

Compilation of Complaints and Correspondence

Attached in this folder are three documents consisting of The Karachi Bachao Tehreek's correspondence with the World Bank, along with a complaint to various national and international human rights organisations regarding the situation along the Gujjar Nala and Orangi Nalas.

1. The first document is a complaint sent to the World Bank regarding human rights violations taking place along the Gujjar and Orangi Nallas in anticipation of SWEEP, a project financed by them to upgrade the city's solid waste and sewerage infrastructure. This is a comprehensive document calling the World Bank's negligence and failure to carry out due diligence and account for the resettlement of communities which are being rendered homeless due to their project. This complaint also consists of a record of various forms of illegal and unethical means through which the anti-encroachment operation is being carried out.
2. The second document is the World Banks' response to The complaint put forth by the Karachi Bachao Tehreek.
3. The third document is another complaint addressed primarily to the Supreme Court Human Rights Cell and sent to various other organisations including: Ministry of Human Rights, Pakistan, National Commission for Human Rights, Pakistan, United Nations Committee on Economic, Social, & Cultural Rights (CESR), United Nations Housing Rapporteur, and The World Bank, Pakistan.

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cc: Mr. Syed Murad Ali Shah Chief Minister, Sindh
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Date: March 19, 2021

Re: Complaint to the World Bank, the Gujjar Nullah Project

Overview

This complaint is regarding a World Bank project for Karachi, Pakistan called the ‘Solid Waste Emergency and Efficiency Project’ (SWEEP). According to the World Bank, this project involves two components – the first is mitigation of high flooding risks caused by accumulation of solid waste in the city’s natural drainage channels (nullahs) and the second aims to improve solid waste management infrastructure and service delivery.¹ The main stake-holders of this project are the Sindh Solid Waste Management Board (SSWMB), the Karachi Municipal Corporations (KMC), Local Government (LG), and the District Municipal Corporations (DMCs).² The Stakeholder Engagement Plan (SEP July 2020) identifies major social risks associated with SWEEP as encroachment along nullahs and on the Jam Chakro site and possible resettlement.³ However, no party has examined the nature and magnitude of these risks in a manner that would enable a humanitarian rehabilitation and resettlement of displaced residents. There has been no proper and transparent assessment of the residential neighborhoods along both sides of the nullah that will be in need resettlement. This is despite the fact that the SEP July 2020 lists communities next nullahs as stakeholders or project affected parties in the project.⁴ World Bank’s Appraisal Environmental and Social Review Summary states: ‘under Component 1, cleaning drains/nullahs does not involve removal of encroachment from nullahs. However,

¹ Stakeholder Engagement Plan, Solid Waste Emergency and Efficiency Project (SWEEP), Executive Summary, July 2020 (hereinafter SEP July 2020), 6

<<http://documents1.worldbank.org/curated/en/497121595986796411/pdf/Stakeholder-Engagement-Plan-SEP-Karachi-Solid-Waste-Emergency-and-Efficiency-Project-P173021.pdf>>

² SEP July 2020, 7

³ SEP July 2020, 2

⁴ SEP July 2020, 10

there is a risk that there may be some inadvertent damage to structures (established for livelihood purposes) that may have extended/encroached onto nullahs.’⁵

This complaint is against the World Bank for 1) failure to do proper due diligence and identify and consult with residential and commercial communities, the project affected parties, impacted by SWEEP around Gujjar and Orangi Nullahs 2) the human rights violations suffered by residents due to demolitions and forced evictions between February 1 and March 19 as a direct consequence of World Bank’s failure of due diligence.

In preparation for this project, the Sindh Government launched a demolition and forced evictions operation on or around February 1 2021. However, they failed to obtain free, prior, and informed consent of the residents for this mass eviction associated with WB’s urban development project. Residents were not consulted for this project and only six men from Gujjar Nullah, a socially rich and diverse abadi of an estimated 80,000 to 200,000 people, participated in any discussion on SWEEP. The authorities behind the evictions did not provide residents with prior notice, or engage them in consultations, or provide them with alternative housing or share plans for the same. When residents approached teams involved in marking and demolishing homes to enquire about rehabilitation or complain about damages and losses, city officials, assisted by police officers, subjected them to threats, harassment, battery, and false criminalization. On February 2, 2021, police unlawfully arrested and filed criminal complaints against over 100 residents as retribution for staging a peaceful protest. One of the people named in the criminal complaint is a single mother and community leader who was trying to protect people’s homes. They kept sixteen residents in custody overnight.⁶

According to World Bank Environmental and Social Standards, anyone whose home and workplace is affected in any way have the right to lodge a complaint to the World Bank about any problems in accessing compensation for lost assets, adequate housing in case of resettlement, and any maltreatment at the hands of public officials. These rights extend to all affected people regardless of their title to property and security of tenure.

Statement of Facts

Gujjar Nullah is a 28 kilometer water channel in the center of Karachi with residential communities and many commercial units on both its sides. Most residents here have lived here for twenty-five to fifty years. People residing here are linguistically and ethnically diverse. Many families suffer various forms of social and economic marginalities. There are third generation Bengali migrants, people with disabilities, single, divorced and widowed women, children and youth, people living in poverty, those dependent daily wages, Christians, and other minorities who live here.⁷ Many residents suffer double and triple marginalities - young women belonging

⁵ World Bank’s Appraisal Environmental and Social Review Summary, 07/28/2020, Report No: ESRSA00972.

⁶ First Information Report (FIR), Serial # 881, 51/21, North Nazimabad, Zillah Central, 6:30 pm February 3, 2021.

⁷ According to this article 600 low-income Christian families have been displaced or faced imminent forced eviction.

to minority faiths; children on account of age, being out of school, and poverty; adult sons and daughters of migrants who depend on daily wages and do not have national identity cards despite being born in the city; women on account of gender and lack of ownership or possession of title papers for their home. In fact, the SEP July 2020, done for SWEEP, identified such vulnerable and disadvantaged groups and specifically mentioned people living in poverty, minorities, those who are stateless and refugees.⁸ This would appear to be a mere lip service to the civil, political, economic, social, and cultural rights of these groups if they are forcibly evicted without just and fair compensation and adequate housing.

Almost all residents have some sort of title or ownership proof for their home. Many residents possess valid leases issued by one of three government authorities – the Karachi Municipal Corporation (KMC), Karachi Development Corporation (KDA), or the Sindh Katchi Abadi Authority (SKAA). Those who do not have leases issued by KMC, KDA, or SKAA have purchased properties through contractual agreements that they had no reason to believe were anything but lawful. They paid money to purchase their property and have notarized stamp paper to prove this. This agreement was tacitly sanctified by the state through residents officially acquiring gas, water, and electricity lines. The residents regularly paid utility bills and this solidified their belief that they had security of tenure since they were routinely contracting with state parties. Hence, they too have equitable and legal title and a legitimate expectation that their homes will be protected by the law. They have expended resources in improving their homes and built social ties within the area. Their neighborhoods are rich ecosystems of social networks and commercial enterprises. Multiple colonies along the water channel have been regularized by law under the Sindh Katchi Abadis Act 1987. The government claims there are 5,916 houses along Gujjar nullah, 1,049 along Mehmoodabad nullah, and 992 along Manzoor Colony nullah that will be demolished⁹. Residents contest this number and claim there are many more units than this. In fact the survey contracted by the Government of Sindh regarding this project have a number of flawed estimates of the number of impacted housing units and number of affected families. In some cases, one housing identification number has been allotted to two different households; there has been an inadequate assessment of varying house sizes. This will eventually lead to confusion and disentanglements in compensation.

On or around February 1 and 2 2021, members of the Sindh government arrived in Gujjar Nullah to mark homes for demolition. They assigned each unit with a number and a percentage figure reflecting how much of the structure will be demolished or ‘cut’. Around mid-February, state officials forced their way into the neighborhoods with heavy machinery and began demolitions in these areas. As of this writing (March 19) city officials have demolished or partially damaged over 2,000 houses starting from Zero point at Data Nagar New Karachi up to

Zahid Hussain and Kashif Anthony, UCA News, March 1, 2021, Desperate Christians Face Homelessness, <<https://www.ucanews.com/news/desperate-christians-face-homelessness-in-pakistan/91577#>>

⁸ SEP July 2020, 13-14

⁹ <https://www.dawn.com/news/1607218>

the end of the water channel at Ilyas Goth where it empties into Lyari Naddi at Teen Hatti area.¹⁰

This forced eviction operation has caused undue hardship and suffering to residents. Many people are still in financial distress because of inflation and loss of livelihood during the worst months of the pandemic. The demolitions came at the most unfortunate time and most people have no place to go and are struggling to secure alternative housing. The United Nations Human Rights Council has suggested that states address affordable housing. There is a discrepancy between prices of property and peoples' incomes and the state has an obligation to provide affordable housing to low and middle income families in order to avoid homelessness and more informal settlements.¹¹ These displaced families simply cannot afford land in Karachi unless they are given equivalent or better adequate alternative housing in exchange for their homes.

The following sections describe the various human rights violations including the right to adequate housing and infringement of process associated with Project SWEEP.

No prior consultation and lack of adequate and meaningful notice of eviction

According to the World Bank's Environment and Social Framework (ESF) and its Environmental and Social Standard ESS 10 on 'Stakeholder Engagement and Information Disclosure,' the implementing agencies (in this case KMC, SSWMB, and DMC) are required to provide stakeholders with 'timely, relevant, understandable and accessible information and consult with them in an appropriate manner, which is free of manipulation, interference, coercion, discrimination and intimidation'.¹² The World Bank cannot evade or shift responsibility for violation of these standards to the state or offer that these standards are not applicable to sovereign local authorities when it is evident that demolitions are being done to fix Karachi's flooding problems.¹³ There is a technical, economic and bureaucratic link between these demolitions and Project SWEEP. These mass evictions are being carried out by one of the World Bank's main implementing partners - the Karachi Metropolitan Corporation. The World Bank stipulates in its agreement that for this project the state will 'assess the environmental and

¹⁰ According to Community leaders Abid Asghar (March 19, 2021), these areas are affected by ongoing demolitions and forced evictions: Data Nagar New Karachi, Fatima Jinnah Colony New Karachi, Ali Mohammad Goth New Karachi, Maskeenabad Bengali Para, Buffer Zone North Nazimabad, Malik Anwar Goth North Nazimabad, KBR, Block 12 North Nazimabad, Block 18 Federal B Area, Shah Khalid Bin Abdul Aziz Colony Buffer Zone, Khwasi Brohi Goth Buffer Zone, Farooq e Azam Colony, Block 12 Bengali Para, People's Colony, Block 12 Pakki Abadi, Arafat Town North Nazimabad, Qabail Colony Block 11 Federal B Area, Kausar Niazi Colony North Nazimabad, Kausar Niazi Block F, G, H, Rehmanabad Block 5 Federal B Area, Wahid Colony, Mujahid Colony NN, FB Area Block 3, Moosa Colony, Punjab Colony, Nazimabad #4, Khamosh Colony, Pardos Colony, Hsana Colony, ZMC Office area, Liaqatabad, and Ilyas Goth.

¹¹ United Nations Human Rights, Office of the High Commissioner, Forced Evictions Factsheet No. 25/Rev. 1, 2014 (UN Forced Eviction Factsheet), 23

¹² Stakeholder Consultation June 2020, p 17

¹³ ibid

social risks and impacts of proposed Project activities, in accordance with Environmental and Social Management Framework (ESMF) including to ensure that individuals or groups who, because of their particular circumstances, may be disadvantaged or vulnerable, have access to the development benefits resulting from the Project'.¹⁴

Procedural safeguards, as per World Bank standards, were supposed to include a social impact report, initial screening, census of 100% affected households, and a baseline socio-economic profile. The census survey is meant to list affected persons (APs), loss to structure and assets, loss of income, affected public utilities etc.¹⁵ Residents of Gujjar Nullah complain that no such social impact reports, screening, census, or baseline socio-economic profile has been done or brought to their attention.

KMC did not provide residents with any timely, relevant, understandable, and accessible information. In fact, KMC officials deliberately kept residents uninformed and used coercive, arbitrary, discriminatory, and intimidating tactics to forcibly evict people. An alliance of political workers and human rights activists the 'Karachi Bachao tehrak' (Movement to Save Karachi) visited Gujjar Nullah in February and March multiple times and met with several residents in Kausar Niazi Colony, Ali Mohammad Goth, and Point Zero – three neighborhoods along this channel. Residents reported that they received no oral or written notice and were not invited for any consultations. In one area, Maskeenabad (Bengali Para) in Ali Mohammad Goth, a resident reported hearing an announcement from the masjid. According to one resident, Israr, of Kausar Niazi Colony, these officials did not identify themselves by name or say which department they are from. They did not answer any questions about how much of a particular unit will be cut. 'One resident requested that they spare his family home as they had marked a mere two feet for demolitions, they retaliated and changed the number for two to eight feet.'

According to Israr, residents found out through word of mouth, rumors, or through stories in the media. This became a source of anxiety as accurate information was not accessible. He added that as per one news report, KMC planned to remove 'soft encroachments' (for example recreational areas and snooker tables, sheds for cattle) and then 'hard encroachments'. In a deliberate attempt to further confuse residents and keep them in the dark, officials returned to their homes they had marked in the beginning of February 2021 and arbitrarily increased the part of the structure set for cutting. They did not inform residents where they could file grievances or request compensation. Considering that most people here do not have primary and secondary education, many people fell prey to possibly fraudulent schemes. In Ali Mohammad Goth, Farzana and Erum, both belonging to the Bengali migrant community shared that about four months ago, an unidentified team approached them to fill forms for rehabilitation; they charged PKR200 but nothing came out of it and no one received anything.

¹⁴ Islamic Republic of Pakistan Province of Sindh Solid Waste Emergency and Efficiency Project (P173021) [Negotiated Draft], Environmental and Social Commitment Plan, (ESCP) [October 27, 2020]

¹⁵ Draft Resettlement Framework, Solid Waste Emergency and Efficiency Project (SWEPP), Sindh Solid Waste Management Board (SSWMB), Nov 3 2020, 9-10

This failure to provide information in a cohesive, understandable, clear, and accessible manner is a violation of the World Bank's environmental and social framework. Not getting proper information through official channels has been an ongoing source of stress, confusion, and frustration for all residents. On or around March 7, 2021, one woman, a low-income domestic worker, died from anxiety and stress a week after officials came and marked her home. This was a wrongful death caused by negligence of state officials in failing to be transparent and keeping people calm in times of financial and housing stress.

The World Bank states that for project SWEEP they were only able to consult with six men and no women in Gujjar Nullah.¹⁶ The bank claims that the covid-19 pandemic compromised consultations. But given that there is a population of over 80,000 people in Gujjar Nullah who are facing 'forced eviction' or are at imminent risk of it, this due diligence must now be carried out in a proper manner to avoid any further irreparable harm. It is already apparent that the World Bank is involved in a project that has led to a humanitarian and housing crisis. The World Bank and their implementing partners must properly consult with all residents, especially vulnerable communities, including but not limited to women, children, youth, minorities, people with disabilities, and people living in poverty.

Human rights abuses in forced eviction

The Universal Declaration of Human Rights (UDHR) provides for the right to a standard of living adequate for the health and well-being of himself and of their family, including food, clothing, *housing* and medical care and necessary social services (art. 25). The International Covenant on Economic, Social and Cultural Rights (ICESCR) (art. 11, para. 1) posits that state parties recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and that state parties will take appropriate steps to ensure the realization of this right. The right to housing includes a right against forced eviction.

Forced eviction is '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.'¹⁷ Situations that lead to mass evictions include urban development or renewal projects. SWEEP is such an urban development project. Other relevant situations that lead to mass evictions of the kind evident in Gujjar Nullah for Project SWEEP are: large scale acquisition of land and leases, lack of legal security of tenure, non-recognition or non-deliverance of land titles, real estate and private business actions, land grabbing, and living in informal settlements due to poverty.¹⁸

¹⁶ SEP July 2020, 5

¹⁷ Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions.

¹⁸ Forced Eviction Fact Sheet 3,4

Mass cancellation of leases

The state has initiated a large scale lease cancellation program. This violates the right to housing and constitutes forced eviction. On March 5, 2021, KMC issued a notice that stated that ‘some leased out plots coming in the alignment of said nullahs’ (Gujjar, Orangi, and others) are ‘causing hurdles in swift anti encroachment project’ and are required to be removed for a ‘national cause’. In this notification, KMC Anti-Encroachment Department cites a Supreme Court decision dated August 8, 2020 which arose from a constitutional petition filed in 2010.¹⁹ In this decision, the apex court of the country stated that the National Disaster Management Authority (NDMA) has undertaken the responsibility of cleaning 38 big and 540 small nullahs in Karachi. The court directed NDMA to clean and remove encroachments. However, it also directed the Sindh government to provide rehabilitation with all necessary facilities as would be expected in a ‘civilized society.’ However, the state has blatantly disregarded this essential element of the direction and are removing lawfully leased and otherwise authorized homes under the pretext of removing encroachments and have taken no measures, whatsoever, towards rehabilitation. The KMC has not elaborated on what they mean by a ‘noble cause’ because families being rendered homeless is certainly not.

Under international law, an administrative or judicial decision does not make an eviction lawful or justified.²⁰ These evictions are not only in violation of the Supreme Court’s orders, but also international human rights doctrine and World Bank Environmental and Social Standards. In a bid to acquire land and lease and proceed with mass evictions, the state is overlooking that residents around the nullahs have ownership rights and valid leases. Hence this large scale cancellation of such leases without alternative housing and market value compensation for their losses is a violation of law and process. Instead of regularizing localities by retroactively legalizing sale and purchase agreements as envisioned in laws such as the Sindh Katchi Abadi Regularization Act of 1986, KMC has taken the opposite approach. That is to cancel leases and deprive residents of due process - all at the behest of preparing the nullah for the World Bank (SWEEP) project.

Discriminatory treatment and use of violence

Regardless of judicial or administrative decisions which may purport to authorize demolition of an encroachment, under international human rights law, an eviction could still be classified as ‘forced’ and in violation of human rights treaties if it is carried out inappropriately. If state parties do not provide adequate notice or consult with residents or provide information on recourse mechanisms, relocation or compensation, an eviction may be found to violate international law. Moreover, if evictions are carried out at an inconvenient time or through the use of harassment, threats, violence or force, this renders them illegal.

¹⁹ Constitutional Petition #9 of 2010, Order dated August 12, 2020, Justice Gulzar, Justice Faisal Arab, Justice Ijaz-ul-Ahsan, 3-4.

²⁰ Forced Eviction Fact Sheet 5

Forced evictions can lead to further human rights violations - disruption of children's education, interruption of medical treatment, mental trauma, loss of jobs and livelihoods, inability to vote because of homelessness, and diminished or no access to basic services or justice because identity and property papers are susceptible to loss or are destroyed during evictions.²¹

KMC and other state authorities have carried out this operation in a discriminatory, high-handed and duplicitous manner and in flagrant disregard of human rights. According to one resident, officials came to demolish homes in Masqeenabad around 6:30 or 7:30 am when they knew most residents would be asleep. She added: 'They never start this early if they are coming to serve people, but when they want to deprive people of rights, they show up on time.'

Demolition teams were accompanied by police officers and the Rangers, a para-military force. This display of state force was extremely intimidating for residents. They threatened and harassed residents who dared to resist, protest demolition, or even ask questions. One resident claimed when they said they would lay their bodies in front of the excavators and bulldozers, they responded by telling them that they will have no qualms running their machinery over them. In one case at point zero, a female police officer assaulted a woman, a single mother of three young girls, a home based tailor sole breadwinner, when she protested demolition. She had purchased her property for PKR 700,000 about eight years ago and had gradually improved it. It was not only her living space but also where she carried out her business. They pushed her in a ditch that caused her to faint and then proceeded to taunt her that she was pretending. One woman stood on the roof-top of her house for several hours to protest demolition. Another woman, a third generation Bengali migrant, complained that they demolished her top floor on Saturday and then returned on Monday to demolish her lower floor.

Threats and violence toward women is particularly concerning as the World Bank purports to take incidents of gender based violations very seriously. Human rights reports have highlighted how women are the target of physical and psychological intimidation in forced evictions. Stress and anxiety linked to forced eviction affect pregnant women. Incidents of verbal abuse, sexual violence, and physical abuse also impact women disproportionately. Eviction makes women more vulnerable to sexual abuse.²²

Women and girls in Gujjar Nullah have been severely and disproportionately impacted and continue to suffer human rights violations as a result of preparatory work for SWEEP. Young girls in their teens and in their twenties are among the worst affected. They have had to shift to relatives' homes as it is unsafe for them to sleep in the open. This is a source of stress and tension for the whole family as it is not a sustainable solution and could expose these girls and young women to sexual violence in new locations where they have no community networks. Moreover, women in Gujjar Nullah face discrimination in housing tenure as most registration

²¹ Forced Eviction Fact Sheet 5

²² Forced Eviction Fact Sheet 16

and property documents are in men's names. They are usually thus left out of judicial mechanisms to secure housing rights.²³

Forcing people to sign agreements

Forced evictions can also include 'softer' coercive and duplicitous tactics in forcing people to sign unfair and inequitable agreements. Some residents stated that people who stood to lose or lost more than thirty percent of their property were told they will receive a check of PKR 90,000. About 500 people have been offered or received these checks as of March 19. This amount is supposedly to cover rent for six months at a rate of PKR 15,000 per month. This information was not shared in an understandable, accessible, and transparent manner and people had to run from pillar to post to inquire about this meagre compensation. One resident said the DC set up a desk somewhere. Another resident said the District Municipal Corporation (also a stakeholder identified in SWEEP) teams arrived in colonies unannounced. According to community member, Abid Asghar, some people have received and cashed this check while others said they have received but have not cashed; yet others stated they have received, but they have been told that it will be redeemable in three months. They have also been informed they will receive another check in about eighteen months but most seemed pessimistic about any future payments. Most claimed they knew that accepting these checks may mean signing off their rights but were so disillusioned by the administrative and judicial process that they accepted this check in case they got nothing at all. They did not sign any agreement when receiving the check nor were they told of terms and conditions they were acceding to in consideration of this check. They simply registered their national identity numbers, name and gave in their photographs.

Housing and properties are unaffordable in Karachi. Most homes are worth upward of PKR 1400,000 and without alternative land or home, this check amount is neither fair nor equitable. An elderly man, Mohammad, who has lived here 50 years, said: 'We paid lease, we thought we were secure – we have small children and where will we go?' A visibly distressed elderly Christian laborer said he anticipates setting up a jhuggi on the road as he has nowhere to go and all his life's savings were invested in his home of forty years marked for demolition.

The World Bank has a resettlement policy and has drafted many rules and principles that respect the rights of communities who are affected by their projects. Their resettlement policy includes environmental and social standards or the ESS5. Each Affected Person (AP) will be enlisted and issued identification as to confirm his/her presence on the proposed site of a subproject prior to the cut-off date at the time of RP implementation. People with formal title and those without title are eligible for compensation and rehabilitation. The World Bank has agreed to provide 1) compensation for lost structures, 2) logistical and transport assistance in relocation, 2) compensation and support to restore livelihoods, 3) compensation for lost public services and utilities (schools, madrassas, graveyards). They have also stipulated for loss of

²³ Forced Eviction Fact Sheet 17

trees, corps, and other losses.²⁴ Hence, KMC and DMC paying residents in an indiscriminate and thoroughly dis-organized manner is the exact opposite of how the World Bank has framed the registration and compensation matters.

Forced evictions violate many other human rights

According to the United Nations Fact Sheet, ‘forced evictions’ are discriminatory towards the poorest and the most marginalized and those who do not have the ‘clout to change the decisions and designs of the project leading to their displacement’. These could also reinforce structural inequalities.²⁵ Those living in informal settlements or those with insecure tenure are largely marginalized groups. ‘Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats’.²⁶ Lack of title is often used as a justification for forced evictions and in the case of Gujjar Nullah even title is being ignored by the state. Respect for human rights is independent from ownership status and privacy and family life are fundamental guarantees. ‘If a state is unable to fulfil the right to adequate housing for all, it should consider various solutions, including allowing people to provide some level of housing on their own, even if this is done through the creation of informal settlements.’²⁷ ‘People evicted will eventually settle in other informal settlements’. This could be because lack of affordable housing, gentrification, market forces, and real estate speculation create a landscape where disempowered residents, subject to multiple forms of marginality and discrimination, can be dislocated from their leased or contracted for plots. All of these elements are at play in Karachi and around Gujjar Nullah. Moreover, criminalization of homelessness worsens people’s plight.²⁸ This too has taken place when police attempted to frame 125 in false charges and kept about sixteen people detained after they staged a peaceful protest against forced evictions. This was in violation of the residents’ constitutional right to peaceful assembly (Article 16) and to safety and security (Article 9).

Forced evictions can violate the right to food. It can cause loss of privacy in family life. Evicted people may lose access to jobs or social protection schemes if they are relocated far from jobs or deprived of social entitlements as residents of an area.²⁹ Moreover, forced evictions have a disproportionate impact on children. Children in Gujjar Nullah witnessed their houses being

²⁴ Draft Resettlement Framework, Solid Waste Emergency and Efficiency Project (SWEEP), Sindh Solid Waste Management Board (SSWMB), Nov ‘3 2020, 13-18 ‘Loss of residence structure: Non titled squatters to get fully titled and registered adequate housing or cash compensation at full replacement cost and can salvage lost material. Loss of Business structure: Non titled users are entitled to allocation of alternative location or cash compensation for self-relocation’.

²⁵ Forced Eviction Fact Sheet 7

²⁶ Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing. See Forced Eviction Factsheet at 9.

²⁷ Forced Eviction Fact Sheet 7

²⁸ Forced Eviction Fact Sheet 10-11

²⁹ Forced Eviction Fact Sheet 11

bulldozed and their parents being mistreated by state officials. One child from Masqeenabad, Bengali Para said that his grandfather's home, where he was born, is now gone and now they are left with nothing. They may suffer from anxiety, apathy, withdrawal, PTSD, panic and confusion, and lowered self-esteem. Human Rights defenders are often targeted as in the case of Gujjar Nullah when the police framed a female leader of the community in false charges after she participated in a peaceful protest against evictions.³⁰

Conclusion

We request that the World Bank declare an immediate moratorium on any work connected, both directly and indirectly, to Project SWEEP or any demolition and forced evictions undertaken to prepare the area for WB's project. We demand that the Bank conduct proper consultations and participatory and democratic surveys with affected persons of Gujjar, Orangi, and all other nullahs with an aim to secure their rehabilitation and acquisition of adequate housing. We also request that the World Bank, in coordination with its implementing partners, share in a transparent, accessible, and understandable manner all documentation pertaining to census, screening, baseline surveys, resettlement plans, and environmental and social risk studies conducted pertaining to Project SWEEP.

On behalf of the Karachi Bachao Tehreek

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³⁰ Forced Eviction Fact Sheet 17-18



April 13, 2021

To: Complaint to the Supreme Court of Pakistan, Human Rights Cell

cc:

- 1) Ministry of Human Rights, Pakistan
- 2) National Commission for Human Rights, Pakistan
- 3) United Nations Committee on Economic, Social, & Cultural Rights (CESR)
- 4) United Nations Housing Rapporteur
- 5) The World Bank, Pakistan

To the honorable members of the Human Rights Cell of the Supreme Court of Pakistan:

We are an alliance of human rights defenders, activists, political workers, and residents of Gujjar and Orangi Nullahs. This letter is to bring to your attention that the Government of Sindh (GoS) is carrying out an illegal forced evictions and demolitions operation in Karachi since February 2021 in Gujjar and Orangi Nullahs against residents lawfully settled for many decades. The following sections describe the human rights violations and the nature of the humanitarian disaster which have resulted because of this operation. We request that the Human Rights Cell of the esteemed Supreme Court take notice of this matter and the listed prayers before the commencement of the Holy month of Ramzan.

1. Background to the Demolitions

In anticipation of implementing a World Bank (WB) project for Karachi, Pakistan called the 'Solid Waste Emergency and Efficiency Project' (SWEET)¹, the Government of Sindh has launched a brutal, full scale forced and mass evictions operation in Gujjar and Orangi Nullahs since February 1 of 2021. This operation has rendered several hundred families and thousands of people homeless. These families have not been provided alternative housing or emergency shelter. They have nowhere to go and many families are now living out in the open next to their

¹ Stakeholder Engagement Plan, Solid Waste Emergency and Efficiency Project (SWEET), Executive Summary, July 2020 (hereinafter SEP July 2020), 6
<<http://documents1.worldbank.org/curated/en/497121595986796411/pdf/Stakeholder-Engagement-Plan-SEP-Karachi-Solid-Waste-Emergency-and-Efficiency-Project-P173021.pdf>>

partially or fully demolished homes. Many people are in deep financial distress because of inflation and loss of livelihood during the worst months of the lockdown in the pandemic. This forced evictions operation has exacerbated their hardship and suffering and led to multiple human rights violations suffered by lawful residents. It has a particularly harmful impact on children, women, religious minorities, and the poor. This operation must be stopped immediately in order to prevent further irreparable harm to families before Ramzan. Most families possess valid leases for their which have been issued by various departments in Sindh.

Since mid-February 2021, the Karachi Municipal Corporation (KMC) has demolished about 2,000 leased and other homes in Gujjar Nullah area and about 200 homes in Orangi Nullah. At the current rate, they are demolishing about twenty homes and covering an area of approximately 2 km per day. Gujjar Nullah is a 28 kilometer water channel in the center of Karachi with over 5,000 residential and many commercial units on both its sides. Most residents here have lived here for twenty-five to fifty years. Orangi Nullah is an 11.5 kilometer water channel with 1,700 homes and residents here too have a history of tenure for about twenty-five to fifty years.

On August 12, 2020, Justice Gulzar issued a decision regarding Gujjar and other Nullahs in an attempt to resolve Karachi's drainage problems which sometimes lead to flooding during the monsoons. He said:

In the circumstances, we direct the NDMA to take over the work of cleaning of nullahs in Karachi City and ensure that such cleaning work of nullahs is completed and all encroachments in and around these nullahs are removed. The Sindh Government shall provide all necessary assistance and support to the NDMA for rehabilitation of the people dislocated on account of removal of the said encroachments. In rehabilitating the people, the Sindh Government shall ensure provision of all necessary facilities which is required for rehabilitation of a civilized society.²

KMC, at the behest of the Sindh Government, is in flagrant violation of this order from the apex court of the country in two ways. First, they are demolishing leased homes which are not encroachments and since only encroachments have been ordered removed by the Supreme Court, these demolitions are illegal. The Sindh Public Property (Removal of Encroachment) Act 2010 defines 'encroachment' as 'unauthorized occupation of or undue interference with public property.' Leased homes are thus not encroachments, but are still being demolished. Two, dislocated residents whose homes were demolished – whether leased or with equitable and imperfect title - have not been provided with any rehabilitation plans or emergency shelter and this has led to a humanitarian crisis and a state of desperate homelessness. There is a plan underway where the GoS is haphazardly and non-transparently giving checks of PKR 90,000

² Constitutional Petition #9 of 2010, Order dated August 12, 2020, Justice Gulzar, Justice Faisal Arab, Justice Ijaz-ul-Ahsan, 3-4.

without disclosing the terms and conditions of this payment (supposedly as rent) and in exchange for the recipient's home. This form of 'rehabilitation' is inappropriate, arbitrary, discriminatory, and irresponsible.

Karachi Bachao Tehreek (KBT) and affected residents have filed a complaint to the World Bank that was recently found admissible. This complaint outlines World Bank's failure to do proper due diligence and identify and consult with residential and commercial communities, the project affected parties, impacted by SWEEP around Gujjar and Orangi Nullahs and the human rights violations suffered by residents due to demolitions and forced evictions between February 1 and March 19 as a direct consequence of World Bank's failure of due diligence.

In the following sections, we Karachi Bachao Tehreek, a movement of residents of Gujjar Nullah and activists, will argue:

- I. That the homes being demolished are leased and hence not encroachments. Even people possessing imperfect title or katchi leases are entitled to rehabilitation as specified by Justice Gulzar for the Supreme Court and have equitable rights by virtue of contracting with the GoS for utilities.
- II. That residents of Gujjar Nullah were not provided reasonable notice of the evictions and this makes them forced and illegal; they were not engaged in any consultations or dialogue pertaining to the nullah and all associated urban renewal projects including, inter alia, NDMA's cleaning/widening of the nullah, the World Bank's Project SWEEP, and rehabilitation plans. The GoS has taken draconian actions including KMC's attempt to mass cancel leases and coercing residents to sign off their homes and rights for a mere payment of PKR90,0000.
- III. There were several human rights violations in this forced eviction operation in the nullahs including false criminalization of residents, police highhandedness, brutality, use of violence against families specially women and children.

2. Human Rights and Legal Arguments

- I. **Demolished homes have legal status as owners possess official leases from KMC, KDA and SKAA and/or equitable title through purchase agreements, payment of utility bills and continuous abode and thus cannot be subject to demolition and forced evictions; moreover leased homes are further protected by court ordered stays.**

Most residents possess valid leases issued by one of three government authorities – the Karachi Municipal Corporation (KMC), Karachi Development Corporation (KDA), and the Sindh Katchi Abaadi Authority (SKAA). In a survey conducted by Karachi Bachao Tehreek (KBT) in Gujjar Nullah (Kausar Niazi, Sadiq Nagar, Qayyumabad, and Tayyababad), 36 of 79 surveyed houses, or 45%, were leased and/or regularized. Of these, 58% (21 of 36) were leased by KMC. More than

100 residents of these localities have obtained stays from the Anti-Encroachment Tribunal and in some cases even the Sindh High Court. The Tribunal has issued, in most cases, an interim order recognizing that the relevant property facing demolition is not an encroachment because it is subject to a valid lease and requesting that status quo be preserved until further direction on Justice Gulzar's August 2020 decision.

The other 50% who do not possess leases have acquired title to their property quasi legally through contracts on notarized stamp paper. They later acquired gas, water and electricity connections through official channels; these residents too have a legitimate expectation that their titles will be protected.

The International Convention on Economic, Social, and Cultural Rights (ICESCR) of 1976 which Pakistan ratified in 2010 requires states to recognize 'the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and *housing*, and to the continuous improvement of living conditions.' According to Article 2(1) of the ICESCR each state party to this convention undertakes to take steps 'to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.' The Committee has elaborated that such legislation should include measures which provide the greatest possible security of tenure to occupiers of houses and land, conform to the Covenant and are designed to control strictly the circumstances under which evictions may be carried out.³ The OCHR has specified that legal tenure can take many forms.

Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, *including occupation of land or property*. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment, and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.⁴

This body of international law obligates Pakistan in two ways – one, that the state must endeavor to regularize housing schemes to ensure people are not rendered homeless or forcibly evicted. The state should honor and uphold its own legal frameworks whereby multiple colonies along the nullahs which are not obstructing passage of water in the nullahs have been regularized by law under the Sindh Katchi Abadis Act 1987. Instead, the state is reneging on their international obligations by demolishing previously regularized and authorized neighborhoods and carrying out forced evictions. Two, occupation of land or property, accrue legal rights to the occupiers. These rights are strengthened by virtue of the contractual

³ General Comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions, para 9

⁴ CESR General Comment No. 4: The right to adequate housing (art.11(1), para 8(a))

agreements residents entered to acquire property and monetary consideration paid for it, continuous living in this property for years, and by paying state authorities utility bills for gas, water, and electricity. These equitable rights cannot be ignored and these homes cannot be cast aside as 'illegal' or 'encroachment' in light of international law that states recognize even imperfect title in order to fulfill their duty toward adequate housing.

International human rights law recognizes that where the state is unable to meet its duty to provide adequate housing for all, it should consider various solutions, including allowing people to provide some level of housing on their own through the creation of informal settlements.⁵ In Karachi, it is impossible for low-income families to acquire affordable housing and there are virtually no public interest housing schemes. This lack of affordable housing is because of gentrification, market forces, and real estate speculation that prohibit working class families to find affordable housing. Regardless, Justice Gulzar's decision of August 12, 2020, is clear that even such residents must be adequately rehabilitated. The GoS, through KMC and the Assistant Commissioner's office, are thus violating the law by not provided emergency shelter in the interim and proper housing in the future.

Article 2 of the International Covenant on Economic, Social and Cultural Rights 1976 states that the state take 'all appropriate means, including particularly the adoption of legislative measures' to achieve the right to housing. In interpreting similar words in their own Constitution, the Constitutional Court of South Africa held that reasonable legislative measures means a reasonable program that allocates responsibilities between the national, provincial, and local government and assure financial and other resources are available for enforcement of rights. The South African Court further stated that these measures must establish a coherent public housing scheme directed towards the progressive realization of the right to housing. The state must held other agents to provide housing, unlock the system and give legislative framework to facilitate self-built houses. It found the national housing fell short of the constitutional right to adequate housing because it had no provision for emergency shelter or temporary relief for people who have no access to land or roof because of a crisis or natural disasters.⁶

The Pakistani state and the GoS must recognize the right to housing and implement housing programs instead of engaging in a mass eviction operations that will strip people of their homes and livelihoods.

⁵ United Nations Human Rights, Office of the High Commissioner, Forced Evictions Factsheet No. 25/Rev. 1, 2014 (hereinafter Forced Eviction Factsheet) 7

⁶ Government of South Africa v Grootboom (2000), ZACC 19, 2001 (1) SA 46 (CC), 2000 (11) BCLR 1169 (CC), Decision by: Yacoob, Oct 4, 2000.

II. Communities facing forced evictions and homelessness were not given adequate and reasonable notice before forced evictions and they were not involved in any consultations regarding any urban renewal or development project; moreover the state has negligently conducted flawed surveys, and has attempted to take draconian action by mass cancelling of leases, coercing residents to sign off their rights, and depriving people of a legal remedy.

a. No adequate and reasonable notice or prior consultations

The government departments responsible for the demolitions and forced evictions operation did not provide residents with adequate and reasonable notice before evictions, or obtain free, prior and informed consent for their cleaning/widening and other projects, or provide them with alternative housing and rehabilitation. Due process and procedural protection are of utmost importance in relation to forced evictions. This includes:

(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.⁷

International human rights law requires the state to ‘ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.’⁸

No such dialogue took place and the Government of Sindh did not engage in genuine consultation with those affected even though many residents, by virtue of having lived here for decades, could have been extremely useful in discussion on any urban renewal schemes. The GoS has consistently refused to share information about the proposed evictions.

On January 2, a mere one month before the markings and demolitions began, the Chief Secretary, Sindh, Mumtaz Ali Shah, issued a notification constituting a ‘Public Engagement Committee’ ‘to develop consensus amongst locals on resettlement process required for clearing of encroachment from Nullahs of Karachi.’ The letter further stated the Committee will involve

⁷ Sixteenth session (1997), General Comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions, para 15 (hereinafter General Comment No. 7 1997)

⁸ General Comment No. 7 para 13

all locals for 'peaceful resettlement' and that 'it will hear all stakeholders with inclusivity and fairness', and that it will complete the tasks 'before the commencement of encroachment removal operation.' Residents of Gujar and Orangi Nullahs whose homes have been demolished or those who are facing imminent forced evictions were not engaged by this Committee in any consultations let alone in a fair and inclusive. They have been excluded and erased from all decision making and demolitions have been brutal and relentless.

On January 3, the local government published a notice of eviction in an Urdu and English paper. It warned residents of Mehmoodabad and Manzoor Colony Nullahs. It stated that according to the Supreme Court's decision, the NDMA will be undertaking widening of Nullahs in pursuance of a design prepared by NED. They referred to markings for 'cutting' on their homes and warned residents to vacate the area in seven days or stand responsible for their own losses.

In January and around February 1 and 2 2021, members of the Sindh government arrived in Gujar Nullah to mark homes for demolition. They did not identify themselves or share information with residents. They assigned each unit with a number and a percentage figure reflecting how much of the structure will be demolished or 'cut'. A few days later, in mid-February, state officials forced their way into the neighborhoods with heavy machinery and commenced demolitions in these areas while it was clear that families are still residing in these homes.

Residents reported that they received no oral or written notice that would qualify as reasonable and adequate. According to Israr of Kausar Niazi Colony, when state officials came to mark homes, they did not answer any questions about how much of a particular unit will be cut. 'One resident requested that they spare his family home as they had marked a mere two feet for demolitions, they arbitrarily retaliated and changed the number for two to eight feet.' According to Israr, residents found out through word of mouth, rumors, or through stories in the media. This became a source of anxiety as accurate information was not accessible. He added that as per one news report, KMC planned to remove 'soft encroachments' (recreational areas and snooker tables, sheds for cattle) and then 'hard encroachments'. In a deliberate attempt to further confuse residents and keep them in the dark, officials returned to their homes they had marked in the beginning of February 2021 and increased the part of structure set for cutting.

By the state's own admission, the only notice they provided was on January 3, 2021. This was not adequate or reasonable. It is unreasonable to expect residents who have been settled in Gujar and Orangi Nullahs for many years to vacate in seven days, let alone a month, without provision of adequate alternative homes. In Karachi market forces, gentrification, lack of adequate state housing subsidies have made affordable housing for low-income families an impossibility. Moreover, when undertaking a possibly catastrophic task such as a mass eviction of this sort of firmly settled families, a simple one page notice in the newspaper will not suffice. The language of the notice is inadequate in that it does not even outline the dozens of settlements along all 38 big and 540 small nullahs in Karachi. The notice does not even mention

Gujjar and Orangi Nullahs by name. This is despite the fact that these areas have faced an onslaught of demolitions that began with markings and ended with the presence of heavy machinery at doorsteps.

Moreover, the GoS, through KMC and the Office of the AC, did not inform residents on where to file a grievance or a request compensation thus violating residents' rights to a legal remedy. Considering that most people here do not have primary and secondary education, many people fell prey to possibly fraudulent schemes. In Ali Mohd Goth, Farzana and Erum, both belonging to the Bengali migrant community shared that about four months ago, an unidentified team approached them to fill forms for rehabilitation; they charged PKR200 but nothing came out of it and no one received anything.

b. Flawed Surveys

The GoS tasked an engineering school in Karachi, NED, to do a study. To date, residents have simply been able to see a 90 page document prepared by NED University in Karachi which gives numbers, identification marks, and maps of homes enlisted for demolition. According to a survey and analysis conducted by Karachi Bachao Tehreek (KBT) in mid-February, the government has identified around 4000 houses to be demolished. However, this number is under reported, as evident from the fact that multiple houses have been clubbed together under one identification (ID) number. Taking this incidence level at 15% as estimated using KBT's data of 79 households, 600 households have not been provided separate IDs and are being denied a chance at compensation. The government made no note of the area being destroyed of each household ID. An ID can range from under 100 square feet to over 4000 square feet. Such a blanket and illogical valued compensation is unlikely to cover the loss of many households. Furthermore, at least 263 houses will be ineligible to receive any compensation for their losses. This is because as per government policy, which people have only discovered through hearsay as opposed to transparent sharing on the state's part, any home marked for less than 30% destruction, will not receive compensation. According to KBT's survey, each household has an average of 9.7 people. Even if scaled to the underestimated value of 4000 households, that means a total of 38,800 people will be affected and estimated 24,832 people will be completely homeless. Residents around the nullahs have not participated in any study and have not contributed to this process.

c. Mass Cancellation of Leases and deprivation of legal process

As further evidence of procedural deprivations is KMC's attempt to mass cancel legal leases without process. On March 5, 2021, KMC issued a notice that stated that 'some leased out plots coming in the alignment of said nullahs (Gujjar, Orangi, and others) and are 'causing hurdles in swift anti encroachment project' and are required to be removed for a 'national cause.' In this notification, KMC Anti-Encroachment Department cites a Supreme Court decision dated August 8, 2020 which arose from a constitutional petition filed in 2010. In this decision, the court states that the National Disaster Management Authority (NDMA) has undertaken the responsibility of

cleaning 38 big and 540 small nullahs in Karachi. The court directed NDMA to clean and remove encroachments. However, it also directed the Sindh government to provide rehabilitation with all necessary facilities as would be expected in a 'civilized society.' KMC seems to want to ignore this direction and have illegally demolished lawfully leased homes under the pretense of removing encroachments. They have taken no measures towards meeting due process and notice requirements regarding demolition, or shared project plans. The state has yet to share any plans on rehabilitation as directed by the Supreme Court of Pakistan. In fact, after a month and a half of relentless demolitions, the state has only recently on April 9, 2021, disclosed its plans to form a rehabilitation and resettlement committee.⁹

Moreover, KMC's illegal actions have deprived people of a legal remedy. The 100+ people who were able to rush to the Anti-Encroachment Tribunal in Karachi in the months of February and March to obtain a valid stay based on the tribunal's assessment that their lease is valid and issued by KMC, KDA, or SKAA, were spared and their homes were not broken. However, many residents in a similar position with the exact same types of leases who are still waiting for their case to be filed or for hearings to be scheduled before the tribunal have had their homes demolished. According to community leader and Kausar Niazi (Gujjar Nullah) resident Abid Asghar, one family filed their case in April before this Tribunal and while notices were being issued to the relevant government authorities and a day before the hearing, they demolished this home. This is in violation of Article 10A (right to a fair trial), Article 24 (protection of property rights), and Article 25 (equal protection of the law) of the Constitution of Pakistan.

d. Forcing people to sign agreements and receive checks in a bid to have them give up their home

Forced evictions can also include 'softer' coercive and duplicitous tactics in forcing people to sign unfair and inequitable agreements. Some residents stated that people who stood to lose or lost more than thirty percent of their property were told they will receive a check of PKR 90,000. This is to cover rent for six months at a rate of PKR 15,000 per month. This information was not shared in an understandable, accessible, and transparent manner and people had to run from pillar to post to inquire about this meagre compensation. One resident said the DC set up a desk somewhere. Another resident said the District Municipal Corporation teams arrived in colonies unannounced. According to resident, Abid Asghar, some people have received and cashed this check while others said they have received but have not cashed; yet others stated they have received, but they have been told that it will be redeemable in three months. They have also been informed they will receive another check in about eighteen months but most seemed pessimistic about any future payments. Most claimed they knew that accepting these checks may mean signing off their rights but were so disillusioned by the administrative and judicial process that they accepted this check in case they got nothing at all. They did not sign

⁹ Bodies Formed for Rehabilitation of Affectees of Anti-Encroachment Drives, Dawn, April 9, 2021. <<https://www.dawn.com/news/1617182/bodies-formed-for-rehabilitation-of-affectees-of-anti-encroachment-drives>>

any agreement when receiving the check nor were they told of terms and conditions they were acceding to in consideration of this check. They simply registered their national identity numbers, name and gave in their photographs. Housing and properties are unaffordable in Karachi. Most homes are worth upward of PKR 14,000,000 and without alternative land or home, this is neither fair nor just.

III. There were several human rights violations in this forced eviction operation in the nullahs including false criminalization of residents who protested forced evictions, police highhandedness and use of violence against families specially women and children and indirect violations including loss of livelihood.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) (Article 11, para. 1) posits that state parties recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and *housing*, and to the continuous improvement of living conditions, and that state parties will take appropriate steps to ensure the realization of this right. The right to housing includes a right against forced eviction. Although the Covenant does recognize that this right will be ‘progressively realized’ and depends on ‘availability of resources’ as stated in Article 2(1) of the covenant, the CESR committee has pointed out that in the case of forced evictions, availability of resources and progressive realization are hardly relevant.¹⁰ The state must simply abstain from carrying out forced evictions.

Forced eviction is ‘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 practice of forced evictions can lead to other human rights violations 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.¹¹ The following is a brief summary of such violations.

a. Police High Handedness, false arrests, and false criminalization

In both Gujjar and Orangi Nullahs, the police has used high handedness against residents and tried to frame them in false criminal complaints to discourage them from participating in legal protests against forced evictions. The following is a list of violations KBT has recorded but these are much more widespread than would appear from only a handful of examples.

- 1) In late February, police unlawfully arrested and filed criminal complaints against ten named and 125 unnamed Gujjar Nullah residents as retribution for staging a peaceful protest in pursuance of their freedom of speech (Article 19 of the Pakistan Constitution) and freedom of assembly (Article 16) in which women and children participated holding

¹⁰ General Comment No. 7 1997 para 8

¹¹ General Comment No. 7 1997 para 4

placards and chanting. They kept ten people in overnight custody at the police station and unlawfully procured money from detainees to release them.

- 2) In Orangi Nullah as well, the police retaliated against residents for staging three peaceful protests against demolitions and forced evictions by filing an FIR against four named individuals (two of who are women) and seventy unnamed individuals. False charges and forced criminalization worsens people's plight. In addition to serving as a source of stress, it is an attempt to silence people and prevent them from effectively mobilizing through the fear of looming court process and possible penalty.¹²
- 3) Ms. Erum, a resident of Kausar Niazi Colony, one of the 28 settlements along Gujjar Nullah, is a single mother, community leader, and a human rights defender. She has been relentlessly working to secure people their housing rights and organizing communities facing demolition and forced eviction. The police have specifically singled her out. She is one of the named individuals in the FIRs filed against Gujjar Nullah residents.¹³ This is a blatant attempt by the police to silence one of the most vocal and courageous leaders in the community. She states she received calls from the police on April 10 demanding that she present herself at the Hyderi police station or else they know how to employ 'other tactics.' The police did not inform her what offences she was suspected of committing. It is particularly concerning that women human rights defenders are being criminalized and intimidated by the state for exercising their constitutional rights to free speech and assembly. The UN Human Rights Office of the High Commissioner states that women human rights defenders suffer disproportionately when targeted in such a way as their freedom of speech is already limited. Human rights defenders deserve particular protection and promotion because of the numerous impediments they face in the family and in public.¹⁴
- 4) On March 27, the police took Khurram Ali of Karachi Bachao Tehreek (KBT) and kept him in custody at Samnabad Thana for several hours when he attempted to visit the demolition sites to peacefully and within bounds of law observe human rights violations. During this time, the police tried to pressure Ali to sign an agreement that he will never again visit a demolition site.
- 5) On April 11, police took three residents of Kausar Niazi Colony in Gujjar Nullah, Abid Asghar, Shiraz, and Basheer into custody. They have been active in organizing communities against forced evictions and demolitions. They were only released after they signed a statement.

b. Use of Violence and force during forced evictions and demolitions

¹² Forced Eviction Fact Sheet 10-11

¹³ First Information Report (FIR), Serial # 881, 51/21, North Nazimabad, Zillah Central, 6:30 pm February 3, 2021

¹⁴ UN Human Rights, Office of the High Commissioner, Human Rights and Civic Space in the UN System, Supporting Women Human Rights Defenders, <https://www.ohchr.org/Documents/Issues/Women/WRGS/Supporting_WHRDs_UN_System.pdf>

Regardless of judicial or administrative decisions which may purport to authorize demolition of encroachments¹⁵, under international human rights law, an eviction could still be classified as ‘forced’ and in violation of human rights treaties if it is carried out inappropriately. If evictions are carried out at an inconvenient time or through the use of harassment, threats, violence or force, this renders them illegal. In pursuance of human rights, evictions should be carried out after giving residents a chance to explore legal remedy.

KMC and other state authorities have carried out this operation in a discriminatory, violent, disruptive, and duplicitous manner and in flagrant disregard of human rights.

- 1) KMC officials have shown up with heavy demolition machinery at unreasonable hours. According to one resident, officials came to demolish homes in Maskeenabad around 6:30 or 7:30 am when they knew most residents would be asleep. She added: ‘They never start this early if they are coming for a noble cause, but when they want to deprive people of rights, they show up on time.’ With the Holy month of Ramadan around the corner, people rendered homeless are in a particularly precarious position.
- 2) Demolition teams are accompanied by police officers and the Rangers, a para-military force and this display of state force is extremely intimidating for residents, especially children. State officials routinely threaten and harass residents who dared protest against evictions, observe demolitions or even ask simple questions. One resident claimed when they said they would lay their bodies in front of the excavators and bulldozers, they responded by telling them that they will have no qualms running their machinery over them.
- 3) On April 10, demolition teams equipped with heavy machinery entered Kausar Niazi in Gujjar Nullah in the morning. Residents approached them and these teams assured residents that they will not demolish homes and will simply be laying a pipeline. This turned out to be misinformation and duplicity as the teams then proceeded to demolish several homes, mostly of Christian families, with no alternative.

c. Threats to women, children, minorities and other vulnerable people

Threats and violence toward women is particularly concerning. Human rights reports have highlighted how women are the target of physical and psychological intimidation in forced eviction operations. Stress and anxiety linked to forced eviction affect pregnant women. Incidents of verbal abuse, sexual violence, and physical abuse also impact women disproportionately. Eviction makes women more vulnerable to sexual abuse.¹⁶ Women and girls in Gujjar Nullah have been severely and disproportionately impacted and continue to suffer human rights violations. Young girls in their teens and in their twenties are among the worst

¹⁵ Constitutional Petition #9 of 2010, Order dated August 12, 2020, Justice Gulzar, Justice Faisal Arab, Justice Ijaz-ul-Ahsan

¹⁶ Forced Eviction Fact Sheet 16

affected; they have had to shift to relatives' homes as it is unsafe for them to sleep in the open. This is a source of stress and tension for the whole family as it is not a sustainable solution and could expose these girls and young women to sexual violence in new locations where they have no community networks. Moreover, women in Gujjar Nullah face discrimination in housing tenure as most registration and property documents are in men's names.¹⁷ This prevents them from pursuing legal remedy in the same way as men.

Forced evictions have a disproportionate impact on children. Children in Gujjar and Orangi Nullah witnessed their houses being bulldozed and their parents being mistreated by state officials. One child from Masqeenabad, Bengali Para said that his grandfather's home where he was born is now gone and now they have nothing. They may suffer from anxiety, apathy, withdrawal, PTSD, panic and confusion, and lowered self-esteem.¹⁸

Christian families that have resided here for decades have lost their homes, community networks and small churches. By one estimate, about 600 low-income Christian families have been displaced or face imminent forced eviction.¹⁹ On April 10, KBT members observed that state officials has demolished a small modest community church had in Kausar Niazi along with several homes. This was done in disregard of Article 20 constitutional protection for minority places of worship.

These are a few recorded stories of women being targeted for violence by state officers.

- 1) On or around March 14, a female police officer assaulted a woman, a single mother of three young girls and sole breadwinner, when she tried to prevent her house from being broken. She had purchased her property for R.700,000 about eight years ago and had gradually improved it. She claims that female officers pushed her in a ditch that caused her to faint. Police then proceeded to taunt her that she was pretending to faint. This was not only her residence but also her place of business as she used this house to stitch clothes as a livelihood. Almost all evictees will suffer a loss in livelihood as a result of these illegal mass evictions as they will lose easy access to their work places.
- 2) On or around April 9, Azra Bibi, of Rehmanabad, Federal B Area faced an assault at the hands of the police while protecting her property leased by the Sindh Katchi Abaadi Authority (SKAA). She is an elderly woman domestic worker who lost her job because of the stress and uncertainty caused by this demolition operation. Members of the police force accompanied by officials from the Government of Sindh, Karachi Municipal Office, officers of the Assistant Commissioner Karachi and DC Central Karachi officer forcibly entered her home to demolish it. They were equipped with heavy machinery. Azra's grown daughter and her children were visiting her home at the time and the children

¹⁷ Forced Eviction Fact Sheet 17

¹⁸ Forced Eviction Fact Sheet 17-18

¹⁹ Zahid Hussain and Kashif Anthony, UCA News, March 1, 2021, Desperate Christians Face Homelessness, <<https://www.ucanews.com/news/desperate-christians-face-homelessness-in-pakistan/91577#>>

were asleep inside. Azra approached the officers and pleaded with them to not demolish her leased home as was her right under sections 97 and 98 of the Pakistan Penal Code 1868 (right to private defence of her body and property against public officers not acting in good faith). When she tried to prove that her home is lawful and not an encroachment, one woman constable grabbed her by the hair and forcefully pushed her to the ground. As a result of this forceful push, Ms. Azra fell to the ground and landed on a rock and injured her right arm. She has recently undergone abdominal surgery and this assault aggravated her stitches and caused these to come apart leading to medical complications and immense pain and suffering. Before this assault, members of the above named departments harassed and hassled her for four days forcing her to vacate the home and this caused her extreme mental and physical anxiety and stress. On April 10, Ms. Azra, accompanied by social workers, community leaders, and her lawyer approached the Gulberg thana to register a complaint against KMC, AC, DC for, *inter alia*, assault, criminal intimidation, trespass, and property damage, but their complaint was refused by the duty officer.

- 3) There are numerous other instances of hardship and suffering on residents. There have been at least three deaths reported as a direct consequence of the stress and anxiety associated with facing homelessness. In one case a woman stood on top of her rooftop for hours to stop demolitions. A woman, in a state of despair, tossed her two month old baby from the rooftop of her house. The baby was miraculously saved, but this was an indication of the severe stress she was undergoing at the prospect of losing her home. One woman, a third generation Bengali migrant watcher her housed be chipped away on two days; they demolished her top floor on Saturday and then returned on Monday to demolish her lower floor.

d. Forced evictions violate many other human rights including loss of livelihood

According to UN Fact Sheet, ‘forced evictions’ are discriminatory towards the poorest and the most marginalized and those who do not have the ‘clout to change the decisions and designs of the project leading to their displacement’. It could also reinforce structural inequalities.²⁰ Those living in informal settlements or those with insecure tenure are largely marginalized groups. ‘Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats’.²¹ Forced evictions can violate the right to food. Evicted people may lose access to jobs or social protection schemes if they are relocated far from jobs or deprived of social entitlements as residents of an area.²²

²⁰ Forced Eviction Fact Sheet 7

²¹ Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing. See Forced Eviction Factsheet at 9.

²² Forced Eviction Fact Sheet 11

In the Olga Tellis case, the Indian Supreme court held that the constitutional right to life (under Article 21) includes right to livelihood and pavement dwellers facing eviction would in fact lose livelihood. It ordered alternate sites for re-settlement and that slums that have been there for over twenty years not be removed unless land needed for public purpose and that there be no evictions in the monsoon seasons. The State must similarly interpret the right to life and livelihood as interconnected and recognize that people facing forced evictions have lost or at risk of losing their means of earning a livelihood.²³

3. Conclusion

In conclusion, we request that the esteemed Human Rights Cell of the Supreme Court take immediate notice of this matter and we request the following remedies:

1. That the Government of Sindh be ordered to impose an immediate moratorium on demolitions in Gujjar, Orangi and other nullahs as all homes are lawful either by virtue of lease or equitable title, and court and Anti-Encroachment Tribunal issued stays recognizing proper title.
2. That the Government of Sindh amend their past mistake in not informing residents or consulting with them regarding any and all project plans for nullah widening/cleaning including the NED study, the proposed World Bank SWEEP project, and plans for rehabilitation and compensation by now carrying out proper consultations on all relevant matters.
3. That the GoS also recognize the irreparable harm caused to families rendered homeless because there were not given adequate and reasonable notice before forced evictions. We request that immediate emergency shelter be given to families who have been evicted and families presently facing imminent eviction until plans for proper rehabilitation are made through participatory consultation with the affected communities.
4. That the GoS be stopped from taking draconian action by mass cancelling leases and coercing residents to sign off their rights in consideration of a monetary payment and subject to unclear and unspecific terms and conditions..
5. That the Human Rights cell consider were several human rights violations in this forced eviction operation in the nullahs including false criminalization of residents, police highhandedness, use of violence against families specially women and children and indirect violations including loss of livelihood.

Thank you,

²³ Olga Tellis v Bombay Municipal Corporation (1985) SCC (3) 545

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