

**Mandates of the Working Group on Arbitrary Detention; 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 situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences**

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; 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 situation of human rights defenders and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 24/7, 31/09, 25/18 and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged forced evictions and demolition of approximately 100 housing units in Rangpuri Pahadi, in the South of Vasant Kunj, Delhi, without prior notice, resettlement plan or a court order, as well as police violence and prolonged detention of three women who resisted the demolitions of their homes.**

According to the information received:

On Friday 26 August 2016, a bulldozer accompanied by two police officers demolished approximately 100 housing units in the informal settlement in Rangpuri Pahadi, in the South of Vasant Kunj, Delhi, without prior notice, resettlement plan or a court order. Instances of police violence were reported on that day. Affected families were left out in the monsoon rain with no provisions for alternative housing or compensation for the loss of their homes and belongings. Subsequently, on 28 August, four police officers were reported to have visited the demolished site within this settlement and to have beaten residents with sticks, women and children included. Allegedly, the police blocked the passage for an ambulance that had been called to assist the injured persons. A police officer was also injured in retaliation by the community. Before leaving, the police lit fire to some remaining constructions.

Three women were taken by the police and detained in the Vasant Kunj police station. Only after the police left, an ambulance could reach the site and take the three badly-injured persons to hospital. From hospital, those three persons were

taken to jail. In total, on 29 August 2016, six residents were detained in jail. Reportedly, no arrest warrant, no reasons for detention, and no access to legal counsel were provided. As of 9 September 2016, three persons had been released but three women were still in jail on the following charges under sections of the Indian Penal Code (IPC): 308, 186, 353, 341 332 and 34.1 One of the women in detention is reportedly five months pregnant. An application for bail was filed in the district court of Delhi on 9 September 2016 and the women were released on bail on 15 September, after paying INR 40,000.

A few days after the detention, the First Information Report by the police was made available to some community members. According to this report, Delhi Development Authority staff had been "building a boundary wall at the site to save the government land from encroachments" but the local residents had gathered and prevented them from doing so. The report allegedly states that the residents incited others and then threw bricks at the police officials and were thus charged with cases of obstructing state work and injuring police officials. It further mentions that the crowd of residents prevented the ambulance from taking injured persons to hospital. There was no reference in the police report to demolition of homes and destruction of property without prior notice, nor about forced eviction.

The prolonged detention of three women residents violates the Indian Code of Criminal Procedure and international human rights standards on the rights to life, liberty, and security of the person. As per the Indian Code of Criminal Procedure, the police must present the accused to court within 24 hours of arrest. In the absence of any judicial involvement, the detention of Rangpuri Pahadi's residents clearly exceeded this legal deadline. There are also indications that the women have suffered sexual harassment and violence in detention. These alleged repeated acts of police brutality, including in detention, may amount to cruel, inhuman or

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<sup>1</sup> Details on the sections of the Indian Penal Code which have been filed against the three women residents of Rangpuri Pahadi for resisting violence against them during the time of the demolition.

Section 353: Assault or criminal force to deter public servant from discharge of his duty.

Section 186: Obstructing public servant in discharge of public functions.

Section 341: Punishment for wrongful restraint.

Section 34: When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

Section 331: Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

Section 308: Culpable homicide not amounting to murder.

degrading treatment, which constitutes a breach of the Constitution of India and international human rights law.

In addition, given the serious charges against the detained women and the regular presence of police officials at the site of demolition, all evicted families have fled from the area in fear. No resettlement has been provided to them by the state. The cleared land is thus lying vacant now.

Several judgments of the High Court of Delhi, including *Sudama Singh and Ors. vs. Govt. of NCT Delhi* (10 February 2010), have ordered for due process and rehabilitation to be carried out before any demolition/eviction in Delhi. Moreover, the 2015 Delhi Slum & JJ Rehabilitation and Relocation Policy enacted by the Delhi Urban Shelter Improvement Board (DUSIB) provides for the rehabilitation/relocation of inhabitants who have been in Delhi before the ‘cut-off’ date of 1 January 2015. Most of the families in Rangpuri Pahadi have been living in the area for 3-4 years and can prove residency before the specific cut-off date on the basis of Aadhar card, driving license, or ration card. However, so far neither DUSIB nor the land-owning agencies have conducted any survey of the affected households to determine their specific entitlements under the 2015 Policy.

This informal settlement has existed for over 50 years, and it was developed on public land without authorization of the land-owning agencies (Forest Department and the Delhi Development Authority). Evictions and demolitions in this settlement are not uncommon, unfortunately, as several previous demolitions of homes in Rangpuri Pahadi’s settlement have been carried out since 2000. Notably, in November 2014, the Forest Department carried out demolitions of approximately 400 housing units, without resettlement, rendering approximately 2,000 residents homeless. In litigation that resulted from those incidents, the High Court of Delhi ordered a stay on further demolitions, which was not duly respected in December 2015 when approximately 500 homes were demolished by public authorities without any rehabilitation.

While we do not wish to prejudge the accuracy of these allegations, we wish to express serious concern that the forced eviction and demolitions of homes of the residents of in Rangpuri Pahadi without due process, any resettlement or alternative accommodation proposed by the relevant authorities, and with use of force, are contrary to your Government’s obligation to respect, protect and fulfil the right to an adequate standard of living, including housing, as well as the right to non-discrimination and the right to freedom from arbitrary or unlawful interference with one’s privacy, family and home, as enshrined in articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and articles 2 and 17 of the International Covenant on Civil and Political Rights (ICCPR), both acceded by India on 10 April 1979.

We further recall the General Comments No. 4 and 7 of the Committee on Economic Social and Cultural Rights, which stress the need to provide adequate legal protection from forced eviction, due process, alternative accommodation, and access to an effective remedy of those that are affected by eviction orders. According to these General Comments, India must further explore all feasible alternatives to forced eviction in consultation with the affected persons. Moreover, it must not lead to homelessness of the evicted persons by providing adequate alternative housing facilities, resettlement and compensation for lost property. We also recall the Special Rapporteur on adequate housing's report on the obligations of subnational and local governments in the implementation of the right to adequate housing (A/HRC/28/62). We also call your attention to the Guiding Principles on security of tenure for the urban poor (A/HRC/25/54) and to the Basic Principles and Guidelines on Development-based Evictions and Displacement.

We would also like to recall to your Excellency's Government to take all necessary measures to guarantee the right of three abovementioned individuals who remain in detention not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9, 10 and 11 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

In addition, we would like to draw your Excellency's Government's attention to paragraph 23 of the methods of work of the Working Group on Arbitrary Detention, according to which, "after having transmitted an urgent appeal to the Government, the Working Group may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals — which are of a purely humanitarian nature — in no way prejudge any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

We wish to also recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government on 9 July 1993), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that "under general international law and specific human

rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”.

We would also like to refer to 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 articles 1, 2, 9 and 12.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 Government to safeguard the rights of the above-mentioned person(s) 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 my/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 indicate if all feasible alternatives to eviction and demolitions have been explored in consultation with the residents of Rangpuri Pahadi and if so, please provide details of the process and results of those consultations. Please also explain why proposed alternatives to the eviction have been deemed unsuitable.
3. Please indicate all measures taken to provide alternative accommodation to the families who lost their homes, and to prevent them from being homeless. Please also indicate what mechanisms are in place to compensate the families and households for the lost property due to the demolitions.
4. Please provide information concerning the legal grounds for the arrest and detention of abovementioned individuals and explain how the arrest and detention of the aforementioned persons is compatible with the principles and norms contained in articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.
5. Please provide information on any details, and where available the results, of any judicial investigation, or any criminal charges and other inquiries carried out in relation to the cases of three women.

While awaiting a reply, we urge that all necessary interim measures be taken to safeguard the rights of the approximately 100 households residing in Rangpuri Pahadi in compliance with the above international instruments.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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