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**Submission to the Special Rapporteur on the Right to Adequate Housing**

**from Housing and Land Rights Network[[1]](#footnote-1)**

**COVID-19 and the Human Right to Adequate Housing in India**

**Introduction**

In response to the COVID-19 pandemic, India announced a sudden 21-day lockdown on 24 March, which was extended and lasted until 31 May 2020. Though the country is under a gradual ‘unlock’ phase, cases are rising daily and people are reeling from the severe impacts of the lockdown, at many levels – economic, social, physical, and psychological.

While precautionary measures, including curtailing public mobility and sealing hotspot areas/containment zones, have been critical to controlling the spread of the pandemic, long and stringent lockdowns of the entire population with inadequate planning and insufficient protections in place for the most marginalized, have had serious impacts on the human rights of a large section of society. These include, in particular, contraventions of their rights to adequate housing, food, health, participation, and most importantly, their right to live with dignity. The most severely affected by the lockdown and resultant loss of livelihoods have been daily wage workers, including homeless and landless people, migrant workers, agricultural labourers, fish workers, and others employed in the ‘informal’ sector.[[2]](#endnote-1)

The pandemic has highlighted the importance of adequate housing like never before. India’s reality of over 4 million people living in homelessness in urban areas and about 75 million people living in ‘informal settlements’ without access to essential services, including water and sanitation, has exposed the impossibility of implementing calls to ‘stay at home,’ practice physical distancing, and engage in frequent hand washing. Housing is also inadequate for a large majority of the rural population. Lockdowns only work for those who have adequate housing to lock themselves into. High density and poor living conditions, including lack of ventilation, in most Indian homes could have several adverse health impacts resulting from being forced to stay indoors for extended periods of time. Safety and security of housing are also important factors. As in many countries across the world, India also witnessed a surge in cases of domestic violence and abuse of women and children.[[3]](#endnote-2) If all Indians, including migrant workers, had adequate housing, the nation may not have witnessed such a severe crisis as a result of the pandemic and related lockdown.[[4]](#endnote-3)

1. **Please elaborate on measures taken by national, federal, provincial or local governments to ensure persons are protected from the virus at their home or place of living:**
2. ***Has your country declared a prohibition on evictions? If a prohibition was declared, indicate its legal basis and how long it will last. Please specify if it is a general prohibition and if it also applies to persons living in informality or in informal settlements. Is the prohibition of evictions restricted to tenants or mortgage payers who have been able to pay their rent or serve their mortgages, or broader?***

The Government of India—at the state and central levels—has not issued a moratorium on evictions in the country during the pandemic. There have, however, been a few notifications related to specific areas. On 29 March 2020, the central government issued a notification[[5]](#endnote-4) directing home owners of properties where workers were living in rented accommodation, not to demand rent for one month. The order also made eviction of students and workers, due to non-payment of rent, a punishable offence under the Disaster Management Act 2005. Most of the prohibitions were notified under the Disaster Management Act 2005 and the Epidemic Diseases Act 1897. While many state governments and the central government prohibited evictions due to non-payment of rent or arrears, in Jharkhand, evictions due to discrimination on grounds of COVID-19 status, profession, religion, caste, and other reasons was also explicitly prohibited.[[6]](#endnote-5) In the absence of clear implementation mechanisms, including information about grievance redress mechanisms, these notifications served mostly as directives for home-owners.

Several state High Courts, such as the Allahabad High Court [Writ C 7014/2020], High Court of Bombay [W.P. (L) 900/2020], and the High Court for the State of Telangana[[7]](#endnote-6) also directed state authorities not to evict people or demolish homes during the lockdown, due to restrictions on court proceedings.

Amidst reports of doctors and nurses being evicted across India from associated stigma and fears of COVID-19 infection,[[8]](#endnote-7) some states such as Delhi[[9]](#endnote-8) and Karnataka[[10]](#endnote-9) issued orders under the Epidemic Diseases Act 1897, penalizing the eviction of healthcare professionals from rented accommodation.

However, no overall national moratorium on forced evictions was announced leading to multiple evictions during the pandemic by state authorities and home-owners.

Given the precarious living conditions of the urban and rural poor and their heightened risk of infection, including their inability to practice physical distancing and wash hands frequently, HLRN had called on the Government of India on 13 March, via a [press release](https://www.hlrn.org.in/documents/Press_Release_COVID19.pdf), and on 18 March, via a letter to the Ministry of Housing and Urban Affairs, to impose a national moratorium on forced evictions and ensure that no one in the country is rendered homeless. We had also called for measures to improve living conditions of those who are homeless and inadequately housed. The Ministry took heed of HLRN’s letter by forwarding it to all state governments (on 29 April 2020) and asking them to frame policies to protect those without adequate housing. Despite this, several state governments and central government authorities, such as the Indian Railways, have committed grave violations of human rights by demolishing homes of the urban and rural poor at the height of the pandemic, thereby threatening their lives and worsening their risk of exposure and spread of the coronavirus.

1. ***If no general prohibition on evictions was declared, please indicate how many evictions have taken place, the number of people affected, and the specific details of time, location and reasons.***

Between 16 March 2020 and 16 June 2020, Housing and Land Rights Network (HLRN) documented at least 22 incidents of forced eviction and home demolitions, across India, by both central and state government authorities.[[11]](#endnote-10) These incidents affected over 13,500 persons (conservative estimate calculated by HLRN), including indigenous communities/Adivasis and Dalits/Scheduled Castes, and resulted in the violation of multiple human rights. The reasons for these evictions include ‘beautification’ projects, government land clearance, and ‘smart city’ projects.

It is likely that many of these evictions were carried out during the lockdown to take advantage of the curfew-like conditions, when movement of affected persons was restricted and they did not have access to legal remedies. For instance, in Siddipet, Telangana, authorities demolished 30 homes of Dalit farmers in the middle of the night, without prior notice. In Odisha, the Kalahandi forest department forcibly demolished homes and destroyed belongings of 32 Kondh Adivasi/tribal families in Sagada Village, also without notice. In Manipur’s Macheng Village, forest officials with the help of the police, evicted families of the Rongmei Naga tribe, early in the morning, on grounds that they were “encroaching” on forest land. Villagers who protested the drive were dispersed by the police, reportedly, with force involving the use of tear gas and rubber bullets. In Rewa, Madhya Pradesh, local authorities demolished 20 houses for the ‘beautification’ of a pond, rendering daily-wage labourers homeless during the lockdown.

In June, forest officials in Siwal, Madhya Pradesh set fire to the house of an Adivasi family and threatened to destroy more homes, reportedly, to prevent villagers from cultivating land. In Bilaspur, Chhattisgarh, the state administration evicted about 400 families living in government housing to accommodate those evicted from 160 houses for the ‘beautification’ of the Arpa River. Despite the rise in COVID-19 cases in the state, families were forced to live out on the streets without food and water.

Thousands of people living in homelessness in several cities, including Mumbai and Delhi, were evicted from their habitual sites of residence or forcibly taken to temporary shelters. For instance, members of the Pardhi community, who had been living under Mumbai’s Western Express Highway flyover for decades, were forcibly removed from the area, after the national lockdown was declared.

Additionally, tenants were also evicted by home-owners due to discrimination on grounds of their religion[[12]](#endnote-11) and profession,[[13]](#endnote-12) among other reasons.

1. ***Have any measures been taken to ensure that households are not cut-off from water, heat or other utility provision when they are unable to pay their bills?***

Several states, including Andhra Pradesh,[[14]](#endnote-13) Delhi,[[15]](#endnote-14) Haryana,[[16]](#endnote-15) Gujarat,[[17]](#endnote-16) Punjab, Rajasthan,[[18]](#endnote-17) and Uttarakhand,[[19]](#endnote-18) deferred the payment of electricity and water bills during the lockdown to ensure households are not cut-off from the provision of essential services. Although there is no national directive on this issue, on 28 March 2020, the central government announced a financial relief package for electricity supply companies to ensure that consumers who haven’t been able to pay their dues have access to electricity during the lockdown.[[20]](#endnote-19)

1. ***Please provide any information about other legal or financial measures aimed to ensure that households do not lose their home if they cannot pay their rent or mortgage payments? Have any other tenant protection measures been adopted in response to the pandemic?***

Many state governments, including Assam,[[21]](#endnote-20) Maharashtra[[22]](#endnote-21) and Delhi,[[23]](#endnote-22) among others, appealed for home-owners to postpone the demand for rent during the lockdown, on humanitarian grounds. The central government[[24]](#endnote-23) and some state governments (for example Delhi[[25]](#endnote-24) and Karnataka[[26]](#endnote-25)) also strictly prohibited the demand for rent from migrant workers, students, and working women in hostels, under the Disaster Management Act 2005. Consequently, several complaints were also registered with the police against home-owners who demanded rent during the lockdown.[[27]](#endnote-26)

The existing notifications, however, do not clearly mention rent cancellation, only deferment of payment.

The High Court of Delhi dismissed a public interest litigation seeking directions to prohibit the eviction of tenants on grounds of non-payment of rent and waiver the same during the COVID-19 crisis.[[28]](#endnote-27)

However, in the absence of secure rent protection laws, no other concrete steps have been taken to ensure the protection of tenants during the lockdown and after, when the majority of lower-income groups are reeling under a severe economic crisis. Despite a recommendation from civil society, including HLRN, for the provision of rental vouchers or cash assistance for persons living on rent in informal settlements, no such measure has been announced by the central or state governments. Such measures could also benefit low-income persons/families in informal settlements who rent out their homes for financial support.

1. ***What measures have been taken to protect persons living in informal settlements, refugee or IDP camps, or in situation of overcrowding from COVID-19?***

Though the WHO declared COVID-19 a global pandemic on 10 March and India’s national lockdown commenced from 25 March, the central government only issued a notification to prevent the spread of the coronavirus in informal settlements[[29]](#endnote-28) on 16 May. It declared informal settlements as ‘vulnerable zones’ for the transmission of COVID-19, owing to their high population density, “poor structural quality of housing, inadequate access to safe water, poor sanitation and insecure residential status.” The notification aimed at providing guidance to Urban Local Bodies with regard to containing the spread of the virus in dense urban settlements. While recognizing the high vulnerability of residents of these settlements and acknowledging the failure of affordable housing, the notification does not incorporate a human rights-based or sensitive approach. Furthermore, it contains problematic provisions related to surveillance of residents as well as imposition of the Criminal Procedure Code with regard to gatherings.

In Dharavi, India’s largest informal settlement with a population of 1 million, with proactive efforts including door-to-door testing and quarantining in specially created centres, state authorities have managed to contain the spread of the coronavirus.[[30]](#endnote-29)

1. ***What measures have been taken by authorities to ensure that migrant and domestic workers housed by their employers continue to have access to secure housing during the pandemic and in its aftermath? If migrant workers left their place of work to return to their place of origin, what measures were taken to ensure their right to housing?***

In the absence of social/low-cost housing policies for migrant workers in cities, a large majority lived at their work places, including in factories, shops, construction sites, and restaurants, and were thus rendered homeless when the lockdown was announced. On 28 March 2020, states were ordered to seal borders and stop migrants from returning home, reportedly to control the spread of the virus.

In order to ensure that migrant workers continued to be housed at their present accommodation, the central government, along with most states, prohibited eviction of migrant workers, students, and working women in hostels due to non-payment of rent and deemed it punishable under the Disaster Management Act 2005.[[31]](#endnote-30) Further, the central government issued advisories to states to ensure that migrant workers had access to shelter and food, with distancing norms, during the lockdown.[[32]](#endnote-31) Consequently, several states including Andhra Pradesh, Arunachal Pradesh, Bihar, Chhattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Odisha, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, and West Bengal, among others, set up relief camps and emergency shelters for migrant workers.

Though most states across the country provided free shelter and food to stranded migrant workers and their families, they still faced multiple challenges, including inadequate living conditions.

In an affidavit filed in the Supreme Court of India, the central government reported that at least 37,978 relief camps had been set up for migrant workers by the states, union territories, and civil society organizations, providing shelter to around 1.43 million people.[[33]](#endnote-32) Further, 13.4 million people were being provided food through 26,225 food camps and nearly 1.65 million workers had been given shelter and food by their respective employers. Despite these measures, migrant workers were stranded in cities without shelter at least in the first two phases of the lockdown. For example, in Delhi, at least 700 migrant workers were stranded near the Yamuna flood plains before they were taken to relief camps by authorities.[[34]](#endnote-33) Similarly, the High Court of Karnataka [W.P.6435/2020] took strong note of migrant workers stranded on the streets in Bengaluru and directed state authorities to urgently provide them with accommodation. Other High Courts, including the Madras High Court, High Court of Andhra Pradesh, High Court of Gujarat, Orissa High Court, High Court of Bombay, and High Court of Kerala, among others, also recognized the inhumane situation of migrant workers and provided directives for the provision of shelter and other essential amenities.[[35]](#endnote-34) The Supreme Court of India after dismissing petitions, finally only took *suo moto* cognizance of the issue on 9 June, when the situation of migrant workers had turned into a major national crisis.

The central government directed all states and Union Territories to set up tented accommodation along highways for all migrant workers returning to their domicile states during the period of the lockdown with adequate provisions to ensure physical distancing and healthcare.[[36]](#endnote-35) However, migrant workers faced severe difficulties in reaching their home states due to lack of transport, restrictions on movement, and lack of shelters, with many dying, reportedly, due to exhaustion, hunger, and thirst.[[37]](#endnote-36)

1. ***Have any measures been taken to provide safe accommodation for persons in situation of homelessness? If yes, how many persons were housed, in what form, where and for how long? How will it be ensured that persons provided with temporary accommodation will have access to housing after the crisis?***

Persons living in homelessness already suffer from high morbidity rates on account of their poor health and low levels of nutrition, and thus are at great risk of contracting the COVID-19 virus. As a result of the pandemic, attempts to adhere to the policy directive of “staying home/indoors” led to the forced relocation of homeless persons living on the streets to schools and community halls, designated as temporary shelters. In many instances, this relocation was forced and not preceded by prior information, consultation, and consent. These sudden actions, thus, resulted in the loss of belongings and important documents of several homeless persons, and in some cases, separation from family members.

Several states including Andhra Pradesh, Arunachal Pradesh, Bihar, Chhattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Odisha, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, and West Bengal, set up emergency shelters for homeless persons with provision for food. In Delhi, with a homeless population of around 150,000–200,000, over 200emergency ‘hunger relief centres’ were set up across the city to address the hunger crisis.[[38]](#endnote-37) The government also provided free lunch and dinner at existing homeless shelters and temporary shelters during the lockdown.

Despite these measures, many homeless people continued to face a severe hunger crisis during the lockdown because of their distance from food distribution centres, the long waiting time to receive a meal, and non-availability of breakfast, tea, and milk for children. With advocacy by civil society organizations, many of these issues were considerably resolved by the state governments during the lockdown. Despite the easing of lockdown restrictions, those living in homelessness are still not able to find work and are faced with the threat of hunger and increased destitution. Efforts of civil society have resulted in the Delhi government agreeing to provide free meals in homeless shelters until 30 June 2020. However, in many other states, provision of food and shelter was discontinued after the lockdown. For instance, in Odisha, the Rourkela Municipal Corporation abruptly stopped the distribution of free cooked meals after the easing of COVID-19 restrictions, leaving hundreds of homeless persons across the city hungry.[[39]](#endnote-38)

Moreover, many homeless persons had to sleep outdoors, near shelters, as measures to enforce physical distancing in shelters, reduced the capacity of shelters. Many of the temporary shelters for migrant workers and other homeless persons, reportedly, did not have adequate facilities, especially for water and sanitation. Residents complained of dismal living conditions.[[40]](#endnote-39) Though soap, masks and other essential items were supplied to shelters, distribution was often on an ad-hoc basis, resulting in shortages in some shelters.

Homeless persons suffering from chronic illnesses, including HIV and tuberculosis, older persons, persons with disabilities, and pregnant women, faced additional challenges during the lockdown on account of their inability to access medical facilities and healthcare.[[41]](#endnote-40)

Transgender persons reported facing discrimination and abuse while accessing shelters, as many occupants refused to share space with them.[[42]](#endnote-41) The lack of dedicated shelters for the transgender community pushed them to further marginalization even while they were already struggling from lack of work due to the lockdown. The coronavirus lockdown further increased vulnerabilities of ‘children in street situations’ or homeless children, as they did not have adequate access to housing/shelter, water, food, and sanitation, amongst other basic necessities.[[43]](#endnote-42) On 28 March 2020,[[44]](#endnote-43) the National Commission for the Protection of Child Rights issued an advisory to all states and Union Territories to address the needs of “vulnerable children who are currently without family or out of any institutional care,” including street children, children in Child Care Institutions, children in conflict with the law, and, “children of families involved in seasonal labour,” amongst others. The Commission also announced plans to create a “database” of street children and ensure their linkage to government schemes.[[45]](#endnote-44)

1. ***Can you provide examples of any other measures taken or planned by national, federal, provincial or local Governments in your country to protect the right to adequate housing during the pandemic and in its aftermath?***

The pandemic has exposed the historic failure of the government to provide adequate housing, especially its lack of investment in social housing and affordable housing for low-income groups. Despite an ambitious and noteworthy ‘Housing for All by 2022’ scheme, India is far from meeting its targets and has not been able to provide secure and dignified housing for its people.

Even though the COVID-19 crisis has emphasized the importance of housing for health and life, the government has not taken adequate measures to address the national housing crisis. The only announcement made by the central government is that it will develop Affordable Rental Housing Complexes for the urban poor, including migrants, with the support of the private sector – through a Public Private Partnership model. It has also announced plans to pass the long-pending draft Model Tenancy Law. These measures may take a while to materialize. There is also concern that the PPP model is not a viable solution to provide low-cost housing.

Instead of moving towards durable solutions, along a continuum, as recommended by HLRN, the government has closed temporary shelters and all emergency housing provided during the lockdown period, resulting in people returning to conditions of homelessness on the streets. It has also continued evicting people, despite calls to impose a moratorium on evictions, including from the former UN Special Rapporteur on Adequate Housing. Economic recovery plans have already seen an impetus being given to infrastructure projects resulting in land grabs, evictions, and a grave threat of potential displacement. But it is not too late. India could still use the pandemic to prioritize public housing and invest in ending homelessness.

1. ***What measures have been taken to ensure protect older persons, persons with disabilities, migrants, women, and children from the pandemic, abuse, neglect or violence at the place where they are living or have been asked to stay? Please specify in particular measures taken to protect persons housed in institutions, shelters, care homes, psychiatric hospitals or detention.***

Several states including Delhi, Gujarat, Kerala, and Tamil Nadu provided food and essential services to older persons. Some states, for example, Andhra Pradesh, provided free food to non-government organizations running homes for older persons and children. Additionally, dedicated ‘helplines’ to respond to various issues were also initiated. These included helplines for migrant workers (Arunachal Pradesh, Kerala); for food (Delhi, Goa, Karnataka); for domestic violence (Jharkhand, Karnataka, Kerala, Tamil Nadu, Uttar Pradesh); for children (Delhi (by the Delhi Commission for the Protection of Child Rights), Jharkhand, Kerala); for older persons (Delhi, Jharkhand, Tamil Nadu); and for persons with disabilities (Tamil Nadu).

However, no specific measures were implemented for vulnerable homeless groups, including older persons, persons with disabilities, pregnant women, and homeless persons suffering from mental illness, who were among the worst affected by the lockdown.

1. ***Have you relied on the COVID-19 guidance notes developed by the previous Special Rapporteur in your work? Would you have any additional recommendations to protect the right to adequate housing during the pandemic and in its aftermath?***

Housing and Land Rights Network has widely circulated and extensively used the COVID-19 guidance notes developed by the previous Special Rapporteur. We were also involved in consultations to develop some of the guidance notes, particularly on homelessness, forced evictions, and informal settlements. We continue to use these notes in our advocacy and awareness work, and also are disseminating them among different levels of the government – local, state, and national.

**ENDNOTES**

1. Housing and Land Rights Network (HLRN), based in New Delhi, India works for the recognition, defence, promotion, and realization of the human rights to adequate housing and land. [www.hlrn.org.in](http://www.hlrn.org.in)

This submission is being made independently by HLRN and discusses the overall situation in India with regard to COVID-19 and housing. We are also part of the submission from the Delhi Housing Rights Task Force, which discusses the situation in Delhi.

Any information from this submission that is used by third parties should adequately cite this document as the source. [↑](#footnote-ref-1)
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