

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 extreme poverty and human rights

Ref.: AL TLS 1/2024
(Please use this reference in your reply)

16 September 2024

Excellency,

We have the honour to address you in our capacities 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 extreme poverty and human rights, pursuant to Human Rights Council resolutions 52/10 and 53/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the ongoing forced evictions and demolitions of homes and small shops (kiosks) across the city of Dili, some of them carried out as part of the implementation of planned projects (including widening roads, parks) and others – allegedly as a Government's initiative ahead of the visit of His Holiness, Pope Francis, which took place between 9 and 11 of September 2024. It is reported that these evictions have sometimes been carried out with violence and without offering alternative housing solutions, in contravention of national and international law.**

According to the information received:

Since the beginning of April 2024, authorities carried out a significant number of forced evictions across the city of Dili, affecting several communities living in poverty. Some of these evictions were carried out as part of the implementation of planned urban development projects (including widening roads, parks), while others seem to have been undertaken in preparation for the visit of His Holiness, Pope Francis, which took place between 9 and 11 September 2024.

It appears that the evictions were not preceded by efforts to explore possible alternatives, and that the affected communities were not involved in the discussions leading to the evictions. No assessment was carried out to establish the potential costs and losses for the communities, including the loss of housing and of livelihoods.

No formal written notification was issued to the affected communities prior to the evictions. The concerned people learned about the evictions through communications with community leaders or through announcements made by megaphones. No clear or formal details, such as the eviction date, justification for the decision, or any resettlement plans were provided.

The Government, through the Secretary of State for Toponymy and Urban Planning (SEATOU), carried out a first eviction drive between 16 and 24 April 2024.

On 16 April 2024, 92 market vendors from the Bidau Senggol community were evicted.

On 17 April 2024, 27 households were evicted from their homes in the Aitarak Laran community. Some of these households had been living there since 1999. Some had valid leases and had carried out extensive renovations, and others had leased land informally from local authorities and had built their own houses.

On 19 April 2024, three young people were physically assaulted by the police during the eviction and demolition drive in Aitarak Laran.

On 20 April 2024, 43 households were evicted from their homes in the Bidau Santa Ana community. Most of the evictees had been living there since 1999.

On 24 April 2024, 241 market vendors were evicted in the Aimutin community. A police officer responded with excessive force when a youth questioned the Government's decision regarding the forced eviction of his own house, hitting him on his head.

In total, between 16 and 28 April, around 70 households and 333 market vendors from communities in situations of poverty were evicted.

Further demolitions and evictions were carried out between May and June 2024. In the Becora village, 19 households were evicted in May 2024; in Tasi-Tolu village, where His Holiness, Pope Francis held an open-air mass on 10 September, 11 households were evicted in June 2024. The Government has also marked around 100 homes in Bebonuk and Kasnafar villages that are planned to be demolished, although information on the demolition date is not yet available. Allegedly, SEATOU will hold dialogues with residents and provide a notification letter indicating the date by which they are to leave their homes.

According to information received, in various instances bulldozers and other heavy machinery were used to demolish the homes and kiosks, leading to the destruction of personal belongings and market products. In some cases, the demolitions were carried out in the absence of the residents, who were unable to remove their belongings in advance. In Aitarak Laran and Bidau communities, people lost their homes, but also small garden plots, small shops and mechanic workshops.

In some cases, police and military forces were deployed during the eviction process which did not seem necessary as the communities did not incite any public disturbance nor violence towards public agents implementing the evictions. On 3 September 2024, the SEATOU team, through the Dili Civil Guard, destroyed the chairs and local products sold by street vendors at the Kampung Baru Market. On that occasion, the SEATOU also prevented journalists from covering the facts, and pushed vendors away. It has also been

reported that at least one journalist was intimidated by the police while they were covering the destruction of market products.

No measures were taken to prevent homelessness and to ensure access to adequate alternative housing, resettlement options, or access to productive land near the original residences and sources of livelihoods for those evicted. Most of the affected families were compelled to find shelter with other families already living in overcrowded and inadequate housing, as well as with village leaders. In the Bidau Santa Ana case, a mother and her three-day-old baby were made homeless as a result of forced eviction. In the same community, at least 5 families have been living in temporary shelters, under tarpaulins, which do not provide sufficient protection against difficult weather conditions and expose them to a greater risk of illness during the rainy season. In addition, these inadequate shelters do not provide sufficient security as these families were reportedly threatened by unknown groups of persons during the night. In the Aitarak Laran case, older people and people with disabilities were evicted, without any support provided to help them move their belongings out of the way of the bulldozers.

Reportedly, on at least two different occasions, a Holy See delegation visited Timor-Leste to assess the state of the preparation, meeting with government officials and touring the venues. During those visits, general satisfaction was expressed with the organization of the visit.

Reportedly, there are plans to continue with demolition and forced eviction drive after the conclusion of His Holiness Pope Francis's visit, which indicates that 1,300 households might be affected.

Domestic legal framework

According to Timor-Leste national law, the State has two possible legal avenues for carrying out evictions: either the communities are illegally occupying State land, in which case they can be removed, or the State needs to expropriate the land if this is justified for reasons of public interest. In the cases mentioned above, neither of these criteria have been met.

Law 13/2017 on the special regime defining the ownership of immovable property stipulates that the State must carry out systematic registration processes to ascertain who has the rights to land in Timor-Leste and on the basis of this process (which also applies to State land), concerned authorities can then issue titles. Article 12 of this law specifies that until the systematic registration process is completed, the current and peaceful possessor should enjoy full legal protection. This means that to show that these lands belong to the State and therefore legally carry out the evictions, the State must have finalized the registration process (including the publication of maps and issuance of certificates). Yet, it would appear from the information received that the registration process has not been finalized in any of these communities. Moreover, article 42 stipulates that "*the eviction must be carried out under conditions that guarantee the dignity of the human person, the rights and safety*

of those affected, as well as respect for the principles of proportionality, adequacy and non-discrimination.”

The second option for the State to have a legal basis for eviction is to expropriate the land where there is a necessity in the public interest. In this case, the State must apply Law 8/2017 on expropriation for public utility, providing a rigorous process to be followed prior to carrying out evictions. This includes a cadastral or registration mapping process, social impact assessment, relocation planning, consultations, report on potential alternatives to the eviction, report justifying public utility, official public notification in the public gazette, consultation sessions with affected communities, a joint inspection of the land with affected households to identify losses, and an attempt at an amicable (negotiation) process. Furthermore, the State must ensure that the expropriations will not result in the deterioration of the living standards for affected communities (article 8(4) Law 8/2017).

Law 8/2017 lays out a clear process for community consultation which includes publishing details of the public consultation in national newspapers and community halls and carrying out community dialogue sessions. According to the law, affected communities must be notified of the dialogue 10 days in advance, and a report of the dialogue and questions raised by communities must be published. Allegedly, none of the evictions described above met these criteria. For example, a meeting was organized by the Government on 7 May 2024 in Ponte Comoro. The dialogue was carried out under a bridge on a public road with hundreds of community members present. Communities were notified by loudspeakers, and it was difficult for community members from one side of the river to attend. Participants found it hard to hear what was being explained. The military police attended the consultation, and no formal notes of the meeting were prepared ahead of the meeting, or shared afterward with the community.

While we do not wish to prejudge the accuracy of the information made available to us, we would like to express our serious concerns regarding these forced evictions, home demolitions and market shops and products destruction carried out in Dili. These forced evictions have mainly affected low-income and marginalized communities and appear to have been implemented without any consultation, reasonable notice, due process, or advance provision of alternative housing, in contravention of international human rights law and domestic law. When provided, compensation for the loss of home or livelihoods was not adequate.

The practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing (Commission on Human Rights resolution 1993/77). The forced evictions prima facie would violate article 11 of the International Covenant on Economic, Social and Cultural Rights and relevant protections against forced evictions as set out in general comment No. 7 of the Committee on Economic Social and Cultural Rights, in Human Rights Council resolution 13/10, and in the Basic Principles and Guidelines on Development-based Evictions and Displacement (A/HRC/4/18, annex I). Moreover, the obligations of States to refrain from forced evictions applies in all circumstances, including in the context of mega events (A/HRC/RES/13/10).

The evictions also have a profound impact on the economic situation of the victims as some have seen their goods destroyed by bulldozers. The market vendors have not only lost products. It is their livelihoods that were affected, putting them at greater risk of extreme poverty as they were already living in precarious socio-economic conditions.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 specify whether any prior consultation was held with the affected persons and households before the forced evictions and demolitions were carried out.
3. Please indicate whether all feasible alternatives to forced evictions and demolitions have been explored. If alternatives were explored, please provide details on why these alternatives were not deemed suitable.
4. Please provide information on how your Excellency's Government has ensured the continued enjoyment of the right to adequate housing and access to livelihoods for the families and persons affected by the above-mentioned forced evictions and demolitions. Specifically, please provide information on housing and land alternatives that have been offered to the affected persons, to avoid that they fall into homelessness and destitution.
5. Please also indicate whether any compensation has been provided to the victims, in accordance with the applicable domestic law.
6. Please indicate what remedies have been made available for those adversely affected by the forced evictions and demolitions.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for 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.

We would also like to inform Your Excellency's Government that a similar letter will be transmitted to the Holy See.

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

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

Olivier De Schutter
Special Rapporteur on extreme poverty and human rights

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

We wish to remind your Excellency's Government of the obligations it assumed upon acceding in 2003 to the International Covenant on Economic, Social and Cultural Rights (ICESCR), in particular concerning the right of everyone to an adequate standard of living for himself and his family, including adequate housing (article 11). In its general comment No. 4 interpreting obligations under the ICESCR, the Committee on Economic, Social and Cultural Rights (CESCR) affirmed that all persons should possess a degree of security of tenure, which guarantees legal protection against forced evictions, harassment and other threats. The General Comment clarified that "*forced evictions 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*". In the same general comment No. 4, the Committee stated that States should take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.

Further, in its general comment No. 7 on forced evictions, the CESCR clarified that if an eviction is to take place, procedural protections must be guaranteed, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation, and provision of legal remedies and legal aid. Under no circumstances should evictions result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, is available to affected individuals, where they are unable to provide for themselves. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.

We also would like to draw the attention of your Excellency's Government's to its obligations under articles 6 and 17 of the International Covenant on Civil and Political Rights (ICCPR), ratified in 1976, on the rights to life and to non-interference with privacy, family, home or correspondence.

The basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I), further state that urban planning and development processes should involve all those likely to be affected and should include: appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; effective dissemination by the authorities of relevant information in advance, including proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable

groups; a reasonable time period for public review of, comment on, and/or objection to the proposed plan; opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities. Moreover, these Principles and Guidelines underscore that States must give priority to exploring strategies that minimize harm. Comprehensive impact assessments should be carried out prior to the initiation of any project that could result in development-based evictions and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. The State must make provision for the adoption of all appropriate measures, to the maximum of its available resources, especially for those who are unable to provide for themselves, to ensure that adequate alternative housing, and resettlement, is available and provided.

In addition, we would like to refer your Excellency's Government to the Guidelines for the implementation of the right to adequate housing (A/HRC/43/43) and the Principles on security of tenure for the urban poor (A/HRC/25/54). Guideline No. 6 clarifies that, in order for any eviction to comply with human rights law, certain conditions must be met. These include meaningful engagement with those affected, exploration of all viable alternatives, relocation to adequate housing agreed upon by the affected households so that no one is rendered homeless, access to justice to ensure procedural fairness, and compliance with all human rights. Recognizing the significant difficulties faced by the urban poor in accessing justice, the Principles on security of tenure for the urban poor specify that States should take all measures to remove these barriers and ensure that the urban poor can access effective remedies through a range of judicial and administrative mechanisms. Remedies for violations of the right to adequate housing may include, among others, restitution, reparation, the provision of alternative adequate housing, rehabilitation of housing or livelihoods, as well as financial or non-financial compensation for loss and damage.

Regarding the forced eviction of markets vendors, we would like to remind your Excellency's Government's that, through the adoption of the New Urban Agenda in 2016, States committed to recognizing the contribution of the working poor in the informal economy to the urban economies, and to enhance their livelihoods, working conditions and income security, legal and social protection, access to skills, assets and other support services, and voice and representation. In this regard, we would also like to stress the provisions enshrined in article 6 and 7 ICESCR, which address the right to work, and call on State parties to recognize the right of everyone to the enjoyment of just and favourable conditions of work. These provisions must be read in conjunction with article 11 ICESCR establishing the right to an adequate standard of living for himself and his family, as well as article 2 on the right to non-discrimination.

Furthermore, the International Labour Organization's (ILO) Recommendation 204 on transition from the informal to the formal economy states that State parties should promote local development strategies, both rural and urban, including regulated access for use of public space and regulated access to public natural resources for subsistence livelihoods.

In addition, the guiding principles on extreme poverty and human rights, adopted by the Human Rights Council by consensus on 27 September 2012 in resolution 21/11, recommend in particular that States "*adopt laws protecting all individuals, groups and communities, including those living in poverty, against forced eviction by State and non-State actors. This should include preventive measures to avoid and/or eliminate the underlying causes of forced evictions, such as speculation in land and real estate*" (para. 80, b).

We would also like to draw your attention to the Human Rights Council's resolution on adequate housing as a component of the right to an adequate standard of living, in the context of mega events (A/HRC/RES/13/10), adopted following former Special Rapporteur on adequate housing Raquel Rolnik's report on the same topic (A/HRC/13/20). In the context of mega events, the resolution calls upon States to ensure that the right to adequate housing of affected persons is respected, while giving due consideration to issues such as security of tenure. It also recommends States to explore alternatives to evictions and undertake any such evictions in accordance with the domestic legal framework and in full compliance with the relevant provisions of international human rights law, including those for adequate and effective remedies.

Finally, international standards relevant for regulating the use of force by law enforcement personnel, such as the 1979 UN Code of Conduct for Law Enforcement Officials, provide that in the performance of their duty, law enforcement officials shall respect and protect human dignity and uphold the human rights of all persons. Law enforcement officials may use force only when strictly necessary, for a specific legitimate aim, and be strictly proportionate.