

Fourth Report of the Commissioner to the Supreme Court

Summary of the Report

This report is essentially an update on the third report of the Commissioners, submitted in April 2003. It focuses on compliance with earlier directions of the Honourable Court by the respondents, and presents suggestions to consolidate these directions.

The report begins by taking note of the fact that the problem of hunger amidst plenty is still with us, virtually unabated. The Commissioners are particularly concerned to find that the Government of India has been exporting one million tonnes of grain every month during the last 15 months, against a background of endemic hunger at home. They stress the need for bolder intervention on the part of the Honourable Court.

The report stresses the links between the right to food, the right to work and the right to information. Promoting the right to work is an essential means of guaranteeing the right to food. The report suggests some preliminary directions in this regard. These include banning the use of labour-displacing machines on public employment programmes, and introducing an employment guarantee in at least 100 backward districts.

The right to information is also essential for the realisation of the right to food. Indeed, absence of transparency and accountability has severely undermined a whole range of food security schemes. The report urges the Honourable Court to assert that all documents pertaining to food and employment schemes should be treated as public documents, open to public scrutiny and accessible for consultation by any individual at any time.

Other major directions recommended by the Commissioners include the swift expansion of mid-day meals throughout the country, doubling of the coverage of social security pensions, restraint on grain exports, and bold measures to address the much-neglected problem of urban destitution.

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Sources and Acknowledgement

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The report also draws on (a) information presented at recent public hearings in Chittorgarh (Rajasthan), Dindori (Madhya Pradesh), Kalahandi (Orissa), Sendwa (Madhya Pradesh), Shivpuri (Madhya Pradesh) and elsewhere; (b) communications with the Commissioners' advisers in different states; (c) extensive correspondence with government officials of the central and state governments; (d) a detailed investigation of food-related schemes in Sheopur district (Madhya Pradesh) undertaken by a team sent by the Commissioners; and (e) a recent visit to Lucknow and surrounding districts by Dr. N.C. Saxena. (f) interactions with the support group, Right to Food Campaign.

We are grateful to Shonali Sen and Navjyoti for their able assistance in preparing the report.

1 Preamble

1.1 We begin by drawing the attention of the Honourable Court to the fact that the problem of “hunger amidst plenty” is still with us, virtually unabated. It is not that the Court’s orders have failed to have any impact. In many cases they have led to substantial improvements in specific aspects of the food system. However, the orders passed so far are not equal to the task of guaranteeing freedom from hunger in India, and even these orders have been routinely violated. Bolder action is needed if the right to food is to become a reality.

1.2 The recently published Human Development Report 2003 confirms that India is one of the most undernourished countries in the world. For instance, the proportion of undernourished children is as high as 47% in India. In this respect India fares worse than any other country in the world, except for Bangladesh and Nepal. Every one of these millions of undernourished children stands before us as a telling reminder of the country’s failure to guarantee the right to food. The field reports submitted to us from time to time by citizens’ organisations around the country also confirm that endemic hunger and extreme starvation continue to haunt the land.

1.3 The mountains of food too, are still with us. The stocks of foodgrains held by the Food Corporation of India have declined from 62 million tonnes in July 2002 to 35 million tonnes in July 2003. But even the reduced stocks are nearly twice as large as the buffer stocks officially required in an average month. Aside from causing much wastage of grain, these excess stocks absorb enormous financial resources that could be used to assist poor families.¹ Further, the reduction in stocks is achieved in substantial measure by exporting enormous quantities grain. Between April 2002 and June 2003, India exported more than 15 million tonnes of wheat and rice, i.e. exports of one million tonnes per month on average.² To put it another way, the monthly outflow is as large as 20 kgs per BPL family per month. Moreover this surge in exports seems unnecessary at a time when the country is holding gigantic reserves of foreign exchange. The energy and grit shown by the government in exporting food contrasts sharply with its continued passivity in dealing with chronic hunger at home.

1.4 We are also constrained to mention that the next few months may well turn out to be a period of intensified hunger in large parts of India. The drought has come to an end, and this hearing (on 19 August, 2003) takes place in the middle of an excellent monsoon in most of the country. However, the next crop will not be ripe until October or even November. In the intervening period, poor families will have to cope with the discontinuation of relief works, meagre employment opportunities in the private sector, an adverse epidemiological environment, and the heavy sacrifices required to grow the kharif crop. There is much demographic evidence that in India, excess mortality associated with droughts typically peaks during the monsoon months immediately following the drought.³ The same pattern is likely to apply this year, if nothing is done to prevent widespread hunger.

1.5 All this points to the need for continuing the search for orders that would adequately solve the problem at hand. Earlier orders have helped, to some extent, in streamlining the government’s existing food schemes (and much more can be done in this regard), but it should be clear that ultimately much more is required to put in place an

1 According to the Food Ministry, the carrying cost of grains is close to Rs. 2,971 per tonne per year, implying a total cost of Rs 10,398 crores for holding 35 million tonnes (Monthly Foodgrain Bulletin July 2003). A recent survey of stocks held in Punjab found that 7.5 lakh tonnes of grain was of such poor quality that 70% of it would have to be destroyed, leading to a loss of Rs 750 crores (Economic Times, 24 July 2003).

2 Monthly Bulletin Report, May and June 2003, Ministry of Food and Consumer Affairs, New Delhi.

3 See Dyson, T., and O’Grada, C. (eds.) (2002) Famine Demography (Oxford: Oxford University Press).

effective guarantee of freedom from hunger for all citizens. In this connection, we wish to draw attention to the petitioner's plea for a national employment guarantee . Even guaranteed employment is unlikely to ensure the right to food on its own (for instance, additional provisions would also be required to protect young children, and those unable to work), but this step would at least make a substantial contribution to the goal of freedom from hunger. We urge the Hon'ble Court to ensure that these larger issues receive detailed consideration as soon as possible. Meanwhile, we cover in this report a number of other urgent issues, concerned mainly with the implementation of earlier orders.

2 Update of Latest Issues

In our last report, submitted in April 2003, we presented an overview of the state of crucial food-related schemes. As a follow-up, the “update” below covers some recent developments of interest.

2.1 Mid-day Meals

2.1.1 The map given on page 4 a conveys the reach of cooked mid-day meals in India today. According to recent data supplied by the Department of Elementary Education and Literacy, 50 million children are covered. This is a substantial achievement (indeed, it is by far the largest mid-day meal programme in the world), yet the coverage is still far from universal. We note with particular concern that mid-day meals have not been initiated in Bihar, Jharkhand, and Uttar Pradesh, three states with abysmal levels of schooling and nutrition. We shall return to this.

2.1.2 Much has been learnt from a recent field survey of mid-day meals initiated by the Centre for Equity Studies, New Delhi.⁴ The survey suggests that mid-day meals have made a promising start around the country. In each of the three sample areas (three districts each in Chhattisgarh, Rajasthan, and north Karnataka), mid-day meals are being served regularly in all primary schools. However, the survey also draws attention to the fact that the achievements of mid-day meals have been seriously compromised, if not defeated, by inadequate quality and low budgets. There is an urgent need for better infrastructure (e.g. cooking sheds in all the schools), improved facilities (e.g. safe drinking water everywhere), closer monitoring (e.g. regular inspections), and other quality safeguards.

2.1.3 Even more importantly, the content of the mid-day meals needs to be improved if school lunches are to have a significant impact on child nutrition. Indeed, the same survey draws attention to vast, unused opportunities for enhancing children’s health by providing nutritious food at school. Linking mid-day meals with related inputs such as de-worming, micronutrient supplementation, and education on improving hygiene can further enhance the health effects of this scheme. These opportunities have been used to some extent in Tamil Nadu, Karnataka, Kerala, Gujarat and a few other states. However, in most states the content of mid-day meals leaves much to be desired, and mid-day meals are divorced from the larger goal of improving children’s nutrition and health. In Rajasthan, for instance, ghogri (a spartan gruel of boiled wheat and gur) is being served day after day, and this monotonous menu has started to provoke adverse reactions among children, aside from causing occasional stomachaches.

2.1.4 In short, qualitative improvements in mid-day meal programmes are urgently required. This, in turn, calls for adequate financial resources. To illustrate, Rajasthan spends only 50 paise per child per day on mid-day meals (not counting the cost of grain, which is supplied free of cost by the central government). Shoestring programmes of this kind miss a vital opportunity to enhance children’s nutrition in a highly cost-effective manner.

2.1.5 Some states claim that they lack financial resources to introduce or improve mid-day meal programmes. However, close examination of state budgets does not substantiate this claim. For instance, in 2001-2 the states received roughly Rs. 1, 35, 000 crores from the three central sources alone. Further, in the case of resource-rich states like Delhi, there is really no excuse for failing to implement the order in full, without delay. Other states also have adequate resources that could be used to implement the Order without delay. The state of Uttar Pradesh collected an extra Rs. 2,000 crores in the last financial year in taxes alone. Bihar failed to utilise as much as Rs. 1,048 crores in just four development schemes during the Ninth Plan. Unutilised resources such as these can easily

4 “The Future of Mid-day Meals”, by Jean Drèze and Aparajita Goyal, Frontline, 15 August 2003.

be used for a good quality mid-day meal programme. It seems therefore that non-implementation is more a result of administrative and political inertia rather than a lack of funds. State governments should not be allowed to evade their responsibility to find resources even if it means impositions of special cess, taxes etc.

2.1.6 Time frame for mid-day meals: In its last order (8 May 2003), the bench directed Bihar to implement the scheme in at-least ten districts and in Uttar Pradesh, Jharkhand and others in at-least one fourth of the districts. While this was intended to be a reminder of the need for prompt action in this regard, it should not be interpreted as a relaxation of the earlier order (dated 28 November 2001) directing state governments to introduce mid-day meals in all government and government-aided primary schools. Nor should it be interpreted as a licence to confine mid-day meals to the said number of districts. However it appears that this is what has happened. Given that this order should have been implemented from the start of the current academic year, we are sorry to report that some state governments have been extremely slow in implementing the direction of the Honourable Court. UP is considering implementing the scheme only in six districts of the State, while Bihar is likely to implement it in only three blocks of each of the ten districts that it was supposed to cover. In most of the other states including Jharkhand, we have received no feedback from letters sent. This pattern is all the more serious, as these are states where hunger is endemic. We advise the Court to reaffirm the order calling for mid-day meals to be introduced in all primary schools, and to clarify that it is only as a matter of good will, and specifically for resource-poor states, that the Court will tolerate partial implementation of mid-day meals in the very short term.

2.1.7 Before concluding on mid-day meals, we must highlight another important issue, namely caste discrimination. Specifically, survey reports suggest that in many states, Dalits are prevented from working as cooks in primary schools. This is a gross violation of the fundamental right to equality and freedom from discrimination as well as the constitutional proscription of untouchability. Firm guidelines are needed to ensure that Dalits get a fair share of appointments as cooks and helpers in the mid-day meal programmes, as is already being done in Karnataka. Karnataka's guidelines in this respect have met with some opposition from upper-caste parents, but this is not adequate reason for a loss of nerve. Indeed, there are indications that upper-caste opposition, such as it is, tends to wear out quite rapidly if the guidelines are firmly enforced.

The Perils of BPL Selection: A case from West Bengal

The process of identifying BPL families is taking place in different parts of the country. This selection process has invited widespread criticism. The complaints we have received from West Bengal illustrate problems that apply across the country.

In West Bengal, the identification process started well before guidelines were issued by the Government of India. The revision process was to start with extensive publicity of the “old” BPL list, but field reports indicate that this did not happen. Starting with this, the whole process of updating the list was done in a remarkably opaque manner. Gram Sansads (as Gram Sabhas are called in W. Bengal) were not involved at all. Little was done to publicise the issue or foster public participation. The new list in the state is based on the latest official poverty estimates, which involve a reduction of almost one-fifth in the number of BPL families. Recognising the questionable nature of this reduction of the BPL quota, the Supreme Court directed the state governments (in May 2003) not to remove any family from the BPL list until further notice. However, this direction had no effect in West Bengal, where the government argues that it had redone its BPL list well before the direction of the court. The process of redoing the list has deprived many poor people of a BPL card. It should be recalled that a BPL card is essential not just for access to the PDS but also for a large number of other poverty alleviation schemes.

To make things worse, the new BPL list has not been publicized as yet. Many people still do not know whether they are on the list or not. This makes it easy for the PDS dealers to cheat people by retaining their cards and drawing their rations. Field reports further indicate that complaints filed by people for being left out of the process have not answered.

The lists are determined by a field-based survey, whereas the number of people eligible for BPL cards is determined by a national survey done by National Sample Survey Organization (NSSO). The methods followed by the two processes are completely different. It would be a curious coincidence if the number of people below the poverty line were the same under both the methods, which are fundamentally different. NGOs in the state claim that many people are cut off the list arbitrarily to match the number of BPL people according to NSSO calculations. The government claims that no names were struck off to match the NSSO estimates, a likely case of curious coincidence. On the whole the selection process is shrouded in secrecy right from the stage of selecting the number of eligible people to ‘publishing’ the BPL list for dissemination.

2.2 Integrated Child Development Scheme (ICDS)

2.2.1 There is an alarming lack of attention in most states to the plight of pre-school children with no satisfactory arrangement of feeding the most needy age group of 6months-2years. This is an extremely vulnerable age group and also the critical stage when under nutrition can cause serious long-term damage to the children’s physical and mental well being. Such children must be brought to the anganwadi feeding centre and given adequate nutritious meals. In Bihar no feeding of children under this scheme in the first few months of the last financial year took place, as financial sanctions were not issued in time. This year too, financial sanction for the scheme was not issued as on 11th August, 2003. Such procedural delays increase malnutrition during the most crucial monsoon months.

2.2.2 In the order dated 28 November 2001, the Court had directed the state governments to ensure that there is an ICDS centre in every habitation . We are not aware that this order has been taken seriously, or even adequately noticed, in any state. Apart from the much-needed expansion in the number of centres needed, the functioning of existing ICDS centres is also very poor in large parts of the country. It is only in states such as Kerala and Tamil Nadu that the needs of young children have been taken seriously and that most of the pre-school children have been effectively integrated in ICDS centres. It seems therefore that this crucial aspect of the right to food, has not received the attention it deserves.

Widows Deprived of Antyodaya Cards in Uttar Pradesh*

A recent survey conducted by the U.P. State Committee of AIDWA shows that many widows and other destitute persons are deprived of any social support. The survey was carried out in July 2003 in seven villages of Mirzapur District and eleven mohallas each of Kanpur and Lucknow Districts.

The results show that that of 912 persons surveyed, close to one-third had no ration card at all. Among widows, less than one percent were receiving a widow pension. In Mirzapur, the sample villages were amongst the poorest in the district, yet not one of the 164 widows surveyed was receiving a pension. The coverage of widows under other schemes is also very poor. Only 4 out of 165 widows surveyed had BPL cards and only one had an Antyodaya card.

In Lucknow, of the 298 persons surveyed 85 were old, 5 were single women and 27 were disabled. But even among this extremely vulnerable group, most had APL ration cards. For practical purposes, APL cards are of no use in the state. Indeed, APL offtake is a paltry 1% of the total allotted. In Kanpur among 449 widows surveyed, only 11 were covered under pensions and Antyodaya.

District	Total Surveyed	Widows Surveyed	Coverage under Social Security Schemes			
			Widow pensions	BPL	AAAY	APL
Lucknow	298	181	2	0	1	241
Mirzapur	165	165	0	4	1	120
Kanpur	449	449	4	46	3	193
Total	912	795	6	50	5	554

A recent Supreme Court order (8 May 2003) directs the states to provide Antyodaya cards to widows, disabled persons and other priority categories. However as of July 2003, the Government of U.P. had not taken any action to implement this order. The indifference of the state administration is evident from the fact that the local administration is completely unaware of the Courts direction. When the investigators demanded the implementation of the Supreme Court's directions, every District Magistrate they met told them that they had no knowledge of the orders and that no instructions had been received from the Government. The apathy shown by the state administration does not need any further evidence.

* Adapted from a submission received from Subhashini Ali, president of the All India Women's Democratic Association (AIDWA).

2.3 Targeted Public Distribution System (TPDS)

2.3.1 Little progress has been made in expanding the reach and effectiveness of the public distribution system (PDS). There is circumstantial evidence that earlier orders of the Hon'ble Court have helped in some cases. For instance, field reports suggest that in some states the opening hours of ration shops have become more regular and predictable, possibly in response to the order requiring ration shops to be open regularly. However, we are still far from full implementation of this direction, and many other directions are yet to be implemented or even acknowledged by the concerned authorities.

2.3.2 Further evidence has emerged of the dismal state of the public distribution system. For instance, in 2002-3, offtake as a ratio of allocation under the BPL quota was as low as 12% in Bihar, 9% in Chhattisgarh and 59% for India as a whole.⁵ Field reports indicate the system continues to function in a particularly erratic manner in remote and deprived areas. Bihar could lift only 45, 112 tonnes of rice in 2002-03 out of the total allotment of 8, 87, 712 tonnes of BPL quota, thus depriving lakhs of needy people of their ration entitlements. A study⁶ of the PDS system in Bihar and Jharkhand showed that the people hardly benefited from the food distribution system. The quota from the FCI lapses if it is not lifted in time, which often occurs due to procedural and administrative delays. There are several problems with the Bihar State and Food and Civil Supplies Corporation including insufficient infrastructure to ensure proper distribution of grain, lack of working capital and overstaffing. At the micro level beneficiaries are not able to lift grain on time due to lack of timely information and inadequate notice period to arrange funds. It is not surprising therefore that misappropriation of money and illegal sales of commodities occur regularly.

2.3.2 The public distribution system is also plagued with structural problems including endemic corruption, the divisive and unreliable nature of the present targeting system, the inadequacy of official commissions paid to PDS dealers, and the narrow gap between issue prices and market prices. These issues are discussed in some detail in the report of the High Level Committee on Long Term Grain Policy. The Court has directed the Government of India to communicate its response to this report by 8 August 2003. We hope that this response will provide a useful basis for further discussion of what needs to be done to repair the public distribution system.

2.4 Antyodaya Anna Yojana

2.4.1 On a more positive note, further evidence has emerged of the relatively effective functioning of Antyodaya Anna Yojana (AAY), at least in comparison with other food schemes. According to official data, the offtake under AAY close to 90% in majority of the states.

2.4.2 In a recent interim order, dated 8 May 2003, the Hon'ble Court directed the Government of India to place on AAY category six priority groups of vulnerable persons, including widows, old persons and disabled adults with no regular support or assured means of subsistence. In response to this, the Government of India has issued guidelines calling for priority to be given to these groups in the course of expanding the coverage of the programme from 100 lakh to 150 lakh households, as announced in the last Budget. However, we note with concern that these guidelines do not fully reflect the order of the Court. In particular, the guidelines suggest that AAY cardholders should be selected from the BPL list, in spite of conclusive evidence that the BPL list is unreliable. This eligibility condition should be removed.

5 Monthly Foodgrain Bulletin, July 2003 MoFCA, all figures are provisional

6 'Food and Power in Bihar and Jharakhand', by Jos Mooij, EPW Special Article, August 25-31 2001

2.4.3 Another flaw in the AAY guidelines is that instead of making the priority groups eligible for AAY cards as a matter of right, as recommended by the petitioner and directed by the Court (in its order of 8 May, 2003), the Government of India has fixed top-down quotas on the number of additional cards to be issued in each state. Further, the quotas involve an expansion of only 50% in the coverage of the programme from 1 crore households to 1.5 crore households. This is inadequate, especially because the quotas tend to be distributed mechanically between different areas by the state governments (e.g. pro rata the BPL list), in the absence of detailed information on the incidence of destitution. The result is that in pockets of concentrated destitution, where many AAY cards are needed, only a small proportion of the vulnerable households are covered. To illustrate, in a recent surveys of 165 widows in 7 poor villages of Mirzapur district, undertaken by the All India Democratic Women's Association (AIDWA), it was found that only one of these widows had an Antyodaya card, and many had no ration card at all. To address this problem, there is a need to clarify and reassert the principle that destitute households are entitled to AAY cards as a matter of right. One possible formulation is as follows: anyone who is deemed vulnerable to hunger, as determined by the gram sabha, is entitled to an Antyodaya card as a matter of right.

2.4.4 We are aware of the fact that gram sabhas are not very active in many parts of the country, but the proposed direction would at least provide a mechanism whereby anyone vulnerable to hunger can be protected from it through local initiative, without waiting for the good will of the state. A different objection is that, if this direction is passed, the government may be flooded with frivolous applications. However, there is no great difficulty in putting in place a verification system to scrutinise cases where an unusually large number of applications for AAY cards is submitted by the gram sabha.

2.4.5 The government of India should be directed to accommodate a further expansion of the coverage of the AAY programme (beyond the present 1.5 crore cardholders) in the event where further applications are submitted on the basis of the proposed direction. Since the programme is working relatively well, and is doing a great deal to protect the recipients from hunger, there should be no hesitation in expanding it.

2.4.6 The order of 8 May 2003 calls for the inclusion of all primitive tribes in the Antyodaya programme. We understand that this order is being implemented in many states. However, we are concerned about the speed of this operation. As mentioned earlier, the next few months are likely to be a time of extreme hardship for poor communities across India, especially in areas that have experience a long period of drought until this monsoon. One month is a short time in the life of a busy government officer, but it is an interminable ordeal for women, men and children who have run out of food. In Sheopur district of Madhya Pradesh, where Sahariya families live in extreme hunger at the best of times, we received repeated assurances from the District Collector and others that Antyodaya cards would be distributed by the end of June. Yet, in early August, the hungry Sahariyas are still waiting for their cards. We urge the Court to issue strict orders for the accelerated distribution of Antyodaya cards, not only to primitive tribes but also to other priority groups covered by the order of 8 May 2003.

2.5 Other social security schemes

2.5.1 Annapurna: On 28 November, 2001, the court directed the governments to implement Annapurna Yojana, which provides 10 KG of grain free of cost for the aged destitute, who are not receiving pensions. We wish to bring to your notice that the scheme has been undermined. Government of India, has since transferred the scheme to the states giving them the option to implement the scheme as they feel like. 'Additional central assistance' has been given this year and it is not clear if this will be extended each year. In the meanwhile, many states are

considering dropping the scheme, and Madhya Pradesh has terminated it already. In district Sheopur of Madhya Pradesh, our investigators met many elderly persons who were very dependent on the Annapurna card for their survival, and had been abruptly deprived of it in March 2003 without any alternative arrangement. This is a clear violation of the Court's order of 28 November 2001.

2.5.2 National Social Assistance Programme (NSAP): Government of India had estimated in 1996 that the three social security schemes under NSAP will require an annual allocation of Rs. 1482 crores if the needs of all eligible beneficiaries were to be met. However, funds for these schemes are declining every year,⁷ and in the current budget the provision is only 676 crores, which is not even enough for half the people. Underfunding leads to poor identification, which leads to further reduction in allocation, and thus a vicious cycle is established. Therefore the GoI must be directed to fully fund the scheme as per the estimation of the Ministry of Rural Development in 1996.

2.5.3 Moreover, GoI has changed the character of the scheme from a centrally sponsored one to a state plan scheme. There are several implications of this change: (1) Earlier the MoRD used to transfer the amount straight to the bank account of the DRDA in the districts, which ensured quick availability of funds at the district level. Now, the districts will get the same amount from the State Finance Departments, and fiscally weak states may often not be able to release the amount in time. (2) Earmarking by the Planning Commission is not a foolproof method of protecting the outlay for a particular scheme, and there have been cases when the states divert the earmarked fund to other pressing needs, and then try to get the approval of the Planning Commission expost. (3) The GoI used to give extra allocation of 4% of the pension amount to cover administrative costs that was used in the districts for supervision, hiring vehicles, etc. Many states have stopped doing that with the result that there is not even enough money in the districts for trivial items such as buying stationery, maintaining accounts, etc.

2.5.4 Pension schemes: Social security pensions are quite effective, cost very little and tend to reach the poorest. However, there are strict ceilings on the number of people who can get pensions. This means many deserving widows and elderly have not been able to avail the benefit of such schemes despite utter penury and destitution. Over time it is essential to move to a social security system that is demand based, and not based on administrative convenience. While the move to a demand based system should be made expediently, in the near term we reiterate our earlier suggestion (in the third report of the commissioner) for doubling the coverage of social security pensions.

2.5.5 National Maternity Benefit Scheme: In the Budget of 1995-96, at the time this scheme was introduced, numerical ceilings based on census and poverty estimates had estimated the physical long run target to be close to 58,22,200 pregnant women. However provisional figures for the year 2002-03 reveal that the number of beneficiaries receiving benefits under NMBS is nowhere close to this figure, and is as low as 10 to 11 lakh. Only Rs. 52 crores was released last year for this Scheme, whereas the requirement was for Rs. 290 crores. Field enquiries also reveal that money hardly reaches the woman during the last months of her pregnancy as was envisaged under the scheme. Inadequate publicity and lack of familiarity has eroded the potential of this scheme to benefit women when they require it most. In its current form, allocations are made based on the extent to which funds are used in the previous year, since releases from the center are typically demand driven.

7 For details of decline in allocations made under NMBS see Table 3

Making a Case for Compensations An Experience From Shadol, MP

A public hearing in Shadol, Kotma District held in early June this year, brought to light complaints regarding irregularities in the implementation of food and employment related schemes. A letter along with a detailed description of the individual cases and the redressal measures sought was sent to the Chief Secretary. In cases where the delay/ non-payment of entitlement was overdue, it was suggested that compensation be given

@ 10% of the amount in arrear, for a period greater than a month

@ 25% of the amount in arrear, for a period greater than a year

Rs. 50 for every month the beneficiary did not receive grain under Annapurna Yojana

Subsequently an action taken report, giving feedback on the relief administered in all the cases raised was sent to the Commissioners. The report indicated that all the issues had been resolved. In addition in most of the cases where compensation was asked for, the request was acted upon and delivered. In order to confirm this, a local NGO was asked to verify the report sent to the Commissioners. In the 39 cases in which compensation was asked for, 20 of the individuals confirmed that compensation had been given to them at the rates mentioned above.

An institutionalised system of compensation as a measure of redressal in cases where entitlements have not been received has important implications. In a system where a state that errs goes scot-free, a system of compensations has the potential to protect the 'victims of administrative inefficiency' and also provides them with leverage for redressal. The state administration must be appreciated for its swift action, and for providing compensations where many states have refused to do so.

2.6 Employment Programmes

2.6.1 In its order of 8 May 2003, the Hon'ble Court directed that the recommendation that present SGRY scheme should be at least doubled be implemented, both in regard to allocation of food-grain as also cash, for the months of May, June and July. It is, unfortunately, too early to assess whether and to what extent this direction has been implemented, as the relevant information is yet to be released. Meanwhile, we recommend that the direction should be extended until the end of the financial year for those districts that have utilised more than ninety percent of the funds allotted to them. Indeed, at a time when the country is exporting grain to the tune of 10 million tonnes per year, in the shadow of large foreign exchange reserves, it is not unreasonable to ask that some of it be used to expand employment programmes for the poor.

2.6.2 During the summer months, large amounts of relief employment were generated in several drought-affected states. In Rajasthan for instance, as many as 7 million labourers received 15 days of employment during the month of June, according to official figures. As a ratio of the total population (56 million in this case), this is probably the largest public-employment programme ever. This experience confirms that the state governments have the capacity to organise large-scale rural employment programmes. It is useful to bear this in mind in the context of the petitioner's plea for an employment guarantee programme.

2.6.3 Non-implementation of Jaya Prakash Narayan Employment Guarantee Yojana: The Government of India announced the creation of Jaya Prakash Narayan Employment Guarantee Yojana (JPEGY) during the budget of 2002-03, almost 18 months ago in February 2002. This is a scheme with a relatively modest budget of Rs. 3000 crores that seeks to cover about 10 % of the poor population. While a national employment guarantee should be the final aim, an immediate beginning could be made with this scheme that has been announced by the Government of India itself. We advise the Court to direct the Government of India to implement the scheme with immediate effect in at least 100 backward districts. Subsequently, the scheme could be expanded to the rest of the country in a time bound manner.

2.6.4 Mechanisation in employment programmes: Recent reports submitted to us point to an alarming trend of mechanisation of public projects and even relief works. The use of labour-displacing machines (e.g. tractors and excavators) on public projects is increasingly common, even in cases where these machines do not serve any clear purpose other than lining the pockets of enterprising contractors and intermediaries. This is when the work done by such machines like digging and carrying to sites can be done by human labour. The use of tractors also leads to fudging of accounts since payments for these are illegal. In Sendhwa (Madhya Pradesh), a public hearing held on 29 May 2003 exposed the widespread use of tractors on relief works in the area, and this practice appears to be common elsewhere as well. Clearly, the use of labour-displacing machines defeats the purpose of relief works and other labour-intensive employment programmes. It can be seen as a violation of the right to work, and this practice should be nipped in the bud. Evidently state governments and central government need to be reminded of the need for vigilance on this score.

2.6.5 Non-Payment of minimum wages: Minimum wages are not being paid in wage employment programmes in some states. Madhya Pradesh clarified to the commissioners that they are paying less than the minimum wages and that the Relief Code permits such payments. In Gujarat, while the minimum wage is Rs 60, the wage for SGRY has been fixed at Rs 50 and that for scarcity relief works at a much lower level of Rs. 42.50. (Also see Table 1). The issue has earlier been challenged in the High Court of Rajasthan where court ruled that wages less than the minimum should not be paid in relief works. We urge the court to clarify that wages less than the minimum wages should not be paid even under conditions of scarcity.

2.7 Urban Destitution

2.7.1 Urban destitution: The issue of urban destitution and hunger has remained out of focus in most of the earlier hearings. Correspondingly, the interim orders passed so far have little bearing on the problem. Yet, the urban destitute (pavement dwellers, leprosy patients, street children, the homeless, abandoned persons suffering from mental illnesses, and so on) are among the most vulnerable members of society. Even in Delhi, about 3,000 unclaimed bodies are found on the street every year according to Police records, and most of these deaths are likely to reflect a state of extreme deprivation in which hunger plays an important part. In its order of 8 May 2003, the Hon'ble Court reiterated that the anxiety of the Court is to see that the poor, the destitute and the weaker sections of the society do not suffer from hunger and starvation. From this point of view, it is of utmost importance that the issue of urban destitution should be brought within the purview of these hearings and orders.

2.7.2 We urge the court to consider making a small beginning in tackling the problem of urban destitution by three simple steps suggested below.

2.7.3 Ration cards for migrant labourers: Migrant labourers come from the poorest sections of the society. Their temporary residence cuts them off from the reach of most welfare schemes. In particular, they are cut off from the public distribution system as their ration cards are attached to the place of residence. Ideally, migrant labourers should have ‘mobile ration cards’ that can be used in the destination area. The court could consider directing the Government of India to formulate a viable scheme to provide such ration cards to migrant labourers within a short period of time.

2.7.4 Ration cards for the Homeless: It is unfortunate that most states deny ration cards to homeless persons as a matter of policy. It is often argued that ration cards are used as a proof of address and that illegal immigrants may use it. It is easy to get over this problem by giving special ration cards to such groups, which cannot be treated as a proof of address. In any case it is necessary to reaffirm the principle that homeless persons are entitled to the support of the state. We advise the Court to direct the states to identify the homeless and take measures to provide them with special ration cards.

2.7.5 Homeless destitute children: Among homeless persons, we wish to single out homeless destitute children for special attention. The so-called ‘street children’ are exposed to unacceptable levels of hunger, which the state must address. We request the court to direct the Government of India to provide grain free of cost to NGOs that are willing to provide one nutritious meal to these children every day. The amount of grain required for this purpose is not large and could be drawn from the unutilised part of the existing BPL quota. The states must also be directed to take active measures to involve NGOs to help such children, however with it being clear that such efforts will only be supplementary to the primary role which is that of the states. The experience of Karnataka and Delhi in involving NGOs in the mid-day meal scheme illustrates the potential for such an arrangement in urban India. We recognise that the problem is complex and requires a much stronger treatment. While the measure we are suggesting will not solve the problem of homeless destitute children, it is a tangible step in that direction.

Export Drive Diverts Food from Welfare Schemes

The export drive has been intensified even as millions of people are going hungry at home. In November 2000, the government decided to sell wheat to private exporters at a price “equal to the economic cost minus two years carrying cost but not lower than the central issue price for BPL.”¹ In the following year the scheme was expanded to cover rice as well. This decision has led to an unprecedented surge growth of food grain exports . Between April 2002 and June 2003, more than 15 million tonnes of grain were exported from India, at almost BPL prices. In effect, the Government of India is subsidising food consumption in other countries instead of dealing with hunger at home.

Indeed, the export boom has been fuelled by large export subsidies. The Annual Report of the Department of Food for 2000-01 mentions that “the export price of wheat has been fixed at Rs. 4150/- per MT, which is the PDS issue price of wheat for BPL families.” Subsequently wheat and rice were made available for export at the same price as for domestic consumption under the Open Market Sales Scheme (O.M.S.S.). However, the exporters were to be reimbursed “post-delivery expenses” in addition to the cash subsidy on account of inland transport. Export subsidies have become a huge burden on the public exchequer.

The common argument that resources are lacking for an expansion of welfare schemes is clearly misleading. Had the amount of grain exported in 2002-3 (more than 12 million tonnes) been used for welfare schemes like mid-day meals and employment programmes, these programmes could have been doubled.

Table 7: Off take of Foodgrain from Central Pool (in lakh tonnes)

Year	TPDS	*Welfare Schemes	Exports
2001-02	138 138	72	47
2002-03	201 201	114	125

*Note: *Mid-day meals, SGRY and other employment programmes, nutrition programmes, anganwadis, grain banks, etc.*

Source: Monthly Foodgrain Bulletin, July 2003, Department of Food and Public Distribution

1 Annual Report: Department of Food and Public Distribution, 2000-01, page25.

Corruption and Transparency In Barwani

Badwani District of Madhya Pradesh clearly illustrates the case of suppressing the right to information and creating an environment conducive to corruption. The commissioners received complaints of use of machines and other irregularities in the district. A representative of the commissioner visited the district and the following issues came up during the visit.

- Non-payment of wages on time.
- Corruption in payment of wages, including diverting grains and unofficial payment of cash wages of lower value.
- Large-scale use of labour displacing machines, including tractors and excavators (JCVs).
- Poor quality of works undertaken.

While corruption and other irregularities are an issue, what was striking was the total absence of transparency and an atmosphere conducive to corruption. Some civil society organisations in the region have been trying to obtain muster rolls and other documents pertaining to these works for over a year, and have not received a single muster roll as of date. Even the intervention of the commissioners has not helped. The administration tried various measures including not accepting complaints, delay-tactics, and a host of other measures. The collector, for example, informed the representative of the commissioner that the administration is not obliged to provide access to the records. After the intervention by the commissioner, the organisation has been asked to pay over 22, 000 rupees to access the records of three project, something that few organisations can afford to pay. Even if one can afford, none will find it worth the cost.

In a detailed letter, the commissioners demanded an enquiry team having some non-administrative members. The administration chose to ignore this and has done “an enquiry” by itself. Needless to say that the issues raised by the commissioners have been summarily dismissed.

2.8 Corruption and Transparency

2.8.1 Corruption: The debilitating effects of corruption on food-related schemes emerge again and again in the field reports submitted to us. For instance, a pilot investigation of relief programmes in Sheopur district of Madhya Pradesh (initiated under our guidance) uncovered systematic embezzling of grain intended for drought-affected people.⁸ Extreme starvation was common within a few kilometres of the district headquarters, where truck-full of relief grain were being sold in the black market. In spite of persistent requests from us to the highest authorities in the district (including the District Collector and CEO), our envoys were denied access to the muster rolls used on relief works. When the researchers finally succeeded in obtaining three muster rolls for village Hirapur, all three turned out to be fudged. This and related experiences point to the need to link the right to food with the right to information. Indeed, in Rajasthan, where a right to information law is in place and the right to information movement has fostered a culture of public vigilance, the practice of fudging muster rolls on relief works has largely disappeared. There is a need to learn from this experience and to put in place accountability mechanisms that will help to eradicate corruption elsewhere. Given that the right to food cannot be realised without the right to information, it may be appropriate for the Court to call for timely introduction of right to information laws by the state governments.

2.8.2 Open access to records of food and employment schemes: Documents pertaining to development schemes are routinely denied to people on one pretext or the other. This violates the right to information and creates an atmosphere conducive to corruption. Even the representatives of the commissioners have been denied access to muster rolls and other documents.

2.8.3 There is no valid argument for secrecy in food and employment schemes. We advise the court to direct that (i) all records pertaining to all food and employment schemes are public records (ii) certified photocopies of any record should be given within one week of application

2.8.4 Prohibitive pricing of information: In many cases there is a prohibitive pricing for providing photocopies of documents. Muster roll is the key document to establish corruption in wage employment programmes. In Madhya Pradesh, while two rupees per page is charged for photocopying one page of most documents, ten times more is charged for photocopying muster rolls. One set of muster roll often runs into a few hundred paged and this price makes it impossible for most individuals and citizens' organisations to access this information. For example, an organization has been recently asked to pay over twenty-two thousand rupees for documents of three projects. Prohibitive pricing effectively curtails the right to information, and measures must be taken to make information affordable. We advise the court to direct that no more than cost price is charged for photocopies, and we recommend at most one rupee per page as a reasonable charge.

2.8.5 Dissemination of SC order: We are concerned to hear that the Court's orders often fail to reach the concerned authorities. For instance, during the last three months we have received persistent complaints that the local District Collector was not aware of the order of 8 May 2003. This is a serious matter, since the District Collectors are centrally involved in the implementation of this and other orders. We advise the Court to direct the state governments to ensure that future orders are communicated without delay to District Collectors and other concerned authorities.

3 Summary of Directions Sought

In the light of the preceding report, we advise the Honourable Court to:

Mid-day meals

1. Ensure that states that have not yet initiated mid-day meals in primary schools comply with the order of November 28, 2001 in this regard. Particular attention needs to be given to Bihar, Jharkhand, Orissa, Uttar Pradesh and West Bengal. (2.1. Pg. 4 and map Pg. 4 a)
2. Clarify that the earlier direction permitting resource-poor states to introduce mid-day meals initially in just one-fourth of the districts is only a temporary measure, which does not override the order of 28 November 2001, and categorically direct these states to implement mid-day meals in the entire state within six months. (2.1.6, Pg. 6)
3. Direct the States to ensure that a fair proportion of Scheduled Caste persons are appointed as cooks and helpers in the mid-day meal programme. The relevant measures should include, at least: (a) reservation of at least 50 per cent for Scheduled Castes in future appointments; (b) reinstatement of cooks and helpers who have been dismissed because of their caste; (c) ensuring that at least one third of all cooks and helpers belong to the Scheduled Castes. (2.1.7. Pg. 7)

Integrated Child Development Scheme

4. Direct the states to comply with the order dated 28 November 2001, including the directions calling for an anganwadi to be available in each habitation, and for coverage of adolescent girls, pregnant and lactating women under the ICDS programme. (2.2. Pg. 9)
5. Also in compliance with the same direction, direct states to ensure that all slums are within convenient reach of an anganwadi and urban homeless children are covered in Anganwadis.

Antyodaya

6. Determine that the possession of a BPL card should not be used as an eligibility criterion for inclusion in the Antyodaya programme. (2.4.2. Pg. 12)
7. Direct the states to accelerate the issue of Antyodaya cards, especially to primitive tribes, in compliance of the 8 May 2003 order. Cards must be issued within four weeks to all primitive tribes and within eight week for other priority groups (2.4.6. Pg. 14)
8. Direct the Government of India to provide additional Antyodaya cards if the existing cards are inadequate to cover all single women, primitive tribes and other priority groups listed in the order of 8 May 2003. (2.4.3. Pg. 13)

Social security pensions

9. Direct the Government of India and the State Governments to double the coverage of social security pensions, as recommended in our third report

Public distribution system

10. Seek the response of the Government of India to the recommendations of the High Level Committee on Long Term Grain Policy, as per the order of 8 May 2003.
11. Appoint a task force to review the process of BPL identification, as advised in our third report.
12. Direct Govt. of West Bengal to present BPL Lists in each gram sabha for scrutiny and revision, as provided for in GoI guidelines that applies to all states (Box Pg. 8)

Annapurna

13. Direct the states that have discontinued Annapurna to reintroduce and continue the scheme forthwith with retrospective effect. (2.5.1. Pg. 14)
14. Direct that no scheme covered by the orders of the court should be discontinued or diluted without the approval of the court.

National social assistance programme

15. Direct that no state should discontinue National Social Assistance Programme (consisting of National Old Age Pension Scheme, National Maternity Benefit Scheme and National Family Benefit Scheme). If already discontinued, the state should reintroduce it forthwith with retrospective effect. (2.5.2. Pg. 15)

Urban destitution

16. Direct state governments and union territories to carry out annual surveys of urban destitute persons and make arrangements to protect them from hunger.
17. Direct states and union territories to ensure that relief kitchens are available within walking distance in all urban areas and accessible to the urban destitute including the homeless, destitute children, single women, people with stigmatised ailments and disabled persons without care. Direct the Government of India to supply free grain for this purpose to state governments, and also to NGOs that are willing to provide cooked meals to the urban destitute.
18. Direct the states to ensure that all Indian citizens are eligible for a ration card, including the homeless. All state governments should initiate measures to provide ration cards to the homeless, if necessary by providing ration cards that cannot be used as a proof of address. (2.7.3. 2.7.4. Pg. 20)

Employment

19. Direct GoI and the States to submit an affidavit outlining the steps they have taken to comply with the direction to double SGRY in May July 2003. (2.6.1. Pg. 17)
20. Direct the states that have not doubled employment creation under SGRY in May and July 2003, as per the order of 8 May 2003, to implement the direction by December 2003 at the latest. Government of India should release the relevant resources (grain and cash) no later than four weeks from the order, to enable the states to plan and generate employment. (2.6.1. Pg. 17)
21. Direct that the ordinary legal minimum wages should be paid in all circumstances, including conditions of scarcity or relief works (2.6.5. Pg. 20)
22. Direct the Government of India to implement the Jaya Prakash Narayan Employment Guarantee Yojana in at least 100 backward districts. The entitlements in this scheme should be no less than those guaranteed by the Maharashtra Employment Guarantee Programme. In particular, any individual in the selected districts should be able to get employment at the legal minimum wage within one fortnight of registration, and should be eligible for compensation if employment is not provided in time. GoI should frame the scheme and implement it in identified 131 backward districts not later than one month from the date of the order. (2.6.3. Pg. 18)
23. Ban the use of labour-displacing machines in all wage employment programmes including relief works, SGRY, food-for-work, and other such programmes aimed at creating employment. (2.6.4. Pg. 19)

Restraint on exports

24. Direct the Government of India to reconsider the policy of export of foodgrains and resort to exports only after fully and adequately meeting the food requirements of the people in the country, particularly the poor and vulnerable.

Transparency and Monitoring

25. Assert that all documents pertaining to food and employment schemes, including those mentioned in the interim order of 28 November 2001, should be treated as public documents, open to public scrutiny and accessible for consultation by any individual at any time. In cases where an application is made for a copy of these documents, certified photocopies should be provided within one week of the application. The charge for the photocopies should be no greater than the cost of photocopying and in any case no higher than Rs. 2 per page (2.8.2. - 2.8.3. Pg. 24)
26. Direct the States and the Government of India to submit an affidavit clarifying the procedure required to apply for these documents, and the available redressal mechanisms when records are not provided on time. (2.8.2. Pg. 24)
27. Direct the states and the Government of India to conduct periodic reviews of schemes using competent organizations, and to involve the same in monitoring the schemes.

28. Direct the states to ensure prompt and wide dissemination of the directions of the court, including distribution within two weeks to the district collectors and other officers responsible for implementing the directions of the court. (2.8.5. Pg. 25)

Reports From the Field

Madhya Pradesh

- Cooked mid day meals are not being provided in all schools of the state. According to reports sent by the Center, all but 23 Blocks remain to be covered. But implementation within non-tribal blocks is likely to be patchy since the state has passed the buck to the Panchayats to implement the scheme with no financial support. The state should be asked to furnish an affidavit stating the extant of coverage of schools in non-tribal blocks.
- The Annapurna scheme for the aged destitute has been discontinued, despite Supreme Court Orders that all states are to implement this scheme fully. Since the scheme targets the destitute people, scrapping the programme is likely to lead to much misery among the beneficiaries, for whom it was the only source of food. It is not clear if there is a policy to make an alternate arrangement for Annapurna beneficiaries. On the ground, we did not find any evidence of alternate measures.
- In Sheopur we noticed that pensions are not being paid each month in contravention of Supreme Court Orders. Pensions are hardly paid more than once every three months. Such delays were also noticed in Badwani District. Since these delays are typically due to late releases by the state, it is quite likely that this is a statewide phenomenon.
- Several complaints regarding the use of tractors, excavators and other labour displacing machines in wage employment programmes, were received. The representative of the Commissioners had an opportunity to confirm the use of such machines in SGRY and other relief works in the district of Badwani.
- The wage rate for relief employment is Rs. 50.50 per day, which is set lower than the minimum wage level set by the state. In response to a query by the commissioner, the state claimed that this is permissible under the relief code.
- In relief works wages are typically paid under “task rates” i.e. payment per unit of work rather than daily wage. Many people end up receiving as little as twenty rupees a day, which is much less than the minimum wage rate. Since wage is not defined as ‘daily wage’, this does not violate the minimum wage norm. But with the low wage a day of work often does not even yield food for a day for the family.
- Wages are not being paid within one week of work done in many parts of the state. The commissioners have received complaints from Shadol, Shivpuri, Sheopur, Badwani, and a host of other districts.
- There is a glaring lack of transparency in development related works in the state. It is virtually impossible to access any relevant document. Even the commissioners’ representatives have found it difficult to access documents.
- On a positive note, the commissioners recommended the payment of compensation for labourers who had not received their wages for well over a month. The matter was taken up in the district of Shadol from where the commissioners received the information. The district promptly addressed each case and also paid the compensation prescribed.

Financial performance

- Funds under NMBS remain unutilised resulting in lower releases in subsequent years, since releases by the center are demand driven. A decline in funds released by the center from Rs. 543.84 lakhs in 2001-2002 to Rs. 363.09 lakhs in 2002-2003, does not speak well for the ability of the state administration to utilize its funds adequately.
- The funds utilized as a proportion of that allotted under SGRY could do with significant improvement. For the year 2002-2003, 87% and 51% of the total funds available under SGRY I and II respectively were utilized.
- The figures for utilization of foodgrains under SGRY present a dismal picture. Of the total available stock in the year 2002-2003, only 39% under SGRY I and 49% under SGRY II was utilized by the state government at work sites.
- State government's share of funds was Rs. 8957.34 lakhs under both streams of SGRY. Out of this the GoMP has released Rs. 7848.75 lakhs, a shortfall of more than Rs. 1108 lakhs.

Uttar Pradesh

- Mid-day meal scheme has not been initiated at all. The government had notified six districts after the Supreme Court hearing for initiating the scheme. A team representing the Commissioners visited Barabanki, which is one of the notified districts. Not only were there no signs of cooked meals being provided but also there were no signs of preparation for any future provision of cooked meals.
- The funds utilized as a proportion of that allotted under SGRY presents a dismal picture. For the year 2002-2003, only 68% and 39% of the total funds allotted for SGRY stream I and II respectively, has been utilized.
- The state government has not lifted its entire quota of allotted grains under SGRY II, available for free from the center. Only 70% of that allocated has been lifted. The GoUP received an allocation of 2 lakh tonnes during 2002-03 under SGRY Special Component, against which it utilized only 0.78 lakh tonnes, i.e. 39% of the funds available.
- The funds released by the Center for NMBS between the year 2001-2002 and 2002-2003 has shown a sharp decline of about 50%. This is mainly on account of non-utilization of funds since releases are demand driven. The amount released decreased from Rs. 1075.35 lakhs to Rs. 592.82 lakhs between the two years. This is despite several demands for greater disbursement of funds under this scheme.
- The food component had not been paid to the workers in the villages of Badela Narayanpur in Block Banikoder. The DM Lucknow informed Dr. N C Saxena that wheat has not been supplied to the district for three months by the FCI.
- In Pindsawa village of Barabanki District, many works conducted under SGRY II by the Panchayats were capital-intensive in nature. This is in clear violation of SGRY guidelines and reduces the employment potential of wage employment programmes undertaken.
- In Pindsawa village of Barabanki District, the Commissioners team inspected one SGRY I work undertaken in the year 2002-2003. While the official wage rate is Rs. 15.50 in cash along with 8.5 KG of grain, no grain at all was given and a cash payment of Rs. 40 was paid to the workers. This is less than the minimum wage of Rs. 58 (cash and grain) that is supposed to be paid at public works.
- In Pindsawa village of Barabanki District all the 'null' projects undertaken were done using 'voluntary labour'. However the muster rolls have been filled and it has been mentioned that payment was made both in cash and kind to the 'labourers' employed on the works. Further there were many works that existed on paper, but not on the ground.
- It seems that ration shops do not open regularly in most villages of Barabanki district that the Commissioner and his team visited. The same was reported in other places too. The beneficiaries typically cannot buy in instalments or carry over benefits when cash for some months is not available.
- In the field it appears that many poor people holding BPL cards are not given rations. For the year 2002-2003 the off take of rice and wheat under BPL as a proportion of the amount allotted was 40% and 76%

respectively.

- In clear violation of Supreme Court Orders, BPL and Antyodaya Ann Yojana beneficiaries are not receiving their full entitlements. In almost all the cases checked, Antyodaya beneficiaries are being overcharged and grain is typically distributed once in two or three months.
- It was brought to our attention that some banks refuse to open accounts for individuals who cannot give the minimum balance (sometimes as high as Rs. 300) required in cash. For cases where pensions and other benefits are being made by cheque, this often leads to non-encashment of cheques. Instructions should be issued to banks to open accounts and further to not deduct bank charges on account of such transactions.
- Brick kilns in UP employ a large number of migrant labourers. The pay and the conditions of work are appalling. Unfortunately, by virtue of being migrants the state does not provide them with ration cards or with other benefits from welfare schemes, typically provided by the state. It is therefore important to consider providing them with Mobile Ration Cards so that such poor families can have access to the government welfare schemes.
- In Bahraich District, close to 1000 families were displaced when the Ghaghra River changed its course. A survey organized by Ghaghra Visthapit Morcha and FIAN-U.P. to identify displaced families needing BPL cards identified 456 such families in need of urgent support. The office of the DSO office had further requested that 50% of these should be changed to Antyodaya cards, due to the economic situation of these families. However currently they have no access to any government scheme.
- A study conducted in the 35 forest villages of the districts of Bahraich, Maharajganj, Gorakhpur, Pilibheet indicates that in spite of the historical background of these groups they are often not considered citizens of the village Panchayat, because of which ration cards are not provided to them. This limits greatly their access to many of the Government welfare schemes. More specifically they identified 6752 families who had no ration card of any kind.
- In Naibasti hamlet of Panchayat Devghat in the district of Allahabad, inhabited predominantly by tribals, there appears to be little implementation of government social security schemes. In spite of the extreme poverty no one from around 50 households in the village is benefiting from mid-day meals, widow pensions, AAY, Annapurna, SGRY and NMBS.
- A survey covering villages in the three blocks of Badagaon, Haruaan, NagarNigam, Pindra and ChiraiGaon, which are largely SC/ ST settlements showed that 2032 had no ration card of any kind. This meant that no assistance could be given to the 346 pregnant women under NMBS since BPL status is required for eligibility. However even the assistance provided under ICDS was not available. Of the 345 births that took place only 27 were delivered at the Primary Health Center since the rest could not afford to pay the bribe demanded at the government center.
- Reports of corruption have been received from the Fathepur Mandav block of Mau District where rain received for food for work programmes have been siphoned off to the black market. People working under the scheme are entitled to Rs. 23 in cash and 5 kg of rice daily. For the period between April 2002 and March

2003 however, the workers in the district have only received the money. On an average, about 100 kg of rice is due to every worker under the scheme. From the 584,5 quintals of rice that had been issued to the Senior Marketing Inspector Madhuban, only 2470 quintals has been allocated to the Gram Panchayats for distribution among workers.

Corruption in Relief Works: Results of a Joint Enquiry By the State and the Commissioners' Representative¹

The commissioners received a complaint of irregularities in SGRY in Sundargarh District of Orissa. The complainant was able to access the muster rolls, when they found various fake entries in them. The commissioners' intervention was sought based on the fake musters, and a request was made to ensure that people who have not yet received the wages should be paid immediately. The commissioners took up the issue with the Government of Orissa and demanded a joint enquiry. Acting upon it immediately, the state set up a committee along with a representative of the commissioner.

The report of the independent member of the committee brings out various irregularities in the implementation of SGRY, including:

- Fudging of muster rolls, and embezzlement of funds
- People had to travel fifteen kilometres to collect the grain component of their wages.
- Many projects were started without formal sanctions
- Wages are not paid within one week of work done, and the payment is highly irregular.
- A contractor Mr. D.D. Banarjee was used for the projects in contravention of the rules.
- Lack of basic amenities including drinking water, crèche and basic medical facilities.
- Poor monitoring and irresponsible administration that chose to ignore repeated complaints by villagers.
- Payment of different wages for men and women by the contractor.

The good news is that the GoO was responsive to the commissioner and an enquiry was promptly set up. It remains to be seen as to what measures the government will take based on the findings of the enquiry.

¹ Q: We received this report on Friday from Bikash. It appears to be very well done. If it is ok with Dr Saxena and Mr Sankaran, we can have this item and annex the report we received.

West Bengal

- Close to one-fifth of names removed from BPL list even before court's directive: The court directed in May that no name should be stuck off the BPL-list till further orders. West Bengal completed this exercise well before May 2003, and a large number of families have been removed from the BPL list. New cards have also been issued to people already.
- Persistent non-display of list of beneficiaries: Field reports indicate that list of beneficiaries of various schemes have not been publicised in each village as directed by the court on November 28, 2001. Many reminders have been sent to the state on this issue. The state government took action by sending letters to the district collectors to take further action, but not much impact was seen on the ground.
- Cooked Mid-day meal scheme is being "implemented" only in a token sense in the state. In our previous report we had better words for the state since mid-day meal was initiated in four districts. Unfortunately, we did not pay attention to the fact that it only 1250 schools were covered in all! Currently nine districts are being 'covered' but cooked meal reaches a mere 2% of the intended beneficiaries. The state has not provided a time frame by which the government plans to fully implement the direction of the court.
- ICDS is seriously hampered in West Bengal due to a host of problems including poor coverage. The court directed on November 28, 2001 that all habitations should be provided with an anganwadi, which has not happened. Further, adolescent girls receiving benefits under the scheme as directed by the Supreme Court. The government admitted this in a recent communication with the commissioners and mentioned shortage of funds as the reason for non-implementation of the Order.
- Off take under BPL and AAY continues to be very low and much below the national average. Provisional figures released for the year 2002-2003 indicate that the off take of BPL grain as a percentage of that allotted was 23% for rice and 72% for wheat. Off take under AAY at 62% for rice and 69% for wheat is much lower than the national average of 83 and 88% respectively.
- The funds utilized as a proportion of that allotted under SGRY presents a dismal picture. For the year 2002-2003, only 57% and 69% of the total funds allocated under stream I and II respectively were utilized.
- The state government has not even lifted its entire quota of allotted grains, available for free from the center. The GoWB lifted just 63% and 64% percent of that allotted under SGRY I and II respectively.

West Bengal Replies to Queries Raised by the Commissioners

Grievance Raised	Action Taken Report BY State Administration
<p>Identification of BPL families</p> <p>The WB government decided to revise the BPL list which was due to be undertaken at the commencement of every five-year plan, on the 21st May 2002. A delay by the MoRD in sending the revised guidelines meant that the BPL revision in 2002 was done using the guidelines and methodology adopted during the revision of pre 1997 BPL (operational) list. This was done using the consumption criteria of Rs. 274.35 per capita per month. The result shows that 36% of the rural population belongs to BPL, which is nearly at par with the permissible limit as per the NSSO Survey. Several complaints regarding anomalies in the process of revision have been received by the Commissioners, which were forwarded to the State administration for follow up.</p>	
<p>Several individuals have raised complaints on not being included in the revised lists. Appeals were sent and no response was received from the state administration.</p>	<p>Most of the individual applications sent by the Commissioners for inclusion in the BPL list were rejected due to ‘ineligibility’.</p> <p>Complaints regarding revision of the BPL list were not considered since they were not submitted within the stipulated time. These however will be scrutinized and action for inclusion will be taken up after due consideration.</p>
<p>Wide Publicity through newspapers, drum rolls etc, was not given to the process of revision of BPL lists. Further, such lists were not displayed in public places and were not therefore available for public scrutiny.</p>	<p>Clear instructions were issued and circulated at the time of revision. Competent officials conducted the procedure at all stages of revision. Further, adequate arrangements were made for scrutiny and disposal of claims and objections raised during the process.</p>
<p>According to the guidelines used in the revision process, the poverty line for 1996-97 was estimated to be at Rs.274.35 per capita per month as against the Planning Commission estimate (1999 – 2000, for West Bengal) of Rs. 350.17 per capita per month for rural areas. It thus appears that the State Government has not made any provision for changes in price levels.</p>	
<p>Wide complaints were received of families being struck off the BPL list despite no change in their economic situation.</p>	<p>In pursuance of the Supreme Court order dated 5 May 2003, no removal of names will be made from the existing BPL list.</p>

<p>The 'Gram Sansad' as a forum was not used by the State Government for public discussion of the BPL list, despite clear instructions that voters must be consulted. The lists it has been suggested therefore have been revised without much public debate.</p>	<p>The revision of the BPL list has taken place in compliance with guidelines.</p>
<p>Prior to May 2002, 44% people were considered to be under the poverty line in West Bengal. A report by the Department of Panchayats and Rural Development shows that 36% of the rural population belongs to BPL. The Government it seems has thus decided to reduce the number of people under the BPL from 44% to 36% in an ad-hoc manner.</p>	<p>No instruction was given to remove people from the BPL list because of a pre indicated state percentage given by the Planning Commission.</p>
<p>The Public Distribution System in operation</p>	
<p>Field reports submitted to the Commissioners show that ration shops continue to remain open for only 1-2 days in the week, in violation of Supreme Court Orders.</p>	<p>The State Government has ordered ration shops to remain open from 7 am to 11 am and 2.30 p.m. to 5.30 p.m., with closure only on Sunday afternoons and for the whole day on Mondays.</p>
<p>65051 currently enjoy benefits against a target of 80000 fixed by the government. Thus 14949 remain to be identified. This is despite numerous applications sent by persons to local authorities requesting to be considered under the scheme.</p>	<p>Against an allocation of 6727 MT of rice, only 4110 MT was lifted for Annapurna beneficiaries during the financial year 2002-2003. The shortfall was mainly on account of lower number of beneficiaries identified in comparison to the targeted number.</p>
<p>Beneficiaries under AAY have not received their full entitlement of grain. The % off take of grain under AAY for the last FY was 62.42% for rice and 69.86% for wheat. When compared to the national average of about 83% and 89% respectively this is extremely low.</p>	<p>The Commissioner, Food is now holding monthly coordination meetings with FCI to ensure regular supply of foodgrains for various programmes. Month wise requirement for food grains for various schemes is being worked out and intimated to the FCI for advance planning.</p>

<p>As on 20 June 2003, information provided by the MoFCA indicates that of the 793,900 estimated number of AAY families, the state has identified only 740,941. The number of families to whom ration cards have been issued is even lower at 588,499. This is despite numerous applications sent by eligible persons to the local authorities requesting to be considered for these benefits.</p> <p>(Though there appears to be a discrepancy between the number of families that remain to be identified, there is no disputing that the sanctioned number of cards have not been issued.)</p>	<p>The report provided by the Nodal Officer to the Advisor to the Commissioner in West Bengal indicates that 89282 beneficiaries remain to be identified under AAY.</p>
<p>Provisional figures released for the year 2002-2003 indicates that the off take of BPL grain as a percentage of that allotted was 23% for rice and 72% for wheat.</p>	
<p>The National Social Assistance Programme</p>	
<p>No funds were received till September 2002 for the FY 2002-2003 under NOAPS and NFBS. This meant that pension holders could not have received money by the 7th of every month regularly.</p>	<p>From the start of the year 2002 the GoI releases funds to the state governments as additional Central assistance instead of allocating money directly to the districts. For this purpose the state government had to open new heads of accounts, which led to the delay due to which no funds could be released till November 2002.</p>
<p>Funds released by the center under NMBS reduced from 364.75 lakhs in 2001-2002 to 281.85 lakhs in 2002-2003. Analysis of figures provided for different districts shows that much of the amount allocated was not utilized. In six districts alone the amount unutilised for the year 2002-2003 amounts to over 34 lakhs. This is despite numerous applications for consideration of benefits under the scheme.</p>	
<p>The ICDS and Mid-day Meal Scheme</p> <p>The State Government has not implemented cooked mid day meals in all primary schools in the state. The nodal officer has not been able to provide a suitable time frame by which the administration plans to implement the scheme throughout the state.</p>	

<p>As on July 1, 2003 children in only 1100 schools across the state are receiving cooked meals. Of 9,764,181 children enrolled in 2003-2004 only 178,054 are being covered under the cooked mid day meal programme, i.e. less than 2% of the intended beneficiaries.</p>	<p>Cooked mid day meals are being provided in only nine districts on all school days for 25 days in a month.</p>
<p>The Education Ministry seems to have allocated Rs.169.09 lakhs as against the Rs.360 crores required to implement the scheme in the entire State. This is only about 0.47% of the required amount.</p>	<p>The state could not extend the scheme to all schools due to Financial Constraints.</p>
<p>All habitations have not been covered under the ICDS as ordered by the Supreme Court.</p>	<p>GoI has so far sanctioned 358 ICDS projects in WB of which 24 are Urban ICDS projects. The Planning Commission has expressed their inability to enhance the allocation for the ICDS. Therefore, it would not be possible to sanction any new ICDS projects or additional AWC because of resource constraints.</p>
<p>Coverage of pregnant and lactating mothers, children aged 6 months- 3 years and adolescent girls is very low.</p>	<p>Providing supplementary nutrition to adolescent girls will need a budget of approx Rs. 180 crores per annum. A proposal has been sent to the Finance Department but it is doubtful if such large scale funding will be available from the state government.</p>
<p>Improving Transparency</p>	
<p>Supreme Court orders and the list of beneficiaries under various schemes are not being displayed.</p>	<p>According to the Nodal Officer, copies of the Court orders dated 28.11.2001 and 8.5.2002 have been displayed at Panchayat offices and fair price shops.</p>
<p>Suggestion to consider taking up extensive advertising through the media, to help spread awareness about schemes has not been initiated.</p>	<p>The view of districts on this issue has been asked for, though it does not seem possible due to feasibility constraints. The financial implication of hiring ‘agencies’ is high, but people are free to see lists at the GP office.</p>

The Sampoonn Grameen Rozgar Yojana	
Employment under SGRY is very low despite petitions asking for greater works being submitted in several districts.	<p>Effective implementation is hampered in districts that face problems with lifting of rice from FCI godowns. This could be due to:</p> <ul style="list-style-type: none"> ▪ Non availability of stock in godowns ▪ Non receipt of money from MoRD ▪ Non receipt of instructions by local FCI offices from authorities to deliver rice <p>Further, the process of engagement of applicants who have demanded employment has been started.</p>
Instances of refusal to provide employment to those who are willing to work have been reported to the Commissioners.	Employment is provided as per availability of funds. There has been no case of refusal to provide wage employment but in times of excess supply of labour, employment may be rationed by a process of rotation.
Local labour not used on work sites	Works under SGRY are being undertaken as per guidelines with local labour being employed at work sites.
Redressal Mechanism Sought	
<p>Consider paying compensation to those denied their entitlements at the following rates:</p> <p>@ 10% for arrears over a month</p> <p>@ 25% for arrears over a year</p> <p>Rs. 50 per month for all months in which grain under Annapurna Yojana was not received</p>	No compensation of any kind can be paid due to shortage of funds.