individuals and families a minimum income irrespective of the market value of their work or their property; second, by narrowing the extent of insecurity by enabling individuals and families to meet certain ‘social contingencies’ (for example, sickness, old age and unemployment) which lead otherwise to individual and family crises; and third, by ensuring that all citizens without distinction of status or class are offered the best standards available in relation to certain agreed range of social services. (Briggs, 1961, p. 228)

While the definition of a welfare state does not necessarily preclude the participation of private players, it is our argument that the increasing privatisation of essential services is having an adverse impact on the nutritional status of children in Karnataka. This paper enquired into the withdrawal of the welfare state by looking at malnutrition among children in Karnataka. The paper has analysed the status of the ICDS, the Central government’s flagship scheme aimed at providing healthcare, nutrition and education to children. Additionally, the paper also looked at the link between wages and nutrition and the state’s role in fixing wages.

The fundamental right to food, like all other such rights, is couched in a network of supporting rights and infrastructure which creates a holistic environment for malnutrition to be defeated. The efforts of the State to address malnutrition betray a lack of understanding and commitment to this holistic approach, which is jeopardising the life and future of children in this country.

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