



Report and Recommendations

November 2003

International Fact Finding Mission:

Investigating violations of the right to food
in Uttar Pradesh, India



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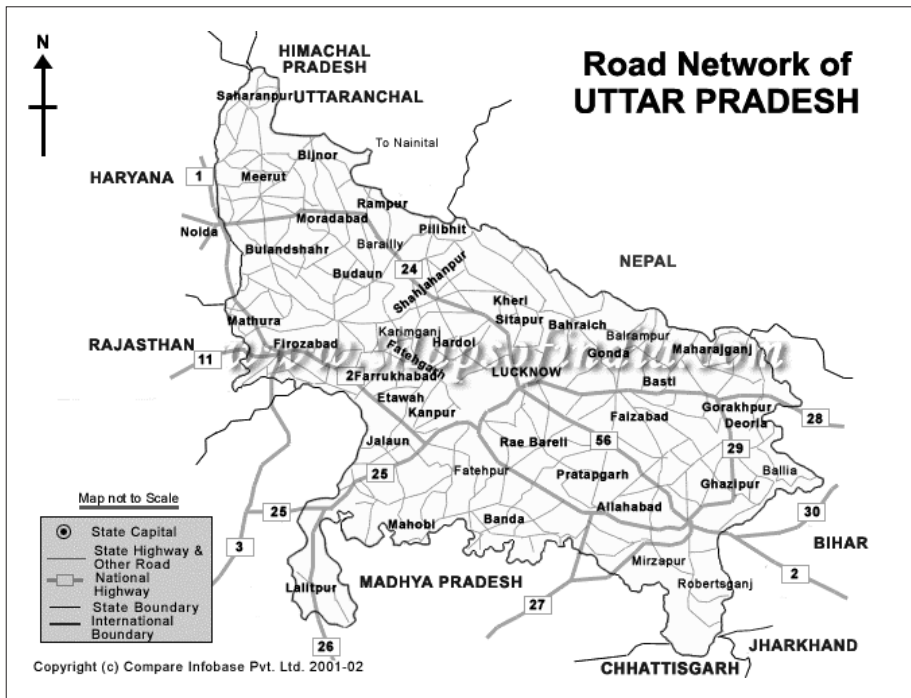
FIAN Norway
c/o IKF
Grensen 9a
0159 Oslo
Norway

Tel: +47 22 42 32 11
Fax: +47 22 39 64 51
E-mail: post@fian.no

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Summary

This report documents several violations of the right to adequate food in the following districts in Uttar Pradesh, India: Chitrakoot, Bahraich and Allahabad. The report is based on findings during a fact finding mission (FFM) in the three district conducted by FIAN International (FoodFirst Information and Action Network) in November 2003.

The Covenant of Economic, Social and Cultural Rights states that all human beings have the right to food and to be free from hunger (article 11). The right to food is further clarified through the General Comment 12 (E/C.12/1999/5). In addition to international human rights law, the Indian Constitution (article 21) as interpreted by the Supreme Court of India (Writ Petition [Civil] No. 196 of 2001) and Indian legislation have provided the terms of reference for this report.

Chitrakoot

In the five villages visited by the FFM, it was found that the inhabitants do not have access to land. On paper, many of the villagers have received land provided by the Uttar Pradesh government in accordance with the government policy of land reform. In practice the land was 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. These failures of the Uttar Pradesh government to respect, protect and fulfil the villagers' access to land violate the human right to food.

Bahraich

In the three villages visited, the FFM found that the villagers' have evacuated their land due to floods. The Uttar Pradesh government has not provided the flood victims with appropriate rehabilitation schemes 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 by calling for the implementation of eight welfare programs. Non-implementation of orders from the Supreme Court of India is a violation of Indian law. By not providing food to persons who are victims of natural or other disasters Uttar Pradesh violates the human right to food.

Allahabad

The Supreme Court of India has through its interim order of November 28th 2001 ordered all states, including the state of Uttar Pradesh, to implement Mid Day Meals in government and government-assisted schools. The Uttar Pradesh government argues that implementing this scheme is too costly and that the state has insufficient resources to do so. By not implementing the Mid Day Meals in government and government-assisted schools, the Uttar Pradesh government shows its unwillingness to make priorities to secure the right to food for children. In the absence of any other comparable state measures to secure the right to food for malnourished school children, the denial to provide Mid Day Meals violate the children's right to food.

1. Nature and Objective of the Mission

FIAN International carried out a fact finding mission to Uttar Pradesh, India, between the 19th and the 27th of November 2003. The mission consisted of two teams, covering the districts Chitrakoot, Bahraich and Allahabad.

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 respect and fulfilment 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.

The mission team visiting Chitrakoot and Allahabad consisted of: Hans-Petter Hetland, Karin Aanes and Thore Anton Bredeveien from FIAN Norway, and Sanjay K. Rai, Azra Khan and Balbir Singh Tomar from FIAN Uttar Pradesh.

The mission team visiting Bahraich consisted of: Anita Becker and Kai-Roman Ditsche-Klein from FIAN Germany, Kristin Kjaeret from FIAN Norway, Dhruva Kumar, Sanjay Rama Kant, Lakpreet Singh from FIAN Uttar Pradesh and Prabha Srivastava from Panchsheel Development Trust.

India ratified the International Covenant on Economic, Social and Cultural Rights (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 that "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 relates the right to food to the right to life (further described below).

The goal of the mission was to investigate some alleged violations of the right to food. The mission was especially concerned with the implementation of agrarian reform, the food situation for victims of flood erosion and the implementation of the interim orders given by India's Supreme Court in the context of the above mentioned case.

2. The Right to Food in India

2.1 Obligations under international law relating to the right to food

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 is further developed in article 11 of the ICESCR: "1. The States parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent. 2. The States parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: A) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources."

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 in the normative content of paragraphs 1 and 2, of the article 11 of the ICESCR that: "The right to adequate food is realized 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 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).

2.2 Hunger amidst plenty

India can feed herself. This is reflected (amongst other indicators) in the fact that India's food grain reserves are at a constant high level and contain at least 50 million tons of food grains. This is far more than needed to cover the food deficit of those who are starving and malnourished. The Government of India has made international commitments and designed different Government welfare schemes to ensure people's access to food. Yet, in spite of this, the poor and deprived communities in India are continuously struggling for survival.

To be eligible for the welfare schemes the poor have to be identified as living below poverty line (BPL). It is therefore crucial that people suffering hunger and malnutrition fall within this definition. According to the World Development Report 2000/2001, 44% of India's population had less than \$1 a day in 1997 (World Bank 2000).

The Indian Planning Commission has defined BPL as “a family with income less than INR 15,000 p.a.” (Swaminathan 2000). Based on this measure the national average of people living below poverty line is 26%. In Uttar Pradesh the average is even higher; 31% of the population are BPL. There are angry complaints from all over India about the wrongful exclusion of the poor from the BPL list and thus exclusions from benefits such as subsidised food grains. People lose their lives due to starvation in many Indian states, such as Orissa, Rajasthan, Madhya Pradesh, Uttar Pradesh, Chatisgarh and Jharkhand.

There are several examples of state governments not even following the Planning Commission’s definition when identifying BPL beneficiaries. Tribals who say they eat meat or drink liquor, or families with tiles on the roof or a fan in the room, are excluded from the BPL list. It is evident that the proportion of Indian citizens suffering from food and nutrition deprivation is higher than the populations classified as BPL. It is therefore highly questionable if the targeting of BPL beneficiaries in India is adequately addressing the needs of the hungry and malnourished.

At the same time, as stated above, India’s food grain reserves are at a constant high level up to 80 millions tons of food grains. The storage capacity of food grains is only 17 million tons, so much of the food grains are rotting day by day. In 2003 one of the Supreme Court commissioners reported to the Supreme Court that India is exporting food grain “leading to an accusation that the Government of India is feeding the poor (if not the cattle) of other countries, instead of feeding the poor at home” (Saxena 2003, p 7).

2.3 The Supreme Court

The People’s Union for Civil Liberties (PUCL) in Rajasthan submitted in April 2001 a writ petition to the Supreme Court on the right to food, know as PUCL vs. Union of India and others (Writ Petition [Civil] No. 196 of 2001). The petition argues that the right to food is enshrined in Article 21 of the Indian Constitution, which states that “every Indian citizen has the fundamental right to life”.

As a subsidy to poor people the state provides ration cards, which enables the holders to

purchase food at subsidised rates. But this system is unreliable: The ration cards are sometimes delayed and not everyone who needs one gets ration cards. After the petition in the Supreme Court of India in April 2001, the Court directed on November 28th 2001 that the targeted public distribution system (TPDS) be fully implemented by January 2002 and that all governments complete their identification of BPL families, issue ration cards to the poorest families and distribute 25 kg of grain per family per month by that date (please consult appendix for TPDS and other state programmes). A similar order was passed for the Antyodaya Anna Yojana (highly subsidised) scheme, under which the poorest of the poor can buy grain, including wheat for the price of RS 2 per kg, and rice for the price of RS 3 per kg. The Supreme Court directed that the governments should consider providing free grain to people who are too poor to buy it. The court also directed governments to provide a cooked midday meal in all government and government-assisted schools.

The Supreme Court directed governments to implement the National Old Age Pension Scheme fully by January 2002 and to make payments of pension each month. Similar directions were made with respect to the Annapoorna Scheme (free of cost food grain to poor old people), the Integrated Child Development Scheme, the National Maternity Benefit Scheme and the National Family Benefit Scheme.

By the next interim orders on the 8th of May 2002 the Gram Panchayats (village level locally elected body by the respective villagers for a 5 years period) were empowered to frame the Food-for-Work schemes, where special emphasis is given to the poor, women and marginalized and tribal communities. The Gram Sabhas (general assembly at village level) are also empowered to conduct a social audit of all the food and employment schemes and to report instances of misuse of funds. After receiving such reports, the authorities are required to act and to punish the guilty. The Gram Sabhas are also empowered to monitor the implementation of the various schemes and to have access to relevant information as to how beneficiaries are selected and how benefits are disbursed. A grievance redressal procedure is set out in this order. Complaints of non-implementation

of the Supreme Court's order are to be made to the chief executive officer (CEO) as well as to the district magistrate (district administrative authority). These complaints are to be acknowledged with a receipt. The Supreme Court also appointed two commissioners to monitor the states' implementation of the welfare schemes and to direct governments to frame clear guidelines for the proper identification of BPL families, as there were complaints that this criterion is neither clear nor uniform. Ration shops (subsidised rate shop) have been directed to remain open throughout the month during fixed hours, the details of which should be displayed on notice boards.

Unfortunately, the court orders are not implemented properly in the majority of the states. The bureaucratic functioning is not sensitive towards the malnutrition and starvation of the poor. At least 50% of the total population is still illiterate and therefore not aware of the Supreme Court interim orders and their rights. However, in the areas where the public pressure group as well as civil society organisations (CSO), non-governmental organisations (NGO) and community-based organisation (CBO) are working, the situation is improving.

The initial petition by PUCL focused on the drought situation prevailing at that time, especially in Rajasthan, but the litigation now has a much broader scope. The main concern is to put in place permanent arrangements to prevent hunger and starvation. The interim applications advocate the introduction of a nation-wide "employment guarantee act", combined with social security arrangements for those who are unable to work.

2.4 Agrarian reform

In 1947 India obtained its freedom from British colonial rule. During the freedom movement, land was an important issue for the common people. After independence, the federal structure was adopted and India became a union of states. India has 29 states, Uttar Pradesh being one of them. Land is a state issue in India; therefore basically state governments may formulate acts, rules and regulations regarding land.

Agrarian reform started in Uttar Pradesh in 1951 when the state government of Uttar Pradesh

passed an Act, called Uttar Pradesh Zamindari Abolition Act 1951 (Land Reform Act). Through this act the government provided land to farmers. The big farmers were the beneficiaries and there was no upper limit of land holding.

In 1960, the Land Ceiling Act was passed. According to this act each individual may hold only 7.3 hectares of irrigated land or 21.6 hectares of non-irrigated land. As per this act, surplus land should be distributed to the landless. A category has also been decided for farmers as follow:

1. Land less farmers:	no land
2. Marginal farmers:	less than 1 hectare land
3. Small farmer:	1 to 2 hectare land
4. Lower middle farmer:	2 to 4 hectare land
5. Middle farmer:	4 to 10 hectare land
6. Big farmer:	more than 10 hectare land

For cooperative societies and temples there was no upper limit. Big landlords have taken advantage of this shortcoming in the law and divert their land to these bodies or to fake names. Thus, the process of land reform has not been completed. The state government is not interested in seriously addressing this issue, due to the powerful land lobby which tends to influence the entire political and state machinery.

In some areas, the government has provided small pieces of land (0.5 to 1 hectare) to landless families. Yet most of this land is barren and in some places the forest department of Uttar Pradesh state government forcefully occupies land in the name of protection of forest and wild life. In some places rich and big farmers have forcefully occupied the land, leaving the owners landless with claims to the occupied land only on paper.

Thus the agrarian reform in Uttar Pradesh is still waiting to be implemented. In article 11.2 of the International Covenant on Economic, Social and Cultural Rights, agrarian reform is mentioned as a means to achieve the most efficient and sustainable development and utilisation of natural resources.

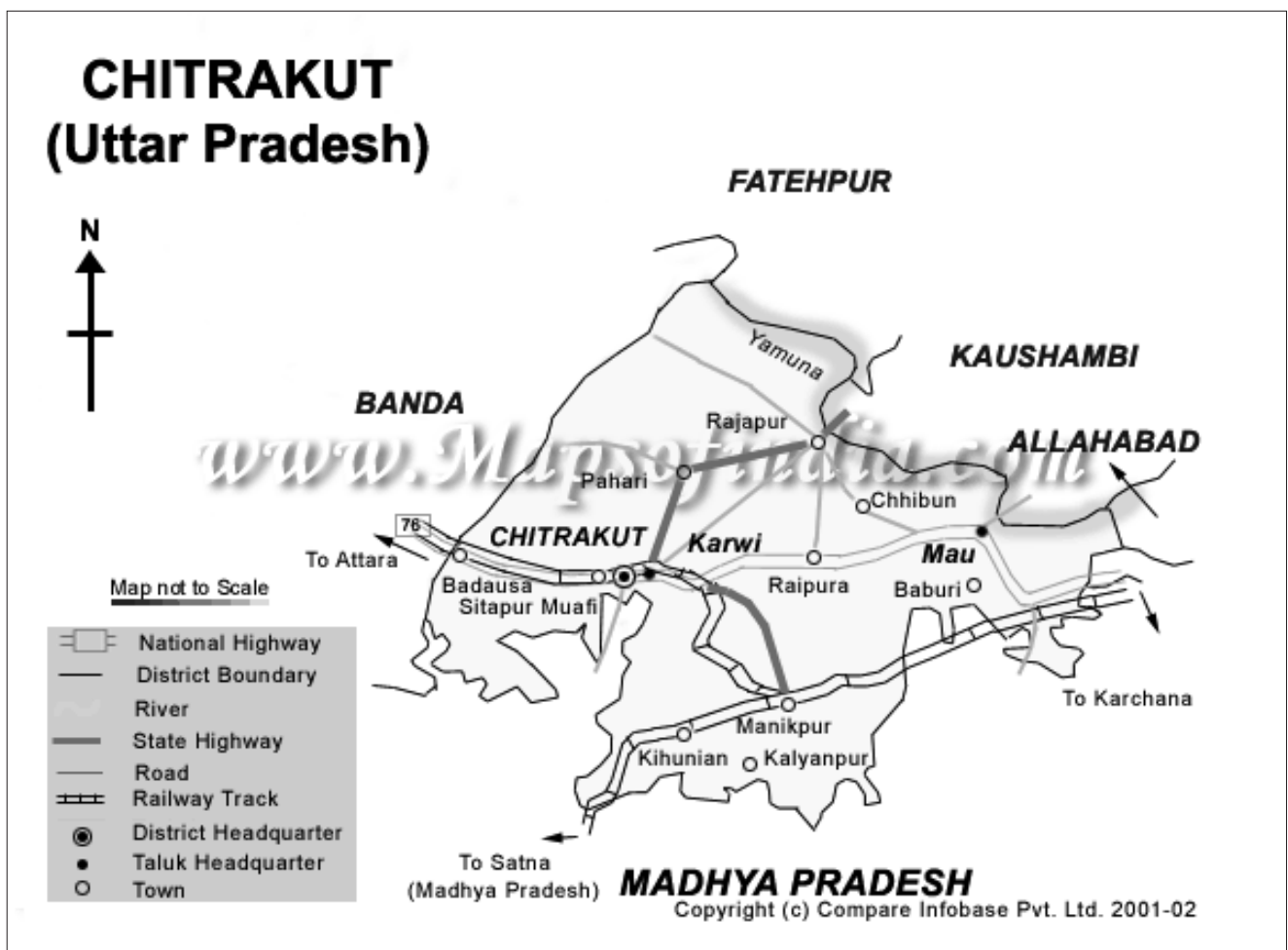
2.5 Flood erosion policy

As shown above, General Comment no. 12 states: “(...) 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. Italics by author).

According to its constitution India is a welfare state. The government has several relief programmes for natural calamity as well as for man-made disasters. The local administration, state chief minister and prime minister of India administer relief funds for victims of such disasters. The local administration estimates

the seriousness of a disaster and provides the relief materials and cash to the victims. The implementation of such relieves depends greatly upon the awareness and political pressure from the victims.

The Government of India has a rehabilitation policy for natural disasters. The importance of such policies is that they provide more than a single relief package. This is important in order to secure people’s livelihood, especially when land (and therefore the means to feed oneself) is lost. Yet flood erosion is not specifically included in this policy. Neither the Government of India nor the state of Uttar Pradesh has a separate policy for flood erosion victims, as is the case for instance for earth quakes.



3. Cases of Violations

3.1 Chitrakoot: Land problems in five villages

3.1.1 Background and objectives

The team visited five villages in the district of Chitrakoot; Elha, Shakroha/Chamroha, Jaromuafi and Moutwan. The area is also known as Bundelkhand, which means rocky region. The land in this area is not particularly fertile and people face difficulties with accessing sufficient drinking water due to low groundwater level and drought. In addition to difficulties caused by nature there are man-made difficulties too. Uttar Pradesh is a state where old feudal structures still prevail. There is a strong and influential caste system. The presence of powerful landlords in this area is a major obstacle to the implementation of agrarian reform.

The land reform program of the Indian government after independence had the intention to regulate the agrarian structure and to provide land to the huge numbers of rural poor. However, the landowners made use of the many loopholes in the legislation to avoid the proper distribution of land. Thus, only a small percentage of land was distributed. Furthermore, the whole process was slow giving the big landowners enough time to use all possible means to keep most of their land.

In Uttar Pradesh less than 2% of the agricultural land has been distributed to the poor. In addition to the lacking implementation of agrarian reform, the marginalised people face permanent

threats of losing even the little plots of land that they might have. Land concentration is high among upper and middle caste communities. Lower castes are mostly landless, although they comprise 70% of the population.

The Land Ceiling Act of Uttar Pradesh states that one person can only possess a maximum of 7,2 hectares of land. Surplus land has to be distributed among the landless. Chitrakoot is one of the districts where the government policy of land reform has never been seriously implemented.

The mission wanted to investigate in five villages the deprived communities' access to land. The communities relation to local landlords and the Forest Department is of special relevance in this context. A central question is whether or not the government implements the Land Ceiling Act.

3.1.2 Findings

The FFM team held interviews with representatives of the villages. The interviews provided insights into the difficulties the inhabitants face regarding their ability to feed themselves. The situation in the five villages is mainly a result of land alienation by the Forest Department. During British rule, the area that the Adivasis lived on was divided in two. The Adivasis were then told to move to the poorest part. The Revenue Department (now called Land Department) allotted the land to the villagers under Uttar Pradesh's land reform program. This land has later been forcefully occupied by the Forest Department of Uttar Pradesh, who has established a forest reserve within the area of all the visited villages.





Previously, the villagers used the area as forest and agricultural land, but with the establishment of the reserve the villagers are now denied access to this land. Many of them have documents saying they are the right owners, but in practice they are not allowed to use the land, and they face threats and even violence if they try to claim their rights. In connection with the establishment of the forest reserve, the Forest Department has captured a total of about 3000 hectares of land. Now they experience that also the rest of their original land is taken from them to be joined with the other part of the forest. This situation has affected all the villages visited and prevents the villagers' from feeding themselves.

Because of their lack of access to land, some of the villagers' take up jobs for less than minimum wages, while others try to collect minor forest produce or sell wood on the local market. In general, none of these solutions enable them to fully meet their nutritional needs. While collecting minor forest produce they also face possible threats or harassment from forest officials working for the Forest Department. People who are caught collecting minor forest produce usually have to pay bribes to local forest officials. During the last years the inhabitants of the visited tribal villages have experienced that their legal right to land has been seriously violated and thus leading to malnutrition and undernourishment.

Secondly, the presence of local powerful landlords has led to a situation where also areas situated outside the forest reserve have been taken from the villagers, mainly through fraud. Most of the villagers are illiterate, and by issuing certain documents, landlords have been able to possess the villagers' land by telling them to put their fingerprints on documents that were supposed to release them from debt. In reality, the villagers signed documents saying they accepted their land to be sold on an auction. However, the villagers never received anything in return.

Elha

The village of Elha consists of approximately 150 families belonging to the Kol community. They informed the FFM team about the situation in the village, where many of the villagers possess documents stating that they are the rightful owners of certain plots on the surrounding land.

The Uttar Pradesh government provided 0,9 hectares to each family in 1992, and in 1994 documents were issued by the Revenue Department of Uttar Pradesh, confirming that the villagers were the rightful owners of this land.

The situation changed in 1998-1999 when the Forest Department took the land in their possession and defined a large area near the village as a forest reserve. The argument for the establishment of the reserve was to protect the environment. Its original inhabitants and guardians for centuries were not seen as part of the eco-system. There was no compensation for the loss of their resources. Suddenly, the documents from the Revenue Department were of no value. The surrounding area where Adivasis had been living for generations was defined as a protected area where no agriculture or livestock were allowed. Protests from the villagers gave no response; instead they were met with threats and harassment from both forest officials and local police.

In order to feed themselves, some of the villagers migrated to urban areas to find work. Those who stayed had few options. Some people from the village had to 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 were told that the villagers have to pay bribes to officials if they harvest any minor forest produce within the forest reserve, or if they are caught with livestock within the borders of the reserve. Today some of the villagers have livestock, but no legal grazing land. The Forest Department officials charge INR 20 per goat and INR 30 per cow, when they discover them within the borders of the reserve. This is a high price for the villagers, who are left with no other option than to pay.

Governmental owned banks provided loans to the beneficiaries of the land reform as an incentive to buy livestock etc. They 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. The villagers told the FFM that about 75% of the families took up loans to buy bulls. The amount was INR 4,800 per family, of which 50% were subsidised, and the rest was a loan (INR 2,400). This loan has increased 3-5 times due to high interest rate. It is generally difficult for the villagers to make enough money to be able to pay the bank. In this matter the villagers face serious consequences. The FFM team was told that the bank, assisted by the local police, had imprisoned people for up to two weeks in the nearby town of Chitrakoot. The prisoners were left in their cells without anything to drink or eat, and had to rely on their family and friends to provide food for them.

Shakroha and Chamroha

The two villages of Shakroha and Chamroha (connected) consist of approximately 100 families. Most of the difficulties the villagers of Elha face also apply to these two villages, and the general situation is quite similar.

20 years ago, 55 families in these villages were promised plots of land. 44 of these families have yet to receive anything. 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 1.2

hectare of land each in return, but still 20 years later, no land has been redistributed to them.

One woman has taken up the fight against the unfair distribution of land, and has occupied a plot of land nearby the village. Outside the forest reserve there are areas of agricultural land that are not used as farmland, but even these areas are not redistributed to the landless. A state-run Land Management Committee controls some of this land, and the woman asked them to redistribute the land. The negative response from the committee led her to occupy the land. However, this is risky and she does not know for how long they will let her use the plot before they force her to leave.

In this village some of the inhabitants own goats, and the FFM team was informed that the owners pay forest officials INR 10 per goat per month for grazing within the borders of the forest reserve. Men who get jobs in the forest reserve are paid INR 30/day and women are paid INR 20/day. The system leaves the villagers with a limited ability to plan their food supplies.

Jaromuafi

The village of Jaromuafi consists of approximately 100 Kol families and about 50 families belonging to the Gond tribe. The villagers here suffer from many of the same problems as observed in the villages that were visited earlier.

The villagers in Jaromuafi owned land earlier, but now they are all landless. In 1982 many took up loans to purchase bulls. The Dulsi Grameen 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. 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 because of their illiteracy. 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 to complain, but he said the land had already been auctioned at the district headquarter. The villagers were no more the landowners. 133 hectares of fertile land had been taken from them through fraud.



After they lost their land, nine families each got 0,3 hectares of land on lease. This piece of land was unfertile and small. Other families got nothing. Some worked on their small plots of land for six years to clean it and make it more fertile, just to see it once again be taken away from them. This time it was the Forest Department, who in 1996 came and took their land.

Now the only jobs available are to either cut wood in the forest and sell it on the market or to work for the Forest Department. The villagers go to the market in nearby Chitrakoot to sell their wood, and this might give them INR 30 a day. However, both collecting the wood and bringing it to the market are risky. The villagers told us that every year some women die in accidents on the railway track on their way to the market in Chitrakoot. They cannot afford the train ticket so they either walk or bribe the train personnel.

The villagers told the FFM team that if they had land, they would not have to cut wood in the Forest Reserve. If they have their land back they will stop cutting wood in the forest. The villagers here were aware of the Land Ceiling Act. But this act is not enforced due to corruption by the big landlords, they told the FFM team.

Moutwan

The village of Moutwan consists of approximately 200 families. They had recently made attempts to organise the landless Adivasis in the area, to unite them in their fight for land. The land problems in Moutwan are mainly the same

as in the other villages. The villagers told the FFM team that a medical doctor in government service living in nearby Satna has, through fraud, captured large areas of what used to be village land. This man now controls 123 hectares of fertile land. 40 hectares were bought illegally, and 83 hectares were simply captured with the help and protection of the local police. The FFM team was informed that some villagers are forced to work for this man, and three people who refused to do so were imprisoned.

The 200 families have an above poverty line (APL) ration card, but they have had to pay INR 100 for this. What they need is a BPL card. This has only been provided to ten widows in the village.

3.1.3 Violations of the right to feed oneself

In the villages visited, the FFM found that the inhabitants do not have access to land in spite of the government policy of land reform. On paper, many of the villagers have received land provided by the Uttar Pradesh government but in practice the land is captured either through fraud by local, powerful landlords or it is inaccessible due to the establishment of a forest reserve in the area. By not protecting the Adivasis from the illegal acts of powerful landlords taking their land, Uttar Pradesh violates their right to food. The Forest Department failure to respect the Adivasis land rights by providing appropriate compensation for the expropriation of the land violates their right to food.

In India scheduled tribes are granted special protection by the law against attacks on their culture and way of life. Due to the rights granted, one of these rights is the right to collect minor forest produce. By denying the villagers the status of scheduled tribe, the government of Uttar Pradesh has further limited their ability to feed themselves. In the neighbouring state of Madhya Pradesh, only a few kilometres from Chitrakoot, the Adivasis are considered a scheduled tribe by the local government, and has been granted tribal lands and rights accordingly.

The Uttar Pradesh government is not implementing The Land Ceiling Act or any similar redistribution of resources to the deprived villages. As shown earlier, states parties to the ICESCR are obliged to “take steps to the maximum of available resources 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” (E/C.12/1999/5, 15). Uttar Pradesh’s failure to take land reform measures violates these villagers’ right to food. Uttar Pradesh also violates the tribals’ right to food by denying them access to minor forest produce.

3.2 Bahraich: Flood victims suffer

3.2.1 Background and objectives

Since 2000 the Ghaghra River, which runs through the district of Bahraich, has shifted its course in the range of Sukaipur to Bhauri village in Fakharpur block of Mahsi Tehsil. With the shifted course, vast agricultural and habited areas are eroded by the river. The main pressure has been on Golagnj, Baundi, Silauta, Bhauri and Dariyapur Khurd areas. As a result about 900 families in the year 2000 and 300 families in 2001 were displaced. In total 4000 families have been displaced the last five years. The main occupation of the displaced families was agriculture, but the river has submerged all the land into the river and converted it into sand. Therefore the shelter and source of income of the displaced people have been lost to the river, resulting in their daily struggle to feed themselves.

The participants of the FFM paid a visit to three flood-affected villages: Bhirwa, Kahranpurva, and Jogapurva. The villages are all situated in Tehsil Mahsi, but in different blocks. Furthermore, the FFM also had the opportunity to meet with government officials; Mr. Uday Bhan Tripathi,



SDM¹ for Mahsi Tehsil, and Mr. Indra Bhushan Verma, Tehsildar in Mahsi Tehsil. The FFM also met with other non-governmental organisations in Bahraich to discuss future co-operation in calling for a rehabilitation policy for flood victims in Uttar Pradesh.

Displaced people are confronted with both long and short term problems. With no access to productive land, their right to adequate food is threatened. The long term prospect is therefore to secure an income for the families. In the short term, the families need food to avoid starvation. These two problems require different solutions.

One of the objectives of the FFM was to investigate the income possibilities for the evicted and landless families. Another objective was to check whether or not the displaced families have access to the different welfare schemes ordered by the Supreme Court, especially whether they have received BPL cards giving them access to food at low prices from the PDS-shops. As mentioned above, families living below poverty line in India should have access to different governmental schemes to secure their right to food. This has been particularly stressed by the Supreme Court of India in its Interim Order of November 28th 2001.

According to law, victims of earth quake in Uttar Pradesh are entitled to rehabilitation facilities, like shelter, food, medicine and social services. A similar rehabilitation policy is not provided for victims of flood erosion. A third objective of the mission was to investigate whether the government provide at least compensations for loss of land to the victims of flood erosion.

3.2.2 Findings

The Tehsil Mahsi is subdivided into Mahsi, Tejwapur Block, part of Shivapur and Fakharpur Block. The total population of the Tehsil is 650 000, with 90% of the inhabitants depending on agriculture. The responsible authority in the area is the District Administration, headed by the District Magistrate (DM).

In 2001 the Irrigation Department, in consultation with the DM of the region, built two small spurs

¹ The District Magistrate (DM) reports to the Secretary and Chief Secretary of State of Uttar Pradesh. The DM can channel his responsibilities to the Sub-District Magistrate (SDM, head of the Tehsil) and in turn to the Block Development Officer (head of the block).



supported by small embankments of 50 metres near the village Baundi with an area of 2 km. This was done to rescue the village Baundi, including its inhabitants and historical buildings from being flooded by the river. This diversion caused the river to shift its flow. For the last three years, due to the construction of the embankment, the river is fiercer in the upper stream, affecting the villages situated here: 3000 families lost their land to the river.

The FFM met with Mr. Uday Bhan Tripathi (SDM, Mahsi Tehsil). According to him, the local government had provided INR 800 to each victimized family in terms of cash and food grains, as well as other materials (polythene sheets, food grain, salt, kerosene oil for lighting, utensils and clothes; costing INR1700) to the victims of flood erosion. The funds were transferred by the state government to the District Administration.

Since the land in the region is being eroded day by day, the Panchayats are short of land to distribute to the displaced communities. Many of the displaced families have therefore built shelter on land belonging to others. The owners often demand money from the displaced families as a rent, money which they do not have.

In 2002 a survey on food problems amongst 456 displaced people was conducted by

Shohratgarh Environmental Society (a displaced people's organisation) in co-operation with FIAN Uttar Pradesh. The findings of the survey were as follow (Shohratgarh Environmental Society, 2002: 6-7):

- The displaced families have no grains. Only few of them have wheat or rice up to 20 kg.
- Daily need of food grain per family is around 2 to 4 kg.
- Most of the people have no food grain. They can only afford to purchase grain for immediate consumption, i.e. the same evening and next morning. Again they seek either work or loan. They have to find a way to get food. Very few families have food grains to meet 7 to 10 day's requirement. The base of this food grain is either loan or labour.
- In 2000 most of the displaced families had met their food requirement through loans during the last 15 months.
- The loans are used to buy food and medicine and to migrate.
- The loans range between RS 2000 and 5000.
- Due to displacement most of the women and children suffer from malnutrition.
- The economic and psycho-social condition of the effected people in the year 2000 was worse than the current year, since they had suffered for 15 months without satisfying their minimum needs.
- The average family size of the displaced people is 5,8.
- There was only 2 188 kg of wheat, 170 kg of rice, and 23 kg of pulses available for 453 families with a population of 2626, whereas the daily intake of grain was 1 225 kg grain and 80 kg of pulse and vegetable.
- The total loan to these families was RS 1 120 900, which was only used for food and medicine.

Village Bhirwa

The FFM learned that the 74 families living in the village Bhirwa have been displaced four times since 1999, due to flood erosion. Prior to this, the families lived in different villages. Their main source of income was agriculture. With their displacement, they are now landless. In the village visited the FFM mainly spoke to women. The men were in the bigger towns taking up low paid work. The FFM learned that

their daily income was on average RS 20 – 45. This is below the Minimum Wage of RS 58,50 per day and is not enough to provide food for the families. For additional income, some do sharecropping with landowners close to their displacement. The sharing is 50 – 50% with the peasants shouldering the production costs. The soil of this land is of bad quality; therefore the harvest is small and only a minor source of food for the family.

The only government relief they have received since their displacement was RS 800 per family in 2002 and an installed hand pump in the village. They do not have BPL ration cards and are therefore not able to buy food from the PDS-stores at reduced prices. The FFM observed that several of the women and children were malnourished. Loans are frequently used as a solution for buying food for the family. The moneylenders are from the village they have been displaced from. This arrangement is expensive with an annual interest rate of 120%.

The interviewed women considered a plot of land a good solution to their problems, since it will enable them to once again farm and produce food. The women stressed that after being displaced to four different locations since 1999, they are now starting to loose their hopes for a better future. They are frustrated about not being able to feed their families sufficiently and ashamed of their lack of good clothes. The FFM was told that most of the children do not go to school. This, the women explained, was partly because their clothes are not good enough and partly because they are beaten up by the teachers. There are no mid day meals served at the schools.

Village Jogapurva

As in the village of Bhirwa, the families in Jogapurva come from several different villages. They have been displaced three times since 1998. After their land was lost due to flood erosion, they received RS 600 per family and a small piece of land by the local government as a relief for their loss. This land was eroded after only three months, leaving the families with no access to land. The male members of the families migrate to the bigger towns for employment, where they get RS 20 – 45 for a days work. There is no land available even for sharecropping.

The FFM observed that several of the people gathered in the village were clearly under-nourished and lacking hopes for a better future. They stated several times that there was no way of increasing their livelihood as there were no jobs available for them. The children do not go to school since the road to their old school is eroded and therefore not accessible. The route to the only available school is too long.

Since there is no land available, the displaced families are forced to live on land belonging to others, which gives rise to conflicts.

The families are not provided with ration cards, even though they clearly do not have sufficient access to food. From October to December 2002, the District Administration changed their card from above poverty line to below poverty line, due to continuous pressure from the community and local NGOs. This enables them to buy food at reduced prices from the PDS-stores. Unfortunately this was only on a temporary basis and not further renewed by the state government.

The village is close to the river Ghaghra and the people of the village estimate that their shelter will be eroded again by August 2004. The riverbank by the village is used for washing clothes etc. Due to the fast erosion by the river, this bank is insecure and people have drowned. The families of the deceased have not been given any compensation by the government,



which they are entitled to according to the Family Benefit Scheme as ordered by the Supreme Court.

Village Kahranpurva

In the village Kahranpurva, the river was only centimetres from eroding the ground under one the houses. This house is now lost to the river and many others will follow. The families mainly rely on agriculture for their living and when this is lost to the river, the families will have to find other sources of income.

According to the peasants, 45 of the 60 families from the village have moved to safer places in the nearby villages. The remaining families will have to be relocated. One man told the FFM that he is already preparing a new house so that they will have somewhere to move when their house is gone.

The families who were evacuated before October 1st 2003 have received RS 800 from the Uttar Pradesh government as a relief. Those evacuated after October 1st 2003 have yet to receive compensation. The argument used by the Uttar Pradesh government has been that this is not the flood season. Due to pressure from civil society, the relief commissioner of Uttar Pradesh has circulated a letter to all the DMs to support the victims by providing compensation for houses destroyed in a disaster, even after October 1st 2003.

Out of the 60 families, only one is issued a BLP ration card. The villagers explained that the majority of the people are from the Kahar community, and is neglected by the Gram Pradhan, who belongs to the Yadav community. Now that the land is lost to the river, the peasants no longer have land to till. Since the Uttar Pradesh government has no policy of rehabilitation for flood erosion, the peasants are left landless.

The men interviewed foresee that they will have to travel into the bigger town to find employment there. The women will then be left alone in the village and the men were concerned about their safety. The FFM got the impression that the men were optimistic about the job-possibilities available in the larger cities.

3.2.3 Violations of the right to feed oneself

Flood erosion has both immediate and long term effects; the victims lose their shelter and harvest as well as their livelihood. The government of Uttar Pradesh therefore has to guarantee their right to be provided with food as well as their right to feed themselves.

The General Comment No. 12 stresses in its paragraph 15: "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" (GC 12, paragraph 15)." The FFM found that practically no one in the villages had received BPL ration cards, enabling them to buy food at subsidised prices. Also the other welfare schemes ordered by the Supreme Court were not functioning. By not providing food to persons who are victims of natural or other disasters Uttar Pradesh violates their right to adequate food.

The government of Uttar Pradesh has no rehabilitation policy for the victims of flood erosion. By not addressing flood erosion as a natural calamity, the government violates the victims' right to feed themselves.

3.3 Allahabad: Children not achieving Mid Day Meals

3.3.1 Background and objectives

Allahabad is an important city of Uttar Pradesh where the High Court of Uttar Pradesh and other important government offices are located. About 80% of the population of Allahabad district live in rural areas, and only 50% of the men and 30% of the women are literate.

The village of Khiri is located 50 kilometres from the city of Allahabad, and the majority of the people here belong to tribal communities. The village consist of five communities, and the mayor is democratically elected. The total population of the village is 1230 where 30% are marginal farmers and 70% are landless labourers who commute from their respective villages to other villages and urban areas in search for work.

The FFM visited the government owned primary school of Khiri and interviews with the Mayor of Khiri. In addition we spoke with an eight year old student.

In this school 585 primary students (1th – 5th grade) are enrolled. 60% of the student are Dalits and belong to some of the poorest families in the state. 60% of the students are boys and 40% are girls. In this school there are two teachers in primary school and two teachers in junior school and occasionally some assistants. The number of students per teacher is way above the official standard of 55 students per teacher.

The 28th of November 2001 the Supreme Court of India ordered that students in all government owned primary schools should be provided with a daily cooked mid day meal at school. The FFM objective was to see whether the mid day meal scheme in Khiri had been implemented.

3.3.2 Findings

According to the Supreme Court order the students are supposed to get a cooked meal consisting of rice and vegetables every day at school. It is the Public Distribution Service (PDS) that is responsible for the provision of food. However, in Khiri the students do not get the mid day meal that they are entitled to. The school starts at 9:45 am and ends at 4:00 pm. Many of the students do not eat anything during the day.

The National Program for Nutritional Support to Primary Education was started in 1995. Cooked mid day meals were to be introduced in all government primary schools within two years. In the meantime state governments were allowed to distribute monthly dry-rations to the children instead of cooked Mid Day Meals. Cooked meals with the content of 300 calories and 18-20 grams of protein is to be provided on every working day of the school and for at least 200 days a year to students having a minimum of 80% attendance in the previous month. Where dry rations are given, 3 kg of wheat and rice per month is to be provided to every child with 80% attendance for 10 months in a year. The scheme covers all students in government and government aided primary schools. In its interim order of November 28th 2001, the Supreme Court of India issued directions pertaining to eight food-related schemes,

among them the mid day meal scheme, by the central government. Briefly, the order directs the Union and State governments to implement these schemes fully as per official guidelines. This, in effect, converts the benefits of these schemes into legal entitlements. Cooked mid day meals are to be provided in all government and government aided primary schools in all the states. By May 28th 2002, the implementation was supposed to start in all districts in every state. The government of Uttar Pradesh has yet to implement the mid-day meal scheme.

In April 2002, NGOs in India promoted a national day of action on mid day meals. The Mid Day Meal Campaign and Sankalp (local NGO of Allahabad) participated by distributing cooked meals, contributed by the community, to children in three villages 40 km away from Kheri. This was in order to raise awareness of the scheme so that more pressure be put on the Uttar Pradesh government to fulfil the orders by the Supreme Court of India.

During the Supreme Court hearings, the state government officials have filed an affidavit stating that the Uttar Pradesh government has lack of resources to implement this scheme. They are asking the Supreme Court for a gradual implementation. On May 8th 2003, the Supreme Court requested that states who have not implemented the order on mid day meal scheme to immediately start providing these meals in at least 25% of the districts, with priority to the poorest district (www.righttofood.com).

School in Village Khiri

The FFM found that the provision of food at the school in Village Khiri is insufficient. Firstly, students attending the school are not getting sufficient rice and vegetables. Only once a month the students get a provision of food from the government and the amount of food grains they receive is less than they are entitled to. Non-permanent students receive even less. The lack of provision is reportedly due to corruption by the provider, who is supposed to provide the grains according to the students. First of all he deducts 20%. Secondly, the provision of food is often delayed by 2-3 months. When this happens the students who are supposed to get 3 kg pr month (100 g/day), only get 3 kg for 3 months. In these periods the students do not get any

provision of food grains. Thirdly, when they finally get their food grains, it is often of poor quality and sometimes rotten, so that a lot of the food cannot be used.

The FFM found this way of distributing food grains not to be in accordance with the scheme's objective. The government is not only supposed to provide rice and vegetables, but is also responsible for provision of labour for cooking the meal. The state government of Uttar Pradesh claims that the teachers are supposed to cook the meal for the students. But as there are only two teachers on 585 students, it is not possible to both provide satisfactory lessons and cook for the students.

3.3.3 Violations of the right to feed oneself

In the absence of any other comparable state measure to guarantee the right to food for the malnourished school children, the denial to provide school meals violates these children's right to food.

The Supreme Court of India has through its interim order of November 28th 2001 ordered all states, including the state of Uttar Pradesh, to implement mid day meals in government and government-assisted schools. The Uttar Pradesh government argue that implementing this scheme is too costly and that the state has insufficient resources to do so. As shown earlier, the General Comment No. 12 stresses that it is necessary to "distinguish the inability from the unwillingness of a State party to comply" (E/C.12/1999/5, 17). The Uttar Pradesh government has yet to prove that resources cannot be made available for the eight food schemes ordered by the Supreme Court.

4. Conclusions and Recommendations

As a state party to the International Covenant on Economic, Social and Cultural Rights, the Government of India is obliged to respect, protect and fulfil the right to adequate food. As shown in the findings of section three, these obligations were breached in a number of cases in the district of Chitrakoot, Bahraich and Allahabad.

The cases investigated in this report are under the jurisdiction of the state of Uttar Pradesh. The FFM found that the Government of Uttar Pradesh yet has to:

- implement Land Reform and the Land Ceiling Act, as enshrined in the state's law;
- implement the orders by India's Supreme Court, especially the eight welfare schemes addressed in the interim order of November 28th 2001;
- address flood erosion as a natural calamity and provide a policy of rehabilitation for its victims.

The related violations by the state of Uttar Pradesh have severe consequences: People in the villages are malnourished and starving.

The violations addressed in this report should immediately be addressed by the government of Uttar Pradesh. The federal government of India should also exercise pressure on the state government to fulfil its obligations. The FFM has the following recommendations:

1. Concerning the lack of agrarian reform in the district of Chitrakoot

The government of Uttar Pradesh:

- should enforce a strict implementation of the Land Ceiling Act and Land Reform. The villagers' lack of adequate food supplies is mainly due to landlessness. Local powerful landlords are in possession of large areas of land, which should be redistributed to the landless.
- by not considering the Adivasis in the cases visited as a scheduled tribe, the government of Uttar Pradesh makes it even more difficult for the Adivasis in this area to feed themselves, as their traditional harvesting of minor forest produce is hampered. We therefore recommend that the Adivasis in Uttar Pradesh be considered a scheduled tribe, and thereby given an opportunity to uphold their culture and harvest minor forest produce.

The local government of Chitrakoot:

- has to make sure that the Adivasi communities are not subject to harassment, threats, unlawful imprisonment and violence from the local police. When imprisoned, people must be provided with sufficient food and water supplies.

The Forest Department:

- should provide grazing rights to the people in the reserve or otherwise compensation in terms of land should be provided.
- should also ensure that its employees receive at least minimum wage. Payments below the standard minimum wage of INR 58.50 are unlawful and therefore unacceptable. As a state institution the Forest Department should respect the law, not violate it.

2. Concerning the flood erosion victims of Bahraich

The government of Uttar Pradesh should:

- provide a rehabilitation policy for addressing flood erosion-victims, so that they are provided new shelter and access to productive land. This must be a rehabilitation program, not a relief program, and the already displaced families must also benefit from such a policy;
- immediately recognise the families already displaced as beneficiaries of the different governmental schemes for people living below the poverty line in accordance with the interim order made by the Supreme Court on November 28th 2001;
- provide education, mid day meals and health facilities to the children.

3. Concerning the mid day meals in Allahabad

The government of Uttar Pradesh should

- ensure the provision of sufficient and good quality food, as well as provide financial aid for the purchase of cooking equipment, fuel and the employment of cooks to prepare the meal.

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6. Appendix

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.

Maternity Benefit Scheme

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.



FIAN Norway
c/o IKF
Grensen 9a
0159 Oslo
Norway

Tel: +47 22 42 32 11
Fax: +47 22 39 64 51
E-mail: post@fian.no

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