

# The Cruel Side of Delhi's Beautification: Illegal Demolition in Baljeet Nagar



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# Contents

<i>Acknowledgments</i> .....	v
<i>Profiles of Civil Society Organizations Involved</i> .....	vii
<i>Introduction</i> .....	xi
<b>Testimonies</b> .....	<b>17</b>
● Prabhu Dayal .....	19
● Anu Devi .....	21
● Balwant Singh .....	22
● Poonam .....	24
● Sanjay Kumar .....	26
● Kamlesh Devi .....	28
● Siyaram Giri .....	31
● Anveesh Kumar .....	32
● Lal Kumar .....	34
● Shakuntala Devi .....	36
● Pushpa Devi .....	39
<b>Jury Declaration</b> .....	<b>41</b>
<b>Photographs: Baljeet Nagar Demolition</b> .....	<b>47</b>
<b>Annexures</b> .....	<b>57</b>
● <b>Annexure I: Overview of International Law, National Legislation and Caselaw Protecting the Right to Adequate Housing</b> .....	<b>58</b>
☞ International Law .....	58
☞ National Law .....	75
☞ National Case Law .....	89
● <b>Annexure II: UN Basic Principles and Guidelines on Development-Based Evictions and Displacement</b> .....	<b>98</b>
☞ Basic Principles and Guidelines on Development-based Evictions and Displacement .....	99

- **Annexure III:** Relevant Delhi High Court Orders ..... 121
  - ☞ W. P. (C) 2033/2011 and CM No. 4327/2011 (for stay) [25.03.2011]... 121
  - ☞ W. P. (C) 2033/2011 and CM APPL No.4581/2010 [31.03.2011]..... 124
  - ☞ W.P. (C) 2033/2011 and CM APPL No. 4581/2011 [04.04.2011]..... 126
  - ☞ W.P. (C) 2033/2011 and CM No. 4581/2011 [07.04.2011]..... 128
- **Annexure IV:** Selected Media Articles..... 130
  - ☞ 600 slum clusters razed by DDA in West Delhi before HC stay ..... 130
  - ☞ DDA continues, High Court stays jhuggis' demolition..... 131
  - ☞ Basti razed to ground, HC stays drive..... 133
  - ☞ Slum dwellers accuse DDA, police of taking bribe ..... 135

## Acknowledgments

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The success of the Hearing also owes to the Jury Members, some of whom were contacted at the last minute, for their enlightening perspectives on the issues emerged during the Hearing as well as their sincere commitment to the cause.

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**Francesca Feruglio**  
**Human Rights Law Network**

## **Profiles of Civil Society Organizations Involved**

### **Human Rights Law Network (HRLN)**

HRLN is a collective of lawyers and social activists dedicated to the use of the legal system to advance human rights in India and the sub-continent. HRLN collaborates with human rights groups, and grass-roots development and social movements to enforce the rights of poor marginalised people and to challenge oppression, exploitation and discrimination against any group or individual. HRLN provides pro bono legal services, conducts public interest litigation, engages in advocacy, conducts legal awareness programmes, investigates violations, publishes 'know your rights' materials, and participates in campaigns.

[www.hrln.org](http://www.hrln.org)

### **National Campaign on Dalits Human Rights (NCDHR)**

National Campaign on Dalit Human Rights is a forum committed to the elimination of discrimination based on caste. A democratic secular platform led by Dalit women and men activists, with support and solidarity from movements and organizations, academics, individuals, people's organizations and institutions throughout the country who are committed to work to protect and promote human rights of Dalits focusing on women and children. NCDHR is composed by three movements: All India Dalit Mahila Adhikar Manch (AIDMAM), Dalit Arthik Adhikar Andolan (DAAA) and National Dalit Movement for Justice (NDMJ).

<http://www.ncdhr.org.in/>

### **Housing and Land Rights Network (HLRN)**

HLRN is an integral part of the Habitat International Coalition, and works at various levels to promote the human rights to

adequate housing and land, especially for the most marginalised and excluded populations. A particular focus of HLRN's work is on promoting and protecting the equal rights of women to housing, land, property and inheritance. HLRN aims to achieve its goals through advocacy; fact-finding, research and documentation; human rights education; and, outreach through network building at local, national and international levels.

[www.hic-sarp.org](http://www.hic-sarp.org)

### **Indo Global Social Service Society (IGSSS)**

Established in 1960, IGSSS is an Indian development support organization that works with a vision to empower the poor and marginalized sections of society. The organization works across four core areas in 21 states of India: Sustainable Livelihood, Youth Development, Disaster Risk Reduction, and Urban Poverty. In all the above four core areas Gender and building leadership at the community level and the NGO level are the strategic focus. IGSSS has also helped many organisations (national and international) through its consultancy studies that have served to establish credibility and standards in the development sector.

<http://igsss.org/>

### **Centre for Social Equity and Inclusion (CSEI)**

CSEI is engaged in deepening democracy and development in our body politic by enhancing the stakehold of the excluded and marginalised communities in socio-economic and cultural (SEC) rights. Recognising exclusion and discrimination against Dalits, Adivasis and other minority communities, particularly children, youth and women among them, CSEI keeps 'equity-inclusion' as our watchwords in focusing on their rights to education, employment and governance. CSEI is engaged in building tools

for measuring discrimination and exclusion, strengthening development interventions by members of excluded communities and work with other civil society networks, state, UN agencies and the corporate sector to promote inclusive agenda. 'Aligning people to policy and policy to people' is a core mission of CSEI.

### **Labour Education and Development Society (LEDS)**

Established in 1999, LEDS has been engaged in numerous activities and campaigns addressing the issues of livelihood, education, health and social security of unorganized sector workers. LEDS perceives and addresses issues from rights based approach and social as well as gender equality and equity framework. The organization excels in community outreach, community structure building, community mobilization, network/ alliance building and multi- dimensional advocacy. LEDS today undertakes numerous initiatives, and supports and complements the endeavors of the community based organizations. It also networks with other civil society outfits and builds partnerships with government agencies.

leds.jaipur@gmail.com

## Introduction

Since the late 1980s the Government of Delhi has initiated a surge of demolitions and forced evictions under the justification of “slum up-gradation” and “city beautification.” However, this crusade is taking place at an alarmingly high cost to Delhi’s residents; thousands of whom have lost their houses and property and been rendered homeless. These losses are a result of massive eviction drives central to the Delhi Government’s aspiration to develop a “world class city”; a city which sadly has no place for the urban poor. For example, in the run up to the 2010 Commonwealth Games, the Government displaced over 200,000 persons<sup>1</sup> by demolishing entire settlements, clearing out large areas, and deporting slum dwellers and homeless citizens away from the city centre and thus from the sight of international media and foreign visitors.

Meanwhile resettlement colonies, when and if provided, boast grossly inadequate conditions with no sewage systems, electricity, or garbage collection and located unrealistic distances from public services such as hospitals and schools. Factors such as residents’ access to health facilities, schools, public transport and workplace are patently disregarded. Despite existing policies and regulations, coupled with strong domestic jurisprudence and international law obligations, most evictions take place illegally and rights of the poor are trampled on.

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1 See “Planned Dispossession: Forced Evictions and the 2010 Commonwealth Games,” Housing and Land Rights Network, Delhi, February 2011; available at: [www.hic-sarp.org](http://www.hic-sarp.org).

## Baljeet Nagar: Background

The recent demolition and forced eviction in Baljeet Nagar, an area in Delhi's West District, illustrates well the scenario of economic deprivation suffered by the poor in India's capital city. The case elucidates the interrelatedness of the right to adequate housing and the right to adequate standard of living with the rights to food, access to water, health, livelihood and education.

Baljeet Nagar is part of Anand Parvat, a settlement created almost 20 years ago when immigrants from nearby states, primarily Rajasthan and Bihar, moved to Delhi in search of better employment and education opportunities. Baljeet Nagar has around 4000 *jhuggis*, out of which around 1000 were illegally demolished by the Delhi Development Authority (DDA) on Wednesday the 23<sup>rd</sup> and Thursday the 24<sup>th</sup> March 2011. Approximately 80% of the people living in Baljeet Nagar are Dalits and the area is gravely under served in terms of health facilities (hospitals and Anganwadi/ICDS Centres<sup>2</sup>) and sewage systems. However there is electricity access and children are enrolled in nearby Government Primary, Middle and Secondary Schools. Moreover, an Anganwadi Centre was due to be set up on the 25<sup>th</sup> March, the day after the demolition.

On the 23<sup>rd</sup> and 24<sup>th</sup> of March 2011, a large-scale demolition took place in Baljeet Nagar. The illegal operation, authorized by the Delhi Development Authority (DDA), affected over 4,000 residents, with nearly 1000 *jhuggis* illegally demolished. With five bulldozers and hundreds of armed Delhi police officers, the DDA authorised an unlawful demolition which occurred without

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2 Under the Integrated Child Development Scheme Anganwadi Centres must provide for supplementary food, preschool education and basic health services to children below the age of 6 and pregnant and lactating women.

any due process. Notice was not given to the residents, nor were any meaningful eviction and rehabilitation plans on record. On the 23<sup>rd</sup> March around 600 *jhuggis* were bulldozed and eight residents were informally arrested and arbitrarily detained at Patel Nagar Police Station for several hours. The entire operation bespoke of illegality, with some of the detainees beaten and abused by Police Officers who were later reported as extorting bribes from Baljeet Nagar's residents for many years. Indeed, although the demolition received formal sanction from the Delhi Government and was scheduled by local authorities, just the day before the bulldozers razed their homes, residents of Baljeet Nagar were allegedly forced to pay huge amounts of money to the DDA and Delhi Police officials.

### **Baljeet Nagar Demolition: Legal Intervention**

In response to the unlawful demolition and resulting human rights violations, a team of activists from the Human Rights Law Network (HRLN) visited the site on 23<sup>rd</sup> March and urgently drafted a Petition to the High Court of Delhi to obtain an immediate stay on the illegal operation. On 24<sup>th</sup> March, while HRLN advocates were trying to delay the demolition, thousands of residents protested peacefully along with activists from the Indo Global Social Service Society (IGSSS) and the National Campaign for Dalits and Human Rights (NCDHR), Praxis, Centre for Social Equity and Inclusion (CSEI), Labour Education and Development Society (LEDS), Shahri Adhikar Manch (SAM) and HAQ. Finally the Delhi High Court issued a stay order and the bulldozers were stopped at 3 pm; by this time around 400 *jhuggis* were already destroyed.

The sudden demolition of the *jhuggis* in Baljeet Nagar immediately placed the lives of the most vulnerable at risk, particularly those of pregnant women and young children. The community was

torn apart by the abrupt dismantlement: pregnant and lactating women had no access to health services, an immediately dangerous situation which continues today. Thousands of residents were left starving and shelterless, exacerbating their already precarious living conditions. Finally, numerous students missed their annual exams, with the risk of creating a generation of dropouts.

In an order dated 25.03.2011 Justice Muralidhar directed the supply of basic relief, including, but not limited to, drinking water, food and health services. The Delhi High Court also raised questions regarding the legality of the operation and “whether any door-to-door survey was undertaken of the *jhuggis* prior to commencing the demolition action... The DDA will state on affidavit whether... [they] drew up a plan of action to ensure that the right of education of children would continue undisturbed notwithstanding the demolition action of the DDA.” Significantly, the Court underscored the repercussions that one single illegal action has on a “bundle of rights” and ordered the DDA Commissioner to “constitute a team of three senior officials who will immediately ensure that basic facilities like drinking water, sanitation, temporary shelter and health services are provided.” The need for prompt provision of essential services was reiterated on 31.03.2011, 04.04.2011 and 07.04.2011, when Justice Muralidhar outlined a detailed plan of action and instructed the DDA to clean the site from the debris so that people could remove their belongings. Yet in spite of these binding Court orders, State intervention has been either inexistent or insufficient: food packets have never reached the colony; mobile toilet vans have not been dispensed with water; electricity was not restored; mobile health units only started to reach the site in late April; and, most gravely, the Delhi Jal Board has failed to deliver drinking water on a regular basis.

## Forced Evictions: Violation of Human Rights

The United Nations addressed the issue of forced evictions in its Human Rights Commission resolution 1993/77, which affirmed that forced evictions are *prima facie* violations of the human right to adequate housing and are a contributing factor to the phenomenon of homelessness.

Forced evictions also constitute violations of a range of other internationally recognised human rights such as security of the person and security of the home. In cases accompanied by violence and lack of due process, a common phenomenon, they violate related human rights to health, food, water, livelihood, education, freedom from cruel, inhuman and degrading treatment, and freedom of movement.

The authorities carrying out forced evictions especially violate people's entitlement to: security of tenure and freedom from forced evictions; access to and benefit from public goods and services; information, capacity building; participation and self-expression; resettlement and adequate compensation for violations and losses; and physical security and privacy. All of the above are elements of the human right to adequate housing as recognised in international law.<sup>3</sup>

Lastly, it is vital to remain cognisant of the reality that forced evictions are often associated with physical and psychological injuries to those affected, with a particularly heavy impact on women, children, people already living in extreme poverty, minorities and other marginalised groups such as Dalits.<sup>4</sup>

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3 "Handbook on the UN Basic Principles and Guidelines on Development-based Evictions and Displacement," Housing and Land Rights Network and YUVA, New Delhi: 2008; available at: [www.hic-sarp.org](http://www.hic-sarp.org)

4 Ibid.

## **Civil Society Measures**

The network of Civil Society Organisations (CSOs) supporting Baljeet Nagar's population in the aftermath of the demolition has taken a series of steps to provide legal assistance to ensure the delivery of basic services and raise awareness of the gross human rights violations that have been suffered. For instance the CSOs undertook a number of thorough surveys of the colony's population; this included conducting individual interviews and focus group discussions and identifying acutely vulnerable groups such as pregnant and lactating women and children whose right to education has been particularly affected. The network has also been persistently lobbying concerned authorities for the supply of water tanks, mobile toilets, mobile health vans, temporary shelters and food as per the above listed Court Orders. However, these formidable efforts clash against the Delhi Government's unwillingness to recognise that illegal demolitions and forced evictions are human rights violations that result in humanitarian crisis. To acknowledge this would signify a first step towards breaking the circle of discrimination and economic dispossession that the poor face in India; a step the Government seems unwilling to take.

Given the failure of the Delhi Government to implement the orders of the High Court of Delhi, the grossly inadequate living conditions at Baljeet Nagar, and the continued violation of the human rights of residents resulting from the forced eviction and its aftermath, several CSOs organised a Public Hearing at Baljeet Nagar on April 18th, 2011. The Hearing was attended by over 500 residents of Baljeet Nagar and other nearby areas under threat of eviction, NGOs and media personnel. It provided an opportunity for the affected community members to offer testimonials

recounting the egregious violations experienced before, during and after the demolition. Significantly, the Hearing has enabled people to raise their voices in front of a prestigious Jury comprised of former Chief Justice, High Court of Delhi - Justice A.P. Shah; Director, Business and Community Foundation (BCF) – Amita Joseph; Former UN Special Rapporteur on the Right to Adequate Housing – Miloon Kothari; and Former Director, Ankur – Jaya Shrivastava. The panel appreciated the intersectional nature of the violations occurred and contributed invaluable insights on the steps to be undertaken by the Government to prevent future crisis.<sup>5</sup>

As a follow up to the public hearing an 'Eviction Impact Assessment Tool,' developed by Housing and Land Rights Network (HLRN), was utilised to survey more than 100 evicted families living at Baljeet Nagar. The tool, the first of its kind, aims to calculate the true cost of an eviction by attempting to provide an estimate of both the quantitative and qualitative losses incurred by the evicted. The data collected, in addition to all forms of documentation useful for rehabilitation purposes, are being submitted to the High Court of Delhi and the Government.

As the Honourable Supreme Court of India underscored in *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan & Ors.*, "the difference between the need of an animal and a human being for shelter has to be kept in view. For an animal, it is the bare protection of the body; for a human being, it has to be a suitable accommodation which would allow him to grow in every aspect – physical, mental and intellectual." Yet evicted citizens are forced to live in inhumane conditions; they have no option

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<sup>5</sup> The declaration and recommendations of the jury are presented later in the publication.

but to sleep without a roof over their heads, to be deprived of their belongings, to starve, become sick, and miss their school exams. Similarly we, as civil society, have no option other than our open condemnation of the Government's land grabbing in the name of profit and destruction of homes and livelihoods of the urban poor in the name of "development." We have no option but to feel a compelling need to raise awareness of what has become a routine practice of deprivation, contrary to national and international Rule of Law. Finally we are left with no option other than our complete opposition, with all available tools, to the gross violation of human rights suffered by Indian people at the hands of the State.

With this in mind, a report documenting selected testimonies by affected residents and the declaration of the Jury, was conceived and developed. This report aims to cast light on the impact that a single unlawful demolition has on a range of human rights, such as right to health, livelihood, education, housing, food and ultimately on the right to life.

It is hoped that the moving testimonies of affected women, children and men and the gross violations of human rights documented in this report will urge the Government of Delhi to accept responsibility for its acts of commission and omission and take immediate action to bring about justice, uphold its national and international legal obligations, and prevent further forced evictions of the urban poor.

**Francesca Feruglio  
Shivani Chaudhry**

# Testimonies





## **Prabhu Dayal**

**Name:** Sri Prabhu Dayal s/o Late sri Moolchand

**Age:** 49 years

**Marital Status:** Married

**Family Members:** 6 (wife, 2 sons, 2 daughters)

**Profession:** Painter

**Residence:** Jhuggi no. F- 229/A, Baljeet Nagar, Delhi

“I would like to thank everybody who has come and is present here, to support us in raising our voice against the unlawful demolition. Today, we will also have the honour of having among us, Former Chief of Delhi High Court. He, along with other imminent people, will listen to your stories and help you get justice.

I was born here in Baljeet Nagar; my family has been here since the time of my father’s marriage.

On the first day of demolition, the 23<sup>rd</sup> March 2011, when the bulldozers came we were right here. Around 11 am they started demolishing the jhuggies. There was no information, no one told us about it. One of my close friends told us at night that a stage was being set up. People were made to think that Shrimati Sheila Dixit was to arrive at the Ramjas Ground with other legislators – Mr. Rajesh Mehra, Ramakant Goswami and Ajay Makhan – to hold a meeting there.

In the morning, we enquired about the reason for the presence of police in such a huge number, as we could see 2500 police officers standing there; a lot of people present here witnessed it. They didn't talk to anybody, not even let anybody come close. They just started to lathicharge and in that circumstance a child lost his eye. The doctor said that he can never be cured.

I was arrested in the middle of this process along with others. We were just made to sit in a locked room, with a water bottle, and they didn't allow us to meet anybody. A lot of people came looking for me, around 20-25 persons. The police officers told them, 'There is nobody here with the name of Prabhu Dayal.' Some of my friends were even beaten up while in Police custody, but nobody was taken to the hospital. We were finally allowed to go somewhere around 7 – 7:30 pm. We pleaded with the DDA officials and local police, but they didn't listen to us. We found our belongings beneath the debris. Most of our household items and daily-use articles were buried under the debris. The government has taken no steps for our rehabilitation.

No explanations have been given for what happened. We're just living under the sun and rain. We have no water supply, no facility for food, no electricity. The electricity Department officials said that since there is no jhuggi, there will be no electricity connection.

We help each other out. Some of us try to organize and help all the people for everyday needs, but we receive no other help from the outside at all."



### **Anu Devi**

**Name:** Mrs. Anu Devi. W/o Sri Rakesh Kumar.

**Age:** 25 years

**Marital Status:** Married

**Family Members:** 4 (husband, 2 sons)

**Profession:** house wife

**Residence:** Jhuggi No. F- 283, Baljeet Nagar, Delhi

“I am six months pregnant, and have had lots of problems since the demolition of my *jhuggis*. Moving around has been made much more difficult because I can’t walk around on stones asbestos sheets and other debris. There is no adequate supply of food. I am unable to take care of myself and my child. In fact my children are sick, and I am also sick – I am weak and have stomach aches, and I cannot sleep properly as it is too hot during the day and there is dust all around. During the nights we have insects, flies, and sometimes it rains. Moreover we have to keep a look-out for thieves as well.

In order to go to the hospital, I have to travel in a crowded bus. I haven’t gone in two months. I haven’t been vaccinated and have been unable to get medicines because my pregnancy is not registered and I need a Janani Suraksha Yojana (JSY) card in order to get these benefits. As a result of that I am forced to go to private clinics and buy medicines from private shops as the government hospitals wouldn’t provide me the medicinal supplies.”

**Balwant Singh**

**Name:** Balwant Singh. s/o Shri Ganesh Singh

**Age:** 40 years

**Marital Status:** Married

**Family Members:** 5 (wife, 1son, 2 daughters)

**Profession:** Peon

**Residence:** Jhuggi no. F- 185, Baljeet Nagar, Delhi

“The demolition began in our absence and when we arrived at the area we were told that there was a meeting going on between Sheila Dixit, Ajay Maken and others.<sup>1</sup>

We then got to know about the demolition, and at that stage it was too late to move belongings out of the jhuggis. When we tried to shift our things out, we were intimidated to leave immediately by the DDA and Police officials, therefore a lot of our stuff got damaged. In the middle of the demolition, I asked the DDA officials to leave some part of the house that was still and not tear it down, but they refused to do so. All my belongings are now broken. All my plastic chairs are broken. They never gave us time to properly move all our things out of the house. Since I am handicapped I required some more time and help to take my belongings out of the jhuggi.

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1 Chief Minister of Delhi and Members of Parliament.

We also suffered heavy personal losses. A lot of kids got hurt. One of my brothers got disabled as they injured his leg.

I request the Government that our houses are re-built just as they were. We are fed up of all the dust and mud. We are not even able to eat properly. All the families are frustrated, we are all frustrated; the kids cry all day. How can one live under a plastic sheet for long? We can't even sit under a tree all day.

The amount of problems we are facing today, we have never faced so many. It has become difficult to survive now. A friend of mine drank the contaminated water and is now suffering from jaundice; he's currently being treated. Children had their exam on the very same day. My own child who's in class 8 had his exam. We jumped over the wall, to take him to school. The police officials began a lathicharge, and they had also put up 2 barricades near the school, which is 15-20 minutes away. What kind of exam would he have written? He was disheartened because of the demolition of our house. He was extremely upset. And this is a problem for others as well, because even if the children reach the school, their heart is at home. They're always thinking about whether they'll get anything [back] or not, whether their house will be rebuilt or not."



### **Poonam**

Name: Ms. Poonam. D/o Sri Bablu n Mrs. Kausal Devi

Age: 14 years

Marital Status: Single

Family Members: 5 (mother and father, 2 siblings)

Profession: Student

Residence: jhuggi n. F- 185, Baljeet Nagar, Delhi

“I am a student of 12<sup>th</sup> standard and on 23<sup>rd</sup> March I was supposed to have my political science exam. But once the demolition started many people started coming to Baljeet Nagar; there was a lot of chaos. We were abused by the police and my younger sister also got hurt, so my mother came there as well to see what was going on. The police just asked us to leave; they did not allow me to go for exams on 23<sup>rd</sup> March without giving any explanation. However I managed to sneak away but I missed half of my exam. The police did not allow us to leave the premises.

Since then we have been living in dirty conditions and are exposed to sun and dust all the time. I have not been able to study properly as there was no electricity as well other basic amenities like a place to sleep properly. In addition, we did not have time to take our belongings out so I lost my school books and admission

card under the debris. Now I had to apply for a new card again, and got it re-issued.

They should have thought before taking the step, during the examinations. Yet, the bulldozers were set to work.”

**Sanjay Kumar**

Name: Mr. Sanjay Kumar s/o sri. Rajman

Age: 25 years

Marital Status: Single

Family Members: 10 (mother and father, 3 brothers, 1 sister-in-law, 3 cousins)

Profession: flower seller

Residence: jhuggi no. F-235/B, Baljeet Nagar, Delhi

“On 23rd March 2011, when I came back from work, I saw my house broken. They closed all roads from all four sides. There were so many police officials till Ramjas Colony. And if we were enquiring about what was going on, they asked us to leave and let them do their work. Then police officials began to lathicharge and tore down the jhuggis. I’ve got so many injuries, as you can see, and all my belongings are broken. I’m in a state of shock and I can’t even recall my father’s name.

Where should I go and die now, when I spent so much to build the house?

I’m unable to sleep or eat.

DDA and police officials have been constantly extorting money from us. They would take Rs. 5,000 from one person, 6000 from the other and so on. 2-3 years ago, when the houses were being

built, the police official took Rs. 50,000 from us and when we asked for his contact details, he refused to give it. Then he tore down my house, without even notifying us before hand. They used to tear down the walls, and then kick us demanding money. They said, 'Give us money, only then will we build a wall for you.' I saw the same officials who had previously taken money from us during the demolition, but they were busy roaming around all the houses and we couldn't ask them why they were demolishing our houses even after we had paid them so much only a few years ago."

**Kamlesh Devi**

Name: Mrs. Kamlesh Devi.  
W/o Sri Lal Kumar

Age: 39 years

Marital Status: Married

Family Members: 7 (husband,  
2 sons, 3 daughters)

Profession: house wife

Residence: jhuggi No. F- 189,  
Baljeet Nagar, Delhi

“My family has been living here since 1995-96. I have 3 kids: 2 of my girls are in high school, while the youngest son is in the 6<sup>th</sup> grade. This place has cost me so much, as we pay very high taxes too. We pay all our taxes! I have the 2002 Identity card. Then, it was cancelled and we got a new one in 2009. This situation has been going on since 1995-96; they’ve changed the DDA staff over 4 times and identification documents change every 5 years. Everybody whose house was demolished has documentation. And every one of us has voted. We vote every time.

Before 23<sup>rd</sup> March, the day our houses got demolished, I saw Pushpa paying a bribe of Rs. 5000 to the officials. I asked her why she was giving money, when the house will be torn down anyway. She asked me not to worry and said that the houses will not be demolished; they’re saying all this merely to create fear.

My husband is the sole earner of the household; he works in a factory. At the time of the demolition, he was coming home from work, but they didn't let him in. They hit him with a stick around 4 times, arrested him and locked him in the Patel Nagar Police Station. They kept him locked for 6 hours. There were 8-10 more people with him: Toshi and Ravi, who used to fill in for him in his absences at work, were called and arrested too. Some of us went to the police station after the demolition and requested them to release our family members. After much insisting they gave in to our request and let the 7-8 people they had arrested go. They didn't even let them come to the site of demolition and see what all has happened to their houses. Mostly, it was S.H.O. Dinesh and Saganand, who created a ruckus and verbally abused everybody.

I've never seen anything like this in years, I've never faced such problems, and I wouldn't have, if they hadn't lied to us.

What I witnessed on 23-24 March, I've never seen anything like that before. They did the same thing to all my siblings and to all other jhuggis. They never notified us, and said that there was no need to worry as no bulldozer would come there. They started fighting, as soon as they entered. One female police official hit me on my leg with a stick and verbally abused me. She threatened me and said, "I recognize your face now. If you say one more word, I'll lock you up in prison for 6 months." Then I asked them if I should call somebody to help me in taking my belongings out of the house. Others also asked the DDA officials if they could take their things out of the house. I also asked other people to come help me in moving my stuff out, but everybody was busy shifting theirs.

I'm very thankful to the NGO activists for supporting us. But there is no service or facility that can help protect our children from

the scorching heat. All DDA officials have the fortune of living in air-conditioned houses, but we have no such luck. We don't even own a fan. Children suffered much more than adults, as some came down with fever. My children for example didn't eat for 2 days. Besides, since we have no place else to go, a lot of our things got stolen. We had to guard our belongings for around 8 days."

**Siyaram Giri**

Name: Mr. Siyaram Giri. S/o Sri Rambriksh Giri.

Age: 37 years

Marital Status: Married

Family Members: 6 (wife, 3 sons, 1 daughter)

Profession: salesman.

Residence: jhuggi no. F-227/A, Baljeet Nagar, Delhi

“I asked a policeman why so many cops were there. He said that Sheila Dixit, Ajay Makhen etc. were coming. Soon there were 2,500 policemen and, after a meeting, they called five bulldozers. They gave us a limited amount of time to take a few things from our houses, and told us that no more time would be given. They knew exactly where everyone's houses were.

When we asked to talk to the MLA, his representatives said that he was out and asked us to call after a week; the Municipal Commissioner also does not listen to our problems.

I have been living in this place since 2000 and I have all the necessary documents, but I cannot get them now, as they were in my house, which was demolished. I do not know what the future holds for my little children if, at this age, they have to go through such hardships. I can't go to work: who will take care of my family when they are on the streets and when they have nothing to eat?”



### **Anveesh Kumar**

Name: Anveesh Kumar s/o  
Ramesh Tiwari

Age: 5 years

Marital Status: Single

Family Members: 3: father  
(Ramesh Tiwari), brother, aunt  
(Kusum)

Residence: jhuggi n. F-258,  
Baljeet Nagar, Delhi

Anveesh: “I lost my eye during demolition. On 24<sup>th</sup> my father was trying to evacuate our belongings from the jhuggi and while running during that process I fell down and injured my eye. I am now going to preschool and I really want to study more, but my eye hurts and pains badly.”

Ramesh: “I’ve been living here since 2002-03. Most of our documents got lost during the demolition as they must have got buried beneath all the mud and debris. I have 2 kids. My wife died 5 years ago, so the kids live with me. On the 24<sup>th</sup> March I was trying to evacuate our house, and the police began a lathicharge. I was carrying Anveesh to protect him and in all the running and shifting around, he fell down and injured his eye. The police’s *lathis* added to the injury. I was hurt too; but my son lost his eye and it pains him a lot. He wished to study but now he can’t. The doctor who visited him said that the retina is irreversibly

damaged. Since both eyes were injured during the demolition, he is now undertaking treatment to avoid losing the sight of the other eye.”

Kusum: “They lied to us about the meeting of Sheila Dixit and Sonia Gandhi in the park. We were asked not to leave the house because of the meeting. But when we went to the park, we saw that there were many bulldozers and police officials, instead. The demolition went on till 7pm in the evening. The police verbally abused us when we asked them why they didn't notify us before. I was in a dilemma, as I couldn't decide if I should protect my children or guard our belongings.”



### **Lal Kumar**

Name: Lal Kumar s/o Shri Jaisi Ram

Age: 44 years

Marital Status: Married

Family Members: 7 (wife, 2 sons, 3 daughter)

Profession: Accountant

Residence: jhuggi No:- F-187, Baljeet Nagar, Delhi

“Most of the people of this community has been living here since 2001. Yet there was no notice prior to this demolition. I was going to the office and I saw a police van standing there, so I came back. I saw that there were many police and government officials in Ramjas Ground.

We called one of my brothers up and he came here, from the toilet. He was stopped here, too. And we were stopped here, along with him. Then the police officials didn't let the people from this side go over to the other side, or the people from the opposite side to come here and they even arrested some of us. We said that we'll only talk to the DDA people if they show us an official notice of demolition along, and we won't object. But the police didn't let them get in, so they sat there on a strike. The DCP official locked us up in the Patel Nagar police station. In the evening, when the public departed from here around 7 pm and the demolition got over, then they released us.

I would now like to talk about 3 points.

First of all, we don't have basic amenities for survival, here. After the demolition the Court has given orders that the people here should be provided with water supply. The DDA officials send tankers, and then deliberately make women fight with each other, merely to click their pictures and show to the Court that they delivered one tanker. Up to the present date [18 April], the DDA has sent only 4 tankers and there have been fights every time because the supply is not enough for the whole community. They took photographs each time, and we have no idea what they've done with them. They say they'll send tankers only if the ladies go to fetch water, and then they make them fight. The women are so desperate for water that they don't question their demands. The DDA is sending only one tanker every 10 days, which is clearly not enough for 4000 people. Before the demolition tankers used to come every 3-4 days, but ever since they're not sending the tankers on time. The mobile toilet vans that have been sent after the Court order are useless too, since they are not refilled with water. There is boring nearby, so we're using distilled water for washing clothes and other chores.

Secondly, ever since the day of demolition, there is no electricity. There has not been any single hearing about the same. The electricity department officers say that they'll give connection only if the people here build themselves a room.

Third, living conditions are very precarious and unsafe. We are currently living under the open sky. In the scorching heat, during the day and heavy rainfall, during the night. There are a lot of thieves here, and of course, mosquitoes. Thieves often come here around 2-3 am, and since all the stuff is kept in the open, they steal a thing or two and leave. We have to face so many problems.”



### **Shakuntala Devi**

Name: Mrs. Shakuntala Devi  
w/o Sri Mahngu Ram

Age: 36 years

Marital Status: Married

Family Members: 6 (husband,  
1son, 3daughters.)

Profession: house wife

Residence: jhuggi No:- F- 229,  
Baljeet Nagar, Delhi

“Women in this community do a number of different things: some clean utensils, some wash clothes, some clean people's houses and they all also take care of their kids. On 23<sup>rd</sup> March I was bringing my daughter to school at 9 am for her exam. Then I enquired from one of the DDA people I know about what exactly was going on there. He said that Lilautiyaji, Krishna Tirath, Ajay Makhan and Sheila Dixit were coming here, for a meeting in Ramjas Ground, and told me to continue with my business. After dropping my daughter at school, I returned back home at 11 am and saw that 3 bulldozers were breaking down jhuggis everywhere. The Police and DDA Officers would not let us inside our houses as the bulldozers were at work. Then, one DDA official helped me bring some of my things out of the house. I hadn't finished taking out all my things, when suddenly the bulldozer broke down the wall. One lady Police Officer came and pulled me

out of the house, and didn't let me take out all my things in time. My TV broke, *Peti* broke, and even some of my children's clothes were lost.

My kids are going to the school and their clothes are getting dirty. How do I wash their clothes if there is no water? At school, the Master hits them for wearing dirty clothes. My children reply, "Sir, our jhuggi has been demolished." And the Master responds, "I don't care, just wear clean clothes to school. Bring your mother here to see me." But what should I say? There is no water supply, so how do I wash clothes? When we can't even find food to eat, from where should I bring new clothes?

DDA officials even took money from us, and then knocked our houses down. They shouldn't have taken money earlier, then. When we've paid, it means that the land is ours; how can it belong to the DDA then? The DDA took Rs. 20,000 from me and the Police took an additional Rs. 15,000, and then allowed me to re-build my house. I went to the police station and said,

*"Like a dog starts loitering around in the streets when meat is being cooked in a house, Similarly, the police officials of Anand Parvat<sup>2</sup> start behaving like a dog when somebody builds a house."*

When my kids appear for their exams, their mind is half-occupied by the situation at home. How can they pass the test then? We are all concerned by the fact that the whole school year will be wasted because of this situation. The DDA should at least think about notifying us before demolishing and do it only after our children are finished with their exams and studies, especially because they've taken so much money from us. At least, a notice should have been given. I could have saved my belongings and

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2 Police Station located near Baljeet Nagar.

evacuated my house. They took my money and tore down our houses. The DDA officials took huge amount of money from us and asked us to make *pucca* houses, and now they themselves demolished them.

My husband has not been able to go to work since the incident. If the kids go to school and we go to work, who will take care of the little stuff we have? Our children get hit by the teacher for not bringing books and copies to school. How will they get books and copies when their parents cannot go to work because of these problems?"



### **Pushpa Devi**

Name: Mrs. Pushpa Devi. W/o Sri Lallan Sharma.

Age: 35 years

Marital Status: Married

Family Members: 7 (husband, 2 sons, 3 daughters)

Profession: domestic worker

Residence: jhuggi No:- F-243, Baljeet Nagar, Delhi

“I woke up on the morning of the 23<sup>rd</sup> to prepare lunch for my kids. I work as a domestic worker. I was getting my kids ready for school and I planned to drop them off and then go for work. When I reached the house where I live, my Sahab said, “There are bulldozers tearing down your houses and you've come here to work.” So, I returned back home running.

I couldn't take my things out, and saw that there were too many police officials there. I have 3 daughters and a son, and I work as a maid to earn and support their education. My Sahab refused to give me a holiday from work. It's been 16 days since my daughters stopped going to school; what will they do now? Of my 3 daughters, one is in 9<sup>th</sup> class, the other is in 3<sup>rd</sup> and the last one in 2<sup>nd</sup> class. My son was due to give his class 8<sup>th</sup> exams. When I took my son to school for his exam, DDA officials were there too. When I asked him to go to school and get his result, he said that

he can't go to school in dirty clothes. My son said, "if our jhuggi was still there, I would have gone to get my result and come back home to tell you." So, he left me and went back to our native village. I called him up and asked him to come back to Baljeet Nagar, as I would help him get admitted to another school, but he is in shock and refused to return as he failed in school. He said that had the Rs. 25000 that I paid as a bribe to the DDA Officers still been there, he would come back. In fact, DDA officials took money from us just a day before and never mentioned that they were going to tear down all of the jhuggis; had we known that, we wouldn't have given the money. And, had we known about it sometime before, I would have taken all my stuff out.

I have been living here since 2003 and I have had to make many payments - about Rs. 25,000 in total - to different officials, for allowing my family to have a house. Once when I got a little late in making the payment, they pushed me to the ground and said that they wouldn't let me finish to build the house until they get money. If you build just one wall, it will cost you Rs. 10,000, Rs. 20,000 for 2 walls, Rs. 30,000 for 3 walls, etc; if you also need a roof, it will cost you Rs. 20,000 more. The Police Officials take money too. If they see that we are very poor, they will take Rs. 10,000, otherwise Rs. 20,000. And, if somebody is rich, then Rs. 50000.

I took money from my Sahab just 2 days before the demolition and paid the officials; my Sahab has now asked me not to work for him any longer. They have robbed us. I have no money now, as I am not earning. How should I send my daughters to study? With the support of my 3 daughters, I am standing here for my children's education."

# **Jury Declaration**

# Public Hearing on Baljeet Nagar

April 18, 2011

Baljeet Nagar, New Delhi

The jury<sup>1</sup> for the *Public Hearing on Baljeet Nagar, New Delhi*, finds that the demolition of hundreds of homes in Baljeet Nagar by the Delhi Development Authority (DDA) in collaboration with the police, on 23<sup>rd</sup> and 24<sup>th</sup> March, 2011, has resulted in a number of significant violations of human rights guaranteed and protected by the Constitution of India and international law.

The jury takes note of the blatant violation of, among other human rights, the right to adequate housing. The residents of Baljeet Nagar were not given any prior notice of the demolition, and the forced eviction and demolition of homes took place without any adherence to due process. The lack of notice also resulted in the loss and destruction of personal property and household possessions, since families were not given any time to retrieve their belongings before the bulldozers destroyed their homes. The jury is concerned by the number of citizens who testified at this hearing that they did not have any time to remove valuables and documents from their homes before the demolitions began.

Hundreds of families have been rendered homeless as the Government of Delhi has not provided any rehabilitation to the affected. The jury draws attention to the failure of the Government of Delhi to implement the judgement of the High

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1 The Jury was composed of: Former Chief Justice, High Court of Delhi - Justice A.P. Shah; Director, Business and Community Foundation (BCF) – Amita Joseph; Former UN Special Rapporteur on the Right to Adequate Housing – Miloon Kothari; and Former Director, Ankur – Jaya Shrivastava.

Court of Delhi in the case *Sudama Singh and Others vs. Govt. of Delhi and Anr.* (February 2010), which calls for rehabilitation of slum dwellers by the state prior to any eviction, and in accordance with international law and guidelines such as the *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*.

The jury further notes with concern that violations of the right to housing, including the demolition of homes and destruction of property, has negatively impacted a range of other human rights. The right to education has been severely violated, as the demolitions occurred during the time of final school examinations. As presented in the poignant testimonies of several students, many children could not attend school or complete their examinations due to the demolition of their homes. This greatly affects their scholastic success and their future education, creating a generation of dropouts.

The right to health of the residents of Baljeet Nagar has been impacted by demolition procedures that resulted in serious injuries to various community members, including women and children. A young boy, for example, has permanently lost his eyesight due to injuries sustained during the demolition drive. Several pregnant women testified suffering from strain, injury, stress, and direct risk to their health, as a result of demolition procedures and the lack of adequate shelter and basic services in the immediate aftermath of the demolition. The jury is alarmed that even pregnant women and young children were not protected by the DDA and police officials who were present during the demolition drive. The inadequate living conditions at the demolition site continue to threaten the health of residents, especially children, older persons, women, and persons with disabilities.

The right to work of most residents has been violated because people have not been able to go to work in the days following the demolition, as they have to provide for basic facilities for their families whose homes and sole possessions were lying under the debris. Fear of theft also prevents families from leaving the site. This has particularly affected working women in the settlement. The inability to resume work has resulted in families losing daily wages and consequently not being able to afford adequate food, which further implies a violation of their right to food.

Despite interim orders of the Honourable High Court of Delhi (25 March, 31 March, 4 April, and 7 April 2011) calling for the immediate provision of basic services such as shelter, water, food and healthcare for the affected families at Baljeet Nagar, the jury is alarmed by the non-implementation of the Court orders and the grossly inadequate living conditions at the demolition site.

The jury takes note of the disturbing fact that residents allegedly had to pay DDA and police officials in order to continue living at Baljeet Nagar. Despite the presence of documentary proof of residence, the DDA continues to label the residents as 'encroachers.'

In addition, the jury also notes the increasing discrimination against the urban poor in policies and plans, which is reflected in the acute housing shortage for the poor in Delhi and the lack of provision of low-cost housing by the Government of Delhi. In Delhi, the housing shortage is estimated to be 1.13 million dwelling units.

In light of the unlawful demolition and the multiple violations of human rights of the residents of Baljeet Nagar, the jury strongly recommends that:

- monetary compensation be provided to the evicted families for all the losses they have incurred due to the demolition, on a case-by-case basis that accounts for the full extent of various harms suffered by different members of the community;
- restitution and rehabilitation, including a consideration of *in situ* upgradation, be provided for the violations of the human rights to adequate housing, property, education, health, work/livelihood, food, and water, taking into account the harm and injury experienced by individuals and families;
- policy reforms be undertaken with immediate effect to ensure the prevention of human rights violations, if and when demolitions occur in the future. These include, but are not necessarily limited to: surveying the area to be demolished in order to develop a clear sense of the identities and characteristics of those affected by eviction and demolition operations; providing full and timely information and consultation with the affected; obtaining the prior and informed consent of the community before demolition and relocation; identifying and preparing suitable relocation sites, close to the original residence site to minimise disruption to livelihoods, education, and health; giving significant prior notice that allow for demolitions to be conducted safely and with a minimum risk of injury and property damage; and, timing demolitions to minimise impacts on health, livelihood and children's education;
- policy and legal reforms strictly adhere to ensuring that human rights are safeguarded prior to, during, and after demolitions. This process must be consistent with the guidelines, judgments, and policies related to resettlement and rehabilitation, including, but not limited to: the *UN Basic*

*Principles and Guidelines on Development-based Evictions and Displacement*, and relevant orders of the High Court of Delhi and the Supreme Court of India; and,

- an investigation into the human rights violations at Baljeet Nagar be conducted by independent institutions such as the National Human Rights Commission, and officials found guilty of violence, corruption, destruction of property, extortion of funds, and other crimes against the residents, be prosecuted in accordance with the law; and
- an independent report on the status of implementation of orders of the High Court of Delhi with regard to the Baljeet Nagar site be submitted at the earliest.

The jury strongly censures the unlawful demolition by DDA of homes at Baljeet Nagar, New Delhi. The right to housing has been recognized as integral to the right to life by the Supreme Court of India and must be upheld and protected for all residents of India. The indiscriminate and forced eviction of Baljeet Nagar residents, in violation of international and national law and the provisions of the Constitution of India, is condemned.

The jury asserts that it is the responsibility of the Government of Delhi and the DDA to ensure that any proposed and future evictions are carried out with due respect for human rights, and that those who have suffered violations of human rights, in particular constitutionally guaranteed Fundamental Rights, be accorded just compensation, rehabilitation and restitution.

# **Photographs**

## **Baljeet Nagar Demolition**





A child walking on the debris in search of his belongings



A resident watching his house being demolished. No relocation has been provided by the Government



Around 1000 Jhuggis were illegally demolished between 23rd and 24th March 2011



Baljeet Nagar residents protesting on 24th March 2011



Baljeet Nagar's community was torn apart by the abrupt dismantlement



Baljeet Nagar's resident forced to stand by while his house is being demolished



Baljeet Nagar, 24th March 2011



Baljeet Nagar, 24th March 2011



Bulldozers Demolishing Jhuggis, Baljeet Nagar, 24th March 2011



Bulldozers Demolishing Jhuggis, 23rd March 2011



Demolition in Baljeet Nagar was carried out through the use of force



Public Hearing, 18th April 2011, Baljeet Nagar



Forced evictions are often accompanied by police brutalities



Public Hearing, 18th April 2011, Baljeet Nagar



Public Hearing, 18th April 2011, Baljeet Nagar



Most of the residents were not given time to save their belongings

# **Annexures**

Annexure I

**Overview of International Law, National Legislation and  
Caselaw Protecting the Right to Adequate Housing**

## **International Law**

The Universal Declaration of Human Rights, the International Covenant on Economic Social and Cultural Rights, the General Comments 4 and 7 of the United Nations Committee on Economic, Social and Cultural Rights, reports of the UN Special Rapporteur on Adequate Housing, the Declaration on Social Progress and Development, the Vancouver Declaration on Human Settlements, and Agenda 21 are some of the international mechanisms that protect the human right to adequate housing. These are also relevant for the rights of Delhi's residents. Relevant sections from international law, declarations, and guidelines that are pertinent to the human right to shelter/adequate housing are presented below.

### **1. Universal Declaration of Human Rights (1948)**

Article 25 of the UDHR relates to the right to housing states:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

### **2. International Covenant on Economic, Social and Cultural Rights (1966)**

India acceded to the International Covenant on Economic Social and Cultural Rights (ICESCR) in 1979. Art.11 of the Covenant directly binds India to:

“Recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing,

and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.”

### **3. International Covenant on Civil and Political Rights (1966)**

Article 17 states that:

- “1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.”

### **4. Convention on the Rights of the Child (1989)**

Article 27.3 of the Convention on the Rights of the Child (CRC) affirms:

“States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

### **5. Convention on the Elimination of All Forms of Discrimination against Women (1979)**

Article 14.2 (h) of the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** binds State Parties to:

“take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: to enjoy

adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”

## **6. International Convention on the Elimination of All Forms of Racial Discrimination (1966)**

Article 5.e) of the Covenant states:

*“In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:*

Economic, social and cultural rights, in particular:

- (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
- (ii) The right to form and join trade unions;
- (iii) The right to housing;
- (iv) The right to public health, medical care, social security and social services;
- (v) The right to education and training;
- (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.”

## **7. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)**

Article 43 recognizes that:

- “1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:
- (a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
  - (b) Access to vocational guidance and placement services;
  - (c) Access to vocational training and retraining facilities and institutions;
  - (d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents;
  - (e) Access to social and health services, provided that the requirements for participation in the respective schemes are met;
  - (f) Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;
  - (g) Access to and participation in cultural life.

## **8. Article 21 of the Convention Related to the Status of Refugees (1951)**

Article 21 of the Convention specifically refers to the Right to Housing:

“As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances”

## **9. Convention on the Rights of Persons with Disabilities (2006)**

Article 28 of the Convention on the Rights of Persons with Disabilities states that:

- “1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
- (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
  - (b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
  - (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
  - (d) To ensure access by persons with disabilities to public housing programmes;
  - (e) To ensure equal access by persons with disabilities to retirement benefits and programmes.”

## 10. United Nations Committee on Economic, Social and Cultural Rights, General Comment Nos.4 and 7: the Right to Adequate Housing

General Comments No. 4 and No. 7 on the Right to Adequate Housing expand on the provisions stated in the ICESCR. They provide the most comprehensive and authoritative interpretation of the right to adequate housing to date. Below are most relevant sections of the respective General Comments.

### 10.1. General Comment No. 4 (1991)

General Comment No.4 recognizes the “integral link” of the right to other human rights and imposes binding obligations upon the State:

“7. In the Committee's view, the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised. This "the inherent dignity of the human person" from which the rights in the Covenant are said to derive requires that the term "housing" be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons **irrespective of income or access to economic resources.**” (emphasis added)

Secondly, the reference in article 11 (1) must be read as referring not just to housing but to adequate housing.

“8. Thus the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether

particular forms of shelter can be considered to constitute "adequate housing" for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain aspects of the right that must be taken into account for this purpose in any particular context. They include the following:

- (a) **Legal security of tenure.** Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;
- (b) **Availability of services, materials, facilities and infrastructure.** An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;
- (c) **Affordability.** Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties

should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;

- (d) **Habitability.** Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the Health Principles of Housing prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;
- (e) **Accessibility.** Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the

society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement;

- (f) **Location.** Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to the health of the inhabitants.
- (g) **Cultural adequacy.** The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. (...)

10. Regardless of the state of development of any country, there are certain steps which must be taken immediately. (...)
11. States parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others.”

Furthermore, the General Comment spells out precise obligations with regards to evictions and demolitions:

- “17. The Committee views many component elements of the right to adequate housing as being at least consistent with the provision of domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking

compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.

18. In this regard, the Committee considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.”

## **10.2. General Comment No.7 (1997)**

In General Comment No.7 the Committee on Economic, Social and Cultural Rights reiterates the importance of procedural steps to be taken in cases of evictions:

- “15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their

representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

Para 16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

## **11. Other international provisions**

Several International Declarations and Plans of Action aimed to protect the right to adequate housing have been adopted internationally within the framework of the United Nations. While these instruments are not legally binding upon States, they set out general principles and strategies that should be followed by individual States and the international community. The most important provisions related to the right to adequate housing are here briefly summarized.

### **11.1. The Declaration on Social Progress and Development (1969)**

The primary articles dealing with right to shelter are Art 10 (f) and Art 18 (d):

“Article 10 (f) The provision for all, particularly persons in low income groups and large families, of adequate housing and community services.”

“Article 18 (d) The adoption of measures to introduce, with the participation of the Government, low-cost housing programmes in both rural and urban areas;”

## **11.2. The Vancouver Declaration on Human Settlements (1976)**

The Vancouver Declaration was created as a result of the first United Nations Conference on Human Settlement. It is another international mechanism which re-iterates the protection and importance of the right to adequate housing:

### **“II. GENERAL PRINCIPLES**

1. The improvement of the quality of life of human beings is the first and most important objective of every human settlement policy. These policies must facilitate the rapid and continuous improvement in the quality of life of all people, beginning with the satisfaction of the basic needs of food, shelter, clean water, employment, health, education, training, social security without any discrimination.
2. In striving to achieve this objective, priority must be given to the needs of the most disadvantaged people.
6. The right of free movement and the right of each individual to choose the place of settlement within the domain of his own country should be recognized and safeguarded.
13. All persons have the right and the duty to participate, individually and collectively in the elaboration and implementation of policies and programmes of their human settlements.
15. The highest priority should be placed on the rehabilitation of expelled and homeless people who have been displaced by natural or man-made catastrophes, and especially by the act of foreign aggression.

### **III. GUIDELINES FOR ACTION**

2. It is the responsibility of Governments to prepare spatial strategy plans and adopt human settlement policies to guide the socio-economic development efforts....in a progressive improvement in well-being of all mankind.

8. Adequate shelter and services are a basic human right which places an obligation on Governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action.
10. Basic human dignity is the right of people, individually and collectively, to participate directly in shaping the policies and programmes affecting their lives. The process of choosing and carrying out a given course of action for human settlement improvement should be designed expressly to fulfil that right. Effective human settlement policies require a continuous co-operative relationship between a Government and its people at all levels."

### **11.3. The Declaration of the Rights of the Child (1959)**

#### Principle 4

"The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services."

### **11.4. International Labour Organization (ILO) Recommendation No. 115 on Worker's Housing (1961)**

"19. As a general principle, the competent authority should, in order to ensure structural safety and reasonable levels of decency, hygiene and comfort, establish minimum housing standards in the light of local conditions and take appropriate measures to enforce these standards."

### **11.5. Declaration on the Right to Development (1986)**

#### Article 8.1:

"States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter

alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.”

### **11.6. Agenda 21 (1992)**

Agenda 21 is a wide-ranging plan of action to be implemented worldwide. It is co-ordinated by the United Nations System, governments, and other groups in every area in which humans impact on the environment. It was adopted by more than 178 governments at the United Nations Conference on Environment and Development (UNCED) in June 1992 and it was later reaffirmed in 2002. Although the main purpose of Agenda 21 is to minimize the environmental impacts of the way that we live, it has very strong ideas on the need for appropriate human settlements for all. Below are some of the areas in chapter 7 that cover the standards that should be met for housing.

#### “Human Settlement Objective

7.4. The overall human settlement objective is to improve the social, economic and environmental quality of human settlements and the living and working environments of all people, in particular the urban and rural poor.

#### Basis for action

7.6. Access to safe and healthy shelter is essential to a person's physical, psychological, social and economic well-being and should be a fundamental part of national and international action.

#### Objective

7.8. The objective is to achieve adequate shelter for rapidly growing populations and for the currently deprived urban and rural poor through an enabling approach to shelter development and improvement that is environmentally sound.

## Activities

7.9. The following activities should be undertaken:

- (a) As a first step towards the goal of providing adequate shelter for all, all countries should take immediate measures to provide shelter to their homeless poor, while the international community and financial institutions should undertake actions to support the efforts of the developing countries to provide shelter to the poor;
- (b) All countries should adopt and/or strengthen national shelter strategies, with targets based, as appropriate, on the principles and recommendations contained in the Global Strategy for Shelter to the Year 2000. People should be protected by law against unfair eviction from their homes or land;
- (c) All countries should, as appropriate, support the shelter efforts of the urban and rural poor, the unemployed and the no-income group by adopting and/or adapting existing codes and regulations, to facilitate their access to land, finance and low-cost building materials and by actively promoting the regularization and upgrading of informal settlements and urban slums as an expedient measure and pragmatic solution to the urban shelter deficit;

## **11.7. Istanbul Declaration on Human Settlements (1996)**

Article 8:

“We reaffirm our commitment to the full and progressive realization of the right to adequate housing as provided for in international instruments. To that end, we shall seek the active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families.”

## **11.8. UN Declaration on the Rights of Indigenous Peoples (2007)**

Article 21.1:

“Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.”

## **11.9. UN Basic Principles and Guidelines on Development-based Evictions and Displacement (2007)**

These Guidelines address the human rights implications of evictions induced by development projects and related displacement in urban and rural areas. They aim to minimise displacement and call for sustainable alternatives, wherever possible. In the event that displacement is inevitable, the Guidelines lay down certain non-negotiable human rights standards that must be respected and upheld in all circumstances. They also provide the criteria for adequate resettlement, compensation, rehabilitation and restitution for those faced with evictions.

(See the Annex II for the complete text of the Guidelines)

## **11. 10. Concluding Observations of the UN Committee on Economic, Social and Cultural Rights to India, May (2008)**

Under ICESCR State Parties are required to submit periodic reports on the steps taken to implement the rights guaranteed by the Covenant. Following India’s report submitted in 2008, the Committee expressed serious concerns with regards to the Government’s failure to protect and ensure the right to adequate housing for its citizens.

“30. The Committee is concerned about the lack of a national housing policy, which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by providing them

with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party.

(...)

70. The Committee urges the State party to address the acute shortage of affordable housing by adopting a national strategy and a plan of action on adequate housing and building or providing low-cost rental housing units, especially for the disadvantaged and low income groups, including those living in slums. In this connection, the Committee reminds the State party of its obligations under Article 11 of the Covenant and refers to its General Comment No. 4 on the right to adequate housing (1991) to guide the Government's housing policies.
71. The Committee recommends that the State party take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and / or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its General Comment No. 7 on forced evictions (1997). The Committee also recommends that, prior to implementing development and urban renewal projects, sporting events and other similar activities, the State party should undertake open, participatory and meaningful consultations with affected residents and communities. In this connection, the Committee draws the attention of the State party to its General Comment No. 4 on the right to adequate housing (1991) and further requests the State party to provide information in its next periodic report on progress achieved in this regard, including disaggregated statistics relating to forced evictions."

# National Law

## 1. Constitution of India (Col) 1952

The Indian Constitution was created in 1952, with the intent of securing for all its citizens:

“Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the Nation;”

The following articles are applicable for the protection of the right to housing and against forced evictions and demolition of homes and property.

“Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 15:

- (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- (3) Nothing in this article shall prevent the State from making any special provision for women and children.

Article 19.1: All citizens shall have the right—

- (e) to reside and settle in any part of the territory of India

Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 38:

- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

- (2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39: The State shall, in particular, direct its policy towards securing—

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment

Article 46: The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article 47: The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.”

## **2. Delhi Development Act (1957)**

The Delhi Development Act was the first of many measures by the government of Delhi to plan for the future expansion and development of the capital city. Relevant articles relating to the acquisition of land and demolition of properties are:

Article 15: Compulsory acquisition of land

“(1) If in the opinion of the Central Government, any land is required for the purpose of development, or for any other purpose, under this Act, the Central Government may acquire such land under the provisions of the Land Acquisition Act, 1894 (1 of 1984).

(2) Where any land has been acquired by the Central Government, that Government may, after it has taken possession of the land, transfer the land to the Authority or any local authority for the purpose for which the land has been acquired on payment by the Authority or the local authority of the compensation awarded under that Act and of the charges incurred by the government in connection with the acquisition.”

Article 21 (2):

“The powers of the Authority or, as the case may be, the local authority concerned with respect to the disposal of land under sub-section (1) shall be exercised as to secure, so far as practicable, that persons who are living or carrying on business or other activities on the land shall, if they desire to obtain accommodation on land belonging to the Authority or the local authority concerned and are willing to comply

with any requirements of the Authority or the local authority concerned as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any land has been acquired from them:

PROVIDED that where the Authority or the local authority concerned proposes to dispose of by sale any land without any development having been undertaken or carried out thereon, it shall offer the land in the first instance to the persons from whom it was acquired, if they desire to purchase it subject to such requirements as to its development and use as the Authority or the local authority concerned may think fit to impose.”

#### Article 28: Powers of entry

“The Authority may authorise any person to enter into or upon any land or building with or without assistants or workmen for the purpose of-

- (a) making any enquiry, inspection, measurement or surveyor taking levels of such land or building;
  - (b) examining works under construction and ascertaining the course of sewers and drains;
  - (c) digging or boring into the sub-soil;
  - (d) setting out boundaries and intended lines of work;
  - (e) making such levels, boundaries and lines by placing marks and cutting trenches;
  - (f) ascertaining whether any land is being or has been developed in contravention of the master plan or zonal development plan or without the permission referred to in section 12 or in contravention of any condition subject to which such permission has been granted;
- or

- (g) doing any other thing necessary for the efficient administration of this Act:

PROVIDED that-

- (i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building;
- (ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building;
- (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.”

Article 30.2: Order of demolition of building

“(1) Where any development has been commenced or is being carried on or has been completed in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 12 or in contravention of any conditions subject to which such permission, approval or sanction has been granted-

- (i) in relation to a development area, any officer of the Authority empowered by it in this behalf,
- (ii) in relation to any other area within the local limits of a local authority, the competent authority thereof, may, in addition to any prosecution that may be instituted under this Act, make an order directing that such development shall be removed by demolition, filling or otherwise by the owner thereof or by the person at whose instance the development has been commenced or is being carried out or has been completed, within such period (not being less than five days and more than fifteen days from the date on which a copy of the order of removal, with a brief statement of the reasons therefor,

has been delivered to the owner or that person) as may be specified in the order and on his failure to comply with the order, the officer of the Authority or, as the case may be, the competent authority may remove or cause to be removed the development and the expenses of such removal shall be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue:

PROVIDED that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why the order should not be made.

- (1A) If any development in an area other than a development area has been commenced or is being carried on or has been completed in contravention of the master plan or zonal development plan or without the approval or sanction referred to in section 12 or in contravention of any condition subject to which such approval or sanction has been granted and the competent authority has failed to remove or cause to be removed the development within the time that may be specified in this behalf by the 1[Lieutenant Governor] of the 2[National Capital Territory of Delhi], the 1[Lieutenant Governor] may, after observing such procedure as may be prescribed by rules made in this behalf, direct any officer to remove or cause to be removed development and that officer shall be bound to carry out such direction and any expenses of such removal may be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed as arrears of land revenue.]
- (2A) Any person aggrieved by the direction of a 1[Lieutenant Governor] under sub-section (1-A) may appeal to the Central Government within thirty days from the date thereof, and the Central Government may after giving an opportunity of hearing to the person aggrieved, either allow or dismiss the appeal or may reverse or vary any part of the direction.]

- (3) The decision of 6[the Central Government on the appeal and subject only to such decision] the order under sub-section (1) or, as the case may be, the direction under sub-section (1-A), shall be final and shall not be questioned in any court.
- (4) The provisions of this section shall be in addition to and not in derogation of, any other provision relating to demolition of building contained in any other law for the time being in force.”

### **3. Delhi Master Plan 2021**

To provide for future generations and prepare for the growth in population by 2021, the Delhi government created the Delhi Master Plan (DMP) 2021. It is a continuation of plans that have been put in place in the city since the creation of the Delhi Development Act of 1957.

#### **“VISION**

3. Vision-2021 is to make Delhi a global metropolis and a world-class city, where all the people would be engaged in productive work with a better quality of life, living in a sustainable environment. provision of adequate housing, particularly for the weaker sections of the society; dealing with the issue of slums, up-gradation of old and dilapidated areas of the city;... preservation of Delhi's heritage and blending it with the new and complex modern patterns of development; and doing all this within a framework of sustainable development, public-private and community participation and a spirit of ownership and a sense of belonging among its citizens.

#### **3.31.3 Unplanned Areas**

##### **A. Slum and JJ Clusters, Resettlement Colonies and Unauthorised Colonies**

In-situ up-gradation of the land pockets of slum and JJ Clusters, which are not required for public/priority use is the first option for provision of affordable housing fro rehabilitation of squatters. Resettlement

colonies though planned, are also to be upgrade in a similar way for infrastructure provision. Similarly, unauthorised colonies slated for regularization are also proposed to be improved through redevelopment by ensuring participation of inhabitants.

**4.0 Shelter:** The policy regarding “shelter” is based on the goal of ensuring “shelter for all”, by harnessing the potential of the public, private/corporate and household sectors. It aims to ensure effective housing and shelter options for all citizens, especially for the vulnerable groups and the poor, by creation of adequate housing stock on either rental or ownership basis. It envisages the role of the public agencies as facilitator through policy and strategic interventions. Housing has a strong spatial relationship with employment, social services and other urban activities.

**4.1 Housing Need:** As per the Census 2001, Delhi has 24.5 lakh Census houses under the category of residence and residence-cum other uses, in which 25.5 lakh households are residing. This reflects a net housing shortage of about 1.0 lakh houses /dwelling units. The households are accommodated in a variety of housing types including different categories of planned built housing, squatter settlements, unauthorized colonies, traditional areas and villages. The Sub-group on Shelter noted that up to the year 1991, the contribution to housing stock through institutional agencies was only 53% (excluding squatter housing). Therefore, the component of housing through non-institutional sources, viz., unauthorized colonies, squatter /JJ clusters, etc., is quite significant. This trend has continued in the current decade as well and has to be kept in view while determining the plan and strategy for housing. Based on the projected population of 230 lakh by 2021, the estimated additional housing stock required will be around 24 lakh dwelling units. This includes an estimated housing requirement of 20 lakh dwelling units for additional population and backlog of about 4 lakh units comprising of 1 lakh net shortage and the rest by dilapidated and Kutcha structures requiring replacement. It has also been assessed that around 40% of housing need can potentially be satisfied through redevelopment /up-gradation of existing areas of Delhi.

**4.2 Housing Strategy:** The proposed housing strategy incorporates specific approaches for development of new housing areas, upgradation and re-densification through redevelopment of existing housing areas including unauthorized colonies, housing in villages and Special Area. Looking at the possible distribution of housing types, the future requirement of shelter provision will be dominated by small dwelling units. In view of the limited availability of land and increased requirement of housing, plotted residential development shall be discouraged. It is proposed to adopt a multi-pronged housing strategy for provision of housing stock and for delivery of serviced land, involving the private sector to a significant extent, public agencies and co-operative societies etc. The overall responsibility for provision of land and facilitation of adequate housing to meet the projected demand lies with the DDA in collaboration with GNCTD and other agencies. Planning norms, land use zoning, density, FAR, and building controls have been reviewed for housing, both in new areas to be opened up and for redevelopment of existing areas. In the context of housing strategy, it is essential to optimise utilization of land and space with a view to increasing net residential density

**4.2.2 Restructuring and Up-Gradation of the Existing Areas:** In Delhi, a large number of areas are old and are characterized by poor structural condition of buildings, suboptimal utilisation of land, congestion, poor urban form, inadequate infrastructure services, lack of community facilities, etc. The housing stock in both planned and unplanned areas can be enhanced through various approaches as given below.

#### **4.2.2.2 B. Unauthorised/Regularised Unauthorised Colonies**

Unauthorised colonies in Delhi pose a serious human problem as a huge population is living in these colonies. The issue of existing unauthorised colonies has engaged attention since the mid-seventies when a policy for regularization was formulated. 567 out of 607 listed unauthorized colonies have come up since then. Such colonies are to be identified by the Govt. of NCTD. The present method of regularization of jj colonies is by the provision of basic infrastructure to improve the

environment. However, regularization has not really brought in any tangible improvement. Effectively, the process has only led to de-facto tenure rights on the land and access to services. In all unauthorised colonies whether on private or public land, regularization should be done as per the government orders issued from time to time. It must be ensured that for improvement of physical and social infrastructure, the minimum necessary/feasible level of services and community facilities are provided.

### **4.2.3 Housing for Urban Poor**

The category of urban poor for purpose of the Plan would mainly comprise the inhabitants of squatter settlements and informal service providers. Such services could include domestic help, hawkers and vendors, low paid workers in the industrial, commercial and trade/business sectors, etc. These include both existing population and future migrants. In terms of housing requirements of the city, this continues to be the single biggest challenge and would require a mix of approaches and innovative solutions.

#### **4.2.3.1. Rehabilitation/Relocation of Slum & JJ Clusters**

In so far as the existing squatter settlements are concerned, the present three-fold strategy of relocation from areas required for public purpose, in-situ up-gradation at other sites to be selected on the basis of specific parameters and environmental up-gradation to basic minimum standards shall be allowed as an interim measure. Rest of the clusters, till they are covered by either of the first two components of the strategy, should be continued.

During the Plan period 1981-2001, sites and services approach based relocation was employed in which resettlement of squatter slums was done on 18 square meters (sqm) and 12.5 sqm plots (transit accommodation) allotted to eligible persons on licence basis. This has led to a number of aberrations and there are several aspects, due to which this approach needs to be progressively abandoned and substituted by an alternate approach. Broadly speaking this alternate

approach should have the following components:

- (i) Resettlement, whether in the form of in-situ up-gradation or relocation, should be based mainly on built up accommodation of around 25 sqm with common areas and facilities, rather than on the model of horizontal plotted development.
- (ii) The concept of land as a resource should be adopted to develop such accommodation with private sector participation and investment, to the extent possible.
- (iii) Incentives by way of higher FAR, part commercial use of the land and, if necessary and feasible, Transfer of Development Rights should be provided.
- (iv) A cooperative resettlement model with adequate safeguards may be adopted with tenure rights being provided through the institution of Co-operative Societies.
- (v) The provision of accommodation should be based on cost with suitable arrangements for funding / financing, keeping in view the aspect of affordability and capacity to pay.
- (vi) In cases of relocation, the sites should be identified with a view to develop relatively small clusters in a manner that they can be integrated with the overall planned development of the area, particularly keeping in view the availability of employment avenues in the vicinity. Very large resettlement sites could lead to a phenomenon of planned slums.
- (vii) Suitable arrangement for temporary transit accommodation for families to be rehabilitated should be made. This may preferably be near or at the same site and the utilization of these may be synchronised with the phases of implementation of the scheme of in-situ up-gradation.
- (viii) Community Based Organisations (CBOs) and Non-Governmental Organisations (NGOs) should be closely involved in the resettlement process.

#### **4.2.3.2. Resettlement Colonies**

Most of the resettlement colonies have been provided with essential services, but the immediate need is of individual services i.e. water, sewerage and electricity. To ensure healthy and better environment, the construction of houses needs to be based on approved / standard building plans. Co-operative societies / private developers / govt. agencies may come forward for redevelopment based on the incentives as applicable for the Squatter Rehabilitation Scheme. Reconstruction of existing plotted development, group housing should be encouraged as per the Redevelopment Guidelines given in para 4.2.3.4.

#### **4.2.3.3. New Housing for Urban Poor**

New housing should be in the form of one or two room units, which would be developed through public and private agencies and through Cooperative societies. As this category constitutes bulk of the housing stock that has to be catered at an affordable price to the lowest income bracket as housing for Economically Weaker Sections (EWS), this is often done by cross-subsidization. For this purpose, adequate land would be earmarked for EWS housing. The developers of group housing shall ensure that minimum 15% of FAR or 35% of the dwelling units, whichever is more, are constructed for Community-Service Personnel / EWS and lower income category. In old built up areas, this may be as redevelopment schemes or industrial housing, etc., whereas, in urban extensions, the acquisition and development cost of this land should be borne by rest of the project. Such reserved lands should be handed over to a designated agency for promoting housing for low income and weaker sections. The pattern of EWS housing shall be such as to ensure optimal utilization of land in a sustainable manner. For that purpose, multi- storied housing will be the preferred option. Apart from mandatory provision for EWS housing in all group housing projects/schemes, the primary responsibility for creating adequate stock of housing for urban poor shall be borne by public agencies.

#### **4.2.3.4. Slum & JJ Redevelopment Regulations and Guidelines for Collective Community Rehabilitation /Relocation - In-situ Up-gradation / Rehabilitation of Slum & JJ Clusters and Resettlement Colonies**

The concerned implementing agency / corporate body should work out schemes for collective community rehabilitation/ relocation and explore the possibility of involving private sector/slum cooperatives. In existing resettlement colonies, redevelopment, regular servicing and maintenance, which are overdue, are to be based on the guidelines and incentives as applicable for the Slum& JJ Rehabilitation Scheme. The following guidelines with site-specific relaxations may be adopted as required. Regular monitoring of executed schemes and revision of these guidelines at the time of preparation of new schemes is essential. Group housing norms shall be applicable with the following conditions:

- (i) Minimum plot size 2000 sqm (facing a min. road of 9m).
- (ii) Maximum density - 600 units per hectare + 10% variation, on residential component of the land.
- (iii) The scheme should be designed in a composite manner with an overall maximum FAR of 400 on the residential component of the land and FAR on the remunerative component of the land shall be as applicable for the relevant land use.
- (iv) Mixed land use / commercial component up to 10% of permissible FAR in the residential component of the land.
- (v) Specific situations may require clubbing of scattered squatters with JJ sites in the neighbourhood to work out an overall comprehensive scheme.
- (vi) The minimum residential component of the land area for rehabilitation of squatters has to be 60% and maximum area for remunerative use has to be 40%.
- (vii) Area of dwelling unit for rehabilitation shall be around 25 to 30 sqm.

- (viii) Common parking is to be provided which can be relaxed wherever required, except for the parking for remunerative purposes.
- (ix) No restriction on ground coverage (except set backs)
- (x) Schemes shall be approved by concerned local body.
- (xi) Schemes / designs should be compatible for disabled.
- (xii) Norms for Social Infrastructure shall be as per 4.2.2.2 B sub para (ii) 'Social'.
- (xiii) Norms for Physical Infrastructure shall be as per note (iv) of Table 4.2.

**4.3 Night Shelters:** The provision of night shelters is envisaged to cater to the shelter less, which are proposed to be provided near the Railway Terminals, Bus Terminals, Wholesale / Retail markets, Freight Complexes etc. as per requirements, and should be identified keeping in view major work centres. Special provisions should be made for the homeless, women and children including the disabled, orphans and old. In addition, multi-purpose use of the existing facility buildings may be allowed for night shelter purpose. Provision should also be made for converting existing buildings, wherever available, with suitable modifications into night shelters.

On the basis of the 2001 Census of houseless population, at least 25 sites should be earmarked in Delhi for night shelters. In order to make the provision of this facility financially sustainable for the local body, innovative concepts such as integrated complex with commercial space on the ground floor and night shelter on the first floor should be explored. The guidelines and incentive package should be designed by the concerned local agency in collaboration with the Government of NCT Delhi with a view to develop self-sustaining night shelters. One night shelter shall be provided for 1 lakh population.”

## National Case Law

As with any legal system, Indian case law provides an extremely useful means of reference for future cases. With regards to the right to housing and forced evictions eight cases are particularly relevant: *Chameli Singh v. State of U.P. (1996) 2 SCC 549*, *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan & Ors (1997) 11 SCC 121*, *Sudama Singh & Others vs Government of Delhi & Anr W.P. (C) No.8904/2009* and *P.K.Koul vs Estate Officer & Anr W.P.(C) No.15239/2004*.

### **Chameli Singh v. State of U.P. (1996) 2 SCC 549**

In this groundbreaking judgment the Apex Court recognizes the right to shelter as inherent part of the right to life as well as spelling out the basic components embedded in the idea of adequate housing:

“8. In any organized society, right to live as a human being is not ensured by meeting only the animal need of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions, which inhibit his growth. All human rights are designed to achieve this object. Right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilized society.

Shelter for a human being, therefore, is not a mere protection of his limb and life. It is however where he has opportunities to grow physically, mentally, intellectually, and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air, and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. [...] Want of decent resident, therefore, frustrates the very object

of the constitutional animation of right to equity, economic justice, fundamental right to residence, dignity of person and right to life itself.”

### **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan & Ors (1997) 11 SCC 121**

The issue of right to shelter for the urban poor has been extensively dealt with in *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan & Ors*, where the Supreme Court pointed out:

“The right to life is guaranteed in any civilised society. That would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view. For an animal, it is the bare protection of the body; for a human being, it has to be a suitable accommodation which would allow him to grow in every aspect-physical, mental and intellectual.

It would, therefore, be clear that though no person has a right to encroach and erect structures or otherwise on footpaths, pavements or public streets or any other place reserved or earmarked for public purpose, the State has the constitutional duty to provide adequate facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter over their heads to make the right to life meaningful, effective and fruitful. [...] It would, therefore, be the duty of the State to provide right to shelter to the poor and indigent weaker sections of the society in fulfilment of the constitutional objectives.

The right to life enshrined under Article 21 has been interpreted by this Court to include meaningful right to life and not merely animal existence as elaborated in several judgments of this Court including *Hawkers' case*, *Olga Tellis case* and the latest *Chameli Singh's case* and host of other decisions which need no reiteration. Suffice it to state that right to life would include right to live with human dignity. As held earlier, right to residence is one of the minimal human rights

as fundamental right. Due to want of facilities and opportunities, the right to residence and settlement is an illusion to the rural and urban poor. Articles 38, 39 and 46 mandate the state, as its economic policy, to provide socio-economic justice to minimize inequalities in income and in opportunities and status. It positively charges the State to distribute its largess to the weaker sections of the society envisaged in Article 46 to make socio-economic justice a reality, meaningful and fruitful so as to make the life worth living with dignity of person and equality of status and to constantly improve excellence."

### **Sudama Singh & Others vs Government of Delhi & Anr W.P. (C) No.8904/2009**

The Delhi High Court stressed the need to protect the rights of the urban poor, particularly considering that migrants labour settled in slum areas are the major source of workforce and their contribution to the city's welfare is invaluable. More importantly, the Court expressed the need to take into accounts the "bundle of rights" that will be inevitably violated during a forced eviction:

"44. In the last four decades, on account of pressure on agricultural land and lack of employment opportunities in the rural areas, a large number of people were forced to migrate to large cities like Delhi. However, in cities, their slender means as well as lack of access to legitimate housing compelled them to live in existing jhuggi clusters or even to create a new one. They turned to big cities like Delhi only because of the huge employment opportunities here but then they are forced to live in jhuggies because there is no place other than that within their means. These jhuggi clusters constitute a major chunk of the total population of the city. Most of these persons living in the slums earn their livelihood as daily wage labourers, selling vegetables and other household items, some of them are rickshaw pullers and only few of them are employed as regular workers in industrial units in the vicinity while women work as domestic maid-servants in nearby houses. Their children also are either employed as child labour in the city; a

few fortunate among them go to the municipal schools in the vicinity. The support service provided by these persons (whom the Master Plan describes as “city service personnel”) are indispensable to any affluent or even middle class household. The city would simply come to halt without the labour provided by these people. Considerations of fairness require special concern where these settled slum dwellers face threat of being uprooted. Even though their jhuggi clusters may be required to be legally removed for public projects, the consequences can be just as devastating when they are uprooted from their decades long settled position. What very often is overlooked is that when a family living in a Jhuggi is forcibly evicted, each member loses a „bundle of rights – the right to livelihood, to shelter, to health, to education, to access to civic amenities and public transport and above all, the right to live with dignity.”

In this landmark judgement the Delhi High Court also expounded the requirements of “meaningful” engagement with residents prior to any eviction process and recognized the failure of the State to conduct a comprehensive survey prior to demolition:

“55. [I]n the light of the jurisprudence developed by our Supreme Court and the High Court in the cases referred to earlier, to require the respondents to engage meaningfully with those who are sought to be evicted. We find no difficulty in the context of the present case, and It must be remembered that the MPD- 2021 clearly identifies the relocation of slum dwellers as one of the priorities for the government. Spaces have been earmarked for housing of the economically weaker sections. The government will be failing in its statutory and constitutional obligation if it fails to identify spaces equipped infrastructurally with the civic amenities that can ensure a decent living to those being relocated prior to initiating the moves for eviction.

56. The respondents in these cases were unable to place records to show that any systematic survey had been undertaken of the jhuggi

clusters where the petitioners and others resided. There appears to be no protocol developed which will indicate the manner in which the surveys should be conducted, the kind of relevant documentation that each resident has to produce to justify entitlement to relocation, including information relating to present means of livelihood, earning, access to education for the children, access to health facilities, access to public transportation etc. (...)

57. Therefore, the exercise of conducting a survey has to be very carefully undertaken and with great deal of responsibility keeping in view the desperate need of the jhuggi dweller for an alternative accommodation. A separate folder must be preserved by the agency or the agencies that are involved in the survey for each jhuggi dweller with all relevant documents of that jhuggi dweller in one place. Ideally if these documents can be digitalized then there will be no need for repeated production of these documents time and again whenever the jhuggi dweller has in fact to be assigned a place at the relocated site.
58. It is not uncommon to find a jhuggi dweller, with the bulldozer at the doorstep, desperately trying to save whatever precious little belongings and documents they have, which could perhaps testify to the fact that the jhuggi dweller resided at that place. These documents are literally a matter of life for a jhuggi dweller, since most relocation schemes require proof of residence before a „cut-off date“. If these documents are either forcefully snatched away or destroyed (and very often they are) then the jhuggi dweller is unable to establish entitlement to resettlement. Therefore, the exercise of conducting a survey has to be very carefully undertaken and with great deal of responsibility keeping in view the desperate need of the jhuggi dweller for an alternative accommodation. A separate folder must be preserved by the agency or the agencies that are involved in the survey for each jhuggi dweller with all relevant documents of that jhuggi dweller in one place. Ideally if these documents can be digitalized then there will be no need for

repeated production of these documents time and again whenever the jhuggi dweller has in fact to be assigned a place at the relocated site.

59. Each member of the family of the jhuggi dweller is invariably engaged in some livelihood from morning to night. It is, therefore, not uncommon that when a survey team arrives at a jhuggi camp, some or the other member may not be found there. By merely stopping with that single visit, and not finding a particular member of that family, it may not be concluded that no such member resides in that jhuggi. Such an exercise, if it has to be meaningful, has to be undertaken either at the time when all the members of the family are likely to be found. Alternatively there should be repeated visits by the survey team over a period of time with proper prior announcement. If jhuggi dwellers are kept at the centre of this exercise and it is understood that the State has to work to ensure protection of their rights, then the procedure adopted will automatically change, consistent with that requirement.”

Lastly, the Court goes further and discusses the minimum standards of appropriate relocation sites:

- “60. The further concern is the lack of basic amenities at the relocated site. It is not uncommon that in the garb of evicting slums and „beautifying“ the city, the State agencies in fact end up creating more slums the only difference is that this time it is away from the gaze of the city dwellers. The relocated sites are invariably 30-40 kilometers away from a city centre. The situation in these relocated sites, (...) are deplorable. The lack of basic amenities like drinking water, water for bathing and washing, sanitation, lack of access to affordable public transport, lack of schools and health care sectors, compound the problem for a jhuggi dweller at the relocated site. The places of their livelihood invariably continue to be located within the city. Naturally, therefore, their lives are worse off after forced eviction.

61. It cannot be expected that human beings in a jhuggi cluster will simply vanish if their homes are uprooted and their names effaced from government records. They are the citizens who help rest of the city to live a decent life they deserve protection and the respect of the rights to life and dignity which the Constitution guarantees them.”

### **P.K.Koul vs Estate Officer & Anr. W.P.(C) No.15239/2004**

The *P.K.Koul vs Estate Officer & Anr* case is the most recent and comprehensive judgment addressing the issue of right to housing, property and resettlement of an internally displaced group of Kashmiri Pandits citizens living on “public premises” and public land.

“182. Human rights and fundamental rights are inalienable; their violations are indefeasible. The state is under a constitutional obligation and duty to protect these rights. When violated, a citizen is entitled to their enforcement. The constitutional mandate upon it is coupled with the statutory duty and public law obligations to ensure the protection of the fundamental and basic human rights to all, in addition to its obligation under the several international instruments noticed above. This essentially remains in the exclusive domain of state functions. Failure to protect the citizens from eminent loss of life and property as well as maintenance of public order, implicates the state for culpable inaction.

194. Experience and examples abound in this city and the afore-noticed judicial precedents of forcible evictions relating to slums and jhuggi dwellers. Defenceless and disadvantaged citizens are forcibly evicted from their shelters which are then destroyed. And then, the long arm of the state, gives a hyper technical interpretation to legal definitions, takes the shield of statutory provisions and implements what is touted as the "rule of law" in removal of "encroachments" by the disadvantaged. Others illegal constructions and deviants are "regularised" or "compounded".

195. Instance after instance of schemes in Delhi for regularising not only rank illegal and unauthorised constructions but also large scale encroachments on public land are in existence and being implemented. So much so that the Central Government has promulgated ordinances and statutes prohibiting demolitions of huge illegal buildings and even interdicting court orders. Interestingly such legislations benefit such law breakers who do not even need rehabilitation or state support, who are certainly not disadvantaged or displaced. The huge loss to the public exchequer of indiscriminately regularising illegal encroachments on land acquired after payment of large sums as compensation from public funds by the government; encroachments those on public land as also violations of building regulations is not even computed, let alone addressed.

228. In the present cases, the petitioners have complained of grievous violence to their lives and properties and the admitted helplessness of the respondents to protect the same. We are concerned with forced ouster, though not by the State, but which is a direct result of the inability of the state to protect the life and property of a class of its citizens resulting in their forced displacements. The petitioners are now threatened with compulsive eviction from their occupied quarters without any alternative despite the threats to their lives in their home state. The UN Commission on Human Rights has unequivocally stated that forced evictions are a gross violation of human rights. The International Community has long recognised forced eviction as a serious matter and it has been reported repeatedly that clearance operations should take place only when conservation arrangements and rehabilitation are not feasible, relocation measures stand made.

234. There can be no dispute at all that whether it be a jhuggi or mud built thatched house or a mansion considered in Shantistar (supra), without security of limb and life as well as the property,

no enjoyment thereof is possible. In order to be meaningful, the shelter which is envisaged has to be in an environment which is safe and secure ... from the larger threats and dangers which have been created by mankind.”

254. It is evident that the learned appellate courts in the appeals also adopted a hyper technical approach ignoring the serious violation of constitutional rights which has resulted to the petitioners and the drastic consequences of rendering them homeless which results on implementation of the eviction order. The constitutional rights of the litigants are not only well established but are without any limitations. The orders do not indicate that the several important questions raised by the petitioners were deemed to deserve an adjudication including the manner in which superior courts had dealt with similarly situated displaced persons. The learned courts paid no attention to the declared policy of resettlement and rehabilitation of Government or the constitutional rights and guarantees which all courts are bound to enforce.

**Annexure II**  
**UN Basic Principles and Guidelines on Development-  
Based Evictions and Displacement**



**UNITED NATIONS**

**BASIC PRINCIPLES AND GUIDELINES ON DEVELOPMENT-BASED  
EVICTIONS AND DISPLACEMENT**

**Annex 1 of the report of the Special Rapporteur on adequate housing  
as a component of the right to an adequate standard of living**

**A/HRC/4/18**

**February 2007**

# Basic Principles and Guidelines on Development-based Evictions and Displacement\*

## CONTENTS

	<i>Paragraphs</i>
I. Scope and Nature	1 - 10
II. General Obligations	11 - 36
A. Duty bearers and nature of obligations	11 - 12
B. Basic human rights principles	13 - 20
C. Implementation of State obligations	21 - 27
D. Preventive strategies, policies and programmes	28 - 36
III. Prior to Evictions	37 - 44
IV. During Evictions	45 - 51
V. After an Eviction: Immediate Relief and Relocation	52 - 58
VI. Remedies for Forced Evictions	59 - 68
A. Compensation	60 - 63
B. Restitution and return	64 - 67
C. Resettlement and rehabilitation	68
VII. Monitoring, Evaluation and Follow-Up	69 - 70
VIII. Role of The International Community, Including International Organizations	71 - 73
IX. Interpretation	74

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\*This is the actual and complete text of the Guidelines. Presented in the report of the UN Special Rapporteur on Adequate Housing, Miloon Kothari A/HRC/4/18, February 2007. Available online at: <http://www2.ohchr.org/english/issues/housing/annual.htm>.

## I. Scope and Nature

1. The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights. These include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Rights of the Child (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination.
2. In addition, and consistent with the indivisibility of a human rights approach, article 17 of the International Covenant on Civil and Political Rights states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence”, and further that “[e]veryone has the right to the protection of the law against such interference or attacks”. Article 16, paragraph 1, of the Convention on the Rights of the Child contains a similar provision. Other references in international law include article 21 of the 1951 Convention relating to the Status of Refugees; article 16 of International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries (1989); and article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention).
3. The present guidelines address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas. These guidelines represent a further development of the Comprehensive human rights guidelines on development-based displacement (E/CN.4/Sub.2/1997/7, annex). They are based on international human rights law, and

are consistent with general comment No. 4 (1991) and general comment No. 7 (1997) of the Committee on Economic, Social and Cultural Rights, the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in its resolution 60/147, and the Principles on housing and property restitution for refugees and displaced persons (see E/CN.4/Sub.2/2005/17 and Add.1).

4. Having due regard for all relevant definitions of the practice of “forced evictions” in the context of international human rights standards, the present guidelines apply to acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.<sup>1</sup>
5. Forced evictions constitute a distinct phenomenon under international law, and are often linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing. Forced evictions share many consequences similar to those resulting from arbitrary displacement,<sup>2</sup> including population transfer, mass expulsions, mass exodus, ethnic cleansing and other practices involving the coerced and involuntary displacement of people from their homes, lands and communities.

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1 The prohibition of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties.

2 Consistent with Principle 6 of the Guiding Principles on Internal Displacement.

6. Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.
7. Forced evictions intensify inequality, social conflict, segregation and “ghettoization”, and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous peoples.
8. In the context of the present guidelines, development-based evictions include evictions often planned or conducted under the pretext of serving the “public good”, such as those linked to development and infrastructure projects (including large dams, large-scale industrial or energy projects, or mining and other extractive industries); land-acquisition measures associated with urban renewal, slum upgrades, housing renovation, city beautification, or other land-use programmes (including for agricultural purposes); property, real estate and land disputes; unbridled land speculation; major international business or sporting events; and, ostensibly, environmental purposes. Such activities also include those supported by international development assistance.
9. Displacement resulting from environmental destruction or degradation, evictions or evacuations resulting from public disturbances, natural or human-induced disasters, tension or unrest, internal, international or mixed conflict (having domestic and international dimensions) and public emergencies, domestic violence, and certain cultural and traditional practices often take place without regard for existing human rights and humanitarian

standards, including the right to adequate housing. Such situations may, however, involve an additional set of considerations that the present guidelines do not explicitly address, though they can also provide useful guidance in those contexts. Attention is drawn to the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, the Guiding Principles on Internal Displacement, and the Principles on housing and property restitution for refugees and displaced persons.

10. While recognizing the wide range of contexts in which forced evictions take place, the present guidelines focus on providing guidance to States on measures and procedures to be adopted in order to ensure that development-based evictions are not undertaken in contravention of existing international human rights standards and do not thus constitute “forced evictions”. These guidelines aim at providing a practical tool to assist States and agencies in developing policies, legislation, procedures and preventive measures to ensure that forced evictions do not take place, and to provide effective remedies to those whose human rights have been violated, should prevention fail.

## **II. General Obligations**

### **A. Duty Bearers and Nature of Obligations**

11. While a variety of distinct actors may carry out, sanction, demand, propose, initiate, condone or acquiesce to forced evictions, States bear the principal obligation for applying human rights and humanitarian norms, in order to ensure respect for the rights enshrined in binding treaties and general principles of international public law, as reflected in the present guidelines. This does not, however, absolve other parties, including project managers and personnel, international financial and other institutions or organizations, transnational and other corporations, and

individual parties, including private landlords and landowners, of all responsibility.

12. Under international law, the obligations of States include the respect, protection and fulfilment of all human rights and fundamental freedoms. This means that States shall: refrain from violating human rights domestically and extraterritorially; ensure that other parties within the State's jurisdiction and effective control do not violate the human rights of others; and take preventive and remedial steps to uphold human rights and provide assistance to those whose rights have been violated. These obligations are continuous and simultaneous, and are not suggestive of a hierarchy of measures.

#### **B. Basic Human Rights Principles**

13. According to international human rights law, everyone has the right to adequate housing as a component of the right to an adequate standard of living. The right to adequate housing includes, inter alia, the right to protection against arbitrary or unlawful interference with privacy, family, home, and to legal security of tenure.
14. According to international law, States must ensure that protection against forced evictions, and the human right to adequate housing and secure tenure, are guaranteed without discrimination of any kind on the basis of race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or other status.
15. States must ensure the equal right of women and men to protection from forced evictions and the equal enjoyment of the human right to adequate housing and security of tenure, as reflected in the present guidelines.
16. All persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy:

accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education.<sup>3</sup>

17. States must ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that his/her right to protection against forced evictions has been violated or is under threat of violation.
18. States must refrain from introducing any deliberately retrogressive measures with respect to de jure or de facto protection against forced evictions.
19. States must recognize that the prohibition of forced evictions includes arbitrary displacement that results in altering the ethnic, religious or racial composition of the affected population.
20. States must formulate and conduct their international policies and activities in compliance with their human rights obligations, including through both the pursuit and provision of international development assistance.

### **C. Implementation of State Obligations**

21. States shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their adverse impact on a wide range of internationally recognized human rights. Any eviction must be (a) authorized by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare;<sup>4</sup> (d) reasonable and proportional; (e) regulated so as to ensure full and fair compensation and rehabilitation; and (f) carried

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3 See general comment No. 4 on the right to adequate housing, adopted by the Committee on Economic, Social and Cultural Rights in 1991.

4 In the present guidelines, the promotion of the general welfare refers to steps taken by States consistent with their international human rights obligations, in particular the need to ensure the human rights of the most vulnerable.

out in accordance with the present guidelines. The protection provided by these procedural requirements applies to all vulnerable persons and affected groups, irrespective of whether they hold title to home and property under domestic law.

22. States must adopt legislative and policy measures prohibiting the execution of evictions that are not in conformity with their international human rights obligations. States should refrain, to the maximum extent possible, from claiming or confiscating housing or land, and in particular when such action does not contribute to the enjoyment of human rights. For instance, an eviction may be considered justified if measures of land reform or redistribution, especially for the benefit of vulnerable or deprived persons, groups or communities are involved. States should apply appropriate civil or criminal penalties against any public or private person or entity within its jurisdiction that carries out evictions in a manner not fully consistent with applicable law and international human rights standards. States must ensure that adequate and effective legal or other appropriate remedies are available to all those who undergo, remain vulnerable to, or defend against forced evictions.
23. States shall take steps, to the maximum of their available resources, to ensure the equal enjoyment of the right to adequate housing by all. The obligation of States to adopt appropriate legislative and policy measures to ensure the protection of individuals, groups and communities from evictions that are not in conformity with existing international human rights standards is immediate.<sup>5</sup>
24. In order to ensure that no form of discrimination, statutory or otherwise, adversely affects the enjoyment of the human right to adequate housing, States should carry out comprehensive reviews of relevant national legislation and policy with a view to ensuring their conformity with international human rights provisions. Such

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<sup>5</sup> See general comment No. 3 on the nature of States parties' obligations, adopted in 1990 by the Committee on Economic, Social and Cultural Rights.

comprehensive review should also ensure that existing legislation, regulation and policy address the privatization of public services, inheritance and cultural practices, so as not to lead to, or facilitate forced evictions.<sup>6</sup>

25. In order to secure a maximum degree of effective legal protection against the practice of forced evictions for all persons under their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land.
26. States must ensure the equal enjoyment of the right to adequate housing by women and men. This requires States to adopt and implement special measures to protect women from forced evictions. Such measures should ensure that titles to housing and land are conferred on all women.
27. States should ensure that binding human rights standards are integrated in their international relations, including through trade and investment, development assistance and participation in multilateral forums and organizations. States should implement their human rights obligations with regard to international cooperation,<sup>7</sup> whether as donors or as beneficiaries. States should ensure that international organizations in which they are represented refrain from sponsoring or implementing any project, programme or policy that may involve forced evictions, that is, evictions not in full conformity with international law, and as specified in the present guidelines.

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6 See the guidelines on housing and discrimination contained in the 2002 report of the Commission on Human Rights Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2002/59).

7 As set forth in article 22, Universal Declaration of Human Rights; Articles 55 and 56 of the Charter of the United Nations; articles 2, paragraph 1, 11, 15, 22 and 23, International Covenant on Economic, Social and Cultural Rights; articles 23, paragraph 4, and 28, paragraph 3, Convention on the Rights of the Child.

#### **D. Preventive Strategies, Policies and Programmes**

28. States should adopt, to the maximum of their available resources, appropriate strategies, policies and programmes to ensure effective protection of individuals, groups and communities against forced eviction and its consequences.
29. States should carry out comprehensive reviews of relevant strategies, policies and programmes, with a view to ensuring their compatibility with international human rights norms. In this regard, such reviews must strive to remove provisions that contribute to sustaining or exacerbating existing inequalities that adversely affect women and marginalized and vulnerable groups. Governments must take special measures to ensure that policies and programmes are not formulated or implemented in a discriminatory manner, and do not further marginalize those living in poverty, whether in urban or rural areas.
30. States should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, such as speculation in land and real estate. States should review the operation and regulation of the housing and tenancy markets and, when necessary, intervene to ensure that market forces do not increase the vulnerability of low-income and other marginalized groups to forced eviction. In the event of an increase in housing or land prices, States should also ensure sufficient protection against physical or economic pressures on residents to leave or be deprived of adequate housing or land.
31. Priority in housing and land allocation should be ensured to disadvantaged groups such as the elderly, children and persons with disabilities.
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.

33. Impact assessments must take into account the differential impacts of forced evictions on women, children, the elderly, and marginalized 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.
34. Adequate training in applying international human rights norms should be required and provided for relevant professionals, including lawyers, law enforcement officials, urban and regional planners and other personnel involved in the design, management and implementation of development projects. This must include training on women’s rights, with an emphasis on women’s particular concerns and requirements pertaining to housing and land.
35. States should ensure the dissemination of adequate information on human rights and laws and policies relating to protection against forced evictions. Specific attention should be given to the dissemination of timely and appropriate information to groups particularly vulnerable to evictions, through culturally appropriate channels and methods.
36. States must ensure that individuals, groups and communities are protected from eviction during the period that their particular case is being examined before a national, regional or international legal body.

### **III. Prior to Evictions**

37. Urban or rural planning and development processes should involve all those likely to be affected and should include the following elements: (a) appropriate notice to all potentially affected persons

that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; (b) effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; (c) a reasonable time period for public review of, comment on, and/or objection to the proposed plan; (d) opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and (e) holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

38. States should explore fully all possible alternatives to evictions. All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.
39. During planning processes, opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, including women and vulnerable and marginalized groups, and, when necessary, through the adoption of special measures or procedures.
40. Prior to any decision to initiate an eviction, authorities must demonstrate that the eviction is unavoidable and consistent with international human rights commitments protective of the general welfare.

41. Any decision relating to evictions should be announced in writing in the local language to all individuals concerned, sufficiently in advance. The eviction notice should contain a detailed justification for the decision, including on: (a) absence of reasonable alternatives; (b) the full details of the proposed alternative; and (c) where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions. All final decisions should be subject to administrative and judicial review. Affected parties must also be guaranteed timely access to legal counsel, without payment if necessary.
42. Due eviction notice should allow and enable those subject to eviction to take an inventory in order to assess the values of their properties, investments and other material goods that may be damaged. Those subject to eviction should also be given the opportunity to assess and document non-monetary losses to be compensated.
43. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. The State must make provision for the adoption of all appropriate measures, to the maximum of its available resources, especially for those who are unable to provide for themselves, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available and provided. Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted.
44. All resettlement measures, such as construction of homes, provision of water, electricity, sanitation, schools, access roads and allocation of land and sites, must be consistent with the present guidelines and internationally recognized human rights principles, and completed before those who are to be evicted are moved from their original areas of dwelling.<sup>8</sup>

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8 See section V of the present guidelines.

#### **IV. During Evictions**

45. The procedural requirements for ensuring respect for human rights standards include the mandatory presence of governmental officials or their representatives on site during evictions. The governmental officials, their representatives and persons implementing the eviction must identify themselves to the persons being evicted and present formal authorization for the eviction action.
46. Neutral observers, including regional and international observers, should be allowed access upon request, to ensure transparency and compliance with international human rights principles during the carrying out of any eviction.
47. Evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of those affected. States must also take steps to ensure that women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected.
48. Any legal use of force must respect the principles of necessity and proportionality, as well as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and any national or local code of conduct consistent with international law enforcement and human rights standards.
49. Evictions must not take place in inclement weather, at night, during festivals or religious holidays, prior to elections, or during or just prior to school examinations.
50. States and their agents must take steps to ensure that no one is subject to direct or indiscriminate attacks or other acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. Property and possessions left behind involuntarily should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

51. Authorities and their agents should never require or force those evicted to demolish their own dwellings or other structures. The option to do so must be provided to affected persons, however, as this would facilitate salvaging of possessions and building material.

## **V. After an Eviction: Immediate Relief and Relocation**

52. The Government and any other parties responsible for providing just compensation and sufficient alternative accommodation, or restitution when feasible, must do so immediately upon the eviction, except in cases of force majeure. At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions.
53. Special efforts should be made to ensure equal participation of women in all planning processes and in the distribution of basic services and supplies.
54. In order to ensure the protection of the human right to the highest attainable standard of physical and mental health, all evicted persons who are wounded and sick, as well as those with disabilities, should receive the medical care and attention they require to the fullest extent practicable and with the least possible delay, without distinction on any non-medically relevant grounds. When necessary, evicted persons should have access to psychological and social services. Special attention should be paid to: (a) the health needs of women and children, including access to female health-care providers where necessary, and to services such

as reproductive health care and appropriate counselling for victims of sexual and other abuses; (b) ensuring that ongoing medical treatment is not disrupted as a result of eviction or relocation; and (c) the prevention of contagious and infectious diseases, including HIV/AIDS, at relocation sites.

55. Identified relocation sites must fulfil the criteria for adequate housing according to international human rights law. These include:<sup>9</sup> (a) security of tenure; (b) services, materials, facilities and infrastructure such as potable water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and to natural and common resources, where appropriate; (c) affordable housing; (d) habitable housing providing inhabitants with adequate space, protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors, and ensuring the physical safety of occupants; (e) accessibility for disadvantaged groups; (f) access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas; and (g) culturally appropriate housing. In order to ensure security of the home, adequate housing should also include the following essential elements: privacy and security; participation in decision-making; freedom from violence; and access to remedies for any violations suffered.
56. In determining the compatibility of resettlement with the present guidelines, States should ensure that in the context of any case of resettlement the following criteria are adhered to:
- (a) No resettlement shall take place until such time as a comprehensive resettlement policy consistent with the present guidelines and internationally recognized human rights principles is in place;

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<sup>9</sup> See general comment No. 4 on adequate housing adopted by the Committee on Economic, Social and Cultural Rights in 1991.

- (b) Resettlement must ensure that the human rights of women, children, indigenous peoples and other vulnerable groups are equally protected, including their right to property ownership and access to resources;
- (c) The actor proposing and/or carrying out the resettlement shall be required by law to pay for any associated costs, including all resettlement costs;
- (d) No affected persons, groups or communities shall suffer detriment as far as their human rights are concerned, nor shall their right to the continuous improvement of living conditions be subject to infringement. This applies equally to host communities at resettlement sites, and affected persons, groups and communities subjected to forced eviction;
- (e) The right of affected persons, groups and communities to full and prior informed consent regarding relocation must be guaranteed. The State shall provide all necessary amenities, services and economic opportunities at the proposed site;
- (f) The time and financial cost required for travel to and from the place of work or to access essential services should not place excessive demands upon the budgets of low-income households;
- (g) Relocation sites must not be situated on polluted land or in immediate proximity to pollution sources that threaten the right to the highest attainable standards of mental and physical health of the inhabitants;
- (h) Sufficient information shall be provided to the affected persons, groups and communities on all State projects and planning and implementation processes relating to the concerned resettlement, including information on the purported use of the eviction dwelling or site and its proposed beneficiaries. Particular attention must be paid to ensuring that indigenous peoples, minorities, the landless, women and children are represented and included in this process;

- (i) The entire resettlement process should be carried out with full participation by and with affected persons, groups and communities. States should, in particular, take into account all alternative plans proposed by the affected persons, groups and communities;
  - (j) If, after a full and fair public hearing, it is found that there still exists a need to proceed with the resettlement, then the affected persons, groups and communities shall be given at least 90 days' notice prior to the date of the resettlement; and
  - (k) Local government officials and neutral observers, properly identified, shall be present during the resettlement so as to ensure that no force, violence or intimidation is involved.
57. Rehabilitation policies must include programmes designed for women and marginalized and vulnerable groups to ensure their equal enjoyment of the human rights to housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman or degrading treatment, and freedom of movement.
58. Persons, groups or communities affected by an eviction should not suffer detriment to their human rights, including their right to the progressive realization of the right to adequate housing. This applies equally to host communities at relocation sites.

## **VI. Remedies for Forced Evictions**

59. All persons threatened with or subject to forced evictions have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation, and should comply, as applicable, with the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

## A. Compensation

60. When eviction is unavoidable, and necessary for the promotion of the general welfare, the State must provide or ensure fair and just compensation for any losses of personal, real or other property or goods, including rights or interests in property. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as: loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medicine and medical services, and psychological and social services. Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.
61. All those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original dwelling and land lost or damaged in the process. Consideration of the circumstances of each case shall allow for the provision of compensation for losses related to informal property, such as slum dwellings.
62. Women and men must be co-beneficiaries of all compensation packages. Single women and widows should be entitled to their own compensation.
63. To the extent not covered by assistance for relocation, the assessment of economic damage should take into consideration losses and costs, for example, of land plots and house structures; contents; infrastructure; mortgage or other debt penalties; interim

housing; bureaucratic and legal fees; alternative housing; lost wages and incomes; lost educational opportunities; health and medical care; resettlement and transportation costs (especially in the case of relocation far from the source of livelihood). Where the home and land also provide a source of livelihood for the evicted inhabitants, impact and loss assessment must account for the value of business losses, equipment/inventory, livestock, land, trees/crops, and lost/decreased wages/income.

## **B. Restitution and Return**

64. The circumstances of forced evictions linked to development and infrastructure projects (including those mentioned in paragraph 8 above) seldom allow for restitution and return. Nevertheless, when circumstances allow, States should prioritize these rights of all persons, groups and communities subjected to forced evictions. Persons, groups and communities shall not, however, be forced against their will to return to their homes, lands or places of origin.
65. When return is possible or adequate resettlement in conformity with these guidelines is not provided, the competent authorities should establish conditions and provide the means, including financial, for voluntary return in safety and security, and with dignity, to homes or places of habitual residence. Responsible authorities should facilitate the reintegration of returned persons and exert efforts to ensure the full participation of affected persons, groups and communities in the planning and management of return processes. Special measures may be required to ensure women's equal and effective participation in return or restitution processes in order to overcome existing household, community, institutional, administrative, legal or other gender biases that contribute to marginalization or exclusion of women.
66. Competent authorities have the duty and responsibility to assist returning persons, groups or communities to recover, to the

maximum extent possible, the property and possessions that they left behind or were dispossessed of upon their eviction.

67. When return to one's place of residence and recovery of property and possessions is not possible, competent authorities must provide victims of forced evictions, or assist them in obtaining, appropriate compensation or other forms of just reparation.

### **C. Resettlement and Rehabilitation**

68. While all parties must give priority to the right of return, certain circumstances (including for the promotion of general welfare, or where the safety, health or enjoyment of human rights so demands) may necessitate the resettlement of particular persons, groups and communities due to development-based evictions. Such resettlement must occur in a just and equitable manner and in full accordance with international human rights law as elaborated in section V of these guidelines.

## **VII. Monitoring, Evaluation and Follow-Up**

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.
70. States should entrust an independent national body, such as a national human rights institution, to monitor and investigate forced evictions and State compliance with these guidelines and international human rights law.

## **VIII. Role of The International Community, Including International Organizations**

71. The international community bears an obligation to promote, protect and fulfil the human right to housing, land and property. International financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, should take fully into account the prohibition on forced evictions under international human rights law and related standards.
72. International organizations should establish or accede to complaint mechanisms for cases of forced evictions that result from their own practices and policies. Legal remedies should be provided to victims in accordance with those stipulated in these guidelines.
73. Transnational corporations and other business enterprises must respect the human right to adequate housing, including the prohibition on forced evictions, within their respective spheres of activity and influence.

## **IX. Interpretation**

74. These guidelines on development-based evictions and displacement shall not be interpreted as limiting, altering or otherwise prejudicing the rights recognized under international human rights, refugee, criminal or humanitarian law and related standards, or rights consistent with these laws and standards as recognized under any national law.

**Annexure III**  
**Relevant Delhi High Court Orders**

**In the High Court of Delhi at New Delhi**

W. P. (C) 2033/2011 and CM No. 4327/2011 (for stay)

Haq Through: Its Member Abdul Sakeel Basha .....Petitioner  
Through: Mr. Colin Gonsalves, Senior Advocate with Ms. Jayshree  
Satpute and Mr. Tariq Adeeb, Advocates.

versus

Government of NCT, Delhi and Ors. .... Respondents  
Through: Ms. Shobhna Takiar, Advocate for DDA and GNCTD.

Coram: Justice S. Muralidhar

Order

25.03.2011

1. Notice. Ms. Shobhna Takiar, Advocate accepts notice for the DDA and GNCTD. Notice be issued to the remaining Respondents.
2. The facts as narrated in this petition show that according to the Petitioners the residents of the jhuggies in the Punjabi Basti, of which the Gayatri Colony forms part, have been living there for more than 2 decades. Copies of the voter identity cards of some of them have been enclosed with the petition. These show that there are addresses for each of the jhuggies in the JJ Colony in question.
3. In response to a pointed query to learned counsel for the DDA whether any door-to-door comprehensive survey was undertaken of the jhuggies prior to commencing the demolition action, it was stated by Ms. Shobhna Takiar, learned counsel for the DDA that the DDA was given an 'extract' of a survey undertaken by the MCD some time in 2009. Learned counsel stated that she will have to seek instructions on whether a complete survey document, which would show the status of each of the persons whose jhuggi was demolished, was available with the DDA prior to the demolition.

The DDA will place on record a copy of such door-to-door survey, if available.

4. There is a policy of the Union of India for rehabilitation of slum dwellers which is operational in terms of the interim orders dated 19th February and 3rd March 2003 passed by the Supreme Court in SLP(C) Nos. 3166-67/2003 (Union of India v. Wazirpur Bartan Nirmata Sangh). It is therefore incumbent on the DDA to find out if any of the persons whose jhuggies are demolished were entitled to rehabilitation in terms of the said policy. The DDA ought to have undertaken a comprehensive survey prior to the demolition. The DDA's response to the writ petition will advert to this aspect.
5. The second aspect is that there were about 7,000 children living in the JJ cluster attending schools in nearby areas. The DDA will state on affidavit whether the comprehensive survey accounted for this fact. It will also indicate whether the DDA drew up a plan of action to ensure that the right of education of the children would continue undisturbed notwithstanding the demolition action of the DDA.
6. The third aspect is that there were several people who are beneficiaries of the Integrated Child Development Services (ICDS), including lactating and pregnant women. The DDA will inform the Court whether this aspect was accounted for before it undertook the demolition action. It will explain how Anganwadi Centres/ICDS were functioning in the jhuggies could be demolished without making alternative arrangements? Further, the DDA will state whether the concerned department/authority was informed in advance of such demolition?
7. Ms. Shobhna Takiar, learned counsel for the DDA states that the Commissioner (Land Management) of the DDA will file a detailed affidavit in this Court on the above aspects within a period of one week. The file containing the notings prior to the demolition action will also be produced in the Court on the next date. The rejoinder of the Petitioner, if any, to the said affidavit be filed within one week thereafter.

8. The Government of National Capital Territory of Delhi (?GNCTD?) will also inform this Court on the next date whether the demolition action took place with its prior consent and intimation.
9. Mr. Colin Gonsalves, learned Senior counsel appearing for the Petitioner points out that the GNCTD has appointed a Nodal Officer, Mother NGO (?MNGO?) for the homeless. He states that the said MNGO should be asked to undertake a survey of those who have been displaced on account of the demolition action.
10. It is further pointed out that as a result of the demolition action which commenced on 23rd March 2011, and was stopped by the interim order of this Court passed yesterday, i.e. on 24th March 2011, more than a 1000 families have been rendered homeless. Their belongings have been totally destroyed. They are deprived of basic survival needs including shelter, drinking water, sanitation and health facilities.
11. It is directed that the Commissioner (Land Management), DDA will constitute a team of three senior officials who will immediately visit the site and ensure that basic facilities like drinking water, sanitation including public toilets, temporary shelter and health services are provided to those whose houses have been demolished. The DDA will coordinate with the GNCTD as well as Respondent No. 3, the Delhi Urban Improvement Board in this regard.
12. The lay-out plan of the area which shows the exact location of the jhuggi clusters will be placed on record by the next date by either of the parties.
13. Status quo be maintained.
14. List on 27th April 2011. A copy of the order be given dasti to learned counsel for the parties under signature of the Court Master.

S. Muralidhar, J

March 25, 2011

# In the High Court of Delhi at New Delhi

W. P. (C) 2033/2011 and CM APPL No.4581/2010

HAQ Through: Its Member Abdul Sakeel Basha .....Petitioner  
Through: Mr. Tariq Adeeb, Advocate.

versus

Govornment of NCT, Delhi and Ors .....Respondents  
Through: Ms. Shobhana Takiar, Advocate for R-1 and R-2.  
Mr. O. P. Saxena with Mr. Mithilesh Kumar, Advocate for DUSIB/R-3.

Coram: Justice S. Muralidhar

Order

31.03.2011

1. The grievance of the Petitioner is that no temporary relief as directed by this Court on 25th March 2011 has been provided to any of the displaced persons. Ms. Shobhana Takiar, learned counsel for the Respondent Nos.1 and 2 informs the Court that a team of the following officers have been constituted by the DDA for the specific purpose of ensuring that basic facilities like drinking water, sanitation including public toilets, temporary shelter and health services are provided to those whose houses have been demolished:-
  1. Sh. Paramjeet Singh - Dy. Director/Land Management Coordination
  2. Sh. A. R. Arya - Dy. Director/LM (Rohini)
  3. Sh. M. S. Aggarwal - Asstt. Director/LM (WZ)
2. The above team is directed to remain present at the site today at 3.00 p.m. to ensure that this Court's previous order is implemented. Mr. O. P. Saxena, learned counsel for the Delhi Urban Shelter Improvement Board (?DUSIB?) states that one Deputy Director of

night shelters, DUSIB will visit the site today at 3.00 p.m. The said Deputy Director, DUSIB will also form part of the above team and will also be present along with the team today at 3.00 p.m. at the site. Two representatives of the Petitioner will also remain present with the list of persons who require minimum basic facilities. The first task of the team would be to ensure that drinking water facilities, sanitation including public toilets and health services are made available.

3. As far as the question of temporary shelters is concerned, Mr. Saxena states that the team will coordinate with the nearest available night shelters and ensure that the displaced persons are provided temporary shelter at the nearest night shelter. A further status report be filed in this Court by the aforementioned team before the next date of hearing.
4. List on 4th April 2011.
5. It is reiterated that status quo should be maintained in the area.
6. A copy of order be given dasti to learned counsel for the parties under the signature of the Court Master.

S. Muralidhar, J

March 31, 2011

# **In the High Court of Delhi at New Delhi**

W.P. (C) 2033/2011 and CM APPL No. 4581/2011

Haq, Through: Its Member Abdul Sakeel Basha ..... Petitioner  
Through: Ms. Jayshree Satpute with Mr. Tariq Adeeb, Advocates

versus

Government of NCT, Delhi and ORS. .... Respondents

Through: Ms. Shobhana Takiar, Advocate for

R-1 and R-2.

Mr. Mithilesh Kumar, Advocate for Mr. O.P. Saxena, Advocate for  
DUSIB.

Coram: Justice S. Muralidhar

## **Order**

04.04.2011

1. Ms. Shobhana Takiar, learned counsel for the DDA hands over a status report in which, inter alia, it is stated that at the meeting held at the site on 31<sup>st</sup> March 2011 the representatives of the Petitioner did not have a ready list of the affected persons.
2. Learned counsel for the Petitioner has handed over to Ms. Takiar a list of 2300 affected persons, which she states was prepared in the last three days since. She states that this is not a complete list of the persons affected.
3. Ms. Takiar states that a camp will be set up today itself at the site by the team of three officials of the DDA along with officials from the DUSIB to verify the list that has been handed over. The team will also examine the documents produced by any other person whose name may not figure in the list given by the counsel for the Petitioner.

4. It is not clear from the status report as to where night shelters are located and what is the capacity of each night shelter. If it is not possible for all the affected persons to be accommodated in the night shelters, the team should suggest alternative means of providing temporary shelter to the affected persons.
5. The status report encloses a copy of the letter written to the Delhi Jal Board for providing drinking water. It mentions the fact that one water tank was seen at the site at around 3.40 pm on 31st March 2011. Counsel for the Petitioner states that thereafter there has been no arrangement for providing drinking water.
6. One of the first tasks of the officials of the DDA and the DUSIB will be to ensure that as many water tanks as are necessary should be provided on a regular basis to the persons displaced. The representatives of the Petitioner will remain present at the site to coordinate the effective implementation of this Court's previous orders in respect of the other matters as well.
7. Ms. Takiar states that the counter affidavit will be filed before the next date.
8. List on 6th April 2011. Dasti to the parties under signature of the Court Master.

S. Muralidhar, J

April 04, 2011

# **In the High Court of Delhi at New Delhi**

W.P. (C) 2033/2011 and CM No. 4581/2011

HAQ, Through : Its Member Abdul Sakeel Basha and Ors ..... etitioners  
Through : Ms. Jayshree Satpute with Mr. Tariq Adeeb, Advocates.

versus

Government of NCT, Delhi and Ors. .... Respondents  
Through : Mr. O.P. Saxena, Advocate for DUSIB.

Coram: Justice S. Muralidhar

Order

07.04.2011

1. As regards the issue of supply of drinking water, the photographs produced before this Court show that one water tanker has been provided which is obviously not enough considering the number of people who have been displaced. The DUSIB will write to the Delhi Jal Board (?DJB?) forthwith for supply of six tankers at the site. The DJB will act on such request without any delay. The DJB will also supply the required water for the mobile toilets. The DUSIB will enclose with its letter a copy of the order passed by this Court today. The DUSIB will also follow up with the DJB and ensure that this Court?s orders are complied with.
2. As regards the supply of food packets, this Court is informed that there is an Aap ki Rasoi Scheme of the Department of Social Welfare, Government of National Capital Territory of Delhi (?GNCTD?) under which food packets are given to homeless persons free of charge. Considering that the persons who have been displaced on account of the demolition are without a roof over their heads, this Court directs that the GNCTD should make arrangements for supply of food packets to them under the Aap ki Rasoi Scheme. The officials of the Department of Social Welfare, GNCTD will coordinate with the

team of the officials of the DDA as well as representatives of the Petitioners.

3. The third aspect is about the persons displaced not being able to remove their belongings which are under the debris. In this regard, Mr. Paramjit Singh, Deputy Director, DDA states that the DDA will render all possible assistance to get the debris cleared and enable the displaced persons to remove their belongings. This has to be done in an organised way. The team which has already been constituted by the DDA, along with the representatives of the Petitioners will coordinate their efforts to ensure that the debris is cleared and the persons who have been displaced are able to remove their belongings.
4. As regards the provision of mobile dispensaries, a direction is issued to the Secretary, Department of Health, GNCTD to send a senior official to the site. The official will assess the situation and forthwith ensure that a mobile dispensary is provided.
5. Copies of this order will be delivered by the Registry to the Secretary, Department of Welfare, GNCTD and Secretary, Department of Health, GNCTD within five days. Copies thereof will also be communicated to the said officials by the Standing counsel for the GNCTD.
6. List on 27th April 2011. A copy of this order be given dasti to the parties under signature of the Court Master.

S.Muralidhar, J

April 07, 2011

Annexure IV  
**Selected Media Articles**



## **600 slum clusters razed by DDA in West Delhi before HC stay**

Posted: Fri Mar 25 2011, 02:00 hrs

New Delhi:

The Delhi Development Authority (DDA) demolished 600 jhuggis in Gayatri Colony, near Patel Nagar, over the last two days. "As many as 300 jhuggis were demolished on Wednesday, followed by 300 on Thursday, and we had plans to demolish more. However, a Delhi High Court order on Thursday stayed any further demolitions," a senior DDA official said.

According to HAQ, an NGO working on the site, 2,000 police personnel, along with 50 DDA officials, carried out the demolition. The DDA official said, "It is a routine procedure to carry out demolitions in the presence of police officials to ensure law and order. But we certainly did not take 2,000 policemen along."

Abdul Shakeel, a member of HAQ, said. "Before the demolition began, not a single notice was served to the people living in the area for almost 20 years. There were no assurances of providing alternative accommodation, as mentioned in the masterplan of Delhi. So far, five bulldozers have been deployed for the demolition and 700 houses demolished. Hundreds of people have been arrested, and many are severely injured due to the police beatings."

The DDA said the demolition was approved by its committee as the slum cluster was unauthorised and had come up on government land.

## **DDA continues, High Court stays jhuggis' demolition**

Jiby Kattakayam

New Delhi, March 25, 2011

The Delhi Development Authority on Thursday continued with its demolition of jhuggis at Gayatri Colony near Ramjas Ground behind West Patel Nagar here for the second consecutive day even as voluntary organisations which sprang up in defence of the colony residents approached the Delhi High Court and managed to obtain a stay on the demolition drive late in the day.

In a clear contravention of the Delhi High Court's Division Bench judgment of February 11, 2010, which ruled that every eligible slum dweller had to be relocated to a place with proper civic amenities before being evicted from a piece of public land, the DDA did not issue notice to the colony residents before evicting them.

While the DDA estimates that only 800 jhuggis in a two-acre area were demolished amid heavy deployment of police personnel, colony residents claim that nearly 1,500 jhuggis have been demolished. DDA spokesperson Neemo Dhar said only encroachments that came up after 2008 were being demolished. But colony residents assert that they have been living on the DDA plot for over 10 years. Ms. Dhar said that while 500 jhuggis were demolished on Wednesday, 300 more were due to be demolished on Thursday.

The residents furnished in the Delhi High Court voter identity cards and ration cards issued in the last 10-12 years as proof of their residence. Pradeep Sharma, a colony resident, said his 1995 voter identity card and

his ration card issued in 2007 which mentioned the demolished jhuggi as his address proved he was a long-time resident of the colony. Pooja, another resident, could only recover her BSES electricity bill from the rubble to show her proof of residence.

Several others also came forward with their identification cards to show their proof of residence and dates when the ID-cards were processed. Baljeet Nagar, of which Gayatri Colony is a part, has a total of 4,000 jhuggis. Fear has gripped Baljeet Nagar residents who are worried that their homes would be next in the line of the DDA's earth-movers that on Wednesday and Thursday reduced houses made of brick, mortar and asbestos to rubble.

An estimated 5,000 people have been left homeless, most with no place else to go. While some residents salvaged their belongings and stowed them away at relatives' and friends houses, others with nowhere to go are camping at the disputed site and sat disconsolately with their meagre belongings where their houses once stood.

Residents said what has affected them most is that the DDA officials did not serve notice on them before starting demolition. They allege that they had been paying bribes to lower-level DDA officials to undertake construction and extension of their houses.

Indu Prakash Singh of the Indo-Global Social Service Society, who was present at the Colony, said the DDA blatantly violated due process which should have been followed as per the guidelines laid down by the February 11, 2010, judgment. Mr. Singh said the Human Rights Law Network would move a compensation claim and contempt proceedings against the DDA when the matter is taken up for hearing again on Friday.

NGOs active in the area said they were trying to put up tents and organise food packets to distribute to the residents.

The drive is in clear contravention of court ruling that slum dwellers had to be relocated before being evicted

## **Basti razed to ground, HC stays drive**

Ambika Pandit, TNN Mar 25, 2011, 02.35am IST

New Delhi: The congested Punjabi Basti and Gayatri Colony located on the periphery of Baljeet Nagar in west Delhi has been reduced to rubble. Thousands of residents of this settlement - hundreds of women and children - became victims of a "human tragedy" ever since Delhi Development Authority's bulldozers rolled in on Wednesday. While DDA justified the action saying these are fresh encroachments on public land, Delhi high court on a petition of Human Rights Law Network on Thursday evening ordered a stay, bringing the action to a halt. The case is listed for a hearing on Friday.

DDA commissioner, public relations, NeemoDhar, said these structures were being demolished as they had come up recently and were encroaching on government land. Punjabi Basti was razed as the bulldozers clawed down semi-permanent structures all through Wednesday and for most part of Thursday. Large number of policemen guarded the site in riot gear. But the fact that thousands of structures came up in this area over the years and many residents hold legitimate voter ID cards, ration cards and pay electricity bills shows that the authorities first allowed people to illegally settle here and are now using the law to clear the mess.

Nanhu Prasad, 70, claims to have been living in Punjabi Basti for over a decade. Now that his one-room tenement has been demolished, he has been left homeless with a large family. For many children who go to school the future is now uncertain. Ravi Kumar, who studies in class VIII, pointed that the schools will open for the new session next week and he does not want to quit studies. His father, a rickshawpuller, could be seen picking up whatever was left from the rubble. A little further, Sonia

sat in the open on a hot afternoon trying to pacify her three-month-old son.

Nanhu says that demolition squads have come in the past too. But each time, a few structures were demolished and the squads would leave the area. Residents claim that demolished structures would again crop up and all this happened in connivance with the DDA staff and police. People claimed that the staff of the DDA and the cops would demand anything between Rs 20,000 and Rs 40,000 as bribe to allow construction.

"They would tell us that since so many people are living here, nothing will happen to us and that we can carry out construction. Even politicians from the area encouraged us to stay on. I bought this land using up my life's savings of Rs 1.15 lakh. Why did they allow us to settle here in the first place," asks Mahinder, who works as a painter.

Activists are up in arms at the manner in which the largescale demolition has been executed. InduPrakash Singh from Indo Global Social Service Society pointed that there are directives of the high court which clearly call for proper planning for resettlement and relocation before an eviction exercise is carried out.

JayshreeSatpute, the lawyer who moved high court on behalf of Human Rights Law Network, pointed that they were shocked to see a large number of children, women with babies and even those pregnant being left homeless as a result of the demolition drive. She said that two women were even injured amid the chaos.

## **Slum dwellers accuse DDA, police of taking bribe**

Jiby Kattakayam

A public hearing on Monday into the demolition of jhuggis at Baljeet Nagar near West Patel Nagar by the Delhi Development Authority on March 23 and 24 drew attention to the role of lower-level DDA officials and policemen in extracting bribes from slum-dwellers to construct houses on public land.

The demolition, which left an estimated 4,000 people homeless, was stayed by the Delhi High Court on March 24. The Court also ordered the DDA to carry out a number of mitigating measures including provision of water, mobile toilets, electricity and temporary shelter until the next hearing on the matter on April 27.

Former Chief Justice of the Delhi High Court A. P. Shah, whose last order before retiring on February 11 was a landmark ruling said that every eligible slum dweller had to be relocated with proper civic amenities before being evicted from public land, was part of the panel that presided over the public hearing.

To a poser from Justice Shah whether the residents were willing to give in writing the names of DDA and police officers who had fleeced money from them, almost all the residents raised their hands.

Several men, women and children came forward to implicate DDA and Anand Parbat police station officers for their actions before, during and after the demolitions. The residents alleged that tankers brought water only rarely as a result of which their drinking water, cooking, toilet and laundry needs suffered. Sleeping in the open at night with their belongings outside had left them at the mercy of mosquitoes, rain, thieves and ill-health, they said.

“The DDA only makes houses that cost lakhs. Nobody makes houses for you people. They did not have any right to demolish your houses without issuing notice. It was a travesty of your human rights. When your jhuggis are destroyed, your work and your children are affected. You are not raising your voice enough. It was your weak position that made you pay bribes to the DDA and police officers to make a house. It should be the DDA and police which should be punished, not you all, for claiming your right to shelter,” Justice Shah remarked.

Among the victims included five-year-old Anish who was blinded when he fell while fleeing from a bulldozer and eight-year-old Kavita who sustained a deep wound when a stone flew off a jhuggi being razed by a bulldozer and hit her on her head.

Pushpa, a domestic help living there since 2003, said a DDA officials had taken money from her just a day before the demolition. Poonam and Anu, two Class XII students, said their public examinations were ruined and they and several other children had to miss exams because the demolition took place then.

Kamlesh, a mother of three, said her children had returned from school with tears in their eyes as the teacher had scolded them for wearing dirty uniforms to school. “When there is no water, how can I wash my children's clothes,” she asked. Anu, a pregnant woman, worried that her health was worsening, as she has not been able to eat or sleep properly. The hearing was organised by a coalition of civil society organisations comprising Human Rights Law Network, National Campaign on Dalit Human Rights, Housing and Land Rights Network and Indo-Global Social Service Society.

Since the late 1980s the Government of Delhi has initiated a surge of demolitions and forced evictions under the justification of “slum up-gradation” and “city beautification.” However, this crusade is taking place at an alarmingly high cost to Delhi’s residents; thousands of whom have lost their houses and property and been rendered homeless. These losses are a result of massive eviction drives central to the Delhi Government’s aspiration to develop a “world class city”; a city which sadly has no place for the urban poor. For example, in the run up to the 2010 Commonwealth Games, the Government displaced over 200,000 persons by demolishing entire settlements, clearing out large areas, and deporting slum dwellers and homeless citizens away from the city centre and thus from the sight of international media and foreign visitors.

Meanwhile resettlement colonies, when and if provided, boast grossly inadequate conditions with no sewage systems, electricity, or garbage collection and located unrealistic distances from public services such as hospitals and schools. Factors such as residents’ access to health facilities, schools, public transport and workplace are patently disregarded. Despite existing policies and regulations, coupled with strong domestic jurisprudence and international law obligations, most evictions take place illegally and rights of the poor are trampled on.