

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

November 10th , 2008.

Report/605/Bihar.

Shri. R J Mohan Pillai
Chief Secretary
Government of Bihar,
Main Secretariat
Patna
Biha

Sub: Report on the adequacy of relief and rehabilitation efforts in Bihar.

Dear Shri. Mohan Pillai,

Please find enclosed the report on the adequacy of relief and rehabilitation efforts for the people affected by recent flood in Bihar that we were to submit to the bench of the Supreme Court, as Court Commissioners, in the matter, PUCL v. UOI & Ors. Writ Petition (Civil) No. 196 of 2001.

Sincerely,

Dr. N. C. Saxena

Harsh Mander

Challenges of Rehabilitation and Reconstruction in Bihar:

The Devastation by the Kosi River

When the mighty river Kosi changed course because of a breach in the embankment in Nepal on 18 August 2008, it discharged its waters into a new course 150 kilometres long and 15 to 20 kilometres wide. The loss of life has been fortunately small for a disaster of this scale. The government estimates are that 194 persons died in the floods, although non-officials hotly contest these figures. But even if the numbers of the dead swell manifold with evidence of missing and drowned persons burgeoning over time, it will still be far below the levels of other national natural disasters of the past decade, such as the Orissa super-cyclone of 1999, the Gujarat earthquake of 2001 and the tsunami of 2004, in each of which deaths mounted to tens of thousands of persons.

But it would be a grave mistake to judge from the modest loss of life that this is a smaller calamity than any of these, because the devastation of homes and livelihoods by the wayward river far surpasses the worst of these other disasters. One of the major tributaries of the Ganga, Kosi is often called the Sorrow of Bihar because of its frequent floods and changes in course. However, what transpired since the breach in the embankment in Nepal is no ordinary flood. As the river impetuously retraced its original course of more than a century ago, it swept away more than 3 lakh houses in 980 villages in the districts of Supaul, Madhepura, Saharsa, Araria and Purnea. It destroyed standing crops of paddy, wheat and vegetables in 1.10 lakh hectares of fertile agricultural land. An estimated 32 lakh people lost their homes and livelihoods, many times more than in any natural disaster in the country in recent history.

The challenges of reconstruction are aggravated further by the fact that the people affected include some of the most chronically impoverished people in the country, and some of the most unequal and divided societies on caste and class lines. These are

people who had never faced floods in their lifetimes because there was no river near their homes to flood its banks. As they incredulously saw with terror the raging waters of the unfamiliar river enter their villages and fields, many observed that this was no flood; it was *pralay* or the destruction of the world predicted in the scriptures. In regions with no history of floods, there were no country boats and motor boats for rescue locally available. These had to be requisitioned from other districts, and military, paramilitary and civil authorities launched one of the largest evacuation operations ever, rescuing lakhs of people who had taken shelter on embankments, canal walls and the roofs of homes that were still standing. More than 4 lakh women, men and children were housed in relief camps in tents and school and college buildings, whereas others took refuge with relatives and some even left the state. Given the enormous scale of devastation, and relatively very small assistance from international and national humanitarian agencies, the state administration has managed to house large dispossessed populations in orderly camps, with arrangements for food, milk and schooling for the children. Winter will come with fresh challenges for the camp residents.

However, as the flood waters have begun to recede, anxious villagers are gradually leaving the camps for their villages, to assess their losses, protect what may be left of their homes and possessions, and pick up the strings of their lives. Apart from almost unprecedented scale of devastation and severe constraints of resources and the impoverishment of the affected people, the greatest impediment is the uncertainties of the future course that the wayward river may choose to take in the years to come. It is being debated between experts whether neglect and corruption in the maintenance of the embankment caused the destructive breach, or whether the design of the embankment was itself intrinsically defective and this was a disaster waiting to happen. Villagers seek one guarantee from authorities before they rebuild their homes and try to reclaim their lands and livelihoods, and that is that the waters of the river Kosi will not return to their villages in the coming year. But officials off the record

affirm that they are unable to make any such assurance.

The Government of Bihar has made a massive rehabilitation and reconstruction plan and appealed to the central government for resources. This will take its own course. However, as Commissioners of the Supreme Court in the writ petition 196/2001, we are deeply concerned that certain measures need to be taken urgently to secure the right to food with dignity for all affected people, especially as they leave the relief camps and return to their homes. These mainly involve a massive expansion and saturation coverage of the various food and livelihood schemes which the Commissioners are responsible to monitor on behalf of the Supreme Court. The immediate measures, with justifications for each, as proposed by the Commissioners is given below:

1. A special NREGA in the 980 villages in the affected districts of Supaul, Madhepura, Saharsa, Araria and Purnea may be launched immediately, waiving the normal restrictions on number of days of work and numbers of persons per family who are eligible to work. The affected persons may be permitted to receive wages for working on rebuilding their own homes or desilting and reclaiming their own fields. There should be special efforts to ensure that there is enough work for dalit and landless families around the year, for rebuilding their own homes and also public roads, schools, local water works and embankments, plantations and other public buildings.
2. A special provision should be made in the Antyodaya Anna Yojana to cover for a period of 2 years all affected families in these 980 villages in 5 districts with AAY cards. A special task force may be constituted within the Food and Civil Supplies Department to ensure that the ration shops serving these villages are adequately stocked and are opened on all days of the month.
3. There will be a massive demand for building materials, therefore at least in every

block one or more low cost building centres may be set up, which will develop low cost designs of houses and housing materials, and provide massive employment opportunities under NREGA. Because of uncertainties regarding future floods, it is recommended that instead of concrete structures, people are assisted to build low cost and labour intensive homes, that can easily be rebuilt.

4. Many of the poorest families lack house sites, therefore care should be taken to ensure that all persons are granted legal house sites as the starting point of the process of reconstruction.

5. There should be a special saturation of ICDS in the affected villages, ensuring that every hamlet in these 980 villages has a functioning centre within 3 months. These AWCs should supply SNP twice rather than once for a period of 2 years.

6. Likewise, within 3 months, all aged persons who are BPL and above 65 years should be covered by old-age pensions in a special drive.

7. There is a grave danger of the trafficking of children in these areas because of extreme poverty and family distress, or their dropping out of school into child labour. The government should create at least 2 community based residential schools in every district headquarters, one for boys and one for girls, within 3 months, and also create panchayat level child protection committees.

8. Mid day meals should be started for all children between 6 and 14 years, regardless of whether the school has begun to function again, or whether the child is school going or not.