

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

Ref.: UA MMR 1/2022
(Please use this reference in your reply)

21 November 2022

Dear Madam, Sir

I have the honour to transmit this communication for your attention 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 43/14.

In this connection, I would like to bring to your attention information I have received **concerning the forced eviction of an estimated population of 50,000 persons in the cities of Yangon and Mandalay, rendering affected persons to homeless and exposing them to life and health threatening risks. Some of these evictions have reportedly already started over the week-end.** This communication follows an earlier communication concerning forced evictions in Myanmar ([MMR 3/2021](#)) from 16 March 2021, that has to date not been responded to.

According to information received:

A series of eviction notices were issued by the Township Administrative Boards working under the Myanmar military, ordering the removal of houses and shops in Yangon and Mandalay, affecting an estimated total population of 50,000 persons. Eviction notices have been served in different townships in the two cities, including on households living in informal settlements in Yangon's Mingalardon and Mayangone Townships

Mandalay

Accusing people of encroachment, the military council demolished about 200 to 300 houses with bulldozers in Ward 2, ZeeOat village, ShweMan St, 49 Street, Mandalay, on 15 November 2022. In addition, shops and apartments on the station road of Mandalay's Pyin Ooo Lwin township with a population of about 200 persons, were ordered to be removed by the 25 November 2022, although these houses had earlier received municipal approval.

Yangon – Mayangone township

Junta troops, municipal and administration members ordered the removal of over 100 households on Kan Thar Zeyong Street in Ward 3 of Yangon's Mayangone township within 3 days from 16 November, claiming they were squatters. They also threatened to destroy homes by force if they didn't remove them on time. In the morning of 19 November 2022, forced evictions started in Mayangone.- On Kanthar Zay Yon Street in Mayangone Ward 3 police forced residents out of their homes and destroyed them with bulldozers, rendering affected residents homeless. Between 50-100 homes were destroyed on that day in this area. Reportedly three persons documenting the housing destruction

on their mobile phones were beaten and arrested by police. In the evening affected residents that were still searching the rubble for their belongings were warned not to erect tents or any other provisional shelters.

Yangon – Mingalardon township

The decision to evict was announced to residents in January 2022, and a second notice was issued on 11 November 2022, although only received by residents on 13 November 2022 with police and military forces distributing the notices in the neighbourhood. The notices were sent to several thousands of families living in homes in five different wards of Mingalardon Township in the Northern outskirts of Yangon, stretching over 560 acres (around 227 hectares). The affected area covers the wards San Tharmadi, Myae Myan Aung, Gone Hnyn Ni, Dhama Pala, and Myawaddy Plantation in the Pyinmabin Industrial Zone which contains a mixture of industrial enterprises and vacant land managed by the Myanmar Military.

The eviction notices state that the inhabitants should vacate the land and remove all homes by 18 November 2022, as they were allegedly trespassing on land belonging to the military and causing health and environmental issues. The notices further specified that residents who did not follow the eviction order would face legal action. On 18 November a third eviction notice was issued that extended the period to vacate the land until 22 November.

Mingalardon Township has been inhabited since several decades by low-income households as an informal residential area and its population has grown. Many inhabitants moved to the areas as well recently from Bogale in the wake of Cyclone Nargis and from Rakhine as a consequence of military operations resulting in housing destructions and displacement of residents. Many are workers in the garment industry and daily wage earners.

There have been several earlier attempts to evict residents from Mingalardon Township. In January 2016 police evicted several hundred families of the informal settlement, but due to lack of housing alternatives most affected persons returned. In 2017 the General Administration Department of the Township sent again several eviction orders to over 3,000 people living in the Pyinmabin Industrial Zone.

It is estimated that the eviction orders of 11 November 2022 will affect 10,000 homes with a population above 40,000 persons. Reportedly there has been a complete absence of any prior consultation with affected residents and communities. No alternative land or housing has been offered to them. Some residents are said to have lodged appeals with the authorities against the eviction orders.

Following the eviction notices some residents decided under pressure to remove their homes in an attempt to secure their belongings and construction materials. However, it is estimated that most residents decided to remain in the area, as they demand alternative land or compensation.

While I do not wish to prejudge the accuracy of the information received, I would like to express my concern about the forced evictions in Mandalay of 15 November 2022 and the forced evictions in Mayangone Township of 19 November 2022, including the destruction of multiple homes in both cities. Of similar concern is in particular the planned imminent (set to start on 22 November) large scale forced eviction in Mingalardon Township in the North of Yangon, that may affect up to 40.000 persons.

The evictions appear to have been planned or undertaken without any prior consultation with the affected persons, and without the provision of alternative land or housing to those affected. The evictions in the two cities, including the large scale planned evictions in Yangon, would render up to 50.000 persons homeless and expose them to serious health and life risks. Such evictions will result in additional internal displacement and rather aggravate the human rights and humanitarian crisis the country is facing instead of solving any housing challenges the country is facing.

The United Nations consider forced evictions as a gross violation of human rights, in particular the right to adequate housing and other human rights (see Commission on Human Rights resolution 1993/77). In this connection I would like to make reference to article 11 on the right to adequate standard of living of the International Covenant on Economic, Social and Cultural Rights, ratified by Myanmar in 2017 and to General Comment No. 4 by the Committee on Economic, Social and Cultural Rights on the right to adequate housing which states that “instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.”

General Comment No. 7 of the Committee on Economic, Social and Cultural Rights on forced evictions further 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 furthermore never result in individuals being rendered homeless or vulnerable to the violation of other human rights (paragraphs 13, 15 and 16).

In addition, I would like to refer to the Basic Principles and Guidelines on Development based- evictions and Displacement (A/HRC/4/18, Annex 1) that outline comprehensively the international human rights standards and procedures that should be followed, in case it is not possible to avoid the relocation and resettlement of some or all of the affected persons. In addition, my predecessor has specified in a report (A/73/310/Rev.1) how the rights of residents of informal settlements should be protected and guaranteed, including in situations where such residents may lack official title to the land on which they have built their homes.

Finally, I would like to emphasize that these forced evictions form part of a disturbing emerging pattern of systematic and widespread human rights violations

against the civilian population of Myanmar, and may thus incur criminal responsibility under international law as I have recently as well outlined in my report to the UN General Assembly (A/77/190).

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, I would appreciate a response on the initial steps taken to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is my responsibility, under the mandates provided to me 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 indicate the legal basis for the evictions under national law and to what extent the evictions may have violated or been compatible with international human rights standards, including article 11 of the International Covenant on Economic, Social and Cultural Rights and General Comment No.7 of the Committee on Economic, Social and Cultural Rights and the Basic Principles and Guidelines on Development based- evictions and Displacement (A/HRC/4/18, Annex 1).
3. Please indicate if any compensation, alternative housing or land, has been provided to individuals that have already been evicted into homelessness and how their rights to adequate housing, food, education, health and life are going to be ensured and protected.

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.

I call for an immediate stop to all forced evictions. Local authorities should engage in a genuine consultation with the affected persons and communities. Should it not be possible to avoid any relocation, resettlement plan should be drafted in consultation with the affected persons in accordance with the above mentioned international human rights standards. This must include the provision of alternative land or housing to those affected.

I will publicly express my concerns as well, as in my view, the information is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. Any public statement will indicate that I have brought my concern to your attention in order to clarify the issue in question.

This communication and any response received from you 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.

I would like to emphasize that the human rights of individuals and groups must be respected, protected and fulfilled, irrespective of the character of the perpetrator. At a minimum, actors exercising either government-like functions or de facto control over territory and population must respect and protect the human rights of individuals and groups. Finally, I would like to stress that this letter does not in any way imply the recognition, as a matter of international law, of the State Administration Council as the legitimate government of Myanmar, and is without prejudice to the United Nations positions on these matters.

Yours sincerely,

Balakrishnan Rajagopal

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