



OMCT/HIC-HLRN

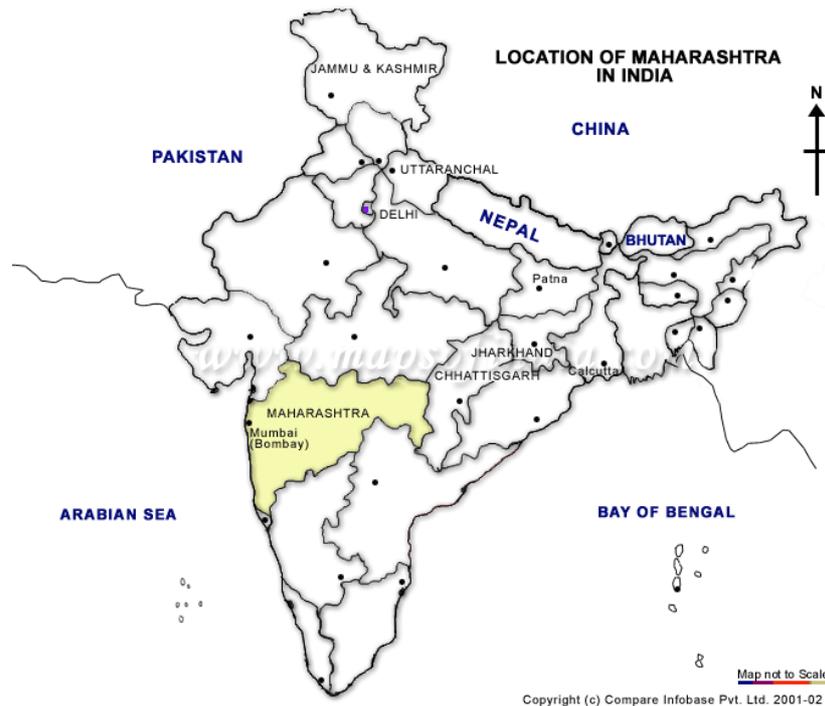
JOINT URGENT ACTION APPEAL:

Demolition of around 200 homes and more than 1000 acres of crops belonging to 200 Adivasi families in the municipalities of Puntamba, Shingva and Rustapur of Ahmednagar District

INDIA

Case IND-FE 270803

The International Secretariat of the World Organisation against Torture (OMCT) and the Coordination Office of Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) request your **URGENT** intervention in the following situation in **India**.



The situation

The Asian Human Rights Commission (AHRC) and Hotline Asia, both members of the OMCT network, have informed the International Secretariat of OMCT that on 21 July 2003 around 100 police and officials of the Maharashtra State Farming Corporations (MSFC) demolished about 200 homes and more than 1000 acres of crops belonging to 200 Adivasi (indigenous) families in the municipalities of Puntamba, Shingva and Rustapur, in Ahmednagar District, Maharashtra State, India. It is reported that the families did not receive any prior notice of

the eviction and that they were not presented with an eviction order. Also, the authorities failed to provide compensation, alternative housing, or food.

According to the information received, the police force, led by Police Inspector Gavit from the Rahata Taluka of Ahmednagar District, guarded the area while officials from the MSFC carried out the demolition that began at 10:00 am on 21 July 2003. In doing so, they used tractors and axes to destroy the huts. They also burned some huts down. Officials pushed many residents aside and, in some cases, destroyed or confiscated their possessions. In the Shingva municipality, a small child, the grandson of Suman Barde, was alone in his hut when the police demolished it.

It is reported that the MSFC controls the land that the Adivasis were occupying, and demolished their homes under claims of trespass. The Adivasis have cultivated and occupied the land for many decades and have laid claim to ownership of the land, in line with a Bombay High Court ruling allowing landless encroachers to stake claims of ownership over vacant government land. The demolition occurred while the legal appeals relating to these claims of legal title to the land were pending before the Revenue Commissioner and the High Court.

It is also reported that on the same day of the demolition the police detained, without charges, Mr. John P. Abraham, a leader in the Adivasi struggle. Mr. John P. Abraham was detained from 10:00 a.m. until 7:30 p.m. at the police station in Rahata, Ahmednagar District. According to the local sources, Mr. Abraham was obviously detained to make it easier to carry out the demolition. In addition, the police also confiscated Mr. Abraham's camera. He was given it back after his release, but without the film that contained pictures taken during the demolition of houses.

According to the information received, the Adivasis currently live under very bad conditions. It has been raining heavily since the demolition and the Adivasis have scattered on the MSFC land and have no proper food, water or shelter, while women, men and children are sleeping in the bushes with no covering. Some of the people affected by the demolition are particularly vulnerable, including at least two women who had recently given birth, a number of elderly people, including Babsi Baba Salunkhe and Ramesh Salunkhe of Rustapur, who had recently suffered broken bones in both hands. Moreover, since the demolition, MSFC workers have threatened some Adivasis.

The government of Maharashtra has currently no plans to relocate the 200 families. In this respect, the Adivasis indicated that they were willing to negotiate with the government to move elsewhere. The state government has reportedly declined this offer because of concerns that agreeing to relocate the families would have the effect of substantiating their legal claim in the pending lawsuit.

Background

According to the information received, the Adivasis have been using the MSFC land for subsistence farming since the early 1980s and have been, as a result, harassed by government authorities. This initial step towards occupation of the land belonging to the MSFC comes from this institution's failure to implement the 1961 Maharashtra Agricultural Land Ceiling on Holdings Act.

The adoption of this act, which authorised the government to take land over a particular size from private landholders and distribute it to landless people, marked the beginning of the land redistribution programme. In 1963, the state reportedly created the MSFC and transferred the land to the new agency to promote "effective utilisation of the land."

However, the redistribution of land was never effectively carried out, despite amendments passed in 1975 to speed the distribution process and address corruption. Consequently, the MSFC remained in possession of over 35,000 acres of land that was left fallow, including the land used by the Adivasis families since the beginning of the 1980s.

In 1991, the Maharashtra Government reportedly passed a resolution stating that encroachments made prior to 1990 by landless people on government wasteland and pasture land (gairan) should be regularised and proper title given to the occupiers. As a result, in 1994, the 200 Adivasi families began to openly occupy the land, building huts, clearing brush and planting subsistence crops. They have been living there since that time. However, on 22 April 2003, the Maharashtra government passed an amendment to the 1961 Act enabling the government to withdraw land from the MSFC and grant it to private parties for any "public purpose." OMCT and HIC-HLRN fear that the eviction of the 200 families directly results from the passage of this law that severely weakens the existing scheme by allowing the government to distribute land to any private party.

The Adivasis have resorted to legal and administrative procedure to assert their title over the land. In 2000 the Adivasis filed an application with the Aurangabad Bench of the Bombay High Court (Petition No. 454) claiming ownership rights to the land based on the 1991 Resolution and on the ground that the MSFC had violated the spirit and objectives of the 1961 Ceiling on Holdings Act, by leaving 35,000 acres of land fallow rather than distributing it to landless people. The High Court did not accept the appeal, but directed the District Collector to complete an inquiry regarding the Adivasis' claim. The District Collector of Ahmednagar then reportedly rejected the claim on the grounds that the land was not vacant government land, but was owned by MSFC. The Adivasis appealed this decision to the Revenue Commissioner at Nashik. In their appeal they have argued that the MSFC only had cultivation and not ownership rights over the land; as the MSFC has not cultivated the land for almost three decades, the land has been recorded as fallow land and is owned by the government, it therefore falls within the terms of the 1991 ruling and the Adivasis' encroachment on to this land should be regularised accordingly. This appeal was pending when the 21 July 2003 demolition took place and is still under consideration by the Revenue Commissioner.

An appeal was also filed with the Revenue Commissioner, after the demolition of houses and crops that took place on 21 July 2003, asking for a stay order against the District Collectors decision in respect of the land claim. The Revenue Commissioner denied the stay order and, as a result, the Adivasis filed on 12 August 2003 a writ petition with the Aurangabad Bench of the Bombay High Court. This writ petition addresses the demolition of houses and crops and the issue of compensation, and challenges the refusal of a stay order by the Revenue Commissioner.

Human rights, international law, and treaty violations

The demolition of homes and more than 1000 acres of crops belonging to 200 Adivasi families, as well as their current living conditions, contravene, inter alia, the inhabitants' right to food and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Indian authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements of the right to adequate housing as recognized in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India accessed to on 19 July 1979. The State has been derelict in its obligations as elaborated in the UN Committee on

Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the right to adequate housing, and General Comment No 12 on the right to food. India also has breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) that it ratified on 4 January 1969.

Action requested

Please write to the authorities in India urging them to:

- i. take all necessary measures to guarantee the physical and psychological integrity of the families who have been evicted and are living in dangerous conditions and subject to harassment by officials of the MSFC, as well as of Mr. John P. Abraham;
- ii. order a thorough and impartial investigation into the allegations of ill-treatment and harassment against the affected persons in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- iii. guarantee the right to adequate housing of the Adivasi families in Puntamba, Shingva and Rustapur with particular attention to the following elements: security of tenure, access to public and environmental goods and services, freedom from dispossession and the right to information and resettlement, as recognized in the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination, among others;
- iv. guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with international human rights standards

Addresses

- Shri Atal Bihari Vajpayee, Prime Minister of India, South Block, Raisina Hill, New Delhi 110 011 India; Fax: +91 11 3016857/3019545 (O), +91 11 3019334 (R); E-mail: vajpayee@sansad.nic.in or <http://pmindia.nic.in/writetous.htm>
- H.E. President Abdul Kalam, Office of the President, Rashtrapati Bhavan, New Delhi 110 004, INDIA Fax: 91-11-301 7290 / 7824; E-mail: Pressecy@Sansad.nic.in
- Justice Adarsh Sein Anand., Chairperson of National Human Rights Commission (NHR), Sardar Patel Bhavan, Sansad Marg, New Delhi 11001, India, Fax: 91-11-334 0016; E-mail: chairnhrc@nic.in
- Shri Dilip Singh Bhuria, Chairperson of the National Commission for Scheduled Castes and Schedules Tribes, Floor 5, Lok Nayak Bhavan, Khan Market, New Delhi-110003, INDIA, Tel: 91-11-4623959, Fax: 91-11-4625378
- Shri Dilip Singh Judev, Minister of Environment and Forests, Paryavaran Bhavan, C.G.O.Complex, Lodhi Road Institutional Area, New Delhi, India; Tel: +91-11-4361748 or +91 4361727; E-mail: secy@menf.delhi.nic.in

- Chief Minister of the State of Maharashtra, Shri Sushilkumar Shinde, Mantralaya, Mumbai, Maharashtra - 400 023
Fax: +91-22-23633272, +91-22-22029214
- The Indian embassies and representations in your country.

Geneva - Cairo, 27 August 2003

Kindly inform OMCT and HIC of any action undertaken quoting the code of this appeal in your reply to: omct@omct.org and mmignot@hic-mena.org

The joint urgent appeals of OMCT and HIC-HLRN are dedicated to the protection of the right to adequate housing.

Sample letter

Date

Excellency,

We have been informed by OMCT and Habitat International Coalition-Housing and Land Rights Network that, on 21 July 2003 about 100 police and officials of the Maharashtra State Farming Corporations (MSFC) demolished about 200 homes and more than 1000 acres of crops belonging to 200 Adivasi families in the municipalities of Puntamba, Shingva and Rustapur, of Ahmednagar District, Maharashtra, India. We are very concerned about the condition and rights of these people.

The police force, led by Police Inspector Gavit from the Rahata Taluka of Ahmednagar District, provided security while MSFC officials began the demolition at 10:00 a.m. on 21 July 2003. The officials used tractors and axes to destroy the huts and then burned some of them down. Officials apparently pushed aside many residents who were occupying land owned by the government and controlled by the MSFC and in some cases destroyed or took their possessions. In Shingva municipality, a small child, the grandson of Suman Barde was alone in his hut when officials demolished it.

The evicted families are now suffering very grave living conditions. The families have scattered on the MSFC land and have no proper food, water or shelter. The families and children are sleeping in the bushes with no covering in the pouring rain. Some of the people affected by the demolition are particularly vulnerable, including at least two women who had recently given birth, a number of elderly people, including Babsi Baba Salunkhe and Ramesh Salunkhe of Rustapur, who had recently suffered broken bones in both hands. Furthermore, since the demolition, MSFC workers have threatened some Adivasis.

During the demolition, the police detained without charges Mr. John P. Abraham, a leader in the Adivasi struggle, from 10:00 a.m. until 7:30 p.m. in a police vehicle at the police station in Rahata, Ahmednagar District. This was apparently done to make it easier to carry out the demolition. We urge you to take all necessary measures to guarantee the physical and psychological integrity of the families who have been evicted and are living in dangerous conditions and subject to harassment by officials of the MSFC, as well as of Mr. John P. Abraham. We also request that you order a thorough and impartial investigation into the allegations of ill-treatment and harassment against the affected persons in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law.

The government of Maharashtra has announced no plans to relocate the 200 families, despite the willingness of the Adivasis to negotiate with the government to move elsewhere. The government apparently declined to negotiate.

Moreover, the destruction of homes of 200 Adivasi families, as well as their current living conditions contravene, inter alia, the inhabitants' right to food and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Indian authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements of the right to adequate housing as recognized in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India accessed to on 19 July 1979. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General

Comments Nos. 4 and 7 on the right to adequate housing, and General Comment No 12 on the right to food. India also has breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) that it ratified on 4 January 1969. We urge you to respect and guarantee their rights to these families, as well as the human rights and the fundamental freedoms throughout the country in accordance with international human rights standards and your obligations.

Thanking you in advance for your attention in this matter, we look forward to hearing from you regarding your remedial actions.

Respectfully,

[signed]
[Your name]
[Your organisation]

CC: