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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.

REFERENCE: AL Housing (2000-9)
BRA 14/2012

12 November 2012

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 15/8.

I would like to draw the attention of your Excellency's Government to recent information I have received regarding continuing **alleged forced evictions in the framework of the 2014 Football World Cup preparation and the 2016 Olympic Games and in the context of urban reforms aimed at beautification, gentrification and renovation in various cities in Brazil. I have been informed of eviction cases particularly in the cities of Curitiba, Fortaleza, Porto Alegre, Rio de Janeiro and São Paulo.**

From the outset I would like to refer to a previous communication sent to your Excellency's Government on 31 December 2010 regarding evictions in the cities of Belo Horizonte, Rio de Janeiro, Recife, Porto Alegre, Curitiba, Natal, Fortaleza and São Paulo. I would like to thank your Excellency's Government for the detailed reply to my previous communication, dated 13 September 2011.

According to recent and updated information received:

Rio de Janeiro

In my previous communication I referred to the eviction of 500 families in the communities Restinga, Vila Harmonia and Vila Recreio II, in the region of Recreio dos Bandeirantes due to the construction of the transport corridor for the BRT Transoeste. In your Excellency's reply from 13 September 2011, it was affirmed that these evictions were carried out and that the affected persons were offered two alternatives: compensation or resettlement in the Campo Grande neighborhood. Your Excellency's Government also informed me that 261 families opted for receiving compensation and that 144 families were resettled in Campo Grande.

I am also informed that 500 families in the Vila Autódromo community remain under threat of eviction, due to the establishment of a public-private partnership that included the removal of the community, although this was not required for the implementation of the Olympic Park. The families, many of whom possess legal property titles to their homes, want to remain in the area and have developed an alternative plan (Plano Popular da Vila Autódromo) to the project.

The residents of Rua Domingos Lopes, in Madureira, are under threat of eviction due to the highway project for the BRT Transcarioca (a project designed to link parts of the greater Rio area through the Bus Rapid Transit system). I am informed that the families sought help from the State Public Attorney.

The mega-projects related to the Port region in Rio de Janeiro also threaten families with evictions. In Morro da Providência, for instance, more than 800 houses have been marked for removal. Although they were offered housing units from Minha Casa Minha Vida program within the same community, allegedly the affected families have not received any information on the timeframe of the construction of the housing units or of the resettlement. I am informed that some of these families have already been evicted and, since the units have not been built yet, they are receiving R\$ 400.00 in subsidized rent, which, reportedly, is not sufficient to rent any housing in the neighborhood.

Related to other projects in Rio more than 600 families living in the Horto community are allegedly threaten with evictions due a legal claim on that area by the administration of the Bothanic Garden Institution (Instituto Jardim Botânico). According to the reports I received, these families have been living in the area for more than 100 years, when a former administrator of the Bothanic Garden invited them to work on the park and to build their houses. I am informed that the dispute is currently being adjudicated. I am also informed that the Federal Government, through its Patrimonial Secretariat (Secretaria de Patrimônio da União), is trying to regularize the families' tenure situation and to guarantee their right to housing, but this judicial battle stopped the process and left the families with no certainty of their future.

São Paulo

In your Excellency's Government reply, from 13 September 2011, the Government of São Paulo affirms its commitment to improve the right to housing through many ongoing urban projects. While I welcome this commitment, according to information received, thousands of families have been evicted or are under threat of eviction in São Paulo, in the framework of mega-projects, such as urban reforms (particularly in the Renova SP program), improvements in the road and transportation network (Rodoanel Mário Covas), or because of environmental and city beautification projects (megaparques, parques lineares, Programa Mananciais, etc).

The Renova SP Project will remove, according to official numbers, more than 18,000 families in 150 different communities.

According to reports received, other evictions are linked to the development of a trajectory between the future stadium of the Corinthians soccer team (which will host the opening of the 2014 World Cup), and the city's International Airport in Guarulhos. Reports received indicate that more than 2,000 families have already been evicted for the construction of the Avenue within the Parque Linear Várzeas do Tiet and another 6,000 are threatened with evictions.

The Operação Urbana Rio Verde-Jacu in the Eastern Zone of São Paulo is also included as part of the urban improvements for the 2014 World Cup. A transportation complex that cuts through the Jardim Sao Francisco favela, reportedly threatens with eviction more than 2,000 residents.

Fortaleza

In my previous communication I referred to 3500 families that were under threat of eviction due to the construction of the Via Expressa in the context of the 2014 World Cup, 1500 families of Lagamar community were also threatened with eviction due to the path of the Bus Rapid Transit (BRT) system and more than 5000 families were to be evicted to enable the construction of a light-rail project (Veículo Leve sobre Trilhos – VLT).

I welcome the Government decision to negotiate with the communities of Aldaci Barbosa and Lauro Vieira Chaves and to accept their proposal to use empty plots of land in the area for the mobility project, instead of evicting the community. However, the community has yet to receive an official notification of the Government's decision.

I have recently received information about an imminent eviction of the traditional Poço da Draga community, where some of the families have been residing for over 50 years, for the construction of a Public Aquarium. I have also received information about additional public projects of urbanization, regularization of

tenure and environmental restoration that involve the eviction of approximately 15,000 families of the following communities: Rio Cocó – Boa Vista, São Sebastião, Gavião, Do Cal, TBA; and in Rio Maranguapinho – Barrio Bom Sucesso, Lumes, Santa Edwiges, Pedreiras, Chuí, Bairro Granja Portugal, Belém, Parque Olivândia I e II, Menino Deus, Dr. Seixas, Pirambu, Cristo Redentor and Barra do Ceará. Reports received indicate that the compensation offered to these communities is extremely low and do not address the real housing needs of the population.

Porto Alegre

According to your Excellency's Government reply from 13 September 2011, 1,800 families were to be evicted due to the project of the Avenida Tronco road expansion. Reportedly, the families were offered three alternatives: compensation (through a "bonus moradia" in the same amount of the Minha Casa Minha Vida' housing units), subsidized rent or resettlement in new housing units made by the Government. Allegedly, the compensation offered is not enough to fund the purchase of housing in the same area or even within Porto Alegre urban perimeter. I am also informed that the construction of the resettlement housing units has yet to begun and that the affected families have not received any information on the timeframe for their construction or the location of the resettlement.

Curitiba

According to information received, the expansion of Alfonso Pena Airport, to be conducted by the Government corporation Infraero and the State Government of Parana, will involve large scale evictions. There is currently no official information about the number of families that will be evicted or about the eviction process. I have received reports that some of the residents were approached by people claiming to be Government or Infraero employees (but carrying no identification) and were asked to allow them to measure and photograph their houses.

I have recently been informed that the project of Corredor Metropolitano adopted a zero eviction policy, which is a welcomed policy. However, I am still concerned that more than 2000 families remain under threat of eviction, due, for instance, to the renovations to the Joaquim Américo Guimarães Stadium (host of the 2014 World Cup games in the city) and other large construction projects in the metropolitan region. Reports received indicate that there was no consultation with the affected persons.

While I do not wish to prejudge the accuracy of these allegations, I would like to remind your Excellency's Government of article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which Brazil is a party, which holds that "the States Parties to the present Covenant recognize the right of everyone to an adequate

standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

As stated repeatedly, including in resolution 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross violations of a range of internationally recognized human rights, and large-scale evictions may only be carried out under exceptional circumstances and in full compliance with international human rights law.

I would also like to draw your Excellency’s Government attention to General Comment No. 7 on forced evictions, adopted by the Committee on Economic, Social and Cultural Rights in 1997. In paragraphs 15 and 16, the Committee stated that:

“15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (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, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. 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.”

In view of this, I wish to recall the Basic principles and guidelines on development-based evictions and displacement (contained in document A/HRC/4/18) that aims at assisting States in developing policies and legislation to prevent forced evictions at the domestic level. Your Excellency’s Government may find useful in the current circumstances relevant sections of the guidelines in regards to state obligations prior to, during and after evictions.

I therefore urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of the aforementioned persons are respected.

Since I am expected to report on such situations to the Human Rights Council, I would greatly appreciate detailed information from your Excellency's Government concerning the various situations described in this letter and about the steps taken by the competent authorities in compliance with the provisions contained in the international legal instruments. I would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the cases accurate?
2. Have alternative solutions other than eviction been considered in the targeted settlements?
3. If so, please provide details of such consideration. Has any social impact assessment been undertaken in the framework of the ongoing projects concerning the 2014 Football World Cup and the 2016 Olympic Games? If so, please provide details of such consideration.
4. What are the main findings and conclusions of the working group created in the framework of the National Council of the Defense of the Rights of Human Beings (GT do Conselho de Defesa dos Direitos da Pessoa Humana), referred to in your Excellency's Government letter from 13 September 2011?
5. Has the intergovernmental cooperative protocol (including guidelines for resettlements due to urban projects) been adopted? If so, Please provide a copy of the document.
6. Have the various affected communities and their representatives been appropriately consulted at all stages of the planned eviction process?
7. In cases where exact dates for the allegedly planned evictions have been determined, please indicate whether the communities have been given adequate prior notice, according to international standards mentioned above? If not, please indicate which measures are envisaged to communicate the planned eviction to the communities?
8. With regard to the specific communities mentioned above, please indicate:

Rio de Janeiro

Communities Restinga, Vila Harmonia and Vila Recreio II, in the region of Recreio dos Bandeirantes:

- How many families were evicted?
- What is the level of compensation that was paid to the families who opted for this option?

- What is the distance between the Campo Grande relocation site and the original housing location? What is the urban, economic and social infrastructure of the resettlement area?

Vila Autódromo community

- Was the alternative plan proposed by the community (Plano Popular da Vila Autódromo) taken into account by local authorities? If so – how?

The Port region - Morro da Providência

- How many families have been evicted so far?
- What is the level of the subsidized rent the evicted families are being provided with? Is the subsidy adequate, given the rental market in the region?
- Will the evicted families be provided with alternative housing? If so – when will the housing units be provided and in which location?

São Paulo

The Renova SP Project

- How many families have been already evicted and how many are planned to be evicted?
- What are the resettlement options offered to the affected persons? Where are the resettlement sites located?
- Was compensation and/or social assistance provided to the affected persons?
- Are any of the evicted persons receiving rent subsidies? If so – what is the level of the subsidy? Is it adequate, given the rental market in the region?

The Parque Linear Várzeas do Tietê and the Operação Urbana Rio Verde-Jacu

- How many families have been evicted and how many additional families are to be evicted in the context of these two projects?
- Were there resettlement options offered to these families? If so, please provide information about the resettlement area. Where is it located? What is the distance between the resettlement area and the original area? What is the urban, economic and social infrastructure of the resettlement area?
- With regard to families that have not been resettled, have they been supplied with rental subsidies? If so, what is the level of the subsidy? Is it adequate, given the rental market of the region?

Fortaleza

Via Expressa, Lagamar and Veículo Leve sobre Trilhos Communities

- How many families were evicted?
- What were the resettlement options offered to the affected persons? Where are the resettlement sites located? What is the urban, economic and social infrastructure in the resettlement area?
- Was compensation and/or social assistance provided to the affected persons? If so – how was the compensation calculated and what was the level of compensation paid?
- How many families received compensation and how many families will be relocated?

The Poço da Draga community

- Isn't there any other alternative to construct the Aquarium without having to evict the community? Were alternatives discussed with the community?
- If this eviction is still needed, where would the resettlement be located and what is its distance to the originally inhabited area? What is the urban, economic and social infrastructure available in that new area?

Communities of Rio Cocó – Boa Vista, São Sebastião, Gavião, Do Cal, TBA; and Rio Maranguapinho – Barrio Bom Sucesso, Lumes, Santa Edwiges, Pedreiras, Chuí, Bairro Granja Portugal, Belém, Parque Olivândia I e II, Menino Deus, Dr. Seixas, Pirambu, Cristo Redentor and Barra do Ceará.

- What is the level of compensation offered? Would it allow the families to buy new housing units on the market?

Aldaci Barbosa and Lauro Vieira Chaves communities

- Can your Excellency's Government confirm the decision not to evict these communities?
- Has this alternative (of using empty plots as an alternative to evictions) considered in any of the other aforementioned eviction cases?

Porto Alegre

Avenida Tronco road expansion project

- What is the level of compensation offered to the affected persons? Is it adequate for that housing market?
- What is the location of the proposed resettlement area and what is its distance to the originally inhabited area? What is the urban, economic and social infrastructure in the resettlement area? What is the timeframe envisaged for this relocation?
- Have the alternatives for relocation proposed by the affected persons been considered by the authorities?

Curitiba

Expansion of the airport Alfonso Pena project

- How many families are to be evicted in connection with this project?
- What alternatives will be offered to the affected persons (compensation, resettlement, social rent)?
- In case of resettlement – what are the resettlement options? What is the distance between the resettlement site and the originally inhabited area? What is the urban, economic and social infrastructure of the resettlement area?

The project of Corredor Metropolitano

- How many families have been evicted and how many are to be evicted in connection with this project?
- What alternatives will be offered to the affected persons (compensation, resettlement, social rent)?
- What is the level of compensation offered to the evicted persons? How many persons have already received compensation?
- In case of resettlement – what are the resettlement options? What is the distance between the resettlement site and the originally inhabited area? What is the urban, economic and social infrastructure of the resettlement area?
- How many affected persons are receiving subsidized rent? What is the level of the subsidy and is it adequate, given the rental market in the region?

I would appreciate a response within sixty days. I undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports I will submit to the Human Rights Council for its consideration.

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

Raquel Rolnik

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