

Mandate 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

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Excellency,

I have the honour to address you in my capacity as 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 pursuant to Human Rights Council resolution 25/17.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **ongoing forced eviction of a large number of persons residing in the Rafah area of the Sinai peninsula for security reasons, allegations that there are plans to continue such evictions in the future.**

According to information received:

On 24 October 2014, following the attack on a military checkpoint in North Sinai that allegedly killed at least 30 soldiers, and in response to increasing concerns regarding the security situation in the Sinai Peninsula, a State of emergency was declared in the North Sinai. On 29 October a decree by law (no 1975/2014) was issued by the Prime Minister to evacuate the resident population there and create a buffer zone in Rafah, with article 2 stating that force would be used to seize the homes and belongings of those who refused to leave. The apparent aim of the operation is to put an end to attacks by armed groups targeting the security forces in North Sinai and to halt the flow of weapons and militants through cross-border tunnels.

The first phase of the operation was carried out by the military and began days after the 24 October attack. It encompassed an area with a width of 500m and a length of 13.8 km. Residents were given a 48 hour ultimatum to evacuate their homes and remove their belongings before their houses would be demolished. With a daily curfew imposed from 5 pm to 7 am, this further reduced the time

available to residents to evacuate and move their belongings. Furthermore, some residents claim they only became aware of the military operation and its consequent eviction via warnings broadcasted by State television. Most residents decided to leave their premises following threats by the military, sometimes accompanied by dogs, with no reports of actual violence carried out by the military.

In an interview on 21 November, the North Sinai governor stated that as a result of this first phase, approximately 1,156 families living in the area had been evicted, and 802 houses demolished.

Prior to the Government's decision and the implementation of its first phase by the military due process was not followed: residents were not consulted or given adequate official prior notice of the eviction plans. Moreover, while decree no. 1975/2014 states that evacuees will be provided alternative "places", it is understood that the affected communities were in fact not provided with alternative resettlement sites.

Following an announcement on 17 November, the second phase of the military operation and the consequent eviction began on 9 January 2015, encompassing an additional 500m, bringing the total size of the buffer zone to 1 km wide and almost 14 km long along the border with Gaza. A survey committee from Rafah city authorities has identified 1,220 houses, inhabited by 2,044 families, to be evicted in the second phase. It is understood that the second phase of the operation is currently ongoing, with 134 families evacuated as of 11 January.

While it appears that no official decision has yet been issued on the possible further extension of the buffer zone, the Governor is reported to have publicly stated that the total width of the area could be extended to 5 km along the border area, to be carried out in a third and a fourth phase. He has even claimed that the ongoing demolitions to create a buffer zone between Sinai and the Gaza strip will involve the complete removal of the city of Rafah. While the most densely populated areas of Rafah are located in the phase one and two areas, extension of the buffer zone would lead to further evictions of families.

Most of those evicted have temporarily relocated themselves to nearby cities, such as Sheikh Zubayda and El-Arish, relying on their family connections. Some evacuees from the first phase moved to neighbours' houses in the second phase area, and were thus subjected to a second eviction within a few months. The Government has not provided temporary housing or shelter to those evicted. It further appears that the affected communities have been denied adequate and timely compensation for loss of land, housing structures, assets and personal belongings. Further, it has been difficult to discuss the evictions with affected individuals, many of whom fear retaliation, reprisals or persecution from the military. With North Sinai being one of Egypt's poorest districts, the affected

families comprise of a population that has long suffered neglect and discrimination on economic grounds.

The central Government has announced that it will provide financial compensation in accordance with the law. According to the governor of North Sinai, those evicted will receive an amount of 900EGP (\$125), intended to cover rent for a period of three months, pending full compensation for the loss of their houses and personal belongings. Additional compensation to cover the loss of housing will range between 700 EGP / (\$97) and 1200 EGP / (\$167) per square meter (depending on the structure of the houses). A specialized panel will be established to determine the recipients of such compensation, but it has yet to be established.

Concerns have been raised by inhabitants that the compensation amounts indicated by the Government are not commensurate to the market value and will thus be insufficient to cover their temporary rental needs or the purchase of alternative housing. Moreover, inhabitants are faced with a shortage of housing in nearby towns. To date, it is unclear whether individuals have received any initial compensation, with a lack of clarity on the claims procedure and to whom individuals should address themselves.

Inhabitants of Rafah have moreover raised concern that they will face difficulty in obtaining compensation without official ownership deeds, considering that land in the Sinai is deemed to be state property, thus rendering private ownership illegal.

On 8 January, the Governor of North Sinai announced in the media that construction has started on “New Rafah”, a suburb to be constructed to the West of Rafah with residential zones to resettle the individuals and families who have been subjected to eviction. However, it is understood that this new housing will be sold, and not provided as alternative housing to affected individuals.

While recognising that it is the prerogative of every State to ensure the security of its borders, this must be done in full compliance with its obligations under international human rights law.

I am concerned that the aforementioned ongoing situation represents an evacuation and resettlement programme without concomitant implementation of international human rights standards and principles with regard to the right to adequate housing. It appears that involuntary relocation has been carried out without some essential human rights elements, including lack of participation, of effective consultation, and of adequate notification, compensation and provision of equal or better alternative quality housing. Furthermore, concern is expressed that the project disproportionately impacts a population that is already impoverished and marginalized, and thus particularly vulnerable.

In connection with the above allegations and concerns, please refer to the **relevant international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations, including Egypt's obligations under international human rights law.

Since it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comments you may have on the above-mentioned allegations.
2. Please provide details on the first and second evictions, in particular the procedures implemented to ensure that affected populations were informed and consulted and that adequate compensation was considered and afforded to them, ensuring that they would not be impacted by this security operation;
3. Please provide details on the next planned phases of the eviction and what measures are being taken to ensure prior and effective consultation and adequate compensation in compliance with international human rights law, and Egypt obligations under it
4. Please provide details on how the right to adequate housing as provided for in international human rights law was implemented before, during and after the evictions. In particular please explain the existing procedures to carry out evictions for military and border-security reasons, including in relation to due process of law, and consultation and participation of affected communities.
5. Please explain the role of the Ministry of Defense and military forces in carrying out the evictions, as well as in relation to the resettlement plans.
6. What administrative or judicial mechanisms are in place, both at national and municipal levels, to ensure access to remedies and accountability of various actors so that individuals and communities can claim their right to adequate housing?
7. Please provide information about plans to establish a specialized panel to deal with compensation claims, as well as information regarding the amount of compensation provided to affected individuals to date, both to cover their temporary resettlement and to compensate for the loss of their dwellings.
8. Please provide information on the permanent resettlement plans to be implemented by the Government. What mechanisms are in place to ensure

appropriate consultation with affected individuals on decision making regarding their long-term resettlement?

9. Please provide details on the following institutions and their role in relation to the evacuation project:
 - a. Please explain the role of the National Council on Human Rights, in relation to evictions and displacement. What mechanisms and measures are at their disposal in preventing future evictions or in ensuring that evictions are carried out in compliance with international human rights standards and principles?
 - b. Please explain the role of the municipal level in implementing the evacuation and resettlement plans.

I would appreciate receiving a response within 60 days.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

I may publicly express my concerns in the near future, as I am of the view that the information upon which a press release could be based is sufficiently reliable to indicate a matter warranting the most serious attention. Such a press release would indicate that I have been in contact with your Excellency's Government to clarify the issues in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Leilani Farha

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

Annex

Reference to international human rights law

In connection with the above concerns, I would like to remind your Excellency's Government of its obligations under various international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights to which Egypt is a party since 14 January 1982, and more specifically article 11.1 recognizing the right of everyone to an adequate standard of living for himself and his family, including housing, and to the continuous improvement of living conditions. This article must be read in conjunction with Article 2.2 of the Covenant which provides for the exercise of any right under the Covenant without discrimination of any kind.

The Committee on Economic, Social and Cultural Rights in its General Comment No. 4 has stressed that the right to adequate housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity irrespective of income or access to economic resources. This General Comment outlines the following aspects of the right to housing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.

Furthermore, according to the Committee's General Comment No. 7, paragraphs 13 and 14, States parties shall 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. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. Moreover, in cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality.

Also according to General Comment No. 7, paragraphs 15 and 16, procedural protections are essential in relation to forced evictions, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid.

I wish to draw your Excellency's Government's attention to the Concluding Observations adopted by the Committee on 13 December 2013 urging Egypt "to ensure that persons affected by forced evictions have access to an adequate remedy, restitution of their property and compensation, as appropriate, taking into account the Committee's general comment No. 7 (1997) on the right to adequate housing: forced evictions."

I wish to further recall the Committee's General Comments No. 3 and 9 on obligations of States and the nature of their responsibilities at all levels of government, including at the provincial and city level.

Whilst the right to housing is not explicitly provided for under the African Charter on Human and Peoples' Rights, the African Commission on Human and People's Rights in its decision *Social and Economic Rights Action Centre & the Center for Economic and Social rights v. Nigeria* (2001) understood the Charter to implicitly include the right to housing, including protection from forced eviction, particularly in light of its provisions on the right to property, the right to health and protection accorded to the family.

I wish to also to call your attention to the work of my predecessor Ms. Raquel Rolnik, Guiding Principles on the security of tenure for the urban poor (A/HRC/25/54).

I further wish to recall Article 78 of the Egyptian Constitution, which guarantees citizens' right to adequate, safe and healthy housing in a manner which preserves human dignity and achieves social justice. Furthermore, forcible eviction contravenes the Egyptian Constitution, with Article 63 strictly prohibiting all forms of arbitrary forced displacement of citizens. As such, article 2 of the decree no 1975/2014 on forcible evictions of individuals in Rafah directly contravenes the Constitution.