

COVID-19 PANDEMIC EXPOSES INDIA'S HOUSING CRISIS



IMPACTS OF COVID-19 ON RIGHT TO HOUSING IN INDIA:

- Millions of **informal sector workers** have been stranded in informal settlements in urban locations far from their homes. They have only recently been allowed to travel home. Trains and buses available for this purpose are too few in number.
- Thousands of **internal migrant workers** have been forced to stay in government shelter homes, which are often in poor condition and lack basic necessities.
- **Women and LGBTQ persons** are at higher risk of domestic violence in their houses during the pandemic.

INDIAN GOVERNMENT RESPONSE

29 March 2020 - Ministry of Home Affairs Order

- Ordered authorities to provide **temporary shelter and food** to "poor and needy people, including migrant workers, stranded due to lockdown measures", and stated that migrants be kept in the nearest government shelter.
- Put in place a ban on forced evictions applying to "labourers and students".

22 April 2020 - The Epidemic Diseases (Amendment) Ordinance, 2020

- In response to **acts of violence against healthcare workers** due to fear of transmission, such acts of violence have been made cognizable (police can arrest without a warrant) and non-bailable (have to secure bail in court) offences.

29 April 2020 - Ministry of Home Affairs Order

- The Ministry revised its original position of 29 March - Order states that all "migrant workers, pilgrims, tourists, students and other persons" that are **stranded will be allowed to go home** after medical screening. The Government has not been successful in the implementation of this Order. Some High Courts - Delhi High Court, Jammu and Kashmir High Court, among others, have taken cognizance of the increase of domestic violence

WHAT ARE INDIA'S LEGAL OBLIGATIONS TO GUARANTEE THE RIGHT TO HOUSING?

International Law:

- To protect individuals' **right to equality** in "all policies related to access, availability and affordability of housing..." **without discrimination**;
- To protect **security of tenure**, which includes protection from all forced evictions, including from informal settlements;
- To utilize the maximum available resources to realize every individual's right, to at least **minimum essential levels of adequate housing**, which includes adequate shelter equipped with basic necessities like water, electricity, sanitation and food; and
- To **prioritize disadvantaged groups** in fulfilling the right to adequate housing.



On 6 April 2020 the UN ESCR Committee issued a statement highlighting State parties' obligations during COVID-19, which include: "imposing a **moratorium on evictions**"; "protect[ing] the health and livelihoods of vulnerable minority groups"; ensuring "[a]ccurate and accessible information ... to protect the population against dangerous disinformation"; and ensuring that **law enforcement responds to cases of domestic violence and the government provides operational domestic violence hotlines.**

Domestic Law in India acknowledges the **right to shelter as a fundamental right** of all persons included under right to life with dignity (Art. 21). The Court has defined the right shelter to include "adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities" within state resources. The right to shelter should be understood consistently with the right to adequate housing in international law.

WHAT DOES THE INTERNATIONAL COMMISSION OF JURISTS RECOMMEND?

While the Indian Government has taken some positive measures, they remain insufficient to guarantee the right to housing. The ICJ urges the India authorities to ensure:

1. Direct provision of and facilitate access to housing

- **Increase the number of shelters** with appropriate facilities to accommodate homeless persons and informal sector workers who find themselves without accommodation;
- Provide **adequate emergency housing** for homeless persons and daily wage workers who find themselves without accommodation, considering for instance use of vacant buildings with adequate space and services; and
- **Extend the rent moratorium** until at least until the lockdown ends, and support landlords and property owners to ensure that the moratorium is implemented.

2. Housing policy adjustments

- Immediately enact a **moratorium on all forced evictions** until, at least, the end of the lockdown.

3. Legal enforcement of the right to housing

- Ensure that students and labourers who are unlawfully evicted in violation of lockdown orders have **recourse to legal remedies**;
- Make information about hotlines, shelter homes, and other mechanisms made available for domestic violence public and **respond promptly and effectively to cases of domestic violence**; and
- Enforce applicable laws on domestic violence and non-discrimination in access to housing.

Read the full briefing paper here: <https://bit.ly/3bR9WVG>