

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to food; 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; the Special Rapporteur on the human rights to safe drinking water and sanitation and the Working Group on discrimination against women and girls

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to food; 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; Special Rapporteur on the human rights to safe drinking water and sanitation and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 34/5, 36/6, 32/8, 34/9, 42/5 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the allegations of the forced eviction of over 7,000 residents of Kariobangi, Nairobi, during the COVID-19 pandemic, in order to use the land for a development project, and the serious threats made against woman human rights defender Ms. **Ruth Mumbi**, who may be at risk of enforced disappearance for defending the right to housing of the evicted individuals.

Ruth Mumbi is a woman human rights defender who advocates for the rights of women and marginalised persons in Kenya. She began her human rights work promoting community mobilisation in the impoverished town in which she grew up. Ms. Mumbi is one of the organisers of the Bunge La Wamama Mashinani (Parliament of Women) movement in Kenya, which works to promote a positive image of women in Kenyan society and increase their participation in education and political and economic life. She raises awareness through social media about a number of human rights issues in the country, including on the right to adequate housing.

According to the information received:

The Kariobangi Farmers Sewerage village is land that was allocated to the Sewerage Farmers Self Help Group of Nairobi by the Nairobi County Government since 1996. The land was originally leased for farming purposes to employees of the Nairobi Water and Sewage Company for farming purposes and was later sold through the local administration to third parties. The 7,000 families who are resident there have title deeds to their homes and pay regular levies to the Council. In April 2019, the Cabinet Secretary of the Nairobi County Government issued an eviction notice to the residents in an attempt by the Nairobi City Water

and Sewerage Company Ltd. (NCWSC), a wholly owned subsidiary of the Nairobi City Council, to reclaim the land. Following this notice, there was reportedly no further communication on the matter.

On 2 May 2020, some residents of the Kariobangi Farmers Sewerage village were given a verbal notice from the Officer Commanding Police Division of Starehe Division requiring them to vacate their homes within 24 hours. Other residents were informed only on 3 May 2020, that they had a number of hours to leave, and none of them reported having received any written notice. No alternative accommodation, nor any emergency access to shelter or water and sanitation was offered to the persons affected.

The land is intended to be used for the construction of a water treatment plant to serve the upcoming Northlands City “ultra-modern” development, which comprises residential, industrial and commercial uses and will accommodate over 250,000 persons.

A colleague of Ms. Ruth Mumbi shared videos he recorded of testimonies of local residents, who had no alternative living arrangements if they were forced to leave their homes. Ms. Mumbi shared the information with local human rights networks, who she encouraged to come to the village the following day to advocate for the cessation of the eviction.

On 3 May 2020, a lawyer working for the Kariobangi Sewerage Farmers Self Help Group obtained an interim order from the Environment and Land Court to block the evictions. The order was issued on a Sunday as an emergency matter, restraining the Cabinet Secretary in charge of Water and Sanitation and the Cabinet Secretary in charge of Land and Physical Planning from conducting the eviction until a hearing that was set for 7 May 2020.

According to information received, the Officer Commanding Police Division was served the document but refused accept it and proceeded with the demolition on 4 May 2020. Two hundred police officers and two bulldozers arrived at the scene and flattened the village, without giving sufficient time for families to remove all of their belongings, and leaving evictees exposed to the rain. More than 7,000 persons were left homeless. While some families have found temporary accommodation with relatives, friends and in other locations, some of them continue living on the site. The tents they had erected for makeshift shelter have been burned down by the police. Fifty stalls at the perimeter of the nearby Korogocho market were also destroyed. The market remains operational after large-scale demonstrations allegedly prevented its total demolition, however a significant drop in demand is expected.

Ms. Mumbi was present during the eviction, and gave a corresponding interview to the BBC. Ms. Mumbi also encouraged social media activists and national media to cover the events.

The eviction took place at a time when the COVID-19 pandemic was affecting Kenya. As of 11 May 2020, 672 cases and 32 deaths had been official reported. At the time of the eviction, movement restrictions related to the COVID-19 pandemic were in place, jeopardizing the capacity of evictees to relocate to locations outside the capital. Such restrictions were also affecting the economy and limiting the capacity of Kariobangi's residents to obtain an income. Therefore, the forced eviction was conducted at a time of particular economic vulnerability for the residents of Kariobangi.

At the time of the eviction, a night curfew was in place in Nairobi from 19:00 to 5:00 in order to prevent unnecessary movement of persons and contagion of COVID-19. However, thousands of evictees were forced to sleep on the street in the aftermath of the forced eviction.

The main prevention measures recommended by the Ministry of Health for persons with symptoms consistent with COVID-19, such as social distancing, isolation and staying at home, were incompatible with the forced eviction of thousands of persons and the demolition of their homes. The fact that the eviction took place with notice of only 24 to 72 hours, and in the absence of alternative accommodation for any resident, including those who had contracted COVID-19 or those in vulnerable groups, such as older persons and persons with chronic diseases, put the evictees at particular risk of contracting the disease. In the absence of any precautionary measures, the eviction potentially contributed to spreading the virus and endangering the health of the whole Keynan population. Access to water and sanitation for the evictees, necessary in order to follow the Ministry of Health's recommendation to frequently wash hands, was also jeopardized by rendering them homeless.

The fact that the eviction took place during the religious holiday of Ramadan may have also impacted Muslim residents.

In the afternoon of 5 May 2020, the eviction was discussed at the Senate of Kenya, where senators stated that the eviction constitutes "a violation of human rights" and an "international crime". They criticised the operation for being "totally inhuman, ill advised, and executed at the wrong time without even giving reasonable notice to the residents to vacate". The fact that it took place during the COVID-19 pandemic was also noted by senators: "It is completely incomprehensible as to why anybody would be in such a rush to render thousands of families homeless at such a time when we are facing a pandemic and citizens are being urged to stay at home". They also requested the Government to explain

the circumstances of the eviction, to compensate the residents and ensure the respect for their human rights.

Since the eviction, Ms. Mumbi has made regular trips to Kariobangi to carry out further observations. On 5 May 2020, she began recording testimonies of evicted families and publishing them to social media, calling for public donations or offers of shelter. With the money raised, Ms. Mumbi and her colleagues were able to support the relocation of five families, mainly made up of single mothers.

On 8 May 2020, protesters demonstrated and blocked the road at the junction between Kariobangi, Korogocho bridge and Komarock Road junction. The works for the demolition of thousands of homes in Kariobangi included digging trenches in the area to avoid residents moving back, which prevented access to the Korogocho market, leading to protests by traders. The police responded with teargas and water cannons.

On 12 May 2020, at 9:30 a.m., Ms. Mumbi received a call from an unknown individual, who claimed to be a police officer at Kariobangi Police Station. He asked her to read a text message that he had sent to her phone. The message threatened Ms. Mumbi, claiming that if she did not delete her social media posts appealing for donations for the evicted families, she would “disappear by Thursday [14 May]” and her family would never see her again.

On 12 May, after receiving the message, Ms. Mumbi publicised the threat made against her and the phone number of the perpetrator on social media and paid a visit to the Kariobangi Police Station. She was initially told by the Deputy Officer Commanding Police Station (Deputy OCS) that the seriousness of her case required it to be logged in the Occurrences Book. However when the OCS inquired about the case he told her that it was not necessary to log it there. She returned to the police station later that day to ask that the case be recorded in the Occurrences Book. It has been logged under reference number OB46/12/5/2020.

On 13 May 2020, Ms. Mumbi received a call from the Chief Security Office of a domestic telephone network operator with whom the number of the perpetrator was registered. They informed her that they would cooperate with any investigation led by the police.

On 16 May 2020, Ms. Mumbi met with the Director of Public Prosecutions, who has assigned an investigating officer to Ms. Mumbi’s case. On 19 May 2020, Ms. Mumbi gave a statement to the Directorate of Criminal Investigation Officer at Kariobangi Police Station. For her own protection, Ms. Mumbi is accompanied by at least two other human rights defenders at all times.

Without prejudging the accuracy of the above-mentioned allegations, we wish to express our deep concern for the welfare of Ms. Mumbi, whose right to life and liberty

may be at grave risk. We are particularly concerned by information received that Ms. Mumbi was initially told not to officially record the case and received no early information on its status. Given the seriousness of the threats, without effective protection measures and rapid investigation, we are concerned that Ms. Mumbi is at serious and imminent risk of enforced disappearance for her legitimate work as a woman human rights defender, protecting the right to adequate housing.

We also express grave concern at the massive forced eviction of thousands of residents of Kariobangi North despite the existence of a court order restraining authorities from conducting the eviction and demolition. Not only does destroying the homes of thousands of persons without any alternative accommodation arrangement constitute a grave violation of their right to housing, but doing so in the current context of a pandemic exacerbates its potential impact on the rights to health and life of thousands of persons. It should be highlighted that eviction may put the residents at heightened risk of hunger, depriving them from established channels to access food in the settlement but also impacting their livelihood in general, restricting their human right to food. In addition, if the forced eviction contributes to the spread of COVID-19, the health and welfare of the entire population of Kenya is being put at risk. I am also gravely concerned that the eviction was conducted for a development project, carried out without the participation of the persons affected, and which would not in any case justify the urgency of the operation without meaningful alternative accommodations being offered.

Given the urgency of the humanitarian situation of the persons affected by the eviction, we call upon your Excellency's Government to uphold international law and ensure that they urgently receive the necessary assistance, both in order to cover their immediate need for shelter, food, clothing, water and sanitation, and in order to provide a permanent solution that will fulfill their long-term housing needs. Such measures should start by a prompt investigation on the number of persons affected (including disaggregation by gender, age, disabilities and other factors) and their needs, while ensuring their meaningful participation in the planning and delivery of the assistance, as well as in any decision that may affect their human rights.

Given that the measures recommended by the Ministry of Health in relation to the COVID-19 pandemic are incompatible with evictions, we would also like to call your Excellency's Government to urgently establish a moratorium banning all evictions for the duration of the crisis.

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international

levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We would also like to remind you of article 6 (c), which provides for the right to freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms.

We would like to draw your attention General Assembly Resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves. (OP5, 19 and 20)

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). In the same line, the United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18, Annex 1) specify that evictions can only take place in 'exceptional circumstances'; that they must be authorized by law, and ensure full and fair compensation and rehabilitation. The Guidelines also state that any settlement agreement must satisfy the criteria of adequacy, accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education. Among measures that have to be taken to mitigate the impact of evictions, the Guidelines establish that they cannot take place in inclement weather, or during religious holidays.

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 are further drawing your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances, which establishes that no State shall practice, permit or tolerate enforced disappearances. The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

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 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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details and, where available, the results of any investigation which may have been carried out in relation to the threats made against human rights defender Ms Ruth Mumbi. If no such measures have been taken, please explain how this is compatible with your human rights obligations.
3. Please provide information on what measures have been taken to guarantee the physical and psychological security of Ms. Mumbi in light of the threats made against her.
4. Please provide detailed information as to the specific measures that have been put in place to ensure human rights defenders and other members of civil society in Kenya can carry out their legitimate work in a safe and enabling environment, without fear of harassment and intimidation from the authorities or any other agent acting on their behalf or with their acquiescence, along with specific information as to steps taken to support and promote the work of human rights defenders particularly women human rights defenders in the country.
5. Please indicate the legal basis for the eviction of the residents of Kariobangi Sewage village, especially in light of the interim order issued by the Environment and Land Court, as well as detailed information on the evictions and demolitions conducted, disaggregated by the number,

gender, age, disabilities, socioeconomic status and other indicators of the persons affected

6. Please provide detailed information on any measures taken to prevent the negative human rights impact of the evictions and demolitions conducted and planned in Kariobangi North, including the rights of residents to adequate housing (including both emergency shelter and long-term accommodation solutions), health, water and sanitation, food and education.
7. Please provide detailed information on any measures taken to compensate the persons and families affected by the evictions or demolition of market stalls, as well as to ensure their rights to legal recourse.
8. Please indicate what measures have been taken to protect the right to health of former residents of the Kariobangi Sewage village, whose health may be put at increased risk due to the COVID-19 pandemic.

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 of the alleged violations.

We may 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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Michael Fakhri
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