

Unjust Compensation



An Assessment of Damage and Loss of Private Property during the Anti-Christian Violence in Kandhamal, India



Centre for the Sustainable Use of Natural and Social Resources

Housing and Land Rights Network



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G-18/1 Nizamuddin West
Lower Ground Floor
New Delhi 110013
+91-11-24358492
info@hic-sarp.org / hlrsouthasia@gmail.com
www.hic-sarp.org

Centre for the Sustainable Use of Natural and Social Resources (CSNR)

VIM/395, Sailashree Vihar
Bhubaneswar - 751021, Odisha
+91-674-2741557
csnr.orissa@gmail.com

In association with:

National Alliance of Women (NAWO), Bhubaneswar; Solidarity for Developing Communities (SFDC), Berhampur; and Jana Vikas (JV), Kandhamal

Report written by: Dharendra Panda, Shivani Chaudhry and Rizwana Akhtaree

Data entry: Ranjit Sutar and Prasanta Panda

Survey team: Prasanna Mansingh, Swagatika Nanda, Birendra Nayak, Subodh Chhotray, Biswaranjan Balabantaray, Bhabasindhu Patra, Rudhirkanta Digal, Simanchal Patra, Kartika Nayak and Amir Nayak

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TABLE OF CONTENTS

1. Preface	
2. Introduction	1
3. Impacts of the Violence in Kandhamal	3
4. State Response (Acts of Commission and Omission)	6
5. Current Living Conditions of Kandhamal Victim-Survivors	9
6. Need for a Comprehensive Human Rights-Based Impact Assessment	11
7. 'Eviction Impact Assessment' (EvIA) Tool of Housing and Land Rights Network	12
8. Objectives of the Impact Assessment and Methodology	14
9. Findings of the Impact Assessment Study	18
10. Conclusions of the Impact Assessment Study	23
11. Recommendations	28

ANNEXES:

1. Table of Losses by Category	27
2. Table of Losses by Village	28
3. Matrix for Assessment of Property Damage for Violence Affected Households in Kandhamal	29
4. Excerpts from the Odisha Relief Code 1980.....	34

Preface...

For the victims of displacement in India, whether due to armed or ethnic conflict, communal/sectarian violence, disasters or development, adequate and just compensation has always been unattainable. The country sorely lacks national standards for reparations. Such legislative and policy lacunae are compounded by the lack of a human rights-based approach to restitution and reparation, including compensation for lost or damaged property and loss of livelihoods.

This study makes a valuable attempt at documenting, through enumeration of losses, the actual cost of house and property destruction in Kandhamal. The study uses the 'Eviction Impact Assessment Tool' developed by Housing and Land Rights Network (HLRN). This tool is based on the principles enshrined in national and international human rights instruments. The study attempts to demonstrate that human rights-based assessment is critical to understand the scale of damage caused by conflict and persistent denial of dignity for the victims.

The intense human tragedy has had a severe impact on the lives of many due to the targeted destruction that took place in Kandhamal in 2007 and 2008. Such a tragedy must not be allowed to be compounded by the lack of attention to adequate human rights-based compensation that the victim-survivors deserve. The valuable recommendations contained, including the imperative of complying with international human rights standards for restitution, reparation and compensation, in the study show us a way forward. The relevant state and national authorities must now respond immediately to these demands for justice that is long overdue.

Miloon Kothari

*Former Special Rapporteur on Adequate Housing, United Nations Human Rights Council
Executive Director, Housing and Land Rights Network, India*

I. Introduction

The state of Odisha (formerly Orissa), located on the east coast of India, is one of the poorest states in the country. As per the National Sample Survey,¹ the average monthly per capita expenditure in the state is Rs. 716 (around 13 USD)², which is the second lowest of all states in India. For members of Scheduled Castes (SC) and Scheduled Tribes (ST)³, it is below Rs. 422⁴. The average land owned per household in Odisha is about 0.48 hectares, while the national average is 0.73 hectares⁵. Only 21% of the land available for cultivation is irrigated. Land redistribution and land reform measures have been largely inadequate in Odisha. In addition, rampant industrialisation and the exploitation and privatisation of natural resources have resulted in widespread displacement, marginalisation, loss of livelihoods, and the systematic violation of the human rights of the poor in Odisha, especially their customary rights to land, forests and water. Natural disasters, including the cyclone of 1999, drought of 2000 and 2003, and regular floods, have contributed to exacerbating displacement, poverty and the environmental conditions in the state.

Kandhamal, a hilly and forested district comprising of 2,415 villages, is among the poorest districts of Odisha. About 71% of the land area is forested, 12% is cultivable, while the rest is barren land. Because of its hilly and forested areas, Kandhamal has poor connectivity with other districts. The socio-economic situation in Kandhamal is characterised by low employment and income-generating opportunities in the area. A large percentage of the population lives below the poverty line. According to the Orissa Human Development Report 2004⁶, 87% of dalits (Scheduled Castes) and 92% of adivasis (Scheduled Tribes) in Kandhamal live below the poverty line. More than 30% of dalits in Kandhamal, known as *Panas*, are Christians. They account for around 17% of the population and hold 9% of the cultivable land. By contrast, the *Kandhas*, designated as Scheduled Tribes, own about 56% of the cultivable land.

¹ National Sample Survey (NSS), 66th Round, July 2009 to June 2010.

² The exchange rate used in this report is that of one US dollar (USD) to fifty Indian rupees (INR or Rs.).

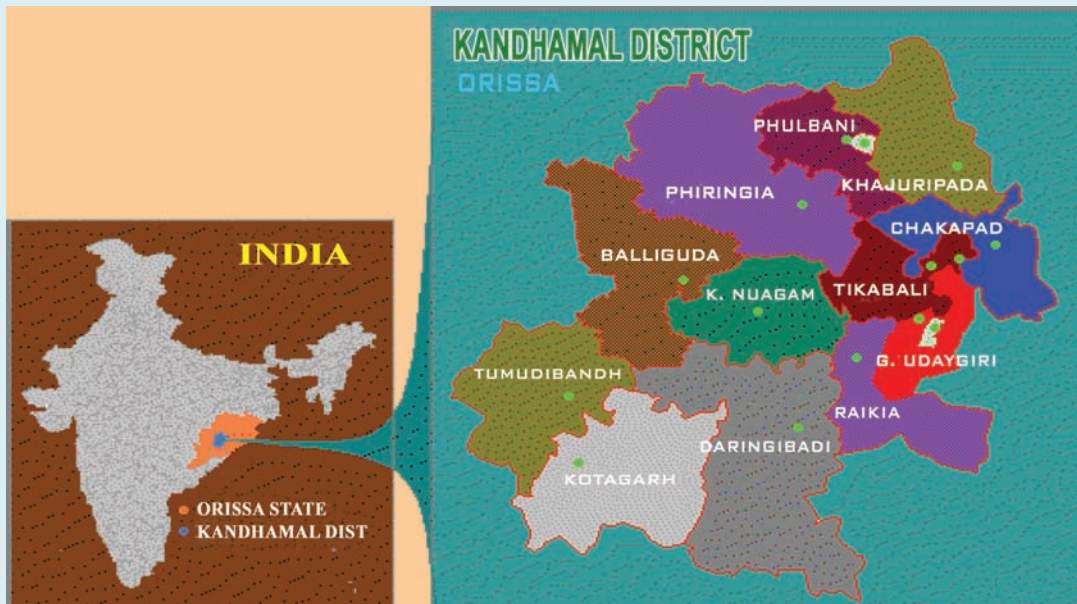
³ The Constitution of India recognises Scheduled Castes and Scheduled Tribes as historically disadvantaged and discriminated groups. In Odisha, there are about 62 distinct groups of tribals/indigenous peoples. Officially known as "Scheduled Tribes," these communities prefer to call themselves "adivasis." They constitute one-quarter of the state's population.

⁴ Economic Survey, Government of Odisha, 2011-12.

⁵ Report No. 491 (59/18.1/4), National Sample Survey Organisation, Ministry of Statistics and Programme Implementation, Government of India, November 2006.

⁶ Orissa Human Development Report 2004, Government of Odisha, with support from the Planning Commission, Government of India, and United Nations Development Programme (UNDP).

Unjust Compensation



Kandhamal Violence 2007

On 23 December 2007, an anti-Christian march, reportedly supported by Hindu fundamentalist (*Hindutva*) groups⁷, took place at Brahmanigaon in Daringbadi Block of Kandhamal. On 24 December 2007, religious tension erupted in Brahmanigaon when a temporary platform - made of bamboo, wood and cloth - set up for a Christmas celebration was attacked and destroyed. Members and supporters of Vishwa Hindu Parisad (VHP), Bajrang Dal, Kui Samaj Samanway Samiti (KSSS) and other groups, reportedly attacked Christians with guns, swords, iron rods and other lethal weapons, just 400 yards away from a police station. Two Christians were injured during the attack while many others ran into the forest, leaving behind their belongings. An alleged rumour of attack on VHP leader, Swami Laxmanananda Saraswati, led to increased violence against Christians in the area. The violence continued till 27 December 2007. On 28 December, a violent mob, allegedly with the involvement of some Christian youth, attacked the Brahmanigaon Police Station and three settlements of people belonging to Hindu communities.

Kandhamal Violence 2008

On the evening of 23 August 2008, Swami Laxmanananda Saraswati was killed at his ashram in Jalespata in Kandhamal district, along with three other leaders of the VHP. This purportedly triggered the second phase of targeted violence against the Christian community in Kandhamal⁸.

⁷ Report of the National Commission for Minorities on its visit to Odisha, 6-8 January 2008, paragraph 1.1; and *Crossed and Crucified*, Peoples' Union for Civil Liberties (2009-10), p. 4.

⁸ Information adapted from *Kandhamal : The law must change its course* (New Delhi: Multiple Action Research Group (MARG), 2010), p. 16-17; and Vijay Parmar, *Kandhamal in Chaos: An Account of Facts* (Ahmedabad: Jan Vikas, 2010), p. 13.

II. Impacts of the Violence in Kandhamal

Assault, Injury and Death

During the two phases of targeted violence against the Christian community in Kandhamal, in 2007 and 2008, more than 600 villages were ransacked, 5,600 houses were plundered and burnt, 38 people were murdered and 54,000 people were left homeless. Human rights groups estimate that over 100 people were killed, including children, women, persons with disabilities, and older persons. An unestimated number suffered severe physical injuries and mental trauma. While there are reports of a few women being sexually assaulted, many more women are believed to have been intimidated into silence. The attackers destroyed 295 churches and other places of worship. Thirteen schools, colleges, and offices of several non-profit organizations were also reported to be damaged. About 30,000 people were uprooted and lived in relief camps for six months; many families continue to be displaced. About 2,000 people were forced to renounce their Christian faith. More than 10,000 children had their education severely disrupted due to displacement and fear.

Burning of Homes and Vandalism, Looting and Destruction of Moveable Property

During the violence in Kandhamal, residential property of dalit and adivasi Christians was burnt, destroyed entirely or damaged extensively. An illustrative example is that of Gojana Digal of Shankarakhol village, Tikabali Block, whose house was completely burnt down during the violence. At a National Peoples' Tribunal on Kandhamal⁹ (hereafter Tribunal), he narrated the incident:

"On 25 August 2008, at about 5 pm, shouts could be heard from Shankarakhol town. At about 7 pm, a mob of rioters, more than 200 persons, came towards our hamlet... Seeing the mob equipped with weapons and hearing their slogans, my terrified family and I ran away to a nearby forest. Then, I returned to the corn field near my house to see the misdemeanours of the rioters... They opened my house and looted all household items and valuables; they even carried away my bicycles. Before leaving, they set fire to my house, burning everything from the floor to the roof. Nothing of my home is left except parts of a burnt wall... I made several attempts to return home with my family but was told that my family would have to convert to Hinduism and withdraw our complaints to be allowed back into our village..."

⁹A National Peoples' Tribunal (NPT) on Kandhamal headed by Justice A.P Shah (former Chief Justice of the High Court of Delhi) was held in New Delhi from 22 - 24 August 2010. The NPT aimed at assisting the victim-survivors of the Kandhamal violence to seek justice, accountability and peace, and to restore their right to a dignified life. Report available at: <http://www.sabrang.com/cc/archive/2012/jan2012/citizens%20tribunal%20Kandhamal%20Report%20Full.pdf>.

Unjust Compensation

After conducting a household survey in Kandhamal in 2009-10, *Jan Vikas* reported that close to 5,000 houses were destroyed in the violence. The study by *Jan Vikas* puts the figure of fully and partially damaged houses at 4,864 while government data states it to be 4,588.¹⁰ This discrepancy in figures is mainly because several people were not present when the enumeration by government officials was carried out.

Almost all victim-survivors of the Kandhamal violence reported vandalism, theft, and destruction of movable property such as household articles, personal valuables, documents, certificates, jewellery and cash.

Chanchla Nayak, who also deposed before the Tribunal, stated:

"... A large crowd of about 3,000 people led by leaders of Bajrang Dal such as Rinku Mishra, Chaita Bindhani, Dhiru Sahoo and Bhagwan Panda began to attack and loot our houses. We Christians tried to escape from the village, Barakhama. The rioters looted, destroyed and set fire to my house. All valuables of my family, including certificates, documents, money, ornaments and utensils were completely destroyed."

".. When they approached my house, they looted all household articles, money, jewellery (gold and diamond), valuable assets, television, cupboard, utensils and all official documents of my mother, and finally they set our house on fire..." (Narasingho Digal, testimony presented to the Tribunal)

Ashis Naik, who also testified at the Tribunal, stated that:

"... criminals set fire to the houses of Christians, including mine, burning all valuable documents, utensils, households, assets...etc. They also looted many valuables. Then they went around shouting 'Jai Sriram' and went towards Telingia village to do the same... My house has been completely destroyed."

Umesh Chandra Nayak reported, during the Tribunal, that his house had been completely looted and he lost cash, jewellery, food grains, utensils, a motorcycle and bicycle, and all his valuable documents, including educational certificates and land-related documents. The violent mob also reportedly took away his goats and cows.

A woman from Hattapada Sahi Village in Raikia Taluka told a team from Nirmala Niketan College that the perpetrators collected all valuable items from Christian homes, made a pile of them, and burnt them.¹¹ Another woman from G. Udayagiri Taluka narrated, to the same team, that the attackers killed lambs of some of the victim-survivors and spread the blood around their houses.¹²

The importance given by victim-survivors to their valuable documents is in complete contrast to the callous attitude of the police in registering such complaints, as is

¹⁰ Vijay Parmar, *Kandhamal in Chaos: An Account of Facts* (Ahmedabad: Jan Vikas, 2010), p. 15.

¹¹ Dr. Geeta Balkrishnan, *Study of the Conditions of Women affected by Communal Violence in Kandhamal District, Orissa* (Mumbai: Nirmala Niketan College of Social Work, 2010), p. 37.

¹² *Ibid.*

Unjust Compensation

apparent from Rajnikant Pradhan's experience. Rajnikant Pradhan of Bapuriya Village reportedly fled from his house, along with his wife, when the violence began. In his hurry to flee, he could not retrieve and carry valuable documents such as his vehicle registration papers, driving license and his wife's education certificates, which were destroyed. After the event, he tried to register a complaint about his lost documents and household possessions at G. Udayagiri Police Station. He was asked to visit the police station a second time, only to be sent to Tikabali Police Station, and thereafter to Sarangod Police Station, on the pretext that Bapuriya did not fall within the jurisdiction of the former two police stations.¹³ Despite repeated attempts, the police at Sarangod Police Station refused to register his complaint, and informed him that they were registering complaints, "Only about those who have 'gone up' (who were killed)," and directed him to return to the relief camp.¹⁴



¹³Saumya Uma, *Kandhamal: The Law Must Change its Course* (New Delhi: Multiple Action Research Group (MARG), 2010), p. 63.

¹⁴*Ibid*, p. 99.

III. State Response (Acts of Commission and Omission)

Compensation for Housing and Property

About 5,600 people lost their houses during the violence in Kandhamal. The Government of Odisha provided Rs. 50,000 as compensation for 'fully-damaged houses' and Rs. 20,000 for 'partially damaged houses.' Compared to the actual loss incurred, the compensation provided by the state for house damage was extremely low.

Reportedly, 5% of the families that lost their homes have yet to receive compensation. Many families whose homes were badly destroyed and had to be rebuilt, received compensation for 'partially damaged houses.' During the assessment undertaken by government officials, many houses enlisted as 'partially damaged' later collapsed due to heavy rain and other factors when the victim-survivors were in relief camps. This matter was not taken into consideration by the government. As a result, such houses were considered as 'half-damaged' and the affected families received only Rs. 10,000 from the state government and Rs. 20,000 from the central government as compensation. In many cases, however, the victim-survivors have not received the central government amount of Rs. 20,000.

The compensation given to victim-survivors by the state has been insufficient for them to resume a normal life. Many families have not been able to adjust to the changed situation while many have left their villages in search of jobs elsewhere.

During the violence, the victim-survivors also lost personal belongings, valuable household items, vital documents and livelihood-related resources. The government, however, did not enumerate loss of property (other than housing) such as household articles, vital documents (like educational certificates, land records), agricultural equipment, utensils, clothes, agricultural and forest produce, livestock, poultry, and livelihood-related losses. Affected families state that it will take generations to recover the extensive losses that they have had to incur. When asked for compensation for loss of household and other items, the District Magistrate of Kandhamal stated that the government does not have a policy to enumerate or compensate such losses.

"We have no specific schemes for household article support but we concentrate on development activities to create livelihood opportunities, i.e. Mahatma Gandhi National Rural Employment Gurantee Scheme, Integrated Tribal Development Projects, plantation and horticulture, poultry, goatery and loan facilities" - (District Collector and Magistrate of Kandhamal).

Some of the displaced families who managed to return to their villages have repaired their houses with the compensation received for house damage while others managed to raise their own resources to reconstruct their houses. Those who could not return have been forced to stay back in the abandoned relief camps and temporary informal

settlements. The government has not provided them with any extra funds to rebuild their houses.

Wide disparities exist in the assessment of the value of the damaged and destroyed houses, and their classification by the government. The grossly inadequate amounts of compensation for repair and reconstruction of damaged houses have impeded the housing rights of the affected families. Further, the lack of uniform criteria for assessment and compensation has led to an arbitrary determination of compensation amounts by the state authorities.

As many as 130 shopkeepers lost their livelihoods due to the destruction of their shops. They received no compensation either for the loss of their shops or for the items lost in the shops; they only received compensation for house damage. This was not sufficient for them to resume their livelihoods. They do not have the resources to start a new business, nor do they have the ability to move to another village in search of alternative livelihoods. This is the tragic situation of most of the self-employed businessmen in Kandhamal.

Almost no compensation has been provided for the damage of institutions such as hospitals, schools, and NGOs.

Policies on Compensation, Relief, Rehabilitation

The *National Rehabilitation and Resettlement Policy 2007* contains specific provisions aimed at providing resettlement, but it has not been fully implemented in the case of Kandhamal. In particular, the Policy aims to:

- ensure adequate rehabilitation packages and expeditious implementation of the rehabilitation process with the active participation of affected families;
- ensure that special care is taken for protecting the rights of the weaker sections of society, especially members of Scheduled Castes and Scheduled Tribes; and,
- provide a better standard of living, making concerted efforts for providing sustainable income to the affected families.

The state of Odisha has its own policy called the *Odisha Resettlement and Rehabilitation Policy 2006*, which claims to:

- ensure sustainable development;
- avoid displacement where possible and minimise it, exercising available options otherwise; and,
- facilitate a resettlement and rehabilitation process that provides for, *inter alia*, survey and identification of displaced families, payment of compensation for land, resettlement and rehabilitation plan, rehabilitation assistance, benefit to landless and homesteadless encroachers, special benefits to indigenous families and primitive tribal groups, and institutional mechanisms for implementation, monitoring, conflict resolution, grievance redressal and biennial revision of the rehabilitation grants in monetary terms on the basis of wholesale price index (WPI).

The policy, however, has not been implemented to provide adequate resettlement for families displaced during the Kandhamal violence. It is further critiqued for its failure to compensate the loss of common property resources and to address the issue of reconstruction of 'public property.'¹⁵

The revised *Odisha Relief Code 1980* also contains norms and guidelines for relief and rehabilitation.¹⁶

None of the policies mentioned above have provisions for adequately compensating loss of property, livelihood sources, common property resources, household articles and personal valuables. The Odisha government policies do not cover victims of violence, disasters or large 'development projects.' One study suggests that 1.5 million people have been displaced by development projects in Odisha between 1951 and 1995, of which 42% are tribals. Of these displaced tribals, less than 25% were resettled, and only partially.¹⁷

**Notification Made by the Revenue Department (Government of Odisha) in 2009
on
Relief and Rehabilitation Entitlements for Victims of Communal/
Ethnic Disturbance in Kandhamal District**

In December 2007:

1. Ex-gratia to the next of kin of the deceased @ Rs. 1 lakh.
2. Relief camp with food, clothing, tents, lighting etc. arrangements for as many days as required by the victims.
3. Construction assistance for fully damaged dwelling houses @ Rs. 50,000, and for partially damaged dwelling houses @ Rs. 20,000.
4. Shops/shops-cum-residence @ Rs. 15,000 to Rs. 40,000 - depending upon the damage assessment made by the District Administration.
5. Assistance for bicycles damaged @ Rs. 2,000.
6. Construction assistance for damage of Public Institutions like school, clinic, hostel, hospital etc @ Rs. 2 lakh.

In August-September, 2008

1. Ex-gratia to the next of kin of the deceased @ Rs. 2 lakh from the Chief Minister's Relief Fund.
2. Relief camp with food, clothing, tents, lighting etc. arrangements for as many days as required by the victims.
3. Construction assistance for fully damaged dwelling houses @ Rs. 50,000 and for partially damaged dwelling houses @ Rs. 20,000.
4. Shops/shops-cum-residence @ Rs. 15,000 to Rs. 40,000 depending upon the damage assessment made by the District Administration.
5. Assistance for bicycles damaged @ Rs. 2,000.
6. Construction assistance for damage of Public Institutions like school, clinic, hostel, hospital etc @ Rs. 2 lakh.

[Source: <http://www.odisha.gov.in/revenue/kandhamal/Kandhamal.htm>]

¹⁵ Chitta Behera, 'Orissa Resettlement and Rehabilitation Policy 2006: A Contribution towards an Immanent Critique,' 2006, available at: <http://chittabehera.com/Rehabilitation/Orissa%20RRPolicy%2006-%20A%20Ccritique.pdf>

¹⁶ See Annex Three.

¹⁷ Kundan Kumar et al, 'A Socio-Economic and Legal Study of Scheduled Tribes' Land in Orissa' (Bhubaneswar: 2005).

IV. Current Living Conditions of Kandhamal Victim-Survivors

Even after a passage of five years since the violence in Kandhamal, the socio-economic and living conditions of victim-survivors are yet to be normalised, and feelings of fear, vulnerability, insecurity and pain still need to be assuaged.

According to testimonies of villagers, presented to the National People's Tribunal on Kandhamal, many families made attempts to return to their original villages but were prevented by Hindu fundamentalist groups who further threatened to kill them if they did not convert to Hinduism.

The amount of compensation received from the government has been too meagre for the affected families to resume their former lifestyles and standard of living. A number of people lost their lives and many of them have become permanently disabled, leading to inability to work and loss of livelihood. Most of the families whose houses were damaged because of the violence have not been able to rebuild or repair their homes due to lack of finances.

Most areas have no provision for basic services. There are no electricity and sanitation facilities at Ambedkar Colony, which houses 40 families. In Nandagiri, only a few of the 150 houses have electricity. Even five years after the communal violence families reportedly still feel apprehensive. In Bhubaneswar, about 1,000 families live in slums without any support from the government. They are keen to return to their villages and resume their former livelihoods.

The majority of the affected families depended on forest produce and used forest land for agriculture and other allied activities. But after the violence they have been evicted from their agricultural, homestead and forest land, which has severely impacted their livelihoods and economic conditions. The financial condition of families who were dependent mostly on agriculture or forest produce has been greatly affected. Those families who had private businesses were severely affected by the targeted violence, as their business establishments were burnt and they have not been able to generate resources to restart their businesses.

Almost all the victim-survivors in Kandhamal are classified as 'below poverty line' (BPL) families. Seventy percent of them depend on daily wage labour in agriculture, construction and domestic work. After the violence, most families remained displaced for a year, without any means or access to livelihoods. After returning to their original villages, the majority of families have found it very difficult to resume their previous livelihood practices. Most families now work only within their own community, where work opportunities are limited. Feelings of insecurity and fear among some of the

Unjust Compensation

victim-survivors deter them from working for people of other communities. The *Mahatma Gandhi National Rural Employment Guarantee Scheme* (MNREGS) is considered to be an important source of employment. But it is irregular and insufficient, and the prejudiced attitude of *gram sathi* (official village MNREGS volunteers) and Panchayati Raj Institution leaders towards the victim-survivors' further impedes their employment opportunities and benefits.

A significant number of the victim-survivors used to collect and sell various forest products but after the violence, 'dominant community' members have imposed restrictions on their entering forests. Several families are thus being forced to migrate out of Kandhamal in search of livelihoods. The government was supposed to provide adequate rehabilitation and resettlement but no proactive measures have been taken to ensure secured employment for the affected families. As the government failed to provide security to the victim-survivors of Mahupanga, Dadingia and Beticola villages, they had to be shifted to other locations, which did not have any viable livelihood options.

The education of school/college students has been greatly hampered because of the damage to, and destruction of, educational institutions and the loss of academic textbooks, notebooks, reference books, and school/college uniforms, which were burnt and plundered during the acts of violence. This has also severely impacted the careers of young people. It also has been reported that students are suffering from increased stress and psychological disorders in the aftermath of the violence.

Some of the victim-survivors expressed their regret that dalit (*Pano*) children are denied admission in government run Ashram Schools, especially meant for SCs and STs. They reported being told by the authorities that Christian dalits are not entitled for admission into such schools.

In Piseramaha Village, the number of Christian students in local schools has dropped after the violence. Several parents reported that they have sent their children to study outside Kandhamal, as they fear for their safety in Kandhamal. Across Kandhamal, very few children have continued studying in their former schools; the majority of those who have resumed their education are studying outside the district or state, including in schools run by missionaries. Some children have had to drop out of school and take up work, including in hotels in Baliguda, G. Udaigiri and Phulbani, in order to supplement their family income. Many children have migrated to the state capital - Bhubaneswar and to other districts and states. When asked about the incidence of increased child labour, the Collector and District Magistrate of Kandhamal District responded that such cases have not been brought to his notice. He, however, stated that the government had rescued eight children from Nabarangpur District who were on their way to another state as 'dadan' (migrant labour) and put them in a children's home (*bala ashram*). In Bodimunda Gram Panchayat, a team of journalists from Bhubaneswar who visited the area in August 2012, has recorded the names of seven children who had to drop out of school and become labourers.

The living conditions and human rights situation for those affected by the Kandhamal violence have clearly not improved, even after five years. The state administration, however, continues to claim that Kandhamal is peaceful and has returned to normalcy.

V. Need for a Comprehensive Human Rights-Based Impact Assessment

The Kandhamal violence and its aftermath, including the acts of commission and omission by the state government, have resulted in the violation of multiple human rights of the victim-survivors. But no attempts have been made to assess the long-term impacts of the violations or to provide justice to the affected. Furthermore, the state does not view forced evictions as a human rights violation and the right to resettlement as a human right, and therefore, its policies are not human rights-based.

As stated above, the violence in Kandhamal in 2007 and 2008, resulted in more than 6,000 families losing their personal possessions and property, including crops, food grains, agricultural implements, clothes, livestock, livelihood sources, regular government subsidies, vital documents, jewellery, educational material and uniforms and many other household articles - either due to theft or destruction by burning. The Government of Odisha and few non-government organizations (NGOs) provided some relief or compensation for house damage, but no support or compensation has been provided for other losses, including of personal items and property. Furthermore, no efforts have been undertaken until now to assess the total loss of property and extent of damage suffered. Neither the central government nor the Government of Odisha has any policy for loss assessment and compensation.

Given this situation, the *Centre for the Sustainable Use of Natural and Social Resources* (CSNR), Bhubaneswar, in collaboration with *Housing and Land Rights Network* (HLRN), Delhi, decided to undertake a comprehensive human rights-based assessment to determine the true costs and losses incurred by the victim-survivors of the Kandhamal violence.



VI. 'Eviction Impact Assessment' Tool of Housing and Land Rights Network

Housing and Land Rights Network has developed an 'Eviction Impact Assessment' (EViA) tool that aims to assess and document the real costs and losses resulting from forced evictions and displacement. The tool is based on the premise that any appraisal of forced evictions would have to include both material as well as non-material costs, such as psychological and social effects of the eviction and other indirect costs, including loss of children's education, loss of access to adequate healthcare facilities, loss of livelihoods and access to critical natural resources, including water, forests, livestock and fodder. The tool also aims to document the disproportionate impacts of evictions and displacement on women, children, persons with disabilities, older persons, minorities, and other groups such as indigenous peoples, tribals, and dalits.

The HLRN tool derives its origin from the *UN Basic Principles and Guidelines on Development-based Evictions and Displacement* (2007),¹⁸ (hereafter UN Guidelines) which specifically state that:

32. States must give priority to exploring strategies that minimize displacement. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, **with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions.** "Eviction-impact" assessment should also include exploration of alternatives and strategies for minimizing harm (*emphasis added*).

33. Impact assessments must take into account the differential impacts of forced evictions on women, children, and the elderly and marginalised sectors of society. All such assessments should be based on the collection of disaggregated data, such that all differential impacts can be appropriately identified and addressed.

The 'Eviction Impact Assessment' tool could be used in situations before an eviction takes place (with the aim of preventing the eviction) and in the post-eviction / displacement context to analyse and assess the actual losses incurred, in order to

¹⁸ Presented to the UN Human Rights Council by the UN Special Rapporteur on adequate housing in 2007. Available at: http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf. A Handbook on the *UN Guidelines* prepared by HLRN is available at: http://www.hic-sarp.org/documents/Handbook%20on%20UN%20Guidelines_2011.pdf. The Oriya translation of the *UN Guidelines* is available at: http://www.hic-sarp.org/documents/Oriya_Guidelines_2012.pdf.

negotiate for better compensation and rehabilitation packages and also for restitution and long-term durable solutions. The tool lists the various material and non-material costs /losses that should be included in the computation of the total impact of the eviction/displacement. All costs factored in the assessment need to be calculated at current market values /replacement values to ensure accurate assessment. The tool, consistent with the directive from the *UN Guidelines* of conducting 'eviction impact assessments,' aims to capture the damages/costs/losses arising at any and/or all stages of the eviction/displacement process: pre-eviction, during eviction, and post-eviction.

The *UN Guidelines* also specify that:

69. States should actively monitor and carry out quantitative and qualitative evaluations to determine the number, type and long-term consequences of evictions, including forced evictions that occur within their jurisdiction and territory of effective control. Monitoring reports and findings should be made available to the public and concerned international parties in order to promote the development of best practices and problem-solving experiences based on lessons learned.

HLRN's 'Eviction Impact Assessment' tool, thus, also aims to assist the state in monitoring the impacts of displacement and in amending existing resettlement policies to incorporate accurate and holistic human rights-based impact assessment mechanisms.



VII. Objectives of the Impact Assessment and Methodology

Given the grossly inadequate compensation and the faulty process of enumeration of losses of victim-survivor families in Kandhamal, CSNR and HLRN decided to use the HLRN 'Eviction Impact Assessment' (EViA) tool to assess the real extent of property loss and damage, in addition to housing and land loss, suffered as a result of the Kandhamal violence.

Objectives of the Impact Assessment:

1. To enumerate the value of property lost during the Kandhamal violence and estimate the replacement value;
2. To determine livelihood-related losses incurred as a direct result of the violence; and,
3. To use the findings of the assessment to demand adequate compensation for the victim-survivors and to advocate for changes in the state and national resettlement policy.

Methodology:

The organizations worked together to develop the methodology and process for the impact assessment.

The process adopted in the study involved the following:

- Undertaking research of government documents, reports and data related to the Kandhamal violence;
- Organising discussions with leaders of *Kandhamal Survivors' Association* and civil society actors working with victim-survivors;
- Holding meetings with *gram/palli sabhas* (village self governing bodies) to make people aware of the study and its purpose, and to gain their support and active participation;
- Adapting the HLRN EViA tool to the Kandhamal context and developing a survey form and matrix to assess the material losses suffered;¹⁹
- Determining the sample for the study;
- Conducting a one-day orientation and training meeting for the survey team/ investigators on the purpose of the survey and methodology;

- Carrying out a pilot survey in 10 households in the village of Kanjamendi Nuagaon;
- Discussing the findings of the pilot survey with the HLRN team and modifying the survey form and matrix accordingly;
- Carrying out the survey in the three selected villages from September to October 2011;
- Cross-checking and verifying the findings;
- Corroborating the findings with official data; and,
- Analysing the findings and computing the total losses.

After verifying the government list of affected villages where people lost their houses, the three affected villages Barakhama (Barakhama Gram Panchayat), Borikia (Midiakia Gram Panchayat) and Budrukia (Budrukia Gram Panchayat), were selected for the study after discussions with a district level focus group of victim-survivors of the Kandhamal violence. The following considerations were factored into the selection of the three villages:

- Accessibility for surveyors/investigators;
- Willingness of residents to participate in the assessment study; and,
- Income level of the villagers.

The impact assessment consisted of a detailed survey instrument, administered to all 122 houses of the three selected villages.

During the interviews, responses given by the people were cross checked with the status of availability of items over the last three years. Statements of neighbours, copies of First Information Reports (FIR) and insurance receipts (if any) were also collected to corroborate the data. In the case of land, photocopies of land documents/deeds (*pattas*) were collected as supporting evidence.

This study, however, does not take into account the various non-material losses resulting from the violence such as psychological trauma, long-term impacts of loss of children's education, adverse impacts on health, injury and disability, and permanent loss of livelihood. The monetary loss reflected is thus a significant underestimation of the total loss suffered by each family.

Framework for the Study: Human Rights Approach

The study uses the human rights framework to assess the impacts of the Kandhamal violence.

The HLRN 'Eviction Impact Assessment' (EViA) tool is firmly rooted in a normative, human rights framework, with primary emphasis on the human right to adequate housing and related human rights. The body of international and national human rights law provides the legal basis for the articulation and implementation of the tool.

Unjust Compensation

The Constitution of India is grounded in the principles of liberty, fraternity, equality and justice. It guarantees Fundamental Rights and provides for Directive Principles, which make it obligatory for the state to, among the protection of other human rights, provide an adequate standard of living. The Supreme Court of India has held that the right to adequate housing is a fundamental human right emanating from the right to life protected by Article 21 of the Constitution ("*No person shall be deprived of his life or personal liberty except according to procedure established by law*"). There have been several important court judgments that have clearly established the relation between the right to housing and the right to life as guaranteed by Article 21.²⁰

The obligation of states to protect the human rights of all, including the right to adequate housing, is laid down in a number of international legally binding human rights instruments. They include the *Universal Declaration of Human Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *International Covenant on Civil and Political Rights*, the *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Discrimination against Women*, and the *International Convention on the Elimination of All Forms of Racial Discrimination*.

The *Universal Declaration of Human Rights* (UDHR) in 1948 recognised the right to adequate housing as an integral component of the human right to an adequate standard of living. On the basis of the provisions established in the UDHR, the right to adequate housing was elaborated and reaffirmed in 1966 by the International Covenant on Economic, Social and Cultural Rights (ICESCR), which in Article 11.1 declares that: "*The State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.*"

The United Nations (UN) Special Rapporteur on adequate housing defined the human right to adequate housing, as: "*The right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.*"²¹

The human right to adequate housing is integral to the realisation of the right to live with dignity, and is inextricably linked to other human rights such as the rights to food, work, health, water, land, and security of the home and person.

A cornerstone of the human rights framework is the fact that the practice of forced evictions constitutes a gross violation of human rights, in particular the human right to

²⁰ This has been established in numerous Supreme Court decisions, including *U.P. Avas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd*; *Chameli Singh and others v. State of UP* [(1996) 2 SCC 549 132]; *Francis Coralie vs. Union Territory of Delhi* (AIR 1981 SC 746, at 753); *Shantistar Builders v. Narayan Khimalal Totame* [(1990) 1 SCC 520]; *Olga Tellis v. Bombay Municipal Corp.* [(1985) 3 SCC 545]. Several High Courts, including the High Court of Delhi, have also upheld the right to housing. Supreme Court judgements that reaffirm the need to uphold international law and India's treaty obligations include: *Madhu Kishwar v. State of Bihar* [(1996) 5 SCC 125]; *Gramophone Co. of India v. B.B. Pandey* [1984 (2) SCC 534], *PUCL v. Union of India* [1997 (3) SCC 433], and *CERC v. Union of India* [(1995) (3) SCC 42].

²¹ Report of the Special Rapporteur on adequate housing, E/CN.4/2006/41, 21 March 2006.

adequate housing.²² This implies specific entitlements and obligations, and also implies the right to remedy,²³ restitution and reparation²⁴ in the event of a gross violation, such as forced eviction.

Since housing represents a significant portion of asset holdings for many people, destruction of housing implies a substantial loss of wealth as well a violation of other related human rights such as security, work/livelihood, land, food, water, health, and access to basic services.

The scope of the right to adequate housing was further defined by the United Nations (UN) Committee on Economic Social and Cultural Rights (CESCR) in its General Comment 4. In order for housing to be adequate, it must, at a minimum, include the following seven core elements:

- Legal security of tenure;
- Availability of services;
- Affordability;
- Accessibility;
- Habitability;
- Location; and,
- Cultural adequacy.

These elements of adequacy have further been expanded by civil society organizations as well as the UN Special Rapporteur on adequate housing, to include:

- Physical security;
- Participation and information;
- Access to land, water and other natural resources;
- Freedom from dispossession, damage and destruction;
- Resettlement, restitution, compensation,
- Non-refoulement and return;
- Access to remedies;
- Education and empowerment; and,
- Freedom from violence against women.

[See Housing and Land Rights Network (www.hlrn.org/ www.hic-sarp.org). Also see, reports of the UN Special Rapporteur on adequate housing (<http://www.ohchr.org/english/issues/housing/index.htm>), in particular, see Questionnaire on Women and Housing, Annex 3, A/HRC/4/18, February 2007].

²² See Commission on Human Rights Resolution, CHR 1993/77.

²³ See paragraphs 60-63 of the UN Guidelines.

²⁴ See paragraphs 64-67 of the UN Guidelines.

VIII. Findings of the Impact Assessment Study

The findings of the impact assessment study in Kandhamal reveal that the real costs and losses suffered by individuals and families who experienced destruction of their homes and property are immense. This is all the more critical given that the families affected in Kandhamal are extremely poor and are struggling to make ends meet. Almost all the families are dalits and live below the poverty line. An obvious and substantial effect of the violence was the violation of the human right to adequate housing.

Losses suffered on account of theft, burning and destruction during the Kandhamal violence have been quantified in monetary terms.²⁵ The total loss has been calculated by taking into account the replacement value for each item lost, i.e. the current market value, and multiplying it by the number of items lost. The value of material lost, damaged or stolen is not the same for all the 122 families covered in the impact assessment study but varies from one household to the other. The analysis of the data presented below mentions the average loss per household as well as the highest and lowest loss incurred in some categories.

The losses assessed in the survey have been categorised under the three following headings:

- A. Loss of personal possessions: These include electronics, furniture, utensils/kitchen appliances, clothes, household articles, vital documents, educational material, jewellery, utilities/services, and electrical equipment;
- B. Livelihood-related losses: These include loss of income, livestock, crops-in-field, crops after harvest/in storage and seeds; and,
- C. Loss of food and water sources: These include food subsidies (rations) and loss of access to water bodies.

A. LOSS OF PERSONAL POSSESSIONS

(i) HOUSEHOLD ARTICLES

Various household articles damaged during the attacks in Kandhamal included grinders, gas stoves, bicycles, motorcycles, gas lights, generators, coolers, torches, lanterns, iron chests, mobile phones, televisions, radios, refrigerators, washing machines, water filters, large beds, small beds, *daudia khata* (rope bed), dining tables, tea tables, sofas,

chairs, tables, dressing tables, trunks, suitcases, storage chests, wooden and steel cupboards, sheets, blankets, mattresses and other related items.

121 families lost a total of Rs. 38, 83,810 with the average household losing Rs. 32,098 worth of household articles. The highest damage suffered by one single family was Rs. 2, 49,820 and the lowest damage under this heading was Rs. 3,672.

(ii) UTENSILS AND KITCHEN APPLIANCES

Kitchen items lost by families during the violence included pressure cookers, cooking ware, steel pots, earthen pots, glasses, spoons, steel buckets, tea cups, jugs, silver dishes and utensil stands, among others.

122 families lost a total of Rs. 6,20,389 with an average loss of Rs. 5,085 per family. The highest loss incurred by a single family under this category was Rs. 15,300 while the lowest amount lost was Rs. 1,140.

(iii) CLOTHES

Families lost clothes such as *dhotis*, *lungis*, shirts, pants, sarees, towels, salwars, children's wear and night clothes. The total loss suffered by all 122 families from destruction of clothes was Rs. 4,63,548 while the average loss per family was Rs. 3800. The highest loss incurred by a single family from destruction and loss of clothes was Rs. 12,100 and the lowest was Rs. 300.

(iv) VITAL DOCUMENTS

During the violence, people lost several important documents, including academic certificates, voter identity cards, bank pass books, ration cards, land records, birth and death certificates, and driving licences. The loss calculated includes the cost of getting new/alternative documents as well as related expenses such as travel, food expenses, and bribes (generally people are forced to pay for new documents).

90 of the 122 families surveyed incurred a total loss of Rs. 1, 38,658 from the destruction/loss of vital documents, while the average loss per family was Rs. 1,541. The highest loss incurred by a family was Rs. 7,100 and the lowest was Rs. 10.

(v) EDUCATIONAL MATERIAL

Forty-nine families of the 122 surveyed, incurred a total loss of Rs. 2,11,900 resulting from damage to educational material including text books, note books, reference books, school/college uniforms, stationery, and other necessities of a student. The average loss per family from the destruction of educational items was Rs. 4,324. The value of educational material lost ranged from Rs 1, 58,470 to Rs. 3,000.

(vi) ELECTRICAL EQUIPMENT

Electrical equipment, including inverters, air conditioners, ceiling fans, table fans, tubelights, bulbs, cables and other items were damaged during the communal violence.

Of the three villages surveyed in the study, two do not have electricity. Thirty-five families from one village reported a total loss of Rs. 2,21,784 with the average loss per affected family amounting to Rs. 6,337. The highest loss incurred by a family amounted

Unjust Compensation

to Rs 1, 08,980 and the lowest was Rs 150. Eighty-seven families did not lose any items under this category.

(vii) JEWELLERY

Gold and silver jewellery lost by survivors during the Kandhamal violence included rings, earrings, necklaces, gold chains, nose-rings, toe-rings, anklets, waist chains, and bracelets. The total loss was computed by multiplying the current market cost (replacement value) with the amount of items lost.

Ninety families lost jewellery worth Rs. 43,98,300; the average loss per family was Rs. 48,870. One family reported losing Rs. 2,91,800 worth of jewellery during the violence while the lowest loss for a family was Rs. 700.

B. LIVELIHOOD RELATED LOSSES

(i) AGRICULTURAL ITEMS

The affected families use various tools for agricultural activities such as *fauda, langala, tangia, kuradhi, barsi, sabala, katara, gainti, gaddi, juhali, langala daudi, nihana, doli, tokei*, sickle, tulu pump, diesel pump, *kodi, kula, gouni, mana, sera*, power tiller, tractor, *katuri, mahi, khusuni*, and bullock cart, which they lost either due to fire or theft during the violence. The total loss of agricultural implements for all families covered in the survey was Rs. 11,51,853 with an average loss of Rs. 9,441 per family. The highest loss for a single family was Rs. 1,01,700 while the lowest loss incurred was Rs. 955.

(ii) LIVELIHOOD-RELATED INFRASTRUCTURE

'Livelihood-related infrastructure' refers to poultry farms, goat farms, dairy farms, tailoring shops, grocery stores, rice/flour mills, and other sources of livelihood. Of the 122 families surveyed, 83 families lost their sources of livelihood during the Kandhamal violence.

Eighty-three families suffered a total loss of Rs. 9,98,600, while an average household lost Rs. 12,031. The highest damage suffered by one single family from destruction of livelihood-related infrastructure was Rs. 59,000 while the lowest loss incurred was Rs 500.

(iii) ACCESS TO LAND

Of the 122 families surveyed, only one family reported losing access to homestead land. One family lost its agricultural land and six people lost forest land under their possession with record of rights/legal documents. One family had to purchase new land for house construction at the cost of Rs. 48,000.

(iv) LIVESTOCK

A number of cows, goats, hens, cocks, ducks, buffaloes, oxen, pet dogs, pigs, and other domesticated animals were lost during the violence. Of the 122 families surveyed, 112 families lost their livestock. The value of the total livestock lost was Rs. 41,34,400 with the average loss per family amounting to Rs. 36,914 per family. The value of loss suffered by families ranged from Rs. 1,45,250 to Rs. 300.

(v) CROPS-IN-FIELD

During the violence, various agricultural crops were damaged in the fields, as they had not been harvested. The crops lost by the victim-survivors included paddy, radish, *harad*, *kandula*, *niger*, *masur*, blackgram, horsegram, peas, turmeric, ginger, onion, chilly, pineapple, potato, tomato, and brinjal. The value of crops lost was calculated according to the unit (kilogramme) of crops lost multiplied with the present market value.

Of the 122 families surveyed, 62 families reported losing crops-in-field during the Kandhamal violence. Crops worth Rs. 12,66,839 were damaged. The average loss incurred per family was Rs. 20,433; the highest loss suffered by a family amounted to Rs. 1,03,550 while the lowest was Rs 32.

(vi) HARVESTED AGRICULTURAL PRODUCE IN STORAGE

The value of crops damaged after harvest and lying in storage with families was calculated based on the market value per kilogramme lost. The harvested produce damaged during the violence consisted of: paddy, radish, blackgram, horse gram, pea, turmeric, ginger, onion, beans, chilly, corn flower, potato, mustard, ground nut, brinjal, tomato, cauliflower, cabbage, *sima*, *kakharu*, pumpkin, cucumber, *janhii*, ladies finger (okra), *kandhamula*, *niger*, *lau*, *jhudanga*, banana, *muga*, *kandula*, and bitter gourd.

A total of Rs. 16,43,966 worth of harvested agricultural produce was lost by 97 of the 122 families surveyed. The average loss per family amounted to Rs. 16,948. The highest loss incurred by a family amounted to Rs. 1,31,750 while the lowest was Rs. 40.

(vii) SEEDS

During the violence, various seeds stored by farmers were destroyed. These included paddy, radish, blackgram, horsegram, pea, turmeric, ginger, onion, *niger*, *masur*, *kandula*, and others. The total value of seeds lost by 67 families amounted to Rs. 12,47,163, while the average amount lost per family was Rs. 18,614. The value of loss incurred by an individual family ranged from Rs. 60,460 to Rs. 75.

(viii) INCOME

During the targeted acts of violence in 2007 and 2008, daily wage labourers, agricultural labourers, drivers, carpenters, blacksmiths, and MGNREGA²⁶ workers, among others, lost several work-days for one year after the violence. The loss of work days of people pursuing different occupations were calculated differently on the basis of the wage/remuneration for each occupation. Of the 122 families surveyed, 85 families lost a total income of Rs. 20,57,200 while each family lost an average of Rs. 24,202. The highest loss of income reported by a family amounted to Rs. 2,73,750 and the lowest was Rs. 500.

²⁶ Mahatma Gandhi National Rural Employment Guarantee Act.

C. LOSS OF FOOD AND WATER SOURCES

(i) FOOD SUBSIDIES (RATION)

During the two phases of violence in Kandhamal, most of the affected families could not access subsidised food (ration) under the Public Distribution System (PDS). This included rice, sugar and kerosene, which they used to purchase from government dealers at subsidised rates. In the absence of PDS supplies, affected families had to buy food and other necessities from the market at the normal market price. The loss suffered by affected families under this category has thus been calculated by multiplying the cost of subsidy by the number of months that they did not get the subsidised supplies and subtracting this amount from the current market value of the goods.

Of the 122 families surveyed, 107 families lost a total of Rs. 3,80,076 from the absence of subsidised food and cooking fuel, while the average loss incurred per family was Rs. 3,487. The highest loss reported by a family amounted to Rs. 19,245 and the lowest was Rs. 300.

(ii) ACCESS TO WATER RESOURCES

Loss of access to water sources or contamination of water sources such as wells, tubewells, deep bore wells, Lift Irrigation Points, streams, farm ponds and check dams during the violence meant that people could not access or use water for several months.

Of the 122 families surveyed, 43 families could not use their well water for three months, four families could not use well water for seven months and 24 families could not use water from their bore wells. A new bore well had to be built, which cost Rs.10,000. Two wells of two families were damaged during the violence and are not usable still. The families' costs of accessing alternative sources of water have not been estimated.

TOTAL LOSS

The value of total property and livelihood-related loss, as calculated in this impact assessment of 122 families in three villages in Kandhamal, amounts to **Rs. 2,28,76,486** (USD 4,57,529) while the average loss suffered by each affected family is **Rs. 1,86,280** (USD 3,750). This figure, however, is an underestimation of the actual loss suffered, as several costs and losses such as loss of access to healthcare and basic services, transportation costs, loss of education, psychological trauma, injury and disability, breakdown of community and social structures, loss of access to places of worship, and permanent loss of livelihood, have not been included in this study.

IX. Conclusions of the Impact Assessment Study

1. The total loss suffered by the victim-survivors of the Kandhamal violence, as revealed by the use of the HLRN EvIA tool, is significant and highlights the extensive damage and violation of human rights of the affected families.
2. It is clear from the above analysis that compensation provided to the victim-survivors by the state and central government has been grossly inadequate. Furthermore, the compensation amount was arbitrarily determined and not based on any holistic impact assessments or any human rights-based criteria.
3. While extensive damage to property, both movable and immovable, has been reported, the state has only compensated families for loss of homes. The criteria for determining 'fully damaged' and 'partially damaged' homes was not clear, and the compensation that was paid to affected families was extremely inadequate. As reported above, many families who suffered losses were left out and did not receive any compensation from the state.
4. Issues such as loss of education, psychological trauma, permanent injury/disability, forced relocation, fear, and loss of livelihood, have significant long-term impacts that have not been taken into account by the state.
5. The severe impacts on women and children, including the need for gender-sensitive and child-sensitive relief and rehabilitation, have not been addressed by the state.
6. Five years after the attacks of violence in Kandhamal, a large number of families are still living in fear and have not been able to resume their normal lives.



X. Recommendations

On the basis of the findings of this study, the following recommendations are being proposed to the Government of Odisha:

- (i) Accept the value of losses computed by the impact assessment described in this report and compensate victim-survivors adequately for the loss of property and livelihood. Since this study does not take into account the entire range of losses suffered by the families, the amount presented is an underestimation. Each affected family should, therefore be paid a minimum compensation of Rs. 3,00,000 for losses in addition to those covered by this assessment (including inter alia, loss of health and healthcare, loss of education, loss of access to basic services, psychological trauma, permanent injury and disability, breakdown of community and social structures, loss of access to places of worship, and reduced income).
- (ii) Ensure full reparations to those persons whose livelihoods were affected due to violence and strife.
- (iii) Take immediate measures to adequately rehabilitate and resettle the victim-survivors of the Kandhamal violence.
- (iv) Provide adequate financial assistance to those children whose education was affected because of destruction of books and educational material, lack of finance, unavailability of study material, loss of academic certificates, and inability to attend school during and after the violence. Take measures to ensure that children are able to resume their education in the district without fear, intimidation or threats.
- (v) Provide financial assistance to victim-survivors whose documents of land and property were destroyed and facilitate the process to obtain alternative documents.
- (vi) Make a concerted effort for the recovery and return of lands that the victim-survivor families had abandoned at the time of the violence, in order that they may pursue agro-based forms of livelihood.
- (vii) Ensure that the *Mahatma Gandhi National Rural Employment Guarantee Act* (MNREGA) and other livelihood schemes of the state and central government are applicable to the affected families, without any discrimination.
- (viii) Implement special widow pension schemes for the widows of those who lost their lives in the violence, and provide government jobs to the individuals from families that lost their members.

- (ix) Develop a new policy for victim-survivors of violence due to conflict, such as in the case of Kandhamal, and implement it immediately.
- (x) Use the international legal framework for reparations in the case of Kandhamal. In particular, the UN General Assembly Resolution on *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*,²⁷ should be implemented. The Government of India and the Government of Odisha need to take steps to ensure that families and individuals whose rights were violated receive justice in the form of restitution consisting of rehabilitation, resettlement, and return (where possible); adequate compensation; and protection from non-repetition of the event.
- (xi) Adopt and implement the *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*²⁸ to ensure human rights-based resettlement and return.
- (xii) Work towards ensuring that the confidence of the victims-survivors in the administration is restored and their economic and social well-being and quality of life is improved.
- (xiii) Investigate the root causes of the Kandhamal violence with the help of the Central Bureau of Investigation (CBI) and make public disclosure of the truth, to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victims, the victims' relatives, or persons who have intervened to assist the victims or to prevent the occurrence of further violations of their human rights.
- (xiv) Bring the perpetrators of this injustice as well as those who abetted these crimes against humanity to justice without leniency and adequately punish them.
- (xv) Prepare a long-term strategy to protect and promote secularism and non-casteism in Odisha.
- (xvi) Carry out human rights-based holistic impact assessments, which take into account both material and non-material costs and losses incurred in the short-term as well as in the long-term, after any natural or human-induced disaster in order to determine adequate rehabilitation and compensation.
- (xvii) Fulfill India's international legal obligations to respect, protect and fulfill the human rights of all to adequate housing, resettlement, access to remedy, and security of the person and home.

²⁷General Assembly Resolution, 21 March 2006, A/RES/60/147.

²⁸Available at: http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf.

Unjust Compensation

The findings of the CSNR and HLRN study reveal that the real costs and losses for a family that experiences destruction of its home in communal/sectarian/religious riots and acts of violence are immense. In the case of Kandhamal, this is all the more critical given that the families are extremely poor and are struggling to make ends meet. Almost all the families are dalits and live below the poverty line. Therefore, any scheme aimed at providing compensation must take into account the multiple losses faced by the affected families and ensure that their human rights are protected, and that they are able to adopt a lifestyle consistent with the right to an adequate standard of living.

As mentioned above, any assessment / appraisal of evictions /displacement or loss of life and property, deprivation and harassment, cruelty and torture-both physical and mental-would have to include both material as well as non-material costs, such as psychological and social effects as well as other indirect costs, including loss of children's education; loss of health; loss of access to adequate healthcare facilities; loss of livelihoods and access to natural resources, including water, forests, livestock and fodder; psychological trauma and stress; injury, and disability. The Government of Odisha and the Government of India should consider accepting and adopting the strategy and impact assessment tool developed by the *Housing and Land Rights Network* as a central tool and reference for assessing the real losses and costs after any natural or human-induced disaster and determine compensation accordingly.

The disproportionate impacts of evictions and displacement on women, children, persons with disabilities, older persons, minorities, indigenous peoples, tribals, dalits, and other groups also need to be considered. As the task is possible, the government may like to utilise the services of NGOs and other voluntary organizations in making such appraisals / assessments of loss of life and property and redress the impacts so as to provide restitution and deter the recurrence of such incidents. Such an assessment framework should also be incorporated into state laws and policies related to housing, disasters, and rehabilitation.



ANNEX ONE: Table of Losses by Category

TABLE OF FINDINGS: TOTAL LOSS INCURRED BY FAMILIES UNDER EACH CATEGORY

Categories of items lost	No. of families that suffered the loss	Highest amount of loss suffered by a single family (Rs.)	Lowest amount of loss suffered by a single family (Rs.)	Total loss (Rs.)	Average loss(Rs.)
A. Loss of Personal Possessions					
1. Clothes	122	12,100	3,00	4,63,548	3,800
2. Educational material	49	1,58,470	3,000	2,11,900	4,324
3. Electrical equipment	35	1,08,980	150	2,21,784	6,337
4. Household articles	119	2,49,820	2,870	38,83,810	32,098
5. Jewellery	90	2,91,800	700	43,98,300	48,870
6. Utensils and kitchen appliances	122	15,300	1,140	6,20,389	5,085
7. Vital documents	90	7,100	10	1,38,658	1541
B. Livelihood-related Losses					
1. Access to land	1	48,000	0	48,000	48,000
2. Agricultural items	122	1,01,700	955	11,51,853	9,441
3. Crops in field	62	1,03,550	32	12,66,839	20,433
4. Harvested crops in storage	97	1,31,750	40	16,43,966	16,948
5. Income	85	2,73,750	500	20,57,200	24,202
6. Livestock	112	1,45,250	300	41,34,400	36,914
7. Livelihood related infrastructure	83	59,000	500	9,98,600	12,031
8. Seeds	67	60,460	75	12,47,163	18,614
C. Loss of Food and Water Sources					
1. Food subsidies (rations)	109	19,245	300	3,80,076	3,487
2. Loss of water bodies	2	5,000	0	10,000	5,000
TOTAL LOSS	122	7,40,570	34,433	2,28,76,486	1,87,512

ANNEX TWO : TABLE OF LOSSES BY VILLAGE

Village wise and category-wise loss suffered by 122 affected families is shown in the table below:

	Category of items	Village 1: Barakhama	Village 2: Budrukia	Village 3: Borikia	Total (INR)
A Loss of Personal Possessions					
1.	Clothes	2,54,994	55,335	1,53,219	4,63,548
2.	Educational material	2,09,900	2,000	0	2,11,900
3.	Electrical equipment	2,21,784	0	0	2,21,784
4.	Household articles	28,33,920	4,45,940	6,03,950	38,83,810
5.	Jewellery	32,85,700	5,76,900	5,35,700	43,98,300
6.	Utensils and kitchen appliances	3,50,723	87,601	1,82,065	6,20,389
7.	Vital documents	91,505	23,800	23,353	1,38,658
B. Livelihood-related Losses					
1.	Access to land	48,000	0	0	48,000
2.	Agricultural implements	6,22,745	1,46,805	3,82,303	11,51,853
3.	Crops in field	70,370	6,03,895	5,92,574	12,66,839
4.	Harvested crops in storage	8,17,923	5,35,120	2,90,923	16,43,966
5.	Income	15,28,150	87,400	4,41,650	20,57,200
6.	Livestock	17,04,000	6,00,400	18,30,000	41,34,400
7.	Livelihood related infrastructure	6,00,000	22,100	3,76,500	9,98,600
8.	Seeds	3,41,520	9,800	8,95,843	12,47,163
C. Loss of Food and Water Sources					
1.	Food subsidies (ration)	1,34,991	54,814	1,90,271	3,80,076
2.	Access to water sources	10,000	0	0	10,000
	Total	1,31,26,225	32,51,910	64,98,351	2,28,76,486

ANNEX THREE: IMPACT ASSESSMENT MATRIX FOR THE KANDHAMAL STUDY

(Developed from the HLRN Eviction Impact Assessment Tool)

Category	Sr. No.	Items	Quantity bought/purchased			Quantity Lost	Present market cost per unit	Total Replacement cost	Causes of Loss	Proof/cross verification
			Year 05-06	Year 06-07	Year 07-08					
Equipment/ Inventory Agricultural Implements	1.	Fauda (Chopper)								
	2.	Sickle, daa								
	3.	Langala								
	4.	Jata/Bida								
	5.	Tangia								
	6.	Kuradh								
	7.	Barshi								
	8.	Sabala								
	9.	Katara/Farsha								
	10.	Gainti/Pikasha								
	11.	Gaddi								
	12.	Juhali								
	13.	Langaladaudi, gata								
	14.	Nihana								
	15.	Doli								
	16.	Tokei								
	17.	Tulu pump repair/damage								
	18.	Diesel pump								
	19.	Kodi								
	20.	Kula								
	21.	Gouni								
	22.	Mana								
	23.	Sera								
	24.	Maged, power triller, tractor								
	25.	Katuri								
	26.	Mahi								
	27.	Khusuni								
	28.	Bullock Cart								
Livelihood- related Infr- astructure	29.	Poultry farm (kukuda farm)								
	30.	Goatery farm (chheliguhala)								
	31.	Cowshed(goru guhala)								
	32.	Tailoring shop								
	33.	Haller (Rice mill machine) Flour mill								
	34.	Other								
	35.	Wooden almirah								
	36.	Stove chula								
Utilities/ services	37.	Alana								

Unjust Compensation

	38.	Bicycle							
	39.	Big size bed							
	40.	Chair							
	41.	Daudiakhata							
	42.	Dining table							
	43.	Dressing Table							
	44.	Fan							
	45.	Gas chulla							
	46.	Gas cylinder							
	47.	Gaslight, petromax light							
	48.	Generator, cooler							
	49.	Grinder							
	50.	Iron Chest							
	51.	Kantha							
	52.	Kantha - double size							
	53.	Lantern							
	54.	Mattress							
	55.	Mobile handset							
	56.	Motor bike							
	57.	Radio							
	58.	Refrigerator							
	59.	Sinduka							
	60.	Small size cot							
	61.	Sofa							
	62.	Steel almirah							
	63.	Suit case							
	64.	Table							
	65.	Tea table							
	66.	Torch							
	67.	Trunk							
	68.	TV							
	69.	Washing machine							
	70.	Water filter							
	71.	Ceiling fan							
	72.	Table Fan							
	73.	Stabiliser							
	74.	Tube Bulb							
	75.	Light							
Utensils	76.	Stabilizer							
	77.	Dish							
	78.	Gina							
	79.	Thalia							
	80.	Thali							
	81.	Glass							
	82.	Chamcha							
	83.	Bela							
	84.	Steel bucket							
	85.	Pressure-cooker							
	86.	Gara							
	87.	Tea Cup							
	88.	Earthen pot							
	89.	Karchuli							
	90.	Jug							
	91.	Steel Mug							
	92.	Dhala							
	93.	Khadika							
	94.	Dekchi Big size							

Unjust Compensation

	95.	Dekchi small							
	96.	Besan stand							
	97.	Other							
Clothes	98.	Dhoti							
	99.	Shirt							
	100.	Pant							
	101.	Saree							
	102.	Lungi							
	103.	Gamuchha							
	104.	Chudidar							
	105.	Dress							
	106.	Children's wear							
	107.	Night clothes							
	108.	Others							
Inviolable / Priceless Assets	109.	Awards							
	110.	Medals							
	111.	Certificate							
	112.	Memento							
	113.	Memorial rupertanka							
Land	114.	Homestead							
	115.	Agricultural							
	116.	Homestead land without title (patta)							
	117.	Agricultural land without title (patta)							
	118.	Forest land							
Livestock	119.	Cow							
	120.	Ox							
	121.	Goat							
	122.	Hen							
	123.	Pig							
	124.	Cock/duck							
	125.	Buffalo							
Food subsidies (rations)-loss per month	126.	Rice - 25 kg x Rs. 2 per month							
	127.	Sugar - 2kg x Rs 9.50 per month							
	128.	Kerosene -2.5 litres x Rs. 9 per month							
Crops-in Field	129.	Harad							
	130.	Kandula							
	131.	Paddy							
	132.	Radish							
	133.	Niger							
	134.	Masur							
	135.	Blackgram							
	136.	Horse gram							
	137.	Chana							
	138.	Turmeric							
	139.	Ginger							
	140.	Onion							
	141.	Chilly, Pine Potato, Tomato, Bringal, Vegetables							

Unjust Compensation

Crops - after Harvest	142.	Kandula							
	143.	Paddy-Qtl							
	144.	Radish-bida							
	145.	Niger (tila) kg							
	146.	Blackgram (biri)-kg							
	147.	Horse gram(kolatha)-kg							
	148.	Chana - kg							
	149.	Turmeric - kg							
	150.	Ginger (ada) - kg							
	151.	Onion - kg							
	152.	Beans - kg							
	153.	Chilly - kg							
	154.	Maize							
	155.	Khambaalu- kg							
	156.	Kandhamula- kg							
	157.	Mustard (Sorish) - kg							
	158.	Baigana - kg							
159.	Tomato - kg								
160.	Phulakob - kg								
161.	Bandhakobi - kg								
162.	Sima - kg								
163.	Kakharu - kg								
164.	Boitaalu - kg								
165.	Kakudi - kg								
166.	Janhi - kg								
167.	Bhendi								
168.	Lau								
169.	Jhudunga								
170.	Muga								
171.	Kalikadali								
172.	Muga								
173.	Biri								
174.	Sorisa								
175.	Kolatha								
Loss of Seeds	176.	Kandula							
	177.	Paddy							
	178.	Radish							
	179.	Niger							
	180.	Masur							
	181.	Black gram							
	182.	Horse gram							
	183.	Chana							
	184.	Turmeric							
	185.	Ginger							
186.	Onion Vegetables								
Vital documents	187.	Caste certificate on the basis below: Affidavit -Bribe to official- Transport -							
	188.	Land Records							
	189.	Bank Pass Book							
	190.	Voter ID Card							
	191.	Driving License							
	192.	Vehicle RC Book							

Unjust Compensation

	193.	Birth Certificate							
	194.	Death Certificate							
	195.	Ration Card							
	196.	Marriage Certificate							
	197.	Job Card							
	198.	ATM Card							
	199.	PAN Car							
	200.	Academic Certificate							
	201.	School certificate							
Wells/water sources	202.	Tube well							
	203.	Deep Bore well							
	204.	Well							
	205.	LI Point							
	206.	Stream							
	207.	Farm pond							
	208.	Check dam							
Work/ livelihood losses - Person days	209.	NREGA - Unorganized worker							
	210.	Agricultural labourer							
	211.	Carpenter							
	212.	Blacksmith							
	213.	Garage assistant							
	214.	Driver							
	215.	Mason							
	216.	Vender							
	217.	Shop keeper							
Children's Education	218.	School Books							
	219.	Note books							
	220.	Dresses							
	221.	School text							
	222.	Reference book cost							
	223.	School uniform							
	224.	College uniform							
Jewellery	225.	Ring							
	226.	Necklace							
	227.	Kanafula (Earring)							
	228.	Nakafula							
	229.	Naka dandi							
	230.	Suna chain							
	231.	Hatachudi							
	232.	Paunji							
	233.	Jhuntia							
	234.	Mangalasutra							
	235.	Mathamani							
	236.	Kana top							
	237.	Bracelet							
	238.	Kana jhikia							
	239.	Anta bichha							
	240.	Other							

ANNEX FOUR: EXCERPTS FROM THE ODISHA RELIEF CODE (1980)

(with latest Amendments)

Revenue and Disaster Management Department (Relief Branch), Government of Odisha

CHAPTER I

6. General Principle Regulating Relief Measures

IV) Assistance to cultivator to retrieve loss -

(1) When a major natural calamity occurs it becomes impossible for individual cultivators to take either preventive or remedial measures by themselves. The State comes to their assistance to retrieve the loss suffered in kharif crops by way of increasing production in next rabi and kharif crops by providing -

- (a) Easy availability of seeds seedlings for resowing and transplantation of the crops or for raising alternative crops;
- (b) Arrangement for quick supply of pumps for lifting water from rivers, nallahs, etc.;
- (c) Quick energisation of irrigation tube wells;
- (d) Adequate supply of credit for purchase of seeds, fertilizers, pesticides, bullocks etc.; and
- (e) Undertaking prompt and effective measures for eradication of widespread pest attack if any.

(2) Other aids in the form of remission and suspension of collection of land revenue and collection of loans are also given to cultivators with the same object in view.

7. Nature of Relief Measures

Speed is the essence of relief operations. As soon as a major natural calamity occurs or a particular area is declared by Government to be 'distress' or affected from such a calamity, one or more of the following measures, as deemed fit, may be undertaken subject, to the directive of the Board of Revenue / Special Relief Commissioner and then the scales of relief are given as per modifications to be effected by Government from time to time.

- a) Labour intensive works including relief works,
- b) Gratuitous relief,
- c) Nutrition supplementary feeding programme,
- d) Relief measures by non-official organisations,
- e) Care of orphans and destitutes,
- f) Strengthening of public distribution system,
- g) Health measures and veterinary measures,
- h) Agricultural measure including provision of credit supply,
- i) Special relief to weavers and artisans,
- j) Arrangement of food stuff and stocking of food grains in strategic places,
- k) Provision of drinking water,
- l) Provision for immediate irrigation facilities,
- m) Remission and suspension of collection of land revenue and loans,
- n) Grant of educational concessions,
- o) Enquiry into starvation cases and prompt action taken on such reports, and,
- p) Action on press reports.

CHAPTER III

DROUGHT

38. Relief to students and educational institutions

(1) In case of serious distress conditions occurring to the people consequent on a widespread natural calamity, resulting in suspension of collection of taccavi loans in certain villages, Government may consider the grant of any of the following as relief to the students in such villages [belonging to BPL families] ;²⁹

- (i) Grant of full freeship;
- (ii) Distribution of text books free of cost to primary school children;
- (iii) Remission of tuition fees, admission fees and examination fees;

[The concessions enlisted at Para 38(1)(i) and (iii) shall be restricted only up to secondary level of general education.]

(2) The question of payment of full deficit to aided institutions may also be considered.

CHAPTER IV

FLOODS

68. Grant of Emergent Relief

(b) Emergent relief in kind maybe sanctioned to the distressed people at the time of a natural calamity irrespective of consideration of status, caste, or creed.

81. House Building Grant

(1) On receipt of the preliminary flood damage report from the Collector, the Board of Revenue / Special Relief Commissioner shall take steps for allotment of funds for payment of house building grant to the eligible persons. The scale of house building grant to be sanctioned in respect of houses of people damaged due to flood, cyclone or heavy rainfall for repair or reconstruction of their houses is as follows:- '1'

- i) For completely washed away houses per family (maximum aid) Rs. 3500.
- ii) For completely collapsed houses per family (maximum aid) Rs. 2000.
- iii) For partially collapsed houses per family (maximum aid). Rs. 1000.

168. [Food Assistance]³⁰ on cards

(a) [Food Assistance] on Cards is sanctioned by Government for a longer duration depending on the intensity of a natural calamity on conditions as may be prescribed. [It can also be sanctioned by Sarapanch up to 10 days, B.D.O. up to 30 days, Sub-Collector up to 45 days and Collector up to 120 days, all cumulatively in cases of starvation and malnutrition]

2 [In respect of urban areas, the food assistance on cards can be sanctioned by Mayor in a Municipal Corporation, Chairperson in a Municipality / NAC for a period of 10 days, Sub-Collector up to 45 days and Collector up to 120 days, all cumulatively in cases of starvation and malnutrition.]

²⁹ 1. Added vide Revenue & Excise Department Resolution No.30081/R dt.1.6.1999

³⁰ Substituted for the words "gratuitous relief" vide Revenue Department Resolution No.14088/R dt.30.3.05.

3 (b) [Food Assistance to deserving persons may be extended as per eligibility criteria detailed in para 169]

4 [(c) Sarpanch should ensure that grains allotted under social benefit and food security schemes of Govt. of India and Govt. of Orissa are lifted regularly and disbursed to the beneficiaries in time]

169. Eligibility of people for Food Assistance on cards

The following categories of people living in the affected areas and having no source of livelihood will be entitled to such relief:-

- (ii) [Mentally challenged and lunatics]
- (iii) Cripples or invalid persons
- (iv) Blind persons
- (v) All persons, who due to advance age or physical infirmity are incapable of earning their living, except those who are getting old age pension, political pension or other social security benefits like food in a free kitchen.
- (vi) Children, who are below 12 years of age and who are not beneficiaries under any other feeding programme.
- (vii) Helpless widows
- (viii) All persons whose attendance on the sick or infant children is absolutely necessary
- (ix) Able-bodied persons but temporarily rendered weak due to want of food, malnutrition or as a result of illness.

CHAPTER - XII

AGRICULTURAL MEASURES AND PROVISION OF CREDIT

224. Supply of seeds

The Agriculture Department is the main agency for supplying quality seeds to the cultivator. They take steps for procurement of seeds well in advance of the agricultural season both from inside and outside the State according to the requirement in case the seed supply from the Agricultural farms becomes inadequate. The seeds are kept at district headquarters for facility of supply to the needy cultivators. In addition to seeds, seedlings are also arranged for supply particularly in the flood affected areas. If the cost of seeds becomes more than the market price of such consumption grains, the department takes steps for supplying the seeds at subsidised rate, the subsidy being met by Government.

CHAPTER - XIV

SPECIAL RELIEF TO WEAVERS, ARTISANS AND OTHERS

246. Modes of relief

The relief may be in the form of free grants for purchase of raw materials, tools and implements, including boats or nets to fishermen; for repair to workshop or shed; or giving of cash grants or loans. The modes of assistance are not mutually exclusive; a person may be given help in one or more of the above ways, if circumstances so justify.



The human right to adequate housing is more than just four walls and a roof. It is the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.

