



OMCT/HIC-HLRN
JOINT URGENT ACTION APPEAL:
Over 300,000 people to be forcefully evicted from Yamuna Pushta
in Delhi: 40,000 homes demolished so far
Case IND-FE 050504

The South Asian Regional Office and Coordination Office of HIC-HLRN and the International Secretariat of OMCT request your **URGENT** intervention in the following situation in **India**.

Brief description of the situation

Hazard Centre, a Delhi based nongovernmental organisation working on urban issues and a member of Habitat International Coalition's Housing and Land Rights Network, has informed HIC-HLRN that the Delhi authorities have forcibly evicted over two-thirds of 300,000 people living on 40 hectares of the Yamuna River bed area. The last third (approximately 100,000 people) are going to be evicted in the coming week.

Since the beginning of February 2004, Municipal Corporation of Delhi (MCD) and the Delhi Development Authority (DDA) have reportedly demolished 40,000 homes of slum dwellers and forcibly evicted 200,000 people without adequate and equitable resettlement. The demolishing authorities carried out these demolitions and evictions following a March 2003 High Court order directing "all authorities concerned" to remove all unauthorised structures, including slum clusters and places of worship in the Yamuna River bed. Since the demolition drive started a few months prior to India's upcoming general elections scheduled for May 2004, the Election Commission of India initially stayed all evictions till elections were completed. However the Commission later lifted the stay on evictions in the Yamuna Pushta area.

The demolitions are reported to have been accompanied by the excessive use of force, arrests, detentions and ill-treatment of the slum dwellers. According to the information received, Delhi police have beaten slum dwellers in many instances. In the Kanchanpuri demolition of 23 March, two children were trapped under debris. Slum dwellers later rescued them and rushed them to the hospital for emergency medical care. On 13 March, a child and a forty-year-old man were burnt to death in a fire that started during the demolition in Indira Basti of the Yamuna Pushta. The huge deployment of police accompanying the demolitions also has led to widespread protest. More than 40 people have been detained, some of which have been released on a personal bail bond of Rs. 5,000 by the courts. The police have beaten most of them, while the government has been reporting to the media a peaceful and voluntary eviction of the dwellers.

HIC-HLRN and OMCT are not only deeply concerned by these evictions and further threats, but also by the March 2003 High Court order stipulating that less than half of the evictees are entitled to any kind of alternate housing and resettlement. Only a quarter of the evictees actually have been allotted an alternative space, while three-fourths of them are stranded and shelterless. Reports from groups working in the proposed resettlement sites of Bawana and Holambi Kalan point out that resettlement conditions are highly inadequate for the few who are 'entitled' to resettlement. Basic amenities like water and sanitation are also found to

be grossly inadequate. Various groups, including HIC-HLRN, through their reports and publications have pointed out ways in which forced evictions without adequate resettlement violate rights congruent to the human right to housing, such as the right to food, right to health, right to education and the right to livelihood. The inadequacy of the resettlement sites and their distance from the city centre make it almost impossible for the already-impooverished slum dwellers to access schools, government-subsidised ration shops, hospitals and clinics, and their places of work. Added to this, the lack of proper sanitation and potable water further increases the threat of epidemics.

Background information

The Yamuna Pushta forced evictions have come as a result of certain Delhi High Court decisions, particularly in *Okhla Factory Owner's Association vs. Government of National Capital Territory of Delhi* (CWP 4441/1994), *Pitampura Sudhar Samiti vs. Government of National Capital Territory of Delhi* (CWP 4215/1995), and *Wazirpur Barton Nirmata Sangh vs. Union of India* (CWP 2112/2002). These petitions, filed mostly by factory owners and resident welfare associations serving communities adjacent to the slums, essentially asked for the removal of slum clusters from their particular areas. The petitions ignored that the slum clusters were created to house the labourers working in those industrial areas, as there was no workers' housing provided by the industries. However, the High Court went beyond the ambit of the particular petitions and ruled, in November 2002, that all those who had settled in slums *anywhere* in the city of Delhi after 1990 should be evicted and not given any "free" land for resettlement.

The Court's direction came in spite of available evidence that the residents of the slum clusters had no alternative housing options and that government agencies had provided only 35% of mandated housing, and that each "resettled" family was paying Rs. 7,000 (€134) for a license to a tiny plot of land for five to ten years. Moreover, the statutory fee of Rs 7,000 for a plot sizing 12.5 sq.m. and 18 sq.m. was charged only by MCD. The DDA has a four-tiered rate structure that provides a 12.5 sq.m. plot for Rs 5,000, a corner plot in 12.5 sq.m. block for Rs. 14,000, a 18 sq.m. for Rs. 7,000 and a corner plot in 18 sq.m. block for Rs. 20,000. Meanwhile, DDA has no records to show the imposition of such arbitrary rate structures. Due to public uproar against its ruling, the government was forced to approach the Supreme Court, which stayed its implementation in March 2003.

However, in March 2003 the Delhi High Court held another hearing in the original matter and issued a separate order directing the DDA to remove all unauthorised constructions along the banks of the River Yamuna. There have been four subsequent appeals against this order in both the High Court, as well as the Supreme Court. The Courts summarily have dismissed all these appeals. It is important to note that in no case has the court acknowledged the slum dwellers' right to be heard.

One of the grounds for the Delhi High Court order for slum removal was encroachment on the Yamuna River bed. However, the Court ignored other illegal structures serving wealthier communities and their interests, such as the Akshardham Temple, the Metro Rail Headquarters, and the Commonwealth Games Village. The second official reason was that the slums were polluting the river. This, again, ignored available evidence from a report on pollution by Hazard Centre, which pointed out that the total discharge from the 300,000 residents of Yamuna Pushta accounted only for 0.33% of the total sewage released into the river. Thus, this suggests that removal of these slum clusters would not substantially curb pollution.

Slum-dwellers and NGOs working on urban issues in Delhi have reason to believe that the prime land made available from the forced eviction will then be developed for commercial and tourism purposes by the urban development authorities.

Human rights, international law, and treaty violations

These acts, threats and resettlement proposals violate the basic human rights to life, security, health, water and adequate housing (i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity). The authorities especially have stripped the slum dwellers of their entitlements to secure tenure; access to, and benefit from environmental goods and services, namely land and water; freedom from forced evictions; habitability and livelihood on the resettlement sites; location; participation and self-expression and adequate compensation for violations and losses. All are elements of the human right to adequate housing as recognized in international law.

Moreover, the forced evictions without adequate resettlement violate the slum dwellers' fundamental right to life and livelihood as enshrined in article 21 of the Indian Constitution.

By these evictions, the Indian authorities have breached their treaty obligations under, *inter alia*, articles 1, 2, 11, 12 and 15 of the International Covenant on Economic, Social and Cultural Rights (CESCR), which India ratified in 1979. The State—along with local authorities—has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 on the right to adequate housing and 7 on forced eviction. The eviction without due process of law and an absence of adequate resettlement also violates articles 1, 19, 21, 22, and 25 of the International Covenant on Civil and Political Rights (CCPR); and articles 12, 17, 18, 19, and 21 of the Universal Declaration of Human Rights.

Action requested

As a measure of solidarity to uphold the human right to adequate housing for the Yamuna Pushta community, please write to the Indian authorities, urging them to:

- Stop all evictions in Yamuna Pushta immediately;
- Prevail upon relevant authorities to follow due process of law and allow for a fair hearing for the affected people;
- Disallow all evictions till adequate resettlement is provided for all evictees consistent with domestic and international human rights standards;
- Take all necessary measures to guarantee the physical and psychological integrity of the families who have been evicted;
- Guarantee the slum dwellers' entitlements to security of tenure; access to, and benefit from environmental goods, namely land and water; freedom from forced evictions, habitability and livelihood on the resettlement sites; location; participation and self-expression; and adequate compensation for violations and losses.;
- Respect, defend, promote and fulfil human rights and the fundamental freedoms throughout the country in accordance with international human rights standards.

Addresses:

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The Indian embassies and representations in your country.

Delhi - Geneva - Cairo, 5 May 2004

Kindly inform OMCT and HIC of any action undertaken quoting the code of this appeal in your reply to: omct@omct.org and urgentactions@hlrn.org.

The joint urgent appeals of OMCT and HIC-HLRN are dedicated to the protection of the right to adequate housing.

Sample letter

Excellency,

We have been informed by Habitat International Coalition-Housing and Land Rights Network (HIC-HLRN) and the World Organisation against Torture (OMCT) that in the past two months, Delhi municipal authorities have forcibly evicted over two-thirds of 300,000 people living on 40 hectares of the Yamuna River bed area. The last third are going to be evicted in the coming week.

The situation is all the more preoccupying that the March 2003 High Court order stipulates that less than half of the evictees are entitled to any kind of alternate housing and resettlement. Reports from groups working in the proposed resettlement sites of Bawana and Holambi Kalan point out that resettlement conditions are highly inadequate for the few who are "entitled" to resettlement. Basic amenities like water and sanitation are also found to be grossly inadequate. The inadequacy of the resettlement sites and their distance from the city centre makes it almost impossible for the already impoverished slum dwellers to access schools, government subsidised ration shops, hospitals and clinics, and their places of work. Added to this, the lack of proper sanitation and potable water further increases the threat of epidemics.

Moreover, the demolitions are accompanied by excessive use of force, as police forces have beaten slum dwellers in many instances. This huge deployment of police force has led to widespread protest. In the Kanchanpuri demolition of 23 March, two children were trapped under debris. Slum dwellers later rescued them and rushed to the hospital for emergency medical care. On 13 March, a child and a forty-year-old man were burnt to death in a fire that started during the demolition in Indira Basti of the Yamuna Pushta.

We urge you to stop all evictions in Yamuna Pushta immediately; to prevail upon relevant authorities to follow due process of law and allow for a fair hearing to the affected people; to disallow all evictions till adequate resettlement is provided for all evictees as per domestic and international human rights standards; and to take all necessary measures to guarantee the physical and psychological integrity of the families who have been evicted.

These acts, threats and resettlement proposals violate the basic human rights to life; security; health; water; and adequate housing (i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity). By these evictions, the Indian authorities have breached their treaty obligations under, *inter alia*, articles 1, 2, 11, 12 and 15 of the International Covenant on Economic, Social and Cultural Rights (CESCR), which India ratified in 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 on the right to adequate housing and 7 on forced eviction. The eviction without due process of law and an absence of adequate resettlement also violates articles 1, 19, 21, 22, and 25 of the International Covenant on Civil and Political Rights (CCPR); and articles 12, 17, 18, 19, and 21 of the Universal Declaration of Human Rights. Also, we urge you to guarantee the slum dwellers' entitlements to security of tenure; access to, and benefit from environmental goods, namely land and water; freedom from forced evictions, habitability and livelihood on the resettlement sites; location; participation and self-expression; and adequate compensation for violations and losses.

Thanking you in advance for your attention to this matter, we look forward to hearing from your remedial response.

Respectfully,

[Signed]

[Your name and organisation]