

REPORT OF THE VISIT TO UTTAR PRADESH IN MARCH, 2018  
--- SUDHIR KUMAR  
SPECIAL RAPPORTEUR, NHRC NORTH ZONE

Tour Schedule

- 22.03 Thursday F/N Visited UP State Human Rights Commission-- Discussions with (1) Secretary, and (2) Law Officer (Addl. District Judge, on deputation to UPSHRC)
- 22.3A/N Visited Lucknow District Jail at Mohanlalganj via Gosainganj (30Kms away)
- 23.03 Friday- Visits to Anganwadi Centres, Asha Jyoti Kendra; Juvenile Justice Board; Observation Home-Boys; Childrens' Home; Nirwan Rehabilitation Centre-PPP Model
- 24.03 Saturday- Visits to Women's Shelter; Govt. Childrens' Home & Adoption Centre
- 25.03 Sunday-- Journey Day-- Dep Lucknow 11.00 hrs-- Arr Kanpur 13.30 hrs
- 26.03 Monday-- Visits to 3 Anganwadi Centres in Kanpur Urban & Kanpur Rural Districts, Observation Homes: (1) Girls, (2) Boys, Private Child Adoption Centre
- 27.03 Tuesday F/N Visited Kanpur District Jail,  
A/N Visited Hewlett Hospital & Asha Jyoti Kendra
- 27.03 Tuesday- Return Journey- Dep Kanpur 17.00 hrs- Arr Guest House Lko 19.30 hrs
- 28.03 Wednesday-- Visits at Lucknow to Aftercare Home- Women, Childrens' Home Girls, Private Childrens' Home and Adoption Centre.
- 28.03.2018 Night-- Return Journey to Delhi

EXECUTIVE SUMMARY OF TOUR REPORT

A. STATE OF UTTAR PRADESH HAS LEFT A FULL GENERATION OF ITS POOR CHILDREN IN THE LURCH BY STOPPING THE ANGANWADIS' HOT COOKED MEALS PROGRAMME ALTOGETHER FOR LAST 13 MONTHS. IT MAY BE POINTED OUT THAT THE PRESENT DISPENSATION RULING UTTAR PRADESH ASSUMED OFFICE ON 19TH MARCH, 2017.

B. IF IT IS NOT CONSIDERED PRESUMPTUOUS ON MY PART AS A SPECIAL RAPPORTEUR, I WOULD STRONGLY RECOMMEND THAT NHRC MAY KINDLY CONSIDER ISSUING A SUO MOTO NOTICE TO UTTAR PRADESH STATE GOVERNMENT FOR THE LONG, CONTINUED, AND DELIBERATE VIOLATION OF THE FUNDAMENTAL RIGHT OF "ACCESS TO FOOD" OF ITS POOR CHILDREN UNDER THE RIGHT TO FOOD ACT.

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## TOUR REPORT

I had very fruitful discussions with Hon'ble Chairman, U.P. State Human Rights Commission (at his residence on 23<sup>rd</sup> March late evening, since he was otherwise unwell), & with Secretary, ADG, and Law Officer of UPHRC on Thursday 22<sup>nd</sup> itself.

### REPORT No 1-- Right to Food-- ICDS in Uttar Pradesh

1. The Right of access to Food of its children is being deliberately violated by the Uttar Pradesh State Government. I inspected about a dozen Anganwadi Centres (AWCs) in Lucknow and Kanpur Urban Districts, and found a very large number of mal-nourished and also severely mal-nourished children there, wherever the ICDS prescribed Age and Weight Charts had been properly maintained. Photocopies of two such Charts, in respect of two girl children, one Srishti (d.o.b. 02.7.2012) now 5-1/2 years old, who went out of the ICDS after June 2017, and another Naina (d.o.b. 10.5.2011) now 6-1/2 years old, who went out of the ICDS after April 2016, are enclosed as samples, which display the untreated malnutrition that they had faced, achieving only a very stunted growth. There were numerous such cases among the current 3 years to 6 years child beneficiaries in the Anganwadis visited by me.

2. Hot Cooked Meal has not been provided by the State to the children in any of its Anganwadi Centres over the last more than 13 months. The whole programme was scrapped by the State Government in March 2017, on suspicion of malpractices and corruption in the cooking and distribution of Hot Cooked Meals in the Anganwadis. **NHRC MAY KINDLY CONSIDER ISSUING A SUO MOTO NOTICE TO UTTAR PRADESH STATE GOVERNMENT FOR THE LONG, CONTINUED, AND DELIBERATE VIOLATION OF THE FUNDAMENTAL RIGHT OF "ACCESS TO FOOD" OF ITS POOR CHILDREN UNDER THE RIGHT TO FOOD ACT.**

3. The scale of malnutrition prevalent in the thickly populated Uttar Pradesh can be assessed from the fact that in one District of Kanpur Urban only, there are 2,134 sanctioned and functioning AWCs in the District's 12 ICDS Project Units, having 2,94,732 children in 0 to 6 years' range, and 52,212 Pregnant and Lactating mothers. Out of these the Registered Supplementary Nutrition Programme (SNP) Beneficiaries are about 80% only-- 1,03,675 Registered Children between 6 months to 3 years' age, 51,040 children between 3 years' to 6 years' age, and 41,450 Pregnant and Lactating Mothers. It was claimed by the Department Officers that they were providing PSE for 21+ days in a month in all the 2,134 AWCs, and were covering 29,538 boys and 27,490 girls in 3 to 6 years' age range. But, as the Photocopies of the Registers of two of these AWCs obtained by me on the Spot, and enclosed herewith, would disclose, **there was no stock and no distribution of both Weaning Food, and Amylase Rich Food over the months of January, February, and March of 2018, which was the situation in most months of the year 2017-18.** As a result, the

Officers' own report for the February 2018 month's Progress Report Format-II, a copy of which was handed over to me, showed that in the classification of the Nutritional Status of the 2,21,950 children who were covered during a recent mass weighing exercise, only 1,65,882 children were found to be in the Normal range, and 49,001 were found to be mal-nourished, and 7,067 children were found to be severely mal-nourished in Kanpur Nagar District alone. If this is the position in the State's most populous/ biggest city, a scaled projection for the whole State would yield at least 50,00,000 ( 50 lakh or 5 million) to 1 crore (10 million) children to be mal-nourished and severely mal-nourished in the State.

4. According to the enclosed photocopy of the entire Stock Register of Naubasta Anganwadi Centre of Kanpur Urban District, on many occasions in the past also the State had failed in its responsibility to supply the food ingredients for Hot Cooked Meals. Last such supply was delivered at the Anganwadi on 02.03.2017, just before the UP State Assembly Elections, and the new Government which assumed office on 19.03.2017 stopped the whole system of such supplies of ICDS ingredients for Hot Cooked Meals for children of 3 to 6 years' age altogether:-

- (i) April 2012 to May 2012, and August 2012, & December 2012
- (ii) February, April, May, June, November & December 2013,
- (iii) March, April, May, June, and August to December 2014
- (iv) January, August, and October- November 2015
- (v) January, April, May, July, and October to December 2016
- (vi) January, February 2017, and from April 2017 onwards continuously.

5. Even the Take Home Ration (THR) called "Panjiri" by the Officers ( which is a mixture of wheat Atta with other nutrients ), which used to be given earlier to the pregnant and lactating mothers, and to the children upto 3 years of age, who are not required to come to Anganwadi Centres daily, had been stopped since March 2017 by the State Government, and Tenders had been invited for bulk supply of the "Panjiri" THR packets. According to a news item in a local newspaper on 28<sup>th</sup> March, which I happened to come across, the State Cabinet had on 27<sup>th</sup> March decided to award Tenders to 14 Firms from all over the country, to supply as THR "Dalia" (broken whole wheat) packets. Out of these 14 Firms, two are from Jharkhand, one from Guwahati Assam, one from Tamil Nadu, and one from Rajasthan. The location/ address of the other nine Firms were not provided in the news item. The news item further stated that these new THR packets would be with Bar-coding of individual THR packets, which would ensure that their diversion could be checked, and each individual THR packet could be traced to the particular Anganwadi Centre where it is delivered for the purposes of distribution among the registered beneficiaries. Apparently orders on these Tenders are yet to be placed, and supply of actual THR "Panjiri"/ "Dalia" packets would start only in a couple of months, nearly 15-16 months after their supply was stopped in March 2017. ( Details would have to be called for regarding nutrient contents of these THR packets.)



6. The supply of the requirements for serving Hot Cooked Meals in Anganwadi Centres apparently still remains to be decided by the State Government. It was, therefore, no wonder that I found that in the last more than one year, since the March 2017 complete stoppage of serving of Hot Cooked Meals in the State's AWCs, the kitchens of the AWCs had themselves disappeared!! In the Anganwadis visited by me, there were no cooking utensils, no Gas or Kerosene Stoves, and in at least one of the Anganwadis, its Kitchen was being used by the Village Pradhan (who was also the main construction Contractor of that village) as the store for his Cement and other construction material. In some AWCs the Anganwadi Workers and Helpers admitted that they had taken away all the cooking utensils and Stove etc. supplied by the ICDS Project earlier, to their homes, for the ostensible purpose of their safekeeping.

### REPORT No 2-- Lucknow and Kanpur District Prisons in Uttar Pradesh

#### LUCKNOW DISTRICT PRISON-22<sup>nd</sup> MARCH / KANPUR- 27<sup>th</sup> MARCH VISITS

7. I visited the Lucknow District Prison, newly constructed in 2009, on 22<sup>nd</sup> March. In less than a decade since construction its Roads, Buildings, and other infrastructure is already crumbling, as a proof of poor quality construction. It was, however, not as crowded, as the extremely over-crowded Kanpur Jail: Its 118 Barracks, including 2 for Juveniles, and 4 for Women, and 220 Individual Cells, can accommodate about 3,540 prisoners. A 100 bedded Hospital is within the Prison compound itself, though it is very inadequately staffed, and poorly managed, but with sufficient supply of the common medicines. Visits of Specialist Doctors do take place, but because of the Prison being more than 30 Kms away from the City, ferrying ill prisoners to the City Hospitals, even for the routine Pathological Tests, and the specialized Medical tests prescribed by the visiting Specialist Doctors, is a routine and daily problem.

SANCTIONING A MINI PATHOLOGICAL LABORATORY AND AN X-RAY MACHINE FOR THE PRISON, WITH THE CREATION OF THE ATTENDANT/ NECESSARY POSTS OF PATHOLOGIST, PARAMEDICAL STAFF etc., IS AN URGENT NEED. AN EXTRA POST OF A PHARMACIST, AND A FEW NURSING STAFF POSTS CAN ALSO BE CONSIDERED TO BE SANCTIONED.

SO IS THE NEED FOR AN ALLOPATHIC PHYSICIAN, AND SOME AYUSH DOCTORS, IN THE OTHER FIELDS OF AYURVEDA, HOMEOPATHY, UNANI, SIDDHA etc. branches of Medical treatment to visit the Prison regularly, so that some minor but persistent ailments of the prisoners can be treated with those alternative branches of Medical Treatment, and the out-patient work load of the available Allopathic Doctors can be reduced. SOME SPECIAL FINANCIAL AND CREATURE COMFORT INCENTIVES NEED TO BE DESIGNED TO BE PROVIDED TO HEALTH DEPARTMENT STAFF POSTED IN PRISONS, IN ORDER TO BE EVEN ABLE TO FILL UP ALL THE SANCTIONED POSTS.

8. The persistent problem of lack of adequate Escort Police parties for escorting the

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ill prisoners continues. (Hundreds of prisoners are referred by the visiting Specialist Doctors as patients to be taken to Sanjay Gandhi Post Graduate Medical Institute, the nearest Tertiary Level Hospital, which too is more than 20 Kms away, but only 2 or 3 can be sent on a day, leading to building up of a backlog. This problem needs to be tackled immediately.)

9. (Cooking of food for the prison inmates is a problem. There are no mechanized Chapati / Roti making machines available (like available even at the much smaller Bhubaneswar District Jail in Odisha) for catering to the needs of the 3,305 inmates available, against the maximum capacity of 3,540 inmates which can be housed. At least 3 to 4 such machines would be required for a Prison of this large size, even without providing for redundancy. Also, Prisons in UP have not yet moved away from carcinogenic Aluminium utensils/ cooking vessels to Stainless Steel utensils/ cooking vessels. A bulk order for all the 70 Jails of UP needs to be placed with Bharat Heavy Plates and Vessels; a Govt. of India Public Sector Undertaking.

10. Family visit meetings of upto 30 minutes each are allowed six days in a week, three times in a week for the Under-trial Prisoners, and twice a month for the Convicts, except on Government Holidays. But the Meeting Hall in the Prison is most noisy, and has inadequate space. Some technological improvements are required in the manner the family meetings take place.

11. There is a long list of pending Magisterial enquiries of the deaths of Under-trials and Convicts which took place in the Prison. **Even NHRC registered cases have not been attended to.** The lists of such pending enquiries are enclosed to this report.

12. At Lucknow Jail, I interacted with quite a large number of Under-trial prisoners. Representations of two of them have since been forwarded to me by email and by post by the Lucknow Prison authorities, and they were duly forwarded by me on 31<sup>st</sup> March to SG/ NHRC by email, and **the Original petitions since received by post are enclosed to this report, for any appropriate action by NHRC, as deemed fit.**

13. Kanpur Prison was an eye opener as regards what all can go wrong in a prison!! It is a British period Jail, with old Barracks being better maintained, and some very shabbily constructed and maintained newer Barracks, which were added sometime after 1947. (It is one of the extreme cases of overcrowding in a District Jail, with inmates being three times its normal capacity. There were 2,341 male inmates, comprising of 324 convicts, 2,013 under-trials(UTs), 3 NSA detainees, and 1 prisoner condemned for being hanged to death. Among 115 women prisoners, 13 were convicts and 102 UTs. There were 4 convict and 65 UTs minors also, taking the total inmates to 2,525. I found the living conditions in the Jail to be horrific!! Most of the Barracks in the Jail had three times their capacity as the inmates in them, with inmates sharing the same bedding by sleeping in reverse direction to the other inmate on the same bedding.

14. I made a point to try to meet the three NSA UT detainees, and before I had left the Prison, one of them namely **Saleem@ Pappu s/o Imam Baksh** had sent to me a representation pleading his innocence, addressed to Chairperson NHRC, which is enclosed in original for action as deemed fit. Another Undertrial **Danish s/o Saddam Khan** had also sent to me his representation addressed to Chairperson, NHRC, pleading that he had been imprisoned as a Juvenile UT 34 months back, in a case No 50/12 u/sec 3(1) of UP Goonda Activities Act, the cognizance of which case itself was taken by the Juvenile Justice Board, and the maximum punishment in that Section itself is 24 months, while he has already spent 34 months in Jail, and should have been released by the Juvenile Justice Board, which has not been done. That representation is also enclosed for action as deemed fit to be ordered by Chairperson NHRC.

15. After my inspection of the Jail and its Dispensary, a melo-dramatic spectacle was played out before me in the Jailor's Room! Out of the 2 Jail Doctors, the one Doctor who had joined recently, admitted that the living conditions in the Jail were so un-hygienic & filthy that 90% of the inmates of the Jail had Scabies! Immediately both the Jailor and the second Doctor literally contadicted him, and said that that figure of 90% inmates having Scabies was not true! But, when I questioned him in detail, even the second Doctor also agreed that at least 60% of the inmates of the Jail had contracted Scabies! The Jailor still did not agree!! **Some stringent instructions need to be issued from NHRC to UP State Government and Collector & District Magistrate, Kanpur Urban District, regarding such filthy, un-hygienic and poor loving conditions in Kanpur Jail.**

16. At least 150 inmates have to visit the Prison Dispensary's OPD every day. But there is no Lady Doctor available for the women inmates and 13 children. 54 inmates have Mental Illnesses, and are on medication. 14 inmates are having Tuberculosis, in Categories I, II & III, and are on DOTS medication. Many inmates have anxiety and hypertension and are being treated for that. 28 inmates are Diabetic, 45 inmates are HIV infected, and one is a drugs addict.

17. In Kanpur district Jail also, **SANCTIONING A MINI PATHOLOGICAL LABORATORY AND AN X-RAY MACHINE FOR THE PRISON, WITH THE CREATION OF THE ATTENDANT/ NECESSARY POSTS OF PATHOLOGIST, PARAMEDICAL STAFF etc. IS AN URGENT NEED. AN EXTRA POST OF A PHARMACIST, AND A FEW NURSING STAFF POSTS CAN ALSO BE CONSIDERED TO BE SANCTIONED. AN EXTRA POST OF A PHARMACIST, AND A FEW NURSING STAFF POSTS CAN ALSO BE CONSIDERED TO BE SANCTIONED. SOME SPECIAL FINANCIAL AND CREATURE COMFORT INCENTIVES NEED TO BE DESIGNED TO BE PROVIDED TO HEALTH DEPARTMENT STAFF POSTED IN PRISONS, IN ORDER TO BE EVEN ABLE TO FILL UP ALL THE SANCTIONED POSTS.**

18. The Jail Superintendent himself suggested/ requested that since availability of Police for Security/Escort Duties for taking Jail inmates to Hospitals for tests etc. is always an issue, **perhaps training the Jail Staff for performance of Security / Escort Duties can be considered by the State Government.**

19. NHRC Notices in respect of 7 deaths in the Kanpur Prison were seen by me, in which the Magisterial Enquiry has not yet progressed properly. There should be some system for NHRC to be a little more harsh upon the Executive Magistrates holding such Magisterial Enquiries, rather than just sending reminders, about which they do not seem to bother.

### **Report No.3:**

### **ISSUES RELATED TO CHILDREN'S CUSTODY AND ADOPTION**


20. In Lucknow District, the CARA sanctioned Adoption cases are attached to be handled by the Court of "Special Judge, Ayurved Scam Matter/Addl Distt & Sessions Judge" !!! In one of his decided cases dt. 25.01.2018 regarding an Inter- Country Adoption of a child to Spain, he had passed a very cursory Order (Copy enclosed). But be that as it may, what is even more surprising is that one of the Govt. employees (Social Worker) of Rajkiya Bal Griha Adoption Cell, Mrs. Asiya Raza, had herself filed the affidavit in support of the Prospective Adoptive Parents (who were Spanish) and the Respondent in that case was her employer Govt. Institution, represented by her own superior, the Superintendent!!

21. I find this aspect of the CARA prescribed Guidelines to be very much misunderstood and wrongly applied in practice, against all the accepted principles of Common Law. The Regulation 12(2) provides for **Schedule XXVIII "Model Application in case of orphan or abandoned or surrendered child(ren) to Court for In- Country Adoption"** and **Schedule XXIX "Model Application in case of orphan or abandoned or surrendered child(ren) to Court for Inter- Country Adoption"**. The strange thing about these two Schedules is that though in the case of both Schedule XXVIII for In- Country Adoptions, and Schedule XXIX for Inter-Country Adoptions, the Applicant before the Court has been prescribed to be the **"Specialised Adoption Agency Concerned"**, and the Respondent Party in both these cases have to be the PAP ("Prospective Adoptive Parents"), for some strange reason the Courts do not apply these two Schedules as they are. In the case of the enclosed Judgment and Order dated 25.01.2018, like in most similar cases, the Addl. District Judge concerned had even failed to notice that before him the case was exactly reverse, with PAP as the Applicants(*sic*) and the Specialised Adoption Agency was the Respondent(*sic*), which was against Schedule XXIX, and was further bad in law because an Employee of the same "Respondent (*sic*)" was representing the PAP "Applicants (*sic*)" before the Court !! He did not even notice the difference in format being only in the case of Schedule XXXI under Regulation 55(3) for Inter- Country Relative Adoption!!

22. The functioning of the Juvenile Justice Board also has to be faulted. I discovered that in the JJB visited by me, **there were cases of even 2002 still going on as current cases. I found one individual there who was just short of 18 years' age in 2002, and his case was still under process before the JJB, treating him as a Juvenile, 16 years later, though he was already 33 years in age, and was about to turn 34 years' in age !!** There are vested interests at play, and **neither the JJB and nor the very few Advocates who take up JJB Cases want or would like these cases to be disposed off,** as was openly admitted (before me and one Member of the JJB) by a Lady Advocate, who appears for the prosecution, and was present during my visit.

23. Perhaps it is high time for the Law itself to be re-visited, to prescribe a time or age limit beyond which the cases should not proceed before the JJB, and, if the case is serious enough to be continued, it should get transferred to the Judicial Courts.

24. The handing over back of the children from the Children's Homes is also an issue. It has been observed by me earlier also, in my report of Odisha visit, that everything is not right in the manner the handing over back of the children to their Parents and "other relatives" sometimes is handled by such Child Care Institutions, specially the Private ones. Those comments are not being made again here, in order to avoid repetition.

  
 (Sudhir Kumar) 16/04/2018  
 Special Rapporteur, North Zone

Enclosures: As mentioned in the Reports above

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