

Mandates of the the Special Rapporteur in the field of cultural rights; and 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,

We have the honour to address you in our capacity as Special Rapporteur in the field of cultural rights; and 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 resolutions 37/12 and 34/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **urban regeneration projects that will result in the destruction of historic neighbourhoods in Samarkand, and ongoing demolitions of houses in Tashkent, Yangiyul town, and other cities in violation of the right to adequate housing and of the cultural rights of the residents.**

According to the information received:

Demolition in Samarkand:

On 1 November 2018, the city hokim (mayor) adopted a decision for the demolition of an estimated number of 500 private houses in which about 6,000 inhabitants reside in different areas of Samarkand. This decision was taken without any consultation with affected residents and seems to reflect the ambition to modernise the entire city. The project foresees replacing the existing houses with several multi-story hostels and residential buildings.

The 500 houses affected by the urban renewal project are mostly situated in the UNESCO buffer zone, and are sometimes, as in the case of the neighbourhood of Khodja Akhrar, close to protected monuments. Because of their central location and their proximity to historic sites, the neighbourhood appears to afford lucrative possibilities for development. Information provided indicates that houses located in the protected zone itself are also likely to be affected by demolition projects, possibly affecting several additional hundreds of residents.

Many residents of Khodja Akhrar seem to have no interest in selling or leaving their properties, while the Government and municipal authorities seem to have a high interest in taking over their valuable lands.

On 16 November, the residents of one of areas where demolitions are planned, the neighbourhood of Khodja Akhrar, were informed that they had only three days to clear out and leave their houses. The authorities did not provide any housing alternatives, and asked the affected residents to seek shelter with relatives or friends.

On 20 November, the local government authorities arrived with heavy equipment. In order to protect their houses, a small group of residents gathered and refused to disperse. They were surrounded by many police officers. Ultimately, the local government authorities decided to leave without demolishing the houses.

On 22 November, a group of residents went to the Asian Human Rights Forum in Samarkand but were prevented from entering the premises. Some of the residents were taken to a police station and released after being promised that the demolition would not be carried out during winter. They were afterwards informed that the demolition would take place in May 2019.

Reportedly no compensation was offered for the expropriation of the lands and homes to residents, nor any housing alternatives. If the planned demolition is carried out, many residents would risk becoming homeless.

After demolition was postponed to May 2019, many residents submitted complaints to the city mayor, the prosecutor office and the courts, without any result.

Because of its architecture and townscape, considered as a symbol of Central Asian cultural and political history, the city of Samarkand is inscribed on the UNESCO World Heritage List since 2001 and comprises five protected monuments: the archeological area of Afrosiab, the Medieval Timurid, the Ulugh-Beg observatory, the Abdi-Darun ensemble, the Ishrat-Khana Mausoleum and the Namazogh Mosque.

Due to this inscription, each project in the protected area must be managed in a way that the visual integrity of the historic town and morphology of the world heritage property are protected. Planned demolitions are set to occur in both UNESCO protected zone and the buffer zone, as the neighborhood of Khodja Akhrar, which is immediately next to the Ulugh Beg observatory. These protected sites are directly threatened by the demolition and construction project. In addition, the protected sites could be endangered due to increased traffic flows, pollution and vibration resulting .

This demolition and construction project is not only a threat for the cultural heritage sites but also for the cultural rights of local residents and their

relationships with these sites. The central areas of Samarkand represent a powerful part of their cultural identity. For example, many of the families and residents of the Khodja Akhrar neighborhood have been living in the area for several hundred years. Their family and local events take place in their neighborhood, and according to local traditions, family members are often buried on their properties.

According to the latest information, the homes in the affected areas have not yet been demolished, but the threat of forced eviction for the residents remains imminent.

Urban regeneration scheme in Tashkent:

Since 2018, the city of Tashkent has been subjected to an urban regeneration project launched by the mayor. In order to implement the project, many buildings and residential areas in the city center have already been demolished, evicting at least 10,000 people from their homes while a further 30 000 people are under threat of eviction if the project is fully implemented. The project also threatens cultural heritage sites. The House of the Train Driver, known as a valuable example of early Soviet architecture, was part of the building that faced demolition. The historic mahallas of the capital and their social functions have also been impacted by the regeneration project, as homes have been replaced by a new business center called Tashkent City.

The urban regeneration project faced opposition by local residents and cultural heritage activists. In February 2019, some of them gathered in the district administration offices, protesting against the property development scheme, which threatened the demolition of their homes.

Residents also organised fashion shows, festivals and outdoor markets to counter the scheduled demolition of the House of the Train Driver. Authorities finally abandoned the plan to demolish the house and the Ministry of Culture placed it on its list of protected architectural monuments.

According to our information, the urban regeneration was planned without any consultation with the residents. As houses are demolished without adequate advance warning, residents have insufficient time to discuss or challenge the demolition of their homes.

On 15 April 2019, a letter issued by the Ministry of Justice was published in the media, clarifying that so called "Guarantee letters" being currently issued by the Khokimiat of the city of Tashkent (the state city administration) do not have any

legal force and therefore cannot be construed as legitimate documents ensuring access to alternative housing for individuals and families evicted.

Unlike the inhabitants of Samarkand, some evicted residents have received compensation or temporary housing. It appears however that the compensation offered by the authorities is not adequate and much lower than the value of their houses, which were located in the city center where the prices are the highest. Furthermore, it has been reported to us that the new homes to be provided for the evicted residents are of inferior quality, and that the affected residents must stay for several months in faraway temporary emergency accommodation until new houses are completed or built.

Forced evictions in other cities and regions

The above mentioned forced evictions appear to be a general pattern, not limited to the cities of Samarkand and Tashkent only. For example in Yangiyul town, Tashkent oblast, two apartment buildings located on Samarkand street were demolished without residents receiving any compensation or alternative housing. Two further apartment buildings located in the same street are currently about to be demolished and tenants and residents in ten further apartment buildings have orally been informed that they would have to leave their apartments as soon as possible. Similar concerns have been reported to the Special Rapporteurs from Qashqadarya and numerous other forced evictions have been reported by locals on social media.

The typical pattern is that residents are approached by the head of the local municipality (Hokim) or municipal officers who only inform them orally about the forthcoming demolition of their buildings. The notice period is usually only one or two weeks and pressure is exerted on the tenants to leave their homes as soon as possible. Sometimes authorities promise to the affected residents that temporary alternative accommodation will be provided, but reportedly there is no written record on which tenants can rely, nor advance consultation with the residents about such urban regeneration projects that entail house demolitions, nor consultation about relocation options or compensation.

Frequently, according to reports, residents are threatened that if they do not leave their homes they will not receive any temporary or future long term alternative housing. Residents who question, disagree or resist passively or actively their evictions are intimidated and informed that any attempt to resist would be considered an act of disturbance of public order or as disobeying the orders of the President of Uzbekistan.

When compensation is provided, it appears to often reach the affected individuals belatedly or not at all. In early July 2019, the Ministry of Justice informed the public that the overall amount of state funds earmarked for payment of compensation to the persons affected by development-based evictions equaled 600 billion Uzbek Sum. By July 2019, the unpaid amount of compensation constituted approximately 300 billion Uzbek Sum. This is reportedly the total amount that is still owed to the persons affected by the development-based evictions in Tashkent city, and the following regions: Tashkent, Ferghana, Kashkadarinskay and Namangan.

Overall, there appears to be a lack of effective State control over private investors to ensure core human rights obligations related to development-based evictions. This includes involving the population in consultations on master plans of towns and cities prior to implementing these development plans, serving advance notice prior to any eviction and providing sufficient time to dispute compensation amounts or alternative housing offered and a the requirement to provide adequate alternative housing or payment of agreed compensation.

Compliance with national law and access to justice

The above-mentioned development-based evictions appear, furthermore, to often violate national laws, such as the Decree of the President YP-5495, from 1 August 2018; Regulations on the procedure for compensation of losses to citizens and legal entities in connection with the seizure of land plots for state and public needs (PCM No. 97, 29 May 2006) and Article 27 of the Housing Code of Uzbekistan that requires that residential premises are provided to citizens whose homes are subject to demolition in connection with the seizure of land for state or public needs.

In addition, according to the 15 August 2018 Presidential decree "On measures to implement the experiment to improve the investment climate in the city of Tashkent", each decision of the city of Tashkent mayor submitted to an investor should contain indications about how it complies with all necessary procedures and compensation required by resolution no. 97 of the Cabinet of Ministers of the Republic of Uzbekistan dated 29 May 2006. However, many residents appear to be evicted in this city in non-conformity with this decree.

The Ministry of Justice has informed the public that, according to procedures in force as of 1 September 2018, a decision on expropriation of property can only be adopted after open consultations with the owners and family members permanently residing in the concerned property and assessment of possible losses, and that any demolition of the expropriated property is allowed only after the owner has been paid the market price of the property and any possible losses

associated with the eviction. However, as mentioned above, there is a lack of public consultations prior to evictions, and often no, inadequate or delayed compensation is provided.

Many people threatened with evictions have submitted complaints on the Presidential portal or to the Presidential administration, but these complaints procedures have so far not resulted in the halting of ongoing housing demolitions, even when they are taking place in contravention of national law and international human rights standards.

In addition, as there is no well-functioning free legal aid system in the country, in particular for cases relating to economic, social and cultural rights, affected residents have very limited access to effective legal remedies.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concern that aspects of the urban regeneration projects planned and carried out in Samarkand, Tashkent, Yangiyul and other cities, which affect several thousand residents and tenants, may lead to widespread forced evictions under international human rights law, a gross violation of human rights. Some urban regeneration projects in these cities have reportedly been carried out without prior consultation with the affected residents and alternatives to avoid these home demolition and evictions have not been seriously considered. Furthermore, we express concerns about the reported lack of compensation and alternative housing offered in the city of Samarkand, and the inadequacy of compensations and temporary emergency accommodations in Tashkent, located far away from the residents' places of work, schools and daily life. Required notice periods before demolitions are carried out appear also to be grossly inadequate. Furthermore, available complaints mechanisms and legal remedies against the destructions and evictions appear to be ineffective, as residents' claims and legal challenges submitted to the authorities have reportedly not resulted in any decisions to date.

Furthermore, the scheduled demolition of several neighbourhoods in Samarkand and construction of high-rise multi-story houses would not only threaten UNESCO World Heritage sites, but also disrespect the cultural ties that residents have with their neighbourhoods, homes, lands and burial sites, preventing them from exercising their cultural rights, in particular their right to access and enjoy cultural heritage.

We would therefore like to call on your Excellency's Government to urgently take all necessary steps to secure the rights to adequate housing and the right to access and enjoy cultural heritage as set out in articles 25 and 27 of the Universal Declaration of Human Rights (UDHR).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to an adequate standard of living and housing as defined in article 11 of the International Covenant on Economic, Social and Cultural Rights, which Uzbekistan has ratified on 28 September 1995. 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. 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. Indeed, housing is not adequate if it does not respect and take into account the expression of cultural identity.

We would also like to refer to General Comment No. 7 of the Committee on Economic, Social and Cultural Rights on forced evictions, which stipulates that forced evictions are only permissible under international human rights law in exceptional circumstances and after all procedural protections have been met. This includes inter alia the exploration of all feasible alternatives to avoid evictions, genuine consultation with the affected residents and tenants, adequate and reasonable notice, adequate compensation for any loss of property, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights (paragraphs 13, 15 and 16). We would also like to draw your attention to the reports of the Special Rapporteur on the right to housing relating to the human rights obligations of local governments (A/HRC/28/62) as well as her report on the right to housing and access to justice (A/HRC/40/61). The first report highlights the need for local governments to be cognizant of their human rights obligations, including in respect to the right to housing. The second report stresses that individuals must have access to justice and have their right to housing claims adjudicated by relevant judicial or quasi-judicial bodies, including those claims related to forced evictions and demolitions.

We would also like to draw your attention to article 15 of the Covenant on Economic, Social and Cultural Rights, protecting the right of everyone to take part in cultural life. In its General Comment 21 on this right, the Committee on Economic, Social and Cultural Rights makes clear that the obligation to respect the right to take part in cultural life "...includes the adoption of specific measures aimed at achieving respect for the right of everyone, individually or in association with others or within a community or group... to have access to their own cultural and linguistic heritage and to that of others." (para.50). The obligations of all States to respect, promote and protect the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage, were reiterated in Human Rights Council resolutions 33/20 and 37/17, adopted unanimously.

We would also like to refer you to the reports of successive Special Rapporteurs in the field of cultural rights relating to the right to access and enjoy cultural heritage (A/HRC/17/38) and to the protection of cultural heritage (A/HRC/31/59 and A/71/317). These reports stressed the significance for the enjoyment of cultural rights and many other human rights of accessing and enjoying cultural heritage. They underscored that the right to participate in cultural life implies that people have access to and enjoy cultural heritage that is meaningful to them, and that their freedom to continuously (re)create cultural heritage and transmit it to future generations should be protected. As cultural heritage represents values linked with the cultural identity of individuals and groups, access to and enjoyment of cultural heritage also includes “contributing to the identification, interpretation and development of cultural heritage, as well as to the design and implementation of preservation/safeguard policies and programmes”. Both mandate holders recommended that States recognize and value the diversity of cultural heritages present in their territories and under their jurisdiction, and acknowledge, respect and protect the rights of individuals and groups to feel associated (or not) with specific elements of cultural heritages; to access, enjoy and continuously (re)create the cultural heritages that are meaningful to them; and to transmit this heritage to future generations.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or 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.

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 following matters:

1. Please provide any additional information and any comments you may have on the above-mentioned allegations.
2. Please explain any measures that have been taken by State authorities to avoid the eviction and demolition of homes.
3. Please inform us about any efforts carried out by the authorities to ensure that the planned urban regeneration projects in Samarkand and Tashkent are in compliance with the rights of the affected residents to be consulted and to participate in decision-making. Please also explain the extent to which the rights of the affected residents to housing and to participate in cultural life have been considered.
4. Please indicate if any resettlement programs have been considered or implemented in consultation with those affected, how many people will

benefit from these resettlement programmes in Samarkand, Tashkent and other cities, and whether all affected residents and tenants can return to their respective neighbourhoods after implementation of the regeneration programmes.

5. Please indicate if any adequate compensation for the loss of home and property has been put in place for affected home owners and tenants living in the urban regeneration areas and their adequacy in comparison to the value of the homes and land. Please provide more information on short and long-term accommodation that has or will be provided for the affected residents of Tashkent and other cities, including their adequacy, affordability and location.
6. Please provide information concerning measures taken to ensure that none of the residents, tenants or inhabitants of the affected urban regeneration areas will become homeless as a consequence of the planned demolition of houses.
7. Please indicate what procedures you have in place to ensure adequate notice is provided prior to any forced eviction and the availability of legal aid to assist residents should they wish to challenge the decisions.
8. Please indicate 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 groups can claim their right to adequate housing and to participate in cultural life. Please provide us as well with information about the number of judicial and non-judicial complaints made by affected residents and their respective outcomes.
9. Please explain the reasons for the destruction of areas of historical and cultural significance in Samarkand, and their compatibility with the human rights standards mentioned above.
10. Please provide information about the existing plans for the preservation of UNESCO World Heritage sites, that constitute the common heritage of all humankind, and that would be affected by the demolition.

While awaiting a reply, we 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 for the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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.

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

Karima Bennoune
Special Rapporteur in the field of cultural rights

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