

REPORT OF THE VISIT TO UNION TERRITORY OF CHANDIGARH
AND STATE OF PUNJAB IN APRIL, 2018

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19.04.2018 TRAIN JOURNEY FROM NEW DELHI TO CHANDIGARH

20.04.2018] F/N Chandigarh Model Jail; A/N Nari Niketan & After Care Home for
] Girls; Senior Citizens' Home

21.04.2018] F/N Observation cum Special Home; Specialized Adoption Agency;
] Aashraya Mental Health Centre; After Care Home for Boys

22.04.2018 SUNDAY-- ENFORCED HALT

23.04.2018[Visited Rupnagar (Ropar) District & back-F/N-Two Anganwadi Centres,
[Two Deaf and Dumb Schools; A/N Rupnagar District Jail for 3 hours

24.04.2018[Visited Fatehgarh Sahib-Sirhind Distt. & back-F/N4 Anganwadis, Govt.
[Elementary School; Drug Rehabilitation Centre; Police Station Lock-up

25.04.2018[F/N Was taken from Chandigarh to Ludhiana by Punjab State Govt. Car

25.04.2018[A/N Visited Swami Ganganand Bhuriwale Adoption Centre 30Kms away

26.04.2018 Visited Kapurthala Distt-Home for Mentally Retarded; A/N Model Jail

27.04.2018 F/N --At Ludhiana, visited Community Home for Mentally Retarded;
Home and School for the Blind Children; and Central Jail, Ludhiana

27.04.2018A/N RETURN TRAIN JOURNEY FROM LUDHIANA TO NEW DELHI

EXECUTIVE SUMMARY

1. Chandigarh Union Territory Administration has handed over some of its Governmental functions under the Juvenile Justice (Care and Protection of Children) Act, 2015, and some other Legislations relating to women and Senior Citizens, to be performed by two of its Public Sector Undertakings, which has solved some of its day to day cash handling, and other Administrative/Financial problems, but raises a number of issues of Law & Administrative ethics.

2. Punjab does not appear to have sufficient number of Child Care Institutions, and Specialized Adoption Agencies, which creates problems at the ground level. Its Courts are also not thorough in going through the eligibility of Prospective Adoptive Parents while passing their Orders concerning In-Country and Intra-Country adoptions.

3. At Para 6. The JJ(CACP) Act, 2015, prescribes for the CWC to meet as a Committee atleast 20 days in a month, which is humanly impossible for the type of people nominated to be on CWCs. As a result they tend to divide their CWC's work to be done by individual Members on days suitable to them, and then falsify the records by the rest of the Members of CWC signing as if all had been present together. Therefore, in order to avoid such falsification of CWC records, there is a need for the Government of India to be told by NHRC to suitably amend the Act, to provide for CWCs to meet as a Committee on 10 days (or at the most 12/15 days) in a month.

4. At Para 12. Punjab Jail Manual recognizes only Leprosy as a communicable infectious disease for Jails, which is quite strange. It does not include the highly contagious and infectious communicable skin disease- Scabies, which is most prevalent in Jails in India, as a contagious/ communicable disease!!

5. At Para 13. Actually, even the latest Model Jail Manual prescribed by the Government of India for being adopted by the States does not recognize this widespread and persistent problem. My recommendation is that NHRC should take action to sensitize the Central and State Governments regarding the continued spread of this highly infectious and communicable disease of Scabies in the Jails in India.

6. At Para 14. A large number of Bangladeshis and Rohingya Muslim refugees having been arrested in the recent months, some despite their holding the UN High Commissioner for Refugees ID Cards as recognized Refugees.

7. At Para 15. The problem of Under-trial Prisoners languishing in Jails for much longer period than necessary is accentuated by the non-production of these Under-trial Prisoners in those Courts with which no Video Conferencing Facilities exist in the Jail concerned, which also results in vastage of precious Judicial time of the Criminal Courts.

8. At Para 17 all State Governments need to be reminded by NHRC to maintain a decent ratio of Prison Inmates to Doctors, and to fill up all the sanctioned posts.

9. At Para 18 NHRC and State HRC Notices in cases of deaths of Prison Inmates, both Convicts and Under-trials, remain unattended for long periods in the cases of most Prisons

10. At Para 20 In fact persons, and NGOs, with good intentions are not always able to arrange finances for running such Institutions for three years, only after which they can become eligible for seeking Government recognition and

financial support.

11. At Para 22 There is also no system in place (perhaps, for that matter, in any State whatsoever) for Hospital care for the children at such Centres, and sometimes their treatment can turn out to be too costly. Neither the State Government, and nor the Central Govt./ CARA have any scheme to fully reimburse/ compensate for the Hospital costs for proper treatment of children in the privately run Children's Homes, specially the children put up for adoption.

12. At Para 27. It was felt by me that there is a need to sanction special allowances at least for the Nursing Staff (if not the Psychologists and Doctors also) among all those Medical professionsls who handle the very difficult to handle blind and mentally ill patients. Also, presently it is only a one way traffic for the mentally ill who reach such Homes. There is insufficient emphasis on appropriate Medical treatment (and regular IQ Testing) and supervision of the treatment of individul cases, with an eye upon the possibilities of their ultimate return to their families.

TOUR REPORT No 1-- Union Territory of Chandigarh

A. CHILD CARE INSTITUTIONS, & INSTITUTIONS FOR WOMEN and ELDERLY, AND MENTAL HEALTH INSTITUTION

1. The Director of Social Welfare UT Administration accompanied me on both days for all my inspections. But she was herself also holding the charge of the two posts of Managing Director of the two Corporations/ Public Sector Undertakings which have been entrusted with the task of running the various Child Care Institutions (CCIs) of the UT, as well as looking after the Nari Niketan and the Senior Citizens' Home. The aspect of conflict of interest in both the implementing Officer and the reviewing Officer being the same has never bothered the UT Administration.

2. The JJ (CACP) Act, 2015, everywhere prescribes that **“the State Government may establish and maintain, by itself or through voluntary or non-Governmental organisations...”** such CCIs (and other Acts also have a similar prescription) in respect of Institutions for care of the destitute women and the elderly. **But whether such a prescription would cover Corporations/ PSEs/ PSUs promoted by the State Government also to be legally eligible to run such institutions, through contractual and temporary employees, is a matter to be looked into. I jocularly mentioned that these Corporations were acting like the**

East India Company had done for 101 years from 1757 to 1858. Many functions and duties in the running of such Institutions involve performance of duties, non-performance or wrong/improper performance of which invites personal liability of personnel, and penalties under the respective Law itself. Such being the case, the contractual and temporary employees of the State Corporations/ PSEs/ PSUs do not exactly fit the requirements of the Law for performing such statutory functions.

3. On the other hand, the advantages of the State's Corporations/PSEs/PSUs running such Institutions on a day to day basis lie in these Institutions being able to spend the required amounts of money without bothering about the delays in reimbursements of these amounts, and Budgetary cuts imposed, even at the cost of eroding the capital base and financial health of the Corporations, resulting in better performance of the six CCIs and Institutions for the Women and the elderly, which I visited in two days, than in most other States.

4. The "Aashiana" Children's Home, and Specialized Adoption Agency and "Aashraya" Mental Health Institution were not so well run and well maintained. A lot can be done to improve the sanitary conditions and care provided to the inmates at the "Aashraya" Mental Health Institution.

B. FUNCTIONING OF THE CHANDIGARH CHILD WELFARE COMMITTEE

5. The functioning of the Chandigarh Child Welfare Committee is very erratic. Three of its Members- Chairman and two of the Members- are almost at an open war with the other two Members, and fight and disagree on almost everything, but, still, totally disregarding the Legal requirement of their visits to Institutions being as Committee, with at least three CWC Members being together, they have actually divided all the Institutions coming under the jurisdiction of the CWC among themselves for visiting individually only, and I found only a single Member of Chandigarh CWC visiting/ inspecting the "Aashraya" Mental Health institution, and recording her own individual comments in the Institution's Inspection Book !!

6. The JJ(CACP) Act, 2015, prescribes for the CWC to meet as a Committee atleast 20 days in a month, which is humanly impossible for the type of people nominated to be on CWCs. As a result they tend to divide their CWC's work to be done by individual Members on days suitable to them, and then falsify the records by the rest of the Members of CWC signing as if all had been present together. Therefore, in order to avoid such falsification of CWC records, there is a need for the Government of India to be told by NHRC to suitably amend the Act, to provide for CWCs to meet as a Committee on 10 days (or at the most 12/15 days) in a month.

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C. INSPECTION OF CHANDIGARH MODEL JAIL

7. Report regarding Inspection of Chandigarh Model Jail, in the Proforma recently circulated by NHRC, as since received from that Jail by email, is enclosed.
8. This Proforma is quite cumbersome, suitable only for regular Departmental Inspections, and cannot be filled by any Special Rapporteur during his Inspection. I intend to suggest to SG/ NHRC a simplified Format for NHRCs' SRs' Reports.
9. The inmates at Chandigarh Model Jail imprisoned for the murder of (the then) Punjab Chief Minister Baint Singh handed over to me their representations addressed to NHRC regarding two aspects, one relating to the length of their imprisonment, which they contended was “ **not for their entire lives, but was only for 20 years' Life Imprisonment**”, as printed on their Jail Cards also, and the other relating to non-counting of periods of Paroles granted to them in the past towards their periods of imprisonment/ incarceration, which “ **periods of Paroles, they contended, should count towards their periods of imprisonment**”. Their representations are enclosed in original, for necessary action as deemed fit to be taken by NHRC.
10. Chandigarh UT Administration has assigned the task of cooking and supplying Hot Cooked Meals to 100 Anganwadi Centres of the UT to the Chandigarh Model Jail's Kitchen, which it does well, in the same manner as Akshaya Patra Foundation does in Odisha for Bhubaneswar City, and at many other places in other States also, with high concentration of ICDS Anganwadi Centres.

Tour Report No.2 :-- STATE OF PUNJAB

D. INSPECTIONS OF JAILS AT RUPNAGAR (Ropar), KAPURTHALA and LUDHIANA

11. I inspected the Jail at Rupnagar (Ropar) on 23rd, the Modern Jail at Kapurthala on 26th, and at Ludhiana on 27th April. Though I handed over copies of the newly circulated Format to the Jail authorities at Rupnagar and Kapurthala, but the filled up Formats have not been received from them. Ludhiana Jail inspection was brief and incomplete.

12. Punjab Jail Manual recognizes only Leprosy as a communicable infectious disease for Jails, which is quite strange. It does not include the highly contagious and infectious communicable skin disease- Scabies, which is most prevalent in Jails in India, as a contagious/ communicable disease!! I could gather that at least 30 to 40 % of both the condemned and the Under-trial prisoners of all the three Jails inspected by me in Punjab suffer from the highly contagious Scabies disease, and both the Jail authorities and the Jail doctors are quite insensitive towards arresting

the spread of this disease. Neither sufficient medication is prescribed and provided, nor any care is taken to identify, separate, and destroy the Jail clothing, Bedsheets and Blankets, which become infected with (vary hard to remove) Scabies itch-mites.

13. Actually, even the latest Model Jail Manual prescribed by the Government of India for being adopted by the States does not recognize this widespread and persistent problem. My recommendation is that NHRC should take action to sensitize the Central and State Governments regarding the continued spread of this highly infectious and communicable disease Scabies in the Jails in India.

14. The enclosed Roopnagar District Jail Population Statement discloses that the Jail had 18 "Foreign Prisoners (Male)" and one "Foreign Prisoner (Female)" as Under-trials. Similar position prevailed in the other two Prisons inspected also. This is due to a large number of Bangladeshis and Rohingya Muslim refugees having been arrested in the recent months, some despite their holding the UN High Commissioner for Refugees ID Cards as recognized Refugees.

15. The problem of Under-trial Prisoners languishing in Jails for much longer period than necessary is accentuated by the non-production of these Under-trial Prisoners in those Courts with which no Video Conferencing Facilities exist in the Jail concerned, because of the Jail not being provided with Police Escort Teams in a timely manner, either not at all, or being provided in a delayed manner, which also results in wastage of precious Judicial time of the Criminal Courts, whether in the same District, or in other Districts, where the Criminal cases against the Under-trial Prisoners are pending. Therefore, it is necessary to expand the scope of the scheme for connecting of Jails with Courts in other Districts within the State (and perhaps Courts in Districts in other States also). In Rupnagar Jail itself, the number of missed Court Peshis was 115 in Jan. 2018, 224 in February, 2018, and 185 in March, 2018. Similar position prevailed in the other Prisons also.

16. Modern Jail Kapurthala had 2,789 inmates, against total capacity of 2,880 inmates, with 1,925 Under-trials, including a total of 157 female Inmates, and **6 Children with their mothers.** I instructed for arrangements to be made for these six children to be provided with education, and benefits of the ICDS Scheme, in a room near the Jailor's Room, which was arranged by my Liason Officer from the Women and Child Welfare Department.

17. Against the 5 sanctioned posts of Doctors, only 3 were posted at Kapurthala Jail. Similar shortage of Doctors was there at the other Prisons also. A Doctor on duty is an essential element of Jail Administration, and for securing the lives of the Convicts and the Under-trials whose custody is entrusted to the Prison by the Criminal Courts. Therefore, **all State Governments need to be reminded by NHRC to maintain a decent ratio of Prison Inmates to Doctors, and to fill up all the sanctioned posts.**

18. **NHRC and State HRC Notices in cases of deaths of Prison Inmates, both Convicts and Under-trials, remain unattended for long periods in the cases of most Prisons.** Kapurthala had 167 NHRC Notices pending, and only 7 cases had attained closure in the recent past. The Judicial and Executive Magistrates holding the enquiries need to be sensitized about the need for early closure of all such pending cases.

E. INSPECTIONS OF THE CHILD CARE INSTITUTIONS & ADOPTION HOME

19. The two Anganwadi Centres inspected by me in Rupnagar District, on the way to that Town, were having very little presence of children, only 5 and 9 children respectively, out of the registered 45 and 28 children (6 months to 3 years children being 15 in the first AWC and 12 in the second AWC, with 3 years to 6 years children being 30 in the first AWC, and 16 in the second AWC), inspite of good quality Hot Cooked Meal having been prepared there. I was told that this sudden drop in attendance in AWCs was due to the fact that the State Government had lowered the minimum age for admissions to the Nursery Classes in Schools, because of which children between 3 yrs to 6 yrs going to Schools were now covered under the School Mid- Day Meals programme, rather than being covered under the ICDS.

20. The two Rupnagar Institutions, one a School for Deaf and Dumb children (with 150 students- 120 Boys+ 30 Girls, 15 of which were Hostel inmates), and the other a School for the Blind & Partially Blind children (with 50 students, of whom 20 were Hostel inmates) which were visited by me, were well run, with good Staff, but with very poor infrastructure and bad financial position, as they have still not been recognized by the State Government. **In fact persons, and NGOs, with good intentions are not always able to arrange finances for running such Institutions for three years, only after which they can become eligible for seeking Government recognition and financial support.**

21. The four ICDS Anganwadi Centres (No. 10/2 Urban; No. 1 Behman Mazra; No. 2 Behman Mazra; No. 3 Behman Mazra) and one Govt. Elementary School, Sirhind II, Khwaja Peer Colony, inspected at Fatehgarh Sahib on 24th April showed up poor quality of food-- ICDS Hot Cooked Meals & School Mid-day Meals, both schemes being run without any sufficient supply of stocks of foodgrains and other cooking ingredients. The School did not have any foodgrains in stock for the Mid-day Meals, and the Head- Mistress had placed her requisition for Foodgrains to be supplied to her school only on their Departmental WhatsApp Group, without backing it up with any letter. When the reason for this was sought to be enquired, the concerned Departmental officer immediately pleaded her innocence, by saying that she had not received any requisition from that School for supply of foodgrains. And it was clear that she herself had not bothered to ascertain as to why such a requisition had not been received from that particular School, and perhaps many other Schools also. A

lot needs to be done by the State Government to streamline the implementation of these two Schemes- ICDS and School Mid-day Meals.

22. The Swami Ganga Nand Bhuri Wale Adoption Centre, situated about 20 Kms away from Ludhiana, inspected on 25th April, is a Children's Home, with 24 children as on that date, and another 23 children in the Adoption Centre. It was seen that good care was being taken of the children by the religious minded couple which runs the Centre. However, they were not keeping the Adoption case files properly. Also, the problem of Power of Attorney being from the same Centre was present there also. The income status of the Prospective Adoptive Parents is also not being scrutinized properly by the Courts at Ludhiana. **There is also no system in place (perhaps, for that matter, in any State whatsoever) for Hospital care for the children at such Centres, and sometimes their treatment can turn out to be too costly. Neither the State Government, and nor the Central Govt./ CARA have any scheme to fully reimburse/ compensate for the Hospital costs for proper treatment of children in the privately run Children's Homes, specially the children put up for adoption.**

F. INSPECTION OF THE DRUG REHABILITATION CENTRE

23. The Fatehgarh Sahib Drug Rehabilitation Centre inspected on 24th April was being run very well, with 26 patients. Establishing such rehabilitation Centres is a good initiative of the State Government, but after-care and follow up after discharge from that Centre is lacking, which led to some rehabilitated persons again becoming addicted to drugs, and again reaching the Drug- Deaddiction Centre in the Hospital, and later returning to this rehabilitation Centre. **Therefore, a system for close follow up of all rehabilitated persons returning to their villages is perhaps required to be put in place.**

G. INSPECTION OF MENTALLY RETARDED HOME AT KAPURTHALA, AND THE COMMUNITY HOME FOR MENTALLY RETARDED AND THE BLIND HOME AT LUDHIANA

24. It was nice to see the involvement of the local District Revenue Administration and the Health Dept. / Govt. Hospital Doctors in supporting the running of the Home for Mentally Retarded Girls/ Women. The SDM, who was herself a qualified Medical Doctor accompanied during the visit, and it was nice to learn that she was a regular visitor there, and had been instrumental in removing the encroachments from the land of that Home, which is housed in an old Kapurthala Royal family building. One of the two Doctors present was a visiting Dentist, and the other Doctor was the one assigned the duty by the Govt. Hospital to be personally in-charge of regular visits. But, partly because of the mental condition of the inmates, who are hardly aware of as to how to maintain personal hygiene, the overall hygiene at the Home was lacking.


25. I found a totally reverse position at the Ludhiana Community Home for Mentally

Retarded Boys. The inmates there were mostly suffering from low IQ, and were not seriously mentally ill. I was told that some were taking only Homeopathic medicines. The inmates there are also not provided any proper medication, nor regularly tested for any change in their IQ, so that they can be sent back to their homes.

26. The Blind Home and its attached School at Ludhiana had a nearly completely blind lady as its Principal. It was a well run Home, with the attached School for the Blind having Day Students (coming from the neighbourhood) also. Very good effort was being put in, though allocation of funds was stated to be meagre, and its hygiene conditions and cleanliness were not upto the mark.

27. It was felt by me that there is a need to sanction special allowances at least for the Nursing Staff (if not the Psychologists and Doctors also) among all those Medical professionsls who handle the very difficult to handle blind and mentally ill patients. Also, presently it is only a one way traffic for the mentally ill who reach such Homes. There is insufficient emphasis on appropriate Medical treatment (and regular IQ Testing) and supervision of the treatment of individul cases, with an eye upon the possibilities of their ultimate return to their families.

Enclosures:- As mentioned in the Report



(SUDHIR KUMAR)

SPECIAL RAPPORTEUR, NORTH ZONE