

FORCED TO THE FRINGES

Disasters of 'Resettlement' in India

**INTRODUCTION,
CONCLUSIONS AND
RECOMMENDATIONS**



HOUSING AND LAND RIGHTS NETWORK
Habitat International Coalition – South Asia

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Introduction

As cities grow and the population influx into urban areas rises, so does the rate of urban poverty. This is primarily because urbanisation in India is governed by inequitable and discriminatory processes. The government, at both the central and state level, seems to be convinced that the creation of ‘world class cities’ not ‘inclusive cities’ is vital for the nation’s economic growth.

The progress indicators for these ‘world class cities’ are improved highways, shopping malls, mega-entertainment complexes, swimming pools, golf courses, technology parks, Wi-Fi zones, multi-level parking centres, and luxury high rise buildings. Adequate housing; affordable healthcare; quality public education; public parks and children’s playgrounds; environmentally sustainable energy; safe and accessible roads, walkways, public spaces and public transport; and mixed income neighbourhoods – indicators of ‘inclusive cities’ – do not seem to be priorities of urban development in India.

The prevalent neoliberal paradigm of urbanisation, being promoted in India, focuses on the simultaneous creation of enclaves of exclusive development for the wealthier residents of cities and ghettos of subsistence for the economically weaker sections. This is done under the insidious agenda of creating ‘slum free cities’ and is reflected in the rising occurrence of forced evictions and demolitions of low income settlements, with alarming impunity and illegality. It is also visible in the rampant conversion of public land to private use with the collusion of the state; the deployment of legal tools to sanction unlawful state actions; the adoption of prejudicial vocabulary in policy that declares residents of low income settlements as ‘encroachers’ and ‘squatters’; the failure of the state to provide low cost / social housing to meet the national urban shortage of 20-25 million houses; and unrestricted real estate speculation that inflates property prices, making housing unaffordable for the majority and forcing millions to live in grossly inadequate conditions.

This model of economic growth has also sanctioned forced evictions and displacement as a component of India’s post-independence trajectory, in urban and rural areas. The Planning Commission of India concurs that since independence (1947), about 60 million people have been displaced for purported ‘development’ projects; independent civil society experts estimate the number to be above 70 million. The scale and frequency of planned evictions continue to intensify across the country, with the complicit approbation of the state. This is further exacerbated by the failure of the state to provide adequate resettlement and rehabilitation for the evicted families, resulting in a nation-wide crisis of displacement, discrimination, and inadequate housing and living conditions.

Housing and Land Rights Network (HLRN), Delhi, has been working on different issues related to housing and land in India for the last fifteen years. Over the last few years, HLRN has received numerous complaints of abuses of human rights of the urban poor who have been systematically dispossessed by a structural agenda that first demolishes their homes without due process, and then relocates a small proportion of the evicted persons to highly uninhabitable and undeveloped sites on the outer fringes of cities, where they have no access to adequate housing, basic services, livelihoods, education or healthcare. Based on continued reports of dismal living conditions and engineered disasters in the name of resettlement and rehabilitation, HLRN decided to examine the nature of ‘resettlement’ and the conditions of resettlement sites in urban India. The phenomenon, HLRN learned, is not isolated to one city or site, but is reflective of a schema that is ubiquitous across urban India. It is also not restricted to large cities but has entered the domain of urbanisation policies in smaller cities and towns as well.

HLRN, in collaboration with its partners, thus embarked on a three-city human rights assessment that aimed to investigate the process of eviction that precedes resettlement; and, to analyse housing and living conditions in three large resettlement sites in India. HLRN selected the following sites on account of their large size, relatively recent creation, and widespread reports of inadequate living conditions and human rights violations: Savda Ghevra, Delhi; Kannagi Nagar, Chennai; and, Vashi Naka, Mumbai.

The three-city study was undertaken with the following objectives:

- To document the process of eviction and resettlement, its effects on different sections of the population, and any resulting human rights violations;
- To strengthen the claims of individuals and communities who suffer adverse, long-term, and often irreversible, impacts of these processes;
- To advocate for improved housing and living conditions in existing ‘resettlement’ sites and to prevent the creation of similar ‘resettlement’ sites in the country;
- To demonstrate how evictions and inadequate resettlement result in further impoverishment and marginalisation, and thereby make the case for in situ (on site) upgrading of settlements, as far as possible;
- To promote the adoption and implementation of international human rights standards related to adequate housing, evictions and resettlement;
- To encourage the development and implementation of a human rights framework for resettlement and rehabilitation that recognises and respects the integral link between housing and other human rights, most importantly livelihood / work, health, food, water, and education; and,
- To advocate for legal and policy changes—at the state and central level—that would ensure the recognition, protection and realisation of the human rights to adequate housing and land, including through the promulgation and implementation of a human rights-based national housing law in India.

The study uses the human rights framework for its analysis, and is based on primary research carried out through household surveys of a sample population and focus group discussions with affected persons in each site. It also builds on secondary research and literature, which is, however, limited.

HLRN collaborated with Information and Resource Centre for the Deprived Urban Communities (IRCDUC) in Chennai; Youth for Unity and Voluntary Action (YUVA) in Mumbai; and local organizations, including Society for Participatory Integrated Development (SPID) in Delhi.

While a similar framework and a common basic questionnaire was used for the assessment in each city, the structure of each report varies, as it has been written by different authors and institutions. HLRN has chosen to publish each study separately so that it can be used for advocacy purposes with the respective local and state governments, but also together as part of this compendium in order to highlight the similarities of the findings that reflect the travesty of ‘resettlement’ in India and the systemic discrimination against the urban poor across cities.

This document summarises the major findings and conclusions of the three studies; submits recommendations to the state and central government on housing and resettlement; and presents a comparative analysis of the eviction process and implementation of human rights standards in the three resettlement sites of Savda Ghevra, Kannagi Nagar, and Vashi Naka.

Key Terms Used in the Study

TERM	DEFINITION
Human right to adequate housing	The human right to adequate housing is “the right of every man, woman, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity” (UN Special Rapporteur on adequate housing, E/CN.4/2006/41).
Forced eviction	“The permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land [that] they occupy, without the provision of, and access to, appropriate forms of legal or other protection” (UN Committee on Economic, Social and Cultural Rights, General Comment 7, 1991).
Violation	The failure of a duty holder (primarily the State) to fulfil its obligations to respect, protect and fulfil a human right. Violations may be by commission (a wrongful act, such as forced eviction, or discrimination), or by omission (the State’s failure to act in protecting or fulfilling the right).
Relocation	The physical transfer of individuals or groups from their original site of habitation to another location. Relocation may be voluntary or involuntary and temporary or permanent.
Remedy	Effective legal or judicial resolutions for victims of violations of rights and protection guaranteed in legislation, international human rights law or international humanitarian law. Remedy involves fulfilling the victim’s right to the following as provided for under international law, including: (a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; and (c) Access to relevant information concerning violations and reparation mechanisms (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, 2005) .
Reparation	Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State... Reparation consists of the following: restitution, compensation, resettlement, rehabilitation, return (for refugees and displaced persons), satisfaction, and guarantees of non-repetition (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, 2005).
Restitution	Restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property (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, A/RES/60/147, 2005).
Compensation	Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as: loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medicine and medical services, and psychological and social services. Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better... Consideration of the circumstances of each case shall allow for the provision of compensation for losses related to informal property, such as slum dwellings. (UN Basic Principles and Guidelines on Development-based Evictions and Displacement, A/HRC/4/18, 2007).
Resettlement	Resettlement includes: 1) provision of adequate housing; 2) finding and engaging in acceptable new employment for those whose jobs are lost or severely affected; 3) restoration (or compensation, as necessary) of affected productive resources, including land, work places, and infrastructure; and, 4) restoration of other adverse effects on affected persons’ living standards (quality of life) through adequate land acquisition for affected persons and communities; restoration of, or compensation for affected private and public enterprises; and, restoration of cultural or common property, as appropriate. Resettlement must be human rights-based.
Rehabilitation	The restoration of normal living conditions following a disruption or displacement so as to return the inhabitant(s) to a state of personal and community integrity while ensuring the protection of their human rights. “Rehabilitation should include medical and psychological care as well as legal and social services” (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, A/RES/60/147, 2005).
Right to the city	‘Right to the city’ is the right of all residents to an inclusive city. It integrates a bundle of existing human rights, in addition to specific claims of rights to access land, water, sanitation, transport and public space, as well as the concept of the ‘social function’ of land, housing and related infrastructure, and public goods and services.

Major Findings and Conclusions of the Study

1. In all three resettlement sites: Savda Ghevra, Kannagi Nagar, and Vashi Naka, the affected persons reported violations—by the government and implementing agencies—of their human rights to adequate housing, land, work / livelihood, health, education, food, water, security of the person and home, participation, information, as well as the right to adequate remedy, including resettlement.
2. The study finds that the Governments of Delhi, Tamil Nadu and Maharashtra have breached state, national and international laws and policies. The state and its agencies have violated the Constitution of India; the Right of Children to Free and Compulsory Education Act 2009; the National Food Security Act 2013; the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013; the National Urban Housing and Habitat Policy 2007; the National Rehabilitation and Resettlement Policy 2007; and several judgements of the Supreme Court of India and High Courts that have held that the right to adequate housing is a fundamental right emanating from the right to life protected by Article 21 of the Constitution. The state has further contravened international laws and guidelines, including the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child; the International Convention on the Elimination of All Forms of Racial Discrimination; General Comments 4 and 7 of the UN Committee on Economic, Social and Cultural Rights; and, the UN Basic Principles and Guidelines on Development-based Evictions and Displacement.
3. The state and its agencies did not conduct any social / eviction impact assessments at any of the sites before or after the eviction / relocation to determine the effects and losses suffered by evicted, displaced and resettled persons.
4. During the process of eviction, affected families in all three cities, lost their housing, personal possessions, hard-earned savings, vital documents, and invaluable assets. Where force was used during the eviction process, people suffered injuries. In the immediate aftermath of the eviction, most people were not able to work and thus lost income. The state, however, has not provided any compensation for losses incurred by evicted persons, even though such losses are a direct result of state action.
5. No investigation has been initiated against any of the state officials responsible for carrying out acts of demolition, violence and destruction. There has been no trial or prosecution of guilty officials. With regard to forced evictions, the state enjoys complete impunity.
6. The findings of the three studies reveal that the evictions were not carried out for a demonstrable ‘public purpose’ and most of them, especially in Delhi, were thus illegal. The findings also clearly demonstrate that resettlement and rehabilitation of the urban poor is not on the agenda of the central or state governments. While the policy framework in Delhi, Mumbai and Chennai is different and the projects / professed purposes for which people are relocated are different, the goal with regard to the urban poor is evidently the same. Generally, inferior quality land in cities is developed by the working poor and made inhabitable and productive, as a result of which its value appreciates. State and private forces then work, often in collusion, to develop schemes and ‘projects’ to demolish the settlements on that land and/or to evict the residents. The rhetoric of ‘encroachment’ and increasingly ‘resettlement’ is used to usurp this high value 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. This is evident across the three cities of Delhi, Mumbai and Chennai.
7. In the three resettlement sites of Savda Ghevra, Kannagi Nagar and Vashi Naka, women have suffered disproportionately. All the sites are reportedly not safe for women and girls, and acts of violence have been reported against them. This has prevented girls from attending school and young women from

going to work. It has also led to the rise of early marriages in some instances. The distant location of the sites from city centres has resulted in many women losing their jobs while others have to commute long distances daily, at great risk to their personal health and safety, in order to continue with their livelihoods and support their families. The disintegration of communities and separation of extended families, as a result of inadequate resettlement, has resulted in the loss of social safety nets that has impacted women greatly.

8. Children also have suffered greatly from the eviction and relocation process. Apart from the psychological trauma associated with witnessing their homes being demolished and being forced to move to a new location, many children have had to drop out of school while others have begun working to supplement their family income. The large majority of the affected children have not been able to pursue higher education, as a direct result of the resettlement. The number of crèches / Integrated Child Development Services (ICDS) centres at the sites is not sufficient to meet the needs of the population. There is also a shortage of playgrounds and safe open spaces for children to play in.
9. The entire resettlement process in all three cities has ignored the indivisibility of human rights as well as the vital link between housing, livelihood and other human rights. The three resettlement sites are still largely uninhabitable and the residents are still struggling for basic services and amenities, including water, sanitation, transport, electricity and access to healthcare, education, work and food. In many families in all three resettlement sites, children have been forced to drop out of school, women and men have lost livelihoods, monthly expenditures have increased, the healthcare of residents has been affected, violence against women has increased, and psychological trauma and stress, reportedly, have risen. The impacts of the eviction and resettlement are adverse and long-lasting.
10. This three-city human rights study highlights not just the gross failure and sham of resettlement in India, but also exposes the exclusionary policies of the state. An alarming finding of this study is that a large percentage of evicted families are not resettled by the state on grounds of 'ineligibility.' This number varies in each city and depends, to a large extent, on the project, the reason for the eviction/ demolition, and the prevailing state policy. The study found that the percentage of those who were not resettled by the state was highest in Delhi, followed by Mumbai, and then Chennai. Most states have a 'cut-off' date before which the family should have been living in the city in order to qualify for resettlement benefits (in Mumbai it is the year 2000, while in Delhi it is the date of 4.06.2009; Chennai does not have a 'cut-off' date policy). 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 are regularly replaced by the government agencies 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 institutionalised tool of exclusion and discrimination, and places an inordinate burden on the urban poor to prove the duration of their residence in the city.
11. 'The right to return' of affected persons has not been protected. While in Chennai and Mumbai, return to most sites is not possible since the cleared land has been converted for specific projects, in Delhi, several of the sites from where families were evicted, are still lying vacant. Thus, the state should have provided affected families with adequate conditions for the right to return to their original sites of habitation, with dignity and security.
12. The displaced persons and those living in the resettlement sites / colonies across India have no means to seek redress; neither do they have avenues to fulfil their legal right to access timely remedy. Despite the passage of 6–8 years since resettlement, the state has not provided restitution to the affected families, and has not make efforts to improve the standard of living and ensure that the affected families are able to live with dignity. The government has not provided any mechanisms for redress.

All efforts to improve living conditions and secure access to basic services at the resettlement sites have been taken by the affected persons themselves.

13. The lack of respect for the human rights, lives and contributions of the urban poor to the country's economy is glaring. The manner in which their homes are demolished without adherence to any national or international standards and norms, and the way in which they are forced to relocate to the peripheries of cities without any consideration for their livelihoods, education, health, security and welfare, reflects a very serious prejudice against the poor and working classes in urban planning and governance in India.
14. 'Resettlement', the way it is being carried out in India, seems to have become a euphemism for state-sponsored segregation and dispossession of the urban poor.

Recommendations

During the three human rights assessments in Mumbai, Chennai and Delhi, the catastrophes unleashed by the rehabilitation and resettlement (R&R) policies and programmes of the government were evident. Extensive discussions with the affected communities that have been evicted, displaced and resettled, reveal the need for a complete overhauling of the urban planning and governance agenda, and the strong need for a human rights approach to housing and land across the country.

In addition to site-specific recommendations that have been presented in the three individual reports in this compendium, HLRN would like to suggest the following recommendations related to housing, evictions, urbanisation and rehabilitation – for the central and state governments.

Recommendations for the Central and State Governments on Housing and Evictions

1. The right to adequate housing must be recognised as a human right and must be protected and guaranteed to all. It is important for the state to recognise 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 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.
2. The government should impose a moratorium on forced evictions in the country, as it has been well established that forced evictions lead to further impoverishment and marginalisation. They also adversely affect the livelihoods, health, education, security, and social and economic well-being of the affected persons. In many instances, evictions and resettlement processes intensify social conflict.
3. Only in 'exceptional circumstances' – for the general welfare, health and well-being of the residents – when evictions need to be carried out, they must follow the principles and operational guidelines expounded in the UN Basic Principles and Guidelines on Development-based Evictions and Displacement.

4. The government, at the central and state level, must focus on immediate in situ (on site) upgrading of settlements in all cities through the provision of long-term security of tenure, improved permanent housing and access to basic services.¹ 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, in order to meet the national urban housing shortage of 20-25 million houses for Economically Weaker Sections (EWS) and Low Income Groups (LIG). Where required, land for social housing should be purchased by the state government; this is listed as a 'public purpose' in the new Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. The practice of relocating the urban poor to the fringes of cities must be discontinued. Large colonies, such as Perumbakkam in Chennai and Baprola in Delhi, which are being constructed on the city outskirts with the plan to dispossess and relocate more of the working poor, should be halted immediately. The funds should instead be utilised to improve housing conditions where people live.
5. Government schemes such as Rajiv Awas Yojana (RAY) must focus on the provision of long-term security of tenure and in situ upgrading of housing, and not on relocation. The land on which the urban poor live must not be diverted for commercial use or reduced in area. Private Public Partnerships should not be encouraged for housing schemes for EWS under RAY.
6. The reservation in all city Master Plans for EWS housing must be 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.
7. Efforts must be made to control real estate speculation in India, and to ensure that the Real Estate (Regulation and Development) Bill 2013 is revised to incorporate a human right to adequate housing approach, and enacted. Progressive taxation on multiple-ownership of houses, land and property should be encouraged to prevent the artificial inflation of prices. This would also help address the paradoxical situation in India of 11 million vacant houses in the backdrop of a national urban housing shortage of 20-25 million houses for EWS/LIG.
8. The norms defining the 'poverty line' in India and the arbitrary process of determining if families are above or below the line need to be revised urgently to incorporate a human rights-based approach. The mere allotment of an inadequate tenement in a resettlement site should not result in cancellation of below poverty line (BPL) cards and exclude low income families from availing subsidies and welfare schemes.
9. All officials found guilty of violating human rights and of breaching local, national and international law during the processes of eviction and resettlement, must be tried and prosecuted according to the law.
10. The announcement of the new National Democratic Alliance (NDA) government to create '100 smart cities' in the country must ensure a participatory, human rights process that aims to develop inclusive, equitable, democratic and sustainable habitats for rural and urban residents, especially the most marginalised groups. The government must ensure the protection of housing and livelihoods, and must not evict, displace or render anyone homeless. The critical linkages between urban and rural development processes must be understood and reflected in law and policy. 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, and which recognises the inter-relatedness of housing with livelihood, education, health, water, food and security.
11. The central government must not dilute the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The requirements for

¹ HLRN has developed *Guidelines for In Situ Upgrading and Rehabilitation*. See www.hic-sarp.org or write to hlnrsouthasia@gmail.com for a copy.

prior informed consent, social impact assessment, and adequate resettlement must be retained. If any amendments to the Act are to be made, they should include the protection of the rights of the rural and urban landless poor, and extend provisions of due process and rehabilitation to them.

12. 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 should collaborate and work together to ensure that housing, land and related rights are protected and realised across India.
13. The state must implement judgements of the Supreme Court of India and various High Courts, which have established that the human right to adequate housing is an integral component of the right to life, and which have recognised the indivisibility and inter-relatedness of human rights, including the rights to housing and work / livelihood.
14. The Government of India should implement the Concluding Observations of the UN Committee on Economic, Social and Cultural Rights on India² related to housing and evictions:

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 on the right to adequate housing (1991) 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 on forced evictions (1997). 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 on the right to adequate housing (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.

The Government of India should also adhere to the reporting guidelines of the Committee.³ The Committee made the following recommendations for reporting on forced evictions:

Indicate whether there are any disadvantaged and marginalized individuals and groups, such as ethnic minorities, who are particularly affected by forced evictions and the measures taken to ensure that no form of discrimination is involved whenever evictions take place.*

Indicate the number of persons and families evicted within the last five years and the legal provisions defining the circumstances in which evictions may take place and the rights of tenants to security of tenure and protection from eviction.**

² Concluding Observations of the Committee on Economic, Social and Cultural Rights, India, E/C.12/IND/CO/5, May 2008.

³ 'Guidelines on Treaty-specific Documents to be Submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights,' Committee on Economic, Social and Cultural Rights, E/C.12/2008/2, March 24, 2009.

* General Comment 7, para. 10

** Ibid., paras. 9, 13-15, 16 and 19; see also Basic Principles and Guidelines on Development-based Evictions and Displacement 2007 (A/HRC/4/18, annex 1).

Recommendations for the Central and State Governments on Resettlement and Rehabilitation

In circumstances when relocation is necessary for the general welfare, health and well-being of families, HLRN and its partners propose the following recommendations to ensure human rights-based rehabilitation and resettlement.

1. The right to resettlement must be recognised and upheld by the Indian government as an inalienable human right of all affected people. A human rights-based approach must underlie all resettlement and rehabilitation processes, and the principles of non-discrimination, equality, and indivisibility of human rights must be implemented. Access to rehabilitation should not be contingent upon gender, caste, class, proof of residence, date of arrival in the city, marital status, and tenure security over the original house.
2. All resettlement and rehabilitation processes must be gender-sensitive and should not perpetuate discrimination of any form.
3. All states across India should abolish the arbitrary policy of a ‘cut-off’ date to determine ‘eligibility’ of urban dwellers for resettlement. This practice contravenes the Constitution of India and international human rights law. 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.
4. Based on these standards, every person irrespective of class, caste, linguistic group, ethnicity, sex, sexual orientation, marital status, disability, age, proof of residence and title, must be provided with: adequate housing; adequate food and resources to access food; adequate healthcare facilities, including psychological counselling; access to education and early childhood care services; access to livelihood options; opportunity for participation and representation; protection against violence, especially for women, children, older persons, persons living with illness and HIV/AIDS, and persons with disabilities; access to just compensation; mechanisms for grievance redressal; access to timely remedy, including judicial remedy; the right to return, where desired and feasible; and, all other rights normally available to citizens of the country.
5. Affected people’s human right to participation must be respected and fulfilled:
 - Mechanisms must be established to allow for participation of the affected persons and communities at every stage of the housing, resettlement and rehabilitation process;
 - Special measures must be taken to ensure the participation of marginalised groups, including women, children, minorities, Dalits and other historically discriminated communities, older persons, and persons with disabilities; and,
 - All plans regarding housing and the resettlement site must be adequately discussed with the affected persons before being finalised.

6. The government or any implementing agency must provide affected persons with adequate, timely and unrestricted information on:
 - Housing designs and resettlement site plans, including information on size, layout, material, technology, and location;
 - Tenurial rights with regard to the house as well as the land / house plot;
 - Provisions for basic services including water and sanitation, electricity, education, healthcare, community space, places of worship, road and transport services;
 - Availability of livelihood opportunities in and around the proposed resettlement site;
 - Grant or loan provisions for economically weaker sections, including for housing; and,
 - Responsible authorities / agencies, and mechanisms available for participation, complaint, and grievance redressal.
7. Information must be made available in local languages and through appropriate means, with a view of reaching the maximum number of people in every community.
8. The government and any implementing agency must ensure a feedback mechanism wherein people are given an opportunity to share their suggestions and comments on the proposed resettlement plan.
9. Secure property rights ensuring long-term legal security of tenure should be provided to all those receiving alternative housing. The system of providing temporary and conditional leases should be abolished. Affected persons should not be made to pay for the alternative housing and land received in lieu of lost housing or for the titles over the houses / land.
10. In order to protect women from arbitrary eviction and to guarantee their equal right to adequate housing and land, the government must ensure that titles over housing are given in the name of adult women of the household or in the names of both the woman and the man of the family.
11. The government, in consultation with civil society organizations and local communities, must frame an enforceable timeline for completion of resettlement work well before affected persons are to be shifted to the resettlement site.
12. Rehabilitation must be culturally sensitive and well suited to meet requirements of the evicted/relocated communities. It must look into the long-term needs of individuals and communities, especially of children and women who suffer the worst impacts.
13. The government and other involved agencies must have effective mechanisms for regular follow-up, complaint registration, monitoring and grievance redress. A committee of multiple actors, including government officials, affected persons, civil society members, human rights defenders and academics should be created to regularly monitor the resettlement process and living conditions in the resettlement sites. Social audits and reviews of resettlement sites should be carried out periodically.
14. The responsibilities of the various government and private agencies involved in the process of resettlement and rehabilitation should be clearly demarcated, and mechanisms to ensure their accountability should be established to prevent any violations of human rights or of local, national and international laws and policies.

HLRN hopes that this three-city study of resettlement sites will help bring to light the disasters that are being created across the country in the name of 'resettlement', and make the case for the adoption of a strong human rights framework for housing and resettlement policies in India. Resettlement should help ameliorate living conditions, rather than exacerbating poverty and inequality. It must ensure the protection

of the affected persons' human rights to adequate housing, land, work/livelihood, food, water, security of the person and home, health, education and information, in a new location or on return to their original locations, through a voluntary, participatory, transparent and time-bound process, which guarantees the protection of their right to live with dignity.

HLRN strongly condemns the practice of forced eviction and the planned dispossession and segregation of low income communities. This paradigm of urban development is nothing less than a systemic apartheid against the working poor. HLRN calls for a halt to the indiscriminatory implementation of the neoliberal economic paradigm in urbanisation processes in India. The government must adopt human rights measures to address the politics of land in urban areas; the institutionalised discrimination against marginalised sections of the population; and the structural inequalities in policy and practice.

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This study is dedicated to the residents of Savda Ghevra, Kannagi Nagar and Vashi Naka, as well as all those who have been forcibly evicted by the state; suffered repeated violations of their human rights; and, been denied adequate remedy and restitution in the form of compensation, rehabilitation, and return. HLRN hopes that the recommendations provided in these reports will be considered by the concerned governments and agencies, and that immediate measures will be taken to improve housing and living conditions across India, including in the existing 'resettlement' sites, through the provision of long-term legal security of tenure; access to essential services, quality education, healthcare and livelihoods; and safety, privacy and security for the residents, especially women and girls.

The state must ensure the realisation of the 'right to the city' of all residents, which includes the right to democratic participation in the development of the city through full exercise of citizenship and the right to an equal share of the benefits and usufructs of the city. It calls for inclusionary urbanisation and the creation of cities where the human rights of all residents are equally protected, where laws and policies apply equally to all citizens, where children, women and girls are safe and secure, and where environmental sustainability and social justice are prioritised. It is only through the guarantee of everyone's 'right to the city' that the human rights to adequate housing, land, work/livelihood, security of the person and home, education, food, water, health, participation, information, equality, and a safe environment will be realised.

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