

# **Follow up Information to the UN Special Rapporteur on Adequate Housing**

**Ms. Raquel Rolnik**

## **Concerning the Forced Eviction Irish Travellers and Romanies of Dale Farm and Hovefields Drive, Essex, United Kingdom**

On 1 April 2010 the Human Rights Clinic of the University of Essex, in support of the Romani Gypsy and Irish Traveller community of Dale Farm and the Dale Farm Housing Association, submitted information to UN Special Rapporteur on Adequate Housing, Ms. Raquel Rolnik, on the imminent eviction of such community, which is being planned by Basildon District Council, and required the Rapporteur to issue an URGENT APPEAL to the Government of the United Kingdom to halt the eviction.

The concern that the eviction was imminent was based on the fact that on 10 December 2009 Basildon District Council had selected the private bailiff company Constant and Co. (Bedford) Ltd to undertake planning enforcement action against the community. This company is the UK's most notorious anti-Gypsy security firm, responsible the brutal Twin Oaks eviction, in Hertfordshire in 2004, when chalets and private property was needless burned. It also acted as the agent for Chelmsford Borough Council, not far from Basildon, at the Meadowlands eviction in severe weather the same year, during which caravans were burned and much racial abuse used against the residents.

The present follow up information seeks to bring to the attention of the UN Rapporteur the eviction of part of a Romani and Irish Traveller community that took place at Hovefield Drive, Wickford, close and linked to the larger Dale Farm community and under the same Basildon District Council local government jurisdiction, in the County of Essex, the United Kingdom (UK). On 29 June, at about 7:30am, the bailiff company Constant and Co. (Bedford) Ltd., acting as agents of the Basildon Council, arrived at Hovefield Drive – a Gypsy and Traveller site composed of extended families of Dale Farm community – arrived at Hovefield Drive accompanied by Essex police officers. Bailiffs began knocking on caravans and mobile-homes giving occupants one hour to pack up and leave. At about 8.00am lowloaders arrived in the site bearing three heavy digger machines. No notice of this work had been given. Within half an hour of arrival the digger operators starting digging up plots where there was no-one living at the time, as the families were travelling. Four plots along with moveable and immovable property were broken up by the diggers. The owners of these four plots are known to be away seeking work, as this is the custom of the Romani Gypsies and Irish Travellers in the summer. One pitch owner returned the night before the eviction and was present with her caravan. Residents informed the Council of these circumstances before the eviction.

The four plots were covered in compacted hardcore and gravel designed to give a stable base for residential caravans and chalets and there were a number of buildings on these plots. Access to these buildings was not interdicted and children were able freely to enter the building shortly before it was demolished. These buildings are used as lavatories, or for washing, and are

connected to underground four thousand gallon cess tanks. No attempt had been made to empty the cess tanks before demolition work commenced. The tanks were breached. It was immediately apparent that foul sewage had contaminated the site because of the smell. The ground was so churned up that it is inevitable that sewage contaminated the ground and may enter run off to adjacent occupied properties and ground water. This amounts to an accidental release of a substance (raw sewage) which may damage health. Water and electricity were disconnected by Constant's operatives without the involvement of representatives of the utility companies. No apparent precautions were taken to ensure electrical safety during live working. No apparent precautions were taken to ensure that water supplies were not contaminated with sewage.

Although Basildon District Council has earlier stated that the agents Constant & Co were instructed only to carry out the demolition of empty plots at Hovefields on, Ms. Ann Coyle, a resident of Hovefields, returned on 28 June and because of a breakdown, and for family company, towed her caravan onto the plot nearby known as Upton Place (belonging to Mr Sweeney). She had received no notice of the eviction and when the demolition work started on her plot, Riverview, she was totally taken by surprise and shocked. She has a son, 16-year-old Martin Christopher Coyle, who is particularly vulnerable as he has learning difficulties and is easily upset. Up until recently he attended a special needs school in Basildon. Ms. Coyle approached a member of the Constant workforce to inform them that she was still living at Riverview and therefore they should cease any intended demolition there. This request was ignored and a digger commenced to demolish her utility unit. On further appeal, however, she prevailed on workmen to salvage her washing machine from the unit and also to remove to the side of her plot the family Holy Shrine (both are now on Mr. Sweeney's plot). When she raised the matter of the destruction of her utility unit, which was crashed and put into a large skip, she was advised by Constant to contact Basildon Council. Ms. Coyle is now requesting that the Council repays her for the loss of her utility unit, which costs £650. She did not understand why the utility unit was not taken into storage as Basildon Council previously has stated that the procedure to be followed in such operations is to store property so that it can be reclaimed by the owners. There was also an apparent lack of control by Basildon Council over their agents, which was emphasised by the fact that no senior staffs from Basildon Council were present on 29 June. The only BDC employees present were members of the Council's public relations department and the Essex Police did not undertake any measure to prevent such an illegal eviction.

Moreover, Constant and Co. agents took no measures whatever regarding safety during the demolition at Riverview. There were no warning notices posted at the site, no safety fencing was erected (though a pile of fencing was available) and no effective action was taken to prevent children from entering onto the plots while the heavy diggers were at work and earth banks being bulldozed into place. The manager for Constant and Co. said that a risk assessment had been prepared for the demolition work at the Hovefields site, but has refused to show it to the residents.

And following the bulldozing of the yards at Hovefields on 29 June, the Basildon District Council obtained on 7 July an injunction (Claim No.HQ10X02458, High Court of Justice, Queen's Bench Division) against a number of named (Grattan Puxon, Dave Anderson, Michael Reading, Ann Hamilton, Miles Connors, Michael O'Brien, Mary Theresa McCarthy) and unnamed persons still living on their properties who are now threatened with imprisonment for contempt of court. They include mother of five children, Mary Theresa McCarthy, who is part of an extended Romani-Irish Traveller family with roots in the Dublin area.

The above situation calls for immediate attention and action. Although the Rapporteur has already expressed her concern to the UK government and its institutions regarding the imminent eviction and has asked them to consider suspending any planned evictions until an adequate solution is achieved, Basildon District Council has instead decided to go ahead with its eviction plan. No survey or risk assessment was conducted to study the immediate and long term adverse social and economic effects of this eviction, specially for the most vulnerable.

Moreover, the community is extremely concerned that Dale Farm will face an imminent eviction which is likely to be carried out in a brutal and inhumane manner. As such, the case requires immediate action to (a) prevent the eviction and (b) limit serious violation of the right to housing/accommodation, possible harm to physical and psychological integrity, dignity and security of the community as well as damage to property that would occur in the course of the eviction and (c) to prevent further violations of other rights of the community (such as their right to education and right to health, as well as housing/accommodation).

We recall that Dale Farm is the largest Romani and Irish Traveller community in the UK, comprising of approximately 1000 residents. The settlement extends onto land owned by the community, which does not have planning permission. Part of this land was previously a licensed scrapyard, from 1978-2001, located within the Green Belt land. Basildon District Council (the Council) and the Secretary of State for Communities and Local Government have refused to grant planning permission for this portion of the settlement, on the basis of harm that may be caused to the Green Belt. The Council argues that it has refused to rezone the area as the negative impact upon the Green Belt by reason of the development outweighs the case for permitting the Dale Farm community to continue, albeit that it has existed already for more than eight years. The Council has served a number of enforcement notices ordering the removal of the chalets, mobile-homes and caravans from the land they occupy. These enforcement notices concern some 90 families, comprising of approximately 300 people, including many children, elderly and infirm. As the enforcement notices have not been complied with, Basildon District Council decided to pursue direct action to evict the community in 2005.

The Gypsy and Traveller community at Dale Farm own the land from which they are to be evicted, however the land was designated as Green Belt and they were therefore refused planning permission for their caravans. Contrary to its stated policy, the Government has failed to provide adequate alternative caravan sites for the community.

If the planned eviction is implemented it will result in irreparable harm to the Dale Farm community, particular given the private bailiff that is due to conduct the eviction. Such irreparable harm includes, *inter alia*, the loss of housing and other personal belongings, the dangers associated with lack of shelter due to resulting homelessness, and the loss of social networks and cultural integrity. The eviction will particularly affect the right to adequate housing (Article 11 (1) ICESCR; General Comment No. 4 of the UN Committee on Economic, Social and Cultural Rights) and the right to take part in cultural life (Article 15 (1) ICESCR).

## Urgent Appeal and Request for Measures

The petitioners thus require the Special Rapporteur to issue an **URGENT APPEAL** and to the government of the UK in order to remind the authorities of their obligations under international human rights law regarding the right to adequate housing. The International Covenant on Economic Social and Cultural Rights (ICESCR) was ratified by the United Kingdom on 20 May 1976; thus the State Party is bound to Article 11(1) which guarantees the

right of everyone to an adequate standard of living including adequate housing, and to the continuous improvement of living conditions.

Furthermore, in case Basildon District Council decides to pursue the eviction, appropriate procedural safeguards and due process guarantees should be in place. According to the Committee on Economic, Social and Cultural Rights they include, but are not limited to:

- (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 to be made available in reasonable time to all those affected.<sup>1</sup>

Moreover, the Dale Farm residents are entitled to be accorded alternative housing/accommodation in case of eviction. Indeed, General Comment No. 7 of the Committee on Economic, Social and Cultural Rights requires that evictions “not result in rendering individuals homeless or vulnerable to the violation of other human rights” and “where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”<sup>2</sup>

The provision of such alternative accommodation will have to take into consideration the cultural adequacy component. This refers to the way housing/accommodation is constructed or provided. Thus, when relocation is unavoidable, the physical, environmental, and socio-economic conditions of the new location cannot render evictees worse off than before the resettlement. It is, therefore, crucial that Gypsies and Travellers are given the chance to partake in the planning of the alternative relocation project to ensure a reflection of their collective identity. The UK Homelessness Code of Guidance (July 2006) states that “some Gypsies and Travellers may have a cultural aversion to the prospect of ‘bricks and mortar’ accommodation. In such cases, the authorities should seek to provide an alternative solution and give consideration to the needs and lifestyle of Gypsies and Travellers when considering their application [of homelessness]...” (para.16.38)

Non-compliance with the abovementioned requirements of international law will turn the removal of the residents into a practice of forced eviction, which represents a gross human rights violation, particularly affecting the right to adequate housing<sup>3</sup>. As a State party to the ICESCR, the UK is bound to comply with the State party obligations contained within this international treaty.

The petitioners thus urge the Special Rapporteur to consider the already implemented eviction of the Hovefield community and the imminent eviction of the Dale Farm, and to issue an URGENT APPEAL to the government of the UK and its institutions on the basis of the information made available herein. We require the Special Rapporteur to write to the government

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing, para. 17, (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).

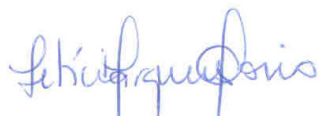
<sup>2</sup> Ibid. para. 17.

<sup>3</sup> Ibid. para. 2.

of the UK to remind it of its obligations under international law and requesting information on steps being taken by the competent authorities to address the situation in question, including:

- (1) Halting the planning eviction until an adequate solution is achieved to meet the housing needs, including suitable and cultural adequate accommodation, of the Dale Farm community;
- (2) Taking all possible measures to reach a peaceful and viable solution in agreement with the Dale Farm community with an eye to fulfilling the Government's obligations under international law;
- (3) Engaging at all times in meaningful consultation and meetings with the affected residents of Dale Farm and their representatives to ensure their participation in accordance with the Government's obligations under international human rights law;
- (4) Revising the decision of denying planning permission to the community;
- (5) Complying with the requirement placed on Basildon District Council by the Secretary of State for Communities and Local Government to allocate land sufficient for a minimum of 62 pitches. Compliance can be achieved by the granting of planning permission to the permanent residents of Dale Farm;
- (6) Suspending the contract with the bailiff company Constant & Co. until an adequate solution is reached with the community and carrying out a risk impact assessment to identify the impacts over the community and the precautionary and compensatory measures to be taken into account in the event that the Council proceeds with the eviction;
- (7) Should the UK authorities disregard (1), (2), (4) and (5) and proceed with the eviction, the Special Rapporteur is required to urge the Government of the UK to:
  - (i) Carry out the eviction in accordance with the guarantees provided in international human rights law;
  - (ii) Designate alternative suitable sites for the relocation of the evictees, taking into consideration that under international human rights law minorities, low-income and/or vulnerable individuals or groups who are the target of eviction have a strong claim to be re-settled in alternative accommodation compatible with their culture and traditions and with the requirements of an adequate housing;
  - (iii) Fulfil its duties in respect of any vulnerable, disabled, poor, and disadvantaged persons affected by the eviction of Dale Farm, who may be rendered homeless through the imminent enforcement;
  - (iv) Urge the Government to take affirmative measures to ensure equal opportunities for the full enjoyment of the economic, social and cultural rights of Gypsies and Travellers.

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