

**IN THE SUPREME COURT OF INDIA**  
**CRIMINAL ORIGINAL JURISDICTION**  
**CRL. MP NO. \_\_\_\_\_ OF 2024**  
**IN**  
**WRIT PETITION (CRL) No. 162 OF 2022**

**IN THE MATTER OF:**

JAMIAT ULAMA-I-HIND & ANR. ... PETITIONERS

VERSUS

UNION OF INDIA & ORS. ... RESPONDENTS

**APPLICATION FOR INTERVENTION**

PAPER-BOOK

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**ADVOCATE FOR INTERVENOR :AAKARSH KAMRA**

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JAMIAT ULAMA-I-HIND & ANR.                    ... PETITIONERS

**VERSUS**

UNION OF INDIA & ORS.                    ... RESPONDENTS

**AND IN THE MATTER OF:**

Balakrishnan Rajagopal,

UN Special Rapporteur on the Right to Adequate Housing

...INTERVENOR / APPLICANT

**APPLICATION FOR INTERVENTION**

To,

The Hon'ble Chief Justice of India

And His companion Justices of the Hon'ble Supreme Court of India

The humble Application of the Applicant herein,

**MOST RESPECTFULLY SHEWETH:**

1. That the present application for intervention is being filed by Professor Balakrishnan Rajagopal, the United Nations (“U.N.”) Special Rapporteur on Adequate Housing as a component of the Right to Adequate Standard of Living (“Special Rapporteur on Adequate Housing”), with a view to assist this Hon’ble Court in framing appropriate guidelines in the captioned proceedings.
2. The Intervenor / Applicant herein is an expert appointed by the U.N. Human Rights Council “with mandates to report and advise on human rights from a thematic or country-specific perspective.”<sup>1</sup> Special Rapporteurs are part of “[t]he system of Special Procedures” that “is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social.”<sup>2</sup> As mandate-holders, Special Rapporteurs are independent human rights experts selected for their “(a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity.”<sup>3</sup> Special Rapporteurs “undertake to uphold independence, efficiency, competence and integrity through probity, impartiality, honesty and good faith” and “do not receive financial remuneration.”<sup>4</sup>

3. In the performance of his mandate, the Special Rapporteur on Adequate Housing is accorded certain privileges and immunities as expert on mission for the U.N. pursuant to the Convention on the Privileges and Immunities of the U.N., adopted by the U.N. General Assembly on 13 February 1946, to which India is a party since 13 May 1948. This brief is submitted voluntarily without prejudice to, and should not be considered as a waiver, express or implied, of the privileges and immunities of the U.N., its officials and experts on mission, pursuant to the 1946 Convention on the Privileges and Immunities of the U.N. Authorization for the position and views expressed as Special Rapporteur, in full accordance with the independence afforded to his mandate, was neither sought nor given by the U.N., the U.N. Human Rights Council, the Office of the U.N. High Commissioner for Human Rights, or any of the officials associated with those bodies.
4. The captioned case involves claims that demolitions of homes and commercial establishments as a measure of crime control, maintenance of public order or collective or vicarious punishment ("punitive demolition") is illegal and without the authority of law. To the extent that this case addresses

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<sup>1</sup> Office of the High Commissioner for Human Rights ("OHCHR"), *Special Procedures of the Human Rights Council*, <https://www.ohchr.org/en/hrbodies/sp/pages/introduction.aspx>

<sup>2</sup> *Id.*

<sup>3</sup> Human Rights Council resolution 5/1 from 18 June 2007, available at: [www.undocs.org/A/HRC/RES/5/1](http://www.undocs.org/A/HRC/RES/5/1).

<sup>4</sup> OHCHR, *Special Procedures of the Human Rights Council*, (see fn. 1 above).

the demolitions of homes and access to livelihood, it implicates substantial interests of the U.N. Special Rapporteur, the global expert appointed by the U.N. Human Rights Council to promote the realization of all relevant human rights standards with regards to housing including evictions, demolitions of homes, homelessness, and the treatment of all individuals without discrimination. India, as a member of the U.N. Human Rights Council, recognizes the authority of the Special Rapporteurs and their expertise in their relevant mandated areas. The Special Rapporteur has a strong interest in ensuring that countries respect human rights and interpretations of rights are consistent with international human rights law.

#### **SUMMARY OF THE ARGUMENT**

5. The captioned case carries profound human rights implications for the people whose homes are demolished arbitrarily and in violation of international human rights law. Several individuals whose homes were demolished, from states across the country including Uttar Pradesh, Madhya Pradesh, Rajasthan, Gujarat and Delhi, purportedly as punitive measures, are seeking relief, including the framing of guidelines for governing demolition orders and the rights of those resident in homes subject to evictions and demolitions. The crux of the matter lies in whether government authorities can demolish the homes of individuals arbitrarily, without following the substantial and procedural guarantees for their rights under Indian law and international law applicable to India, including purportedly as punishment for alleged misdeeds or crimes.

6. The alleged arbitrary demolitions are contrary to international human rights law including the right to adequate housing and are disproportionate and therefore lacking in due process. Arbitrary demolitions carried out for purportedly punitive reasons are aggravated forms of human rights violations, especially when they target or result in discriminatory impacts against minorities, and when demolitions result in homelessness, they may constitute a violation of the prohibition against cruel, inhuman, degrading treatment or punishment.
7. Ensuring the fuller protection of the right to adequate housing at the national level is key to its full realization. Landmark decisions such as *Olga Tellis v. Bombay Municipal Corporation*,<sup>5</sup> or High Court rulings such as *Ajay Maken v. Union of India*<sup>6</sup> or *Sudama Singh v. Government of Delhi*,<sup>7</sup> can show the way to address this issue by further strengthening the legal guarantees of the right to adequate housing, protection against arbitrary evictions and demolitions and discriminatory application of laws. The captioned proceedings provide an opportunity to address this issue and fully ensure the fundamental constitutional and human rights of people whose homes are demolished arbitrarily. This Hon'ble Court is thus respectfully urged to issue appropriate orders to ensure effective remedies. The Intervenor / Applicant is accordingly placing detailed submissions in this regard before this Hon'ble Court exercising his duty as the UN Special Rapporteur on Adequate Housing.

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<sup>5</sup> *Olga Tells and Others v Bombay Municipal Corporation and Others*, AIR 1986 SC 180

<sup>6</sup> [Ajay Maken & Others v Union of India and Others](https://indiankanoon.org/doc/14919126/), High Court of Delhi, 18 November 2022, available at: <https://indiankanoon.org/doc/14919126/>

<sup>7</sup> *Sudama Singh & Oers v Government Of Delhi*, High Court of Delhi, 11 Feb 2010, 168 (2010) DLT 218, available at: <https://indiankanoon.org/doc/39539866/>

ARBITRARY DEMOLITIONS VIOLATE INTERNATIONAL HUMAN RIGHTS LAW, ESPECIALLY THE RIGHT TO ADEQUATE HOUSING AND THE DUTY OF PROPORTIONALITY

8. Demolitions of homes are not, *per se*, illegal under international law if they strictly comply with laws that are fully consistent with international human rights standards. Structures that are in serious breach of building codes or zoning or other land use laws, or that stand on land which has been validly acquired under land acquisition laws such as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, may be demolished if they comply strictly with legal and international human rights standards including procedural safeguards. Since almost all demolitions of homes entail loss of homes including through evictions, the requirement to comply with international human rights standards in all matters involving demolitions of homes, is very strict. Such standards include non-selective, non-discriminatory application of laws, adequate notice and right to appeal, avoidance of forced evictions and homelessness, and adequate and fair compensation. All other demolitions are *ipso facto* arbitrary and contrary to international human rights law. These include especially so-called punitive demolitions, which has been drawn to the attention of this Hon'ble Court in the captioned proceedings as a growingly regular phenomenon in policing and executive or administrative exercise of arbitrary powers. These amount to a clear violation of international human rights law and the protected fundamental rights of the people in India.



9. The arbitrary demolition of homes is a violation of the right to live in security, peace and dignity. In General Comment No.4<sup>8</sup>, the Committee on Economic, Social and Cultural Rights (CESCR) has affirmed that every person has a right to security of tenure, and to be free of the threat of forced eviction, among other elements of the right to adequate housing, a fundamental human right under the International Covenant on Economic, Social and Cultural Rights (ICESCR). Other elements of the right to adequate housing, as defined in General Comment No.4 include access to services such as electricity, water, sanitation, schools, and access to health care, and a right to culture. This definition makes it clear that right to adequate housing is far more than an entitlement to four walls and a roof. It includes a ‘bundle of rights’, as noted in *Ajay Maken v. Union of India*<sup>9</sup>, including the rights to livelihood, food, water, sanitation, health, education, other public services such as transport, as well as political rights. When homes are demolished and people are displaced, they lose an entire spectrum of rights.

10. Arbitrary demolitions that lead to forced evictions are gross violations of international human rights law as set out by resolutions 1993/77 and 2004/28 of the United Nations Commission on Human Rights and General Comment No.7 of the CESCR<sup>10</sup>. Such forced evictions also violate other human rights standards such as Article 17 of the International Covenant on Civil and Political Rights (ICCPR) which says that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” India is a party to both ICCPR and ICESCR<sup>11</sup>.

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<sup>8</sup> CESCR, General Comment No. 4, available at:

11. Arbitrary, including punitive, housing demolitions have been found by many international bodies such as the Human Rights Council's Universal Periodic Review, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Human Rights Committee, and mandate holders such as Special Rapporteurs, to be serious violations of international human rights standards in the case of many countries around the world<sup>12</sup>. Such concerns have been expressed more broadly about forced evictions and demolitions in India as well<sup>13</sup>.

12. Views of Committees such as the CESCR are considered authoritative and primary sources of interpretation and application of the Covenant, while the views of other bodies including Special Rapporteurs are legally relevant as sources. International law has long been recognized as binding on India or relevant for interpretation of or for filling gaps in Indian laws by the Supreme Court including in cases like *Vishakha and Ors v. State of Rajasthan*<sup>14</sup> and *Orissa Mining Corporation v. Ministry of Environment, Forests and Ors*<sup>15</sup>.

<sup>9</sup> Supra f.n.6.

<sup>10</sup> CESCR, General Comment No. 7, available at:

[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=INT/CESCR/GEC/6430&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=INT/CESCR/GEC/6430&Lang=en)

<sup>11</sup> ICCPR provisions have also been incorporated into domestic law through the Protection of Human Rights Act, 1993.

<sup>12</sup> [CERD/C/POL/CO/22-24 \(CERD 2019\)](#) (Poland, paragraph 22); [CERD/C/HUN/CO/18-25 \(CERD 2019\)](#) (Hungary, paragraph 22); [A/HRC/40/61/ADD.2 \(SR Housing 2019\)](#) (Country report on Egypt, paragraphs 8, 57 and 61); [E/C.12/TCD/CO/3 \(CESCR 2009\)](#); [A/HRC/54/16 \(UPR 2023\)](#) (UPR on Israel); [A/HRC/29/13 \(UPR 2015\)](#) (UPR on Sweden); [E/C.12/ISR/CO/3 \(CESCR 2011\)](#) (Israel); [A/HRC/22/46/Add.1 \(SR Housing 2012\)](#) (Israel); [CERD/C/KGZ/CO/8-10 \(CERD 2018\)](#) (Kyrgyzstan); [CERD/C/ISR/CO/14-16 \(CERD 2012\)](#) (Bedouins in Israel); [E/C.12/TKM/CO/2 \(CESCR 2018\)](#) (Turkmenistan); [A/HRC/43/43/ADD.1 \(SR Housing 2020\)](#) (Nigeria); [CAT/C/KEN/CO/1 \(CAT 2009\)](#) (Kenya).

<sup>13</sup> [A/HRC/34/51/Add.1 \(Country report on India by SR Housing 2017\)](#) (paragraph 85); [E/C.12/IND/CO/5 \(CESCR 2008\)](#) (paragraphs 31 and 71).

<sup>14</sup> AIR 1997 SC 3011.

<sup>15</sup> (2013) 6 S.C.R. 881.

**13.** Post *Puttaswamy II*<sup>16</sup>, the arbitrary demolition of a home may well involve a gross violation of the right to privacy, a human rights under Article 17 the ICCPR. Finally, it is also contrary to international human rights law to carry out demolitions which evict individuals into homelessness or to destroy personal moveable property of individuals during the demolition<sup>17</sup>.

**14.** Demolishing entire homes or shops that are in technical or minor violations of building codes or other regulations is a disproportionate measure which fails to respect due process under international law<sup>18</sup>. They also violate domestic legal standards relating to either concepts of reasonableness<sup>19</sup> or proportionality<sup>20</sup>, which apply to the limitation of all rights including economic, social and cultural rights such as the right to adequate housing. In fact, decisions such as *Puttaswamy II* have already laid down standards which are in compliance with international human rights law for assessing when limitations of human rights may pass legal muster. A demolition order of an entire home for a technical or minor violation of a building code which can be cured or abated, is disproportionate under such standards and is therefore arbitrary.

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<sup>16</sup> *Justice KS Puttaswamy v Union of India*, (2019) 1 SCC 1 (“*Puttaswamy II*”).

<sup>17</sup> UN Basic Principles and Guidelines on Development based Evictions and Displacement (2007) available at: [https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_en.pdf)

<sup>18</sup> Universal Declaration of Human rights (1948), Article 8; Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”, General Assembly resolution 53/144, Article 9; International Covenant on Civil and Political Rights (1966), Article 14.

<sup>19</sup> *Maneka Gandhi v. Union of India*, 1978 AIR 597.

<sup>20</sup> *Modern Dental College and Research Centre v State of Madhya Pradesh*, (2016) 7 SCC 353; *Justice KS Puttaswamy v Union of India*, (2019) 1 SCC 1 (“*Puttaswamy II*”).

15. Demolishing entire homes or shops on the charge that they are ‘encroachments’ is also an extreme measure which must comply with the international human rights guarantees including the procedural guarantees for limitation of any fundamental right such as the reasonableness test under the landmark case of *Olga Tellis v. Bombay Municipal Corporation*<sup>21</sup>. In any case, no demolition order of a home can be ordered or carried out without a proper assessment of negative impacts, such as through a pre-demolition survey, on vulnerable groups such as women, children, older persons or disabled individuals.

16. All arbitrary demolitions are *void ab initio* in law and no legal title or right may be changed on the site where a demolished structure stood. This is an important guarantee to ensure that in the guise of demolitions for technical breaches of the law, land grab from vulnerable individuals and communities is not condoned.

17. The procedural safeguards for rendering a demolition legal are strictly laid down in international human rights law, including in General Comment No.7<sup>22</sup>, and the Basic Principles and Guidelines on Development based Evictions and Displacement of 2007<sup>23</sup>.

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<sup>21</sup> *Olga Tells and Others v Bombay Municipal Corporation and Others*, AIR 1986 SC 180.

<sup>22</sup> *Supra* n. 6.

<sup>23</sup> *Supra* n.7.

**18.**Demolitions may be considered legal only if the following conditions are all met: 1) notice of the reason for the demolition, is physically or in other form personally addressed and delivered to the legal owner or legal occupier of the house: 2) such notice is provided adequately in advance of demolition, usually weeks in advance; 3) notice shall be in the language understandable by the legal owner or legal occupier; 4) information about the right to contest the decision to demolish, including information on access to legal aid or other medical or technical assistance, shall be mentioned on the notice; 5) no demolition may happen at night including early morning, or when pregnant women, older persons, disabled individuals or children are resident in the house, or during harsh weather conditions including rain or extreme heat, or during or before exam periods for children, or before serious medical procedures are due to be carried out for a resident of the household; 6) all demolitions must be witnessed by a responsible government official who must certify in writing that demolition was carried out in accordance with these, among, other legal guarantees; 7) No demolition may be carried out with excessive force or in a manner that causes injury or death which shall remain punishable as crimes under the law.

**19.**Some of these procedural safeguards are found in the regulations of certain Indian municipal bodies, such as a requirement to issue notice. However they are very often not fully consistent with international law standards and also frequently fail to be observed in practice.

- 20.** Adequate and fair compensation is normally required to be provided according to the law for all demolitions and evictions in case of land acquisition. But for those demolitions that are subsequently found by courts or other official processes to be arbitrary, international human rights law calls for a reparative approach and allows punitive compensation both to adequately compensate individuals for their grievous harm, and to deter criminal conduct by officials, to ensure accountability. In those cases, it is appropriate for compensation to be multiple times the fair market value of the land and structure that was demolished, as well as the replacement value of all movable property and assets attached, appurtenant to or located on such land and structure.
- 21.** If the demolition has resulted in homelessness, immediate rehousing must be provided to such individuals without delay. Restitution of homes should also be seen as a priority as a reparative response, where possible, as confirmed in decisions such as *Ajay Maken v. Union of India*<sup>24</sup>. Non-financial forms of atonement such as apologies, are also additional appropriate forms of reparative responses.
- 22.** Overall, international human rights standards require that reparation must be adequate, effective, prompt, and should be proportional to the gravity of the violations and the harm suffered<sup>25</sup>. A reparative approach to the victims of arbitrary demolitions is required under international human rights law, which guarantees everyone whose rights are violated, an effective and prompt remedy<sup>26</sup>.

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<sup>24</sup> Supra

23. It is also important that officials responsible for authorizing or carrying out arbitrary demolitions are prosecuted according to the law and be subjected to administrative penalties. This is an important step to ensure accountability and non-repetition. The officials must be held to be in contempt if demolition orders violate court orders, be subject to administrative or disciplinary proceedings for wrongdoing, and be civilly liable to the individuals whose homes were demolished for monetary compensation equal to the loss of all property during arbitrary demolitions.

PUNITIVE DEMOLITIONS ARE ARBITRARY AND A GROSS VIOLATION OF INTERNATIONAL HUMAN RIGHTS LAW, INCLUDING THE RIGHT TO NON-DISCRIMINATORY TREATMENT, AND THE PROHIBITION OF THE USE OF CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

24. So-called punitive demolitions – demolitions of homes allegedly as a punishment or retaliation for alleged offences against public order or crime control – are fundamentally arbitrary and contrary to international human rights law<sup>27</sup> which guarantees the right to be free from discrimination in all public decisions, and may also constitute a violation of the prohibition against cruel, inhuman or degrading treatment or punishment (CIDT). No demolitions may be carried out as a punishment for any act by a resident or a relative or associate of a resident of the household, whether such acts constitute a violation of any law in force or not. Such demolitions, if carried

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<sup>25</sup> Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of gross violations of international human rights law and serious violations of international humanitarian law, General Assembly resolution 60/147, available at [www.undocs.org/A/RES/60/147](http://www.undocs.org/A/RES/60/147).

<sup>26</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, General Assembly resolution 53/144.

<sup>27</sup> See ICESCR, General Comment No. 7, para. 12.

out, must be prosecuted as serious crimes under the law. Punitive demolitions are aggravated forms of arbitrary demolitions of homes. Punitive demolitions are per se grave violations of international human rights law.

**25.**International human rights law also rests on a guarantee of equal enjoyment of all human rights including the right to adequate housing in Article 2 of both Covenants on Civil, Political and Economic, Social and Cultural Rights. The guarantee of non-discrimination with regard to the right to adequate housing is also contained in several other treaties that India is a party to<sup>28</sup>. When allegedly punitive demolitions target or result disproportionately in attacks on households of minority communities, there is a grave violation of the prohibition of discrimination based on religion, social status or other prohibited ground.

**26.**It also follows that if arbitrary demolitions are without legal sanction and in fact crimes under specific circumstances, any propaganda or public advocacy for demolition of households as punitive measures, must also be a crime punishable by law. When such advocacy concerns households of minority communities, it may constitute hate crimes and incitement to violence contrary to international human rights law.

**27.**All demolitions of homes through the law, whether legal or arbitrary, result in forced evictions of the residents, which are gross violations of international law if they result in homelessness. There is a duty on the State to ensure that no one becomes homeless as a result of demolitions which cause evictions. In

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<sup>28</sup> 'Discrimination in the context of housing', Report of the Special Rapporteur on the Right to Adequate Housing to the UN General Assembly, A/76/408, para. 14.



the cases of punitive and discriminatory demolitions raised by the Special Rapporteur with the Government of India in 2022<sup>29</sup>, in states such as Delhi, Madhya Pradesh and Gujarat, with a few exceptions, no alternative accommodations – or even compensation, was provided to the individuals or families whose homes were demolished.

**28.** Indeed, India has been witnessing a worrying rise of evictions of mostly marginalized and poor communities in recent years. Data reveal that from 1 January 2022 to 31 December 2023, around 7.4 lakh people lost their homes as a result of state-driven demolitions. The scale and pace of these evictions reached unprecedented levels in 2023, with 515,752 people evicted and 107,449 homes demolished across the country. The data also reveal that 31% of the people forcibly evicted during this period belonged to historically marginalized groups, including Scheduled Castes, Scheduled Tribes, Other Backward Classes, nomadic communities, migrant workers, and religious minorities<sup>30</sup>. Forced evictions invariably lead to an increase in homelessness.

**29.** Homelessness itself is a prima facie violation of the right to adequate housing. As CESCR explained, “a State party to [ICESCR] in which any significant number of individuals are deprived of basic shelter and housing is, prima facie, failing to discharge its obligations under the Covenant.”<sup>31</sup>

<sup>29</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27324>

<sup>30</sup> See Housing and Land Rights Network India, Forced Evictions in India 2022 & 2023, available at, <https://hlrn.org.in/observatory/forced-evictions-report>, see as well <https://muslimmirror.com/1-5-lakh-homes-demolished-7-4-lakh-people-forcibly-evicted-over-the-last-2-years-hlrn-report/#:~:text=By%20Muslim%20Mirror%20Desk&text=From%201%20January%202022%20to,homes%20demolished%20across%20the%20country>.

<sup>31</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an standard of living, and on the right to non-discrimination in this context, U.N. Doc. A/HRC/31/54, para. 48 (citing CESCR, General Comment No. 3 (1990), para. 10.)

**30.** Homelessness is not just a violation of the right to adequate housing, but also a violation of various civil and political rights, espoused in treaties India has ratified.<sup>32</sup> Homelessness may also violate the rights to life,<sup>33</sup> liberty and security of person,<sup>34</sup> freedom of movement,<sup>35</sup> and equality and non-discrimination.<sup>36</sup> As the Special Rapporteur on Adequate Housing explained, “homelessness is an extreme violation of the rights to adequate housing and non-discrimination and often also a violation of the rights to life, to security of person, to health, to protection of the home and family and to freedom from [CIDT].”<sup>37</sup> Arbitrary demolitions which lead to homelessness are drivers of extreme violations of a multitude of human rights.

#### THE ROOT CAUSE OF ARBITRARY DEMOLITIONS IS THE FAILURE TO RESPECT AND PROTECT THE RIGHT TO ADEQUATE HOUSING

**31.** Rights violations caused by arbitrary demolitions stem from the failure to adequately respect and protect the right to adequate housing—a fundamental right under international law. International instruments that provide for this right include the UDHR,<sup>38</sup> International Convention on the Elimination of

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<sup>32</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, U.N. Doc. A/HRC/31/54, para. 4.

<sup>33</sup> ICCPR, art. 6. Human Rights Committee, General Comment No.36 (“The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include ... deprivation of indigenous peoples’ land, territories and resources... widespread hunger and malnutrition... and homelessness. (para. 26), available at <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life>).

<sup>34</sup> ICCPR, art. 9.

<sup>35</sup> ICCPR, art. 12.

<sup>36</sup> ICCPR, art. 4(1) and art. 26; International Convention on the Elimination of All Forms of Racial Discrimination art. 5 (e) (iii).

<sup>37</sup> Report of the Special Rapporteur on adequate housing as a component of the right to and adequate standards of living, U.N. Doc. A/HRC/31/54, para. 4.

<sup>38</sup> UDHR, art. 25(1).

Racial Discrimination (“ICERD”),<sup>39</sup> International Covenant on Economic, Social and Cultural Rights (“ICESCR”),<sup>40</sup> and Convention on the Elimination of all Forms of Discrimination Against Women.<sup>41</sup> As the U.N. Committee on Economic, Social and Cultural Rights (“CESCR”) has explained, the right to adequate housing is not merely a right to shelter, nor does it require that governments provide a house to every person free of charge.<sup>42</sup> Instead, it requires that governments take steps to ensure all people have a right to live with security, peace and dignity in their homes.<sup>43</sup> This obligates housing with security of tenure including protection against forced eviction, and availability of services, materials and infrastructure, both of which are affordable, habitable, accessible, well-located, and culturally adequate.<sup>44</sup> International human rights law clearly recognizes that States and non-State actors including businesses have the obligations to ‘respect, protect and fulfill’ all human rights including the right to adequate housing<sup>45</sup>. This includes not only a duty to desist from arbitrary demolitions of homes, but includes an affirmative duty to ensure effective remedies including access to adequate housing for those who end up without adequate housing.

**32.** Landmark rulings such as *Olga Tellis v. Bombay Municipal Corporation*<sup>46</sup>, or High Court judgements such as *Ajay Maken v. Union of India*<sup>47</sup> or *Sudama*

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<sup>39</sup> International Convention on the Elimination of All Forms of Racial Discrimination art. 5(e)(iii), ratified in 1968, 660 UNTS 195, 212.

<sup>40</sup> International Covenant on Economic, Social, and Cultural Rights art. 11, ratified in 1979, 993 U.N.T.S. 3.

<sup>41</sup> Convention on the Elimination of All Forms of Discrimination Against Women art. 14(2)(h), ratified in 1993, 1249 U.N.T.S. 13.

<sup>42</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, U.N. DOC. E/1992/23, para. 7.,

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* para. 8.

<sup>45</sup> See ICESCR, General Comment No. 3 on the nature of obligations of State parties.

<sup>46</sup> *Supra* n. 5.

<sup>47</sup> *Ajay Maken v. Union of India*, AIR ONLINE 2019 DEL 523.

Singh v. Government of Delhi<sup>48</sup>, have shown that Indian courts have pioneered the recognition and enforcement of key dimensions of the right to adequate housing over the years. However, there is a persistence and even increase of alleged demolitions and forced evictions, the resort to alleged ‘punitive demolitions’ and the increase in the number of homeless persons. There is a large and worrying gap between judicial recognition of key elements of the right to adequate housing and its actual realization including the challenges with the lack of implementation of existing laws. Consequently, arbitrary demolitions of homes or shops continue without adequate restraint and accountability. It is respectfully urged that the Honorable Supreme Court effectively address this urgent matter and ensure full protection of the right to adequate housing for all in India.

### **PRAYER**

In view of the submissions addressed hereinabove, it is most humbly prayed that this Hon’ble Court may be pleased to:

- A. Allow the present Applicant to intervene in the captioned proceedings; and
- B. Pass any other order(s) as this Hon’ble Court may deem fit and necessary.

AND FOR THIS ACT OF KINDNESS THE INTERVENOR /  
APPLICANT SHALL AS IN DUTY BOUND FOREVER PRAY

INTERVENOR / APPLICANT

**Filed Through:**



**Aakarsh Kamra**  
**Advocate on Record**

Filed on: 27-09-2024  
New Delhi

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<sup>48</sup> *Sudama Singh and Others v Government of Delhi and Others*, 168 (2010) DLT 218.

**IN THE SUPREME COURT OF INDIA**

**CRL. MP No. \_\_\_\_\_ of 2024**

**in**

**WRIT PETITION (CRL.) NO. 162 OF 2022**

**IN THE MATTER OF:**

JAMIAT ULAMA-I-HIND & ANR.

... PETITIONERS

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

**AND IN THE MATTER OF:**

Balakrishnan Rajagopal, UN Special Rapporteur on the Right to Adequate Housing

...INTERVENOR / APPLICANT

**AFFIDAVIT**

I, Professor Balakrishnan Rajagopal, UN Special Rapporteur on the Right to Adequate Housing, S/o S.R. Balakrishnan, aged about 56 years, Office: 9-518, Department of Urban Studies and Planning, MIT, 77 Massachusetts Avenue, Cambridge, MA 02139, do hereby solemnly affirm on oath and state as under:

1. That I am the Intervenor / Applicant in the accompanying applications, and as such I am aware of the facts and circumstances of the case and competent to swear the present Affidavit.

2. That the accompanying Applications have been drafted as per my instructions, and all facts stated therein are believed to be true and correct to the best of my knowledge and belief, and as per information available on record in the public domain. Nothing stated in the Applications is false and nothing material has been concealed.
3. That the Annexure(s) to the accompanying applications are true copies of their original.
4. That the contents of Paras 1-3 above are true and correct.



**DEPONENT**

#### **VERIFICATION**

Verified at Cambridge, United States of America, on this 27<sup>th</sup> day of September, 2024, that the contents of the above Affidavit are true and correct, and no part of it is false and nothing material has been concealed.



**DEPONENT**