

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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on extreme poverty and human rights

REFERENCE:
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Excellency,

We have the honour to address you in our capacity 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the human rights of internally displaced persons and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 43/14, 42/16, 43/16, 41/15 and 44/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **ongoing forced evictions and demolitions of as many as 12,000 homes, affecting up to 96,000 people, mostly along two of Karachi's nullahs (watercourses) – Gujjar and Orangi nullah, carried out in an intransparent manner without any consultations with the affected populations, with little to no notice to the affected residents, with no regard for different degrees of tenure they may hold, and with disparate provisions for redress and compensation. Despite recent stay orders issued by the High Court of Sindh, demolitions continue to take place, including of buildings the owners of which hold valid land leases. Following a Supreme Court of 14 June 2021 dismissing earlier interim stay, injunction and status quo orders, there are reports that demolitions are again underway in Gujjar and Orangi nullahs. These ongoing actions are resulting in irreversible forced displacement of large populations of people, putting them at risk of extreme poverty, homelessness and threatening public health during the global Covid-19 pandemic.**

According to information received:

Gentrification, market forces and real estate speculation have driven the cost of housing in Karachi prohibitively high, to an extent that affordable housing is not available to low-income families. Most homes are worth PKR 14,000 and above, which is currently equivalent to USD 90,239. No social housing schemes are available in the city.

The informal settlements of Karachi, known as katchi abadis, can be traced back to the period immediately following the Partition of India, when thousands of refugee-migrants squatted on land and built temporary shelters. Where such informal settlements are found along Karachi's "rivers" or

watercourses known as nullahs, which act as natural storm water drains, these have been linked to an increased risk of flooding.

Legal and regulatory framework

The Sindh Katchi Abadis Act (1987) established the Sindh Katchi Abadis Authority and vested it with the power to develop, improve or regularize informal settlements. The Sindh Katchi Abadis Act places all areas, which were occupied without authorization and or with only partial authorization until 23 March 1985 and continue to be so, under the responsibility of the Sindh Katchi Abadis Authority.

The Sindh Katchi Abadis Authority subsequently issued Regularization, Improvement and Development Regulations (1993), which set out the procedure and formalities for regularizing informal settlements by acquiring the land and renting it out for a general lease period of 99 years. The amount of rent to be paid depends on the category and size of the land plot. It also sets out some exceptions allowing for persons to be exempt from payment - for orphans, widows, handicapped and infirm persons. The lease may be renewed upon expiry.

The Sindh Public Property Act 2010, regulating the removal of encroachments, defines encroachment as “unauthorized occupation of or undue interference with public property”. The Act allows authorities to request an encroacher to remove any structure within a period of no less than two days. Upon expiry of the set deadline, encroachers would be deemed responsible and may be evicted three days after the order is issued. In addition, encroachers can be punished with imprisonment for a term which may extend to 10 years but no less than one year and with a fine of rupees equivalent to the market value of the property encroached upon or both.

Supreme Court decision

On 12 August 2020, noting that “the National Disaster Management Authority (“NDMA”) has taken up the work of cleaning up three (03) major nullahs in Karachi City [... and] that there are more 38 big and 540 small nullahs”, the Supreme Court of Pakistan issued an order directing the NDMA “to take over the work of cleaning of nullahs in Karachi City and ensure that such cleaning work of nullahs is completed and all encroachments in and around these nullahs are removed.”. It also requested the Sindh Government to “provide all necessary assistance and support to the NDMA for the rehabilitation of the people dislocated on account of removal of the said encroachments”, as required for “rehabilitation in a civilized society”.

On 2 January 2021, referring to decisions taken at a meeting of the Provincial Coordination and Implementation Committee (PCIC) held on 28 December 2020, the Services, General Administration and Coordination Department of the Government of Sindh issued three notifications, respectively announcing the constitution of: 1) a Public Engagement Committee, tasked with

developing “consensus among locals on a resettlement process required for clearing of encroachment from Nullahs of Karachi”; 2) a Rental Support Verification/Disbursement Committee, responsible for the “dislocation of residents living on the Nullahs of Karachi”, which would disburse “an amount of Rs. 15,000/-per household for two years, on six monthly basis”; and 3) an Anti-Encroachment Committee to remove encroachments from Nullahs of Karachi, charged with supervising an anti-encroachment operation which was scheduled to start on 3 January 2021 by the Karachi Municipal Corporation (KMC), assisted by the Police and Rangers.

On 3 January 2021, referring to Supreme Court directives, the Anti-Encroachment Department of the KMC published notices in Urdu and English language newspapers that the KMC has initiated works for widening of the Mehmoodabad nullah in Manzoor colony as per design of NED University. It informed that houses were marked and requested residents of all marked houses to evacuate the land voluntarily or, if not, KMC would itself evacuate the land and would not be responsible for any losses.

It is estimated that subsequently 56 out of the planned 58 houses were demolished in Mahmoodabad nullah.

Demolitions in Gujjar nullah

Gujjar nullah is a 28-km long water channel in the middle of Karachi with 39 settlements, comprising over 5,000 residential and commercial units located along its length.

In January and on 1 and 2 February 2021, Sindh government officials marked homes for demolition in Gujjar nullah, assigning housing units with a number and a percentage to indicate how much of them would be destroyed. They did not identify themselves, nor provide information to the residents. Instead, the concerned families found out about the impending demolitions through word of mouth or information published in local media. No public notices were issued as were in the case of Mehmoodabad nullah.

In mid-February 2021, Sindh government officials returned to the Gujjar nullah and started demolitions using heavy machinery, despite the fact that families were still residing in these buildings. Between mid-February and end of April 2021, about 5,000 homes have been demolished in Gujjar nullah.

According to information from the authorities, a 13km-long stretch is to be cleared. As of 5 May 2021, 9.5 km had been cleared with 1,594 houses demolished, out of 4,058 houses projected for demolition.

Demolitions in Orangi nullah

Orangi nullah is 11.5 kilometers long, with 36 settlements, comprising 1,700 homes along its length.

Similarly as Gujjar nullah, demolitions of homes in Orangi nullah began in February 2021. Between mid-February and the end of April 2021, over 200 homes were demolished in Orangi nullah with a rate of around 20 homes per day.

According to information from the authorities, a 11.5 km-long stretch is to be cleared. As of 5 May 2021, 7.48 km had been cleared with 1,095 houses demolished, out of 1,703 houses projected for demolition.

Lack of information

Precise information on how many homes are due to be affected by the ongoing evictions and demolitions in Gujjar and Orangi nullah is impossible to obtain. One estimate places the number of homes to be affected by the combined evictions in the three nullahs (Gujjar, Orangi and Mehmoodabad) at 12,000 homes, which would yield an estimated arbitrary displacement of 96,000 people.

The reasons for the ongoing evictions and demolitions are also not clear. Although the authorities have made some references to the Supreme Court decision of 12 August 2020, there is also information that a 30-foot wide road is being built along both the Gujjar and Orangi nullahs. There is also information that these actions are being carried out in preparation for implementing a World Bank-funded project in Karachi entitled “Solid Waste Emergency and Efficiency Project”.

Stop order from the High Court of Sindh

In anticipation of a Supreme Court hearing on the legality of the demolitions, on 7 May 2021, the High Court of Sindh at Karachi issued an order that no demolition work should be done by the KMC to the properties in the area where registered lease deeds for 99 years have been issued by the former City District Government. In a further decision on 18 May 2021, the effects of the interim orders were extended until the date of the next hearing - 1 June 2021. Nevertheless, demolitions continued to take place, including of buildings that are covered by the court order.

Supreme Court order

However, on 14 June 2021, the Supreme Court of Pakistan withdrew all interim stay, injunction and status quo orders issued earlier with respect to Gujjar and Orangi nullah by the Anti-Encroachment Tribunal of Karachi. In the wake of this decision, there are reports that demolitions are underway again in Gujjar and Orangi nullahs, causing continuing stress and anxiety to residents.

Non-recognition of tenure

The residents of both Gujjar and Orangi nullah have resided there on average between 25 and 50 years. A large proportion of them are in possession of leases for the land on which their homes have been constructed, issued either by the Karachi Municipal Corporation, by the Karachi Development Corporation (the city planning authority), or by the Sindh Katchi Abaadi Authority.

In February and March 2021, over 100 persons managed to obtain a stay on the planned demolition of their homes from the Anti-Encroachment Tribunal of Karachi, which confirmed that they held a valid lease from one of the issuing authorities. However, many residents in a similar position with the exact same types of leases have had their homes demolished, in some cases even a day prior to a scheduled hearing.

On 5 March 2021, referring to the Supreme Court Order and the PCIC decision, the Anti-Encroachment Department of the Karachi Municipal Corporation issued a notice, explaining that some leased out plots along the Gujjar and Orangi nullahs are “causing hurdles in swift anti-encroachment operation and as such they are required to be cancelled being a National Cause Project”.

In addition, many of those who do not possess land leases have acquired title to their property quasi legally, through contracts on notarized paper and have been able to connect their homes legally to utilities – gas, water and electricity.

Inadequate compensation

The authorities have not systematically provided the affected nullah residents with information on compensation or resettlement options. Through inquiring, some residents have found out that people who stand to lose more than 30% of their home would qualify for a compensation of PRK 90,000 (currently equivalent to USD 580), which is meant to cover rent for six months at the rate of PRK 15,000 per month. This compensation is considered inadequate to cover the cost of demolished homes and the needs of those who stand to be displaced by the demolitions. In addition, some persons who have managed to obtain this small compensation fear that in doing so, they have foregone their rights and possible future claims for compensation.

Only on 9 April 2021, Karachi announced plans to constitute a rehabilitation and resettlement committee.

Actions of law enforcement

Demolition teams are being accompanied by police officers and the Rangers, a paramilitary federal law enforcement organization. There are allegations that some residents, community leaders and human rights defenders protesting against the demolition of homes have been subjected to intimidation or detained on unclear charges. In one case, a human rights defender who was peacefully trying to monitor the evictions was detained in police custody for

several hours and pressured to sign a agreement barring them from visiting a demolition site in the future. The police have also filed first information reports in relation to several persons who took part in organizing peaceful protests against the evictions.

Loss of livelihoods

Many of the affected people stand to lose their livelihoods as a result of the demolitions, either because they were operating small businesses from their homes or because via their homes they had easy access to their work place.

Endangerment of lives

There are allegations that in some cases demolition teams have started working while there were people, including young children, still inside the home, thus, putting their lives and health at risk.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our utmost concerns regarding the Sindh Province housing policy, exemplified by the Sindh Katchi Abadis Act (1987), the Sindh Katchi Abadis Authority-issued Regularization, Improvement and Development Regulations (1993), and the Sindh Public Property Act 2010. The Government of Sindh Province does not appear to make a genuine effort to deal with the prolonged problem of numerous informal settlements lasting for a number of decades. To the contrary, the Sindh Governments policy of regularizing informal housing by handing out land leases of typically 99 years may prolong the tenure insecurity of the primarily poor residents of the informal settlements, without providing them with any affordable alternatives, if it is implemented in a manner which deprives de facto tenure security, as it appears to be the case. In addition, we are greatly concerned about the allegations that a number of houses, whose owners are in possession of leases, have nevertheless been demolished, in some cases while there are still court applications pending. We are also concerned that the Sindh Public Property Act 2010 criminalizes the act of encroachment and allows for the sentencing of encroachers with up to 10 years of imprisonment.

We are very concerned about the implications of the Supreme Court order of 14 June 2021, which negated earlier interim stay, injunction and status quo orders, and that this decision is likely to lead to another spade of forced evictions and demolitions in the short term, as well as to the degradation of procedural and substantive guarantees in the jurisdiction of your Excellency's Government in the long-run.

We are deeply concerned that the ongoing forced evictions are carried out with lack of transparency, prior consultations, and resettlement policy or plans, while offering only disparate and inadequate compensation available to the affected communities in Gujjar and Orangi nullahs, despite formal steps such as the setting up of a Public Engagement Committee, a Rental Support Verification/Disbursement Committee, and a Rehabilitation/Resettlement Committee. We are concerned that these actions are taking place with no clear assessments of what households possess

leases or other degrees of tenure, exemplified by the Karachi Municipal Corporation's notice that some leases "required to be cancelled", and the numerous stay orders obtained by individual residents from the Anti-Encroachment Tribunal. As direct result of the forced evictions and demolitions, many of the affected families are becoming homeless and forcibly displaced, and will be plunged into poverty or extreme poverty with the added loss of their livelihoods, which will threaten their health and lives amidst the global Covid-19 pandemic.

We wish to remind your Excellency's Governments of the obligations it assumed upon ratification on 17 April 2008 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), in particular concerning the right of everyone to an adequate standard of living for himself and his family, including adequate food and housing (article 11), as well as the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12).

In its General Comment No. 4 interpreting obligations under the ICESCR, the Committee on Economic, Social and Cultural Rights (CESCR) emphasized that "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." It also affirmed that "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". In the same General Comment No. 4, the Committee stated that States should 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. It also affirmed that adequate shelter means also adequate location with regard to work. Steps should be taken by States parties to ensure that the percentage of housing related costs is, in general, commensurate with income levels.

Further, in its General Comment No 7 on forced evictions, CESCR clarified that if an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances should evictions result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves. We wish to underscore that, notwithstanding the type of tenure, all persons should possess a degree of security of tenure, which guarantees legal protection against forced evictions, harassment and other threats. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this regard, we would like to refer to the Basic Principles and Guidelines on Development-based Evictions

and Displacement (A/HRC/4/18, Annex I) and the Guiding Principles on security of tenure for the urban poor (A/HRC/25/54), developed by previous Special Rapporteurs on the right to adequate housing.

In his recent report to the General Assembly (A/75/148, para. 68(b), the Special Rapporteur on the right to adequate housing highlighted that the ramping up of evictions during the Covid-19 pandemic threatens to increase the number of homeless persons and can spread the virus, and called for a moratorium on evictions, including of non-nationals resident in a country.

We wish to draw the attention of your Excellency's Government to the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), in particular we would like to refer to Principle 5 that establishes that "All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons" and Principle 6, which acknowledges that "Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence". Principle 28 establishes that "Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons".

We would 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide information on why there has been no compliance with the orders of the Sindh High Court to halt to the demolitions of the houses.
3. Please provide information on resettlement policies and plans that were considered before demolitions were ordered in the nullahs and any effort to engage the residents of the nullahs in consultation or through participation, before any demolitions commenced.
4. Please provide information on the availability of housing affordable for low-income families in Karachi and on any existing social housing schemes to help low-income families bear the burden of the high costs of housing.
5. Please provide information on the compatibility of Sindh Province's housing legislation, regulations and long-term policy with your Excellency's Government's international human rights obligations, in particular as regards ensuring security of tenure for people living in informal settlements.
6. Please provide information on the number of households in Karachi whose land tenure has been regularized since the adoption of the Sindh Katchi Abadis Act (1987). Please also provide information or estimates of the number of households in Karachi which lack security of tenure and the administrative and financial requirements that such households would need to meet in order to obtain regularization.
7. Please provide information on any persons who have been convicted under the Sindh Public Property Act 2010. For each, please provide information on the length of sentence determined by courts, and subsequently served.
8. Please provide information on the reasons for and the legality of the ongoing forced evictions and demolitions of homes along the Gujjar and Orangi nullahs, including the relevance of the above-mentioned World Bank-funded project.
9. Please provide information on the number of homes already affected by the ongoing forced evictions and demolitions carried out in Gujjar and Orangi nullahs, as well as on the number of Gujjar and Orangi nullah inhabitants who have so far been provided with relocation assistance and the amount of such assistance.
10. Please provide information on whether and how the authorities are tracking the forced displacement of persons rendered homeless as a result of the ongoing evictions and demolitions in Gujjar and Orangi nullahs. Please provide information on any measures taken to prevent and respond to this forced displacement, and to support long-term and lasting solutions for internally displaced persons, including voluntary

return, local reintegration and resettlement; and whether these measures have received the support of local authorities.

11. Please provide information on any investigations carried out into reported actions of intimidation and unlawful detention of residents and human rights defenders in retaliation for advocacy activities or participating in protests against the ongoing evictions and demolitions in Gujjar and Orangi nullahs. Please provide the measures your Excellency's Government has put in place to ensure that human rights defenders are able to work in a safe and enabling environment, free from any restrictions or types of reprisals, harassment, intimidation or threats.
12. Please provide information on any other informal settlements along Karachi's nullahs scheduled for similar evictions and demolitions.
13. Please provide information on measures undertaken by or under the consideration of your Excellency's Government to address the broader systemic issues of financialization and commodification of housing, and the unaffordability and access to land.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and a full consultative process be launched to engage with residents of the nullahs before any further plans to resettle the populations concerned are carried out, in compliance with international human rights law.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please note that the response of your Excellency's Government is expected as soon as possible. This communication and any response received will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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