

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 situation of human rights defenders

REFERENCE:
UA EGY 16/2018

2 November 2018

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 situation of human rights defenders, pursuant to Human Rights Council resolutions 34/9, and 34/5.

We are writing to your Excellency's Government in response to your letter dated 22 October 2018 asking to provide further information in respect to concerns the Special Rapporteur on the right to adequate housing raised earlier by e-mail. We are concerned about alleged forced evictions, violations of the rights to physical integrity, liberty and security reported to us, in what appears to be acts of intimidation and reprisals against individuals who cooperated with the Special Rapporteur on the right to adequate housing during her recent visit to Egypt from 24 September to 3 October 2018. The alleged violations would also be in breach of the Terms of Reference for country visits by Special Procedures mandate holders of the United Nations Human Rights Council¹. We are disturbed that these acts took place.

The Terms of Reference for country visits by Special Procedure mandate holders, specify that during country visits, mandate holders of the United Nations Human Rights Council, as well as United Nations staff accompanying them, should be given the following guarantees and facilities by the Government that invited them to visit its country:

- (a) Freedom of movement in any part of the country, including facilitation of transport, particularly to restricted areas;
- (b) Freedom of inquiry, in particular as regards:
 - (...)
 - (ii) Private contacts with representatives of civil society, including non-governmental organizations, other private institutions and the media;

¹ E/CN.4/1998/45, Appendix V, revised by the 2016 Annual Meeting of Special Procedures, available at: <https://www.ohchr.org/Documents/HRBodies/SP/ToRs2016.pdf>

(iii) Confidential and unsupervised contact with witnesses and other private persons, including persons deprived of their liberty, considered necessary to fulfil the mandate of the mandate holder;

(iv) Access to all prisons, detention centres and places of interrogation as considered necessary by the mandate holder to fulfil his or her mandate;
and
(...)

- (c) Assurance by the Government that no person or group of persons, whether acting in their official or individual capacities, who cooperate, seek to cooperate, or have cooperated with the mandate holder in relation to the mandate, will for this reason suffer intimidation, threats, harassment or punishment, be subjected to judicial proceedings or to any other kind of reprisals by any means whatsoever; assurance that any measures that could deter such cooperation or be perceived as such, will be avoided. These assurances should apply before, during and after the conduct of country visits.

The Government of Egypt has repeatedly given its full assurances that no one would face any intimidation, threats, harassment or punishment, or be subjected to judicial proceedings or to any other kind of reprisals before, during and after the visit. Such assurances were given to her as Special Rapporteur on the right to adequate housing before, during the first day of the visit and at its end.

There were a number of unfortunate infractions of the Terms of Reference during the visit, which were already raised in conversations with the Ministry of Foreign Affairs during the visit, but which the Special Rapporteur decided not to make public, as she wanted to concentrate the end of mission statement on major right to housing issues the country is facing. The following infractions occurred:

On the first day of the visit, a visit was planned to a community threatened with development-based home demolitions. Upon approaching the site, the delegation was stopped by local police and prevented from walking freely in the area. The delegation was escorted into a small shop for security identification. After lengthy discussions with a police officer, the Special Rapporteur was told that she could stay in the community for a few minutes and take two or three pictures only. He indicated that this offer was just confidential, not to be spoken of with anyone.

Once released the Special Rapporteur went to an apartment to interview residents at risk of eviction. The interviews with these witnesses were interrupted by a police officer, who went to the door of the apartment and asked that all members of the delegation produce identification cards. The Special Rapporteur protested against this, but the delegation and the witnesses were not allowed to leave the building without having their identification cards photographed.

Upon leaving the apartment, the Special Rapporteur was confronted by an agent of the National Security Services and only allowed to leave the area and continue interviews with community members after contacting an officer of the Minister of Interior. By this time it was quite late at night. The Special Rapporteur protested about this to the Ministry of Foreign Affairs.

From that point on, to avoid such encounters, the Special Rapporteur had to acquiesce to being accompanied throughout the remaining visit by a security detail of approximately five officers – all of whom were armed. As a result, it was challenging to conduct the mission according to the methodologies of Special Procedures and as the Terms of Reference stipulate, as the Special Rapporteur could not have confidential and unsupervised meetings with witnesses in their homes. Though the security officers did not enter the homes visited, they were present outside – a fact the Special Rapporteur had to tell witnesses. This had a chilling effect on other witnesses who feared reprisal. And of course, because of the accompaniment of a security detail at all times, she was unable to provide the usual assurances of confidentiality and anonymity.

We also regret that she was not able to visit all of the areas deemed relevant to the mission. For example, despite providing the Government with timely notice, she was not able to visit Warraq Island, located in the middle of the Nile close to Cairo. She was told originally that she could not go there for security reasons. Then, she was told it would take two full days to arrange a security detail to accompany the delegation. After waiting more than two days, she was informed that she could indeed visit, but the only possible time was precisely when she was meant to meet with Minister of Foreign Affairs. In addition, the request to meet with persons from the island, who had been detained by authorities after public demonstrations against housing demolitions, was not granted. All of this is suggestive that the Special Rapporteur on the right to adequate housing did not fully enjoy “freedom of movement in any part of the country”, nor could she meet all relevant stakeholders in Egypt “in private and unsupervised contact” as outlined in the Terms of Reference for country visits by Special Procedure mandate holders.

Concerning acts of intimidation and reprisals against those who cooperated or sought to cooperate with the mandate in connection to the visit, several interlocutors contacted decided not to meet the Special Rapporteur. This is due to a culture of fear that persists among those who are affected by development based evictions or relocation, and among lawyers and human rights defenders working on the right to housing.

A number of persons who agreed to meet the Special Rapporteur, said *inter alia* that prior to the visit they had received phone calls by government officials enquiring whether they intended to meet the Special Rapporteur. Others whom she met received anonymous threats during or after the visit, warning them “not to go too

far or cause more trouble”. A local expert on the right to housing was summoned to report to the General Attorney’s Office a few days before the visit to be charged for alleged infractions against law 84 /2002, which was subsequently revised by law 70/2017 for Regulating the Work of Associations and other Institutions Working in the Field of Civil Work, a controversial law which itself is not in conformity with international human rights standards as it is widely used to criminalize lawful activities of human rights defenders and civil society organizations in Egypt.²

After the visit, interlocutors reported that they were followed by unknown persons in a car who also photographed their place of residence. Some interlocutors were contacted by the police with respect to issues relating to the visit or have been subjected to a travel ban. One witness was attacked by an individual with a metallic object in the street two days after meeting the Special Rapporteur. The witness sustained injuries to his head and chest. The timing of the attack raises the suspicion that the assault may have linked to the interaction with the Special Rapporteur on the right to adequate housing.

All of the individuals who reported these acts of intimidation and reprisals asked to keep their identities confidential as they fear further retaliation if their identity is disclosed to the Egyptian authorities. As we received several allegations of intimidation and reprisal after the visit from different sources, we can only conclude that there appears to be a pattern of acts of intimidation and reprisals against persons who interacted with the Special Rapporteur on the right to adequate housing in her capacity as an expert of the United Nations appointed by the Human Rights Council.

We are also seriously concerned about severe violations of human rights and reprisals affecting several members of communities visited. Of particular concern are the forced evictions that took place in two areas visited. In total, it has been reported that as many as 15 multi-floor houses were demolished after the visit, including the homes of community leaders the Special Rapporteur met. In one community, police forces allegedly entered homes, used excessive force against residents not vacating voluntarily their homes and throughout their furniture on the street before destruction of their homes. As a consequence, several families were rendered homeless without any provision of alternative accommodation or compensation by the Government.

In fact, at the time of writing, we are learning of forced evictions and house demolitions at a second site, where demolitions are carried out in lower floors of a house, while individuals living in upper floors have not yet vacated the house putting their lives in immediate danger. In this case, it is reported again that no alternative

² See statement of the United Nations High Commissioner for Human Rights “Repressive new NGO law deeply damaging for human rights in Egypt” from 1 June 2017 and earlier statements of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the right to human rights defenders, from 11 October 2016 and 23 November 2016.

accommodation has been provided to the concerned individuals, and that they are effectively rendered homeless.

We also have learned that community members have been called to police stations to sign agreements to vacate their homes after the visit. One resident was held in undisclosed detention for two days and only released after signing in detention an agreement to have the house belonging to his extended family demolished. The agreement did not include any provisions related to relocation, alternative housing or compensation for the loss of the homes and property. Community members protesting his detention in front of a police station were told by local police that “this should be a lesson not to feel empowered by foreigners”.

These reported incidents are not only violations of the right to adequate housing, the rights to liberty, security, and to physical integrity; they are also serious breaches of the assurances the Special Rapporteur on the right to adequate housing was given by the Arab Republic of Egypt at the beginning and end of the official visit that nobody would face intimidation or reprisal for meeting her or for providing information to her or her mandate.

We therefore call on the Egyptian authorities to immediately stop any forced evictions that are contrary to international human rights law, including the targeted demolition of homes belonging to residents the Special Rapporteur on the right to adequate housing met, and the practise of extortionist relocation agreements in detention or at police stations.

Furthermore, any act of reprisals, including prosecution, against those who cooperated with the Special Rapporteur in the context of this visit - be it civil society representatives, activists or residents - must immediately stop. Relevant authorities should ensure accountability for such acts and provide effective remedy to those affected.

The above mentioned acts may indicate a pattern of reprisals against those seeking to cooperate with Special Procedures as there have been at least two other cases of apparent reprisals against individuals for their cooperation with Special Procedures mandate holders. These cases have recently been raised by the Special Rapporteur on the situation of human rights defenders and the Working Group on Enforced or Involuntary Disappearances in communications EGY 9/2017, EGY 14/2017 and EGY 4/2018.

In this context, we would like to recall Human Rights Council resolutions 12/2, 13/3, 24/24 and 36/21, which reaffirm the right of everyone, individually or in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In these resolutions, the Human Rights Council calls on States to prevent and refrain from all acts of intimidation or reprisals, to take all appropriate

measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies as well as the issuance of appropriate guidance to national authorities in order to effectively protect those who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights from any act of intimidation or reprisal.

In light of the allegations of reprisals for cooperation with the United Nations on human rights, we reserve the right to share this communication – and any response received from the Government of Egypt - with other United Nations bodies or representatives addressing intimidation and reprisals for cooperation with the United Nations in the field of human rights, in particular the senior United Nations official appointed by the Secretary-General to lead the efforts within the United Nations system to address intimidation and reprisals against those cooperating with the UN on human rights.

As 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, we would be grateful for your observations on the allegations and concerns raised in this letter.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We are considering publicly expressing our concerns. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

It is our view that it will only be possible to restore the trust of independent human rights mechanisms of the United Nations, if assurances provided by the Government of Egypt to the United Nations are upheld on the ground.

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

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