

# The Human Rights to Adequate Housing and Land in India

**REPORT FOR THE UNITED NATIONS  
HUMAN RIGHTS COUNCIL**

**FOCUSING ON THE IMPLEMENTATION OF RELEVANT RECOMMENDATIONS  
MADE TO INDIA DURING ITS UNIVERSAL PERIODIC REVIEW IN 2012**



**HOUSING AND LAND RIGHTS NETWORK**

**The Human Rights to Adequate Housing and Land in India:  
Report for the United Nations Human Rights Council on  
Implementation of UPR Recommendations**

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# Introduction

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The United Nations (UN) Human Rights Council, under the Universal Periodic Review (UPR) mechanism, examined India's human rights record in Geneva in 2008 and 2012. After India's review in May 2012, the Human Rights Council proposed 169 recommendations. In September 2012, the Government of India agreed to adopt only 67 of these recommendations.<sup>1</sup> It is the responsibility of the Government of India to implement all recommendations of the Human Rights Council, and at its next UPR in January 2017, to report on the national human rights situation, including the status of implementation of recommendations from the previous UPR cycles.

The one UPR recommendation from the Human Rights Council directly related to housing (*“Continue to implement plans adopted in the area of housing and rehabilitation, particularly the plan launched in 2011 aimed at preventing the construction of new slums”*) was rejected by the Indian government. This indicates that housing was not a priority for the government despite the rhetoric of providing affordable housing for all. While it is still important to monitor the status of the implementation of this recommendation, there are a number of recommendations accepted by India that are linked to the realisation of the human rights to adequate housing and land. These also need to be reviewed in order to ascertain India's progress in meeting its international and national commitments.

Recommendations on poverty eradication and socio-economic development are directly related to the need to protect housing and land rights, including the need for adequate budgetary allocations for schemes and policies on housing and land. The recommendations on ensuring gender equality also pertain to the issue of land and housing rights, especially the need to provide legal rights to women over land, housing, property, natural resources, and inheritance. Recommendations related to protecting the rights of children and on eliminating discrimination against Scheduled Castes, Scheduled Tribes, and persons with disabilities, need to be applied to housing and land since these groups face multiple levels of discrimination and confront severe obstacles to the realisation of their rights. Providing clean drinking water and sanitation is integral to the realisation of the human right to an adequate standard of living in both urban and rural areas. This is even more crucial for women, especially for homeless women, women living in urban informal settlements, and rural marginalized women.

The need for coordination between national human rights institutions and authorities is critical. Since issues of land and housing cover both rural and urban areas as well as several constituencies including women, children, minorities, Scheduled Castes and Scheduled Tribes, coordination is required between various ministries and commissions. The recommendation to cooperate with UN bodies and Special Procedures holds specific importance in upholding India's international legal commitments.

Housing and Land Rights Network (HLRN), India,<sup>2</sup> has identified the following recommendations from India's Second Universal Periodic Review, which are related to the realisation of the human rights to adequate housing and land. The table below presents these selected recommendations with a brief status of their implementation in the country.

**TABLE 1: STATUS OF IMPLEMENTATION OF RELEVANT UPR RECOMMENDATIONS IN INDIA**

	UPR II Recommendation	Status of Implementation – With Regard to Housing and Land Rights
<b>Adequate Living Conditions, Poverty Eradication, and Socio-economic Development</b>		
1.	Provide more resources for the enjoyment of economic and social rights, especially in favour of vulnerable groups like women, children, poor people and minorities.	<p>Social sector budgets have witnessed large cuts for the financial year 2015-16. While allocations for urban housing schemes have increased, outlays and expenditures on rural housing decreased significantly from 2013-14.</p> <p>Financial irregularities have been reported in schemes for rural housing (Indira Awas Yojana) and the urban homeless (National Urban Livelihood Mission – Scheme of Shelters for Urban Homeless).</p>
2.	Make efforts to eliminate the large gap that exists between the rich and the poor.	<p>Inequality is increasing, largely as a result of inadequate market-driven/neoliberal economic policies and the absence of human rights approaches to development.</p> <p>Intensive focus on the private sector and public-private partnership models reduces state welfare functions and furthers income gaps.</p> <p>Adequate investment in, and enforcement of, housing for economically weaker sections (EWS), despite the rhetoric, is absent.</p> <p>Forced evictions and demolitions of low income settlements continue to increase the housing shortage, and exacerbate poverty and inequality between the rich and poor.</p> <p>Land acquisition and large infrastructure projects continue to displace the rural poor.</p>
3.	Continue consolidating programmes and socio-economic measures essential to achieve poverty reduction and social exclusion to the utmost well-being of its people.	Several new central government schemes have been announced but there is no effort to consolidate them, resulting in confusion, overlap, and the possibility of financial leakages and poor implementation.
4.	Continue efforts to eradicate poverty and better living conditions as well as increase job opportunities.	India has the world’s largest number of people, 632 million, living in multidimensional poverty (UNDP, 2014).
5.	Continue to advance the progress already underway on poverty eradication and improve the enjoyment of the most basic human rights of the people, especially women and children.	<p>Though the Government of India has reported a reduction in national poverty, living conditions of the urban and rural poor are worsening.</p> <p>Census 2011 recorded a 37.14 per cent decadal growth in the number of ‘slum’ households.</p>
6.	Further strengthen the efforts in poverty eradication, paying special attention to the rural population.	Over 17 per cent of the urban population or 14 million households lives in ‘slums’/informal settlements without access to basic services
7.	Continue encouraging socio-economic development and poverty eradication.	Rural landlessness, agrarian distress, forced migration, and farmer suicides as a result of increasing indebtedness and impoverishment are on the rise.
<b>Equality and Non-discrimination</b>		
8.	Continue incorporating the gender perspective in programmes and development plans with positive measures to the effective promotion and protection of women’s rights.	<p>Laws and policies protecting women’s rights to safety and security, property, land, and inheritance are not sufficient. The few that exist are not implemented adequately. Awareness on provisions favouring women is low.</p> <p>Most of the new schemes related to housing and land, such as Smart Cities Mission and Atal Mission for Rejuvenation and Urban Transformation, do not have a gender perspective. The Land Acquisition and Resettlement Act 2013 also is weak on women’s rights.</p>

	UPR II Recommendation	Status of Implementation – With Regard to Housing and Land Rights
9.	Address the inequities based on rural-urban divide and gender imbalance.	<p>Many of the new central government schemes and budgetary allocations are related to housing and development in urban areas. These include: Smart Cities Mission, Housing for All – 2022, and Atal Mission for Rejuvenation and Urban Renewal (AMRUT).</p> <p>Rural housing and living conditions, especially landlessness and agrarian/land reform, are not being adequately addressed.</p> <p>Discrimination with regard to women’s ownership and control of land and housing is acute. Only 12 per cent of women in India own land.</p> <p>India has 27 million female headed-households. They constitute 12 per cent of urban households and 10.4 per cent of rural households (Census 2011) but do not receive adequate attention.</p>
10.	Put in place appropriate monitoring mechanisms to ensure that the intended objectives of the progressive policy initiatives and measures for the promotion and protection of the welfare and the rights of the vulnerable, including women, girls and children, as well as the Scheduled Castes and Schedules Tribes and Minorities are well achieved.	<p>Monitoring mechanisms are absent.</p> <p>Discrimination against Scheduled Tribes (STs) and Scheduled Castes (SCs) with regard to access to housing and land is severe.</p> <p>Over 40 per cent of those displaced from infrastructure projects are STs and another 40 per cent consist of Dalits/SCs and other rural poor.</p> <p>Discrimination against Dalits and Muslims, especially with regard to rental housing, is rampant across India. This is resulting in growing ghettoization and deteriorating living conditions.</p> <p>Intersectionality results in multiple levels of discrimination especially on intersecting axes of caste, gender, age, and income.</p>
11.	Continue working on the welfare of children and women.	<p>Feminisation of poverty is increasing.</p> <p>Women and children suffer the worst impacts of inadequate living conditions, forced evictions, and displacement, including loss of livelihoods, education, healthcare, and security.</p> <p>Homeless women face the most extreme forms of violence.</p> <p>There is no national data or comprehensive policy on street children.</p>
12.	Ensure better protection for persons with disabilities and the elderly.	<p>None of the housing and land policies include provisions to protect rights of persons with disabilities or older persons.</p> <p>Access to housing and basic services remains a struggle for them.</p>
<b>Water and Sanitation</b>		
13.	Ensure that every household enjoys the right to safe drinking water and sanitation	<p>A national campaign called Swachh Bharat Abhiyan has been launched.</p>
14.	Further accelerate the sanitation coverage and the access to safe and sustainable drinking water in rural areas.	<p>Access to water and sanitation, however, remains a big challenge across India. India has the highest number of people practicing open defecation. This increases vulnerability of women to violence.</p> <p>Census 2011 states that in rural areas 69.3 per cent of households do not have toilets; in urban areas the figure is 18.6 per cent.</p> <p>35 per cent of the urban population does not have access to ‘treated’ tap water.</p> <p>Discrimination, especially against Dalits, is acute.</p>

	UPR II Recommendation	Status of Implementation – With Regard to Housing and Land Rights
<b>National Coordination</b>		
15.	Further coordination among relevant national authorities and human rights institutions.	Coordination among and between various ministries and national human rights institutions needs to improve
<b>International Cooperation</b>		
16.	Continue cooperating with the UN and other International Organizations, and share good experiences and practices with other countries in order to overcome the remaining challenges.	Recommendations of UN treaty bodies and Special Procedures related to land and housing are not being adequately implemented.  India's report to the UN Committee on Economic, Social and Cultural Rights is overdue.

The above list of recommendations, in conjunction with the recommendation on housing, form a significant basis on which civil society and independent institutions can monitor compliance of the state and carry out advocacy efforts aimed at the realisation of housing, land, and related rights across India. It is also important to view the recommendations from the Human Rights Council with those from other UN bodies. Several treaty bodies and UN Special Procedures have made explicit recommendations on housing, forced evictions, and rehabilitation.<sup>3</sup>

Detailed information—including data, case studies, and evidence to support the claims made in the table above—is presented in the next section of the report. Housing and Land Rights Network, in collaboration with local and national partners, has highlighted key issues and recent developments related to housing and land rights in India. This report aims to present a mid-term review of India's compliance with the UPR recommendations related to the human right to an adequate standard of living, with a focus on housing and land.

The human right to adequate housing is guaranteed and protected in international law, and also has been upheld by the Supreme Court of India and several High Courts,<sup>4</sup> as an integral component of the fundamental right to life (guaranteed in Article 21 of the Constitution of India). As a signatory to key international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, the Government of India is legally bound to implement the human right to adequate housing for all within the country, while ensuring the incorporation of the human rights principles of non-discrimination, gender equality, progressive realisation, and non-retrogression.

The Government of India will have to report to the UN Human Rights Council on its human rights record, including on the progress made in the implementation of all recommendations, at its next Universal Periodic Review in January 2017. It also has a legal obligation to meet its international and national human rights commitments. The government should, therefore, take adequate measures to ensure the progressive realisation of all human rights in India.

Given the interdependence and indivisibility of human rights, the human right to adequate housing is integrally linked to the rights to land, food, water, security of the person and home, health, education, and freedom of movement and residence. The right to land is integral to securing adequate housing and also to realising other basic human rights such as food and livelihood. The denial or violation of the human rights to adequate housing and land, thus impact a range of human rights. It is, therefore, imperative that the state, at all levels of governance, strives to take efforts to ensure the progressive realisation of the human right to adequate housing for all, especially the most marginalized constituencies of society – economically weaker sections, children, women, Dalits/Scheduled Castes, indigenous and tribal peoples/Scheduled Tribes/*adivasis*, religious and sexual minorities, persons with disabilities, older persons, informal sector workers, migrants, forest workers, agricultural labourers, peasants, internally displaced persons, and the homeless and landless.

# Urban Housing and Living Conditions

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The Census of India 2011 reported that about 31 per cent of the Indian population—approximately 380 million people—lives in urban areas. This number is projected to increase to about 600 million by 2030.

A Technical Group on Urban Housing Shortage estimated that the national urban housing shortage at the end of 2012 was 18.78 million houses; ninety-five per cent of this shortage (17.96 million dwelling units) was for low income households (those earning less than Rs 200,000 as total household income per year).<sup>5</sup> A recent ‘White Paper on Indian Housing Industry,’ by the research and consultancy firm RNCOS, projects that the shortage of urban housing is expected to grow at a compound annual growth rate of 6.6 per cent for 10 years, and will increase to 34 million units by 2022.<sup>6</sup>

In the absence of affordable adequate housing options, millions of workers in the informal and unorganized sector, are forced to live in extremely inadequate conditions on the streets or in grossly underserved and low quality housing in settlements that are often referred to as ‘slums’ in official discourse. As per the Slum Census 2011, almost two-thirds of statutory towns in India have ‘slums’ and a total of 13.75 million households live in them. Organizations working on issues of urban poverty and housing, however, believe that the actual number is likely to be much more. ‘Slums’ for the purpose of the Census of India have been defined as, “Residential areas where dwellings are unfit for human habitation by reasons of dilapidation, overcrowding, faulty arrangements and design of such buildings, narrowness or faulty arrangement of street, lack of ventilation, light, or sanitation facilities or any combination of these factors which are detrimental to the safety and health.”

In cities with more than one million people, nearly 40 per cent live in informal settlements while the metropolitan cities of Mumbai, Delhi, Chennai, Hyderabad, and Kolkata account for more than 50 per cent of total ‘slum’ households in the country.

According to the Ministry of Housing and Urban and Poverty Alleviation, 10 states namely Maharashtra, West Bengal, Uttar Pradesh, Tamil Nadu, Madhya Pradesh, Andhra Pradesh, Telangana, Karnataka, Rajasthan, and Chhattisgarh account for 82 per cent of the total population living in informal settlements in India.<sup>7</sup>

The Census 2011 data also reveals that 36 per cent of households living in such informal settlements do not have basic facilities of electricity, tap water, and sanitation within the house premises. While 35 per cent of the population does not have access to ‘treated’ tap water from a municipal corporation, more than 25 per cent of the residents use water from hand-pumps, tube wells or some other undefined sources.

Most low income residents in urban areas also do not enjoy security of tenure over their land and housing, and live in constant fear and insecurity. In many Indian cities, urban land allocated for housing for economically weaker sections (EWS) continues to be diverted for profitable real estate and infrastructure projects, while legislative tools are used to condemn the urban poor as ‘illegal.’ The continued use of terms like ‘slum’ and ‘encroacher’ constitute the framing of urban governance issues in a manner that not only discounts the significant contribution to the economy by members of urban households living in inadequate conditions and poverty, but also reveals a strong prejudice against them, which is reflected in policy and programme formulation and implementation. This is also evident in continued state apathy to the issue of homelessness at both the state and central government level;

rising incidences of forced evictions around the country; and, the absence of human rights-based policies and laws on housing and land.

## Homelessness

According to the Census of 2011, India has more than 1.7 million homeless persons; 938,384 of them live in urban areas.<sup>8</sup> Independent estimates, however, place the total number of homeless persons in India at about 2.3 million. Homelessness constitutes the worst violation of the human right to adequate housing, and homeless people, especially women, are among the most marginalized, ignored, and discriminated against in the country. The priority of the government should be to address the structural causes of homelessness and to ensure that all homeless people are eventually able to move into adequate and affordable permanent housing. On a 'continuum of housing rights,' shelters are the first step, with the end goal being the provision of affordable and adequate housing for all. A shelter is an immediate, emergency, and humanitarian requirement, and must be provided by the state on a priority basis to homeless people in need. Homeless shelters provided by the government in all cities across India, however, are insufficient and inadequate; and in many cities such as Patna, are completely uninhabitable. The majority of shelters are ill-equipped, poorly located, and characterized by the lack of basic services such as drinking water, toilets and bathing facilities, electricity, clean bedding, storage space, and facilities for cooking/food distribution.

In January 2010, the High Court of Delhi initiated a *suo moto* case<sup>9</sup> on the issue of homelessness in the nation's capital. After five years, 100 hearings, and over 85 orders from the Delhi High Court, while the city has witnessed significant improvements in the number of homeless shelters (from 17 to 266) and a greater awareness within the government of the special needs and concerns of the homeless, the human rights and quality of life of the city's homeless, unfortunately, has not improved much.

Through the intervention of special commissioners in 2010, the issue of homelessness was brought into the purview of the 'right to food' case<sup>10</sup> in the Supreme Court of India. The Court ordered that shelters must be sufficient to meet the need of the homeless, in the ratio of at least one shelter per lakh (100,000) population, in every major urban centre. It also stated that shelters should be functional throughout the year and not as a seasonal facility only during the winters. Despite strong orders from the Supreme Court, the situation in most cities across India is abysmal with regard to provisions for the homeless. Currently, the issue of national homelessness is being reviewed by the Supreme Court in another public interest litigation case.<sup>11</sup>



HOMELESS SHELTER IN PATNA, BIHAR

**TABLE 2: ESTIMATED NUMBER OF HOMELESS PEOPLE IN DIFFERENT CITIES ACROSS INDIA**

Delhi	150,000 – 200,000
Chennai	40,000 – 50,000
Mumbai	200,000 (including Navi Mumbai)
Indore	10,000 – 12,000
Visakhapatnam	18,000
Bangalore	40,000 – 50,000
Hyderabad	60,000
Ahmedabad	100,000
Patna	25,000
Kolkata	150,000
Lucknow	19,000

*Source: Independent estimates from civil society organizations working on homelessness*

The National Urban Livelihoods Mission – Scheme of Shelters for Urban Homeless (NULM-SUH), proposes a standard of 50 square feet per person in a homeless shelter. In most cities, however, the homeless are provided only about 15 square feet per person in a shelter, which is not sufficient to live with dignity. The lack of adequate space also results in overcrowding and congestion, leading to adverse health impacts on shelter residents. There is also an acute shortage of shelters for women, families, women with children, working men, and shelters for people with special needs such as older persons, persons with disabilities, persons living with mental illness or HIV/AIDS, and chemically dependent persons.

Under the NULM-SUH scheme, the centre allocated Rupees (Rs)<sup>12</sup> 1,078 crore<sup>13</sup> to states to construct shelters for more than nine lakh<sup>14</sup> (900,000) urban homeless people. A case in the Supreme Court of India, however, recently revealed that despite the allocation, only 208 shelters for the urban homeless had been constructed in 14 states; in the remaining 11 states and Union Territories, no construction had been undertaken. Uttar Pradesh received Rs 180 crore, but has constructed only 37 homeless shelters, while Maharashtra has failed to utilize its allocated Rs 170 crore to build even a single shelter.<sup>15</sup>

The majority of the homeless in India are, thus, left to fend for themselves and suffer from harsh weather and climate conditions. Between January 2004 and March 2015, data from the Ministry of Home Affairs reveals that 31,855 unidentified dead bodies were reported in Delhi; about 80 per cent of these deaths were of the homeless.<sup>16</sup> No investigation is ever conducted into the cause of the death of a homeless person, and neither is anyone held responsible.

The homeless are the ones who largely subsidize the city economy with their labour and productivity. They are the real city-makers, but are unable to afford a roof over their heads. The state machinery further marginalizes them by denying them citizen entitlements such as voter cards, labour cards, social security, and health insurance. They also face persistent harassment and violence by law enforcement agencies. Homeless women, particularly young women, suffer the worst kinds of violence and insecurity, and are vulnerable to sexual exploitation and trafficking. Instances of rape, molestation, and women spending sleepless nights guarding their young adolescent girls are a common feature among homeless women. Accessing health care is a tremendous challenge for homeless people, especially women. There are countless incidents of women being denied treatment and turned away from hospitals.<sup>17</sup>

The human rights of street children to security, adequate housing, education, development, and education, are continually violated. Apart from being malnourished, poverty-stricken and often abused, most street children are unable to attend school. India still does not have data on the number of street children; neither does it have a policy to address their special needs and to protect their rights. In Delhi, the organization Butterflies estimates 50,000 children living on their own, while a survey by Save the Children Fund in 2011, found 50,923 street children in the city.



URBAN HOMELESSNESS

## Forced Evictions

Forced evictions have become a part of the Indian urbanisation paradigm, which is largely driven by neoliberal economic policies. In many cities, state and private forces work, often in collusion, to develop schemes and 'projects' to demolish settlements and/or to evict the residents in order to free up land under the garb of 'urban renewal,' city 'beautification' and 'slum free city' schemes. The rhetoric of 'encroachment' and increasingly 'resettlement' is also used to usurp land occupied by low income groups, to move them to the margins of cities, and to 'gentrify' and then use the vacated land for profitable enterprises favouring the city's affluent population.<sup>18</sup>

A large percentage of evictions in India are not carried out for a demonstrable 'public purpose' and most of them are illegal. The state and its agencies normally do not conduct any social/eviction impact assessments before the eviction to determine its potential effects and losses. Most evictions take place without adherence to due procedure or human rights standards. During processes of forced eviction and demolition of homes, affected families generally lose their housing, personal possessions, hard-earned savings, vital documents, and invaluable assets. Where force is used during the eviction process, people suffer injuries. In the immediate aftermath of evictions, most people are not able to work and thus lose income and witness a reduction in their standard of living. The state, however, does not have any policy for compensation for losses incurred by evicted persons, even when such losses are a direct result of state action.

Between March 2012 and September 2015, information compiled by HLRN reveals that over 42,000 families or more than 230,000 people have suffered from forced evictions in urban India, without due process or rehabilitation, and lost their homes as a direct result of state-sponsored demolition drives.<sup>19</sup> These figures only represent cases known to HLRN. The actual number of people evicted and displaced in the country is likely to be much higher.

In January 2013, Bruhat Bengaluru Bangalore Mahanagara Palike (BBMP), a civic body responsible for providing infrastructure and services in the Greater Bangalore Metropolitan area, demolished 1,200 homes and evicted over 5,000 people living in economically weaker section (EWS) quarters in Ejipura/Koramangala, Bangalore. The demolition affected around 1,200 women and 2,000 children. The four-day demolition drive razed around 900 tin sheds that were built at the site more than 11 years ago. BBMP did not follow any due process for the eviction. The demolition was carried out in the presence of a large police force that allegedly used force against the residents. As of September 2015, the land is lying vacant and construction of the proposed commercial complex and EWS housing has not commenced. While 60 families are still residing near the site under plastic sheets on pavements, others have moved to rental accommodation in nearby settlements. Some families have shifted to Kudlu, a Slum Board resettlement colony, located about 19 kilometres away from the site. Though the state had promised resettlement in Sulikunte, it still has not provided any relief or alternative housing to any of the evicted families. Since the majority of the families lost their vital documents during the eviction, including below poverty line (BPL) ration cards and voter cards, they are being denied entitlements such as subsidised food and citizenship rights.

In November 2014, Delhi's forest department demolished 500 homes in Israeli Camp, Rangpuri Pahadi, in south Delhi. The demolition occurred without any prior notice to the community. In the absence of any resettlement, nearly 2,000 residents were rendered homeless and had to sleep in the open, at the onset of the Delhi winter. The demolition drive was justified by citing orders of the National Green Tribunal to secure the Ridge area of the city, along which the settlement had formed. The residents of Rangpuri Pahadi are daily wage workers; a large number of these residents work as domestic helpers in the residential colonies located nearby. Most of the affected residents had legal identity proofs (Permanent Account Number (PAN) card, driving license, Aadhaar card, voter card) and paid electricity bills. During the demolition, most of the families lost almost all their possessions. The eviction and the resulting state of homelessness gave rise to an immediate vulnerability, especially for women and children.<sup>20</sup> In the absence of any rehabilitation, the affected families have rebuilt their homes and continue to live at the same site.

## POLICY DEVELOPMENTS RELATED TO EVICTIONS IN DELHI

The National Capital Territory of Delhi Laws (Special Provisions) Amendment Bill 2014 aims to extend the deadline for protection against unauthorized developments or 'encroachments,' unauthorized colonies, and village *abadi* areas until 31 December 2017. The objective of the extension is to protect these developments from punitive action and to provide state government agencies with time to put in place any norms, policies and guidelines to formalize their existence, within the purview of the Master Plan of Delhi – 2021. Effectively, the Act could be interpreted to prevent forced evictions of informal settlements in Delhi.<sup>21</sup>

In an order dated 16 February 2015, the Delhi government stated that no agency should carry out any demolition in the city until the government issues further instructions.<sup>22</sup>

Between January and August 2015, HLRN estimates that over 9,000 families have been evicted forcefully across India.<sup>23</sup> In August 2015, the Indore Municipal Corporation forcefully evicted 1,500 families living in Chander Prabhaskar Shekhar Nagar while in June 2015, the Delhi government demolished homes of 500 families living along the River Yamuna, following the implementation of an order of the National Green Tribunal related to river banks.<sup>24</sup> Mumbai witnessed two major evictions in June 2015. Officials of the Brihanmumbai Municipal Corporation demolished about 1,000 homes in Malvani, Malad. The demolition was carried out in spite of assurances given by the forest



DEMOLITION IN CHANDIGARH

department, police, and local Member of the Legislative Assembly that no further demolition would take place until the end of the monsoon season. The Mumbai Metropolitan Region Development Authority and police officials used force and violence to demolish 3,000 homes in Mandala. About 200 people were arrested and released that evening, after a notice was issued against them under Section 149 of the Indian Penal Code. This is the third time the residents of Mandala have been evicted in the last ten years. Though the land on which they lived is still lying vacant, the state has not permitted them to return; neither has it given them any alternative housing or provisions for resettlement. Similar evictions, without notice or due process, have occurred in low income settlements in Gurgaon, Faridabad, Agra, Nashik, Patna, and Coimbatore.

All the forced evictions across the country have violated multiple human rights of the affected families, including their human rights to adequate housing, work/livelihood, land, health, food, water, education, information, participation, and security of the person and home, among others. The loss of homes, personal possessions, and household items has further marginalized the poor families and added to their financial distress. Children and women have been the worst affected. Such actions question government claims to build 'housing for all' in India by 2022.

In the year 2014–15, several evictions sanctioned by the state were stalled by strategic and timely intervention of community groups and civil society organizations, including through local advocacy and legal action, such as procuring stay orders from state courts. This resulted in over 47,000 families being saved from losing their homes.<sup>25</sup>

## The Failure of Resettlement

In the majority of instances of forced evictions in India, the state does not provide rehabilitation to the affected families on grounds that they are 'encroachers,' 'squatters,' 'illegal' residents, or 'ineligible.' Most states have a 'cut-off' date before which the individual/family should have been living in the city in order to qualify for resettlement benefits (for instance, in Mumbai it is the year 2000, while in Delhi it has recently been changed to 14.02.2015). Each affected family also has to furnish a list of requisite documents in order to be considered 'eligible' for resettlement. Most families are unable to fulfil the requirements because their documents have to regularly be renewed and also because they often lose vital documents during the eviction process; thus they do not receive any resettlement benefits. The continued existence of a 'cut-off date' for the urban poor is nothing but an institutionalized tool of exclusion and discrimination, and places an inordinate burden on the urban poor to prove the duration of their residence in the city.

For the small percentage of families that are considered eligible for resettlement, the state provides alternative plots or housing in undeveloped colonies, which are generally located on the peripheries of cities and at great distances from the affected persons' original places of work, education, and healthcare. Such a trend of forcing the urban poor to the fringes is not isolated to one or two cities, but is prevalent across India. In a recent study<sup>26</sup> of three large resettlement sites: Savda Ghevra (Delhi), Kannagi Nagar (Chennai), and Vashi Naka (Mumbai), Housing and Land Rights Network and its partners have documented the multiple human rights violations suffered by residents of these sites as well as the long-term impacts, including loss of education, livelihoods, and health, that this model of resettlement has resulted in.

Women and children suffer disproportionately from the impacts of forced eviction and failed resettlement. In many sites, the fear of violence prevents girls from attending school and young women from going to work. In some instances, it has also led to a rise in early marriages of girls of displaced families. Parents concerned about the safety of their daughters prefer to get them married rather than have them live on the streets or in other insecure locations. The distant location of resettlement sites from city centres and work places leads to many women losing their jobs. Those who opt to continue with their former jobs, in order to support their families, have to commute long distances daily, at great risk to their personal health and safety.



LIVING CONDITIONS AT SAVDA GHEVRA RESETTLEMENT COLONY, DELHI

The disintegration of communities and separation of extended families, as a result of inadequate resettlement, results in the loss of social safety nets, which impacts women greatly. Children also suffer disproportionately from the eviction and relocation process. Apart from the psychological trauma associated with witnessing their homes being demolished and being involuntarily relocated, many children have to drop out of school while others are forced to begin working to supplement their family income. Most resettlement sites do not have adequate crèches/ Integrated Child Development Services (ICDS) centres to meet the needs of children. There is also a shortage of public playgrounds and safe open spaces for children to play in.

## MASS RELOCATION IN KOSAD, GUJARAT

Under its ambitious mission of creating a 'slum-free city' under Rajiv Awas Yojana (RAY), Surat Municipal Corporation (SMC) approved the construction of 46,856 housing units in Kosad, Udhna, Limbayat and Jahangirabad, in Gujarat. The residents of informal settlements in Bapu Nagar, Nehru Nagar, Subhash Nagar, and Iqbal Nagar have been relocated to Kosad, at a distance of ten kilometres from their original homes. The survey process prior to relocation excluded a large number of families and a re-survey was proposed. The planning process has been devoid of community participation. RAY in Surat is predisposed towards relocation and in most cases, SMC has not considered the option of *in situ* rehabilitation of settlements.

After relocation to Kosad, residents were excluded from social security schemes, including pension schemes for widows and senior citizens, which they had been eligible for in their previous residence locations. Families with persons of disabilities or older persons were not allocated houses that met their special needs. The relocation has affected livelihood options of the residents adversely; most women are currently unemployed. At least 22,000 children have had to drop out of school. Poor construction of homes at the new site, including the absence of parapet walls on the terraces, has resulted in many children being injured.

The land from which people have been relocated is currently lying empty. The lands that were 'cleared of slums' on the pretext of disaster mitigation with the ostensibly stated reason that they were located on a flood plain, are now going to be utilized to develop a riverfront project.<sup>27</sup>

In Visakhapatnam, Andhra Pradesh, after the demolition of the settlement of Seva Nagar in 2011, its 714 families were resettled in colonies in Madhurawada, Kommadi, and Pendurthi, 20 kilometres away from their original site of residence. The presence of bogus names on the allotment list prevented many of the evicted families from receiving homes in the resettlement sites. As a consequence of resettlement, most affected persons lost livelihoods and their average monthly income reduced from between Rs 6,000 and Rs 10,000, to between Rs 2,000 and Rs 5,000. The increase in unemployment and loss of income has eroded the social fabric and morale of the community. This has prompted several young men to engage in gambling and petty crime. Some women, reportedly, have been forced into sex work to feed their families. In the absence of government hospitals in the vicinity, residents have to travel long distances to the city to avail medical facilities. Water at the resettlement sites is available only for two hours per day. Children's education has suffered, as none of the resettlement colonies have schools. There are also no *anganwadi* facilities/crèches, and thus, no provisions for supplying nutritious food to young children and pregnant women.

The resettlement process in India ignores the indivisibility of human rights as well as the vital link between housing, livelihood, and other human rights. Residents of most resettlement sites have to struggle for basic services and amenities, including water, sanitation, transport, electricity, and access to healthcare, education, work, and food, and seldom have avenues for redress. After eviction, the right to return of affected persons is not protected by the Indian state. While in some sites, return is not possible since the cleared land has been used for specific projects, several of the sites from where families were evicted, for instance in Surat, Mumbai, and Delhi, are lying vacant. The state should provide affected families with adequate conditions to return to their original sites of habitation, with dignity and security.

## Conditions of New and Proposed Resettlement Sites

Evidence from around the country confirms that resettlement sites located on the outskirts of cities are not a feasible option. Despite this, state governments are constructing similar large sites on city peripheries, with the aim of relocating thousands of families, including in Delhi and Chennai.

The Delhi State Industrial and Infrastructure Development Corporation (DSIIDC) recently created a resettlement site at Baprola in 2012, consisting of 5,568 flats built in two phases, where residents of 15 settlements are to

be relocated. Baprola is situated at a distance of about 30 kilometres from the city centre and has no direct bus connections to the city. The closest government hospital is located at a distance of one kilometre, as is one Hindi-medium government school up to the senior secondary level. The closest centres of livelihood are between six kilometres to twelve kilometres away from the site. Beneficiaries from three settlements—Taimoor Nagar, Kirby Place, and Jwalapuri—were to be relocated to Baprola in the first week of July 2014, but during a fact-finding visit to the site in June 2014, HLRN discovered that streetlights were not functioning, the flats did not have any fixtures, and the settlement had not been landscaped. Each identified family had to pay between Rs 60,000–80,000 for the tenement in Baprola. In its allotment letter to the families, the Delhi government indicated that the flat could not be sold for a period of 14 years from the date of allotment/occupation. At the time of printing this report in September 2015, the site was still lying vacant, conditions in the built tenements and site had deteriorated considerably, and no families had been given possession of the flats.

Despite accepting the failure of the resettlement model in Chennai, the Government of Tamil Nadu is in the process of completing construction of a large resettlement site at Perumbakkam. The site will have 23,864 houses, and when completed will be almost double the size of Kannagi Nagar, an existing large resettlement site that has multiple problems. Though the state set up a high level committee in the year 2011 to formulate a policy, till date, there is no policy in Tamil Nadu governing rehabilitation and resettlement.



DETERIORATING CONDITIONS AT BAPROLA RESETTLEMENT SITE, DELHI

## Discrimination in Housing Access

Cities such as Delhi, Mumbai, and Bangalore, which are known for their cosmopolitan identities, have been witnessing increasing cases of discrimination faced by Muslims and Dalits, in accessing rental housing. According to a recent study by the Indian Council of Social Science Research (ICSSR),<sup>28</sup> in the National Capital Region of Delhi, while both Dalits and Muslims face ‘housing apartheid,’ Muslims experience greater discrimination. For those who are able to access housing on rent, the terms and conditions are more difficult. According to the study, 31 per cent of Muslims and 18 per cent of Dalits experienced outright refusal when they contacted home providers over the phone; and around 61 per cent of Muslims and 44 per cent of Dalits faced refusal in person. Single women also, increasingly are facing discrimination and experience multiple obstacles in accessing housing.

Several other reports<sup>29</sup> also highlight that Muslims and Dalits in different parts of India either face direct rejection by brokers, landlords, and real estate agents or are indirectly denied housing through the use of criteria related to food/diet and other factors. While terming such discrimination as ‘a sophisticated form of untouchability,’<sup>30</sup> human rights lawyers and activists are calling for an effective legislation to put an end to the practice of housing segregation and discrimination that is rampant across the country.

# Rural Housing, Land, and Living Conditions

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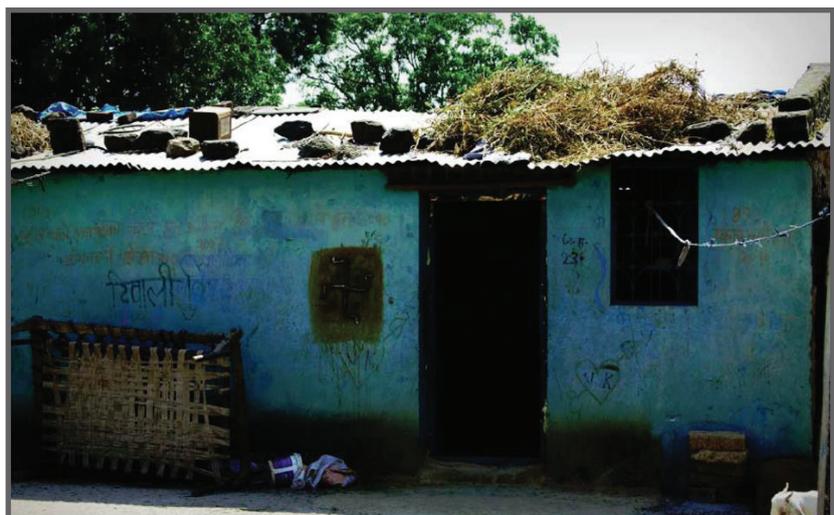
India has the largest number of rural poor as well as landless households in the world. Land ownership is highly inequitable with 60 per cent of the country's population controlling five per cent of the country's land, and 10 per cent of the population controlling over 55 per cent of the land. Forced land acquisition and the failure of rehabilitation coupled with a severe agrarian crisis and growing landlessness and homelessness, also contribute to 'distress migration' of the rural poor to urban areas in search of livelihoods and subsistence options.

The Census of India 2011 reports that about 69 per cent of the Indian population (742.5 million people) is rural and lives in 6,40,867 villages.

According to the Socio-economic and Caste Census (SECC) 2011, more than 13 per cent of rural households in India live in one room with *kutcha* (mud/temporary) walls and *kutcha* roof. The Census used seven indicators to map rural households. These are: (i) households with one or less room, *kutcha* walls and *kutcha* roof; (ii) no adult member in household between the age of 18 and 59; (iii) female-headed household with no adult male member between 16 and 59 years; (iv) households with differently-abled member with no other able-bodied adult member; (v) Scheduled Caste/Scheduled Tribe households; (vi) households with no literate adult above the age of 25 years; and, (vii) landless households deriving a major part of their income from manual labour.

About 8.7 crore (87 million) rural households face one of the above seven characteristics. According to SECC 2011 data, about 30 per cent (53.7 million) landless households derive a major part of their income from manual work, and for more than 51 per cent (91.6 million) of the total rural households, manual casual work is the only source of income.

Rural women, especially those from marginalized groups and communities—including Scheduled Castes, Scheduled Tribes, single women, single mothers, widows, women with disabilities, and older women—face a disproportionate burden and do not have equal rights, including to access, own, and control housing, land, and other natural resources. It is estimated that only 12 per cent of women in India own land. Intersectionality results in multiple levels of discrimination, which need to be addressed.



RURAL HOUSING

Processes of land alienation combined with promotion and marketisation of high cost external inputs for housing and habitat have created inequities in access to and control of housing and livelihood assets. Furthermore, inconclusive and insufficient data on homelessness and inadequate living conditions in rural areas has resulted in the lack of appropriate government response.

The total national rural housing shortage, according to a report for the Twelfth Five-Year Plan (2012–2017), was estimated at 40 million households, of which 90 per cent were ‘below poverty line’ (BPL) households.<sup>31</sup> While the figure of housing shortage is not all-inclusive, state performance in protecting the human right to adequate housing in rural areas has not been adequate.

## Indira Awas Yojana

Indira Awas Yojana (IAY) is a social welfare scheme, in place since 1985, to provide housing assistance to the rural poor. Beneficiaries under IAY include Scheduled Castes, Scheduled Tribes, freed bonded labourers, minorities in the Below Poverty Line (BPL) category and other BPL families. Under the scheme, financial assistance provided for new construction in the form of a grant is Rs 70,000 per dwelling unit in the plains and Rs 75,000 for hilly/difficult areas. Further, an IAY beneficiary can avail loans of up to Rs 20,000 in addition to an existing home loan under the Differential Rate of Interest (DRI Scheme) from any nationalized bank at an interest rate of four per cent per annum.<sup>32</sup> In 2014, the central government decided to combine IAY with the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) in order to increase the fund corpus for providing housing.<sup>33</sup> An increase of Rs 25,000 in the per capita fund allotment for construction assistance was also announced.<sup>34</sup>

A report of the Comptroller and Auditor General (CAG) of India<sup>35</sup> observed that in 2014, faulty lists of ‘beneficiaries’ had led to a large number of ineligible persons receiving benefits under IAY. From audited data from 27 states and four union territories for the period from April 2008 to March 2013, the CAG observed that in 12 states, 36,751 non-BPL families were given assistance of Rs 89.15 crore (891 million). In 11 states, 10,184 ineligible beneficiaries were selected and Rs 31.73 crore (317 million) was paid to them. In seven states, 33,536 beneficiaries were selected from outside the permanent IAY waitlists and paid assistance of Rs 138.02 crore (1.38 billion). In eight states, 1,654 beneficiaries who received assistance of Rs 5.37 crore (53 million) already had *pucca* (permanent) houses. In eight states, 5,824 beneficiaries were selected more than once and a payment of Rs 14.67 crore (146 million) was made to them. In six states, allotment of dwelling units in the name of female members of the household was not preferred.

The Working Group on Rural Housing under the Planning Commission of India had targeted the construction of 170 lakh (17 million) houses under IAY for 2008–13. The CAG, however, found that only 128.92 lakh houses (12.9 million or 75.84 per cent of the target) were constructed during the period, indicating that IAY could not bridge the gap in housing shortage in the country. The audit further revealed cases of delay in completion of houses beyond the stipulated time limit of two years; poor quality of construction; use of substandard material for construction; diversion of IAY funds of Rs 37.12 crore (370 million) towards other schemes/programmes; and expenditure of Rs 2.20 crore (22 million) on ‘inadmissible items’ in seven states. It also reported cases of misappropriation of funds.<sup>36</sup>

In 2009, as part of IAY, the government announced a scheme for providing homestead sites to those rural BPL households who neither possessed agricultural land nor a house site. Against the proposed central allocation of Rs 1,000 crore (10 billion), Rs 347.47 crore (3.47 billion) was released to nine states based on proposals sent by these states to the government. The CAG audit found that this scheme was not implemented in 17 states/Union Territories.<sup>37</sup>

## Agrarian Distress and Farmer Suicides

The Indian government’s apathy and lack of adequate response to agrarian distress is reflected in the high number of farmer suicides in the country. Since 1992, the state has not redistributed any land under its land reform programme. As per the 2011 census, 54.6 per cent of total workers in India or 263 million people are engaged in the agriculture sector; over half of them are agricultural labourers. Seventy-five per cent of the farmers in India are marginal farmers, owning between one to two hectares of land. Increasing costs of production and decrease in credit flow to the agriculture sector, as a result of neoliberal policies, has led to about 50 per cent of Indian farmers facing

**TABLE 3: FARMER SUICIDES IN INDIA (2004 – 2013)<sup>38</sup>**

Year	Number of Suicides by Self-Employed Individuals (Farming/Agriculture)
2004	18,241
2005	17,131
2006	17,060
2007	16,632
2008	16,196
2009	17,368
2010	15,964
2011	14,027
2012	13,754
2013	11,772
<b>Total</b>	<b>1,58,145</b>

Source: National Crime Records Bureau

high debt. Factors such as unfavourable weather conditions, natural calamities, and inadequate government policies have contributed towards increasing the financial stress of small and marginal farmers in India. Data from the National Crime Records Bureau (NCRB), though an underestimation, indicates that thousands of farmers commit suicide annually, as a result of indebtedness and inability to find solutions to the agrarian crisis.

It is estimated that with data from 2014 and 2015, over 200,000 farmers in India have committed suicide in the last ten years. The state, however, has failed to develop durable solutions to this crisis or to address the source of agrarian distress and growing indebtedness of marginal farmers.

## Displacement from Infrastructure and Other Projects

Land acquisition, often involuntary, across rural India is rampant for a range of projects, including dams, thermal power, mining, industrial development, environmental conservation, ports, and Special Economic Zones. India is estimated to have the highest number of people displaced annually as a result of such ostensible ‘development’ projects. Independent experts estimate the number of those displaced by such projects since India’s independence (1947), to be between 65 and 70 million. Among those affected, a large percentage consists of rural families, and indigenous and tribal peoples/*adivasis*/Scheduled Tribes. This results in further impoverishment, marginalization, and migration – the costs of which are never ascertained or compensated. The vast majority of the displaced have not received adequate resettlement. The National Human Rights Commission’s stakeholders’ report for India’s second Universal Periodic Review stated that, “NHRC’s monitoring finds that usually those displaced are given neither adequate relief nor the means of rehabilitation.”<sup>39</sup>

An official database of persons displaced/affected by projects in India is not available. However, some unofficial studies, peg this figure at around 60 million for the period from 1947 to 2004, involving 25 million hectares, which includes seven million hectares of forest and six million hectares of other Common Property Resources (CPR). Whereas the tribals constitute 8.08 per cent of the country’s population, they are 40 per cent of the total displaced/affected persons by these projects. Similarly at least 20 per cent of the displaced/affected are Dalits and another 20 per cent are OBCs (Other Backward Classes). The resettlement record is also very dismal. Only a third of the displaced persons of planned development have been resettled.<sup>40</sup>

## Special Economic Zones

A Special Economic Zone (SEZ) is a geographical region within a country in which a distinct legal framework provides for more liberal economic policies and governance arrangements than in the rest of the country. India passed the Special Economic Zone Act in 2005; it came into force in February 2006. The Act aimed at incentivizing SEZ activities in the form of income tax holidays, various exemptions from several indirect taxes, and other benefits.<sup>41</sup>

An audit report of the Controller and Auditor General of India (CAG) on Special Economic Zones (SEZs), which was tabled in Parliament on 28 November 2014,<sup>42</sup> reveals several discrepancies and irregularities in the functioning of SEZs in India, especially with regard to land acquisition and use. The performance audit states that, “Since the enactment of the SEZ Act 2005, 576 formal approvals of SEZs covering 60,374.76 hectares were granted in the country, out of which 392 SEZs covering 45,635.63 hectares have been notified till March 2014.” It further mentions that of 392 notified SEZs, only 152 have become operational (28,488.49 hectares). The land allotted

to the remaining 424 SEZs (31,886.27 hectares) was not put to use (52.81 per cent of total approved SEZs) even though the approvals and notifications in 54 cases date back to 2006. The CAG report observed that, “Out of the total 392 notified SEZs, in 30 SEZs in Andhra Pradesh, Maharashtra, Odisha and Gujarat, the developers had not commenced investments in the projects and the land had been lying idle in their custody for two to seven years.”<sup>43</sup>

The performance audit found that, “...de-notification was also resorted to within a few years to benefit from price appreciation. In terms of area of land, out of 39,245.56 hectares of land notified in six states, 5,402.22 hectares (14 per cent) of land was de-notified and diverted for commercial purposes in several cases. Many tracts of these lands were acquired invoking the ‘public purpose’ clause. Thus land acquired was not serving the objectives of the SEZ Act.” It also reported that, “Land acquired for public purposes was subsequently diverted (up to 100 per cent in some cases) after denotification.”

The CAG report mentions that some SEZs had not obtained environmental clearances, some had violated Coastal Regulation Zone (CRZ) rules, and some were allotted land that was restricted under various statutes. With regard to takeover of agricultural land, CAG stated, “Considering that agricultural land was acquired in many cases and persistence of the trend of acquiring vast tracts of land without any economic activity would be a matter of social concern in future, necessitating a caution in allocating agricultural land.”<sup>44</sup> The performance audit report also highlights the failure of developers to provide adequate resettlement to affected families, in certain cases.

## Sardar Sarovar Project

The Sardar Sarovar Dam on the Narmada River has been at the centre of a three-decade debate on ‘development’ and displacement.<sup>45</sup> The construction of the dam to its current height of 121.92 metres has already resulted in widespread damage; loss of homes, farmland, livelihoods, heritage monuments, and cultural sites; and, extensive displacement. In June 2014, the Narmada Control Authority sanctioned raising the height of the Sardar Sarovar Dam by 16.8 metres, to its full proposed height of 138.72 metres. While the 250,000 displaced people across the states of Maharashtra, Gujarat and Madhya Pradesh are yet to receive rehabilitation and resettlement from the government, the increase in the height of the dam will likely affect additional villages in the three states. The height increase is justified for expansion of the command area for irrigation; however, 75 per cent of the canal work is yet to be completed. A reply to a Right to Information (RTI) query by Jamin Adhikar Andolan (Land Rights Movement), Gujarat, revealed that the Gujarat government had no account of 50 per cent of the water released from the main Narmada canal. Activists in Gujarat believe that had the necessary canal distribution system been built, the increase in the dam height would not have been required. Gujarat’s existing full water share of nine million acre feet of water would have been sufficient to irrigate the currently parched areas of north Gujarat, Kutch, and Saurashtra. Gujarat and Rajasthan are currently unable to use even 20 per cent of the water available to them at the current dam height.<sup>46</sup> Since the work on raising the height of the Sardar Sarovar dam by installation of the gates is likely to be completed soon, residents of the affected area fear submergence and widespread destruction, especially during the monsoon.

Though the governments of Madhya Pradesh, Gujarat, and Maharashtra have claimed, in the Supreme Court of India, that rehabilitation of all affected families is complete, a recent fact-finding mission carried out by civil society organizations and experts indicates that hundreds of families have not even been identified as ‘Submergence Zone Families’ by the state governments, and hence remain excluded from the rehabilitation process. The fact-finding report highlights the dismal conditions of the new resettlement sites. The absence of roads, water, electricity, schools, and health centres is evident at all the sites.



NARMADA JAL SATYAGRAHA

Rehabilitation of livelihoods has been overlooked. While the Maharashtra government has provided fishing rights to many fishing cooperatives, the Madhya Pradesh government has not shown any inclination to address the loss of livelihoods caused by displacement. Affected families who were given land in Gujarat's Dabhoi resettlement area are now being dispossessed of their land, as the township of Dabhoi is expanding and the state is attempting to take over their land. The three concerned state governments are also not complying with rehabilitation orders that require adult sons to be counted as separate affected families, making them eligible for separate relocation and rehabilitation packages.<sup>47</sup>

Considering that none of the state governments involved have been able to adequately provide rehabilitation and resettlement to affected families, work on extending the height of the dam should immediately be stopped and the focus of the state should shift to ensuring that project-affected families are first rehabilitated. Methodologies utilized to ascertain submergence areas should be updated to reflect current conditions, and all Supreme Court orders related to rehabilitation should be implemented. Rehabilitation of livelihoods should occur simultaneously with the provision of resettlement to affected families. Resettlement sites should also be upgraded with adequate facilities of physical and social infrastructure.

## Indira Sagar Dam

The Indira Sagar Dam Reservoir, India's largest and Asia's second largest reservoir, is estimated to affect about 50,000 families or nearly 300,000 people from 255 villages in Madhya Pradesh. The promise of providing land in return for land to displaced people has not been fulfilled, and about 85 per cent of the displaced farmers are being reduced to the status of landless workers.<sup>48</sup> Successive '*Jal Satyagrahas*' (non-violent actions of people standing in rising river waters) of people evicted from their lands for the Indira Sagar Dam project in Madhya Pradesh have drawn attention to the injustice done to thousands displaced by various dam projects constructed on the Narmada River and its various tributaries. In March 2015, the Madhya Pradesh High Court stayed construction of canals in areas surrounding the dam that were already irrigated. The unnecessary excavation of canals in the area has resulted in crop losses, environmental and social impacts, and lack of rehabilitation of affected families.<sup>49</sup>

## Kanhar Dam

In 1976, the Central Water Commission approved a dam on the Kanhar River, which originates in the state of Chhattisgarh, passes through Jharkhand, and then enters Uttar Pradesh. The project, however, was stalled for several years due to the alleged non-availability of funds. The Uttar Pradesh government finally started construction work on 5 December 2014. On 24 December 2014, the National Green Tribunal (NGT) stayed further construction at the dam site in response to a petition that alleged that the project could not commence based on environmental clearances obtained in the 1980s. The project also has no clearances under the Environment (Protection) Act, 1986, and the Forest (Conservation) Act, 1980. The NGT confirmed that the dam would displace a large population – nearly 7,500 families from 25 villages, the majority of which is tribal. The NGT sought a report from the Ministry of Environment, Forest and Climate Change, but the Ministry failed to comply with its directive. Meanwhile, the Uttar Pradesh government carried on with construction work at the dam site.

In 1976, the Chief Minister of Uttar Pradesh had promised villagers five acres of land, a forty-by-sixty foot housing unit, and one job per family in addition to facilities related to health, electricity, education and water to all affected families. While some villagers received compensation at Rs 2,700 per acre in 1983, the process of issuing payments to affected families was stalled.<sup>50</sup>

The *gram sabhas* of all the affected villages also filed a petition in the Allahabad High Court regarding discrepancies in the land acquisition process. *Vindhya Bachao Andolan* (Save Vindhya Movement) alleges that tribes like Bhoinus, Kharwars, Gondhs, Cheros, and Panikas who live in the affected area have not been informed about the environmental and social impacts of the project, implying a violation of the principle of 'prior informed consent' required for acquisition of land belonging to tribal and indigenous communities.

On 14 April 2015, village residents gathered at the dam site to protest the project that allegedly will destroy around 2,500 hectares of dense forests and cause the submergence of 87 villages. Villagers are also questioning the inadequate rehabilitation package and are demanding alternative forest land instead of the plots allotted by the government. The police responded to the peaceful *dharna* (sit-in) by firing at the villagers, severely injuring nine persons, including a tribal leader, and causing minor injuries to 35 others.<sup>51</sup> On 18 April 2015, police again resorted to a violent *lathi* (stick) charge and firing against the villagers. On 7 May 2015, the NGT while stating that the project is illegal permitted “construction that is underway.”

On 30 June 2015, the Uttar Pradesh police arbitrarily arrested three women and four men of the All Indian Union of Forest Working People, on the basis of false First Information Reports (FIR) and fabricated cases against them, while they were preparing for a rally in Robertsgunj. They were kept in custody in Mirzapur Jail after their arrest.<sup>52</sup> The three arrested women were granted bail on 3 September 2015, after spending 65 days in jail, while the men are still awaiting bail.

This incident reveals the nature of attacks against and repression of human rights defenders advocating for their human rights to land, food, housing, livelihood, and life.

## Jalayagnam

Launched in 2004 in the state of Andhra Pradesh, Jalayagnam is an ambitious water management programme aimed at providing irrigation to the drought prone areas of Telangana and Rayalaseema. Consisting of 86 planned irrigation projects, at an estimated cost of Rs 1.86 lakh crore (1.86 trillion), the programme is likely to affect 546 villages and result in submergence and extensive displacement. A 2012 report of the Comptroller and Auditor General (CAG) of India,<sup>52</sup> listed 1,32,135 families as ‘project-affected’ while another 129,739 families as ‘projected-displaced.’ The CAG report highlighted irregular cost escalations and the failure of resettlement and rehabilitation for all affected families, especially in terms of provision of houses. Though the project has been criticized in terms of its scale, costs, feasibility, and environmental and human rights impacts,<sup>54</sup> construction of about 45 projects is underway.

The Jalayagnam programme has been met with widespread resistance, scepticism, and dissatisfaction, especially from affected families who have not received adequate rehabilitation, resettlement, and compensation. In the Gouravelli Reservoir Project in Karimnagar District, Telangana, 2,200 acres of land were acquired. While payments for agricultural land were made to affected communities, compensation has still not been completely provided for the construction of houses. Of 684 houses submerged under the project, payments were made only for 296 houses. Presently, affected families are attempting to contest an official decision to set up a large resettlement colony. They want to be relocated to areas that are closer to the new agricultural land they have bought and intend to utilize for their livelihoods.<sup>55</sup>

One of the controversial projects under the Jalayagnam programme is the construction of the Polavaram Dam. A multi-purpose irrigation project across the Godavari River in Andhra Pradesh, it has reservoirs in parts of Chhattisgarh and Odisha. The project, which commenced in 2004 and is scheduled to be completed by 2018, is expected to irrigate about 300,000 hectares of land in coastal Andhra Pradesh. It is likely to displace around 200,000 people in the states of Telangana, Odisha, and Chhattisgarh. The majority of them are indigenous and tribal peoples/Scheduled Tribes/Adivasis and Dalits/Scheduled Castes who depend on forest produce for their livelihoods.<sup>56</sup> The proposed height of the dam is 150 feet; however, if the height is reduced to 100 feet, it allegedly would submerge only four villages. The Polavaram project will also affect biodiversity of the Eastern Ghats and submerge forests of the Papikonda National Park.<sup>57</sup> The project is also controversial because it reportedly involves the transfer of 205 villages from seven mandals of Telangana to Seemandhra, as sanctioned by the Andhra Pradesh Reorganisation (Amendment) Bill that was passed in Parliament in July 2014. The 2012 CAG report stated that of the 281 villages for which rehabilitation and resettlement plans were delayed, 206 villages fell within the submergence zone of the Polavaram project. A strong local movement has been resisting the dam on grounds of human rights violations of the local residents and widespread environmental destruction, and has delayed its construction. The Andhra

Pradesh government, however, has announced that it will commence construction of the Polavaram Dam on 22 October 2015. It has also allotted Rs 60 crore (600 million) to provide rehabilitation and resettlement to residents of the villages located on the dam site.<sup>58</sup>

## Mapithel Dam

Mapithel Dam is a project of the Irrigation and Flood Control Department of the Government of Manipur. Located on the Thoubal River in Ukhrul district of Manipur, the construction of the dam commenced in 1989. On completion, the project is expected to submerge more than 3,000 acres of land, almost half of which is under forest cover,<sup>59</sup> and will affect 8,000 people in 22 villages in the district.<sup>60</sup> In November 2013, the National Green Tribunal halted construction of the dam on the ground that the project did not have the required environmental clearances from the Ministry of Environment, Forest and Climate Change and stated that in order to resume construction, the state government would be required to present evidence that the project does not infringe on the rights of indigenous and tribal peoples in the area, under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.<sup>61</sup> However, the project was mysteriously provided a green signal by the Union Minister of Environments and Forests in December 2013, by providing it a stage II Forest Clearance.<sup>62</sup>



SUBMERGENCE OF CHADONG HIGH SCHOOL AT CHADONG VILLAGE, MANIPUR, FROM THE MAPITHEL DAM

The compensation that is being offered to the affected communities was calculated in 1989 and has not been revised since. The state government intends to provide this compensation over a period of seven years.<sup>63</sup> Since its inception, the dam has already submerged six villages.<sup>64</sup>

The Armed Forces Special Powers (Assam and Manipur) Act 1958, applicable in Manipur, provides special powers to the Indian armed forces to maintain law and order when faced with threats to national security – actual or perceived. In this context, people who have chosen to oppose the construction of the Mapithel Dam have been treated as ‘militants,’ or have been termed as ‘anti-national.’ The state government has also imposed Section 144 of the Indian Code of Criminal Procedure, thereby banning a congregation of more than five people in a location, whenever affected communities have sought to hold protests.<sup>65</sup>

## Siang Hydro-Electric Project

In the north-eastern state of Arunachal Pradesh, over 160 Memorandums of Understanding have been signed to construct dams, despite the state being within Seismic Zone V (Highest Risk Zone) and having witnessed 87 major earthquakes between 1929 and 1993.<sup>66</sup> Of the planned 44 dams on the Siang tributary of the Brahmaputra River, the Central Water Commission (CWC), in February 2014, recommended that construction of 15 dams be stopped, on account of the possibility of widespread damage to the river ecology and biodiversity.<sup>66</sup> If implemented, the project is expected to affect 200 hectares of biodiversity-rich forests. In September 2015, however, an expert panel of the Ministry of Environment, Forest and Climate Change has recommended forest clearance for three projects located in the Siang river basin.<sup>68</sup>

## Interlinking of Rivers Project

India's ambitious Interlinking of Rivers (ILR) project, first envisaged in 1982 to create 14 links under the Himalayan rivers component and 16 links under the peninsular rivers component<sup>69</sup> to provide water supply in deficit areas, has gained momentum with the completion of the Godavari-Krishna link in Andhra Pradesh on 16 September 2015. Another project linking the Ken River in Madhya Pradesh with the Betwa River in Uttar Pradesh is expected to be completed by December 2015. The Interlinking of Rivers project has drawn criticism from social activists, environmentalists, and academicians on grounds of potential ecological destruction and displacement. There has been no comprehensive impact assessment or study done on the number of people likely to be displaced as a result of this project. According to one estimate, the ILR project will displace around half a million people.<sup>70</sup>

**TABLE 4: NUMBER OF FAMILIES AFFECTED BY SOME ILR PROJECTS**

Name of the Project	Total Number of Families Affected
Damanganga-Pinjal Link Pproject	2,302
Ken-Betwa Link Project (Phase I)	1,585
Ken-Betwa Link Project (Phase II)	870

Source: National Water Development Agency

## POSCO Steel Plant

The proposed construction of a twelve billion dollar steel plant and related land acquisition in Odisha by POSCO, a South Korean multinational company, has been in the news for the last ten years. In June 2005, POSCO signed a Memorandum of Understanding with the Government of Odisha, according to which the state government agreed to acquire and provide land to POSCO for the following: about 25 acres of land in Bhubaneswar for POSCO India to establish its Indian headquarters; about 4,000 acres of land (in Jagatsinghpur district) to set up a steel plant, build port infrastructure, and construct other facilities; and, about 2,000 acres of land for POSCO to develop a township. The project reportedly threatened to displace over 22,000 people in Jagatsinghpur district, and disrupt the livelihoods of many thousands more in the surrounding area.

Despite a strong local resistance movement, the state government, in collusion with the local mafia and with the use of violence managed to forcefully acquire land from villagers. About 2,700 acres of land was acquired by the Odisha Industrial Development Corporation (IDCO) on behalf of POSCO, of which almost 1,700 acres had been handed over to the steel company. Though most of it has been demarcated as forest, the 2006 Forest Rights Act empowers people, if they have been using the land for more than three generations, to use it.

Though the National Green Tribunal suspended the environmental clearance provided to the project in 2012, the Ministry of Environment, Forest and Climate Change gave the project a green signal in January 2014.<sup>71</sup> Subsequently, the Government of Odisha requested the Ministry of Tribal Affairs to speed up approvals required by POSCO to initiate the project. In June 2014 the Union Minister for Tribal Affairs refused to lease the Khandadhar iron-ore mines to POSCO, on grounds of large-scale displacement and exploitation of natural resources.<sup>72</sup>

A vibrant peoples' movement in the area has been resisting the violence, forced land acquisition, and violation of human rights for the POSCO project, but has been met with suppression by the state, including through arbitrary arrests and detention of its members and restrictions on movement outside the affected area. Almost 400 false cases and 2,500 warrants have been issued against the villagers. Two anti-POSCO activists are still languishing in jail on false charges filed against them. Four people lost their lives in the struggle.

Recently, POSCO announced its plans to withdraw from the planned project in Odisha<sup>73</sup> and shift it to Maharashtra. The withdrawal has resulted in a slow return of normalcy to the region, including through the dismantling of barricades around affected villages. While villagers are demanding the return of their acquired lands, IDCO is keen to use it for other projects. The 52 families in Dinkia who agreed to hand over their land to POSCO in return for compensation and jobs, lived in a transit camp for seven years but in early 2015 they returned to their villages.<sup>74</sup>

Though each member of the families was given a compensation of Rs 20 per day by POSCO, it was not enough to meet their needs. Villagers allege that after the first year, they did not receive any medical assistance from the company either.

Villagers who have lost their land, crops, and suffered multiple violations of their human rights, are now demanding that the state government should return their lands and assist them with reviving their agricultural activities; revoke all false charges and release those in detention; provide adequate compensation for the loss of their life, livelihoods, health, education, and security.

## **Vedanta Alumina Refinery**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (Forest Rights Act), a progressive law aimed at recognising the rights of forest dwellers, has not been adequately implemented in many states, especially with regard to the provision of collective rights. In August 2013, members of the Kondh (a Scheduled Tribe) community residing in 12 villages in Odisha rejected Vedanta's bauxite mining proposal in the Niyamgiri Hills in a referendum that was held following orders of the Supreme Court of India. The aim of the referendum was to seek consent of the villagers on the legal ground (under the Forest Rights Act) of recognising the customary right of the tribal group to worship the mountain. Subsequently the Ministry of Environment, Forest and Climate Change denied the Odisha Mining Corporation (a joint venture between the Government of Odisha and Vedanta Alumina) permission for mining bauxite in 660.75 hectares of forest land in Kalahandi and Rayagada districts of Odisha.<sup>75</sup> Vedanta's alumina refinery in the state has initiated the process of shutting down, owing to high sourcing costs of bauxite ore and its inability to mine in the region.<sup>76</sup> The Odisha Mining Corporation, however, is still planning to begin mining of the required ore by December 2016, in an attempt to prevent Vedanta from shutting operations in the state.<sup>77</sup>

## **Kusmunda Coal Mine Expansion**

The Kusmunda Open Cast Mine is located in Korba District of Chhattisgarh. Coal India Limited (CIL) is expected to invest Rs 7,600 crore (76 billion) to develop the mine to reach a potential of 62.5 million tonnes of coal per annum, making it India's largest mine.<sup>78</sup> This expansion is estimated to displace 9,250 families in 17 villages. However, the mine received sanction to expand from 15 to 18.75 million tonnes per annum in February 2014. On 10 February 2014, 17 houses and one school were demolished in the village of Barkuta in Chhattisgarh to make way for the expansion of the mine. While communities were given notices to move in December 2013, they protested that they had not received rehabilitation, compensation, and employment promised to them by South Eastern Coalfields (SECL), which is currently operating the mine. Without further consultation or prior notice, authorities demolished houses in Barkuta with residents' belongings inside them. Locals testify that district authorities cut off water supply and electricity to the village over eight months prior to the eviction. Evicted families were forced to rebuild their homes in the same region, where several of them continue to reside. These families face the threat of eviction if the expansion continues.<sup>79</sup>

A public hearing and consultations carried out by SECL failed to adequately address the issues and concerns raised by the affected communities. Public hearings have taken place in a stadium at Kusmunda, instead of in the affected villages. This has prevented members of affected communities from participating in the consultations. The rehabilitation package offered by CIL does not provide jobs for women, raising crucial questions regarding how the rehabilitation process views single women, women-headed households, and households where the adult male is incapable of being employed owing to physical disabilities.<sup>80</sup> In August 2015, an Expert Appraisal Committee of the Ministry of Environment, Forest and Climate Change refused to allow expansion of the mine beyond its sanctioned capacity of 18.75 million tonnes per annum.<sup>81</sup>

## HASDEO ARAND, CHHATTISGARH

Hasdeo Arand Forest in the Korba district of Chhattisgarh is spread over 1,200 square kilometres. It is one of India's last remaining biodiversity-rich forests with an unbroken canopy that acts as an important wildlife corridor. The forest is located in an area that has the 450 million tonne-rich coal blocks of Parsa East and Kanta Basan. The coal blocks were previously allocated to Adani Mining, a wholly owned subsidiary of Adani Enterprises, which had to surrender its mining rights to the central government after the Supreme Court, in September 2014, struck down the allocations of 214 coal blocks across the country. The passage of the Coal Mines (Special Provisions) Act 2015 has put the mining blocks back up for auction. In 2010, the Ministry of Environment, Forest and Climate Change superimposed forest cover maps on coal bearing regions and marked nine forests that were too dense to be lost to coal mining. These forests were called 'No-Go areas.' Hasdeo Arand was one of them. The previous central government, however, provided clearances to three coal mines in Hasdeo Arand; the present central government has put up one of the blocks located in the forest for auction in the first phase. Once the auction takes place, the residents of the 500-home village of Salhi located within the forest, stand to lose their habitat and access to livelihood.<sup>82</sup>

## Imphal Ring Road Project

The state government of Manipur is planning to build a Ring Road for its capital city Imphal, at a cost of Rs 240 crore (2.4 billion), which will be funded by the Asian Development Bank. The highway is proposed to be 39.48 kilometres long and 22 metres wide.<sup>83</sup> The project is expected to acquire residential land in Kongba Nandeibam Leikai (an area where land has already been acquired for a previous road project), Langthabal, and Langol in Imphal West and East District. Initial surveys have indicated that almost 900 families will be affected by the subsequent land acquisition that is expected to take place, which will include prime agricultural land. The project will also affect tribal communities in the area, including the Langthabal and Langol Hills, associated with the history and folklores of Meitei people. Many families dependent on agriculture and fishing from Lamphelpat wetlands will lose their livelihood.<sup>84</sup>

The close link between urban and rural development is evident in the Imphal Ring Road project, which strengthens the argument for policy response to be more holistic and to view urban and rural issues along the same continuum.

## Displacement of Tribal and Indigenous Peoples in Tripura

Between 2,000 and 4,000 indigenous people in Tripura are likely to be displaced from their ancestral lands by the proposed construction of an oil depot by the Indian Oil Corporation Limited (IOCL) and a storage building of the Food Corporation of India (FCI) in Uttar Joynagar, in the district of West Tripura. State officials, without the free, prior, informed consent of indigenous peoples, illegally constructed a pillar and marked 300 hectares of land for the projects in Uttar Joynagar in July 2013. These lands belong to indigenous peoples whose main livelihood is agriculture. As a result of strong local protest, the officials have not been able to begin any construction.<sup>85</sup>

The Indian Army has proposed to construct a firing range in Dhalai district of the state, as a result of which more than 33 villages will be affected and more than 100,000 people are likely to be evicted. The administration Block Development Officer and the Sub Deputy Magistrate are to ascertain the extent of impacts of acquisition of these lands on indigenous communities. Consultation with affected communities has been organized by a civil society organization in September 2015, to resist forced land grabbing.

Land in Schedule VI areas is being indiscriminately acquired and allotted to different departments of the state government. The Sixth Schedule of the Constitution of India was extended to Tripura on 1 April 1985, with specific geographical areas designated for indigenous and tribal peoples. The allotment of this land to government departments, institutions, security forces, and persons other than Scheduled Tribes is in violation of the constitutional provision intended to safeguard the rights of tribal and indigenous peoples, especially with regard to ownership of their lands, which they have been living on for generations.

# Effects of Natural Disasters on Housing and Land

Disaster-related displacement in India is both an urban and a rural problem. India's high risk is due to its large number of exposed and vulnerable people and high population density, even in rural areas. Vulnerability to disasters increases as a result of unplanned development and large numbers of people living without access to adequate housing, water, health and sanitation.<sup>86</sup>

The Internal Displacement Monitoring Centre estimates that 1,644,700 people were displaced in India in the year 2014, as a result of floods, storms, and landslides. Disasters that led to the largest displacements were floods in Odisha and Assam in August 2014, floods in Jammu and Kashmir in September 2014, and Cyclone Hudhud in Andhra Pradesh and Odisha in October 2014.<sup>87</sup> In 2013, monsoon floods displaced 1,042,000 people in the states of Bihar, Kerala, Uttarakhand, Assam, Andhra Pradesh, West Bengal, and Uttar Pradesh, while Cyclone Phailin displaced 1,000,000 people in coastal areas of Odisha and Andhra Pradesh.<sup>88</sup>

## Floods in Jammu and Kashmir

In September 2014, severe floods devastated the Kashmir region of the north Indian state of Jammu and Kashmir. Heavy rainfall caused the Jhelum and Sangam Rivers to rise beyond the danger mark, resulting in extensive loss of human life and property. Official sources placed the death toll at 282 people. The state government estimates that 5,794 villages in 20 districts were affected, with 741 villages being totally submerged. The disaster adversely impacted more than 1.5 million families; ruined 648,000 hectares of agricultural and horticultural land; and, damaged 344,000 residential houses.

**TABLE 5: NUMBER OF HOUSES AFFECTED DURING FLOODS IN KASHMIR, 2014<sup>89</sup>**

Type of Dwelling	Number of Houses Affected
Fully damaged permanent ( <i>pucca</i> ) houses	45,862
Fully damaged semi-permanent ( <i>kutcha</i> ) houses	21,635
Partially damaged houses	1,87,756
Other structures	89,354

The floods also destroyed public infrastructure, including roads, bridges, and telecommunication lines. Disaster-affected persons had no access to food or medical facilities in the aftermath of the flood. The civil administration, however, did not take adequate measures to address issues of rescue and relief. The rescue operations were stated to have become a situation 'where no one is in charge of anything,'<sup>90</sup> and affected people were unaware as to who to contact in the government for assistance. There were reports of rescue operations being delayed or denied to members of certain communities.<sup>91</sup>

While the state government requested Rs 44,000 crore (440 billion) in aid from the central government, it was allocated only Rs 745 crore (7.45 billion) for the flood-damaged homes and hospitals. Presently, the state has proposed ex-gratia relief of Rs 41,278 crore (412 billion) for fully damaged *pucca* (permanent) houses, at the rate of Rs 900,000 per house. For fully damaged *kutcha* (made of mud) houses, the state government has committed to provide Rs 1,298 crore (12.9 billion) ex-gratia relief at the rate of Rs 600,000 per house. Housing loans of up to Rs 20 lakh (2,000,000) per household will be given at a concessional rate of interest of four per cent. The state

government proposed to pay one year's rent for approximately 35,000 families whose houses have been completely destroyed but no payments have been made. It also announced the provision of timber for construction of housing at subsidized rates to families whose homes have been fully damaged. The state government also announced Rs 50,000 for purchase of household items for families whose houses were completely submerged.

With approval for the proposed compensation still pending from the central government, almost a year after the flood, the state government has made only a few disbursements of compensation and relief to the disaster-affected people. The criteria used to determine 'eligible' recipients or the parameters to assess the extent of damage are not clear. The state government does not have a comprehensive disaster-preparedness, mitigation, and response mechanism to address future natural disasters. While providing compensation will allow survivors to rebuild their homes, it will not address the possibility of these homes being affected in another disaster.<sup>92</sup>

In the absence of adequate relief provided by the state government, as of April 2015, most of the post-flood relief work in Kashmir has been done by local-level community initiatives. Vulnerable communities, especially women-headed households, have been marginalized, facing greater barriers to accessing food and shelter relief.<sup>93</sup>

The Defence Ministry of India has billed Rs 500 crore (5 billion) to Jammu and Kashmir, as rescue and relief assistance for the disaster. This was deducted from the relief amount promised to the state from the National Disaster Relief Fund.<sup>94</sup> The central government also has pledged an additional Rs 2,437 crore (24.37 billion) to Jammu and Kashmir as assistance for flood relief work, though the timing of the disbursement, a year after the floods, is still unclear.<sup>95</sup>

## Cyclone Hudhud in Andhra Pradesh and Odisha

In October 2014, a severe tropical cyclonic storm, named Hudhud by the India Meteorological Department, caused extensive damage to the eastern coastal states of Odisha and Andhra Pradesh. The districts of Gajapati, Koraput, Malkangiri and Rayagada in Odisha were the worst affected. In Andhra Pradesh, the cyclone left tens of thousands of people homeless and destroyed infrastructure in nearly a dozen districts, including the port city of Visakhapatnam. Five lakh (500,000) people were provided shelter in relief camps. The cyclone damaged almost 7,900 houses in Andhra Pradesh<sup>96</sup> and approximately 50,000 thatched houses in Odisha. More than 200,000 people were evacuated to safe places and housed in over 2,000 shelter homes.<sup>97</sup>

While the state government of Andhra Pradesh sought Rs 2,000 crore (20 billion) as interim assistance from the central government, the Prime Minister announced relief of Rs 1,000 crore (10 billion) to Andhra Pradesh. The Government of Andhra Pradesh announced assistance of Rs 2,000 per family for the loss of clothing, and Rs 2,000 per family for loss of utensils and household goods, for families whose houses have been washed away, fully damaged or severely inundated. The state has also proposed assistance for families who lost housing during the calamity.<sup>98</sup>

**Table 6: Compensation for Cyclone-affected Housing Announced by the Government of Andhra Pradesh**

Type of Dwelling	Assistance Pledged
Fully damaged pucca houses	Rs 50,000 per house + Indira Awas Yojana House
Fully damaged kutcha houses	Rs 25,000 per house
Severely damaged pucca houses	Rs 6,300 per house
Severely damaged kutcha houses	Rs 5,000 per house
Partially damaged houses	Rs 5,000 per house
Damaged or destroyed huts	Rs 5,000 per house

Source: Government Order Number 9, Government of Andhra Pradesh, October 2014

Surveys carried out by the state revenue department assessed the extent of damage in only the 'notified slums'; as a result, a majority of the affected settlements were excluded. In order to receive compensation, affected families were asked to produce proof of identification in the form of house tax receipts or Aadhaar cards. Having

lost most of their possessions during the disaster, a large number of survivors were unable to produce the required identification, and thus, did not receive any relief or compensation. Affected persons in 'non-notified slums' also have not received any compensation till date and continue to live in temporary hutments that they have managed to recreate at the sites of destruction.<sup>99</sup>

## Status of Post-tsunami Housing Reconstruction: Ten Years Later

The Indian Ocean tsunami of December 2004 resulted in widespread loss of human life and destruction of housing, farmland, livestock, and infrastructure in seven countries. In India, the state of Tamil Nadu and the Union Territory of the Andaman and Nicobar Islands were most severely impacted. 26 December 2014 marked the tenth anniversary of the tsunami, which irreversibly altered the lives of millions of people.

In the immediate aftermath of the tsunami, Housing and Land Rights Network carried out extensive fact-finding missions to the affected areas to assess the human rights impacts of rehabilitation as well as issues related to housing reconstruction. The findings of HLRN's studies revealed multiple problems with the rehabilitation process, including the lack of participation of affected people, which resulted in inadequate housing being provided. While some of HLRN's recommendations were incorporated by the state governments and private actors involved in post-tsunami rehabilitation, many were not. The current situation of tsunami survivors in Tamil Nadu and the Andaman and Nicobar Islands, even ten years after the disaster, is not satisfactory.

In Chennai, the World Bank approved funding for the construction of 17,805 houses under the Emergency Tsunami Reconstruction Project (ETRP). The project proposed the construction of 16,839 houses in alternative sites and thereby involved relocation of tsunami-affected coastal communities. After initial protests from the affected communities, it was decided that while temporary (*kutcha*) hutments located along the coast would be relocated, permanent (*pucca*) tenements would be reconstructed *in situ* (on site). Of the proposed *in situ* reconstruction of 7,320 tenements and construction of 2,064 tenements at alternative location (Kannagi Nagar), ETRP completed *in situ* reconstruction of only 628 permanent tenements in Nochi Kuppam; the construction of 2,048 permanent tenements in Kannagi Nagar; and, construction of 2,468 temporary shelters on Marina Beach. With the culmination of ETRP in 2012, it was decided that the redevelopment of tenements along Marina Beach, from Nochi Kuppam to Srinivasapuram, would no longer be funded by the World Bank. The delay in providing housing for the other hamlets was due to strong resistance to relocation from residents of Nochi Kuppam, Dooming Kuppam, and Srinivasapuram. The communities also protested the lack of transparency of the Tamil Nadu Slum Clearance Board (TNSCB) during the implementation of ETRP.

Since the houses were in a dilapidated condition and there was a delay in implementing the reconstruction of tenements, TNSCB renovated nearly 2,004 old tenements that were not covered by ETRP. The repair work, however, was not adequate and did not serve the purpose of providing safer housing to the disaster-affected families. In 2014, TNSCB took up the reconstruction of an additional 534 houses at Nochi Kuppam, with funding from the Jawaharlal Nehru National Urban Renewal Mission (JNNURM). The fishing hamlets of Odai Kuppam, Odaima Nagar, Olcott Kuppam, and Urur Kuppam, along with seven hamlets on Marina Beach, have been left out of the tsunami housing reconstruction process.<sup>100</sup>

For non-ETRP housing constructed along the shoreline for fishing communities, the



ETRP POST-TSUNAMI HOUSING IN EZHIL NAGAR, CHENNAI

Government of Tamil Nadu used the Coastal Regulation Zone (CRZ) rules to refuse financial support to any family that rebuilt its home on the coast within 200 metres from the High Tide Line (HTL). The government permitted reconstruction of homes located between 200 metres and 500 metres from the HTL. If a family was willing to move beyond the 500-metre boundary of the CRZ, irrespective of whether their house had been damaged in the tsunami or not, the state government was willing to provide them with a new dwelling unit and three cents of land.<sup>101</sup> Violations of the CRZ Rules, however, are rampant, especially with regard to hotels and other establishments that are permitted to build near the coast.



**POST-TSUNAMI HOUSING IN PERUMBAKKAM, CHENNAI:  
CRACKS IN THE FLOOR**

While ten years have passed since the tsunami struck the shores of Tamil Nadu, and seven years have elapsed since ETRP was initiated, a large number of the tsunami-affected families are either still waiting to receive housing or have been entirely excluded from the rehabilitation process. Since rehabilitation has been provided under different programmes, each with different benefits, the affected families often face institutional conflicts depending on whether their housing falls under ETRP, JNNURM or TNSCB schemes.

# Developments in Law and Policy

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The Indian government regularly announces new policies, targets, and schemes related to different dimensions of urban and rural housing, infrastructure development, and basic services. While many of these schemes sound constructive, they are seldom implemented with the aim of promoting the realisation of the human rights to adequate housing and land for all residents of the country. Moreover, certain laws and policies work to perpetuate discrimination and marginalisation of the urban and rural poor. This section highlights recent law and policy development related to housing and land at both the central and state level.

## Central Laws

### Amendments to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013

In 2013, the Indian government promulgated the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (*LARR Act*) to replace the archaic Land Acquisition Act of 1894. The new law, which came into effect on 1 January 2014, made provisions for Social Impact Assessment (SIA) surveys prior to acquiring land; preliminary notification stating the intent for acquisition; a declaration of acquisition; compensation to be paid within a specified timeframe; and, rehabilitation and resettlement for affected families. Under the Act, compensation for land owners was to be four times the market value for rural land and twice the market value for urban land. In case of acquisition of land for use in Public Private Partnership (PPP) projects, consent of 70 per cent of the affected landowners was required whereas for projects of private companies, the Act required consent of 80 per cent of the affected land owners.

With the onus of developing rules for the Act placed on state governments, attempts were made to draft rules that were ‘business-friendly’ and not aimed at protecting the human rights of those affected by the land acquisition process. The West Bengal government stated that compensation meant for rural areas (that is, at four times the market value of the land) would be paid only if the land was 120 kilometres away from an urban area, reasoning that land values in areas adjacent to cities are usually fairly high.<sup>102</sup> Rajasthan, meanwhile, attempted to draft a version of the law that relaxed consent provisions and nullified the requirement for carrying out SIA surveys.<sup>103</sup>

Land acquired by the Indian state is often not used for ‘public purposes.’ The amount acquired is also generally much greater than what is required. The government, however, has not instituted any measures to minimize land acquisition and displacement, to optimize land use, and to promote more sustainable alternatives.

On 31 December 2014, the central government issued an ordinance to amend the LARR Act 2013. The ordinance aimed at diluting various safeguards in the Act to facilitate the land acquisition process for private interests. A recent response to a Right to Information query, however, reveals that only eight per cent or 66 of the 804 industrial projects across India have been stalled because of land acquisition problems.<sup>104</sup>

On 10 March 2015, the Lok Sabha of the Indian Parliament passed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill 2015. With the Parliament session being prorogued, the government again replaced the Bill with a new ordinance on 3 April 2015, which was again renewed on 30 May 2015.<sup>105</sup> The ordinance finally lapsed on 31 August 2015. Apart from being

unconstitutional, the ordinance was against national and international human rights law, as it provided exemption from Social Impact Assessment and consent for five categories of projects: national security and defence; rural infrastructure; affordable housing; industrial corridors; and, infrastructure (including public-private partnership projects on central government-owned land). The amendment to permit acquisition of multi-cropped land was a dangerous step, and would have resulted in dependence on food imports and economic instability.<sup>106</sup> While the 2013 Act had a provision that allowed land that was unused for five years after acquisition to be returned to the original owner, the ordinance proposed to amend the five-year limit and allow the acquirer to hold the land for as long as the intended project lasts.

The proposed amendments in the ordinance increased the vulnerability of farmers, agricultural labourers, forest workers, and Scheduled Tribes/*adivasis*, who have historically suffered multiple violations of their human rights resulting from forced land acquisition and displacement, and been made to pay the price of national 'development.' Given strong nation-wide opposition to the proposed amendments in the Act, the central government agreed to form a Joint Parliamentary Committee to discuss the issue and submit a report to Parliament. Based on political concerns and the recommendations of the Committee, the government has agreed to retain the provisions of the 2013 Act<sup>107</sup> but is also suggesting that state governments can form their own land acquisition laws, which would defeat the purpose of a national law.

The 2013 Act, however, does not protect the rights of urban dwellers, including those living in underserved settlements, as they are not recognized as land-owners even though they may have lived on and developed the land for generations. Provisions for protecting women's rights are also not adequate.

#### INDIA'S RESPONSE TO THE WORLD BANK SAFEGUARDS POLICY

The World Bank's 'Safeguard Policies and Proposed Environmental and Social Framework' contains a section that deals with standards relating to indigenous peoples. While the Bank's policies do not contain strong human rights protections, they mandate that in certain circumstances, free and prior informed consent of affected persons is needed before proceeding with a project affecting indigenous peoples. In response to this provision, the Government of India submitted that:

'We are not comfortable with this provision. Domestic laws of acquisition and protection of such communities already provide for adequate safeguards including consent before acquisition can take place in certain cases. The Bank thus needs to rely on such domestic laws/guidelines where the domestic laws rules etc. take care of such issues.'<sup>108</sup>

The Indian government's position against its own people is alarming, especially when the World Bank has admitted that its policies are not adequate.<sup>109</sup> Such a submission indicates a regressive step for social justice in India.

## Coal Mines (Special Provisions) Act 2015

In March 2012, a report of the Comptroller and Auditor General (CAG) of India accused the central government of inefficiently allocating coal blocks between the years 2004 and 2009, estimating windfall gains to allottees at Rs 10.7 lakh crore (10.7 trillion). In September 2014, the Supreme Court nullified the allocation of 214 coal blocks, out of 218 blocks allocated since 2013. Subsequently, the central government decided to auction the surrendered coal blocks through a public competitive bidding process. In October 2014, the government announced the Coal Mines (Special Provisions) Ordinance, in order to facilitate the auctioning of the cancelled coal blocks. The ordinance allowed private companies to mine and sell. The right to commercial mining was reserved with Coal India Limited (CIL). In December 2014, the Lok Sabha of the Indian Parliament passed the Coal Mines (Special Provisions) Bill to replace the ordinance. In March 2015, the Bill was cleared by Parliament and received the President's assent to become an Act.

The provisions of auctioning coal mines can be expected to have adverse environmental impacts. While the sector was managed by CIL, the company had the option of mining areas of lower densities and those that faced less critical environmental issues. With multiple private players being provided the authority to sell mined coal, mining

can be expected to become more intensive across the auctioned coal blocks. Displacement from identified land parcels is inevitable; the government will be acquiring almost 14,000 hectares worth of coal-bearing land and will auction it in phases, starting March 2015.<sup>110</sup> Five coal blocks that are up for auction in the first phase are already expected to face a land conflict, as 20 tribal village councils in the Hasdeo Arand and Dharamjaigarh forest areas of Chhattisgarh have passed formal resolutions under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, vetoing the opening of coal blocks in their traditional forestlands.<sup>111</sup>

## **Mines and Minerals (Development and Regulation) Amendment Act 2015**

In March 2015, the Parliament passed the Mines and Minerals (Development and Regulation) Amendment Act. As per the Act, mining leases will be granted for a period of fifty years; on the expiry of the lease period, the mine shall be put up for auction instead of the lease being renewed. The Act has also added a new schedule, notifying bauxite, iron ore, limestone and manganese ore as minerals that can be regulated within the purview of the Act. Further, the Act allows the central government to increase the area for prospecting licenses or mining leases without specifying any ceiling.

The central government has declared that it will aid state governments in conducting auctions for mines bearing iron ore, bauxite, and limestone in the first phase of the auctioning process, which will commence in November 2015. At present, 199 mines located in mineral-rich states of Rajasthan, Jharkhand, Madhya Pradesh, Chhattisgarh, Karnataka, and Odisha have been identified for auctioning.<sup>112</sup> Long-term leases over mines and unregulated mining activities without adequate safeguards could have adverse social and environmental impacts in the long-term.

## **Central Policies and Schemes**

Since it assumed office in May 2014, the National Democratic Alliance government at the centre has announced multiple schemes on issues ranging from smart cities and urban renewal to cleanliness and heritage cities. Attempts have been made to phase out and replace programmes of the last government. Many of the new schemes have been launched as 'missions' with large budgetary allocations but no adequate indicators for implementation. Since they are schemes and not policies, mechanisms for enforcement, monitoring, and accountability are also missing. Some of the new schemes related to housing and land are described below.

## **National Urban Livelihoods Mission – Scheme of Shelters for Urban Homeless**

The National Urban Livelihoods Mission – Scheme of Shelter for Urban Homeless (NULM–SUH) was launched by the Ministry of Housing and Urban Poverty Alleviation in 2014. It aims to provide permanent shelter and essential services to the urban homeless population in the country. The Scheme sets specific norms and standards for the distribution, location, and design of permanent and all-weather shelters for the urban homeless,<sup>113</sup> who presently have no access to shelter or public services such as health, education, food, water, and sanitation. Further, the Scheme specifies that the requirements for vulnerable homeless groups vary, and hence, the nature of the homeless population in a location should dictate the type of shelter that should be constructed there. This includes separate shelters for men, women, families, and special shelters for older persons without care, persons with mental illness, recovering patients and their families. The Scheme also provides for convergence of service delivery and provision of entitlements including social security, food, education and healthcare, including as well as identity proof, address proof, pension, BPL cards, ration cards, Integrated Child Development Services (ICDS) centres, free legal aid, and admission to government schools and public hospitals for urban homeless residents.

## Pradhan Mantri Awas Yojana (Housing for All – 2022)

The central government has declared its commitment towards developing ‘Housing for All’ in urban areas by the year 2022,<sup>114</sup> which marks India’s seventy-fifth year of independence. This is to be achieved through the Pradhan Mantri Awas Yojana (PMAY)<sup>115</sup> under which the government has proposed to build 20,000,000 houses in urban India by 2022. The major focus of the programme is to address housing of the urban poor with the participation of ‘private developers’ using ‘land as a resource’ and the promotion of affordable housing for weaker sections through credit linked subsidy.

The scheme will focus on 500 cities, with the first phase (between April 2015 and March 2017) covering 100 cities. Under the scheme, houses of up to 30 square metres (322 square feet) will be constructed for Economically Weaker Sections (EWS – families earning up to 300,000 rupees per annum), in conjunction with basic civic and social infrastructure. For Lower Income Groups (LIG – families earning between 300,000 to 600,000 rupees per annum), houses of up to 60 square metres (645 square feet) shall be constructed. The definition of a ‘slum,’ under PMAY, is a settlement having a population of at least 300 people, or 60 to 70 households.

PMAY makes recommendations on the minimum size of houses to be constructed under the scheme, stating that designs should conform to standards prescribed in the National Building Code. However, it allows states and Union Territories to reduce sizes of houses with the approval of the State-Level Sanctioning and Monitoring Committee, but does not provide any guidelines or limitations on this reduction.

‘*In Situ* Slum Redevelopment using Land as a Resource’ is one of the four main components of the scheme. The component envisages the redevelopment of informal settlements through Private Public Partnership (PPP). Through an open bidding process, a private developer will be selected to develop housing for the urban poor in the identified settlement, on a fraction of the total settlement area. The remaining land will be provided to the developer at a nominal cost, with the permission to develop a ‘sale component.’ Incentives in the form of additional Floor Area Ratio (FAR)/Floor Space Index (FSI)/Transferable Development Rights (TDR) will also be provided to the developer.

The strategy for slum redevelopment involves the identification of ‘tenable’ slums, which will be further examined to check for financial and technical viability of the project. For ‘unviable’ slums, other strategies for housing improvement will be adopted. The scheme, however, neither defines tenability nor outlines the strategies that will be used for ‘unviable’ slums.

Under the credit-linked interest subsidy component of the scheme, housing loans will be provided to EWS and LIG beneficiaries at an interest subsidy of 6.5 per cent for up to 600,000 rupees, resulting in monthly instalments of Rs 4,050 that each household will be required to pay.<sup>116</sup>

The ‘Affordable Housing in Partnership’ component of the scheme allows the private sector to sell housing to EWS families directly. A project can be termed as an ‘affordable housing project’ and a private developer can access central government assistance if it consists of at least 250 dwelling units, of which at least 35 per cent homes are built for EWS beneficiaries. PMAY states that the sale price of EWS houses will be decided through “an open transparent process factoring in incentives provided by Centre/ State/Urban Local Body (ULB).”

In its fourth component, ‘Beneficiary-Led Individual House Construction or Enhancement,’ beneficiaries are permitted to approach an urban local body (ULB) if the settlement in which they reside is not being covered by any other component under this scheme.

The budget for housing in the Union Budget for the fiscal year 2015-16 has been increased to Rs 22,407 crore (224 billion). While the central government announced an allocation of Rs 6,000 crore (60 billion) toward a rental housing initiative to provide temporary housing to migrants and homeless residents of a city,<sup>117</sup> there is no mention of rental housing in PMAY, except for a mandatory condition that requires states and Union Territories to legislate or amend existing rental laws along the lines of a Model Tenancy Act being prepared by the Ministry of Housing and Urban Poverty Alleviation. This model legislation has not been made public yet.

PMAY allows states and Union Territories to define their own 'cut-off' dates to determine beneficiaries. This forms an exclusionary criterion and could lead to a large section of the urban poor being omitted. The inclusion of the private developer for *in situ* (on site) redevelopment projects is likely to result in land value, not need or social justice, being used to influence housing upgrading, rehabilitation, and redevelopment.

In 2008, the Task Force on Affordable Housing estimated that affordability of a dwelling unit of sizes varying between 300 and 600 square feet could not exceed four times the gross annual income of the household,<sup>118</sup> but PMAY does not include a definition for affordability or include provisions to ensure that the neediest groups benefit. While large income brackets for LIG do not reflect the economic reality of the urban poor in India, the interest subsidies provided could result in misuse.

The most marginalized section of the urban population, the homeless, has been omitted from PMAY and from the state promise of 'housing for all.' The only national policy to address the concerns of homelessness is the National Urban Livelihood Mission – Scheme for Urban Homeless, which is limited to the temporary provision of shelters. These developments reflect the state mind-set that the homeless must live in shelters and not in adequate housing that respects their dignity.

The greatest limitation of PMAY is its excessive focus on the private sector and its failure to adopt a human rights approach. Instead of ensuring that housing is a human right, the scheme instead continues to treat housing as a marketable commodity that excludes those who do not have the financial resources to invest in it. This goes against India's international human rights commitments, especially its ratification of the International Covenant on Economic, Social and Cultural Rights as well as orders of the Supreme Court of India and various state High Courts that recognise housing as an integral component of the right to life.

Given the current design of the scheme, it is unlikely that the national urban housing shortage of almost 19 million homes will be met. The scheme is also silent on discrimination and the need for positive interventions to address the housing needs of specific marginalized groups. The failure to adequately address the critical question of land and rights over land on which housing is built is likely to result in misuse of land, possible hoarding and speculation, and tenure insecurity of the urban poor. States and Union Territories have been given the authority to decide whether beneficiaries will receive tenurial rights to their houses in the form of freehold titles or in the form of renewable, mortgageable, and inheritable leasehold rights.

The decision of the central government to permit 100 per cent foreign direct investment in the housing and real estate sector is likely to result in greater inequalities in housing, and could promote more speculation and artificial escalation of prices.

While recognition of the need to provide 'housing for all' is a commendable step of the government, the modalities of the scheme need to be revised to ensure that the goal can be translated from rhetoric to reality.

The government recently identified 305 cities and towns for constructing homes under the 'Housing for All by 2022' scheme. These cities and towns have signed memoranda of agreement with the Ministry of Housing and Urban Poverty Alleviation, which makes it mandatory for them to implement the following six reforms:

1. Doing away with the requirement of a separate non-agricultural permission in case the land for the project falls in a zone earmarked in the master plan of the city/town as residential;
2. Preparing or amending master plans by earmarking land for affordable housing;
3. Putting in place a single-window time-bound clearance system for layout approvals and building permissions;
4. Doing away with approvals below certain built up area or plot size in respect of housing for economically weaker sections and low-income groups;
5. Legislating or amending existing rent laws on the lines of the Model Tenancy Act;
6. Providing additional floor area ratio (FAR), floor space index or transferable development rights (TDR); and,
7. Relaxing density norms for slum redevelopment and low-cost housing.<sup>119</sup>

## Rajiv Awas Yojana

Announced in 2009, Rajiv Awas Yojana (RAY) was a central government housing scheme aimed at securing 'property rights' for urban residents of informal settlements. For the first four years, the scheme existed in a 'pilot' phase and was finally launched in 2013 in Mission mode. RAY was allocated Rs 32,230 crore (322 billion) during the Twelfth Five-Year Plan (2012-2017) by the Planning Commission of India, and was expected to operate between 2013 and 2022.<sup>120</sup> The new government at the centre, however, has announced the closure of RAY, with Pradhan Mantri Awas Yojana (PMAY) intended to replace it.

Since its inception, 120,000 houses were approved under RAY in 116 cities, but only 1,154 units have actually been built, and 18,281 are currently under construction, indicating that only 16 per cent of projects initiated after approval have actually been completed. Under the 'Affordable Housing Programme' component of RAY, 20,472 houses were approved, but only 4,528 have been completed, and 2,240 houses are still under construction.<sup>121</sup>

The status of incomplete projects under RAY and funding for their completion is not known. The only reference to RAY in PMAY is related to preparing a 'Housing for All Plan of Action.' PMAY states that cities should utilize existing data from the 'Slum Free City Plan of Action' prepared under RAY.

A comparison of the provisions of both RAY and PMAY indicates that there has not been any progress towards implementing the human right to adequate housing in India. Both RAY and now PMAY are schemes that focus on projects, not on ensuring the provision of adequate housing with basic services, legal security of tenure, affordability, habitability, accessibility, appropriate location, and cultural adequacy, as stipulated by the UN.<sup>122</sup>

## Smart Cities Mission

The Government of India has announced a scheme to develop 100 'smart cities' in India. The Union Cabinet recently approved Rs 48,000 crore (USD 7.5 billion) for the Smart Cities Mission (SCM),<sup>123</sup> with an amount of Rs 100 crore (1 billion) to be sanctioned to each 'smart city' for a period of five years. While the Ministry of Urban Development, which is responsible for the implementation of the Mission, has not defined what exactly constitutes a 'smart city,' it is envisioned as one having the following core infrastructure elements: adequate water supply; assured electricity supply; sanitation, including solid waste management; efficient urban mobility and public transport; affordable housing; robust IT connectivity and digitalization; good governance; sustainable environment; safety and security of citizens; and, health and education.<sup>124</sup>

The total number of 100 smart cities has been distributed among states and Union Territories (UT) on the basis of the urban population of the state/UT and the number of statutory towns in the state/UT.<sup>125</sup> The final selection of the 100 cities involves a two-stage process. Each state/UT has to compete for getting identified cities selected under the Mission. The first stage has been completed with the government unveiling a list of 98 nominated cities. In the second stage,<sup>126</sup> each city has to submit a 'smart city proposal' that is to be prepared with the help of consultants. The Ministry of Urban Development, on the basis of certain criteria will select 20 cities that will be considered as 'role models' for other cities to follow and reform their proposals to further take part in subsequent rounds of selections till 2017-18.

The criteria for identifying these ninety-eight cities are not clear. Neither has information on the decision-making process been made public. It seems apparent that issues such as politics and competitive advantage, and not necessarily comprehensive needs-based assessments, may have influenced the selection of these cities.

According to the Smart Cities Mission Statement and Guidelines,<sup>127</sup> the strategic components of area-based development in 'smart cities' will be: city improvement (retrofitting); city renewal (redevelopment); city extension (greenfield development); and, a pan-city initiative in which 'Smart Solutions' will be applied, covering larger parts of the city. These are defined in the Mission document. *Retrofitting* will introduce planning in an existing built-up area to achieve smart city objectives, in an area consisting of more than 500 acres. *Redevelopment* will effect a replacement of the existing built-up environment and enable co-creation of a new layout with enhanced

infrastructure using mixed land use and increased density in an area of more than 50 acres. *Greenfield development* will introduce most of the ‘smart solutions’ in a previously vacant area of more than 250 acres. Pan-city development envisages application of selected ‘smart solutions’ to the existing city-wide infrastructure. The smart city proposal of each shortlisted city is expected to encapsulate either a retrofitting or redevelopment or greenfield development model, or a mix thereof, and a pan-city feature.

The centre has asked states to generate half the funding for smart cities from public-private partnerships (PPP), with a focus on attracting private investment. Local municipalities and ULB may not have the capacity to generate such large funds, which brings into question the rationale behind the financing of smart cities. The Jawaharlal Nehru National Urban Renewal Mission (JNNURM)—a scheme of the last United Progressive Alliance (UPA) government that existed between 2008 and 2014—partially relied on private investments to meet project costs. However, of 2,900 projects, only 50 were modelled as PPP, with private sector investment covering only 0.2 per cent of the total project cost.<sup>128</sup> The PPP model is also not in the interest of low income and marginalized groups. Furthermore, it dilutes the responsibility of the state in protecting human rights and fulfilling its welfare function as per the Constitution of India.

The SCM does not address the current challenges of urbanisation in India, neither does it focus on increasing inclusion and participation. The linkage with other parallel government programmes, especially PMAY and AMRUT, is also not clear.

When most of India’s cities are marked by inadequate living conditions, inequality, poverty, congestion, unemployment, and acute shortages of water, sanitation, public transport, and energy, the focus of the central government should be on first improving living conditions for the majority and ensuring that urbanisation is inclusive and sustainable.<sup>129</sup> Building new cities will require land acquisition and exploitation of natural resources. While this could lead to more displacement, unemployment, impoverishment, and environmental degradation, the SCM is silent on these issues.

## **Atal Mission for Rejuvenation and Urban Transformation**

The central government has introduced a new centrally-sponsored urban scheme called the Atal Mission for Rejuvenation and Urban Transformation<sup>130</sup> (AMRUT). It is intended to replace the recently phased out Jawaharlal Nehru National Urban Renewal Mission (JNNURM). With a total outlay of Rs 50,000 crore (500 billion) for five years, AMRUT will focus on the following areas: water supply; sewerage facilities and septage management; storm water drains to reduce flooding; pedestrian, non-motorized and public transport facilities; parking spaces; and, enhancing amenity value of cities by creating and upgrading green spaces, parks and recreation centres, especially for children. The Mission document is silent on issues of land use, land-owning agencies, and master planning. It also does not explain linking of services, for instance, water with housing and livelihood.

The absence of the principles of equality, non-discrimination, and environmental sustainability are evident. The Mission document does not include any mention of provisions for persons with disabilities, older persons, and destitute populations; neither does it speak about the need for promoting safety and security of women in urban spaces. Technical details and the creation of more bureaucratic bodies through the Mission, unfortunately, are not sufficient to rejuvenate and transform Indian cities, and make them more liveable, sustainable, and equitable.

## **National Heritage City Development and Augmentation Yojana**

In addition to the above three schemes related to urban areas, the Ministry of Urban Development also launched a scheme to develop heritage cities in India. The scheme— National Heritage City Development and Augmentation Yojana (HRIDAY)—will be implemented in a mission mode with a plan outlay of Rs 500 crore (5 billion) in 12 cities. These cities are Ajmer, Amaravati, Amritsar, Badami, Dwarka, Gaya, Kanchipuram, Mathura, Puri, Varanasi, Velankanni, and Warangal. The mission is for 27 months, till March 2017, to develop and revitalize urban infrastructure of these heritage cities, including development of water supply, sanitation, waste management, drainage, roads, tourist convenience and other services.

Given the multiplicity of schemes, many with overlapping objectives and focus areas, the questions are: how they will relate to one another and be consolidated; what indicators will be used to measure progress and realisation of targets, including financial; and how will accountability be enforced?

## State Schemes and Policies

### Odisha Land Grabbing (Prohibition) Bill 2015

In May 2015, the Odisha government promulgated the Odisha Land Grabbing (Prohibition) Ordinance 2015, with a stated aim to check illegal encroachment and grabbing of land owned by the government, local urban and rural bodies, public institutions, and religious or charitable institutions.<sup>131</sup> In September 2015, the state legislature converted the ordinance into a Bill and passed it, reportedly without any debate and in the absence of the opposition.

The Bill makes the act of land grabbing a cognizable offence, which can attract a monetary penalty of Rs 20,000 as well as imprisonment for a period ranging from one to seven years.

'Land grabbing' is defined as every activity of grabbing of land by those who do not have a legal entitlement over the land, with the intent of creating residential or commercial encumbrances on the land. While the Bill has been passed ostensibly to prevent influential citizens from staking claims over land illegally, its effects could also be felt by residents of low income settlements, daily wage earners, landless individuals/families, and forest dwellers. The definition of a 'land grabber' does not differentiate between different intents of land occupation; the law attempts to criminalize in equal measure, those who grab land for personal vested interest and those occupy land to create homes for themselves, owing to the failure of formal housing systems. Additionally, until a Forest Settlement Officer certifies that certain forest lands indeed belong to those who claim ownership over them, forest dwellers and indigenous and tribal peoples/Scheduled Tribes/*adivasis* stand to be penalized as well. In effect, the passage of the Bill will result in greater harassment and penalisation of vulnerable and marginalized communities in the state.

### Andhra Pradesh Land Pooling Scheme

The Government of Andhra Pradesh has announced a 'land pooling' scheme in order to create a new capital, located 270 kilometres southeast of Hyderabad. Under this model, land owners will be required to voluntarily give their land to the state, without any assurance of immediate cash compensation. The designated agency—Capital Region Development Authority (CRDA)—would develop and hand over a portion of the developed land with infrastructure to the landowners in proportion to their land contribution. Half of the land procured from landowners will be used for common assets like roads, open spaces, and social infrastructure. The other half will be shared equally between the landowners and the government. A section of farmers' bodies, civil society organizations, and opposition parties allege violations by the Andhra Pradesh government of laws that ensure protection and safeguards to landowners and multi-crop farmers.<sup>132</sup> While land holders have been assured compensation, the landless have been promised a paltry amount of Rs 2,500 with no mention of alternative housing or provisions for livelihood protection. The worst affected are agricultural labourers, fisher people, and other daily wage workers. It is reported that agricultural activity in the affected villages has been stopped. Agricultural labourers, most of who are Dalits, have to travel distances of over 50 kilometres to find work. This has increased unemployment and impoverishment in the area.<sup>133</sup>

### Telangana Land Regularisation Scheme

The present government of Telangana—the newest state in India—promised the construction of two-bedroom flats for 'the poor' on 2,000 acres of land in Hyderabad. The legislature was also expected to sanction funds under an existing scheme (Integrated Novel Development in Rural Areas and Model Municipal Areas, abbreviated as INDIRAMMA). In order to raise revenue to meet these stated goals and to further its populist image, the government announced a land regularisation scheme (through Government Orders (GOs) 58 and 59) on 30 December 2014.

According to the scheme, Below Poverty Line (BPL) families with an annual income of up to Rs 200,000 per household, living on a plot of land up to 125 square yards in size, with a structure that is permanent or semi-permanent in nature, are allowed to get their plots regularized free of cost. This assignment permits inheritance but not alienation. For families who do not fall in the BPL category, the actual cost of land registration has to be paid, with 25 per cent of the amount to be paid up front; the cost of registering the building would be separate.<sup>134</sup>

Presently, the scheme is facing hurdles that are limiting its applicability. More than 360,000 applications have been received by the state government, of which 336,000 applications (92 per cent of all applications received) belong to the BPL category.<sup>135</sup> Almost 17,000 applications were considered for payment after verification by state-appointed officers found beneficiaries' annual incomes exceeding the BPL limit by even small margins. These families have to pay the full price of registration of the plot, which amounts to more than 40 lakh (4,000,000) rupees in many areas and is unaffordable to low income group families.<sup>136</sup> In urbanized areas of the state, an annual income of Rs 200,000 per annum per household is considered a relatively low economic benchmark, and excludes a large segment of the population from deriving benefits from the scheme. BPL families have also been denied regularisation if their plot falls within the government definition of 'objectionable land.' This includes land owned by the Wakf Board, Telangana Endowments Department, and Cantonment Board. In the situation that the government denies a plot of land from being 'regularized,' it can be reclaimed by the government.

Government Order 59, which was expected to yield revenue for the government, sought to alienate government and surplus ceiling lands to holders on payment of a percentage of basic value as of 2 June 2014 (determined according to the size of the holding). Given the lack of adequate response, the government has cut prices and issued threats of eviction.

It is important that all laws, policies, schemes, and programmes of the government—at both the central and state level—should: incorporate a human rights approach; aim at reducing inequalities and promoting social justice; and be transparent, participatory, and democratic. Furthermore, there should be harmonization between laws, policies and schemes to prevent duplication, competition, and wastage of resources. Given the high budgetary allocations for the various urban schemes, there must be adequate monitoring mechanisms in place to prevent corruption and leakages. Ultimately the responsibility of promoting social welfare lies with the state; it cannot allow the private sector to enter the field of fundamental rights and basic services.

# Recommendations for the Government of India

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Given the inadequate housing and living conditions across urban and rural India, the following recommendations are being proposed to the government, in order to promote the realisation of the human rights to adequate housing and land, and protect the human rights of the most marginalized communities and groups:

1. Recognize and protect the right to adequate housing as a human right and ensure its realisation and guarantee for all Indians. It is important for the state to recognize that adequate housing requires the fulfilment of various elements: security of tenure, adequate location, habitability, accessibility, affordability, access to basic services, cultural adequacy, and physical security and safety. All elements need to be provided to ensure that housing is safe and secure, and enables people to live with dignity. The central government should develop a comprehensive human rights-based national law for both urban and rural areas, based on the human right to adequate housing, which is in accordance with international human rights standards, the Constitution of India, and India's international legal obligations. All law and policy processes must be participatory and must involve affected people and civil society. The law should include measures to check real estate speculation, provide low cost housing and prevent forced evictions.
2. Focus on immediate *in situ* upgrading of settlements in all cities through the provision of long-term security of tenure, improved permanent housing and access to basic services. All state governments must invest in the construction of low cost, adequate housing that is located close to people's sources of livelihood, schools and health centres.
3. Adopt specific time-bound indicators to evaluate the state's efforts towards addressing the urban and rural housing shortage for EWS and LIG population.
4. Adopt a concrete and time-bound plan of action, with indicators, under the Pradhan Mantri Awas Yojana in order to ensure priority low cost housing for economically weaker sections, including the homeless, national minorities, Scheduled Castes and Scheduled Tribes, landless families/individuals, single women and single mothers, persons with disabilities, older persons, internally displaced persons, and migrant populations. The promise of the government to provide 'housing for all by 2022' should ensure the provision of 'adequate housing for all'; housing that incorporates the elements of 'adequacy' as elaborated by General Comment 4 of the UN Committee on Economic, Social and Cultural Rights: security of tenure, affordability, accessibility, habitability, adequate location, access to basic services, and cultural adequacy. The scheme should also be extended to rural areas and linked with IAY to meet the large rural housing deficit.
5. Recognize the inter-relatedness of housing with livelihood, education, health, water, food, and security, and reflect this in its schemes and their implementation.
6. Take measures to ensure that the creation of '100 smart cities' in the country is a participatory, human rights process that aims to develop inclusive, equitable, democratic, and sustainable habitats for rural and urban residents, especially the most marginalized groups. The government must ensure the protection of housing and livelihoods, and must not evict, displace or render anyone homeless. The 'Right to the City' approach, which incorporates a bundle of rights of all urban dwellers, should be adopted by the state and central government.
7. Ensure the adoption of the human rights framework for the implementation of all housing schemes, including

PMAY, Smart Cities Mission, AMRUT, and HRIDAY. The state should develop human rights-based indicators to monitor the progress and implementation of these schemes and ensure that there is coordination, harmonization, efficient utilization of funds, and lack of duplication of efforts.

8. Develop a plan of action to implement the 'Scheme of Shelters for Urban Homeless' under the National Urban Livelihoods Mission, and ensure that adequate budgetary allocations are made to protect the human rights of India's growing homeless population. NULM-SUH should be linked with PMAY to ensure that the homeless are also able to live in affordable adequate housing.
9. Ensure that the reservation in all city Master Plans for EWS housing is fulfilled. Real estate companies, agents and builders who do not implement these provisions should be tried and prosecuted according to due process of the law.
10. Revise the draft Real Estate (Regulation and Development) Bill 2011 to include provisions to control the rampant growth of the real estate sector and speculation in the country, which results in spiraling property prices, thereby making housing and land more unaffordable for the majority.
11. Implement orders of the Supreme Court of India and state high courts on the issue of housing, land, and homelessness.
12. Recognize and addresses the critical linkages between urban and rural development processes and view them along the same spectrum with the aim of developing durable solutions.
13. Ensure the adequate implementation of the Right to Fair Compensation, Resettlement, Rehabilitation and Transparency in Land Acquisition Act 2013 to guarantee that land acquisition takes place only in 'exceptional circumstances' and in accordance with international human rights standards; that adequate compensation and rehabilitation are provided for all displaced people; and that the human rights to adequate housing, land, work/livelihood, health, food, water, security and the rights to resettlement and return are protected. Provisions of prior informed consent, protection of multi-cropped land from acquisition, adequate social impact assessment, and return of unused land must not be diluted. A human rights-based definition of 'public purpose' should be developed and implemented. Additionally, the Act should strengthen protection of rights of urban dwellers and tenants.
14. Develop and explore sustainable options for development and infrastructure projects that would result in minimum land acquisition and displacement. Land use should be optimized and unused land must be returned to the original dwellers/land-users/land-owners within a period of three years.
15. Implement the UN Guiding Principles on Internal Displacement (2004) and the UN Basic Principles and Guidelines on Development-based Evictions and Displacement (2007), and adopt them in national and state laws and policies.
16. Before undertaking any project in urban or rural areas, ensure that human rights-based eviction impact/social impact assessments are carried out to determine the potential costs and losses on the affected population.
17. Enable displaced families to return to their original sites of residence where possible. Where return to original sites of residence is not possible, the state should ensure that residents at all sites, irrespective of how long they have been living there, are entitled to adequate resettlement, rehabilitation, and fair and just compensation in accordance with human rights standards, including those specified in the UN Basic Principles and Guidelines on Development-based Evictions and Displacement, and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

Serious effort is required by the government to minimize displacement. There should be rights-based approach to comprehensive rehabilitation for socio-economic reconstitution of victims of development, including for the backlog of displaced. Gram sabha consent should be mandatory for acquisition of land by the government for its own use as well. Every gram sabha should have the power to prevent alienation of tribal land; minerals should be exploited by tribal people themselves. Governments should be legally mandated to return unutilized land to the original landowner/successors or use the same for resettlement of displaced tribal people.<sup>137</sup>

18. Ensure implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, especially in terms of recognition of collective claims/rights. Also, compile and publicize data on forest dwellers who have been given legal rights under the Act.
19. Adopt a comprehensive policy on land and agrarian reform, including for redistribution of land to the landless, which is compliant with international human rights standards.
20. Develop and promulgate a Right to Homestead Act that was initiated by the last government to provide all landless rural families with land for housing construction and to support subsistence livelihoods.
21. Take steps to ensure that women are able to claim their rights to inheritance under the Hindu Succession (Amendment) Act 2005, and document cases where the Act is being used to the advantage of women. Also monitor implementation of the Protection of Women from Domestic Violence Act 2005, especially the provision protecting women's right of residence.
22. Abolish the arbitrary state policy of a 'cut-off' date to determine 'eligibility' of urban dwellers for resettlement, as this practice contravenes the Constitution of India and international human rights law.
23. Investigate all acts of forced eviction, land grabbing, and other violations of housing rights. All officials found guilty of violating human rights and of breaching local, national and international law must be tried and prosecuted according to the law.
24. Initiate measures to implement recommendations of UN Special Procedures and treaty bodies, especially the Concluding Observations of the United Nations Committee on Economic, Social and Cultural Rights (2008) related to housing, forced evictions and homelessness, including with regard to collecting disaggregated data and developing national policies.
25. Develop better coordination between the various concerned central government ministries, including Ministry of Housing and Urban Poverty Alleviation, Ministry of Urban Development, Ministry of Social Justice and Empowerment, and Ministry of Rural Development to ensure that housing, land and related rights are protected and realized across India.

# Conclusion

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As demonstrated in this report, housing and living conditions in India, for the majority, continue to be inadequate and fraught with challenges related to accessibility, affordability, habitability, and tenure security. While certain government policies and initiatives aim to redress the housing and land crisis in the country, there is an urgent need for implementation to be guided by the human rights approach, in particular the human right to adequate housing framework. Only then can the government ensure that everyone is able to live in peace, security and dignity, with access to basic services, livelihood options, healthcare, education, food, water and social security. The realisation of the human rights to adequate housing and land would also lead to the realisation of other human rights essential to maintain an adequate standard of living in both rural and urban India.

Adequate implementation of the UPR recommendations, in conjunction with those by UN treaty bodies and Special Procedures, could help to promote the human rights to adequate housing and land in India.

# ANNEXURE 1

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## United Nations Documents on India that Relate to the Human Rights to Adequate Housing and Land

### I. Concluding Observations of United Nations Treaty Bodies<sup>1</sup>

#### 1) Committee on Economic, Social and Cultural Rights

##### Concluding Observations, May 2008

30. The Committee is concerned about the lack of a national housing policy which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by providing them with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party. The Committee is also concerned that while housing is under the responsibility of the State Government, the oversight exercised by the Federal Government is insufficient to ensure effective implementation of the existing strategies and policies to ensure the right to housing for all.
31. The Committee, while noting that the draft resettlement and rehabilitation bill is currently before Parliament, remains deeply concerned about the reports of displacement and forced evictions in the context of land acquisition by private and state actors for the purposes of development projects, including constructions of dams and mining, and that the members of disadvantaged and marginalized groups, in particular, the scheduled castes and scheduled tribes, are adversely affected by such displacement from their homes, lands and their sources of livelihood. The Committee is also concerned that urban renewal projects, sporting events, infrastructure expansion, environmental projects and more recently, the designation of large areas as tax-free special economic zones, have resulted in the displacement of millions of families, most of whom have not received adequate compensation and rehabilitation. Furthermore, the Committee is concerned about the lack of effective consultations and legal redress for persons affected by displacement and by forced evictions, and the inadequate measures to provide sufficient compensation or alternative housing to those who have been removed from their homes and/or their ancestral lands.
51. The Committee requests the State party to submit, in its next periodic report, updated annually collected comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, regarding all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups. The Committee also requests the State party to include, in its next periodic report, annual comparative data, disaggregated by sex, age, caste, ethnicity, religion and by region, the percentage of the gross domestic product allotted for education, health and housing programmes in the country.
52. The Committee recommends that the State party strengthen enforcement of existing legal prohibitions of discrimination and, in addition consider enacting comprehensive administrative, civil and/or criminal anti-discrimination legislation guaranteeing the right to equal treatment and protection against discrimination, specifically prohibiting discrimination in employment, social security, housing, healthcare and education on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, as stipulated in article 2(2) of the Covenant. The Committee also urges the State party to step up efforts to remove obstacles faced by victims of discrimination when seeking redress through the courts.

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<sup>1</sup> Available at: [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=IND&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=IND&Lang=EN)

70. The Committee urges the State party to address the acute shortage of affordable housing by adopting a national strategy and a plan of action on adequate housing and by building or providing low-cost rental housing units, especially for the disadvantaged and low income groups, including those living in slums. In this connection, the Committee reminds the State party of its obligations under article 11 of the Covenant and refers to its general comment No. 4 (1991) on the right to adequate housing to guide the Government's housing policies. The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, inter alia, sex, caste, ethnicity and religion.
71. The Committee recommends that the State party take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and/or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee also recommends that, prior to implementing development and urban renewal projects, sporting events and other similar activities, the State party should undertake open, participatory and meaningful consultations with affected residents and communities. In this connection, the Committee draws the attention of the State party to its general comment No. 4 (1991) and further requests the State party to provide information in its next periodic report on progress achieved in this regard, including disaggregated statistics relating to forced evictions.
72. The Committee urges the State party to conduct the post-tsunami rehabilitation process in the affected areas of Tamil Nadu with transparency and in full consideration of its obligation to respect and protect the economic, social and cultural rights of the survivors. The Committee requests the State party to provide, in its next periodic report, detailed information regarding the rehabilitation process and the extent to which the affected groups were consulted throughout the different stages of the process.

## 2) Committee on the Rights of the Child

### Concluding Observations, July 2014

29. The Committee is concerned about the forced displacement of a large number of children and their families and the loss of their ancestral lands owing to manufacturing operations, in particular families and children living in the area of the POSCO steel plant and port facilities in the state of Odisha. It is also concerned at the lack of information about safeguards to guarantee compliance with the Convention and international human rights standards.
31. The Committee is concerned at the disparity among different groups of children in access to education, health care, safe water and sanitation and other social services and to the enjoyment of the rights enshrined in the Convention. It is also concerned at the persisting discrimination against children from scheduled castes and scheduled tribes, children with disabilities, children with HIV/AIDS, as well as asylum-seeking and refugee children.
32. The Committee recommends that the State party:
  - (a) Adopt and implement a comprehensive strategy to address all forms of discrimination, including multiple forms of discrimination, against all categories of children in marginalized and disadvantaged situations and ensure adequate human, financial and technical resources to implement it in collaboration with a wide range of stakeholders and involving all sectors of society, with a view to facilitating social and cultural change;
  - (b) Ensure that children in marginalized or disadvantaged situations, such as children from scheduled castes and scheduled tribes, children with disabilities, children with HIV/AIDS, and asylum-seeking and refugee children, have access to basic services and enjoy their rights under the Convention, and to that end, adopt adequate programmes and assess their results.

80. The Committee urges the State party to strengthen its efforts to ensure that all children, irrespective of their religious background or whether they are from a scheduled caste or scheduled tribe, enjoy the entire range of rights enshrined in the Convention.
83. The Committee notes that the State party's Integrated Programme for Street Children has benefited a number of children. However the Committee is deeply concerned at the limited impact of the programme, given the large number of children in street situations in the State party and the fact that a number of those children are treated as criminals, instead of being considered as victims.

### **Concluding Observations, February 2004**

62. In spite of the growth of the gross domestic product, the Committee is concerned about the widespread poverty in the State party and the still high number of children who do not enjoy the right to an adequate standard of living, including access to clean drinking water, adequate housing and latrines. The Committee is further concerned at the negative consequences of displacement and rehabilitation projects which intend to improve living conditions but which remove children from their habitat to a new environment often not prepared for children's needs.
63. In accordance with article 27 of the Convention, the Committee recommends that the State reinforce its efforts to provide support and material assistance to economically disadvantaged families and to guarantee the right of children to an adequate standard of living. In light of its previous recommendations (*ibid.*, paragraph 53), the Committee further recommends that the State party prevent any occurrence of forced relocation, displacement and other types of involuntary population movements.
77. The Committee recommends that the State party:
  - (a) Strengthen and extend its Integrated Programme for Street Children to address the large and increasing number of street children, with the aim of protecting these children, especially girls, and of preventing and reducing this phenomenon, in particular through assistance to families and the provision of adequate housing and access to education;
  - (b) Ensure that street children are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development, providing official documents when necessary;
  - (c) Ensure that these child victims of physical, sexual and substance abuse are provided with recovery and reintegration services, protection from arrest and maltreatment by the police, and effective services for reconciliation with their families and community;
  - (d) Collaborate with non-governmental organizations working with street children in the State party and seek technical assistance from, among others, UNICEF.
81. The Committee is concerned at the situation of children belonging to minorities, including to the Primitive Tribal Groups, and at their limited access to social services, including health care, immunization and education, and the violation of their rights to survival and development, to enjoy their own culture and to be protected from discrimination.

### **Concluding Observations, January 2000**

16. The Committee is concerned at the absence of an effective mechanism to collect and analyse disaggregated data of all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (i.e. children living in slums, belonging to different castes and tribal groups, living in rural areas, children with disabilities, children who are living and/or working on the streets, children affected by armed conflicts and refugee children).
28. In the light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by children living in different states, living in rural areas, living in slums and belonging to different castes, tribal and indigenous groups.

53. In accordance with article 27 of the Convention, the Committee recommends that the State party take appropriate measures to give effect to its commitments made at Habitat II in 1996 regarding children's access to housing. In the light of Commission on Human Rights resolution 1993/77 on forced evictions, the Committee encourages the State party to prevent any occurrence of forced relocation, displacement and other types of involuntary population movements. The Committee recommends that resettlement procedures and programmes include registration, facilitate comprehensive family rehabilitation and ensure access to basic services.
54. The Committee is concerned at the large and increasing number of children living and/or working on the streets, who are among the most marginalised groups of children in India.
55. The Committee recommends that the State party establish mechanisms to ensure these children are provided with identity documents, nutrition, clothing and housing. Moreover, the State party should ensure these children have access to health care; rehabilitation services for physical, sexual and substance abuse; services for reconciliation with families; education, including vocational and life-skills training; and access to legal aid. The Committee recommends that the State party cooperate and coordinate its efforts with civil society in this regard.

### 3) Committee on the Elimination of Discrimination against Women

#### Concluding Observations, July 2014

12. The Committee is deeply concerned about the reported high level of violence, including rape and other forms of sexual violence, enforced disappearance, killings and acts of torture and ill-treatment, against women in conflict-affected regions (Kashmir, the north-east, Chhattisgarh, Odisha and Andhra Pradesh). It is particularly concerned about the:
  - (c) Continued marginalization and poverty of the women and girls who survived the Gujarat riots and are living in the relief colonies and their precarious living conditions with limited access to education, health care, employment and security and poor infrastructure in terms of sanitation, water, transportation and housing;
14. While commending the State party's cooperation programme in post-conflict areas such as a housing project in the north-east of Sri Lanka, the Committee expresses concern at the lack of a gender perspective in and consultations with women on this project. The Committee is also concerned about the impact on women, including in Nepal, of infrastructure projects such as the Lakshmanpur dam project, including with regard to displacement and loss of livelihood, housing and food security as a result of the subsequent floods.
15. The Committee reaffirms that the State party must ensure that the acts of persons under its effective control, including those of national corporations operating extraterritorially, do not result in violations of the Convention and that its extraterritorial obligations extend to actions affecting human rights, regardless of whether the affected persons are located on its territory, as indicated in the Committee's general recommendation Nos. 28 and 30. Accordingly, it recommends that the State party:
  - (a) Immediately review the impact of the housing project in Sri Lanka, adopt a consultative and gender-sensitive approach in implementing the current and future phases of the project and address the needs and concerns of the most disadvantaged and marginalized groups of women;
  - (b) Adopt all necessary measures, including an assessment of the impact of the Lakshmanpur dam project on women in Nepal, so as to, among other things, prevent or remedy women's loss of livelihood, housing and food security, and provide adequate compensation whenever their rights have been violated.
23. The Committee recommends that the State party:
  - (d) Ensure that trafficked women and girls have access to victim and witness protection shelters, high-quality medical care, counselling and support programmes for alternative income-generation activities

and for their reintegration into the education system and labour market, in addition to access to adequate housing and free legal aid, regardless of their ability or willingness to testify against traffickers.

32. The Committee is concerned at the prevalence of customs and traditional practices that prevent rural women, especially women from scheduled castes and scheduled tribes, from inheriting or acquiring land and other property. It is also concerned at the difficulties faced by rural women and women living in remote areas in gaining access to health and social services and in participating in decision-making processes at the community level, in addition to the fact that rural women are particularly affected by poverty and food insecurity, lack of access to natural resources, safe water and credit facilities.
33. The Committee recommends that the State party:
  - (a) Abolish traditional practices and customs that prevent rural women from inheriting and acquiring land and from fully enjoying their rights and guarantee land ownership rights to women;
  - (b) Strengthen its efforts to address the needs of rural women and provide them with enhanced access to health services, education, safe water and sanitation services, fertile land, natural resources, credit and income-generating opportunities.

### **Concluding Observations, November 2010**

29. The Committee takes note of the information provided in the exceptional report and supplementary material with regard to assistance provided in the relief camps as well as the information in annex D of the supplementary material regarding details of facilities provided to the internally displaced persons. However, the Committee expresses its concern at the limited information and data on the access of the internally displaced families living in 86 colonies to public amenities, such as food rations, safe water, shelter, health-care facilities and schools for children. In this respect, the Committee expresses its concern at the information that most colonies are not equipped with proper and secure housing, a safe water supply, electricity, roads and sanitation facilities and that the lack of safe drinking water, the poor living conditions and overcrowding have led to the outbreak of various diseases. The Committee is alarmed that the health needs of internally displaced women, including reproductive and mental health needs, are not being met due to the low availability and accessibility of health-care services.
31. While noting the information provided in the exceptional report and supplementary material on some economic assistance as well as other measures taken by the State party, the Committee expresses its concern that these measures were mainly in forms of relief support and thus inadequate to enable the economic rehabilitation of the affected communities and the rebuilding of basic infrastructure destroyed during the riots.
32. The Committee is further concerned at the information that due to the remote location of the colonies there is no scope for self-employment for women who had worked prior to displacement, and that female residents of the relief colonies are unable to take up employment outside the camps on account of safety concerns.
33. While noting that some information has been provided in the supplementary material on the State party's resettlement measures in place, the Committee regrets the lack of disaggregated data on the approximately 5,000 Muslim families displaced by the violence in Gujarat. It also notes with great concern that eight years after the Gujarat violence, the displaced persons are still living in the temporary and makeshift colonies in remote and abandoned areas with poor access to a livelihood and employment.
34. The Committee is concerned that no measures have been taken to reintegrate women victims of the Gujarat massacre and their families back into the society where they originally belong. It also notes with concern that the State party has not provided information on a timeline for the resettlement process, including steps towards the closing of the 86 colonies in different parts of Gujarat. The Committee is alarmed at the information that the State party, in eight years, has not taken any measures to construct new houses or allocate land in secure locations for the internally displaced women and their families. It notes with serious concern that this situation may lead to further devastation and re-victimization of the victims. The

Committee is also concerned at the State party's lack of differentiation between relief measures and long-term rehabilitation.

35. The Committee urges the State party:

- (a) To take immediate, effective and gender-specific measures to rehabilitate and compensate women victims of violence, including sexual violence, and their families in Gujarat. Such measures should include prompt reparation, including compensation, medical care, trauma counselling and sustained rehabilitation, commensurate with the harm suffered and sufficient to enable the women and their families to rebuild their lives, as well as the establishment of additional support services for these victims, including the provision of further government funding for such services;
- (b) To take all necessary measures to ensure that the internally displaced families living in all colonies have access to public services, such as safe drinking water, shelter, health-care facilities and schools for children, that all colonies are equipped with a clean water supply, electricity, roads and sanitation facilities and that a plan is created for guaranteeing the right to education, health and employment for women and children in all colonies;
- (c) To strengthen its efforts to enable the economic rehabilitation of the women affected by the riots and their families by providing long-term jobs and other means of sustainable economic empowerment, including business capital;
- (d) To strengthen and sustain its measures taken for the resettlement and rehabilitation, including long-term rehabilitation, of women victims and their families willing to stay in the colonies and to that effect ensure ownership of the land and housing or, alternatively;
- (e) To take appropriate measures, as well as provide the means, to allow women victims and their families willing to return to their original homes to return, in safety and with dignity, and to take effective and adequate measures to rebuild the basic infrastructure destroyed during the riots, including through the allocation of further budgetary and human resources to that effect. The State party should endeavour to facilitate the safe reintegration of returned families. Special efforts should be made to ensure the full participation of returned victims and their families in the planning and management of their resettlement, reintegration and rehabilitation programmes. The State party has the duty and responsibility to assist returned victims and their families to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of following the massacre. When the recovery of such property and possessions is not possible, competent authorities should provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

## **Concluding Observations, February 2007**

27. The Committee recommends that the State party adopt appropriate measures to eliminate the practice of witch-hunting, prosecute and punish those involved, and provide for rehabilitation of, and compensation to, victimized women. It recommends that such measures be based on an analysis of its causes, including control over land. The Committee calls upon the State party to create public awareness of forms of violence against women rooted in custom as an infringement of women's human rights.
29. The Committee recommends that the State party put in place a mechanism to monitor effective enforcement of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act in order to ensure accountability and end impunity for crimes committed against Dalit women. It calls upon the State party to increase Dalit women's legal literacy and improve their access to justice in bringing claims of discrimination and violation of rights. It requests the State party to report specifically on the impact of such initiatives in its next periodic report. The Committee also urges the State party to study the health implications of manual scavenging on Dalits engaged in this profession and on the community as a whole, and to address all the impediments to eradicating this practice, including by putting in place modern sanitation facilities and providing the Dalit women engaged in this practice with vocational training and alternative means of livelihood.

46. The Committee expresses grave concern about the displacement of tribal women owing to the implementation of megaprojects and the influence of global economic trends. While the Committee appreciates the need for economic growth, it is concerned that the human rights of vulnerable groups such as tribal populations may be adversely affected by large-scale economic projects.
47. The Committee urges the State party to study the impact of megaprojects on tribal and rural women and to institute safeguards against their displacement and violation of their human rights. It also urges the State party to ensure that surplus land given to displaced rural and tribal women is cultivable. Moreover, the Committee recommends that efforts be made to ensure that tribal and rural women have individual rights to inherit and own land and property.
68. The follow-up report should include information on the impact of the Gujarat massacres on women.

### **Concluding Observations, February 2000**

57. The Committee urges the allocation of sufficient and targeted resources for women's development in the social sector, as well as full implementation of relevant laws.
82. The Committee is concerned with significant disparities in economic activity rates for men and women. It is concerned that the practice of debt bondage and the denial of inheritance rights in land result in gross exploitation of women's labour and their impoverishment.
83. The Committee requests the Government to enforce laws on bonded labour and provide women with self-employment opportunities and minimum wages in home-based production and the non-formal sector. It calls upon the Government to review laws on inheritance urgently and to ensure that rural women obtain access to land and credit.

## **4) Committee on the Elimination of Racial Discrimination**

### **Concluding Observations, March 2007**

13. The Committee notes with concern that, despite the formal abolition of "Untouchability" by article 17 of the Indian Constitution, de facto segregation of Dalits persists, in particular in rural areas, in access to places of worship, housing, hospitals, education, water sources, markets and other public places. (arts. 3 and 5)

The Committee urges the State party to intensify its efforts to enforce the Protection of Civil Rights Act (1955), especially in rural areas, including by effectively punishing acts of "Untouchability", to take effective measures against segregation in public schools and residential segregation, and to ensure equal access for Dalits places of worship, hospitals, water sources and any other places or services intended for use by the general public.

19. The Committee notes that the State party does not fully implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples. It is also concerned that large scale projects such as the construction of several dams in Manipur and other north-eastern States on territories primarily inhabited by tribal communities, or of the Andaman Trunk Road, are carried out without seeking their prior informed consent. These projects result in the forced resettlement or endanger the traditional lifestyles of the communities concerned. (art. 5 (d) (v) and 5 (e))

The Committee urges the State party to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples, in accordance with ILO Convention No. 107 on Indigenous and Tribal Populations (1957). The State party should seek the prior informed consent of communities affected by the construction of dams in the Northeast or similar projects on their traditional lands in any decision-making

processes related to such projects, and provide adequate compensation and alternative land and housing to those communities. Furthermore, it should protect tribes such as the Jarawa against encroachments on their lands and resources by settlers, poachers, private companies or other third parties and implement the 2002 order of the Indian Supreme Court to close the sections of the Andaman Trunk Road that run through the Jarawa reserve.

20. The Committee is concerned about reports that Dalits are often denied access to and evicted from land by dominant castes, especially if it borders land belonging to such castes, and that tribal communities have been evicted from their land under the 1980 Forest Act or in order to allow private mining activities (art. 5 (d) (v) and 5 (e) (i) and (iii)).

The Committee recommends that the State party ensure that Dalits, including Dalit women, have access to adequate and affordable land and that acts of violence against Dalits due to land disputes are punished under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989). The State party should also ensure that tribal communities are not evicted from their lands without seeking their prior informed consent and provision of adequate alternative land and compensation, that bans on leasing tribal lands to third persons or companies are effectively enforced, and that adequate safeguards against the acquisition of tribal lands are included in the Recognition of Forest Rights Act (2006) and other relevant legislation.

## II. Reports of United Nations Special Rapporteurs

### 1) Special Rapporteur on Violence Against Women its Causes and Consequences

April 2014

16. Numerous testimonies shared on recurrent episodes of communal violence against religious minorities, including Muslims and Christians, reflect a deep sense of insecurity and trauma of women living in those communities. Experiences included women being stripped, burned, attacked with objects inserted into their vaginas and sexually assaulted in myriad ways because of their religious identity. It was reported that perpetrators of those crimes usually held positions of authority and often went unpunished. Further, those minorities are allegedly excluded from access to education, employment and adequate housing on equal terms with other citizens, despite the existence of affirmative action schemes and measures by the Ministry of Minority Affairs and the National Commission for Minorities aimed at empowering minority women through the provision of knowledge, tools and training.
18. Women with disabilities face multiple challenges, including, for example, the lack of adequate access to public spaces, utilities and buildings, and often experience harassment in public. The Special Rapporteur was informed of a troubling practice whereby a payment incentive was offered, either as a State scheme or a dowry from the family, in exchange for marriage to a woman with disabilities. She was also informed of violence perpetrated against women with disabilities in State-sponsored shelters.
25. Women were also found to suffer violence in the context of forced evictions. The State's efforts to foster economic growth and implement development projects are allegedly often conducted without adequate consultations with affected communities, with the sole objective being one of economic growth at any cost. The consequences for women include being forced to live in insecure environments, displacement, the degradation of their environment, the loss of land and livelihoods and forcible evictions. Many victims are left without adequate relocation alternatives, forcing them to live in slums or on the streets. The Government's twelfth Five-Year Plan, 2012–2017 includes elements to improve housing conditions through a new slum rehabilitation programme and schemes to assist States to improve livelihood opportunities in urban areas.

27. Many women refugees and asylum seekers are unskilled workers who often perform hazardous labour in urban and informal settings. While access to education and health care is provided for free by the Government, access to livelihoods is still a challenge, particularly in urban or semi-urban areas. Many of those women earn low wages and are forced to live in small and overcrowded apartments, with a lack of access to basic sanitation in less developed urban settings. Such factors contribute to poor health conditions and other vulnerabilities. Language barriers often impede their ability to gain access to health care, education and the justice system. Despite improvements in criminal law and police procedures, women refugees and asylum seekers continue to voice safety concerns, as they are frequent targets of attacks and harassment by employers, landlords and community members in public and private spheres.
35. Fair trial rights, equality before the law and equal protection of the law were affected by numerous challenges, beginning with the reporting of cases of violence against women to the police. Many interlocutors said that victims were often discouraged from reporting to the police and that many women did not file a complaint owing to fear of reprisals or lack of guarantees of adequate shelter and access to livelihoods. Informal dispute settlement alternatives are often sought, allegedly by police, family members or community leaders. Many interlocutors described the complete or partial absence of legal, housing, security and financial assistance measures for victims. To be able to officially report complaints and continue throughout the often lengthy judicial process in safety and with an adequate standard of living is not an option for many women.
60. Although telephone hotlines are available, the police are usually the first point of contact for many women, according to reports received. Victims of violence, who require from the State special security, shelter, public housing, health care and socioeconomic protection, often face significant challenges. Many services are channelled through providers that lack sufficient resources. Numerous allegations were made of de facto caste-based discrimination, perpetrated by police officers, public representatives and community members, with regard to access to services.
71. Women experience obstacles in gaining access to mechanisms of redress, including legal aid, counselling services and shelters. They are also revictimized and exposed to further risk of violence through the denial of redress in the context of informal trials or negotiations between families and community leaders. The payment of financial compensation by the perpetrator or his family for acts of violence against women, in lieu of legal remedies, was a recurrent concern vis-à-vis the formal and informal justice systems.
78. The Special Rapporteur recommends that the Government:
  - (q) Take measures to ensure that displaced populations and evicted families have adequate access to livelihoods, including access to health and education;
79. The Special Rapporteur recommends that the Government:
  - (a) Take effective measures to ensure access to justice and effective redress for all victims of violence against women. In particular, it should:
    - (vi) Ensure legal, housing, security and financial assistance measures for victims of violence that enable them to pursue accountability for crimes and also to rebuild their lives.

## 2) Special Rapporteur on the Situation of Human Rights Defenders

### February 2012

71. In the context of the country's economic policies and despite legal requirements of consultation and rehabilitation, defenders engaged in denouncing development projects that threaten or destroy the land, natural resources and the livelihoods of their community or of other communities have been targeted, increasingly on a joint basis, by State agents and private actors and are particularly vulnerable.
72. In Assam, indigenous communities who were not consulted on the construction of mega-dams and criticized such projects because of their human rights and environmental consequences were branded by the authorities

as anti-Government activists. This is the same rhetoric used under the Armed Forces (Special Powers) Act. Defenders live in constant fear. In Assam, one defender was tortured with electric shocks while in detention and a woman defender was shot. Three defenders were killed in Manipur.

73. In Andhra Pradesh, defenders who denounced environmental issues and sensitized citizens about their right to land have been branded as sympathizers of Naxalites, or being Naxalites.
74. In Kerala, defenders protecting natural resources (forest, land and water) have been repeatedly arrested, beaten and in some instances killed because of their activities.
76. In Orissa, anti-mining campaigners have been killed and the police reportedly claimed that they were Maoists. Many corporate projects, which caused land grabbing and displacement, were undertaken with the collusion of the Government. A defender denouncing bonded labour spent 110 days in jail. In Orissa, women defenders are at the forefront of demonstration against dams. Forty-two women defenders were put in jail for protesting against the building of a dam.
80. In Mumbai, a woman defender supporting slum-dwellers facing eviction received threats for conveying their voices.
101. In West Bengal, a journalist was brutally assaulted and tortured by Bengali police because he documented the case of a developer who acquired the land of a poor man and captured it on camera.
116. The Special Rapporteur is particularly concerned at the plight of women Dalits' rights defenders who face gender-based violence, or restrictions, regarding their work on the basis of their caste and gender. In August 2010, an elected female Dalit representative in Rajasthan was insulted and beaten by members of the dominant caste because she had taken up cases of land rights in her community. She filed a complaint to the police, but the perpetrators were reportedly never arrested. In another case, a centre working on issues pertaining to Dalit women was forcibly closed down by the dominant caste, and the manager was subsequently attacked by villagers and forced to leave the village with her family.
117. The ancestral land, water and resources of Adivasis are part of their identity as well as livelihood. They have been subjected to severe violations of their rights by state Governments and private actors who often act in collusion to exploit such lands which are often rich in minerals and natural resources. Frequently, Adivasis's non-violent means of protests against exploitation of their lands and displacement have been met by violent state response. They are often arrested and placed in detention with false cases. In addition, they are often victims of the ongoing conflict between the authorities and the Maoists.
119. In Orissa, staff members of KIRDT, an NGO which sensitizes Adivasis on their rights when facing eviction, were harassed by the police who branded them as Maoists. Their families were ostracized.
120. In Jharkhand, several indigenous peoples were arrested following protests in relation to a land dispute and forced eviction benefitting corporate companies.
121. In Assam, 1,000 Adivasis came to Guwahati to peacefully demonstrate, demanding for scheduled tribe status: more than 300 were reportedly injured by police officers using batons.

### **3) Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights**

#### **September 2010**

5. India is a party to a number of international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Pursuant to these treaties, the country has undertaken an obligation to protect individuals and communities within

its jurisdiction by eliminating, or reducing to a minimum, the risks that hazardous products and wastes may pose to the enjoyment of human rights, including the right to life, the right to the enjoyment of the highest attainable standard of physical and mental health, the right to safe and healthy working conditions, the right to food and safe drinking water, the right to adequate housing, the right to information and public participation and other human rights enshrined in the Covenants and the Universal Declaration of Human Rights.

56. Much more remains to be done to ensure the effective enjoyment of the right to the highest attainable standard of health, as defined in article 12 of the Covenant. The Special Rapporteur observes that this right extends not only to timely and appropriate health care, but also to “the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information”.
99. The Special Rapporteur is seriously concerned at the poor conditions in which most workers live, especially in Mumbai. He calls on GMB and MPT to provide appropriate plots of lands, and to facilitate – with the financial help of the shipbreaking industry – the construction of adequate housing facilities for those who work in the yards. Adequate access to safe drinking water and sanitation facilities should also be provided within and outside the yards. Taking into account that about 20 per cent of workers are accompanied by their families, the Special Rapporteur also calls on the Government of India and regulatory authorities to establish and maintain schools or formal education facilities for the children of those employed in the yards.

#### **4) Special Rapporteur on Freedom of Religion or Belief**

##### **January 2009**

45. A number of Hindu leaders expressed their mistrust of Muslims living in Srinagar. They remain hurt at the use of violence and threats hurled at the Kashmiri Pandits, who were eventually left no option but to be evacuated from Srinagar in the 1990s. While many of the Kashmiri Pandits remain internally displaced, there have also been public statements inviting them to return to Kashmir.
37. While discussing the events with victims, the Special Rapporteur could see their continuing fear which was exacerbated by the distress that justice continues to evade most victims and survivors. A large number of criminal cases relating to the communal violence in 2002 remain un-investigated or have been closed by the Gujarat police and the plight of those internally displaced from their home continues. In addition, there is increasing ghettoization and isolation of Muslims in certain areas of Gujarat, for example in one part of Ahmedabad which is colloquially called “little Pakistan”. The assertion of the state government that development by itself will heal the wounds does not seem to be realistic. The Special Rapporteur believes that it is crucial to recognise that development without a policy of inclusiveness of all communities will only aggravate resentments.

#### **5) Special Rapporteur on the Right to Food**

##### **March 2006**

11. Scheduled castes and tribes suffer most from hunger and malnutrition, making up 25 per cent of the rural population but 42 per cent of the poor.<sup>17</sup> As a result of discrimination, many low-caste Dalits are expected to work as agricultural labourers without being paid, many held in debt bondage by their higher-caste employers. Although debt bondage is illegal, NGOs estimate that there are between 20 to 60 million bonded labourers in India, 85 per cent of them belonging to scheduled castes and scheduled tribes. Widespread discrimination prevents Dalits from owning land, as they are seen as the “worker class”, and even if they receive land (as a result of redistribution and agrarian reform programmes in some states), such land is frequently taken by force by higher-caste people in the area. Lower castes are also often restricted from using village wells, as observed by the Special Rapporteur in Shivpuri District. Tribal peoples, particularly those living in forest and hill areas, are extremely marginalized, many having lost access to traditional forest

livelihoods and food resources through the creation of Forest Reserves, and many remain without food ration cards or access to government services. Tribal peoples also suffer disproportionately from displacement because of development projects such as dams, power plants, coal mines and mineral industries. There are no official statistics on the number of people displaced, but NGOs and academics estimate that dam projects alone have displaced up to 33 million people who have lost their lands and livelihoods. Around 40-50 per cent of the displaced are tribal people even though they make up only 8 per cent of the population, reflecting the serious discrimination against tribal peoples.

13. In urban areas the hungry and malnourished are predominantly people surviving in the informal sector as well as vulnerable groups that are excluded from access to public services and food ration cards such as migrants, refugees, the homeless, the displaced, informal slum dwellers and street children. The sick and elderly, who have no family members to support them, are also extremely vulnerable. Increasing urbanization is closely linked to poverty and food insecurity in rural areas and shrinking rural wages is contributing to distress-induced migration to urban areas, seen in the rapid development of slum and squatter settlements in India's towns and cities. More than 21 per cent of India's urban population now lives in slums with inadequate sanitation, housing and access to safe drinking water, severely affecting food consumption and absorption.
14. Today it is widely recognized within India that, although the 1990s saw a period of sustained economic growth as India moved towards a more market-oriented economy, this growth did not benefit all Indians equally. Middle and upper classes in urban areas have benefited under India Shining but the poorest have suffered a decline in living standards and rising food insecurity. With the liberalization of the agricultural sector and ongoing withdrawal of the State from agriculture there have been deep cuts in public investment in agriculture that have not been made up by private investment. The shift towards a more export-oriented economy has seen a shift from subsistence to cash crops, reducing the cultivation of grains, pulses and millet for household food consumption. With cash crops requiring increasingly expensive inputs such as seeds and fertilizer, many farmers have been pushed heavily into debt, which seems to explain the crisis of farmer suicides (reported to have reached 10,000 cases by the end of 2004). It has also brought greater pressure to consolidate landholdings for more capital-intensive commercial farming, with landless households increasing dramatically over the 1990s to around 45 per cent of rural households. Along with falling agricultural wages and rising food prices, these trends seem to have contributed to growing food insecurity amongst the poorest, especially in rural areas.
21. The Constitution provides special protection for women and children (art. 39 (f)) as well as for scheduled castes and scheduled tribes (art. 46), prohibits discrimination, including in the use of public sources of water (art. 15.2 (b)), and abolishes untouchability (art. 17). Many laws protect access to resources, including the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which prohibits wrongful occupation, cultivation or transfer of any land owned by or allotted to a member of a Scheduled Caste or a Scheduled Tribe (3.1.iv) and any wrongful dispossession of land or interference with the enjoyment of rights over any land, premises or water (3.1.v). The new amendments to the Hindu Succession Act, 1956, increase the protection of women's right to ownership and inheritance. Various State laws have also been adopted to abolish the feudal system and provide land for the most vulnerable (notably Land Ceiling Acts). However, de facto discrimination remains widespread in India.
26. The PUCL case represents a great advance in the justiciability of the right to food as a human right, as the orders of the Supreme Court in this case have transformed the policy choices of the Government into enforceable, justiciable rights of the people. Although this relates primarily to the obligation to fulfil the right to food, the Court has also made judgements that are related to the obligations to respect and to protect the right to food. It has, for example, protected the right to water of Dalits against discrimination by the upper castes, the right to livelihood of traditional fisher people against the shrimp industry (Aquaculture case), and the right to livelihood of scheduled tribes against the acquisition of land by a private company (Samatha case). For the Supreme Court, "any person who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred

by article 21". It is now essential that small farmers who are arbitrarily evicted from their land, or women or members of the Scheduled Castes or Scheduled Tribes who are deprived of their access to productive resources, should have the same access to justice before the Supreme Court.

36. In terms of more broadly addressing the discrimination against tribal peoples and scheduled castes, a number of special programmes have been established by the Ministry of Social Justice and the Ministry of Empowerment and Tribal Affairs. These have included the Village Grain Bank Scheme, initiated in 1997, which aims to prevent starvation deaths of tribal people living in remote areas, especially those who are not reached by PDS. Affirmative action programmes have also aimed to increase access to education and employment for scheduled castes and scheduled tribes, although social discrimination persists. Although land reform schemes have been carried out in a number of states to distribute government lands to scheduled castes and tribal peoples, lack of political will has brought many of these initiatives to a halt, and in some states, such as Madhya Pradesh, the feudalistic zamindari system persists. Many people that have been granted lands have been forcibly evicted by higher castes with impunity. Loss of access to productive resources, such as forest tribal peoples being excluded from forests or shrimp-farmers displacing smallholder farmers, means that there is a lack of judicial and administrative protection for access to productive resources for the poorest.
43. Most of the victims of starvation are women and children, members of the Scheduled Tribes and Scheduled Castes, with their deaths mainly due to discrimination in access to food or productive resources, evictions or the lack of implementation of the food-based schemes. Despite an extensive legal framework prohibiting discrimination and untouchability, discrimination persists, particularly in rural areas. In Madhya Pradesh and Orissa, the Special Rapporteur observed that access to village water wells is still not allowed for Dalits and that even if members of the Scheduled Castes or Scheduled Tribes were granted lands, higher castes often take the land away. Reports were also received that in Uttar Pradesh and Uttaranchal, Dalit families were forcibly evicted from their land by upper castes, and sometimes forced to work for them. In Harinagar, Kashipur, it is reported that 154 Dalit families have been forcibly evicted from their land and remain landless to this day despite a decision by the Supreme Court in their favour in 1996. As former Chief Justice R. Mishra said in a meeting with the Special Rapporteur, "low-caste people receive the land, but the upper caste enjoys it". These are crimes punishable by imprisonment and fine under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, but the law is not enforced.
44. The Special Rapporteur received numerous complaints about forced displacements of communities as a consequence of State development projects without adequate resettlement and rehabilitation. The case of the Narmada Dam is of particular concern, as despite clear directions by the Supreme Court in 2000, thousands of affected people are still not adequately resettled and rehabilitated. It is alleged that today 11,000 families in Madhya Pradesh, 1,500 families in Maharashtra and 200 families in Gujarat are still to be rehabilitated, although their villages have already been submerged. In Hazaribagh, Jharkhand, a state coal-mining project allegedly led to involuntary resettlements of thousands of people and the destruction of their sources of livelihood without adequate rehabilitation and compensation. As provided by law, national and State policies and Supreme Court orders, every affected family should be adequately resettled and rehabilitated and the "land for land" principle respected. The Special Rapporteur received many complaints from tribal communities who lost their means of livelihood when evicted from the forest as a consequence of the implementation of the Forest Act, 1980.
45. In Orissa, the Special Rapporteur received complaints about the alleged impact of mining activities on the right to food of tribal communities in Kashipur<sup>66</sup> and Lanjigarh. It is reported that tribal communities have been forcibly evicted from their land to allow private mining activities, in violation of the Constitution and despite clear directions by the Supreme Court from 1997 that the lands in scheduled areas cannot be leased out to non-tribals or to companies. In Bhopal, the Special Rapporteur met with the Government of Madhya Pradesh and representatives of the people affected by the Union Carbide gas disaster of 1984, in which 7,000 people died in the first days and 15,000 people died in the following years. Today, 20 years after the tragedy, water wells in the area are contaminated and, despite clear directions by the Supreme

Court in May 2004, the water requirements are still not met. The Special Rapporteur has also received complaints alleging that the uncontrolled water extraction by Coca Cola in the states of Kerala and Tamil Nadu was causing a severe shortage of water for the local population. Impact assessment studies and prior consultation of the affected communities must always be conducted before any licence is granted to a private company, and in case of violations of the right to food, land or water, all victims must be adequately resettled, rehabilitated and compensated.

46. In each of his reports, Commissioner Dr. Saxena points to the lack of implementation of the food-based schemes in most of the states. In May 2003 the Supreme Court concluded that the states of Bihar, Jharkhand and Uttar Pradesh had not even begun to implement its directions for supply of cooked Mid-Day Meals. Still today in Arunachal Pradesh, Assam, Manipur, severely malnourished children were not covered by the programme. In this district, many of the most vulnerable persons have not been granted ration cards. The Supreme Court recognized these schemes as legal entitlements to all beneficiaries, including those living in tribal villages or illegal slums, which means that their non-implementation amounts to a violation of the right to food.
48. The Special Rapporteur makes the following specific recommendations:
- (g) The Land Acquisition Act should be amended, or new legislation adopted, to recognize a justiciable right to resettlement and rehabilitation for all displaced or evicted persons, including those without formal land titles and including women;
  - (j) Dams, mining and infrastructure projects must not be implemented if this entails displacement and irreversible destruction of people's livelihoods. Such projects should only be carried out with the consent of communities and on the condition that due legal process, proper resettlement, rehabilitation (under the "land for land" principle) and compensation to all victims is guaranteed;

## **6. Special Rapporteur on Adequate Housing: Summary of Communications to the Government of India**

### **Summary of the Allegation Transmitted, 21 December 2012**

Alleged impacts of the expansion of the East Parej Open Cast Coal Mine on the rights of 228 families in the Jharkhand state. According to the information received, 228 families (1200 persons) were at risk of being evicted to give way to an expansion of East Parej Open Cast Coal Mine, operated by Central Coalfields Limited, India. On 26 October 2012, and at two other occasions, representatives of the mining company surveyed households in the villages of Agarva Tola, Dudmitya Tola and Fakodih, for the purpose of acquiring their homes to facilitate the expansion of the mine. Over 1,000 people from surrounding villages have already been displaced in previous years by activities associated with the East Parej Open Cast Coal Mine. The affected households belonged to marginalized communities, including scheduled tribes and Dalits. They were allegedly resettled in inadequate sites and have suffered impoverishment since displacement.

### **Summary of the Allegation Transmitted, 20 February 2013**

Alleged forced eviction of over 5,000 people living in economically weaker section (EWS) quarters in Koramangala, Bangalore. According to information received, from 18 to 21 January 2013, Bruhat Bangalore Mahanagara Palike (BBMP) [Greater Bangalore Municipal Corporation] evicted over 5,000 people living informally in economically weaker section (EWS) quarters in Koramangala, Bangalore. Allegedly, no prior notice was issued to the residents. During the eviction police reportedly used violence against residents, a number of whom were also arrested. No alternative accommodation or housing has been provided. Since the eviction, many BBMP residents have been spending days and nights in the open, without shelter or access to basic services. Reportedly, in 2005 a large number of the evicted residents had been promised new housing by BBMP after their original housing at the site was destroyed. Yet no housing was built since and residents had to settle informally at the site.

## 7. Press Releases and Statements of Special Rapporteurs<sup>2</sup>

### October 2013

Construction of a mega-steel plant in Odisha in Eastern India should be halted immediately, United Nations independent human rights experts have urged, citing serious human rights concerns.

The project reportedly threatens to displace over 22,000 people in the Jagatsinghpur District, and disrupt the livelihoods of many thousands more in the surrounding area. “The construction of a massive steel plant and port in Odisha by multinational steel corporation POSCO must not proceed as planned without ensuring adequate safeguards and guaranteeing that the rights of the thousands of people are respected,” the group of eight experts stressed. While India has the primary duty to protect the rights of those whose homes and livelihoods are threatened by the project, the experts underlined that “POSCO also has a responsibility to respect human rights, and the Republic of Korea, where POSCO is based, should also take measures to ensure that businesses based in its territory do not adversely impact human rights when operating abroad.” The UN independent experts brought their concerns to the attention of both Governments and the corporation involved following allegations of human rights abuses and potential negative human rights impacts linked to the project. “Forced evictions constitute gross violations of human rights,” said the UN Special Rapporteur on adequate housing, Raquel Rolnik, “and may only be carried out in exceptional circumstances and in a manner consistent with human rights law, including after a genuine consultation, without leaving people homeless or vulnerable to further human rights violations.”

### January 2010

The UN Special Rapporteur on the right to adequate housing, Ms. Raquel Rolnik, expressed her concern about the homeless persons that have died from cold recently in New Delhi and the risk to the lives of many others given the harsh weather and insufficient adequate shelters. Ms Rolnik also drew attention to the growing number of homeless persons in the Indian capital and the demolitions of homeless shelters, stressing that the preparation for the 2010 Commonwealth Games seems to be “one of the factors behind the closing down of a number of shelters.” In the last month demolitions and evictions of homeless from places they used as shelters have been conducted by public authorities despite the cold weather. “The lives of hundreds of homeless people in India are at risk as temperatures near zero degrees,” warned the Special Rapporteur. Ten homeless persons have already died from cold in the last month in New Delhi. In northern India, around a hundred homeless persons have reportedly died in the states of Uttar Pradesh and Bihar due to the freezing cold that affected the region over the last few weeks. “While the homeless population has been growing since 2007,” said Ms. Rolnik, “the number of homeless shelters in New Delhi has recently been reduced from 46 to 24, in disregard of the Delhi Master Plan 2001 and the Delhi Municipal Corporation Act 1957.”

## III. Voluntary Pledges and Commitments of the Government of India to the UN Human Rights Council, October 2014<sup>3</sup>

5. The Government’s priority is to ensure sustained and inclusive socio economic development, with special attention to gender equity issues and the inclusion of vulnerable and marginalized sections of society in our development efforts. Some important initiatives taken by the Government in recent years are mentioned here. In a paradigm shift from welfare to a rights-based approach and providing food security to ensure the right to live with dignity, Parliament enacted the National Food Security Act, 2013. The historic Act confers a legal right to cheaper food grains to 67.5 per cent of the country’s population. In 2010, in a unique development and to ensure citizens their right to live with dignity in a healthy environment, the National Green Tribunal Act was enacted, providing for the effective legal protection of the environment, forests and other natural resources. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, seeks to provide fair compensation to those whose land is

<sup>2</sup> More Press Releases are available at: [http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?SID=Adequate\\_Housing](http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?SID=Adequate_Housing)

<sup>3</sup> Available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/69/538](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/69/538)

taken away and the rehabilitation of those affected by land takeover. The Act came into force as from 1 January 2014. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, rests forest rights and occupation of forest dwellings on Scheduled Tribes and other forest dwellers to address insecurity of tenure and access rights. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to check cases of sexual harassment at the workplace, which prescribes strict punishment, including termination of service, for the guilty and similar penalties in case of a frivolous complaint, came into force with effect from 9 December 2013. The Act covers both the organized and unorganized sectors. The amendments to the Criminal Procedure Code in 2013 significantly broadened the definition of sexual assault and harassment; included new types of violent behaviour, such as voyeurism and stalking; and aimed for greater accountability of public officials. Earlier, in 2005, the Protection of Women from Domestic Violence Act, which provides immediate and emergency relief to women in situations of domestic violence, was enacted by the Indian Parliament. As part of India's commitment to a life of dignity for its citizens, the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act came into force in December 2013. The objective of the Act is to eliminate manual scavenging and unsanitary latrines and to provide for their habilitation of manual scavengers. A multi-pronged strategy which consists of legislative and programmatic interventions to tackle this issue has been worked out.

10. Against this backdrop, India voluntarily makes the following pledges and commitments:

- (a) India will continue to uphold the highest standards in the promotion and protection of human rights;
- (b) India will continue to strive for the full realization of civil, political, economic, social and cultural rights, including the right to development;
- (c) India will continue to abide by its national mechanisms and procedures to promote and protect the human rights and fundamental freedoms of all its citizens;
- (d) India will continue to cooperate with States, upon request, in their implementation of human rights through capacity-building by means of technical cooperation, human rights dialogues and exchange of experts;
- (e) India will continue to strive to promote the work of the Human Rights Council in accordance with the principles of sovereign equality, mutual respect, cooperation and dialogue;
- (f) India will continue to strive to make the Human Rights Council a strong, effective and efficient body capable of promoting and protecting human rights and fundamental freedoms for all;
- (g) India will continue to support international efforts to combat racism, racial discrimination, xenophobia and related intolerance;
- (h) India will continue to engage constructively in the deliberations of the Human Rights Council, its subsidiary bodies and mechanisms;
- (i) India will continue to support the Office of the United Nations High Commissioner for Human Rights, including through regular voluntary contributions;
- (j) India will continue to cooperate with special procedures, accept requests for visits and respond to communications;
- (k) India remains committed to implementing the recommendations that enjoyed its support during the second cycle of the universal periodic review, as well as continuing its collaboration with civil society and other stakeholders in an open and constructive manner in its universal periodic review process;
- (l) India remains committed to ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which it is a signatory;
- (m) India remains committed to ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is a signatory;
- (n) India will continue to cooperate with treaty monitoring bodies and engage constructively with them in

the context of fulfilling its human rights obligations;

- (o) India will continue to strengthen the implementation of the human rights treaties that it has ratified;
- (p) India will maintain the independence, autonomy and genuine powers of investigation of national human rights bodies, including its National Human Rights Commission, National Commission for Women, National Commission for Protection of Child Rights, National Commission for Minorities, National Commission for Scheduled Castes and Scheduled Tribes and National Commission for Backward Classes, as mandated by the Indian Constitution and national legislation;
- (q) India will continue to foster a culture of transparency, openness and accountability in the functioning of the Government, as enacted in the Right to Information Act;
- (r) India will continue to foster the genuine participation and effective involvement of civil society in the promotion and protection of human rights.

# ANNEXURE 2

## Reported Incidences of Forced Eviction in India between 2012 and 2015

	City/State	Site of Eviction	Date of Eviction	Number of Families Evicted (approximate)	Resettlement Provided	Current Status of Evicted Families
1.	Delhi	Mehrauli	August 2015	40	No	Families are living at the same site in makeshift tents.
2.	Indore, Madhya Pradesh	Chander Prabhas Shekhar Nagar	August 2015	1,500	Partial	800 families have been allotted alternative houses. About 450 families are still living at the same site.
3.	Chennai, Tamil Nadu	Govindasamy Nagar	August 2015	300	Yes	Families have been shifted to a resettlement site at Ezhil Nagar, on the outskirts of the city. Resettlement is inadequate.
4.	Faridabad, Haryana	Shiv Colony	July 2015	800 (one school was also demolished)	No	Families are living at the same site in makeshift tents and slowly rebuilding their houses with their own resources.
5.	Agra, Uttar Pradesh	Sant Ravidas Nagar	July 2015	300	No	About 250 families have dispersed to different parts of the city, while others are living on the roadside, near the evicted site, in makeshift tents.
6.	Mumbai, Maharashtra	Mandala	June 2015	3,000	No	Families have moved to rental housing in other locations.
7.	Delhi	Old Iron Bridge, next to Golden Jubilee Park	June 2015	500	No	Families are living at the same site in makeshift accommodation.
8.	Mumbai, Maharashtra	Malvani Colony, Malad	June 2015	1,000	No	Families are living at the same site in tents.
9.	Patna, Bihar	Sahdeo Mahto Marg	May 2015	40	No	Most families have moved to rental housing in other locations.
10.	Coimbatore, Tamil Nadu	Valankulam	May 2015	1,100	Yes	Some of the affected families have been provided with resettlement two kilometres away.
11.	Patna, Bihar	Rukanpura	May 2015	25	No	Most families have moved to rental housing in other locations.
12.	Patna, Bihar	Maharajganj	May 2015	622	No	Some families are living in makeshift tents at the same site and slowly rebuilding their houses with their own resources, while those who could afford rental housing have moved to other areas.
13.	Gurgaon, Haryana	Fatehpur Jharsa	April–May 2015	250	No	Families are living at the same site under plastic tents.
14.	Nashik, Maharashtra	Periphery Wall of Civil Hospital	May 2015	30	No	Information is not available.
15.	Nashik, Maharashtra	Rajiv Nagar	April 2015	75	No	Families have moved to other settlements.
16.	Delhi	Geeta Colony (Gadia Lohar Basti)	December 2014	25	No	People have rebuilt houses with their own resources at the same site.

	City/State	Site of Eviction	Date of Eviction	Number of Families Evicted (approximate)	Resettlement Provided	Current Status of Evicted Families
17.	Delhi	Rangpuri Pahadi	December 2014	500	No	Families are still living at the same site in makeshift accommodation.
18.	Rajkot, Gujarat	Valmiki Vadi	November 2014	4	No	Families have moved to other sites.
19.	Nashik, Maharashtra	Masobawadi, along Dindori Road	November 2014	50	No	All families are still homeless.
20.	Delhi	Wazirpur	November 2014	3,500	No	People have rebuilt their homes with their own resources at the same site.
21.	Nashik, Maharashtra	Tapovan and Nilgiribagh	November 2014	60	No	All families are still homeless.
22.	Rajkot, Gujarat	Morbi Road	August 2014	64	Yes	Over 20 families have submitted documents required by the state, but have not received any response from the Rajkot Municipal Corporation.
23.	Rajkot, Gujarat	Machchhunagar – Raiyadhar	July 2014	40	-	Information is not available.
24.	Surat, Gujarat	Milan Nagar, Narsi Mandir, Pati Chawl, Mafat Nagar, Panshee Vasahath, Sangam Tekdi 1 & 2, Apna Nagar, Aakagashi Nagar, Milind Nagar, Maqdoom Nagar, Sanjay Nagar, Santoshi Nagar, Bhim Nagar, and Gautam Nagar	July 2014	12,000	No	People are living at the same site in makeshift accommodation.
25.	Rajkot, Gujarat	Nanamova	July 2014	44	No	Families have relocated to other locations.
26.	Rajkot, Gujarat	Giriraj Nagar – Raiya Road	July 2014	10	-	Information is not available.
27.	Delhi	Kalyanpuri	July 2014	15	No	Families have rebuilt houses with their own resources at the same site.
28.	Rajkot, Gujarat	Jay Nagar – Kothariya Gam	June 2014	13	-	Information is not available.
29.	Visakhapatnam, Andhra Pradesh	M.S.M. Colony, Janapuram	June 2014	42	Yes	Families have moved to a relocation site half a kilometre away from their original site of residence.
30.	Delhi	Shastri Park	June 2014	150	No	People are living at the same site in makeshift accommodation.
31.	Chandigarh	Kuldeep Colony, Pandit Colony, Majdoor Colony, and Nehru Colony	May 2014	1,500	No	Families are still living at the same site in makeshift accommodation.
32.	Delhi	Block 8, Khichdipur	May 2014	20	No	Families have rebuilt houses with their own resources at the same site.

	City/State	Site of Eviction	Date of Eviction	Number of Families Evicted (approximate)	Resettlement Provided	Current Status of Evicted Families
33.	Rajkot, Gujarat	Pedak Road, near Ahmedabad Highway	March 2014	8	No	All families are still homeless and are living on the pavement.
34.	Ahmedabad, Gujarat	Ayodhya Nagar, Kapodra, Aajawa Road, Vastrapur, and Ambavadi	February 2014	474	No	Families are staying out in the open.
35.	Delhi	Nehru Nagar	December 2013	50	No	Families have moved to different locations.
36.	Delhi	Mansarovar Park	December 2013	250	No	Families have rebuilt houses with their own resources at the same site.
37.	Ahmedabad, Gujarat	South Zone	December 2013	88	-	Information is not available.
38.	Ahmedabad, Gujarat	Ranip Bakaramandi	December 2013	150	-	Information is not available.
39.	Ahmedabad, Gujarat	Naroda	December 2013	350	-	Information is not available.
40.	Ahmedabad, Gujarat	Vajelpur	November and December 2013	147	-	Information is not available.
41.	Ahmedabad, Gujarat	Gomatipur, Salatnagar	October 2013	240	Yes	Eligible beneficiaries, after a survey under Rajiv Awas Yojna, received cheque payments to live in rental accommodation in different parts of the city until housing units are constructed at the same site.
42.	Ahmedabad, Gujarat	Vastrapur	August 2013	110	-	Information is not available.
43.	Surat, Gujarat	Rusulabad Indira Nagar, Khadi Mohalla, Prem Nagar, Navsari Bazar and Subhas Nagar Pala	January–August, 2013	5,050	Partial	Some families have received resettlement.
44.	Mumbai	Ganapati Nagar and Adarsh Nagar	June 2013	550	No	People have moved to rental accommodation in nearby areas.
45.	Faridabad, Haryana	Gayakwad Nagar	June 2013	1,000	-	Information is not available.
46.	Imphal, Manipur	Kabo Leikai	May 2013	32	No	Families have moved to other locations.
47.	Mumbai	Ali Talao, Malad	May 2013	300	-	Information is not available.
48.	Surat, Gujarat	Gopi Talao	April 2013	1,412 (104 shops were demolished)	-	Eligible beneficiaries, after a survey under Rajiv Awas Yojna, received cheque payments to live in rental accommodation in different parts of the city until housing units are constructed at the same site.
49.	Mumbai	Golibar	April 2013	43	No	Some of the evicted families have taken up rental accommodation, while others are still staying at the same site.

	City/State	Site of Eviction	Date of Eviction	Number of Families Evicted (approximate)	Resettlement Provided	Current Status of Evicted Families
50.	Delhi	Sonia Gandhi Camp, R. K. Puram	March–April 2013	50	No	People have shifted to rental accommodation in nearby areas.
51.	Ahmedabad, Gujarat	Sankalitnagar, Juhapura	January 2013	45	No	Families have rebuilt houses with their own resources at the same site.
52.	Ahmedabad, Gujarat	Satellite	January 2013	55	-	Information is not available.
53.	Chennai	Sites near Jawaharlal Nehru Stadium	January 2013	94	No	People have moved to other sites.
54.	Bangalore, Karnataka	Ejipura, Koramangala	January 2013	1,200	No	Some families are living on the pavement near the site in makeshift tents, while others have moved to different parts of the city.
55.	Delhi	Shaheen Bagh, Okhla	December 2012	500	No	Families have rebuilt houses with their own resources at the same site.
56.	Delhi	Ghousiya Colony	December 2012	1,100	No	Families have rebuilt houses with their own resources at the same site.
57.	Kolkata	Topsia Bridge, Near Park Circus Station	November 2012	383	No	Families have dispersed to neighbourhood areas.
58.	Delhi	Netaji Nagar, Sarojini Nagar	August 2012	67	No	People have moved to rental accommodation in nearby areas.
59.	Delhi	Sanjay Camp, Chanakyapuri	July 2012	109	Yes	All affected families have been resettled in other areas.
60.	Delhi	Kidwai Nagar	May–November 2012	136	No	Families have rebuilt houses with their own resources at the same site.
61.	Delhi	Ashok Nagar, Mayur Vihar Phase - 2	May 2012	50	No	Families have rebuilt houses with their own resources at the same site.
62.	Delhi	Chilla Khadar, Mayur Vihar Phase - 1	April 2012	92	No	Families have rebuilt houses with their own resources at the same site.
63.	Delhi	Settlement near Mathura Road/ Okhla Tank	April 2012	150	No	Families have rebuilt houses with their own resources at the same site.
64.	Delhi	Shiva Camp, Vasant Kunj Petrol Pump	March 2012	150	No	Families have rebuilt houses with their own resources at the same site.
<b>Approximate Number of Families Evicted between March 2012 and September 2015</b>				<b>42,054</b>		

Source of information: Organizations and social movements working on issues of housing and urban poverty across India

Compiled by Housing and Land Rights Network

# ANNEXURE 3

## Incidences of Forced Eviction Prevented in 2014-15

	State and City	Area	Month of Proposed Eviction	Implementing Authority	Number of Families Saved from Eviction	How the Eviction was Prevented
1.	Delhi	Block 8, Khichdipur	May 2014	Delhi Development Authority	1,500	Stay order from the High Court of Delhi
2.	Delhi	Yamuna Ghat, Shastri Park	June 2014	Delhi Development Authority	250	Stay order from the High Court of Delhi
3.	Delhi	Dhobhi Ghat, Kalyanpuri	July 2014	Delhi Development Authority	15	Stay order from the High Court of Delhi
4.	Delhi	Chilla Khader, Mayur Vihar Phase 1	October 2014	Delhi Development Authority	1,600	Through civil society action
5.	Delhi	Wazirpur	November 2014	Indian Railways	3,500	Stay order from the High Court of Delhi
6.	Delhi	Delhi Ekta Camp, Vasant Kunj	December 2014	Central Public Works Department	2,500	Stay order from the High Court of Delhi
7.	Delhi	Rangpuri Pahadi, Vasant Kunj	December 2014	Department of Forests and Wildlife, Delhi	500	Through civil society action
8.	Delhi	Gadia Lohar Basti, Geeta Colony	December 2014	Public Works Department, Delhi	25	Stay order from the High Court of Delhi
9.	Visakhapatnam, Andhra Pradesh	R.P. Peta Homeless Colony, under Kancharapalam Flyover	Eviction threat received almost every month	Indian Railways	350	Through civil society action
10.	Visakhapatnam, Andhra Pradesh	MSM Colony, near Janapuram	June 2014	Indian Railways	42	Through civil society action
11.	Surat, Gujarat	Milan Nagar, Narsi Mandir, Pati Chawl, Mafat Nagar, Pansheel Vasahath, Sangam Tekdi 1 and 2, Apna Nagar, Aakagashi Nagar, Milind Nagar, Maqdoom Nagar, Sanjay Nagar, Santoshi Nagar, Bhim Nagar and, Gautam Nagar	July 2014	Indian Railways	12,000	Stay order from the Gujarat High Court
12.	Delhi	Yamuna Khadar	June 2015	National Green Tribunal	25,000	Through civil society action
13.	Chandigarh	Dhanas Colony, Sector 38	June 2015	Chandigarh Administration	130	Through civil society action
14.	Ranchi, Jharkhand	Khadgara, Bus Stand	June 2015	Ranchi Nagar Nigam	550	Through civil society action
<b>Total Number of Homes Prevented from Demolition/Eviction</b>					<b>47,962</b>	

Source of information: Organizations and social movements working on issues of housing and urban poverty across India

Compiled by Housing and Land Rights Network

## End Notes

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