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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human right to safe drinking water and sanitation.**

REFERENCE: AL Housing (2000-9) Assembly & Association (2010-1) G/SO 214 (107-9)  
IND 2/2013

20 February 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolution 15/8, 15/21, 16/5, and 16/2.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **alleged forced eviction of over 5,000 informal settlers in Koramangala, Bangalore.**

According to the information received:

From 18 to 21 January 2013, Bruhat Bangalore Mahanagara Palike (BBMP) [Greater Bangalore Municipal Corporation], a government body responsible for providing infrastructure and services in the Greater Bangalore Metropolitan area, reportedly bulldozed 1,200 homes and evicted over 5,000 people living in "economically weaker section" quarters (EWS – for those earning an annual income of Rs 100,000 or less) in Koramangala, Bangalore. The demolition affected around 1,200 women and 2,000 children.

*Prior to the eviction:*

Reportedly, no consultation was conducted with affected residents. Water supply and electricity were cut off four days before the evictions started. The authorities did not provide any written notice or reason for the demolition to the residents.

*During the eviction:*

Given the lack of notice about the exact date of the eviction the residents were allegedly left with no time to collect their belongings. A large police force consisting of 500 policemen and 20 policewomen was present. When residents tried to resist the demolition, the police reportedly used violence against them, beating them with sticks.

Reportedly, on 19 January, police arrested seven residents (five women and two men), who were reportedly peacefully protesting against the eviction, and detained them in the Adugodi police station until the evening. On 20 January, police arrested around 21 women residents, including two human rights activists. They were kept in prison overnight and released on bail on 21 January. However, charges under the Indian Penal Code, namely on grounds of being a member of an unlawful assembly, rioting, assault against a public servant, intentional insult to provoke breach of peace, and criminal intimidation, are still pending.

*After the eviction:*

Reportedly, BBMP residents who have not been able to find any alternative place to stay are now spending days and nights in the open. They do not have any shelter or access to basic services, such as drinking water, sanitation and toilets. Given these conditions, residents' health is a growing concern. Children are not able to go to school. Many residents fear they will lose their livelihoods if they move away from the neighbourhood.

Reportedly, people have been promised houses in Sulekunte village, along Sarjapur Road. Sulekunte village is outside the city limits, on the southeastern outskirts of Bangalore, around 15 kilometres away from the EWS quarters and the evicted residents' places of work. Karnataka Slum Development Board is allegedly supposed to build apartments for the 900 families in a five-acre plot there. This may take between one to three years.

It is reported that residents were living informally in the EWS quarters after their housing, originally built by the BBMP in 1990, was destroyed by the BBMP following the collapse of some of the buildings due to poor quality construction. In 2005, BBMP decided to rebuild new housing at the same site and a year later issued ID cards to 1,512 resident households - thereby recognizing their legal right to housing. Since then no housing was built on the site, forcing residents to live in informal inadequate housing at the site. Particular concerns have been expressed regarding the situation of tenants and sub-tenants living in the EWS quarters. Reportedly, BBMP claims that it is responsible for providing interim relief to only 1,512 original allottees, and not the tenants and subtenants. However until now the BBMP or any other government authority has failed to provide any alternative - even temporary - arrangements for the evicted residents, be they recognized households or tenants.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the applicable international human rights norms and standards and, in particular, to article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which India acceded to on 10 April 1979 – which states that “the States Parties to present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

With respect to the right to adequate housing, the Committee on Economic, Social and Cultural Rights stressed in its General Comment No. 4 that the right to housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With “due priority to those social groups living in unfavorable conditions,” the right to housing includes guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. The Committee also added that “the right to housing should be ensured to all persons irrespective of income or access to economic resources.”

As stated in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross violations of a wide range of internationally recognized human rights and large-scale evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law. According to the General Comment No. 7 of the Committee on Economic, Social and Cultural Rights:

“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.”

“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.”

In view of this, we also wish to recall the existence of the Basic principles and guidelines on development-based evictions and displacement (contained in document A/HRC/4/18) that aim at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. Your Excellency’s Government may find useful in the current circumstances the sections of the guidelines that focus on State obligations prior to, during and after evictions.

We would like to refer your Excellency's Government to article 21 of the International Covenant on Civil and Political Rights, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

In this connection, we would like to further refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to refer Your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

Furthermore, we would like to bring to the attention of your Excellency’s Government article 12, paragraphs 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary

action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

With respect to the human right to safe drinking water and sanitation, we would like to remind your Excellency's Government that the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child entail human rights obligations attached to the access to safe drinking water and sanitation.

The human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, which includes sanitation. The human right to sanitation means that everyone, without discrimination, has physical and affordable access to sanitation, in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts summarized above accurate?
2. What is the legal basis for the eviction?
3. Have evicted residents been consulted prior to the eviction, and since then? If so, please give the details, date and outcome of these consultations. If not, please explain why.
4. What are the legal recourses available to the affected persons to contest this eviction?
5. Are charges against the 21 women residents still pending? What is the legal basis for retaining charges against them and how is this basis compatible with the aforementioned international human rights standards?
6. What measures have been put in place to ensure the continuing education of the evicted children?
7. Is there any plan to build new housing for the affected residents at the site, as per an earlier decision by BBMP? If not, why not?

8. What has been foreseen in terms of relocation? What measures have been taken into account to ensure that the relocation process and the determination of relocation sites are in line with the international human rights standards mentioned above, including adequate consultations with affected residents?
9. Does the Government plan to relocate people to Sulekunte village, along Sarjapur Road, as alleged? If this site, or another relocation site, has already been selected, please provide details as to the size and quality of land and housing, access to public services, provision of safe and affordable drinking water and sanitation, and livelihood options.
10. What measures have been taken to ensure that no evicted person remains or becomes homeless?

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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