

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 minority issues and the Special Rapporteur on freedom of religion or belief

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(Please use this reference in your reply)

9 June 2022

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 minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 43/14, 43/8 and 49/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **forced evictions, housing and property demolitions directed against the Muslim minority communities in Khargone district of Madhya Pradesh state, in the Anand district of Gujarat state and in the Jehangirpuri locality and other locations of New Delhi. These arbitrary housing and property demolitions were allegedly ordered by local Governments arbitrarily to punish Muslim minorities and low-income communities for intercommunal conflicts between Hindus and Muslims that had broken out during and after religious processions.**

According to the information received:

During April and May 2022 people from low-income settlements in India have faced a spate of demolitions with a distinct 'punitive' nature that seem targeted towards specific marginalized communities. Although the demolitions have occurred as well in other contexts by different government authorities, most of the communities targeted by these home demolitions are predominantly Muslim.

Local authorities in the capital Delhi and in the States of Madhya Pradesh and Gujarat demolished houses and properties of Muslims, on the pretext of 'anti-encroachment'. These demolitions were carried out after incidents of inter-communal violence directed against Muslim minorities in the same localities during the celebrations for the Hindu festival of Ram Navami on 10 April 2022 and Hanuman Jayanti on 16 April 2022.

During Navaratri and Ram Navami processions, mosques and Muslim localities were attacked, with armed crowds playing anti-Muslim songs outside mosques, and making open calls for violence against Muslims. Inter-communal violence erupted in multiple parts of the country, with the police failing to respond to intimidation and violence from participants of these processions to ensure that they remained peaceful.

Overall the subsequent home demolitions appear to have been carried out as collective punishment against the minority Muslim community for allegedly being responsible for the violence during the communal clashes preceding these demolitions. Statements from government officials and ministers indicate the State's intention to use demolitions as a form of punishment against those who allegedly were present during the clashes.

On 11 April 2022 diggers and bulldozers were sent to Khargone town in Madhya Pradesh within 24 hours of clashes between Hindus and Muslims the day before. Muslims, comprising a third of the population of Khargone, earlier had accused religious Hindu Navratri processions of moving towards a mosque with provocative chants, while Hindus had accused Muslims of throwing stones at them. Before any police investigation of the intercommunal conflict was carried out, the home minister of Madhya Pradesh, Mr. Narottam Mishra, ordered the demolitions, threatening "The houses from where the stones were pelted, we will turn those houses into piles of stone".

At least 16 houses and 29 shops owned by Muslims were razed as a result, including a house built under the national Pradhan Mantri Awas Yojana (Housing for All) Scheme. The Head of the Khargone District, Anugraha P. said in a statement that this was a measure to punish rioters and illegal encroachers. "Finding out culprits one by one is a time-taking process, so we looked at all the areas where rioting took place and demolished all the illegal constructions to teach rioters a lesson."

On 15 April 2022 the local administration in Anand district in Gujarat used bulldozers to remove 'illegal structures' in the area, following the break out of intercommunal violence during a Ram Navami procession in which one person was killed. The home demolitions were carried out purportedly, against rioters who caused the violence. Anand district collector M.Y. Daxini, was quoted saying: "apart from wooden cabins and concrete structures, local administration is also clearing bushes in Shakarpura area because "miscreants had used them to hide after throwing stones on Ram Navami procession".

In addition, more than ten shops and 17 godowns were demolished in Kambhat district, in April 2022. Local municipal officials were also responsible for the demolition of "illegal structures" belonging to religious minorities in Himmatnagar, Sabarkantha district, Gujarat.

On 20 April 2022 officials from the North Delhi Municipal Corporation (NDMC) arrived with 12 companies of the Central Reserve Police Force (CRPF) and demolished around 25 shops, vending carts, and houses in Jahangirpuri, North Delhi under the guise of removing "encroachments". The demolitions targeted mainly Muslims and followed local clashes during a Hindu religious festival. Authorities accompanied by heavy deployment of police, razed dozens of homes and commercial structures without giving prior notice to the owners, who pleaded with authorities to give them some time at least to retrieve their belongings. These requests were reportedly ignored. The demolition drive began at 9 a.m. in the morning and continued despite an order

from the Supreme Court later in the morning to maintain the status quo. Several Muslim homes, shops and the walls of a mosque were destroyed.

Since then, various municipal corporations have carried out or attempted demolition drives to remove so-called “encroachments” across the city, in mostly low-income communities, where families belonging to religious minorities live. These areas include, Shaheen Bagh, Madanpur Khadar, Mansarovar Park, Y-Block Mangolpuri, Samaypur Badli, and Prem Nagar, amongst other areas. In Delhi, officials from various Municipal Corporations, including the Municipal Corporation of Delhi (MCD), North Delhi Municipal Corporation (NDMC), East Delhi Municipal Corporation (EDMC), and South Delhi Municipal Corporation (SDMC) were responsible for the demolitions across the city. Most demolitions in Delhi were conducted during the day, when the city was experiencing unprecedented temperatures and severe heatwave.

The arbitrary acts of demolition of homes and structures of minority communities have compounded the vulnerabilities of women, children, older persons, and persons with disabilities.

The housing demolitions relied on urban planning regulations which allow local authorities to combat encroachment of public land. They were however carried out without any due process, such as prior notice, opportunity to be heard, nor any provision of alternative housing or land.

In most of these incidents, the affected communities have been living at the same sites for decades and possess identity documents that prove their residence in the area. In addition, several of the families who lost their homes and livelihoods had legal papers of ownership of land.

In none of these incidents, the affected communities were consulted before the demolitions, nor was adequate and reasonable notice given to the affected homeowners prior to the date of eviction. When notice was provided, it was not adequate and served only few days before the eviction. With a few exceptions no alternative accommodation or compensation was provided to the affected families and home owners.

All the evictions and demolitions have been carried out by government agencies allegedly to “clear encroachments” and remove “illegal structures” from public land. However, the rationale behind the selection of settlements to be demolished and “encroachments” to be removed is not clear. In Mansarovar Park, Delhi, for example, there are at least three settlements where people from different communities and religious groups reside. However, only the settlement which inhabits predominantly Muslim population was targeted during the demolition drive on 2 May 2022, just a day before the Eid-ul-Fitr celebrations. The authorities partially destroyed at least 25 houses as well as their water connections, despite the heat, resulting in grave distress, fear of demolition, and insecurity amongst the community members especially women.

Apart from these incidents, the Government has also announced a general demolition drive in Delhi to clear “encroachments” that may affect and displace millions of persons from low-income settlements. However, to date no relocation or rehabilitation plans for affected communities have been announced or implemented.

Without prejudging the accuracy of the information received, we wish to express our serious concern about forced evictions and arbitrary home demolitions carried out against Muslim communities and other low-income groups in India, without any consultation, due process, compensation or advance provision of alternative housing. We are in particular concerned that some of these evictions have been carried out as a form of collective and arbitrary punishment against the Muslim minority and low-income communities for alleged participation in inter-communal violence, while authorities reportedly failed to investigate these incidents, including incitement to violence and acts of intimidation that contributed to the outbreak of the violence.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please share with us any investigations that have been carried out into inter-communal violence that has erupted in several parts of India after the Hindu religious festival of Ram Navami on 10 April 2022 and of Hanuman Jayanti on 16 April 2022. Have any persons been prosecuted so far for hate speech or the violence that erupted in several parts of the country after religious processions?
3. Please specify whether any prior consultation was held with the affected minority communities and families before the home demolition were carried out?
4. Please provide any information about the efforts the Government has made to provide legal tenure and security of tenure for the affected minority communities prior to the housing demolitions. What housing and land alternatives have been offered to the affected communities?
5. Please share any copies of relocation and rehabilitation plans that were developed with or without consultation with the affected minority communities before the housing demolitions were carried out.

6. Please provide more information whether after the housing demolitions alternative housing, land or compensation was provided to the affected families and communities for their loss of property and livelihoods.
7. Should India have so far failed to provide any alternative housing or land, please explain how the Government is planning to providing alternative housing and land, and as well as compensation to the victims of the above mentioned arbitrary housing demolitions in accordance with its human rights obligations and the right to adequate housing as set out in General Comments No. 4 and No. 7 by the International Committee on Economic, Social and Cultural Rights.

This communication and any response received from your Excellency's Government 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.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

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 accept, Excellency, the assurances of our highest consideration.

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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

Fernand de Varennes
Special Rapporteur on minority issues

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

We wish to remind your Excellency's Governments of the obligations it assumed upon acceding on 10 April 1979 to 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 housing (article 11).

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 evictions 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.

Further, in its General Comment No 7 on forced evictions, the 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 the most recent report on spatial segregation of the current Special Rapporteur on the right to adequate housing (A/HRC/49/48).

We would like to bring to your Excellency's Government's attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular article 27 of the ICCPR and the 1992 UN Declaration on the

Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination and in full equality before the law (article 4).

In our view the arbitrary housing demolitions mentioned above are not only in violation of international human rights standards, but as well in violation the constitutional guarantees of the Indian Constitution, including a 1985 judgement by the Supreme Court of India guaranteeing the right to livelihood as a part of the fundamental right to life. The forced evictions and housing demolitions do as well not respect the procedure to be followed before, during, and after forced evictions as laid out by the High Court of Delhi laid out in *Sudama Singh v. Government of Delhi*. Similarly, it should be noted that in *Ajay Maken v. Union of India (W.P. (C) 11616/2015)*, the High Court of Delhi has held that forced eviction of settlement dwellers without due process and proper rehabilitation would contravene the provisions of law.