

FACT FINDING REPORT

Demolition INDUCED Disaster

FORCED EVICTION IN TUGHLAKABAD



**HOUSING AND LAND RIGHTS NETWORK (HLRN)
and
ABHAS Action Beyond Help And Support**

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Preface

On 11 January 2023, the Archaeological Survey of India (ASI) issued eviction notices to families living in and around Tughlakabad Fort in New Delhi. The eviction notices were served to residents of Bengali Colony, where most residents are daily-wage labourers or domestic workers. The demolition took place on 30 April and 1 May 2023 rendering thousands of families homeless.

Located on a rocky hill along the Mehrauli-Badarpur Road on the southeastern border of the national capital, the Tughlakabad Fort was built by Ghiyasuddin Tughlaq in 1321-25. Going past the walls of the fort along the Mehrauli- Badarpur Road, one can never imagine that there is a whole bustling township behind the ramparts of the fort. The communities that occupy the land have migrated from various states across the country including Bihar, Haryana, Rajasthan, Uttar Pradesh, and West Bengal. Many have lived there for decades, while others have settled more recently.

On 11 January 2023, the Archaeological Survey of India (ASI) issued eviction notices to families living in and around Tughlakabad Fort in New Delhi. The eviction notices were served to residents of Bengali Colony, one of the largest settlements of the area, where most residents are daily-wage labourers or domestic workers.

The demolition, which had been deferred, because of children's exams, finally took place on 30 April and 1 May 2023 rendering thousands of families (atleast 2.5 lakh people) homeless. Although the possibility of demolition had been there for some time, when and how it happened was tragic. The bulldozers arrived while most adults were away at work, in pouring rain, giving little chance to the residents to salvage their belongings. Many lost everything, while others, who could, carried away their household goods and ran into the forest behind the settlement. Others simply sat on the rubble.

Housing and Land Rights Network (HLRN) and ABHAS Action Beyond Help And Support first met in March of 2023, when the first notice was sent to the communities, but the demolitions had been postponed. Team members visited the homes of some of the students who had received the notices in January. No one had heard anything more since then and were living

under the illusion that the threat of eviction had been averted. The school exams were over and there seemed to be a sense of calm - which only proved to be a false sense of calm as within less than a month the bulldozers arrived.

ABHAS has been working with the children and adolescents in the Tughlakabad settlements for over two decades. They have their office in Tughlakabad itself and have been witness to the threats of evictions and that the communities have lived under the impact of the final demolition. The children who have been coming to their centre for the last two decades are the ones who have lost their homes. Housing rights of marginalized communities has been the focus of HLRN, which monitors forced evictions and its impact on people.

In the March meeting ABHAS and HLRN had discussed the threat of demolition, but in the absence of any confirmed dates for the same, had discussed the possibility of a survey to confirm the number of people who were living under threat of eviction, and document their lives so that there was enough data available to support them post eviction, if and when it happened. But even as the plans were on, the focus of the study had to be changed.

The teams met again only after 1 May, when the homes were a pile of rubble and according to all news reports, 2.5 lakh people had been rendered homeless. When the teams from HLRN and ABHAS reached Tughlakabad, they were unable to reach the demolition site because of the pouring rain and watched it happen from afar. The residents were forced to spend nights in the forest behind the informal settlement (*basti*), staying up all night to guard the belongings they had been able to retrieve, and ensure the adolescent children do not fall prey to sexual predators on the prowl. As if this was not enough, ABHAS found that several of the homes demolished were those of families who had been already displaced from Khori Gaon, Faridabad district when their homes there had been demolished. They were stone quarry workers who worked in Bhatti mines and Lal Kuan, who were already poor. With their homes demolished and families displaced, they were pushed even further into indigency. They had shifted to Tughlakabad and lived in kutchha houses in Churiya Mohalla, which they had imagined to be a safe place till the bulldozers arrived again. Twice displaced in less than two years, their lives hang in a balance.

Invested as ABHAS has been in the community, it had to get involved in immediate relief while HLRN extended support in ways it could. Indeed, this was an enormous disaster. Governments and people argue that the residents “illegally occupied” the land and therefore it was only “legal” to evict them. While that may be true, what about due process? Why had the government and state agencies allowed these families to occupy the land in the first place, and secondly allow them to live on it for decades? How is it that only those who occupy the land are culpable and must be punished and not those who allowed them there in the first place? Most residents had built homes on lands they had been sold by local touts, on assurance that they would all be regularised over time. Even on the day of the demolition, the land sharks demanded the instalment payment for the land they had ‘sold’.

If that was not enough, the rents around the area overnight almost doubled and pushed families into further indigence. As we write this report, that is where the residents are - huddled in small one room accommodations paying exorbitant rents. The whole bustling settlement is now a plain empty piece of land. The clock cannot be reversed to put back the lives of those who lost their homes back on the earlier track. But are there any lessons that one can learn from this disaster?

Several Supreme Court and High Court Judgements have over the years laid down norms and guidelines regarding evictions, and India is signatory to several international commitments on

the same. All of these lay down due process but see time and again, homes being demolished, and people being evicted in violation of all human rights standards. As the case of Tughlakabad settlement is yet another example, it deserves serious attention.

This fact-finding report by HLRN and ABHAS attempts to document the impact of demolition and forced eviction on the lives of those ousted from their homes. It also tries to make recommendations so that this level of loss and pain can be avoided in the future.

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Overview

The rulings of the Supreme Court of India and the High Courts and international commitments have established the human right to housing as a fundamental right. But on 30 April and 1 May 2023, more than 2.5 lakh people were evicted from their homes in Bengali Colony located inside the Tughlakabad¹ Fort, which were then demolished. Witnessing their homes and other possessions being reduced to rubble and being left amidst ruins was akin to a disaster.

The Tughlakabad Fort is a centrally protected monument under the Ancient Monuments and Archaeological Sites and Remains Act of 1958 (AMASR Act). The fort's walls, gateways, bastions, and internal and external buildings all fall within the definition of a 'protected' site. Hence the Archaeological Survey of India (ASI) is the nodal agency responsible for its maintenance and protection. On 11 January 2023, the Archaeological Survey of India (ASI) issued eviction notices to the residents of Bengali Colony, one of the largest settlements around Tughlakabad Fort in New Delhi.²

As per the notices served to the residents, the demolition was to begin within 15 days of it being served and they were directed to vacate the premises by 26 January 2023. However, the notices gave no information on rehabilitation or provisioning of temporary shelter for the residents. Complacency soon set in among them as there was no sign of the demolition squad, they heard that demolitions do not happen when children take their school exams, and their case was before the courts. Furthermore, the touts who had sold them the land reassured them that nothing had happened in the past and nothing was going to happen now. They were uncertain but calm when ABHAS and HLRN visited the *basti* in March 2023.³ When the bulldozers finally arrived on 1 May, they were taken by surprise.

Largely migrants who were dependent on daily wage labour or domestic work, they had invested their meagre savings and taken loans to buy land and build a home. The threat of eviction had been hanging over their heads for very long as different agencies, including the ASI, every now and then tried to establish their claims over the land. These agencies viewed their homes as encroachments that threatened the existence of the historical Tughlakabad

1 NOTE: This area is spelt as both Tughlaquabad and Tughlakabad. The report in its main text uses Tughlakabad

2 Land Conflict Watch (2023, May 24). "Archaeological Survey of India issues eviction notice to families living near Tughlaqabad Fort." <https://www.landconflictwatch.org/conflicts/archaeological-survey-of-india-issues-eviction-notice-to-families-living-near-tughlaqabad-fort>

3 ABHAS has supported children and adolescents living in Tughlakabad for more than two decades. The demolitions rendered these children and their families homeless.

Fort while many of the displaced residents had documents to support their claim that they had lived at the same address for decades. Some of the residents have lived there for generations but many new migrants also occupied vacant land, and many more, according to Land Conflict Watch and media reports, were 'sold' the 'plots' by the local land mafia and they also had to pay money to the police, ASI and the fort authorities.⁴ But, as always, the role of the land mafia was overlooked.⁵

Till 2012, what came to be Bengali Colony was essentially a jungle, where people began moving after buying plots on instalments from local land dealers. They put up tarpaulin and set up hutments (*jhuggis*) and converted them gradually into *pucca* dwellings.⁶ Others followed and by 2023 roughly 3,500 houses served by 20 narrow lanes had come up. The displaced residents told ABHAS and HLRN as well as the media⁷ that they purchased these houses from property dealers who took care of the police, ASI and the fort authorities. Almost every family whose home was demolished possesses records of Equated Monthly Installment (EMI) payments to the property dealers, serving as a reminder of the once-standing brick structures they called home. Some had paid an instalment on the day of the demolition. And having exhausted all their savings in building their homes they had nowhere to go.

Over 1,500 houses were demolished without informing the residents of rehabilitation plans despite appeals from civil society organisations and the Delhi Commission for Protection of Child Rights (DCPCR).⁸ The families affected by the demolition have ever since been living amidst the ruins or in ill-afforded rented rooms while their legal case is pending in the Delhi High Court and the government is showing little urgency in addressing their plight and demand for rehabilitation.

This report by Housing and Land Rights Network (HLRN) and ABHAS Action Beyond Help And Support documents this incident to highlight how the dire circumstances, lack of secure housing, livelihood opportunities, and political apathy leave these marginalized communities vulnerable to violence, illness, and exploitation, and the urgent need for legal protection, rehabilitation measures, and robust response to human rights violations resulting from forced evictions. It underscores the urgent need for codified laws to govern evictions and provide rehabilitation measures, especially as the displaced families are further marginalized without due process or rehabilitation.

4 Land Conflict Watch, 2023. Also see The Wire (May 1, 2023) "Nearly 1,000 Houses Demolished in Tughlakabad, Lakhs of Poor Homeless in Delhi After ASI's Action". The Wire <https://www.youtube.com/watch?v=sOFsyvCSLuk>

5 'They only come for the poor: Tughlakabad residents who received demolition notices'. *Two Circles*, 31 January 2023. Available at: <https://twocircles.net/2023jan31/448193.html>

6 Conversation with Pinky Devi, Alamdar and many others, Siddiqui, O. (2023, May 15). "Tughlaqabad Demolition: I Met Homeless Struggling to Survive in Delhi's Heat." *The Quint*. <https://www.thequint.com/my-report-tughlakabad-demolition-bulldozer-asi-razes-houses-after-delhi-high-court-order-on-encroachments>

7 Kaskar, Z. (2023, May 2). "Watch: Nearly 1,000 Houses Demolished in Tughlaqabad, Lakhs Homeless After ASI's Action." *The Wire*. <https://thewire.in/rights-tughlakabad-delhi-demolition-asi>

8 Sharma, A. (2023, June 23). "How Government Neglect Left Thousands Homeless in Delhi's Tughlaqabad." *Frontline*. <https://frontline.thehindu.com/the-nation-human-rights/spotlight-how-government-neglect-left-thousands-homeless-in-delhis-tughlaqabad/article66945206.ece>.



Destruction in Tughlakabad

The Story of Tughlakabad

One of the oldest urban villages in Southeast Delhi, Tughlakabad draws its name from the fort built by Ghiyasuddin Tughlaq during his short reign (1320–24). Legend has it that the Sufi saint Nizamuddin Aulia who was upset with the Sultan, cursed him and said – “*Ya rahejuaad, yabasey Gujjar*” (translates to “it will remain desolate or be occupied by herdsmen”),⁹ which came true and Tughlakabad was soon abandoned. Located on the Mehrauli Badarpur road on Delhi Ridge, Tughlakabad spans across nearly 6.5 kilometres¹⁰ and hides a sprawling township within, which is currently under the jurisdiction of the ASI. Delhi Development Authority (DDA) had handed over an area of 2,661 bighas around the fort to the ASI in 1991 for care and maintenance.¹¹



A view of Tughlakabad

Tughlakabad may have lost its eminence, but various settlements emerged over time in and around the Fort. Although Gujjars, the original inhabitants of the village, constitute about 15 percent of the current population, the remaining 85 percent of the inhabitants in the village as well as the adjoining settlements are *Jatavs*, and migrants. Soon after India's independence in 1947, some Sikh refugee families came from Pakistan and settled in the area.¹² The influx of poor migrant workers, belonging mostly to ethnic minorities, Other Backward Classes, Scheduled Castes, and Scheduled Tribes from Bihar, Bengal, Uttar Pradesh, and Nepal, began soon thereafter due to rapid industrialisation.

⁹ <https://www.entraveller.in/story/tughlaqabad-fort-the-story-behind-the-cursed-fort-new-delhi/>

¹⁰ Sharma, A. (2023, June 23).

¹¹ Jaiswal, A. (2013, May 3). “To protect freed land from encroachers, ASI to build 3 km-long, 6ft-high wall in Tughlaqabad Fort area.” The Times of India. <https://timesofindia.indiatimes.com/city/delhi-to-protect-freed-land-from-encroachers-asi-to-build-3km-long-6ft-high-wall-in-delhis-tughlaqabad-fort-area/articleshow/99945748.cms>

¹² Hafeez, S. (2016, November 24). “Tughlaqabad: In centuries-old village, locals face uncertain future.” Indian Express. <https://indianexpress.com/article/cities/delhi/in-centuries-old-tughlaqabad-village-locals-face-uncertain-future/>

The proliferation of small-scale units in the nearby industrial area and small businesses and export houses in the vicinity offered opportunities for casual and home-based work. The migrants found informal work in the nearby areas. Most men work as skilled and unskilled labourers in the factories, motor workshops and construction industry, guards or gardeners in nearby areas, and rag pickers in the nearby Okhla landfill. Nearly half of the women work as domestic help, casual labour in garment factories, or do embroidery at home for export units. And they made homes in new *mohallas* and colonies that sprang up in the open spaces behind the village.

A mixed population with more than 30,000 residential units in about 14 *mohallas* (viz., Balmiki Mohalla, Bazar Mohalla, Bhangar Mohalla, Chhuriya Mohalla, Jalam Mohalla, Kumhar Mohalla, Kangar Mohalla, Kuan Mohalla, Naughra Mohalla, Pandit Mohalla, Prajapati Mohalla, Sardar Mohalla, Jatav Mohalla, Chand Mohalla, Master Colony, and a contiguous slum settlement Kabadi Basti on either side of the large slum community servicing the Okhla landfill).¹³

Nearly 50 percent of the land in Tughlakabad is illegally occupied aided and abetted by a land mafia and unscrupulous local builders. Strongmen associated with local leaders allegedly in connivance with the police and ASI officials identified vacant land, removed vegetation, constructed makeshift shanties, or at times, dumped debris, tied cattle or raised flimsy bamboo fences to demarcate plots before selling them to unsuspecting migrants.¹⁴

Aspirations and relative prosperity may have contributed to the construction of pucca structures in the area and some of them house small businesses, and the residents can avail of health services at a MCD run Primary Urban Health Centre and a Mohalla Clinic opened by the Delhi Government; children have access to education at the four schools run by the government and Municipal Corporation (two MCD run primary schools, a Government Senior Secondary School for Boys and Senior Secondary Sarvodaya Kanya Vidyalaya for girls). However, the area still lacks basic amenities like safe water, sanitation facilities, and cleanliness.

Most houses in the area did not have piped water. With less than 20 percent of the people having access to a personal toilet, open defecation is common and the cause of a filthy and unhygienic local environment with women and adolescent girls being the worst affected. Those who could afford started building personal pit toilets, and open drainages were built in some places albeit without exit for the waste which caused a huge dirty water body. Electricity is regularised only in some parts as few families can afford to pay for 24 hours supply. They rely on irregular connections and small generators supply electricity.

While most residents of the Bengali Colony and Churriya Mohalla have lived in the area for three decades, some have settled there recently in the New Bengali Colony across the road – usually in one or two room single-storied homes with exposed-brick structures, at constant risk of eviction during anti-encroachment drives. Many residents – ostensibly better informed, registered their houses under the Pradhan Mantri – Uday Scheme in December 2020, a scheme launched by the Ministry of Housing and Urban Affairs in 2019 to confer ownership rights to properties in 1,731 unauthorised colonies.¹⁵ In September 2020, the Faridabad Municipal Corporation, along with a large police force, razed 1,200 houses in Khor

13 Kumar, B. (2022, August 19). "Monument for Sale: Delhi's Land Mafia Is Stealing Tughlaqabad Fort." NewsLaundry. <https://www.newsLaundry.com/2022/08/19/monument-for-sale-delhis-land-mafia-is-stealing-tughlaqabad-fort>

14 <https://www.thequint.com/my-report/tughlakabad-demolition-bulldozer-asi-razes-houses-after-delhi-high-court-order-on-encroachments>
<https://timesofindia.indiatimes.com/city/delhi/okhla-police-to-be-probed-for-land-grab/articleshow/14502130.cms>

15 Land Conflict Watch, 2023

Gaon/Village, rendering over 5,000 people homeless.¹⁶ The drive was carried out following a Supreme Court of India order to vacate forestland of 'illegal occupation.' After the demolition of homes in the settlement, the ABHAS team documented that a few families who had already witnessed the demolition of their homes in Khorī Gaon were rendered homeless again, in a span of less than two years.



Remnants of the demolition in Tughlakabad

¹⁶ For more information, please see: 'Forced Evictions in India in 2020: A Grave Human Rights Crisis During the Pandemic', Housing and Land Rights Network, 2021. Available at: https://hlrn.org.in/documents/Forced_Evictions_2020.pdf

Genesis of the Eviction of Residents and Demolition of Their Homes

In 1995, the Delhi Development Authority (DDA) handed over 2,661 bighas of land around the fort to the ASI for care and maintenance purposes.

A Public Interest Litigation (PIL) was filed in 2001 for the protection of the historical Tughlakabad Fort from illegal encroachment by land mafia grabbing valuable land adjacent to the fort's walls. There were concerns that this fort might disappear due to administrative indifference and land grabs that had previously impacted Siri Fort and Qila Rai Pithora¹⁷. In March 2003, the Supreme Court directed the ASI to ensure that there was no further construction in the area.¹⁹ Further, in February 2016, it directed the ASI to remove all unauthorised constructions and “encroachers”. It also ordered the Delhi High Court to monitor the implementation of its orders in this regard.²⁰ On November 24, 2022, the Delhi High Court gave the ASI six weeks to remove all “encroachments” and file another status report on January 16, 2023.²¹ What has followed, is a result of these orders.

17 According to historian, curator, photographer, broadcaster and critic William Dalrymple, in his book *City of Djinns* (1993), the Municipal Corporation of Delhi demolished the outside walls of Qila Rai Pithora, the only edifice of Delhi's pre-Islamic era, for the purpose of enlarging a road without understanding its historical value.

18 Sakunia, S. (2023, February 11). “Eviction drive in Tughlaqabad: 1,000 families sent notices to vacate their houses”. The Leaflet. <https://theleaflet.in/eviction-drive-in-tughlakabad-1000-families-sent-notice-to-vacate-their-houses/>

19 Special Leave Petition to Appeal (Civil) No. 4821/2002. *S.N. Bhardwaj v Archaeological Survey of India & Others*. Available at <https://main.sci.gov.in/jonew/bosir/orderpdfold/113798.pdf>

20 Civil Appeal No. 699 of 2005. *S.N. Bhardwaj v. Archaeological Survey of India & Others*. With Transfer Case (Civil) No. 7 of 2003. Judgement. Available at: https://main.sci.gov.in/jonew/courtnc/rop/2001/22252/rop_487963.pdf

21 W.P.(C) 1475/2001. *S.N. Bhardwaj v Archeological Survey of India*. Available at: http://164.100.60.183/dhcqrydisp_o.asp?pn=329328&yr=2022

March 2001	Highlighting ASI's lack of concern about the growing illegal settlements in the Tughlakabad Fort area, S. N. Bharadwaj petitioned the Delhi High Court (CWP No. 1475 of 2001) seeking fulfilment of its legal obligation by ASI to protect the historical Tughlakabad Fort by evicting unauthorised occupants and a CBI investigation into the illegal encroachment. The High Court disposed of the petition in the first hearing and directed ASI to investigate the grievances and take legally warranted necessary actions.
2002	Dissatisfied with the High Court's order, the Petitioner filed a Special Leave Petition (S.L.P. (Civil) No. 4821/2002) in the Supreme Court of India. According to him, the High Court should have taken up the matter itself and not left it to the ASI. ²²
9 December, 2002	While hearing the SLP, ASI informed the SC that it could not remove the alleged encroachments due to interim orders passed by the High Court of Delhi in Writ Petition (Civil) No. 2193 of 2001. ²³
March 2003	The case in W.P. (C.) 2193/2002 was transferred from the Delhi High Court to the Supreme Court as Transfer Case (Civil) No. 7 of 2003. The Supreme Court heard the SLP and the transferred cases together and passed interim orders <u>directing</u> the ASI to ensure that no further construction took place in the area. It also directed the Government of National Capital Territory of Delhi (GNCTD), Delhi Development Authority (DDA), Municipal Corporation of Delhi (MCD), and the Delhi Police to assist ASI in ensuring the same. ²⁴
8 September, 2011	In the next order, the SLP was converted into Civil Appeal No. 699/2005. ASI and DDA argued that due to the Delhi High Court's stay orders, unauthorised constructions continued in the area. The SC vacated these stay orders. It also vacated its own judgement passed on March 3, 2003, directing concerned authorities to take "appropriate measures in accordance with law and inform the Court in eight weeks." ²⁵
14 October, 2011	The SC directed the ASI to file an affidavit indicating how many people were living in the protected monument of Tughlakabad Fort based on the aerial survey conducted in the year 1993. ²⁶
10 April, 2013	After multiple failures, ASI finally filed the affidavit where it expressed its inability to carry out the direction due to prevailing unrest at the site, which prevented it from carrying out a joint survey to identify the area by physical verification. The Court directed the Chief Secretary of NCTD and Commissioner of Police, Delhi were directed to provide all assistance sought by the ASI for carrying out the survey. ²⁷
4 February, 2016	The Supreme Court declared the entire Tughlakabad Fort as protected and directed ASI through an order [Civil Appeal no. 699 of 2005 with Transfer Case (civil) no. 7 of 2003] to halt land-grabbing or encroachment there. It noted previous orders prohibiting further construction in the area, and directed the ASI to remove all unauthorised structures and "encroachers" from public land, if need be, with necessary police protection and cooperation of the Delhi State Government or any other authority and ordered the Delhi High Court to monitor the implementation of its orders in this regard. ²⁸
17 May, 2017	The Delhi High Court ordered the formulation of a committee to oversee the survey of the said area and determine which structures existed there in 1993. It also laid down aspects to be considered in the survey. ²⁹

22 Civil Appeal No. 699 of 2005. *S.N.Bhardwaj v. Archaeological Survey of India & Others*. With Transfer Case (Civil) No. 7 of 2003. Judgment. Available at: https://main.sci.gov.in/jonew/courtnc/rop/2001/22252/rop_487963.pdf

23 Ibid.

24 Special Leave Petition to Appeal (Civil) No. 4821/2002. *S.N. Bhardwaj v Archaeological Survey of India & Others*. Available at <https://main.sci.gov.in/jonew/bosir/orderpdfold/13798.pdf>

25 Civil Appeal No. 699 of 2005. *S.N.Bhardwaj v. Archaeological Survey of India & Others*. With Transfer Case (Civil) No. 7 of 2003. Judgment. Available at: https://main.sci.gov.in/jonew/courtnc/rop/2001/22252/rop_487963.pdf

26 I.A. No. 7 in Civil Appeal No. 699 of 2005. *S.N. Bhardwaj v Archaeological Survey of India & Others*. Available at <https://main.sci.gov.in/jonew/bosir/orderpdfold/1388313.pdf>

27 Ibid

28 Civil Appeal No. 699 of 2005. *S.N. Bhardwaj v. Archaeological Survey of India & Others*. Available at: https://main.sci.gov.in/jonew/courtnc/rop/2001/22252/rop_487963.pdf

29 W.P.(C) 1475/2001. *S.N. Bhardwaj v. Archaeological Survey of India & Others*. Available at: http://164.100.60.183/dhccqrydisp_o.asp?pn=111096&yr=2017

24 November, 2022	As small-scale demolitions continued notwithstanding the 2016 order, the Delhi High Court granted the ASI six weeks as the “last indulgence” to remove all “ <i>encroachments</i> ” around the Tughlakabad Fort. The ASI was asked to file another status report on January 16, 2023, with April 24, 2023, as the date of next hearing. ³⁰
11 January, 2023	ASI gave the residents a 15-day notice to the residents of houses inside the Tughlakabad Fort area, evoking shock and outrage across the lanes of the village.
18 January, 2023	Taking suo moto cognisance of the drive, the DCPCR called for suspension of ASI’s demolition drive in Tughlakabad till the rehabilitation of all children residing in the area was ensured. ³¹
28 January, 2023	Mazdoor Awaas Samiti versus Union of India and Ors – W.P.(C) 1160/2023 Responding to a petition of Mazdoor Awaas Samiti seeking immediate rehabilitation of 2.5 lakh residents of over 30,000 houses facing displacement, some residing for about four decades, the Delhi High Court directed the Chief Secretary of the Delhi Government to work out a comprehensive plan for their resettlement/rehabilitation with the senior officials from the DDA, Delhi Urban Settlement Improvement Board (DUSIB), Municipal Corporation of Delhi (MCD), ASI, the Delhi Police and the concerned District Magistrate on 20 th February and submit it before the high court within four weeks. The order warned that any delay in the submission of a plan would leave the Court with no option but to implement the Supreme Court judgement of February 2016 in Civil Appeal No. 699/2005. ³² The counsel for the Delhi Government informed the court that the government intended to provide alternate accommodation and rehabilitation with the assistance of land-owning agencies. ³³
18 April, 2023	The minutes of the meeting held by the Chief Secretary of Delhi, as presented in court, show that the residents of Tughlakabad were not covered by the Delhi Slum and JJ Rehabilitation Policy, 2015, and thus ineligible for rehabilitation. At best, they could be provided space in the DUSIB Shelter Homes. Furthermore, the minutes stated that since the petitioners did not ask for a stop on the demolition itself, the ASI could proceed as per law. However, it was also noted that another meeting was held the same day to reconsider the rehabilitation of petitioners. ³⁴
30 April and 1 May, 2023	Demolitions occurred, indicating that the authorities did not consider rehabilitation plans promptly.
6 July, 2023	It was noted in the proceedings that the new meeting had still not taken place. The Court ordered the filing of a fresh Status Report indicating the progress in the rehabilitation of the affected residents, expecting the implementation of its previous orders to formulate a plan for rehabilitation of the residents by GNCTD, DUSIB, and various land-owning agencies. ³⁵
25 September, 2023	The next hearing was set for 19 February, 2024.

30 W.P.(C) 1475/2001. *S.N. Bhardwaj v. Archaeological Survey of India & Others*. Available at: http://164.100.60.183/dhcqrydisp_o.asp?pn=329328&yr=2022

31 <https://theleaflet.in/eviction-drive-in-tughlakabad-1000-families-sent-notice-to-vacate-their-houses/>
32 <https://www.outlookindia.com/national/dcpcr-notice-to-asi-to-suspend-tughlakabad-demolition-drive-news-254782>

32 Express News Service (2023, February 5). “Discuss Rehabilitation Plan for Tughlaqabad Fort Area Residents, Delhi HC Directs Delhi Government, Authorities.” *The Indian Express*. <https://indianexpress.com/article/cities/delhi/discuss-rehabilitation-plan-tughlaqabad-fort-residents-delhi-hc-delhi-government-authorities-8423401/>

33 W.P.(C)1160/2023. *Mazdoor Awaas Samiti v. Union of India & Others*. Available at: https://dhcappl.nic.in/dhcorderportal/GetOrder.do?ID=pms/2023/1675332399401_31786_2023.pdf

34 W.P.(C)1160/2023. *Mazdoor Awaas Samiti v. Union of India & Others*. Available at: https://dhcappl.nic.in/dhcorderportal/GetOrder.do?ID=pms/2023/1681981299766_60867_2023.pdf

35 W.P.(C) 1160/2023. *Mazdoor Awaas Samiti v. Union of India & Others*. Available at: https://dhcappl.nic.in/dhcorderportal/GetOrder.do?ID=smp/2023/1688808553583_73441_2023.pdf

Sequence of Events

The notice from ASI. Following the 2016 order of the Supreme Court to remove unauthorised structures and encroachers from the public land in the Tughlakabad Fort area, the ASI served a notice to over 1,000 families, consisting of approximately 2.5 lakh residents in Bengali Basti in Chhuriya Mohalla on 11 January 2023. The notice asked them to vacate their homes within 15 days³⁶ and the anti-encroachment drive took place on 30 April and 1 May, 2023. However, contrary to the claims of the MCD and the Police, the residents assert that they were not informed about the demolition by the ASI until 11 January, when the notices were stuck on their doors. The notice did not give any date for the demolition.

2.5 lakh residents asked to vacate their homes within 15 days

The residents did not vacate their homes as they believed that they had a chance. As far as they were concerned, they had not encroached but bought the land. The residents were also lulled by the local property dealers who downplayed the possibility of demolition. More so because the law does not allow any resident of Delhi to be forcibly removed from their houses without first being provided with alternative rehabilitation. Nonetheless, some residents sought support from organisations advocating for workers in the informal sector, approached local leaders, organised protests, blocked roads and made legal petitions seeking promise of rehabilitation but received no respite or reassurance from any quarter. The Delhi Commission for Protection of Child Rights (DCPCR) wrote to the ASI demanding the withdrawal of the order until adequate arrangements were made for the rehabilitation of children residing in the area. But there was no indication of the authorities setting off rehabilitation processes.³⁷



Entry into Tughlakabad settlement through the Tughlakabad Fort walls

³⁶ Kaskar, Z. (2023, May 2). "Watch: Nearly 1,000 Houses Demolished in Tughlaqabad, Lakhs Homeless After ASI's Action." The Wire. <https://thewire.in/rights/tughlaqabad-delhi-demolition-asi>.

³⁷ <https://www.outlookindia.com/national/depr-notice-to-asi-to-suspend-tughlakabad-demolition-drive-news-254782> : <https://theprint.in/india/depr-notice-to-asi-to-suspend-tughlakabad-demolition-drive/1322411/>

मोदी जी का यह ऐलान जहाँ झुगगी वहीं मकान

भाजपा का सपना है कि 2022 तक हर परिवार के पास खुद के लिए पक्का मकान होगा।



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Door of a house now demolished in Bengali Colony

Forced Eviction in Tughlakabad

“The scenes in Tughlakabad on April 30 were heart-wrenching, as people carried their TVs, refrigerators and whatever else they could gather. Despite a petition by the jhuggi dwellers, the Supreme Court did not stay the demolition but agreed to hear the matter of rehabilitation on Tuesday. Making matters worse, heavy rains lashed the area for two days, leaving hundreds of families in dire straits.”

<https://thewire.in/rights/tughlakabad-delhi-demolition-asi>



Houses in Tughlakabad before the Demolition

On the night of 30 April, the ABHAS team began receiving frantic calls from children who attended their centres. They reported that bulldozers were demolishing their homes without any warning amidst heavy downpour of rain and their belongings were buried in the rubble. The team rushed to the area to find families in shock and debris instead of the homes where children lived. About 50 to 60 houses were razed to the ground that night and people scrambled to gather whatever they could of their belongings while protecting infants and elders from the rain, trying to bypass the uneven 2 feet high rubble. Senior citizens sat wrapped in plastic and banners, shielding themselves from the rain, the old and ailing with a vacant look in their eyes. Bulldozers were on full throttle the next day as well and over 1,000 houses were demolished.

People were deeply distressed by the demolition of their homes and eviction as they were exposed to immense hardships due to a lack of immediate shelter and financial struggles. Not only the roof over their heads, but they even lost food stocks and cooking utensils. Also lost were the two decades of outreach by ABHAS in an exceptionally hard to navigate terrain facilitating educational opportunities, and building confidence and self-esteem in the community and encouraging the families to dream for a promising future. The authorities claimed that they were performing their duty but the residents felt that they were not heard, and their concerns were not addressed. The ABHAS team witnessed heightened tensions due to the presence of the police force, Anti-Terrorism Squad (ATS) and the Central Reserve Police Force (CRPF) during the eviction.

Failed plea to the Supreme Court for a stay on demolitions. Some residents filed a plea for a stay on the demolition drive in Tughlakabad area in the Supreme Court 8 May 2023. On their behalf, Senior Advocate Colin Gonsalves pleaded for the restoration of status quo, submitting that the areas around the Tughlakabad Fort were ordered to be cleared and the Delhi government had offered an alternative rehabilitation for the residents. Although the apex court refused to stay a demolition drive to remove encroachment, a bench of Justice Sanjiv Khanna and Justice MM Sundresh agreed to a hearing on the rehabilitation of evictees and issued notices to the Centre, ASI, and the Delhi Development Authority (DDA).

Absence of relief and rehabilitation. There has been an absolute lack of compassion and inadequate support for the homeless evictees. Socio-economically marginalized, they have been rendered homeless and face an uncertain future. They found shelter in makeshift tents, which offered insufficient protection from the elements and aggravated concerns about the safety and well-being of girls and women. As support and emergency relief from any government institutions or even non-governmental organisations was not forthcoming, ABHAS organized for temporary shelter and food with contributions from some concerned citizens and Resident Welfare Associations for about 15 days. The team also mobilised students and youth volunteers from the local communities to provide emotional support and relief to the affected families and safe spaces for children and adolescent girls where they could rest and study without fear, and invited professional counsellors to provide psychological counselling after cases of emotional breakdowns and attempted suicide were reported. But the displaced people had to find new lodging, often having to pay rents that they can ill-afford. Most families depend on the informal sector, especially work for daily wage, for a living and many breadwinners have not been able to return to work since the demolitions.³⁸

³⁸ Sneha. "Shattered Lives: Where Do the Victims of Tughlakabad Demolition Drive in Delhi Go?" Scroll. In. May 30, 2023. <https://scroll.in/article/1049710/shattered-lives-where-do-the-victimsof-Tughlakabad-demolition-drive-in-delhi-go>.

Experiences and testimonies of the Tughlakabad evictees

“Sapna jo tha apne ghar ka wo sab choor choor ho gaya... kiraye pe aaye, kiraye pe shadi kiye, bas marne se pehle apne bachon ke sar par chhath dena chahte the.” (Translated to English) “The dream I had for my own home is shattered... I rented a place when I came to Delhi, my marriage happened from a rented place, I just wanted to provide my children a permanent roof over their heads before I died.”

A displaced woman. Conversations with HLRN

“... anyone with 50 lakhs will never come here to die. They will look for a flat at a nice place even if it is on instalments. Why have we come here? Because our biggest problem is poverty. Now, understand this, we paid the dealer Rs 50,000 to Rs 100,000 to sit in a place even if we had to keep our things as collateral. We thought that two people in a household would be able to earn Rs 10,000 to Rs 12,000 in 12-13 months although some homes only have one earning member... You see that boy wandering, his father is dead, and his mother works for Rs 10,000 a month. In that, Rs 5,000 goes as rent to the landowner and she uses whatever is left to manage her house. But now, their house has been demolished.”

An evicted woman. Conversations with ABHAS

“People living here bought plots from the local builders. Builders sold the plots by showing fake ownership. People living here did not encroach on the land. They bought it from the builders. Some people bought plots in instalments, some in cash, and others bought after selling their assets. People living on rent on the other side of the road for 20-30 years bought plots here. They thought of making their dream house here.”

Alamdardar, Resident. Conversation with the media³⁹

“I took a loan at a heavy rate of interest and bought a plot here in 2020 for 5 lakhs. I mustered much courage watching others. I worked very hard to gather the money thinking that children will be safer in a proper house. I am feeling helpless now that our homes were destroyed. The property dealers are still giving us hopes and demanding the monthly instalments. There is only one person to earn, and 6 mouths to feed. Where will I get 10,000 rupees per month for rent?”

- Parvati, aged 42, mother of Annu who studies in class 9. ABHAS stories from the demolition site

“We are going on a hunger strike to prevent them from demolishing our homes suddenly. No one listens to the poor. The military (sic) is coming, saying they are doing their duty; the police are coming, saying they are doing their duty; the MCD is coming, saying they are doing their duty. ... there is no one to listen to us. How can we voice our concerns? The female police officers keep pushing us aside, and now they are demolishing our homes right before our eyes. We are helpless, tears are welling up in our eyes, but we cannot cry. They keep saying it is illegal... Well, the whole of Delhi is illegal... they did not even give us a notice...”

Conversations with HLRN.

³⁹ Siddiqui, O. (2023, May 15). “Tughlakabad Demolition: I Met Homeless Struggling to Survive in Delhi’s Heat.” The Quint. <https://www.thequint.com/my-report/tughlakabad-demolition-bulldozer-asi-razes-houses-after-delhi-high-court-order-on-encroachments>

Shabana, aged 45, came to Tughlakabad with her husband, four sons and two daughters from Balrampur village in Gonda district of Uttar Pradesh in 2014. Like others, they decided to build a home and took out a loan to buy a plot of land for Rs 4.3 lakhs and build a few rooms. She lost her home and possessions, and fractured her hand while trying to retrieve whatever she could and now she finds it hard to work. Her husband is the only earning member of the family and two of her sons have had to drop out of school due to the crisis - one was in Grade 11 while the other was in Grade 12. Her family did not receive any help from anyone.

ABHAS stories from the demolition site

Sindhu Devi, also aged 45, moved to Tughlakabad from Siur village in Nawada district of Bihar in 2016 and lived on rent for a year and then bought land in Bengali Colony to build their own home with her family, including her husband who happens to be alcoholic, two sons and a daughter-in-law. She had to send her three-month pregnant daughter-in-law and older son back to the village while her 19 year old younger son started working to help them rent a room for Rs 5,000 per month.

ABHAS stories from the demolition site

Rangita, aged 45, shifted to Tughlakabad with her family from their village in Patna district in 2018 and bought land to build a home in 2020. They were devastated when their home was demolished. Feeling helpless and anxious, they approached the local political leaders but were denied assistance. The land dealer tried to console them that they will get the land back, but they have no hope. With great difficulty they rented a room for Rs 6,000 per month and continue to face deprivation in terms of food and other essentials as one person's income is insufficient for building a life from scratch. Faced with uncertainty and hopelessness, she laments absolute lack of interest in work.

ABHAS stories from the demolition site

Jayanti, aged 46, left her village in Varanasi 22 years ago and in 2016 made a home with her husband, two sons and two daughters in Tughlakabad. One son is a delivery boy with an eCommerce business and one daughter is a beautician while the remaining two children attend college. They invested in the house in anticipation of the marriage of the older son. Having lost their home and all their possessions, the family rented a room with much difficulty for Rs 6,000 per month with extra payment for the utilities.

ABHAS stories from the demolition site

Twenty-year-old Deepak, whose family hails from Bihar, recalls that the first notice was received on 13th January. People were complacent as they believed that there had been plenty of talk of eviction and demolition in the past but there was no action. But the bulldozers appeared suddenly on April 30th and began the demolition. They tried to save whatever they could before their homes and possessions were razed to the ground. Even the local temple was destroyed. The protests organised at Jantar Mantar could not elicit any response from the authorities. His family has now moved to a room for which they pay Rs 3,000 per month and extra for water and electricity.

Conversations with HLRN.

Lakshmi, aged 45, is from Nainital in Uttarakhand but has lived in Delhi for a long time. Following others, her family bought the land for Rs 9 lakhs in 2014. Her husband has been unwell and suffered a stroke on 16th January, a few days after the eviction notice was served. She recalls the demolition drive with great pain as the rains caused her husband's body to swell. Her three daughters work and support the household financially. The family has rented an accommodation that they can ill-afford. They took part in the protests at Jantar Mantar and ITO, and approached the local political leaders but nobody paid any heed to their plight.

ABHAS stories from the demolition site

"We sat in protest at ITO to protest and demand our rights after our house was bulldozed. There too, we were beaten. We sat on hunger strike for eight days, but nobody came, and nothing happened. We ended up spending Rs 6,000 on the transport... We have been sitting on the rubble of our house for four days. Last night someone tried to molest my daughter. It was horrible."

Sabina Khatoon, in conversation with ABHAS

"Adding to our troubles, the rain started on the day they came to demolish our homes... We lived in the jungle for four days, and one day a scrap dealer came and told us to leave as everyone else had left. We were the last ones to leave the jungle because we could not find a room where we could relocate... My CUET exams start in one week and I could not salvage my books. What am I supposed to do? Both my brothers are disabled, and my mother does not stop crying."

Archana, Class XII student, in conversation with ABHAS

"I do not have money for food, ma'am. You can see the struggle on everyone's face as they go in the morning for work and return in the afternoon. We work as domestic helpers in Chittaranjan Park. We worked even during the lockdown. Our wages are deducted if we take an extra day off. Then our homes were demolished suddenly. We had to rent rooms for Rs 4,000, and then the rent was increased to Rs 6,000. What can we do but take the rooms at these rates. We cannot do anything; where will we go with our children?"

ABHAS stories from the demolition site

Pooja, a Class IX student at the nearby Sarvodaya Kanya Vidyalaya, was busy clearing shattered bricks from where her clothes and books used to be, while the neighbours loaded bricks and broken furniture to be sold as scrap onto a vehicle.

Conversation with the media⁴⁰

For Suman, a domestic worker and resident of the Bengali Basti Camp, leaving her 14-year-old daughter alone while she went out to work is no longer an option. Earlier the kids were told to lock the door to save themselves from unwanted attention but now that is not possible.

Conversation with the media⁴¹

⁴⁰ Sneha. "Shattered Lives: Where Do the Victims of Tughlakabad Demolition Drive in Delhi Go?" Scroll. In. May 30, 2023. <https://scroll.in/article/1049710/shattered-lives-where-do-the-victimsof-Tughlakabad-demolition-drive-in-delhi-go>.

⁴¹ Ibid

Looking pale and distraught, Ruksana is diabetic, pregnant and fearful of the safety of her unborn child. Her husband was out of Delhi when the demolition happened. She hid her insulin kit in the jungle but was unable to locate it in the melee.

ABHAS stories from the demolition site

Sachin, aged 14, is a Class XII student associated with ABHAS Centre. His family of seven which migrated to Delhi from Unnao in Uttar Pradesh has been uprooted twice. His father works in Hauz Khas where they had a home, which was demolished but they received Rs 25,000 as compensation. The desire for their own roof over their head tempted them to buy a plot of land for Rs 7 lakhs in Tughlakabad in 2020 but this home too has been razed to the ground and the family has moved to a rented house.

ABHAS stories from the demolition site

Anjali Gupta, a single parent providing at-home salon services, had built her house in Chhuriya Mohalla. Unfortunately, her house got demolished while she was away on a work trip, and her son could only salvage essential documents, including a diary tracking payments to the land dealer and money given to local authorities for construction permits.

Conversation with the media⁴²

Reena Sharma, a 40-year-old resident, sat on a protest in April, refusing to leave the rubble of her demolished home until her family and neighbours were rehabilitated. Her income as a domestic worker and her husband Yatender Sharma's income as an e-rickshaw driver was the mainstay of their family and allowed them to educate three of their four children. They lost a major source of income on 30th April as charging the battery became very difficult. The rickshaw had to be parked under a tree as a hold for a few belongings that they could retrieve from the rubble, including a tablet the online learning platform Byju's had provided their son. Byju's calls him daily for his son's class fees but now he is more concerned about the next meal for the family.⁴³

Conversation with the media⁴⁴



Destruction in Tughlakabad

⁴² Sneha. "Shattered Lives: Where Do the Victims of Tughlakabad Demolition Drive in Delhi Go?" *Scroll*. In. May 30, 2023. <https://scroll.in/article/1049710/shattered-lives-where-do-the-victimsof-tughlakabad-demolition-drive-in-delhi-go>.

⁴³ Ibid

⁴⁴ Ibid

Case for Rehabilitation

The Tughlakabad forced evictions and home demolitions violate the provisions of India's Constitution, national and international laws, and several court judgments. The jurisprudence of Article 21 of the Constitution, which recognizes the right to housing as integral to the right to life, extends itself beyond 'the procedure established by law.' Yet, people were forcibly removed from their homes, without proper notice. While the Court orders have underscored the imperative of timely rehabilitation, the case for rehabilitation of the evictees is still pending in the Delhi High Court. Today, they are struggling to survive; in their effort to relocate and resettle themselves, many families have fallen into debt.

Displacement as a violation of human rights: A stable and safe living environment encourages a sense of belonging, social interactions and cohesion, and creates communities whereas inadequate housing and/or forced evictions erode human dignity, lead to isolation and insecurity and ultimately strain and tear the social fabric. The right to adequate housing is deemed essential for human dignity and is intertwined with various other basic rights, including the right to work, health, water, sanitation, food, land, education, and security of the home and person.

Violation of the rights to life, health, and food: People who were evicted and saw their homes being demolished have been devastated and lives, safety and security jeopardised. They have for long been at the margins of mainstream society due to socio-economic and political disempowerment. The average family income in the community is roughly Rs 7,500 per month with an average family size of 5.6. They were forced to leave their homes without sufficient notice and were left without shelter from the elements and essential necessities, such as food.

Financial losses accruing from the cost of shifting homes, missed workdays or the loss of livelihoods, have deteriorated their standard of living even further. As they face a long-term struggle to get their lives back on track by finding ways of rebuilding homes or relocating and recovering their livelihoods, some essentials like food, healthcare and education of children and are bound to be affected.

Although every individual faces the impact of demolitions differently even within the marginalized communities, children, the elderly, persons with chronic illnesses, and pregnant

and lactating women bear the major brunt. Long-term health consequences have not been documented adequately but increased hunger and malnutrition among them is envisaged.

Violation of rights to adequate housing and security of the person and home: Home demolitions and evictions indicate the failure of the State to ensure the fundamental human right to adequate housing upon which the access to livelihoods, education, healthcare, water, food, sanitation, and electricity and an adequate standard of living are premised. They undermine the government's commitment to "housing for all" and defeat the objectives of the *Pradhan Mantri Awaas Yojana* and several state housing schemes for economically weaker sections and low-income groups. Although the displaced residents urged the Delhi government to allocate them houses under the *Rajiv Ratan Awaas Yojana* or the *Jawaharlal Nehru Urban Rehabilitation Mission*, the absence of the settlement from the DUSIB's list has hampered resource allocation and thereby any prospect of rehabilitation.

Forced eviction and demolition of homes signal a disregard for human dignity and serious financial losses for the affected people. Most of the evictees had raised their financial resources through loans or savings from the years of hard work but are left homeless or forced to live in inadequate housing conditions since resettlement is rarely provided.

Violation of children's right to education: The Right of Children to Free and Compulsory Education Act, 2009, guarantees every child formal elementary education but many of the evicted and displaced children have already dropped out of school or are showing dismal learning levels, often a prelude to dropping out. The evictions were particularly ill-timed for children who started their new school year as their uniforms, books, and school bags were reduced to rubble. They affected school attendance and their ability to concentrate on studies as their families grappled with homelessness, uncertain livelihoods, increased financial burdens, and the challenges of sending them to school from resettlement sites or alternative housing areas.

Financial losses directly impact essential needs of families even before they can overcome the shock of home demolition. Education becomes a pressing yet unresolved concern as children's future hangs on uncertainty. The books and notes of young people who had completed their 12 Grade Board Examinations and were preparing for the Common University Entrance Test to enter college were buried under the rubble. Many of them bravely dealt with adversity to secure college admission but they deserved better.

Adolescent girls are disproportionately affected under such circumstances as they are often made to care for younger siblings, contribute to the household income by working in factories or as domestic help. Distressed parents are reportedly opting for early marriage of their adolescent daughters instead of giving them a life on the streets or in insecure and isolated resettlement areas at high risk of sexual violence, abuse, exploitation, and trafficking.

Violation of the right to work: Families uprooted from their homes faced periods of unemployment that they could ill-afford as they searched for alternative housing or rebuilt their dwellings. Many people lost their jobs and those compelled to relocate to distant resettlement sites or different areas have had to face the challenge of finding new work. Women employed as domestic help in the nearby areas lost their homes and rendered them vulnerable to loss of work.

The loss of livelihoods leads to a decrease in income for already impoverished families even as they incur additional expenses. After an eviction, families must allocate funds to reconstruct their homes, replace essential items, and frequently obtain vital documents such as election

cards, ration cards, driving licences, school certificates, and other vital records lost during demolition.

Significant psychological impacts of forced evictions on the affected communities, families and individuals are generally overlooked. Shelter is one of the basic needs in Abraham Maslow's model of the hierarchy of needs, which attributes deficiencies in human existence to unmet basic needs. Demolition of physical structures that one calls home and persisting uncertainty about the future severely undermines individuals' physiological and psychological well-being and perpetuates a cycle of deprivation and insecurity.

The living conditions of the evictees have deteriorated significantly as the soaring rents exacerbate their plight as affordable housing options become scarce. Most affected families worked in the informal sector, with their livelihoods severely impacted due to the loss of their homes. The government's slow response to their rehabilitation needs has left them living amidst the ruins, facing uncertain futures and financial hardships. Indeed, a High Court-directed survey that can be the basis of the rehabilitation of these residents has still not been conducted. Instead, the place has been cordoned off and plans are afoot to build a huge park on the vacated land. New notices have, meanwhile, been issued to the houses on the other side of the road.

Violation of laws, policies, and standards: Several central and state laws such as the Delhi Development Act 1957, the Slum Areas (Improvement and Clearance) Act 1956, the Public Premises (Eviction of Unauthorized Occupants) Act 1971, and the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, mandate due process, including the provision of notice, for forced evictions. However, the State grievance redress mechanisms often fail to address forced evictions and displacement issues. Indeed, a significant section of the urban and rural landless, commonly labelled as “encroachers” or “illegal” residents by the State and its law enforcement, frequently face neglect of their pleas for justice. They face their challenges alone, with limited avenues for relief and redress. Some of them with resources or access to organizations working on housing and land rights may approach courts or the National Human Rights Commission (NHRC) for assistance but eviction cases require explanations or reports from the concerned state agencies, which they are often unable to ensure. Independent investigations or punitive actions against responsible officials are seldom pursued.



Affected families collecting rubble after the demolition in Tughlakabad

Key Judgements of Indian Courts in Forced Eviction Cases

The Supreme Court and Delhi High Court have recognized the right to shelter as the fundamental right. Several court judgments have established and read Articles 14 (Equality before law), 19 (Right to freedom of speech and expression), and 21 (Protection of life and personal liberty) of the Constitution into the right of housing.

In the case of *U.P. Avas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd.* [1996 AIR 114, 1995 SCC Supl. (3) 456], the Supreme Court stated:

The right to shelter is a fundamental right that springs from the right to residence under Article 19 (1) and the right to life under Article 21.

In the case of *Francis Coralie v. Union Territory of Delhi* [1981 AIR 746, 1981 SCR (2) 516], the Supreme Court stated:

We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing, and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow beings.

Furthermore, in the case of *Chameli Singh v. State of Uttar Pradesh* [Appeal (civil) 12122 of 1995], the Supreme Court provided a clear understanding of the right to life:

Right to live guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. These are the basic human rights known to any civilised society. All civil, political, social, and cultural rights enshrined in the Universal Declaration of Human Rights and Conventions or under the Constitution of India cannot be exercised without these basic human rights.

The Supreme Court in *Olga Tellis v. Bombay Municipal Corporation* observed how the right to livelihood was a product of the right to life because one cannot ignore how one determines their own survival [1986 AIR 180, 1985 SCR Supl. (2) 51]. It was established that:

The sweep of the right to life conferred by Article 21 is wide and far reaching. ...An equally important facet of that right is the right to livelihood because no person can live without the means of living, that is, the means of livelihood. ...That, which alone makes it possible to live, leaving aside what makes life liveable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived him of his life.

The Delhi High Court in *Sudama Singh and Others vs. Government of Delhi* had dismissed the argument that those residing in jhuggis (slums) were not entitled to rehabilitation [WP(C) Nos.8904/2009, 7735/2007, 7317/2009 and 9246/2009]. It stated:

The denial of the benefit of the rehabilitation to the petitioners violates their right to shelter guaranteed under Article 21 of the Constitution. In these circumstances, removal of their jhuggis without ensuring their relocation would amount to gross violation of their Fundamental Rights.

It also stated:

44. (...) Considerations of fairness require special concern where these settled slum dwellers face the threat of being uprooted. Even though their jhuggi clusters may be required to be legally removed for public projects, the consequences can be just as devastating when they are uprooted from their decades long settled position. What very often is overlooked is that when a family living in a jhuggi is forcibly evicted, each member loses a “bundle” of rights – the right to livelihood, to shelter, to health, to education, to access to civic amenities and public transport and above all, the right to live with dignity.

57. This Court would like to emphasise that in the context of the MPD [Master Plan of Delhi], jhuggi dwellers are not to be treated as “secondary” citizens. They are entitled to no less an access to basic survival needs as any other citizen. It is the State’s constitutional and statutory obligation to ensure that if the jhuggi dweller is forcibly evicted and relocated, such jhuggi dweller is not worse off. The relocation has to be a meaningful exercise consistent with the rights to life, livelihood and dignity of such jhuggi dwellers.

In *Ajay Maken v. Union of India* [W.P.(C) 11616/2015, CM APPLs.31234/15, 3033/16 & 10640/17], the High Court of Delhi held that forced evictions, without adequate notice, adherence to the due process established in *Sudama Singh v. Government of Delhi*, and without adequate rehabilitation, would be considered illegal. It stated that:

The decision in *Sudama Singh* requires a Court approached by persons complaining against forced eviction not to view them as ‘encroachers’ and illegal occupants of land, whether public or private land, but to ask the agencies to first determine if the dwellers are eligible for rehabilitation in terms of the extant law and policy... In other words, conducting a detailed survey prior to the eviction; drawing up a rehabilitation plan in consultation with the dwellers in the JJ bastis and jhuggis; ensuring that upon eviction the dwellers are immediately rehabilitated - will all have to be adhered to prior to an eviction drive. Forced eviction of jhuggi dwellers, unannounced, in coordination with the other agencies, and without compliance with the above steps, would be contrary to the law explained in all of the above decisions.

The High Court of Delhi, in the case of P.K. Koul v. Estate Officer [W.P.(C) No.15239/2004 & CM No. 11011/2004] affirmed:

(...) right to residence and to settle in any part of the country is assured to every citizen as a fundamental right under Article 19(1)(e) of the Constitution of India. The right to shelter springs from this right and has been considered to be an integral part for a meaningful enjoyment of right to life under Article 21 of the Constitution of India.

It has been observed by the Supreme Court in (2003) 6 SCC 1 Kapila Hingorani vs. State of Bihar that indisputably, the state parties to the International Covenant on Economic, Social & Cultural Rights were to take appropriate steps to ensure realisation of this thought. So far as the present case is concerned, this covenant specifically states the right of everyone to an adequate standard of living including housing.

It is essential to note that in fact no new right is being created, recognised or reiterated by the international instruments or the said guidelines. The right to shelter of every person has been recognized as an essential concomitant right to life under Article 21 of the Constitution of India. It would clearly be covered under the definition of a “human right” under Section 2(1)(d) of the Protection of Human Rights Act, 1993, which includes rights relating to life, liberty, equality and dignity. The right to shelter, an essential part of right to life, would therefore also be a statutorily recognized right under Section 2(1)(d) of the Act of 1993 and enforceable as such also.

Breach of International Commitments and Legal Obligations. Eviction without due processes and displacement of people also breaches India’s legal obligations under various international treaties (e.g., the Covenant on Economic, Social, and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of Persons with Disabilities), contradict the principles outlined in several international policy documents and compromise India’s commitment to achieving the Sustainable Development Goals by the year 2030.

The Universal Declaration of Human Rights (UDHR), 1948⁴⁵

Article 25.1: Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.

International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)

Article 11.1: The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

In 1991, the UN Committee on Economic, Social and Cultural Rights (CESCR)⁴⁶ in its General Comment 4 elaborated the letter and intent of Article 11.1 by stating that housing to be considered adequate must, at a minimum, include the following seven core elements:

⁴⁵ Handbook on the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement (Fifth Edition). Housing and Land Rights Network. New Delhi. 2019

⁴⁶ CESCR General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant). <https://www.refworld.org/legal/general/ceser/1991/en/53157>

1. **Legal security of tenure:** All persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.
2. **Availability of services:** An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.
3. **Affordability:** Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.
4. **Habitability:** Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well.
5. **Accessibility:** Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. The human right of disadvantaged groups such as older persons, children, persons with disabilities, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be protected.
6. **Location:** Adequate housing must be in a location which allows access to employment options, food, health-care services, schools, childcare centres and other social facilities.
7. **Cultural adequacy:** The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity.

The UN Special Rapporteur on Adequate Housing and civil society organisations such as HLRN expanded these elements of adequacy to include:⁴⁷

- **Physical security:** Every woman, man, youth and child has the right to live and conduct her/ his private life in a secure place and be protected from threats or acts that compromise their mental and / or physical well-being or integrity inside or outside the home.
- **Access to information:** Individuals and communities must have access to appropriate data, documents and intellectual resources that impact their human right to adequate housing.
- **Participation:** At all levels of the decision-making process related to the provision of housing and fulfilment of the human right to adequate housing, individuals and communities must be able to express and share their views; they must be consulted and be able to contribute substantively to such processes that affect their housing.
- **Access to land, water and other natural resources:** Every community must have access to natural resources necessary for its survival and livelihood, including, inter alia, fuel, fodder, water and building materials.
- **Freedom from dispossession, damage and destruction:** All individuals and communities have a right to a place to live without threat of dispossession from their land, all forms of their property, their homes and resources, as well as all individual and collective holdings required to sustain their livelihoods.
- **Resettlement, restitution, compensation, non-refoulement and return:** The rights to resettlement and freedom of movement must be protected. Any resettlement or compensation arrangement, whatever the cause, must be consensual, fair and adequate to meet individual and collective needs.
- **Access to remedies:** Provision of domestic legal and other remedies is an important part of protecting the human right to adequate housing. Individuals and groups must be protected from abuse by landlords, property developers, landowners or any other third party capable of abusing their rights. Where such infringements do occur, public authorities should act to preclude further deprivations as well as guarantee access to judicial redress, including legal and equitable remedies for any infringement caused.

⁴⁷ 'What does the 'Human Right to Adequate Housing' mean? https://www.hlrn.org.in/documents/Human_Right_to_Adequate_Housing.htm

- **Education and empowerment:** Individuals and communities should have access to technical assistance and other means to enable them to improve their living standards and fully realise their economic, cultural, and social rights, and development potential.
- **Freedom from violence against women:** The state must prevent all forms of violence against women committed by either state or non-state actors to ensure women's human right to adequate housing.

In 1997, the committee in its General Comment 7⁴⁸ defined forced evictions as “the permanent or temporary removal against the will of individuals, families or communities from their homes or land, which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”

United Nations Commission on Human Rights, Resolutions 1993/77 and 2004/28

“The practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing.”

UN Basic Principles and Guidelines on Development-based Evictions and Displacement

16. All persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education.
25. In order to secure a maximum degree of effective legal protection against the practice of forced evictions for all persons under their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land.
41. Any decision relating to evictions should be announced in writing in the local language to all individuals concerned, sufficiently in advance. The eviction notice should contain a detailed justification for the decision, including on: (a) absence of reasonable alternatives; (b) the full details of the proposed alternative; and (c) where no alternatives exist, all measures taken and foreseen to minimise the adverse effects of evictions.
49. Evictions must not take place in inclement weather, at night, during festivals or religious holidays, prior to elections, or during or just prior to school examinations.
52. The Government and any other parties responsible for providing just compensation and sufficient alternative accommodation, or restitution when feasible, must do so immediately upon the eviction
- 56 (b) Resettlement must ensure that the human rights of women, children, indigenous peoples and other vulnerable groups are equally protected, including their right to property ownership and access to resources...
(d) No affected persons, groups or communities shall suffer detriment as far as their human rights are concerned, nor shall their right to the continuous improvement of living conditions be subject to infringement.
58. Persons, groups or communities affected by an eviction should not suffer detriment to their human rights, including their right to the progressive realisation of the right to adequate housing.
59. All persons threatened with or subject to forced evictions have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation, and compensation.

⁴⁸ CESCR General Comment No. 7 on The Right to adequate housing (art. 11.1 of the Covenant): Forced Evictions. Available at: https://www.hlrn.org.in/documents/CESCR_General_Comment_7.pdf

2. Improving security of tenure

States, including relevant authorities, should take the following measures to improve security of tenure, especially for vulnerable and marginalized persons and groups living in urban poor settlements:

- (a) Conduct citywide assessments of tenure arrangements;
- (b) Identify insecure settlements and population groups, including the homeless;
- (c) Develop citywide strategies for securing tenure and upgrading settlements on different categories of land and with different tenure arrangements;
- (d) Review and reform urban plans and regulations in order to integrate settlements;
- (e) Adopt and implement a human rights-compliant resettlement policy to be applied where in situ solutions are not possible;
- (f) Facilitate participatory settlement mapping, enumerations and tenure registration;
- (g) Establish fair and effective land dispute resolution mechanisms;
- (h) Allocate sufficient funds to ministries, municipalities and local governments for the implementation of these measures; and
- (i) Adopt or revise legislation to recognize and protect multiple tenure arrangements.

3. Prioritizing in situ solutions

Tenure should be secured *in situ* unless there are exceptional circumstances that justify eviction consistent with international human rights law... In situ solutions should be found whenever it is possible to:

- (a) mitigate and manage risks of disaster and threats to public health and safety; or
- (b) balance environmental protection and security of tenure; except when inhabitants choose to exercise their right to resettlement.

The progression in the definition of an adequate standard of living in the global discourse is noteworthy as it has expanded the conditions that must be met for the well-being and security of individuals, families, and communities.

The 2030 Sustainable Development Agenda, 2015, adopted Sustainable Cities and Communities as a goal and targeted access for all to adequate, safe and affordable housing and basic services, and upgradation of slums by 2030 (SDG 11, Target 11.1). **The New Urban Agenda**, adopted at Habitat III and endorsed by the UN General Assembly in 2016, represents a shared vision for a better and more sustainable future. It upholds the commitment to promotion of “national, subnational and local housing policies that support the progressive realisation of the right to adequate housing for all as a component of the right to an adequate standard of living, that address all forms of discrimination and violence and prevent arbitrary forced evictions and that focus on the needs of the homeless, persons in vulnerable situations, low-income groups and persons with disabilities, while enabling the participation and engagement of communities and relevant stakeholders in the planning and implementation of these policies, including supporting the social production of habitat, according to national legislation and standards.”⁴⁹

⁴⁹ United Nations, 2017. The New Urban Agenda. <https://habitat3.org/wp-content/uploads/NUA-English.pdf>

Conclusion and Recommendations

Lately, many demolition drives have been undertaken under various pretexts, including beautification of urban spaces ahead of the visits of foreign dignitaries, or as part of urban development plans. Although courts have occasionally intervened and stayed evictions, people living in poverty in the slums are not always fortunate. Under no circumstance should people be deprived of access to adequate, safe, and stable housing, which is critical for their dignity, self-esteem, well-being, and developmental opportunities. The Human Rights Commission Resolution 1993/77 is categorical that forced evictions are *prima facie* violations of the human right to adequate housing and contribute to the phenomenon of homelessness.⁵⁰ Constitutional obligations and pronouncements of the Indian judiciary also deem housing to be a fundamental human right.

Demolition induced disaster in Tughlakabad more than ever underscores the importance of:

- Codified laws and comprehensive humane and rights-based standard operating procedures to prevent the recurrence of forced evictions and demolitions that violate the basic rights of marginalized communities living in informal settlements.
- Robust legal protection against arbitrary evictions and provision for adequate rehabilitation to prevent further violation of human rights.
- A more inclusive and compassionate approach of the Central and State governments, which involves serious consideration of the social and economic implications of their actions, prevention of further displacement of vulnerable communities, and mitigation of their hardships through provision of shelter, and improved access to education, healthcare, livelihood opportunities, and community integration in the rehabilitation measures.
- Renewed thrust on home-ownership in the national policy agenda to provide individuals with a sense of stability and dignity.

These measures are imperative for a more equitable and just urban landscape for all citizens, responsible citizenship, which is a precondition to stronger and resilient communities.

⁵⁰ Handbook on the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement (Fifth Edition), Housing and Land Rights Network, New Delhi, 2019

“The human right to adequate housing is the right of every woman, man, 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



Tughlakabad today – it is as if there were no homes ever!

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About The Organisations

ABHAS promotes child rights, social justice, and peoples' empowerment by forging strong relationship with the local communities. Through its outreach programme over more than two decades of outreach programmes in all the 16 mohallas in the 8 km radius of Tughlakabad village, it has connected with more than 10,000 excluded children and adolescents (e.g., child rag-pickers serving the Okhla landfill) and undertaken programmes to address their educational and protection needs, equipped and empowered girls with life skills to enhance their self-esteem and confidence for responsible decision-making. ABHAS has been the first point of contact for local communities in the event of problems, threats, and crises - usually related to coping with life at the margins, insecurity, and displacement.

Housing and Land Rights Network (HLRN) works for the recognition, 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 marginalized communities, to live in peace and dignity. Through research, education, and advocacy related to housing and land rights, it focuses on promoting and protecting the equal rights of women to adequate housing, land, property, and inheritance.

