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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)
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26 February 2013

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.

In this connection, I would like to bring to your Excellency's Government's attention information I have received concerning the **alleged demolitions of 30 houses in the Oke-Ilu-Eri area of Badia East in Lagos and imminent threat of further demolitions and evictions in the same area.**

According to the information received:

On the morning of 23 February 2013 a demolition squad from the Lagos State Government began demolishing houses in the Oke-Ilu-Eri area of Badia East in Lagos. As many as 30 houses are reported to have been demolished as of 10:00 a.m. and thousands more residents are to be further evicted and their houses demolished.

According to information received no appropriate prior notice of the evictions and demolitions was provided to the residents. Reportedly, on 20 February 2013, a group of Lagos State Government officials, including the Commissioner of Agriculture, senior officials of the Ministry of Housing and others, along with an armed police escort, visited Badia East. During this visit residents were informed of a plan to demolish the Oke-Ilu-Eri area, reportedly for the purpose of a project to be undertaken by the Ministry of Housing. However, no additional information was provided to the residents.

I also received information that Badia is one of the communities to be included in the World Bank-funded Lagos Metropolitan Development and Governance Project (LMDGP). However, reports received indicate that the Lagos State Government has refused to honor the Resettlement Policy Framework that is part of its agreement with the World Bank.

While I do not wish to prejudge the accuracy of these allegations, I would like to remind your Excellency's Government of the applicable international human rights norms and standards relevant to this case.

Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which Nigeria is a party, states 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". Article 25 of the Universal Declaration of Human Rights (UDHR) also recognizes the right of everyone "to a standard of living adequate for the health and well-being of himself and of his family", including food, clothing, housing and medical care and necessary social services".

The Committee on Economic, Social and Cultural Rights commenting on the right to adequate housing in its General Comment No. 4, stressed that the right to 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. With "due priority to those social groups living in unfavourable conditions," the right to housing includes guaranteeing: (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.

As stated in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross violations of a wide range of internationally recognized human rights and mass evictions may only be carried out under exceptional circumstances and in full accordance with international human rights law. In its General Comment No. 7 on forced eviction, the Committee on Economic, Social and Cultural Rights elaborated upon the procedural protection required under human rights law as follows:

"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.”

Furthermore, I wish to invite the attention of your Excellency’s Government to the Basic principles and guidelines on development-based evictions and displacement (annexed to Human Rights Council document A/HRC/4/18) that aim at assisting States in developing policies and legislations to prevent forced evictions at the domestic level. Your Excellency’s Government may find useful in the current circumstances the sections of the guidelines that focus on State obligations prior to, during and after evictions.

As part of my mandate entrusted to me by the Human Rights Council, I am expected to seek to clarify all cases brought to my attention, and to report on these cases to the Human Rights Council. Therefore 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 case accurate?
2. Please indicate the reason and the legal basis for the evictions and demolitions.
3. How many people have already been evicted? How many additional homes are planned to be demolished and how many more residents stand to be evicted?
4. Are the demolitions in connection with the Lagos Metropolitan Development and Governance Project funded by the World Bank? If so, please provide detailed information with regard to the implementation of the Resettlement Policy Framework that was part of the project agreement with the World Bank.
5. Did appropriate consultations take place with the persons affected by the demolitions and evictions? If yes, please give specific details, dates and the outcome of said consultations, and the reasons why they were stopped, if relevant.
6. Was a formal eviction notice issued to the residents? If not, why not?

7. Were the affected persons offered compensation for the loss of their houses, belongings and livelihood? Please provide details of the compensation offered. If not, please state the reasons for this decision.
8. What has been foreseen in terms of relocation? If sites have been designated for relocation, please provide details of the exact location, including details about the area and quality of land, access to public services and livelihood sources.
9. What measures have been put into place to ensure that the evicted persons do not become homeless?

I would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the right to an adequate standard of living, and on the right to non-discrimination is respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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