



HOUSING AND LAND RIGHTS NETWORK
HABITAT INTERNATIONAL COALITION

Subject: Update: Alternate Report on Housing and Land Rights in India

Dear friends,

I hope things are going well with all of you.

Attached is the letter along with an update on the housing and land rights situation in India, which we sent to the UN Committee on Economic, Social and Cultural Rights during its last session in November.

Many thanks to all of you who sent me updates. These have all been included in the attached letter. For those of you who were not able to send me information, I hope to hear from you for the next report/communication with the Committee. As you will see, your names are included as part of the coalition involved in parallel reporting on housing and land rights in India to the UN.

The Committee has agreed to write a letter to the Government of India, censuring it for its lack of responsibility and its role in abetting human rights violations, and also for its failure to submit its long overdue report to the Committee.

I look forward to your continued participation in this process, and will keep you updated on any progress.

Wishing you all the best in your struggles...

warm regards, and in solidarity,
shivani

Housing and Land Rights Network (HLRN)
(Habitat International Coalition)
South Asia Regional Programme
B-28 Nizamuddin East
New Delhi - 110 013
India

phone/fax: 91-(0)11-2435-8492

www.hic-sarp.org



HOUSING AND LAND RIGHTS NETWORK
HABITAT INTERNATIONAL COALITION

18 November 2005

Virginia Bonoan-Dandan
Chairperson
Committee on Economic, Social and Cultural Rights
Palais des Nations
Geneva, Switzerland

Dear Madam Dandan:

We would like to take this opportunity, first, to reaffirm our appreciation to the Committee for its historic commitment to advance the cause of promoting and protecting the human right to adequate housing and land worldwide. This letter represents part of our ongoing commitment to support the Committee in that effort by reporting on the situation of economic, social and cultural rights, in particular the right to adequate housing and land, in India. While the efforts of the Committee to encourage India's compliance with its reporting responsibility as State party to the Covenant have been laudable, the Government of India continuously fails to submit its long-overdue report, originally scheduled for submission on 30 June 1992.

As emphasized in our letters to you of 4 May 2004, 8 November 2004 and 22 April 2005, the respect, protection, promotion, and fulfilment of economic, social and cultural human rights in India have deteriorated to an alarming extent, amounting on many occasions to glaring violations of India's international human rights obligations. In particular, we have noted a troubling pattern of increased violations and marked retrogressions in adequate housing rights and living conditions, inconsistent with the obligations enshrined in Article 11(1) of ICESCR. Indeed, the need for decisive action has never been more acute.

In light of the Indian Government's failure to issue a report on its treaty implementation, civil society organizations respectfully submitted an alternate report, titled, *Acts of Commission, Acts of Omission: Housing and Land Rights and the Indian State*, in May 2004. A year and a half later, housing rights implementation and living conditions only seem to deteriorate for the majority of India's population. As part of the current correspondence, we would like to draw the Committee's attention to a few particularly egregious violations, which are included for the Committee's consideration in the attached annex.

The number and nature of violations of Article 11 due to deliberate State action are alarming. Furthermore, international human rights law obliges India to (1) fulfil the minimum essential level of the right to adequate housing and land, and (2) show that this realization is progressive since becoming a party to the ICESCR. As the Committee has emphasised, neither of these obligations is mitigated by a State party's political processes, domestic legislation, scarcity of resources, or agreements with other parties. The present degree of violations and reporting delinquency are wholly unacceptable and represent a flagrant dismissal of both India's obligations under the ICESCR and the guiding authority of Committee.

In light of the massive scale of violations mentioned and the Government of India's continued silence on the issue, we would like to reiterate our standing request that the Committee consider examining India as a nonreporting State party to the Covenant and, subsequent to such a decision, take the appropriate administrative measures. The implications of inaction are far reaching not only for the countless individuals and communities continuing to suffer from a lack of adequate housing and land rights, but for the very credibility and integrity of the institutional mechanisms established for their protection.

In cooperation with Indian civil society and advocates of ICESCR-guaranteed rights, we sincerely support and appreciate international efforts to encourage the fulfilment of economic, social and cultural rights. Therefore, we remain committed to assisting the Committee by providing periodic updates on the implementation and realisation of the right to adequate housing and land in India.

Madam Dandan, please be assured of our highest consideration,

Joseph Schechla
Coordinator
HIC-HLRN

For: *Habitat International Coalition - Housing and Land Rights Network (India)* and its partners: *Aashray Adhikar Abhiyan (AAA), Academy for Mountain Environics, Andhra Pradesh Dalitha Bahujana Vyavasaya Vruthidarula Union (APDBVVU), Citizens Initiative, Food First Information and Action-Network (FIAN), Hazards Centre, Human Rights Law Network, India Centre for Human Rights and Law, Kalpavriksh, mines minerals & People, Muktidhara, Narmada Bachao Andolan (Save Narmada Movement), National Alliance of Peoples' Movements (NAPM), National Campaign for Dalit Human Rights (NCDHR), National Forum of Forest People and Forest Workers (NFFPFW), Navsarjan Trust, and Youth for Unity and Voluntary Action (YUVA).*

ANNEX:

**UPDATE ON THE CONTINUED FAILURE OF THE INDIAN STATE
TO UPHOLD THE HUMAN RIGHT TO ADEQUATE HOUSING AND LAND**

November 2005

1. Violation of the Right to Adequate Housing and Land of Tsunami Survivors in Tamil Nadu¹

India was one of the 12 countries hit by the tsunami of 26 December 2004. In India, the worst affected areas of the country were the state of Tamil Nadu and the Andaman and Nicobar Islands, while coastal Kerala and Andhra Pradesh also suffered damage.

In Tamil Nadu, the tsunami has directly and/or indirectly affected around 150,000 people in 33 fishing hamlets in 13 districts.

Ten months after the tsunami, despite the outpouring of aid, living conditions of most tsunami survivors are abysmal. The failure of involved agencies and actors adequately to respond to the disaster is glaring in every tsunami-affected area, and is reason for much concern. Approaches that integrate livelihood, housing and health are lacking in rehabilitation activities, as are mechanisms for accountability and monitoring. The pervasive non-adherence to human rights standards across all relief and rehabilitation work, be it by government or international agencies, has been alarming. In all affected communities, the two overriding issues still demanding urgent consideration are housing and livelihood restoration.

The survivors' human right to adequate housing has been violated in most places in Tamil Nadu not just by the government, but also by international and other relief and voluntary agencies. These parties have constructed temporary housing shelters with poor and inadequate materials, and without consideration for space, location, size, sanitation, security and culture.

It is clear that many parties have built temporary shelters hastily and without sufficient thought to the elements of the human right to adequate housing, but only to meet an emergency need. That approach has proved to be counterproductive and caused further deprivation. A Government Order (G.O. Ms. 10) urged that all displaced people be removed from relief camps and relocated in temporary shelters by 14 January 2005, leading to a great rush in construction of temporary housing. However, this could not be an excuse for poor quality housing, especially where the affected inhabitants are still living in these haphazardly built structures today. Reconstruction plans for land acquisition and permanent housing in most areas still have not been finalised. Given the laxity, lack of priority and the interplay of a host of contentious issues and multiple actors, it seems that communities will be forced to live in these temporary shelters for at least another six to eight months. These "cattle sheds" built of tar sheeting are completely unfit for human habitation, and violate the dignity and human rights of men, women and children. The complete lack of consideration in building these structures reflects more than mere neglect. It reflects an unarticulated

¹ This submission is based on a fact-finding mission conducted by the Housing and Land Rights Network (South Asia Regional Programme) to the tsunami-affected areas of Tamil Nadu, India and Sri Lanka. The entire report titled *Post-tsunami Relief and Rehabilitation: A Violation of Human Rights* can be found at: <http://www.hic-sarp.org/Tsunami%20Report.pdf>

conceptual misunderstanding that housing adequate for the poor/displaced means “slums.” In most parts of Tamil Nadu, a row-housing configuration of shacks has been the norm for tsunami relief recipients, with wholly inadequate space, ventilation and location. The ideological bias behind such housing design needs to be examined and rectified urgently.

In all sites with tar sheeting shacks, communities complained that the smell of the tar was so nauseating that they could not enter the shelters for the first month or so. As the heat and humidity became worse, so did the shelters and, in some cases, the tar melted and dripped into homes. In some shelters, black plastic sheets had been laid over the roof to make them waterproof and also to prevent the tar sheet roofing from flying off, thereby greatly increasing heat retention in the housing.

On the night of 22 June 2005, a fire broke out in Kargil Nagar (north Chennai), completely gutting 1,662 homes made of tar sheeting. This incident not only raised questions about the quality of tar sheeting used, but also made it amply clear that simply using so-called fire-resistant material without paying attention to the layout of the settlement was not an adequate safeguard against fire.

Residents’ oft-repeated complaint against the use of tar sheets was that they trapped heat and, thus, made living inside the structures unbearable. As a result, in almost all the resettlement sites where tar sheeting was used, people preferred to cook and sleep outdoors. Due to the intense heat and humidity inside the temporary structures, many women and children had developed boils on their skin and scalps. In some cases, as in Serudhur, Nagapattinam District, men consequently slept in the common open area, and women and children slept in nearby temples, schools or community halls. Sleeping in the open also brought with it related insecurities, especially for women and adolescent girls. Tar sheet housing proved to have little resistance against the rain and, everywhere it was used, people complained of leaking roofs and decomposing structures, especially after the recent heavy rains that lashed the state in October 2005. Several resettlement sites like Akkaraipettai, Pillumedu, Palayar, Veerabagupathy and Kargil Nagar were built in low-lying areas and, therefore, flooded with the slightest rain. Furthermore, women complained that the thin and flimsy tar sheets failed to provide privacy from the next shelter.

In some shelters, children had no place to play, while, in others, like Akkaraipettai (Nagapattinam), the crèche was located next to the common toilets, creating unsanitary conditions and a health hazard. The schooling of many children living in temporary housing sites has also been adversely affected, due to unsuitable facilities.

Poor health conditions abounded in many temporary housing sites. Inadequate housing conditions were the cause of most health disorders. The heat-trapping nature of the tar sheet sheds has given rise to boils, prickly heat and rashes among the inhabitants. Due to the absence of flooring in nearly all shelters, insects and vermin have invaded the shelters and the residents have complained of insect bites.

The link between adequate housing and the rights to health, food, livelihood, security of person, social order, family protection, gender equality and participation

Lack of ventilation and inadequate space for cooking has caused respiratory disorders, especially among women and children. Doctors visit the sites infrequently. Health services have not adequately addressed

women's health issues. In all sites, there seemed to be a large gap in the provision of mental health services.

Services including food, water and sanitation for the affected people have been severely inadequate. With most people still not fully employed after the loss of their livelihoods, and with the suspension of relief rations and food aid, food was a critical but unmet need of all tsunami survivors. Nutritional intake also has suffered in the post-tsunami scenario.

The tsunami greatly affected communities who traditionally lived close to the coast and relied on its resources for their livelihood. With new concerns over safety and new State regulations restricting habitation in coastal zones, such as through the creation of statutory "buffer zones," coastal communities are experiencing tenure insecurity. Under a pretext of security, the government has renewed enforcement of existing laws and new regulations and restrictions governing housing and construction along the coast. Although the safety of communities is paramount, the coastal regulations and their enforcement raise equally serious concerns over livelihood and sustenance issues. While requiring people to relocate for public safety reasons is permissible under international law, proper compensation must be offered and the process must not be arbitrary or discriminatory. Imposing a uniform buffer zone and restricting access to livelihoods, as in Tamil Nadu, could result in a series of injustices to the affected communities and a cycle of social conflicts.

Fishing communities felt that the renewed enforcement of the Coastal Regulatory Zone (CRZ) precluded their customary right to the coast. After a sustained three-month campaign by fisher peoples' movements, the Tamil Nadu government acceded to some of their demands by recognising that "fisher people have to remain close to the sea for their livelihood" (Government Order 172). Despite this acknowledgment, the order lays down stipulations that still are quite contentious.

The State government has permitted *in situ* construction of houses within 200 metres of the high tide line (HTL), in some areas, and allowed people to rebuild existing houses. However, it will not assist them. If they choose to move beyond 200 metres, they are eligible for a new house from the government. Catamarans, boats and nets can be stored within the 200-metre buffer zone. Between 200 and 500 metres of the HTL, the government has agreed to repair and build new houses based on people's preferences. The same applies to houses located beyond 500 metres of the HTL. The government imposes an insurmountable condition such that "in all cases where new houses are given, the old site and the old house will have to be relinquished to the Government by a legally acceptable document" (GO 172, 5).

Government guidelines for permanent housing do not lay down any minimum norms or human rights standards. The Tamil Nadu Government Order 172 only specifies the size of the houses (300–325 square feet) and the minimum cost (INR 1.5 lakhs, or INR 150,000) per house. Any interested private or non-government agency willing to meet these conditions is encouraged to sign a memorandum of understanding with the government and can go ahead with housing construction.

A Tamil Nadu Government Order stipulates that in situations where both husband and wife are survivors, new titles over land and housing must be issued jointly; i.e., in both spouses' names. Despite this, in many cases, authorities only have issued titles (as well as other relief items) to "heads of households," who are generally perceived to be men. Authorities still are not issuing single titles for women. This is a clear case

of denying women their original rights over land and housing, and an indication of government retrogression in the realization of housing and other rights.

Local communities have generally been kept ignorant about plans for both temporary and permanent housing. Their input in the development of these plans has been absent. Most communities have not been consulted about what they need or would like in both temporary and permanent housing. Most of them are still unaware about the location of their permanent home and how long they would have to wait for it. To deny people the right to express their opinions and to deny them the right to participate in the design of houses that they would be living in, greatly violates their right to adequate housing. Without people's participation, it is unlikely that the housing they receive will be truly adequate in meeting their needs.

2. Continued Discrimination against Dalits and Denial of their Housing and Land Rights

Exclusion and discrimination faced by Dalits is a corollary to the graded and iniquitous social system of caste that prevails in Indian society. Almost six decades after independence, Dalits are still forced to work as menial labourers denied ownership rights to land. Landlessness among the scheduled castes (SCs, those enumerated in Constitutional or annexes, or "schedules") is a common feature in the Indian rural economy.

Furthermore, the right to adequate housing for Dalits is not guaranteed. Consequently, the right is not officially respected, protected or fulfilled; notably also to the Committee, it is not officially promoted, monitored or reported.

In a typical rural set up in India, Dalits are generally forced to live outside the main village. The eviction of Dalits from their houses is a common form of discrimination, while destruction of their homes, including by burning, is prevalent in certain states.

In a mass frenzy, reported on 31 August 2005, at Gohana, in Haryana State, local residents looted, ransacked, and then burned about 55–60 houses belonging to Dalits. Just one day after this incident, another mob burned 25 houses belonging to Dalits at Belkhed, in Akola, Maharashtra State. In the aftermath of such atrocities, many Dalits find themselves forced to flee their homes. Punitive action or legal sanction against the perpetrators of such violent and heinous crimes rarely occurs, largely attributable to the connections they enjoy with members of politically prominent and influential upper castes.

In the southern Indian State of Andhra Pradesh, land-related problems continue to plague the Dalit community. In several instances, though they have been issued titles over land, they still do not enjoy true possession or ownership over it. Cases of illegal alienation of land from scheduled castes abound, while several rich landowners continue to hold land under fictitious names. Incidents of corruption and fraudulent practices by government officials in land redistribution are rife and have been reported in several districts, while illegal land titles have been issued to ineligible persons.

Movements for Dalit rights, such as the *National Campaign for Dalit Human Rights*, and the *Dalit Bahujan Shramik Union* have made several recommendations in this regard to both the state and national governments, which include:

1. The enactment of a comprehensive Scheduled Castes (SC) and Scheduled Tribes (ST) Lands (Protection and Development) Act to not only protect, but also to prevent the encroachment and alienation of SC/ST lands as well as land-based atrocities on SC/STs;
2. The appointment of a commission to study the present status of government land and enquire into its utilization, assignment, encroachment and alienation (i.e., also to investigate land-based violations against SC/STs and address effective implementation of land rights of SC/STs);
3. The allotment of legal land titles over the government-recognised 570,000 acres of forest land that is being managed by the landless poor for the last 15–20 years.

3. Failed Resettlement for Delhi Slum Dwellers

Between January and May 2004, several authorities of the Delhi government displaced 27,000 families from Yamuna Pushta in Delhi. Of them, Delhi authorities allotted only 6,000 families alternate plots, in an area known as Bawana, 35 kilometres from their original residence site, while rendering the remaining 21,000 families (around 100,000 people) homeless.

On 12 February 2004, a Delhi-based non-government organisation called Hazards Centre filed a complaint at the National Human Rights Commission (NHRC) against the demolitions in Yamuna Pushta. For six months, the NHRC failed to respond. Meanwhile, the Delhi authorities forcibly removed all slum settlements from Yamuna Pushta. In September 2004, the NHRC formed an investigation team that visited Bawana, Holambi Kalan and Madanpur Khadar, in order to probe the situation of the people displaced from Yamuna Pushta. Members of Sajha Manch, a network of housing-rights groups in Delhi, also formed part of that team. The report of the investigation team was ready by the first week of October 2004. However, despite several letters to the NHRC requesting the report, the NHRC did not release it. Eventually, after immense pressure, the NHRC issued a copy of the report on 7 October 2005.

Some of the major concerns of the report include:

1. The NHRC investigation team unquestioningly accepted the government-prescribed conditions for the provision of water, electricity, sewerage, education, health and other services. The report did not find whether these norms were based on the needs of people or human rights norms;
2. Despite the fact that, till September 2004, relocation facilities also did not meet even government norms, NHRC accepted the MCD claim that the majority of services would soon reach the people;
3. The report omitted the testimonies of the evicted people living in Bawana on the present status of facilities;
4. According to the investigation team, the water scarcity at resettlement sites was largely attributed to the theft of taps. The report did not reflect an examination of the government role in this regard,

and the report remained silent also on the failure of government agencies in providing basic facilities;

5. The report identified unemployment due to displacement and involuntary resettlement at Bawana as a major problem. Furthermore, the report, without any substantiation, also mentions that this problem will only be resolved once Bawana becomes a full-fledged “industrial area” status. Similarly, the report argued that the Rohini and Rithala areas, located within 8–10 kilometres of Bawana, would provide job opportunities, despite a lack of evidence and substantiation of the claim.

Above all, the NHRC’s report does not portray the situation in Bawana resettlement colony accurately. Rather, it appears to ascribe greater importance to the MCD’s claims. The authorities and the NHRC largely ignore the major issue: the violation of human rights concomitant with the failed resettlement and the lack of compensation and provision of adequate housing for the slum dwellers forcibly evicted from their homes.

Coincident with the housing rights violations, the generally inadequate living conditions in Bawana are contributing to health problems as well as the increasing vulnerability of women to violence, due to a lack of protection in the remote area. Livelihoods and children’s education also have been jeopardised, due to the distance of the site from the city and the absence of adequate transportation facilities.

The fact that the country’s predominant human rights body has not reported, nor taken action against the perpetrators of such grave human rights violations is not just disappointing but alarming.

4. Forced Eviction and other Human Rights Violations in Vedanta Alumina Refinery and Niyamgiri Mines, Orissa²

M/S Vedanta Alumina, Limited (Vedanta) is establishing a one-million-tonne per annum capacity alumina refinery project together with a 75 MW coal-based captive power plant at an estimated cost of about Rs. 4,000 crores (just under USD 1 billion) in Lanjigarh, Kalahandi District, Orissa State, east India. Vedanta also is establishing an associated bauxite mining project at Niyamgiri Hills, Lanjigarh. The project is problematic on various fronts; however, the State of Orissa and the Union of India are failing to intervene in order to respect, protect and fulfil a bundle of human rights, including the core human rights to housing.

Most importantly, it involves the displacement of 102 families and threatens pristine forests and the homeland of a highly endangered tribe in the Niyamgiri Hills, the Dongaria Kandha, whose population is less than 6,000. Niyamgiri Hill is a sacred hill for the Dongaria Kandha tribe. The entire tribe, with its unique customs and survival practices, particularly due to their dependence on farming and agro-forestry as the sole source of their livelihood, faces a threat of extinction should Niyamgiri Hill be converted for mining.

² For more information on this and other inimical mining projects in India, see: www.mmpindia.org.

According to a 21 September 2005 report of the Indian Supreme Court's Central Empowered Committee (CEC) on Forests, Vedanta had falsified information in order to obtain environmental clearances, destroyed more than 10 hectares of forestland, and had begun construction work at the site before obtaining the requisite clearances under the Forest Conservation Act. Furthermore, the report recommended the revocation of environmental clearances given to Vedanta's aluminium refinery in the Niyamgiri forests in Lanjigarh, Orissa.

The report goes on to imply the complicity of the Union Ministry of Environment and the State government of Orissa in the violations, and mentions that:

The casual approach, the lackadaisical manner and the haste with which the entire issue of forests and environmental clearance for the alumina refinery project has been dealt with, smacks of undue favour/leniency and does not inspire confidence with regard to the willingness and resolve of both the State Government and the MoEF (Ministry of Environment and Forests) to deal with such matters keeping in view the ultimate goal of national and public interest.

The report also highlights several other human rights violations, including the forced eviction of people by the district administration and beating up of villagers by employees of Vedanta. While the National Policy on Resettlement and Rehabilitation requires the provision of land for land following consultation in keeping with principles of due process, particularly in the case of tribals, the company did not comply, and offered cash compensation instead, which is unacceptable to many. The tribal people living on the plant site are mainly Kondhs, who depend entirely on their agricultural lands and forests for the means of their subsistence. They have deep spiritual and cultural attachment to their ancestral lands and settlements, and vehemently opposed their displacement despite being offered monetary compensation by Vedanta.

In the face of resistance, the District Collector acted in apparent compliance with company officials, and collaborated in the effort to threaten villagers off their land. An atmosphere of fear was created through the activity of hired goons (who were often responsible for the exploitation of local women), the police and the district administration. Many of the tribals suffered severe injuries. After being forcibly removed they were kept under vigilant surveillance by the armed guards of Vedanta, and no outsider was allowed to meet them. They were thus effectively rendered prisoners.

Apart from land acquired by the District administration from Bandhagunda and Rengopali villages, land also was illegally taken over by Vedanta, for which no acquisition notice was served, nor any compensation paid.

Orissa government authorities forcibly evicted Kandha tribal families of Jaganathpur Village from land that they have been cultivating for generations, without any compensation or any alternate housing. The eviction took place without any process of verification and is in violation of the special protection provided to Scheduled Tribes. Though the Kandhs have petitioned the District Collector against the forcible eviction, the Orissa authorities have taken no action to reduce or protect against deprivations arising from further evictions.

The project also serves to threaten livelihoods and restricts access of villagers to forests and forest produce that they depend on for food and medicine. This has a particularly adverse impact on the Kandha women.

The mining of bauxite in the area is also likely to destroy the water recharging capacity of Niyamgiri Hill and cause desertification of the many perennial streams that originate from the nearby hilltop. Other environmental and health-related concerns arise from the release of noxious and poisonous red mud, which is a mix of highly toxic alkaline chemicals and heavy metals including a radioactive element, all of which could have disastrous public health consequences. The dangerous heavy metals and chemicals also could leach into the ground water and destroy plant life that comes in contact with it. This aspect has been omitted in the recent environment impact assessment and ignored by the MoEF.

Considering the grave human rights violations committed and abetted by the State and Vedanta, CEC's "Recommendations" and "Observations and Conclusions" take on all the more significance. Forced eviction of tribal families from their homes, illegal and violent takeover of private property belonging to tribals, unlawful confinement of local villagers by Vedanta security forces, and the use of police and district administration to suppress dissent, all represent severe human rights violations that warrant immediate investigation and action.

Another negative development on the national front has been the 13th Amendment of the Environment Impact Assessment (EIA) norms. The High Court in Mumbai ruled that as per EIA guidelines for major building projects, a public hearing must be conducted. Soon after this ruling the central government changed the EIA norms, thereby making it impossible for almost any large construction project to be questioned on environmental grounds.

While a strong peoples' movement against the project is underway by groups such as mines, minerals and People (mm&P), the London Group, and several other national and international networks, and while the CEC report serves to strengthen their claims, strong action against Vedanta needs to be taken in order to bring about the complete cessation of the company's destructive anti-people and anti-environment activities.

5. Continued Displacement in the Narmada Valley

Details on the development-induced displacement by the massive Sardar Sarovar Project (SSP) in the Narmada Valley were mentioned in the 2004 alternate report to the Committee titled *Acts of Commission, Acts of Omission: Housing and Land Rights and the Indian State*. Presented here is a recapitulation of the basic issues in brief and a short update on the present situation in the region.

The Sardar Sarovar Project (SSP) is being built on the River Narmada in western India. The Narmada Water Dispute Tribunal Award (NWDTA) of 1979 lays out detailed guidelines on how affected populations are to be rehabilitated. The October 18, 2000 verdict of the Supreme Court of India also

reiterates land-based rehabilitation for all entitled families, and states that the dam height can be raised only after rehabilitation of all families affected under that height is completed.

Despite the Court mandate, the three State governments of Maharashtra, Madhya Pradesh and Gujarat have been blatantly violating the verdict. The dam height was raised from 81 metres at the time of the verdict to 110.64 metres in the summer of 2004, while families even at 80 metres are still in their original villages and have not been rehabilitated.

In 2004, the people approached the Supreme Court again, with the claim that rehabilitation had not been carried out as mandated. The Court heard the cases of the villagers of Jalsindhi and Picchodi (both in Madhya Pradesh) for over a year, and delivered its verdict on March 15, 2005. Again the verdict reiterated the stipulation that rehabilitation be completed prior to any increase in dam height, and further stressed the need for land-based rehabilitation. The Court also stated that the land allotted to affected families must be cultivable and irrigable.

Seven months after the verdict, no concrete steps have been taken to rehabilitate the over 10,000 families who are affected under the current dam height of 110 metres.

The government of Madhya Pradesh (M.P.), even while repeatedly stating that it would follow the Supreme Court's orders, is violating them. The M.P. government issued a government resolution in July 2005 saying that it would offer cash instead of land to "those who want it," and that land is available in its "Land Bank." According to thorough investigations by the Narmada Bachao Andolon (NBA or Save the Narmada Movement) and farmers, most of the land in the "Land Bank" is entirely uncultivable. Such lands are even classified in local government (*tehsil*) records as "*nakabil kash*," literally meaning, "unfit for cultivation." The M.P. government is trying to allot such uncultivable land to people who are completely dependent on agriculture and is also rampantly distributing cash compensation, even to those families who are entitled to land. This is pushing thousands of families towards an abject state of destitution and landlessness. Cash compensation generally is wasted on motorcycles, televisions and other consumer goods. Such measures tend to disproportionately affect women and children in these households, as they are generally not consulted when their husbands opt for cash instead of land-based rehabilitation.

This is the situation of families entitled to land by the government. However, there exist hundreds of families, especially in the hilly interior tribal villages affected by the dam, who are still not on government lists of "affected persons." As a result, they fail to satisfy the officially established criteria for eligibility of rehabilitation assistance. The Maharashtra government took a concrete step in addressing the problems of these families by instituting a "Task Force" to survey all those living in the submergence villages. Even though the Task Force submitted its report in early 2002, many of the families listed in the Task Force have still not been rehabilitated. In the State of Madhya Pradesh, the situation is much worse. Despite having been alerted to the issue of hundreds of these "undeclared" families for the past nine years, Madhya Pradesh has not taken any concrete steps to amend or update its lists of project-affected persons. In desperation, these families have had to approach the Supreme Court to redress their problems. The case is scheduled to be heard in end-November 2005.

The government of Madhya Pradesh is also denying women their land rights. According to the Narmada Tribunal Award of 1979, all landholders from whom more than 25% of their landholding had been acquired, are entitled to land-based rehabilitation, with a minimum of 5 acres of land. But the M.P. government is denying the rights of women landholders by saying that they are dependent on their husbands, and hence do not merit separate land allotments. This is highly discriminatory and is a bid to disempower women even further.

Discrimination against widows is also pervasive as the government has not recognized the entitlement to land of widows whose dead husbands' landholding was acquired, nor that of women who have been abandoned by their husbands. In addition, while all three involved State governments recognize the entitlement of adult sons to land, M.P. does not recognize similar entitlement of adult daughters. Such gender-discriminatory practices are unacceptable.

Apart from dam-based displacement, 900 families in six villages around the dam site—Kevadia, Kothi, Waghodia, Navagam, Limdi and Gora—are being threatened by an ecotourism venture under the auspices of the Gujarat government. The agricultural lands and houses of the people of these villages were acquisitioned for the Sardar Sarovar Project colony, now called Kevadia Colony, as early as 1961. At that time, they were offered a measly Rs. 80 to 250 per acre as compensation, a value far below the true cost of land even at that time. However, more importantly, they were not recognized as project-affected persons (PAPs), meaning that they were effectively denied entitlement to land-based rehabilitation. Though they lost their land rights a long time ago, by virtue of their sustained struggle they managed to remain in their homes and some even continued to cultivate small pieces of land. Now, however, upon implementation of the planned tourism project, they will face the threat of actual eviction. The Gujarat government wants to evict these families, offering as compensation a meagre amount of Rs. 36,000. The families, however, are steadfastly holding on, and are demanding to be rehabilitated with land. They have until now been able to avoid eviction, but critically need international support in order to safeguard and exercise their rights.

6. Slum Demolitions in Mumbai and Lack of Government Rehabilitation

In May 2004, the Congress Party, in its Manifesto, promised to regularise slums in Mumbai city built before the year 2000. This promise played a large role in assisting the Congress to come to power in the State of Maharashtra. A few months after the election, the government however declared that all slums remaining after 1 January 1995 would be demolished and the displaced would not be rehabilitated. From November 2004 to March 2005, in a massive demolition drive, the government destroyed an estimated 90,000 homes in 44 areas.

A year after the first slum demolitions began in Mumbai, the State government has still not issued a list of affected persons, nor has it provided accurate information on the number of displaced persons. After a long struggle and protest by people's groups in Mumbai, the demolitions were officially stopped in April 2005. Sporadic demolitions, however, have continued, especially in areas where people went back and reclaimed their original housing sites. On 10 November, the government bulldozed around 350–400

houses in Rafik Nagar, Govandi, Mumbai. These were homes of people who were victims of the last demolition drive. In the absence of any State-sponsored rehabilitation, they had moved to a dumping ground and set up temporary shelters, which the State destroyed in order to clear the land for a crematorium. A news report rightly called this move as one that was making way for the dead by evicting the living. During the demolition, the police also resorted to violence and arrested 20 activists defending the slum dwellers.

Using the Indian People's Tribunal report on *Bulldozing Rights*³ several housing rights groups managed to extract a promise from the State that people would be rehabilitated before the monsoons (June), and that rehabilitation would be provided for all slum dwellers who had come to Mumbai before the year 2000.

Despite an affidavit submitted by the State to the High Court in this regard, no official rehabilitation has been undertaken. Furthermore, a survey that was to identify the affected families has not been completed. The National Alliance of Peoples' Movements (NAPM) and other housing groups found that while many of the affected were missing from the government list, it also included many ineligible names. The monsoons meanwhile hit Mumbai and the homeless were badly affected during the rains.

This led housing rights groups to approach the Courts with a demand for rehabilitation and compensation for property and personal items that were lost during the demolitions. The High Court of Mumbai did not grant immediate relief but asked the government to constitute a committee that would look into the framing of a policy on housing for the poor. On one hand, this could be considered a major victory, as there has never been a comprehensive housing policy. On the other hand, the process has been very slow and the government has started talking about initiating another demolition drive.

Tired of the apathy and insensitivity of the State and concerned officials, people returned to their original housing sites and through a community-led initiative, allocated plots measuring 12 by 15 feet to each family. In Mandala, over 3,000 families are living on 55 acres of land, while in Ambujwadi, the other major demolition site, 23 acres of land have been reoccupied despite recent threats of demolition.

After the Mumbai flood of July 2005, the government is planning to move all slums along the Mithi River, ostensibly under claims of safety. An estimated 80,000 structures are likely to be demolished if the plan goes ahead. This move, however, seems to be driven by large builder interests, especially by one Divan Builders, which has already filed false cases against activists who have openly opposed its construction activities. One of the activists, Raj Awasti, is presently in jail under false implications.

People's groups across Mumbai are calling upon State authorities to comply with the affidavit submitted to the High Court and to submit the pending report to be prepared by the committee under the Chief Secretary of Maharashtra. Slum dwellers must be adequately rehabilitated and protected against further demolitions and forced evictions.

³ *Bulldozing Rights: A Report on the Forced Evictions and Housing Policies for the Poor in Mumbai*, Indian People's Tribunal on Environment and Human Rights, June 2005.

7. Continued Government Apathy toward the Homeless in Delhi

The government of New Delhi has been not only indifferent, but also hostile towards the city's homeless people. Last year, the New Delhi Municipal Council (NDMC) forcibly evicted over 100 women and children from the city's only government-run night shelter for women. It is only after a long, difficult and sustained campaign by the evicted women and support groups that the NDMC opened a temporary women's night shelter, but that too only for the winter months. This closed in February and there are no signs so far whether it will be reopened this winter.

According to civil society estimates, Delhi has a homeless population of over 100,000.

Despite commitments of both the city and central government to provide shelters for the homeless, the situation for the city's homeless, especially homeless women, continues to be appalling.

The only two full-time shelters for women in Delhi are being run and managed by a non-government organisation (NGO) called Ashray Adhikar Abhiyan (AAA) in porta cabins on space provided by the government. Both shelters house around thirty women each, though the number goes up in inclement weather, especially during winter and the rains. Another night shelter that provides for around 20 women is also being run by an NGO called the Great India Dream Foundation. There are no State-run women's shelters in Delhi, and the existing shelters are insufficient to take care of the housing needs of all the city's homeless women.

When questioned about the need for more shelters for women, the city government always refers to *Nirmal Chhaya*. However, this is not a shelter; it is a poorly run custodial institution that has dismal living conditions. It caters to around 200 women and young girls, but does not permit children and old women to stay there. Mentally ill women also face another problem in the city in cases where they have no long-term shelters to stay in after receiving treatment.

For homeless men, the Municipal Corporation of Delhi (MCD) runs 10 shelters, which cater to only about 5 percent of the homeless population.

With winter fast approaching and the large number of homeless people in the city, the need for State responsibility and action is exigent. Many more adequate shelters—especially for women and children as they are most vulnerable to violence and abuse—need to be established with basic facilities and services like health care, food, water and sanitation. They also need to be situated close to areas of people's work.

The State is legally bound by its international and national obligations towards protecting, upholding and guaranteeing the human right to adequate housing of all men, women and children.

8. Involuntary Displacement caused by the Polavaram Dam in Andhra Pradesh

The Polavaram Irrigation Project on the Godavari River is located in the West Godavari district of the southern Indian state of Andhra Pradesh. According to Andhra Pradesh government figures, the dam will submerge 276 villages and displace 117, 034 people. Reports of the Planning Commission and estimates of local groups suggest that the official figure of people to be displaced is a gross underestimation of the actual number that will eventually be displaced. Local activists fear that such underestimation of the number of people to be affected will result in a large number of people being displaced without rehabilitation.

In spite of an explicit requirement of the National and State Rehabilitation Policies to consider non-displacing alternatives, the State government has not provided any information on the alternatives that were considered before finalizing the Polavaram Project. Activists have also criticised the Rehabilitation Plan on the grounds that the population details do not tally with the 2002 Census data. There is also no guarantee that alternative land will be provided to affected families. There is great likelihood that most people will be given only cash compensation for the land submerged. The amount provided for housing in the Plan is not sufficient to construct even the most basic of houses.

The Government has responded to local protests against the Project with force and intimidation. On the night of 8 November, at 10:00 PM, local police officials detained Anil Kumar, member of the Polavaram Andolana Committee from Kondrukota village. No information was given to his family regarding his whereabouts. Only after pressure from media and the people, was he produced in the local court on the ninth evening on charges of sedition, conspiracy and preventing state machinery and personnel from performing their duties. He is now in the Rajahmundry Central Jail.

Without strong opposition to the means by which the Andhra Pradesh State government is pushing the Polavaram Project forward, hundreds of thousands of adivasis and dalits will be displaced without adequate rehabilitation and subjected to intimidation and repression.

9. Proposed Bauxite Mining Violating Constitutional and Human Rights in the Heart of the Tribal Area in Andhra Pradesh

The Government of Andhra Pradesh (AP) has signed a Memorandum of Understanding with Jindals—a private Indian multinational company—to undertake bauxite mining in the hills of Vishakapatnam district, in the midst of thick forests and tribal lands (a declared Scheduled Area). Despite Indian constitutional laws as per the Fifth Schedule, and the Land Transfer Regulations to prevent transfer of lands in tribal areas to private companies and non-tribals, and the Supreme Court Samatha Judgement of 1997, nullifying all private mining leases, the government has started activities to evict tribals and begin operations for bauxite extraction and processing.

The official leaseholder is A.P Mineral Development Corporation—as a ploy to circumvent Supreme Court orders—but the actual beneficiary of the lease is Jindal company. All operations will be entirely handled by this company, which already has started threatening tribal communities to vacate their lands or face violence. The State and local administration has become a stooge of the company as the ruling Congress party has given orders that all clearances must be obtained immediately and openly declared that any opposition will be suppressed brutally. The district authorities, accordingly, have given an ultimatum to the people and civil society groups that they should cooperate with the project or face dire consequences. No information about the project, the location and number of villages to be affected, or any other details have been provided. The tribal communities that will be affected are virulently oppose the project and do not want any mining activity on their lands. They are organizing protests and rallies demanding that the project be withdrawn, and have passed resolutions in their respective *gram sabhas* (village councils) under the Panchayat (Extension to Scheduled Areas) (PESA) Act rejecting the project.

The government, in an attempt to convince local communities, organized several visits to the neighbouring state of Orissa to look at the claimed benefits of a bauxite-mining project of the National Aluminium Company (NALCO). The tribals, however, clearly stated that what they saw in Orissa was only poverty and misery, and told the Andhra Pradesh government they would not allow the same fate in their lands.

Civil society groups and tribal communities in the region are afraid of state-induced violence, police excesses and human rights violations of local communities as well as activists who are supporting the tribal people in an already politically volatile area.