

Acts of Commission Acts of Omission

Housing and Land Rights and the Indian State

A Report to

**The United Nations Committee on Economic,
Social and Cultural Rights**

with

Concluding Observations of the Committee: India (May 2008)

Coordinated by Housing and Land Rights Network -
HABITAT INTERNATIONAL COALITION



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Published by: **Housing and Land Rights Network - South Asia Regional Programme**
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Design and Printing: Akhil Art Printers, New Delhi, # (+91) 9811293898

March 2009
New Delhi

ISBN: 978-81-902569-0-2

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Housing and Land Rights and the Indian State

Update March 2009

**A Report to the United Nations Committee on
Economic, Social and Cultural Rights**

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Concluding Observations of the Committee: India (May 2008)

and

New Reporting Guidelines of the Committee (March 2009)



South Asia Regional Programme
Housing and Land Rights Network
HABITAT INTERNATIONAL COALITION

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Introduction

Universal human rights are often expressed and guaranteed by law, in the form of treaties, customary international law, general principles and other sources of international law. The Universal Declaration of Human Rights (UDHR) (1948) firmly established the basic civil, political, economic, social and cultural rights that all human beings must enjoy. The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights and its recently adopted Optional Protocol, form the so-called "International Bill of Human Rights".

International human rights law lays down obligations of governments. By becoming parties to international treaties, States assume obligations and duties under international law. These international human rights instruments consist of three types of State obligations: respect, protection and fulfilment of all human rights and fundamental freedoms of individuals or groups.

The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.

Through ratification of international human rights treaties, governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. Where national legal systems fail to address human rights abuses, mechanisms and procedures for individual complaints or communications are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level.¹

Each international human rights treaty has a special body assigned to facilitate its monitoring and implementation. These bodies meet regularly and conduct reviews of States' compliance with their legal treaty obligations and also assess progress of States in respecting, protecting and fulfilling the human rights of their citizens. The Committee on Economic Social and Cultural Rights (hereafter the Committee) is the body responsible for monitoring State compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.

As State Party to ICESCR,² India is obliged to report to the Committee on Economic, Social and Cultural Rights every five years. Article 16 of the ICESCR requires State parties to submit periodic reports on "the measures they have adopted and the progress made in achieving the observance of the rights recognised" in the Covenant. After submitting its initial report, India failed to meet its reporting requirements. After a lapse of almost two decades, the Government of India finally submitted its combined second, third, fourth and fifth periodic report to the Committee in October 2006.³ This led to India's review at the United Nations by the Committee on 7 and 8 May 2008 in Geneva.

1. Adapted from the website of the UN Office of the High Commissioner for Human Rights (www2.ohchr.org)

2. India ratified the Covenant on 10 July 1979.

3. Combined second, third, fourth and fifth periodic report of India, E/C.12/IND/5, 1 March 2007. Available online at: www2.ohchr.org

Civil society groups, including the Housing and Land Rights Network (HLRN) also submitted “parallel reports” to the Committee in order to supplement, complete, and where necessary, counter information provided in the Government report.⁴ These reports helped inform Committee members about the reality of human rights in India.⁵

Following the review of India's economic, social and cultural rights record in May 2008, the Committee issued a statement of concerns and recommendations to the Government of India in the form of “Concluding Observations.”⁶ These Concluding Observations contain concrete proposals for the implementation of economic, social and cultural rights, and cover among other issues, those related to housing, displacement, forced evictions, livelihood, food security, post-tsunami rehabilitation, discrimination, women's equal rights, and social security.

The importance of monitoring and reporting on human rights is also explained and reiterated in General Comments 1, 2 and 3 of the Committee on Economic Social and Cultural Rights.⁷

Potential Uses of the Concluding Observations

Apart from being used to pressure government officials and agencies to implement the recommendations contained therein, and holding government officials accountable for their national and international legal obligations, the Concluding Observations could also be used to:

- ❖ Monitor governance as well as practices of all involved parties (including the corporate sector, public sector, and government) with the aim of ensuring compliance with national and international law.
- ❖ Generate awareness amongst government and non-government agencies and actors on India's obligation to respect, promote and fulfil economic, social and cultural rights.
- ❖ Generate awareness on the ICESCR and General Comments issued by the Committee.
- ❖ Improve practices and policies of different actors, including government officials, municipal authorities, corporate sector representatives, law enforcement agencies, and others.
- ❖ Inform national and local laws and policies to ensure compliance with human right guaranteed and protected by the ICESCR.
- ❖ Assist law enforcement agencies (including the judiciary and human rights commissions) in interpreting and implementing national and international law.
- ❖ Promote human rights education among all sectors of society.
- ❖ Mobilize civil society groups to monitor India's human rights record.
- ❖ Assist in the preparation of the next round of civil society parallel reports.

The Concluding Observations of the Committee on Economic, Social and Cultural Rights need to be upheld and implemented. They should also be viewed in conjunction with Concluding Observations and Comments from other UN treaty bodies as well as recommendations from UN

4. The first such report on India was coordinated by Housing and Land Rights Network (HLRN) and submitted to the Committee in 2004.

5. Parallel reports submitted by Indian organizations to the Committee can be found online at: <http://www2.ohchr.org/english/>

6. E/C.12/IND/CO/5, May 2008. Available online at: <http://www2.ohchr.org/english/bodies/cescr/docs/co/E.C.12.IND.CO.5.doc>

7. Available online at: <http://www2.ohchr.org/english/>

Special Rapporteurs who have visited India.⁸ India is also being monitored by the UN Human Rights Council under the Universal Periodic Review. Given the various human rights mechanisms and bodies, it is important for civil society groups working with different UN bodies to coordinate efforts and share information in order to ensure the optimal use of these mechanisms for the realisation of human rights in India.

The responsibility for disseminating and implementing the Concluding Observations lies with the Government of India but given its dismal track record, civil society groups should also widely disseminate, translate, and lobby the government to implement the Concluding Observations to further the promotion and realisation of economic, social and cultural rights in India. The Government must submit its next periodic report to the Committee in 2011, as mandated, and also ensure that adequate consultations with social movements and non-government organizations are held in the preparation of its next report.

Housing and Land Rights Network (HLRN), in collaboration with other organizations and social movements, has been submitting parallel reports on the status of housing and land rights in India to the Committee since 2004,⁹ the last report being submitted in April 2008.¹⁰ This publication presents an update to that report and includes the Concluding Observations of the Committee on Economic Social and Cultural Rights, as well as Concluding Observations of other UN treaty bodies that are related to the human rights to adequate housing and land. These include Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD), the Committee on the Rights of the Child (CRC), and the Committee on the Elimination of Discrimination against Women (CEDAW). It is hoped that this report and the relevant Concluding Observations that have been highlighted, will help strengthen housing and land rights struggles around the country, and promote better implementation of human rights in India.

8. See for example, report of the UN Special Rapporteur on the right to food, on the mission to India, 2005, E/CN.4/2006/44/Add.2, paragraph 11. Available online at: <http://www.righttofood.org/India%20PDF.pdf>

9. The report "Acts of Commission, Acts of Omission: Housing and Land Rights and the Indian State" 2004, is available online at: <http://www.hic-sarp.org/documents/HIC-1.pdf>.

10. The April 2008 report to the Committee is available at: http://www.hic-sarp.org/news_show_user.php?id=113. See Annex IV for list of endorsing organizations.

Background

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 International Covenant on Economic, Social and Cultural Rights (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 Indian State is thus legally obliged to recognise, promote and fulfil the human right to adequate housing for all, by both international and constitutional law. In paragraph 406 of its 2006 report to the Committee,¹¹ the Government of India has clearly reaffirmed that the, "Right to shelter is recognized as an integral part of the fundamental right to life under the Constitution of India." Judgements of the Indian Supreme Court have also upheld the right to housing, explicitly recognizing that, "Shelter for a human being is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. It therefore includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads, etc."¹²

Despite India's legal obligations, the reality with regard to living conditions for the majority of Indians is dismal. The present degree of violations is unacceptable and represents a flagrant breach of India's Constitutional and national legal obligations as well as commitments under the ICESCR and other international instruments.

This report¹³ presents some of the key issues of concern and proposes recommendations to the Government of India as well as questions presented to the Committee to ask the government in its fulfilment of its international and national legal obligations.

11. Combined second, third, fourth and fifth periodic report of India, E/C.12/IND/5, 1 March 2007. Available online at: www2.ohchr.org.

12. *Chameli Singh v. State of Uttar Pradesh* - AIR 1996 SC 1051.

13. Housing and Land Rights Network (HLRN) has been submitting parallel reports and updates on the status of housing and land rights in India to the Committee since 2004. The report, *Acts of Commission, Acts of Omission: Housing and Land Rights and the Indian State* (2004), is available online at: <http://www.hic-sarp.org/documents/HIC-1.pdf>

Key Issues of Concern

Inadequate Housing and Living Conditions in Urban and Rural Areas

Though the human right to adequate housing is an internationally and nationally guaranteed human right, the majority of India's population continues to live in inadequate and insecure housing conditions. The numbers of those living in such conditions in both urban and rural areas is rapidly rising.

Across the country, people and communities are forced to live in precarious and high density conditions, in unsafe and distressed housing in slums, on pavements, alongside railway tracks, under bridges, on embankments, in shelters made from plastic sheets, cardboard, aluminium and tin, in water pipes, on degraded lands, in areas prone to earthquakes and floods, and on denuded hillsides. Aggravating this already dire situation are the phenomena of discrimination, large projects such as dams, mining, roads; slum demolitions; real estate speculation; privatisation of basic services such as water; forced land acquisition for industrial development and Special Economic Zones (SEZs); communal violence; and armed and ethnic conflict. These factors, often in conjunction with one another, force many, especially those belonging to marginalised communities, the working poor, small farmers and the landless, to leave their homes and habitats and live in inadequate conditions with little or no access to civic services, thereby violating their human rights to adequate housing, land, water, sanitation, food, electricity, education, work/livelihood, and security of the person and home. Inadequate living conditions also adversely impact the human right to health.

Affordability of housing is also a major concern across urban India. In Delhi, a study by an independent group revealed that housing earmarked for low-income groups was priced so high that 80% of it was in fact occupied by the middle class.¹⁴ Recent moves to open up the housing market to foreign direct investment have further contributed to the rising prices of housing in urban India.

Over the last few years, discrimination against the urban and rural poor has intensified, and disturbingly, has even gained legal sanction from the judiciary in the form of anti-poor judgements.

The crisis of inadequate and insecure housing and living conditions reveals an abrogation of the government's national and international obligations to promote and protect human rights. The continued prevalence of these phenomena leads to exclusion, dispossession, impoverishment, and violence.

14. *A People's Housing Policy*, Hazards Centre, New Delhi, 2003.

15. For example, in the case *Almitra Patel v. Union of India* [(2000) 2 SCC 679], the Supreme Court declared that, "Rewarding an encroacher on public land with free alternate site is like giving a reward to a pickpocket" (at 570-71). Other recent judgements facilitating evictions include the case *Navniti CGHS v. Lt. Governor* (WP (C) 5697/2002) in the Delhi High Court.

16. Government of Delhi, Delhi Economic Survey for 2002.

Slums and Informal Settlements

According to Census of India 2001 data, which for the first time attempted to document India's slum population, 42.6 million or 15% of India's total urban population of 286 million lives in slums. The actual figure is estimated to be much higher since only 607 cities were included in this pilot effort.

The majority of the population in India's metros lives in slums (60% in Mumbai and 50% in Delhi, according to civil society estimates). This number will increase if those living in sub-standard housing were also taken into account. Official data for Delhi shows that only 27 percent of the population lives in planned and authorised housing.

Even in smaller cities and towns, the number of people living in informal settlements is quite high. In Surat, for instance, 25% of the population (1 million people) lives in slums. In Lucknow, despite the fact that more than 1.2 million people live in 787 settlements, Census 2001 stated that Lucknow was a "slum-free city." In the last three years, the government has not rehabilitated a single evicted slum in Lucknow.

Despite the fact that the slum population is rising across the country, there is still no concerted, integrated effort to develop human rights-based policy or to provide improved housing, especially low cost housing. This indicates that a large percentage of the country's urban population has little or no access to adequate housing and basic amenities.

National Urban Housing and Habitat Policy 2007

The National Urban Housing and Habitat Policy (NUHHP) 2007 was tabled in both houses of Parliament in December 2007. It is preceded by two other policies related to housing – the *National Housing Policy 1994* and the *National Housing and Habitat Policy, 1998*.

The NUHHP lays special emphasis on provision of social housing for the economically weaker sections (EWS) and low income groups (LIG) categories. It needs to be welcomed to the extent that it has once again reiterated the need of providing housing to all citizens while also acknowledging the State's failure to do so. It however, also has several problems which move away from the right to housing as a human right:

- ❖ Starting with the *National Housing Policy* of 1994, there has been a shift in visualising the role of government bodies and authorities in provision of housing. There has been an observable trend of the state withdrawing its role and responsibility towards provision of housing for the economically weaker sections (EWS) of society. Instead, emphasis has been laid on market forces and their role in providing the same.
- ❖ The NUHHP rightly identifies "insecurity of tenure" as one of the main reasons of homelessness, but there is no proposal for addressing the same. Provision of land tenure should have been a priority area, but the Policy has omitted this.
- ❖ The proposal of developing new townships in agricultural areas furthers the encroachment of urban areas over peripheral rural areas and thus should be dropped.
- ❖ In provision of affordable housing, the most critical factor is availability of land for the poor. The Policy is silent in this regard. The need is to improve the accessibility of urban poor to land with provisions like land leases for the poor and implementation of progressive provisions of land ceiling.
- ❖ The Policy has inherent contradictions. On one hand it talks of the perspective of regional planning as per the mandate of the 74th Amendment Act whereby district and metropolitan plans are to be formulated by District Planning Committees (DPC) and Metropolitan Planning Committees (MPC) respectively, while on the other hand, the recently introduced JNNURM has taken away this right of local bodies. As per provisions of the JNNURM, instead of Master Plans, City Development Plans (CDPs) are being given priority and preference; and these CDPs are being formulated by private consultants like McKinsey & Company.

Questions for the Government of India:

1. What is the level of public investment in housing for the urban and rural poor? What is the total amount allocated to housing under the national budget 2008 and under the major schemes mentioned by the Government of India in its report to the Committee? How many units of housing stock are expected to be added in the current year, and in what categories?
2. Why are housing policies and laws not explicitly based on human rights provisions in the Constitution and India's international commitments? Why is there no reference to the human right to adequate housing in the existing and proposed laws and policies?
3. What steps is the government taking to ensure that international human rights standards, such as General Comment 7 of the Committee on Economic, Social and Cultural Rights (CESCR) and the *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*, are applied during redevelopment and upgrading of slums and informal settlements, and to ensure that communities are not divided, livelihoods are not lost, and people are not denied alternate housing?
4. What is the total amount allocated for housing-related schemes by the Ministry of Urban Development and by state governments receiving assistance under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM)? How many families are expected to benefit?
5. What was the actual expenditure during the Tenth Plan on rural housing schemes for families below the poverty line? Has there been any analysis of the reasons for the gap between allocation and expenditure on rural housing? How have the recommendations of the mid-term review of the Tenth Plan been addressed in the Eleventh Plan period?
6. When is the draft *National Urban Housing and Habitat Policy 2007* expected to be finalised and passed? What process has been followed, if any, to seek the input of civil society groups to this draft?

Recommendations to the Government of India:

1. Provide legal security of tenure to all slum dwellers.
2. Allocate a fixed percentage of the budget to public/low cost housing in order to meet the severe housing deficit, especially in large cities. This should be mandated in all city and village development plans, and should include reservation of land and earmarked funds for housing for all low-income groups.
3. Play an active role in providing, monitoring and ensuring equal access to basic services such as water, sanitation and electricity.
4. Ensure people's participation in the development of all city, town and village plans, including housing/settlement plans, as well as national housing policies and policies related to basic services such as water and sanitation.

5. The draft *National Urban Housing and Habitat Policy 2007* should be developed in close consultation with civil society and incorporate a human rights approach to housing instead of a mere “housing delivery” approach as currently stressed. The Policy must also include mechanisms for arresting real estate speculation, controlling foreign investment in the housing sector, mandating low cost housing, and monitoring the implementation of the right to adequate housing through the development of concrete indicators. It must also include a strong gender perspective with a focus on women's rights and special concerns.

Housing Shortage

At the end of the Tenth Five Year Plan, the urban housing shortage was 24.7 million dwelling units while for the Eleventh Plan period (2007-2012) it is estimated to be 26.53 million.¹⁷ This is compounded by the fact that most of the housing shortage pertains to the Economically Weaker Sections (EWS) and Low Income Groups (LIG). The total rural housing shortage for 2007-2012 has been projected as 47.43 million, of which 90% accounts for below poverty line (BPL) families.¹⁸

Questions for the Government of India:

1. Are there any plans to improve and expand the existing Indira Awas Yojana (for below poverty line rural families) to other low-income groups and to develop a similar programme for urban areas?
2. With the abolition of housing schemes for the urban poor (such as VAMBAY) and the integration of all such schemes under the JNNURM, what steps is the government taking to ensure that benefits of urban renewal actually accrue to the urban poor, specifically in terms of improved and affordable housing and access to basic services? What percentage of JNNURM funds have been allocated for Basic Services for the Urban Poor (BSUP)?
3. What specific schemes has the government initiated for the urban landless and homeless population, which tends to be left out of all existing programmes?

Recommendations to the Government of India:

1. Adopt a strong human rights approach to housing that focuses on adequacy of housing and not just on the provision of houses.

17. Report of the Eleventh Five Year Plan Working Group on Urban Housing, Ministry of Housing and Urban Poverty Alleviation, Government of India, 2007.

18. Report of the Eleventh Five Year Plan Working Group on Rural Housing, Ministry of Rural Development, Government of India, 2007.

Related Concluding Observations of the Committee, May 2008:

30. The Committee is concerned about the lack of a national housing policy which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by providing them with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party. The Committee is also concerned that while housing is under the responsibility of the state government, the oversight exercised by the federal government is insufficient to ensure effective implementation of the existing strategies and policies to ensure the right to housing for all.
31. The Committee requests the State party in its next periodic report to submit updated annually collected comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, regarding all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups. The Committee also requests the State party in its next periodic report to include annual comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, the percentage of the gross domestic product allotted for education, health and housing programmes in the country (*emphasis added*).
70. The Committee urges the State party to address the acute shortage of affordable housing by adopting a national strategy and a plan of action on adequate housing and by building or providing low-cost rental housing units, especially for the disadvantaged and low income groups, including those living in slums. In this connection, the Committee reminds the State party of its obligations under article 11 of the Covenant and refers to its General Comment No. 4 on the right to adequate housing (1991) to guide the Government's housing policies. The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, *inter alia*, sex, caste, ethnicity and religion.

Forced Evictions and Displacement

The eviction of individuals and communities from their homes and habitat, often accompanied by violence, is a phenomenon that has reached an unprecedented scale and continues to accelerate across India. In many instances these evictions are initiated by state agencies (often in collusion with landowners, land mafia, the corporate sector, and other direct beneficiaries). Forced evictions result in the destruction of lives and livelihoods of the evicted people and directly contribute to growing homelessness and social and economic insecurity.

These evictions are sparked by urban renewal projects, sporting events, industrial development, infrastructure expansion (roads, highways, ports), large “development” projects, including dams and mining, environmental conservation projects, awarding of leases to corporations for exploitation of natural resources, and most recently, designation of large areas as tax-free Special Economic Zones (SEZs). This has resulted in the displacement of millions of families, most of who have not received financial compensation, alternate land and housing sites and livelihood opportunities.

Project-induced Displacement

In the name of “development” the state as well as private corporate actors have been acquiring land for large projects and causing both the direct and indirect displacement of communities across India. Over 84 million indigenous/tribal peoples of India, known as the Scheduled Tribes or Adivasis, continue to be disproportionate victims of such “development” displacement and dispossession.¹⁹ Most of the Adivasis live in the thickly forested and mineral-rich regions of central India. Large deposits of natural resources like bauxite, iron ore and coal in these areas have been increasingly targeted for industrial development by the state, which seeks to promote the interests of the fast-growing Indian corporate sector while sacrificing tribal cultures and livelihoods.²⁰

The issue of displacement and its disproportionate impacts on tribal and other marginalised communities has also been raised in the Compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR) for the Universal Periodic Review of India,²¹ which states (in paragraph 40) that:

"According to the Special Rapporteur on the right to food around 40-50 per cent of the displaced are tribal people even though they make up only eight per cent of the population reflecting serious discrimination against tribal peoples.²² CERD was concerned that large-scale projects such as the construction of dams on territories primarily inhabited by tribal communities, or the Andaman Trunk Road, are carried out without seeking their prior informed consent.²³ Three special procedures raised concern regarding the situation of Adivasi communities, including in the state of Chhattisgarh, due to the construction of a steel plant."

Nomadic communities, which constitute approximately 7% of India's population, continue to face marginalisation and denial of their customary rights to land. Presently, no formal government scheme exists to address the housing needs of nomadic communities.²⁴

19. Joint submission by People's Forum for UPR, presented by Asia Centre for Human Rights, November 2007, p. 7, cited in the "Summary Prepared by the Office of the High Commissioner for Human Rights," Human Rights Council, Working Group on the Universal Periodic Review, A/HRC/WG.6/1/IND/2, 25 February 2008. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/A_HRC_WG6_1_IND_3_India_summary.pdf

20. See "Summary Prepared by the Office of the High Commissioner for Human Rights," Human Rights Council, Working Group on the Universal Periodic Review, A/HRC/WG.6/1/IND/2, 25 February 2008. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/A_HRC_WG6_1_IND_3_India_summary.pdf

21. "Compilation Prepared by the Office of the High Commissioner for Human Rights," Human Rights Council, Working Group on the Universal Periodic Review, A/HRC/WG.6/1/IND/2, 25 February 2008. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/A_HRC_WG6_1_IND_2_India_compilation.pdf

22. Report of the Special Rapporteur on the right to food, on the mission to India, 2005, E/CN.4/2006/44/Add.2, paragraph 11. Available online at: <http://www.righttofood.org/India%20PDF.pdf>

23. Committee on the Elimination of Racial Discrimination (CERD), Concluding Observations: India, 2007, paragraph 19.

24. *Confronting Discrimination: Nomadic Communities in Rajasthan and their Rights to Land and Adequate Housing*, Working Paper, Housing and Land Rights Network, New Delhi, 2004. Available online at: <http://www.hic-sarp.org/documents/NomadicReport.pdf>

Special Economic Zones (SEZs) are being set up in parts of the country on rich agricultural land and in areas around metropolitan cities and major ports. A skewed pattern of regional development can be expected to result, which will be reinforced by the setting up of mineral industry-based SEZs on lands occupied by indigenous communities, as in Orissa and Chhattisgarh.²⁵ Official figures show that more than 2500 square kilometres of land have been acquired, implying that more than 35,000 families have already been rendered homeless because of SEZs, many of which violate environment protection laws and have questionable developmental benefits.²⁶ Other estimates place the total area of SEZ land in India to be over 200,000 hectares, most of which is agricultural land capable of producing almost one million tonnes of food grains. As more and more agricultural lands are established as SEZs, food security in India is increasingly at risk.²⁷

The *Special Economic Zone Act 2005* does not provide for any mechanism for acquisition of land for setting up of SEZs. As a result, in most cases, states have resorted to using the colonial era *Land Acquisition Act 1894* (amended in 1984). Apart from the fact that the *Land Acquisition Act*, based on the principle of eminent domain does not provide any scope for landholders to refuse to give up their lands for the so-called 'public purpose', it also does not recognise any other rights on land except for that of the titleholder. As a result, acquisition leaves out all those like tenant farmers, sharecroppers and agricultural labourers, from any form of compensation. Further, where land rights have not been regularised and are still customary in nature, the *Land Acquisition Act* only works to disenfranchise people who have been living on the land for several generations and are dependent on it for their livelihoods.²⁸

One of the most determined oppositions to SEZs has come from the farmers and residents of Raigad in coastal Maharashtra who have opposed the Maha Mumbai SEZ (MMSEZ) from the days of its inception. The Multi Modal International Hub Airport at Nagpur (MIHAN) a Rs. 2,581 crore and 4,354 hectare project being promoted by the Maharashtra Airport Development Company (MADC) continues to be met with resistance by local villagers as it would involve the absorption of 22 villages for the creation of an airport, and a Special Economic Zone.

The Government of Maharashtra is also planning to acquire 5000 acres of land in Malad, Gorai and Uttan for an entertainment/tourism SEZ. The land will be handed over to Esselworld, a company that already runs an amusement park in Gorai, to expand their venture. Women from the fisher communities and East Indian Christians who have lived there for generations have been protesting for some time against this proposal.²⁹

In Kakinada, Andhra Pradesh, the government acquired land for an SEZ through coercive means. People's refusal to give up their land was met with false charges and jail arrests. Only after the intervention of the State Human Rights Commission, were they granted bail.

Over the last few years, state collusion with corporate and other forces has resulted in violence against local communities and forceful land acquisition without adequate compensation and rehabilitation, as in the case of Nandigram in West Bengal. Documents submitted for India's

25. Analysis of SEZ policy and human rights impacts of SEZs in *Seminar*, February 2008 (special issue on SEZs available at www.seminar.org).

26. Ibid.

27. *Janadesh*, Ekta Parishad, March 2008.

28. *Displacement Juggernaut*, Delhi Forum, New Delhi, June 2008.

29. Women's Centre, Mumbai.

Universal Periodic Review, including the Summary Prepared by the Office of the High Commissioner for Human Rights,³⁰ also raise issues of the lack of transparency, and intimidation of small and marginal landowners in the process of land acquisition, with security forces and police being used to suppress people's protests.

Failed Rehabilitation: Indira Sagar Project, Narmada River³¹

The Indira Sagar dam is one of the 30 large dams in the Narmada valley and part of the Narmada Valley Development Project. As per the Detailed Project Report (DPR) of 1982, the dam will affect 255 villages. Of the affected population, around 16 % are adivasis and almost 80% of the total population practices agriculture.

The condition of those evicted from their homes and lands by the Indira Sagar Project is miserable, as many have been reduced to landlessness. A 2006 report on the socio-economic conditions of those displaced (oustees) by the Indira Sagar Project highlights the inadequacies and the failures of the Narmada Hydro Development Corporation in its duty to rehabilitate those who were made to give up their lands for the dam. The report is based on a field survey of a sample of 429 rural families displaced from Indira Sagar Pariyojana (ISP) and resettled two-four years ago in five government and six private rehabilitation sites. It was clear from their interviews that a majority of ISP oustees preferred to resettle on their own because the state failed to provide adequate resettlement sites.³²

The people of Sikkim have been protesting, including through an indefinite hunger strike, against the over two dozen proposed mega hydroelectric projects on the Teesta River, particularly in Dzongu, the holy land and exclusive reserve of the Lepcha indigenous community. The proposed hydropower projects would have a drastic effect on the social, cultural and religious well-being of the Lepchas, as well as on the fragile environment of Dzongu.³³

With an 8000 kilometre long coastline, India is host to a large number of communities that live and work along the coast. The draft Coastal Management Zone Notification 2008 has been prepared without people's inputs and is being perceived by coastal communities as a threat to their rights to land, housing and work, especially since it would deny them their traditional homestead rights and evict them with the demarcation of a "set back line."

Struggle against POSCO, Orissa

Pohang Steel Company (POSCO) the world's fifth largest steel company based in South Korea signed a Memorandum of Understanding (MoU) with the Government of Orissa for setting up a steel plant at Paradeep with a total investment of US \$12 billion (Rs. 52,000 crores). It is supposedly the largest foreign direct investment in India. According to the MoU, the project involves building a 12 million tonnes per annum (MTPA) integrated steel plant and a captive port in the Ersama Block of Jagatsinghpur district, Orissa. The Government of Orissa will grant POSCO mining lease rights for 30 years that will ensure an adequate supply of 600 million tonnes of iron ore to POSCO. The costs of this operation for POSCO have been estimated at less than 1% of the prevailing global market price for iron ore.

30. Available online at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/A_HRC_WG6_1_IND_3_India_summary.pdf

31. *Displacement Juggernaut*, Delhi Forum, New Delhi, June 2008.

32. <http://www.narmada.org/nba-press-releases/june-2007/june16.html>

33. For more information, see: www.savetheteesta.com/

4000 acres of land have been earmarked in Ersama block of Jagatsinghpur district for the purpose of setting up the steel project and associated facilities, including the port and a storage yard for coking coal by the company and the government. The land that would be required for the railway, road expansion and mines is not included in this.

The project, being touted as the largest ever foreign direct investment in the history of India, with an investment of 51,000 crore rupees, will have large-scale, irreversible socio-economic and environmental impacts. The proposed plant and port will adversely affect 11 villages and hamlets in three *Gram Panchayats* (village councils) in Jagatsinghpur district, namely Dhinkia, Nuagaon and Gadakujang. As per the local leadership of the movement against POSCO, more than 4000 families and a population of around 22,000 will be affected by the project. These include all those persons directly dependent on betel vine cultivation, pisciculture, cashew nut cultivation and fishing in Jatadhari Muhana the proposed site of the port. As a result, there has been growing opposition to the project in the affected area as well as around the state. POSCO's assertion that its project will lead to the creation of 45,000 jobs, directly or indirectly, is meaningless in the face of the fact that the proposed steel plant, port, and mines will directly dispossess millions, apart from having very deleterious effects on the lives of many more. Further, an examination of the MoU signed between the Orissa government with POSCO establishes the fact that the government has agreed to transfer resources worth millions for almost no returns to the state exchequer.

Since June 2005 to date, Jagatsinghpur district in Orissa has witnessed frequent protests against the plant. The situation in Jagatsinghpur continues to be tense, as the state government and administration, hand-in-glove with POSCO, has embarked on a series of deliberate provocations to create a situation of violence; so as to justify the use of police and paramilitary forces against the resistors. The residents of the three affected panchayats have been forced to set up protective barricades and live behind them since February 2006. The area has witnessed repeated episodes of intense violence by the police and POSCO-hired goons, including the arbitrary arrest and detention of one of the leaders of the anti-POSCO movement.

Despite the extensive negative impacts of the project, the Supreme Court of India on 8 August 2008 granted POSCO blanket permissions for mining and establishment of its project.

Ongoing Violations in Vedanta's Lanjigarh Refinery and Bauxite Mining Plant, Orissa

M/S Vedanta Alumina Limited (Vedanta) is establishing a one-million-tonne per annum capacity alumina refinery project, together with a 75-megawatt 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, in east India. Vedanta is also establishing an associated bauxite mining project in Niyamgiri Hills, Lanjigarh.

Amnesty International, after conducting a mission to the area in November 2006, found that the area under the mining project is home to the 8,000-strong Dongria Kond community (living in about 90 scattered settlements with a distinct cultural heritage) and also the 2,000-strong Majhi Kond community (living in about 10 settlements mainly in the foothills). The project is likely to lead to a situation of forced eviction of local communities and will threaten their human rights to water, freedom of movement, health, housing, land and livelihood. The plan to expand the illegal refinery

from one MTPA to six MTPA would require an additional 13.43 square kilometres land (to the existing 6.06 square kilometres). Another 22 square kilometres would have to be acquired for waste disposal. This would result in the displacement of an additional 300 to 400 families.

Despite a strong indictment by the Central Empowered Committee (CEC) of the Supreme Court of India,³⁴ the company has continued to proceed with its construction of the alumina refinery. In an interim order dated 23 November 2007, the Supreme Court of India denied permission to Vedanta to mine the hills of Niyamgiri in Orissa. The apex court, however, on 8 August 2008 granted mining clearance to the Company. This reflects not just a contradiction against the strong recommendations of its own advisory body, the CEC, but also a blatant violation of the rights of the Dongria Kondh tribals, who are faced with the threat of losing their sacred and ancestral lands.

The Centre for Science and Environment (CSE) in its study "Rich Lands, Poor People" (2008) points out how mining has created wealth at the cost of human misery, impoverishment and environmental pollution. CSE's sixth *State of India's Environment* report focuses on the impact of mining on people and environment. The report says that between 1950 and 1991, mining of four minerals: coal, iron, bauxite and limestone in various states had displaced over 2.6 million people of which 52 per cent were tribals; not even 25 per cent of the displaced have been rehabilitated. In other words, for every one per cent that mining contributed to the national GDP, it displaced three to four times more people than all the development projects put together. (*Pioneer*, 21st October 2008)

Urban Evictions

The last few years have witnessed major shifts in land use with rampant speculation in urban and peri-urban areas for real estate development, especially for building housing for the rich, shopping malls, cinemas, hotels and other enterprises. In the absence of state intervention and control, real estate speculation continues to accelerate, making housing more and more unaffordable for the majority.

Between the years 2000 and 2006, over 100,000 families were forcibly evicted from their homes in Delhi, the majority without any resettlement provisions.³⁵ Just between January and May 2004, Delhi government authorities displaced 27,000 families from Yamuna Pushta. The city of Mumbai witnessed a similar massive eviction drive between November 2004 and March 2005, in which the state government destroyed an estimated 92,000 homes in 44 areas. Of these, only 5645 families, as per the Government of Maharashtra affidavit, have been declared eligible for rehabilitation, of which only around 450 families have actually been rehabilitated. Preparations for the upcoming 2010 Commonwealth Games in Delhi have already led to the eviction of thousands of families. A government report prepared by academics at Delhi University has recommended that Delhi's "beggars" be rounded up by a special police squad and placed in detention centres to make the streets "cleaner."³⁶ Many street vendors, rickshaw pullers and small shopkeepers have also faced eviction from work by way of ceiling orders, new planning norms and zoning laws.³⁷

34. 21 September, 2005.

35. Estimate from Hazards Centre, New Delhi.

36. *2010 Commonwealth Games in Delhi*, Hazards Centre, New Delhi, September 2007.

37. Ibid.

Evictions have also increased as a consequence of the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), the Central government programme that makes aid to state governments for urban development conditional on implementation of measures for opening up and privatising land and housing markets. Though the JNNURM purports as one of its objectives, the improvement of housing for the economically weaker sections, it is premised on anti-poor requisites such as the abolition of the Urban Land (Ceiling and Regulation) Act, 1976. The Government of India 2006 report (paragrah 421) to the Committee claims that the abolition of this Act would lead to the freeing of nearly 0.2 million hectares of urban land for housing, but the land released would likely be used for real estate development as the process effectively contains no equity safeguards. In order to access JNNURM funds, the Government of Bihar abolished the Urban Land Ceiling Act in April 2006. This Act had enabled slum dwellers to occupy vacant government land. They were enrolled as voters and given ration cards that amounted to legal recognition of their housing rights. With the annulment of this Act, all their rights have also been negated. Evictions are also being carried out under the guise of urban renewal in several Indian cities. In Mumbai, more than 200 houses were demolished at Sainath Nagar, Irla Nala, Juhu on 24 December 2007 under the Brihanmumbai storm water drains project (BRIMSTOWAD) project, which is being implemented under funding from JNNURM. The total number of families affected by evictions in the 64 cities where JNNURM is currently being implemented is estimated by activists to be well over one million.³⁸

In Surat, over 30,000 families will be displaced and relocated to sites located 10-15 kilometres from the city under the Basic Services for the Urban Poor (BSUP) component of the JNNURM. This housing construction and relocation is being planned without any consultation with the affected communities who are hesitant to relocate as the new sites are far from their places of work, and moving would imply losing their livelihoods.

The formation of the Greater Hyderabad Municipal Corporation has resulted in an increase of the urban area from 175 square kilometres to 625 square kilometres. The launching of the 6856 square kilometre Hyderabad Metropolitan Development Authority (HMDA) - the second largest metropolitan area in the country - has resulted in the absorption of 54 adjoining *mandals* (revenue provinces) and 849 villages into the urban agglomeration. The aim is to make the region an investment hub but has resulted in displacement and loss of livelihoods. The elevated metro train which is planned to run through 72 square kilometres of the city will also cause more displacement and forced eviction.

Though the Government of India in its 2006 report to the Committee (in paragrah 468)³⁹ recognises the critical link between housing and livelihood and stresses the need for evictions to be carried out under due process, these principles are not followed in practice. People living in slums and other informal settlements have been facing demolition drives without any due process and are being relocated to city outskirts.⁴⁰ In the majority of cases, evictions generally result in loss of livelihood,

38. Testimonies and evidence on JNNURM presented at the Independent People's Tribunal on the World Bank, September 2007, New Delhi. Documents and reports available at www.worldbanktribunal.org

39. Paragraph 468: Expounding the right to shelter in the context of urbanization the Supreme Court in a landmark case has held that eviction of even a slum dweller should be according to the fair, just and reasonable process under law as it not only results in deprivation of shelter but also would also inevitably lead to deprivation of their means of livelihood (*Olga Tellis v. Bombay Municipal Corporation* AIR 1986 SC 180).

40. See, *Restructuring New Delhi's Urban Habitat: Building an Apartheid City? Report on the Resettlement Process of Delhi*, Housing and Land Rights Network, New Delhi, 2004. Also see, *A Fact-finding Report on the Eviction and Resettlement Process in Delhi*, Hazards Centre, New Delhi, October 2007.

especially since most relocation sites are situated on the outskirts of cities and do not provide adequate housing or basic services such as water, transport, electricity, and healthcare. Evictions in the absence of adequate rehabilitation most severely impact the rights of children and women. Evictions also directly increase homelessness, as the absence of rehabilitation and feasible alternate options for housing, forces many to live on the streets.

Resettlement Fiasco: Bawana, Delhi

A recent study of economic and social conditions of the 3000 families forcibly evicted from Yamuna Pushta to Bawana in 2004 - 50 kilometres away from the city - found that one in five men and one in three women in the age group of 18-60 are not working, despite the fact that they need to and want to work. Unemployment rates for women in Bawana are double the figures for Delhi. The study also exposes a high rate of under-employment or "hidden unemployment" workers who are "working harder and getting less," who are working much below their capacity and potential and who are not earning even the minimum wage. The majority of workers are engaged in the informal sector, and there is a clear stratification of occupations by religion and gender with Muslims and women being at the bottom of the scale. Women workers and women-headed households in Bawana are significantly worse off than men, with fewer opportunities and lower earnings in wage work, and poorer assets and narrower profit margins if self-employed. Women also work longer hours than men in similar occupations, since they continue to be responsible for care work in their own homes. The location of the resettlement colony on the outermost periphery of the city emerges as a major cause of the new poverty that has been created by the evictions. Significant numbers of workers continue to work in their previous occupations and travel to their old work sites, not from choice but because of the lack of work opportunities in the vicinity of the resettlement colony. Although they earn the same wage, their expenses have gone up by at least 50 percent since the move to Bawana.⁴¹

The continued practice of forced evictions and displacement, while violating international and constitutional law, also stands in contravention of the United Progressive Alliance (UPA) Government's Common Minimum Programme (CMP), which provides that *"Forced eviction and demolition of slums will be stopped and while undertaking urban renewal, care will be taken to see that the urban and semi-urban poor are provided housing near their place of occupation."*

Questions for the Government of India:

1. What measures has the government taken to check against the practice of forced evictions in the country? Despite provisions in municipal laws and the Common Minimum Programme of the UPA government, why are evictions without due process and adequate resettlement, on the rise?
2. What safeguards are in place to ensure protection of people's rights in compliance with India's obligations under Art. 11.1 of ICESCR, General Comments 4 and 7 of the Committee on Economic, Social and Cultural Rights, as well as other international human rights standards?⁴²
3. How many families have been evicted from government-owned land in the four metros⁴³ in the last five years? How many of these families have been provided with alternative housing? Can the government provide city-wise figures with sources of data?

41. Menon-Sen, K. and Gautam Bhan, "Swept Off The Map: Surviving Eviction and Resettlement," Yoda Press and JAGORI, New Delhi, 2008.

42. These include the *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*. Available online at: http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf

43. These are the cities of Mumbai, Delhi, Kolkata and Chennai.

4. Does the government have any data on the number of people evicted and the number of homes demolished in Delhi for the preparation of the Commonwealth Games, including the construction of the Commonwealth Games Village?
5. Why has the Maharashtra government not rehabilitated the 92,000 families forcefully evicted in Mumbai between 2004 and 2005? What plans does the government have for rehabilitation, including for the allocation of land and adequate housing? What is the budgetary allocation for rehabilitation?
6. Why has the Maharashtra government denied water connections to households established after 1995 in slum settlements?
7. What are the standards for adequate housing, basic services and social security in resettlement colonies? Is the government complying with international human rights standards? What are the indicators for monitoring these standards?
8. What provisions are being included in the *Rehabilitation and Resettlement Bill 2007* and the draft *National Urban Housing and Habitat Policy 2007* to check against forced evictions and displacement?
9. What measures is the government taking to ensure that provisions under the 72nd and 73rd amendments of the Indian Constitution are protected?
10. Does the government have detailed information on the amount of land acquired by it for “public interest” purposes over the last sixty years? In what percentage of the cases have the displaced people been adequately rehabilitated? What indicators has the government developed to monitor rehabilitation of those displaced by the state (including public sector companies)?
11. As also raised in the compilation prepared by OHCHR for India's Universal Periodic Review, what measures has the government taken to implement the Concluding Observation of Committee on the Elimination of Racial Discrimination (CERD) where it urged the State to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in accordance with *ILO Convention 107 on Indigenous and Tribal Populations*? In addition, as also recommended by CERD, what are the adequate safeguards against the acquisition of tribal lands as included in the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (2006)* and other relevant legislation?⁴⁴
12. What is the status of the draft Coastal Management Zone Notification 2008? Why are there differential provisions for commercial enterprises and coastal communities in accessing the coastline? What measures is the government taking to ensure that communities' customary rights to the coast are protected?
13. Is the government challenging the anti-poor judgements of the courts that contradict India's constitutional provisions and international human rights obligations?

44. Committee on the Elimination of Racial Discrimination, Concluding Observations: India, 2007, paras. 19-20. Also see: paragraph 40, Compilation by Human Rights Council, Working Group on the Universal Periodic Review, First session, Geneva, 7-18 April 2008, A/HRC/WG.6/1/IND/2, 25 February 2008. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session/IN/A_HRC_WG6_1_IND_2_India_compilation.pdf.

Recommendations to the Government of India:

1. The government must adhere to international human rights principles and undertake evictions “only in exceptional circumstances and in full accordance with relevant provisions of international human rights and humanitarian law.”⁴⁵
2. All responsible agencies must undertake “eviction impact assessments” including social, environmental and economic impact assessments *before* any eviction is carried out.
3. The government should implement Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Elimination of Discrimination against Women (CEDAW) related to displacement, and rights of women, dalits and tribals.
4. The proposed *Resettlement and Rehabilitation Bill 2007* must be based on and be consistent with both international human rights principles and constitutional obligations. The non-negotiable principles of gender equality, non-discrimination, indivisibility of human rights and prior informed consent must be adopted. The Bill must be expanded to include urban and coastal displacement. The process for finalising the Bill must be participatory and consultative, especially with civil society and social movements.
5. The government should issue a White Paper on the number of people displaced and rehabilitated in India since independence.
6. Rehabilitation must ensure that peoples' habitats and livelihoods are restored, in accordance with their needs and aspirations, and must guarantee an improved lifestyle and overall well being over what they enjoyed prior to the displacement.
7. The *Land Acquisition (Amendment) Bill 2007* should be substantially revised or dismissed. Instead, the Land Acquisition Act, 1894, should be replaced with a new comprehensive human rights based legislation, which must, among other things, clearly specify the definition of “public purpose,” incorporate democratic processes and institutions, and aim to minimize displacement.
8. Housing plans should ensure that denotified and nomadic communities who wish to settle are allotted adequate land to enable them to lead a settled life in peace and dignity. Common property resources as well as grazing lands should be made accessible to those who do not wish to give up their traditional nomadic lifestyle.
9. The *Habitual Offenders Act 1852* should be repealed, as also recommended by the National Human Rights Commission in February 2002.

45. General Comment 7 of CESCR, and the *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*.

Related Concluding Observations of the Committee, May 2008

31. The Committee, while noting that the draft Resettlement and Rehabilitation Bill is currently before Parliament, remains deeply concerned about the reports of displacement and forced evictions in the context of land acquisition by private and state actors for the purposes of development projects, including constructions of dams and mining, and that the members of disadvantaged and marginalised groups, in particular, the scheduled castes and scheduled tribes, are adversely affected by such displacement from their homes, lands and their sources of livelihood. The Committee is also concerned that urban renewal projects, sporting events, infrastructure expansion, environmental projects and more recently, the designation of large areas as tax-free Special Economic Zones, have resulted in the displacement of millions of families, most of who have not received adequate compensation and rehabilitation. Furthermore, the Committee is concerned about the lack of effective consultations and legal redress for persons affected by displacement and by forced evictions, and the inadequate measures to provide sufficient compensation or alternative housing to those who have been removed from their homes and/or their ancestral lands.
44. The Committee notes with concern that some of the development measures and projects that have been carried out have not sufficiently taken into account the way of life and specific forms of livelihood of numerous communities in India, in particular the scheduled tribes in the northeast, thus affecting their right of everyone to take part in cultural life.
71. The Committee recommends that the State party take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and/or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its General Comment No. 7 on forced evictions (1997). The Committee also recommends that, prior to implementing development and urban renewal projects, sporting events and other similar activities, the State party should undertake open, participatory and meaningful consultations with affected residents and communities. In this connection, the Committee draws the attention of the State party to its General Comment No. 4 on the right to adequate housing (1991) and further requests the State party to provide information in its next periodic report on progress achieved in this regard, including disaggregated statistics relating to forced evictions.

Homelessness

Homelessness across India is on the rise, especially in large cities. Though the Government of India in its report (paragraph 398) claims that, "The country has been able to reduce the houselessness over the period of time due to the various housing programmes being implemented by both Central and State Governments," there is no data to substantiate this claim. The government has made no official attempt to document the number of homeless people in India. The Committee, in its List of Issues to the Government of India,⁴⁶ also raised this question, which was unanswered by the government. In the capital city of New Delhi alone, at any given point, civil society estimates place the number of homeless at around 100,000, of which 10,000 are women. Despite this alarming situation, the city government evicted homeless women from the Palika Hostel night shelter in 2004,⁴⁷ and in June 2007, closed the only existing women's shelter in the city. Currently, there is no shelter for homeless women in Delhi.⁴⁸

46. E/C.12/IND/Q/5, 26 May 2006.

47. The issue of homeless women was raised by the UN Special Rapporteur on adequate housing in his report on women and adequate housing, E/CN.4/2005/43, 25 February 2005 (<http://www2.ohchr.org/english/issues/housing/women.htm>). He also issued a statement on the Palika Hostel evictions on 29 October 2004.

48. The Housing and Land Rights Network, Aashray Adhikar Abhiyan and ActionAid issued a press release on homelessness in Delhi on 7 December 2007. Available online at: http://www.hic-sarp.org/news_show_user.php?id=111

No official government schemes exist for homeless people. Even the 2006 Government of India report (in paragraph 453), admits that the “night shelter scheme for footpath dwellers was transferred to the State sector w.e.f. 01.04.2005.” At the state level, however, there has been no follow up of this programme nor have any concrete measures been taken to address the causes of homelessness and to provide alternate housing for homeless people.

Questions for the Government of India:

1. What steps is the government taking to address the causes and prevalence of homelessness in India?
2. What percentage of the budget is allocated to creating and maintaining shelters for the homeless?
3. Why does the draft *National Urban Housing and Habitat Policy 2007* not include adequate measures to address homelessness and its causes?

Recommendations to the Government of India:

1. Create adequate shelters and housing provisions for all homeless people, especially homeless women.
2. Enable homeless people to access government schemes.
3. Abolish outdated legislation like the *Bombay Prevention of Begging Act 1959*, and other analogous laws, as they effectively criminalize the poor and homeless.
4. Undertake periodic surveys and collect and make available disaggregated data on homeless people in India, including number of homeless women and children as well as the number of government-run homeless shelters across the country.

Related Concluding Observations of the Committee, May 2008

30. ... The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party.
71. ... The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, *inter alia*, sex, caste, ethnicity and religion.

Street Children

Even though India has the largest population of street children in the world, the Government of India report to the Committee admits in paragraph 322 that, “there is no authentic data in India on street children.” The last attempt to document the number of street children in India was in 1997. Lack of adequate housing has long-term deleterious effects, including severe psychological impacts on children. Children suffer the most from forced evictions and displacement, which often result in loss of education, and in the absence of adequate rehabilitation, homelessness. Street children, in particular, face extreme conditions of violence, abuse, harsh weather conditions, injury, malnutrition, exploitation, and lack of security. Despite the existence of several programmes, the plight of street children continues to be dismal.

Questions for the Government of India:

1. What steps have been taken to track and monitor the number and situation of street children in India since 1997?
2. What measures are being taken by the government to ensure the adequate rehabilitation of street children?
3. How many shelters does the government run exclusively for street children? What are the measures to safeguard the rights of street children with special needs, such as children with disabilities, HIV/AIDS, and mental health problems?
4. What measures is the government taking to ensure that street children are included in government schemes for children such as Integrated Child Development Service (ICDS) centres?
5. What specific measures is the government taking to implement the Concluding Observations of the Committee on the Rights of the Child (2000), in particular paras. 53 and 54, which focus on housing, evictions and street children?⁴⁹

Recommendations to the Government of India:

1. The government must urgently address the broader structural issues that lead to forced migration of children from rural areas to cities in need of subsistence.
2. The state must create more and better equipped long-term homes to meet the special needs of street children, in particular children who are orphans and abandoned, which focus on their holistic and all round development, including education, housing, and health.
3. The government should meet its reporting commitments to the Committee on the Rights of the Child and report on steps taken to realise children's right to adequate housing in India, including implementation of Concluding Observations.

Denial of Dalits' Rights to Adequate Housing and Land

Dalits and other scheduled castes (SCs) continue to face ongoing discrimination and a direct onslaught of their human rights to adequate housing, land and livelihood. Of particular significance is the discrimination and systematic denial of Dalits' land rights, which forms the basis for realising other human rights, including the rights to food and adequate housing.

Possession of land is considered to be a status symbol within the caste hierarchy and that is why a majority of the atrocities against Dalits are linked to the distribution of land by the government in various states. Landlessness among SCs is a common feature in the Indian rural economy. The 1999-2000 National Sample Survey (NSS) data illustrates that around 10 percent of SC households in India are landless as compared to 13.34 percent in 1992 and 19.10 percent in 1982. Though it is

49. Committee on the Rights of the Child. Concluding Observations: India, 2000.53. In accordance with Article 27 of the Convention, the Committee recommends that the State party take appropriate measures to give effect to its commitments made at Habitat II in 1996 regarding children's access to housing. In the light of Commission on Human Rights resolution 1993/77 on forced evictions, the Committee encourages the State party to prevent any occurrence of forced relocation, displacement and other types of involuntary population movements. The Committee recommends that resettlement procedures and programmes include registration, facilitate comprehensive family rehabilitation and ensure access to basic services. 54. The Committee is concerned at the large and increasing number of children living and/or working on the streets, who are among the most marginalised groups of children in India.

apparent that landlessness is decreasing, the rate of decrease is marginal. On the other hand, 6.15 percent of the non-SC/ST households were found to be landless in 1999-2000, as compared to 10.53 in 1992.

The non-availability of disaggregated data prevents in-depth analysis and targeted planning, which may contribute to discrimination against Dalits in the realisation of their rights to land, housing, health, education and employment.⁵⁰

A clear reflection of poverty and marginalisation amongst Dalits is that their housing and living conditions are characterized by the use of inferior building materials, high density, lack of access to civic services, and spatial segregation. Dalit settlements are generally situated outside villages, with restricted access to water sources, and public and religious spaces.

Chengara Land Struggle

Landless Dalits and adivasis in the state of Kerala have been involved in a struggle for land in Chengara, Pathnamtitta district, since 4 August 2007. The movement is a fight to reclaim ownership of land that had been promised to the people by the state government but is still being controlled and used by the company Harrison Malayalam Private Ltd (HMPL). HMPL reportedly negated its lease arrangement in 1996. The responsibility of the state government, therefore, lies in restoring this land to the people, as promised. In the absence of any such action by the state, nearly 9000 families, more than 35,000 people have moved into the HMPL estate and are living in inadequate, makeshift and unsanitary conditions. The Chengara land struggle demands permanent ownership of agricultural land through transfer of ownership from the Harrison Company to the dalits and adivasis. The Sadhu Jana Vimochana Samyuktha Vedi (SJVSV), the collective that leads the struggle, has opted for land take over as a strategy for protecting their rights.

Dalits are often denied access to and are evicted from their land by dominant castes and therefore forced to live on the outskirts of villages, often on barren land.⁵¹ Dalit women, in particular, face discrimination in accessing their rights to adequate housing and land. Violence against Dalits also results from land or property disputes, with punitive action seldom taken against the perpetrators.

Questions for the Government of India:

1. What positive measures has the government taken to improve access of Dalits to housing and land? What indicators is the government using to assess this? In particular, what are the legal and policy measures in place to ensure redress of social inequities of land ownership amongst Dalits?
2. Of the total land area redistributed in the last ten years, what percentage of land has been allotted to landless Dalit families?
3. How many cases have been registered under the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*, in the last five years? Of these, how many have resulted in perpetrators being brought to trial?

Recommendations to the Government of India:

1. Special schemes should be implemented that prioritise reallocation of surplus, including ceiling, land to Dalits, especially landless Dalits.

2. Urgent measures need to be taken to prevent the ongoing atrocities and violence against Dalits, including Dalit women, in their struggle to gain equal access to land, housing and basic services.
3. The government should take measures to implement the Concluding Observations (March 2007) of the Committee on the Elimination of Racial Discrimination (CERD). In particular, paragraph 20, which states that:
 "The Committee recommends that the State party ensure that Dalits, including Dalit women, have access to adequate and affordable land and that acts of violence against Dalits due to land disputes are punished under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989)."

Related Concluding Observations of the Committee, May 2008

13. The Committee is deeply concerned that in spite of the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and often socially accepted discrimination, harassment and/or violence persist against members of certain disadvantaged and marginalized groups, including women, scheduled castes and scheduled tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities such as the Muslim population, persons with disabilities and persons living with HIV/AIDS. The Committee is also concerned about the obstacles faced by the victims in accessing justice, including the high costs of litigation, the long-delays in court proceedings and the non implementation of court decisions by government authorities.
14. The Committee notes with concern the lack of progress achieved by the State party in combating the persistent *de facto* caste-based discrimination that continues to prevail in spite of the legal prohibitions in place, most notably the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Committee is particularly concerned by the low rate of prosecution of crimes against persons belonging to scheduled castes and scheduled tribes, and that discriminatory attitudes and prejudices in the enforcement of the law, especially by the police, is a serious obstacle in the victims' access to justice.
52. The Committee recommends that the State party strengthen enforcement of existing legal prohibitions of discrimination and, in addition consider enacting comprehensive administrative, civil and/or criminal anti-discrimination legislation guaranteeing the right to equal treatment and protection against discrimination, specifically prohibiting discrimination in employment, social security, housing, healthcare and education on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as stipulated in article 2.2 of the Covenant. The Committee also urges the State party to step up efforts to remove obstacles faced by victims of discrimination when seeking redress through the courts. (*emphasis added*)
53. The Committee stresses the need for a determined enforcement of the criminal justice system, and recommends that the State party strengthen procedures for prompt and impartial investigations and effective prosecutions of all allegations of violations under the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Committee also recommends that the State party improve awareness-raising and training programmes regarding the treatment of caste-based and other crimes related to discriminatory attitudes and prejudices, for professionals engaged in the administration of justice including judges, public prosecutors, lawyers and law enforcement officials, in particular members of the police, and remove any other existing obstacles faced by victims in accessing justice. The Committee further encourages the State party to expand throughout the State, preventive programmes to curb violence against persons belonging to scheduled castes and scheduled tribes, especially women.
58. The Committee requests the State party to include in its next periodic report, in addition to the requests already mentioned in previous paragraphs, a specific section on:
 - a) the results of the measures taken to combat discrimination of all forms;

Landlessness

The issue of landlessness and failed land reform continues to negatively impact the housing and land rights of people and communities that live in rural India. Over 1.31 crore (131 million) people are landless as per figures from the Ministry of Rural Development. These families do not have even land for their own habitation. The Common Minimum Programme of the United Progressive Alliance government clearly states that, "Landless families will be endowed with land through implementation of land ceiling and land redistribution legislation. No reversal of ceiling legislation will be permitted." Despite this, the *Urban Land (Ceiling and Regulation) Act 1976* has been repealed in many states.

Land distribution in India is highly skewed. The National Sample Survey (NSS) of the 55th Round⁵² shows that among rural households, 5.67 percent are landless, 66.05 percent own less than one hectare of land, and 13.71 percent own land between one to two hectares. Land ownership is also directly related to poverty. There is a near inverse relationship between landholding and the poverty ratio. It is thus clear that amelioration of rural poverty is contingent on redistribution of land and provision of incentives in the form of ownership rights to farmers, including women farmers and tenants through land reforms.

While the Government of India report to the Committee mentions the phenomenon of landlessness and achievements in land redistribution, the effective implementation and benefits of land and agrarian reform in order to promote social equity are still to be witnessed in most parts of the country. This is even more critical given the crisis of farmer suicides in the country. What is needed is a much stronger political will and an effort to regularise land ownership, implement land ceiling laws, and redistribute surplus land to the poorest and most marginal communities.

Questions for the Government of India:

1. What concrete measures is the government taking to rectify the highly inequitable pattern of land distribution in India?
2. What is the legal authority of the newly constituted National Land Commission under the aegis of the Prime Minister, to make decisions and implement land reform measures across different states?
3. How much of acquired surplus ceiling land has actually been redistributed and how much of it is held up in pending legal cases? What measures is the government taking to ensure speedy resolution of land related litigation?
4. How many hectares of surplus ceiling lands have been vested and distributed to landless families in the last ten years? Of the recipient families, how many have received secure legal titles over the land?

50. Joint submission by the International Movement against All Forms of Discrimination and Racism and the Lutheran World Federation in association with the National Campaign on Dalit Human Rights and the International Dalit Solidarity Network, UPR Submission, November 2007, p. 4, "Summary Prepared by OHCHR," Human Rights Council, Working Group on the Universal Periodic Review, A/HRC/WG.6/1/IND/2, 25 February 2008. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/A_HRC_WG6_1_IND_3_India_summary.pdf

51. The UN Special Rapporteur on the Right to Food in his mission to India draws attention to the prevalent discrimination against Dalits, including denial of their right to land. His report (E/CN.4/2006/44/Add.2, 20 March 2006), is available online at: <http://www.righttofood.org/India%20PDF.pdf>

52. July 1999 - June 2000.

Recommendations to the Government of India:

1. The government needs to prioritise land reform on the political agenda. Even though land is a state subject under the Indian Constitution, the central government should play a greater role in its administration and regulation.
2. The National Land Commission set up by the Prime Minister should play a lead role in implementing equitable land reform measures and prioritising needs of landless agricultural workers, marginal farmers, and other land-dependent communities.
3. Special land courts should be set up to expedite litigation related to land.
4. Surplus ceiling land should be distributed to landless families. Secure titles, in the name of women, should be given over all redistributed land.

Discrimination and Denial of Women's Equal Rights to Adequate Housing, Land, Property and Inheritance

Despite the existence of laws that protect women's rights, women in India continue to suffer discrimination with regard to their rights to adequate housing, land, property and inheritance. The impacts of inadequate living conditions, forced evictions and homelessness are greater on women. Overcrowding and precarious housing threaten women's rights to security of the home and person, and privacy, and leave them vulnerable to violence and ill health. Violence within the home is one manifestation of women's particular vulnerability in relation to housing rights. In this context, *The Prevention of Women from Domestic Violence Act 2005* is significant and holds promise, if implemented appropriately.

In review of India's progress in fulfilling its obligations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Committee on the Elimination of Discrimination against Women stated that denial of inheritance rights in land results in gross exploitation of women's labour and their impoverishment.⁵³

Time-use data and agricultural census figures indicate that women perform well over 50 percent of all agricultural work in the country. Nearly 20 percent of rural households are now women-headed.⁵⁴ However, less than two percent of women hold titles to land and have access to independent agricultural credit. The impoverishing impact of landlessness is exacerbated by social exclusion and discrimination for Dalit women. An existing Government of India directive (issued in 1992) on joint registration of land distributed under government schemes in the name of both husband and wife is neither enforced nor monitored.

Recent amendments to legislation on Hindu women's property rights (*Hindu Succession Amendment Act, 2005*) have mandated equal inheritance rights for men and women in agricultural land and family property, including dwellings. However, these amendments do not apply to non-Hindu women. The extent to which Hindu women will be able to take advantage of these provisions in a milieu where dowry is still prevalent, remains to be seen.

53. Committee on the Elimination of Discrimination against Women, Concluding Observations: India (2000).

54. National Alliance of Women (NAWO), CEDAW Shadow Report, 2006.

Questions for the Government of India:

1. Does the government have any data on the number of states with legislation (or Government Orders/Regulations) recognising women's individual and collective rights, and on registering land/ housing/ property in the name of women or jointly?
2. What percentage of housing units distributed under government schemes in the last ten years has been registered in the joint names of husband and wife and in the names of single women? What measures have been instituted to enforce directives in this regard?
3. Have there been any attempts to monitor the implementation of the *Prevention of Domestic Violence Act 2005*, in particular the number of cases in which women have retained their right to continue living in their place of residence?
4. What percentage of redistributed surplus ceiling lands has been registered in the names of women or men and women jointly? What measures have been instituted to enforce directives in this regard?
5. What efforts has the government taken to implement the Concluding Observations of CEDAW to, *inter alia*, study the impact of mega projects on tribal and rural women and to institute safeguards against their displacement and violation of their rights as well as to ensure that surplus land given to displaced rural and tribal women is cultivable?⁵⁵

Recommendations to the Government of India:

1. The Government of India needs to adopt and promote a gender-equality approach based on principles of substantive equality and intersectionality in all national and local laws and policies, including the draft *Rehabilitation and Resettlement Bill 2007* and the draft *National Housing and Habitat Policy 2007*.
2. The Government should take immediate steps to implement Concluding Observation 83 (2000) of the Committee on the Elimination of Discrimination against Women wherein, "it calls upon the Government to review laws on inheritance urgently and to ensure that rural women obtain access to land and credit, "and Concluding Observation 47 (February 2007): "The Committee urges the State party to study the impact of mega projects on tribal and rural women and to institute safeguards against their displacement and violation of their human rights. It also urges the State party to ensure that surplus land given to displaced rural and tribal women is cultivable. Moreover, the Committee recommends that efforts be made to ensure that tribal and rural women have individual rights to inherit and own land and property."
3. The government should consider implementing the recommendations for state action contained in the numerous resolutions and reports of the UN on women's rights to land, housing, property and inheritance.
4. The central government should undertake periodic surveys and provide disaggregated data on indicators related to women, housing and land.
5. The collective and individual land rights of women to adequate housing, land, natural resources, property, and inheritance should be legally recognised and promoted.

55. Committee on the Elimination of Discrimination against Women, Concluding Comments: India (2007), paras. 46, 47.

Related Concluding Observations of the Committee, May 2008

16. The Committee is deeply concerned that, in spite of the commendable efforts by the State party in promoting equality of men and women, such as the adoption of the National Policy on the Empowerment of Women (2001) and the adoption of the amendments to the Hindu Succession Act and the Indian Divorce Act in 2005 and 2001 respectively, widespread gender inequalities, cultural stereotypes and personal laws of minority groups continue to prevail, affecting negatively the equal enjoyment of economic, social and cultural rights by women. The Committee notes with concern in particular that all the statistical data available before the Committee indicate the disadvantages disproportionately suffered by women in their enjoyment of economic, social and cultural rights, in particular, those belonging to disadvantaged and marginalised groups.
58. The Committee requests the State party to include in its next periodic report, in addition to the requests already mentioned in previous paragraphs, a specific section on:
 - c) the situation of women and the extent to which they enjoy the right to own land and property independent of their male relatives.

Inadequate Rehabilitation of Tsunami Survivors⁵⁶

The 2004 tsunami affected the coastal areas of Andhra Pradesh, Kerala, Tamil Nadu, Andaman and Nicobar Islands and Puducherry, affecting over 28 lakh (2.8 million) people and leading to loss of life and property.

Post-tsunami rehabilitation, however, despite the passage of three years, continues to be fraught with delays and inadequacies in restoring permanent housing and livelihoods to the survivors.

The Public Accounts Committee in its 2007-08 report on “Tsunami Relief and Rehabilitation” divulges that the affected State and Union Territory governments had diverted funds and committed other irregularities in the amount of Rs. 228.58 crores (Rs. 2.285 billion). It also mentions that the government has “failed to provide much needed relief” to the victims even after three years. The Performance Audit Report of the Comptroller and Auditor General of India (CAG) also draws attention to incorrect assessment of funds, incorrect adoption of compensation rate/norms, retention of unutilized funds, improper selection of sites for temporary shelters resulting in unfruitful expenditure and delay in construction of permanent houses necessitating continued maintenance of temporary shelters.⁵⁷

While most families have been allotted alternate housing in the state of Tamil Nadu, several families in Chennai and Thiruvallur districts, are still awaiting housing. Some of the permanent housing that has been provided, as in Thondiarpet, violates standards of adequacy in terms of size, location and design. Though the Indian Supreme Court, as mentioned in the Government of India 2006 report to the Committee too, defines an adequate house (in paragraph 406), most of the houses constructed for the tsunami affected do not meet these criteria. In Chennai, most of the houses are located far from the city and are not connected with proper roads and transportation facilities. The three-storey houses given to survivors in Thondiarpet do not cater to the specific needs of the fishing community,

56. Housing and Land Rights Network, New Delhi, carried out three fact-finding missions to the tsunami affected areas of Tamil Nadu and Andaman and Nicobar Islands. Reports of these fact-finding missions are available online at: <http://www.hic-sarp.org/publication.php>. The report of a *Peoples' Tribunal on Housing Rights*, which brought to light several issues of concern of tsunami survivors, is also available at the same site.

57. Performance Review Report, available online at: http://www.cag.gov.in/html/cag_reports/tn/rep_2006/civil_chap_3.pdf

and do not take into account the size of families or needs of women and persons with disabilities. All families, irrespective of number of family members, have been allotted flats that have an inner plinth area of the house of just 160-170 square feet. The houses have only one room with a partition for a kitchen and an attached bathroom that is just 30 square feet.

As is evident in the case of the tsunami, the impacts of natural disasters and failed rehabilitation are felt most strongly by women and children.⁵⁸

Relocation of families in the middle of the academic year has resulted in an increase in dropouts from school, especially of girl children. In Okkiyum Thoraipakkam in Tamil Nadu, 43 school going children have dropped out due to the increased distance from the relocation site to the school. Two women in the same relocation site were forced to give birth on the road, as they were unable to reach the hospital on time; the hospital is more than 20 kilometres from the site. Two people in the resettlement site died because of delay in transporting them to hospital. There are no public health centres and Integrated Child Development Service (ICDS) centres at the site. Though the Government of India report states that the Indira Awas Yojna is applicable to construction of houses for victims of a natural calamity, in the coastal areas of Chennai and Thiruvallur as well as in other urban mainland slums, all housing is under the aegis of the Tamil Nadu Slum Clearance Board (TNSCB) and the design, size and location of the housing is inadequate. TNSCB is also responsible for several demolition and relocation projects related to redevelopment across Chennai.

A common complaint across tsunami sites has been the lack of consultation with survivors. The discriminatory nature of rehabilitation for fishing and non-fishing communities has also been problematic. From Chennai District alone, there were 7342 people who were relocated to resettlement sites that were far from the coast and the city where their livelihood thrives. The people who were relocated were predominantly Dalits and other minorities who were considered to be non-fishing communities.

In the Andaman and Nicobar Islands, only 298 houses have been provided of the 9797 houses that the government has agreed to build. This list, however, has left out several hundred families who are still awaiting news on whether they will receive government housing or not. While the government plans to complete construction of housing by December 2008, the majority of people (9500 families) are still living in intermediate tin shelters in highly inadequate conditions.

In order for rehabilitation to be adequate, it must be grounded in human rights principles, and must especially incorporate a gender-equality approach.

Questions for the Government of India:

1. Why is it that even three years after the tsunami, thousands of families are still awaiting permanent housing in Tamil Nadu?

58. See reports on 'Women and adequate housing' by the UN Special Rapporteur on adequate housing, (E/CN.4/2005/43, 25 February 2005 and E/CN.4/2006/118, 27 February 2006) available at: <http://www2.ohchr.org/english/issues/housing/women.htm> . Also see Housing and Land Rights Network reports of fact-finding missions to tsunami-affected regions, at: www.hic-sarp.org.

2. What steps is the government taking to ensure that housing is provided for those whose names are left out of the housing lists in both Tamil Nadu and the Andaman and Nicobar Islands, including tenants?
3. Why are the majority of tsunami survivors still living in intermediate tin shelters in the Andaman and Nicobar Islands?
4. Does the government have a clear timeline as to when permanent housing will be completed for all tsunami survivors in all the affected areas?
5. How does the government justify the finding of the Public Accounts Committee (PAC) in its 2007-08 report that states and Union Territories have diverted Rs.228.58 crores (Rs. 2.285 billion) at the cost of beneficiaries?

Recommendations to the Government of India:

1. The right to relief and rehabilitation, as well as the right to disaster prevention must be recognised as human rights, and the Government of India must take measures to ensure the adoption and implementation of human rights standards in all aspects of disaster management and post-disaster response.
2. As also requested by the Committee in its List of Issues, the government should provide detailed information on the post-tsunami rehabilitation process, including in terms of housing, education, and livelihood restoration in the affected districts in Tamil Nadu.

Related Concluding Observations of the Committee, May 2008:

44. The Committee is concerned about the reported delays and inadequacies of the post-tsunami rehabilitation process in the affected districts of Tamil Nadu. The Committee notes with concern that, according to the Public Accounts Committee in its 2007-08 report, large amounts of tsunami funds have been diverted from rehabilitation. The Committee regrets that the State party has not provided adequate information on the post-tsunami situation.
72. The Committee urges the State party to conduct the post-tsunami rehabilitation process in the affected areas of Tamil Nadu with transparency and in full consideration of its obligation to respect and protect the economic, social and cultural rights of the survivors. The Committee requests the State party to provide detailed information in its next periodic report regarding the rehabilitation process and the extent to which the affected groups were consulted throughout the different stages of the process.

Plight of Internally Displaced in Gujarat

Seven years after the 2002 communal violence in the state of Gujarat, in which more than 2000 people were killed, survivors continue to face discrimination in housing⁵⁹ as well as serious challenges and obstacles in securing justice.

An estimated 250,000 individuals were displaced as a direct result of the 2002 violence against the Muslim community in Gujarat. The vast majority of them has reportedly left the state or has moved to other, mostly Muslim, localities within the state. An approximate 5,000 families are still living in what are being referred to as “relief colonies” in four districts of Gujarat - Panchmahals, Sabarkantha, Dahod, and Anand - and in the cities of Ahmedabad and Vadodara.⁶⁰ According to an independent survey conducted by *Citizens for Justice and Peace* for a public interest litigation⁶¹ in the Gujarat High Court, fear and terror continue to affect rehabilitation and return of these families from the camps to their original and ancestral habitats. Reasons are varied but the single reason cited in this survey conducted in over 24,000 homes is that the affected displaced persons are threatened by the perpetrators not to return.⁶²

Over the last six years, these camps have become permanent places of residence for those who are too frightened to return home. Most of the survivors living in these colonies lost land, housing, cattle, agricultural implements and other means of livelihood, and have not received adequate compensation or restoration and reparation of their human rights. According to a survey by *Citizens for Justice and Peace* conducted for a Member of Parliament Delegation and also presented to the National Commission for Minorities⁶³ on November 30, 2006, all relief colonies are run and maintained by community groups and NGOs, none supported by the state. These colonies do not have basic amenities, nor are they officially recognised by the Government of Gujarat. Victim survivor groups have consistently complained to the administration and the authorities about the inadequate living conditions in camps. In Citizens Nagar, Bombay Hotel area, and Faizal Park area, the lack of potable drinking water and sanitation is making life difficult for displaced persons. In early November 2007, a 13-year old boy Riyaz died of kidney failure attributed to high salinity in the water supply in Citizen's Nagar.⁶⁴

59. Housing and Land Rights Network conducted a fact-finding mission in 2002 that focused on the impacts of the Gujarat violence on housing. The findings are available in the report, *Rebuilding from the Ruins: Listening to the Voices from Gujarat and Restoring People's Rights to Housing, Livelihood and Life*, New Delhi, 2002.

60. *The Uprooted: Caught between Existence and Denial A Document on the State of the Internally Displaced in Gujarat*, Centre for Social Justice and ANHAD, February 2007.

61. *Citizens for Justice and Peace and Communalism Combat v/s State of Gujarat*, 3217 of 2003, ongoing in the Gujarat High Court.

62. Gujarat 2002 = 2007, “Genocide's Aftermath,” *Communalism Combat*, June 2007, Issue 13, No. 123, Part I.

63. Memorandums submitted to the All Party Members of Parliament delegation and the National Commission for Minorities on November 30, 2006 by survivors and Citizens for Justice and Peace.

64. Memorandum to the Collector, Dhananjay Dwevedi, by survivors and NGOs (Citizens for Justice and Peace) on November 19, 2007

In October 2006, for the first time in five years, India's National Commission of Minorities (NCM) visited these relief colonies. The NCM's findings contested the Government of Gujarat's claim that all those displaced by the violence had been adequately rehabilitated.⁶⁵ The report also asserted that the Gujarat government had failed to provide a safe environment for these people or facilitate their return to their homes. This includes the failure to adequately recompense those families whose houses were partially or completely destroyed during the 2002 violence.

The People's Union for Civil Liberties (PUCL) filed a Right to Food petition for survivors in the Supreme Court of India in March 2007. In the course of the hearing of this petition, Court Commissioner, NC Saxena filed a report,⁶⁶ scathing in its findings of the position and plight of Gujarat's internally displaced persons. The report states that 4,545 families comprising around 30,000 persons still live in very difficult conditions in 81 relief colonies.

The response of both the Government of Gujarat and the Government of India to the plight of the internally displaced, in particular the lack of attention or action, has been disconcerting.

Questions for the Government of India and the Government of Gujarat:

1. How does the Government of Gujarat justify the fact that six years after the 2002 communal violence, thousands of affected families are still living in relief camps in adequate living conditions without any state assistance?
2. Despite strong recommendations by the NCM and recently by the Saxena report, why has the Government not taken any concrete measures to ensure the safe return of displaced Muslims to their original homes and habitats?
3. What measures is the Government taking to improve the housing and living conditions of the internally displaced families in Gujarat? What standards/benchmarks is the Government using to monitor living conditions in resettlement colonies?

Recommendations to the Government of India:

1. The Government must act on the recommendations of the NCM, in particular, to provide a special economic package for the rehabilitation of those families living in camps; ensure that basic amenities are provided in the camps; formally recognize those displaced as a result of the violence as internally displaced persons; and to draft a policy to deal with the displacement of individuals as a result of communal as well as other types of conflict.
2. Both the Government of India and Gujarat must implement the recommendations of the Saxena report, which include, *inter alia* that:

65. See Annex III for a copy of the Saxena Report.

66. For a summary of the National Commission of Minorities findings on its visit to Gujarat in October 2006, see: www.ncm.nic.in/pressnote.pdf. Also see, *The Uprooted: Caught between Existence and Denial A Document on the State of the Internally Displaced in Gujarat*, Centre for Social Justice and ANHAD, February 2007.

- Contempt of court notices are issued to the chief secretary and other officials of the government.
 - Antyodaya cards are given to all families who continue to live in relief colonies.
 - Primary schools with midday meals and ICDS centres should be opened in all 81 relief colonies. Public Distribution System (PDS or ration shops) should be opened in all colonies where these are not available within a distance of three kilometres.
 - Issue job cards under the National Rural Employment Guarantee Act (NREGA) to all residents of relief colonies who are desirous of these.
3. Document the number of families living in relief colonies and their living conditions, and submit periodic action taken reports describing steps to facilitate their return to their original habitats.

Related Concluding Observations of the Committee, May 2008

13. The Committee notes with concern that the recommendations of the 2006 Rajinder Sachar Committee Report on Social, Economic and Educational Status of the Muslim Community of India have not been sufficiently followed-up, and regrets the lack of actions taken by the federal and state union governments in this regard.
54. The Committee recommends the State party to ensure full implementation of the recommendations contained in the Sachar Committee report without further delay, with a view to ensuring the realisation of the economic, social and cultural rights of Muslims in the State party, in particular, Muslim Other Backward Classes (OBCs) and Muslim women.

Annex I

Concluding Observations of the Committee on Economic, Social and Cultural Rights May 2008, INDIA

UNITED NATIONS		E
	Economic and Social Council	Distr. GENERAL E/C.12/IND/CO/5 ... May 2008 Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Fortieth session
28 April - 16 May 2008

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding Observations of the Committee on Economic, Social and Cultural Rights

INDIA

1. The Committee on Economic, Social and Cultural Rights considered the second to the fifth periodic report of India on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/IND/5) at its 14th, 15th and 16th meetings (E/C.12/2008/SR.14-16), held on 7 and 8 May 2008, and adopted, at its 25th meeting, held on 16 May 2008, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined second to fifth periodic report of the State party, despite the 15-year delay in its submission. The Committee notes that the report was generally prepared in conformity with the Committee's guidelines, but regrets that no information was provided on articles 1 to 5 of the Covenant. The Committee also regrets that some of its questions posed to the State party in its list of issues (E/C.12/Q/IND/5) have remained unanswered.

3. The Committee appreciates the opportunity afforded to hold a dialogue with representatives of the State party and the answers to the questions raised by the Committee. The Committee regrets however, that the information provided was in some cases not sufficiently detailed to advance the Committee's assessment of the level of enjoyment of the rights provided for in the Covenant in the State party.

B. Positive aspects

4. The Committee notes with satisfaction the legislative and other measures adopted by the State party to promote the enjoyment of economic, social and cultural rights, in particular:
 - The 2006 Prohibition of Child Marriage Act;
 - The 2005 National Rural Employment Guarantee Act recognising employment as a matter of right;
 - The 2005 Protection of Women from Domestic Violence Act;
 - The “Sarva Shiksha Abhiyan” (Education for All) programme adopted in 2005;
 - The “National Rural Health Mission”, launched in 2005, aimed to provide accessible, affordable and accountable quality health services;
 - The 4-year time-bound plan, “Bharat Nirman” aimed to upgrade the rural infrastructures, launched in 2005;
 - The 2005 Right to Information Act, aimed to ensure accountability of the government;
 - The 2004 amendments to the Indian Divorce Act and the Hindu Succession Act widening the scope for women to exercise their rights to divorce, ownership and inheritance;
 - The 2003 amendment to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994;
 - The 2002 Constitution (86th Amendment) Act, making education free and compulsory for all children aged 6 to 14; and
 - The 2000 Juvenile Justice (Care and Protection of Children) Act, as amended by the 2006 Juvenile Justice (Care and Protection of Children) Amendment Act.
5. The Committee welcomes the ratification, by the State party, of:
 - The Convention on the Rights of Persons with Disabilities, in 2007;
 - The Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, in 2005; and
 - The ILO Convention No.105 on Abolition of Forced Labour, in 2000.
6. The Committee notes with appreciation the important contribution made by the Supreme Court of the State party to the development of international jurisprudence in favour of the justiciability of economic, social and cultural rights, through its proactive interpretations of the Constitution.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee notes the absence of any factors and difficulties impeding the implementation of the Covenant by the State party.

D. Principal subjects of concern

8. The Committee notes with regret the position of the State party with regard to its legal obligations arising under the Covenant, specifically, that the realisation of the rights it contains are entirely progressive in nature.
9. The Committee is concerned that, despite the significant role played by the Supreme Court of India in interpreting the Constitution with a view to achieving justiciability of economic, social and cultural rights, the Covenant is not given its full effect in the legal system of the State party due to the absence of relevant domestic legislation. The Committee is also concerned by the non-implementation of court decisions by state authorities.
10. The Committee is concerned about the absence of effective mechanisms to coordinate and ensure, at both the federal and state levels, administrative and policy measures relating to economic, social and cultural rights, which constitutes a major impediment to the equal and effective implementation of the Covenant in the State party.
11. The Committee notes with concern that the National Human Rights Commission (NHRC) and the State Human Rights Commissions are not supported by adequate financial and other resources. The Committee is also concerned that the establishment of Human Rights Courts at the district level as envisaged by the 1993 Human Rights Act has not been implemented in most parts of the country, and that the mandate of the Human Rights Courts does not cover violations of economic, social and cultural rights.
12. The Committee is deeply concerned about reports that human rights defenders, including those assisting individuals and communities in asserting their economic, social and cultural rights, are threatened, harassed and subjected to violence by state officials and law enforcement officers. In this connection, the Committee notes with concern the existence of national security legislation which grants impunity to state officials who violate human rights, including economic, social and cultural rights.
13. The Committee is deeply concerned that in spite of the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and often socially accepted discrimination, harassment and/or violence persist against members of certain disadvantaged and marginalized groups, including women, scheduled castes and scheduled tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities such as the Muslim population, persons with disabilities and persons living with HIV/AIDS. The Committee is also concerned about the obstacles faced by the victims in accessing justice, including the high costs of litigation, the long-delays in court proceedings and the non-implementation of court decisions by government authorities.

14. The Committee notes with concern the lack of progress achieved by the State party in combating the persistent *de facto* caste-based discrimination that continues to prevail in spite of the legal prohibitions in place, most notably the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Committee is particularly concerned by the low rate of prosecution of crimes against persons belonging to scheduled castes and scheduled tribes, and that discriminatory attitudes and prejudices in the enforcement of the law, especially by the police, is a serious obstacle in the victims' access to justice.
15. The Committee notes with concern that the recommendations of the 2006 Rajinder Sachar Committee Report on Social, Economic and Educational Status of the Muslim Community of India have not been sufficiently followed-up, and regrets the lack of actions taken by the federal and state union governments in this regard.
16. The Committee is deeply concerned that, in spite of the commendable efforts by the State party in promoting equality of men and women, such as the adoption of the National Policy on the Empowerment of Women (2001) and the adoption of the amendments to the Hindu Succession Act and the Indian Divorce Act in 2005 and 2001 respectively, widespread gender inequalities, cultural stereotypes and personal laws of minority groups continue to prevail, affecting negatively the equal enjoyment of economic, social and cultural rights by women. The Committee notes with concern in particular that all the statistical data available before the Committee indicate the disadvantages disproportionately suffered by women in their enjoyment of economic, social and cultural rights, in particular, those belonging to disadvantaged and marginalised groups.
17. The Committee is concerned about the weak enforcement of the Pre-conception and Prenatal Diagnostic Technique (Prohibition of Sex Selection) Act, as amended in 2003, which has resulted in the high rate of abortion of the girl foetus and a skewed sex ratio which continues to worsen.
18. The Committee notes with concern the disproportionate representation of women in the informal labour market and the significant gender disparities in wages. The Committee also notes with concern the low representation of women in decision-making.
19. The Committee notes with concern, despite the legal prohibitions in place, including the 1993 Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, the 1976 Bonded Labour System (Abolition) Act and the 1986 Child Labour (Prohibition and Regulation) Act, the prevalence of bonded labour, the worst forms of child labour and other exploitative labour conditions in the State party. The Committee is concerned about the insufficient enforcement of existing labour legislation at the federal and the state levels, as well as the lack of awareness among employers on the existing rules and standards.
20. The Committee notes with concern that the rapid and sustained economic growth in the State party has not been translated into employment growth that is sufficiently substantial to ensure compliance with the core obligations under Article 6 of the Covenant, as highlighted in the Committee's General Comment No.18 on the right to work (2005).

21. The Committee is concerned that, in spite of the enactment of the National and Rural Employment Guarantee Act in 2006, the high and increasing rate of unemployment and underemployment persists in the State party, particularly in the rural areas.
22. The Committee notes with concern the weak enforcement of the existing state minimum wages. The Committee is also concerned that the low levels of wages, particularly in the agricultural sector, are insufficient to provide a decent standard of living for workers and their families.
23. The Committee is concerned about the numerous requirements of the State party with respect to trade unions, particularly those in the informal sector, in obtaining collective bargaining licences such as the minimum membership requirement for a union of 100 workers or 10% of the workforce under the 1926 Trade Unions Act, and a complete ban on strikes under the Essential Services Maintenance Act which does not prescribe an official list of the essential services that falls under its purview. The Committee also notes with concern that, pursuant to the 1964 Central Civil Services (Conduct) Rule, civil servants' right to join trade unions and to strike is severely restricted.
24. The Committee is concerned that, pending the adoption by the Parliament of the Unorganised Sector Worker's Social Security Bill, workers in the State party, a majority of whom are employed in the unorganised/informal sector, does not currently benefit from state administered social security protection.
25. The Committee is deeply concerned about the lack of progress achieved by the State party in eliminating traditional practices and provisions of personal status laws that are harmful and discriminatory to women and girls, including *sati*, *devadasi*, witch-hunting, child marriages, dowry deaths and honour killings, in spite of the legal prohibitions such as the 2005 Domestic Violence Act, the 1961 Dowry Prohibition Act, the 1982 Prohibition of Dedication Act, the 1939 Child Marriage Restraint Act and the 2006 Prohibition of Child Marriage Act.
26. The Committee is concerned about the exceptionally high incidence of domestic violence against women and children in the State party, as well as the high proportion of children who are subjected to sexual abuse at home, in spite of the enactment of the Protection of Women from Domestic Violence Act of 2005. In this regard, the Committee deeply regrets the lax enforcement of the existing legislation for the protection of victims of domestic violence and the low rate of prosecution for such crimes under Section 498-A of the Indian Penal Code.
27. The Committee notes with concern that trafficking in persons remains a serious problem faced by the State party. The Committee is particularly concerned that women and children belonging to scheduled castes and scheduled tribes make up a large proportion of victims of trafficking and sexual exploitation. The Committee is also concerned that victims of trafficking and sexual exploitation, rather than being afforded protection and rehabilitation, are prosecuted under the Immoral Trafficking Prevention Act (ITPA), and that there is no legislation that specifically criminalises trafficking in persons.
28. The Committee is deeply concerned that, despite the rapid economic growth achieved under the Ninth Plan (1997-2002) and the Tenth Plan (2002-07), high levels of poverty as well as

serious food insecurity and shortages persist in the country, disproportionately affecting the population living in the poorer states and in rural areas, and the disadvantaged and marginalised groups. The Committee is also concerned that the State party, in its pursuit of economic growth, and in its definition of the poverty threshold exclusively in terms of consumption, has overlooked its obligations to fully integrate human rights, particularly economic, social and cultural rights, in its poverty-reduction strategies. The Committee is also concerned by reports of corruption, inefficiency and discrimination in distribution that hamper access to food, particularly by the disadvantaged and marginalised groups of society who have been excluded from the benefits of the State party's economic growth.

29. The Committee is deeply concerned that the extreme hardship being experienced by farmers has led to an increasing incidence of suicides by farmers over the past decade. The Committee is particularly concerned that the extreme poverty among small-hold farmers caused by the lack of land, access to credit and adequate rural infrastructures, has been exacerbated by the introduction of genetically modified seeds by multinational corporations and the ensuing escalation of prices of seeds, fertilisers and pesticides, particularly in the cotton industry.
30. The Committee is concerned about the lack of a national housing policy which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by providing them with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party. The Committee is also concerned that while housing is under the responsibility of the state government, the oversight exercised by the federal government is insufficient to ensure effective implementation of the existing strategies and policies to ensure the right to housing for all.
31. The Committee, while noting that the draft Resettlement and Rehabilitation Bill is currently before Parliament, remains deeply concerned about the reports of displacement and forced evictions in the context of land acquisition by private and state actors for the purposes of development projects, including constructions of dams and mining, and that the members of disadvantaged and marginalised groups, in particular, the scheduled castes and scheduled tribes, are adversely affected by such displacement from their homes, lands and their sources of livelihood. The Committee is also concerned that urban renewal projects, sporting events, infrastructure expansion, environmental projects and more recently, the designation of large areas as tax-free Special Economic Zones, have resulted in the displacement of millions of families, most of who have not received adequate compensation and rehabilitation. Furthermore, the Committee is concerned about the lack of effective consultations and legal redress for persons affected by displacement and by forced evictions, and the inadequate measures to provide sufficient compensation or alternative housing to those who have been removed from their homes and/or their ancestral lands.
32. The Committee is concerned about the reported delays and inadequacies of the post-tsunami rehabilitation process in the affected districts of Tamil Nadu. The Committee notes with concern that, according to the Public Accounts Committee in its 2007-08 report, large amounts of tsunami funds have been diverted from rehabilitation. The Committee regrets that the State party has not provided adequate information on the post-tsunami situation.

33. The Committee is concerned that, despite the economic growth achieved by the State party, health - care expenditures remain exceptionally low at around 1% of GDP, and that a significant proportion of the population continues to have limited or no access to basic health services, resulting in alarmingly high rates of maternal and infant mortality, as well as high incidences of tuberculosis and other communicable diseases. The Committee is also concerned by the rising HIV/AIDS infections, and the lack of reliable information available regarding persons affected by mental health illnesses.
34. The Committee is concerned about the shortage of access to safe drinking water and the presence of heavy metals in ground water.
35. The Committee is concerned about the overcrowding and sub-standard conditions in prisons which are operating at 200-300% of their maximum capacity, which have given rise to a disproportionately high rate of tuberculosis and other health problems affecting the prisoners.
36. The Committee is concerned that survivors of the 1984 gas leak from the Union Carbide India Limited pesticide plant in Bhopal are continuing to suffer serious long-term health effects of the gas exposure, and that the State efforts to provide rehabilitation and monetary compensation have largely been inadequate.
37. The Committee is concerned that the prevailing widespread phenomenon of early marriages, the high rate of maternal mortality and the rapid spread of HIV/AIDS and other sexually transmitted diseases in the State party, can be attributed largely to the lack of sex and reproductive education that is still viewed to be taboo in the State party.
38. The Committee notes with concern that the universal healthcare scheme in the State party falls short of providing for universal coverage, excluding a considerable portion of the population. The Committee is also concerned that the quality and the availability of the health services provided under the scheme have been adversely affected by the large-scale privatisation of the health service in the State party, impacting in particular on the poorest sections of the population.
39. The Committee is concerned that trade in human organs, particularly in kidneys, is prevalent in the State party and that it is on the increase.
40. The Committee is concerned that, despite the efforts made by the State party to achieve universal primary education, including the adoption of the Constitution (86th Amendment) Act in 2002 which makes the right to primary education a fundamental right, and the “Sarva Shiksha Abhiyan” (Education for All) programme, aimed at achieving 100% primary enrolment, the wide disparity in enrolment and drop out rates in primary schools continue to persist, negatively affecting, in particular, girls, Muslim children and children belonging to scheduled castes and scheduled tribes.
41. The Committee notes with concern the generally low quality of education in, and the under-funding of, public schools.
42. The Committee is concerned that adult illiteracy rates continue to remain high, especially among disadvantaged and marginalized groups, women and among those living in poverty.

43. The Committee notes with regret the absence of human rights education in the school curricula in the State party.
44. The Committee notes with concern that some of the development measures and projects that have been carried out have not sufficiently taken into account the way of life and specific forms of livelihood of numerous communities in India, in particular the scheduled tribes in the northeast, thus affecting their right of everyone to take part in cultural life.

E. Suggestions and Recommendations

45. The Committee is of the view that the State party has within its power the ability to immediately implement the rights in Part II of the Covenant as required, and to meet, at the least, its core obligations for the progressive realization of the rights in Part III of the Covenant. The Committee therefore urges the State party to review its position regarding its legal obligations arising under the Covenant in light of the Committee's statement on the evaluation of the obligation to take steps to the "maximum of its available resources" under an Optional Protocol to the Covenant (E/C.12/2007/1), and its General Comments No. 13 (1999) and No. 14 (2000) in relation to core obligations. The Committee also encourages the State party to ensure that the provisions of the Covenant are taken into consideration in legislative and administrative policy and decision-making processes.
46. The Committee recommends the State party to review all aspects of its negotiations with trade agreements, including those with the EU and the EFTA, in light of its obligations under the Covenant to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined.
47. The Committee recommends that the State party take necessary legal measures to give full effect to the Covenant in domestic law, and to provide the Committee in its next periodic report, with further clarification regarding the direct applicability of the Covenant by domestic courts and citing relevant case law. In this respect, the Committee draws the attention of the State party to its General Comment No. 9 on the domestic application of the Covenant (1998). Furthermore, the Committee urges the State party to ensure that judicial training take full account of the justiciability of Covenant rights and that all court decisions are fully implemented by the relevant authorities without delay. The Committee also recommends the State party to take effective measures to increase awareness of the rights enshrined in the ICESCR among the public at large.
48. The Committee recommends the State party to ensure that the complexities arising from the federal structure of government and the delineation of responsibilities between federal and state levels do not result in the lack of effective implementation of the Covenant in the State party.
49. The Committee recommends that the State party increase its efforts to enhance the effectiveness of the National Human Rights Commission and the State Human Rights Commissions, in particular through adequate budget allocations. The Paris Principles as well as General Assembly Resolution 48/134 relating to the status of national institutions for the promotion and

protection of human rights, should be taken into consideration in matters relating to the reform of the NHRC and the establishment of State Commissions. The Committee further recommends the State party to ensure that State and Union Territories establish their respective Human Rights Commissions and Human Rights Courts, and enable the latter to consider violations of economic, social and cultural rights.

50. The Committee urges the State party to take all necessary measures for the protection of human rights defenders against any violence, threats, retaliation, pressure or any arbitrary action as a consequence of their activities. The Committee recommends that the State party improve its human rights training for law enforcement officials especially police officers, and ensure that all allegations of human rights violations are promptly and thoroughly investigated by an independent body capable of prosecuting perpetrators. The Committee also recommends the State party to consider repealing the Armed Forces Special Powers Act.
51. The Committee requests the State party in its next periodic report to submit updated annually collected comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, regarding all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups. The Committee also requests the State party in its next periodic report to include annual comparative data, disaggregated by sex, age, caste, ethnicity, religion and by region, the percentage of the gross domestic product allotted for education, health and housing programmes in the country.
52. The Committee recommends that the State party strengthen enforcement of existing legal prohibition of discrimination and, in addition consider enacting comprehensive administrative, civil and/or criminal anti-discrimination legislation guaranteeing the right to equal treatment and protection against discrimination, specifically prohibiting discrimination in employment, social security, housing, healthcare and education on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as stipulated in article 2.2 of the Covenant. The Committee also urges the State party to step up efforts to remove obstacles faced by victims of discrimination when seeking redress through the courts.
53. The Committee stresses the need for a determined enforcement of the criminal justice system, and recommends that the State party strengthen procedures for prompt and impartial investigations and effective prosecutions of all allegations of violations under the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Committee also recommends that the State party improve awareness-raising and training programmes regarding the treatment of caste-based and other crimes related to discriminatory attitudes and prejudices, for professionals engaged in the administration of justice including judges, public prosecutors, lawyers and law enforcement officials, in particular members of the police, and remove any other existing obstacles faced by victims in accessing justice. The Committee further encourages the State party to expand throughout the State, preventive programmes to curb violence against persons belonging to scheduled castes and scheduled tribes, especially women.

54. The Committee recommends the State party to ensure full implementation of the recommendations contained in the Sachar Committee report without further delay, with a view to ensuring the realisation of the economic, social and cultural rights of Muslims in the State party, in particular, Muslim Other Backward Classes (OBCs) and Muslim women.
55. The Committee recommends that the State party further strengthen efforts to raise public awareness about gender equality, including by providing adequate support to the National Commission for Women and the State Commissions for Women.
56. The Committee recommends the State party to sensitize and train medical professionals on the criminal nature of sex selection with a view to ensuring stringent enforcement of the Pre-conception and Prenatal Diagnostic Technique (Prohibition of Sex Selection) Act.
57. The Committee recommends the State party to undertake and enforce effectively measures to ensure equal treatment between men and women in the labour market, and to consider enacting legislation on equal pay for work of equal value in both the public and the private sectors, and for such legislation to be adopted at the State level. The Committee also recommends the State party to continue to make use of affirmative action measures to promote active political participation of women.
58. The Committee requests the State party to include in its next periodic report, in addition to the requests already mentioned in previous paragraphs, a specific section on:
- a) the results of the measures taken to combat discrimination of all forms;
 - b) the situation of women and the extent to which they enjoy the right to own land and property independent of their male relatives;
 - c) the impact of the micro-credit programme for women, the progress achieved and the difficulties encountered;
 - d) detailed information regarding street children; and
 - e) annual data, disaggregated by age, sex, caste, ethnicity and religion, as well as specific benchmarks, to enable adequate monitoring and evaluation of the progress achieved.
59. The Committee recommends that the State party ensure the right to decent work and provide sufficient resources to the labour inspectorate to enable regular and independent inspections of health and safety conditions in all sectors. In this regard, the State party should take effective measures to ensure that violations concerning prohibited labour practices, such as bonded labour, manual scavenging and the worst forms of child labour are stringently prosecuted and employers duly sanctioned. The Committee recommends the State party to launch a national campaign to abolish manual scavenging and other degrading forms of work and to provide information on the results achieved in its next periodic report. The Committee further recommends that measures to rehabilitate affected children, to monitor their work conditions and their living conditions following removal from such work, be strengthened and significantly expanded to cover all children engaged in the worst forms of child labour. The Committee also recommends that the State party consider ratifying the following ILO Conventions: No. 182 on the Worst Forms of Child Labour; No. 138 on Minimum Age; No. 174 on Prevention of Major Industrial Accidents.

60. The Committee recommends that the State party provide, in its next periodic report, information on the measures taken within the framework of the 10th and the 11th Plans to achieve an adequate rate of employment growth in order to ensure the fullest possible enjoyment of the rights under Article 6 of the Covenant. The Committee further recommends that the State party provide the necessary conditions to encourage private sector employers to create additional jobs in the process of economic growth.
61. The Committee recommends that the State party reinforce its programmes designed to reduce unemployment and in this regard, to target on a priority basis the most affected groups and regions. In this connection, the Committee recommends that the State party consider ratifying the ILO Convention No. 2 on unemployment. The Committee further recommends the State party to take necessary measures to ensure effectively the full implementation of the provisions foreseen under the National Rural Employment Guarantee Act.
62. The Committee encourages the State party to ensure that the state minimum wages are fully enforced throughout its territory, and in all sectors, with a view to enabling all workers and their families to enjoy an adequate standard of living. The Committee also encourages the State party to establish an effective system of indexation and regular adjustment of the minimum wage to the cost of living.
63. The Committee recommends that the State party remove, in law and practice, obstacles to trade unions' rights to conduct collective bargaining, and to pay particular attention to the workers' rights in Special Economic Zones (SEZs) and Export Processing Zones (EPZs). In particular, the Committee recommends that the State party consider amending the 1964 Central Civil Services (Conduct) Rule with a view to lifting the restrictions imposed on civil servants' right to join trade unions and on their right to strike, and to clearly define "essential services" as stipulated by the Essential Services Maintenance Act. The Committee recommends the State party to consider ratifying the ILO Convention No. 98 on the Right to Organize and Collective Bargaining.
64. The Committee recommends that the State party adopt the Unorganized Sector Workers Social Security Bill without delay, and ensure, in line with the Committee's general recommendation No.19 on the right to social security (2007), that the very large sections of the population which are still not adequately covered by the social security system of the State party become entitled to social security benefits which provide for the minimum standards in respect of, *inter alia*, health, maternity benefit, old age benefit, labour accident insurance and dependants benefit. The Committee recommends that the State party consider ratifying the ILO Convention No.102 on Social Security (Minimum Standards), and requests that it provide detailed information in its next periodic report on the extent of the coverage of its social security system for the unorganised / informal sector.
65. The Committee strongly recommends that the State party strictly enforce the law prohibiting harmful and discriminatory practices that violate the rights of women and girls, and to undertake effective public education measures, including awareness-raising programmes designed to eliminate gender-based prejudices, traditional practices and provisions of personal status laws that are harmful and discriminatory to women and girls. The Committee requests that the State party provide detailed information in its next periodic report on the extent of these

practices and the measures being taken to strictly enforce its laws for the protection of women and girls from such harmful practices.

66. The Committee recommends that the State party enact a law that criminalises trafficking in persons and commercial sexual exploitation of women and children. The Committee also recommends that the State party, while strengthening its efforts to bring perpetrators to justice, ensure that victims are not penalized and are systematically provided with rehabilitation and legal assistance. The Committee further recommends that the State part strengthen preventive measures, such as awareness-raising campaigns, that target economically-depressed areas as well as disadvantaged and marginalised groups.
67. The Committee recommends that the State party ensure that the Protection of Women from Domestic Violence Act and Section 498-A of the Indian Penal Code are enforced effectively in all of its states and union territories, and that law enforcement officials, judges, lawyers, social workers and medical professionals are duly trained on the serious and criminal nature of domestic violence. The Committee requests that the State party provide in its next periodic report, detailed information on the extent of domestic violence, and on the legislative and other measures taken to address this phenomenon, including facilities and remedies provided for victims.
68. The Committee recommends that the State party, in the context of the 11th Plan (2007-12), take urgent measures to address the issue of poverty and food insecurity. In this regard, the Committee recommends the State party to review its national poverty threshold, taking into account its Statement on Poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII) and establish specific mechanisms to monitor the implementation of poverty-reduction strategies and evaluate the progress achieved. The Committee requests the State party to provide, in its next periodic report, detailed annual data on the incidence and depth of poverty, disaggregated by gender, caste, ethnicity and by region.
69. The Committee urges the State party, in addition to the full implementation of the planned farmer debt waiver programme, to take all necessary measures to address the extreme poverty among small-holding farmers and to increase agricultural productivity as a matter of priority, by *inter alia*: developing the rural infrastructures including irrigation as part of the *Bharat Nirman* programme; providing financial and other forms of assistance to families of suicide victims; ensuring that the existing agricultural insurance schemes, including the Crop Insurance Scheme and the Calamity Relief Fund, are fully implemented and are accessible to all farmers; providing state subsidies to enable farmers to purchase generic seeds which they are able to re-use, with a view to eliminating their dependency on multinational corporations. The Committee also recommends the State party to review the Seed Bill (2004) in light of its obligations under the Covenant and draw the attention of the State party to paragraph 19 of the Committee's General Comment No.12 on the right to adequate food (1999).
70. The Committee urges the State party to address the acute shortage of affordable housing by adopting a national strategy and a plan of action on adequate housing and by building or providing low-cost rental housing units, especially for the disadvantaged and low income

groups, including those living in slums. In this connection, the Committee reminds the State party of its obligations under article 11 of the Covenant and refers to its General Comment No. 4 on the right to adequate housing (1991) to guide the Government's housing policies. The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, *inter alia*, sex, caste, ethnicity and religion.

71. The Committee recommends that the State party take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and/or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its General Comment No. 7 on forced evictions (1997). The Committee also recommends that, prior to implementing development and urban renewal projects, sporting events and other similar activities, the State party should undertake open, participatory and meaningful consultations with affected residents and communities. In this connection, the Committee draws the attention of the State party to its General Comment No. 4 on the right to adequate housing (1991) and further requests the State party to provide information in its next periodic report on progress achieved in this regard, including disaggregated statistics relating to forced evictions.
72. The Committee urges the State party to conduct the post-tsunami rehabilitation process in the affected areas of Tamil Nadu with transparency and in full consideration of its obligation to respect and protect the economic, social and cultural rights of the survivors. The Committee requests the State party to provide detailed information in its next periodic report regarding the rehabilitation process and the extent to which the affected groups were consulted throughout the different stages of the process.
73. The Committee recommends the State party to significantly increase its healthcare expenditure, according the highest priority to reducing maternal and infant mortality rates and to preventing and treating serious communicable diseases, including HIV/AIDS. The Committee further recommends that the State party take effective measures to fully implement the National Rural Health Mission (2005-2012) and ensure the quality, affordability and accessibility of health services without hidden costs, especially for disadvantaged and marginalised individuals and groups. In this respect, the Committee draws the attention of the State party to its General Comment No. 14 on the right to the highest attainable standard of health (2000) and requests the State party to provide detailed information, on a disaggregated and comparative basis, regarding the progress it has achieved in this regard in its next periodic report. The Committee also recommends the State party to undertake a systematic assessment of policy measures and the realities of mental illness in the State party with a view to improving the treatment of and care for persons with mental illnesses.
74. The Committee recommends the State party to take effective measures to ensure equitable access to safe drinking water by rigorously enforcing existing laws on water treatment and effectively monitoring compliance. The Committee requests the State party to report on these issues by providing comparative and disaggregated data in its next periodic report, bearing in mind the Committee's general comment No. 15 (2002) on the right to water.
75. The Committee recommends that the State party strengthen its measures to improve the

sanitary and hygienic conditions in prisons and to ensure that the right to mental and physical health of all prisoners is respected, in accordance with Article 12 of the Covenant.

76. The Committee recommends the State party to provide, without further delay, adequate compensation, and wherever possible, rehabilitative measures, to survivors of the Bhopal leak and their families. The Committee requests the State party to provide detailed information in this regard in its next periodic report.
77. The Committee recommends that the State party expand availability and accessibility of reproductive and sexual health information and services for everyone, and ensure that the educational programmes, including within the school curriculum, as well as services on sexual and reproductive health, are widely available.
78. The Committee recommends the State party to substantially increase funds allocated to public health and to provide additional incentives in order to prevent further loss of medical professionals from the public health services. The Committee also urges the State party to take all necessary measures to ensure universal access to affordable primary health care. The Committee also requests the State party to provide information on the measures to regulate the private healthcare sector.
79. The Committee recommends that the State party give high priority to address the problem of trade in human organs and to provide information on the progress achieved in its next periodic report.
80. The Committee urges the State party to continue to make determined efforts to achieve universal primary education, compulsory and free of charge, by *inter alia*, taking further initiatives to eliminate child marriages, child labour especially of school-aged children, and targeting disadvantaged and marginalised groups in particular.
81. The Committee recommends that the State party allocate increased funding to public schools, ensuring that teachers are fully trained and qualified.
82. The Committee recommends the State party to intensify its literacy programmes for adults, and to adopt awareness-raising campaigns and programmes on the value of literacy. Such strategies and awareness-raising campaigns and programmes should be designed and targeted especially for the disadvantaged and marginalized groups, in particular, women and those living in poverty.
83. The Committee encourages the State party to provide human rights education in schools at all levels and in universities, cultivating values of tolerance, social inclusion and participation. The Committee also encourages the State party to make increased efforts to raise awareness about human rights, in particular economic, social and cultural rights, among State officials, the judiciary and the public at large.
84. The Committee recommends the State party to consider going beyond the creation of museums and hosting of exhibitions as a way of preserving and promoting culture, and to ensure that no development initiative is carried out without effective consultation with the local communities, and that any potential negative impact on their right of everyone to take part in cultural life be taken into serious consideration when conducting social audits.

85. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, particularly among federal and State government officials as well as judicial authorities, and to inform the Committee on the steps that it has taken to implement them in its next periodic report.
86. The Committee also encourages the State party to engage non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.
87. The Committee invites the State party to submit its core document in accordance with the 2006 harmonized guidelines on a common core document (HRI/GEN/2/Rev.4).
88. The Committee encourages the State party to consider ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without further delay. The Committee also encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
89. The Committee requests the State party to submit its sixth periodic report by 30 June 2011 and to include in that report, detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.

Annex II

Concluding Observations of other United Nations Treaty Bodies on India that Relate to the Human Rights to Adequate Housing and Land

I. Committee on the Rights of the Child

Concluding Observations, January 2000

16. The Committee is concerned at the absence of an effective mechanism to collect and analyse disaggregated data of all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (i.e. children living in slums, belonging to different castes and tribal groups, living in rural areas, children with disabilities, children who are living and/or working on the streets, children affected by armed conflicts and refugee children).
28. In the light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by children living in different states, living in rural areas, living in slums and belonging to different castes, tribal and indigenous groups.
53. In accordance with article 27 of the Convention, the Committee recommends that the State party take appropriate measures to give effect to its commitments made at Habitat II in 1996 regarding children's access to housing. In the light of Commission on Human Rights resolution 1993/77 on forced evictions, the Committee encourages the State party to prevent any occurrence of forced relocation, displacement and other types of involuntary population movements. The Committee recommends that resettlement procedures and programmes include registration, facilitate comprehensive family rehabilitation and ensure access to basic services.
54. The Committee is concerned at the large and increasing number of children living and/or working on the streets, who are among the most marginalised groups of children in India.
55. The Committee recommends that the State party establish mechanisms to ensure these children are provided with identity documents, nutrition, clothing and housing. Moreover, the State party should ensure these children have access to health care; rehabilitation services for physical, sexual and substance abuse; services for reconciliation with families; education, including vocational and life-skills training; and access to legal aid. The Committee recommends that the State party cooperate and coordinate its efforts with civil society in this regard.

Concluding Observations, February 2004

62. In spite of the growth of the gross domestic product, the Committee is concerned about the widespread poverty in the State party and the still high number of children who do not enjoy the right to an adequate standard of living, including access to clean drinking water, adequate housing and latrines. The Committee is further concerned at the negative consequences of displacement and rehabilitation projects which intend to improve living conditions but which remove children from their habitat to a new environment often not prepared for children's needs.
63. In accordance with article 27 of the Convention, the Committee recommends that the State reinforce its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living. In light of its previous recommendations (ibid., paragraph 53), the Committee further recommends that the State party prevent any occurrence of forced relocation, displacement and other types of involuntary population movements.
77. The Committee recommends that the State party:
- (a) Strengthen and extend its Integrated Programme for Street Children to address the large and increasing number of street children, with the aim of protecting these children, especially girls, and of preventing and reducing this phenomenon, in particular through assistance to families and the provision of adequate housing and access to education;
 - (b) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development, providing official documents when necessary;
 - (c) Ensure that these child victims of physical, sexual and substance abuse are provided with recovery and reintegration services, protection from arrest and maltreatment by the police, and effective services for reconciliation with their families and community;
 - (d) Collaborate with non-governmental organizations working with street children in the State party and seek technical assistance from, among others, UNICEF.
81. The Committee is concerned at the situation of children belonging to minorities, including to the Primitive Tribal Groups, and at their limited access to social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.

II. Committee on the Elimination of Racial Discrimination

Concluding Observations, March 2007

13. The Committee notes with concern that, despite the formal abolition of "Untouchability" by article 17 of the Indian Constitution, *de facto* segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places. (arts. 3 and 5)

The Committee urges the State party to intensify its efforts to enforce the Protection of Civil Rights Act (1955), especially in rural areas, including by effectively punishing acts of “Untouchability”, to take effective measures against segregation in public schools and residential segregation, and to ensure equal access for Dalits places of worship, hospitals, water sources and any other places or services intended for use by the general public.

19. The Committee notes that the State party does not fully implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples. It is also concerned that large scale projects such as the construction of several dams in Manipur and other north-eastern States on territories primarily inhabited by tribal communities, or of the Andaman Trunk Road, are carried out without seeking their prior informed consent. These projects result in the forced resettlement or endanger the traditional lifestyles of the communities concerned. (art. 5 (d) (v) and 5 (e))

The Committee urges the State party to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples, in accordance with ILO Convention No. 107 on Indigenous and Tribal Populations (1957). The State party should seek the prior informed consent of communities affected by the construction of dams in the Northeast or similar projects on their traditional lands in any decision-making processes related to such projects, and provide adequate compensation and alternative land and housing to those communities. Furthermore, it should protect tribes such as the *Jarawa* against encroachments on their lands and resources by settlers, poachers, private companies or other third parties and implement the 2002 order of the Indian Supreme Court to close the sections of the Andaman Trunk Road that run through the *Jarawa* reserve.

20. The Committee is concerned about reports that Dalits are often denied access to and evicted from land by dominant castes, especially if it borders land belonging to such castes, and that tribal communities have been evicted from their land under the 1980 Forest Act or in order to allow private mining activities (art. 5 (d) (v) and 5 (e) (i) and (iii)).

The Committee recommends that the State party ensure that Dalits, including Dalit women, have access to adequate and affordable land and that acts of violence against Dalits due to land disputes are punished under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989). The State party should also ensure that tribal communities are not evicted from their lands without seeking their prior informed consent and provision of adequate alternative land and compensation, that bans on leasing tribal lands to third persons or companies are effectively enforced, and that adequate safeguards against the acquisition of tribal lands are included in the Recognition of Forest Rights Act (2006) and other relevant legislation.

III. Committee on the Elimination of Discrimination against Women

Concluding Observations, February 2000

57. The Committee urges the allocation of sufficient and targeted resources for women's development in the social sector, as well as full implementation of relevant laws.

82. The Committee is concerned with significant disparities in economic activity rates for men and women. It is concerned that the practice of debt bondage and the denial of inheritance rights in land result in gross exploitation of women's labour and their impoverishment.
83. The Committee requests the Government to enforce laws on bonded labour and provide women with self-employment opportunities and minimum wages in home-based production and the non-formal sector. It calls upon the Government to review laws on inheritance urgently and to ensure that rural women obtain access to land and credit.

Concluding Observations, February 2007

27. The Committee recommends that the State party adopt appropriate measures to eliminate the practice of witch-hunting, prosecute and punish those involved, and provide for rehabilitation of, and compensation to, victimized women. It recommends that such measures be based on an analysis of its causes, including control over land. The Committee calls upon the State party to create public awareness of forms of violence against women rooted in custom as an infringement of women's human rights.
29. The Committee recommends that the State party put in place a mechanism to monitor effective enforcement of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act in order to ensure accountability and end impunity for crimes committed against Dalit women. It calls upon the State party to increase Dalit women's legal literacy and improve their access to justice in bringing claims of discrimination and violation of rights. It requests the State party to report specifically on the impact of such initiatives in its next periodic report. The Committee also urges the State party to study the health implications of manual scavenging on Dalits engaged in this profession and on the community as a whole, and to address all the impediments to eradicating this practice, including by putting in place modern sanitation facilities and providing the Dalit women engaged in this practice with vocational training and alternative means of livelihood.
46. The Committee expresses grave concern about the displacement of tribal women owing to the implementation of megaprojects and the influence of global economic trends. While the Committee appreciates the need for economic growth, it is concerned that the human rights of vulnerable groups such as tribal populations may be adversely affected by large-scale economic projects.
47. The Committee urges the State party to study the impact of megaprojects on tribal and rural women and to institute safeguards against their displacement and violation of their human rights. It also urges the State party to ensure that surplus land given to displaced rural and tribal women is cultivable. Moreover, the Committee recommends that efforts be made to ensure that tribal and rural women have individual rights to inherit and own land and property.
68. The follow-up report should include information on the impact of the Gujarat massacres on women.

Annex III

Saxena Report to the Supreme Court of India

**In the Case: PUCL vs UOI & Ors., Writ Petition (Civil) No. 196 of 2001
March 19, 2007**

**To,
The Honourable Supreme Court of India**

Subject: Non-implementation of food schemes in the relief colonies of people displaced in Gujarat by the disturbances of 2002

The commissioners of the Supreme Court had received disturbing information about acute food and livelihood distress of people who were internally displaced by the disturbances in Gujarat. They were informed that many families continued to live in relief colonies in very difficult conditions with acute problems of food and livelihood security. It was brought to our notice that the directions of the honourable Supreme Court of India (in CWP 196/2001) on the food and employment schemes, including the ICDS, MDMS, PDS, NREGA, Antyodaya and Annapurna Yojana, NOAPS, NFBS and NMBS, were being violated.

Since we are mandated by the honourable Supreme Court to monitor all the food and employment schemes in Writ 196/2001, we subsequently wrote to the government of Gujarat requesting them to look into the matter and ensure that food schemes were implemented by the government of Gujarat as per the directions of the honourable Court in Writ 196/2001.

The Government of Gujarat responded back to us that there were no relief colonies of people displaced by violence of 2002 in Gujarat.

Shortly thereafter, the National Commission for Minorities deputed three members to visit the state from October 13 to 17, 2006, and they went to 17 relief colonies. Their report is annexed in Annexure 3. They observed the difficulties that were faced by the residents of these colonies and the non-implementation of state programmes. In relation to livelihoods and food schemes, the commission made the following observations:

“The residents were frustrated by their inability to earn their own livelihood and to support themselves in the manner to which they were accustomed. Before the violence many of these people were small self-employed traders, artisans or industrialists. The violence put an end to their means of livelihood since their old clients were unwilling to use their services. The impression the team received is that very few of them were employed in service. In the new environment, they are unable to resume their earlier professions and because of this they find it difficult to survive.”

They add, “NCM members examined the homes in several rehabilitation colonies and found evidence of abject poverty. With some exceptions, the houses contained little except for bedding and kitchen utensils. Despite these signs of poverty, the NCM found that many residents did not have ration cards. Even when ration cards were issued, most of the residents were given above the poverty line (APL) ration cards instead of below the poverty line (BPL) ration cards. This makes a big difference because BPL ration card holders are entitled to get food grains, cereals, kerosene and other basic consumer items at subsidised rates. Indeed, in several camps, especially in rural areas, the women without exception had just one major demand: they wanted BPL ration cards to be issued to them.”

The report of the NCM clearly established that the government of Gujarat had misrepresented the situation to the commissioners of the honourable court by denying the existence of these colonies. It also established prima facie evidence of the fact that the directions of the honourable Supreme Court with regard to food and employment schemes were being violated.

My colleagues further completed a full survey of the state and found similar conditions in 81 such relief colonies across the state of Gujarat. The report of this investigation (guided by senior academic, Dr. Ghanshyam Shah, and state advisor, Dr. Indira Hirway) is appended in Annexure 4. It found 4,545 families comprising around 30,000 persons still living in very difficult conditions in 81 relief colonies.

The study found that none of the colonies had been set up or assisted by the state government. Only five of the 81 colonies had government or government recognised schools, and only four served midday meals to the children. Only five had ICDS centres, of which four served supplementary nutrition to the children, and one to nursing and expectant mothers. Only three had PDS shops and only 725 out of 4,545 families were recognised as BPL although their intense poverty as internally displaced persons facing economic boycott was acute. People who had BPL cards are reluctant to apply for a transfer of the card because they fear that this may be cancelled.

It is therefore proposed that the following steps are immediately undertaken to ensure state accountability for the food and livelihood rights of its citizens who remain internally displaced nearly five years after the 2002 incidents.

1. Contempt of court notices are issued to the chief secretary and other officials of the government of Gujarat for misrepresenting facts and furnishing incomplete and inaccurate information to the commissioners appointed by the Supreme Court.
2. All families who continue to live in relief colonies must be given Antyodaya cards, as internally displaced persons who lost all their belongings, face fear and economic boycott, and are too afraid to return to their original homes.
3. Primary schools with midday meals should be opened in all 81 relief colonies immediately and in any case before the next financial year. The location of the school should be such that it is accessible not only to the residents of the camp but to the surrounding host communities, to promote integration.

4. All 81 colonies should have fully functioning ICDS centres, with the entire contingent of nutrition and health services, within two months.
5. PDS shops should be opened in all colonies where these are not available within a distance of three kilometres.
6. There should be a drive within three months to ensure that all eligible persons for NOAPS and widows pensions receive these.
7. Job cards under NREGA should be issued in all NREGA districts to all residents of relief colonies who are desirous of these.
8. The chief secretary should personally certify that all these steps have been undertaken in an affidavit to the Supreme Court within three months of the passage of the order.

(signed)

Dr NC Saxena

Commissioner of the Supreme Court

Annex IV

List of Organizations Endorsing the April 2008 Report on "Housing and Land Rights and the Indian State" submitted to the UN Committee on Economic, Social and Cultural Rights

ActionAid International India

Bhartiya Muslim Mahila Andolan

Campaign for Housing and Tenurial Rights (CHATRI), *Hyderabad*

Citizens for Justice, *Mumbai and Ahmedabad*

Communalism Combat, *Mumbai*

Delhi Forum

Ekta Parishad

Envionics Trust, *New Delhi*

Gender, Livelihoods and Resources Forum, *Ranchi, Jharkhand*

Ghar Bachao Ghar Banao Andolan

HAQ: Centre for Child Rights

Human Rights Law Network (HRLN)

Jagori

KHOJ Education for a Plural India, *Mumbai*

mines, minerals and People (mmP)

Muktidhara, *Rajasthan*

Muslims for Secularism and Democracy

Narmada Bachao Andolan (NBA)

National Alliance of Peoples' Movements (NAPM)

National Campaign for Dalit Human Rights (NCDHR)

National Forum of Forest People and Forest Workers (NFFPW)

People's Watch

Sabrang Communications, *Mumbai*

Saheli Adhyayan Kendra, *Sahebganj, Jharkhand*


Sathi All for Partnerships, *New Delhi*

Vigyan Foundation, *Lucknow*

Youth for Unity and Voluntary Action (YUVA)

Annex V

New Reporting Guidelines for State Parties from the Committee on Economic, Social and Cultural Rights

UNITED NATIONS		E
	Economic and Social Council	Distr. GENERAL E/C.12/2008/2 24 March 2009 Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

GUIDELINES ON TREATY-SPECIFIC DOCUMENTS TO BE SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Note by the Secretary - General

1. In accordance with article 17 of the International Covenant on Economic, Social and Cultural Rights, the Economic and Social Council, by its resolution 1988 (LX) of 11 May 1976, established a programme under which the States parties to the Covenant would furnish in stages the reports referred to in article 16 of the Covenant and the Secretary-General, at the Council's request, subsequently drew up an appropriate set of general guidelines. In response to the introduction of a new reporting cycle, the Committee on Economic, Social and Cultural Rights, at its fifth session, held from 26 November to 14 December 1990, adopted a set of revised general guidelines which replaced the original guidelines.
2. The purpose of reporting guidelines is to advise States parties on the form and content of their reports, so as to facilitate the preparation of reports and ensure that reports are comprehensive and presented in a uniform manner by States parties.
3. The Committee has decided to replace the revised general guidelines (E/C.12/1991/1) by the present guidelines to take into account the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.5), as well as the evolving practice of the Committee in relation to the application of the Covenant, as reflected in its concluding observations, general comments and statements.
4. The text of the guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of the Covenant is contained in the annex to the present document.

1. Adopted by the Committee on Economic, Social and Cultural Rights at its 49th meeting (forty-first session) on 18 November 2008, taking into consideration the guidelines on a common core document and treaty-specific documents, as contained in the harmonized guidelines ((HRI/GEN/2/Rev.5).

ANNEX

Guidelines on treaty-specific documents to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights

A. The revised reporting system and organization of information to be included in the common core document and in the treaty-specific document submitted to the Committee on Economic, Social and Cultural Rights

1. State reports submitted under the harmonized guidelines on reporting under the international human rights treaties consist of two parts: a common core document and treaty-specific documents. The common core document should contain general information about the reporting State, the general framework for the protection and promotion of human rights, as well as information on non-discrimination and equality, and effective remedies, in accordance with the harmonized guidelines.
2. The treaty-specific document submitted to the Committee on Economic, Social and Cultural Rights should not repeat information included in the common core document or merely list or describe the legislation adopted by the State party. Rather, it should contain specific information relating to the implementation, in law and in fact, of articles 1 to 15 of the Covenant, taking into account the general comments of the Committee, as well as information on recent developments in law and practice affecting the full realization of the rights recognized in the Covenant. It should also contain information on the concrete measures taken towards that goal, and the progress achieved, including except for initial treaty-specific documents information on the steps taken to address issues raised by the Committee in the concluding observation on the State party's previous report, or in its general comments.
3. In relation to the rights recognized in the Covenant, the treaty-specific document should indicate:
 - (a) Whether the State party has adopted a national framework law, policies and strategies for the implementation of each Covenant right, identifying the resources available for that purpose and the most cost-effective ways of using such resources;
 - (b) Any mechanisms in place to monitor progress towards the full realization of the Covenant rights, including identification of indicators and related national benchmarks in relation to each Covenant right, in addition to the information provided under appendix 3 of the harmonized guidelines and taking into account the framework and tables of illustrative indicators outlined by the Office of the United Nations High Commissioner for Human Rights (OHCHR) (HRI/MC/2008/3);
 - (c) Mechanisms in place to ensure that a State party's obligations under the Covenant are fully taken into account in its actions as a member of international organizations and international financial institutions, as well as when negotiating and ratifying international agreements, in order to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined;

- (d) The incorporation and direct applicability of each Covenant right in the domestic legal order, with reference to specific examples of relevant case law;
 - (e) The judicial and other appropriate remedies in place enabling victims to obtain redress in case their Covenant rights have been violated;
 - (f) Structural or other significant obstacles arising from factors beyond the State party's control which impede the full realization of the Covenant rights;
 - (g) Statistical data on the enjoyment of each Covenant right, disaggregated by age, gender, ethnic origin, urban/rural population and other relevant status, on an annual comparative basis over the past five years.
4. The treaty-specific document should be accompanied by a sufficient number of copies in one of the working languages of the Committee (English, French, Russian and Spanish) of all other supplementary documentation which the State party may wish to have distributed to all members of the Committee to facilitate the consideration of the report.
 5. If a State party is party to any of the ILO Conventions listed in appendix 2 of the harmonized guidelines, or to any other relevant conventions of United Nations specialized agencies, and has already submitted reports to the supervisory committee(s) concerned that are relevant to any of the rights recognized in the Covenant, it should append the respective parts of those reports rather than repeat the information in the treaty-specific document. However, all matters which arise under the Covenant and are not fully covered in those reports should be dealt with in the present treaty-specific document.
 6. Periodic reports should address directly the suggestions and recommendations of the previous concluding observations.

B. Part of the treaty-specific document submitted to the Committee relating to general provisions of the Covenant

Article 1 of the Covenant

7. In what manner has the right to self-determination been implemented?
8. Indicate the ways and means by which the State party recognizes and protects the rights of indigenous communities, if any, to ownership of the lands and territories which they traditionally occupy or use as traditional sources of livelihood.² Also indicate the extent to which indigenous and local communities are duly consulted, and whether their prior informed consent is sought, in any decision-making processes affecting their rights and interests under the Covenant, and provide examples.

Article 2

9. Indicate the impact of international economic and technical assistance and co-operation, whether received or provided by the State party, on the full realization of each of the Covenant rights in the State party or, as the case may be, in other countries, especially developing countries.

2. General comment 12, para. 13; general comment 14, para. 27.

10. In addition to information provided in the common core document (paras. 50 to 58 of the harmonized guidelines), provide disaggregated and comparative statistical data on the effectiveness of specific anti-discrimination measures and the progress achieved towards ensuring equal enjoyment of each of the Covenant rights by all, in particular the disadvantaged and marginalized individuals and groups.
11. If the State party is a developing country, provide information on any restrictions imposed under article 2, paragraph 3, of the Covenant, on the enjoyment by non-nationals of the economic rights recognized in the Covenant.

Article 3

12. What steps have been taken to eliminate direct and indirect discrimination based on sex in relation to each of the rights recognized in the Covenant, and to ensure that men and women enjoy these rights on a basis of equality, in law and in fact?
13. Indicate whether the State party has adopted gender equality legislation and the progress achieved in the implementation of such legislation. Also indicate whether any gender-based assessment of the impact of legislation and policies has been undertaken to overcome traditional cultural stereotypes that continue to negatively affect the equal enjoyment of economic, social and cultural rights by men and women.

Articles 4 and 5

14. See paragraph 40 (c) of the harmonized guidelines on a common core document.

C. Part of the report relating to specific rights

Article 6

15. Provide information on effective measures taken to reduce unemployment including on:
 - (a) The impact of targeted employment programmes in place to achieve full and productive employment among persons and groups considered particularly disadvantaged, in particular women, young persons, older persons, persons with disabilities and ethnic minorities, in rural and deprived urban areas; and
 - (b) The impact of measures to facilitate re-employment of workers, especially women and long-term unemployed workers, who are made redundant as a result of privatization, downsizing and economic restructuring of public and private enterprises.
16. Provide information on work in the informal economy in the State party, including its extent and the sectors with a large percentage of informal workers, and the measures taken to enable them to move out of the informal economy, as well as on measures taken to ensure access by informal workers, in particular older workers and women, to basic services and social protection.
17. Describe the legal safeguards in place to protect workers from unfair dismissal.

18. Indicate what technical and vocational training programmes are in place in the State party and their impact on empowering the workforce, especially disadvantaged and marginalized individuals, to enter or re-enter the labour market.

Article 7

19. Indicate whether a national minimum wage has been legally established, and specify the categories of workers to which it applies, as well as the number of persons covered by each category. If any category of workers is not covered by the national minimum wage, explain the reasons why. In addition, indicate:
 - (a) Whether a system of indexation and regular adjustment is in place to ensure that the minimum wage is periodically reviewed and determined at a level sufficient to provide all workers, including those who are not covered by a collective agreement, and their families, with an adequate standard of living; and
 - (b) Any alternative mechanisms in place, in the absence of a national minimum wage, to ensure that all workers receive wages sufficient to provide an adequate standard of living for themselves and their families.
20. Provide information on working conditions for all workers, including overtime, paid and unpaid leave and on the measures taken to reconcile professional, family and personal life.
21. Indicate the impact of the measures taken to ensure that women with the same qualifications do not work in lower-paid positions than men, in accordance with the principle of equal pay for work of equal value.
22. Indicate whether the State party has adopted and effectively implemented legislation that specifically criminalizes sexual harassment in the workplace, and describe the mechanisms to monitor such implementation. Also indicate the number of registered cases, the sanctions imposed on perpetrators and the measures taken to compensate and assist victims of sexual harassment.
23. Indicate what legal, administrative or other provisions have been taken to ensure safety and healthy conditions at the workplace and their enforcement in practice.

Article 8

24. Indicate:
 - (a) What substantive or formal conditions, if any, must be fulfilled to form or join the trade union of one's choice. Also indicate whether there are any restrictions on the exercise of the right to form or join trade unions by workers, and how they have been applied in practice; and
 - (b) How trade unions are guaranteed independence to organize their activities without interference, as well as to federate and join international trade union organizations, and the legal and de facto restrictions, if any, on the exercise of this right.
25. Provide information on collective bargaining mechanisms in the State party and their impact on labour rights.

26. Indicate:

- (a) Whether the right to strike is constitutionally or legally guaranteed and to what extent such guarantees are observed in practice;
- (b) Any restrictions on the right to strike in the public and private sectors and their application in practice; and
- (c) The definition of essential services for which strikes may be prohibited.

Article 9

27. Indicate whether there is universal social security coverage in the State party. Also indicate which of the following branches of social security are covered: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, and survivors and orphans.³
28. Indicate whether there are legally established and periodically reviewed minimum amounts of benefits, including pensions, and whether they are sufficient to ensure an adequate standard of living for recipients and their families.⁴
29. Indicate whether the social security system also guarantees non-contributory social assistance allowances for disadvantaged and marginalized individuals and families who are not covered by the contributory schemes.⁵
30. Indicate whether the public social security schemes described above are supplemented by any private schemes or informal arrangements.⁶ If so, describe these schemes and arrangements and their inter-relationship with the public schemes.
31. Indicate if there is equal enjoyment by men and women of pension rights as regards the age of access,⁷ qualifying periods and amounts.
32. Provide information on social security programmes, including informal schemes, to protect workers in the informal economy, in particular in relation to health care, maternity and old age.⁸
33. Indicate to what extent non-nationals benefit from non-contributory schemes for income support, access to health care and family support.⁹

Article 10

34. Indicate how the State party guarantees the right of men and, particularly, women to enter into marriage with their full and free consent and to establish a family.
35. Provide information on the availability, coverage and funding of social services to support families, as well as on legal provisions in place to ensure equal opportunities for all families, in particular poor families, families from ethnic minorities, and single parent families, in relation to:
- (a) Child care;¹⁰ and
 - (b) Social services that enable older persons and persons with disabilities to remain in

3. General comment 19, para. 12 (a) to (i).

their normal living environment for as long as possible¹¹ and to receive adequate health and social care when they are dependent.

36. Provide information on the system of maternity protection in the State party, including working conditions and prohibition of dismissal during pregnancy. In particular, indicate:
- (a) Whether it also applies to women involved in atypical work¹² and women who are not covered by work-related maternity benefits;
 - (b) The duration of paid maternity leave before and after confinement and the cash, medical and other support measures provided during pregnancy, confinement and after childbirth;¹³ and
 - (c) Whether paternity leave is granted to men, and parental leave to men and women.¹⁴
37. Indicate the measures of protection and assistance taken on behalf of children and young persons, including:
- (a) Age limits below which the paid employment of children in different occupations is prohibited under the law of the State party and the application of criminal law provisions in place punishing the employment of under-aged children and the use of forced labour of children;¹⁵
 - (b) Whether any national survey has been undertaken in the State party on the nature and extent of child labour and whether there is a national action plan to combat child labour; and
 - (c) The impact of measures taken to protect children against work in hazardous conditions harmful to their health and against exposure to various forms of violence and exploitation.¹⁶
38. Provide information on the legislation and mechanisms in place to protect the economic, social and cultural rights of older persons in the State party, in particular on the implementation of laws and programmes against abuse, abandon, negligence and ill-treatment of older persons.
39. Provide information on the economic and social rights of asylum seekers and their families and on legislation and mechanisms in place for family reunification of migrants.
40. Indicate:

4. Ibid., paras. 22 and 59 (a).

5. Ibid., paras. 4 (b) and 50.

6. Ibid., para. 5.

7. General comment 16, para. 26 and general comment 19, para. 32.

8. General comment 19, paras. 16 and 34.

9. Ibid., para. 37.

10. Ibid., paras. 18 and 28; general comment 5, para. 30; general comment 6, para. 31.

11. General comment 19, paras. 15, 18 and 20; general comment 5, para. 30; general comment 6, para. 31.

12. General comment 19, para. 19.

13. Idem.

14. General comment 16, para. 26; see also draft general comment 20, paras. 10 (b) (vii) and 16.

- (a) Whether there is legislation in the State party that specifically criminalizes acts of domestic violence, in particular violence against women and children,¹⁷ including marital rape and sexual abuse of women and children and the number of registered cases, as well as the sanctions imposed on perpetrators;
- (b) Whether there is a national action plan to combat domestic violence, and the measures in place to support and rehabilitate victims;¹⁸ and
- (c) Public awareness-raising measures and training for law enforcement officials and other involved professionals on the criminal nature of acts of domestic violence.

41. Indicate:

- (a) Whether there is legislation in the State party that specifically criminalizes trafficking in persons and the mechanisms in place to monitor its strict enforcement. Also indicate the number of reported trafficking cases from, to and through the State party, as well as the sentences imposed on perpetrators; and
- (b) Whether there is a national plan of action to combat trafficking and the measures taken to support victims, including medical, social and legal assistance.

Article 11

A. The right to the continuous improvement of living conditions

42. Indicate whether the State party has defined a national poverty line and on what basis it is calculated. In the absence of a poverty line, what mechanisms are used for measuring and monitoring the incidence and depth of poverty?

43. Indicate:

- (a) Whether the State party has adopted a national action plan or strategy to combat poverty that fully integrates economic, social and cultural rights¹⁹ and whether specific mechanisms and procedures are in place to monitor the implementation of the plan or strategy and evaluate the progress achieved in effectively combating poverty; and
- (b) Targeted policies and programmes to combat poverty, including among women and children, and the economic and social exclusion of individuals and families belonging to the disadvantaged and marginalized groups, in particular ethnic minorities, indigenous peoples and those living in rural and deprived urban areas.

B. The right to adequate food

44. Provide information on the measures taken to ensure the availability of affordable food in quantity and quality sufficient to satisfy the dietary needs of everyone, free from adverse substances, and culturally acceptable.²⁰

15. General comment 18, para. 24.

16. Ibid., para. 15.

17. General comment 16, para. 27; general comment 14, paras. 21 and 51.

18. General comment 16, para. 27.

19. See Committee's Statement on poverty and the International Covenant on Economic, Social and Cultural Rights (2001).

20. General comment 12, para. 8.

45. Indicate the measures taken to disseminate knowledge of the principles of nutrition, including of healthy diets.
46. Indicate the measures taken to promote equality of access by the disadvantaged and marginalized individuals and groups, including landless peasants and persons belonging to minorities, to food, land, credit, natural resources and technology for food production.²¹
47. Indicate whether the State party has adopted or envisages the adoption, within a specified time frame, of the 'Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security'.²² If not, explain the reasons why.

C. The right to water

48. Indicate:
- (a) The measures taken to ensure adequate and affordable access to water that is sufficient and safe for personal and domestic uses for everyone;²³
 - (b) The percentage of households without access to sufficient and safe water in the dwelling or within its immediate vicinity, disaggregated by region and urban/rural population²⁴ and the measures taken to improve the situation;
 - (c) The measures taken to ensure that water services, whether privately or publicly provided, are affordable for everyone;²⁵ and
 - (d) The system in place to monitor the quality of water.²⁶
49. Provide information on education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.²⁷

D. The right to adequate housing

50. Indicate whether a national survey on homelessness and inadequate housing has been undertaken, as well as its findings, in particular the number of individuals and families who are homeless or inadequately housed and without access to basic infrastructures and services such as water, heating, waste disposal, sanitation, and electricity, as well as the number of persons living in over-crowded or structurally unsafe housing.
51. Indicate:
- (a) The measures taken to ensure access to adequate and affordable housing with legal security of tenure for everyone, irrespective of income or access to economic resources;
 - (b) The impact of social housing measures, such as the provision of low-cost social housing units for disadvantaged and marginalized individuals and families, in particular in rural and deprived urban areas, whether there are waiting lists for obtaining such housing and the average length of waiting time;

21. General comment 15, para. 7.

22. Adopted by the 127th session of the Council of the Food and Agriculture Organization of the United Nations, November 2004.

23. General comment 15, paras. 12 (a) and 37 (a); general comment 14, para. 43 (c).

24. General comment 15, paras. 12 (c) (i) and 37 (c).

25. Ibid., paras. 24 and 27.

- (c) Measures taken to make housing accessible and habitable for persons with special housing needs, such as families with children, older persons²⁸ and persons with disabilities;²⁹
- 52. Indicate the legislative and other measures in place to ensure that housing is not built on polluted sites or in immediate proximity of pollution sources that threaten the health of inhabitants.³⁰
- 53. Indicate whether there are any disadvantaged and marginalized individuals and groups, such as ethnic minorities, who are particularly affected by forced evictions and the measures taken to ensure that no form of discrimination is involved whenever evictions take place.³¹
- 54. Indicate the number of persons and families evicted within the last five years and the legal provisions defining the circumstances in which evictions may take place and the rights of tenants to security of tenure and protection from eviction.³²

Article 12

- 55. Indicate whether the State party has adopted a national health policy and whether a national health system with universal access to primary health care is in place.
- 56. Provide information on the measures taken to ensure:
 - (a) That preventive, curative, and rehabilitative health facilities, goods and services are within safe reach and physically accessible for everyone, including older persons and persons with disabilities;³³
 - (b) That the costs of health-care services and health insurance, whether privately or publicly provided, are affordable for everyone, including for socially disadvantaged groups;³⁴
 - (c) That drugs and medical equipment are scientifically approved and have not expired or become ineffective; and
 - (d) Adequate training of health personnel, including on health and human rights.³⁵
- 57. Provide information on the measures taken:
 - (a) To improve child and maternal health, as well as sexual and reproductive health services and programmes, including through education, awareness-raising, and access to family planning, pre-and post-natal care and emergency obstetric services, in particular in rural areas and for women belonging to disadvantaged and marginalized groups;³⁶

26. Ibid., para. 12 (b).

27. Ibid., para. 25.

28. GCGeneral comment 6, para. 33.

29. Idem.

30. General comment 4, para. 8 (f).

31. General comment 7, para. 10.

32. Ibid., paras. 9, 13-15, 16 and 19; see also Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex 1).

33. General comment 14, para. 12 (b).

34. Ibid., paras. 12 (b), 19 and 36.

35. Ibid., paras. 12 (d) and 44 (e).

36. Ibid., paras. 14, 21-23 and 44 (a).

- (b) To prevent, treat and control diseases linked to water and ensure access to adequate sanitation;³⁷
- (c) To implement and enhance immunization programmes and other strategies of infectious disease control;³⁸
- (d) To prevent the abuse of alcohol and tobacco, and the use of illicit drugs and other harmful substances, in particular among children and adolescents, ensure adequate treatment and rehabilitation of drug users, and support their families;³⁹
- (e) To prevent HIV/AIDS and other sexually transmitted diseases, educate high-risk groups, children and adolescents as well as the general public on their transmission, provide support to persons with HIV/AIDS and their families, and reduce social stigma and discrimination;⁴⁰
- (f) To ensure affordable access to essential drugs, as defined by the WHO, including anti-retroviral medicines and medicines for chronic diseases;⁴¹ and
- (g) To ensure adequate treatment and care in psychiatric facilities for mental health patients, as well as periodic review and effective judicial control of confinement.

Article 13

58. Indicate to what extent the form and substance of education in the State party are directed towards the aims and objectives identified in article 13, paragraph 1,⁴² and whether school curricula include education on economic, social and cultural rights.
59. Indicate how the obligation to provide primary education that is compulsory and available free for all is implemented in the State party, in particular:
- (a) The level or grade until which education is compulsory and free for all;
 - (b) Any direct costs such as school fees, as well as the measures taken to eliminate them; and
 - (c) Any indirect costs (e.g. expenses for school books, uniforms, transport, special fees such as exam fees, contributions to district education boards, etc.) and the measures taken to alleviate the impact of such costs on children from poorer households.
60. Indicate the measures taken to make secondary education in its different forms, including technical and vocational education, generally available and accessible to all, including:
- (a) Concrete steps taken by the State party towards progressively achieving free secondary education;⁴³ and
 - (b) The availability of technical and vocational education, and whether it enables students to acquire knowledge and skills which contribute to their personal development, self-reliance and employability.⁴⁴

37. General comment 15, paras. 8 and 37 (i).

38. General comment 14, paras. 16 and 44 (b)

39. Ibid., para. 16.

40. Ibid., para. 16.

41. Ibid., para. 43 (d).

42. General comment 13, paras. 4-5 and 49.

43. Ibid., para. 14

44. Ibid., paras. 15-16..

61. Indicate the measures taken to make higher education equally accessible to all and without discrimination, on the basis of capacity, and the concrete steps taken towards progressively achieving free higher education.⁴⁵
62. Indicate the measures taken to promote literacy, as well as adult and continuing education, in a life-long perspective.
63. Indicate whether minority and indigenous children have adequate opportunities to receive instruction in or of their native language and the steps taken to prevent lower educational standards for these children,⁴⁶ their segregation in special classes, and their exclusion from mainstream education.
64. Indicate the measures taken to ensure the same admission criteria for boys and girls at all levels of education,⁴⁷ and to raise awareness among parents, teachers and decision-makers on the value of educating girls.⁴⁸
65. Indicate the measures taken to reduce the drop-out rates, at the primary and secondary levels, for children and young persons, in particular girls, children from ethnic minorities, indigenous communities and poorer households, as well as migrant, refugee and internally displaced children.

Article 14

66. If compulsory and free primary education is not currently enjoyed in the State party, provide information on the required plan of action⁴⁹ for the progressive implementation, within a reasonable number of years fixed in this plan, of this right. Also indicate any particular difficulties encountered, in the adoption and implementation of this plan of action, as well as the measures taken to overcome these difficulties.

Article 15

67. Provide information on the institutional infrastructure to promote popular participation in, and access to, cultural life, especially at the community level, including in rural and deprived urban areas. In this regard, indicate the measures taken to promote broad participation in, and access to, cultural goods, institutions and activities, including measures taken:
 - (a) To ensure that access to concerts, theatre, cinema, sport events and other cultural activities is affordable for all segments of the population;
 - (b) To enhance access to the cultural heritage of mankind, including through new information technologies such as the Internet;
 - (c) To encourage participation in cultural life by children, including children from poorer families, and migrant or refugee children; and

45. Ibid., para. 20.

46. Ibid., para. 30.

47. General comment 16, para. 30.

48. Idem.

49. In general comment 11, paragraph 11, the Committee asks States parties to submit their plans of action as an integral part of the reports required under the Covenant.

- (d) To eliminate physical, social and communication barriers preventing older persons and persons with disabilities from fully participating in cultural life.⁵⁰
68. Indicate the measures taken to protect cultural diversity, promote awareness of the cultural heritage of ethnic, religious or linguistic minorities and of indigenous communities, and create favourable conditions for them to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs.
69. Provide information on school and professional education in the field of culture and the arts.
70. Indicate:
- (a) The measures taken to ensure affordable access to the benefits of scientific progress and its applications for everyone, including disadvantaged and marginalized individuals and groups; and
 - (b) The measures taken to prevent the use of scientific and technical progress for purposes which are contrary to the enjoyment of human dignity and human rights.
71. Indicate the measures taken to ensure the effective protection of the moral and material interests of creators⁵¹, in particular:
- (a) To protect the right of authors to be recognized as the creators and for the protection of the integrity of their scientific, literary and artistic productions;⁵²
 - (b) To protect the basic material interests of authors resulting from their productions, which enable them to enjoy an adequate standard of living;⁵³
 - (c) To ensure the protection of the moral and material interests of indigenous peoples relating to their cultural heritage and traditional knowledge;⁵⁴ and
 - (d) To strike an adequate balance between the effective protection of the moral and material interests of authors and the State party's obligations in relation to the other rights recognized in the Covenant.⁵⁵
72. Indicate the legal provisions in place to protect the freedom indispensable for scientific research and creative activity and any restrictions on the exercise of this freedom.
73. Indicate the measures taken for the conservation, development and diffusion of science and culture and to encourage and develop international contacts and co-operation in the scientific and cultural fields.

50. General comment 5, paras. 36-38; general comment 6, paras. 39-41.

51. General comment 17, paras. 39 (a).

52. Ibid., para. 39 (b)..

53. Ibid., para. 39 (c).

54. Ibid., para. 32.

55. Ibid., para. 39 (e).

Habitat International Coalition (HIC) is an independent, international, non-profit movement of over 450 members specialized in various aspects of human settlements. Members include NGOs, social movements, academic and research institutions, professional associations and like-minded individuals from 80 countries in both the North and South, all dedicated to the realization of the human right to adequate housing for all.

Many of HIC's programmatic activities are managed through Thematic Structures :

- Housing and Land Rights Network (HLRN)
- Habitat and Environment Committee (HEC)
- Women and Shelter Network (HIC-WAS)
- Working Group on Housing Finance and Resource Mobilization
- Social Production Working Group

What are HLRN's Objectives?

HLRN shares with general HIC, a set of objectives that bind and shape HLRN's commitment to communities struggling to secure housing and improve their habitat conditions. HLRN seeks to advocate the recognition, defence and full implementation of every human's right everywhere to a secure place to live in peace and dignity by :

- Promoting public awareness about human settlement problems and needs globally
- Cooperating with UN human rights bodies to develop and monitor standards of the human right to adequate housing, as well as clarify states' obligations to respect, protect promote and fulfil the right
- Defending the human rights of the homeless poor and inadequately housed
- Upholding legal protection of the human right to adequate housing as a first step to support communities pursuing housing solutions, including social production
- Providing a common platform for them to formulate strategies through social movements and progressive NGOs in the field of human settlements, and
- Advocating on their behalf in international forums

To attain these objectives, HLRN member services include :

- Building local, regional and international member cooperation to form effective housing rights campaigns
- Human resource development, human rights education and training
- Enhancing self-representation skills and opportunities
- Action research and publication
- Exchanging and disseminating member experiences, best practices and strategies
- Advocacy and lobbying on behalf of victims
- Developing tools and techniques for professional monitoring of housing rights
- Urgent actions against forced evictions and other housing and land rights violations

To become a member of HIC-HLRN log on to www.hic-sarp.org



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