

**AMNESTY  
INTERNATIONAL**



1074/B-1, First Floor, 11th Main, HAL 2nd Stage, Indira Nagar, Bangalore – 560 008

To

Shri H. Siddaiah, IAS

The BBMP Commissioner

No. 1st Main Road, Byatarayanapura, Sahakar Nagar,

Bangalore, Karnataka, India

560092

Dear Mr. Siddaiah,

Amnesty International is deeply concerned about the situation of an estimated 5000 people (1200 families) who were forcibly evicted from the 'Economically Weaker Sections' (EWS) housing in Ejjipura by Bruhat Bangalore Mahanagara Palike (BBMP) officials between 18 – 21 January 2013. In particular, we are concerned about the living conditions of an estimated 200 families who are currently living in make-shift shelters on the pavement near the eviction site.

We understand that residents of the EWS housing did not have the opportunity to engage in genuine consultation on alternatives to evictions; nor were they provided adequate notice prior to the eviction. Residents say a written notice of the eviction was issued and pasted on two houses at two ends of a street that runs through the EWS colony a month before the eviction. Additionally, the notice letters were only in Kannada, while most of the residents are from Tamil-speaking backgrounds. Some residents told Amnesty International that they had not been given sufficient time to collect their possessions before their houses were demolished. Nor have they received any compensation from BBMP for the damage and loss of property.

Residents told Amnesty International that the police also used unnecessary force against residents and local activists who had protested peacefully against the evictions on the 18<sup>th</sup> and 19<sup>th</sup> of January.

While a majority of families have been dispersed as a result of the forced eviction, activists claim that around 200 families have been living for over a month in makeshift shelters made of tarpaulin sheets and wooden and metal poles near the site of eviction. They do not have access to any sanitation facilities or water including safe drinking water. Six families Amnesty International spoke to said that earning members of the family had stopped going to work due to the fear that their possessions would be stolen or that they would be forcibly evicted from their make-shift shelters.

Amnesty International India was also informed that the police have been intimidating the evicted families in order to force them to vacate the pavement.

Amnesty International is concerned about those living on the pavement, particularly children, older members of the community and pregnant women, who face serious risks to their health and safety. We are also concerned about the increased risk of violence, including sexual and gender-based violence, to women and girls from the evicted community.

According to Dr. Sylvia Karpagam, a public health doctor and the co-convenor of Jana Arogya Andolana Karnataka (JAAK),<sup>1</sup> who has treated at least 500 people at the site, a number of respiratory illnesses and diarrhea, especially among children, have been reported. Dr. Karpagam said most of the 40-50 elderly residents she had treated had told her that they had lost their medication for diabetes, heart disease and hypertension during the forced evictions, and were unable to afford more medication.

The first building to be destroyed in the demolition was the women's' public toilet. Amnesty International is concerned about the impact of the lack of toilets near the makeshift shelters on the health of those evicted, especially women and girls. We are also concerned about the situation of the elderly and those who are ill, who find it difficult to access public toilets. At least six pregnant women are living on the pavement near the eviction site. Without access to safe drinking water and clean toilets, their health is at risk.

On 25<sup>th</sup> January Mr. Jagdish Shettar, Chief Minister of Karnataka,<sup>2</sup> assured residents and activists protesting outside his residence that he would direct the BBMP to immediately start building temporary structures for use until the end of the academic year on 10<sup>th</sup> April 2013, for those families who continue to reside in the area. However, construction of temporary shelters has not started yet.

India, as a signatory to the International Covenant on Economic Social and Cultural Rights (ICESCR), is obligated to guarantee every person's right to adequate housing and right to health. International standards require states to carry out evictions only as a last resort and after exploring all other feasible alternatives to eviction in genuine consultation with the affected people. Even where an eviction is considered to be

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<sup>1</sup>Jana Arogya Andolana Karnataka is the Karnataka State circle of the People's Health Movement or the Jan Swasthya Abhiyan, a network of public health organizations.

<sup>2</sup> See "Ejipura: Shettar promises temporary lodgings till academic year-end ", *The Hindu*, January 26, 2013, available at <http://www.thehindu.com/news/cities/bangalore/ejipura-shettar-promises-temporary-lodgings-till-academic-year-end/article4347385.ece?homepage=true>.

justified, states must strictly comply with international standards and principles of reasonableness and proportionality. Evictions must not render individuals homeless or vulnerable to the violation of other human rights. States are also obligated to provide adequate alternative housing to all those who cannot provide for themselves.<sup>3</sup>

**Amnesty International therefore calls on the BBMP to:**

- Ensure that all those affected by the forced evictions from EWS housing in Ejipura are provided with essential medical services, safe drinking water, access to sanitation and basic housing immediately, in line with international human rights standards;
- Take steps to ensure that those living on the pavement near the eviction site are not subject to intimidation, threats and other forms of harassment;
- Provide effective remedies including compensation for loss or damage of property as a result of the forced eviction;
- Initiate a process of genuine consultation with affected persons to provide alternative housing to all those forcibly evicted from EWS housing in Ejipura. Any alternative housing provided must be in line with international human rights standards on adequate housing.
- Initiate a thorough and independent investigation into the use of unnecessary force by police officials against activists and residents

Amnesty International will contact your office to follow up on this letter.



Yours Sincerely,

G. Ananthapadmanabhan

Chief Executive, Amnesty International India

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<sup>3</sup> Please see Annex for an overview of India' obligations under international law in relation to forced evictions.

## **Annex: India's obligations under International Law**

India, as a signatory to the International Covenant on Economic Social and Cultural Rights (ICESCR), is obligated to guarantee every person's right to adequate housing and right to health.

The UN Committee on Economic, Social and Cultural Rights (CESCR), which monitors State parties' implementation of the ICESCR has clarified states' obligations to refrain from, prevent and protect people from forced evictions. It has emphasized that evictions may be carried out only as a last resort and after all other feasible alternatives to eviction have been explored in genuine consultation with the affected people.<sup>4</sup> . Even in cases where an eviction is considered to be justified, it must strictly comply with international standards and principles of reasonableness and proportionality.<sup>5</sup> Evictions can only be undertaken after all the procedural and legal protections required under international law are in place. These include:

- adequate and reasonable notice prior to the eviction;
- information on the proposed evictions and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- provision of legal remedies;
- provision, where possible, of legal aid for those who are in need of it to seek redress from the courts.<sup>6</sup> Evictions must also not "render individuals homeless or vulnerable to the violation of other human rights".<sup>7</sup>

The Committee has emphasised the obligation of states to provide adequate alternative housing to all those who cannot provide for themselves. Any resettlement plan and alternative housing provided must fulfil the criteria for adequacy of housing under international human rights law. The Committee has identified the following elements which are crucial to determine whether any particular form of housing can be considered to constitute 'adequate' housing under Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights: legal security of tenure; availability of services, materials, facilities and infrastructure; location; habitability; affordability; accessibility; and cultural adequacy.<sup>8</sup> The affected people must be fully consulted on all possible resettlement options.

The Committee also considers access to water and sanitation as core obligations and elements in the realization of the rights to housing and health. The Committee has interpreted the right to health as "an inclusive right extending not only to timely and appropriate health care but also to

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<sup>4</sup> CESCR, General Comment 7, The Right to Adequate Housing: forced evictions, para 13.

<sup>5</sup> CESCR, General Comment 7, para 14.

<sup>6</sup> CESCR, General Comment 7, para.15.

<sup>7</sup> CESCR, General Comment 7, para 16.

<sup>8</sup> CESCR, General Comment 4: The Right to Adequate Housing, para 8.

the underlying determinants of health, such as access to safe and potable water and adequate sanitation...”<sup>9</sup>

According to the UN Basic Principles and Guidelines on Development Based Evictions and Displacement, “...At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions.”<sup>10</sup>

The UN Basic Principles and Guidelines on Development Based Evictions and Displacement also highlight, “In order to ensure the protection of the human right to the highest attainable standard of physical and mental health, all evicted persons who are wounded and sick, as well as those with disabilities, should receive the medical care and attention they require to the fullest extent practicable and with the least possible delay, without distinction on any non-medically relevant grounds. When necessary, evicted persons should have access to psychological and social services. Special attention should be paid to: (a) the health needs of women and children, including access to female health-care providers where necessary, and to services such as reproductive health care and appropriate counselling for victims of sexual and other abuses; (b) ensuring that ongoing medical treatment is not disrupted as a result of eviction or relocation; and (c) the prevention of contagious and infectious diseases, including HIV/AIDS, at relocation sites.”<sup>11</sup>

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<sup>9</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 14: The right to the highest attainable standard of health (Article 12), E/C.12/2000/4, 11 August 2000, para 11

<sup>10</sup> The UN Special Rapporteur on Adequate Housing developed the Basic Principles and Guidelines on Development-based Evictions and Displacement (the Basic Principles), which reflect existing standards and jurisprudence on the issue of forced eviction. They include detailed guidance on steps that should be taken before, during and after evictions in order to ensure compliance with relevant principles of international human rights law. See Basic Principles And Guidelines On Development-Based Evictions And Displacement (the Basic Principles), UN Doc. A/HRC/4/18, para 53.

<sup>11</sup> See Basic Principles And Guidelines On Development-Based Evictions And Displacement (the Basic Principles), UN Doc. A/HRC/4/18, para 54.