

**IP
T**

Report

No Foresight... No Followup

<http://www.iptindia.org>

**THE INDIAN PEOPLE'S TRIBUNAL
ON ENVIRONMENT AND
HUMAN RIGHTS**

December 2001

NO FORESIGHT... NO FOLLOWUP

**An enquiry into the relief and rehabilitation process in the
earthquake affected areas of Gujarat**

**Panel Headed by:
Justice. K Sukumaran
(Retd.Judge, Kerala and Bombay High Courts)**

Acknowledgements

A special mention of thanks to Dr P V Unnikrishnan for facilitating the whole process of the IPT visit to Gujarat; and Oxfam India for financial assistance. We are grateful to Mr Wilfred D'Costa of Indian Social Action Forum (INSAF), Action Aid, Behavioral Science Centre, GANTAR, DARSHAN, PRAYAS, Vikas Adhyayan Kendra, Unnathi, and St Xavier's Social Service Society for organising the site visits and public hearings. Thanks to Bryan Mignone, Colleen Shea, Kate Hooker, Neha Jain, Nikhil Naredi, Paul Leplomb, Prashant Acharya, Rajesh L Simhan, Rikin Mozaria, Satyajit Patra, Sidharth Nair, and Sudakshina Mukherjee for conducting the survey in the earthquake affected areas and compiling the data. We would also like to thank Bhushan Oza and Bina Srinivasan for the help they extended during the panel hearing. We are also thankful to K P Sasi and Deepu for filming the entire hearing.

IPT Secretariat:

Sunil Scaria, Deepika D'Souza, and Amarjit Singh

The report is available at the **IPT** secretariat

The publishers do not hold any copyright with respect to the material printed in this report.. However, if any part of this material is reproduced we would be grateful if acknowledgements are given and a copy is sent to the publishers.

The Indian People's Tribunal on Environment and Human Rights (IPT)

4th floor, CVOD Jain School
84 Samuel Street, Dongri, Mumbai 400 009
Tel: + 91 22 3759657 / 3716690
Email: huright@vsnl.com

Printed By: Print House

Published By: Indian People's Tribunal on Environment and Human Rights

Suggested Contribution: Rs 50/-

Cover Design: Sunil Scaria

Panel Profile

CHAIRPERSON OF THE PANEL:

Justice K Sukumaran is a retired Judge of Kerala and Mumbai High Courts. He enrolled as a lawyer at the Kerala High Court in 1955 and was Government Pleader of the Kerala High Court from 1969 till 1976.

As a lawyer he had attended to professional matters in the U SA, Malaysia and Singapore and he has visited the USSR, Europe and Thailand. He was legal counsel for the Kerala Agricultural University, and Chairman of the Committee for Indian Laws Reports Kerala Services.

He was appointed as an Additional Judge of the Kerala High Court in 1981 and became a Permanent Judge in 1982. The Government appointed him to enquire into the allegation concerning the Edamalayar and Kallada Dams. On the basis of the Report, Minister R Balakrishna Pillai and the officials were prosecuted before a Special Court that convicted the Minister and many officials. In 1990 he was transferred to the Bombay High Court and retired in 1992.

He is the Chairman, Legal Reporting Trust which publishes *Niyama Sameeksha*, a journal in the Malayalam language for promoting legal literacy among the common people. *Niyama Sameeksha* is collaborating with many legal literacy projects of the State Women's Commission , The Non Resident Keralites Dept of the Govt of Kerala and the Urban Poverty Allevation Department (UPAD) project of the Cochin Corporation.

He has authored four books on legal topics in Malayalam: *Nyayadhipa Chintakal (Judge's Thoughts)*, *Bharana Ghanayam Anubandha Chintakalum (Constitution and Allied Thoughts)*, *Jeevithavaum niyamavum (Life and Law)*, and *Niyama Sparsangal (Legal Touches)*. He has written many articles in *The Hindu*, *The Times of India* and *The Indian Express* and all major newspapers and periodicals in Malayalam.

Presently he is practising as a senior counsel at Supreme Court and continues to promote and defend the rights of poor people and their environment.

PANEL MEMBERS:

Dr Ashok Patil is a physiotherapist. Currently he is a Lecturer in Physiotherapy at L T Medical Collage, Sion, Mumbai. Dr Patil holds an M.Sc in Physical Therapy, as well as a PGCR in Physiotherapy. He has been involved in the rehabilitation and follow-up treatment of disabled people in disaster situations.

Dunu Roy is a chemical engineer with over 30 years experience in development, environment, and disaster management in flood, cyclone, drought, and earthquake-affected areas. He is presently the Director of the Hazards Centre, Delhi.

Dr Harish Shetty is a psychiatrist with a post-graduate degree in Psychological Medicine and a post-graduate diploma in Comparative Mythology from the Bombay University. He is a visiting faculty member at the Tata Institute of Social Sciences, Mumbai. He has worked in the field of Yoga and Mental Health for 12 years. He has also worked with the survivors of the Marathwada earthquake, Kandla cyclone as well as with people trying to recover from drug addiction. On account of his contributions in the area of Disaster, he has been appointed as a member of an expert committee to initiate a course on Disaster and Mental Health at the Indira Gandhi Open University, New Delhi.

Prof Jitendra Dholakia retired as a University Professor of Economics in 1987. He has given a course on Economics of Development and International Aid at Roosevelt University, Chicago, USA. He also lectured for sometime at Boston University and Greenbay Campus of the Wisconsin University in the USA. He has made academic visits to the Oriental Institute, Leningrad and to the Moscow University in the erstwhile Soviet Union. He has written six books and published 34 papers in reputed journals in India and abroad. After retirement, Prof Dholakia has worked as a consultant to Asian and African Development Banks and State Planning Boards. Currently he is working as the Honorary Director of the Development Research Centre, Ahmedabad. He writes newspaper columns and articles.

Max Martin is a Special Correspondent with *The New Indian Express*, Bangalore. He has spent 10 years based in New Delhi, reporting widely on environment, development and displacement issues for different publications. Educated in the University of Kerala, Thiruvananthapuram, Centre for Mass Media, New Delhi and the University of Oxford, UK. His research interests include development-induced displacement and media coverage of forced migration issues.

Advocate Mihir Desai is practising in the Supreme Court and the Mumbai High Court. He is the Co-convenor of the Indian People's Tribunal on Environment and Human Rights and the Honorary Director of the India Centre for Human Rights and Law (ICHRL), Mumbai.

Nimitta Bhatt has been working as a Community Health Worker and Trainer since 1978. She holds a degree in Chemistry, a Diploma in Journalism as well as a Certificate in Epidemiology and Health Management. She is a founder member of Medico Friend Circle (1974), Action Research in Community Health (1982), Trust for Reaching the Unreached (1987) and Society for Rational Therapy (1991). She has edited and written in several publications including *Amaro Patra Tamare Naame*. She has done epidemiological studies of people affected in the Bhopal disaster as well as

the Surat Plague epidemic. She is currently studying the effects of customary laws upon tribal women of Panchmahal area.

Ranjana Subberwal has taught Sociology at graduate and postgraduate levels. She has been participating and directing action research and Action Learning projects on socially relevant issues for over two decades. She is an office-bearer and a consultant to Concerned Action Now (CAN), an NGO based in New Delhi. She has co-authored a policy paper on disability issues for an international agency and has represented CAN in various seminars. Currently she is helping to direct comparative studies on disability issues.

Prof Sujata Patel is the Head of the Department of Sociology, University of Pune. She has authored and edited four books, and has written more than 20 articles. She has been involved with the human rights movement since 1977 and has been a member of Committee for Protection of Democratic Rights, Mumbai and Peoples Union for Democratic Rights, Delhi

Dr Unnikrishnan P V is a medical doctor (Madras University). He is further trained in conflict management (from Selly Oak Colleges, UK) and Humanitarian Action (from the Central Medical University, Geneva). He works on health and humanitarian issues — natural disasters like floods and earthquakes; human made disasters like refugee situations, wars and conflicts and other disasters. He balances his work between field level humanitarian interventions and social action policy research, advocacy and lobbying work. He is also the co-ordinator and co-editor of the *India Disasters Report* (Oxford University Press, 2000). Currently he is working as the Co-ordinator, Emergencies, Oxfam India, based in Bangalore.

Contents:

- i) **Panel Profile**
- ii) **Contents**
- iii) **Background notes**
- iv) **Hearings in Gujarat**

v) **Findings and Recommendations – in a nutshell**

DETAILED REPORT:

A bird's eye view — Justice K. Sukumaran

1. **Legal aspects:** *rights, not doles*
2. **Health care:** *an ailing system*
3. **Injuries and disability:** *no follow up*
4. **Disabled people:** *excluded, disempowered*
5. **Mental health:** *the hidden trauma*
6. **Rehabilitation:** *divisive, discriminatory*
7. **Social economy:** *creative restructuring*
8. **Shelter:** *a matter of human right*
9. **Information dissemination:** *news blackout*
10. **Disaster management:** *no foresight*

ANNEXURES:

- i) **Order of the Ahmedabad High Court:** *excerpts*
- ii) **Directions of the National Human Rights Commission**
- iii) **Cash compensation norms**
- iv) **Rehabilitation packages**
- v) **Survey on Basic Rights issues — Kutch District**
- vi) **Survey on Basic Rights issues — Rajkot District**
- vii) **Be Prepared! :** *Benefits of a comprehensive emergency plan*
- viii) **List of Government Officials invited for the public hearing**

- **Background notes**

The visit of the Indian People's Tribunal (IPT) to the earthquake-affected areas of Gujarat was part of a process initiated by several voluntary groups and people's organisations working in the field right from the rescue phase through the relief and rehabilitation phases. These groups strongly felt the inadequacy of what was being done for the survivors. They felt that the Government programmes were often inadequate and badly co-ordinated. Non-governmental and private initiatives could contribute to a great deal, still, the scope of the problem at hand was so huge that in many instances the survivors questioned the way they were treated. In a nutshell, it was alleged that the basic rights of the disaster-affected people were denied. Largely, the impression of the humanitarian workers was that Gujarat had become yet another case of disaster relief, in which contributions were doled out as an act of goodwill and charity, *not* as a matter of right.

Concerned, several field workers and their organisations expressed the need to critically assess the status of rehabilitation. Human rights groups responded to this need by designing and conducting field surveys. These surveys and the field notes of voluntary workers became the basis of a proper enquiry, a first step in a sense towards ensuring the rights of the disaster-affected people. Professional social workers, people's representatives, lawyers, health workers, other professionals and students have contributed to this groundwork for the IPT visit.

It is worth specially mentioning two scientific surveys carried out to probe the situation on ground — two surveys on basic rights issues. The findings of these surveys have helped chalk out the line of enquiry that the IPT panel would adopt during their fact-finding mission to the earthquake-devastated areas of Gujarat. The terms of reference of the IPT panel was decided at a series of meetings later held in Mumbai on basis of the survey findings.

Survey on Basic Rights — Kutch District

To examine the progress of relief and rehabilitation measures in the aftermath of the devastating January 26 earthquake in Gujarat, a team of law students visited some of the most devastated villages, five months after the tragedy. The team arrived in Anjar on June 15, and visited 26 earthquake-torn villages, several of them located in remote areas of Kutch district and interviewed more than 200 people.

This basic survey looked into whether the authorities have ensured the basic rights of the survivors, namely the rights to health care, decent shelter, water and sanitation, public distribution system (PDS), appropriate information, compensation and education. The findings of the survey are annexed to this report.

In a nutshell, the study found that except in a few isolated cases, there was no mention of any immediate assistance to the people from any governmental agency. In most places they visited, NGOs and local voluntary organisations had been almost exclusively engaged in the emergency relief work. Though essentials like food, medicines and blankets eventually reached the affected people such relief took up to three weeks to reach some remote villages and in some instances they could serve the needs of the people for only a couple of weeks. In some instances, the relief supply had been inequitable and discriminatory.

Survey on basic rights issues — Rajkot District

Following widespread allegations of inadequate relief and rehabilitation measures, voluntary groups felt the need to go back to some of the devastated villages in order to evaluate the situation five months after the tragedy. A team comprising one social work professional of the IPT Secretariat, Mumbai along with four law students arrived in Morbi on July 6, 2001 to visit some of the most remote villages of the Rajkot district. They visited 12 villages and interviewed more than 150 people.

This group found that in the aftermath of the disaster, the life and liberty of the survivors of the disaster were at risk. They exposed serious lapses in follow-up health care, psychosocial care and denial of basic human rights. The question of equity became a key concern in this survey report. The report of this survey is also annexed to this report.

Meets to focus on key issues of concern:

During a series of meetings held in Mumbai in May first week¹, June second week² and July first week³, several groups working on disaster management as well as human rights issues identified the following points as key areas of concern:

- Health care: Issues including primary health care, water, sanitation and public distribution system (PDS).
- Community-based care for people with physical injuries and disabilities.
- Rehabilitation of paraplegics and other disable people.
- Psychosocial issues.
- Shelter needs: The need for temporary, semi-permanent and permanent shelters. Relocation and resettlement issues. Shelter for vulnerable groups.
- Education rights of children.
- Compensation and entitlement. Grievance redressal mechanism.
- Issues of discrimination and inequity.
- Right to appropriate information.
- Disaster Management.

The groups involved in agreed that the above issues have to be examined at four stages of disaster response, namely (a) Rescue (b) Relief (c) Rehabilitation (d) Long-term Development. The following outline prepared by the voluntary groups became the basis for the terms of reference of the IPT panel that visited Gujarat.

¹ Meeting was held at Prof. Uday Mehta's residence. It was chaired by Prof. Uday Mehta and attended by representatives of India Centre for Human Rights, Human Rights Law Network, Indian People's Tribunal, PUCL, SSP, Oxfam India and others.

² Meeting held at India Centre for Human Rights. Attended by representatives from India Centre for Human Rights, Oxfam India, Samvad and others.

³ Meeting held at India Centre for Human Rights. Attended by representatives from India Centre for Human Rights, Oxfam India, Samvad and others.

Hearings in Gujarat

The Indian People's Tribunal (IPT) completed four days of public hearings in Kutch and Rajkot districts of Gujarat on August 20. The panel visiting Gujarat, headed by Mr Justice (retd) K Sukumaran, who has served the High Courts of Kerala and Bombay, included 10 experts working on specific sectors.

Over 2000 earthquake-affected villagers, people's representatives, humanitarian workers as well as a few government officials and media personnel testified before the panel at hearings held at Satapar near Anjar, Samakhyali near Bachao and Maliya, and during the IPT members' visits to several villages.

Broadly speaking, the earthquake-affected people said that they were finding problems on three fronts:

First, rehabilitation measures and compensation disbursement remain grossly inadequate, leaving huge backlogs. Especially, getting compensation for lives lost during the days following the earthquake is cumbersome due to lack of medico-legal documentation. **Second**, people without property entitlement or tenure record have been denied compensation for habitat loss. Banks refuse to give loans to rebuild their lost livelihood. The poor as well as minority communities with less voice in public affairs find the rehabilitation and compensation distribution process outright discriminatory.

Third, the psychosocial needs of the survivors and the special needs of the physically disabled survivors are not adequately addressed in the rehabilitation process. Low literacy levels have amplified the survivors' problems.

As noticed during similar visits to disaster-affected areas in the past, the IPT's Gujarat visit has provided a forum for people to express their grievances and it is expected to bring about a better understanding of the ground realities. Those who are working for the survivors found in the IPT a forum to ventilate their feelings, share their experiences and to defend their approach. This event was organised at a time when it is important to bring back public attention back to the spot. Several social organisations have facilitated and supported the IPT visit.

Schedule of hearings

DATE	TIME	ACTIVITY	AREAS COVERED
August 17 th (Fri)	5-9 p.m.	Public Hearing (Venue: Satapar village, taluka Anjar)	Anjar villagers, representations from Bhuj & Naliya talukas
August 18 th (Sat)	3-7 p.m.	Public Hearing (Venue: Near Shanti Dham, Samakhiyali, Taluka Bachau)	Villagers from Bachau and Rapar talukas
August 19 th (Sun)	3-6 p.m.	Public Hearing (Venue: Near Civil Hospital, Maliya)	Urban (Maliya) & rural from Rajkot and Surendranagar districts
August 20 th (Mon)	9-11a.m. 11-1 p.m. 6-8 p.m.	Meeting with activists (Ahmedabad) Meeting with Govt. officials Press Conference	

] Findings, recommendations: *in a nutshell*

1. A bird's eye view

Even as doctors and social workers rushed to the disaster areas, the Government could not provide adequate facilities or co-ordination to help them direct their services to the needy people. The panel could see mothers who had lost their children, people with damaged ribs and those immobilised by paralysis — many of them in dire need of assistance.

In general, people complained about lack of relief material supply. Many had not received compensation even after half a year.

There were complaints about discrimination between different sections of people. Minorities and socially and economically weaker sections such as dalits, shepherds

and fishermen appear to nurse more grievances than others. The wide prevalence of discrimination against dalits and tribal peoples justifies the demand for a proper enquiry.

2. Legal notes: *rights, not doles*

The right of disaster victims to receive compensation and rehabilitation is enshrined in Article 21 of the Constitution of India, which guarantees to every citizen the right to life and personal liberty. The Supreme Court has repeatedly reaffirmed the principle that right to life does not mean right to mere animal existence but also the right to avail of those faculties and facilities that an individual needs to live life as a human being. This includes right to food, clean water, access to health facilities, livelihood and shelter.

The courts have also time and again reiterated the principle of *parens patrie*, which makes it mandatory for the State to take care of and give protection to all vulnerable people such as minors and persons suffering from mental or physical disability. The Courts have also said that this obligation extends to provide succour to persons affected by national disasters. It is in this context that the efforts made by the Gujarat State Government to provide relief and rehabilitation has been looked at. The question is not whether doles were distributed to the disaster-affected people, but whether their rights have been protected. Clearly, the State has failed in this matter.

3. Health care: *an ailing system*

- There is a need to restore and upgrade public health programmes for mothers and children such as immunisation, antenatal care, the *anganwadi* scheme etc. Control communicable diseases like gastro-intestinal infections, TB and malaria. Promote preventive healthcare and provide effective cure/relief of common illnesses through training and better guidance.
- Streamline water supply in all seasons to all sections of the people. Ensure adequate and clean water for everyone.
- Ensure basic nutrition through issue/revival of ration cards to all and through supplementary nutrition through *anganwadi*, mid-day meal programs etc.
- Upgrade/provide taluka level referral healthcare facilities, namely hospitals with specialists like paediatricians, gynaecologists, surgeons, anaesthetists and facilities for laboratory tests, X-ray, etc. These taluk centres have to be linked properly to district level services (civil hospitals) for tertiary health needs.
- Create effective health infrastructure with trained staff for survivors of disasters. Start effective functioning immediately after disaster.

4. Injuries and disability: *no follow up*

- The Government should set up medical centres to look after physically injured people and to ensure post-surgery follow-up.
- District health officials have noted that the orthopaedic surgeon is the only person capable of disaster-related specialist treatment available at the

District Hospital. There should be other specialists such as physiotherapists.

- Ensure treatment for people with soft tissue injuries. Many of them did not get any treatment except first aid.
- There is no treatment facility for all those whose fracture surgeries have failed, or for those who developed complications such as infection of the bone.
- Create awareness among people about the need to have x-ray and/or clinical evaluation to ascertain improvement. Facilities need to be set up.
- Promote community-based rehabilitation.
- Promote disabled-friendly housing. It does not seem to exist now.

5. Disabled people: *excluded, disempowered*

The following observations were made after private discussions with several persons with disabilities, mainly due to spinal and other injuries:

- Almost all the physically disabled have received initial medical treatment, even operations and amputation if required. Most of them have also received appliances like wheel chairs, crutches and artificial limbs if required. In almost all the cases, it is the non-governmental groups that have taken the initiative to help them — at times even taking them as far as Ahmedabad and Mumbai for treatment. Evidence of Government help is rare.
- Many have disability certificates, but there is a lot of controversy regarding the level of disability.
- However, there is little or no awareness about the Disability Act.

6. Mental health: *hidden trauma*

- Psychological problems still prevail over six months after the disaster, especially among single persons, the elderly, those with injuries and those who have faced death/s in the family.
- The most common symptoms prevalent are insomnia, startle reaction, intrusive memories of the earthquake, sadness, diminished interest in work and uncertainty of the future.
- The mechanisms of coping have been uttering chants, praying together and agitating over livelihood issues.
- The urban middleclass at Gandhidham and Bhuj appear paralysed emotionally.
- Sudden distress and uncertainties about compensation have aggravated the mental agony of many, especially migrants.

7. Social economy: *creative restructuring*

- There is an urgent need for rational formulation and efficient implementation of the actual plan for rebuilding and restructuring Kutch at the grass root level. Community solutions are the best, not reliance on the Government.

- It is also necessary to see that relief goes to the vulnerable and not to the visible and vocal. It is necessary to bear in mind the agropastoral — pastoral economy of Kutch while making specific plans for rural development.
- Priority in the short-term planning for rebuilding the economy must be accorded to the basic needs, essential requirements of the rural people for land, water, micro-credit, power and material inputs for reconstruction.
- Ahirs, Kolies, Rabaries, and Landless labourers should get adequate share in the gains of development. New class alignments among the poor working people of Kutch is one of the most essential pre-requisites to all-round development of Kutch.
- To do this effectively, there must be redistribution of cultivable land, other necessary inputs to the working people in the agrarian sectors of Kutch.

8. Rehabilitation : *divisive, discriminatory*

Evidence given by people suggests that the Government has not thought out very clearly on the disaster management programme. It has not put in place a planning, co-ordination and implementation mechanism that focuses on people, their livelihoods, survival strategies and thus shelter. Given the magnitude of the scale and intensity of destruction, ecological degradation and social and economic hierarchies this looks like a gross negligence. Three points follow:

- Sudden distress and uncertainties about compensation. Inability to comprehend the complex rules for the implementation of the package. There is need for a single window system.
- Not all have got access to the rehabilitation programme because of lack of information and organisational back-up. There is therefore, discrimination in terms of access to rehabilitation package on the basis of caste and community. There is a need for policy that takes care of the special needs of the deprived sections.
- The beneficiaries often perceive rehabilitation measures incorrectly. No effort is made to see how the entire support structures for the poor can be upgraded and re-institutionalised. There is an immediate need for a plan that makes livelihood, health and education the core elements of the programmes.

9. Shelter: *a matter of human right*

The evidence clearly points to three underlying issues:

- The right to shelter is dependent on the degree of basic human rights.
- The procedures being followed are largely based on formal property rights rather than the differential impact of the disaster.
- There is no attempt by the authorities to make information available to the affected people.

10. Information dissemination: *news blackout*

- The Government should make available all the relevant information in a user-friendly manner. There should be information officers trained to give up-to-date information about the rehabilitation process. The Government should Web-enable and publish periodically all relevant information about rehabilitation norms, targets and achievements.
- Packaging and targeting of information is necessary. NGOs should co-ordinate with media managers (editors, chiefs of bureau) to better enable print, TV, radio and Internet media professionals to handle rehabilitation information and education.
- Media professionals should be provided with more opportunities to systematically study the rehabilitation process.
- NGOs can also facilitate better media penetration to communities and inaccessible villages by way of setting up radio/TV kiosks & newspaper libraries.
- Specialist NGOs can set up information centres with a core group of rehabilitation and/or communication specialists who can interact with communities and media professionals at the same time.
- As an expensive, but result-oriented step, NGOs and the Government can buy newspaper space & air time to disseminate rehabilitation-related information.

11. Disaster management: *beyond panic*

- It is high time that the Government put efforts to formulate a people-oriented disaster management policy and disaster preparedness programme. Humanitarian concerns should be the central theme of such a policy.
- Any effort to formulate such a policy should give sufficient space for the affected people, their rights and their active participation.
- Disaster response should be placed in the context of overall development programmes and must address the different phases of disaster — preparedness, rescue, relief, rehabilitation and social development.
- Inter-sector co-ordination should be strengthened to avoid wasteful duplication and to ensure maximised impact.

A bird's eye view

Right when the aircraft was approaching the Bhuj airport for landing, the ravages of the earthquake were visible — villages reduced to rubble, people living in rows and rows of tents and makeshift tin sheds. The airlines offices and buildings had not been spared from nature's fury.

As the IPT team motored their way to Anjar, on either side of the road they could only see long rows of debris. Amidst them there were families, orphaned children and people with injuries. The extent of the people's misery could not be felt from any amount of writing. It has to be seen to be believed.

On the positive side, international humanitarian agencies rushed to the rescue of the people in distress. Evidence indicates that Governmental agencies were virtually non-functional for the first seven or eight days. Doctors and health workers from Red Cross and volunteers from different parts of India attended to pressing duties — urgent operations to cure the injured.

Even when doctors and other social workers rushed to the disaster areas, there were few facilities or co-ordinated efforts to reach their effective services for people in some of the worst-affected villages. Sadly, there was no effective follow-up treatment to those who had received surgery. The Governmental attitude has often been indifferent. Official claims to the contrary did not inspire much confidence. The IPT panel could see many people who had lost their limbs or damaged their ribs or had been affected by paralysis, from which there is no hope for recovery.

In the rehabilitation phase, a lot of affected people are left to fend for themselves even as Government efforts to provide them with food, shelter and compensation have been ineffective.

The Governmental indifference is visible at the very basic level of ration card distribution. Issuing a ration card has remained a matter of general and serious complaints in the earthquake-affected areas. The ration card is treated as a basic document for getting many benefits due to the earthquake victims. When ration cards are not available with the people who have lost everything in the earthquake, authorities are seldom realistic and sympathetic in the matter of issue/re-issue of ration cards. Often the official tends to be highly sceptical about the claims of people who have lost their documents. People often see such a response as an evidence for the government's indifference in the face of their desperate situation.

Even well-intentioned moves of rehabilitation have often given rise to unintended problems. Adoption of villages by humanitarian and private groups has often been problematic. Many feel that this system had only helped those in the upper strata. This aspect needs detailed study.

There are widespread complaints about non-supply of tin sheets meant for temporary shelters. Many people suggest that they have been diverted for the benefit of vested interests. A group of widows that the IPT panel had interacted with complained that they were without a roof. They were vociferous about official neglect. In many cases there was no monetary help even over half a year after the disasters.

More seriously, there were complaints about discrimination between different sections of people in the matter of compensation and relief distribution. The very fact that such complaints exist is a matter of great concern. Minorities, dalits, shepherds, fishermen and illiterates in general appear to nurse bitter grievances. Such discrimination is unconstitutional and immoral.

The wide prevalence of discrimination against Schedule Castes and Tribes justifies a demand for a comment and reply from the State Government. The SC/ST community has a constitutional and statutory status. The President has the power and in certain situations, the duty to set up an independent enquiry to get at the truth. This may have to be thought of as a step of last resort.

— *Justice K Sukumaran*

CHAIRPERSON OF THE PANEL

Legal aspects: *rights, not doles*

Consequent to the earthquake, the Gujarat Government has announced a number of cash compensation as well as rehabilitation packages, revising them from time to time. The survivors of the disaster are entitled to compensation for death in the family, injuries as well as for loss of livestock, household equipment and houses. Details of the packages are annexed to this report.

During the public hearing, we realised that there was a major problem in the disbursement of these packages. There were a number of affected persons who, despite being covered by the packages, were not given any compensation at all. A lot of affected people have been given compensation for the death of their relatives, but there is still a significant minority, who have not received any compensation for death.

The same is the problem in respect of other packages. For the loss of houses, the problem is even more acute. The compensation is given depending on the extent of the damage. There is a major variance of entitlement to compensation depending on whether the house is habitable or not. A number of houses, which though have not collapsed, have suffered severe damage and been rendered uninhabitable. However, these houses have been treated as habitable and meagre compensation has been offered to their inhabitants.

Immediately after the earthquake, cash doles were offered for a period of about one month. A large number of victims have not been given these doles.

Another problem is in regard to those who have suffered major injuries. Many have become physically handicapped. But the process of obtaining a certificate of handicap is so tedious that many of these persons have not been able to avail of the benefits due to them.

The reasons for the non-implementation of the compensation package can be broadly classified into three categories. *Firstly*, the affected persons do not have full information concerning the rights they have under various packages. There has been no effort to publicise the contents of these packages. Whatever little effort has been made in this regard is due to the NGOs operating in the area, but obviously these efforts cannot cover all the survivors. *Secondly*, the procedure for availing of the benefits is cumbersome and it appears that many persons and the bureaucrats themselves are not aware of their roles. There are no uniform criteria for deciding who the victims are and for assessing the damages suffered by them.

There are complaints concerning corruption at relief as well as rehabilitation programmes. There are widespread allegations that the relief material has been siphoned off either at the level of authorities or at the level of village heads.

One of the major grievances of the villagers concerned the chaos that prevailed in the areas immediately in the aftermath of the earthquake. It appears that there was no training or preparedness to face or manage a serious disaster. Politicians, bureaucrats and police authorities had no clue about effective, large-scale disaster response measures. There was no offer of a plan, white paper or law dealing with disaster management. This is all the more shocking since the entire Kutch lies in a seismic zone. Earlier, Gujarat has witnessed regular cyclones, floods as well as droughts. Large parts of the country are vulnerable to such repeated attacks of various disasters. It is therefore extremely important to have an overall policy legislation concerning prevention of as well as remedial measures for disasters at the national level as well as the state level.

This law should deal with not only the question of prevention and warning but also issues such as town planning, nature of construction and the dissemination of ready information for the affected persons. Certain uniform levels of compensation are also necessary to be inbuilt in such a law. Apart from this, sufficient infrastructure has to be made available. It is widely believed that a number of people who could have been saved from the debris could not be saved because of lack of proper equipment.

The right of disaster victims to receive compensation and rehabilitation is enshrined in Article 21 of the Constitution of India, which guarantees to every citizen right to life and personal liberty. The Supreme Court has repeatedly reaffirmed the principle that right to life does not mean right to mere animal existence but also the right to avail of those faculties and facilities that an individual needs to live life as a human being. This includes right to food, clean water, access to health facilities, livelihood and shelter. The courts have also time and again reiterated the principle of *parens patrie*, which makes it mandatory for the State to take care of and give protection to all vulnerable people such as minors and persons suffering from mental or physical disability.

The Courts have also said that this obligation extends to provide succour to persons affected by national disasters. It is in this context that the efforts made by the state Government to provide relief and rehabilitation has been seen. It needs to be seen not in terms of doles disbursed to the disaster-affected people, but in terms of ensuring their rights. Clearly, the State has failed in its obligation and its responsibility towards the disaster-affected persons.

Health care: *an ailing system*

For any human right discussions, we need to keep in mind that availability of basic services — whether health or education, water supply or shelter — in itself becomes a major human right concern. Especially in the context of Kutch, where the distances are large and climatic conditions are adverse, the local people depend heavily upon the government infrastructure for their basic needs. The earthquake destroyed service systems and the fallback mechanisms of the local people. The destruction caused by the earthquake gave a blow to an area that had only shoestring facilities. This aspect makes post-disaster programmes, especially health care programmes all the more challenging.

The following are the main components of the health care programme during and after a disaster:

1. Provision of clean and adequate water supply.
2. Provision of acute medical care including surgical and post-surgical care.

3. Rehabilitation of the disabled, paraplegics and mentally disturbed patients.
4. Provision of ongoing public health services to the survivors.
5. Provision of good referral care to other acute and chronic diseases.
6. Provision of food grains to meet the nutrition needs of the affected.
7. Liveable shelter for the affected people.

The focus here is on general health care issues including aspects of water supply, nutrition and public distribution system.

AVAILABILITY OF PUBLIC HEALTH SERVICES AND ESSENTIAL MEDICAL CARE:

As there was no proper referral medical care system in Kutch, emergency teams had to come from Bhuj and Gandhidham, nearly 200 kms from the worst affected parts of Rapar and Bachau. The disaster-affected people had to depend largely on voluntary organisations' help.

The medical teams that the government called in from all over the state on special disaster duty had no proper understanding of the special needs of disaster-affected people, their language and culture and the local geography. Instead of primary and public health activities, mere supply of medicine became their main concern. Irrational prescription, duplication of medicine, dumping and lack of advice on dosage were some of the problems noticed in the process.

During our visit to various rural and urban areas, we found and met several patients who had no guidance or help for any disease. Most of the people resorted to expensive private medical care when the situation would worsen. In Anjar and Satapar, several people complained that government health services were far from satisfactory. After the withdrawal of voluntary groups, the people seem to be left to their fate. At Satapar, there were many disaster-affected people with serious injuries needing post-operative care. Cases involving removal of steel rods and screws, improper union of bones, severe aches and pain in the spinal region, etc have to be addressed to urgently. At Satapar, a survivor, Raniben Ahir, specially made reference to the unsympathetic attitude of health workers towards women and demanded women-oriented health centre near to the villages.

During the hearing at Bachau two issues came up. First, there was no facility in the town for the care of the disabled and paraplegics. They had to travel to Bhuj. Second, it was alleged that a junior clerk named Siraj Sandhvani in the Taluk Panchayat Office and one Dr Joniwala made fictitious claims for deaths and pocketed a lion's share of the money earned as compensation from the government. This complaint has also been given in writing to the IPT.

At Samakhiyali, the local people complained about the disruption of services such as the *anganwadi* visits by the Auxiliary Nurse and Midwife (ANM) and male health supervisors. At Anjar, Bhachau and Samakhiyali people also complained about the government's insistence on post-mortem reports as proof of death after the earthquake, even if it was due to injuries sustained during the earthquake. Many found it impossible to obtain certificates of post-mortem in the chaos during the first few days of the disaster. There has also been widespread complaints about the

interpretations for disability certificate, paraplegic conditions and post-mortem reports.

Recommendations:

1. Primary health centres must be upgraded to deal with health problems resulting from disaster.
2. The secondary and tertiary health care services should be equipped to take care of ongoing health problems in addition to the special needs of the people.
3. Kutch must have a good referral care unit within the radius of every 50 km, with rescue medical teams.
4. Ensure counselling services as well as educate/train volunteers to prevent and deal with injuries and to dress up wounds. Care of disabled and paraplegics requires special attention.
5. Ensure antenatal care and immunisation.
6. Minimise red tapism.
7. Improve transport services to the health centres.

WATER SUPPLY:

Kutch does not have enough water for its people. Still, whatever could have been organised for the people is also coloured with discriminatory values, caste bias and lack of access to villages. We met a number of people from suburban and rural settlements who do not have any water supply facilities. People depend on Government tankers that supply water to the villages only when there is a vocal demand. Water is often left to the mercy of the tanker driver. Dominance and oppression of the high castes, especially the Darbars, often make matters worse. In villages like Vamka and Jitvaandh and in Anjar GIDC area no water is supplied to a particular section of the people (mostly Koli, Dalit or Muslim) due to caste problems. The women have to travel long distances for fetching water.

In the urban areas like Bhachau and Anjar where lots of human settlements have been destroyed in the earthquake, extra attention is required to maintain proper sanitary conditions. At one place in Bhachau we saw that a voluntary organisation has put up sanitary units but the municipality supplies no water.

Recommendations:

1. Water supply through tankers should be made more regular and in enough quantities.
2. Proper chlorination must be done to water supplied by tankers to prevent contamination.
3. Caste discrimination and domination by any particular community should be tackled by strong administrative will and without fear.
4. Urban sanitary conditions are to be in proper state immediately.

NUTRITION AND PUBLIC DISTRIBUTION SYSTEM:

Ration cards have not been issued all over Kutch for the past several years. When the earthquake hit most of the existing records of the people were destroyed or lost. The

Public Distribution System is one source of affordable nutrition to the earthquake victims, who have lost most of their earnings etc. The ration card has an extra value due to the fact that it is also the certificate of domicile and many formulae of compensation were based on having a ration card or not.

The poor suffered heavily in such a case. There have been instances of joint families, where sons have married and settled independently, but have their names still in the father's ration card. Such people have been denied many compensation and cash-dole benefits, free distribution of grains, denial of loans for livelihood, etc. We met a number of people during the public hearings in Kutch and Rajkot districts for whom ration cards meant a matter of life and death. There are reports of protest demonstrations by hundreds of such families. Such incidents have been widely publicised and televised, yet the bureaucracy has not responded properly.

The earthquake has also had a deep effect upon the food habits of people. Loss of appetite (especially in women) coupled with unavailability of affordable food grains has probably affected increased nutrition deficiency in the women and children.

After the earthquake many *anganwadi* centres were closed. At times, the lady in-charge was also among the victims and the building that housed the centre had collapsed. Even after six months there were no efforts to restart the services, which supply supplementary nutrition to small children and pregnant ladies. We should remember that the earthquake occurred after three years of draught. People had less and less food in their homes and so what an *anganwadi* would supply remains an important contribution. Additionally, the *anganwadi* is an important provider of primary health services like immunisation, maternal care, childcare and basic medical care to the otherwise left out population.

Recommendations:

1. Restore all *anganwadi* services and upgrade them.
2. Arrange for specific training for the *anganwadi* workers, say for example, psychosocial counselling, preschool play for young children and dealing with fear among adolescents.
3. Maternal care must be immediately streamlined.
4. Primary curative health-care has to be more effectively organised through the *anganwadi* centres and through the ANM network.
5. Extensive preventive health care for control of communicable diseases like childhood diseases, TB, malaria, etc is need of the day.

PUBLIC HEALTH CENTRES:

As part of a pre-IPT exercise, a study of eight Public Health Centres (PHCs) was undertaken. An informal questioning regarding the functioning, equipment, personnel, patients' attendance was carried out. Various health personnel at the health centres and in the field were interviewed. The key findings follow:

Basic facilities: All centres did not have microscope, lab testing materials and lab technician. At least half the centres did not have a working autoclave or a working refrigerator. It means that they cannot sterilise equipment or store vaccines, not even

anti-snake venom or anti-rabies vaccine. The vaccines have to be obtained from Bhuj, more than 100 kms away.

Deliveries: Almost all the PHCs studied could conduct deliveries and have special staff for it. Each PHC had conducted less than six deliveries in the month prior to the study, a dismal figure considering the population that a PHC covers. Some cases of delivery had to be referred to Bhuj because there was no facility at the taluk headquarters. None of them could give any satisfactory answer for the training/trained traditional birth attendants (*daibens*).

Care of TB: Five out of the eight do not give medicine for TB. Only three health centres treated 23 TB patients totally in the last month. All TB patients have to be diagnosed at Bhuj. Referral is made to Rajkot or Radhanpur. The referral hospital is running in tents, but no arrangement for conducting even simple surgeries is in place. Anyway, there is no possibility of that because there is no surgeon, gynaecologist or anaesthetist. There is no facility for blood bank, so referral patients have to be sent to Bhuj or to the private sector at Gandhidham or Anjar.

Care of injured: None of the centres had any clue about how many people had lost their limbs, or how many had been injured. Obviously there was no estimation of the requirement of follow-up treatment of the earthquake-related injuries. Except for giving stitches to minor wounds, none of the centres are able to offer any other surgical help.

Malaria treatment: The male health supervisor is expected to work for the control of malaria and knows on paper what he is expected to do. But we found that after making the slides, reports do not reach back to the patient. At present the worker gives four tablets of Chloroquine to every patient with fever that is suspected to be malaria. But no diagnosis is offered in time. There is no prompt system to start the follow up treatment of malaria.

Immunisation: Often the ANM is not able to vaccinate the children because the 'people do not cooperate'. The *anganwadi* worker herself is not able to remember the correct immunisation schedules. The antenatal care is not carried regularly and iron tablets are not distributed properly. There is no emphasis on the preschool play. In most of the places the *anganwadi* is damaged and does not run even in the school tent. There is no information about the weight of the children in the post earthquake period.

District Malaria Officer's testimony at Maliya:

Giving evidence before the IPT panel, the District Malaria Officer (DMO) insisted that there were no cases of malaria, contrary to reports. "The situation was well under control," he said. There were questions about fumigation or spray for mosquito prevention. The officer had no satisfactory answers. He could not give a single date after the earthquake on which any mosquito sprays or even burnt oil application was done.

He described the Government plans to renovate destroyed buildings, but did not say anything about the repair/reconstruction of the damaged CHC building of Maliya. This centre is believed to have all facilities in the pre-earthquake period, but no doctors used to be posted there.

Recommendations:

1. Upgrade every PHC and CHC to enable them to fulfil their functions.
2. CHCs have to be further upgraded to provide secondary referral needs of the population. All vacant posts have to be filled, the staff who do not attend duty is to be dealt with a strict hand.
3. Damaged buildings must be reconstructed/ restored immediately.
4. The staff must undergo special motivational and technical training.

Injuries and disability: *no follow up*

In view of the massive dimensions of the disaster, the government could not take the load of immediate surgical needs of the earthquake-affected people. Fortunately many surgeons, in their individual capacity or as part of NGO or voluntary initiatives, came forward to perform surgeries at available operation theatres or make-shift facilities.

While such voluntary initiatives could take care of the immediate needs of the injured persons, they could not supplement adequate post-operative care, including regular dressing of the wounds. There was no support system. Such lack of care has resulted in many cases of infections and gangrene, necessitating amputations of the limbs in several instances. Facilities for better aseptic dressing care and the timely intervention probably could have avoided all these problems.

Moreover, there was no government mechanism to facilitate referral, regulation, collection of medical data and follow-up medical advice. There was no system to check the success of surgeries or post-operative physiotherapy treatment. None of the patients seem to have been advised not to carry weight during the initial phase of recovery or about gradual recovery with the aid of ambulation, eventually discarding the support. Clearly, there was no strategy for follow up treatment.

Those who had only soft tissue injuries were left with mere first aid. No treatment was available to heal the injured tissues. These patients need to heal their tendons and muscles as well as to regain joint movements and muscle strength to come back to normalcy. In such cases, the pain would not allow them to undertake voluntary physiotherapy measures. They need the help of a trained physiotherapist to get relief from pain and to regain normal movement and strength.

In practice, physiotherapy facilities remained beyond the access of most people. As district health officials have noted, an orthopaedic surgeon was the only specialist capable of handling disaster-related cases available at the district hospital. It is doubtful whether an orthopaedic surgeon could single-handedly provide physiotherapy treatment for almost all the post-operative patients who might require it. It is estimated by various agencies that the number of patients who require such treatment cross 10,000.

The medical status of those who have suffered fractures and whose surgeries have failed remain a matter of great concern. There is no diagnostic or prognostic facility for them. For those who have developed complications such as non-union of the bones or reactive infection because of the implant in the body or bacterial infection with pus discharge, there is no treatment option available.

The worst sufferers are the paraplegics, who are about 100 in number, scattered throughout Kutch region. Many of them were admitted at the Civil Hospital, Ahmedabad, for initial treatment. Some were also admitted to various other hospitals in Gujarat or in Mumbai. After initial surgical treatment, they were discharged. Certain other patients voluntarily got themselves discharged on account of their personal problems. Many of these patients hardly have any proper facility at home to take care of their bladder and bowel movements. There is no facility to avoid bedsores as well.

Lack of space and differential levels of the floor at home often do not allow easy transfer on a wheel chair. Very few of them are fortunate enough to be able to stand or walk with the aid of callipers and crutches. Small houses, houses with uneven floors and those with architectural barriers make any such attempt at movement extremely tough and risky. Even the post-earthquake housing projects mostly do not incorporate user-friendly and safe features meant for the physically injured and the disabled people.

Most of the paraplegics have developed urinary tract infections and bedsores. Hardly anybody has been trained for safely moving from the bed to the wheel chair or to the toilet. The orthotic support given has been found most of the times to be inappropriate and inadequate.

Recommendations for immediate follow-up:

1. Most of the physically injured and the disabled people live in their temporary houses throughout Kutch area. It is impossible to treat them for their injuries at a common place. Therefore community-based rehabilitation (CBR) is the only way for any treatment intervention for them.

2. CBR will need professionals such as physiotherapists, occupational therapists, support paramedical staff and prosthetic and orthotic engineers and as well as equipment such as X-ray machines and vehicles to move them around.
3. Permanent orthotic and prosthetic workshops should be set up to take care of the maintenance of callipers, crutches and prosthetic equipment. Growing children will need frequent changes in their prosthesis.
4. There is an urgent need of a comprehensive centre for the paraplegics somewhere in the centre of Kutch area with good architectural design, technically updated medical facilities, trained professionals such as physician, plastic surgeon, urologist, physiotherapist, occupational therapists, nutritionists, qualified nurses, ward boys, *ayahs* and sweepers. The services of psychologists and vocational counsellors, with training facilities, are equally important.
5. There should be a few operation theatres with facilities for orthopaedic surgery to take care of all the complications of previous mismanagement or, if any, new ones. Though the money required for such a facility might look exorbitant, it is the only hope to reduce the severity of disabilities among the earthquake-affected people. It will be a small price to pay to make these people functionally fit once again and enable them to contribute to the national economy.
6. Planning of townships and new housing projects need to stress on special entrances with the ramps complementing the usual steps for the easy access of injured and disabled persons. In house design, rooms, especially the kitchen and the toilet, should be planned disabled-friendly and as per the individual requirement of the inhabitants.

Disabled people: *excluded,disempowered*

The earthquake in Gujarat has left behind a trail of unimaginable suffering by causing deaths and disabilities as well as loss of shelter, livelihood and resources. The observations made during the IPT hearings and during independent visits to the villages reiterate that common understanding of disability care is still largely limited to the medical model. It is because of this narrow approach that, after the initial medical treatment, most of the disabled people in Gujarat have been left to fend for themselves.

A large number of those who have become physically disabled in the earthquake have received initial medical treatment. Many who required surgeries, even amputations, have been operated upon. Most survivors who needed aids and appliances such as wheelchairs, crutches and artificial limbs have received them. Non-Governmental agencies, charities and individuals took the initiative to facilitate medical treatment.

Still, the psychological scars left behind by the disaster remain largely ignored. There are problems among the elderly, people with disabilities and those who have lost one or more close relatives. The earthquake has deprived people of their normal social, economic and cultural environment. There is disruption of human relationships and support mechanisms beyond recognition.

To add to this there is anxiety among many survivors that they may not get compensation at all. Such an anxiety gives rise to a sense of insecurity about the future, a disempowering situation. Since these problems are more latent than manifest, little has been done to address these issues. It may be noted that in situations of disaster it is children and women who suffer the most. This is so in Gujarat too.

As Gujarat moves out of the immediate relief stage, a major challenge confronts the organisations working there — to work towards the rehabilitation of the survivors. The transition from immediate relief to long-term rehabilitation has been painfully slow, arbitrary or almost non-existent. Such a transition would necessitate a shift of focus from the medical model of care for the disabled to a social model.

Experts the world over have critiqued the limitations of the medical model and recommended the social model instead. The social model recognises that the causes and consequences of disability lie within the social realm rather than the medical. Simply put, it is the society that disables people, adding to their physical, sensory and intellectual impairments by isolating them. Society collectively influences a number of social, cultural, legal and political factors to exclude them from full participation.

This shift has to be understood in its operational details from the definition of disability to the certification given to people with disabilities (PWDs), to resource allocation and so on. For example, unemployment of the disabled is all about their limited access to education, transport and opportunities for work, suitability of workplace as well as discriminatory practices at home and outside.

From a social perspective, it is evident that the disabled people remained largely excluded and disempowered in the earthquake-affected areas. For instance, compensation is a core issue for many disabled people. A very large number of them are still awaiting compensation or complain that whatever they have received is too little. The same is the case with many people who have lost their families or their livelihoods and shelter. As a result, there is acute trauma, sadness, and, at times, anger among people.

In many cases disability compensation is difficult because of cumbersome medico-legal documentation. In order to disburse compensation, the Government has issued temporary disability certificates in some cases. In most cases it is the NGOs that helped them procure such certificates. Even many of those who have received the compensation complain that their degree of disability is much more than what was judged by the Government doctors. Neither the people nor the NGOs have a clear understanding about the criteria followed by the Government for this.

Permanent Disability Certificates are not being issued at present, leading to hardship and denial of rights. Further, there is no information among the NGOs or the people regarding the Indian Disability Act of 1995 and its provisions.

In the earthquake-affected areas, many people still live in temporary houses with tin roofs. In some places semi-permanent houses have been made. Even in villages where housing is provided, access to houses remains a problem. New buildings such as houses, schools, and community centres that are now being built are as unfriendly to the disabled as the earlier ones were. Buildings, sidewalks and transportation systems are not being constructed with the needs of disabled people in mind. No one we met including Government officials, NGOs or the disabled people, had heard of disabled-friendly buildings.

In addition to the above circumstances, there is a lack of co-ordination between the various service giving organisations, which makes interventions less effective or even ineffective, and off the mark.

Recommendations:

1. Disability Action Zones should be created in order to establish field-level partnerships between humanitarian and Government agencies and individuals for lasting solutions.
2. There is a desperate need for post-disaster counselling.
3. Put in place disabled-friendly building codes.
4. Humanitarian agencies and the Government should accept and understand the limitations of the medical model. People should be sensitised about disability issues in the context of growing acceptability of the social model.
5. The media, policy makers, Government officials, professionals and others should be sensitised about the problems faced by the disabled in the totality of their disabling environment.

Mental health: *the hidden trauma*

Psychosocial consequences following a disaster have been widely documented all over the globe. Psychological manifestations persist and have been observed even decades after the traumatic experience. Dr H S Narayana has documented psychosocial intervention following a disaster after the Bangalore Circus Fire in the '80s. The Latur earthquake in 1993 also saw mental health personnel reaching the disaster site as early as the third day following the shock. The Kandla cyclone in Kutch a few years ago also witnessed mental health intervention through bare-foot counsellors via an NGO initiative.

Mental health response following the earthquake at Bhuj has been more as compared with previous disasters. Many psychologists, psychiatrists and social workers descended voluntarily and worked through different organisations, Government agencies and also independently. The volume of intervention was mainly seen during the early post-impact phase, fading out gradually as a large number of rescue and relief organisations withdrew from the affected zone. The impact of these interventions has not been felt as the magnitude of the disaster was huge and the interventions remained sketchy, *ad hoc* and poorly coordinated. No clear-cut directives exist with respect to policy and implementation of mental health interventions.

The observations made should be seen in a context where the disaster has affected approximately 7000 villages. The civilian infrastructure has been largely sluggish and

the government machinery weak even before the disaster. The health infrastructure has been extremely poor and only two psychiatrists catered to an 11 lakh population.

Our investigations reveal that psychological symptoms still prevail among the victims of the disaster. The most frequent symptoms seen are insomnia, startle reaction, intrusive memories, lack of interest in work, and a sense of hopelessness. Though 62% of the sample (108 survivors) studied did not have clinically diagnosable mental illness the distress was visible. 38% of the sample had a high score on SRQ (a screening scale for mental disorders used all over the world and standardised in India). The 38% constituted single survivors, the disabled, those who have experienced a death in the family, the marginalised and those with poor social support systems. The limitation of this study is that the sample may not adequately represent the surviving population, though it is drawn from the villages covered by the tribunal.

Information from the townships of Gandhidham and Bhuj reveal that the mental health morbidity is high among the urban survivors more so as the future is undecided both with respect to livelihood and housing. The area also seems to be ignored as it appears to be unfashionable to advocate for the middle-class. The second factor is that the urban population is not homogenous and are immigrants who largely do not identify themselves with the soil of Kutch.

Mangi Bhai, a survivor at Laliana village, narrated his experience: “I eat because I have to work. I get burning (sensation) in my head and I can’t sleep. I have to work as I have no choice. It would have been nice if I was dead.” A paraplegic woman remarked, “Life is not worth it anymore. I feel useless and purposeless. How long will I live like this... I feel like dying.”

The Gujarat Government has not increased the number of mental health personnel in Kutch after the earthquake unlike in the case of Latur, where the Maharashtra Government immediately posted more personnel in the aftermath of the 1993 earthquake. Kutch had only two psychiatrists prior to the disaster with no mental health facilities available in the Primary Health Centre. No attempt has been made by the Government to train frontline health workers in befriending people or simply performing grief counselling following the earthquake.

A few NGO’s had hired counsellors and carried out informal training to their volunteers. Most of the post-disaster activity revolved around temporary housing, water, physical health and human rights issues without a blending or a perspective of mental health. Most of the NGO’s talk in terms of ‘mental health cases’ in general as the distressed people remain invisible to the naked eye of the NGO worker trained to see gross abnormal behaviour only. This scenario is similar to that at Latur where most of the NGOs shunned psychosocial intervention.

The most common coping mechanisms in Kutch have been praying, singing bhajans, uttering ‘Ram Ram’, being with one another, listening to radio or watching television wherever possible. This is similar to other disaster situations such as Latur, Jabalpur or Kandla. The majority interviewed attributed the cause of the earthquake to anger or wish of God. Past sins are also attributed as an important cause. This explanation is also similar to what people express in other disaster situations in India. Anger against God was also seen at Latur among families who had lost many lives. Fatalism is seen as a chief coping mechanism. Though the responses are uneven and scattered, the

divide between the affluent and the poor is clearly visible with divisions increasing post disaster in some areas.

The urban middle class affected in towns such as Gandhidham have been totally ignored in the rehabilitative process and suffer from symptoms of insomnia, startle reaction, hyper arousal, sadness and depression with intrusive memories. No effort has been made by NGO's to provide psychosocial care and the social issues with uncertainty of the future have compounded the problem. The aggravating factors have been that there has been no clear-cut direction from the Government over who will build their homes or who will compensate for their flats.

The social factors aggravating the mental health problems are the confusion around issues of compensation, absence of post mortem reports, lack of evidence in the ration cards, tenancy rights, uncertainty over housing and withdrawal of the donor NGOs. Broadly speaking, there are two groups of NGOs — one working in partnership with the Government and the second working with the oppressed, taking a confrontational approach towards the establishment. No mechanisms of assimilation and consensus building are visible in majority of the villages examined and hence also the donor agencies have slowed down on their plans or have reversed them.

Though the general feeling of the survivor population is one of 'smile and struggle', the physically disabled and those operated upon have not been offered follow up care by their respective NGO's or the Government. Many cases of improperly united fractures with severe disability exist. Also infected operative wounds, which were inadequately treated, were seen. The psychological symptoms among this group appeared to be high and a sense of hopelessness was visible.

There is no proper documentation and record keeping. No list of paraplegics or others appear to be in place. No outreach medical activity exists to prevent and minimise the disability except for the presence of a few physiotherapists. The measurement of physical disability and the subsequent compensation are also issues of dispute causing untold harm to the survivors. The quantification of mental disability is also a cause for concern as no Indian measurement is available and arbitrary compensation was granted, much less than the amount dispersed for physical disability.

The physiotherapists and others have been able to provide informal counselling facilities and conduct empowerment activities even as NGOs have helped connectivity and healing in some places. A significant number of Kutchis are also affluent NRIs abroad and have contributed enormously to many NGOs.

Recommendations:

1. A status report by the Government should be made available immediately about the psychosocial state, the facilities available, the interventions conducted and the policy with respect to mental health intervention after the disaster.
2. Provide immediate psychosocial support through the Government and the NGO network to the physically disabled, single persons, widows and

widowers, senior citizens, those with poor support systems and those who have lost their relatives during the earthquake.

3. Provide a counselling infrastructure by training frontline disaster workers. Train them to befriend and provide supportive counselling to the survivors.
4. All agencies working in the rehabilitation of the earthquake-affected people should have psychosocial component and trained mental health personnel. Urban survivors should also be covered by their services.
5. The Govt should appoint at least 12 mental health personnel in Kutch and strengthen the existing Primary Health Centres with such professionals.
6. The NGOs and the Govt should seek the help of mental health personnel from Gujarat and adjacent areas rather than transplanting professionals from far flung parts of the country.
7. Issues of compensation and housing should be resolved through a participative process with all stakeholders involved. Policy with respect to the donor NGOs should be made transparent and the air of confusion cleared.
8. The Primary Health Centres should be made accountable to follow-up those who need orthopaedic or physiotherapy assistance.

Rehabilitation: *Devisive, Discriminatory*

From the evidence presented by people before the IPT on the first day of the hearing, three issues stood out. First, the rehabilitation process has not been equitable and those who have access to the political leadership as well as to influential social networks could get clear information as to how to get relief and rehabilitation. At the same time, efforts of rehabilitation have taken place along class and community lines and the rehabilitation process itself has enforced compartmentalisation of local communities along these lines.

Second, those who do not have access to any social or organisational network, that is those who are poor, and/or socially deprived have been the worst affected. Basic rights have been denied to them anyway. After the disaster, as they were neither informed nor vocal, they were discriminated against in relief and rehabilitation measures.

There has also been an urban-rural distinction in terms of access to information and to relief. The procedures of relief and rehabilitation need many pre-requisites that make it difficult for those who live in remote villages to access resources.

One critical question that needs to be answered is what constitutes rehabilitation? Is it only reconstruction in a narrow sense of rebuilding or is it reconstruction of the entire fabric of social and community life? Evidence collected from day one and two suggest that the State has responded to this disaster with a narrow perspective. The Government's understanding of the disaster has mainly been in terms of destruction of homes, not in terms of destruction of livelihoods, survival strategies, community networks and human spirit.

As a result, the Government's plans and programmes had serious conceptual limitations. Additionally they have translated the rehabilitation programme into bureaucratic packages in which rules and regulations define vulnerability factors. It lacks a holistic perspective.

The Government has attempted to privatise the rehabilitation programme by promoting adoption schemes and introducing big corporate players into the market of rehabilitation along with NGOs. By doing so, the Government has attempted to introduce an element of public accountability to agencies which are generally used to the rules of profit and loss. However, such a novel method has failed to gain currency in several instances. This has led to the collapse of many village 'adoption' schemes. As in the case of Adhoi, such measures have contributed to caste and community conflicts.

Significantly, evidence suggests that the Government could not effectively coordinate various players involved in the rehabilitation effort and ensure the earthquake-affected people easy access to rehabilitation packages.

Towards the second and third days of the public hearing, three issues stood out:

1. There has been little follow up in places where villages were adopted. Many of the 'adopted' villages were the worst affected in terms of destruction. Several of these villages have been left without any aid eight months after the earthquake.
2. In certain areas there are efforts by the dominant caste and community groups to corner benefits and deny them to the socio-economically weaker sections.
3. NGOs are not necessarily looking after the deprived groups. Their lack of human resources makes it a difficult task. Importantly, a large number of NGO personnel are outsiders.

Recommendation:

It is necessary for the Government to plan, conceptualise, co-ordinate and implement the rehabilitation programme in such a way that it benefits people, especially the most vulnerable sections. It seems that privatisation of rehabilitation measures is not helping as there is no mechanism to ensure accountability.

Social economy: *creative restructuring*

"Existence is an ever-changing new experiment in life."

— Kutchi saying

After the devastating earthquake, the people have realised that Kutch will never be the same again. Even though Kutch has attracted the attention of outsiders with its beautiful grasslands, fascinating cattle flocks, splendid handicrafts and above all, sturdy and stoic Kutchis, it has largely remained as Gujarat's most backward and neglected district.

The earthquake of January 26 was an unprecedented calamity that has destroyed the ecology and economy of Kutch on a scale not known to most Kutchis in their lifetime. The people of Kutch have registered strong protests against half-hearted and badly implemented relief and rehabilitation measures of the state Government. The Kutchi people are traumatised by the havoc wrought by the quake. They are bitter about the distribution of relief in cash and kind. In local parlance, they described dealing with the *sarkar* as a greater challenge than the coping with aftermath of the *bhookamp*.

The self-reliant and industrious people of Kutch are helping themselves by reviving and restructuring the social economy of Kutch. Many NGOs are resourcefully rebuilding their houses with largely locally available materials. Their main complaint is that the Government agencies and local officials have tinkered with the relief and rehabilitation package. The people of Kutch have gratefully acknowledged the role of national, international NGOs and other agencies in rebuilding the regional economy.

There is no lack of financial resources for rebuilding the social economy of Kutch. There has been a huge influx of funds to Kutch from the national and international

agencies and NGOs. Estimates of financial aid from these sources cannot be precisely calculated and estimates vary from Rs 500 crores to Rs 12,000 crores. The salient point is that these funds need to be wisely allocated for different sectors of the rural and urban economy of Kutch.

Housing and creating permanent life-support systems in both the rural and urban areas are the compelling needs at present. Urban areas have relatively greater access to human resources and funds and they are therefore better able to work out a short-term coping strategy for the calamity. Involvement of the people, NGOs and financial support from other specialised agencies and Government should usher in a new era of hope for Kutch. However obvious, it is important to stress that the state Government and the civil society should not abdicate their social responsibility for ensuring the right to decent life for the people of Kutch.

Kutch has always been a drought-prone and disaster-prone region of Gujarat. Given proper water and land use planning for the working people of Kutch, it can be redeveloped as a draught-resistant economy of great potential for growth. But the experience of the rural and urban working class has been that the upper castes, richer sections and influential political elements have siphoned off the benefits of money and finance earmarked for drought-proofing and rebuilding villages and towns. Hence, there is a need for more equitable and just deployment of funds for reviving and rebuilding the region's economy. Young enterprising farmers and workers of Kutch want to recreate a *Naya Kutch*. They strive for a new and modernising economy with its self-sustaining growth. This long-term programme can be based on a series of planned short-term and medium-term measures for the upliftment of the poorer sections of the Kutch such as the dalits and the shepherds.

Recommendations:

1. A proper plan with full participation of the earthquake-affected people needs to be formulated at the local level. There is an urgent need for rational formulation and efficient implementation of the actual plan for rebuilding and restructuring Kutch at the grass root level.
2. Community solutions are the best, not reliance on the Government. The Government should only facilitate and help all NGOs by providing materials, inputs and other managerial and technical supports. Rules and regulations of the Government must be made more flexible.
3. It is also necessary to see that relief goes to the vulnerable and not to the visible and vocal. It is necessary to bear in mind the agropastoral — pastoral economy of Kutch — while making specific plans for rural development.
4. Priority in short-term planning for rebuilding the economy must be accorded to the basic needs, essential requirements of the rural people for land, water, micro-credit, power and material inputs for reconstruction.
5. Ahirs, Kolies, Rabaries, and Landless labourers should get adequate share in the gains of development. New class alignments that empower the poor

working people of Kutch are an essential pre-requisite to all-round development of the area.

6. To do this effectively there must be redistribution of cultivable land and other necessary inputs to working people in the agrarian sectors of Kutch.

Shelter: a matter of human right

The evidence submitted on the first day of public hearings at Anjar and Satapar provide the following insights in the area of shelter provision after the disaster: In

most cases compensation has not been given or has been arbitrary. Even the valuation of the damaged house has not followed a rational pattern. The extent of damage reported has been 30 to 100% of the houses destroyed. There seems to be no proper systematic procedures in place for valuation and processing. The plight of specific categories of vulnerable people such as widows, divorcees, orphans and the disabled appears to be particularly unfortunate in the matter of shelter availability.

There appears to be little or no information about Government schemes for compensation and rehabilitation, although some of the individuals seemed to know about the categories. Even some of the wealthy people claim that they have been denied compensation, both for damaged/destroyed houses as well as for restarting businesses. A similar lack of information appears to be prevalent even in cases where villages have been adopted by corporate houses or NGOs.

Some cases were reported of tenants, who had either been residents in the house for many years or who have even purchased the property, being denied any compensation even as the landlord or the owner claimed all the compensation. Those who have been squatting on Government land are not entitled to any compensation for damaged or destroyed houses. Most of such families and individuals have either taken shelter with relatives or are still housed in temporary shelters provided by NGOs.

At the Anjar hearing, the issue of compensation for houses was overshadowed by the demand for restoration of trade and business — which also required a plan for construction of shops and trading centres. Apparently such a plan is still not in place.

Essential documents like ration cards, which provide the basis for all claims to shelter and compensation, are not available in several cases. Women are disadvantaged because the property is in the name of the male relative. The surveys conducted by the authorities have been of property, not of the impact on human beings. Consequently, compensation has also been assessed on the basis of rules relating to property.

The visit to a resettlement site has brought to the notice of the panel some more evidence to specific problems regarding shelter issues. The stories related at Adhoi underlined once again how the issue of ‘adoption’ by private and corporate agencies allows the state to withdraw from its responsibilities and further deprives the people of relief and rehabilitation in consonance with their needs. The re-survey forms being used by government officials at Adhoi do not spell out the specific method to be followed by the officials to assess the value of the damaged property. The booklets distributed by NGOs also do not give information about this method. Hence, affected people have no way of knowing how the evaluation has been made.

Apparently, *pucca* houses, which are totally destroyed, can be estimated at Rs 2000/- per square metre, upto a maximum of Rs 90,000. But *kutchha* houses have no such rate of estimation and the total value ranges between Rs 1200/- to Rs 3000/-. This discriminatory methodology itself needs to be questioned.

The re-survey form also includes a commitment by the house owner to incorporate earthquake resistant measures into the reconstruction. While the people at Adhoi have observed that column-and-beam houses have survived the earthquake better, there

appears to be no specific code laid down by the government about the earthquake-resistant techniques to be used.

Some temporary structures with steel frames, tin sheet walls, and canvas roofs have been constructed by NGOs and relief agencies. What is interesting is to observe the local modifications being made by the residents on their own — which include placing tiles above the canvas, erecting stone and cement walls, and making cement floors. Some have even put in electrical connections, but what is greatly lacking is the infrastructure for water, sanitation, and toilets.

Later, the public hearing at Samakhyali reiterated several points made earlier, including discrimination against lower castes in allotment of shelter and provision of compensation. Clearly, the rates of compensation are inadequate to reconstruct shelter. The provision of long-term housing loans at low interest rates could be explored.

Furthermore, conservative loan policies and bank procedures are not going to be successful in promoting reconstruction in the disaster context, where documents are not available, government officials are absent, and people are unlettered. Hence, alternative procedures basing themselves of *gram sabhas* and *mohalla sabhas* should become a policy/advocacy measure.

The FICCI-CARE shelters being built at Nirapar are based on sound earthquake-resistant principles, though one cannot say much about actual construction procedures being followed, having been there for a very short while. Still, it is evident that these shelters suffer from the same limitation of all such ‘model’ housing — they do not take into account the requirements of the eventual residents. Neither the location nor the layout are likely to be user-friendly. There is no provision for extension; the open spaces are not designed for domestic chores; water supply is half a kilometer away; the enclosed spaces have been designed in an urban architectural style that is not suited to rural requirements. And the cost may be prohibitive.

The visits made by the IPT during the third day brought to clear focus more shelter problems faced by the earthquake-affected people. The Morvi palace is a classic example of how houses should and should not be constructed. Essentially built around a beam and lintel pattern on stone columns, it illustrates the value of binding the stones together and modular construction as well as deep and stable foundations. At the same time it also displays the essential vulnerability of long structures and multiple stories to earthquake damage.

In Navlakhi an estimated 1200 families of fisherfolk are evicted from the upcoming mega-port site under the pretext of earthquake-induced evacuation.

A tour through Maliya indicated that several families have received compensation and have begun reconstruction. Most of the new houses are following the principles of column-and-beam design but it is not clear if any agency has been promoting such a design. However, there are several minor mistakes such as large windows and foundations that are not stabilised. Many people have constructed long rooms, and such practices could easily be rectified if some agency would provide simple technical assistance to families and masons quite willing to pick up new techniques.

The public hearing at Maliya repeated many of the testimonies presented elsewhere, including survey irregularities, lack of documentation, inadequacy of compensation, weak infrastructure, and the flaws of adoption. But what needs to be underlined is that NGOs should have conducted a concerted information campaign so that people are aware of their rights and the manner in which policy is formulated particularly with regard to shelter.

The evidence clearly, therefore, points to three underlying issues: First, the right to shelter is dependent on the degree of tenure rights. Second, the procedures being followed are based on formal property rights rather than the impact of the disaster. Third, there is no attempt by the authorities to make information available to the affected people.

For the moment, no evidence has been presented on meeting the rehabilitation and long-term needs with regard to shelter.

Information dissemination: *news blackout*

During the rehabilitation phase, people often did not know what the Government rehabilitation schemes were and what steps they had to take to benefit from such schemes. Knowledge about disaster management measures was also found to be lacking among most village communities that the IPT interacted with. Such an information blackout, so to say, points at a few basic problems in the rehabilitation process.

Firstly, as evidence suggests, there is a lack of clarity regarding decision-making as well as implementation of rehabilitation measures. Sections and sub-sections of the rehabilitation norms are obscure and hard to understand. And the implementation of rehabilitation measures is often done in an *ad hoc* manner. Secondly, there seems to be a certain lack of transparency in matters concerning rehabilitation. Even if someone makes a genuine effort to understand the minute details of the rehabilitation norms, the decision-making process is often not open to public scrutiny. There is, for instance, no single window system, where people can get all relevant information regarding rehabilitation. Thirdly, such a closed system breeds corruption, inefficiency and lack of accountability. The ITP panel has received complaints on all these three fronts. Even as inefficiency remains the hallmark of many well-intentioned rehabilitation programmes, many governmental, non-governmental and private initiatives remain unaccountable.

Though making the rehabilitation process clear-cut, transparent and accountable is an ambitious task that would require concerted action from various players, a vibrant information dissemination system can contribute a great deal towards achieving this goal. On the one hand, the local media can play the role of a watchdog and compel the authorities to put in place clear-cut policy guidelines, be transparent about their action and ensure accountability to the disaster-affected people as well as taxpayers at large. On the other hand, the media can tell the people what benefits they are eligible for and how to go about getting them. Besides the watchdog role, socially responsible media also has the role of an educator.

While providing accurate information in a reader/viewer/listener-friendly manner is the key to any mass media activity, in the context of disasters, the local media should place special stress on education. It will contribute to the coping strategies of people and help those who are trying to help people.

1. For this, packaging and targeting of information is necessary. It involves specialist inputs and training of professionals. Probably, specialist NGOs can coordinate with media managers (editors, chiefs of bureau) to better enable print, TV, radio and even Internet media professionals to handle rehabilitation information and education.
2. Media professionals should be provided with more opportunities to systematically study the rehabilitation process. NGOs and government officials can help them in this regard.
3. NGOs, can also facilitate better media penetration to communities and inaccessible villages by way setting up radio/TV kiosks and newspaper libraries.
4. Specialist NGOs can set up information centres with a core group of rehabilitation and/or communication specialists who can interact with communities and media professionals at the same time.
5. As an expensive, but result-oriented step, NGOs and the Government can buy newspaper space and air time to disseminate rehabilitation-related information.
6. The Government should make available all the relevant information in a user-friendly manner. There should be information officers trained to give up-to-date information about the rehabilitation process. The government should Web-enable and publish periodically all relevant information about rehabilitation norms targets and achievements.

Disaster Management:*Beyond Panic*

In the background of its multi-vulnerability, Gujarat is often hit by various natural and human-made disasters such as cyclones, earthquakes, epidemics and communal conflicts.

Still the response to the earthquake was characterised by knee-jerk reactions and panic responses. It has been unprofessional and often discriminatory. This has illustrated the absence of a proper understanding of disasters and a policy vacuum in dealing with them.

Initially, the rescue and relief phases witnessed support from all over India and abroad. Resources poured in from all over the world. However, the rehabilitation phase that followed lacked co-ordination and vision. The Government has yet to come out with a clear policy. The return exodus of ‘touch-and-go’ agencies has begun. Promises by many corporate houses like ‘We will rebuild Kutch brick by brick’ remain a distant dream. The media has already moved to fresh ‘newsworthy’ stories. For the survivors, this is just the beginning of an unending misery.

Unfortunately, the Government and other interested parties have not put in enough efforts to correct the situation. Even after eight months, there is no visible effort to prepare the community to respond to the possibilities of recurring disasters.

During the public hearing and field consultation with villagers, it has come out clearly that people do not have a clear idea about Government plans to respond to disasters on a long-term basis. On being asked whether they are aware of the Government claims about chalking out a disaster management policy, the people have expressed their ignorance.

The earthquake-affected area has become a convergence point for voluntary agencies — international, national and local. They brought their own understanding, experiences, expertise and often politics. At present the situation calls for the active involvement of agencies that have experience in working in disaster situations in general and earthquakes in particular. Innovative ideas and ensuring people’s participation alone can make voluntary initiatives a success. The situation demands long-term commitment.

It is high time that the Government formulates a people-oriented disaster management policy and disaster preparedness programme. Humanitarian concerns should be the central theme of such a policy. Any effort to formulate such a policy should give sufficient space for the affected people, their rights and their active participation. Disaster response should be placed in the context of overall development programmes and must address the different phases of disasters — preparedness, rescue relief, rehabilitation and social development. There is a need to strengthen inter-sectoral co-ordination to avoid wasteful duplication and to ensure maximised impact.

The lives lost in Gujarat will go as a waste if the Government does not involve people in formulating a disaster management policy.

Towards a responsive and people-oriented disaster management system:

The Indian poor are exposed to a multiplicity of disadvantages simultaneously. Their vulnerability to disasters has always been exceedingly high due to their social, economic, and political disadvantages. Further, the number of people exposed to such disasters is also steadily growing. Environmental degradation, a consequence of mining and development projects, polluting industries and unplanned urban expansions, has increased the possibility and occurrence of human-induced disasters.

Endemic political, religious, and ethnic violence routinely uproots and destroys several thousand Indian homes every year. Dalits and tribal people, women and artisans account for a larger percentage of the disaster-affected, completely out of proportion to their representation in the total population.

The consequences of disasters for the affected families and communities, in particular, and the economy and the state in general, have not been adequately understood and documented. Deaths, disabilities, destitution, as well as loss of property and livelihood impose enormous social and economic costs on an already precarious social infrastructure. Their short-term and long-term impact on individuals and families and their cumulative impact on the national economy, including the cardinal issues of welfare and development, are formidable.

There is an urgent need to highlight the immense human and material devastation by the earthquake in the context of vulnerability to other disasters. The most important starting point may be to work towards the development of a comprehensive disaster response and mitigation policy, and a legal and administrative framework to implement it.

The survivors and those who face the risk of disasters must have a central role in the evolution of a policy for preparedness and response. It must be a need-based one and it should be strengthened with their experiences. Providing people access to appropriate information and opening avenues for involving all interested parties alone can facilitate an implementable policy. The policy should ensure people's right to information on disaster-prone areas, industries and activities in the area. It should enhance their preparedness, response measures and coping mechanisms. Today, the reported efforts to evolve a policy in Gujarat are deplorable, as the affected people have no role in either developing strategies or action plans. This must change.

While the local and regional perspectives and realities are crucial, the development of a disaster preparedness and response policy must involve stakeholders other than people's groups including regional, national, and international NGOs, international organisations, the military; and others.

The academic community, including students and teachers at the secondary and tertiary levels, and research institutions can play a significant role in policy development. Groups with agendas that are detrimental to the welfare of the people must, however, be firmly and unequivocally kept out. The National Human Rights Commission could monitor how the basic rights of disaster-affected people and disaster-prone communities are protected by Governmental and voluntary organisation interventions.

Disaster response policy and preparedness and management programmes should ideally be an 'initiative emerging from below' and be consolidated at various levels: village, block, district and state. They should also have a national and global perspective. Recent efforts in other parts of India to evolve decentralised development policies in general and disaster management policies in particular, such as the initiatives in Andhra Pradesh, demonstrate such a multi-involvement process. The groundwork for a disaster preparedness and response policy is in many aspects akin to drawing out a long-term development policy through a genuinely participatory process. The objective of any disaster policy, after all, is to facilitate the affected people to recover and move ahead.

Recommendations:

1. Modification of national insurance schemes and the National Building Code to meet the needs of the most vulnerable communities.
1. A community-based programme, with the concept of civilian/community preparedness.
2. A down-to-earth, grassroots approach that may also be the most resource-effective method in the long run.
3. While earthquakes and other natural disasters (demanding the most extensive preparedness and rehabilitation and exacting the most immediate and long-term price) are the focus, importance should be given to other disasters, including epidemics and civil strife.
4. People must be adequately informed and empowered to respond to disasters immediately.
5. A nodal agency should be set up at the state level to respond to all disasters, natural and human-made, conventional and unconventional, with adequate preparation and without prejudice.
6. A three-tier approach at state, district, and block levels.
7. Panchayats and community-based organisations at the village level and their aggregates at the block, district, and state levels can play an active role in disaster preparedness and response strategies.
8. Setting up of a 'rapid rescue and relief force' comprising community, panchayat, and district levels with Government, and military personnel at each of the three tiers. They need to be trained and prepared for rapid deployment.
9. Effective coordination between the concerned Government agencies, voluntary groups, professional groups, the international community, and the affected community. Government has a responsibility to initiate and implement it.
10. There is a need to set-up a joint committee of the Government and NGOs for disaster response. Sector-wise specialisation and prioritisation will help limited resources reach the affected people on time, and a strategic plan for the next few years would avoid overlap in the immediate aftermath of disasters. Various agencies should clarify their emergency policies to each other and to their collateral partners, and map areas of common and supplementary purpose and capability.
11. Evolve a mechanism to monitor the performance results of various agencies and their interventions. They may evolve their own performance standards and institute public audits of their performance in order to enhance the quality of their intervention.

12. The Government may also constitute a committee exclusively to deal with disasters and dedicate time in Parliament as well as State Assemblies and to discuss disaster response measures undertaken.
13. An annual White Paper on disasters could be prepared and made public to ensure transparency regarding the resources distributed by the National Fund for Calamity Relief, the Prime Minister's Relief Fund, Natural Disaster Management Division of the Ministry of Agriculture, MP's Fund, various bilateral and multilateral agencies, public sector agencies, building industries, political parties, and NGOs.
14. There is an urgent need to conduct a 'risk audit' to detect and delineate disaster-vulnerable zones. This risk audit report should be accessible to the public. Presently, at this time, documents and information that are most valuable to people remain entirely out of their reach.
15. Development of adequate human resources with applicable technical skills is a necessity. Schools, colleges and universities could start courses on disaster preparedness and response strategies. Emphasis should be placed on Civil Service trainees and others.
16. The print and electric media as well as the Internet and cable television network could play a crucial role in shaping public perceptions as well as in educating and equipping people about disasters.
17. The planners and policy makers must ensure the participation of women and vulnerable sections to ensure that they benefit equally. To press this point, it may be mentioned here that only the active involvement of women in disaster management can guarantee gender-sensitive interventions. Food distribution systems, for instance, are most effectively managed by women, as is post-disaster childcare. Efforts must be made to place women and children and their special needs high in the agenda of humanitarian response. This is no mean challenge for the disaster response community.
18. Community-based rehabilitation works best and is the most cost- and resource-effective option in the long run since it enables local democratic processes, ensures the rapid recovery of community self-reliance, and protects the interests of the weakest sections.
19. Above all it is important to recognise that disaster assistance is not just an act of charity. The people affected have human rights. The situation calls for political action to address the critical issues.

ANNEXURE I

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 844 or 2001-08-07

Hon'ble CHIEF JUSTICE MR D M DHARMADHIKARI
&
Hon'ble MR JUSTICE P B MAJUMDAR

February 17, 2001

Order of the Ahmedabad High Court: *excerpts*

1. We are conscious of our limitations as a constitutional court. Our power to issue writs under Article 226 of the Constitution of India for enforcement of the Constitutional or legal rights or for any other allied purpose are not uncanalised.

2. The duties of the Government or the Court on occurrence of a disaster or natural calamity of this magnitude are not statutorily regulated. In fact there is complete lack of legislation in this field. Article 21 of the Constitution of India which guarantees every citizen protection of his life and personal liberty, is repository of all important human rights which are essential for a person or a citizen when there is a natural calamity like earthquake, floods, fire, cyclones, and similar natural hazards the state as guardians of the people is obliged to provide help, assistance and support to the victim of such natural calamity to help them to save their lives.

3. From Article 21 of the Constitution the Supreme Court has deduced an affirmative obligation to preserve human rights. There is no parallel to the present colossal natural calamity as in India. In order to protect human rights as part of right flowing from Article 21 the supreme court has enforced obligation on the government such as providing medical staff to the hospitals (Bhim Singh Vs state of Jammu and Kashmir AIR 1986 SC 494) and awarding compensation for illegal detention of the prisoner for long period after his acquittal.(Rudul Sah Vs State of Bihar and Another AIR 1983 SC1086)

4. The obligation of the State to protect life is reorganised by directing, providing of proper medical attention to every citizen. (See Pt. Paramanad Kathara Vs Union of India and others AIR 1989 SC2039) (paragraphs 8,9 to 17). In joint women's programme Vs State of Rajasthan and others AIR 1987 SC 2060 the Court directed setting up of "special dowry cell" to investigate into dowry deaths. In President, Association of Allotees of requisition premises, Bombay Vs State of Maharashtra, (1986) SUPP SCC 567 the Supreme Court required the Government to prepare a scheme for construction of houses for Government servants who were sought to be displaced as a result of the Government policy of derequisition of the requisition premises. For the same purpose of the protection of human rights, Rakesh Chand Narain Vs State of Bihar (1986) Supp SCC 576 the State Government was directed to raise the daily diet allocation to supply adequate drinking water, mattresses and blankets and medical services etc., to patients in the Government Mental Hospital. In fact Supreme Court has been, case after case, enforcing economic, social and cultural rights as recognised in International Covenants of 1996. In this, the Supreme Court is prompted by the Philosophy of social justice or social rights. In doing so, the Supreme Court has been enforcing Directive Principles of State Policy. This was so done because with the amendment of the Preamble of the Constitution " social justice" is an objective for the Government to achieve. Whatever may be the precise content of "social justice", it is held to include recognition of the needs of the weaker sections of the community as "human beings". This need is more urgent where a large sections of the people have been seriously affected by natural calamity like earthquake and their homes and life is totally shatters (see Sadhuram Bansal Vs Phulin Behari Sarkar and others AAIR1984 SC 1471) (paras 29-30, 68, 70, 73). We have therefore, support from host of case law of the Supreme Court for taking a view that to humans affected by calamity the State is obliged to provide help, assistance in calamity has to be treated as an enforceable right. Such affected persons as a result of the calamity, as a result of the calamity, are rendered helpless and handicapped. Help and corrective

action sought for them through service spirited organisations or section of people cannot be thwarted, but the same results to be encouraged.

5. The doctrine of *parens patriae* was applied by the Supreme Court in the case of Charan Lal Sahu Vs Union of India AIR 1990 SC 1480 (the Bhopal gas leak tragedy case) by up holding the legislation where by the Central Government calmed a right to represent victims of the Bhopal Gas leakage disaster in the pending cases for compensation as in the case of Charan Lal Sahu (supra) the doctrine of *parens patriae* can more appropriately be applied to the case of victims of earthquake disaster like the present one which occurred in Gujarat and is subject of Public Interest Litigation (PIL) before us. The doctrine has been explained by the Supreme Court relying on several Indian and English decisions. The concept jurisprudence of doctrine of *parens patriae* is that the State has the inherent power and authority to provide protection to the person and property of persons *non-sui-juris* such as minor, insane and incompetent persons like those rendered helpless due to the earthquake. *Parens patriae* has been literally explained to me “the father of the country” and is used to designate the State referring to its sovereign power of guardianship for persons under disability. *Parens patriae* jurisdiction, it has been explained is the right of sovereign and imposes a duty on sovereign, in public interest, to protect persons under disability who have no rightful protector. Conceptually the *parens patriae* is theory of obligation of the State to protect and take into custody the rights and privileges of its citizens for discharging its obligations. The Constitution makes it imperative for the State to secure to its citizens rights guaranteed by the Constitution and where the Citizens are not in a position to assert and claim their rights, the state can be activated and approached to effectively come upon the scene to protect the Human rights of the victims of a disaster. The SC has held that the Preamble of the Constitution read with the directive principles in Article 38, 39 and 39 A enjoins the State to take up this responsibility. It is the protective measure to which the social welfare State is committed.

6. The functions of the State governed by the Constitution and rule of law are to take necessary remedial measures as parents and guardian of the citizens of the country to help and support helpless victims of a massive disaster. This is the obligation of the State, which is enforceable by the victims, or public-spirited organisations on their behalf by way of collective action like the present PIL.

DIRECTIONS

33. Thus having concluded, in our considered opinion, the following directions are extremely expedient and necessary in public interest and in the interest of earthquake victims and donors and contributors of relief materials and money —

- (1) In order to help and cooperate with the Government agencies for ensuring timely relief through relief material, cash and compensation money, we consider it fit to associate District Judge in each district, who is ex-officio Chairman of District Legal Authority constituted under the Legal Services Authorities Act, as Ombudsman in his district. As we have held above, the role of Ombudsman is not to supervise or oversee the relief and rehabilitation operations of the Governmental agencies, but he would receive complaints and grievances of the quake victims and, after necessary investigation with

the assistance of Legal Services Authorities and NGOs, bring them to the notice of the government officials and agencies in charge of relief and rehabilitation programmes. It is expected that every Chairman of the District Legal Services Committee, as Ombudsman, will act in full cooperation with and support from the Governmental, Non-Governmental Agencies and various officials and members of the staff working with them. It is left to the discretion of the District Legal Services Committee to constitute Consultative Committee or Committee of persons from different fields to help and guide them in the work of relief and rehabilitation operations. They can seek cooperation of medical men, engineers, educationists, lawyers, social workers, and students. In case of any serious difficulty or grievance, it would be open to the District Chairman to bring it to the notice of the Gujarat State Legal Services Authority, through its Secretary for taking up the issue through Authority with the Government.

- (2) So far as the prayer for creation of separate fund for quake-victims based on the contributions and donations of various governmental and non-governmental organisations and individuals is concerned, a separate Fund is directed to be opened by the Authority specially constituted for Disaster Management Operations. The account of the receipt and expenditure of the relief material in cash and in kind shall be duly maintained by the Authority specially set up by the government for the purpose. The account of the receipt and expenditure so maintained shall be subjected to periodical inspection and audit by nominee of the Comptroller and Auditor General of India, to whom a copy of this order shall be sent for necessary action. It would be open to the Comptroller and Auditor General of India to depute his officers or team quarterly or half yearly or yearly to monitor the receipt and expenditure in relief work for the quake-victims. The account so maintained and duly audited will be open to inspection by public in accordance with the procedure to be laid down for the purpose by the Comptroller and Auditor General of India.
- (3) A copy of this order shall also be sent to the Secretary of State Legal Service Authority, Gujarat, for issuing necessary instructions in the light of this order to all the District Judge-cum-District Chairmen of Legal Services Authority to act as Ombudsmen in the work of distribution of relief material in cash and kind. He would through its Legal Aid Cells help the Governmental and non-governmental agencies and individuals in relief and rehabilitation work for the earthquake victims.
- (4) A copy of this order shall also be sent to the Secretary General of National Human Rights Commissions for necessary action and intervention, if necessary, in redressing the complaints of violation of human rights in accordance with the provisions of section 12(b) of the Protection of Human Rights Act.
- (5) So far as care of orphaned children as a result of the earthquake is concerned, there is already complete legislation and infrastructure available through Juvenile Welfare Board and Juvenile Courts under the provisions of Juvenile Justice Act, 1986. The State Government is directed to forthwith mobilise

and activate the various statutory Authorities under the said Act to immediately take care of orphaned and destitute children.

- (6) The additional work which is entrusted to and expected from the Legal Services Authorities from State to Taluka level would require help and financial support from the Government and its agencies. We therefore direct that the Government shall extend necessary financial support in that behalf to the State Legal Services Authority to obtain their maximum cooperation in the stupendous task of relief and rehabilitation operations undertaken by the Government.
- (7) The petitioners can associate themselves or through service organisations in helping the authorities and agencies to whom we have issued directions for ensuring relief and rehabilitation of the quake-victims.
- (8) The Registrar of High Court of Gujarat shall forthwith send copies of this order to the respondents and all the District Judges in the State to mobilise the work entrusted to them by this order through the special cells constituted for the purpose of providing legal aid and relief to the quake victims.

The Registrar of the High Court shall take steps to give wide publicity to the order and directions made by us above, so that all concerned including the quake victims and their relatives are made aware of mechanisms and agencies available to them for relief and rehabilitation.

ANNEXURE V

Be Prepared! : Benefits of a

comprehensive emergency plan

[by Gunnar J Kuepper](#)

“There was a sense that the casualty count had to be extraordinary because of the buildings that were down and because of the fires that were beginning. For about an hour there was no sense of authority. There was no help. Nobody was coming to rescue us. I guess that’s kind of what we as citizens anticipate, that someone’s going to come and help and rescue us.”

To fulfill the legitimate demands of disaster-victims the community needs to be prepared for the worst. An effective, working plan should be ready to go at a moment's notice. Experience has shown again and again that lives can be saved and damage can be reduced by preparing for the impact of a catastrophic situation before it occurs. Emergency/Disaster Planning will consume a great deal of time and effort. But, in the end, the community will be better able to react and respond to emergency situations in a prepared and organized way.

Disaster planning begins with community awareness. Without the support and funding of your government, senior management, elected officials, other departments (law enforcement, health and hospitals, school districts, utilities, public works & engineering, sanitation & trash disposal, animal & environmental protection) as well

as private organizations and companies (Red Cross, Salvation Army, Chambers of Commerce, telecommunications, media & neighborhood groups, churches) the project will neither start nor work.

A planning prerequisite is the commitment and support of public leadership. You will need to convince all in your community about the benefits of building a 'disaster resistant community'. As much as possible, involve as many organizations as you can recruit in the planning process. Different entities will add distinct views and support with ideas, solutions and resources. Once you have organized this planning committee, the next step is to determine the hazards in your area (natural disasters, technical disasters and human acts) as described in the Hazard Chart.

After determining the hazards, you will need to analyze risks and vulnerabilities. Risk is defined as the combination of the expected frequency (how often) and the consequences of these events (impact on the community). -see Risk Matrix - For example, it may not be very likely that an earthquake with a magnitude of 7 occurs, but it will have a catastrophic impact in a dense populated area. It is extremely important to take account of all the 'hidden' hazards and risks. For instance, water was never seen as a high risk in Chicago. However, the potential threat became clear in April 1992. Due to a construction accident, the Chicago River flooded into the basement tunnel system of the downtown area and shut down power and communications. For days more than 20,000 employees in the high-rise buildings were not able to work. The loss to businesses, in terms of revenue and productivity, was tremendous. Terrorist threats and attacks can happen everywhere. The unexpected bombing in Oklahoma City on April 19, 1995 that killed 169 and injured 475 people is an unfortunate but appropriate example.

There are hidden traps in determining risks and vulnerabilities. Consider every unthinkable event (like the 'unsinkable' Titanic in 1912) and its worst case scenario, as something that can happen to your community tomorrow. A 747-Jetliner with 400 passengers aboard could leave its traffic route and crash into your community's chemical plant.

If you need to find information, an excellent source to determine hazards and risks can be your local universities, local geological and building associations, FEMA, organizations like NFPA, NSC and many other experts. Do not forget to use the Internet for planning research (i.e. <http://www.oes.ca.gov>).

After you have determined the potential hazards, you need to begin with Comprehensive Emergency Management (CEM). CEM is a concept that contains the four related phases Mitigation, Preparedness, Response and Recovery.

Mitigation describes procedures that eliminate or reduce the occurrence or the impacts of an incident. Some of these preventive measures are zoning regulations, building codes, and safety inspections.

Preparedness is a society's task. You need to inform neighborhoods and citizens about disaster potential and prevention; what you expect from them and what level of response they can expect from you. Offer CPR/First Aid courses and consider establishing Citizens Emergency Response Team (CERT) programs. These CERT are already established in Los Angeles, San Francisco, and Orlando. The program's

participants, all volunteers, are trained in light search and rescue, first aid, basic fire fighting, and are able to assist victims and local responders until sufficient help has arrived.

An often-overlooked, but extremely beneficial resource is the National Guard and the Military. They have the organised and trained manpower, heavy equipment, helicopters, and — believe it or not — the interest to serve and protect the public in a disaster. Use this tremendous asset if they are based in your neighborhood. Get in contact with the commanding officer; involve them in the planning process.

Make sure that emergency equipment in the region is compatible within all responding entities. Try to find a standard for products (fire fighting & rescue, medical, hazmat) in all parts of public and private sector as well as neighboring jurisdictions. Fire and EMS Departments, as the leading providers, should give recommendations, based on their daily experiences.

To be better prepared in response to a disaster, everybody involved needs training and exercises on a regular basis. Make sure that public and private entities use the same procedures so that they can interact in the real world.

Make every training exercise as real as possible. A theoretical evacuation neither encourages results in planning nor provides a real working experience. Let people find out how to use a hose with real water, how to leave a building without power or lighting.

Implement the Incident Command System (ICS) and Emergency Operations Center (EOC) Procedures and exercise them with all key agencies on an ongoing basis. Communication, Coordination and Command are the most critical parts in disaster management. Emergency workers, commanding officers and politicians tend to be in charge all over the world. This seems to be the nature of their job. Prior to an incident, it is crucial to determine who is in charge of what, in what jurisdiction. Every department head, elected official and affected business executive management has to be educated and must know what his or her role will be in an emergency event. In tabletop scenarios exercising ICS and EOC standards, chiefs can learn to let go of their egos and work together, face to face, for organised support. This process will significantly reduce competition, confusion and misunderstanding in the real event.

You must train the deputy chiefs of every department as to the specific roles and responsibilities of their superiors. As a general rule, disaster strikes when the ‘chief is out of town’. Even a fire chief can be hit. The fire chief of San Francisco was a fatal victim during the 1906 earthquake, when a brick wall collapsed in his bedroom. Invite other agencies and/or experts to your exercises. This way you will receive an independent review of how your plan works and what could be improved.

The keywords for emergency response are ‘stay calm’. Always remember to assess and deliberate any situation before taking action, to be safe, to use ICS, to communicate and coordinate.

Safety is the most significant issue in response, but it is too often forgotten. Assessment of the scene is the first goal to ensure the safety of victims and first responders. One hundred thirty-five (135) responding rescue & fire personnel suffered

nerve gas exposure during the Sarin Attack on the Tokyo Subway in March 20, 1995. These injuries could perhaps have been prevented if the city had been properly prepared.

You need to implement emergency teams that are capable, trained and equipped to fulfill their missions.

Response also includes communication and information. Prepare in advance how to deal with victims, their families, social groups and the mass media in a catastrophic event. These groups are crucial factors in either preventing or aiding a disaster's growth. Include mass media and neighborhood groups in your planning process. Let them know what your strategies are and what you expect them to do in a catastrophe. People want to be informed and will be interested in assisting you in any way they can.

Journalists can become your worst enemy or your best friend, depending on whether you let them know you are allies. Plan and learn to work with them. Mass media is the most efficient tool you can utilize to receive additional information as well as to spread messages to the community.

Be prepared to deal with multiple agencies that will show up and investigate the incident. This can include federal, state and other officials from FEMA, FBI, FAA (Federal Aviation Administration), NTSB (National Transportation Safety Board), EPA (Environmental Protection Agency), OSHA etc. All have their own agendas and procedures. At the least, make sure you know their local bureaus in advance. Always include their jurisdictions and expectations in the plan and let them know what your policies are. Be prepared to deal with the visits of high profile politicians.

Recovery is sometimes overlooked in the planning steps. This final phase of CEM nevertheless needs important consideration, because its goal is "getting back to normal".

After the plan is tested and approved you will have to distribute one copy to all entities affected. The plan must be maintained on a current basis and exercised periodically. Make certain you communicate any and all changes (key-personnel, phone-numbers etc.) and distribute to all participants. Give out clear and understandable manuals or excerpts, but not limited, to emergency response teams. These selections of the plan must follow the KISS-principle (Keep It Simple/Short).

Never forget to prepare plan B. Experience has shown that, despite excellent planning, equipment and vehicles will fail, qualified manpower will not show up in time and other unforeseen circumstances will hinder emergency operations. A second plan is then necessary to bypass challenges.

Some pitfalls in the planning project are: department heads do not attend ICS or EOC exercises; the plan is not tested under real circumstances or maintained on an actual basis; the plan is thick and muddled like the phone book of Los Angeles and the excerpts do not follow the KISS principle (Keep It Simple/Short).

Conclusion:

Always be aware that emergency planning needs teamwork. Avoid single actions when failure is not an option. The goal of emergency planning is to reduce loss of lives, damage to property, and the impact on environment and community. The strategy is to create a comprehensive planning process and a well-exercised emergency management. Additional prerequisites are commitment, analysis, planning, training, communication and cooperation.

(This article was published in *9-1-1 Magazine*, January/February 1999 issue, pp. 28-36)

ANNEXURE II

NATIONAL HUMAN RIGHTS COMMISSION SARDAR PATEL BHAVAN NEW DELHI

**Case No. 581/6/2000-2001
28 May 2001**

Directions of the National Human Rights Commission

1. With the delay in the announcement of rehabilitation packages and the slow progress of rehabilitation work, the quake affected have been exposed to the heat of summer and with the rains close at hand, their difficulties will be further aggravated. The State Government, is, therefore, directed to ensure that before the monsoon breaks, temporary shelters are provided to all quake-affected people.
2. The State Government should complete enumeration of the orphaned children, destitute women and elder citizen and draw a plan of action for providing relief and rehabilitation to each of these categories. Special care has to be taken by the Government, of the affected people who are also belonging to the marginalised sections of the society namely SC/ST and it should be the government's endeavour to ensure that the provisions of relief to the affected members of this section of the population is adequate and there is no exploitation.
3. The Commission draws the attention of the State Government to the issue of rehabilitation of the orphaned children especially the girl children and the government is directed to ensure that the mechanism is set up by which over the long term the case of each child is carefully monitored and the concerned officials are sensitised to prevent any exploitation of the children at the hands of relatives or others. The Commission desires that any policy providing for adoption should take into consideration not only the revised Guidelines for Adoption of Indian Children, 1995, as laid down by the Supreme Court and seek the advice and assistance of the Central Adoption Resource Agency but should also be sensitive to communities' views about adoption of children.
4. The Commission is aware that the rehabilitation work especially reconstruction is likely to take the best part of a year or even more and the requirements of different sections of the affected are unique to their situation. The Commission, therefore,

desires that the government should ensure that in the provision of relief and rehabilitation assistance, the requirement of every section is taken care of and there is no discrimination of any section of the affected population whether in terms of receiving relief and rehabilitation or whether in being provided access to such relief or in terms of recognition of the donor or agency which is willing to provide relief and rehabilitation.

5. In view of the fact that a large number of people have been injured, some very seriously, government should come out with a plan of long term relief and rehabilitation for those orthopaedically affected with special reference to the amputees and those who suffered spinal/hip injuries resulting in partial/permanent incapacitation. In the meanwhile it should be ensured that temporary medical/health Centres that are easily accessible to all the people are set up.
6. The Commission is of the opinion that rehabilitation process will be aided if the decision making process is simplified and more powers are granted to officers stationed at Bhuj. The Commission, therefore, requests that State Government empower an officer stationed at Bhuj with sufficient powers so that the problems of the affected people can be sorted out at the district level itself instead of being required to be dealt with at the state capital, Gandhinagar. Such a course would be expeditious and would also increase the credibility of performance.
7. The Commission is concerned that the Dalits who have migrated to areas nearer to Bhuj from areas north of the District are being asked to go back. The reason for their migration is that they find better economic opportunities near the District headquarters. It must be ensured that the return of the Dalits to their villages should be entirely voluntary.
8. Looking to the fact that a large number of recently constructed multi-story buildings collapsed in different parts of the State, especially at Ahmedabad which was almost 400 kms from the epicentre, the Commission is of the view that there definitely is a need for the government to look at building by-laws, update them to take care of the increased risk from earthquakes, and most importantly in ensuring proper implementation of the building by-laws. In this regard, the following issues would need attention:
 - (i) updating the building by-laws.
 - (ii) according sufficient importance to the scrutiny and sanction of structural plans.
 - (iii) ensuring that structural plans are prepared by qualified persons.
 - (iv) transparency in terms of publicity to structural plans, mandating the availability of structural information of any building to the residents and also to the public at large.
 - (v) third party inspection of structures at the time of actual construction, preservation of structural plans of multi-story buildings in digitised format, creating an independent agency where these plans will be preserved are some of the issues which could be deliberated upon by the State Government as well as by the Urban Development Ministry of the Government of India.

ANNEXURE III

26 February 2001

Cash compensation norms

Death:

Adults:	Rs. 1,00,000/-
Minors:	Rs. 60,000/-

For those who died during republic day celebrations following extra amounts:

Minors:	Rs. 50,000
Teachers and Govt. Servants:	Rs. 50,000

Injuries: (6.2.2001)

40% and above:	Permanent Disablement:	Rs. 50,000
Less than 40%:	Temporary Disablement:	Rs. 25,000
Major Surgery:		Rs. 10,000
Minor Surgery:		Rs. 5,000
Small Injury:		Rs. 2,000

Cattle Loss: (26.1.2001)

Cow:	Rs. 2,500
Pado/Padi (Jodi):	Rs. 750
Bull:	Rs. 4,000
Buffalo:	Rs. 6,000
Donkey:	Rs. 300
Sheep:	Rs. 150
Camel and similar animals:	Rs. 3,000

Cash Doles: (26.1.2001, 3.2.2001)

If building has totally collapsed:

Rs.10/- per person per family for 30 days

With maximum of Rs.1790/- per family to be given at one go in cash.

From 26.1.2001 to 9.2.2001, maximum 3 in family, after that, even if building is beyond repairs, the same dole.

For partially destroyed houses

Rs. 15/-per day from 26.1.2001 to 9.2.2001.

If there is a crack in the building and the person has left then will be paid for those days.

The above will apply even to huts.

Household equipment: (26.1.2001)

Rs. 300/- per person with a maximum of Rs. 1250/- per family for fully or partially destroyed houses.

Total of Household and cash doles to one family should not exceed Rs. 3,000/-.

Procedure of Case Doles and Households: (2.2.2001 and one more letter)

1. Within 30 days money to be paid
2. To decide beneficiaries – use family as the basis instead of voters' list
3. The decision about family identification is with a committee of Sarpanch/ Ex Sarpanch/ Talati and Gokul Gram Samiti's Chairman. Their decision will be final.
4. In Kutch doles will be in cash.
5. 15 extra days where houses have not fully or partially fallen.
6. For deciding beneficiaries – voters' list to be the basis.

Destruction of Houses: (26.1.2001)

Partially destroyed huts: Actual damage or Rs. 5,000 whichever is less.

Completely destroyed huts: Actual damage or Rs. 10,000 whichever is less.

Partially destroyed Kuchha/ Pucca Buildings: Actual damage or Rs. 15,000 whichever is less.

Fully destroyed Kuchha/ Pucca Buildings: Actual damage or Rs. 30,000 whichever is less.

Tin Sheets: (22.2.2001)

To fully/ partially destroyed pucca/ kuchha buildings: 8 tin sheet plus 2 bags of cement.

Wages for Removal of Debris: (23.2.2001)

1 Metric Tonne for putting in tractor: Rs. 7/-

1 Metric Tonne for removing from tractor: Rs. 6/-

Miscellaneous

Revenue Stamps to be borne by the Government.

ANNEXURE IV

Rehabilitation packages

The rehabilitation programme has evolved, in the form of four different packages by the Gujarat State Disaster Management Authority and approved by the Cabinet.

Package One:

- 1) Relocation of completely damaged houses where the damage is more than 70% will be taken up with the involvement of the villagers and the consent of the Gram Sabha.
- 2) The planning and implementation of overall relocation and reconstruction will be executed with the active participation of the affected families.
- 3) Selection of the villages will be made with the involvement of the Gram Sabha of the concerned village and the NGO/agency involved.
- 4) Earthquake resistance infrastructure will be developed in the new village sites.
- 5) 15% to 20% more land will be earmarked and reserved for the new sites.
- 6) The approximate expenditure for the establishment of a village with 200 families and an average population of 1000 has been worked out as under:

a) Land Requirement	:	12 Hectares
b) The cost of land acquisition	:	Rs. 30 Lakhs approximately
c) Primary infrastructure facilities, approximately	:	Rs. 50 Lakhs
d) Total cost of 7,500 sq. mtrs. Approximately (construction Rate of Rs. 2400 per sq. mtrs.):	:	Rs. 180 Lakhs
e) Provision for other incidental requirements	:	Rs. 40 Lakhs
Total	:	<u>Rs. 300 Lakhs</u>

In the new village site, the plot size and built up area will be divided into four distinctive categories as under:

Sr. No.	Category	Plot Area	Construction Area
1	Landless agricultural labourers	100 sq. mtrs.	30 sq. mtrs.
2	Marginal farmers up to 1 hectare land holding	150 sq. mtrs.	40 sq. mtrs.

3	Small farmers between 1 to 4 Hectares land holdings; small Traders, and artisans, and others	250 sq. mtrs.	40 sq. mtrs
4	Farmers with more than 4 Hectares land holding	400 sq. mtrs.	50 sq. mtrs.

7) All the new buildings in the relocated site will be appropriately insured specifically covering earthquake risk.

Package Two:

Assistance to zones already declared as worst affected and lying in Zone 4 and 5.

Totally collapsed houses and severely damaged houses pulled down for safety reasons fall under this category.

Sr. No.	Category	Assistance
1	Completely destroyed huts	Rs. 40,000 per unit
2	Completely destroyed houses	
	a) the built up area is up to 25 sq. mts.	Up to Rs. 50,000/-
	b) the existing built up area is up to 35 sq. mts	Up to Rs. 70,000/-
	c) the existing built up area is up to 45 sq. mts	Up to Rs. 90,000/-

Clarification:

- A) Built up area means the area enclosed by the four walls of the house (including the ground area occupied by such walls) excluding the veranda and other such peripheral structures.
- B) The assistance is provided at the rate of Rs. 2,000/- per sq. mts. And as per the measurement of the built up area of existing damaged house, disbursement of assistance will be made.

PARTIALLY DAMAGED HOUSES:

Sr. No.	Category	Amount of Assistance
1	If there are crack/cracks of at least ½ inch	Up to Rs. 3,000/-
2	Damage up to 10%	Up to Rs. 7,000/-
3	Damage up to 25%	Up to Rs. 15,000/-
4	Damage up to 50%	Up to Rs. 30,000/-

Package Three:

Assistance to Talukas and towns lying in zone 3 but not declared as the worst affected.

The scale of the assistance will be as under:

Totally / partially damaged huts:

Sr. No.	Category	Assistance
1	Completely destroyed huts	Rs. 7,000/-
2	Partially damaged huts	Rs. 2,000/-

Completely destroyed / partially damaged houses:

Sr. No.	Category	Assistance
1	If there are crack/cracks of at least ½ width	Up to Rs. 2,000/-
2	For repairs of damage up to 10%	Up to Rs. 5,000/-
3	For the repairs up to 25%	Up to Rs. 10,000/-
4	For the repairs up to 50%	Up to Rs. 20,000/-
5	Completely damaged kacha / pakka house	Up to Rs. 40,000/-

The completely destroyed houses/ huts means totally collapsed houses and house/ hut required to be pulled down for safety reasons.

Package Four:

Assistance for the Corporation, UDA area, Municipal Towns including Municipalities (other than Bhuj, Anjar, Bhachau, and Rapar).

Package Four is divided in two:

Package 4 A:

a) Financial Assistance for the collapsed / demolished buildings:

The residents of RCC Frame Structure buildings that are totally destroyed or have been pulled down for safety reasons will be given financial assistance **except** those who own any other house anywhere in their own name or in the name of their dependents, and such house/ houses is/are not occupied by a member of the joint family shall not be eligible for this assistance.

Scale of Assistance for Individuals:

Assistance at the rate of Rs. 3500/- per sq. mtr. Up to a maximum built up area of 50 sq. mtrs is subject to assistance of the maximum amount of Rs. 1.75 lakhs. However the residents of those buildings which have been illegally constructed on either the government land or land declared to be surplus and who possession has been taken over by the government under the provision of the Urban Land Ceiling Act will be eligible for assistance limited to 40 sq. mtrs. Only, at the rate of Rs. 3,500/-per sq. mtr. subject to a maximum of Rs. 1,40,000/-.

Assistance for the Strengthening of Multi-Storied Buildings with Structural Damage:

G-2 Type	Low Rise Buildings High Rise Buildings	Up to Rs. 50,000/- Up to Rs. 1,00,000/-
G-3 Type	Low Rise Buildings High Rise Buildings	Up to Rs. 2,00,000/- Up to Rs. 4,00,000/-
G-4 Type	Low Rise Buildings High Rise Buildings	Up to Rs. 4,00,000/- Up to Rs. 8,00,000/-

Package 4 - B:

1. Financial Assistance for collapsed/demolished buildings:

The residents of load bearing structure buildings that are totally destroyed or have been pulled down for safety reasons will be given financial assistance **except** those who own any other house anywhere in their own name or in the name of their dependents, and such house/ houses is/are not occupied by a member of the joint family shall not be eligible for this assistance.

Scale of Assistance for Individuals:

Assistance at the rate of Rs. 2800/- per sq. mtr. up to a maximum built-up area of 50 sq. mtrs., subject to a maximum of Rs. 1.40 lakhs.

However, in the **Restricted Category**, the extent of individual assistance will be limited to 40 sq. mts. Only, at the rate of Rs. 2800/- per sq. mt., subject to a maximum of Rs. 1,12,000.

Restricted category means the residents of those buildings that have been illegally constructed on either Government Land / Municipal Land declared surplus and whose possession has been taken over by Government under the provisions of the Urban Land Ceiling Act.

Provided further that the total assistance shall in no case exceed 60% of the damage caused to the property.

The owner-occupants of such collapsed buildings will be eligible for loan as per Reserve Bank guidelines for earthquake-affected people.

2. Assistance to Demolished Huts

Completely collapsed huts will be given financial assistance of up to a maximum of Rs. 2000/-.

3. Scale of assistance for Repairs and Structural Strengthening of low rise, load bearing residential buildings

Type of Damage

- (A) more than 1/2 inch width cracks
- (B) 10% or more damage

Extent of Assistance

- Up to Rs. 2000/-
- Up to Rs. 5000/-

(C) 25% or more damage
(D) 50% or more damage

Up to Rs. 10,000/-
Up to Rs. 20,000/-

Annexure VI

Survey on Basic Rights – Kutch District

To examine the progress of relief and rehabilitation measures being undertaken in the aftermath of the devastating 26th January earthquake in the state of Gujarat, a team of law students went to some of the most devastated villages five months after the tragedy.

A team of seven volunteers arrived in Anjar on the 15th June, and visited some of the most remote villages of the Kutch district. Satyajit Patra, Rajesh L Simhan, Nikhil Naredi, Prashant Acharya, Neha Jain, and Sidharth Nair of the National Law School of India University, Bangalore, together with Paul Leplomb, an Anglo-French law graduate from France visited 26 villages where they interviewed more than 200 people.

This basic survey questioned whether the authorities have ensured the basic rights of the survivors, namely the rights to health care, decent shelter, water and sanitation, public distribution system (PDS), appropriate information, compensation and education. The volunteers aimed to interact with at least one member of each community within a given village. The following preliminary findings of this survey are based exclusively on the answers given.

1. HEALTH CARE AND OTHER BASIC NEEDS:

Emergency relief:

Except in some isolated cases⁴, there was no mention of any kind of immediate assistance to the people from any governmental agency. In most places we visited, we were told that NGOs and local voluntary organisations had been almost exclusively engaged in the emergency relief work. They responded swiftly to the tragedy and brought relief to some of the most remote villages of the Kutch district.

Essentials like food, medicines, and blankets eventually reached the affected people, as a result of the initiative of local, national and international NGOs, although such relief took up to three weeks to reach some villages⁵ and in some instances it was only effective for a couple of weeks only⁶. In some instances it was however mentioned that these had been unequally distributed amongst the population⁷.

According to almost everyone we interviewed, the Government of Gujarat had, as promised, distributed 10 kg of wheat, 5 kg of rice, and 5 litres of kerosene free of cost

⁴ In Adohi (Bhachau), Garana (Bachau), and Khavda (Bhuj) the Military was said to have provided relief three days after the quake. There was mention of government assistance in Sangdad (Anjar), although it clearly did not reach all the affected people; only one person interviewed in Dudhai (Anjar) mentioned governmental relief intervention. In Moti Barar and Maliya (Rajkot) there was mention of Governmental assistance.

⁵ Several people reported such delay in Lundva (Bhachau).

⁶ This was the case in Ner (Bhachau).

⁷ This was the case in Dudhai (Anjar).

to families; however, in most instances these goods reached the people from 15 days to 2 months after the quake⁸, and kerosene was unequally distributed⁹.

Finally, despite the Government's assertion that 'water supply, telecommunications facilities and power supply were restored within three days'¹⁰, these basic facilities reached most places we visited more than a week after the disaster at the earliest¹¹.

Physical rehabilitation:

In most places¹² where people were permanently injured as a result of the earthquake, it appears that 'handicapped certificates' have been issued by the relevant authorities¹³. It has to be pointed out however that many are still awaiting the promised document after having filled the required applications¹⁴.

Where Primary Health Centres (PHC) existed before the earthquake, most of them got totally destroyed. Unfortunately, only in rare instances have alternative arrangements been made to provide adequate basic medical help¹⁵. Where no PHC existed, or where tents have not been provided, most of the population we visited had to go to far away PHCs or have to count on very irregular visits by NGO doctors¹⁶, or more rarely by Government doctors¹⁷. The Government appears to have failed in restoring, if not initiating a policy of equal access to health care for everyone. In most instances, care has been provided to disabled thanks to NGOs and local voluntary organisations, who donated crutches, wheelchairs, prostheses, etc¹⁸, although this was done unequally in some cases¹⁹.

Psychosocial assistance:

⁸ Makhiara (Anjar). It took over a month to reach in Chirai Nani (Bhachau).

⁹ This was reported in Adohi (Bhachau). In Dudhai (Anjar) for instance, only one person interviewed claimed he had received kerosene. There were questions as to whether all communities in Mota Varnora (Bhuj) actually received such goods.

¹⁰ Conference on Sustainable Recovery and Vulnerability Reduction, Government of Gujarat / United Nations Policy and Plan of Action, Ahmedabad, Gujarat, May 12 2001, p. 7.

¹¹ For example, in Adohi (Bachau), the government took almost a fortnight to restore basic water supply, and up to a month to restore electricity and telecommunications. These facilities took almost double the time to reach the more rural locations 5 km away where most inhabitants had fled to after the quake. In Chobari (Bhachau), water supply from the Government was restored only after 15 days after the quake. Electricity was restored after more than a month, whereas telecommunications were restored two months after the quake. In Dudhai (Anjar), electricity was restored 20 days after the earthquake and water supply within a month.

¹² In the following villages handicapped certificates were not issued to all those entitled: Dhrodana, Garana, Khengarpar, Khavda, Lakhapar, Lodai, Sangad.

¹³ See for example Chopadva, Vijapar, etc...

¹⁴ See for example Dhamadka, Dudhai.

¹⁵ Adohi, Chobari, Dudhai,

¹⁶ Habai, Lundva, Mota Varnora, Chirai Nani, Ner, New Bandheri, Sangad, Sikara, Shikarpur,

¹⁷ There was one mention of irregular visits from a Government doctor in Khavda.

¹⁸ Adohi, Chopadva, Khirai. In Khengarpar, Lapkar however a disabled person was still waiting for assistance.

¹⁹ See for example Shikarpur and Vijapar.

In many cases there was mention of psychological illnesses or at least disturbances resulting from the earthquake²⁰. Children were pictured as having been the most affected, suffering from recurrent nightmares or other distresses²¹. There were however no mentions of suicide cases resulting from the earthquake.

Psychosocial assistance is clearly not an issue for hardly any of the actors engaged in rehabilitation work. In only three cases were we told about psychosocial intervention to assist the victims of the quake²². It is to be emphasised that a volunteer from Dudhai, on his own initiative, provided counselling to the children of his village.

2 SHELTER

Temporary /semi-temporary shelters:

In all villages we visited temporary shelters were visible. These comprised mainly of tents and tarpaulin plastic sheets, which were almost exclusively provided by NGOs and the corporate sector in the immediate aftermath of the disaster²³. Tin sheets were provided by the Government. However there were many questions as to the actual effectiveness of such governmental measures. In some instances the villagers complained they had no instructions, nor means to put them up²⁴; injuries caused by such shelters were also reported²⁵.

It is to be emphasised that several cases of discrimination were reported as to the help provided by some of these organisations²⁶. Similarly, the Government failed to provide adequate shelters to all those affected²⁷. Indeed, there was an allegation of people being charged in order to benefit from such shelters²⁸; in one case it was reported that the tin sheets only went to the people whose houses were categorised as G4 or G5²⁹ (Please see annexure IV for details of rehabilitation packages.)

It has to be pointed out that the most basic shelters have now been standing for over four to five months³⁰. Surprisingly, in some villages, the temporary shelters were made available merely two weeks ago³¹. The main concern is that hardly any of these shelters we came across were neither sun-proof nor wind-proof. This was confirmed by almost all the people we interviewed, and many tents were half torn due to the wind. Finally, hardly any of the shelters we came across were rainproof, except for

²⁰ Cf. Dhrodana where people are getting medication to overcome distress caused by the earthquake. Cf. also Kanpar, Khengarpar, Lakhapar, Makhara, Ner, Sangad, and Shikarpur.

²¹ See interviews in Chobari village. Cf. also Dudhai, Garana, Ner, and New Bandheri. In Sikara, a child has stopped talking since the earthquake. No help has been provided for him.

²² The help provided in Dudhai and Kanpar was however for a very short time only. There was also one mention of a doctor from Australia who allegedly gave brief counselling sessions in Sangad.

²³ Adohi, Chobari, Chopadva.

²⁴ Adohi, Chobari, Chirai Nani,

²⁵ Chobari where one person was allegedly injured by a "flying tin sheet". Cf. also Khavda.

²⁶ In Dhrodana, it was said that the RSS only built shelters for the Harijans.

²⁷ There was no mention of Governmental assistance in so far as to temporary sheltering in Garana, Habai, Lakhapar, Mota Varnora. There were cases reported of discrimination in Vadli where only 10 people were said to have received tin sheets.

²⁸ There were such allegations in Dhrodana.

²⁹ Cf. Khavda interview.

³⁰ Dudhai, Habai, Khengarpar, Lakhapar; five months in Khavda, Khirai.

³¹ Some tin sheets were provided at the beginning of June in Chopadva, Kanpar

the tin sheets when these had been put up adequately. Many were very anxious as to what would happen to them during the Monsoon season.

Damaged constructions:

As part of the Government's response to the tragedy, it was announced by the Government that a team of experts would survey extensively places affected by the quake. Although all places we visited had been surveyed, it is striking to note that this was hardly ever done following the official composition³². In Chobari, there were alleged anomalies in the surveying process, as the team did not cover the entire part of the village, and prima facie it would appear that many houses have been under evaluated³³. Whenever houses have been totally destroyed, the issue at stake is what happens to the land. In very few cases have people been formally relocated under a Government scheme.

3. WATER, SANITATION AND PUBLIC DISTRIBUTION SYSTEM

Amongst all villages visited, there is a huge disparity as to access to adequate water supply. Where pipelines and borewell existed before the earthquake, only in a very few cases have they been actually been repaired, five months after the disaster. Most of them remain cracked and useless. In several instances, the villagers used their own money to undertake reparation work. In fact most of the water is currently being provided by water tankers and is stored in water tanks in the village. These are mainly being provided by a governmental organisation (UNICEF); in some instances NGOs have provided the tankers. There have been many complaints as to the little amount of water provided considering the needs of the people. In a few villages, the tanks we saw were totally empty. As a result, many have to walk for several kilometres to get adequate supply. There have also been many reports of discrimination, and unequal distribution of such resource.

In several villages, people complained about the inadequacy of public sanitation. Many still have to walk long distances just to relieve themselves.

There were a few complaints about electricity supply.

4. RIGHT TO APPROPRIATE INFORMATION

Not a single person interviewed during our fields visits was aware of the risks of such a major disaster and the impact it would have on their lives.

Most people were not aware of governmental compensation schemes, nor did they know about amounts they were formally entitled to. The attitude appeared to be one of 'we take what we are given', as opposed to actually considering compensation as a right. One privileged person was however informed through television program about compensation schemes.

5. COMPENSATION

³² Only in Chopavda, Dudhai, Garana, Lodai, Chirai Nani,

³³ Recording of the sarpanch of Chobari available.

It is difficult to summarise the compensation that villagers received from the Gujarat government, except to say that the execution of the government's compensation scheme has been extremely inconsistent and perhaps even discriminatory. Twenty-six villages were surveyed to determine how government officials had distributed compensation payments.³⁴ In the villages surveyed, government officials paid compensation payments to varying degrees for the following: basic compensation, death, injury, material loss, and relocation. However, the one consistent factor was that compensation was not sufficient to provide a basic standard of living to any villager.

Basic Compensation:

Twenty of the villages surveyed received a basic compensation payment of Rs 2,000 per family from the Gujarat government,³⁵ and four of those villages received additional payments ranging from Rs 800 to Rs 1,000.³⁶ In Vijapar, where some families received as much as Rs 3,000, other families did not even receive the prescribed Rs 2,000.

Compensation for Death:

People in every village surveyed received compensation for the death of family members.³⁷ However, the amounts received by surviving family members were not uniform across the villages. In three villages, government officials paid family members less than the promised amount of Rs 100,000,³⁸ while in five other villages, family members received payments in excess of that amount.³⁹

Compensation for Injuries:

In only five villages have survivors been paid compensation for injuries suffered during the earthquake,⁴⁰ and in two of those villages,⁴¹ some of the injured have received compensation for their injuries, while others have been denied compensation.

Compensation for Material Loss:

In six villages, villagers received compensation for material loss,⁴² but in three of those villages,⁴³ only a selected few received compensation, while in one of those villages (Habal) only one villager was fortunate (or well-connected?) enough to

³⁴ The villages surveyed were: Adohi, Chobari, Chopadva, Dhamadka, Dhrodana, Dudhai, Garana, Habal, Kanal, Khavda, Khengarpar, Khirai, Lakhapar, Lodai, Lunva, Makhara, Mota Varnora, Chirai Nani, Ner, New Bandheri, Sangad, Sikara, Shikarpur, Sinugra, Vadli, Vijapar

³⁵ The villages that received compensation are Adohi, Chobari, Chopadva, Dhamadka, Dhrodana, Dudhai, Kanpar, Khavda, Khengarpar, Lakhapar, Lanva, Mota Varnora, Chirai Nani, New Bandheri, Sangad, Shikarpur, Sikara, Sinugra, Vadli and Vijapar.

³⁶ Those villages are Khengarpar, Lakhapar, Sikara and Vijapar,

³⁷ No villagers in the village of Vadli received compensation, because there were no deaths there.

³⁸ Chobari, Kanpar, and Khirai.

³⁹ Dhamadka, Garana, Lodai, Sinugra, and Vijapar.

⁴⁰ Dudhai, Garana, Habal, Lodai, and Ner.

⁴¹ Dudhai and Ner.

⁴² Habal, Kanpar, Khavda, Lodai, Mota Varnora, and Sikara.

⁴³ Kanpar, Khavda, and Mota Varnora.

receive a payment of Rs 90,000, while none of his fellow villagers received even a single rupee.

Compensation for Relocation:

The Gujarat government relocated two of the surveyed villages after the earthquake.⁴⁴ In one of those villages, Adohi, villagers were relocated onto both private and public lands.⁴⁵ In both villages, villagers believed that they had been adequately compensated for the relocation.

6. EDUCATION

In every village surveyed, the earthquake affected the local school. However, five months after the earthquake not all schools had yet been reopened. In fact, in nine villages, the schools were still not functioning at the time we surveyed the villagers⁴⁶. In 24 of the the NGO's or the government have provided alternative schooling for villagers.⁴⁷ In 15 of these cases, NGO's have been responsible for providing alternative arrangements, while the government provided the schooling facilities.⁴⁸ These consist mostly of temporally shelters like tents. These have usually been set up within metres of the old school. There are serious threats to the security of the children. On the way to a village near Bhachau, we came across an entire class being taught sitting on the rubbles of the old school!

In 20 of the 24 villages where alternative schooling arrangements have been made, all the children have resumed classes.⁴⁹ There are several reasons that prevented children from attending classes where schools have been set up. In two cases, although alternative arrangements were made for education, many children refused to attend classes as they were still scared of another earthquake.⁵⁰ In another case, the alternative schooling was provided too far away from the village for the children to attend regularly.⁵¹ Finally, in one village, the alternative facilities were not adequate to accommodate the number of children in the school-going age.⁵²

⁴⁴ Adohi and Dhamadka

⁴⁵ In the case of Adohi, both the relocation and compensation was arranged for by the government of Maharashtra.

⁴⁶ Chobari, Copadva, Dudhai, Lodai, Lunva, Chirai Nani, Sikara, Shikarpur, and Vijapar.

⁴⁷ Alternative arrangements had not been made in Sikara and Shikarpur.

⁴⁸ NGOs were responsible for alternative arrangements in Chobhari, Chopadva, Dhrodana, Dudhai, Habal, Kanpar, Khavda, Khirai, Lakhapar, Lodai, Lunva, Ner, New Bandheri, and Vijapar. The government is responsible for alternative arrangements in Adohi, Ganara, Khengarpar, Mota Varnora, Chirai Nani, Sangad, and Sinugra.

⁴⁹ The four villages where children are not all attending school, despite the existence of alternative facilities are Adohi, Chobari, Dudhai, and Sinugra.

⁵⁰ Adohi and Chobari.

⁵¹ Sinugra.

⁵² Dudhai.

Annexure VII

Survey on Basic rights - Rajkot District

Following allegations of dysfunctions in the relief and rehabilitation phases that followed the devastating 26th January earthquake in the state of Gujarat, volunteers revisited some of the most devastated villages to evaluate the situation five months after the tragedy.

A team of five volunteers arrived in Morbi on the July 6, 2001, and dedicated their time to visit some of the most remote villages of the Rajkot district. Sunil Scaria from the IPT Secretariat along with Sudakshina Mukherjee from Indian Law School, Pune; Kathereen Hooker and Bryan Mignone from New York Law School and Rikin Mozaria, a law student from Canada as of now working with ICHRL, Mumbai visited 12 villages where they interviewed more than 150 people. We found that in a disaster situation, the life and liberty of the victim of the disaster is seriously jeopardised. All efforts have been made to interact with one member at least of each community within a given village. The result of this survey is based exclusively on the answers given to us by the people we questioned.

1. HEALTH CARE / BASIC NEEDS

Emergency relief:

None of the villages were given assistance immediately after the earthquake (within three days) by the Governmental agencies, NGOs, volunteers or others except two villages⁵³. But, the NGOs and the Volunteers provided almost all the villages with the essential and necessary relief within a short span of time. They provided food, medicines and plastic sheets to be used as shelter. Though essential services like water supply, telecommunication and power supply were not restored within three days in all the villages, it took almost four days in certain villages⁵⁴ and a week in many others⁵⁵. In one village electricity was restored only after ten days⁵⁶. In some villages electricity has not been restored till now⁵⁷. The Government of Gujarat had promised to distribute 10 kg of wheat, 5 kg of rice, 5 litre of kerosene free of cost to each family immediately after the quake. But, only a few villages received the ration at least twice in the last six months⁵⁸ and a few others received just once⁵⁹. There were villages, which received insufficient supply of ration⁶⁰ or no ration at all⁶¹. In one of the villages, the supply of the ration was diverted and was not allowed to be distributed to the village because of religious discrimination⁶².

⁵³ Moti Barar and Maliya

⁵⁴ Deogarh, Kajarda, and Sarvad,

⁵⁵ Moti Barar, Maliya, Nani Barar, and Jajasar,

⁵⁶ Kuntasi

⁵⁷ Lavanpur and Navlakhi

⁵⁸ Moti Barar, Nani Barar, and Dahisara

⁵⁹ Kunthasi, Songarh, Sarvad, Kajarda, and Deogarh

⁶⁰ Lavanpur and Jajasar

⁶¹ Navlakhi

⁶² Maliya

Physical rehabilitation:

In many of the villages, there were no one permanently injured⁶³. And in few villages there was only one person was being permanently injured⁶⁴. In few villages the number is up to three⁶⁵. In maximum villages such persons were not given a handicap certificate⁶⁶ mostly because the villages found the civil hospitals very far from their home and they did not have resources to afford the conveyance.

In some villages, it was complained to us that the doctors refused to identify the patients as an earthquake victim⁶⁷. But in one village, the patients were given the certificate⁶⁸. There is no Primary Health Centre in most of the villages⁶⁹. These villagers have to travel to the nearest Health Care Centre⁷⁰ for minimum to 7-10 km. The village Maliya being the biggest of the taluka, has a Government hospital, which is apparently not functional. It was reported to us that the patients are not entertained in that hospital and they are referred to the hospitals in Morbi, which is 35 km from Maliya.

The story is the same for the other Primary Health Care Centres in the taluka level. Hence, the villagers have to travel up to 70 km to seek relief. But, the plight of the villagers is not entertained even in Morbi at times. Hence, the poor villagers have to travel to Rajkot, which is almost up to 85 km or more. Therefore at times of emergency, even after having Primary Health Care Centres in the taluka, the villages have no way of medical assistance. Presently none of the villages have adequate medical help for the physically injured or facilities (wheel chairs/crutches/prostheses/etc.) for the physically disabled.

Psychosocial assistance:

In maximum villages, there were no cases of visible mental disturbance as result of the earthquake. But in few villages, there were cases of one⁷¹ or two⁷² persons suffering from mental disorders. There were no cases of suicides or attempted suicides in the villages, nor any psychosocial help has given to anyone.

2. SHELTER

Temporary/semi-temporary shelters:

In all the villages, the NGOs or the Volunteers provided plastic sheets for those in need of temporary shelters within sometime after the earthquake. The Government gave eight tin sheets per family after three to four months, which

⁶³ Navlakhi, Lavanpur, Maliya, Moti Barar, Nani Barar, Songarh, Kajarda and Deogarh

⁶⁴ Dahisara, Kuntasi, and Jajasar

⁶⁵ Moti Barar, and Sarvad

⁶⁶ Moti Barar, Dahisara, and Kuntasi

⁶⁷ Jajasar

⁶⁸ Sarvad

⁶⁹ Lavanpur, Navlakhi, Moti Barar, Songarh, Kajarda, Deogarh, Sarvad, Kuntasi and Jajasar

⁷⁰ Dahisara, Nani Barar, Maliya,

⁷¹ Moti Barar

⁷² Jajasar and Navlakhi

was barely enough. The temporary shelters are either sun proof, rain proof, or non-flammable. In some villages the people are living in these temporary shelters till now⁷³. In some villages construction of houses with the aid of NGOs⁷⁴ or some local trust⁷⁵ or volunteer⁷⁶ is going on. In many of the villages people have started rebuilding the houses with their own resources⁷⁷.

Surveying of the damaged constructions:

In all the villages the survey of the damage to the constructions was done in April 2001. It was done by one Government engineer in most of the villages. In one village, the Government engineer was accompanied by two local chiefs⁷⁸. The impact on the houses and the damage estimated by the Government survey was not agreeable in most of the villages. Like in Maliya, out of 3,200 damaged houses, only 1,800 were recognised. In Kuntasi, out of 360 houses destroyed in the quake only 315 houses were identified as damaged by the Government survey. In Dahisara, more than 800 houses were damaged though the Government recognised only 370. Though we do not have the Government Survey figures, the villagers told us that the Survey did not identify all the damaged houses. In some villages, relocation was offered⁷⁹. In the village Navlakhi, the people were distributed in three neighbouring villages namely, Varshamedi, Kutch and Dhui. But they were not provided with any alternative source of living or earning. Hence, the villagers settled themselves in marshy lands nearby the sea to sustain their living upon fishery. They are not allowed to enter the village still. In Deogarh, the relocation has been done around the old village farmland. Though there has been no construction under Governmental Schemes or any legal title deeds/ documents.

3. WATER, SANITATION AND PUBLIC DISTRIBUTION SYSTEM

No efforts from the Government have been done to provide adequate water or sanitation to those affected by the earthquake. Water tankers are being provided to almost all the villages by the NGOs or Volunteers. But, there has been no adequate supply of water, sanitation or electricity to few villages⁸⁰. There is no provision of sanitation in any of the villages even in the normal course of life.

The entire community has been benefited equally from such measures of relief more or less. Though there has been discrimination against people in terms of religion and caste within the village⁸¹, the only major incident was found in the village Maliya where the Relief vehicles were diverted to other villages instead.

4. RIGHT TO APPROPRIATE INFORMATION

⁷³ Sarvad, Deogarh, Kajarada, Lavanpur, Jajasar, Navlakhi, and Maliya

⁷⁴ Kajarada

⁷⁵ Sarvad

⁷⁶ Deogarh- RSS has taken the responsibility of re-building the house.

⁷⁷ For example, Songarh and Nani Barar

⁷⁸ Kajarada

⁷⁹ Navlakhi, and Kajarada (the people protested against it) and Deogarh

⁸⁰ Lavanpur, and Navlakhi

⁸¹ Maliya (on the basis of religion – 75% of the population is Muslim) and Kuntasi (on the basis of caste and class)

There have been no information sessions before the earthquake on how to react in case of such a natural disaster. The people were not aware of the risks of such disaster.

The Government has not even provided any information on available rehabilitation schemes, and necessary action to benefit from them till two or three months. In some villages, the people came to know about the scheme very recently⁸².

5. COMPENSATION

In almost all the villages compensation was provided to some of the affected people. Except two villages, in all the villages, the 40% of the amount as promised was given to the affected people identified by the survey⁸³. Though the compensation to the family of the deceased (Rs 1,00,000 for an adult and Rs 60,000 for a child) has been given in all the villages, there have been a lot of disparities in terms of the damage compensation to the injured persons. In some villages, the injured people have not received any compensation⁸⁴. In certain villages, the compensation was not distributed to every injured person⁸⁵. While some villages received Rs 5000 as compensation for the injured persons, some villages received only Rs 2000⁸⁶. In Maliya, out of the 400 people injured only 5-6 persons received compensation and in Nani Baraar, none of the 200 people injured received any compensation. In six villages⁸⁷, the compensation for material loss was distributed to some people, while others are still waiting. In four villages⁸⁸, everyone received compensation for material loss. In two villages, no one received any compensation for material loss.

In Deogarh, the relocation has been done on the Government lands. But, no compensation was given to them as per the Scheme. The people have not been given any legal document about the relocation. In Navlakhi, another of the villages relocated, due to inadequate facilities in the land given by the Government, the people have settled themselves to the lands nearby without any legal or governmental permission.

6. EDUCATION

In all the villages, the schools were affected by the earthquake. It was shut down for sometime. Except the High School in the village of Sarvad, no other Schools are functional by the Government. The alternative arrangements for children to follow classes have been made in eight villages⁸⁹ out of the twelve villages surveyed. In four villages⁹⁰, there were no alternative arrangements made due to lack of governmental or organisational intervention.

Where all there are alternative arrangements the children are more or less attending classes.

⁸² Navlakhi and Varshamedi.

⁸³ Navlakhi and Lavanpur- no compensation or relief reached at these areas.

⁸⁴ Nani Baraar, Sarvad Jajasar and Navlakhi.

⁸⁵ Kunatasi, Dahisara, Moti Baraar and Maliya.

⁸⁶ In the category of Rs 5000 are- Kunatasi, Kajarada and Maliya. Whereas in Rs 2000 category are- Moti Baraar and deogarh.

⁸⁷ Dahisara, Deogarh, Kajarada, Kuntasi, Maliya and Sarvad

⁸⁸ Lavanpur, Moti Baraar, Nani Baraar and Songarh.

⁸⁹ Dahisara, Deogarh, Kuntasi, Maliya, Motibaraar, Nani Baraar, Sarvad and Songarh. Except in Songarh and Sarvad, in all the villages the alternative arrangements are made by NGOs.

⁹⁰ Jajasar, Kajarada, Lavanpur and Navlakhi.

Annexure VIII

Government Officials invited for the public hearing

Relief Commissioner
Govt. of Gujarat
Block11, Third Floor,
New Sachivalaya

GANDHINAGAR
Gujarat
Tel: 519024/ 9825037407

CEO, Gujarat State Disaster Management Authority (GSDMA)
Block 11, 5th floor
New Sachivalaya
GANDHINAGAR
Gujarat
Tel: 59502/ 59292

COLLECTORS

The Collector
BHUJ,
District Kutch
Gujarat
Tel:50020

The Collector
RAJKOT,
District RAJKOT
Gujarat
Tel:73900

The Collector
SURENDRANAGAR
District Surendranagar
Gujarat
Tel:30200

The Collector
PATAN,
District PATAN
Gujarat
Tel:33301

TALUKA MAMLATDARS

Taluka Mamlatdar
Anjar Taluka
District Kutch
Tel: 42588

Taluka Mamlatdar
Rapar Taluka
District Kutch

Tel: 200001

Taluka Mamlatdar
Bachau Taluka
District Kutch
Tel:240009

Taluka Mamlatdar
Maliya Taluka
District RAJKOT
Tel: 86722

Taluka Mamlatdar
Morbi Taluka
District RAJKOT
Tel:30418

Taluka Mamlatdar
Wankaner Taluka
District RAJKOT
Tel:20590

Taluka Mamlatdar
Tankara Taluka
District RAJKOT
Tel: 87677

Taluka Mamlatdar
Halvad Taluka
District Surendranagar
Tel: 56031

Taluka Mamlatdar
Patdi Taluka
District Surendranagar
Tel: 27032

DISTRICT EDUCATION OFFICERS

KUTCH District: Collectorate, Bhuj Tel:50156 fax 50355

RAJKOT District: Collectorate, Rajkot Tel: 223453 fax 479128

SURENDRANAGAR District: Collectorate, Surendranagar Tel:32170, fax 31402

DISTRICT HEALTH OFFICERS

KUTCH: c/o. Jilla Panchayat, Bhuj, District Kutch

RAJKOT: c/o. Jilla Panchayat, Rajkot

SURENDRANAGAR: c/o. Jilla Panchayat, Surendranagar

SECRETARIES

Shri. Varesh Sinha
Principal Secretary, Education Department,
Block No.-5, Sachivalaya, Gandhi Nagar-382010
Tel. 91- 2712-20371
Fax 91- 2712 - 26468

Shri. S K Nanda
Principal Secretary, Health & Family Welfare Department,
Block 7, 7th Floor, New Sachivalaya, Gandhi Nagar-382010
Tel. 91- 2712-20069
Fax 91- 2712 - 24409

Shri. R.K Tripathi,
Secretary, Water Supply,
B7/ 9
Sachivalaya, Gandhinagar - 382 010

Shri. M Shahu
Secretary, Reconstruction
B1/ 8, Sachivalaya, Gandhinagar - 382 010

Smt. Gauri Kumar
Secretary, Higher and Technical Education
B5/ 9, Sachivalaya, Gandhinagar - 382 010

Shri. P. Panirvale
Commissioner, Relief
B11/ 3, Sachivalaya, Gandhinagar - 382 010

Shri. G.C Murmu
Additional Relief Secretary
B11/ 7, Sachivalaya, Gandhinagar - 382 010

Shri. B.R Patel
Secretary, Relief
B11/ 7, Sachivalaya, Gandhinagar - 382 010