

Mandates 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 and the Special Rapporteur on the human right to safe drinking water and sanitation

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Excellency,

We have the honour to address you in our 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 and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolutions 25/17 and 24/18 respectively.

Further to a joint urgent appeal dated on 24 June 2014 and your Excellency's Government's response to it dated 17 October 2014 as well as joint press releases dated 25 June and 20 October 2014, we wish to bring to the attention of your Excellency's Government information we received regarding the **continuing water disconnections and planned house foreclosures and related evictions during the winter months in the City of Detroit in Michigan.**

According to information we have received:

The Director of the Detroit Water and Sewer Department (DWSD) reported in November 2014 that the utility had shut off over 31,000 accounts since February 2014, with only 17,923 of these accounts restored to service. The utility has provided 608 applicants with financial assistance with water bills and enrolled 740 in a "water assistance" programme. While these efforts are commendable, there remain a significant number of residents who continue to have no water service and who are at risk of water shut off during the winter months.

Reportedly, in November, DWSD confirmed that the utility would continue the shut offs into the winter months and that they were unable to provide information on the accounts that remain shut off. The majority of these accounts are deemed residential, hence home to children and seniors, persons with disabilities, persons suffering from chronic illness, and others whose health may be at serious risk

from lack of access to drinking water and sanitation. The utility indicated that they do not evaluate the household before shutting off to determine the vulnerability of the residents.

In some cases the heating system can be isolated for a time from the water service line and continue functioning without direct water service; however prolonged shut off service often puts at risk the plumbing to the residence. There are older systems where the hot water system is related directly to the heating system; a water shut off would disrupt the heating system rendering the household not only without water but also without heat. The utility has not indicated if it will take steps to protect particularly vulnerable residents where the households heating system is connected to the water service such as the older steam or water radiators.

Furthermore, reportedly some 27,000 persons in Detroit are reportedly at risk of eviction as of December 2014. According to the information received, over 100,000 properties were subject to foreclosure in 2014, and civil society organizations estimate that approximately 37% of the foreclosure tax lien proceedings are due to unpaid water bills. If households had not paid their water bill by a set date, their delinquent balance was forwarded to Treasury Department for collection. Any 'delinquent account' remaining unpaid after a deadline date was added onto the property tax bill. If households did not pay the property tax bill, then Wayne County Treasury began foreclosure proceedings against the property. Reportedly an estimative of 37,000 homes that have received foreclosure notices for 2015 were occupied.

According to information received, the Detroit Metro area has over 34,000 homeless people, including over 5,500 children in families and approximately 200 unaccompanied minors. This area has the highest homeless population in the state of Michigan. The Michigan State housing agencies and the U.S. Department of Housing and Urban Development (HUD) publicly stated in October that while decreasing nationally, the number of persons homeless in the state rose by 6% showing one of the highest increases in one year in the country.

Recently, Detroit Mayor Mr. Duggan announced passage of state legislation that would assist 20,000 Detroit homeowners to restructure their tax bill over the next five years, provide debt relief, and debt forgiveness. At the same time, the Mayor also announced that the city received \$50 million in federal funding to demolish homes in targeted areas to reduce blight. The Mayor's statement indicated that the city had already received \$57 million in federal funding this year from the "hardest hit" funds to ameliorate the impact of the 2008 housing crisis. These funds were also spent to demolish homes according to the statement. At the same time, Mayor Duggan announced a "new tool" to fill the vacant homes in Detroit, entitled "Neighbors Wanted", designed to sell City properties foreclosed from their owners. Reportedly there are also redevelopment plans which will allegedly

dispossess African American residents from their property and homes and impact them disproportionately.

The city of Detroit has a population of approximately 690,000 of which 82.7% are African American. Over 40% of population lives below the U.S. federal poverty standard and 99 percent of the poor are African American.

These concerns over continued water shut offs and related evictions are of an urgent nature since Detroit is located in the northern latitudes where the U.S. National Weather Service predicts that severe weather related to the polar vortex will bring sustained cold temperatures during the winter of 2014-2015.

We wish to express our grave concern regarding the continuation of water shut offs and foreclosures without any consideration for the human rights of those affected and those at risk, especially during winter. In light of the fact that Detroit already has the highest rates of homelessness in Michigan, increasing in the last year, we are also deeply concerned that as a result of large-scale foreclosures (largely due to water bill arrears) and evictions, Detroit will see even greater levels of homelessness this winter, without concomitant provision of emergency shelters or longer-term housing solutions. This grave situation continues to disproportionately impact African-American individuals.

The human right to safe drinking water and sanitation derives from the right to an adequate standard of living which is protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which the United States Government signed on 5 October 1977. While it has not ratified the Covenant, upon signing ICESCR, the United States Government agreed to bind itself in good faith to ensure that nothing is done that would defeat the object and purpose of the international instrument, pending a decision on ratification.

We remind your Excellency's Government of article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, which the United States ratified in 1994. It provides that States Parties undertake "to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law", notably in the enjoyment of "the right to housing". We also recall article 11.1 of ICESCR on adequate housing as a component of the right to an adequate standard of living to be read in conjunction with article 2.2 of ICESCR which provides for the exercise of any right under the Covenant without discrimination of any kind. We also recall general comment No.7 of the Committee on Economic, Social and Cultural Rights, on forced evictions which notes that evictions should not be carried out in particular in bad weather and without ensuring alternative accommodation or shelter.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org/ and can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Council, we would be grateful for your cooperation and your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.

2. Could you please tell us how many actual residences remain without water service during winter and how many will likely have their water shut off this winter?

3. Please indicate how the City of Detroit intends to determine which households scheduled for water shutoffs or foreclosure house vulnerable residents?

4. What steps have been or will be taken to ensure emergency water and heating services and to ensure sanitation and personal and domestic hygiene during winter for those who are affected by water shut offs? What steps are being taken by local and federal authorities to ensure lives are not put at risk during severe weather due to water shut offs?

5. Could you please tell us what steps are being taken to ensure there is no discriminatory impact of federally funded current housing foreclosure and sale projects to individuals and households, in particular to African-Americans and people living in poverty?

6. When will the state legislated assistance programs on...take effect? How will persons receiving foreclosure and eviction notices be informed of assistance programs available to them? How will the local authorities meet the demand for assistance programs of thousands of persons impacted by the foreclosure and eviction notices?

7. How many persons are expected to be evicted during winter in Detroit despite the assistance programs planned by the City? How many shelters beds are available and are these emergency accommodations suitable for families, and those with disabilities or illnesses? What steps will be taken to ensure that evicted persons are given immediate and adequate shelter during severe weather and what is the longer-term plan to house these residents?

8. We would be very grateful if the Government could inform us about any measures undertaken by the authorities since the previous communication on the water shut offs in Detroit sent by the special procedures.

While awaiting a reply, we urge that all necessary interim measures be taken to halt any further water shut offs of foreclosures that will lead to evictions of individuals or families in alleged violation of human rights standards 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 for the alleged violations.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we 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 our highest consideration.

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