

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 **alleged forced eviction of a large number of persons and communities residing in various neighbourhoods in the city of Colombo (including Java Lane, Mews Street on Slave Island and Castle Street in Borella)**.

According to information received:

In early 2010, the Urban Development Authority, under the purview of the Ministry of Defense, decided to implement a large Urban Regeneration Project in the city of Colombo. The alleged aim of the project was to ensure the removal of "shanty dwellers" by 2020. An estimated number of inhabitants' to be relocated ranged from 70,000 to 135,000 families over the next few years. According to a 2001 survey of a total of 77,612 families living in 1,614 low-income settlements in Colombo, more than half lacked security of tenure.

As a result of the Urban Regeneration Project the affected communities have not been provided with systematic information regarding their relocation nor have they been consulted about the location and other characteristics of the resettlement sites. These affected communities have been denied adequate and timely compensation for loss of land, housing structures, assets or businesses.

It is reported that the affected families are largely Muslim and Tamil minorities and some families belong to the Sinhalese ethnic group. Allegedly, a few months

after the approval of this project, in May 2010, the first evictions already took place on Mews Street in Colombo's Slave Island. 20 homes occupied by 33 families were reportedly demolished by bulldozers accompanied by armed soldiers, resulting in the destruction of many of their personal belongings. Residents were not given alternative accommodation at the time, nor were they consulted or received appropriate notice (only a three-day notice was issued to vacate their homes). No-one received adequate compensation for their losses as a result of the demolitions.

Furthermore, several of the residents had deeds to the land which were disregarded, and authorities alleged that they were illegal occupants to state land. While temporary accommodation was not made available, for a period of time the Urban Development Authority provided a small rental allowance for alternative accommodation. Soon after the forced eviction, permanent relocation in another location under construction (in Dematagoda) was verbally promised to the evictees, to be ready in 2011. As of April 2014, almost four years after the eviction, such promise has yet to be honored, and no permanent housing in equal or better conditions had been offered to them.

A second case brought to my attention involves residents from another neighborhood, known as of the country's oldest Malay Muslim settlement in Java Lane. Given the experience of previous eviction of Mews Street residents, Java Lane residents petitioned the Supreme Court against acquisition of their land and involuntary resettlement, fearing that they will be faced with an uncertain housing situation. In October 2013, the Court ordered the residents to hand-over possession of their lands, and the housing or small business units they have developed in this neighborhood to the Urban Development Authority. They were promised a lump sum rental allowance for two years and subsequently an apartment in new buildings or monetary compensation instead. However, these offers were not made in writing and lacked the necessary details as to size, terms of ownership or other specifications. Residents expressed concerns that they will receive neither similar nor better housing standards than their existing housing arrangements in Java Lane.

More recently, between 22 and 24 November 2013, dozens of families living in Castle Street, Borella, were reportedly moved to a new relocation site, following the demolition of housing units. Having lived on this land for decades, despite lack of ownership titles, these families had invested significantly in their homes and some ran micro-enterprises such as grocery stores which were also their source of income and livelihood. Since some units housed more than one family, or extended families, one of the requests made by the community was to be resettled together, in the same building. However, they were scattered and in some cases relatives were denied adjacent units.

It is reported that during these events, the military service played a central role, including in the identification of relocation sites, discussions about alternative use

for land, the construction and landscaping of new residential units, or the allocation of specific units to families. It is alleged that their role has been closer to that of a local authority or a municipality. It has also been noted that some national legislation such as the National Policy on Involuntary resettlement or the – still in draft form – National Housing Policy have not been consistently applied.

I am concerned that the aforementioned case represents the establishment of a regeneration programme without concomitant implementation of international human rights standards and principles with regard to the right to adequate housing. Involuntary relocation has been carried out without some essential human rights elements, including lack of participation and adequate consultation; lack of adequate provision of equal or better quality housing, in a good location, ensuring that communities can remain together and continue to carry out their activities and access their livelihoods, schools and health care centers. Concern is also expressed that the Urban Regeneration Project appears to place more emphasis in turning the city into a touristic attraction rather than ensuring that the local residents of Colombo have access to their right to adequate housing and more broadly to an adequate standard of living. Furthermore, concern is expressed that the Urban Regeneration Project disproportionately impacts Muslim and Tamil minorities and some families belong to the Sinhalese ethnic group.

In connection with above alleged facts and concerns, please refer to the **Reference to international law Annex** outlining the applicable international human rights instruments and standards.

Since it is my responsibility under the mandate provided 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 comment you may have on the above-mentioned allegations.
2. 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.
3. 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? In particular, please provide information on the enforcement of the Supreme Court decision of September 2013.
4. Please explain the status of the draft National Housing Policy, and the steps to be taken to adopt it, including a timeline. In particular, please explain whether the draft Policy includes protection mechanisms for the right to adequate housing in relation to the Urban Regeneration Project in Colombo and other projects of similar nature in the rest of the country. Additionally, please highlight

how the draft Policy incorporates and adheres to principles of international human rights law. Please provide the text of the draft Policy.

5. Please provide details on the following institutions and their role in relation to the Urban Regeneration Project:

- a. Please explain the role of the National Human Rights Commission 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 Colombo Municipal Council in implementing the Urban Regeneration Project and its cooperation with Urban Development Authority at large.
- c. Please explain the role of the Ministry of Defense and military forces in relation to the design and implementation of the Urban Regeneration Project, including in relation to evictions and resettlement.
- d. Please explain the mechanisms used by multilateral development agencies in ensuring that the Urban Regeneration Project takes into account and guarantees compliance with binding international human rights standards.

I would appreciate 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.

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 Sri Lanka is a party since 11 June 1980, 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 on forced evictions, 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 19 November 2010 urging Sri Lanka "to ensure that persons who are forcibly evicted are provided with adequate compensation or alternative accommodation in accordance with a legal framework that complies with the guidelines adopted by the Committee in its general comment No. 7 on forced evictions" (para. 11).

I wish to recall the relevance of article 2 of the aforementioned Covenant, on the obligation of States. In this regard, I 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.

I wish to also call your attention to the work of my predecessors Ms Raquel Rolnik, Guiding Principles on the security of tenure for the urban poor (A/HRC/25/54); and Miloon Kothari, the Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18) which outlines States' obligation to protect against forced evictions, along with specific obligation before, during and after development-based evictions. The development-based evictions include evictions planned or conducted under the pretext of serving the "public good", such as those linked to development and infrastructure projects including land-acquisition measures associated with urban renewal, slum upgrade housing renovation, city beautification, or other land-

use programmes. In addition, I wish to emphasize paragraph 52 which calls for competent authorities to ensure that members of the same extended family or community are not separated as a result of evictions and further, paragraph 48 affirming that any legal use of force should respect principles of necessity and proportionality.