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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

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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 15/8.

I would like to refer to the communication sent to your Excellency's Government on 25 July 2012, concerning the forced eviction of residents of the Abonnema Wharf Community in Port Harcourt, Nigeria. That communication, together with the present one, seems to indicate a concerning trend of forced eviction in waterfront settlements in your country.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding the **alleged eviction and demolition of the Makoko Community, in Lagos, Nigeria.**

According to the information received:

On 16 July 2012, the Lagos state government commenced the demolition of the Makoko Waterfront following an open 72 hour quit notice, dated 12 July 2012, issued to some residents by the Ministry of Waterfront Infrastructure Development. Between 16 and 21 July the Lagos State demolition squad, backed by heavily armed policemen, destroyed the homes and properties of Makoko residents.

On 21 July 2012, the demolition allegedly took a more violent dimension. Mr. Timothy Azinkpono, a resident of Makoko was allegedly shot dead by the police.

In the eviction notice, the Lagos state government reportedly argued that the residents were developing shanties on the waterfront and impeding economic and gainful utilization of the waterfront for navigation, entertainment and recreation.

The notice also declared that “the Lagos State Government is desirous of restoring the amenity and value of the waterfront, protect life and property, promote legitimate economic activities on the waterfront, restore security, improve water transportation and beautify the Lagos waterfront/coastline to underline the mega city status of the Lagos State and has decided to clear all illegal and unauthorized developments on its waterfront and water bodies.”

So far, over 30,000 residents, including women, children, and the elderly have allegedly lost their homes. Over 120,000 residents of Makoko face imminent displacement. The evictees are further endangered as many of them are now forced to live and sleep in their canoes. It has also been reported that three children of a family drowned when their canoe capsized as they slept during the night of 18 July 2012.

Mr. Adesegun Oniru, Commissioner for Waterfront Infrastructure Development, allegedly informed housing activists and human rights defenders that there was no plan to put an end to these evictions, and that no plans for resettlement and/or compensation were being considered, on the ground that the residents of Makoko were not indigenous of Lagos state.

The information received alleges that Makoko is well documented and globally recognized as an ancestral fishing settlement that has flourished since the 1860s. It is comprised predominantly of Yorubas, Eguns, Ilajes and Ijaws. The lifestyles, occupation, cultures and identity of the majority of the residents are intricately connected to access and to use of open water for fishing and transportation of wood from the hinterland to Lagos. The people of Makoko have coexisted peacefully despite the community’s ethnic and religious diversity. The community has highly developed structures of organization that reportedly ensure the security and overall cohesiveness of the community. Its domestic economy is allegedly equally vibrant. Over 40% of all smoked fish consumed in Lagos is processed in the community. The tourism potential of Makoko is immense and could allegedly be harnessed through thoughtful and participatory planning.

Reportedly the eviction and demolition of the Makoko community has been suspended. However there are concerns that it may resume at any point in time.

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 (ICESCR), 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 housing, and to the continuous improvement of living conditions”.

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."

In view of this, I wish to recall the existence of the Basic principles and guidelines on development-based evictions and displacement (contained in 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.

It is my responsibility, according to the mandate entrusted to me by the Human Rights Council, to clarify all allegations brought to my attention. I would therefore

greatly appreciate detailed information from your Excellency's Government concerning the above situations and about the measures taken by the competent authorities. I would in particular appreciate to receive information on the following points:

1. Are the facts alleged in the summary of the case accurate?
2. Please indicate the reason and the legal basis for the evictions.
3. Did appropriate consultations take place with the persons affected by the eviction? If yes, please give specific details, dates and the outcome of said consultations.
4. Was a formal eviction notice actually issued to the residents? If not, why not?
5. What measures have been foreseen to address the alleged excessive use of force by law enforcement officials during the demolition? Have measures been taken for the investigation of the reported death of residents of the settlement?
6. Were the affected persons (including landlords and tenants) offered compensation for the loss of their homes, belongings and livelihood? If not, please state the reasons for this decision.
7. 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.
8. What measures have been foreseen to end the demolition of the Makoko community? Are there any plans for in-situ upgrading of habitat in the area?
9. What measures have been foreseen to ensure that future demolition of waterfront settlements take place with full respect for procedural guarantees and the rights of affected residents, including that consultations with affected residents take place and measures considered prior to conducting evictions to ensure that evictees are not rendered homeless?

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the persons affected by the demolition and eviction are 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 be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Given the seriousness of the allegations received, and my raising concerns about the forced and violent eviction and demolition of several thousands of people in the country, I wish to inform you that I reserve the right to issue a statement on the situations mentioned above, which will be shared in advance with you before dissemination to the media.

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