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Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 6/27.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding **the alleged evictions and demolitions of informal settlements and slums in New Delhi in the run-up to the Commonwealth Games.**

According to the information received:

New Delhi has purportedly witnessed evictions and demolitions of informal settlements and slums in the run-up to the Commonwealth Games that will take place from 3-14 October 2010 in the capital city. Most of these evictions are apparently carried out to construct roads, bridges, stadiums, and parking lots, or to beautify the city. In addition, beggars and homeless persons are allegedly being rounded up, arrested and arbitrarily detained under the Bombay Prevention of Beggary Act 1959 in preparation for the Games.

It is reported that in 2004, Delhi authorities evicted more than 35,000 families living along the banks of the river Yamuna to make way for a tourism and city beautification project on land adjacent to the Commonwealth Games Village. Settlements at Banuwal Nagar, Vikaspuri, were also allegedly demolished in 2006 in preparation for the Commonwealth Games.

Reports indicate that evictions have scaled up in 2009. On 12 January 2009, officials of the Municipal Corporation of Delhi (MCD) reportedly demolished the settlement of Gadia Lohar Basti consisting of around 15 *jhuggies* (slums), which

resulted in the displacement of over 200 people. The settlement was neither notified nor covered under any resettlement programme. In June 2009, the MCD allegedly demolished a slum, inhabited by 50 people with disabilities, behind Jawaharlal Nehru Stadium to make way for a parking lot in preparation for the Games. According to the information, the MCD also reportedly demolished a settlement of 1,000 residents in J. Prabhu Market and Prabhu Market Extension near Lodi Colony for a parking lot for the opening and closing ceremony of the Commonwealth Games.

More recently, a slum cluster of 368 families of Dalit Tamils at Jangpura's Barapullah Nullah was reportedly demolished to construct another parking lot for the Games. The Tamils, who had been living there for the past 35 years, have not received any compensation or resettlement and are currently living on the streets. It is alleged that 400 *jhuggies* located near Barapullah Nullah are also likely to be demolished for construction of an elevated road that will connect the Commonwealth Games Village to the Jawaharlal Nehru Stadium. Modalities of resettlement have apparently not been worked out yet.

While I do not wish to prejudge the accuracy of these allegations, I would like to remind your Excellency's Government of Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which India is a party, which states that "the States Parties to present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including housing, and to the continuous improvement of living conditions". The Committee on Economic, Social and Cultural Rights commented the right to adequate housing in its General Comment No. 4, stressing that the right to housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With "due priority to those social groups living in unfavorable conditions," the right to housing includes guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. The Committee also added that "the right to housing should be ensured to all persons irrespective of income or access to economic resources".

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

"15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all

affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

“16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

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

As it is my responsibility, according to the mandate entrusted to me by the Human Rights Council, to clarify all allegations brought to my attention. I would therefore greatly appreciate detailed information from your Government concerning the above situation and about the measures taken by the competent authorities. I would in particular appreciate to receive information on the following points:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Did appropriate consultations take place with the affected persons? If yes, please give the details, date and outcome of these consultations.
5. On which grounds did the MCD allegedly demolish the abovementioned slums? What is the current situation of the displaced persons? Was any measure undertaken to avoid the worsening of the housing and living conditions of the people affected by the demolitions?

6. What measures have been foreseen to ensure that the persons affected by the evictions and demolitions will not become homeless?
7. Were the affected persons offered compensation for the loss of their houses and livelihood? If not, state the reasons for this decision. What has been foreseen in terms of relocation?

I would greatly appreciate receiving from your Excellency's Government within 60 days the above mentioned additional information. I undertake to ensure that your Government's response to each of these questions is accurately reflected in the report I will submit to the Human Rights Council for its consideration.

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

Raquel Rolnik

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context