Report and Recommendations

November 2004

International Fact Finding Mission

Report on cases of violations of the right to food in Uttar Pradesh, India

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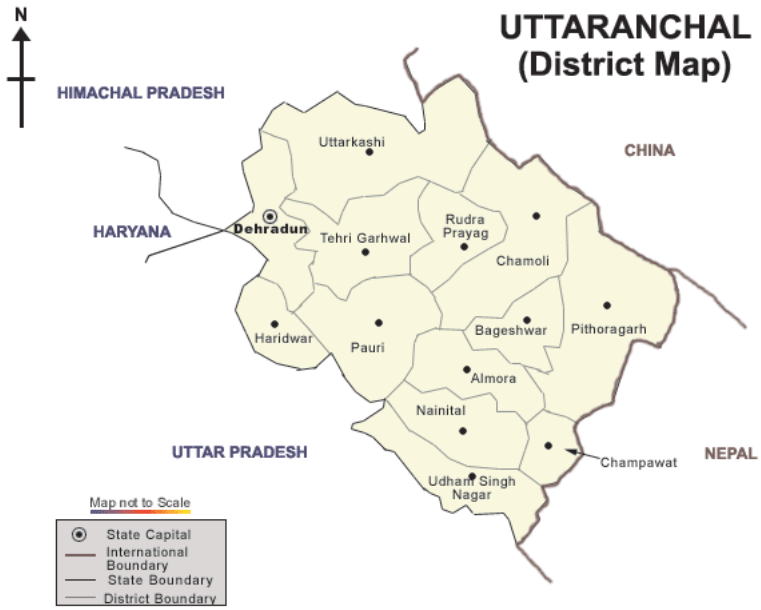
Table of Contents

	Summary	**7**
1	**Introduction**	**9**
1.1	Poverty in India	9
1.2	Policies and Cases Investigated	10
2	**Objectives and Methodology**	**11**
2.1	Objectives and Cases Investigated	11
2.2	Analytical Framework: Obligations under International Law	13
3	**Access to Land in Uttar Pradesh and Uttaranchal**	**15**
3.1	Redistribution of Land	15
3.2	Lack of Implementation of UPZLA Act	16
3.3	Lack of Implementation of Land Ceiling Act	17
3.4	Land Grab by Forest Department	18
3.5	Local Administration Assists Illegal Land Occupation	20
3.6	Flood Erosion Victims	23
4	**Minimum Wages in Uttar Pradesh**	**26**
4.1	Women and the Unorganised Sector	26
4.2	Chikan Kari Workers	28
4.3	Empowerment	30
5	**Supreme Court Orders**	**31**
5.1	Mid-Day Meals	31
5.2	Targeted Public Distribution System	32
6	**Conclusion and Recommendations**	**35**
7	**References**	**37**
Appendix A	**FIAN U.P. and FIAN Norway in Media**	**40**
Appendix B	**The Eight Welfare Schemes ordered by the Supreme Court of India**	**42**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(District Map)
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HARYANA
UTTAR PRADESH
NEPAL
Uttarkashi
Dehradun
Tehri Garhwal
Rudra Prayag
Chamoli
Haridwar
Pauri
Bageshwar
Pithoragarh
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Nainital
Champawat
Udham Singh Nagar
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State Capital
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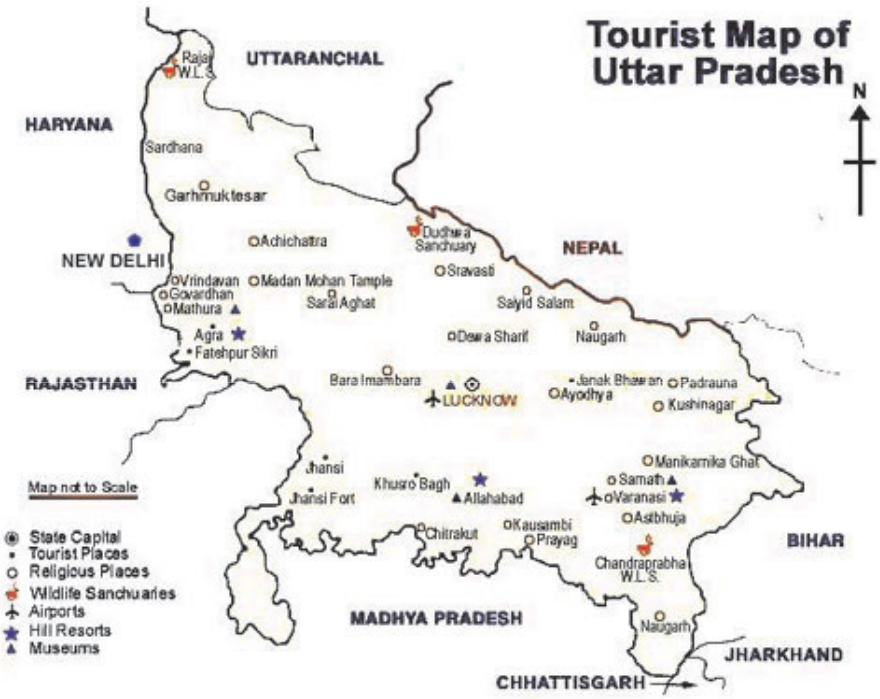
District Boundary


Tourist Map of
Uttar Pradesh
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HARYANA
NEW DELHI
NEPAL
RAJASTHAN
BIHAR
MADHYA PRADESH
JHARKHAND
CHHATTISGARH
Rajaji W.L.S.
Sardhana
Garhmuktesar
Achichattra
Dudhwa Sanchuary
Sravasti
Vrindavan
Madan Mohan Tample
Govardhan
Mathura
Sarai Aghat
Sayid Salam
Agra
Fatehpur Sikri
Dewa Sharif
Naugarh
Bara Imambara
LUCKNOW
Janak Bhawan
Ayodhya
Padrauna
Kushinagar
Jhansi
Jhansi Fort
Khusro Bagh
Allahabad
Manikarnika Ghat
Samath
Varanasi
Astbhuja
Chitrakut
Kausambi
Prayag
Chandraprabha W.L.S.
Naugarh
Map not to Scale
State Capital
Tourist Places
Religious Places
Wildlife Sanchuaries
Airports
Hill Resorts
Museums

Summary

This report documents several violations of the right to adequate food in districts of Uttar Pradesh and Uttaranchal, India. The report is based on findings during an international fact finding mission (FFM) by FIAN International (FoodFirst Information and Action Network) in November 2004. The UN Covenant of Economic, Social and Cultural Rights states “all human beings have the right to food and to be free from hunger” (article 11). The Indian Constitution (article 21) as interpreted by the Supreme Court of India (Writ Petition [Civil] No. 196 of 2001) to include the right to food and Indian legislation on land reform and minimum wages has provided the terms of reference for this report.

The FFM consisted of four teams investigating five cases of human rights violations. Three cases are concerned with access to land, one case deals with minimum wages and two cases are related to the implementation of welfare schemes in Uttar Pradesh (one case deals with both access to land and welfare schemes).

This report gives recommendation to the central government of India and the state governments of Uttar Pradesh and Uttaranchal on how to realise of the right to food (see chapter six). The recommendations address the policies of land reform, rehabilitation after flood erosion, minimum wages and welfare schemes. Few of the recommendations directly address the documented cases; their problems are included in the wider policy recommendations. We emphasise that the central government of India and the state government of Uttar Pradesh and Uttaranchal must immediately take measures to realise the right to adequate food for the landless in Chitrakoot, Udham Singh Nagar and Bahraich, the Chikan Kari workers in Lucknow and all of the children in the state. We welcome that the government of Uttar Pradesh now provides Mid-Day Meals to children in all government schools.

Land Grab in Chitrakoot, Uttar Pradesh

Inhabitants in Chitrakoot, especially within poor communities, do not have access to land. Some have, in accordance with the government policy of land reform, been provided land on paper by the Uttar Pradesh government. In practice this land has been captured either by local, powerful landlords or it is inaccessible due to the establishment of a forest reserve in the area. The Uttar Pradesh government is neither protecting the inhabitants from the illegal acts of powerful landlords nor respecting their land rights by providing appropriate compensation for the expropriation of the land taken by the Forest Department.

Illegal Land Occupation in Udham Singh Nagar, Uttaranchal

The land of 154 dalit families of the village Pachawala, Udham Singh Nagar, has been occupied by M/S Escort Farms Ltd, a local landlord. The people are deprived of food, shelter etc. A favourable Supreme Court order states that the dalit families are the rightful owners of the land and are therefore entitled to continue cultivating it. This order has not been implemented by the local administration. The families are therefore still unable to cultivate their land.

Flood Erosion in Bahraich, Uttar Pradesh

Many families in the Bahraich district have evacuated their land due to floods by the Ghagra River. Since 1995 the meandering river has changed its course and is eroding vast areas on the East bank. Houses and arable land has been washed into the river, leaving more than 5000 families houseless with no means of livelihood. The Uttar Pradesh government has not provided the flood erosion victims with an appropriate rehabilitation scheme. Nor are the victims receiving welfare schemes to which they have legal claims. Such claims have been emphasized by the Supreme Court of India on the 28th of November 2001 in an interim order to Uttar Pradesh and other states, calling for the implementation of eight welfare programs.

Women Paid Less than Minimum Wages in Lucknow, Uttar Pradesh

Workers of unorganised sector, and especially women like the Chikan workers in Lucnow, are paid less than minimum wages of INR 58.50. This minimum wage is prescribed by the government of Uttar Pradesh. Yet, no measures are taken by the government to secure that payments are done in accordance with this law. In addition to being underpaid, these workers do not have access to other social security facilities.

Mid-Day Meals in Allahabad, Uttar Pradesh

Article 21 of the Indian constitution guarantees the right to life for every citizen. Supreme Court of India has demonstrated that the right to food is included in the right to life. All of India's states are responsible for implementing different schemes to secure this right. Amongst these are the mid-day meal schemes and access to subsidized food through the targeted public distribution system. The Mid-Day Meal scheme guarantees all children in government primary schools a cooked meal. Due to FIAN and others, the Government of Uttar Pradesh started the mid-day-meal scheme in 16 districts, including Allahabad district, from September 2003. But as a result of continuous pressure and advocacy from alliances of FIAN movement now state government has started this scheme throughout the state from October 1st 2004.

1. Introduction

1.1 Poverty in India

Food is a human right. This right is enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India ratified in 1979. India is therefore obliged to respect, protect and fulfil the right to adequate food. In order to realise this right, everyone must either have access to productive resources ensuring their dietary needs or be provided food or food cash directly. According to UN statistics for 2002, 47% of Indian children under the age of five were underweight for their age. 34,7% of the Indian population has less than $1 a day and 79,9% have less than $2 a day (United Nations Development Programme 2003). Indian legislation, if fully implemented, would better the lives of many hungry Indians.

In 2001 people were dying due to starvation. At the same time, the Food Corporation of India was unable to stock vast amount of grains. 60 million tonnes of grains above the emergency buffer stock have been filling the Food Corporation's godowns. Some of the grain rotted or was eaten by rats. Between 2000 and 2002, 20 million tons of grains were exported to the European Union, much of it for cattle feed (Gonsalves et. al. 2004). The Indian Supreme Court has held that "when it comes to the enforcement of a fundamental right, courts will not entertain the argument of financial incapacity" (Gonsalves et. al. 2004: 6).

In 2003 India decided not to receive overseas development aid from several countries, amongst them Norway. The purchase of a second aircraft carrier for the Navy has a higher priority than feeding India's children (Gonsalves et. al. 2004). It is lack of political will and not economical resources, which are the key causes of hunger in India. According to Patnaik, "the average Indian family of four members was absorbing 93 kg less of food grains [in 2000-2001] compared to a mere four years earlier – a massive and unprecedented drop, entailing a fall in average daily intake by 64 gms. per head, or a fall in calorie intake by at least 225 calories from food grains which accounts for 65 to 70 percent of the food budget of the poor" (Patnaik 2004: 287).

India is a highly stratified caste-ridden society. A large part of the Indian population is living in poverty, and most of these poor are outcaste. Many of them call themselves dalits, which literally means "broken people". Poverty in India has been on a general declining trend since the late 1970s, according to governmental figures. In the year 1977-78, 51.2% of the population, and 64.6% of dalits were living below the poverty line. In 1987-88 the overall figure had declined to 33.4%, while the figure for dalits had declined to 44.7%. In 1997, after the beginning of economic reforms, the figure had risen to the high 40s for dalits (Human Rights Watch 1999). These statistics show that although poverty has been declining overall, the dalits remain particularly disadvantaged. Figures for electricity, housing, literacy, mortality rates, child mortality rates, per capita expenditure and a range of other basic indicators of poverty all show that there has been little narrowing of the gap between dalits and the rest of the population.

India also has tribal populations (including nomadic tribes). They constitute around 8% of the total Indian population. Since they are older settlers and living in forests they are known as Adivasi in the Indian language. The word implies the meaning itself i.e. old settlers Adi = old Vasi = those who stay. While the social, economic and educational deprivation of these groups is a common and unifying characteristic, each group also have their own specific problems. In many states, Scheduled Tribes have certain rights which are not attributed to others, amongst them rights related to minor forest produce.

In Indian legislation, the dalits and the adivasis are called Scheduled Castes and Scheduled Tribes. The Indian legal system has come up with different acts and legislations specifically constructed to protect the rights of the Scheduled Castes and Scheduled Tribes. One important act is "The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Section 3 (1) in this Act is of special concern for the right to food. Here one can read a description of actions which has punishments as its consequence, when committed by a person who is not a member of a scheduled caste or a scheduled tribe: Section 3 (1) (iv) reads: "Wrongfully occupying or cultivating any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or Scheduled Tribe, or getting the land allotted to him transferred. This act is named an atrocity and thereby punishable by a term of six months to five years in prison with a fine" (Human Rights Watch 1999: 188). Despite this powerful piece of legislation, it is notified that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is hampered by the police's lack of willingness to register offences or their ignorance of the terms of the act itself (Human Rights Watch 1999).

Efforts in improving conditions for dalits, however, have not been adequate to offset the marginalisation of these two disadvantaged groups, for their assimilation with the community at large. From dalits' point of view, the caste system is an important reason why the right to food for dalits is violated (Human Rights Watch 1999). Starvation in India seems to a large extent to be designed.

1.2 Policies and Cases Investigated

Approximately 70% of India's poor live in the rural areas. In Uttar Pradesh and Uttarranchal the situation is similar (State planning commission). Access to land is therefore of crucial importance for the poor population to realise their right to food. A large part of this report deals with the state of Uttar Pradesh's legislation on land reform and related human rights violations. It will also look into lack of policies to secure people's right to food after natural catastrophes. As a federal state, the political power in India is shared between the central state and the federal states. On issues of land rights, this is dealt with at the federal state level. Therefore the different federal states have different laws and practices relating to these issues. In order to understand the rights of peasants in Uttar Pradesh, it is therefore necessary to investigate the state of Uttar Pradesh's legislation and practices. Land cases can still be brought to the attention of the Supreme Court of India. The implementation of the Court's order lies with the concerned federal state. Uttaranchal was previously a part of Uttar Pradesh. It was separated as an independent state in 2000. The two states have identical legislation concerning land rights.

In the unorganised sector, men and women are often underpaid in their work, resulting in lack of economic resources to buy adequate food. Women are often paid less than men in both the unorganised and organised sector. According to UN statistics, women earn 38% of men's income (UNDP 2003). According to The Minimum Wages Act of 1948, all workers must be paid a minimum wage or more (Arora 2005). State government must adjust the rates of the minimum wage at "such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers" (Arora 2005: 10). This means that the minimum wage must be at a sufficiently high level to guarantee workers' right to food. In Uttar Pradesh the Minimum Wages is INR 58,50 per day (Arora 2005). This is seen as sufficient to realise workers' right to food. This report asses-ses the impact of the Minimum Wages Act on the working conditions of chikan kari workers. Chikan kari is a handicraft, mainly done by women.

Outraged by the starvation deaths taking place next to food abundance, the People's Union of Civil Liberties (PUCL) mobilised civil society in Orissa in 2001 and submitted a petition directly to the Supreme Court of India. The Supreme Court has issued several interim orders in the case PUCL vs Union of India and others addressing the right to food (Gonsalves et. al. 2004). The many welfare schemes available in India should secure access to food for the hungry. These schemes apply to all the states of India. Some of the funds to guarantee these schemes are allocated from the national state to the federal states. Despite funds transferred and grains available in stock, the food cash/food items are not reaching all the needy. In many cases, this is because the poor are not identified as living below poverty line. Some progress has been made though, especially related to the Mid-Day Meal Scheme (see chapter five). This report assesses the identification process of families living below poverty line, especially in Bahraich district, Uttar Pradesh, and the implementation of the Mid-Day Meal Scheme, especially in Allahabad district, Uttar Pradesh.

2. Objectives and Methodology

FIAN International carried out an international fact finding mission (FFM) to Uttar Pradesh, India, between the 1st and the 12th of November 2004. The mission consisted of four teams, covering five cases.

- Access to land: Chitrakoot and Bahraich (Uttar Pradesh) and Udham Singh Nagar (Uttaranchal)
- Minimum wages: Lucknow (Uttar Pradesh)
- Mid-Day Meals Scheme: Allahabad (Uttar Pradesh)

2.1 Objectives and Cases Investigated

The main objective of the FFM was to investigate cases of human rights violations in Uttar Pradesh, more specifically violations of the right to food. The cases are important because the concerned people are either suffering from or threatened by hunger. They also illustrate the importance of implementing political decisions and elaborating policies which will secure everyone's right to feed themselves. The findings of the investigations are reported to relevant authorities and the FFM expects the state of Uttar Pradesh and the central government of India to take necessary steps to put an end to the violations documented in this report.

FIAN (FoodFirst Information and Action Network) is the international human rights organisation working for the right to food. It was founded in 1986, has consultative status with the United Nations and members in more than 60 countries around the world. FIAN's objective is to contribute to the achievement of the International Bill of Human Rights worldwide. FIAN works particularly towards the realisation of the right to food of persons threatened by hunger and malnutrition.

FIAN has since 2002 worked on the cases documented in this report. In 2003 a similar FFM was carried out (FIAN Norway 2004). One of the two teams of that mission visited five villages in Chitrakoot talking with victims of human rights violations. Staff persons at a school in Khiri were interviewed about, at that time, the lack of the Mid-Day Meals for school children. The other team visited three villages in Bahraich and talked with victims of flood erosion and local officials. The findings of these visits were reported at a press conference in Lucknow, capitol of Uttar Pradesh, on November 27th 2003 and in the FFM Report 2003 named "Investigating violations of the right to food in Uttar Pradesh, India", published by FIAN Norway (FIAN Norway 2004).

Several newspapers covered the findings (Time of India, Hindustan Times, Amar Ujala, Rashtriya Sahara, Hindustan, Dainik Jagran, Rashtriya Sahara,The Pioneer). The FFM Report was sent to the Governor, the Chief Minister, Commissioner of Supreme Court of India on Right to food case and to the Revenue Department of Uttar Pradesh. It has also been sent to the UN Committee on Economic, Social and Cultural Rights, the UN Special Rapporteur of the right to food and the Ministry of Foreign Affairs in Norway. Several organisations in India, Norway and internationally have also received the report.

Participants of the 2004 FFM teams were from FIAN International Secretariat (IS), FIAN Norway, FIAN Uttar Pradesh (UP), FIAN member from Nepal and other concerned organisations working on the specific cases. The teams met in New Delhi on November 1st and a preparatory meeting was held on November 2nd. The teams conducted field surveys from November 3rd to November 7th. The teams met with different concerned parties in the field; victim groups, local and state authorities (amongst them the Governor of Uttaranchal), media persons and other voluntary organisations. Unfortunately the FFM teams were unable to meet with the Chief Minister of Uttar Pradesh and the Governor of Uttar Pradesh.

The teams needing translators where accompanied with one or two translators. All interviews with victims of human rights violations were made in Hindi. Interviews with government officials were sometimes conducted in Hindi and other times in English. At state level in Uttar Pradesh the interviews were held in English with no need for translations. The names of the persons interviewed are not revealed in this report for safety reasons. Exceptions are made for higher state officials and chief petitioner in Uttarranchal.

All teams met again in Lucknow to analyse and discuss the findings. A press conference was held on November 11th in New Delhi with media coverage in several national newspapers (Amar Ujala, Rashtriya Sahara, Hindustan, see appendix A). We also met with the Norwegian and German Embassy in New Delhi on November 11th.

The cases investigated:

Team A:	Minimum wages (chikan kari workers) and Land Reform of Chitrakoot, Uttar Pradesh
Location:	Lucknow, capitol of Uttar Pradesh
Participants:	FIAN Norway; Ms. Cecilie Haare and Ms. Stine Olsson. Consultants of FIAN UP; Ms. Sunita Siddharth Shanker and Dr. K.N. Maurya
Objective 1:	**Chikan kari workers –** To investigate whether or not the minimum wages act is securing the earnings of chikan kari workers.
Interviews:	Chikan kari workers in urban Lucknow (Hindu and Muslim women), middlemen, sellers, Principal Secretary of Labour Department, Secretary of Social Welfare Department, Dr. Prof. DM Diwakar, GIRI Institute for Development Studies, Lucknow
Objective 2:	**Land reform –** To question concerned authorities in Uttar Pradesh about land rights.
Interviews:	Ex. Minister for Land Revenue Uttar Pradesh, Principal Secretary of Labour Department, Secretary of Social Welfare Department, Dr. Prof. DM Diwakar, GIRI Institute for Development Studies, Lucknow
Team B:	Land Reforms in Udham Singh Nagar, Uttaranchal
Location:	Near Dehradun
Participants:	FIAN Norway; Ms. Kristin Goa, FIAN UP; Mr. Balbir Singh Tomar, Adv. Avtaar Singh Bahar, Mr. Lakhpreet Singh and Mr. Tej Singh Bhandari
Objective:	Investigate lack of implementation of a

	Supreme Court decision concerning ownership of land
Interviews:	Honourable Governor of Uttaranchal, Ombudsmann (Lokayukt), Member of Legislature Assembly, Mr. Jasram, the chief petitioner against the M/S Escorts Farms Ltd. in the High Court of Allahabad, and other victims in the village
Team C:	BPL Cards and Access to Land in Bahraich, Uttar Pradesh
Location:	Near border of Nepal
Participants:	FIAN Norway; Ms. Kristin Kjæret, FIAN member from Nepal; Hiqmat Thapa, FIAN UP; Mr. Dhruva Kumar, Mr. Vinay Sampson, Panchsheel Development Trust; Ms. Prabha Srivastava and Mr. Georgy
Objectives:	1. Investigate compensation for loss of land due to natural calamity 2. Check whether or not the displaced families have received BPL cards giving them access to food at low prices from the PDS shops
Interviews:	Sub District Magistrate of Tehsil Mahsi, Tehsildar of Tehil Mahsi, victims of flood erosion in Kahranpurva, Jogapurva and Sansari
Team D:	Mid-day Meals in Allahabad, Uttar Pradesh
Location:	Village Kheri
Participants:	Mr. Bipin Bihari, Dr. Ashok Patel and Mr. Uday Pratap Kanchuki
Objective:	Learn more about the implementation of the Mid-Day Meals Scheme in Uttar Pradesh
Interviews:	Head Master of the Primary School in Kheri, Allahabad, Basic Education Officer, Allahabad, Head of the village Panchayat (Council), Kheri, community people and children of the village Kheri, local journalists

2.2 Analytical Framework: Obligations under International Law

Article 25 of the Universal Declaration of Human Rights states: ”Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including adequate food, clothing, housing (...).” This right is further elaborated in the International Covenant of Economic, Social and Cultural Rights (ICESCR). Its article 11 states: “The states parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food…. The states parties will take appropriate steps to ensure the realisations of the rights… and recognising the fundamental right of everyone to be free from hunger. (…) [States] shall take (…) the measures, including specific programmes which are needed: (…) and by developing or reforming agrarian systems.”

India ratified the ICESCR on July 10th 1979. India is therefore obliged to respect, protect and fulfil the right to food for all its citizens. In article 21 of the Indian constitution it is stated “every Indian citizen has the fundamental right to life”. Since 2001 a case about the right to food (PUCL vs. Union of India and others; Writ Petition [Civil] No. 196 of 2001) is pending with the Supreme Court of India. The case has demonstrated that the right to food is included in the right to life (the case is further described below).

In its General Comment No. 12 of 1999 on the right to adequate food the UN Committee on Economic, Social and Cultural Rights presented a detailed and authoritative interpretation of the provisions of the Covenant. The Comment establishes the normative content of paragraphs 1 and 2, of the article 11 of the ICESCR: “The right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its

procurement". For the Committee, the core content of the right to adequate food includes the following: "The availability of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights" (E/C.12/1999/5, 8).

General Comment No. 12 sums up in paragraphs 14-20 the obligations and related violations concerning the human right to adequate food. In correspondence with the nature of the obligations, it states: "The nature of the legal obligations of States parties are set out in article 2 of the Covenant and has been dealt with in the Committee's General Comment No. 3 (1990). The principal obligation is to take steps to achieve progressively the full realization of the right to adequate food. This imposes an obligation to move as expeditiously as possible towards that goal. Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger" (E/C.12/1999/5, 14). "The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligation to respect, to protect and to fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide. (...) The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfil (facilitate) means that States must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters" (E/C.12/1999/5, 15).

Even if States face severe resource constraints, caused by economic adjustment, economic crisis or other factors, the vulnerable population has the right to be protected through social programmes aimed to improve access to adequate food and satisfy nutritional needs: All States have the obligation to immediately enforce the core content of the right to food, which means, that every person must, at least, be free from hunger, and to seek international assistance to this end wherever necessary. In this respect, paragraph 17 of the General Comment No. 12 states: "Violations of the Covenant occur when a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger. In determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State party to comply. Should a State party argue that resource constraints make it impossible to provide access to food for those who are unable to secure such access by own means, the State must demonstrate that every effort has been made to utilise the resources at its disposal in an effort to meet, as a matter of priority, those minimum obligations. This follows from Article 2.1 of the Covenant, which obliges a State party to take the necessary steps to the maximum of its available resources, as previously pointed out by the Committee in its General comment No. 3, paragraph 10 (OHCHR 14/12/1990). A State claiming that it is unable to carry out its obligations for reasons beyond its control therefore has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability of the necessary food" (E/C.12/1999/5, 17).

3. Access to Land in Uttar Pradesh and Uttarranchal

3.1 Redistribution of Land

In India land reforms emerged as one of the most important development strategies in the post World War II period. The governments in power have been expected to show political will and translate the expectations of the landless poor, particularly schedule castes and schedule tribes, through effective implementation of land distribution. This would be important in order to empower them in real sense (Diwakar & Mishra 2005). Indian agriculture and allied activities provide livelihood for approximately 68% of the people living in rural India. It is the responsibility of the State to provide all basic facilities needed to sustain the livelihood of rural people. Yet, in many instances basic minimum facilities necessary for sustenance are not provided (State human rights in India 2000). “The land reform legislations have not been implemented [in India] except for two or three states” (Mahadevan 2004: 448).

Farm land in Bahraich, Uttar Pradesh

Diwakar and Mishra (2005) from the GIRI Institute of Development Studies in Lucknow have done a study based on household survey in Uttar Pradesh. They have made an attempt to comprehend the reality of land reforms and its contribution towards promotion of human development. They found that socio-economic backwardness; poor infrastructure, lack of basic amenities and resources and the basic features of the households mainly were depending on agriculture. The majority of the households were living below the poverty line. Indebtedness and exorbitant rates of interest effectively operated by landowner cum moneylender created syndrome of dependency and informal bondage. Diwakar and Mishra argue that redistribution of land could create space for economic security, reduced landlessness, and initiated income generation. They found indications of liberation from bondage on account of ownership of residential land. Poor people were able to erect houses and enjoy relatively comfortable living. The beneficiary households were able to use their cultivable land to increase the food grain production as well as obtain better food security. Land as collateral security provided access to public institutional network and credit.

Yet, state adopted land reform policies have still to make a difference for many rural poor. Various categories of land have provided a significant cover in favour of land-owning castes and class. India is a federal state, where each state has its own legislation related to land and ownership of land. Land reform is therefore a matter at state level. The following will look more into the lack of implementation of land reform in Uttar Pradesh and Uttarranchal. In Uttarranchal, the laws and regulations related to land have remained the

same after it was separated from Uttar Pradesh. Cases investigated by the international FFMs conducted by FIAN International in 2003 and 2004 illustrate the lack of political will to realise the right to food by providing access to land for landless peasants.

3.2 Lack of Implementation of UPZLA Act (Uttar Pradesh Zamindari Abolition Act 1952)

The Zamindari system which existed prior to India's independence was abolished by the Uttar Pradesh Zamindari Abolition Act 1952 (UPZLA Act 1952). Small peasantries under this feudal system were subject to exploitation leading to ejection of a large section of small peasantry. Many tillers were reduced to the status of tenants (Louis 2002). They lost their rights of ownership on land and were forced to be subordinated as tenants at will to Zamindars (interview with Professor Diwakar 2004). The UPZLA Act classified land into three categories, one of which is Gramsamaj land (common property of the whole village). The aim of the Act was to distribute Gramsamaj land to the landless people (interview with Ex Minister for Revenue Department 2004).

The process of distributing the Gramsamaj land among the landless is by calling an open meeting of the village presided by the Gram Pradhan (elected village head). The decision of this open meeting is approved by the Sub District Magistrate (local administration serving several tehsils. A tehsil in India comprises of 300-400 villages). The official policy has been that if a landless dalit has been tilling the Gramsamaj land, then the land is allotted to that particular dalit. The land should not exceed 3.25 acres. Through this process much of the Gramsamaj land has been distributed and, according to official statements, not much of the land remains to be distributed amongst the landless.

Mishra & Diwakar (2005) say that in principal this procedure should be ideal and democratic. However, they found in their household survey that many of the households were unable to possess the allotted land. This was often due to the land being in the possession of big farmers and influential persons. The reason behind this, they explain, is that the Gramsamaj land lay scattered and fragmented, as patches in the control of big landholders. Therefore, even if the land is allotted, it has been difficult to take possession of it. Many times, allotted land has been in the centre of the land of the upper-caste. The beneficiary has often no courage to claim and till this land for himself/herself. Mishra & Diwakar also found that many times the land allotment was done by 4-5 members of the village executive instead of holding an open meeting. There were also cases were unscrupulous elements, upper-caste, strong men or land mafia have grabbed Gramsamaj land. Thus if such cases were investigated and identified more land would become available. This could then be distributed amongst the landless.

When the FIAN International FFM visited the villages Shakroa and Chamroha in 2003, the villagers told that 20 years ago, 55 families in these villages were promised land. 44 of these families have yet to receive this land. The two villages consist of approximately 100 families. As part of a national sterilisation program in the 1980`s some of the women in these villages were informed that they would receive land if they were sterilised. In Shakroha and Chamroha many women agreed to be sterilised to fulfil these requirements of the state. Six of the women were promised 3 acres of land. 20 years later, land has still not be distributed to them. The system leaves the villagers with a very limited ability to foresee their food supplies.

Similarly, people in Uttaranchal hoped that the state government would distribute land to needy people and implement the Zamindari Abolition

Act. However, large numbers of needy people, such as dalits and ex-soldiers, are not given rights to land. The problem of land right abolition has been intense in the terrain area of the state, especially in village Harinagar, Kashipur, District Udham Singh Nagar. Large areas in this district are under the control of big farm houses and companies. This report documents a case where a big land owner has grabbed land and thus left more people landless.

3.3 Lack of Implementation of Land Ceiling Act

In 1960 the Land Ceiling Act was passed in Uttar Pradesh. According to this act an individual can only possess up to 12.5 acres of agricultural land. In case of orchards and not so fertile land, this limit is enhanced. As per this act, surplus land should be distributed to the landless.

The FFM team A recalls from interviews with officials at the Uttar Pradesh Revenue Department: ”No surplus land is available for the landless people in the rural areas in Chitrakoot. If the land of any person is acquired, he or she will be paid in cash only as compensation. No land is therefore to be given”.

Diwakar & Mishra (2005) discovered in their household survey that an autocratic attitude of Gram Pradhan (Elected Village Head) and Lekhpal (official working with the local administration on technical issues related to land ownership) did not reveal clear pictures of land allotment. Diwakar & Mishra related this to poor households’ lack of money to bribe the officials, resulting in discriminating allotment procedures by the administration. Therefore, illegal possessions of land remained unchallenged and indirectly protected. Poor households who, despite their hardship, are able to mobilise funds to bribe the functionaries of implementing agencies, did not bribe them. This because they anticipated it would not help, as possession of land remained complicated and next to impossible.

Despite the existence of the Uttar Pradesh Land Ceiling Act, there are individuals in Uttar Pradesh holding more than the prescribed limit of agricultural land. There are many loopholes to evade the law. The FFM team A learned that people have land registered in fictitious names. In some cases the families living as one unit have land listed separately for the husband, the wife and minor children. Some individuals own vast agricultural farms in the name of farm cooperatives (interview with Secretary, Social Welfare department 2004).

Mere allotment does not ensure possession. There is a gap in allotment and possession in case of ceiling surplus land. Even after land has been allotted to a landless, possessing this land can remain an uphill task. Hence there is always a question of under-possession. There are many reasons why deserving beneficiary are unable to get land. Many non-beneficiaries said they were unable to get land because no help was provided to them (Diwakar & Mishra 2005). Secondly, they explained that they lacked money to offer bribes to the concerned persons. Those who could afford the bribes were able to get land. This illustrates how wrong implementation and lapses of concerned agencies and authorities are hindering the implementation of land reform.

There is a need to sensitise government officials and agencies to the importance of a proper implementation of the land ceiling act, and remove the loopholes in the ceiling laws. There is also a need to create awareness among the potential beneficiaries (Diwakar & Mishra 2005, Mahadevan 2004).

In 2003 the FFM team visited the village Motwan, Chitrakoot. The village consists of approximately 200 families. They were told that a medical doctor

in government service, through fraud, had captured large areas of what used to be village land. This man now controls 300 acres of fertile land. 100 acres were bought illegally, and 200 acres were simply captured with the help and protection of the local police. The FFM team was in 2003 informed that some villagers were forced to work for this doctor. Three people had refused to do so. They were imprisoned.

According to studies from the GIRI Institute of Development Studies in Lucknow, the state government has allotted 26.000 acres of land to landless people living below poverty line. Strong landlords possess large land areas, beyond the land ceiling act. Still, the landlords are absent in the process of redistributing land (Interview with Professor Diwakar).

3.4 Land Grab by Forest Department

When vast agricultural land was transferred to the Gramsamaj due to the UPZLA Act, the Forest Department used the opportunity to claim land to develop forest and thereby increase the country's forest. The policy was to declare such forest as reserved forest, turning it into government property. After 1973 the concepts National Parks and Tiger Reserves were launched. This introduced a more stringent government control of the forest. The policy was that the people, mostly adivasis, who had traditionally enjoyed the land and the produce of these forests, were to either be given compensation in the form of alternative land or allowed regulated collection of minor forest produce (recalls from interviews with UP Revenue Department).

The FFM team in 2003 learned from interviews in Chitrakoot, that the Uttar Pradesh government in 1992 had provided 2.2 acres of land to each family in the village Elha. Elha consists of approximately 150 families. The families belong to the Kol community. In 1994 documents were issued by the Revenue Department of Uttar Pradesh, confirming that the villagers were the rightful owners of this land. In 1999 the Forest Department took the land in their possession and defined the large area near the village as a forest reserve. Its original inhabitants and guardians of the forest were forced to move out of the forest. There was no compensation provided for the loss of resources. Suddenly the documents from the Revenue Department were of no value. Protests from the villagers gave no response; instead they were met with threats and harassments from both the forest officials and the local police. In order to feed themselves, some villagers took up work for the Forest Department, building a stone wall along the border of the forest reserve. The purpose of this wall is to keep the villagers themselves outside of the reserve. The corruption among the officials working for the Forest Department and the local police contributes to the villagers` depressing situation.

The FFM team visiting the area in 2003 were told that the villagers have to pay bribes to the officials if they harvest any minor forest produce within the reserve, or if they are caught with livestock within the borders of the reserve. Government owned banks provided loans to the beneficiaries of the land reform as an incentive to buy livestock etc. The loans were given partly as a subsidy and partly as a loan. Many of the inhabitants of Elha took up these loans prior to the establishment of the forest reserve, as an investment in their agricultural work. With no access to land, these investments are now worthless. The loans on the other hand have increased 3-5 times due to high interest rate. In this matter the villagers face serious consequences. Because of their lack of access to land the villagers suffer from malnutrition, under-nourishment and starvation.

When the FFM team A talked with the Revenue Department in 2004, they said they could not do anything in this case. Since the land is now forest land it is in the possession of the Forest

Department, and therefore the displacement of the concerned adivasis are now the responsibility of the Forest Department. In these kinds of issues there is no interaction between the Revenue Department and the Forest Department, the FFM team A recalls from the interviews. Earlier there was a committee functioning as a link between the two departments. This arrangement lasted for 13 years. Two years ago, the government put the committee to an end. They did not find it to be very useful (interview with Revenue Department Uttar Pradesh 2004). In our view, such committee is needed to enable communication between the different departments. We therefore recommend that the Government of Uttar Pradesh again establishes a committee with members from both the Revenue and Forest Department.

When asked what kind of land rights the adivasis have, the FFM team A recalls the Revenue Department answering as following: Land can be allotted to a group of people who have been identified under certain criterias and a preferential list is made, called the Z evolution Act (1980). In Uttar Pradesh distribution of land also depends on whether you live below the poverty line or not. If the adivasis live below the poverty line, they have certain land rights. But in general the adivasi people in Uttar Pradesh do not live below the poverty level. Therefore the persons who are referred to under the matter of Chitrakoot are not included in this preferential list. Thus their displacement was under the rules, because they were holding the forest land and they were also not entitled to Z evolution Act (1980) (Interview UP Revenue Department). To FIAN's knowledge, a vast amount of Adviasis do indeed live below the poverty line. The information provided by the Revenue Department is in our view illustrative of the Department's lack of understanding of the adivasis' difficult situation in Chitrakoot.

Another issue is that the adivasis are not notified as schedule tribe in Uttar Pradesh, they are notified as schedule caste. The Revenue Department claims that there has been a classification in scheduled tribe and scheduled caste category linked with the specific regions. This can be better understood if we look at the case of Kols. The Kols are a community, living in the southern Uttar Pradesh districts of Banda, Allahabad, Chitrakoot and Mirzapur. They also live in districts of the neighbouring state Madya Pradesh. In Madya Pradesh the Kols are categorised as Schedule Tribe, in Uttar Pradesh as Schedule Caste. This is an inconsistent policy, with severe consequences for the Kols in Uttar Pradesh.

In Chitrakoot people were given the compensatory land after the establishment of the National Park. Yet the 2003 FFM learned that the Kols in Chitrakoot were never able to possess the land given to them. They only have the government letter. To worsen their situation, they are not categorised as Scheduled Tribes. This is of importance, because only people of Scheduled Tribes are entitled to collect minor forest produce.

Villagers in Chitrakoot district, Uttar Pradesh

Since the Kols in Uttar Pradesh are not recognised as adivasis, their access to food is even more restricted.

When the 2003 FFM visited the village Jaramuafi, the villagers said that they earlier owned land in the village. Now they are all landless. The village consists of approximately 100 Kol families and about 50 families belonging to the Gond tribe. In 1982 many took up loans to purchase bulls. The Dulsi Gramen Bank provided the loans and the amounts were the same as in Elha. In 1990 the villagers were told they would be relieved from their loans. They were told that some high caste people with contacts in the bank and people working for the Revenue Department had made a deal with the bank. The villagers were asked to come to the bank, believing their loans would be erased. But instead they were tricked. The documents they signed with their fingerprints were agreements to auction off their land. When the villagers discovered this, they went to the Sub District Magistrate (SDM) to complain. The SDM said that the land had already been auctioned off at the district headquarter. The villagers were no longer the landowners. Now the only jobs available for them are to cut wood in the forest and sell it on the market or to work for the Forest Department. The villagers told that if they had land, they would not have to cut woods in the Forest Reserve. They are aware of the Land Ceiling Act. According to them, this act is not enforced due to corruption by the big landowners (FIAN Norway 2004).

From interviews at the Revenue Department, the FFM team A recalls an official describing this auctioning of land as fraud. He agrees that this is a common problem in the areas. According to this official, the Revenue Department cannot do anything about a contract between two parties when the government is not one of them. According to him, the people could get their land back by using civil courts. In our view this is an insufficient solution. To bring a case to court is a very long and hard process. You have to know about your rights and manage to fill out a lot of forms. Often the adivasis do not know about their land rights. Most of them are illiterate and there is no system to help them. Another important thing is that a cross check system is non-existent. Such a system could enable the government to prevent auctioning off of land and other illegal incidents (Interview with Revenue Department Uttar Pradesh 2004). We recommend that the Government of Uttar Pradesh establishes adequate systems to monitor land auctions and other transactions of land ownership.

The land policies, which seem logical on paper, have in practice serious flaws and injustice embedded into it. As a consequence the adivasis have been robbed of their century old rights. They have been denied their long use of forests, which is deeply embedded in their culture.

3.5 Local Administration Assists Illegal Land Occupation

The FFM team B investigated an illegal land occupation by M/S Escorts Farms Ltd. in Harinagar, Kashipur, District Udham Singh Nagar, Uttaranchal. In 1993, 154 dalit families where forcedly evicted from their land by the local landlord, P.N. Mehta, the owner of M/S Escorts Farms Ltd. The occupation of this land has been tried at the High Court of Uttar Pradesh (Uttarranchal was at the time a part of Uttar Pradesh) and later at the Supreme Court of India. In both instances, the court has passed judgements in favour of the evicted dalits. The local administration in Udham Singh Nagar has ignored this judgement, and the dalits still have no access to the land they, according to the Supreme Court of India, are the rightful owners of.

The FFM team B visited Mr. Jasram, one of the evicted dalits. He informed the FFM team B about the dalits' situation before and after their eviction. Mr. Jasram is a retired subedar (lower post of

army) of the Indian army. His four acres of land were eroded in a flood prior to 1980. He was therefore forced to move and find new land to cultivate. He found this in the village Harinagar, Kashipur. Mr. Jasram told the FFM team B that in the village Patchawala there were 1167 acres of barren land. This was first manually ploughed and later cultivated by the 154 dalit families, who at that time were landless. The dalit families made this land appropriate for cultivation. They also populated a village, which they named Ambedkar Nagar. The land is located nearby the Escorts Farms.

In 1990 these families filed a petition in the local Munsif court to get the land registered in their name. After a long time, on July 27th 1993, the Munsif court sent his commissioner to Patchawala to see the ground realities. The commissioner was accompanied by photographers. They found that 154 families were working on the land and two houses were also constructed on the land. After a day or two, representatives of the dalits contacted the court, and received a report in their favour.

On July 29th 1993 at 7 a.m. hundreds of people accompanied by police and PAC (Provincial Armature Company) rushed to the dalits' farms. The owner of the M/S Escorts Farms, P.N. Mehta, and his subordinates were also present. The attackers were severely beating the people working in the fields; men, women and children. All the people were forcefully driven out of their land. Their huts were burnt, and later, with the help of bulldozers, any evidence of their existence was removed. People were fleeing away from the land to save their lives. 40 were arrested and taken to custody by the police. They were kept in a small cell of dimensions 15' x 12' in the hot month of July. 25 people became unconscious. These 25 were set free and were forced to run away from the police station. The reason being, that if anybody amongst the arrested would die at the police station, this would cause problems for the officials. 15 people were sent to jail the next day. After 15 days they were released on bail of INR 200 000. After being released from the jail, Agnu Ram, the father of Jal Singh, was so frightened that he left his family and the area. He has since then been missing; nobody knows if he is alive or not. After this incidence, the victimised families went to different places.

After being forcedly evicted, the families filed a petition in the High Court of Allahabad, with Mr. Jasram as the chief petitioner. On May 15th 1995 a favourable order was issued, recognising the 154 dalit families as the rightful owners of the land. P.N. Mehta was ordered by the court to return the land and give INR 1 million as fine to the local administration. This should be used to rehabilitate the victims. P.N. Mehta responded by filing a petition in the Supreme Court of India. On April 6th 1996 the Supreme Court maintained the High Court's order, with a small change. The Supreme Court removed the fine to be paid to the local administration. Yet, Mehta spread the rumour into the area that he had won the case in Supreme Court, and sold the acquired land to various other people. With the help of the local administration 20 – 25 dalit families were located on the disputed land. These families were not the previous inhabitants. The rightful owners on the other hand have not been given back their land. Small farmers who purchased the land from Mehta after 1996 are now cultivating the land, and their houses have been erected on the same land. Even a school has been built.

Mr. Jasram told the FFM team B that today the people concerned are landless. They have to work as daily labourers in nearby places to feed their families. 50 families are today living in Dakiakala, 3 km away from Patchawala. They have named their locality Harinagar. Approximately another 80 families have left the area of Udham Singh Nagar because of fear of police and local administration. Mr. Jasram explained that there is a hidden co-operation between M/S Escorts Farms and these governing bodies.

The injustice done to the dalits previously cultivating the land in Patchawala is not a unique story. It is notified that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 is hampered by the police's lack of willingness to register offences or their ignorance of the terms of the act itself (Human Rights Watch 1999). The 1999 Human Rights Watch report documents failures to ensure equal protection under the law and the report exposes a pattern of complicity and collusion on behalf of police and local officials. Ambitious calls for action is heard from central and state governments, but the action taken at the local level is missing. It is widely acknowledge that the main issue is about the implementation of laws.

The case investigated in Uttarranchal is a serious human rights violation, which can easily be corrected. The Supreme Court of India has given an order which must be implemented by local authorities. The FFM team B made interviews with concerned government officials to question this lack of implementation of the law. Several promises were made from government officials in Uttarranchal:

- Mr. Balbeer Singh Negi, Member Legislature Assembly Uttarranchal, who is also chairman of the Housing Committee of Uttarranchal Secretariat, promised to raise the question why the Supreme Court Order has not been implemented in the Assembly.
- The Lokayukt (Ombudsman) of Uttarranchal state, Mr. Justice S.H.A. Raja gave an application form to the FFM team B and told that this form should be completed by the victim, and submitted in three copies to him along with copies of the judgments of the High Court and the Supreme Court. He assured the FFM team B that he would definitely take action against the administrative officials found guilty.
- The Honorable Governor His Excellency Mr. Sudarshan Agrwad of Uttarranchal state told the FFM team B that he will ask the Government of Uttarranchal to report on the issue.

We wish to express our gratitude for these promises. Keeping these promises are of great significance in order to realise these victims' right to food. The land should immediately be returned to its rightful owners and the local administration must be held responsible for its lack of implementing orders by the Supreme Court of India.

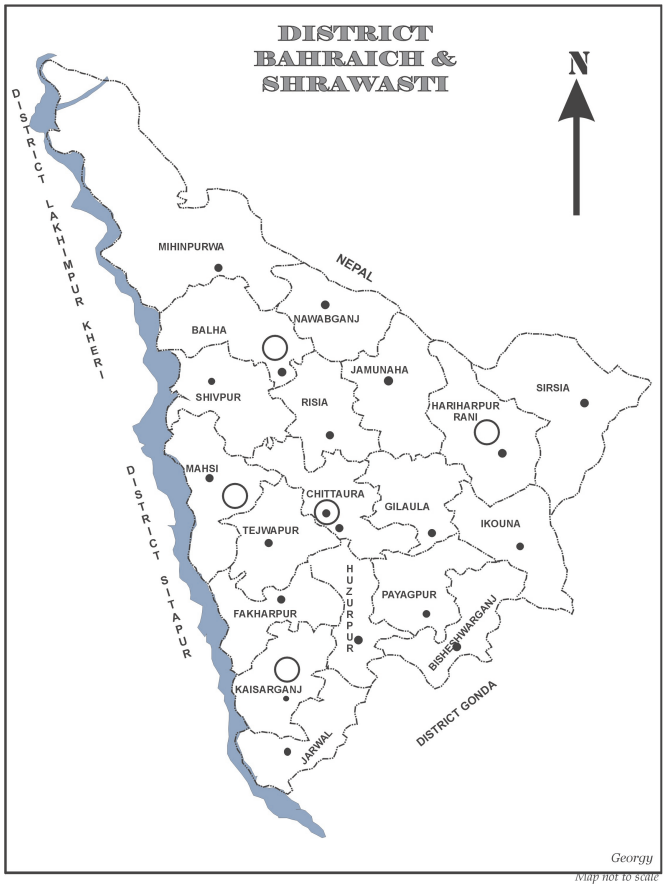
(From left) Mr. B.S. Tomar, Mr. Singh Bahar, Adv. Singh Bahar and Ms. Kristin Goa visiting the Honourable Governor Mr. Sudharshan Agrwad of Uttaranchal state.

3.6 Flood Erosion Victims

Made landless by river erosion

The meandering river Ghagra, flowing from Nepal into northern India, has since 1995 changed its course. This has resulted in vast erosion of the river bank, especially after 1998. More than 5000 families have lost their arable land and houses to the river, leaving them with no means of livelihood. The FFM team C spoke with some of these victims in Kahranpurva, Jogapurva and Sansari. The team learned that many of the families have been provided with a relief package of either INR 800 or INR 600. Many have been offered a housing plot in Birwa (also in the district of Bahraich), which they have not accepted. The reason is that there is no means of livelihood in this area. Moving there will not help their situation, they explained to the FFM team C. During FIAN International's FFM in 2003, the team visited the village Birwa and made interviews with the families who had accepted the government offer. The families located here confirmed that the approximately 1000 square feet (3 biswa) were not sufficient to secure their livelihood, and the relocation had not provided a solution to their problems.

The FFM team C had talks with the Sub-District Magistrate (SDM, local administration) and the Tehsildar (head of Revenue Department at local level. She/he reports to SDM). They confirmed that the allotted land was not accepted by the majority of the flood victims. The FFM team C was informed that the local administration had allotted lands for housing in Birwa to 1029 families. Only 186 families, originally from Birwa, and 74 families from Baundi accepted this offer. The SDM expressed dissatisfaction with the villagers' decision. According to him the flood erosion victims are not interested in moving and there is no land available in the nearby area. It is therefore, he explained, very difficult to assist them. He made comparisons to international



refugees who are forced to accept major changes in their lives.

The local officials confirmed that no one has received land compensation for the loss of arable land. The SDM explained that this is because land is not available. He agreed with the FFM team C that agricultural land should be allotted to the flood erosion victims. Since land is such a scarce resource the SDM also visualised alternative income activities. Especially he highlighted that cottage industries could be promoted, possibly with loans made available by the government.

The families in the four villages that the FFM team C visited are mainly surviving on income activities such as riding rickshaws and brick kiln work in bigger cities. At times even the children must assist in income related activities in order

for the family to survive. Some of the families still have smaller plots of land to cultivate. Because of the river's movement, some of the families have been relocated several times, especially those living in Jogapurva.

The flood erosion victims from different villages have organised themselves in a consortium; Ghaghara Displacement Consortium. They hope to jointly have more influence on the local administration. Their secretary was present during the FFM meetings in the three villages. Mass rallies have been held in front of the District Magistrate's office. The villagers explained to the FFM team C that the administration is continuously changing its officers. A SDM often only holds his/her position for three months. This makes it difficult for the villagers to hold officials accountable for the lack of action taken by the administration. The 2003 FFM met with the SDM at the time. In November 2004 he had the position of Tehsildar. The new SDM had been in office since September 2004.

Need for a flood erosion policy

During the 2003 FFM, FIAN learned that many of the flood erosion victims had not received the relief package of INR 800 from the government (FIAN Norway 2004). During the 2004 FFM, team C learned that most of the flood victims now have received the relief package. This was confirmed by both the villagers and the government officials. FIAN welcomes that the discriminating practice revealed in 2003 no longer is present. The SDM informed the FFM team C that in 2003-2004 relief packages were given to 699 families of flood erosion in all the nine villages of Mahsi Tehsil, as follows:

Silhaute:	29 families
Baundi:	50 families
Kaparwal:	63 families
Golaganj:	105 families
Pachdevri:	6 families
Sansari:	12 families
Mangarwa:	114 families
Munsari:	132 families
Murauwa:	178 families

Eroded river bank in Kahranpurva, Bahraich district, Uttar Pradesh

Yet, it is important to note that this is insufficient to fulfil the victims' right to food. As mentioned previously, the obligation to respect, protect and fulfil the right to food also applies to persons who are victims of natural or other disasters (E/C.12/1999/5, 15). In India there is a rehabilitation policy for victims of earth quake, which secures their livelihood after such natural disaster. Similarly there is a policy for flood victims. There is a big difference between these two policies. Victims of earth quakes are rehabilitated, meaning that government assists with housing and means of livelihood, if necessary in a new location.

Victims of flood erosion, Bahraich district, UP

Victims of flood receive a relief package of INR 800. This should cover rebuilding of houses and compensate for one lost harvest. For many flood victims this is insufficient to realise their right to food.

Flood erosion victims in Uttar Pradesh are treated as flood victims. Yet there is a major difference between a flood and flood erosion; the loss of land. A flood may have devastating effects on one season's harvest. When the land is lost to an eroding river, future harvests are also lost, leaving the victims with no means of livelihood. Such natural disaster is therefore similar to an earth quake, not a flood. A relief package provides immediate assistance, but gives no long term solution. It is therefore necessary to treat flood erosion as a natural calamity needing a rehabilitation policy for its victims. The victims must be relocated and loss of land must be compensated.

We recommend that a rehabilitation policy for flood erosion victims is elaborated. This can be included in the already existing policy on earth quake, or the state of Uttar Pradesh can come up with a separate policy for flood erosion victims. It is important that such policy includes compensation for the loss of arable land. The local administration of the district Bahraich should make a demand on the central government of Uttar Pradesh to come up with a solution for the flood erosion victims in their jurisdiction. By simply providing a relief package of INR 800 and a housing plot, the Government of Uttar Pradesh is not fulfilling the flood erosion victims' right to feed oneself.

Emerging land – a solution?

With the changing course of the river, new land is emerging on the other riverbank and in the middle of the river. As the river changes its location from original stream to erosion site, it leaves sandy land in between and on the other side of the bank. This land is until now nobody's land. The local administration informed the FFM team C that there is no record of land ownership of this newly emerged land. No demarcation has taken place. Yet, some of the area is already occupied.

There is no easy access to this land for the landless erosion victims. To cross the river, they need to pay a fee of INR 10 to the boat owners shuffling people across the river. Not all can afford this. The FFM team C also learned that it can be very risky to stay on the other side of the river. The villagers in Kahranpurva told of a child who had died on the other side of the river, because it was not possible to cross it and seek a doctor.

Yet arable land is available and some of the local voluntary organisations have requested that the

government sponsors a pontoon bridge to enable the flood victims an easy access to this land. The villagers themselves were positive to such an idea. The FFM team C also discussed this with the SDM, who promised to ask the District Magistrate to forward a letter requesting a pontoon bridge to the central authorities. This can be one solution to get access to new land for the now landless families living by the Ghagra River. FIAN recommends that both the local administration and the central government of Uttar Pradesh seriously look into this matter.

The villagers in Kahranpurva also envisaged that their problems would be solved if the government "straightened" the river. FIAN recommends that the Uttar Pradesh government looks into the advantages and disadvantages of such an embankment, and looks for possible funds to realise such an infrastructural project in the area.

The FFM team C experienced that many of the villagers are living below the poverty line, yet they are not benefiting from the welfare programs they should be eligible for, such as buying food at subsidised prices. This is further described in chapter 5.

4. Minimum Wages in Uttar Pradesh

4.1 Women and the Unorganised Sector

Work in the unorganised sector is the major source of income in India (Saxena 2004). Including agriculture, more than 92% of the population work in this sector and the number is increasing, for both men and women. For women the percentage is as high as 96%. According to the Indian National Accounts Statistical Report of 1995, 65% of the national income is contributed by the unorganised sector (Louis 2004).

There is no clear-cut definition of unorganised sector (Louis 2004, Sarkar 2004). Caste, class, ethnicity and gender are fundamental factors of being in the unorganised sector. One characteristic is that workers in this sector are normally not able to organise themselves in pursuit of a common objective because of different limitations. Typically there are no clear employer-employee relationship or employment guarantees, and the workers lack social and economic protection and security. The unorganised sector is therefore open to exploitation and discrimination. The ruling elite come from the dominant caste, and there is no political will to address the issue of work in the unorganised sector.

On September 17th 2004 the government of India declared to establish a "National Commission for Unorganised Sector". This will be an advisory organ, which should monitor the situation and send periodic reports to the government. This organ is of today not working. Previously, a labour inspector was in place to monitor working conditions. This position was abolished in 2003. According to the Minimum Wages Act, 1948: "Inspectors. – (1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspector for the purposes of this Act and define the local limits within which they shall exercise their functions" (Arora 2005: 17). It is therefore not obligatory for the state of Uttar Pradesh to have an Inspector. Yet the description of this position in the Act clearly shows that such a position is of importance. We recommend the state of Uttar Pradesh to re-establish a position of Labour Inspector.

Gender-based discrimination at work is the most enduring and universal phenomenon in the world today (Saxena 2004). The discrimination is most acute in the unorganised sector where labour laws are openly ignored. Both men and women in the unorganised sector are discriminated against,

but women more so than the men. This is due to their general weak and low position in society. Illiterate women workers received 57% of the wages paid to illiterate male workers according to numbers from the National Service Scheme (NSS) (Saxena 2004). The Equal Remuneration Act, 1976, and its subsequent amendment in 1987, guarantees women and men equal payment for similar work. Despite this act, the practice of paying lower wages to women for "same work or work of similar nature" is still dominating. According to Saxena (2004), the patriarchal society is one of the main causes of the inequality between men and women. Louis (2004) also mentions gender as a contributing factor of being a worker in the unorganised sector. The women's work is at times not appreciated as a contribution to the household. Many women are also not allowed to leave the house by their husband or other family members. The social construction of what is woman's work and man's work make it difficult for women to earn a livelihood at par with men. The woman's realm of work is primarily the household and if she works outside the house it is by and large in the unorganised sector, where she is more susceptible to discrimination.

Chikan kari artwork

The Minimum Wages Act of 1948 was primarily designed to protect workers in the unorganised sector. In an unorganised environment without any clear employer-employee relation this act, despite shortcomings, empowered workers to claim their right to a minimum wage for the work they did. However, this act is very relevant for women workers as they are likely to be paid less than the determined minimum wage even when they do the same work as men. According to Uttar Pradesh legislation, a worker must be paid at least INR 58,50 for a days work. Critics of the Act say that it provides a mechanism for fixing and revising minimum rate of wages, but it does not give any guidelines as to the basis on which the minimum wages are to be fixed or revised (Saxena 2004, Mahadevan 2004). It is important that the basic minimum needs of workers and their family are taken into consideration so that the directed wage is a just wage.

The piece rate system has been one method of paying lower wages to women compared to men. This is a system where the payment is done according to the quantity of finalised products. A large number of women workers are paid wages according to the piece rate system. This has been characterised as an institutionalised mechanism to pay lower wages to women (Saxena 2004). The time rate system follows the Minimum Wages Act, 1948. In the Minimum Wages Act the piece rate system is covered by article 17: "Minimum time rate wages for piece work. – Where an employee is employed on piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the

minimum time rate" (Arora 2005: 16). In its report on women and child workers, the National Commission on Labour recommends that the Minimum Wages Act is amended to remove the incompatibility between the piece rate and the time rate system of fixing wages (Saxena 2004).

The Minimum Wages Act, 1948, is applicable even if wages are paid per piece, since the law does not specify wages for piece rate systems. This was confirmed by Principal Secretary Labour Department of UP (interview with FFM team A Nov 5th 2004). He stated that workers in the informal sector, such as the chikan kari industry (see case below), should be protected by the Minimum Wages Act. He also expressed clearly that those who pay less than the minimum wage in the informal sector, with reference to the chikan kari industry, should be prosecuted. The penalties for offences are ascribed in article 22 in the Act (Arora 2005). Yet, the Principal Secretary gave the impression that there are few concrete plans for implementation of the Minimum Wages Act, 1948. His vision is to create an identity card for all workers, which will improve the transparency. This should be used by workers in both the organised and the unorganised sector, to register the amount of working hours and payment.

The FFM team also made an interview with a Secretary of the Social Welfare Department, to talk about the Departments role regarding the right to minimum wages in the unorganised sector. The Secretary expressed to the team that the right to minimum wages in the unorganised sector is not an issue for the Social Welfare Department.

4.2 Chikan Kari Workers

Chikan kari is an intricate hand work on cotton cloths, mainly decorating women clothes (see photos). Although it is mostly sold to Indians, it is also exported to Gulf countries, USA and Great Britain at a good price for the traders. Only women do this kind of embroidery, and mainly women in Uttar Pradesh. The handicraft is very time consuming and creates a lot of strain on their eyes due to the intricate nature of the work. Girls start doing chikan kari work from the age of 7 and the entire training is normally from mother to daughter. Today, some women are also trained in centres. The rest of the production process is controlled by men; they are shop owners, designers, contractors, washers, middlemen, marketers and traders. The female workers are therefore only involved in a small, but central, part of the production. Without their handicraft, there is no product. Most of the women work at home.

The chikan kari industry is a part of the unorganised sector. Nearly 3.7 million people live in Lucknow, the capitol of Uttar Pradesh, out of which 30 000 depend on the local chikan kari handicraft for their living. Both Muslim and Hindu women work in the chikan kari industry. The FFM team A found that women working in this industry are not paid according to their rights. In fact, the team learned that their payment varies from INR 1 to 30 for a day's work, and not INR 58,50 as required by the law. Yet, for many this meagre income is needed to prevent starvation. A worst case scenario for many is to not receive work.

A common problem is that chikan kari workers at times do not get paid at all, the FFM team A learned from some of the workers. The contractor says he is not pleased with the work when he comes to pick up the goods, yet he takes it away because he has paid for the materials. Another type of exploitation is that the contractors give different payment because of different tasks. For instance, in some of the products, different women are involved doing different kinds of stitches. They are super specialized and out of 25 stitches they only do 3-4 each. It becomes difficult to calculate how low the income is compared to the earnings of the contractors. This practice of paying less than the minimum wages and not paying at all, is clearly unlawful. The Uttar

Pradesh government is not taking any action to secure such payment to the chikan kari workers.

The low payment of the chikan kari workers deprive them of their economic access to food and is therefore a violation of their right to food. The Central Government of India and the State of Uttar Pradesh is obliged to implementing the Minimum Wages Act, 1948, in order to secure the women's right to feed themselves.

The chikan kari workers informed the FFM team A that they have no opportunities or resources to bargain for better wages. The work will just be given to someone else. This was confirmed by the contractors the team met. They told the team that if some of the workers try to bargain for better payment they will rather go to other houses or other villages to get the work done. The chikan kari workers are unorganised and many are illiterate. The team got the impression that they are not aware of their right to a minimum wage, nor their entitlements to provisions or other facilities under poverty alleviation schemes.

The FFM team A met two contractors; shop owner 1, who uses middlemen, and shop owner 2, who goes directly to the chikan kari workers. Their common opinion was that if they should pay the workers more, they will not survive themselves. Shop owner 2 gave the impression that he tries to check that the middlemen pay properly, because of the quality of the handicraft. But he does not control if they actually pay the minimum wage. Shop owner 1 said that since the women do the work in their spare time, they do not deserve to get paid the minimum wage. They work on the fields in the morning and in the afternoon they do chikan kari work, normally 2-3 hours per day. He expresses that they are not depending on these jobs to survive. Also he is not concerned about their working conditions, since the work is done on their spare time in their own homes. The shop owners and middlemen expressed that they fear for the future. If the women earn according to the Minimum Wage Act they will not have any profit when they sell the goods. Shop owner 1 is of the opinion that the Minimum Wage Act will not be implemented because there is too much corruption within the Labour Department.

The workers interviewed by the FFM team A had never been visited by the labour inspector. They were neither aware of the previous existence of such a reporting system. They told the team that it would have made no difference; even if they had known, they would not have complained

Women doing chikan kari work

about their working situation. They believed that the authorities would not care, and expressed that fraud is also a contributor to the fact that their situation will not change. A shop keeper would simply bribe the inspector, the women predicted.

Shop owner 1 envisaged that there will be even more corruption if the law is implemented (interview FFM team A). If the authorities were to send out inspectors, these inspectors will only be corrupt and the women will be even more exploited. The women will be the ones burdened with the increased costs of paying off the inspectors or the middlemen to avoid, for instance, a negative report or a threat of prosecution. One foreseeable consequence of such profit reduction, is that the workers are paid less. Shop owner 2 did not want to answer the team's question if he had been controlled.

The Principal Secretary Labour Department of UP stated clearly that those who pay less than the minimum wage to the chikan kari workers, should be prosecuted. He also expressed as one of his visions to have a labour officer, who can be a link between the authorities and the workers. His plans do not seem very realistic or well-founded since he had no concrete plans how to realize this.

There are good reasons for improving the situation for the home-based workers. They often have to put in long hours of work, supplemented of the effort of other family members, to earn a meagre wage. There should be a provision for a wage to guarantee a regular income, even in the off-season. The home-based workers should be recompensed because of the self-supervision factor as well as provision of workspace. The employer doesn't have all the expenses as he would have had in a factory.

4.3 Empowerment

Dr. Prof. Diwakar at the GIRI Institute of Development Studies in Lucknow stressed the importance of educating the women. In his opinion, the role of the state should be to organise, sensitise, and train them. There is a need for the women to organise. Then they can start participating in decision-making processes, and establish a framework for cooperation and coordination within labour intensive small scale activities. (FFM team A in interview with Professor Diwakar, Diwakar 2004). The chikan kari workers should have access to markets, establishing a direct marketing cooperative. Resource centres should be established with economic help from both the government and voluntary organisations, where the women can learn about the whole production chain, including design, purchase of materials, marketing etc. Shop owner 2 expresses deep concern if the women are going to make a trade union, which is illustrative of the potential effect this could have on realizing the women's rights.

The states intervention on the advancement of women's status today is an empowerment policy (Saxena 2004). Dr. Prof. Diwakar expressed that the best thing to do is to organise. One good example is SEWA, which has done good work with successful awareness raising. Further, he explained to the FFM team A, there is a need for micro credit. The women need savings in order to produce things.

The process of empowerment of women depends heavily on their economic empowerment. According to Saxena (2004) there is a direct relationship between women's employment and the well-being of the community. An increase in women's employment will therefore translate directly into better child health and nutrition.

5. Supreme Court Orders

India has many welfare schemes to secure the right to food for its inhabitants. The different schemes are targeting children, pregnant or lactating women, widows, disabled, old people and the poor population in general (see appendix B). Funds to implement these programs are transferred from the central government to the state governments. All of India's states are responsible for implementing the different schemes. Due to starvation deaths in the state of Orissa in 2001, in the shadow of overstocked godowns of grains, the People's Union for Civil Liberties (PUCL) filed a petition with the Supreme Court of India.

The Supreme Court has come up with orders to the federal states, including Uttar Pradesh, in the case Writ Petition (Civil) no. 196 of 2001, People's Union for Civil Liberties vs. Union of India & Orissa (Gonsalves et. al 2004). The right to life is stated in article 21 of the Indian constitution. The Supreme Court of India has demonstrated that the right to food is included in the right to life. To secure the right to food, the Supreme Court ordered the federal states to implement the eight welfare schemes by January 2002. Still, many states, such as Uttar Pradesh, have yet to implement these schemes properly.

Bringing the right to food before the Supreme Court initiated a wide public debate on the rights of the poor in 2001. Unfortunately, the press coverage declined after September 11th 2001 when the Twin Towers in New York, USA, were destroyed. The Court case has still attracted a lot of attention, and in the majority of Indian states the welfare schemes are now functioning better than previously (Gonsalves et. al. 2004). Yet, in some states there has been a strong resistance from the state government to abide orders from the Supreme Court of India. Uttar Pradesh is one of the states which still have not properly implemented all the welfare schemes. In this report we will look into two of the schemes; the Mid-Day Meals for school children and the Targeted Public Distribution System.

FIAN's experience with working on these issues is that public attention and pressure from the civil society makes a difference. All the schemes are still not successfully implemented, but major changes have taken place. Of special interest is the implementation of the Mid-Day Meals. The Fact Finding Mission Report 2003 (FIAN Norway 2004), documented that children of the village Khiri were not given Mid-Day Meals. In September 2004 this changed. As described below, changes were made in all of Uttar Pradesh (UP) by October 2004. We welcome that food is now served to all school children. Yet, there is still a need to address the quality of the Mid-Day Meals at the different schools.

5.1 Mid-Day Meals

The UN Convention on the Rights of the Child talks about the core rights of the child, like the rights of survival, development, protection and participation. India ratified this convention in 1993, but the actual implementation of the child rights measures are lacking. Children are still suffering malnutrition, infant mortality, abuse, exploitation and deprivation of the rights of the child. The Supreme Court of India issued an interim order to all the Union territories and state governments to implement the scheme of

"cooked meal for all government primary school children." Yet, the government of UP has for a long time refused to implement this scheme. They have also submitted a counter affidavit to the Supreme Court in consecutive hearings stating that the State Government is lacking funds to implement the scheme. In our view this is a false statement. Due to FIAN and other fellow travellers, the Government of UP started the Mid-Day Meal Scheme in 16 districts, including the Allahabad district, from September 2004. As a result of continuous pressure and advocacy from alliances of the FIAN movement, the UP Government has from October 1st 2004 started this scheme throughout the state.

During the FFM 2004, the FFM team D visited the schools in Kheri (a village in the district Allahabad, UP) and nearby areas. They talked with several people in the village, including the Head Master of the Primary School and the Head of the village Panchayat (Council), children, community people and local journalists. In addition, the team talked with the Basic Education Officer in Allahabad. The team found that school attendance has increased by 30% after the implementation of the Mid-Day Meal. The team saw children being served Khicheri (rice, pulse cooked with some spices, which is supposed to be very digestive and nutritious for children). In our view, the pressure and monitoring by local groups has enabled the quality and quantity of the Mid-Day Meal to be adequate in Kheri. This is not the case in several other districts, where the Mid-Day Meal is still not at the prescribed level.

We recommend that the experiences from Kheri should be copied throughout the state of Uttar Pradesh. It has increased school attendance and there has been a reduction of working children in adjacent areas.

5.2 Targeted Public Distribution System

The Public Distribution System (PDS) has existed in India since 1964. It is a system where poor people can buy food at government regulated/controlled shops at subsidized prices (Swaminathan 2000). In Kerela, a strong people's movement for food has resulted in an almost universal coverage; 95% of all households in this state were in 1996 covered by this system (Gonsalves et. al. 2004). In 1995, the four northern states, Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh, accounted for only 10% of the PDS off take of grains in the country. "The average per capita off take was 53.3 kg per year as compared to 2.3 kg in Bihar and 4.6 kg in Madhya Pradesh" (Gonsalves et. al. 2004: 11).

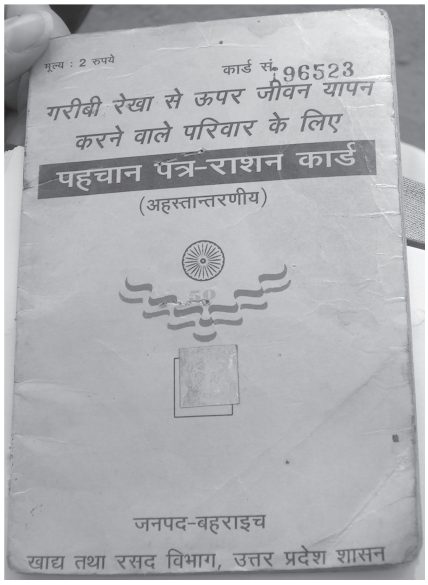
The PDS had a peak in 1991 when 20,8 million tons of grains were distributed through this system. In 1994 the distribution had fallen to 14 million tons and stocks started to accumulate. In 1997 targeting was introduced to the PDS. In order to buy subsidized food, families now have to be identified by the authorities as living below the poverty line (BPL). Within the Targeted PDS (TPDS) many poor families no longer have access to the PDS system. Swaminathan draws the conclusion "that the proportion of the persons suffering deprivations in food and nutrition is higher than those classified as below the poverty line. (…) chronic hunger persisist on a mass scale in India" (Gonsalves et. al. 2004: 11). She "has identified the 'targeting' as a dangerous policy introduced as a mechanism to ultimately close down the PDS" (Gonsalves et. al. 2004: 9) in her publication "Weakening Welfare".

The Supreme Court ordered on November 28th 2001 that the TPDS should be fully implemented by January 2002 (Writ Petition (Civil) nr. 196 of 2001). All governments were ordered to complete their identification of both Below Poverty Line (BPL) and Above Poverty Line (APL) families,

issue ration cards and distribute 25 kg of grain per BPL family per month by this date (Gonsalves et. al. 2004). Yet, the UP government is not yet fully complying with the orders of the Supreme Court. Many families are suffering because they do not have access to the welfare schemes which should secure their right to food.

The TPDS has been criticized for being discriminatory and inefficient. In many states, including Uttar Pradesh, beneficiaries must be identified as BPL in order to benefit from the schemes targeting the poor. The Commissioners N. C. Saxena and S. R. Sankara were appointed by the Supreme Court of India in 2003 (their reports are included in Gonsalves et. al. 2004). Their mandate is to oversee the compliance, the progress and the effectiveness of the implementation of the Orders of the Supreme Court. They have in their second, third and forth reports to the Supreme Court in 2003 pointed out several deficiencies with the process of identifying people living below poverty line. This is a crucial identification, since several of the welfare schemes are eligible only for those holding BPL cards. In their summery report of February 2004, they write: “Problems in selection and identification of BPL families in the most recent survey carried out by the states. Many cases of incorrect selection with deserving families being excluded were seen in field visits made in the state of Maharashtra, UP and West Bengal. This assumes magnified proportions because failure to receive BPL status denies them other benefits as well. This is because BPL status is used as a precondition for entitlements to Antyodya, NFBS, NMBS, NOAPS [see appendix B], as well as a wide and increasing range of other schemes” (Gonsalves et. al. 2004: 232).

“Moghe, in his study of Maharashtra, found that when targeted PDS was announced there were **60 lakhs** [6 million] **households**, according to the central government, eligible for BPL category. The state restricted this number to **43 lakhs**” (Gonsalves et. al. 2004: 15, bold in original).



In Bahraich district, Uttar Pradesh, the FFM team C made inquiries about the distribution of BPL cards to the flood victims by the River Ghaghra. In their fourth report to the Supreme Court the Commissioners brought the flood victims’ situation to the court’s attention. “In Bahraich District, close to 1000 families were displaced when the Ghaghra River changed its course. A survey organised by Ghaghra Visthapit Morcha and FIAN UP to identify displaced families needing BPL cards identified 456 such families in need of urgent support. The office of the DSO office had further requested that 50% of these should be changed to Antyodaya cards [see appendix B for description of the Antyodaya scheme], due to the economic situation of these families. However currently they have no access to any government scheme” (Gonsalves et. al. 2004: 193).

This was also reported by FIAN’s international FFM in 2003 (FIAN Norway 2004). The 456 families mentioned by the Commissioner are families living in Jogapurva. They have been displaced several times since 1998. After their situation was reported by the Commissioners, their APL cards were stamped to BPL cards. They still face difficulties buying food at subsidized prices, and few benefit from the Antyodaya scheme. In Kahranpurva the FFM team C learned that the holders of BPL cards had only received subsidized grains once in August 2002. The

villagers here concluded that it made little difference to have the BPL cards when grains at subsidized prices were not available. The FFM team C still welcomes that the local administration in Bahraich now is distributing BPL cards to flood victims in the area. Progress rapidly needs to be made, though, to make food at subsidized prices available. Due to lack of stationery, the local officials informed the FFM that some APL cards were made into BPL. These will later be changed with proper BPL cards.

The FFM team C learned that not all living below the poverty line will receive the BPL cards even when stationary is available. Through interviews with the Sub-District Magistrate (SDM, local administration) and the Tehsildar (head of Revenue Department at local level), the team learned that the local administration is restricted by the central government. The Relief Commissioner and the Food Commissioner provide guidelines to the District Magistrate on identification of BPL card holders. The block development officer together with the Pradhan (elected village head) identifies the beneficiaries. The central government has informed the local administration that they can issue 1400 cards. The SDM confirmed to the FFM team that more cards are needed. The state government has ordered that flood erosion victims should be prioritized for the BPL cards.

This practice violates the Supreme Court Order. The state of Uttar Pradesh should not put a ceiling on the amount of beneficiaries. To benefit from the welfare schemes is a right of people living below the poverty line. The state has been reminded of this obligation several times by the Supreme Court (Gonsalves et. al. 2004). In the second report by the Commissioner to the Supreme Court, the identification of BPL card beneficiaries in Uttar Pradesh was criticized: “Identification of BPL households takes place every five years and a round of identification is supposed to be covered in the survey, based on which families are identified as BPL or APL. In a public hearing held recently in Barawan most people reported that they have not heard about the survey. Very few families reported that they have been surveyed; meanwhile the local administration claims that the survey has been completed. (…) The identification has to be done carefully and cards have to be issued immediately in order to avoid unfair exclusion of poor people from these schemes. The states cannot have a valid reason for not issuing the cards to the beneficiaries so far” (Gonsalves et. al. 2004: 101-102).

The villagers living by the River Ghaghra informed the FFM team C that the friends and voters of the Pradhan are the ones identified as BPL families. Many who are not recommended by the Pradhan should also be identified as BPL. The villagers explained to the FFM team that the identification process to a large extent was depending on the mood of the Pradhan. The FFM team investigated the complaint procedures for the non-recognized beneficiaries. No formal arrangement for complaint or redressal was identified. This must be seen in the light of the central government practice of fixing a quota every year of the percentage of BPL families. We therefore recommend that the state government addresses this issue. People’s rights are not negotiable and cannot be restricted by budget ceilings. Such practice must come to an end. The state government must also come up with a complaint procedure so that non-beneficiaries have an opportunity to claim their rights.

According to Swaminathan there is a need of a system of near universal provision and not a system where the beneficiaries are targeted. The major critiques of targeting are that it can 1) disqualify genuinely poor persons, 2) is an incentive to cheat and 3) downward income mobility is taking place (Gonsalves et. al. 2004). With a near universal provision these hindrances will be eliminated.The FFM team strongly support a system of near universal provision in order to secure all individuals’ right to food. With the system of targeting, the chances of beneficiaries not being identified is too high.

6. Conclusion and Recommendations

This report shows that in spite of the laws, policies and declared goals of the government machinery to tackle hunger, starvation and landlessness, there is much which remains unfulfilled. Moreover, even at the policy level there are many changes which are required to end hunger, landlessness and starvation.

The violations of the right to food by the states of Uttar Pradesh and Uttaranchal have severe consequences: people in many villages are malnourished and starving. The violations addressed in this report should immediately be dealt with by both governments. The federal government of India should also exercise pressure on the state government to make them fulfil their obligations.

We recommend the Central Government of India to:

- Monitor the UN Covenant on Economic, Social and Cultural Rights, the UN Covenant on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, in terms of poverty, displacement, natural disasters, working conditions in informal sector etc.
- Secure that the Interim Orders by the Supreme Court of India (in the Writ Petition (Civil) nr. 196 of 2001, People's Union for Civil Liberties vs. Union of India & Orissa) is fully implemented by the different states of India, amongst them the State of Uttar Pradesh.
- Officially redefined and make public for discussion the starvation deaths.
- Gear states decisions on people's right to survival, development and information in such a way that more and more people's participation is ensured and that government is more accountable to people.
- View malnutrition of the children as contravening the UN Convention on the Rights of the Child. It should be taken as semi starvation case and violation of the right to food.
- Reconsider the policy of targeted public distribution system. Targeting the poor is very difficult and poor people are often not benefiting from this system. The Government of India should consider establishing a system of near universal provision in order to secure all individuals' right to food.

We recommend the Government of Uttar Pradesh to:

- Strictly implemented land reforms in UP. Surplus land should be identified and poor peasants should be allotted this land. The Revenue Department must actively make use of existing legislation, such as the Land Ceiling Act.
- Ensure that the Forest Department stops harassing the local indigenous and poor people surviving on forests and forest produce.
- Strengthen the communication between its different departments. Especially a committee with members from the Revenue and the Forest Department should be revitalised.
- Establish an adequate systems to monitor land auctions and other transactions of land ownership.
- Elaborate a rehabilitation policy for victims of flood erosion and other natural disasters. Such policy must address access to land.

- Fully implement the Minimum Wages Act of 1948.
- Consider establishing a system of labour inspectors to monitor the rights of workers. Such an inspector must be sensitive to gender differences, and should for women dominated sectors be a woman.
- To take measures as recommended by the National Commission on Labour regarding the Minimum Wages Act. The act should be amended to remove the incompatibility between the piece rate and the time rate system of fixing wages.
- Fully implement all eight welfare schemes as ordered by the Supreme Court of India.
- Ensure proper quality of Mid-Day Meals in all government and government assisted schools.
- Take adequate measures for distributing and monitoring of the TPDS. This must be done in a transparent manner.
- Identify BPL and APL families in a way which secures all poor peoples' right to the welfare schemes. The Government of Uttar Pradesh must not in its annual budget put a ceiling on the number of beneficiaries to these programs. A complaint procedure should be established, where people who unjustly do not benefit from the programs can have their case examined.
- Address all the cases investigated in this report. Adequate measures must immediately be taken so that the affected families' right to food is realised in the districts Allahabad, Bahraich, Chitrakoot and Lucknow.

We recommend the Government of Uttarranchal to:

- Hold the local administrations responsible for their lack of implementing orders by the High Court of Uttarranchal (and previously Uttar Pradesh) and the Supreme Court of India.
- Address the case in the district Udham Singh Nagar investigated in this report. Adequate measures must immediately be taken so that the affected families' right to food is realised. We especially urge that the promises made by the Governor, Lokayot and the Member Legislature Assembly Uttarranchal are kept.

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Interviews

Lucknow, Uttar Pradesh:

- Revenue Department Uttar Pradesh, Lucknow
- Ex Minister for Revenue Department Uttar Pradesh, Lucknow
- Principal Secretary Labour Department Uttar Pradesh, Lucknow
- Secretary, Social Welfare department Uttar Pradesh, Lucknow
- Professor Diwakar, GIRI Institute in Lucknow
- Shopowners selling Chikan Kari textiles
- Chikan Kari workers

Uttarranchal:

- Mr. Balbeer Singh Negi, Member Legislature Assembly Uttarranchal, who is also chairman of Housing Comitee of Uttarranchal Secretariate
- The Lokayukt (Ombudsman) of Uttarranchal state, Mr. Justice S.H.A. Raja
- The Honorable Governor His Excellency Mr. Sudarshan Agrwad of Uttarranchal State
- Mr. Jasram, petitioner for land rights for dalit families in Harinagar
- Other victims of the land grab in Harinagar, Kashipur, District Udham Singh Nagar

District Bahraich, Uttar Pradesh:

- Flood erosion victims in villages Kahranpurva, Jogapurva and Sansari
- Sub-District Magistrate Mahshi Tehshil
- Tehsildar of Mahshi Tehshil

District Allahabad, Uttar Pradesh:

- Head Master of the Primary School Kheri, Allahabad
- Basic Education Officer, Allahabad
- Head of the village Panchayat (Council), Kheri
- Children and community people of the village Kheri
- Local journalists

Appendix A: FIAN U.P. and FIAN Norway in Media

AMAR UJALA

(Hindi Daily)

Delhi, 12th November 2004

Daily Deaths from Hunger in U.P. & Uttaranchal

Survey by human rights organisation FIAN

(Amar Ujala Bureau)

New Delhi: Today when on the eve of Dipawali the whole of the country is enjoying sweets and celebrating it, sweets are being distributed among each other then you will wonder to know that there are some people in the country, who, what to say of meal, for two whiles, they do not have a full meal for one time till several months. The astonishing fact is that within a year 18 children in Roapgaon village of Sonebhadra district and 10 agrarian labours in Ballia district only have died of hunger. These data have come out of a year's survey by the international human rights organisation FIAN.

Kristin Kjaeret of FIAN Norway, told in a press conference organised at the Gandhi Peace Foundation, New Delhi. She told that the waves of hunger deaths are increasing in various parts of the country. Varanasi, Ballia, Bahraich, Sonebhadra, Chitrakoot, Azamgarh and Mau districts in Uttar Pradesh have exposed surprising data. FIAN-UP Secretary, Sanjay K Rai, said that if you look over the hunger deaths occurring in UP and Uttarancha, you will find that every day a person dies of hunger. On this occasion, Sabine Pabst of FIAN International said that in Bahraich, due to the devastation by Ghaghra River, 500 families of village Baundi in Tehsil Mahasi are facing the problem of starvation. Even today, 30 percent people of this village do not have ration cards. Even 33 percent of the amount allotted under Food for Work Scheme is not exhausted. Sabine Pabst reported that the next action centre of FIAN would be the most backward part of the state.

JAN SATTA

(Hindi Daily)

Delhi, 12th November 2004

Heavy Negligence of Food Guarantee Schemes in U.P. and Uttaranchal: Report

(Jan Satta Correspondent)

New Delhi, 11 November: Food Guarantee Schemes in U.P. and Uttaranchal are being heavily violated. An investigation team of international human rights organisation FIAN has reported this. This organisation works on the guarantee to food. This organisation has a consultative status to the e United Nations also on this subject. This investigation team had members from Germany, India (U.P.), Nepal and Norway.

The investigation team is studying the situation of hunger and food in India. The team found that hunger and hunger deaths are on increase in various parts of the country. In spite of hard instructions by the Supreme Court and the National Human Rights Commission, the food guarantee schemes are being neglected. It found that policy formation, carelessness of administration and lacks of will power of governments are blocking the implementation.

South Asia head of FIAN International, Sabine Pabst, told that the people have many rights under law. But UP and Uttaranchal are going reverse to that. The team was sent to study the situation of hunger and food. She said that Uttaranchal government was very cooperative but the attitude of UP Government was not positive.

Kristin of FIAN Norway reported that the people displaced by flood in Bahraich district of Uttar Pradesh are prey to starvation. Such are the five hundred families in village Baundi. Due to immersion of agrarian land in the flood neither any agricultural work nor the work on wages is possible. This problem many be solved by allotting the land and ration cards to the entitled people who are in below poverty line. But in spite of repeated demands the administration has maintained silence. The deputy collector informed that such cards might be issued to only thirty percent of those under law. But the flood victims informed that even thirty percent people have also not received such cards. Access to land and forest produce is also a problem faced by Kol tribals of Manikpur area in Chitrakoot district. They have been allotted agrarian land by the revenue department but the Forest department in the name of Sanctuary has usurped that. The investigation team also studied the situation of minimum wages to women Chikan workers in Lucknow and Kakori development block and found that due to being unorganised and illiterate they are being exploited by the middlemen.

Kristin Kjaeret, the Executive Director of FIAN in Norway, who was also a member of the investigating team, also told to this correspondents that due to irresponsible attitude of UP and Uttaranchal governments, landless families are facing the problem of starvation. These governments have no policy about rehabilitation of flood victims. They are not getting any compensation by the government. The governments do not take any action against those who violate the Minimum Wages Act of 1948 of India and Uttar Pradesh Minimum Wages Rule of 1952. U.P. government is also ignoring the interim orders of Supreme Court on 28th November 2001 to implement all welfare schemes to check the starvation.

Kristin also reported that the violations of land rights are rampant in Udham Singh Nagar of Uttaranchal. The work on converting barren lands into arable lands had begun about four decades ago in foothill region of Uttaranchal is now a prosperous area. But today, the major portion of land belongs to private companies in the name of big farms. On the other hand, thousands of families of tribals and dalits have been ousted of their own land. Most of the families face the problem of arranging meal for two whiles. Most of the families are such to made the barren land cultivable and cultivated it for along time. But by the collaboration of mafias and administration they were ousted from there. Several of them were implicated on false charges.

She told that the investigation team found a case of exploitation of more than a hundred dalit families who could not find land even after the orders of High Court and Supreme Court twelve years ago.

Appendix B: The Eight Welfare Schemes ordered by the Supreme Court of India

India has many welfare schemes, which are sponsored by the federal government, while implemented by state governments. The eight schemes addressed by the Supreme Court's interim order of November 28th 2001 are:

Annapoorna Yojana

Targeted group	Those destitute that are above 65 years of age and not covered in state or central social security pension scheme. They are issued special green ration cards.
Identification of beneficiaries	Gram sabhas in rural areas and local bodies in urban areas have carried out the identification of these destitute.
Central issue price	At GOI prescribed rates. Funding is provided by GOI.
Consumer price	Free of cost.
Scale of issue	10 kg food grain per card per month
Mechanism of distribution	As per TPDS system

Antyodaya Anna Yojana

Targeted group	Poorest of the poor in rural and urban areas. They are issued special yellow ration cards
Identification of beneficiaries	Gram sabhas in rural areas and local bodies in urban areas carried out identification from amongst the poor families within the state.
Central Issue Price	INR 2/kg for wheat & INR 3/kg for rice. State govt. is providing ancillary charges for transportation and other expenses of agencies.
Consumer price	INR 2/kg for wheat & INR 3/kg for rice
Scale of issue	25 kg food grain per family per month
Distribution	Through the public distribution system
Primitive Tribal Groups in India	The Supreme Court has directed the Government of India to provide Antyodaya cards to all Primitive Tribal people.

Family Benefit Scheme

Targeted group	BPL Families who have lost their primary bread winner.
Identification of beneficiaries	Identification done with the assistance of panchayats.
Guideline for selection	The family should be BPL, and should have lost the primary bread winner (male or female whose earnings contribute substantially to the total household income). The age of the deceased person should have been between 18 and 65, at the time of death.
Entitlement	A lump sum amount of INR 10,000.

Integrated Child Development Scheme

Targeted group	Pre-school children, adolescent girls, pregnant and lactating women.
Identification of beneficiaries	This is a universal scheme; any person who is in the target group is eligible to receive the benefit of these services.

Targeted group	BPL women during their first two live births.
Identification of beneficiaries	Selection happens through primary health care centre.
Entitlement	INR 500, as a one time entitlement.

Mid-Day Meal Scheme

Targeted group	All children in government and aided primary schools.
Identification of beneficiaries	This is an universal scheme, and all children are eligible to receive cooked meals.
Entitlement	A fresh cooked meal on each working day, for at least 200 days a year.

Pension Schemes

Targeted group	Destitute aged, widows, and disabled.
Identification of beneficiaries	Identification is done through panchayati raj bodies.
Entitlement	Amount differs in each state, with the minimum of INR 75 each month.

Targeted Public Distribution Scheme

Targeted group	Primarily, below poverty line families.
Identification of beneficiaries	Through a 'BPL Survey' conducted once every five years.
Central issue price	At GOI prescribed rates. Funding is provided by GOI.
Consumer price	Differs in each state.
Scale of issue	Differs across states, and in most cases it is 35 KGs per family per month.
Mechanism of distribution	Through designated ration shops.

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