



# HOUSING AND LAND RIGHTS NETWORK

## Habitat International Coalition

### URGENT ACTION APPEAL

#### Case IND-FE 130110

### **New Delhi, India—Government evicts over 400 homeless persons, sets their belongings on fire, ten deaths already from the severe winter conditions**

House/community demolitions, forced evictions, use of force, deprivation of the means of subsistence

The Housing and Land Rights Network (HLRN), part of Habitat International Coalition (HIC), a global coalition of member organizations in over 100 countries, is deeply disturbed to have learned from our South Asia Regional Programme (HLRN-SARP) about the gross violations committed by the Indian Government against homeless persons amid severe winter conditions in New Delhi. **Your urgent action is required.**

#### **Current Crisis**

The bitter winter cold, icy winds and falling night temperatures in Delhi make it very difficult for the homeless to sleep out in the streets. Already ten deaths resulting from the extreme weather conditions have been reported in the city between 31 December 2009 and 12 January 2010. Despite the fact that homeless people are freezing to death, the government perceives no sense of emergency and offers no resolution. Rather than accounting for extreme conditions and providing adequate shelter for the homeless, the Government of India has been demolishing shelters and evicting the homeless from their places of residence.

On 22 December 2009, the Municipal Corporation of Delhi (MCD) demolished a temporary night shelter for the homeless at Pusa Roundabout (Rachna Golchakar), Delhi. It is estimated that 250 persons were rendered shelterless and made to suffer out in the freezing cold. A 35-year-old balloon seller, Bhima, succumbed to the cold and died on 31 December 2009. The shelter had been set up by the Department of Revenue, Government of National Capital Territory (NCT) of Delhi, but MCD officials claim it was illegal and the people taking shelter there were encroachers. Alarming, MCD officials have stated that the land on which the shelter sat had to be “beautified” and grass had to be grown there in preparation for the upcoming Commonwealth Games. The prioritization of beautification schemes by city officials over their responsibility to ensure the rights of the homeless is not only distressing, but also

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reflects the glaring problem of a lack of coordination among government agencies in Delhi.

On 6 January 2010, the Chief Justice of the Delhi High Court, Justice A.P. Shah, initiated a *suo moto* case against the MCD regarding the demolition of the night shelter. On 7 January 2010, a bench consisting of Justice A.P. Shah and Justice Rajiv Sahai Endlaw ordered the MCD immediately to restore the Pusa Roundabout night shelter, not to evict homeless persons in the winter on “humanitarian grounds,” and to take responsibility for protecting the rights of homeless persons in Delhi.

Despite the High Court’s interim order, an adequate shelter to accommodate all the homeless people still has not been reinstated at Pusa Roundabout as of 13 January 2010. The MCD has only established a small tent accommodating only 40-50 people, without basic amenities. Most of the homeless are still out in the cold on the street, awaiting shelter.

In another glaring violation of the High Court Order and with complete disregard for the rights of the homeless, the Northern Railway, Delhi Police and MCD officials violently evicted over 400 people from Pul Mithai, Naya Bazaar, Delhi, on the morning of 9 January 2010. They beat women and children with batons (lathis), and burned and destroyed the people’s possessions. A complaint was filed by the victims in the local police station, but the police still have not registered a First Information Report.

Reportedly, 60 of the evicted families are Dalits (belonging to the Scheduled Castes). Many of them are apparently construction workers employed for the Commonwealth Games. The displaced remain out in the freezing cold with their salvaged belongings, with nowhere to go. The latest reports indicate that they are facing the threat of being evicted from the neighbourhood as well.

On 13 January 2010, in the third hearing of the *suo moto* case, the Delhi High Court reproached the MCD for its failure to protect the rights of the homeless, in particular its inability to reinstate the temporary night shelter at Pusa Roundabout. It ordered the MCD to immediately provide an adequate shelter at the same place, which would accommodate all 250 people who were residing in the original shelter. It also called for a moratorium on further evictions in the winter.

## **Background**

New Delhi has a population of between 100,000 and 150,000 homeless persons. Of these, over 10,000 are homeless women. Currently only 24 temporary night shelters operate for Delhi’s homeless. Only one of these shelters is exclusively for women.

The number of shelters this winter season (2009–10) has fallen to 24 from 46 in the year 2008–09, despite an increase in the number of homeless. The current shelters cater to only 3% of Delhi’s homeless population. The majority of the homeless are out in the open, left to fend for themselves in the severe cold.

Homeless groups repeatedly have submitted demands to the Delhi government for urgently setting up 44 temporary night shelters in priority areas where the homeless are located. The government has, however, taken no action so far.

## Legal Obligations

These forced evictions without adequate rehabilitation and the failure to provide adequate housing for the homeless, violate the affected people's fundamental right to life and livelihood as enshrined in Article 21 of the Indian Constitution. Reaffirming the principle of indivisibility of all human rights, the fundamental right to life encompasses the right to live with human dignity. Furthermore, Article 14 of the Constitution of India guarantees equal protection under law.

There are several provisions for the homeless in local laws and policies too, which the government is also violating. The Delhi Master Plan 2021 clearly calls for the provision of night shelters; one shelter for 100,000 of the population. Instead of working toward the establishment of 140 night shelters as per the Master Plan, the government on the contrary has reduced the number of shelters, thus pushing the homeless into further destitution. The Delhi Municipal Corporation Act 1957 also stipulates the "construction and maintenance of poor houses and provision of shelter and relief for destitute persons."

The actions against the homeless of Delhi and the continued failure of the Delhi government to ensure access to housing and basic services for the homeless are gross violations of a range of internationally recognized human rights, in particular, their rights to adequate housing, livelihood, food, water, health, education, work, security of person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. The authorities especially have violated people's entitlements to security of tenure and freedom from forced evictions; access to, and benefit from public goods and services; information, capacity and capacity building; participation and self-expression; rights to resettlement and adequate compensation for violations and losses; and physical security and privacy. All are elements of the human right to adequate housing as recognized in international law.

The Indian authorities, including the local authorities, have breached their treaty obligations under, *inter alia*, Articles 2, 11, 12, 13 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which India acceded on 10 April 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments No. 4 on the right to adequate housing and No. 7 on forced evictions. The State of India also has contravened its obligations under Articles 16, 27 and 39 of the Convention on the Rights of the Child (CRC), to which it acceded on 11 December 1992, and Article 14 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which it ratified on 9 July 1993. The evictions also violate the UN Basic Principles and Guidelines on Development-based Evictions and Displacement.

In its May 2008 Concluding Observations on India, the UN Committee on Economic, Social and Cultural Rights called upon the Indian government to address the rising homelessness in the country, including the need for disaggregated data on the homeless. Citing India's particular lack of detailed information on the problem, the Committee stated that it:

"...is concerned about the lack of a national housing policy, which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by

providing them with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party (para 30).”

### **Action Requested**

We request you to write to the various responsible departments of the Delhi government and make the following demands:

- Immediately to rehabilitate the evicted families at Pul Mithai in the nearby community centre and provide them with basic services and adequate housing conditions, as well as compensation for losses suffered;
- Immediately to provide a warm and adequate shelter and basic amenities for the evicted homeless in Pusa Roundabout, as per the interim order of the Delhi High Court;
- Immediately set up more temporary night shelters for the homeless (44 as per demands submitted by civil society organizations and the homeless) that provide basic amenities and services like blankets, toilets, water and sanitation, and are located close to their livelihood sources;
- Provide separate shelters for homeless women and children, and families;
- Urgently make available the various vacant government buildings, community centres and other unused premises as homeless shelters;
- Create permanent, year-round shelters for the homeless, as the crisis of homelessness does not only exist in the winter but is a perennial one;
- Prosecute those responsible for the evictions of the homeless, especially those using force against women and children;
- Develop a comprehensive policy to address the housing rights of Delhi’s poor.

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**Please see the attached Sample Letter to the duty holders listed below. Kindly inform HLRN of any action undertaken, including sending a copy of your letter to the authorities, quoting the code of this appeal (IND-FE-130110) to: [urgentactions@hlrn.org](mailto:urgentactions@hlrn.org) and [schaudhry@hic-sarp.org](mailto:schaudhry@hic-sarp.org)**

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### **Official Addressees:**

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## Sample Letter

Dear Sir/Madam:

We are profoundly disturbed by news we received from the Housing and Land Rights Network (HLRN), part of Habitat International Coalition (HIC), a global coalition of member organizations in over 100 countries, and their local counterparts in India, the South Asia Regional Programme (HLRN-SARP) about the atrocities being committed by the Indian Government against homeless persons amidst severe winter conditions in New Delhi.

We have learned that the bitter winter cold, icy winds and falling night temperatures in Delhi make it very difficult for the homeless to sleep out in the streets. Already ten deaths resulting from the extreme weather conditions have been reported in the city between 31 December 2009 and 12 January 2010. Despite the fact that homeless people are freezing to death, there is no sense of emergency or resolution being perceived by the government. Rather than accounting for extreme conditions and providing adequate shelter for the homeless, the Government of India has been demolishing shelters and evicting the homeless from their places of residence.

On 22 December 2009, the Municipal Corporation of Delhi (MCD) demolished a temporary night shelter for the homeless at Pusa Roundabout (Rachna Golchakar), Delhi. It is estimated that 250 persons were rendered shelterless and made to suffer out in the freezing cold. We have also learned that a 35 year old balloon seller, Bhima, succumbed to the cold and died on 31 December 2009. The shelter had been set up by the Department of Revenue, Government of National Capital Territory (NCT) of Delhi, but MCD officials claim it was illegal and the people taking shelter were encroachers. Alarming, MCD officials have stated that the land on which the shelter was located had to be "beautified" and grass had to be grown there in preparation for the upcoming Commonwealth Games. The prioritization of beautification schemes by city officials over their responsibility to ensure the rights of the homeless is not only distressing, but, also reflects the glaring problem of a lack of coordination between government agencies in Delhi.

Despite the High Court interim order on 7 January 2010 ordering the MCD to immediately restore the Pusa Roundabout night shelter and not evict homeless persons in the winter on "humanitarian grounds," an adequate shelter to accommodate all the homeless people has still not been reinstated as of 13 January 2010. The MCD has only established a small tent accommodating only 40-50 people, without basic amenities. Most of the homeless are still out in the cold on the street, awaiting shelter.

In another glaring violation of the High Court Order and with complete disregard for the rights of the homeless, the Northern Railway, Delhi Police and MCD officials violently evicted over 400 people from Pul Mithai, Naya Bazaar, Delhi, on the morning of 9 January 2010. Women and children were beaten with batons (lathis), and the possessions of the people were burnt and destroyed. A complaint was filed by the victims in the local police station but the police have still not registered a First Information Report.

Reportedly, 60 of the evicted families belong to the Scheduled Castes). Many of them are apparently construction workers employed for the Commonwealth Games. The displaced remain out in the freezing cold with their salvaged belongings, with nowhere to go. The latest reports indicate that they are facing threat of being evicted from the neighbourhood as well.

On 13 January 2010, in the third hearing of the *suo moto* case, the Delhi High Court admonished the MCD for its failure to protect the rights of the homeless, in particular its inability to reinstate the temporary night shelter at Pusa Roundabout. It ordered the MCD to immediately provide an adequate shelter at the same place, which would accommodate all 250 people who were residing in the original shelter. It also called for a moratorium on further evictions in the winter.

The ongoing evictions without adequate rehabilitation and the failure to provide adequate housing for the homeless, violate the affected people's fundamental right to life and livelihood as enshrined in Article 21 of the Indian Constitution. Reaffirming the principle of indivisibility of all human rights, the fundamental right to life encompasses the right to live with human dignity. Furthermore, Article 14 of the Constitution of India guarantees equal protection under law. Moreover, there are several provisions for the homeless in local laws and policies too, which the government is also violating. The Delhi Master Plan 2021, for example, clearly calls for the provision of night shelters, specifically requiring one shelter for 100,000 of the population. Instead of working toward the establishment of 140 night shelters as per the Master Plan, the government on the contrary has reduced the number of shelters, thus pushing the homeless into further destitution.

The actions against the homeless of Delhi and the continued failure of the Delhi government to ensure access to housing and basic services for the homeless are gross violations of a range of internationally recognized human rights, in particular, homeless persons' rights to adequate housing, livelihood, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. The Indian authorities, including the local authorities, have breached their treaty obligations under, *inter alia*, Articles 2, 11, 12, 13 and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which India acceded on 10 April 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments No. 4 on the right to adequate housing and No. 7 on forced evictions. The State of India has also contravened its obligations under Articles 16, 27 and 39 of the Convention on the Rights of the Child (CRC) to which it acceded on 11 December 1992, and Article 14 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which it ratified on 9 July 1993. The evictions also violate the UN Basic Principles and Guidelines on Development-based Evictions and Displacement.

We urge your Government and local authorities in India to uphold these obligations to provide the affected families with effective remedies and to avoid forced eviction. We also urge the government to ensure adequate compensation and alternative accommodation *in advance* of any evictions as essential elements of their obligations to respect, protect and fulfill the human right to adequate housing under India's treaty ratifications.

Therefore, we urge you to comply with human rights treaty obligations by taking immediate steps to:

- Rehabilitate the evicted families at Pul Mithai in the nearby community centre and provide them with basic services and adequate housing conditions, as well as compensation for losses suffered;
- Provide a warm and adequate shelter and basic amenities for the evicted homeless in Pusa Roundabout, as per the interim orders of the Delhi High Court;
- Set up more temporary night shelters for the homeless (as per demands submitted by civil society organizations and the homeless) that provide basic amenities and services like blankets, toilets, water and sanitation, and are located close to their livelihood sources;
- Provide separate shelters for homeless women and children, and families;
- Make available the various vacant government buildings, community centres and other unused premises as homeless shelters;
- Create permanent, year-round shelters for the homeless, as the crisis of homelessness does not only exist in the winter but is a perennial one;
- Prosecute those responsible for the evictions of the homeless, especially those using force against women and children;
- Develop a comprehensive policy to address the housing rights of Delhi's poor.

Your Excellency, we thank you in advance for your attention to this gravely important matter, in order to avoid further deprivation of disadvantaged people and communities in India and to pre-empt forced evictions, which inevitably augur the deepening of poverty and deprivation in the country.

We look forward to hearing from you about your constructive response. In the meantime, please be assured of our highest consideration.

Sincerely,

*[your signature and organizational affiliation]*