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# **Delhi's Gadia Lohar Community**



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# Mapping the Marginalized Delhi's Gadia Lohar Community



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# Background of the Report

Based in New Delhi, Housing and Land Rights Network (HLRN) works for the recognition, defence, promotion, and realization of the human rights to adequate housing and land, which involve gaining a safe and secure place for all individuals and communities, especially the most marginalized, to live in peace and dignity. It aims to achieve its goals through advocacy, research, human rights education, and outreach through network building – at local, national, and international levels.

Housing and Land Rights Network has actively engaged with the Gadia Lohar community—an extremely marginalized and impoverished community that largely lives in 'informal settlements' in the city and neighbouring areas in highly inadequate conditions—through various initiatives. Given the acute lack of data and information about the Gadia Lohars in Delhi, and their continued neglect by the state and denial of their human rights, HLRN decided to document their settlements and living conditions in Delhi. In this regard, HLRN worked closely with the community to conduct a survey in the Gadia Lohar settlements in Delhi during the months of February and March 2019. This report presents the findings of the primary research conducted through surveys and focus group discussions in 58 Gadia Lohar settlements in Delhi.



Gadia Lohar house in Dhaka Village, Delhi

### Introduction

The Gadia Lohars<sup>1</sup> are a historically nomadic community originating from Chittorgarh, Rajasthan and are now settled in various states of India, including Delhi, Gujarat, Haryana, Madhya Pradesh, Maharashtra, Punjab, and Uttar Pradesh.<sup>2</sup> They are primarily known for small-scale manufacturing and selling of iron tools, utensils, and other implements on their carts (known as gadias), through which they earn their livelihood.



In the National Capital Region of Delhi (Delhi NCR), the Gadia Lohars have been settled for several decades in over

90 'informal settlements' (bastis). These settlements are situated mainly along roadsides and on pavements to facilitate their trade. Although the community plays an important role in contributing to the functioning and economy of the city, its members live under the constant threat of forced eviction and in deplorable conditions, without access to adequate housing and basic services and amenities.<sup>3</sup>

Despite being settled in Delhi for several decades, most of the Gadia Lohar settlements have not been surveyed or recognized by the Delhi government or its Delhi Urban Shelter Improvement Board (DUSIB). Consequently, most members of the community are not considered 'eligible' for resettlement or permanent housing under the Delhi Slum and JJ<sup>4</sup> Rehabilitation and Relocation Policy, 2015. The lack of security of tenure has led to several incidents of forced eviction that have violated their human right to adequate housing, putting the whole community, especially women and children, at risk.

The right to adequate housing has been established as a human right in international law, which India has also ratified. The first United Nations (UN) Special Rapporteur on Adequate Housing defined the human right to adequate housing as: "The right of every woman, and man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity."5 The Supreme Court of India and several High Courts, including the High Court of Delhi, have upheld the human right to adequate housing as an integral component of the Fundamental Right to life under Article 21 of the Constitution of India. Courts have also directed the state to provide to every citizen, access to adequate housing and basic services such as water, food, sanitation, and healthcare, among others.<sup>6</sup> The present living conditions of the Gadia Lohars in Delhi violate multiple human rights and necessitate immediate action from the government and its authorities.

Gadia Lohars are also known as Gaddi Lohar in Maharashtra, Bhuvariya in Uttar Pradesh, Bhubalia Lohar in Haryana, and Gadulia Lohar or Dhurkutia in Rajasthan. See, Tehrani, Neda Hossein, 'The Ethnographic Narration of Gadulia Lohar Tribe of Udaipur, Rajasthan: With the Special Reference to the Ethnoarchaeological Perspective and Traditional Iron Tool Technology,' Ancient Asia: Journal of Society of South Asian Archaeology, Pune, January 2015. Available at: https://www.ancient-asia-journal.com/articles/10.5334/aa.12321/

See, Singh, K. S., India's Communities A-G Anthropological Survey of India, Oxford University Press, New Delhi, 1998. 'Voices of the dispossessed: Story of Gadia Lohars in Delhi,' Zee News, 23 January 2018. Available at:

<sup>3</sup> 

https://zeenews.india.com/india/voices-of-the-dispossessed-story-of-gadia-lohars-in-delhi-2074980.html

JJ refers to Jhuggi Jhopri – a Hindi term used to describe informal housing/settlements of the urban poor in Delhi. Δ

Report of the Special Rapporteur on Adequate Housing, E/CN.4/2006/41, March 2006. Available at: 5

http://www.ohchr.org/EN/Isues/Housing/Pages/HousingIndex.aspx

<sup>6</sup> For more information, see: Adjudicating the Human Right to Adequate Housing: Analysis of Important Judgments from Indian High Courts, Housing and Land Rights Network, New Delhi, 2019. Available at: https://www.hlrn.org.in/documents/Housing\_Judgments\_India.pdf

# Background of the Gadia Lohar Community

#### The Renke Commission

According to the Draft List of Denotified Tribes, Nomadic Tribes and Semi-Nomadic Tribes of India proposed by the National Commission for Denotifed, Nomadic and Semi-Nomadic Tribes, Gadia Lohars are considered a 'nomadic tribe' as they suffer from historical deprivation and marginalization, including with regard to accessing their livelihoods, land, and housing. The report of the Renke Commission (2008) to the National Commission for Denotified, Semi-nomadic and Nomadic Tribes suggests that almost 89 per cent of denotified tribes and 98 per cent of nomadic/semi-nomadic communities in India do not own land, while only 11 per cent of nomadic communities and 8 per cent of denotified tribes have habitations on public land.<sup>7</sup> Moreover, 57 per cent of such families live in tents/temporary structures and the overwhelming majority lack access to essential services and basic amenities, such as water, sanitation, electricity, as well as access to and benefits of government schemes.

#### **Forced Evictions and Home Demolitions**

The poor living conditions of the community, resulting from the lack of access to land, housing, and other basic services, are further exacerbated by frequent incidents of forced eviction. The Gadia Lohars living in and around Delhi have suffered from multiple demolitions of their homes, without due process. For instance, in August 2017, a settlement of 62 Gadia Lohar families was demolished in Mansarovar Park, Delhi, without providing notice or alternative accommodation or compensation for the loss of housing and personal possessions.<sup>8</sup> In the absence of any rehabilitation by the state, the evicted families continue to live at the site in precarious conditions, without access to adequate housing, water, or sanitation. As there are no secure bathrooms or bathing areas in the vicinity, the women have to bathe fully clothed in the open, which is a violation of their human rights to sanitation, water, security, and privacy.

Similarly, 15 houses of the Gadia Lohar community were demolished in Sector 3, Dwarka in the heat of May 2018, while 22 Gadia Lohar families from Wazirpur were forcefully evicted in the winter months of November and December 2018.<sup>9</sup> In March 2019, the Gadia Lohar settlement in Khyala received a threat of demolition, despite a stay order issued by the High Court of Delhi.<sup>10</sup> Timely intervention from civil society, including HLRN, prevented their eviction.

https://www.hlrn.org.in/documents/Forced\_Evictions\_2017.pdf

10 W.P. (C) 5213/2018, High Court of Delhi.

<sup>7</sup> Report of the National Commission for Denotified, Nomadic and Semi-nomadic Tribes, Ministry of Social Justice and Empowerment, Government of India, 2008. Available at: http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20(1).pdf

<sup>8</sup> Forced Evictions in India in 2017: An Alarming National Crisis, Housing and Land Rights Network, New Delhi, 2018. Available at:

<sup>9</sup> Forced Evictions in India in 2018: An Unabating National Crisis, Housing and Land Rights Network, New Delhi, 2019. Available at: https://www.hlrn.org.in/documents/Forced\_Evictions\_2018.pdf

In many cases where demolitions have occurred, affected families have not been rehabilitated, even after directions from the judiciary. In 2009, the Delhi government demolished a Gadia Lohar settlement near Thyagaraj Stadium, Delhi for 'city beautification' purposes, without any notice or resettlement, leading to the destruction of their homes and personal property, and rendering the affected families homeless. The matter was taken to court and the High Court of Delhi, in the case of *Sudama Singh* v. *Government of Delhi*,<sup>11</sup> passed a landmark judgment in February 2010 upholding the human right to adequate housing of the petitioners who included members of the Gadia Lohar community. The Court held that the evicted Gadia Lohar families had been living in Delhi for 40 years and further directed the state authorities to plan a proper rehabilitation policy for them within four months of the demolition. However, over nine years after the judgment, the Delhi government has still not provided any rehabilitation for the affected families, and many members of the community have been forced to move to other locations and leave their traditional occupation and search for other manual jobs. They continue to live in abysmal conditions, without access to housing, water, sanitation, and other services. One of the petitioners in the case, tragically, lost his life, but the state government has not taken any efforts to implement the court order or to provide relief to the affected families.

#### **Schemes and Policies**

The Gadia Lohar community has been neglected in central and state policies and has largely not been able to avail any benefits of government schemes. Gadia Lohar families had been promised land and housing to settle, as early as during the tenure of the first Prime Minister of India, Jawaharlal Nehru, and subsequently during other governments. In October 2003, shop-cum-houses for 34 Gadia Lohar families were inaugurated in Pitampura, Budh Vihar, and Mangol Puri under the 'Gadia Lohar Rehabilitation Scheme' by then Minister of State (independent charge) for Urban Development, Mr Bandaru Dattatreya.<sup>12</sup> However, almost 16 years later, these houses have still not been allotted to the Gadia Lohar families.

In Rajasthan, the state government has been implementing special schemes for the socio-economic development of Gadia Lohars. This includes a Special Integrated Scheme to provide housing with space for shops for Gadia Lohars as well as a financial support scheme to purchase raw materials for manufacturing equipment and tools for agricultural and industrial purposes.<sup>13</sup> However, no such schemes have been proposed or implemented for the Gadia Lohars in Delhi.

The Gadia Lohars are also unable to avail other benefits of schemes designed for marginalized communities, due to the ambiguity in their caste status and the resultant lack of caste certificates. Unlike many other nomadic tribes who are considered 'Scheduled Tribes,' in most states, Gadia Lohars are categorized as 'Other Backward Class' (OBC). In Rajasthan, the Gadia Lohars are considered 'Most Backward Class' (MBC) and are entitled to one per cent reservation for government jobs.<sup>14</sup> In Delhi, though the Gadia Lohars are categorized as OBC, they have not benefitted from this categorization and are not able to avail any special schemes, despite their extreme marginalization.

<sup>11</sup> W.P. (C) Nos. 8904/2009, 7735/2007, 7317/2009 and 9246/2009, High Court of Delhi.

<sup>12 &#</sup>x27;Marginalized - Part 2: The story of those nomadic blacksmiths, who are now demanding 'shop down, house upstairs,' (Article in Hindi) Firstpost, 8 October 2018. Available at: https://hindi.firstpost.com/special/gadiya-lohars-nomadic-tribes-facing-problem-in-availing-even-the-basicamenities-in-delhi-ground-report-kp-151936.html

<sup>13</sup> Report of the National Commission for Denotified, Nomadic and Semi-nomadic Tribes, Ministry of Social Justice and Empowerment, Government of India, 2008. Available at: http://socialjustice.nic.in/writereaddata/UploadFile/NCDNT2008-v1%20(1).pdf

<sup>14 &#</sup>x27;Rajasthan govt approves 1% quota to Gujjars, four other communities under most backward classes category,' Firstpost, 2 July 2018. Available at: https://www.firstpost.com/india/rajasthan-govt-approves-1-quota-to-gujjars-four-other-communities-under-most-backward-classescategory-4649821.html

# Aim and Methodology of the Study

Housing and Land Rights Network has engaged with the Gadia Lohar community in Delhi through several initiatives over the last few years, with the intent to address the historical injustice suffered by them and to assist them with accessing adequate housing, education, and protection from forced evictions. With the support and assistance of HLRN, the 'Gadia Lohar Sangharsh Samiti, Delhi' (Gadia Lohar Struggle Committee/GLSS) was formed and organized its first-ever conference in the city on 4 September 2018. The conference dealt with issues of housing, identity, employment, education, and forced evictions. Subsequently, a meeting of the community was organized on 7 December 2018 in Delhi, where members discussed the challenges faced by them and prepared a detailed 'Charter of Demands' that was submitted to Delhi government officials and central government ministries.



Rally organized by the Gadia Lohar Sangharsh Samiti to demand their human right to adequate housing

In order to enumerate the settlements of Gadia Lohars in Delhi, document their living conditions, and to further understand their challenges in accessing housing and entitlements, HLRN decided to conduct a primary survey in the settlements where they live. This study was developed and carried out in close consultation with Gadia Lohar community members, who were actively involved in the entire process, including in surveying and documenting. A training workshop was first organized for the community to inform members about their human right to adequate housing and related laws and policies, and to collectively develop the objectives, goals,

and modalities of the survey. Subsequently, community meetings were conducted during the months of February and March 2019 in 58 of the identified Gadia Lohar settlements to discuss the challenges faced by the residents and to collectively fill out the questionnaire prepared jointly by HLRN and GLSS. The survey and the meetings were conducted by members of the Gadia Lohar community and included significant participation of women.

This primary research study aims to fill existing lacunae in information related to the Gadia Lohar community in Delhi and also to overcome the widespread ignorance about their settlements, culture, history, and living conditions. Given that many of the Gadia Lohar settlements are not included in DUSIB's list of *bastis/JJ* clusters in Delhi, this exercise of self-identification and documentation also attempts to overcome this lapse of the state government while ensuring that the missing settlements are included in the ongoing survey of DUSIB, which aims to then provide permanent housing to all surveyed residents in Delhi under the Chief Minister Awas Yojana (CMAY or Chief Minister's Housing Scheme).

This report presents a detailed analysis of the findings of the survey, including the responses received from the questionnaires and the feedback of community members during the focus group discussions in each of the 58 Gadia Lohar settlements.



Training workshop for the Gadia Lohar survey, organized by Housing and Land Rights Network in February 2019

# Major Findings of the Study

#### Location

Delhi has over 58 Gadia Lohar settlements, with an estimated population of at least 25,000.<sup>15</sup> The largest settlements are situated in Adarsh Gali, Palam (78 houses); Nani Wala Bagh, Azadpur (70 houses); Mansarovar Park (62 houses); and Sarai Rohilla (55 houses). More than half of the settlements surveyed consist of at least 20 houses.



Location of Gadia Lohar Settlements Surveyed in Delhi

<sup>15</sup> It is estimated that there are over 90 Gadia Lohar settlements in Delhi NCR, which includes the adjoining areas of the states of Uttar Pradesh and Haryana. This study, however, only surveyed and documented the settlements situated in Delhi.

The Gadia Lohar settlements are situated on land owned by various central and state government agencies, including the Municipal Corporation of Delhi (MCD), Delhi Development Authority (DDA), Public Works Department (PWD), DUSIB, and Indian Railways, among others. As per the judgment of the High Court of Delhi in *Ajay Maken* v. *Union of India*,<sup>16</sup> irrespective of the land-owning agency, forced eviction cannot be carried out without conducting survey of the settlement and providing adequate notice and alternative accommodation.

#### **Recognition of the Settlements**

Most of the Gadia Lohar settlements in Delhi have not been surveyed and recognized by DUSIB, despite being in existence for at least 20 years or more. Only the settlements at Azadpur Bus Terminal, Kishan Ganj, Lal Gumbad Basti, Sanjay Basti – Timarpur, and Seema Puri are mentioned in the list of JJ settlements, published by DUSIB. In many cases, Gadia Lohar houses are located close to settlements recognized by DUSIB but have not been included in the government's list of settlements in Delhi. The unrecognized status of most Gadia Lohar settlements renders the residents 'ineligible' for resettlement or permanent housing under the Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015, including after incidents of forced eviction.

#### **Nature of Settlements**

All the Gadia Lohar settlements surveyed by HLRN and GLSS consist of temporary (*kutcha*) structures. While 53 per cent (31) of the settlements comprise structures made of mud, thatch, or other low-quality materials, the remaining 46 per cent (27) primarily consist of structures constructed with plastic and tarpaulin sheets. These structures do not provide protection during the extreme summer and winter months, and are prone to get damaged during the monsoons.



Gadia Lohar settlement, Gokalpur, Delhi

#### Origin

Most of the Gadia Lohar settlements in Delhi have been in existence for several decades. For instance, the settlement in Sarai Rohilla was established 70 years ago, while the one in Wazirpur Village was developed 62 years ago. Similarly, settlements in Azadpur Bus Terminal, Geeta Colony, and Prem Nagar (Kotla) came into existence almost 60 years ago. The majority of Gadia Lohar settlements have existed in Delhi for at least 40 years.

<sup>16</sup> Paragraphs 141–143, W.P. (C) 11616/2015, High Court of Delhi.

A few settlements such as those in Khyala, Azadpur (near Lalbag Masjid), Rohini, Nangli Dairy, Sayed Gaon, and Masudpur are at least 20 years old.

The Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015 provides that 'informal settlements' which have come up before 1 January 2016 shall not be removed without providing alternative housing, and houses which have come up in such settlements before 1 January 2015 shall not be demolished without rehabilitation. All the Gadia Lohar settlements surveyed fulfil this criterion.



#### **Occupation**

The Gadia Lohars primarily earn their livelihood through manufacturing and selling of iron tools and utensils. Most of their settlements are situated along roads and pavements, which helps them to carry on their trade and find customers. The traditional occupation of Gadia Lohars requires integrated housing and workspaces. Consequently, their rehabilitation should include the provision of houses with space for shops.



Shop and house in a Gadia Lohar settlement in Delhi

#### **Forced Evictions**

The repeated occurrence of home demolitions and forced evictions of the Gadia Lohar community has resulted in the violation of multiple human rights, including the rights to life, adequate housing, education, livelihood/ work, food, health, water, sanitation, and security of the person and home, among others. Fifty-five of the 58 surveyed Gadia Lohar settlements reported experiencing forced eviction. The demolitions reportedly occurred as early as 1991 and have continued over the years. The settlement in Geeta Colony, established 60 years ago, was last demolished in 1991 whereas the settlement in Kalyan Puri, established 40 years ago was last demolished in 1992. In 2017, during a demolition drive in Mansarovar Park, 62 families witnessed demolitions of their homes without due process. The settlements in Chirag Delhi, Kirti Nagar, Narayana, Jahapanah Park, Raja Puri, Rohini, and Wazirpur experienced evictions in 2018. Many Gadia Lohar families have also reported multiple evictions in Delhi over the years.

The forced evictions in the Gadia Lohar settlements in Delhi—carried out by the Delhi government, Delhi Development Authority, and Municipal Corporation of Delhi—did not comply with due process requirements and also contravened international human rights standards, in particular the UN Basic Principles and Guidelines

	Name of the Settlement	Last Reported Incident of Demolition (Year)		Name of the Settlement	Last Reported Incident of Demolition (Year)	
1.	Geeta Colony (Block 14)	1991	27.	Patparganj Village	2010	
2.	Indira Camp, Kalyan Puri	1992	28.	Pitampura	2010	
3.	Kishan Ganj (near Old Rohtak Road)	1998	29.	Hanuman Camp, Sector 3, R.K. Puram	2010	
4.	Nand Nagri (Block B-3)	1999	30.	Hauz Rani Village	2010	
5.	Azadpur (near Lalbag	2000	31.	Bawana (near Suraj Park)	2010	
	Masjid)		32.	Khyala JJ Colony	2012	
6.	Kakrola Village	2000	33.	Haiderpur	2012	
7.	Sanjay Basti, Timarpur	2000	34.	Seema Puri	2012	
8.	Nirman Vihar	2001	35.	Sayed Gaon	2012	
9.	Dhaka Village	2002	36.	Mangla Puri, Palam Colony	2014	
10.	Prem Nagar, Okhla Mor	2002	37.	Palam Extension, Sector 7,	2014	
11.	Janakpuri (Block B-2-B)	2002		Dwarka		
12.	Sunder Nagri (Block N)	2003	38.	Adarsh Gali, Palam	2014	
13.	Mangol Puri (Block J)	2003	39.	Budh Vihar	2014	
14.	Dabri Mor	2005	40.	Sagarpur	2015	
15.	Uttam Nagar	2006	41.	Gokalpur Village	2015	
16.	Punjabi Bagh (Club Road)	2006	42.	Kundli (near Ambedkar Park)	2015	
17.	Rampura	2008	43.	Azadpur (Nani Wala Bagh)	2016	
18.	Maya Puri (near Junk	2009	44.	Nangli Dairy	2016	
19.	Market) Shalimar Bagh (near Railway	2009	45.	Mangol Puri (near Patthar Market)	2016	
	Crossing)		46.	Mansarovar Park	2017	
20.	Garhi Mor (near Durga Mandir)	2009	47.	Narayana Village	2018	
21.	Kotla Mubarakpur	2009	48.	Kirti Nagar (Lakkad Mandi)	2018	
21.	Azadpur Bus Terminal	2009	49.	Jahapanah Park	2018	
23.	Central Warehousing	2010	50.	Raja Puri, Dwarka	2018	
	Corporation, G.T. Karnal Road		51.	Wazirpur Village, Ashok Vihar	2018	
24.	Sarai Rohilla	2010	52.	Rohini (Sector 24)	2018	
25.	Prem Nagar, Kotla	2010	53.	Chirag Delhi	2018	
26.	Lal Gumbad Basti,	2010	00.		2010	

Panchsheel Park

on Development-based Evictions and Displacement. As the global operational standards related to forced evictions, the UN Guidelines emphasize that forced evictions can only be carried out in "exceptional circumstances" for reasons to protect health and general well-being. They also lay down procedural guidelines to be followed at various stages of an eviction: before, during, and after, in order to protect human rights of all affected persons.

In none of the incidents of forced eviction in Delhi were members of the Gadia Lohar community consulted, given adequate notice, or provided compensation and resettlement.<sup>17</sup>

The forced evictions and home demolitions have adversely impacted the health of affected persons, especially of children, older persons, and women who still live without adequate housing, water, and sanitation. Loss of belongings during eviction drives has also negatively impacted livelihoods and the traditional occupation of the community. Moreover, evictions carried out before school examinations, severely affected children's education and their ability to continue studying.



My settlement was demolished just before my tenth standard exams. I lost all my books during the eviction and had to take care of my family and look for alternative accommodation. Consequently, I had to drop out of school and my education was disrupted. We are all equal citizens and we also have the right to live a life of dignity with adequate living conditions."

> A young woman from the Gadia Lohar settlement in Khyala

The absence of legal security of tenure for the Gadia Lohar settlements also results in constant threats of demolition and harassment from government authorities, including the police. In many of the settlements surveyed, people reported that they are frequently harassed by officials from MCD, PWD, DDA, and the police, who continuously threaten to demolish their homes.

#### **Proof of Identity**

Most people surveyed in the Gadia Lohar settlements have some proof of identity. Residents in almost 97 per cent (56) of the settlements reported possessing an Aadhar card, while in almost 84 per cent (49) of the surveyed settlements, residents have been issued voter/election cards. Residents of 55 per cent of the settlements (32) reported having ration cards (for subsidized food under the Public Distribution System). Residents of most settlements reported the absence of caste certificates, which are important for availing benefits of targeted government schemes.



Percentage of Settlements with Various Government Documents

In many cases, the government-issued identity document does not mention the current address of the residents, as the community has been forced to relocate frequently in search of livelihood opportunities, and often as a result of forced eviction. For example, the residents of Raja Puri, Dwarka stated that their settlement has been demolished several times over the last 25 years, as a result of which they have not been able to procure government documents. A few people from the settlement have documents but with a previous address, as a result of which they are not able to access government schemes and entitlements.

17 'Evicted, they are yet to get relief,' The Times of India, 4 December 2014. Available at: https://timesofindia.indiatimes.com/city/delhi/Evicted-they-are-yet-to-get-relief/articleshow/45367022.cms

#### Access to Basic Services

The human right to adequate housing, as elaborated by General Comment 4 of the United Nations (UN) Committee on Economic, Social and Cultural Rights<sup>18</sup> and also upheld by the Indian judiciary is not limited merely to the provision of a shelter but also includes access to water, food, sanitation, electricity, and healthcare, among other services and infrastructure. In most Gadia Lohar settlements surveyed by HLRN and GLSS, there is an acute shortage of basic amenities and services. The absence of water and electricity poses severe challenges for the residents. Almost 41 per cent (24) of the settlements lack access to clean drinking water, which violates their human right to water and poses a threat to the health of the residents, especially children, women, and older persons.



There are only four to five water connections in our settlement, with at least 30 households. The water is supplied only once during the day leading to overcrowding of taps. The water does not reach half the families in our settlement."

> Resident of a Gadia Lohar settlement in Mangla Puri, Palam Colony

Similarly, almost 22 per cent (13) of the surveyed settlements do not have access to electricity. Residents in the settlement of Narayana complained that even though they have been settled there for more than 50 years, they have not been issued electricity connections. According to several High Court judgments, the right to electricity is an integral aspect of the right to adequate housing and should be provided to the poor and needy, irrespective of the nature of their tenure.<sup>19</sup> In many settlements, for example, in Shalimar Bagh, residents have been denied electricity connections on grounds that their houses are temporary (*kutcha*) structures. Furthermore, 61 per cent (35) of the settlements do not have government-subsidized ration shops in the vicinity and nearly half of the (28) settlements surveyed do not have access to garbage disposal facilities.



Percentage of Settlements with Access to Basic Services and Amenities

The absence of Primary Health Centres (PHC) is another predominant area of concern. Residents in almost 75 per cent (41) of the settlements surveyed do not have access to medical and healthcare services. Consequently, women face great difficulty during pregnancy and childbirth, and are also forced to travel great distances to get their children vaccinated.

The present living conditions of the Gadia Lohars in their settlements violate not only their human right to adequate housing, but also their human rights to water, food, sanitation, health, and the right to life guaranteed under Article 21 of the Constitution of India.

<sup>18</sup> United Nations Committee on Economic, Social and Cultural Rights, General Comment 4: 'The Right to Adequate Housing' (Art. 11 (1) of the Covenant), 1991. Available at: http://hlrn.org.in/documents/CESCR\_General\_Comment\_4.pdf

<sup>19</sup> T.M. Prakash v. District Collector and Tamil Nadu Electricity Board, (2014) 1 MLJ 261. For more information, see: Adjudicating the Human Right to Adequate Housing: Analysis of Important Judgments from Indian High Courts, Housing and Land Rights Network, New Delhi, 2019. Available at: https://www.hlrn.org.in/documents/Housing\_Judgments\_India.pdf

#### **Sanitation**

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The lack of access to toilets and adequate sanitation facilities emerged as one of the major challenges during the survey by HLRN and GLSS. Residents of almost 64 per cent (37) of the surveyed settlements reported that the absence of toilets leads to great difficulty, especially for women, and violates their right to privacy and dignity protected under the Constitution of India. It also increases their vulnerability to sexual and gender-based violence and abuse. The lack of toilets also affects the safety and security of women who are forced to resort to open defecation, including at night. Where community toilets do exist, they operate only during the daytime and charge user fees, leaving the residents with no access to toilets during the night. For example, in Mangla Puri, Palam Colony, residents complained that they are charged five rupees per

There are no toilets in our area, as a result of which we are forced to defecate in the open. This leads to embarrassment and deeply affects our dignity, selfconfidence, and sense of privacy."

> A woman from the Gadia Lohar settlement in Nani Wala Bagh, Azadpur

person, every time they use the public toilets, subjecting them to a financial burden. This also violates their human right to sanitation.

#### **Education**

Seventy-eight per cent (45) of the Gadia Lohar settlements do not have an Integrated Child Development Scheme (ICDS) centre or *aanganwadi* to provide nutritious food and a pre-school education to infants and young children. Similarly, residents of almost 44 per cent (25) of the settlements do not have access to schools, thereby violating children's Fundamental Right to education. Children's education is further affected by forced evictions, which often result in the destruction of books, uniforms, and other school supplies, forcing them to drop-out of school. The demolition of Gadia Lohar houses in Mansarovar Park in 2017 occurred right before school board examinations, thereby adversely affecting the studies and performance of affected children. This also resulted in many children having to drop-out of school.





Percentage of Settlements with Access to Aanganwadis



"

There are no schools for children in our area, except for one, which is located far from our settlement. The school is situated in an area that is not safe for children. One of the children was stabbed with a knife. Hence, parents are afraid of sending their children to school, and it is severely affecting their education."

 A resident from the Gadia Lohar settlement in Central Warehousing Corporation, G.T. Karnal Road

### Recommendations

This primary study by HLRN highlights the deplorable living conditions of the Gadia Lohar community in Delhi as well as the gross violations of their human rights guaranteed under the Constitution of India and international law ratified by India. Housing and Land Rights Network would, therefore, like to propose the following recommendations to the Indian government – at the central and state levels, in order to address the historic injustice suffered by the Gadia Lohars, to improve their living conditions, and to fulfil their human right to adequate housing, which is part of the human right to an adequate standard of living, and other human rights.

#### **Moratorium on Forced Evictions**

The Gadia Lohar community that has been living in Delhi and adjoining areas for several decades, is constantly under the threat of forced evictions. As mentioned above, forced evictions result in the violation of multiple human rights and have adverse long-term impacts on the affected population. They most severely affect children, women, older persons, persons living with chronic illness and mental illness, and persons with disabilities. The UN Special Rapporteur on Adequate Housing, in her mission to India report,<sup>20</sup> also called upon the Government of India to immediately impose a moratorium on forced evictions across the country. The government, thus, must ensure that forced evictions are avoided at all costs and are carried out only in "exceptional circumstances," after serving proper notice, consulting the community members, and exploring all other alternatives. In this regard, the government should adhere to and implement the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement,<sup>21</sup> which lay down clear operational standards to be followed before, during, and after evictions.

There should be proper implementation of progressive court judgments upholding the right to housing and calling for due process and adequate resettlement in cases of forced eviction. The judgment of the High Court of Delhi in *Ajay Maken v. Union of India* must be implemented, and no eviction should be carried out without due process, including sufficient notice and provision of adequate alternative housing. Further, stay orders issued by the Court to halt evictions must be respected and the authorities should not threaten to demolish houses and resort to harassment of residents. Where directions have been issued by the Court to provide rehabilitation, for example in *Sudama Singh v. Government of Delhi*, prompt action should be taken to implement the orders and to avoid further violations of the human rights of the affected persons.

#### **Provision of Adequate Housing**

The human right to adequate housing is guaranteed in international law that India has ratified. Several judgments of the Supreme Court of India and state High Courts have upheld the right to housing as an inalienable component of the Fundamental Right to life guaranteed in Article 21 of the Constitution of India. This requires that the state must take appropriate measures to ensure adequate housing for all individuals, groups, and communities. The

<sup>20</sup> Report of the Special Rapporteur on Adequate Housing, Mission to India, January 2017, A/HRC/34/51/Add.1. Available at: http://ap.ohchr.org/documents/dpage\_e.aspx?si=A/HRC/34/51/Add.1

<sup>21</sup> Basic Principles and Guidelines on Development-based Evictions and Displacement, A/HRC/4/18, 2007. Available at: http://www.ohchr.org/Documents/Issues/Housing/Guidelines\_en.pdf

Gadia Lohar community has been living in grossly inadequate conditions in 'informal settlements' for several decades without security of tenure and access to essential services, resulting in a very low standard of living. The state must provide adequate housing to the members of the community on a priority basis, keeping the following points under consideration:

- All settlements of the Gadia Lohar community should be surveyed by DUSIB to determine their eligibility for rehabilitation. In many cases, the Gadia Lohar settlements are fragmented due to incidents of forced eviction, to facilitate their trade, and due to the lack of space in existing larger settlements. This should be considered by the authorities and the survey of smaller settlements should be undertaken and housing should not be denied to them on the basis of the small size of their settlements.
- Many of the Gadia Lohar settlements are not part of DUSIB's list of JJ clusters. Consequently, they are likely to be left out from the assessment survey being conducted by the Delhi government under the recently-announced scheme of Chief Minister Awas Yojana (CMAY) '*Jahan Jhuggi, Vahin Makaan*' which aims to provide *in situ* (on site) rehabilitation to low-income settlement-dwellers. The Gadia Lohar settlements not included in the DUSIB list should be surveyed and included under the scheme to ensure that no one is left behind.
- *In situ* rehabilitation should be prioritized wherever land is available to ensure that members of the community have access to the city and livelihood opportunities, and to minimize the disruption of their lives and loss of livelihoods, income, and education. This implies that financial assistance should also be provided to Gadia Lohar families in order to enable them to access adequate housing, or to build their own housing at the sites where they live. If relocation is required, then this must be undertaken in collaboration with the community and only with their free, prior, and informed consent. Resettlement must be accompanied with provision of vending zones or adequate spaces in the city to carry out their trade and to ensure affordable commute or subsidies to travel. In the absence of these provisions, relocation to remote sites such as Baprola would severely threaten their right to work/livelihood and result in their further marginalization and impoverishment. Given their low levels of income, they would not be able to afford to commute from distant resettlement sites that are located on the peripheries of Delhi.
- Any new housing provided by the government should be 'adequate' as per General Comment 4 of the UN Committee on Economic, Social and Cultural Rights (CESCR),<sup>22</sup> which states that regardless of context, certain elements are essential for housing to be considered 'adequate' which includes: legal security of tenure; availability of services, materials, and infrastructure; affordability; habitability; accessibility; adequate location; and, cultural adequacy.
- The state must provide legal security of tenure over housing provided or built by the community.<sup>23</sup> The nature of tenure—individual or collective—should be decided as per the community's needs and demands, and with the free, prior, and informed consent of the member.
- The new housing should be accompanied with adequate space for conducting business and to run shops, keeping in mind the traditional occupation of the Gadia Lohars, which includes making iron utensils, tools, and other equipment for which they are widely known and which forms an integral part of their cultural identity.
- Houses constructed under the erstwhile 'Gadia Lohar Rehabilitation Scheme' in Pitampura, Budh Vihar, and Mangol Puri by earlier governments, which have not been allotted to the community even after 16 years due to bureaucratic reasons, should be allotted and utilized by the community after thorough inspections for safety, quality, and habitability.

<sup>22</sup> United Nations Committee on Economic, Social and Cultural Rights, General Comment 4: 'The Right to Adequate Housing' (Art. 11 (1) of the Covenant), 1991. Available at: http://hlrn.org.in/documents/CESCR\_General\_Comment\_4.pdf

<sup>23</sup> See, 'Guiding Principles on Security of Tenure for the Urban Poor,' presented in the report of the UN Special Rapporteur on Adequate Housing, A/HRC/25/54, 2013. Available at: http://ap.ohchr.org/documents/dpage\_e.aspx?si=A/HRC/25/54

#### **ELEMENTS OF ADEQUATE HOUSING**

In order for housing to be adequate, it must, at a minimum, include the following elements:

- Legal security of tenure;
- Availability of services;
- Affordability;
- Accessibility;
- Habitability;
- Location;
- Cultural adequacy;<sup>24</sup>
- · Physical security;
- Participation and information;

- Access to land, water and other natural resources;
- Freedom from dispossession, damage and destruction;
- Resettlement, restitution, compensation,
- Non-refoulement and return;
- Access to remedies;
- · Education and empowerment; and,
- Freedom from violence against women.<sup>25</sup>

#### **Provision of Essential Services**

Irrespective of the nature and status of tenure, essential services like clean water, adequate supply of potable water, electricity, and sanitation facilities must be provided to all members of the Gadia Lohar community. In addition, efforts must be taken by the state to facilitate their access to education and healthcare.

Public toilets should be constructed in Gadia Lohar settlements to prevent the violation of human rights to sanitation, privacy, and dignity, and to ensure the safety and security of women who are currently forced to defecate and bathe in the open. Where public toilets exist, instructions should be issued not to charge fees from members of the Gadia Lohar community and to keep the toilets open during the night. Pre-fabricated toilets or mobile toilets could be installed on an urgent and temporary basis, where required, until permanent toilets and secure bathing areas are constructed. Financial assistance to construct toilets should also be provided to the community.

#### **Provision of Appropriate Caste Certificates**

The Gadia Lohar community is considered a 'nomadic tribe' as per the Draft List of Denotified Tribes, Nomadic Tribes and Semi-Nomadic Tribes of India according to the National Commission for Denotified, Nomadic and Semi-Nomadic Tribes.<sup>26</sup> However, the community has been accorded a different caste status in each state. Despite their marginalized status, members of the community find it difficult to obtain a caste certificate, which prevents them from availing benefits of government schemes intended for marginalized communities.

#### Inclusion as 'Most Backward Class'

The Gadia Lohar community has been accorded the 'Most Backward Class' status in Rajasthan and is entitled to one per cent additional reservation in government jobs, apart from reservation under the 'Other Backward Class' category. Similarly, other state governments, including of Delhi, should accord members of the community the 'Most Backward Class' status in lieu of their historically marginalized status, and provide special reservation, at least one per cent, for them for government jobs. This would also help improve their financial conditions.

<sup>24</sup> The first seven elements of 'adequacy' of housing are defined and elaborated by General Comment 4, 'The right to adequate housing' (Art. 11 (1) of the Covenant),' of the United Nations Committee on Economic Social and Cultural Rights, 1991. Available at: http://hlrn.org.in/documents/CESCR\_General\_Comment\_4.pdf

<sup>25</sup> The subsequent nine elements of adequate housing were added by the Special Rapporteur on Adequate Housing and HLRN. For more information, see: 'Questionnaire on Women and Housing,' Annex 3 of the Report of the Special Rapporteur on Adequate Housing, A/HRC/4/18, February 2007. Available at: https://www.ohchr.org/EN/Issues/Housing/Pages/WomenAndHousing.aspx

<sup>26</sup> Draft List of Denotified Tribes, Nomadic Tribes and Semi-Nomadic Tribes of India, National Commission for Denotified, Nomadic and Semi-Nomadic Tribes. Available at:

http://socialjustice.nic.in/writereaddata/UploadFile/Draft%20List%20of%20Denotified%20Tribes%20for%20Mail.pdf

#### Access to Education for Children

*Aanganwadi*/ICDS centres must be established in Gadia Lohar settlements to provide young children with nutritious food and an adequate pre-school education. The children of the Gadia Lohar community find it difficult to pursue their education, as they are denied enrolment in schools and colleges on grounds of improper documentation and residential proof, despite being settled in Delhi for several decades. Moreover, the constant threat of forced eviction also disrupts the education of children and violates their constitutional right to education. The government must take adequate measures to ensure that children of this community are not denied admission in schools and also ensure that forced evictions do not occur to prevent disruption of their education.

For children who have been evicted and have had to consequently drop-out of school, the government should make efforts to re-admit them in government schools and to assist them with the provision of school uniforms, shoes, and books. A survey should be conducted of such children and appropriate action taken to restitute their right to education.

#### Skill Development, Training, and Livelihood Opportunities

The lack of education, decline in demand for their traditional occupations, and the absence of options for pursuing alternative livelihoods has resulted in increased unemployment of the Gadia Lohar community. The government should ensure that members of this community have access to skill development and training facilities, so that they can seek other employment opportunities. Moreover, special reservation in government jobs would also benefit the community members in overcoming unemployment and continued marginalization and poverty.

#### Safety and Security of Women and Children

Women belonging to the Gadia Lohar community face frequent harassment on streets and are often forced to bathe in the open because of the lack of adequate sanitation facilities in their settlements. Moreover, the lack of safe and secure places to play affects the overall growth and development of children in the community. The provision of adequate housing, including adequate sanitation and secure places to play for children, would help promote the safety and security of women and children of the community.

#### **Provision of Social Security**

The government should provide access to social security benefits to the entire Gadia Lohar community, in lieu of their historic marginalized status. This should also include monetary assistance in the form of pension to widows, older persons, and persons with disabilities of the community, who are unable to earn a livelihood on their own.

#### **Constitution of a Gadia Lohar Welfare Board**

The government should immediately set up a Gadia Lohar Welfare Board to assess and remedy the historical injustices faced by the Gadia Lohar community, plan welfare schemes and activities, and ensure that all government funds and schemes are being utilized adequately for the members of this community.

### Conclusion

The Gadia Lohar community in Delhi has been living in 'informal settlements' for several decades, without access to adequate housing and other basic services such as water, electricity, sanitation, and access to education and healthcare. The historical oppression faced by the community has been further exacerbated by the gross violation of their human rights, including the human right to adequate housing and the right to life, protected under Article 21 of the Constitution of India. The lack of basic amenities like toilets and healthcare has most severely affected the well-being of children and women, and violated their human rights to privacy, dignity, safety, and security. The human right to education of children has been denied due to the lack of *aanganwadi* centres, schools, frequent incidents of forced eviction, and discrimination. Most community members are not able to avail benefits of schemes and policies intended for 'Other Backward Class' as they do not possess a caste certificate. Despite promises from various governments since India's independence in 1947, the community is extremely marginalized due to poor implementation of schemes and continuing state apathy. The central and state governments must ensure that special measures are taken on an immediate basis to prevent the further marginalization of the community.

Housing and Land Rights Network hopes that the findings of this study and the recommendations proposed above will be considered and implemented, on an urgent basis, by the Delhi government to ensure the city's inclusive development and its goal of protecting the most marginalized. This would also help India meet its international legal obligations, including to implement recommendations from the Universal Periodic Review<sup>27</sup> and its commitments to realizing the Sustainable Development Goals, which call for "leaving no one behind."



Gadia Lohar settlement, Azadpur, Delhi

<sup>27</sup> For more information on India's third Universal Periodic Review, including recommendations accepted by India on issues of housing, land, and sustainable development, please see: The Human Rights to Adequate Housing and Land in India: Report to the United Nations Human Rights Council for India's Third Universal Periodic Review [With Relevant Recommendations], Housing and Land Rights Network, New Delhi, 2018. Available at: https://www.hlrn.org.in/documents/Housing\_Land\_Rights\_India\_UPR3\_2018.pdf

# Annexure I

#### List of Gadia Lohar Settlements Surveyed in Delhi

	Name of the Settlement	Number of Houses
1.	Adarsh Gali, Palam	78
2.	Azadpur (Nani Wala Bagh)	70
3.	Azadpur (near Lalbag Masjid)	12
4.	Azadpur Bus Terminal	40
5.	Bawana (near Suraj Park, Opposite Badli Industrial Area)	4
6.	Budh Vihar (near Shani Dham, Jagat Chowk)	18
7.	Central Warehousing Corporation, G.T. Karnal Road	32
8.	Chirag Delhi	7
9.	Dabri Mor	6
10.	Dhaka Village	32
11.	Garhi Mor (near Durga Mandir)	12
12.	Geeta Colony (Block 14)	22
13.	Gokalpur Village	25
14.	Govind Puri (Ravidas Marg)	25
15.	Haiderpur Village (near MCD Ayurvedic Hospital)	12
16.	Hanuman Camp, Sector 3, R.K. Puram	26
17.	Hauz Rani Village	7
18.	Indira Camp, Kalyan Puri	30
19.	Jahapanah Park	15
20.	Janakpuri (Block B-2-B)	6
21.	Kakrola Village	25
22.	Khyala JJ Colony	25
23.	Kirti Nagar (Lakkad Mandi)	3
24.	Kishan Ganj (near Old Rohtak Road)	31
25.	Kotla Mubarakpur	28
26.	Kundli (near Ambedkar Park)	12
27.	Lal Gumbad Basti, Panchsheel Park	4
28.	Madipur, Paschim Vihar (near Madipur Police Station)	10
29.	Mangla Puri, Palam Colony	30
30.	Mangol Puri (Block J)	4
31.	Mangol Puri (near Patthar Market)	19
32.	Mansarovar Park	62
33.	Masudpur Village (Block C-3)	18
34.	Maya Puri (near Junk Market)	41
35.	Moti Nagar (Kailash Park)	45
36.	Nand Nagri (Block B-3)	21
37.	Nangli Dairy	20
38.	Nangloi (near Camp Number 3)	29
39.	Narayana Village	13
40.	Nirman Vihar (near Radhu Palace)	10

	Name of the Settlement	Number of Houses
41.	Palam Extension, Sector 7, Dwarka	24
42.	Patparganj Village	16
43.	Pitampura	13
44.	Prem Nagar, Kotla	25
45.	Prem Nagar, Okhla Mor	35
46.	Punjabi Bagh (Club Road)	6
47.	Raja Puri, Dwarka	15
48.	Rampura	41
49.	Rohini (Sector 24)	3
50.	Sagarpur	17
51.	Sanjay Basti, Timarpur	22
52.	Sarai Rohilla	55
53.	Sayed Gaon (in front of Bachpan School)	7
54.	Seema Puri	35
55.	Shalimar Bagh (near Railway Crossing)	5
56.	Sunder Nagri (Block N)	15
57.	Uttam Nagar	10
58.	Wazirpur Village, Ashok Vihar	24

# Annexure II

#### **Questionnaire Used for the Study**

- 1. Name of area (क्षेत्र का नाम):
- 2. Name of the settlement (झुग्गी बस्ती का नाम):
- 3. Land-owning agency (जमीन किसकी है):
  - a. DDA
  - b. MCD
  - c. PWD
  - d. Railways
  - e. DUSIB
  - f. Defence
  - g. NDMC
  - h. Other:
- 4. Structure of settlement (झुग्गी बस्ती का स्वरूप):
  - a. Permanent (पक्की)
  - b. Temporary (कच्ची)
  - c. Tarpaulin (पन्नी वाली)
  - d. Other (अन्य)
- 5. Total number of households in settlement (बस्ती में कुल घरों की संख्या):
- 6. Settled for how many years (बस्ती कितने साल पहले बसी):
- 7. Original place of residence (किस राज्य के मूल निवासी हैं):
- 8. Occupation (व्यवसाय):
  - a. Iron work (लोहे का काम)
  - b. Other (अन्य)
- 9. When was the last time the settlement was demolished (आखिरी बार बस्ती कब तोड़ी गयी थी):
- 10. Proof of identity/documents available (दस्तावेज कौन से हैं):
  - a. Voter ID (वोटर कार्ड)
  - b. Aadhar Card (आधार कार्ड)
  - c. Electricity Bill (बिजली बिल)
  - d. Ration Card (राशन कार्ड)
  - e. Caste Certificate (जाती प्रमाण पत्र)
  - f. School Certificate (स्कूल प्रमाण पत्र)
  - g. Other (अन्य)

- 11. Existing basic services (कौन सी मूलभूत सुविधाएं उपलब्ध हैं):
  - a. Electricity (बिजली)
  - b. Drinking water (पीने का पानी)
  - c. Toilet (शौचालय)
  - d. ICDS centre or *aanganwadi* (आंगनवाड़ी)
  - e. Primary Health Centre (प्राथमिक स्वास्थय केंद्र)
  - f. School (विद्यालय)
  - g. Ration shop (सरकारी राशन की दुकान)
  - h. Garbage disposal (कूड़ा घर)
  - i. Others (अन्य)
  - 12. Name of the surveyor (सर्वेक्षणकर्ता का नाम):
  - 13. Surveyor's remarks/comments (सर्वेक्षणकर्ता की टिपण्णी):

**Housing and Land Rights Network (HLRN)**—based in New Delhi—works for the recognition, defence, promotion, and realization of the human rights to adequate housing and land, which involve gaining a safe and secure place for all individuals and communities, especially the most marginalized, to live in peace and dignity. A particular focus of HLRN's work is on promoting and protecting the equal rights of women to housing, land, property, and inheritance. Housing and Land Rights Network aims to achieve its goals through advocacy, research, human rights education, and outreach through network building – at local, national, and international levels.

In this report titled, '**Mapping the Marginalized: Delhi's Gadia Lohar Community**,' HLRN presents the findings of a primary research study of the settlements of the Gadia Lohar community—an extremely marginalized and historically nomadic community—in Delhi. The study, which was conducted with active participation of the Gadia Lohar community, documents the highly inadequate living conditions in their settlements and also highlights the resulting violation of several human rights, including their human right to adequate housing. The report also provides recommendations to the central and state government in order to improve living conditions of the community members and ensure that they are able to live with dignity, equality, and safety. Housing and Land Rights Network hopes that the report will help overcome the lacunae regarding the paucity of data and lack of awareness and information about the Gadia Lohars in Delhi, and remedy the historical neglect and injustice faced by the community.



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