Forced Evictions in Bangladesh

We didn’t stand a chance

COHRE & ACHR
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Forced Evictions in Bangladesh

COHRE and ACHR Mission Report, 2000
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Introduction

In August 2000, a four-member team from the Centre on Housing Rights and Evictions (COHRE) and the Asian Coalition for Housing Rights (ACHR) conducted a fact-finding mission to Dhaka, Bangladesh to investigate reports of large-scale forced evictions.¹

The objectives of the mission were to:

a. Determine the number of forced evictions which had taken place in the past year;
b. Determine the underlying causes for forced evictions;
c. Develop an understanding of the impact of forced evictions; and
d. Make recommendations.

During the course of the visit, the fact-finding team had a hectic schedule, meeting communities that were evicted and those who were under threat of forced evictions, organisations working with urban low-income communities, lawyers, urban planners and architects, academics, Asian Development Bank and World Bank officials, government officials, as well as the Minister for Housing and the Minister for Land. ²

After listening to the various sides to the issue, the fact-finding team sat down together and reflected on what they learned and issued a statement (see Annex 1) at a press conference held at the Press Club of Dhaka. The team concluded that there was no justification for the brutal forced eviction of over 100,000 people in the past year. The forced evictions caused hardships for very poor urban dwellers, and impoverished them further.

This report reflects the conversations and discussions with the many people in Dhaka as well as documentation provided by many organizations and individuals. The report briefly outlines: the
The report highlights how forced evictions constitute gross violations of human rights and that there are better ways to deal with squatter settlements.
Bangladesh, located in the northeastern part of the Sub-continent, gained its independence from Pakistan in 1971. The population is estimated at 130 million people. Twenty-six per cent of the population lives in urban centres. The population’s annual growth rate is about 1.8 per cent. The population density is about 798 persons per km², one of the highest in the world.

The country’s economic base is still largely rural with about fifty per cent of the peasants landless. According to the 1991 population census, the average annual growth rate of the urban population was 6.2 per cent during 1981-90. At the current rate of urbanization, about a third of the population will move to urban areas by 2010.

The country is considered one of the poorest in the world. The geographical location of Bangladesh makes it prone to repeated natural disasters such as flooding and cyclones, which cause havoc to people lives, property and the economy. Deforestation which has greatly exceeded the natural replenishment rate (less than 10 percent of Bangladesh remains under forest cover) is also one of the causes of frequent flooding in the country.

Despite its serious problems, Bangladesh is noted for its remarkable improvement in key social indicators such as birth rates, life expectancy, girl’s school enrolment, and child immunisation which have improved remarkably while poverty has been declining. Its non-governmental organizations (NGOs) are among the most active in the world, providing microcredit and social mobilization to some 8 million poor, mostly women. The annual per capita income is US $350.

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Dhaka, the administrative and commercial capital of the country, is surrounded by flood plains of the Birhinga and Balu rivers and is prone to inundation during floods. Sixty-one per cent of the land in Greater Dhaka is non-urban, used for rural or semi-rural agriculture while the rest is devoted to urban use. The traditional areas in the old city are characterized by mixed-use patterns.

Dhaka’s population is roughly nine million people. The annual population growth rate is estimated to be about 5.6 per cent. At the time of independence from Pakistan in 1971, Dhaka’s population was about 500,000. Since then, the city has grown phenomenally, peaking at about 10 per cent per annum in the mid-seventies.\(^4\)

With such a high influx of people to the city, Dhaka faces a serious housing shortage, due to limited resources, high construction standards and high land value. In 1980, the Government constructed 35,000 rental units located in the city centre. These rental units were reserved for civil servants. The Government had also constructed 27,000 owner-occupied units for specialized groups such as refugees and relocated squatters.\(^5\)

Most private households live in the city as legal tenants or as squatters. The pattern of land ownership is highly stratified, with 4 per cent of the population owning as much as 27 per cent of the city’s land, 17 per cent owning up to half an acre of land, and 57 per cent with no land at all.

Only 2 per cent of the city’s population, who constitute the upper income group, use about 15 per cent of the residential land of the city. Twenty-eight per cent of the middle class occupies 65 per cent of the residential areas while remaining 70 per cent, which constitutes the poor, have access to 20 per cent of the residential land.

\(^4\) Ibid.
\(^5\) Figures quoted in this section are from http://www.hsd.aiit.ac.th/ihsa/si/a131c/dhaka/dhaka.html
The residential land use structure of Dhaka city is characterized, on the one hand, by very low density — 40 to 120 persons per acre — in areas of upper income groups that cover large areas of the city. The lower income groups’ residential areas, on the other hand, have very high densities — 1,500 to 4,000 persons per acre.

The Urban Poor in Dhaka

Dhaka alone accounts for 40 per cent of the country’s urban population. In 1995, Dhaka, with a population of 8.5 million, was the 23rd largest city in the world. By 2015, Dhaka will be the 5th largest city after Tokyo, Bombay, Lagos and Sao Paulo, with a population of 19.5 million. While population grows at 1.5 per cent a year in the rural areas, Dhaka’s population marks a 5.6 per cent annual increase. The credit goes to the constant influx of rural migrants.  

There are many reasons why people migrate to the city. Dhaka is the capital city and administrative centre of the country. Factories are largely located in Dhaka. There are about 2,000 garment factories in the city. According to Professor Nazrul Islam, the Government had a unique opportunity to decentralise the industrialisation process in the country but ignored this, with the result that most of these factories are in Dhaka, with too many in and around the city centre. Many buildings in the inner city have been converted into garment factories. This industry alone employs around 1.5 million people, mainly women. Some children are also employed. Most garment factory wages are low. Over the years, however, many workers have been able to save and improve their houses and settlements.

Besides the garment factories, there are many other industries located in Dhaka. The demand for skilled and unskilled labour is high and thus remains the major reason for people migrate from the rural areas to the city.

Another reason for people to come to the city is to escape flooding in the rural areas that has eroded banks of rivers and the land on which they have lived for decades. Many of the communities with whom the fact-finding team met, having nowhere to go after their land was destroyed due to floods, with no compensation given, decided to come to the city and attempt to earn a living.

With no Government plans for rural-urban migration, people began to house themselves. Most people interviewed during the fact-finding mission said that they had found the land vacant and built their house on it. According to a survey conducted by the Centre for Urban Studies in 1996, there are over 3,000 slum and squatter settlements in the Dhaka Metropolitan Area. At the time of the survey there were about 1.3 million people living in these settlements. Most of these slums and squatter settlements are typically located on poor, marginal land on the edge of the city where land and dwellings are cheap to rent or purchase.

Besides slums and squatter settlements, about half of the urban poor live in dilapidated old buildings in the older part of the city, or in upper income neighbourhoods where they work as maids, transport terminals, or, in many cases, under the open sky without any home at all.

6 Reaz Ahmad, City Dwellers Often Fall Ill Due to Pollution, The Daily Star, 07/08/1999, Dhaka.
The Centre of Urban Studies (CUS) survey estimated that about 75 per cent of slum and squatter settlements are located on land owned by private individuals and 25 per cent on government land. Slum settlements are generally small with over 80 per cent of slum settlements containing between 10-50 households. However, about 60 per cent of squatter settlements have between 10-50 households. Yet, according to Professor Nazrul Islam, only 38 percent of the slum population in these smaller slums and about 8 percent live in small squatter settlements. This indicates that a majority of the slum and squatter dwellers live in larger slums and squatter settlements. About 35 percent of squatters live in just 10 settlements larger than 1,000 households.

Living Conditions of Low-Income Communities

Between 30 to 35 per cent of Dhaka’s population live in slum settlements. The population densities vary from a low of 700 persons to a high of 4,210 persons per acre. The average floor space for a family in Dhaka is about 32.08 sq. ft.

According to Dr. Nazrul Islam, “very few among the urban poor own any land within city limits. Even access for use of land is highly restricted. In Dhaka city, the poor (or low-income groups) constitute about 70 per cent of the population but have access to only 20 per cent of the city’s residential land, while 80 per cent of the land is occupied by the remaining 30 percent of the population.”

Most houses in slums are kutcha (non-permanent construction) using bamboo, thatch, wood, tin sheets, mud, etc. The average cost is around 5,000 Tk. for a bamboo and thatch house, and about 15,000 Tk. for wood and tin roof house.

About 50 per cent of low-income settlement dwellers have no access to formal sources of water. They rely on informal sources, mainly water vendors. Some depend on water supply points outside their settlement. Some NGOs have assisted communities to construct tube-wells, which serve about 200-300 families. It is estimated that about 6 per cent of the urban poor are served by tube-wells. The rest of the urban poor population use water from unsanitary sources, such as stagnant rainwater pools, rivers, etc.

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7 Conversation with Professor Nazrul Islam, Centre for Urban Studies, Dhaka.
8 According to Professor Nazrul Islam, Centre for Urban Studies, (CUS) Dhaka. He admits that this is a rough estimate. Tanvir Nawaz, in his article, *Thinking Rehabilitation Rationally* (*The Daily Star*, 17/09/99, Dhaka) citing government figures, estimates slum settlement population to be about 26 per cent. He admits in the article that this is possibly underestimated, as many types of settlements are not included.
11 Ibid, Pg 81-82.
12 Estimates given by slum dwellers.
13 Nazrul Islam and Nurul Islam, ibid, pg. 87.
14 Ibid, pg 87.
About 30 per cent of low-income families have some sort of drainage system in their settlement.\(^{15}\) In many slum settlements the people, with the help and support of NGOs, have installed a proper sanitation system. It is estimated that 86.6 per cent of slum dwellers have access to common sanitary toilets. Very few have sanitary toilets in their houses. Some have temporary latrines, often shared by many families. A large number of people, especially children, continue to use open spaces as toilets. This, and poor garbage removal systems, contributes to ill health and disease amongst slum dwellers. In recent years, however, the Dhaka Municipality has been quite cooperative in supporting communities’ access to water and sanitation.\(^{16}\)

About 55.7 per cent of slum dwellers have access to electricity,\(^{17}\) however, very few have formal connections. Most connections are informal and people pay by the wattage of the bulb they use.\(^{18}\) Most people use kerosene as fuel for cooking, while others use wood.

**Government Responses to the Urban Poor**

Despite the large number of people living in urban areas and the high rate of rural-urban migration, the Government of Bangladesh does not have an explicit policy for urbanization, nor for that matter, land and housing for low-income persons. However, there are major rural poverty eradication programmes, such as the Rural Works Programmes, Food for Works Programme, Integrated Rural Development Programme, Rural Credit Program through the Grameen Bank, and a variety of programmes promoted through NGOs. It is hoped that these programmes will stem rural poverty and thus slow the tide of rural-urban migration.

In urban areas the Government has participated in land and housing delivery in the following ways:

- By building houses and flats for employees (rental units);
- By developing site and service areas (plot allotment);
- By providing site and service areas along with core houses; and
- By providing house building finance loans to land owning families, or employees in government and autonomous organizations.\(^{19}\)

But by all admissions, the Government’s achievement is very insignificant compared to the needs and demands.\(^{20}\)

Presently the Government continues the Slum Improvement Project (SIP), which commenced in 1985 and is supported by UNICEF. Municipal authorities were the key actors. The Local Government Engineering Department provides the technical support. Water and sanitation are some of the key areas that are supported by this program. Through the Dhaka City Corporation, the World Bank supported the Environmental Improvement Project.

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15 Ibid. pg 88.
16 Conversation with Dr. Dibalok Singh, Executive Director, DSK.
17 Ibid, pg 86.
18 Conversation with slum dwellers.
19 Nazrul Islam and Nurul Islam Nazem, Ibid pg. 89.
20 Ibid. Pg 89. Conversation with Architect Tanvir Nawaz and Town Planner, Gholam Rabbani.
The Basic Bank and Agrani Bank, under government ownership, have also been involved in micro-
credit operations. The Government has also encouraged and facilitated NGOs to run credit pro-
grams for employment creation and income generation. The Ministry of Social Welfare also runs
limited credit programmes.

NGOs also play a major role in providing education to the low-income families, as well as getting
some support from the Non-Formal Education Program of the Government. The Ministry of Health
and Family Welfare is involved in providing health services to all, including the poor. The service is
provided mainly by the Government-run general and specialized hospitals. The services are gener-
ally free of charge, but people have to wait for a long time. Dhaka City Corporation (DCC) also pro-
vides a number of health services to the poor. Immunization programs are run jointly by the
national government and the DCC. Many NGOs are also involved in providing health care to low-
income families in squatter and slum settlements.

The Ministry of Housing and Public Works is responsible for providing land and housing to the
poor. Over the past several years, various governments have provided land or land and housing for
nearly 10,000 urban poor. The Bangladesh Bank and other government banks and departments
have also assisted their low-income employees by offering loan facilities. Dhaka City Corporation
also has implemented small housing programs for their low-income employees.

Rajdhani Unnayan Kartripakhya (RAJUK), or the Capital City Development Authority, has the man-
date to develop housing schemes. However, it has developed housing schemes largely for mid-
dle-income groups. It is also preparing housing for the forthcoming Non-Aligned Movement Con-
fERENCE, which is due to be held in the middle of 2001. These apartments are being built on land
on which about 500 low-income families lived and were evicted. After the NAM summit these
apartments will then house officials and bureaucrats. RAJUK does not yet have a program for slum
improvement. A presentation was made to the fact-finding team concerning a forthcoming hous-
ing project for largely middle-income families. Only about 10 per cent of the housing scheme
would be for low-income groups.

According to the Asian Development Bank (ADB) representative, the Bangladesh Government
recognises urban poverty as an issue and is keen on combating it. The First Five Year Plan (1973-
78) expressed clear intentions of improving slums and rehabilitating squatter settlements. In
1993, the National Housing Policy stated that the Government would “encourage on-site upgra-
dation, slum renovation and progressive housing development with conferment of occupancy rights,
wherever feasible and to undertake relocation of the squatter settlements from the sites that need
to be cleared in public interest” (Clause 5.10.1).

The Policy also committed the Government to “expand provision of water-supply, sanitation and
basic services in slum and other settlements occupied by the poor” (Clause 5.11.1), and to “inte-
grate the provision of physical amenities in slums and squatter settlements with basic services
including maternal and child welfare services and health care, structured on community participa-
tion and involvement of voluntary agencies and management of local bodies” (Clause 10.5.4).
On the basis of these commitments the ADB prepared a proposal for the upgradation and improvements of slums and squatter settlements in an incremental manner. However, the ADB could not go ahead with the proposal, as the Government was not ready to give squatter settlements security of tenure and assurance that they would not evict them. This would put the large investments by community people and the bank in squatter upgradation programmes at risk.

**Ghore Fera (Back to Home) Programme**

Since 1999, Bangladesh Krishi Bank began the Ghore Fera (Back to Home) Program which encourages people to return to their village by offering them loans for income generating activities in the rural area as well as transportation and settling down money. The Bangladesh Government strongly supports this program. The program ostensibly aims at alleviating urban poverty, reducing rural-urban migration, and improving the city’s environment, by sending people back to their villages with sufficient incentives. One of the aims of the program is: “The dirty, unclean and stinky atmosphere of the cities where we live may improve to a great extent. For instance, if the family that inhabits in those stinky and dirty slums and shanties which sprang up in the various parts of the city are rehabilitated in the villages, the atmosphere is bound to improve, if not dramatically, but at least to a great extent”. 21

The Ghore Fera programme identifies various squatter dwellers and offers them loans ranging from 20,000 to 150,000 Takas and in some special cases the loan can be enhanced to 300,000 Takas. According to the General Manager of the Bank, 1,746 families have received loans and returned to their villages and have begun various income generating activities. There has been no default on the loans and in a few cases where people have come back they were given more money to return as the earlier amount was insufficient.

According to community leaders from the Trinimul Jono Sangathan, however, this programme coincided with the forced evictions that took place in 1999. Community leaders and others with whom the fact-finding team met were highly critical of this programme. The community leaders had objections to the selection criteria and process. Furthermore, it was not transparent. The community leaders knew many people who had taken a loan and returned to the slums after some months. The community leaders also felt that the Government is wasting resources in conducting such a programme and the money could be better spent by ensuring that people had security of tenure so that they could improve their lives in Dhaka.

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21 According to the Paper Ghore Fera (To Back Home) A New Dimension [sic] of Microcredit Program of Bangladesh Krishi Bank given to the fact-finding team by Mr. Mohammad Abdul Matin, General Manager, Bangladesh Krishi Bank.
According to Dr. Nazrul Islam, there are two distinct phases of forced evictions in Dhaka. Prior to December 1971, Bangladesh was part of Pakistan, and known as East Pakistan. Dhaka’s overall rate of urbanization in East Pakistan was low, partly because much of the industrialization occurred in West Pakistan. There were slums in Dhaka, mainly along the railway lines. During the struggle for liberation, the Pakistani army began demolishing slums by burning them, ostensibly because these slums harboured terrorists and anti-social elements.

From 1971 onwards, the rate of urbanization was exceptionally high. Dhaka grew at a rate of 9 per cent per annum. From a city of 500,000 it grew to its current population of over 9,000,000.

In January 1975, the first large-scale forced evictions occurred in Dhaka. About 200,000 low-income people were evicted. Only 75,000 people were re-located to three distant sites in Mirpur (this place is now within the area of Dhaka). No amenities were provided. However, many NGOs assisted the people.

Between 1989 and 1998 there were twenty demolitions carried out in the following places: Taltola Sweeper Colony, Gulshan 1, Agargaon, Shikdir Basti, Nikhet, (twice) Bakshi Bazar, (twice), Baridhara, Kamalpur, Mirpur, (thrice) Pollobi, Agargaon, (thrice) Kallyanpur, South Shahjanpur (thrice), Azimpur, Panthopoth, Karwan Bazar, and (thrice) Bashantek. During this period over 100,000 people were made homeless by the Government. The squatters filed petitions in the court and were given stay orders. However, after returning to their place and rebuilding their houses the authorities evicted them again. In some cases, after a year or two some settlements were evicted twice or thrice.
In 1990, the Government went on a squatter clearance drive and evicted people from their homes in Kamalapur, Mohammedpur, and Moghbazzar, amongst others. Over 20,000 homes were destroyed leaving nearly a hundred thousand people homeless.

Forced Evictions in 1999-2000

In 1999-2000, about 100,000 people were evicted in Dhaka. Ain-o-Salish Kendro and Coalition for the Urban Poor (an NGO working in squatter settlements) carefully documented these forced evictions in Slum Evictions in Dhaka 1999-2000. The fact-finding team met with numerous people, including Ministers for Housing and Land, and all said that the forced evictions were initiated by the Home Minister and sanctioned by the Prime Minister. The reason given for the large-scale forced evictions was to curb terrorism.

According to those evicted and NGOs, the forced evictions were conducted in a war-like fashion, with a large number of armed police as well as police in riot gear deployed alongside demolition crews. Often no written notices were given, only oral notices were given through loudspeakers a day earlier, usually in the evening. A typical case would be that an announcement would be made through loudspeakers one evening informing the community that they would have to move their belongings and house by 7:30 am the next morning, if they didn’t it would all be destroyed. Any requests for clarifications were met with threats of beating or incarceration. Early the next morning at 7:00 am the settlement would be surrounded by police and the demolition crew, who came with bulldozers. Once again announcements would be made to gather all belongings and vacate their homes. Usually the men and women would try to plead with the police. The community was met with threats, and at times the police beat up the men and women.

“We didn’t stand a chance.” Forced Evictions of Balmat Basti, Railway Barrack & TT Para

The three settlements of Balmat Basti, Railway Barrack and TT Para are in Kamalapur and each had a population of about 400,350 and 1,000 families respectively or a total of 1,750 families or approximately 9,000 people. Most people lived in the area for about four years, some even longer. The people worked as motor and cycle rickshaw drivers, construction and garment factory workers, vendors and other daily wage earners. Some rented their place for between 500-800 Taka a month. Most lived in their house having spent about 5,000 Taka to build. The average family size was 6-7 persons. The average family income was about 80-120 Taka per day.

On the evening of Sunday 8 August 1999, the people in the settlements got oral notices through loudspeakers informing them to clear the area by removing their house and belongings as the following day bulldozers are coming to clear the land.

The following morning at around 7:00 am the police arrived and asked the people to get out of their houses. The people pleaded with the police and while they were doing this,
bulldozers came and started destroying people’s houses. There were over 1,000 police and a demolition crew numbering approximately 300. The people quickly scrambled to collect whatever they could and save themselves.

Most people lost their houses. The Home Minister had ordered the demolition and promised to resettle the people but nothing has happened. He promised to resettle them in Kalapani, Mirpur. Kalapani is very far and commuting costs 50 Tk per day. This would mean most of their earning would be spent on transportation. In the absence of any alternatives or compensation they have rebuilt their shacks in nearby places, some have rented in nearby low-income settlements, and some have moved in with their relatives nearby. Their places of work are in the surrounding area.

Currently the land is contracted to railway staff to grow vegetables.

Stories of Victims of Forced Eviction

The Coalition for the Urban Poor arranged a meeting with some of the people who were evicted. The following are their stories:

“We have nowhere to go” The story of Gulmala

I was evicted in August 1999 from my home in PTC Tajgaon on August 1999. We are citizens of Bangladesh, though we are poor we have rights. The Government’s duty is to protect its citizens, protect the people’s rights, protect our right to food and shelter. Yet the Government destroys our homes, makes our life more difficult and has little respect for our rights. They do this in the name of terrorism. Yet the real terrorists, living in the rich people’s areas or protected by the rich people, are never caught. They want our land to build apartments for rich people. Where are we to go? It took us a long time to build our house and community. I came to Dhaka in 1971, and have lived in this basti ever since. I have one son. My husband died a few years ago. To earn a living I am a waste picker and earn between 50-60 Taka a day.

We have nowhere to go, so we live on the pavement under a plastic sheet. When it rains it is awful and this is the rainy season. I am so miserable and feel depressed. Our friends are scattered all over the city. I am fifty years old and feel tired of struggling. My son gives me some support.

“We have to start from scratch”: The Story of Ayesha

I was born over thirty years ago in Karwan Basti. So, my parents were also living in this settlement. We got a notice in the evening and the next day police and bulldozers came. We did not know what was happening. We went to the police to plead with them to allow us to stay, but all they said was that they had their orders to evict us. We asked them what was the reason, and they said we were living there illegally. We have lived here for over thirty years and now we are illegal. We couldn’t understand this. We told them we had nowhere to go. But they said they had their orders to clear the land and if we did not get our belongings out, the bulldozer would destroy it. While we were
still discussing this, someone threw stones at the police. The next thing I knew was the police beating me with sticks, tear gas shells were thrown. I fell unconscious. My friends carried me to one side and when they revived me I saw the bulldozer destroyed our whole settlement. I was so shocked and felt like dying. I then remembered my children and somebody told me they were safe. I was so worried about my little baby who was only one and half years old. We had taken years to build our house. Our belongings were all destroyed – the beds – utensils, everything. All the women were crying even some of the men. We felt so devastated.

We are living with our relatives. We have to start from scratch. We have no hope in the Government.

“We want to live like human beings” Aliya’s Story

I have lived in PTC Basti for the past 32-35 years. We have been evicted three or four times before. But we always came back. When we first settled in the area there were a few people and we built a five-room house. We spent at time about 10,000 Takas. We spend about 2,000 Takas every year to maintain it. I work in a garment factory and earn about 1,200 Taka a month. This includes overtime, which we often have to do. Three months ago, on 15 April 2000 we were evicted from our houses. The police came with the demolition team and just told us to move our belongings. We tried to talk to them but they were rude and abusive. We got a few things out and then the bulldozers started flattening the houses. Our house was destroyed. We all looked on in absolute shock. The police were there fully armed and we felt so helpless. What could we do?

We now live under a plastic sheet. I had to take leave from the garment factory and so lost my wages for those days. Three people died from the forced evictions this time. Two elderly people who were sick died, as they got no medical attention, another woman suffered a miscarriage.

We are not beggars, we are working and contributing to the city. We have spent years saving, so we can build our houses on our own. We are asking the Government to give us land, we will build decent houses and repay the cost in instalments. We want to live like human beings.

Account of Forced Evictions of Communities

The fact-finding team met with several communities who were evicted. These are their stories of what happened:

Moghbazar

Wireless Railgate: 400 families. The railway owns the land. The land was empty when they first settled here. They have been staying here for the past 20 years. Over the years the people have invested about 10,000 to 12,000 Takas in their houses. Most people are rickshaw drivers, construction workers, vendor or daily wage earners. BRAC, an NGO, has begun a credit program in the settlement and DSK, another NGO, runs a medical service and assisted in constructing a water supply system now run by the community. On 9 August 1999 the community received an oral notice to remove their houses. The Interior Minister issued this order, and according to witnesses, it was carried out ostensibly to curb terrorism. The community peacefully pulled down their hous-
es and invited the police to investigate the people. After finding no terrorist in their settlement the people were allowed to rebuild their houses. In recent years they have been evicted several times. But since their livelihood is nearby they do not want to move further.

**PTC Tajgaon**

Two hundred and eighty five families have lived in this settlement for the past twenty-two years. Most people are daily wage earners working as casual labourers, vendors, garment factory workers, rickshaw pullers, etc. They spent between 4,000 to 5,000 Taka to build their house. The Dhaka Ahsania Mission, an NGO, had set up a school in the settlement and conducted non-formal education programs. On 23 March 2000, after Juma (Friday) prayers they got an oral notice to clear the land and move the houses. The community leader requested the police who gave the notice over a loud speaker to give a written one. He was at once threatened with arrest.

Early next morning, about three hundred police and demolition crew came to the settlement and asked the people to move from their homes as they wanted to clear the land. The people appealed but they got no response. Instead, the bulldozers started and people began trying to quickly rescue whatever they could. Most houses were demolished including the school. One person got so upset that he had lost everything he just started running and unfortunately was hit by a train. The tracks are about 8 meters away from the settlement. The people had nowhere to go. Some just squatted along the railway tracks nearby. Some have returned and built some shelter with plastic sheets and poles.

The police regularly harass them and often tell them to move. The community has stated that if the Government provides an alternative place for them to live that they would willingly go. The police threatened them with arrest and confiscate their belongings.

**Settlements Threatened with Forced Evictions**

The following settlements are threatened with forced evictions. The fact-finding team also visited these communities and heard their stories. This is their account of what happened.

**Korail Basti Ward # 9**

This settlement covers an area of approximately 90 acres, about 15,000 families live in this settlement. Prior to 1965 the land was owned privately. The telecommunication ministry acquired this land. Later the public works department acquired the land. The land was vacant and in 1976, people made landless by floods came to the city and began building their houses on the vacant land. The settlement is well planned and most lanes are clean, despite it being the monsoon season. PROSHIKA, an NGO working in this settlement conducting awareness programs, assisted them in building tube wells, latrines, etc. All of the development in the settlement they have done themselves contributing the labour and most of the cost.

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23 US$ 1= (approx) 50 Takas (1999 values).
In August 1999, the community got an eviction notice from the Interior Minister claiming the place was full of hoodlums and that illegal activities were being conducted in the settlement. They were given 72 hours to move. The community decided to resist. They took out a procession and blockaded the road demanding that the Government retract its eviction notice. The police beat them, hosed them with hot water, and used tear gas and rubber bullets to disperse the crowd. Five people died and over 200 were injured. At the same time they also petitioned the court which ruled in their favour (see Annex 3).

According to Ms. Fatima, a community leader, “the Prime Minister declared that no evictions of slums would take place without re-settlement. The Government is using the words ‘illegal occupant’. Are we not citizens of this country? Do we not have rights? Just in this settlement there are at least 15,000 voters. We keep the city clean, we provide labour to the factories, also provide essential services to the city. We have our jobs in the surrounding area. We are not going to move until there is a proper resettlement plan.”

The community is willing to share the land with the Government. Seven months ago the Ministry of Science tried to acquire 47 acres of the land. They also protested that it should be given to them.

The Reasons for Forced Evictions

According to the documentation provided by Ain-o-Salish Kendro and Coalition for the Urban Poor, 19,432 families have been evicted since May 1999. Based on an average of six persons per family, this translates into 116,592 people who were evicted. About 10,672 families lived on government land. Only 5,350 families lived on private land. The reason given by the police and those acting on behalf of the Home Ministry was that “these” settlements were harbouring terrorists and the Government needed to wipe out terrorism, and therefore the Government had to evict these people. Neither the Minister of State for Land nor the Minister for Housing was consulted about these forced evictions.

Evictions on private land were relatively more peaceful with people moving out of their own accord. However, the ones living on government land experienced the most violence, resulting in people dying and getting hurt. The forced eviction process sanctioned by the Government and carried out by the police, besides violating both domestic and international laws (that will be dealt later in this report), also violates all norms of decency. The forced evictions conducted by the police and sanctioned by the Government were extremely dehumanizing and stripped people of their dignity, just because they are poor. The police trampled the rights of their own citizens. The police were never asked to restrain their behaviour. Neither did higher authorities or the Home minister, who is in charge of the police, sanction their excessive behaviour through the months of May to August when the bulk of the forced evictions took place. Though wide press coverage was given to these forced evictions, neither the Prime Minister nor the President censured the Home Minister for violating people’s rights under the constitution and international law.

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24 Ain-O-Salish Kendro, Slum Evictions in Dhaka 1999-2000, pp. 4 - 6 (date not given).
25 The fact-finding team met the Honourable Minister for Land, Al Haj Rashed Mossarraf and the Honourable Minister for Housing and Public Works, Mr. Mossarraf Hossein. Both stated that they were not consulted nor did they know that the evictions were going to take place.
The police behaved, as one evictee stated: “like an army in battle.” For some, the forced evictions were reminiscent of the Pakistani army action during the liberation struggle of 1971. At that time, the Pakistani Army evicted thousands of people to weed out “terrorists.” It was now the Bangladesh police that were using excessive force on a defenceless and unarmed population. If people attempted to defend their homes they were met with abuse, beatings and tear gas. On not one occasion did the fact-finding team ever hear of evictees using arms and ammunitions against the police, calling into question the claim that the squatter settlements harboured terrorists.

There were reasons for the forced evictions, other than the Government declaration of wiping out terrorists. No reasonable government makes over 100,000 people homeless, on such questionable grounds. Some larger NGOs, appalled at the ruthless way of evicting people, pleaded directly with the Prime Minister, Sheikh Hasina Rahman, to stop the forced evictions. The Prime Minister did not listen. It was a far cry from the same Prime Minister who called for the removal of the State Minister for Housing and Works in 1997 after he ordered the forced eviction of 16,000 families in Bashantek. At that time the Prime Minister Sheikh Hasina Rahman, went to Bashantek, apologised to the people and vowed not to evict people, and if unavoidable, to do so with adequate rehabilitation and compensation.

This time, however, despite the fact that forced evictions were being carried out on a very large scale, that they were very violent, that there were numerous protests and demonstrations by civil society groups, and that there was extensive coverage in the national and local newspapers, the Prime Minister was unmoved. International agencies, including the traditionally cautious World Bank, expressed their disapproval of the Government’s action to evict people.

The World Bank’s View

“The events of the last few weeks have highlighted the need for better approaches to urban development. While we share the Government’s concern about urban law and order and the living conditions in slums, bulldozing them and rendering slum dwellers homeless doesn’t address these problems. Forced eviction without relocation simply shifts poor people from some slums to others, inflicting suffering on them by disrupting their lives and livelihood and worsening rather than improving their living conditions. It also undermines efforts, almost all of which have been initiated with Government’s approval, to provide education, health, job training and micro-credit to the hard-to-reach urban poor. We agree with the High Court Division of Bangladesh’s Supreme Court that relocations from slums should only be done in a phased manner involving rehabilitation.”

Mr. Frederick T. Temple, World Bank Country Director for Bangladesh
Urban Strategy Workshop, 28 August 1999
The Impact of Forced Evictions

The forced evictions in the past year in Dhaka have had a huge social and economic impact; not only on the 116,592 people directly affected, but also on their friends and relatives to whom they have had to turn for shelter. It has and continues to have far reaching impacts on those evicted, their friends and relatives and the urban poor in general. Not only has it impoverished people further, but they continue to live in fear and insecurity.

The families had built not only their homes, but also a social network of friends and families that ensures their survival. These networks are important to people, especially women, as they can rely on them to support them in their social and economic activities. It could be fetching water, taking care of children or an elderly person while the woman shops, taking a sick child to the doctor or going to earn a living or any number of good neighbourly actions. These networks are relationships with families around one’s dwelling place and are cultivated over time. These relationships are carefully interwoven into the fabric of the life of squatters and assist greatly in their survival and development. They are non-quantifiable, but so important to poor people’s economic survival and development. Forced evictions destroy these crucial networks.

People who were evicted and interviewed by the fact-finding team stated that they had spent between 5,000 to 10,000 Taka (US$100-200) to build their homes. In a country where the per capita income is US$350, this is a large sum of money that people save over many years. If a median figure of 7,500 Taka is taken as the average amount spent on just housing, the approximate financial loss incurred by the poor in Dhaka is about 145,740,000 Taka or US$2,914,800. This does not include household belongings that many lost under the bulldozers, destroyed by police and the demolition crew, in the general confusion and then later in the rain. This would add up to a substantial amount. None of the communities or families received compensation.

All those families evicted lost many days wages during and after the forced evictions. If the average daily family income is 75 Taka, and the minimum number of days people could not go to work is three, and if conservatively 1.5 earners per household is considered, the total loss of wages is 6,558,300 Taka or US$131,166.

The Dhaka City Municipal Corporation has invested much of its time, energy and resources to facilitate development, such as water and sanitation in some of the settlements. NGOs such as Proshika, Dustha Shastya Kendra, Grameen Bank, Dhaka Ahsania Mission, CUP, and others have depleting many of their resources in assisting people to improve their living conditions, through a variety of schemes such as water and sanitation, education, health, credit, etc. Some have built infrastructure such as schools and health centres, water posts, etc. The bulldozers destroyed all this, pushing the development of the people back to square one. Besides infrastructure, many NGOs have provided credit to low-income families to run their small businesses. Forced evictions have destroyed their homes and the income generating activities. Many families are dispersed in the city, thereby setting back the efforts of the NGOs to build social cohesion and communities. It also

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makes it difficult for them to follow-up on the loans they have provided families. All this is a sub-
stantial loss, in terms of finance and community-building both to the NGOs and communities.

Some of the other human and social costs of forced evictions are insecurity for the future, commu-
nity and family break-up, worsened living conditions, removal of children from school, higher
transport costs, etc. 27

The current living situations of the evicted families have deteriorated substantially. Many have to
live on pavements, or any open space under a plastic sheet. This makes them vulnerable to the
elements, especially during the rainy season. Children and the elderly are prone to illness and
with lack of medical care many have and may continue to succumb to their sickness.

Their current living conditions, out in the open with the barest of shelter, also strips them of their
dignity and sense of privacy. Those living on pavements and roadsides have to contend with the
constant gaze of all those passing by. They have no proper toilets or bathrooms, or sanitation.
Children have to squat on the roadsides to relieve themselves. All this contributes to illnesses
and ill-health, further depletes their scarce resources by requiring them to pay for medical care;
disabling older people from working; losing wages and thereby further increasing their poverty.
Forced evictions cause trauma in children. Their schooling is disrupted or they may be removed
from school all together. Their familiar places of play and friends are gone. Their burdens to look
after smaller siblings and do other household chores increase as their parents try to locate a place
in which to live, earn a living or take someone for medical attention. Children have known to re-
live these moments over and over again, making them insecure and fearful and thus causing con-
tinuous insecurity and instability amongst people. 28

The Government has a duty to protect its most vulnerable citizens, particularly its children. Chi-
ldren remember that the Government deliberately made them homeless and hungry. Treating
them violently, with no respect and dignity, is to only ensure that these very same values are
ingrained in their young minds. If their government is going to treat them so harshly is there any
reason for them to trust it? How can a government which evicts children expect this generation to
respect it and its laws, which they see as only punishing the poor? They can become resentful
towards the police and the Government. They spend most of their lives struggling to survive and
the struggle is compounded by Government harassment. As Arif Hasan points out in his analysis
of violence in Karachi, “in the 20 to 25 years that it takes a squatter settlement to overcome these
problems, a whole generation of angry young men and women have grown up in conflict with the
establishment.” 29 By evicting people and putting all kinds of obstacles in their way to develop, the
Government is creating a generation that has little faith in government. The Government should
be protecting them.

27 The impact of evictions are many, for further details see, Scott Leckie, When Push Comes to Shove, pgs. 29-30, Habitat International
pgs. 11-14, Karachi, Pakistan: City Press (1998).
28 In 1997 the ACHR Eviction Watch Program conducted a study on the impact of Evictions on Children in three cities, Mumbai, Manila
and Phnom Penh. Some of the impacts are given in Kenneth Fernandes (ed.), Forced Evictions and Housing Rights Abuses in Asia,
“I still have bad dreams about the police beating us.” Abdul’s Story

“I am ten years old. I have two sisters: one is three and the other is one and a half years old. That morning of the forced eviction, I can remember so clearly. I don’t think I will ever forget it. It was early in the morning, we were about to have our breakfast, when the police came. Everybody was shouting that the police had come to destroy our houses. My mother told me to look after my two younger sisters while she went out to see what was happening. After some time I saw the police hit people with sticks and there were police all around just beating people and abusing them. Everyone was shouting and there was so much confusion. I carried my younger sister and told the other to hold my shirt and we were walking fast to find a safe place. The police started beating me and I fell, my first thought was to protect my little sister. My sisters were crying, so was I. I thought we were going to die and I started to pray to Almighty God to protect us. Then I saw a shell hit our house and it caught on fire. I ran, with my sisters and thought the police were bombing us. And then as I reached the edge of the settlement, I fell again and there was a sharp pain in my left leg. A pellet hit me. An older person saw me fall and helped me up, he took my youngest sister and the other in his arms and I hobbled after him. I was surprised to see that he too was also crying. The police hit many children. They just didn’t care. I saw one hit a small girl with a stick and she too fell. I still think about the day police came and evicted us and destroyed our house. It’s a bad dream that will not go away.”
National Laws Violated

The Constitution of the People’s Republic of Bangladesh states in Article 15 (a) that:

*It shall be a fundamental responsibility of the State to attain, through planned economic-growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens—(a) the provision of the basic necessities of life, including food, clothing, shelter, education and medical care;*

The Government does not have the resources to provide every family with a house. Neither is it expected of the Government to build houses for all people. It is expected, however, that provisions are made to ensure that people, especially the poor and vulnerable, those who are forcibly made to migrate to cities because of natural calamities or through the absence of economic opportunities in their village, are able to build their own homes and have security of tenure. As noted earlier, the Government does not have any specific schemes to house the urban poor, nor provide land for them. In the absence of programs, the people have taken the initiative to build their own houses, often on not very large plots of land - averaging 32.08 square feet.

It is well established that the poor, those living in shanty dwellings and squatter settlements contribute to the national economy in general and to the urban economy in particular. In Dhaka, it is the poor that provide cheap transport, fruits, vegetables, construction labour, and garment factory workers, amongst other essential services. The two million or so garment factory workers, most of whom live in squatter and slum settlements, bring in millions of much needed foreign exchange. As one evictee said, “we are not beggars, we work and contribute to the economy and life of the city. We are citizens of this country and the Government should protect our rights.”
By evicting over 100,000 persons, the Government of Bangladesh is violating its own Constitution and legislation. In the first instance, the people evicted were not served with adequate notices, despite the fact that the Government Local Authority and Building (Recovery of Possession) Ordinance XXIV 1970 section 5 requires a 30-day notice to be given by the District Commissioner in order to legally evict unauthorised occupants. As noted by the fact-finding team, in most cases the residents were given less than 24 hours notice, at most 48 hours. The residents were not given any legal written notice. They were informed orally through a microphone, which was unacceptable to the High Court of Bangladesh in their landmark ruling on forced evictions (see Annex 3).

They were not given information on why they were being evicted. A general explanation of ridding the city of terrorists was given, but this reason is inadequate and does not justify making over 100,000 persons homeless. In fact, according to the Office of the United Nations High Commissioner for Human Rights, this is one of the most frequently used excuse to deprive poor people of their homes.30

The due process of law was not followed, thus violating Article 31 (Right to protection of law), which states:

To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.

Furthermore, the Constitution clearly states in Article 11 (Democracy and Human Rights) that, “the Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed . . . .”

The whole process of forced evictions violated this fundamental right. The people were not treated with dignity and respect. They were deemed not to be not worthy to receive written legal notices, nor were they given proper explanations. When people challenged these orders they were met with abuse and beatings. In so doing, the Ministry of Interior, the police and other public servants have ignored and violated Article 21 (2) of the Constitution which states: (2) “Every person in the service of the Republic has a duty to strive at all times to serve the people.”

Economic status can play an important role in how government authorities relate to people. Those who are poorer and vulnerable are often treated with disdain, contempt and disrespect. Bangladesh’s Constitution taking cognisance of this fact, protects vulnerable groups by ensuring in Article 27 which states that “all citizens are equal before law and are entitled to equal protection of the law.” Those evicted belonged to a lower-income group and did not possess the trappings of economic power to combat the authorities. The Government authorities ignored this Article and took the law into their own hands, denying them their fundamental rights of redress.

30 UN Human Rights Fact Sheet No. 25 on Forced Evictions (1996) issued by the Office of the High Commissioner for Human Rights, Geneva, Switzerland. Among the other most frequent public justifications to forcibly evict people are: “to beautify the site or city, to protect public health, hygiene or safety; to protect the safety of pedestrians on pavements, to provide infrastructure, roads, or public works; to construct facilities for international events; to eradicate safe havens for criminals.”
International Laws

The forced evictions examined by the fact-finding team contravened numerous international standards and norms.

Bangladesh can be proud that it was among the first twenty-two countries to sign the UN International Convention on the Rights of Child. In evicting children from their homes the Government of Bangladesh, however, has violated the following Articles of the International Convention on the Rights of the Child:

**Article 6:**
1. State Parties recognize that every child has the inherent right to life.
2. State Parties shall ensure to the maximum extent possible the survival and development of the child.

**Article 16:**
1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, or correspondence, or to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

**Article 24:**
1. State Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

**Article 27:**
1. State Parties recognize the right to every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.

2. State Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case need provide material assistance an support programmes particularly with regard to nutrition, clothing and housing.*

Taking a conservative average of 3 children per household, and with approximately 19,432 households evicted, an estimated 58,296 children were evicted. As noted earlier, evicting children from their homes is a traumatic experience. It can traumatising them for life. Their currently insecure living conditions on pavements, roadsides and other open places, without any basic amenities, makes them vulnerable to sicknesses and ill-health, reducing their chances of survival and development.

* Emphasis added.
The police, who are meant to be the very protectors of the law, verbally and physically abused many of the children. Children were not given any protection whatsoever. Their homes were entered unlawfully and many were physically assaulted. The Home Ministry, whose mandate is to uphold the law, sanctioned these violations against innocent children. There was no consideration whatsoever for the harm and suffering that evicting over 19,432 families could cause, neither was it taken into consideration that the various laws both domestic and international were being violated.

The Universal Declaration on Human Rights is recognized by all governments and has become customary international law. Housing is a basic right that is to be enjoyed by all. This is recognized in article 25 (1) of the Universal Declaration on Human Rights, which states:

*Everyone has a right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing* and medical care and necessary social services

The International Covenant on Economic, Social and Cultural Rights (ICESR) in Article 11 (1) elaborates and reaffirms this right to housing. It recognizes

*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. The State Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

The UN Commission on Human Rights unanimously adopted in March 1993 resolution 1993/77 declaring that “the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing.” (See Annex 4 for full text). The resolution emphasizes that “ultimate legal responsibility for preventing forced evictions rests with governments.”

In May 1997, the United Nations Committee on Economic, Social and Cultural Rights adopted a General Comment on Forced Evictions (UNCESCR General Comment No. 7 (1997) – (see Annex 5). This General comment provides greater clarity as to the intent, meaning and content of Article 11 (1) of ICESCR.

Every Government notwithstanding its position on the global development scale, can act immediately to halt forced evictions and ensure this aspect of the housing rights of their citizens.


* Emphasis added.
The fact-finding team also learned that the Government of Bangladesh did not observe the procedural protection against forced evictions laid down by UN Committee on Economic, Social and Cultural Rights in its General Comment No. 7, which states that certain guidelines must be followed in order for evictions to be considered lawful. These guidelines include:

(a) an opportunity for genuine consultation with those affected;
(b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
(c) 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;
(d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;
(e) all persons carrying out the eviction to be properly identified;
(f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
(g) provision of legal remedies; and
(h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

The Committee further stated in General Comment No.7 that:

Evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

The National Housing Policy (1993) of Bangladesh ostensibly attempts to protect people from forced eviction by stating in paragraphs 5.7.1 and 5.7.2 that:

the government would take steps to avoid forcible relocation or displacement of slum dwellers as far as possible ... encourage in situ upgrading, slum renovation and progressive housing developments with conferment of occupancy rights wherever possible, and to undertake relocation with community involvement for clearance of priority sites in the public interest.

Yet, the Government of Bangladesh clearly violated its own policies designed to protect the housing rights of people and provide them with adequate shelter as well as involve people in the process of their own development.
Bangladesh has also ratified the International Convention on the Elimination of All Forms of Discrimination Against Women, of which Article 14 (2) (h) states:

States Parties shall take all appropriate measures to eliminate discrimination against women ... shall ensure to such women the right ... (h) to enjoy adequate living conditions, particularly in relation to housing*, sanitation, electricity and water supply, transport and communications.

Furthermore, the United Nations General Assembly adopted the Global Strategy for Shelter to the Year 2000. This document clearly states that:

all citizens of all states, poor as they may be, have a right to expect their government to be concerned about their shelter needs, and to accept a fundamental obligation to protect and improve houses and their neighbourhoods, rather than damage or destroy them.31

* Emphasis added.
By and large, civil society groups in Dhaka were shocked that the Government was evicting so many people, particularly without any compensation, alternatives or rehabilitation programs. The responses were varied.

Community Action and Rallies

Initially, many communities were taken by surprise with the ferocity and intensity of the forced evictions. They just didn’t stand a chance to protest as they were out-numbered and overpowered by armed police and anti-demolition squads. The Trinumul Jono Sangathan, a grass-roots organisation of squatter dwellers, did manage to organize people and staged a rally against the forced evictions. People who were evicted as well as those threatened with forced evictions participated in the protest demonstration. The police, however, met the peaceful rally with tear gas and rubber bullets. Many of the rally participants were severely beaten by the police.

Another protest rally was organized with many NGOs, journalists and other sections of civil society participating. The police allowed this peaceful rally to take place, and there were no incidents of violence.

Media Coverage

The press gave substantial coverage to the forced evictions and the plight of the people. Despite this attention, however, the Government continued to evict people ostensibly in the name of law and order.
Appeals to the Government

In 1997, 16,000 people were evicted from Bashentek. The Prime Minister immediately removed the Housing Minister for this violation of human rights and declared that, “No evictions would take place without rehabilitation.” This response echoed the appeals made by several NGOs to the Prime Minister. For example, the President of Proshika, one of the largest NGOs in Bangladesh, made a personal appeal to the Prime Minister to stop the forced evictions. Additionally, a number of NGOs such as Grameen, BRAC and the Association of Development Agencies in Development, also made appeals to the Prime Minister to stop the forced evictions. She failed to follow the recommendations, however. At an Urban Strategy meeting held in Dhaka in August 1999, Mr. Frederick Temple, the World Bank Country Director, also made an appeal to the Prime Minister not to evict people without some relocation plan.

Litigation

Groups such as ASK and BLAST provided legal support to the Basti dwellers. ASK filed a petition in the High Court of Bangladesh on behalf of persons evicted. A well-known human rights lawyer, Dr. Kemal Hossein, argued the case on behalf of the squatters. On 3 August 1999, the High Court delivered a landmark decision in favour of the squatters (see Annex 5). The judges recognized the fact that the poor are often victims of misfortune and natural calamities and have nowhere to go. Their impoverishment leads them to congregate together in certain areas where there is vacant space. The judges recognized that the poor contribute to the economy and provide vital services to people. The Court defended the right of the poor to a livelihood and stated that if people need to be moved it had to be done in phases according to the financial means of government so as to provide rehabilitation schemes for the dwellers.

Despite the High Court Judgement of 3 August 1999, the Government evicted an additional 14,674 families (approximately 88,044 individuals) from 8 to 11 August 1999.
The fact-finding team, after spending six days being briefed by low-income communities that have been forcibly evicted or are under threat of forced evictions, community based organizations, NGOs, government officials, Ministers, academics, architects and planners, Asian Development bank and World Bank representatives, found that:

1. Dhaka City has a significant population living in slums and squatter settlements. Those living in these settlements have migrated to the city for a variety of reasons, including lack of economic opportunities in the rural areas and natural disasters such as floods and cyclones. In the absence of government sponsored schemes to settle these migrants, they have developed innovative processes that enable them to survive.

2. These families do not possess large plots of land. They generally occupy a small plot of land averaging in size of about 32 square feet. The houses have been built with people's own resources. The length of stay in these settlements ranges from 3 years to 32 years.

3. The people in these settlements are vendors, drivers of cycle and motor rickshaws, factory workers, garment factory workers, daily wage labourers, domestic servants, etc. They make a major contribution to the economy and welfare of the country in general and the city in particular.

4. Since May 1999, the Home Ministry of the Government of Bangladesh has ordered the forced eviction of about 19,432 families, under the guise of clearing the city of terrorists. This has rendered over 100,000 men, women and children homeless.

5. No adequate notices were given to these families. In most cases they were given less than 24 hours notice. An excessive amount of force was used to brutally evict these families.
6 The living conditions of these poor families have deteriorated further. By and large, they have no access to basic amenities like water, sanitation, health and education.

7 The destruction of houses has meant an enormous economic and social loss to these families. It has further put a strain on their relatives and friends.

8 The fact-finding team has found this action by the Government to be a clear violation of the Local Government Act, the Bangladesh Constitution and international human rights covenants, conventions and commitments.

9 Despite a ruling by the High Court that the Government stop evicting people unless there is a resettlement and rehabilitation plan, communities have been evicted and many communities continue to be threatened of forced evictions.

“Nobody wants to live in a slum of her/his own free will. We also want Dhaka City to be free of slums. This is what the slum Dwellers dream of but such a dream can come true only when both rural and urban poverty is effectively reduced and the urban poor are properly rehabilitated. We therefore put forward only one demand to you - the realization of your previous commitment that ‘No slum would be demolished without making proper arrangement for rehabilitation.’ Rehabilitation before demolition, not the other way round and that too in phases. Let this be the process of making Dhaka a slum free city.”

Appeal of ADAB (Association of Development Agencies in Bangladesh), CUP (Coalition for the Urban Poor and TJS (Trinomul Jano Sangathan) issued to the Honourable Prime Minister on 15 August 1999.
Bangladesh is well known internationally for many of its innovative development programmes that have improved the lives of millions of poor families. That the Government has deliberately made over 100,000 persons homeless and caused so much suffering to poor people is a matter of shame and deep concern. There are a number of NGOs, as well as concerned professionals and academics who work with low-income families and understand their situation. They have conducted several studies and there have been several seminars and workshops on improving slum and squatter settlements in Dhaka. They have made several recommendations to improve the living conditions in slums and squatter settlements. The fact-finding team highlights some of them:

**a** The Government of Bangladesh must recognize that it has violated the rights of all the people it has evicted. It should compensate them for the losses that they have incurred and make provisions to rehabilitate and resettle them. It should desist from forcibly evicting people or threatening people with forced evictions and should find alternatives ways to deal with crime and other social issues.

**b** A Master Plan for the rehabilitation of the slum dwellers and squatter settlements should be developed by the Government of Bangladesh with the maximum participation of all stakeholders, including the slum dwellers themselves with the assistance of their friends from the NGO community and the academy.

**c** Land is the most critical issue in the effort of housing the urban poor of Dhaka. The Government should allocate and/or reserve government land for the urban poor. This should reduce inequalities of land ownership in cities. The present development plans of RAJUK, which continues to allocate negligible portions for the urban poor in their housing plans, does not address the issue. A greater proportion of land for low-income families needs to be allocated in their housing schemes.
Considering that more than 70 per cent of the land in Dhaka is already privately owned, this must also be regulated. Various measures must be explored to protect the tenants and to reduce land speculation. These measures can include a judicious mix of taxes such as property tax, excess land profit tax and land transfer tax.

The Bhashantek Project that plans to generate 16,000 housing units for slum dwellers and low-income families (who were evicted in 1997) should be pursued and even replicated. In the scheme the Government provides the land, the NGO and community would shoulder all the other costs. Land is available. Certainly portions of government lands presently occupied by slum dwellers can be allocated for this purpose.

Considering that slum dwellers are among the life-blood of the urban economy, their rehabilitation should be within the city, close to their livelihood. This rehabilitation should also include a complete package of education, health care, employment and income generation opportunities.

Urban growth in Dhaka must indeed be slowed. There are, however, measures that are more effective than forced eviction. The slum dwellers would be more than willing to move out of Dhaka if employment opportunities were created elsewhere. Some such measure to create additional employment outside of Dhaka includes decentralisation of administration, investments and social benefits. Rural development, rural employment opportunities and poverty alleviation programs need to be further strengthened.

The Government should respect the August 1997 High Court ruling that called for a stop to forced evictions unless there is a proper resettlement and rehabilitation plan.

The Government should take housing rights seriously and consider them a basic human right and ensure that all its citizens enjoy these rights. Legislation that enhances security of tenure of slum and squatter dwellers, provision of credit to build or renovate their houses, and provision of basic amenities should be developed and enacted in order to ensure that this basic right is protected, promoted and fulfilled.

The Government should bring to justice all those who ordered the forced evictions, those who abused their power and position to make over a hundred thousand people homeless, and caused undue suffering and violated their rights and dignity. The police should be censured for use of excessive force on unarmed children, men and women.

Finally, many governments in Asia have dealt creatively with their squatter and slum communities, recognizing their contribution to the city and so attempting to upgrade and improve their living conditions. Giving poor people security of tenure in a number of places has proven to be a catalyst for self-help improvement of squatter settlements. Land sharing is an option that has been expressed by the squatter community themselves and is a viable option that has worked in some cities. The Government of Bangladesh, by assisting people to live in a secure and decent place with amenities such as potable water, sanitation, electricity, etc., can contribute to less violence in communities, and give poor people the much needed support they need to ensure they can enjoy life fully.

For more information on the various innovative squatter and slum improvement programmes in Asia, contact the Asian Coalition for Housing Rights at: www.achr.net.
Annex 1

Statement of the fact-finding Mission on Forced Evictions in Dhaka City, Bangladesh

We four members representing Asian Coalition for Housing Rights (ACHR), Bangkok and the Centre On Housing Rights and Evictions (COHRE), Geneva were part of a fact-finding mission to investigate forced evictions in Dhaka City, Bangladesh. After meeting and listening to various persons we have observed that:

a The homes in forty-four settlements have been demolished in the past one-year making 19,432 families or approximately one hundred thousand people homeless.

b They have been made homeless by the Government of Bangladesh, under the directive of the Home Minister** and carried out by the police.

c The police using bulldozers have destroyed the houses of 19,432 families, along with their belongings, thus causing losses in the millions of Taka.

d The length of time the evicted people have been staying in these settlements ranges from 32 years to three years.

e The authorities have given oral notices of less than twenty-four hours to families to vacate their homes. It is usually given in the evening prior to the forced eviction. The forced eviction occurred early the following morning.

f An extraordinary show of government force was present to intimidate people, beating them with sticks, thus injuring many, especially women and children;

g There has been no resettlement nor rehabilitation plan for any of these families. Neither have they been compensated for their losses.

h The men, women and children have been severely traumatized, many getting sick and some succumbing to disease, especially the elderly, due to lack of medical attention. An eight-month pregnant woman had a miscarriage in TT Para, resulting in the death of the child.

i Most slum dwellers interviewed have come from poverty stricken rural areas or landless peasants whose land has been eroded by the river. These people have come to the city to earn a living and survive. In so doing, they perform essential services to the city. They keep the city clean, provide cheap and accessible transportation to all, provide cheap labor to the garment factories earning foreign exchange for the government, providing cheap domestic servants to
middle and higher income families and labor to the construction and other industries. Not recognizing their valuable contribution to society, the government has made no plans or provisions for housing these migrants.

j In the absence of such plans or provisions for housing poor people, these very same poor people have found solutions on their own. They have acquired land, build their own houses and generated their own income. They have done this on their own.

k By evicting nearly 100,000 people the government has further impoverished people. Their social life, support networks have been destroyed.

l The Police beat many children with sticks. Not only have children been physically abused but also emotionally traumatized. The thousands that go to school, their education was disrupted.

m Many people lost their jobs and the rest suffered from wage losses.

n There are many Bastis that are now threatened with forced evictions. These communities are threatened, harassed by police and are living in fear of their homes and lives.

o This highly insecure life has affected their livelihood and family life, impoverishing them further.

p These violent forced evictions of about 100,000 people and threats of forced evictions of thousands more, have violated the Constitution of the People's Republic of Bangladesh, its stated policies and its obligation under international law, of which the government is a signatory.

The fact-finding team declares that the forced evictions violated not only international laws, but domestic laws and policy as well. Specifically the forced evictions violated the right to shelter spelled out by the Constitution of Bangladesh (article 15): “It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens (a) the provision of the basic necessities of life, including food, clothing, shelter, education and medical care.”

The massive and indiscriminate forced evictions violated article 31 of the Bangladesh Constitution “To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.”

The constitution also states (article 43) “Every citizen shall have the right ... to be secured in his home against entry, search and seizure.”

The 1993 National Housing Policy of the government of Bangladesh states: “The government recognizes the difficult situation in which the poor live in these settlements and struggle to make
their living and also contribute to the growth of urban economy. The poor environmental condition in slums and squatter settlements create health problems for their residents and those in adjoining areas.” The policy categorically states “Housing is one of the three basic primary needs of man (and women), and is as important as food and clothing. It provides shelter, safety and a sense of belonging to the owner.”

The government violated as well Section 5 of Ordinance XXIV of 1970 that requires the giving of 30 days eviction notice.

The Government of Bangladesh has committed itself to respect, protect, promote and fulfil the human right to adequate housing when it signed the Universal Declaration of Human Rights (article 25) and the International Covenant on Economic, Social and Cultural Rights (article 11) that states: The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing, and housing and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.”

In light of such commitment, the 1993 UN Commission on Human Rights Resolution “affirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing, urges Governments to undertake all immediate measures, at all levels, aimed at eliminating the practice of forced evictions; also urges Governments to confer legal security of tenure to all persons currently threatened with forced eviction and to adopt all necessary measures giving full protection against forced evictions, based upon effective participation, consultation and negotiation with affected persons or groups; recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes or needs, to persons and communities which have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups.

The Government of Bangladesh is a signatory to the Habitat Agenda (para 40 (n)) adopted in 14 June 1996 that states: “We (governments) further commit ourselves to the objectives of protecting all people from and providing legal protection and redress for forced evictions that are contrary to the law, taking human rights into consideration, when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided.”

The fact-finding team cannot accept the Government’s publicly stated justification of the massive forced evictions of the slum communities because these were judged as havens of criminals, terrorists, and drug addicts. The Office of the High Commissioner for Human Rights in its 1996 UN Human Rights Fact Sheet on Forced Evictions includes the following as some of the most frequent public justifications are: “to beautify the site or city; to provide infrastructure, roads or public works; to construct facilities for international events; to eradicate safe havens for criminals.”

The fact-finding team also learned that the Government of Bangladesh did not observe the procedural protections against forced evictions laid down by UN Committee on Economic, Social and
Cultural Rights in its General Comment No. 7 the UN Committee: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) 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; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.” The Committee further states: “Evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

We find noteworthy the resistance shown by the urban poor and their friends. Many managed to successfully resist the eviction. Others have managed to return to the site. The High Court of Bangladesh has ruled that the eviction must stop until a scheme for the rehabilitation of the slum dwellers shall have been undertaken.

Their experience will certainly inspire all those in the world who continue to struggle for the basic human rights to secure shelter.

We call on everyone to actively support their continuing struggle with the faithful respect to the ruling of the High Court of Bangladesh to stop this wide scale and inhuman eviction until the development and implementation of a Master Plan for the rehabilitation of the slum dwellers takes place.

Various groups in Bangladesh have made a number of recommendations that should be included in the prescribed Master Plan. We highlight some of them:

a. The Master Plan for the rehabilitation of the slum dwellers should be developed by the government with the maximum participation of all stakeholders, including the slum dwellers themselves with the assistance of their friends from the NGO and academe;

b. Land is the most critical issue in the effort of housing the urban poor of Dhaka. Inequalities of land ownership in cities should be reduced by allocating and/or reserving government land for the urban poor. We particularly deplore the present development plans of RAJUK, which continues to allocate negligible portion for the urban poor in their housing plans.

c. Pursue and even replicate the Bhashantek project, which would have generated 16,000 housing units for slum dwellers and low-income residents. Government provides the land. The NGO would shoulder all the other costs. Land is available. Certainly portions of government lands presently occupied by slum dwellers can be allocated for this purpose;
Considering that slum dwellers are among the life-blood of the urban economy, their rehabilitation should be within the city, close to their livelihood. This rehabilitation should also include a complete package of education, health, employment and income generation.

Considering that more than 70 per cent of the land in Dhaka are already privately owned, this must also be regulated. Various measures must be explored to protect the tenants and to reduce land speculation. These measures can include a judicious mix of taxes such as property tax, excess land profit tax and land transfer tax.

Urban growth in Dhaka must indeed be slowed. There are however measures that are more effective than forcible eviction. The slum dwellers would be more than willing to move out of Dhaka if employment opportunities are created elsewhere. Some such measure to create additional employment outside of Dhaka includes the following: decentralization of administration, investments and social benefits. Rural development, rural employment opportunities and poverty alleviation programs need further to be strengthened.

With due respects, we do not believe that the “return to home” program will work on a large scale. Since the inauguration of the program in 20th May 1999 only 1746 families have received assistance. We have also received reports that a number of these families have returned to Dhaka.

We enthusiastically support the appeal of ADAB (Association of Development Agencies in Bangladesh), CUP (Coalition for the Urban Poor) and TJS (Trinomul Jano Sangathan) issued to the Honorable Prime Minister on August 15, 1999, particularly the section:

“Nobody wants to live in a slum of her/his own free will. We also want Dhaka City to be free of slums. This is what even the slum dwellers dream of but such a dream can come true only when both rural and urban poverty is effectively reduced and the urban poor are properly rehabilitated. We therefore put forward only one demand to you - the realization of your previous commitment that ‘No slum would be demolished without making proper arrangement for rehabilitation.’ Rehabilitation before demolition, not the other way round and that too in phases. Let this be the process of making Dhaka a slum free city.”

Mr. Kenneth Fernandes  
Center on Housing Rights and Evictions

Ms. Lajana Manandhar  
Center on Housing Rights and Evictions

Mr. Francisco Fernandez  
Asian Coalition for Housing Rights

Mr. Teodoro Anana  
Asian Coalition for Housing Rights

Dhaka, 11 August 2000
## Annex 2

### List of Settlements evicted May-August 1999

<table>
<thead>
<tr>
<th>No</th>
<th>Name of Settlement</th>
<th>Eviction Date</th>
<th>No. of Fam.</th>
<th>Current location of Dwellers</th>
<th>Land Ownership</th>
<th>Current Status of Land</th>
<th>Names of NGOs working in the settlement</th>
<th>Who conducted the forced eviction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Gulshan-2 Talol Kai</td>
<td>25/05/99</td>
<td>245</td>
<td>North Badda, Mid-Badda, Kakrail, Shahajadpur</td>
<td>Government</td>
<td>Vacant – enclosed with barbed wire</td>
<td>BRAC</td>
<td>Not known</td>
</tr>
<tr>
<td>2</td>
<td>Lakepara of Banani Jheelpara</td>
<td>25/05/99</td>
<td>1,500</td>
<td>North Badda, Mid-Badda, Kakrail, Shahajadpur, Basundhara, Baridhara</td>
<td>Government</td>
<td>Vacant – Enclosed with barbed wire</td>
<td>BRAC, Unnayan Samity</td>
<td>Police and local residents</td>
</tr>
<tr>
<td>3</td>
<td>Banani Rd #11</td>
<td>12/06/99</td>
<td>250</td>
<td>North Badda, Mid-Badda, Kakrail, Shahajadpur, Basundhara, Baridhara</td>
<td>Government</td>
<td>Some shanties rebuilt – supervised by Mayor directed by government</td>
<td>Proshika, ASHA, Meghan, Jamuna</td>
<td>People moved on their own</td>
</tr>
<tr>
<td>4</td>
<td>Mirpur Sec-13 Block C</td>
<td>16/06/99</td>
<td>2,000</td>
<td>Mirpur 14 (b), 13 (b) 13 (c)</td>
<td>Private</td>
<td>Vacant</td>
<td>Not known</td>
<td>People moved on their own</td>
</tr>
<tr>
<td>5</td>
<td>Purana Paltan</td>
<td>17/06/99</td>
<td>350</td>
<td>Kamalpur, behind Madhumita Cinema, beneath Kilgaon Bridge</td>
<td>Government</td>
<td>DCC constructing road to Biyoj Nagar. Shops being built on both sides of the road (individual owners)</td>
<td>Not known</td>
<td>People moved on their own</td>
</tr>
<tr>
<td>6</td>
<td>Gulshan I Jheelpara, behind Badda Club</td>
<td>18/06/99</td>
<td>35</td>
<td>Badda, Kakrail, near-by pavements</td>
<td>Government</td>
<td>Vacant – enclosed with barbed wire</td>
<td>Not known</td>
<td>Police</td>
</tr>
<tr>
<td>7</td>
<td>Badda Guftarhat</td>
<td>18/06/99</td>
<td>100</td>
<td>Scattered</td>
<td>Government</td>
<td>Vacant – enclosed with barbed wire</td>
<td>None</td>
<td>Police</td>
</tr>
<tr>
<td>8</td>
<td>Banani Chairman</td>
<td>18/06/99</td>
<td>250</td>
<td>City Garment, Bari Balurghat &amp; Kadalik</td>
<td>Government</td>
<td>Road Construction by BD Railways</td>
<td>Samaj Shahajak Sangstha</td>
<td>Police</td>
</tr>
<tr>
<td>9</td>
<td>Mirpur Section 1</td>
<td>22/06/99</td>
<td>400</td>
<td>Gudarghat, Embankment, Market area, in Samata Primary School, near River Turag</td>
<td>Private</td>
<td>Enclosed with brick wall</td>
<td>Not known</td>
<td>People moved on their own</td>
</tr>
<tr>
<td>10</td>
<td>TT Para</td>
<td>08/08/99</td>
<td>4,000</td>
<td>Sidewalk, railway station, Manda, Kalapani</td>
<td>Government</td>
<td>Saplings planted by government</td>
<td>Not known</td>
<td>Police</td>
</tr>
<tr>
<td>11</td>
<td>Badda 6th Floor</td>
<td>08/08/99</td>
<td>200</td>
<td>Rental, some on street, scattered in different areas</td>
<td>Government</td>
<td>Vacant space</td>
<td>None</td>
<td>Police</td>
</tr>
<tr>
<td>12</td>
<td>Sonar Bangla Slum</td>
<td>08/08/99</td>
<td>246</td>
<td>Sidewalk, rail station Muda, Kalapani</td>
<td>Government</td>
<td>Reserved for 4th national Stadium</td>
<td>Not known</td>
<td>Police</td>
</tr>
<tr>
<td>13</td>
<td>Kamalpur Branch Slum</td>
<td>08/08/99</td>
<td>246</td>
<td>Various parks, Kamalpur Station, Manda Kalapani, Mirpur</td>
<td>Government</td>
<td>Saplings planted</td>
<td>Not known</td>
<td>Police</td>
</tr>
<tr>
<td>14</td>
<td>Balur Madth Slum</td>
<td>08/08/99</td>
<td>500</td>
<td>North Badda, Mid Bada Kakrail, Shahajadpur</td>
<td>Government</td>
<td>Vacant, enclosed with barbed wire</td>
<td>Nari Moitra Sabuj Chata</td>
<td>Police</td>
</tr>
<tr>
<td>15</td>
<td>Baridhara J-Block</td>
<td>08/08/99</td>
<td>2,500</td>
<td>Nutan Bazar, Badda Shahajadpur, Kalac hadpur, beneath Tongi Bridge</td>
<td>Private</td>
<td>Vacant</td>
<td>Not known</td>
<td>People moved on their own</td>
</tr>
<tr>
<td>16</td>
<td>Jurain Slum</td>
<td>09/08/99</td>
<td>50</td>
<td>Beside Jurain Railway lines</td>
<td>Private</td>
<td>Shops</td>
<td>None</td>
<td>Railway police</td>
</tr>
<tr>
<td>No</td>
<td>Name of Settlement</td>
<td>Eviction Date</td>
<td>No. of Fam.</td>
<td>Current location of Dwellers</td>
<td>Land Ownership</td>
<td>Current Status of Land</td>
<td>Names of NGOs Working in the settlement</td>
<td>Who conducted the forced eviction</td>
</tr>
<tr>
<td>----</td>
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<td>-----------------------</td>
<td>----------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>17</td>
<td>Ghuntighar Slum</td>
<td>09/08/99</td>
<td>300</td>
<td>Mir Hajarbagh &amp; next to Gendaria rail tracks</td>
<td>Slum dwellers</td>
<td>Vacant – enclosed with barbed wire</td>
<td>BRAC, Foundation, Sakti</td>
<td>Railway Police</td>
</tr>
<tr>
<td>18</td>
<td>Gendaria Shop</td>
<td>09/08/99</td>
<td>400</td>
<td>Besides railway tracks</td>
<td>Private</td>
<td>None</td>
<td>None</td>
<td>People moved on their own</td>
</tr>
<tr>
<td>19</td>
<td>Gendaria</td>
<td>09/08/99</td>
<td>500</td>
<td>Beside railway &amp; beneath buildings in the area</td>
<td>Slum dwellers</td>
<td>Vacant – enclosed with barbed wire</td>
<td>None</td>
<td>Police and local Chairman (AL)</td>
</tr>
<tr>
<td>20</td>
<td>Gendaria Railway</td>
<td>09/08/99</td>
<td>500</td>
<td>Beside railway tracks</td>
<td>Slum dwellers</td>
<td>Vacant – enclosed with barbed wire</td>
<td>Sathi, Prathibanda, BRAC</td>
<td>Police and local people</td>
</tr>
<tr>
<td>21</td>
<td>Sayedabad Slum</td>
<td>09/08/99</td>
<td>400</td>
<td>Shamibagh, Sayedabad Canvas line, along rail tracks</td>
<td>90 per cent owned by government</td>
<td>Trees are planted on 90 per cent of area, 10 per cent still occupied by slum dwellers</td>
<td>BRAC</td>
<td>Railway police &amp; local people</td>
</tr>
<tr>
<td>22</td>
<td>Shamibagh Munshir Tek</td>
<td>09/08/99</td>
<td>500</td>
<td>Beside railway tracks &amp; scattered in the city</td>
<td>Slum dwellers</td>
<td>Trees planted in area</td>
<td>None</td>
<td>Police</td>
</tr>
<tr>
<td>23</td>
<td>Kamalpur</td>
<td>09/08/99</td>
<td>600</td>
<td>Some in rented places, some on the streets.</td>
<td>Government</td>
<td>Saplings planted and area enclosed with barbed wire</td>
<td>None</td>
<td>Police</td>
</tr>
<tr>
<td>24</td>
<td>Baxi Bazar, Dhaka Medical College</td>
<td>10/08/99</td>
<td>150</td>
<td>Palashi, Fularia Kamarangir Char, and pavement</td>
<td>Government</td>
<td>Rebuilt shanties on sidewalk.</td>
<td>None</td>
<td>Police</td>
</tr>
<tr>
<td>25</td>
<td>Comilla slums</td>
<td>10/08/99</td>
<td>700</td>
<td>Surrounding areas in rentedhouse or on the road</td>
<td>Government</td>
<td>Trees planted - enclosed by barbed wires</td>
<td>Sabuj Chatta</td>
<td>Police and local authorities</td>
</tr>
<tr>
<td>26</td>
<td>City Law College slum</td>
<td>10/08/99</td>
<td>200</td>
<td>Dispersed</td>
<td>Government</td>
<td>Trees planted in the area</td>
<td>Not known</td>
<td>Not known</td>
</tr>
<tr>
<td>27</td>
<td>Maghbazar</td>
<td>10/08/99</td>
<td>300</td>
<td>Besides the railway tracks</td>
<td>Slum dwellers</td>
<td>Barbed wire</td>
<td>Not known</td>
<td>Railway Police</td>
</tr>
<tr>
<td>28</td>
<td>FDC Rail crossing</td>
<td>11/08/99</td>
<td>100</td>
<td>Besides rail crossing and FDC</td>
<td>Slum dwellers</td>
<td>Barred wire</td>
<td>Not known</td>
<td>Railway authorities</td>
</tr>
<tr>
<td>29</td>
<td>Karwan Bazar Truck Stand</td>
<td>11/08/99</td>
<td>100</td>
<td>Besides truck stand</td>
<td>Slum dwellers</td>
<td>Some have rebuilt their Shanties</td>
<td>BRAC</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Tejgaon Karwan Bazar railway</td>
<td>11/08/99</td>
<td>457</td>
<td>Beside Tejgaon Karwan Bazar Railway</td>
<td>Slum dwellers</td>
<td>Enclosed by barbed wires</td>
<td>BRAC, DSK</td>
<td>Local authorities</td>
</tr>
<tr>
<td>31</td>
<td>Nakhalpara Railway</td>
<td>11/08/99</td>
<td>325</td>
<td>Tejkunipara Rail gate area</td>
<td>Slum Dwellers</td>
<td>Enclosed by Barbed wire</td>
<td>BRAC, DSK,</td>
<td>Proshika Railway authorities</td>
</tr>
<tr>
<td>32</td>
<td>Tejkunipara Railgate</td>
<td>11/08/99</td>
<td>500</td>
<td>In and around Dilu Road rail tracks</td>
<td>Slum dwellers</td>
<td>Enclosed by barbed wire</td>
<td>Not known</td>
<td>Police</td>
</tr>
<tr>
<td>33</td>
<td>Dilu Road</td>
<td>11/08/99</td>
<td>500</td>
<td>In and around Dilu Road Rail tracks</td>
<td>Slum dwellers</td>
<td>Enclosed by barbed wires</td>
<td>Not known</td>
<td>Police</td>
</tr>
<tr>
<td>34</td>
<td>Maghbazar Wireless Gate</td>
<td>11/08/99</td>
<td>400</td>
<td>Besides ponds, on the pavements</td>
<td>Government</td>
<td>Enclosed by barbed wires</td>
<td>BRAC, dsk Proshika, DROF</td>
<td>Railway Police</td>
</tr>
</tbody>
</table>
In the Supreme Court of Bangladesh High Court Division
(special original jurisdiction)

WRIT PETITION NO. 3034 OF 1999

IN THE MATTER OF:
An application under Article 102 of the Constitution of the People’s Republic of Bangladesh.

and

IN THE MATTER OF:
Ain O Salish Kandro (ASK) and others.

PETITIONER

-Versus-

Government of Bangladesh and others.

RESPONDENTS

Dr. Kamal Hossain - For the Petitioners
Mr. Mahmudul Islam, A.G. - For the respondents

The 3rd August, 1999

PRESENT:

Mr. Justice Mohammad Fazlul Karim
and
Mr. Justice Md. Ali Asgar Khan

This application under Article 102 of the Constitution of the People’s Republic of Bangladesh at the instance of the petitioners is directed against the demolition of Basties of Dhaka City and eviction of the inhabitants thereof by the respondents without arranging any alternative accommodation and without any prior notice as required by law. The petitioners in their application stated, inter alia, that the petitioners 1, 2 and 3 being committed to protection and promotion of human rights and the rule of law and conscious of their constitutional obligation under the Constitution and the law to maintain discipline to perform public duties and the petitioners No. 4 and 5 being the evictees residents of Slums moved this application for and on behalf the inhabitants of the basties of Dhaka City including many single woman and minor children who have developed the areas, raised structures and dwelling huts on the lands within the areas of the basties over a
considerable period of time and the people of basties have contributed immense work in railway lines and others fallow land in the vicinity. The petitioners and the residents of different of basties came to know that the government has reportedly taken step for eviction of the poor basti people by demolishing their houses but no notice/leaflets have been distributed or served among the people of basties but all of a sudden the government has taken step for wholesale eviction of Basties by bulldozing these homes and huts. So long the existence of basties were within the knowledge of the government departments including the department of public works, Ministry of Home Affairs, Ministry of Women Affairs and NGO Bureau and the non-government organisation who were engaged in maintaining the basties. The said wholesale eviction of slum dwellers not only contrary to law of the land but against the recommendations issued by the U.N. Conference on Human Settlements in 1976 and the resolution of the United Nations thereunder to prevent the discrimination and protection of minorities and affording evictions constituting a gross violation of human rights which also included adequate housing. Such forcible eviction of the people who have been rendered homeless by natural calamity and flood and had to take shelter in the capital city, have fundamental right to live and livelihood inasmuch as the said dwellers have been engaged as rickshaw pullers, garments workers, house maids and some are engaged in good number of jobs including that of industrial labour thereby contributing to the national economy ought not to have been made shelterless by way of whole sale eviction which also destroys their dignity as the State is committed to treat them with dignity. The petitioner has further asserted that some interested quarters are acting in violations to State/government policy and in contravention of existing procedures in their own interest to seize the land presently occupied by slum dwellers and contrary to the public utterance of the Prime Minister in the matter of slum dwellers of Bhasantek. The petitioner had further submitted that the wholesale eviction is also contrary to the Government’s declared 1993 housing policy, which has been repeatedly assured to be protected and promoted by the Hon’ble Prime Minister. The petitioner has further asserted that unless a creative programme is taken and slum-dwellers are evicted phase by phase, the wholesale eviction would not only deny dignity of inhabitants but would also amount to discrimination as has not been equally treated as the slum dwellers of Bhasantek. The petitioner accordingly prayed for restoration to their homes and huts from where they have been evicted upon declaration of the wholesale eviction to have been done without lawful authority moreso, without providing any alternative accommodation.

The petitioner by way of supplementary affidavit has further annexed the report published in November, 1996 by Urban Poverty Reduction Project of the Ministry of Local Government and Rural Development and the Asian Development Bank wherein the number of basties in Dhaka City were shown in all around at 3007 and total number of families at 2,23,724 touching the populations about 11,33,663 stating further that the said report was placed in the United Nations Conference on Human Settlements (Habitat-II) held in Istanbul from 3-14th June, 1996 and accordingly sought for amendment of the prayer as to why the eviction of Bosti People in different parts of Dhaka City after demolition of all existing Bosties including in particular those set out in the Annexure-G to the supplementary affidavit should not be carried out without following fair and reasonable procedures in accordance with law, including alternative provisions, shall not be declared to have been made without lawful authority and to be of no legal effect as being unconstitutional and violative of the fundamental rights of the bosti people guaranteed by the Constitution in Articles 27, 31 and 32 thereof.
After hearing Dr. Kamal Hossain the learned Counsel for the petitioners at length on the writ petition when the learned Attorney General appearing for the respondents No.1 stood up for submissions, we asked him to place the government version to the writ petition by filing the affidavit-in-opposition today which the learned Attorney General has submitted by way of affidavit-in-opposition in court today with copy to the learned Counsel for the petitioner denying the assertions in the writ petition and stating inter alia, that nobody has right to occupy, reside or stay on the lands belonging to the government and public authorities and this land are used in public interest. But over years basties have sprung up in the City of Dhaka over the land of the government and the public authorities creating manifold problems and the law and order situation also. The basties are mostly manned by persons uprooted by natural calamities, river erosion and flood in certain local area. The distressed and uprooted people have been residing in Basties and they are to pay rent to the mastans who organise and manage the basties and there are illegal electric, gas and water connections in the basties and the criminals and drug traffickers offer safe place for concealing illegal arms and drugs in basties.

The reports published the news of those heinous activities of the mastans taking shelter in the basties. Moreover, the dwellers get illegal connection of electricity and gas thereby cause considerable loss to the national economy including system loss. The respondents have further stated that the government and public authority asked the slum dwellers to leave the place removing their shanties and huts but some people have left these basties and others are continuing stay there to be joined by new comers to the detriment and annoyance of the society disturbing the peace and tranquility of the area. The government however tries for rehabilitation of the distressed and uprooted people residing in the basties and the government at the instance of the Krishi Bank carried on survey of 32 big basties and enlisted the names of the head of the families residing in the basties and found 50,000 families whereupon the bank adopted a scheme of rehabilitation named `Ghore Fera' which was inaugurated by the Prime Minister on 20th May, 1999. The scheme decided to rehabilitate the uprooted and distressed slum dweller families providing them shelter in their respective places of residence and offering them loan for their earning and occupation accordingly to their ability, whereby the Bank by now has rehabilitated 4,000 slum dwellers. In the process of this rehabilitation scheme the government, railway, public works department and Dhaka City Corporation decided to clear the basties altogether with a view to rehabilitate the bona fide slum dwellers and to do away with the heinous activities with the help of the mastans who were engaged in possessing illegal arms, manufacturing explosives and selling drugs to the innocent slum dwellers. The government as well has undertaken about nine projects, short description of which appears from the memo dated 18.8.99 signed by the Joint Secretary Ministry of Home Affairs annexed as Annexure-I, whereupon government has sanctioned Tk.5 crores to be spent in helping the evicted basti families and in that view of the matter, a high powered committee has been formed for speedy and proper disbursement of fund and the concerned Ministry of the Government and Bangladesh Bank recently held a meeting with the Commercial Banks and formed a consortium of the banks to extend easy loan to the evicted families of the slums dwellers under the projects.

Dr. Kamal Hossain, learned counsel appearing for the petitioner having taken us through writ petition and the Annexures has submitted that river-erosion, natural calamity, flood and draught etc. have rendered the unfortunate victims homeless, destiny brought them to Dhaka city and
made them to stand still at different places of the City and they got themselves engaged in their livelihood as a means of survival whereby the Slums have developed through the ages and that apart from their earning livelihood engaged in activities as daily labourers, rickshaw pullers, garment workers, handicraft workers, maids etc., have been contributing to the national economy and the eviction of the said Slum dwellers branding them as criminals in wholesale manner is illegal without any notice as required under Section 5 of the East Pakistan Land and Building (Recovery of possession) Ordinance 1970 (Ordinance XXIV of 1970) and as eviction has been done illegally, the same is liable to be declared to have been made without any lawful authority, entailing upon the respondent’s a responsibility to restore them in their possession in the respective slums. The learned Counsel has further submitted that in view of the fundamental rights to life and personal liberty as guaranteed in Article 32 of the Constitution having been violated and that the made of Government maintaining the dignity of human beings together with the intendment as provided in Article 15 providing that the humanity should be treated with dignity and that Article 9 providing for equality of opportunity depriving them of the right by the removal of Slum Dwellers effected by river-erosion, natural calamity, flood, draught etc. forming the concentrated population in the Basti being contrary to the spirit of the Constitution and amounting to violating the fundamental rights which includes right to livelihood, these floating population should not be thrown in the street to their uncertain destiny by a Democratic Government, which is committed to adopt effective measures to remove social and economic inequality between men and women and to allow opportunity in order to attain uniform level of economic development inasmuch as the slum dwellers also are contributing to the economy and social welfare, the eviction could not be done in the manner of bulldozing and demolishing their properties and as such the wholesale eviction of slum has been done contrary to the fundamental state policy and the rights enshrined in the Constitution.

Mr. Mahamudul Islam, learned Attorney General appearing on behalf of respondent No.1, Government of Bangladesh represented by the Secretary, Ministry of Home Affairs having taken as through the affidavit-in-opposition and the relevant reports has submitted that the floating population living in Slum were not capable of being served with notice having no fixed address for the purpose inasmuch as Section 5 of the Ordinance (Ordinance 24 of 1970) has not contemplated a notice to these floating population having no fixed address, home and hearth. However, they were repeatedly cautioned and asked to vacate through oral and mechanical device of Microphone by the authority concerned much before the date of eviction but they having paid no heed to it were ultimately evicted. The learned Attorney General has submitted with reference to news papers report of Ittefaque dated 9th August, 1999 stating the situation prevailing in those Basties, those being the done and kingdoms of terrorist, drug trafficking, anti-state activities and the mastans carrying on reign of terror therein even making the lives of innocent slum dwellers of Basti endangered and the law enforcing agency also became helpless where by the terrorists and mastans perpetuated their criminal activities through out the city of Dhaka and hiding themselves inside the slum inasmuch as the Slum become the den of phensidyle traders, bad elements and jeopardizing the peaceful life of the general people of the city. The learned Attorney General has however, submitted that the Government with all sincerity and honesty has taken steps to rehabilitate the floating population who were effected by river erosion natural calamity, flood and draught and have been living in the slum, undertaking a massive programme of rehabilitation through various sections of the Ministries by evolving rehabilitation programmes.
This application has been moved for enforcement of fundamental rights of Slum Dwellers as guaranteed under Articles 27, 31 and 32 of the Constitution which includes their right to life, liberty, livelihood etc. together with Articles 7, 11, 15 and 19 in particular of the chapter of fundamental state policy.

Two of the Slum dwellers are parties along with the 3 non-Government organizations as the petitioners and the sole object of this petition is to protect the slum dweller’s right to life, living shelter, livelihood and to rehabilitate them physically and socially. Their such rights are in consonance with the fundamental state policy that in a Democratic country in which the fundamental human rights and freedoms and respect for dignity and worth of the human person shall be guaranteed and the responsibility of the State to attain through planned economic growth improving the material standard of living of the people making provision for basic necessities of life including shelter, food, medicine, education etc. to secure the social welfare and associating in a suitable manner by realising of fundamental rights to life and livelihood and to prevent eviction of dwellers of Slums through a process which is not in accord with the existing legislative process.

Needless to say that the inhabitants of any slum are the misfortunes of the society, homeless and provisionless, may be due to river erosion, flood, draught, natural calamity etc., and became floating rural population having no profession, no provision for food, shelter and being poverty stricken migrate to the urban area in quest of those necessities for their living on the earth for breathing its fresh air. Their impoverishment lead them to float and flock together in certain areas where vacant space is available and start by constructing huts in slums engaging themselves in the jobs of Rickshaw Pulling, day labourer and garment workers, maids etc. The Government and the non-government organisation sometimes come to their succour in a very unplanned manner for their rehabilitation making some poor proper and some poor idle turning them into misguided terrorists/mastans/drug traders/traffickers and violent arms cadre. So the misfortune remains with their until their death.

Our Constitution both in the Directive State Policy and in the preservation of the fundamental rights provided that the State shall direct its policy towards securing that the citizens have the right to life living and livelihood. Thus our country is pledge bound within its economic capacity and in an attempt for development to make effective provision for securing the right to life, livelihood etc. As to the fundamental State Policy which is not enforceable and the fundamental rights the Indian Supreme Court held in the case of Olga Tellis -vs- Bombay Municipal Corporation (1985) 3 S.C.C. 454 that “Article 37 provides that the Directive Principles, though not enforceable by any Court, are nevertheless fundamental in the Governance of the Country. The principles contained in Articles 19(a) and 41 must be regarded as equally fundamental in the understanding and interpretation of the meaning and content of fundamental rights. If there is an obligation upon the State to secure to the citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life. The State may not, by affirmative action, be compulsable to provide adequate means of livelihood or works to the citizens. But any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to live conferred by Article 21”.

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The merits and demerits of the existence of slums in the Metropolitan City of Dhaka have not been disputed but the Slum dwellers of necessity for physical rehabilitation for their living have flocked together forming slums on the land of the Government and some other semi-Government or autonomous body, mostly on the road side, way side, well side near the Railway lines. Their such type of living not only endanger themselves but also renders the life of the City dwellers hazardous. They no doubt are contributing to the national economy by engaging themselves as day labourers, rickshaw pullers, garment workers, handicrafts workers and as house maid etc. But for a peaceful growth of City life for a country like ours they had to be taken away from their slums and should be rehabilitated as far as possible in the spirits of our constitutional commitments attaining democracy, socialism, realising through democratic process a socialistic society from exploitation honouring the rule of law, fundamental human rights and freedom securing equality and justice.

Although the petitioners have alleged that the only provision for eviction of the Slum dwellers is the provision of Section 5 of the East Pakistan Government Land and Building (recovery of possession) Ordinance, 1970 by serving notice asking them to vacate the premises in occupation within the period of thirty days from the date of service thereof but under the prevailing circumstances of the slum dwellers the notice that has been contemplated is not possible to be served upon them due to their floating nature and having no permanent but as they live mostly in Basti and having no fixed number and address. The Government has asserted that they have notified or cautioned them prior to their dislocation by way of eviction. True that in the facts and circumstances of the present case of the slum dwellers, it was not possible to issue notice to all of them under the provision of section 5 of the Ordinance but may be that they are the slum dwellers and it is the humanity which a poor country like ours is most concerned with and they need to be evicted under certain specific rehabilitation programmed which should work as a guideline in the matter. There should be a survey of all the families residing in any particular slum. There should be master plan or Rehabilitation scheme or plot projects to rehabilitate the slum dwellers. The Slum dwellers should be given option either to go and live at their respective rural villages or to stay in urban area. If they opt to go to the urban villages, to have rehabilitated thereby providing them with funds/loan for construction of houses and small scale income generating projects for sustenance with proper and regular monitoring by the state and until they are fully rehabilitated in any profession to provide them with food if possible under the VGF project of the government.

Similarly in case of Slum Dwellers who do not opt for going to the rural home because of their dislocation by flood and river erosion, natural calamity etc., they should be given choice either to live in Slum or to go elsewhere to live on therein. In case of their choice to stay in slums they should be rehabilitated bearing in mind the vicinity of their working place and communication facilities and if they are not employed making provision for providing them by erecting huts in any localized area earmarked for rehabilitation to start with and subsequently rehabilitate in any low cost flats/houses either of nominal price and arrange for vocational training or any work or employment on the basis of the principle from each according to his ability to each according to his work by the authority concerned.

There may be good numbers of old, infirm crippled and retarded people living in the slums. They being incapable of moving carrying their livelihood and living are defendants on others. The
government should arrange for their rehabilitation by constructing huts/inform homes retard ed homes providing food, shelter, medical facilities and clothing and among those who are capable of doing something may be given vocational training so that they could earn their own livelihood in course of time.

In a recent interview the Hon’ble Court Minister has expressed her frustration as to the recent roles of the non-government organisation in the matter of any positive and suitable efforts in rehabilitating the slum dwellers. However, in their continuing efforts to ameliorate the sufferings of the slum dwellers, the N.G.Os, should come forward with Pilot Schemes as to their involvement in the rehabilitation programme in co-operation with the government organisation and with the latter’s approval may take part in the rehabilitation of the slum dwellers by providing them micro-credit, necessary fund for construction of huts, employment works i.e., rehabilitate them professionally as well including skill training set up schools for them provide them sanitary facility etc. But all these have to be done in co-operation with the government getting their plan approved by the government project wise. Otherwise, haphazard attempts would not yield any positive result in the process of rehabilitation of slum dwellers.

As has been stated in the affidavit-in-opposition by respondent No.1 that a High powered Slum Dwellers rehabilitation committee” has been formed whereby some important measures have been announced for assistance, both in each and kind, for rehabilitation of Slum Dwellers in their respective village homes providing them travel expenses, provision for food for three months under V.G.F. programme and micro credit facilities for income generation through various institution and agencies of the government under rehabilitation scheme and over and above expressed the pious hope the every homeless would be provided a shelter. We appreciate the approach of the government towards steps for rehabilitation. The Government has also formed a Slum Dwellers Rehabilitation committee undertaking a massive programme for providing shelter and employment in the rural area and better living for the people. Slum dwellers are undoubtedly leading sub-human lives in the City Slums and are mostly being exploited by a section of people using their might and using their place of living for their nefarious activities, turning the slums into safe heaven for criminals.

Our anxiety is also for those slum dwellers whose homes were bulldozard in the different slums not only making them homeless and floating people but create unemployment and slum crimes.

We appreciate the government effort to eradicate mastans, miscreants and terrorists from out of those slums but at the same time we find that in the process the innocent slum dwellers become victims of repression/oppression not only by the mastans and terrorrist but sometimes through the government agencies. We also note that in order to ameliorate the sufferings of slum dwellers the government is running the “Adarsha Gram” for the homeless and river erosion people, “Adarsha Gram Project-1 and project-2” by providing land for distressed people for rehabilitation and meanwhile 7560 families have been rehabilitated to the Ashrayan Project, and 48, 647 families have been rehabilitated to the Adarsha Gram Project-1 and 48,000 distressed families have been rehabilitated in Adarsha Gram Project-2 and that with that end in view Bangladesh Krishi bank carried out survey of 32 big Basties and enlisted the names of the head of the families residing in the Basties. The survey covered about 50,000 families, Krishi Bank then adopted a scheme for reha-
bilitation named “Ghore Fera”. The Scheme seeks to help rehabilitate the uprooted and dis-
tressed families in the place of their original abode. Under the scheme, the Krishi bank provides
for transportation of these families to their respective place of residence and offered them loan,
the amount of which varied depending on their need and the occupation they want to adopt.

This application is for enforcement of fundamental right of the Slum Dwellers relying upon the
fundamental state policy. This application has been filed with the aim of focussing attention
towards the social degeneration and assisting in finding suitable method of realisation of the true
concept of fundamental right to life and livelihood and to prevent eviction of slum dwellers
through judicial process as there is no appropriate existing legislation for the purpose and sought
for a direction that guidelines and norms should be formulated which would be
followed/observed in the preservation and enforcement of their rights in the society. Our attempt
in the case, apart from enforcement of fundamental right, is to protect their right to life and liveli-
hood meaning fully in the light of the government action of eviction and their right to be rehabili-
tated as far as practicable. The Government has fund constraint for proper rehabilitation of all the
slum Dwellers in the city which according to the news paper report is about 74 in number but in the
report of 1993, it appears at 3007.

In that view of the matter, we have ventured to give a guideline to the Government for rehabili-
tation of the Slum Dwellers in phases and the government should undertake a Master plan or reha-
bilitation scheme or pilot projects for rehabilitation of the Slum Dwellers and undertake eviction of
the slum dwellers according to the capacity of their available abode and with option to the
dwellers either to go to their village home or to stay back leading an urban life, otherwise the
wholesale demolition of slums may not solve the problem because the evicted persons from one
slum may flock together to another place forming a slum or slums and thereby mounting problems
for the government and the country. We have been told that ECNEC has also approved organisation
of residential apartment for the Slum Dwellers and lower income people. We appreciate the gov-
ernment anxiety but considering the human aspect that is attached to the slum dwellers we pro-
vided the guidelines to the Government to undertake a master plan rehabilitation scheme/Pilot
Programmes for rehabilitation by evicting the Slums phase by phase otherwise, the wholesale
removal will give rise to multiple problems for the society and the State.

For security’s sake also the government should clear up the slums growing up beside the rail-
way lines, way side, road side and continue to keep the space clear under any circumstances and
these slum dwellers should be rehabilitated elsewhere following the guidelines. We find that the
learned Counsel for the parties also have not opposed the programme of rehabilitation but their
grievance is as to the means. Government may proceed with eviction process phase by phase giv-
ning reasonable time and rehabilitate the slum dwellers in the lights of the observation made
above. In view of the admitted position nothing should stand in the way of rehabilitation to secure
the economic and social justice for all. As to the terrorists/mastans/drug traffickers/drug traders
taking shelter in slums, the government may arrange for combing operation when necessary and
eradicate these evil from the society.

Before parting with the order, we find that a large number of Slum Dwellers have gathered in
this Court premises and from the news papers reports and as stated by Dr. Kamal Hossain that
some slum dwellers also gathered in front of his house. The published news in the news papers reveal that inspite of request from the Supreme Court Administration for removal of Slum Dwellers from the court premises, no response has been received from the concerned authority on the plea of the order of stay. The slum dwellers thus staying in the Supreme Court compound have neither been removed nor any action to that effect has yet been taken. Similarly no step has been taken by the authority for removal of the slum dwellers gathering in front of the house of Dr. Kamal Hossain. We painfully observe that it is very unfortunate that this institution i.e. the Supreme Court was allowed to be seized and continued to remain so inspite of intimation to the proper authority. This smacks of the civil society now being talked about. It is a negation of the high and lofty image and serene dignity of the Supreme Court. The high raised magnificent and majestic Supreme Court Building with its superbly designed done was not supposed to be a mere edifice. It was made the highest seat and depository of Supreme Court Justice symbolising it to be the guardian of the Constitution holding high the scale of justice essential for the maintenance and nourishment of democracy rule of law, even handed justice and above all, the social equilibrium of the Constitution and interprets the Constitution which is fundamental to the governance of the country. It protects the State in maintaining the sovereignty, democracy, nationalism and socialism, the declared state policy.

Thus Supreme Court being the guardian of the Constitution and the protector of the goods social norms and civil society in a democratic country, all authorities, executive and judicial in the Republic shall act in aid of the Supreme Court as also enshrined in Article 112 of the Constitution. Inspite of above, it is very much unfortunate that the law enforcing agencies did not respond in time to the call of the Registrar of the Supreme Court premises. We have no language at our command to express our indignation that certain authority, inspite of the request as aforesaid resorted to dilly dallying in complying with the request. The order of the Registrar in his administrative capacity is also passed as an order of the Supreme Court. We hope that the authority would in future shall not fail in their constitutional obligations to carrying out the order of this court both judicial and administrative.

Accordingly, we direct Mr. Mohammad Nasim, Hon’ble Minister of the Home Affairs, Government of the People’s Republic of Bangladesh Building No.8, Bangladesh Secretariat Building, Dhaka. Mr. Sahfiur Rahman, Secretary Ministry of Home Affairs, Building No.8, Bangladesh Secretariat Building Dhaka Mr. A.Y.B.I. Siddique, Inspector General of Police, Police Head Quarter, Fulbaria, Dhaka and Mr. A.K.M. Shamsuddin, Police Commissioner, Dhaka Metropolitan Police, Metropolitan Police Head Quarters, Bailey Road, Dhaka to clear up the slum dwellers gathering within the Supreme Court premises and in front of the Premises of Dr. Kamal Hussain, the learned Counsel for the petitioners at Bailey Road, Dhaka within 24 (twenty four) hours on receipt of the operative part relating to them, otherwise, the law will take its own course. Let a copy of this order be sent to the aforesaid authorities forthwith by a Special Messenger of this Court.

The application is thus disposed of without any order as to costs. The order of stay dated 11.8.1999 is vacated.

M.A.A. Khan  Typed by: G.C. Kuri, c:\writ\ord3034.99
Annex 4

UN Commission on Human Rights Resolution 1993/77
Adopted unanimously on 10 March 1993 during the 49th Session of the UN Commission on Human Rights

1993/77

The Commission on Human Rights

Recalling resolution 1991/12 (Forced evictions) of 26 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Also recalling its resolution 1992/10 of 2 February 1992, in which it took note with particular interest of General Comment No. 4 (1991) on the right to adequate housing (E/1992/23, annex III) adopted on 12 December 1991 by the Committee on Economic, Social and Cultural Rights at its sixth session and the reaffirmed importance attached in this framework to respect for human dignity and the principle of non-discrimination,

Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity,

Concerned that, according to United Nations statistics, in excess of one billion persons throughout the world are homeless or inadequately housed, and that this number is growing,

Recognizing that the practice of forced eviction involves the involuntary removal of persons, families and groups from their homes and communities, resulting in increased levels of homelessness and inadequate housing and living conditions,

Disturbed, that forced evictions intensify social conflicts and inequality and invariably affect the poorest, most socially, economically, environmentally and politically disadvantaged and vulnerable sectors of society,

Aware that forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a range of actors,

Emphasizing that ultimate ultimate legal responsibility for preventing forced evictions rests with governments,

Recalling that General Comment No. 2 on international technical assistance measures (1990), adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international agencies should scrupulously avoid involvement in projects which, inter alia, involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation,
Mindful of the questions concerning forced evictions included in the guidelines for States’ reports (E/1991/23, annex IV) submitted in conformity with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights,

Nothing with Appreciation that the Committee on Economic, Social and Cultural Rights, in its General Comment No. 4, considered that instances of forced evictions were prima facie, incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights and could only be justified in the most exceptional circumstances, in accordance with the relevant principles of international law,

Taking note of the observations of the Committee on Economic, Social and Cultural Rights at its fifth (1990) and sixth (1991) sessions concerning forced evictions,

Taking note also of the inclusion of forced evictions as one of the primary causes of the international housing crisis ion the working paper on the right to adequate housing, prepared by Mr. Rajinder Sachar (E/CN.4/Sub.2/1992/15),

Taking note further of Sub-Commission resolution 1992/14 (Forced evictions) of 27 August 1992,

1. Affirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing;

2. Urges Governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced evictions;

3. Also urges Governments to confer legal security of tenure to all person currently threatened with forced evictions and to adopt all necessary measures giving full protection against forced evictions, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes or needs, to persons and communities which have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups;

5. Requests the Secretary-General to transmit the present resolution to Governments, relevant United Nations bodies, including the United Nations Centre on Human Settlements, the specialized agencies, regional and inter-governmental organizations, non-governmental organizations and community based organizations, soliciting their views and comments;

6. Also requests the Secretary General to compile an analytical report on the practice of forced evictions, based on an analysis of international law and jurisprudence and information submitted in accordance with the previous paragraph, and to submit his report to the Commission at its fiftieth session;
7. Decides to consider the analytical report at its fiftieth session, under the item 7, entitled, “the realization of economic, social and cultural rights”, and to determine how most effectively to continue its consideration of the issue of forced evictions.
The Right to Adequate Housing [Art. 11 (1) of the Covenant]: Forced Evictions
Future E/C.12/1997/4

1. In its General Comment No.4 (1991), the committee observed that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. It concluded that forced evictions are prima facie incompatible with the requirements of the Covenant. Having considered a significant number of reports of forced evictions in recent years, including instances in which it has determined that the obligations of States Parties were being violated, the Committee is now in a position to seek to provide further clarification as to the implications of such practices in terms of the obligations contained in the Covenant.

2. The International community has long recognised that the issue of forced evictions is a serious one. In 1976 the Vancouver Declaration on Human Settlements noted that “major clearance operations should take place only when conservation and rehabilitation are not feasible and relocation measures are made”.1 In the 1988 Global Strategy for Shelter to the Year 2000, the General Assembly recognized the “fundamental obligation (of Governments) to protect and improve houses and neighbourhoods, rather than damage or destroy them”.2 Agenda 21 stated that “people should be protected by law against unfair eviction from their homes or land”.3 In the Habitat Agenda Governments committed themselves to “protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided”.4 The Commission on Human Rights has also indicated that “forced evictions are a gross violation of human rights”.5 However, although these statements are important, they leave open one of the most critical issues, namely that of determining the circumstances under which forced evictions are permissible and of spelling out the types of protection required to ensure respect for the relevant provisions of the Covenant.

3. The use of the term “Forced evictions” is, in some respects, problematic. This expression seeks to convey a sense of arbitrariness and of illegality. To many observers, however, the reference to “forced evictions” is a tautology, while others have criticized the expression “illegal evictions” on the ground that it assumes that the relevant law provides adequate protection to the right to housing and conforms with the Covenant, which is by no means always the case. Similarly, it has been suggested that the term “unfair evictions” is even more subjective by virtue of its failure to refer to any legal framework at all. The international community, especially in the context of the Commission on Human Rights, has opted to refer to “forced evictions” primarily since all suggested alternatives also suffer from many such defects.

4. The term “forced evictions” as used throughout this General Comment is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate
forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Human Rights Covenants.

5. The practice of forced evictions is widespread and affects persons in both developed and developing countries. Owing to the interrelation and interdependency which exist among all human rights, forced evictions frequently violate other human rights. Thus, while manifestly breaching the rights enshrined in the Covenant, the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.

6. Although the practice of forced evictions might appear to arise primarily in heavily populated urban areas, it also takes place in relation to forced population transfers, internal displacement, forced relocations in the context of armed conflict, mass exoduses and refugee movements. In all of these contexts, the right to adequate housing and not to be subject to forced evictions may be violated through a wide range of acts or omissions attributable to States Parties. Even in situations where it may be necessary to impose limitations on such a right, full compliance with Article 4 of the Covenant is required so that any limitations imposed must be “determined by law only in so far as this may be compatible with the nature of these rights [i.e. economic, social and cultural] and solely for the purpose of promoting the general welfare in a democratic society.”

7. Many instances of forced evictions are associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence.

8. Other instances of forced evictions occur in the name of development. They might be carried out in connection with conflict over land rights, development and infrastructure projects, such as the construction of dams or other large-scale energy projects, with land acquisition measures associated with urban renewal, housing renovation, city beautification programmes, the clearing of land for agricultural purposes, unbridled speculation in land, or the holding of major sporting events like the Olympic Games.

9. In essence, the obligations of States Parties to the Covenant in relation to forced evictions are based on Article 11(1), read in conjunction with other relevant provisions. In particular, Article 2(1) obliges States to use “all appropriate means” to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference to Article 2(1) to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in para. 3 above). Moreover, this approach is reinforced by Article 17(1) of the International Covenant on Civil and Political Rights which complements the right not to be forcefully evicted without adequate protection. That provision recognises, inter alia, the right to be protected against “arbitrary or unlawful interference” with one’s home. It is to be noted that the State’s obligation to ensure respect for that right is not qualified by considerations relating to its available resources.
10. Article 2(1) of the Covenant requires States Parties to use “all appropriate means”, including the adoption of legislative measures, to promote all the rights protected under the Covenant. Although the Committee has indicated in its General Comment No.3 (1991) that such measures may not be indispensable in relation to all rights, it is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply in relation to all agents acting under the authority of the State or who are accountable to it. Moreover, in view of the increasing trend in some States towards their government greatly reducing their responsibilities in the housing sector, States Parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. States parties should therefore review relevant legislation and policies to ensure that these are compatible with the obligations arising from the right to adequate housing and to repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant.

11. Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced evictions. Women in all groups are especially vulnerable given the extent to statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of Articles 2(2) and 3 of the Covenant impose an additional obligation upon governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no forms of discrimination are involved.

12. Where some evictions may be justifiable, such as in the case of the persistent non-payment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that those evictions are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourse and remedies are available to those affected.

13. Forced evictions and house demolitions as a punitive measure are also inconsistent with the norms of the Covenant. Likewise, the Committee takes note of the obligations enshrined within the 1949 Geneva Conventions and 1977 Protocols which relate to prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced evictions.

14. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States Parties shall also see to it that all individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall article 2(3) of the Interna-
tional Covenant on Civil and Political Rights which requires States Parties to ensure “an effective remedy” for persons whose rights have been violated and the obligation upon the “competent authorities (to) enforce such remedies when granted”.

15. In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality. In this regard it is especially pertinent to recall General Comment 16 by the Human Rights Committee, relating to Article 17 of the International Covenant on Civil and Political Rights, which states that interference with a person’s home can only take place “in cases envisaged by the law”. The Committee observed that the law “should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances”. The Committee also indicated that “relevant legislation must specify in details the precise circumstances in which such interferences may be permitted”.

16. Appropriate procedural protection and due process are essential aspects of all human rights but it is especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognised in both International Human Rights Covenants. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) 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; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

17. Evictions should not result in rendering individuals homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

18. The Committee is aware that various development projects financed by international agencies within the territories of State Parties have resulted in forced evictions. In this regard, the Committee recalls its General Comment No.2 (1990) which states, inter alia, that “international agencies should scrupulously avoid involvement in projects which, for example ... promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of person without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account”.6
19. Some institutions, such as the World Bank and the Organisation for Economic Co-operation and Development (OECD) have adopted guidelines on relocation and/or resettlement with a view to limiting the scale and human suffering associated with the practice of forced eviction. Such practices often accompany large-scale development projects, such as dam-building and other major energy projects. Full respect for such guidelines, in so far as they reflect the obligations contained in the Covenant, on the part of both the agencies themselves and by States Parties to the Covenant is essential. The committee recalls in this respect that statement in the Vienna Declaration and Programme of Action to the effect that: “while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognised human rights” (para. 10).

20. In accordance with the guidelines adopted by the Committee for reporting, State Parties are requested to provide various types of information pertaining directly to the practice of forced evictions. This includes information relating to (a) the “number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction”; (b) “legislation concerning the rights of tenants to security of tenure, to protection from eviction” and (c) “legislation prohibiting any form of eviction”.

21. Information is also sought as to “measures taken during, inter alia, urban renewal programmes, redevelopment projects, site upgrading, preparation for international events (Olympics and other sporting competitions, exhibitions, conferences, etc.) campaigns, etc. which guarantee protection from eviction or guarantee rehousing based on mutual consent, by any persons living on or near to affected sites”. Despite these provision, few States Parties have included the requisite information in their reports to the Committee. The Committee, therefore, wishes to emphasise in this regard the importance it attaches to the receipt of such information.

22. Some States Parties have indicated that information of this nature is not available. The Committee recalls that effective monitoring of the right to adequate housing, either by the Government concerned or by the Committee, is not possible in the absence of the collection of appropriate data and would request all States Parties to ensure that the necessary data is collected and is reflected in the reports submitted by them under the Covenant.

Endnotes:
1 Vancouver Declaration on Human Settlements, (1976) Sec. III (8).
3 Agenda 21, Chapter 7.9 (b).
4 Habitat Agenda, para. 40 (n).
5 Commission on Human Rights resolution 1993/77, para.1.
7 E/C.12/1990/8, Annex IV.
8 Ibid.
**Annex 6**

**The Practice of Forced Evictions: Comprehensive Human Rights Guidelines on Development-based Displacement**


**Preamble**

*Recalling* the human rights standards established pursuant to the International Bill of Human Rights,

*Whereas* many international treaties, resolutions, decisions, general comments, judgments and other texts have recognized and reaffirmed that forced evictions constitute violations of a wide range of internationally recognized human rights,


*Reaffirming* that under international law every State has the obligation to respect and ensure respect for human rights and humanitarian law, including obligations to prevent violations, to investigate violations, to take appropriate action against violators, and to afford remedies and reparation to victims,

*Reaffirming* that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom,

*Whereas* the Vienna Declaration and Plan of Action stipulated that while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgment of internationally recognized human rights,

*Recognizing* the widespread nature of the practice of forced evictions and that when forced evictions are carried out this can occur in a variety of contexts including but not limited to conflicts over land rights, development and infrastructure projects, such as the construction of dams or other large-scale energy projects, land acquisition measures associated with urban renewal, housing renovation, city beautification programmes, the clearing of land for agricultural purposes or macro-urban projects, unbridled speculation in land, and the holding of major international events such as the Olympic Games,

*Conscious* that forced evictions intensify social conflict and inequality and invariably affect the poorest, most socially, economically, and vulnerable sectors of society, specifically women, children, and indigenous peoples,
Conscious also of guidelines developed by international financial and other institutions on involuntary displacement and resettlement,

Resolved to protect human rights and prevent violations due to the practice of forced evictions,

Section One: Background Issues

Scope and Nature of the Guidelines

1. The present Guidelines address the human rights implications of the practice of forced evictions associated with development-based displacement in urban and rural areas. The Guidelines reflect and are consistent with international human rights law and international humanitarian law and should be subject to the widest possible application.

2. Having due regard to all relevant definitions of the practice of forced evictions under international human rights provisions and instruments, the present Guidelines apply to instances of forced evictions in which there are acts and/or omissions involving the coerced and involuntary removal of individuals, groups and communities from their homes and/or lands and common property resources they occupy or are dependent upon, thus eliminating or limiting the possibility of an individual, group or community residing or working in a particular dwelling, residence or place.

3. While there are many similarities between the practice of forced evictions and internal displacement, population transfer, mass expulsions, mass exodus, ethnic cleansing and other practices involving the coerced and involuntary movement of people from their homes, lands and communities, forced evictions constitute a distinct practice under international law. Persons, groups and communities subjected to or threatened with forced evictions form, therefore, a distinct group under international human rights law.

4. Forced evictions constitute prima facie violations of a wide range of internationally recognized human rights and can only be carried out under exceptional circumstances and in full accordance with the present Guidelines and relevant provisions of international human rights law.

Section Two: General Obligations

5. While forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a variety of distinct actors, responsibility for forced evictions under international law, ultimately, is held by States. This does not, however, relieve other entities from obligations in this regard, in particular occupying powers, international financial and other institutions or organizations, transnational corporations and individual third parties, including public and private landlords or land owners.

6. States should apply appropriate civil or criminal penalties against any person or entity, within its jurisdiction, whether public or private, who carries out any forced evictions, not in full conformity with applicable law and the present Guidelines.
7. States should object, through the appropriate international legal mechanisms, to the carrying out of forced evictions in other States when such forced evictions are not in full conformity with the present Guidelines and relevant provisions of international human rights law.

8. States should ensure that international organizations in which they are represented refrain from sponsoring or implementing any project, programme or policy which may involve the carrying out of forced evictions not in full conformity with international law and the present Guidelines.

Section Three: Preventative Obligations

The Obligation of Maximum Effective Protection

9. States should secure by all appropriate means, including the provision of security of tenure, the maximum degree of effective protection against the practice of forced evictions for all persons under their jurisdiction. In this regard, special consideration should be given to the rights of indigenous peoples, children and women, particularly female-headed households and other vulnerable groups. These obligations are of an immediate nature and are not qualified by resource-related considerations.

10. States should refrain from introducing any deliberately retrogressive measures with respect to de jure or de facto protection against forced evictions.

11. States should ensure that adequate and effective legal or other appropriate remedies are available to any persons claiming that his/her right of protection against forced evictions has been violated or is under threat of violation.

12. States should ensure that eviction impact assessments are carried out prior to the initiation of any project which could result in development-based displacement, with a view to fully securing the human rights of all potentially affected persons, groups and communities.

The Obligation to Prevent Homelessness

13. States should ensure that no persons, groups or communities are rendered homeless or are exposed to the violation of any other human rights as a consequence of a forced eviction.

The Obligation to Adopt Appropriate Measures of Law and Policy

14. States should carry out comprehensive reviews of relevant national legislation with a view to ensuring the compatibility of such legislation with the norms contained in the present Guidelines and other relevant international human rights provisions. In this regard, special measures shall be taken to ensure that no forms of discrimination, statutory or otherwise, are applied in relation to property rights, housing rights and access to resources.

15. States should adopt appropriate legislation and policies to ensure the protection of individuals, groups and communities from forced eviction, having due regard to their best interests. States are encouraged to adopt constitutional provisions in this regard.
The Obligation to Explore All Possible Alternatives

16. States should fully explore all possible alternatives to any act involving forced eviction. In this regard, all affected persons, including women, children and indigenous peoples shall have the right to all relevant information and the right to full participation and consultation throughout the entire process and to propose any alternatives. In the event that agreement cannot be reached on the proposed alternative by the affected persons, groups and communities and the entity proposing the forced eviction in question, an independent body, such as a court of law, tribunal, or ombudsman may be called upon.

The Obligation to Expropriate Only as a Last Resort

17. States should refrain, to the maximum possible extent, from compulsorily acquiring housing or land, unless such acts are legitimate and necessary and designed to facilitate the enjoyment of human rights through, for instance, measures of land reform or redistribution. If, as a last resort, States consider themselves compelled to undertake proceedings of expropriation or compulsory acquisition, such action shall be: (a) determined and envisaged by law and norms regarding forced eviction, in so far as these are consistent internationally recognized human rights; (b) solely for the purpose of protecting the general welfare in a democratic society; (c) reasonable and proportional and (d) in accordance with the present Guidelines.

Section Four: The Rights of All Persons

Integrity of the Home

18. All persons have the right to adequate housing which includes, inter alia, the integrity of the home and access to and protection of common property resources. The home and its occupants shall be protected against any acts of violence, threats of violence or other forms of harassment, in particular as they relate to women and children. The home and its occupants shall further be protected against any arbitrary or unlawful interference with privacy or respect of the home.

Assurances of Security of Tenure

19. All persons have a right to security of tenure which provides sufficient legal protection from forced eviction from one’s home or land.

20. The present Guidelines shall apply to all persons, groups and communities irrespective of their tenure status.

Section Five: Legal Remedies

21. All persons threatened with forced eviction, notwithstanding the rationale or legal basis thereof, have the right to:

a. a fair hearing before a competent, impartial and independent court or tribunal

b. legal counsel, and where necessary, sufficient legal aid

c. effective remedies
22. States should adopt legislative measures prohibiting any forced evictions without a court order. The court shall consider all relevant circumstances of affected persons, groups and communities and any decision be in full accordance with principles of equality and justice and internationally recognized human rights.

23. All persons have a right to appeal any judicial or other decisions affecting their rights as established pursuant to the present Guidelines, to the highest national judicial authority.

Compensation

24. All persons subjected to any forced eviction not in full accordance with the present Guidelines, should have a right to compensation for any losses of land, personal, real or other property or goods, including rights or interests in property not recognized in national legislation, incurred in connection with a forced eviction. Compensation should include land and access to common property resources and should not be restricted to cash payments.

Restitution and Return

25. All persons, groups and communities subjected to forced evictions have the right to, but shall not be forced to return to their homes, lands or places of origin.

Resettlements

26. In full cognizance of the contents of the present Guidelines there may be instances in which, in the public interest, or where the safety, health or enjoyment of human rights so demands, particular persons, groups and communities may be subject to resettlement. Such resettlement must occur in a just and equitable manner and in full accordance with law of general application.

27. All persons, groups and communities have the right to suitable resettlement which includes the right to alternative land or housing, which is safe, secure, accessible, affordable and habitable.

28. In determining the compatibility of resettlement with the present Guidelines, States should ensure that in the context of any case of resettlement the following criteria are adhered to:

a. No resettlement shall take place until such a time that a full resettlement policy consistent with the present Guidelines and internationally recognized human rights is in place.

b. Resettlement must ensure equal rights to women, children and indigenous populations and other vulnerable groups including the right to property ownership and access to resources. Resettlement policies should include programmes designed for women with respect to education, health, family welfare and employment opportunities.

c. The actor proposing and/or carrying out the resettlement shall be required by law to pay for any costs associated therewith, including all resettlement costs.
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. This applies equally to host communities at resettlement sites, and affected persons, groups and communities subjected to forced eviction.

e That affected persons, groups and communities provide their full and informed consent as regards the relocation site. The State shall provide all necessary amenities and services and economic opportunities.

f Sufficient information shall be provided to affected persons, groups and communities concerning all State projects as well as to the planning and implementation processes relating to the resettlement concerned, including information concerning the purpose to which the eviction dwelling or site is to be put and the persons, groups or communities who will benefit from the evicted site. Particular attention must be given to ensure that indigenous peoples, ethnic minorities, the landless, women and children are represented and included in this process.

g The entire resettlement process should be carried out in full consultation and participation with the affected persons, groups and communities. States should take into account in particular all alternate plans proposed by the affected persons, groups and communities.

h If after a full and fair public hearing, it is found that there is a need to proceed with the resettlement, then the affected persons, groups and communities shall be given at least ninety (90) days notice prior to the date of the resettlement; and

i Local government officials and neutral observers, properly identified, shall be present during the resettlement so as to ensure that no force, violence or intimidation is involved.

Section Six: Monitoring

29. The United Nations High Commissioner for Human Rights and other United Nations human rights institutions should seek by all possible means to secure full compliance with the present Guidelines.

Section Seven: Savings

Savings Clause

30. The provisions contained within the present Guidelines are without prejudice to the provisions of any other international instrument or national law which ensures the enjoyment of all human rights as they relate to the practice of forced evictions.
This publication presents the findings, conclusions and recommendations of a joint Fact-Finding Mission, undertaken by COHRE and ACHR, to Dhaka, Bangladesh in August 2000 to investigate reports of large-scale forced evictions taking place. The report concludes that widespread forced evictions did indeed take place, in violation of both international and national law, and therefore urged the government of Bangladesh to abide by its legal obligations and cease such evictions. The report also makes a series of recommendations designed to ameliorate the present situation and living conditions in the slum settlements in and around Dhaka.

Centre on Housing Rights and Evictions (COHRE)

COHRE is an international human rights non-governmental organisation (NGO) with its International Secretariat based in Geneva, Switzerland and its Asia and Pacific Programme based in Melbourne, Australia. COHRE undertakes a wide variety of activities supporting the full realization of housing rights for everyone, everywhere. COHRE actively campaigns against and opposes forced evictions wherever they occur or are planned, and views forced evictions — as does the United Nations — as a gross violation of human rights, in particular the right to adequate housing.

Asian Coalition for Housing Rights (ACHR)

ACHR is a regional organisation concerned with housing and human settlement issues, including housing rights abuse. ACHR is a coalition of about 500 CBOs, NGOs, concerned individuals/professionals and government officials from across Asia.