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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Report 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, Raquel Rolnik*

Addendum

Summary of communications sent and replies received from Governments and other actors

* The present document is being circulated as received in the languages of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions.

Contents

I. INTRODUCTION

1. In the context of his mandate, 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, receives a large number of communications alleging violations of the right to adequate housing and related rights worldwide. Such communications are received from national, regional and international non-governmental organizations, as well as intergovernmental organizations and other United Nations procedures concerned with the protection of human rights.

2. The present addendum to the annual report of the Special Rapporteur contains, on a country-by-country basis, summaries of communications sent by the Special Rapporteur to States, responses received from States, observations of the Special Rapporteur, and follow-up communications and activities relating to earlier communications, from the period of 6 December 2008 to 22 December 2009 and replies received for the period of 3 February 2009 to 3 February 2010.

3. Where appropriate, the Special Rapporteur has sent joint urgent appeals or letters with one or more special procedures of the Human Rights Council where the allegations raised concerned the right to adequate housing as well as rights addressed under other mandates.

4. During the period under review, the Special Rapporteur sent a total of **49 communications** concerning the right to adequate housing to **32 States**. Of these **49 communications** transmitted, **18 replies were received from 13 Governments**.

5. The Special Rapporteur appreciates and thanks the concerned States for these replies. However, she regrets that several Governments have failed to respond, or when they have, have done so in a selective manner that does not respond to all the questions arising from the communication. These communications remain outstanding and the Special Rapporteur encourages Governments to respond to every communication, and all concerns raised in each communication.

6. A large number of the communications in the period under review are related to cases of forced evictions. Forced evictions constitute prima facie violations of a wide range of internationally recognized human rights and large-scale evictions can only be carried out under exceptional circumstances and in full accordance with international human rights law. The Special Rapporteur notes that the in the majority of the cases, state authorities carrying out evictions appear completely unaware of the state's human rights obligations, in particular the need for assessing the impact of evictions on individual and communities, the need to consider eviction only as a last resort after having envisaged all other options, meaningful consultation with affected communities, adequate prior notification, adequate relocation and compensation. The Special Rapporteur reminds all states that eviction should never result in rendering people homeless and putting them in a vulnerable situation. In this context, the Special Rapporteur reminds all Governments of the Basic principles and guidelines on development-based evictions

and displacement that can be used as a tool to prevent human rights violations in cases where evictions are unavoidable[1].

7. The Special Rapporteur notes with concern the reports that the mandate continue to receive in regards to threats, harassment, and imprisonment of human rights defenders, community representatives and activists working on the right to adequate housing.

8. The Special Rapporteur believes in the importance of engaging in a constructive dialogue with States aimed at implementing and realizing the right to adequate housing. The communications sent by the Special Rapporteur have to be understood in this context. In a spirit of cooperation, the Special Rapporteur urges all States and other actors to respond promptly to the communications, to immediately take appropriate measures, to investigate allegations of the violation of the right to adequate housing and related rights and to take all steps necessary to redress the situation.

9. To the extent that resources available to the mandate permit, the Special Rapporteur continues to follow up on communications sent and monitor the situation where no reply has been received, where the reply received was not considered satisfactory or where questions remain outstanding. The Special Rapporteur also invites the sources that have reported the alleged cases of violations, to review cases and responses included in this report, and send, when appropriate, follow-up information for further consideration of the cases.

II. SUMMARY OF COMMUNICATIONS SENT TO GOVERNMENTS AND REPLIES RECEIVED

Bangladesh

Response received

10. On 16 September 2009, the Government of Bangladesh replied to a joint allegation letter sent on 3 April 2008, contained in report A/HRC/10/7/Add.1 paragraph 14. The Government informed that it was inaccurate to allege that lease and transfer of land of CHT was being done without approval of CHT Council. Rather, the Government formed the CHT Land Dispute Resolution Commission empowered to take necessary steps as per law and social customs prevailing locally. Furthermore, a Court of District judges was established in three Hill Districts to resolve disputes of civil nature. In addition, upon signature of CHT Peace Accords in 1997, 200 army camps were withdrawn from rural areas of CHT. Concerning Khagrachari Hill District, the Government informed that it was inaccurate to say that about 4.500 acres of land had been taken away from Jumana communities. Rather, they informed that different disputes relating to land were prevailing amongst indigenous and settlers and that no incident existed in which support from the army or local administration had been provided. With regards to Bandarban Hill Distrcit, the Government informed that according to the CHT Peace Accords, one army garrison was to be located in Ruma Upazilla of Bandarban, which entailed the acquisition of land

[1] The Basic principles and guidelines on development-based evictions and displacement are contained in report A/HRC/4/18. See also the Special Rapporteur's web page on forced eviction: http://www2.ohchr.org/english/issues/housing/evictions.htm

measuring 7570 acres. 266 families were living in 899 acres of private land in this area and have been sustaining meetings with the local army commander with a view to reach an amicable solution. The inhabitants were agreeable to leave their residence if due compensation and alternative residential accommodation were provided by the Government. According to the information, there was no incident of land acquisition or posing possession of land by indigenous people found in the Bandarban District, except for the case of the Garrison at Ruma Upazila. Regarding this land, the owners have not lodged any complaints to the authority.

Brazil

Communication sent

11. On 14 August 2009, the Special Rapporteur sent an allegation letter to the Government of Brazil inquiring about the reported forced eviction in the area of Curitiba, Goiania, Rio de Janeiro and São Paulo. According to the information received a significant segment of the population of Brazil lives in unplanned and unserviced settlements. In São Paulo, urban reforms aimed at beautification in down town areas led to the displacement of hundreds poor urban dwellers to the peripheries. The majority of evictions were executed pursuant to judicial orders, in re-possession actions, or in ownership disputes and/or demands. However, these decisions reportedly ignored the international and constitutional framework that guarantees the right to housing. Since 15 July 2009, about 480 families have been threatened with eviction from an area named Favela do Sapo. The families were not offered adequate alternative housing. On 16 June 2009, over 400 families were allegedly forcibly evicted from a government building and more than 200 families were encamped in extremely precarious conditions in an enclosed space under a viaduct in the centre of São Paulo. They were not provided with adequate alternative housing by the authorities. The occupants were served with an eviction order but were not given adequate notice and there was no consultation or attempts to identify alternatives to the eviction. On 16 February 2009, 250 families were evicted from the area of Parque Cocaia I, Grajaú, and received a compensation of USD 4,000 each. They received only 10-day notice from the City Hall and the State Government of São Paulo. The project affects more than two thousand families living in 80 communities, who shall be evicted by 2012. On 11 February 2009, 35 families were evicted from the building Mercúrio. The families were not offered an adequate alternative housing solution. Since December 2008, other families living in the 144 apartments were obliged to leave the building and to accept a compensation of USD 1,200. Most of the families were still looking for alternative accommodation. About 80.000 people have been living in the community named Paraisopolis, located in the south of São Paulo. Since 2005, when the urbanization process started, many families have been threatened or removed from this area without being offered an adequate alternative solution. The Municipal Law 13.430/02 approved the urbanization of the area and the municipality offered US 3.647,00 to the inhabitants to move, which did not allow them to find alternative adequate housing. In Curitiba, 1.000 families (approximately 6.000 persons) were allegedly forcibly evicted from a private urban area named Fazendinha, following a judicial order, on October 2008. The forced eviction was violently implemented by 1000 military police who used bombs and rubber bullets against the community, including children. More than fifteen people were injured; no alternative accommodation was offered to the families. On 31 October the Municipality of Curitiba filled an injunction with the local court to evict the remaining families from the sidewalk. In Goiania, in February 2005, four thousand families were forcibly evicted from the Sonho Real settlement, located in a private area at Parque Oeste of Goiania. In the course of implementing the evictions, two people were shot to death,

hundreds were injured and 800 hundred were arrested. After the eviction, the State Government lodged the families in Setor Grajaú. The area lacked public facilities, access to infrastructure services, and is located far away from their jobs. Finally, in Rio de Janeiro, the Government decided to build walls around a number of slums in order to limit their uncontrolled growth. The construction of the wall is expected to cause the displacement of hundreds of families. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on what alternative solutions other than forced eviction were considered in the targeted settlements; whether the affected communities and their representatives had been appropriately consulted; on the exact dates for the allegedly planned evictions; on the legal basis and reasons for the alleged forced evictions; on the measures taken to ensure that the allegedly forced evictions were in accordance with Brazil's obligations under international human rights law; on the situation of the evictees; and on whether there had been any complaint lodged concerning the alleged forced evictions and the allegedly excessive use of force.

Observation

12. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Bulgaria

Communication sent

13. On 14 October 2009, the Special Rapporteur together with the Independent Expert on Minority Issues and the Special Rapporteur on contemporary forms or racism, racial discrimination, xenophobia and related intolerance sent a joint urgent appeal to the Government of Bulgaria inquiring about the reported forced eviction and housing demolition of 40 Romani households in the Gorno Ezerovo district of Bourgas, as well as the threatened forced eviction of many others from Gomo Ezerovo and the Meden Rudnik community, also situated in Bourgas. According to the information received by the Special Rapporteur, the Regional Agency for the Control of Unlawful Building has issued eviction orders against the communities of Gorno Ezerovo and Meden Rudnik in the Municipality of Bourgas, Bulgaria. The eviction orders cite Art. 225, para 1 of the Territory Law which allows for demolition of housing built without the proper permits. It has been reported that the eviction orders were intended to remedy a property rights claim by private individuals over the land on which these long-standing communities reside. In the Gomo Ezerovo community, 52 Romani households received eviction orders in 2007. On 8 September 2009, Bourgas municipal authorities forcibly evicted 27 Romani households and demolished their houses. The demolitions were carried out with the assistance of the local police. In the Meden Rudnik community, approximately 32 houses out of 300 were allegedly under imminent threat of forced eviction, after originally receiving eviction orders in 2007. According to allegations, no meaningful consultation has taken place with the communities prior to the evictions and none of the affected families have been offered alternative housing. The Gorno Ezerovo and the Meden Rudnik communities are settlements inhabited by impoverished Roma citizens of Bulgaria. Both communities have been in existence for over 50 years. During this time, the communities were reportedly recognized by public authorities, including being provided with individual mail service and publically regulated services such as water, sanitation and electricity. In addition to comments on the accuracy of the

facts of the allegations, the Special Rapporteurs requested further information on whether any complaint has been lodged by or on behalf of the alleged victims; on the legal basis for the evictions and housing demolitions; on what measures have been taken to ensure that evictions are in accordance with Bugaria's obligations under international law; on whether the affected community and its representatives been appropriately consulted; on whether the affected populations were given adequate and reasonable prior notifications before the evictions and housing demolitions as well as adequate and reasonable time to withdraw their belongings before the destruction of their residences; on whether the affected persons were offered compensation or alternative housing for the loss of their houses and livelihood; and on what measures have been foreseen to ensure that the persons affected by the housing demolition, do not become homeless as well as in terms of relocation.

Observation

14. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Cambodia

Communications sent

15. On 20 March 2009, the Special Rapporteur sent an urgent appeal to the Government of the Kingdom of Cambodia inquiring about the alleged housing demolition and forced eviction of about 60 families living in the Reak Reay community, located in Group 46A in Phum 8, Sangkat Tonle Bassac, Kham Chamkarmon in Phnom Penh. According to the information received the families concerned had been residing in this location since the 1990s, and they had possession rights under national law. Since 2005, two companies - Bassac Garden City and Canadia Bank - had been disputing this land to the Reak Reavy community, with the intention to transform it in a high residential area. Out of the 200 families who lived in Reak Reay at the beginning of the dispute, by March 2009 only 60 families were living in the area, allegedly as a result of previous eviction attempts and intimidation. In July 2007, the Municipality of Phnom Penh ordered the community to leave the 'company land'. In November 2007, the community was again ordered to leave the land and to relocate to a site in Trapeang Anh Chanh in Khan Dangkhor, without being offered any financial compensation. The community refused to be relocated to Trapeang Anh Chanh. On 30 January 2009, the Council of Ministers issued Notice No. 157 informing the community that they had a choice either to be relocated to Damnak Trayeung site and be compensated up to 10,000 USD (9,000 USD from Canadia Bank and 1,000 USD from the Municipality of Phnom Penh) or stay on-site, during the proposed upgrading of the site through the construction of apartment blocks. Since receipt of the notice, the families concerned have indicated that they would prefer the onsite upgrading option. At the beginning of March 2009, and despite of Notice No. 157, construction workers allegedly began to build a fence around the community's houses and to demolish some houses. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the legal basis for the housing demolitions and fencing; on whether appropriate consultation took place with the communities and affected persons, particularly after the issuance of Notice Number 157 and since the housing demolition started on 15 March; on whether the community and affected persons were given adequate and reasonable prior notice before the housing demolition; on whether the affected persons were given adequate and reasonable time to withdraw their

belongings before the destruction of their residences as well as offered compensation for the loss of their houses and livelihood; on whether any complaints were lodged; on the measures foreseen to ensure that the persons affected by the housing demolition, as well as those threatened to be imminently forcibly evicted, do not result homeless; and on measures concerning their relocation and the details of its exact location, including on the area and quality of land and access to public services and livelihood.

16. On 1 May 2009, the Special Rapporteur sent an urgent appeal to the Government of the Kingdom of Cambodia expressing her deep concern at the lack of response received from the Government to her recent letters concerning cases of alleged forced evictions in Phnom Penh as well as inquiring about an alleged forced eviction which might have affected between 66 to 86 families known as Group 78 and living near Basak River in group 14 of Tonle Basak commune, Phnom Penh's Chamkar Mon district. According to the information received the families concerned had been reportedly residing at that location since 1983 and they had strong evidence to show "unambiguous, non-violent, notorious to the public, continuous, and in good faith" possession of the property for more than five years to fulfill the possession right requirements under Chapter 4 of the Land Law 2001. In 2004, residents of Group 78 submitted applications for title of ownership of their individual piece of land but competent authorities allegedly refused to process them. Since 2006, residents of Group 78 had received six eviction notices. Allegedly, none was issued or complemented by an order from a Court, as required under Article 35 of the Land Law. The last administrative notice was issued on 20 April by the Phnom Penh Municipality (MPP). Reportedly, in the notice the Municipality was calling on the people to negotiate with MPP and accept 'the offers' within 15 days. It is also said that in case of refusal, MPP would implement 'administrative measures'. The notice did not identify any relocation site. The resident of Group 78 requested an injunction order to stop the eviction but the Municipal Court responded that it would hold an investigation trial on a date subsequent to the eviction. While in the past the Municipality referred to the land as a land owned by the State, in the 20 April notice it is said that the Group 78 residents are living on land belonging to Sour Srun Company. Group 78 residents have never been presented with any evidence of Sour Srun's alleged ownership of the land. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the legal basis for the 20 April administrative notice and if it was complemented by any order from a Court; on the reason for which the eviction should take place; on whether the competent authorities started any investigation concerning the refusal by the Tonle Bassac commune authorities to process the Group of 78 applications for title of ownership of their individual piece of land, in accordance with Article 30 of Land Law; on any consultation with the persons threatened with imminent eviction; on the measures foreseen to ensure that the persons threatened with imminent eviction, will not become homeless and in terms of relocation and the details on its exact location, including details on the area and quality of land, access to public services and livelihood sources; and on measures foreseen in terms of compensation for the persons affected.

17. On 15 July 2009, the Special Rapporteur together with the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health sent an urgent appeal concerning the alleged eviction of families affected by and living with HIV from the 'green shed' location (as it was commonly known) in the Borei Keila community in Phnom Penh to the relocation site of Toul Sambor, Dangkor district. According to the information received, due to the particular status of Borei Keila (recognized as a "social land concession" in 2003) an agreement was stipulated in 2003 between a private developer, the Municipality of Phnom Penh

and the residents of Borei Keila. Reportedly, it was decided that 2,6 hectares of this land would be given to the private developer in exchange of the construction of new housing for the original residents (over 1,700 families). By virtue of this agreement, which also recognized the eligibility of long-term renters to flats, a number of families living with HIV and residing in Borei Keila were reportedly eligible for flats. In March 2007, 31 families living with HIV were reportedly resettled in temporary metal shelters – the 'green shed' - to make way for the construction of the new residential buildings. Following requests by families for some support, the Municipality allegedly offered all 31 families living in the green shed a plot of land in Toul Sambor. In May 2009, 12 families among the 31 families were nonetheless called for an interview by the local screening committee. 11 families were ultimately found eligible for a flat in situ. On 18 June 2009, law enforcement officials reportedly evicted 20 families affected by and living with HIV from their homes in the green shed. On 21 June, the remaining 11 HIV families from Borei Keila community –the ones deemed eligible for new flats at Borei Keila- were also allegedly evicted. Reportedly, the Municipality was also planning to relocate to Toul Sambor, another 24 families living elsewhere in Borei Keila, and also affected by or living with HIV. The families relocated at Toul Sambor have no adequate housing and limited access to basic services, such as clean drinking water, primary health care and antiretrovirals treatment. It was also alleged that relocation has resulted in families losing their employment. In addition to comments on the accuracy of the allegations, the Special Rapporteurs requested further information on the measures taken, and what health services provided to ensure that those people in Toul Sambor living with HIV have access to primary health care at an affordable cost, and are guaranteed immediate, uninterrupted, long-term access to ARVs; on the measures taken to improve the housing infrastructure in Toul Sambor in order to guarantee adequate housing to the families; on the measures taken to provide the families relocated from Borei Keila to Toul Sambo with flats similar of those of families living in the buildings next to them; on the measures taken to ensure that families living with HIV were not stigmatized and discriminated against at Toul Sambor; on the reasons why the evicted families have allegedly not been considered eligible for flats in the new buildings currently under construction at Borei Keila; if the families could participate in an adequate screening process, as all other inhabitants of Borei Keila; and on the situation of the remaining eleven families living with HIV and if they had been given written confirmation of the date and location of their respective flats.

18. On 27 August 2009, the Special Rapporteur together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable of physical and mental health, sent an allegation letter to the Government of the Kingdom of Cambodia concerning additional information received with respect to the alleged eviction of families affected by and living with HIV from the 'green shed' location in the Borei Keila community in Phnom Penh. According to the information received, another 20 families living in Borei Keila, and also affected by or living with HIV had been evicted to Toul Sambor on 23 July 2009. Previous concerns raised with the Government regarding the living conditions and access to health services for the families in the Tuol Sambor settlement reportedly had not been addressed, and the limited health care access and sub-optimal conditions persisted. The relocation of the 20 additional families on 23 July might have further hindered efforts to improve the housing conditions of the families evicted on 18 June and reinforced the perception that those sheds in Toul Sambor are used as an HIV colony. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the measures taken for people in Toul Sambor in regards to the lack of adequate sanitation, drinking water, nutrition and the heat of the buildings,

as well as to improve the housing infrastructure; on the measures taken to prevent eviction and discrimination of more families from Borei Keila on the basis of HIV status; and on the measures taken to ensure that families living with HIV were not stigmatized and discriminated against.

Responses received

19. On 30 June 2009, the Government of the Kingdom of Cambodia replied to the urgent appeal sent on 20 March 2009 (see para. 15). The Government informed that upon the receipt of the letter of the Council of Minister (letter no 157 dated 30 January 2009), the Municipality addressed the cases above in cooperation with the Garden Bassac City through a mutual resolution. As a result, the majority of the residents involved in the cases voluntarily agreed to the MPP's solution by accepting the offers for the resettlement at other places. Only 50 families remained in their place. For those 50 families, the Garden Bassac City agreed with the community to develop a project of building a multi-storey building at the site to be reserved for their relocation as an exchange of ownership. The Garden Bassac City provided the residents with temporary shelters nearby, while the construction of the project takes place. No measures were taken by the competent authorities, including the Garden Bassac City, to affect or hamper the interest of the community of 50 families in connection with their temporary lodging and resettlement. The Phnom Penh Municipality and the Garden of Bassac City remained committed to coordinate with the community in order to address their request through a peaceful resolution.

20. On 16 July 2009, the Government of the Kingdom of Cambodia sent a reply to the urgent appeal sent on 1 May 2009 (see para. 16) in which it transmitted the responses from the Municipality Office of Phnom Penh. The Government informed that initially only 10 families have illegally resided in Group 78, but the figure subsequently reached 172. Since the Municipality had not been able to identify new settlements for them, the status quo was then prolonged. The Government insisted that this did not imply the recognition of their legal settlement since one part of the disputed land belonged to the Sour Srun's company and the other part was a public area where a road was planned to be built. In an attempt to avoid legal actions against the residents of Group 78 (village 14), the Phnom Penh Municipality together with the Sour Srun's company sought a solution of compromise with the residents. The Municipality addressed the concern of the residents. As a result, over 50% of the Group 78 families reportedly accepted the offer. The Municipality issued an ultimate notice encouraging the remaining 86 families to accept the offer, which some accepted and others did not. The remaining 86 families (G78) had fully exercised their rights to resolve the dispute either through a legal process or by other means of settlement. In this connection, the residents lodged a complaint to the court requesting it to nullify the Phnom Penh municipality's administrative notice. In response to the questions of the special Rapporteur, the government informed that the families were not a party entitled with legal rights to occupy the land. It also stated that the issuance of the Phnom Penh Municipality's administrative notice No 19 (notification act) was based on the national Law and that the parties to the conflict were entitled to file a complaint to courts. With regards to the reasons for the eviction, the Government insisted on them not being evictions but relocations of residents and that, as of early 2009, 41 poor communities had been provided through an arrangement of distribution of 255 hectares of land. Concerning consultations with the persons threatened, the government informed that they were still in the process of negotiation and resolution of a compromise with the families through the work of task forces and local authorities that had been established to find mutually acceptable solutions. Regarding the

possession rights of Group 78 residents, it was stated that the families were not entitled to the possession of land in accordance with the Land Law of 2001. As of relocation, the Government informed that families were allowed to select from a number of comprehensive relocation options.

Observation

21. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to the communication sent on 15 July and 27 August 2009.

Cameroun

Communication sent

22. Le 2 fevrier 2009, la Rapporteuse Spéciale sur le droit au logement a adressé une lettre d'allégation au Gouvernement en réponse à la lettre d'allégation du 18 septembre 2008 relative à des cas d'expulsions forcées dans le quartier Ntaba-Nlongkak, dans la Commune de Yaoundé 1er., pour partager avec les autorités certaines réflexions et commentaires en lien avec cette réponse. D'après quelques allusions au caractère universel et inaliénable du droit au logement par des traités internationaux, elle a apporté des commentaires plus précis sur la réponse des autorités camerounaises en lien avec les évictions à Yaoundé. En premier lieu, la Rapporteuse a adressé la question des études d'impact préalables et projets alternatifs à l'expulsion (question 1 de sa première lettre d'allégation). Selon la réponse des autorités, l'étude a été réalisée par la Communauté Urbaine de Yaoundé, et a observé que les pancartes informant de l'illégalité d'occupation du quartier n'avait pas eu d'effet dissuasif sur les habitants. Néanmoins, selon la Rapporteuse Spéciale, il semblerait que l'étude menée a été insuffisante pour évaluer les conséquences des expulsions sur les habitants du quartier Ntaba-Nlongkak. L'étude préalable à l'expulsion devrait d'ailleurs, permettre au Gouvernement d'évaluer la capacité des habitants à accéder à un nouveau logement et, en fonction, allouer les ressources nécessaires pour répondre aux besoins des habitants expulsés. Deuxièmement, concernant la réponse à la question 2 de la première lettre d'allégation, aucune information sur d'éventuelles consultations avec les résidents du quartier avant les expulsions n'était fournie. De plus, il semblerait qu'aucunes alternatives aux expulsions n'auraient été considérées. Dans le cas où il serait impossible de parvenir à un accord entre les parties concernées sur une solution de remplacement, la Rapporteuse faisait référence à un organe indépendant ayant une autorité constitutionnelle, tel qu'une cour de justice, un tribunal ou un ombudsman, qui devrait être chargé de la médiation, de l'arbitrage ou de la décision, selon les besoins. La Rapporteuse Spéciale prenait note aussi des indications apportées en réponse à la question 3 concernant les moyens de notification des expulsions aux habitants du quartier, et elle aurait souhaité recevoir une copie de la notification adressée aux habitants concernés. En référence aux moyens de recours disponibles au Cameroun, la Rapporteuse a noté avec satisfaction l'existence d'une assistance judiciaire pour les personnes démunies. Néanmoins, elle a aussi déposé que les autorités ont la charge d'informer les habitants de l'existence de ces moyens de recours et de leur garantir l'accès. En outre, l'existence de ce mécanisme n'exonérait pas le Gouvernement de son obligation de prendre des mesures appropriées pour faire respecter les droits de l'homme. La Rapporteuse a adressé les mesures de relogement ou de compensation selon les indications du droit international, d'après la confirmation du Gouvernement de l'inexistence de mesures de relogement et de compensation

pour les habitants du quartier de Ntaba-Nlongkak, justifiées par l'utilité publique de la zone et la non-détention de titre foncier par les occupants. Finalement, en référence à la réponse du Gouvernement à la question 7 de ma lettre (relative à la prise des mesures pour protéger les enfants), la Rapporteuse a demandé d'être indiqué la nature de ces mesures et les actions concrètes entreprise à cet égard. Subséquemment, la Rapporteuse Spéciale a demandé au Gouvernement de lui fournir les compléments d'information demandés sur les évictions du Quartier de Ntaba-Nlongkak, ainsi que sur de prochaines évictions planifiées, si c'est le cas, et puis, ce qui a été prévu par les autorités pour que les évictions fussent conformes aux obligations internationales de l'Etat du Cameroun.

Observation

23. Le Rapporteur Spécial regrette qu'au moment de la finalisation du report, le Gouvernement n'ait pas encore répondu à sa communication.

China

Communication sent

24. On 12 February 2009 the Special Rapporteur together with the Special Rapporteur on the independence of judges and lawyers sent a joint urgent appeal to the Government of the People's Republic of China regarding Liu Yao, lawyer in Shenzhen. According to the information received; in June 2008, Mr. Liu was sentenced to four years in prison by the Dongyuan County People's Court for "intentional destruction of properties". The Heyuan Municipal Intermediate Court in Guangdong revoked the judgment for unclear facts and insufficient evidence and referred it back to the lower court. On 17 December 2008, the Dongyuan County People's Court, reportedly without any explanation, sentenced Mr. Liu to two years imprisonment, even though no new facts or additional evidence were presented during the retrial. Liu Yao has appealed the sentence to the Heyuan Municipal Intermediate Court. Mr. Liu represented peasants in Paitou Village, located in Dongyuan County, Heyuan City, Guangdong Province, whose land was expropriated at the end of 2006 by the local government to make way for a new power station planned by the Fuyuan Industrial Group. In December 2007, Liu Yao went with peasants to the hydroelectric plant construction site to try to stop work at the construction site, which had continued in spite of an order issued by the State Land Bureau in Dongyuan County to halt the construction. A dispute ensued between the peasants and Mr. Liu on the one side and the staff of the Fuyuan Industrial Group on the other, which resulted in the destruction of some items at the construction site. On 17 January 2008, the Dongyuan County Prosecutor's Office authorized Mr. Liu's arrest. The Special Rapporteur requested further information on the accuracy of the facts alleged, if a complaint had been lodged by or on behalf of the alleged victim; on the details, and where available the results, of any investigation, judicial or other inquiries carried out in relation to this case; on how procedural protection and due process guarantees were applied in the case of the expropriated peasants in Paitou Village, located in Dongyuan County, Heyuan City, Guangdong Province; on the merits of the judgment adopted by the Dongyuan County People's Court on 17 December 2008; and if Mr. Liu been granted appeal by the Heyuan Municipal Intermediate Court.

Response received

25. On 24 April 2009, the Government of the People's Republic of China replied to the urgent appeal sent by the Special Rapporteur on 12 February 2009. At the time of the finalization of this report, the reply was still under translation. A complete summary will be provided in the Special Rapporteur's next communication report.

Colombia

Comunicaciones enviadas

26. El 9 de abril 2009, la Relatora Especial junto con el Relator Especial sobre la independencia de magistrados y abogados, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, y la Relatora Especial sobre la situación de los defensores de los derechos humanos enviaron un llamamiento urgente al Gobierno de Colombia en relación con las amenazas contra las señoras Blanca Irene López y Claudia Erazo y el Sr. Rigoberto Jiménez. Blanca Irene López y Claudia Erazo son abogadas de derechos humanos que trabajan para la *Corporación Jurídica Yira Castro* (CJYC), una organización que defiende los derechos de comunidades campesinas y de las víctimas del desplazamiento forzado. Rigoberto Jiménez es el líder de la Coordinación Nacional de Desplazados. Blanca Irene López y la CJYC habían sido objeto de una comunicación de la entonces Representante Especial del Secretario General sobre la situación de los defensores de derechos humanos enviada el 4 de diciembre de 2007. Según la información recibida el 26 de marzo de 2009, la CJYC habría recibido una amenaza de muerte por correo electrónico enviada a Blanca Irene López y Claudia Erazo por el AUC Bloque Capital de las Águilas Negras, una rama del grupo paramilitar autodenominado las Águilas Negras. Este correo electrónico habría sido el octavo de una serie de amenazas idénticas enviadas a la CJYC desde 2007. Asimismo, el 4 de febrero de 2009, habría llegado al correo electrónico de la CJYC y al de la Coordinación Nacional de Desplazados otro mensaje de amenazas de muerte del mismo grupo (Águilas Negras AUC Bloque Capital), dirigido esta vez no sólo contra Blanca Irene López y Claudia Erazo, sino también contra Rigoberto Jiménez. La CJYC habría denunciado estas amenazas y otros incidentes. El 6 de marzo de 2009, la CJYC habría enviado una petición pública a la Fiscalía General de la Nación, solicitando información sobre las medidas tomadas en relación con estas amenazas y ataques. Sin embargo, hasta la fecha no se habría recibido ninguna respuesta. Además de los comentarios sobre la veracidad y exactitud de las alegaciones presentadas, los Relatores Especiales solicitaron mayor información sobre las investigaciones y diligencias judiciales iniciadas en relación con el caso; si fue presentada alguna queja; e información sobre las medidas de protección adoptadas en este caso.

27. El 13 de julio de 2009, la Relatora Especial envió una carta de alegación al gobierno de Colombia en relación a la demanda de inconstitucionalidad que la Sala Plena de la Honorable Corte Constitucional habría considerado en contra de dos normas relativas a las viviendas de interés social: el artículo 15 de la ley 388 de 1997 y el artículo 40 de la ley 3 de 1991. En este sentido, la Relatora Especial transmitió sus consideraciones acerca de las normas mencionadas a la luz del marco normativo internacional relativo al derecho a una vivienda digna. Con relación al artículo 15 de la ley 388 de 1997, la Relatora Especial consideró que el problema fundamental con esta norma parece ser que al establecer las condiciones de precio de la vivienda de interés social como el único criterio relevante para las especificaciones o características de loteos y áreas construidas de urbanizaciones y construcciones, otras características fundamentales para

garantizar el derecho a una vivienda adecuada no serían tomadas en consideración al momento de planear y construir viviendas de interés social (VIS). Dicho artículo podría constituir un grave obstáculo a la realización del derecho a una vivienda adecuada para los beneficiarios de las VIS en Colombia y podría afectar cuatro de los atributos esenciales para garantizar una vivienda adecuada: la disponibilidad de servicios, materiales, facilidades e infraestructura; habitabilidad; lugar; y adecuación cultural. Según la información recibida, ya se ha evidenciado cómo, por ejemplo, la habitabilidad de las VIS sería vulnerada por dicha Ley, y en particular por el Decreto 2060 de 2004. Dicho Decreto, basado en el artículo 15 de la Ley 388 de 1997, establece unas normas relativas a las áreas mínimas de tamaño de lotes para la construcción de las VIS que permiten espacios muy reducidos, lo que impediría cumplir con las condiciones mínimas de habitabilidad interior de la vivienda. El artículo 15 de la Ley 388 podría además vulnerar el artículo 2 párrafo 2 del PIDESC, en virtud del cual Colombia se ha comprometido a garantizar el ejercicio de los derechos sin discriminación alguna. Según la información recibida, la sujeción de las cesiones urbanísticas únicamente al criterio del precio, tiene por objetivo la viabilidad financiera de los proyectos de vivienda de interés social. Aunque esta medida pueda considerarse una forma de discriminación positiva permitida en principio por el PIDESC, la misma permite que los beneficiarios de las VIS sean discriminados en términos de acceso al espacio público y a los servicios. Con relación al artículo 40 de la ley 3 de 1991, según la información recibida, esta norma otorgaría al Gobierno nacional competencias que eran anteriormente compartidas con las entidades territoriales en materia de regulación del uso del suelo, así como de regulación de las características de las VIS. Asimismo, la norma en cuestión permitiría tomar medidas regresivas en materia de derecho a una vivienda adecuada, puesto que existirían reglamentaciones, en varias ciudades del país, sobre mínimos de calidad de la vivienda de interés social que protegen en mayor medida el derecho a la vivienda adecuada. La Relatora Especial consideró que las normas arriba mencionadas podrían no ser compatibles con las obligaciones internacionales de Colombia, en materia de protección de los derechos económicos, sociales y culturales, en particular el derecho a una vivienda adecuada, y solicitó a la Honorable Corte Constitucional tener en cuenta dichas obligaciones al momento de examinar la constitucionalidad de las normas demandadas. Asimismo, solicitó al Gobierno información adicional sobre su perspectiva respecto de la compatibilidad de los artículos 15 de la Ley 388 de 1997 y 40 de la Ley 3 de 1991 y el Pacto Internacional de Derechos Económicos, Sociales y Culturales, así como la jurisprudencia desarrollada por el Comité de Derechos Económicos, Sociales y Culturales. Asimismo solicitó información sobre cualquier decisión de la Corte Constitucional al respecto.

28. El 14 de agosto de 2009, la Relatora Especial junto con el Relator Especial sobre el derecho a la alimentación envió una carta de alegación al gobierno de Colombia en relación con el supuesto desalojo forzoso del que fueron objeto 120 familias residentes en la Hacienda las Pavas en el municipio del Peñón, sur de Bolívar. Según la información recibida, el 14 de julio de 2009, miembros de la Policía Nacional y del Escuadrón Móvil Antidisturbios habrían desalojado 120 familias de sus casas allí ubicadas. Los miembros de la Policía habrían saqueado las viviendas desalojadas. El desalojo forzoso se habría realizado a pesar de que representantes del Ministerio Público presentes en el momento del desalojo se opusieron al mismo y solicitaron la suspensión de la operación. Según la información recibida, solo 3 familias permanecían en el predio de la hacienda las Pavas, gracias a una decisión judicial obtenida vía tutela, la cual les reconoció su derecho de posesión. Las restantes 120 familias, supuestamente desalojadas forzosamente, también serían poseedoras de buena fe de las tierras de la hacienda las Pavas en las que estaban ubicadas sus viviendas. Su propietario, Sr. Jesús Emilio Escobar Fernández,

habría abandonado el predio en 1997, momento a partir del cual las 123 familias vecinas de la vereda de Buenos Aires habrían iniciado actos dominativos de posesión, incluyendo la explotación económica del predio y mejoras para optimizar su rendimiento agrícola. En el año 2008, se habría dictado una resolución por parte de la Unidad Nacional de Tierras (Resolución 1473 de 11 de Noviembre de 2008), en la que se habría dispuesto iniciar las diligencias administrativas para declarar extinguido el dominio sobre varios predios rurales, incluyendo las Pavas. Dicho procedimiento se encontraría aún en curso. Sin embargo, las sociedades Aportes San Isidro S.A. y C.I. Tequendama, quienes figurarían como adquirientes parciales de mejoras y dominio del predio desde el año 2007, habrían iniciado una acción policiva, la cual es el origen del desalojo forzoso del 14 de julio de 2009. Según la información recibida, la decisión de desalojo desconocería la normatividad vigente en la materia, en particular, en lo referente al procedimiento de extinción de dominio que está en curso. Según la información recibida, las 123 familias han visto gravemente afectado su derecho a la alimentación desde el desalojo, puesto que han visto interrumpido su acceso a los medios productivos que poseían. Asimismo, las 3 familias que permanecen en el predio estarían siendo el objeto de presiones por parte del apoderado de Aportes San Isidro S.A. y C.I. Tequendama. Además de los comentarios sobre la veracidad y exactitud de las alegaciones presentadas, los Relatores Especiales solicitaron mayor información sobre base legal en que se habría fundamentado el supuesto desalojo forzado; si se dio un plazo suficiente y razonable de notificación a las familias afectadas por el desalojo y un plazo suficiente para que las comunidades afectadas pudieran sacar sus bienes antes del desalojo; sobre las acciones tomadas para investigar el supuesto saqueo de las viviendas desalojadas por parte de miembros de la fuerza pública; si se ofreció una compensación adecuada a los afectados por la perdida de sus viviendas y bienes; sobre las medidas tomadas para garantizar el derecho a la alimentación de las familias desalojadas, para garantizar que el desalojo no genere personas sin hogar, para ofrecer vivienda adecuada alternativa, reasentamiento y acceso a tierras productivas a las personas, y para proveerles de techo, alimentación, agua y medicina para atender a las necesidades más básicas ocasionadas por el desalojo.

Respuestas recibidas

29. El 25 de septiembre de 2009, el Gobierno de Colombia envió una respuesta a la carta de alegación de fecha 13 de julio de 2009 (ver para. 27). Según la información del Gobierno, la Corte Constitucional falló mediante sentencia C-351 de 20 de mayo de 2009 sobre la constitucionalidad de los artículos 15 de la Ley 388 de 1997 y 40 de la Ley 3 de 1991. En tal sentido, se informó que la Corte decidió inhibirse para pronunciarse sobre la inconstitucionalidad de las expresiones “de precio” y “cesiones”, contenidas en el párrafo primero del artículo 15 de la Ley 388 de 1997. Asimismo, decidió declarar exequible el artículo 40 de la Ley 3° de 1991, modificatorio del artículo 64 de la Ley 9° de 1989, por lo cargos examinados. Según se informó, la Corte se inhibió de emitir un fallo de fondo en relación con los cargos formulados contra los vocablos precio y cesiones en el artículo 15 de la Ley 388, por ineptitud sustantiva de la demanda. De otra parte, la Corte señaló que no se podía sostener que el artículo 334 de la Constitución haya sometido a reserva legal la regulación de los usos del suelo. En tal sentido, la Corte informó no haber encontrado que el contenido normativo de los artículos 333 y 334 de la Constitución se relacionen razonablemente con la temática del artículo 40 de la Ley 3° de 1991, ni advirtió que la competencia del Gobierno Nacional de reglamentar las normas mínimas de calidad de la vivienda de interés social desconociera la cláusula general de competencia del legislador en cuyo desarrollo le corresponde fijar los elementos básicos de configuración de los derechos constitucionales, incluido el derecho a la vivienda digna. Por tal razón la corte

desestimó el cargo por usurpación de las competencias de los concejos municipales y el artículo 40 de la Ley3° de 1991 fue declarado exequible.

30. El 11 de enero de 2010, el Gobierno contestó a la comunicación de los Relatores datada 14 de agosto de 2009 (ver para. 28). Respecto a la situación de la Hacienda "Las Pavas" el Gobierno informó que las sociedades comerciales "Aportes San Isidro" y "Tequendama C.I." solicitaron a través de una acción policiva el amparo a la posesión detentada desde el año 2007, en calidad de adquirentes parciales de mejoras y dominio del predio en cuestión. En este sentido, el Gobierno precisó que los hechos ocurridos el día 14 de julio de 2009 no se encuentran dentro de una diligencia de desalojo propiamente dicha (en razón de que ésta ocurre cuando el lugar ocupado es un espacio publico) sino dentro de una diligencia de lanzamiento por ocupación de hecho, a saber, un proceso a través del cual se pone fin a la ocupación arbitraria de un inmueble y se restituye su tenencia a favor del tenedor legitimo. El Gobierno informó que esta diligencia de lanzamiento tuvo como fundamento una sentencia proferida por el Juzgado Primero Promiscuo del municipio de Mompox. El gobierno también informó que la Fiscalía 1° de la Estructura de Apoyo (EDA) de la Unidad de Asuntos Humanitarios-Seccional Cartagena se encuentra adelantando la correspondiente investigación penal por el presunto delito de desplazamiento forzado del que dicen haber sido victimas ciento veinte familias y que la presente investigación se encuentra en etapa de indagación en averiguación de responsables. El gobierno también señaló que las familias presuntamente víctimas de desalojo no habrías sido desprovistas de su vivienda puesto que su residencia no era la Hacienda "Las Pavas" sino que esta se encuentra ubicada en la cabecera del corregimiento Buenos Aires, ubicado a treinta minutos de camino de la Hacienda "Las Pavas". El Gobierno finalmente precisó que una vez recabe mayor información sobre este caso, la remitirá a los Relatores Especiales. En relación con las medidas tomadas para garantizar el derecho a la alimentación de las familias desalojadas, el Gobierno informó que el Gobierno está adelantando las gestiones pertinentes con la Entidad competente a fin de brindar información completa sobre el particular. En este sentido, el Gobierno solicitó una prorroga de treinta días para contestar a esta pregunta.

Observación

31. La Relatora Especial señala que en el momento de realizarse este informe no haya recibido ninguna respuesta del Gobierno a su comunicación de fecha 9 de abril de 2009.

Congo

Communication envoyée

32. Le 1 mai 2009, la Rapporteuse Spéciale sur le droit au logement a adressé une lettre d'allégation au Gouvernement au sujet d'expulsions forcées et de destructions d'habitations dans la commune de Kasa Vubu à Kinshasa. Selon les informations reçues, entre le 14 et le 18 mars 2009, la police a procédé à l'expulsion de 315 familles de leur logement dans la commune de Kasa Vubu en vue de leur démolition immédiate, suite à une décision d'expropriation émanant du Ministère des Affaires Foncières, pour permettre la construction d'un hôpital. Il a été fait mention de trois sites sur la commune de Kasa Wabu (Site Koweit, site institut Médical et site FOMANES). D'après ces mêmes informations, ces familles disposaient de titres de propriété pour leur logement, qui aurait été validé par le Tribunal de Grande Instance de Kalamu dans un jugement en date du 29 Novembre 2008. Dans ce jugement, le tribunal aurait aussi astreint l'Etat

à ne pas troubler la jouissance des biens de ces familles. D'autre part, il semblerait que seules 24 des familles concernées auraient reçu l'indemnisation préalable prévue par l'arrêt d'expulsion datant du 25 novembre 2008, et aucune d'entre elles n'aurait disposé d'un délai nécessaire pour quitter les lieux. Surtout, les familles n'auraient à aucun moment été consultées, avant ou après la signature de l'arrêt d'expulsion. Suite à l'expulsion, nombreuses familles étaient réfugiées dans une cathédrale et d'autres chez des parents, mais la majorité s'aurait retrouvé à la rue. Il apparait également que les familles ont tenté de rencontrer le premier ministre, mais que celui-ci leur aurait opposé une fin de non-recevoir. La Rapporteuse Spéciale a demandé au Gouvernement de lui fournir des informations détaillées au sujet de la situation énoncée précédemment, ainsi que sur les mesures prises par les autorités compétentes conformes aux provisions contenues dans les instruments légaux internationaux auxquels la République Démocratique a accédé, et que lui soient communiqués des réponses sur les questions suivants: si les autorités concernées auraient-elles réalisé une étude d'impact et envisagé des projets alternatifs à l'expulsion de ces personnes ; quelles avaient été les consultations menées avec les résidents de Kasa Vubu avant les expulsions ; de quelle manière les résidents avaient-ils été notifiés de leur expulsion ; quels moyens de recours auraient été mis à la disposition des habitants ; quelles étaient les mesures de relogement prévues pour les habitants de Kasa Vubu dans l'hypothèse d'une expulsion ; quelles compensations avaient été prévues pour les expulsions et les pertes subies par les habitants ; et quelles mesures auraient été prises pour protéger les enfants des conséquences de ces expulsions.

Observation

33. Le Rapporteur Spécial regrette qu'au moment de la finalisation du report, le Gouvernement n'ait pas encore répondu à sa communication.

Ghana

Communication sent

34. On 19 June 2009, the Special Rapporteur together with the Special Rapporteur on the right to food, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, and the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights sent a joint allegation letter to the Government of Ghana regarding the potential impacts that the establishment of an open pit gold mine in Akyem, more precisely within the Ajenua-Bepo Forest Reserve in the Birim North District of Ghana's Eastern Region, may have on the enjoyment of economic, social and cultural rights of the affected communities. According to the information received, permits for the mine in Akyem have already been issued. Reportedly, Newmont Ghana Gold Limited (NGGL) is a branch of the US-based Newmont Mining Corporation, one of the biggest gold mining companies worldwide. In 2006, Newmont Mining Coporation's application to exploit the Akyem site was reportedly turned down by the Environmental Protection Agency, which expressed concern about the serious impact that mine's rock dump waste could have on the biodiversity of the forest. Despite this, in early 2009 the Ministry of Mines, Land and Forestry's reportedly granted a permit to the NGGL. According to the information, despite a decision to postpone the commencement of works in February 2009, NGGL was planning to start operating. The allegations received claim that, in addition to considerable environmental damage within the

forest reserve the project could have severe impacts on the livelihood of an estimated 7,900 to 10,000 people. Up to 1,500 persons, most of them small-scale farmers, may be evicted and no plans were developed either by the company or the authorities to do so in a fair and equitable manner. According to information received, farmers who would not be provided with alternative land on which to resume their agricultural activities and would not receive adequate compensation. Moreover, by losing access to the forest reserve for hunting and fruit picking, the local communities would lose a significant part of their food supplies. Reports also indicate that dust generated by the exploitation of the mine may affect the production of crops and that the digging of pits and dams, and their subsequent exploitation, were expected to have severe impact on the access of the local population to water from rivers and streams. Moreover, the environmental impact assessment was allegedly not carried out in conformity with international standards, and that local communities were not adequately involved in the decision-making process affecting them. There are allegations that during 2008, NGGL may have fraudulently enticed local village elders into acquiescing to the projects by paying them large amounts of money. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on whether any study on social, environmental and health impact of the open mine project was realized; on the measures taken to ensure that the open mine project does not have disproportionate negative impacts on the environment and on the livelihoods of neighboring communities; on the measures taken to ensure that water resources will be protected from risks of leakages, and to ensure that mining wastes will be disposed of appropriately; if the concerned communities were allowed to participate in the planning to open the mine; if the land subject to expropriation were duly evaluated; if measures of compensation were put in place for all concerned persons, with a due assessment of the loss of their farming activity; on the measures taken to ensure that those who may lose their land are offered alternative sustainable means to access sufficient and adequate food; if there was any consultation with the persons threatened with eviction; on the measures foreseen to ensure that the persons threatened with eviction will not become homeless; and on the measures foreseen in terms of relocation.

Response received

35. On 14 August 2009 and 25 August 2009, the Government of Ghana replied to the joint allegation letter of 19 June 2009 (see para. 34). The Government informed that the company carried out an Environmental Impact Assessment (EIA) and an Environmental Impact Statement which were accepted and led to the issuance of an Environmental Permit to the Company. The Company was also required to prepare and submit an Environmental Management Plan within eighteen months after commencement of mining operations for approval and thereafter every three years. The conclusions of the studies stated that the company followed the EIA process; that appropriate consultations were held with the public and with government institution; that mitigation actions had been identified to address the significant impacts; that the most substantial long-term environmental effect of the project would be the presence of an open pit and the company proposed to place waste rock in the open pit to fill approximately half of this void; that the company has been active in continuing dialogue with project-affected people since 2003; and that the broader impact of the project is anticipated to be beneficial to the economy of the local area. With regards to the disproportionate negative impacts on the environment and livelihood of neighboring communities, according to the information received, to ensure judicious exploitation of the mineral resources in the production forest reserves, the Government of Ghana produced the Environmental Guidelines for Mining in Production Forest Reserves, which recommend the

establishment of a Liaison Group to evaluate Environmental Impact Statements of projects located in forest reserves and also monitor and enforce environmental compliance. With regards to measures to ensure that water resources will be protected from risks of leakages and that mining wastes will be disposed of appropriately, the government informed that a combination of under-drain piping network, collection basin, and pump-back systems was established to collect seepages. Regarding community participation, the affected people had been adequately informed and were aware of the project. A number of stakeholder consultations were held with community engagement. With regards to compensation, affected persons are considered eligible for resettlement assistance and a broad range of compensation and assistance was proposed by the company. The company will also implement a range of programs to assist affected population to continue engaging in agricultural activities and to provide training opportunities and businesses when no land is available. As of relocation, an estimated 242 households and 25 businesses would be physically displaced by the project. In addition to the compensation measures stated above, the company has reportedly developed a Guide to Land Acquisition and Compensation for its project development activities. The EPA has also requested the Company to submit a Resettlement Action Plan containing the specific commitments, procedures and actions which would be taken to resettle and compensate people. Finally, the company conducted a Health Impact Assessment to identify the activities associated with the operation, which may affect community health and safety as wwell as to record baseline conditions associated with individual health, health trends, infrastructure and health care capacity in the area.

India

Communications sent

36. On 27 March 2009, the Special Rapporteur sent an allegation letter to the Government of India concerning forced evictions in the areas of Davidpuram, Kalvaikarai, Pumping Station and Samidosspuram, in the city of Chennai, State of Tamil Nadu, India. According to information received, on 13 February 2009, the Tamil Nadu Slum Clearance Board ordered the clearance of the four above-mentioned sites, where nearly 9000 families were residing. The families had reportedly been settled in these areas for more than 50 years and were in possession of various documents. The decision on the eviction from the four areas was preceded by dweller complaints about their poor access to drinking water. During the trial, the Water Board Department reportedly declared that since the water pipe lines had been laid under the slum areas, the only solution was to clear out the area. The Chennai High Court ordered the relocation of all slum dwellers in alternative locations by 13 February 2009. Relocation was reportedly offered only to families having a ration card. The slum dwellers were mostly Dalit and minority communities. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on weather measures of consultation and dialogue were taken between the tenants of Davidpuram, Kalvaikarai, Pumping Station and Samidosspuram areas and the public authorities; on information on what alternative solutions were considered by the Water Board Department of Tamil Nadu – before the decision to resort to evictions was taken and if relocation sites within the limits of the city of Chennai were considered; on compensation provided to those evicted; on the measures taken to protect the more vulnerable groups, including women and children; and on the legal process which opposed slum dwellers to the Water Board Department and on whether legal assistance and information about their rights was provided to slum dwellers.

37. On 20 July 2009, the Special Rapporteur sent an allegation letter to the Government of India regarding alleged forced evictions in the area of Netaji Nagar Basti, Ghatkopar, in the city of Mumbai, State of Maharashtra. According to the information received, on 28 May 2009, officials of the Municipal Corporation of Greater Mumbai carried out the eviction of approximately 250 families in the above-mentioned site, with the assistance of the Pant Nagar Police. The police reportedly used violent means. A number of protestors reportedly remained in custody for one night. Reportedly, the Public Works Department of the Government of Maharashtra, to which the concerned land belonged, recently decided to lease 60 acres of this land to a private developer, M. Vimal Shah. The affected families were allegedly evicted without prior notice, compensation, alternative housing or adequate time to withdraw their belongings. Although the concerned families had reportedly no title deeds and the settlement was informal, the authorities allegedly neglected several requirements under national policy, particularly the Government of Maharashtra Slum Redevelopment and Relocation Scheme, which grants protection to all residents that have started living in Mumbai prior to January 1995, including in informal settlements. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the legal basis for the alleged forced evictions; on the reasons for not applying the relevant policies; if any consultation took place with the affected families; on the measures foreseen by the authorities to ensure that the eviction would not result in homelessness of the affected persons; on what has been foreseen in terms of alternatives for those affected and if relocation sites have been designated; if compensation was provided to the evictees; on the measures taken to provide the evictees with effective legal recourse; if the affected families were given adequate prior notice before the evictions and adequate time to withdraw their belongings; if any complaint was lodged concerning the alleged forced evictions or the alleged excessive use of force by the police officers; and on the results, of any investigation, judicial or other inquiries carried out in relation to this case.

38. On 9 December 2009, the Special Rapporteur sent an urgent appeal to the Government of India regarding forced evictions along the Cooum River in the city of Chennai, Tamil Nadu. According to the allegations, around 430 families living along the Cooum River in Chennai, Tamil Nadu, were forcibly evicted and their homes destroyed in actions starting on 13 November 2009. The forced evictions were reportedly carried out by the Public Works Department and the Slum Clearance Board in order to clear land that the National Highways Authority of India (NHAI) plans to use to build an elevated highway. During the evictions, a force of over 200 police officers was reportedly deployed and bulldozers demolished the huts of the families in question. It was alleged that the families had not been issued an appropriate advance notice of the eviction. Reportedly, 150 families had not been offered alternative housing and had been left homeless by the evictions. The relocation offered to the rest of the families was allegedly not the product of proper consultation processes. The housing alternatives offered were far removed from their places of work and educational facilities. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the legal basis upon which the alleged forced evictions were carried out, if any consultation was undertaken with the affected families; on the measures foreseen by the authorities to ensure that the alleged forced eviction do not result in homelessness of the affected persons; on the measures foreseen in terms of alternatives for those affected; if relocation sites have been designated; if compensation was provided to the evictees; if measures were taken to provide the evictees with effective legal recourse; if the affected families were given adequate prior notice and adequate time to withdraw their belongings before the eviction; if any complaint was lodged on the

alleged forced evictions as well as on the alleged excessive use of force by the police officers; and the details on the follow-up of these complaints and where available the results, of any investigation, judicial or other inquiries carried out in relation to this case.

Response received

39. On 30 March 2009, the Government of India replied to the allegation letter sent on 5 March 2008, contained in report A/HRC/10/7/Add.1 paragraph 54. The Government informed that the allegation was being investigated by the authorities of India and that the matter was sub judice with Allahabad High Court where a charge sheet had been filed against the named accused.

Observation

40. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to these communications.

Indonesia

Communications sent

41. On 4 August 2009, the Special Rapporteur together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Representative of the Secretary General on the human rights of internally displaced persons sent a joint allegation letter concerning violations of the right to health, the right to adequate housing, and other human rights of victims of the ongoing mudflow disaster in Sidoarjo, Indonesia. According to the information received, in the aftermath of a gas eruption at a drilling site operated by PT Lapindo Brantas on 28 May 2006, at least 60’000 people lost their homes. Many of the currently estimated 15’000 affected households were victims of the first mudflow in May 2006 and of the break of a dam built to retain the mudflow, in March 2009. According to information received, 573 families have sought refuge in Pasar Porong, where they were either housed in small windowless shops or in open halls. Essential services have been reportedly discontinued. This resulted in forced second relocations. The mudflow allegedly led to large-scale pollution of the ground water and the air. According to information received, a compensation scheme to the benefit of those affected by the initial mudflow of May 2006 was ordered by Presidential decree in 2007. People from the submerged area holding valid property documents were deemed eligible for compensation from PT Lapindo Brantas. However, this scheme reportedly had yet to be fully implemented. A second decree, issued in 2008 after a dam break submerged three villages, allegedly faced similar difficulties in its implementation. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the steps taken in the interim to improve the health and living conditions of the affected persons; on the steps taken to improve the safety and security of those persons living in areas, and whether a monitoring and early warning system was set up; on the steps taken in the long term to ensure permanent relocation and alternative livelihood for displaced persons; on the measures put in place as alternatives to the dumping of mud in the River Porong; on the measures taken to ensure that the compensation schemes for displaced people, ordered by Presidential decrees, are realized to their full potential; and if similar

compensation schemes were foreseen for mudflow victims of areas not covered by existing schemes.

42. On 14 august 2009, the Special Rapporteur together with the Special Rapporteur on the right to food, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation and the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment on human rights sent a joint allegation letter to the Government of Indonesia regarding the potential impacts that gold and copper mining activities in Lembata, East Nusa Tenggara, Indonesia, may have on the enjoyment of the right human rights of Lembata communities. According to the information received, in 2005 the Indonesian mining company PT Merukh Lembata Copper was permitted by the local government to carry out exploration activities for gold and copper on Lembata. The company reportedly holds exploration rights for at least two thirds of the island. This planned mining project would concern as much as 75% of the entire island, and would result in the forced eviction of at least 60,000 local people. Reportedly, the local government has not shared any information concerning a possible relocation plan. Reportedly, the agreement between the local Regent and PT Merukh Lembata Copper was signed without any discussion or consultation with the concerned communities. In order to gain people's agreement after the contract signing, the Regent of Lambata reportedly resorted to ambiguous means. Reportedly, no environmental impact assessment was carried out in conformity with international standards and local communities were not adequately involved in the decision-making process affecting them. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on whether a study on social, environmental and health impact of the open mine project was realized; on the measures taken to ensure that the mining project does not have disproportionate negative impacts on the environment and on the livelihoods of neighboring communities; if the concerned communities were allowed to participate in decision-making; if measures of compensation were put in place; on the measures taken to ensure that those who may lose their land are offered alternative sustainable means to access sufficient and adequate food; if any consultation too place with the affected persons; on the measures foreseen in terms of relocation; if locations were designated for their relocation; and on the measures foreseen in terms of compensation.

Observation

43. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to these communications.

Israel

Communication sent

44. On 18 June 2009, the Special Rapporteur together with the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation sent an urgent appeal to the Government of Israel inquiring about the on-going demolitions of houses and forced evictions carried out by the Israeli Defense Forces (IDF) in the West Bank, specifically in East Jerusalem and the Jordan Valley. According to the information received on 4 June 2009, the

IDF reportedly destroyed the houses of 18 Palestinian families in the hamlet of Ras al-Ahmar in the Jordan Valley. It is also reported that the Israeli military forces demolished animal pens and confiscated the water storage tank. In all, 128 people were reportedly displaced. In the nearby hamlet of Hadidiya, 5 families were under threat of imminently forced eviction, while 12 other were fighting eviction and demolition orders before an Israeli military court. In this case more than 150 people, most of them children, risked being evicted. Concerning East Jerusalem, on 11 June, residents of 20 homes in the Bustan neighbourhood of Silwan received demolition orders. More than 1,000 Palestinians reportedly risked losing their homes. On 10 June, the residents of a four storey building in Al Abbasiya were reportedly ordered to report to the Jerusalem municipality for building without the requisite building permits. A demolition order was also allegedly issued on a five storey building with 13 apartments (where 95 people reside) in Beit Hanina. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the grounds for the demolitions and evictions; on the legal framework governing these decisions; if the affected persons were given adequate prior notice; if the affected persons were given adequate time to withdraw their belongings before the demolition; on the measures foreseen to ensure that the affected persons will not become homeless; on the measures foreseen in terms of relocation, if any consultation with the affected persons took place; and, in particular in the case of East Jerusalem, on the measures taken to ensure that urban planning policies take adequate account of the situation of Palestinian residents.

Observation

45. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Italy

Communication sent

46. On 23 April 2009, the Special Rapporteur together with the Independent Expert on Minority Issue sent a joint urgent appeal to the Government of Italy regarding alleged evictions in Milan. According to allegations, on 31 March 2009 a community of about 140 Roma people living under the overpass Bacula in the north of the city of Milano was evicted. The community was living in an "unauthorized camp" in extremely precarious conditions, without any basic infrastructure. It was informed that the majority of the evictees had been previously evicted from other locations in the city. Reportedly, the community was not notified prior to the eviction and no adequate alternatives have been offered. While about five families were given temporary shelter at the "Casa della carità", the fate of the other evictees was unknown. Reports indicate that since the signing on 19 May 2007 of the Milan "Pact for Security" seven evictions of Roma communities have been carried out in Milan. Allegedly, because of the nature of the camps -even some of the "authorized camps"- Roma immigrants are often denied local resident permits. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the legal basis for the eviction; on any consultation undertaken with those affected; on measures foreseen to ensure that the eviction does not result in homelessness of the affected persons; if measures were adopted in terms of relocation; on any assistance, financial or otherwise provided in relation to the evictions; on the situation of the families affected by the eviction; if the affected persons were given a prior notice before the

eviction; if the affected persons were given adequate time to withdraw their belongings before the eviction; and on the measures taken to upgrade housing and accommodations of Roma people in camps and to guarantee their right to adequate housing .

Response received

47. On 1 July 2009, the Government of Italy replied to the urgent appeal sent on 23 April 2009. The Government informed that the camp where the Roma community was living belonged to the Municipality of Milan and it was very unsafe due to the normal passage of trains. It was deemed necessary to remove the people living there to protect the members of the community and the railway infrastructure. The removal of the Roma community was carried out in full compliance with the Italian Criminal Code, according to which illegal occupation of land or buildings, whether public or private, constitutes an offence and punishable by law. The removal did not require any previous communication or administrative procedure since it had the purpose to address a dangerous and degrading situation and to curb a criminal behaviour. On the day of the evictions, the community was composed of 90 EU citizens from Romania without regular Italian residence permit. They were all given the possibility and the time to collect their personal belongings before being removed. With regard to the housing alternatives foreseen, the Municipality of Milan offered temporary accommodation in Municipality centres and women and children were offered accommodation in reception centres. However, only few members of the community accepted the offer.

Kenya

Communication sent

48. On 3 August 2009, the Special Rapporteur sent an urgent appeal to the Government of Keny regarding alleged forced evictions in Githogoro village in Nairobi. According to the information received, approximately 3.000 people from about 100 households were forcibly on 22 July. Allegedly, the police gave them 72 hours to dismantle their homes, before the bulldozers moved in. The evictions appear to have been carried out as a part of the Government's plans to build a new road. Some of the evictees have reportedly left the settlement to look for alternative accommodation, and others are camped next to the settlement. However, a many of them stayed in the rubble of their former homes and were sleeping in the open. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the legal basis for the forced eviction; if alternatives to the demolition were considered and if residents were consulted at any stage; if the affected persons were given adequate prior notice of the forced eviction; on the measures taken to prevent people form becoming homeless; and if the persons were offered compensation for the loss of their homes.

Observation

49. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Korea (Republic of)

Communication sent

50. On 1 April 2009, the Special Rapporteur together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders sent a joint allegation letter regarding violent forced evictions and death of protestors as a consequence in Yongsan, Republic of Korea. According to the information received, on 20 January 2009 in Zone 4, in Yongsan, a district of Seoul, five protestors were killed during a protest against forced eviction and the police crackdown to stop it. These events resulted from the implementation of an urban redevelopment project which had led to alleged massive forced evictions with no plan for resettlement. Yongsan was designated as a redevelopment project area in 2006. The families residing there only found out about it at the end of 2007 and one month before the eviction took place. The tenants had no opportunities to challenge the authorities' decision, to file a legal complaint, to present alternative proposals, or to articulate their demands. It is reported that previous to April 2008, construction workers were stationed at Yongsan, and harassed people in various ways. For these reasons, some of the tenants moved out without any adequate resettlement. Reportedly, the Yongsan residents asked for police protection, but neither investigation nor action was carried out. In March 2008, the inhabitants asking for comprehensive resettlement plan joined the Federation Against House Demolition (Jun Chul Yun) and decided to prepare a demonstration, as a last resort. On the morning of 9 January 2009, approximately 50 people started a sit-in protest on the rooftop of a five-story temporary building. In order to disperse the protesters, approximately 1.600 police officers as well as 49 SWAT officers trained for counterterrorism operations were dispatched around the area. During the police crackdown, a fire broke out. Five protesters and one SWAT officer died as a consequence. The authorities carried out investigations on the events which resulted in the arrest of a number of protesters, and no charges were filed against the police. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on how tenants of Yongsan were informed of their eviction and on the measures of consultation and dialogue with the tenants; if alternative solutions were considered before the decision to resort to evictions; if a prior impact assessment of the redevelopment project was carried out; if compensation was offered to evicted people; if the Government considered the principle of necessity and proportionality in its decision to resort to compulsory measures to stop the protest that took place on 20 January 2009; on the measures taken to guarantee freedom of assembly and association in the framework of urban redevelopment projects and housing policies' implementation; if any complaints had been lodged on behalf of the alleged victims of the police crackdown on 20 January 2009; and on the details of any investigation, judicial or other inquiries carried out.

Response received

51. On 6 July 2009, the Government of Korea sent a reply to the joint allegation letter sent on 1 April 2009. The Government informed that on December 2002, the Republic of Korea enacted the Act on the Maintenance and Improvement of Urban Zones and Dwelling Conditions for Residents, which requires companies responsible for the Urban Environment Improvement Project to formulate a project implementation plan that includes measures for the relocation of tenants. According to the Act, the provincial government is required to undertake a prior impact assessment of the Urban Environment Improvement Project, draw up an improvement plan and

designate the Urban Environment Improvement Zone. Subsequently, the interested companies are required to conduct impact assessments that must be reviewed and approved by the provincial government in order to receive an authorization for the project's implementation. The Government also informed that the partnership of landowners in Yongsan Zone 4 carried out the aforementioned process. The Seoul Metropolitan Government informed the public of the designation of Yongsan as an Urban Environment Improvement Zone on 1 December 2003, 15 September 2005 and 20 April 2006. The partnership of landowners in Yongsan Zone 4 notified individual tenants of compensation in March, August and October 2007, and put up a compensation and eviction notice in April 2008 (the time limit for the eviction was August 2008). Concerning compensation, residential tenants were provided with compensation for relocation of residence and movable property, and given entitlement to a rental house, whereas commercial tenants were offered with deposit money and compensation for the business suspension. In Yongsan Zone 4, 821 out of 904 tenants received complete compensation, and 37 residential tenants were selected as eligible to move into rental housing. Appeal procedures, civil complaints mechanisms, and negotiation opportunities were provided to the affected persons. Concerning the demonstrations in Yongsan, the Government informed that on 19 January 2009, members of Jun Chul Yun hold a violent demonstration and illegally occupied a building in the city center from where they indiscriminately threw Molotov cocktails, bricks and bottles of hydrochloric acid, golf balls and glass beads, as well as caused considerable damage by setting fire to nearby buildings. The police, including SWAT officers, responded with a law enforcement operation. The fire allegedly set by the protestors may have led to the unexpected death of five people. The Prosecutors' Office has been investigating whether the police acted illegally, and whether there was a connection between the police crackdown and the deaths of protestors. Twenty-seven protestors were allegedly arrested on charges of unlawful entry into a private building, arson and assault against the police. Also, seven construction workers were prosecuted without detention on charges of using violence during the crackdown. The Government informed that the police sought to achieve a peaceful settlement by trying to mediate amongst the interested parties and that it fully guarantees the freedom of peaceful assembly.

Mexico

Comunicaciones enviadas

52. El 28 de agosto de 2009, la Relatora Especial envió una carta de alegación al Gobierno de México en relación a la situación de las 1.600 viviendas de interés social edificadas por la empresa privada "Constructora Profusa Cuautitlán S.A. de C.V. Según la información recibida, la Constructora Profusa S.A. de C.V inició el complejo urbano "Lomas de San Francisco Tepojuco", en el municipio de Cuatitlán Izcalli, en el año 2001. Las personas que adquirieron estas viviendas presentaron varias quejas por la deficiente construcción de las viviendas, incluyendo grietas, desmoronamiento, desplazamiento y hundimiento de sus casas. El 18 de mayo de 2009, el Director de Protección Civil del Municipio recorrió el área y emitió el oficio número DPC/438/09 en el cual observó que los domicilios que componían el en su gran mayoría presentaban serios daños. Dicha dirección dictaminó la zona como de riesgo inminente y solicitó de forma urgente la intervención de otras dependencias gubernamentales. Según la información recibida hasta la fecha en que se enviara esta carta, no se habría adoptado ningún tipo de medidas en relación a este caso. Además de los comentarios sobre la veracidad y exactitud de las alegaciones presentadas, la Relatora Especial solicitó mayor información sobre las medidas

adoptadas por el Gobierno para garantizar el derecho a una vivienda adecuada de los habitantes del núcleo urbano “Lomas de San Francisco Tepojaco”; sobre los recursos jurídicos internos disponibles a las familias afectadas; si se ofreció una compensación adecuada a las comunidades afectadas; sobre las medidas tomadas para garantizar que las personas afectadas no queden sin hogar; y si se aseguró la participación de la comunidad en la discusión de estas medidas.

53. El 18 de septiembre de 2009, la Relatora Especial junto con el Relator Especial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas enviaron un llamamiento urgente al Gobierno de México en relación con el supuesto desalojo forzoso de pobladores mayas de la comunidad de San Antonio Ebulá, Estado de Campeche. Según la información recibida, el 13 de agosto de 2009 un centenar de guardias privados al servicio del Sr. Escalante entraron a la comunidad alrededor de las seis de la mañana. Los guardias, apoyados por tres tractores y camionetas, desalojaron violentamente a las 109 familias que vivían ahí, la mayoría de ellas de etnia Maya, destruyendo la totalidad de las más de 60 viviendas de la población. Supuestamente, elementos de la Policía Estatal Preventiva de Campeche habrían resguardado la operación ejecutada por los guardias privados. El desalojo forzoso se llevó a cabo sin que mediara una resolución judicial. Las familias desalojadas se encontrarían sin acceso a una vivienda adecuada y sin que se les hubiera indemnizado por la pérdida de sus pertenencias. El desalojo forzoso del 13 de agosto fue el tercer intento de desalojo de la comunidad en años recientes. El desalojo forzoso del 13 de agosto de 2009 y los intentos anteriores estarían relacionados con un conflicto de tierras entre los pobladores de San Antonio Ebulá y un empresario, Eduardo Escalante, quien tiene varios contratos para la construcción de carreteras en Campeche y reclama el territorio que conforma San Antonio Ebulá. Hasta la fecha. El Gobierno no ha tomado pasos para investigar los presuntos responsables de los desalojos, aunque los pobladores han presentado denuncias ante la Comisión de Derechos Humanos del Estado de Campeche y la Comisión Nacional de Derechos Humanos. Hasta años recientes, las autoridades estatales reconocían la existencia de la comunidad. En años recientes, la comunidad de San Antonio Ebulá realizó gestiones frente a varias autoridades con el objetivo de regularizar sus tierras, sin que estas gestiones hayan dado resultados. Además de los comentarios sobre la veracidad y exactitud de las alegaciones presentadas, los Relatores Especiales solicitaron mayor información sobre la base legal en que se habría fundamentado el desalojo y las demoliciones; sobre la posición del Gobierno en cuanto a las gestiones de los pobladores para regularizar y concretizar sus derechos de propiedad sobre las tierras; sobre los pasos dados por el Gobierno para obtener el consentimiento libre, previo e informado de las comunidades indígenas afectadas antes de llevar a cabo el proceso de desalojo; si se ha ofrecido una compensación adecuada a las comunidades afectadas por la perdida de sus viviendas y bienes; sobre las medidas tomadas para garantizar que el desalojo y las demoliciones no generen personas sin hogar; sobre las medidas previstas en términos de vivienda adecuada alternativa, reasentamiento y acceso a tierras productivas; y sobre las medidas tomadas para proveer a las comunidades afectadas de techo, alimentación, agua y medicina.

Respuesta recibida

54. En una carta del 7 de enero de 2010, el Gobierno de México respondió a la carta de alegación enviada el 28 de agosto de 2008 (ver para.52). El Gobierno informó que el 3 de septiembre de 1999, se autorizó a la empresa constructora Profusa Cuautitlán la edificación del conjunto urbano de tipo social Lomas de San Francisco Tepojaco. El 13 de agosto de 2003, la empresa constructora hizo una primera entrega del conjunto urbano y el 1 de junio de 2006 una

segunda entrega. Para garantizar la calidad de las obras de defectos y vicios ocultos, la empresa otorgó una póliza de fianza correspondiente al 20% del valor de la obra a favor del municipio. El 24 de septiembre del 2007, el señor Arzave Orhiuela presentó un escrito ante la SDUOP Edomex, en contra de la empresa constructora Profusa Cuautitlán. El 8 de octubre del 2007, la DGCU Edomex solicitó al titular de la empresa elaborar un informe sobre el estado de la construcción de la vivienda. El 13 de noviembre de 2007, la empresa constructora presentó un dictamen técnico señalando la existencia de daños estructurales y realizó trabajos extraordinarios para reparar dichas anomalías. Debido a que los daños estructurales de la vivienda persistían, el 6 de junio del 2008, se realizó una nueva revisión y se corregieron los daños. La Comisión de Derechos Humanos del Estado de México (CDHEdoMex), informó haber recibido la queja del señor Jorge Arzave Orihuela, integrada el 6 de junio de 2008 con el número CODEHEM/O2/0732/2008, la cual concluyó el 17 de octubre de 2008 mediante procedimiento de conciliación. El 22 de abril de 2009, la Dirección General de Operación Urbana del Estado de México (DGOU Edomex) informó haber recibido los escritos de inconformidad de los señores Jorge Arzave Orhiuela, Longinos RobertoMontes de Oca Rodríguez, Juan Torres Ruiz, Erika Dávila Martínez, María de Lourdes Rodríguez Moreno y Concepción Oswelia Serna Huesca, integrantes de la "Asociación de vecinos propositivos de "Lomas de San Francisco Tepojaco" en contra de la empresa constructora. El 30 de septiembre de 2009, se llevó a cabo una una inspección ocular colegiada con representantes de la empresa, autoridades locales y nacionales y una comisión conformada por la "Asociación de vecinos propositivos de "Lomas de San Francisco Tepojaco". Durante la visita ocular no se habría podido constatar hundimientos y problemas estructurales de las viviendas y se habrían verificado las reparaciones hechas por la empresa. En respuesta a las preguntas incluidas en la carta de alegación, el Gobierno informó que el Estado de México dio seguimiento y respuesta a todas las peticiones de los colonos de Lomas de San Francisco Tepojaco y que la empresa constructora subsanó los daños que presentaron las viviendas de los señores Arzave Orihuela y Dávila Martínez. Asimismo, informó que el derecho a la vivienda digna y decorosa tiene rango constitucional desde 1983, reglamentado a través de la Ley de Vivienda publicada en el año de 2006. Dicho derecho se encuentra también reconocido en el artículo 5 de la Constitución Política del Estado Libre y Soberano de México. Asimismo, una Ley de Vivienda fue aprobada el 17 de diciembre de 2008.

Observación

55. La Relatora Especial señala que en el momento de realizarse este informe no haya recibido ninguna respuesta del Gobierno a su comunicación de fecha 18 de septiembre 2009.

Nigeria

Communications sent

56. On 30 January 2009, the Special Rapporteur sent an allegation letter to the Government of Nigeria regarding a trend of forced evictions affecting low-income families living in Port Harcourt, Rivers State, in buildings and informal settlements. According to information received, the demolition of homes, particularly in the waterfront settlements where approximately 40 percent of the population of Port Harcourt live resulting in an alarming increase in homelessness. Reports received indicate that evictions were being conducted by the Rivers State Urban Development Ministry, with the assistance of the Joint Military Task Force. Reports further alleged that the evictions were conducted without providing adequate time for the affected

families to relocate, nor alternative accommodation or compensation. Allegedly, the Government has disregarded appeals to cease these demolitions by tenants organizations, the African Commission for Human and People's Rights, the National Human Rights Commission and the Federal High Court. Reportedly, between June and October of 2008, the Rivers State Urban Development Ministry proceeded to demolish a series of buildings and settlements in low-income areas in or around Port Harcourt, impacting the livelihood of approximately 200,000 people. In June of 2008, the Government allegedly proceeded to demolish over 5,000 structures of buildings located opposite the Integrated Cultural Centre on Abonnema Wharf Road, rendering approximately 30,000 people homeless, and providing no adequate prior notice, alternative accommodation or compensation. A pattern of disregard for the existence of judicial proceedings and resulting court orders that established injunctions against threats or actual demolitions has also been reported. In November 2008, 25,000 people who previously lived on Bonny Street and Creek Road were reportedly rendered homeless by new evictions. Despite a stay against further demolitions granted by the Federal High Court of Nigeria in Port Harcourt Judicial Division Holden (Suit # FHC/PH/CS/563/2008) on 29 October 2008, reports alleged that in January 2009, signs were placed on the buildings along Azikiwe Road in Port Harcourt announcing plans for further demolitions to begin on 26 January 2009. It is alleged that the 150,000 people residing in the Abonnema Wharf and Njemanze waterfront affected by new evictions had not been consulted, and that there were no plans to provide them with alternative accommodation. It is estimated that by the end of January 2009, approximately 400,000 or about 30 percent of Port Harcourt inner-city population would have been rendered homeless if demolitions continued as announced. The Special Rapporteur requested information on the number of people affected by the demolition of homes in the waterfronts in and around Port Harcourt; if alternatives to demolition were considered by the governments of Rivers State; if impact assessments were conducted; if the affected communities were appropriately consulted; if the Federal or State-level governments took any action in response to orders by Nigerian courts calling for a stay of further demolitions; if the residents were given adequate prior notice; on the measures taken to prevent people from becoming homeless as a result of evictions; if compensation was provided to people affected by demolitions; and if any independent body was monitoring the manner in which evictions and demolitions were taking place.

57. On 24 June 2009, the Special Rapporteur sent an urgent appeal to the Government of Nigeria in follow up to a previous communication dated 30 January 2009 concerning alleged forced evictions and demolitions in Port Harcourt, River State. According to the information received, since the previous communication the River State Government has reportedly continued to implement and plan large scale forced evictions and demolitions in different sectors of the city, affecting particularly waterfront settlements. In February 2009, the River State Government reportedly announced its decision to demolish all the waterfront settlements in Port Harcourt. Because of the lack of a census of the area concerned, there were no accurate figures concerning the number of people who had already been affected and were threatened to be affected by the demolitions. Different sources presented figures ranging from 200.000 to 900.000 possible affected persons. Since 10 February 2009, the authorities had reportedly resumed carrying out demolitions in the former Obi Wali Cultural Centre on Abonnema Wharf Road, Mile One –Diobu. These demolitions were ordered by the Commissioner of Urban Development, in violation of a stay order issued by the Federal High Court of Nigeria. It has been alleged that in most of the cases, the evictions were conducted without providing affected persons with prior notice, alternative accommodation, or adequate compensation. In addition to comments on the

accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the legal basis for the evictions and demolitions on Abonnema Wharf Road; if the Federal or the River State governments took any action in response to orders by Nigerian courts calling for a stay of further demolitions; if alternatives to demolition were considered; if any social impact assessment was conducted prior to the evictions and demolitions; on the number of people affected by the demolitions; if any consultation was undertaken with those affected; on the measures foreseen to ensure that the evictions and demolitions do not result in homelessness of the affected persons; on the measures foreseen in terms of alternatives for those affected, particularly tenants, and if relocation sites have been designated; if compensation was provided to people affected by demolitions; if any assistance, financial or otherwise was provided; and if the affected persons were given adequate prior notice and adequate and reasonable time to withdraw their belongings before the evictions.

58. On 27 October 2009, the Special Rapporteur sent an urgent appeal to the Government of Nigeria in follow up to a previous communication dated 30 January 2009 and 24 June 2009 regarding alleged forced evictions and demolitions in Port Harcourt, Rivers State, now affecting Njemanze Street. According to the information received, since the previous communication the River State Government has reportedly continued to implement and plan large scale forced evictions and demolitions in different sectors of the city, affecting particularly waterfront settlements in Port Harcourt. On 25 October 2009, the Rivers State Government had reportedly started executing a plan to demolish Njemanze Street in its entirety by pulling out the roofs, doors and windows of the occupied apartments in order to subsequently evict their current inhabitants, which would reportedly amount to thousands of residents. The affected residents, mostly belonging to the Okrika ethnic group, received no previous notice, nor offers of alternative accommodation or compensation. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the legal basis for the evictions and demolitions on Njemanze Street; if the Federal or the Rivers State governments took any action in response to orders by Nigerian courts calling for a stay of further demolitions; if alternatives to demolition were considered by the government; if any social impact assessment was conducted prior to the alleged demolitions; on the number of people affected by the alleged demolition; if appropriate consultations took place with the affected persons; if the affected persons were given adequate and reasonable prior notifications before the evictions and demolitions as well as adequate and reasonable time to withdraw their belongings; on the measures foreseen to ensure that the persons affected by the housing demolition do not become homeless; if the affected persons were offered compensation for the loss of their houses and livelihood; on the measures foreseen in terms of relocation; and if any assistance, financial or otherwise, was provided to the affected persons.

Observation

59. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to these communications.

Panama

Comunicaciones enviadas

60. El 24 de abril de 2009, la Relatora Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas enviaron un llamamiento urgente al gobierno de Panamá en relación con los supuestos desalojos forzosos de pobladores Naso de las comunidades de San San y San San Druy. Según la información recibida, los Naso llevan a cabo un proceso de reclamación de tierras desde los años setenta. Pese al tiempo transcurrido, a la fecha, los Naso no cuentan con el reconocimiento legal de sus tierras tradicionales. El 17 de diciembre de 2008 y nuevamente el 15 de enero de 2009, la corregidora de Changuinola notificó a los habitantes de la comunidad San San Druy que la solicitud de la empresa la empresa Ganadera Bocas del Toro para el desalojo de sus tierras había sido admitida. La corregidora de Changuinola emitió la resolución 107/09 ordenando el desalojo de las comunidades San San y San San Druy. El 16 de enero de 2009, retroexcavadores y policías aparecieron en la comunidad de San San y procedieron a demoler 6 casas y el centro comunitario. Decenas de cassas fueron destruidas en afrontas similares llevadas a cabo entre marzo y abril de 2009. Además de los comentarios sobre la exactitud de las alegaciones presentadas, los Relatores Especiales solicitaron mayor información sobre la posición del Gobierno con respecto a los derechos de los Naso sobre sus tierras tradicionales; sobre los pasos tomados por el Gobierno para obtener el consentimiento libre, previo e informado de las comunidades indígenas afectadas; sobre la base legal en que se habría fundamentado el desalojo y las demoliciones; si se dio un plazo suficiente de notificación y para que las comunidades afectadas pudieran sacar sus bienes antes de la demolición; si se ofreció una compensación adecuada a las comunidades afectadas; sobre las medidas tomadas para garantizar que el desalojo y las demoliciones no generen personas sin hogar; sobre las medidas previstas en términos de vivienda adecuada alternativa, reasentamiento y acceso a tierras productivas; y sobre las medidas tomadas para proveer a las comunidades afectadas por estos desalojos de techo, alimentación, agua y medicina.

61. El 19 de noviembre de 2009, la Relatora Especial junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas enviaron un llamamiento urgente al gobierno de Panamá en seguimiento de la carta enviada el 24 de abril de 2009 en relación con la supuesta situación precaria de las comunidades indígenas Naso, San San y San San Druy, en la provincia de Bocas de Toro. Según la nueva información recibida, los miembros de las comunidades de San San y San San Druy que todavía viven en sus tierras tradicionales después de los desplazamientos forzosos de marzo y abril de 2009, se encontrarían en peligro de desalojo. El 27 de octubre de 2009, el Ministro de Gobierno y Justicia, José R. Mulimo, habría realizado una gira in situ al área en conflicto entre el pueblo Naso y la empresa Ganadera Bocas. Posteriormente a esta gira, se habría reunido con autoridades, representantes de la empresa y un líder Naso. Durante la reunión, el Sr. Mulino habría reiterado su posición que los Naso de las comunidades San San y San San Druy necesitan ser desalojados porque están ocupando propiedad privada de la empresa Ganadera Bocas y pedido a las autoridades locales y provinciales que implementen el desalojo antes del 15 de noviembre de 2009. La comunidad San San Druy fue informada de esta reunión por el Alcalde del Distrito de Changuinol, el 7 de noviembre de 2009. Los Naso estarían solicitando que el gobierno tome pasos para solucionar la situación. Según la información recibida, durante los seis meses desde los desalojos de marzo y abril, miembros de las comunidades afectadas, aproximadamente 300 personas, se encontrarían

sin casa, sin alimentos y asistencia médica y sin apoyo del gobierno panameño. Además de los comentarios sobre la veracidad y exactitud de las alegaciones presentadas, los Relatores Especiales solicitaron mayor información la posición del Gobierno con respecto a los derechos de los Naso sobre sus tierras tradicionales y la creación de una comarca Naso; sobre las medidas tomadas para tratar el reclamo de tierras del pueblo Naso; sobre la base legal en que se habría fundamentado el desalojo en marzo y abril, así como el supuesto desalojo inminente; sobre las medidas tomadas para proveer a las comunidades afectadas por estos desalojos de techo, alimentación, agua y medicina para atender sus necesidades más básicas.

Respuesta recibida

62. El 23 de noviembre de 2009, el Gobierno de Panamá envió una carta a los Relatores Especiales en respuesta a la comunicación conjunta enviada el 19 de noviembre de 2009 (ver para. 61) agradeciendo el envío de la misma.

Observación

63. La Relatora Especial señala que al momento de realizarse este informe no ha recibido ninguna respuesta adicional del Gobierno a la comunicación de fecha 24 de abril de 2009.

Papua New Guinea

Communications sent

64. On 28 January 2009, the Special Rapporteur sent an allegation letter to the Government of Papua new Guinea concerning the evictions in the Tete Settlement on the outskirts of Gerehu, Port Moresby between 18 and 19 December 2008, and threats of evictions in other settlements such as Kipo, Garden Hills, Eight-Mile and Two-Mile. According to the information received, on 16 December 2008, evictions and widespread demolition of shanty homes allegedly occurred in Tete Settlement, in response to police investigations of the murder of businessman Sir George Constantinou in its vicinity. On 16 December, the police gave Tete Settlement occupants a 24-hour ultimatum to hand over those involved in the killing of Sir George Constantinou. Reportedly, on 17 December 2008, Mr Yakasa, the National Capital District Police Chief stated that the residents of Tete would be evicted if the land they were living on was found to be State owned, as opposed to customary land. He also said that since Papua New Guinea was experiencing an economic boom, Gerehu needed to be cleaned up so that potential investors could set up businesses. Despite responding to the police ultimatum and the reported arrests of several suspects, on 18 and 19 December 2008, the police reportedly used bulldozers and axes to demolish the homes of about 300 people in the settlement. The government did not provide alternative accommodation or prior notice. The destruction of the Settlement was allegedly supported by the Police Chief and the Deputy Prime Minister, but criticized by the Chief Ombudsman as “inhuman”. Police reported that other settlements with a similar reputation including Kipo, Garden Hills, Eight-Mile, Two-Mile, among others, would be next on the list if residents continued illegal activities. On 22 December 2008, the Waigani National Court granted an order in favor of residents being allowed to move back to their homes and restraining the police from causing further destruction to the properties. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on whether other alternatives to demolition and relocation had been considered; if the residents were

consulted at any stage; if the residents were given adequate prior notice and if they were informed about their legal rights; on the measures taken to prevent people from becoming homeless or from being inadequately housed as a consequence of the evictions; if the affected communities were appropriately consulted at all stages of the eviction procedure; and, in the case that evictions were unavoidable, on the measures foreseen for them to be impartially and independently monitored and to provide adequate and fair compensation and rehabilitation.

65. On 17 July 2009, the Special Rapporteur sent an urgent appeal to the Government of Papua New Guinea concerning numerous police raids of settlements in Port Moresby that all resulted in forced evictions, namely at the Five-Mile settlement on 26 June, at Four-Mile on 13-15 July and at Hohola hillside on 15 July 2009. According to the information received, early morning on Thursday 25 June 2009, three men were killed at Five-Mile settlement, Hubert Murray Drive, Port Moresby. The deaths occurred as the result of drunken violence. After being stabbed with a knife, one man from Enga Province escaped and fled home. His relatives, upon seeing his condition, went to the scene and attacked the two perpetrators from Mount Hagen, Western Highlands. All three men died. According to information provided, police raided the settlement on Friday afternoon 26 June. At least 16 homes, shops, gardens, and power lines were purportedly destroyed. Many families appear to have been rendered homeless as a result. The police reportedly used violence and raided homes confiscating goods. Reportedly, no prior notice was provided of the raid. The police reportedly threatened to return to Five-Mile Settlement and continue raiding. Similar police raids were allegedly carried out at the Four-Mile settlement on Monday 13 July and Wednesday 15 July 2009. Also on 15 July 2009 police allegedly raided a Hohola hillside settlement and left 20 families homeless as a result. Policemen are said to have arrived unannounced in three cars. Not only were houses and gardens supplying the settlers with food destroyed, but goods and an undisclosed sum of money were allegedly confiscated. Furthermore, on Wednesday 1st July 2009, the National Capital District (NCD) Metropolitan Chief Supt Commander, Fred Yakasa, had issued a final warning to the residents of yet another settlement in Port Moresby, namely Two-Mile Hill. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the legal basis for the police raids of Five-Mile, Four-Mile and Hohola hillside settlements carried out; if alternatives to demolitions had been considered; if the residents were consulted; if residents of the settlements were given adequate prior notice of the forced eviction; on the measures taken to prevent people from becoming homeless as a consequence of the evictions; if the affected persons were offered compensation for the loss of their homes, personal belongings and livelihood; if the threat to forcibly enter and demolish the Two-Mile Hill settlement had been acted upon in any way.

Observation

66. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to these communications.

Philippines

Communication sent

67. On 14 August 2009, the Special Rapporteur sent an urgent appeal to the Government of Philippines regarding the threat of eviction of approximately 370 families living around the

Grand Mosque at the reclamation site in Baclaran, Pasay City. According to the information received, the community living around the Grand Mosque received a Memorandum from the Executive Secretary dated 26 May 2009 ordering their eviction. This notice reportedly follows numerous forced eviction attempts by authorities in the course of the last decade. The land where this Muslim community has been living since 1992 is earmarked for the development of infrastructure, commercial space, luxury housing and a casino. The memorandum states that the entire Mosque structure, including the housing where 370 families live, shall be relocated to "a proposed relocation site", which has not yet been identified. Reportedly, the affected community is negotiating with relevant authorities for a halt to the announced evictions. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on whether alternative solutions to the demolition were considered; if the affected community and its representatives were appropriately consulted when considering these alternatives; if an appropriate relocation site for the affected community was determined; if the community was given adequate prior notice; and on the measures foreseen, in case the evictions were unavoidable, to provide for impartial and independent monitoring, as well as adequate and fair compensation.

68. On 22 December 2009, the Special Rapporteur sent an allegation letter to the Government of Philippines regarding an eviction on a contested piece of land housing an urban poor community in North Fairview, Quezon City that resulted in the death of two residents. According to the information received, the incident occurred on 9 October 2009 on a contested 2.4 hectare property located in Pechayan, Barangay village, North Fairview, Quezon City. Over 1'000 urban poor were reportedly been living in this area for over 20 years. Prior to the incident, the Metropolitan Trial Court (MTC) Branch 38 in Quezon City had allegedly granted a writ of execution for the eviction of the Domingo family. The claim of other families over different sections of the same property had been sustained by the court. The owner of the areas occupied by the Domingo family was said to have employed 15 security guards to carry out the eviction. Reportedly, these guards began fencing the property on 9 October 2009. However, rather than fencing only the land which the Domingo family occupied the guards allegedly proceeded to fence in the entire 2.4 hectare property. Members of the urban poor community, seeing themselves as potential victims of an unlawful forced eviction, attempted to halt the actions of the security guards. Reportedly, the protesters were lead by Mrs Maria Myrna Porcare, leader of Samahan ng Magkakapitbahay sa Pechayan (SAMASAPE). Mrs Porcare and her son were shot in the stomach with a shot gun whilst attempting to halt the guards. Charged with two county of homicide, the perpetrators were reportedly arrested and taken to the Crime Investigation Detection Unit (CIDU) of the Philippine National Police (PNP) in Camp General Toomas Karingal in Quezon City. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the details of any investigation and judicial or other proceedings carried out in relation to this case; if penal, disciplinary or administrative sanctions were imposed on the alleged perpetrators; if the evictions were carried out and, if yes, on what legal basis and which residents were affected by this decision; if the security guards were acting within their mandate when fencing in the 2.4 hectare property; if appropriate consultations took place with the affected persons and if they were given adequate and reasonable prior notifications concerning the eviction as well as adequate and reasonable time to withdraw their belongings; on the measures foreseen to ensure that the persons affected by the eviction will not become homeless; if the affected persons were offered compensation for

the loss of their houses and livelihood, and on the measures foreseen in terms of alternative housing.

Observation

69. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to these communications.

Russian Federation

Response received

70. On 31 December 2008, the Government of the Russian Federation replied to the joint urgent appeal sent on 29 January 2008, contained in report A/HRC/10/7/Add.1 paragraph 72. The Government informed that the Federal Migration Service of the Russian Federation, together with the Government of the Chechen Republic in the Russian Federation, had done extensive work to implement Presidential Instruction No Pr-1277 of 1 July 2001 on the creation of conditions for the return to their former places of residence of Russian citizens who were forced to leave the Chechen Republic during the settlement of the crisis. Their combined efforts made it possible to close all tent cities in the Republic of Ingushetia and in the Russian Federation and to facilitate the return of over 209,000 persons to their former places of residence. The measures to return internally displaced persons to the Chechen Republic were allegedly implemented on a strictly voluntary basis. Efforts have focused chiefly on providing economic incentives, social assistance and housing with basic services for returnees. Monetary compensation in the amount of 4,028,000,255 roubles has been paid to 37,935 families. Furthermore, the Government took over the responsibility for supporting returnees and for providing them with housing. As of 5 December 2008, 236 families have been assigned housing, 579 families have received compensation for lost housing and property, 290 families have returned to refurbished housing, and 195 families are living in dormitories. Forced evictions, where no other decent housing is provided, are prohibited. Concerning the internally displaced people living in a dormitory at 4 Vyborgskaya Street in Grozny, 678 people were living there as of 16 December 2008.

71. On 12 February 2009, the Government of the Russian Federation sent a reply to the joint urgent appeal sent on 21 November 2008, contained in report A/HRC/10/7/Add.1 paragraph 73. The Government informed that on 14 November 2008, the investigative authority of the Internal Affairs Department of the Khimki district in Moscow Province instituted criminal proceedings on the basis of evidence of an offence contrary to article 111, paragraph 1 (intentional causing of serious harm to health, endangering a person's life), of the Criminal Code of the Russian Federation in connection with the bodily harm inflicted on Mr. Beketov, the editor-in-chief of the Khimkinskaia Pravda newspaper. The criminal case was referred for further examination to the investigation department of the investigative committee under the Office of the Procurator of the Russian Federation for Moscow Province. The case was being monitored by the head of the Criminal Investigation Department of the Russian Ministry of Internal Affairs. With regards to Mr. Fedotov, the Government informed following verification by the investigation office of the Lotoshinsk Municipal District Department of Internal Affairs, on 19 November 2008 criminal proceedings were instituted on the basis of evidence of an offence contrary to article 116, paragraph 2 (a), of the Criminal Code (battery with criminal intent) in connection with the bodily harm inflicted on Mr. Fedotov by unknown individuals. The investigative authorities are

checking several theories, including in connection with the public activities of the victim as head of the council of a pressure group of defrauded landowners in Moscow Province and the possibility of an assault having been committed with criminal intent. With regards to Ms. Clément, the Government informed that the investigation office in the Department of Internal Affairs of the Basmanny municipal district in Moscow instituted criminal proceedings on the basis of evidence of an offence contrary to article 213, paragraph 1 (a), of the Criminal Code (criminal mischief with objects employed as weapons). According to the information received, the investigation continues and Moscow's Basmanny interregional procurator's office has ordered an investigation of the case.

Rwanda

Communication sent

72. Le 15 avril 2009, la Rapporteuse Spéciale sur le droit au logement a adressé une lettre d'allégation au Gouvernement au sujet d'expulsions forcées de populations défavorisées de la ville de Kigali, dans le contexte de transformations urbaines. Selon les informations reçues, la politique d'urbanisation du Gouvernement, notamment dans le cadre du Plan Directeur de la Ville de Kigali, et le régime foncier découlant des récentes réformes législatives dont la « Loi organique portant régime foncier » actuellement en vigueur et la « Loi sur l'expropriation pour cause d'intérêt public », auraient porté lourdement atteinte à la sécurité d'occupation des logements des individus vivant dans les quartiers pauvres et les quartiers informels de Kigali et auraient conduit ces personnes à se retrouver à la rue et démunis. Ainsi, la loi autorisant les expulsions « pour cause d'intérêt public » aurait rendu les habitants des quartiers informels très vulnérables car ne disposant pas de titres de propriété ni de ressources pour lutter contre leur expulsion. D'autre part la mise en place de nouvelles normes de construction et d'organisation urbaine, visant au développement d'un secteur privé compétitif, aurait empêché les groupes les plus pauvres d'acquérir des terres en entrainant une très forte hausse des prix immobiliers. L'inscription obligatoire de tout développement urbain dans le Plan Directeur approuvé par la Ville de Kigali aurait conduit de nombreux foyers pauvres à se tourner vers le marché du logement informel. Ce marché spontané échappant à toute norme car ne s'inscrivant dans aucun plan de développement, les populations pauvres auraient été précipitées dans l'illégalité et l'insécurité, et auraient été exposées aux expulsions forcées décrites précédemment. Les restrictions imposées dans le cadre des nouvelles normes de construction et de développement urbain à Kigali seraient à l'origine de l'exclusion de 75 à 80% des foyers de la capitale de l'accès légal au logement et à la terre. Les informations reçues ont fait état de très rares mesures de relogement par rapport au nombre d'expulsions. De plus ces mesures de relogement n'auraient correspondu pas aux besoins des populations en termes de proximité avec leur lieu de travail et d'accès aux services qui leur sont nécessaires. Les compensations financières allouées aux foyers ayant subi une expulsion auraient été également très insuffisantes. Selon les informations reçues, les compensations versées aux populations expulsées du logement dont elles étaient propriétaires étaient calculées sur la valeur de l'immobilier définie par le Conseil de la Ville en 1996, ait été une valeur très inférieure à la valeur actuelle. En conséquence, ces compensations n'eussent permis pas aux foyers de se reloger convenablement dans la ville. Ces populations – qui représentaient 17,300 à 23,000 personnes en 2003 et 2004 – n'auraient eu alors d'autre choix que de quitter la ville pour s'établir dans sa périphérie, perdant ainsi les possibilités d'emploi auxquelles elles avaient accès dans la ville, ou d'accepter un logement très précaire dans un des quartiers informels encore existant à Kigali. La Rapporteuse Spéciale a demandé au

Gouvernement de lui fournir des informations détaillées au sujet de la situation énoncée précédemment, ainsi que sur les mesures prises par les autorités compétentes conformes aux provisions contenues dans les instruments légaux internationaux que le Rwanda a ratifiés, et que lui soient communiqués des informations sur les éléments suivants: quels étaient les critères sur lesquels se basent les expulsions «pour cause d'intérêt public» ; si d'autres alternatives aux expulsions auraient-elles été envisagées ; quels étaient les voies de recours disponibles contre cette loi ; quelles étaient les mesures de relogement et compensation proposées aux populations expulsées de leur logement ; quelles étaient les mesures prises pour encourager un développement urbain harmonieux qui n'entraînait pas le rejet des quartiers pauvres et la «gentrification» de la ville ; et quelle étaient les mesures prises afin que la politique d'attribution et d'enregistrement des titres fonciers protégeasse les droits des habitants des quartiers informels.

Observation

73. Le Rapporteur Spécial regrette qu'au moment de la finalisation du report, le Gouvernement n'ait pas encore répondu à sa communication.

Serbia

Communications sent

74. On 6 May 2009, the Special Rapporteur together with the Independent Expert on Minority Issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance sent a joint communication letter to the Government of Serbia concerning alleged forced evictions in Belgrade. According to the information received, on 3 April 2009, a community of about 47 Roma families living in informal homes in Yuri Gagarin Street-New Belgrade and identified as "Roma settlement in block 67" were forcibly evicted, allegedly with the intention to transform the site in view of the World University Games which will take place in Belgrade in July 2009. On 2 April 2009, the community was reportedly notified of a decision taken by the Communal Inspector of the City Administration and told that they had one hour to remove all their belongings and their shelters from the location. Reportedly, on 3 April 2009 the police carried out the eviction, demolishing the informal homes of the inhabitants of the settlement. The affected families were told that they could have found accommodation in containers in the Boljevci settlement-Municipality of Surcin, but allegedly residents in Boljevci made it impossible for the evictees to access the containers, forming a cordon around the settlement, smashing some containers as well as setting one container on fire. Following these events, women, children and the elderly were reportedly offered shelter accommodation in social care institutions, but families refused this offer to avoid being separated. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on the legal basis for the eviction; if any consultation was undertaken with those affected; on the measures foreseen by the authorities to ensure that the forced eviction did not result in homelessness of the affected persons; on the steps foreseen in terms of alternatives for those affected and if relocation sites had been designated; if any assistance, financial or otherwise was provided to the affected persons; if the affected persons were given adequate prior notice before the eviction and reasonable time to withdraw their belongings; and on the right of those affected to appeal the decision prior to its being executed.

75. On 18 June 2009, the Special Rapporteur sent an urgent appeal to the Government of Serbia regarding the alleged imminent eviction of inhabitants living under the Gazela Bridge. Subsequent to the communication jointly sent on 6 May 2009, reports continued to arrive of foreseen evictions of informal Roma settlements in Belgrade. According to the allegations, inhabitants living under the Gazela Bridge had received a notification of their imminent eviction. The eviction was reportedly planned to make way for a project aiming at the reparation of the Gazela Bridge, a project financed by European bank for reconstruction and Development (EBRD). While this project had been planned for a number of years, no adequate alternative solution for those residents was allegedly put in place by the City authorities, who were in charge of implementing the project. Updated information in regard to the eviction carried out on 3 April 2009 in Yuri Gagarin Street-New Belgrade ("Roma settlement in block 67") indicated that only some of the affected persons had been relocated in a remote location in containers, a solution that in no circumstances could be envisaged as adequate and permanent housing and living conditions. It was further reported that people in the relocation site have little or no access to livelihood, school and employment. Copies of the notification received by the inhabitants of the Gazela settlement did not appear to meet basic international standards, particularly in regard of timeliness of notice and access to effective legal recourse. The Special Rapporteur was informed that a relocation plan was recently prepared by the City of Belgrade. Yet, reportedly this plan was not publicly available and was prepared without consultation with the affected communities. The Special Rapporteur requested further information on the alternatives for relocation of population envisaged in the design stage of the project for the reconstruction of the Gazela Bridge; if the project include appropriate relocation of affected people; if an eviction impact-assessment was conducted; if consultations were undertaken with those affected; on the measures foreseen to ensure that evictions do not result in homelessness; on the measures taken to avoid further impoverishment of these communities, in particular their access to livelihood; and on the access of the affected persons to effective legal recourse.

Observation

76. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to these communications.

South Africa

Communications sent

77. On 20 August 2009, the Special Rapporteur sent an urgent appeal to the Government of South Africa regarding imminent forced evictions which would affect about 61 families living in the Tumbleweed settlement, Howick. According to the information the Special Rapporteur received, the Tumbleweed settlement in Howick is home to 61 families who have allegedly been threatened with imminent and unlawful eviction by their municipality and local Inkosi, which would render them homeless. The residents of the Tumbleweed settlement reportedly need to be displaced as the land has changed ownership. As the new owner, the Department of Education wishes to build a school on the site. The earliest residents of the Tumbleweed settlement in Howick first built shacks on the land in 1994. Each household paid an average of R700 for a site and some residents paid an additional R200 for a title deed. In 2002 the land was officially transferred to the Inkosi, who ordered and numbered the shacks. By 2007 a total of 120 shacks made up the Tumbleweed settlement. Of these 120 shacks, 102 were allegedly demolished in

March 2007. The above outlined eviction threats are therefore not the first to have been received by Tumbleweed settlement residents. On 29 July 2009 a representative of the municipality and three armed police officers allegedly entered the settlement and informed the community that they had 24 hours to vacate the area. An eviction of the Tumbleweed settlement was not carried out on 30 July 2009, as initially threatened. However, municipal official Mr Delani Madondo reportedly informed residents that they could be removed from the land at any time. On 9 August 2009, Mr Delani Madondo allegedly returned to the site with a bulldozer and three police vehicles. Residents of the settlement are said to have prevented the destruction of their homes through providing physical obstacles and singing protest songs. Information received indicates that the municipality and the Inkosi had yet to secure a Prevention of Illegal Evictions and Occupation of Land Act (PIE) notice through the courts. Such a notice is required by law in South Africa in order for an eviction to be carried out legally. In addition to prior notice, the PIE Act requires for affected persons to be consulted prior to an eviction and for adequate alternative accommodation to be provided for. Residents of the Tumbleweed settlement sustained that they received no such notice prior to the actions taken by municipal officials in July and August 2009. Furthermore, although a designated relocation site was reportedly identified on 6 August 2009, this site appears to be inadequate. It allegedly consists of open vacant land in the immediate proximity of a power line, which is considered to present health and safety risks to potential residents. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteur requested further information on whether alternative solutions to the eviction of the 61 families were considered or if in the case that evictions are unavoidable, an appropriate relocation site was determined; if the affected community were appropriately consulted; if the community was given adequate prior notice; and on the measures foreseen to provide for impartial and independent monitoring, as well as adequate and fair compensation in the case that evictions are unavoidable.

78. On 12 October 2009, the Special Rapporteur together with the Special Rapporteur on the situation of human rights defenders sent a joint urgent appeal to the Government of South Africa to inquire about reports alleging attacks against residents and homes at the Kenney Road shack settlement in Durban. According to the information the Special Rapporteur received, on 26 September, a group of about 30 to 40 heavily armed men reportedly attacked the inhabitants of the Kennedy Road informal settlement and subjected them to the forced eviction and demolition of their homes. The attacks appeared to have been particularly targeted at members of the Kennedy Road Development Committee (KRDC) and the Abahlali baseMjondolo Movement (AbM), two community-based organizations working for the realization of the right to housing. As a consequence of the attacks, at least two people were reported dead and many others seriously injured. In addition, the houses of around 30 members of KRDC and AbM were burnt and destroyed, rendering them and their families homeless. Many other houses were reportedly looted. Furthermore, it is estimated that around 1000 people had to leave their homes and flee the area as a result of the intimidations and attacks. According to allegations, members of the Sydenham Police Station and public officials were present at the scene but did not intervene to stop the assault. It is further reported that the police detained a number of victims of the attacks but none of the assailants. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on whether any complaint has been lodged by or on behalf of the alleged victims; on the details of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case; on any penal, disciplinary or administrative sanctions imposed on the alleged perpetrators; on whether the affected persons

were offered compensation or alternative housing; on measures foreseen to ensure that the persons affected by the housing destruction, will not become homeless; and if relocation sites have been designated.

Observation

79. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to these communications.

Sri Lanka

Communication sent

80. On 8 June 2009, the Special Rapporteur sent an urgent appeal to the Government of Sri Lanka concerning alleged imminent forced evictions from tsunami shelters in the Moratuwa and Ratmalana DS Divisions and alleged unequal application of the Tsunami Housing Policy in regards to the needs of certain groups, including extended families and tenants. According to the information received, transitional shelter scheme under the Tsunami Housing Policy is an effective and widely used mean of providing temporary shelter and other basic services to families impacted upon by the devastating effects of the Tsunami in Sri Lanka in December 2004. The information received indicates that the Tsunami Housing Policy entitles everyone who lost a house in the disaster to receive a ready built house or a cash grant to build a house, regardless of the shelter they had in the past. However, the Tsunami Housing Policy allegedly states that tenants are not eligible to receive housing assistance. The Tsunami (Special Provisions) Act (2005) reportedly states that rent agreements between landlord and tenant remain valid even if that house was completely destroyed during the Tsunami disaster. The information provided indicates that tenants are disqualified from housing assistance because of their old agreements. In this context, families that were still living in transitional shelters in late 2008 reportedly received a first eviction notice from the Government dated 10 September 2008, which ordered them to vacate the camps by 25 September 2008. In addition to this notice, access to basic facilities and services was cut off in all camps. A fundamental rights petition was reportedly filled with the Supreme Court. On 10 October 2008, during the first hearing of the Court, representatives of the communities reportedly sought an order for the provision of housing assistance to all camp residents. A second hearing was reportedly held on 20 October 2008, in which the Government continued to claim that camp residents were not qualified for compensation under the tsunami housing policy. While judges reportedly agreed that residents would have to leave the camps, they also stated that residents would have to be given more time – between 3 to 6 months – as well as compensation before they can be evicted. Three months time and 25,000 Rupees compensation as a solution was accepted by the Court, who ordered people to leave the camps by 28 February 2009. By this decision, the Court reportedly upheld previous decisions and confirmed the Tsunami Housing Policy, based on which tenants and extended family members are not eligible for housing assistance under the tsunami assistance scheme. The District Court held an additional hearing on 22 May 2009 ordering the families to vacate the camps by 5 June 2009, when a fifth hearing would have been held. It was alleged that an eviction order would be issued by the Court rapidly and that the around 500 families threatened to be imminently evicted would become homeless. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the measures taken to ensure that the allocation of grants under the Tsunami Housing Policy is

applied equally to all victims of the Tsunami disaster, including extended families and tenants; the reasons for the Tsunami Housing Policy to make no provision for tenants whose house has been destroyed; if landlords are benefiting from the Tsunami Housing Policy; on the measures foreseen to ensure that the around 500 families threatened with imminent eviction will not become homeless; on measures foreseen in terms of relocation, including details on the exact location and on the area and quality of land, access to public services and livelihood sources.

Observation

81. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Sudan

Communication sent

82. On 24 March 2009, the Special Rapporteur together with the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the right to education, Special Rapporteur on the right to food, Special Rapporteur on the situation of human rights defenders, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal to the Government of Sudan regarding the revocation of licenses of 16 non-governmental organizations working in the region of Darfur, in Northern Sudan and in the Transitional Areas, which would have devastating consequences on the human rights of 4.7 million people affected by the conflict, particularly in the sectors of food, health, water, sanitation, adequate housing and education. Of this population 2.7 million are internally displaced persons living in camps across the country. According to the information received, on 5 March 2009, following the issuance of an arrest warrant against President Omar Bashir by the International Criminal Court, it was announced that the operations related to humanitarian assistance and human rights work of these organizations were suspended. These organizations include 13 international non-governmental organizations. In addition, the activities of three national organizations were also terminated. These 16 organizations employed nearly 6,500 national and international personnel, constituting close to half of the workforce in Darfur. Eviction orders have reportedly been appealed (according to Sudanese law) by relief and humanitarian NGOs, while the close down of local NGOs cannot be appealed according to the Humanitarian Act of 2006. Incidents of threats against NGO personnel were reported as well as systematic confiscation and seizure of property. The impact would not only be limited to Darfur, but also the Three Transitional Areas and Eastern Sudan. According to estimates, 1.5 million beneficiaries no longer have access to health and nutrition services. Host and IDP populations are particularly affected. Water supply, sanitation and hygiene services provided by these NGOs to 1.16 million people have been interrupted (Blue Nile – 102,000; Eastern States – 50,000; and Darfur – 1,007,000). Some 1.1 million people have stopped receiving general food distribution and the treatment of some 4,000 children for severe and moderate malnutrition could be interrupted. In the Non-Food Item (NFI) and Emergency Shelter (ES) sector, 670,000 individuals are to be affected. Distributions of Non-Food Relief Items and emergency shelter ceased in 19 camps and locations in Darfur. Finally, disturbing reports of censorship, temporary newspaper suspensions, threats and arbitrary arrest

and detention to prevent human rights defenders, journalists and members of opposition parties from freely expressing their opinions, were reported. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the legal basis of the suspension of the aforementioned 16 non-governmental organizations as well as the seizure of their property; on the measures taken by local and central authorities to ensure that the economic and social rights of the inhabitants in the region of Darfur, in Northern Sudan and in the Transitional Areas, are respected and protected, especially those related to health, housing, education, food, water and sanitation.

Observation

83. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Syrian Arab Republic

Communication sent

84. On 10 November 2009, the Special Rapporteur together with the special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a joint urgent appeal regarding Mr. **Mohammad Saed Hossein Al-Omar,** Syrian national of Kurdish origin. Mr. Al-Omar has already been the subject of a joint urgent appeal addressed to the Government of the Syrian Arab Republic by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Independent Expert on Minority Issues; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 2 February 2009. The Chairperson-Rapporteur of the Working Group on Arbitrary Detention drew the attention of the Government to the case of Mr. Al-Omar pursuant to its regular procedure leading to the adoption of an Opinion in a separate communication dated 16 March 2009. The Special Rapporteurs thanked the Government for its response dated 18 August 2009 to the above-mentioned joint urgent appeal and for a further communication dated 17 March 2009. According to the new allegations received by the Special Rapporteurs, in September 2009, Mr. Al-Omar's family was evicted from its home in Rameilan. This house had been provided by the State-owned Syrian Petroleum Company, where Mr. Al-Omar was employed. Following his arrest Mr. Al-Omar was suspended from employment without pay and stripped of all benefits, including his pension rights. It is reported that these measures have been imposed upon him and his family because of his political activities and in connection with the charges laid against him. However, according to Syrian laws, any such decision requires judicial authorization, which has not been issued. Earlier, on 24 April 2009, Mr. Al-Omar suffered a stroke at Adra prison, Damascus, and was treated three hours later at the Ibn al-Nafees military hospital. On 6 May 2009, he was returned to Adra prison, where he was detained in a cell of 40-50 sqm that he shared with 20 co-inmates. The medication he required for continuous treatment needed to be provided by his family, who was allowed to visit him once a week. There were concerns that Mr. Al-Omar was not receiving all necessary treatment for stroke victims including physiotherapy. The final verdict in the criminal trial against Mr. Al-Omar was expected for 15 November 2009. Concerns had been expressed that the eviction of Mr. Al Omar's family from its house, as well as the lack of adequate health treatment provided to Mr. Al-Omar were due to

the political and cultural activities in favor of Kurdish people undertaken by Mr. Al-Omar before his arrest. The Special Rapporteurs requested further information on the accuracy of the facts of the allegations; if a complaint had been lodged by or on behalf of Mr. Al-Omar and members of his family; on the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case; and if compensation was provided to Mr- Al-Omar or his family.

Observation

85. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Turkmenistan

Communication sent

86. On 13 October 2009, the Special Rapporteur sent an urgent appeal to the Government of Turkmenistan regarding the alleged forced eviction of Ms. Amanzhakhan Ataeva and her family, including four adults and three children. According to the information received, Ms. Amanzhakhan Ataeva and her family had been residing in their current home in Ashgabad since 1988. On 6 December 1989, Ms. Ataeva was granted right to reside in this home by a Decision of the Local Executive Committee which also granted her the House Book ("Domovaja Kniga"). No Inventory File was issued to her name, since apparently this was not a current practice for the type of housing she was receiving at the time. On 16 July 2009, Ms. Amanzhakhan Ataeva received a letter (Reference n° 1016) from the Local Executive Body of Kopetdag Municipal Unit ("Kopetdagskij etrap") informing her that on 1st October 2009 her family was going to be evicted and their home destroyed. However, the municipal decision did not indicate any compensation or alternative housing to be provided to the affected family. On 11 August 2009, the decision of the municipal body was upheld by the decision of the District Court (Kazyet) of Kopetdag Municipal Unit. Both the Local Executive Body and the District Court allegedly based their decision on the fact that the family hade no Inventory File (Inventarnoe delo) for their residence but only the House Book (Domovaja kniga), where all members of the family were duly registered. Both bodies also referred to decision No. 842 of the Executive Body of Ashgabad (9 October 2004), which allegedly gave right to the authorities to demolish the building without providing alternative housing to the dwellers. Reportedly, the decision of the municipal body was based on a number of outdated secondary legislative acts (or by-laws) and decrees of various state bodies that existed during Soviet times, which may not be in compliance with the legislation currently in force in Turkmenistan. Furthermore, Ms. Amanzhakhan Ataeva allegedly informed her situation to the President of Turkmenistan, the District Court, the Prosecutors Office, and the Institute for Democracy and Human Rights -under the President of Turkmenistan- requesting their intervention in the case. However, she had received no reply from the relevant authorities at the time this letter was sent. The Special Rapporteur requested information on the accuracy of the facts of the allegations, if a complaint was lodged by or on behalf of the alleged victims; if the eviction and house demolition were effectively carried out; if appropriate consultations with the affected persons were undertaken; if, following the decisions of the Local Executive Body and District Court of Kopetdag Municipal Unit, the affected family was given adequate and reasonable prior notifications concerning the eviction and house demolition as well as adequate and reasonable time to withdraw their belongings before the

destruction of their residences; on the measures foreseen to ensure that the persons affected by the housing demolition, will not become homeless; if the affected persons were offered compensation for the loss of their houses and livelihood; on the measures foreseen in terms of alternative housing; and if measures were taken to ensure that no national or local legislation or policies are manifestly incompatible with Turkmenistan's legal obligations relating to the right to adequate housing.

Observation

87. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Uganda

Communication sent

88. On 14 may 2009, the Special Rapporteur together with the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, the Special Rapporteur on the right to food and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people sent a joint allegation letter to the Government of Uganda regarding the living conditions of the Benet community living in the Kapchorwa District of Eastern Uganda, on the edges of the Mount Elgon National Park. According to the information received, the Benet community, who had been living in the area that had been now formally referred to as the Mount Elgon National Park since the mid-1800s, traditionally sustained themselves through pastoral and agricultural activities, hunting, bee-keeping, and making handicrafts. In the 1980s, the Benet community was resettled to an area just outside the formal forest reserve. The Benet people were supposed to be resettled in an area of 6000 hectares; however, it had been reported that the Government did not survey the land at that time, and the Benet in fact received 7500 hectares, referred to as the Benet Resettlement Area. According to the information received, the Government surveyed the Benet Resettlement Area in 1993. Following this, it declared the extra 1500 acres as part of the Mount Elgon National Park. Six thousand people who had been living on the additional 1500 hectares were declared "encroachers" and were evicted with no alternate land allocation. They were not consulted about their sudden loss of rights to their farms and homes and they received no compensation. For years, Government authorities reportedly carried out measures to attempt to evict families of the Benet community living in the area. On 27 October 2005, in a Consent Judgment and Decree before the High Court of Uganda at Mbale, the Uganda Land Alliance, representing the Benet community (applicants), and the Uganda Wildlife Authority (UWA) and the Attorney General (respondents) agreed that the "members of the Benet community residing in the Benet Subcounty, including those residing in the Yatui Parish and the Kabsekek Village of Keen County and in Kwoti Parish of Tingey County" (communities within the 1500 acre area), are "indigenous inhabitants of the said areas which were declared a Wildlife Protected area or National Park". The Consent Judgment held that the Benet community was entitled to stay within the area undisturbed and carry out agricultural activities. Despite this judgment, since 2005, Kapchorwa District authorities and the UWA have allegedly continued to attempt to remove the Benet communities from their lands. According to the information received, in response, the Uganda Human Rights Commission appealed to the Attorney General on 25 April 2009 to implement the Consent Judgment. In February 2008, the UWA reportedly forcefully

evicted 1,400 Benet from their lands within the area formally declared a National Park, but which the Consent Judgment had ordered to be de-gazetted, leaving them seeking shelter in caves and trees. In April 2008, the Minister for Tourism intervened and ordered the resettlement of those evicted in two temporary settlements. Allegedly, the temporary resettlement areas were wholly inadequate for the Benet to sustain traditional agricultural practices and to maintain their traditional livelihoods. Finally, it was alleged that the UWA and the Ugandan Police frequently arrest community members and that community members have been subjected to beatings by UWA officials. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on the measures taken to implement the Consent Judgment before of the High Court of Uganda in Mbale; on the measures taken to ensure that representatives of the UWA, the Police and district administration did not forcefully evict the Benet community from their lands; on the measures taken to develop education, infrastructure, health and social services, as instructed in the High Court's Consent Judgment; on the measures taken to ensure the human rights to an adequate standard of living of the Benet; and if the affected community was consulted by the authorities at any stage.

Observation

89. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

United States of America

Communication sent

90. On 1 December 2009, the Special Rapporteur sent an urgent appeal to the Government of the United States of America regarding imminent forced evictions of the residents of the Villas del Sol in the municipality of Toa Baja in the Commonwealth of Puerto Rico. According to the information received by the Special Rapporteur, Villas del Sol is a squatter community housing an estimated 211 families, most of whom are of Dominican descent and many of whom are poor, female-headed households with children. For almost twenty years, prior to August 2009, this settlement had been tolerated by the Puerto Rican government. Following Hurricane Georges in September 1998 and the subsequent alleged identification of the area as a flood risk zone, many families left the area. However, over time, new families moved to the area. Most of the current squatters reportedly had no options for relocation to housing elsewhere. On Monday August 3, 2009, allegedly following orders given by the Puerto Rico Land Authority, construction crews began erecting concrete barriers around the community's homes. It is reported that residents received no prior warning and peacefully wished to express their fear of losing their homes by forming a human shield. Bayamón riot police officers on call nearby allegedly responded with the use of taser guns, pepper spray and batons. A number of residents were hurt, including a pregnant woman and her young son. Criminal charges were also filed against some members of the Villas del Sol community. The incident is said to have lasted over seven hours. Furthermore, information received indicated that water and electricity services were cut off from Villas del Sol on Friday August 7, 2009. Disease was reportedly spreading following poor sanitation conditions. A fortnight after the latter of these two incidents, eviction notices were reportedly filed by the government. Court testimonies by high ranking government officials allegedly justified the above-described proceedings based on the area's alleged classification as a flood zone. An agreement between the Federal Emergency Management Agency (FEMA) and the

Puerto Rican Government agreement allegedly required the community of Villas del Sol to be relocated by December 2009. A failure to do so would allegedly have resulted in the loss of millions of dollars of FEMA funding. An appropriate relocation site remained unidentified by government authorities. A solution aiming to guarantee an orderly and appropriate relocation of the Villas del Sol residents had reportedly been offered by local donors. A nearby plot of land donated for the purpose by a doctor would be used for constructing adequate housing within an estimated time period of six months. However, according to information received, this solution has been rejected by government officials primarily because they deem the delay to be too long. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on whether the affected community was appropriately consulted in advance of both the fencing in and cutting off of basic services to Villas del Sol; on the legal bases for the attempted fencing in of the Villas del Sol community; if the affected persons were given adequate advanced notice; if the responsible authorities identified an appropriate relocation site for the affected communities to be available immediately following the eviction; if local authorities envisaged restoring water and electricity supplies to the Villas del Sol community; on the content of the alleged agreement between FEMA and the Government of Puerto Rico used to justify the action taken, the reasons why concerned parties have allegedly been unable to access it; on the classification of Villas del Sol as a flood zone, particularly concerning the history of this classification, the physical parameters of the zone and whether such a classification is of permanent or temporary nature; on the measures foreseen, in the case that evictions were unavoidable, to provide for impartial and independent monitoring, as well as adequate and fair compensation.

Observation

91. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Uzbekistan

Communication sent

92. On 30 January 2009, the Special Rapporteur sent an allegation letter to the Government of Uzbekistan after receiving information that the authorities of Tashkent had undertaken demolition of houses and beautification projects in relation to the preparations of the 2,200th anniversary of the city's founding. According to the information received, evictions and demolitions also took place to permit the sale of land in Tashkent to private companies. Reportedly, residents of houses that had already been demolished were relocated to the outskirts of the city without being offered adequate compensation or housing of equal value. Allegations also stated that the evicted residents have expressed extreme dissatisfaction with the situation. Other demolitions seemed to have been planned and it was feared that residents were to be relocated under the same conditions. The Special Rapporteur requested further information on the number of persons affected by the beautification and other renovation plans in Tashkent; if an impact assessments had been carried out before undertaking the demolitions and relocations; if other alternatives to demolition and relocation had been considered; if the affected people were appropriately consulted and participated in the renovation projects, if they were appropriately notified of the administrative decisions concerning demolitions; on the legal recourses available to the affected people, especially the poorest; on the measures taken by the authorities to prevent

people from becoming homeless or from being inadequately housed as a consequence of the evictions; on the basis upon which compensation was calculated and the authority in charge of these estimations; if any independent body was monitoring the evictions and relocation of residents; if any complaint was lodged in regard to the situation.

Response received

93. On 26 February 2009, the Government of Uzbekistan replied to the allegation letter sent by the Special Rapporteur on 30 January 2009. At the time of the finalization of this report, the reply was still under translation. A complete summary will be provided in the Special Rapporteur's next communication report.

Vietnam

Communication sent

94. On 25 November 2009, the Special Rapporteur together with the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a joint allegation letter to the Government of Vietnam concerning the recent eviction of monks and nuns from Bat Nha monastery and their future eviction from Phuoc Hue temple, which was due to take place on 30 November 2009. According to the allegations, on 27 September 2009, about 150 people armed with sticks and hammers attacked the Bat Nha monastery. Plain-clothes police officers were reportedly amongst the mob and police officers in uniform blocked the roads leading to the monastery. The mob violently proceeded to the eviction of 379 monks and nuns from the monastery. Some monks and nuns were beaten up and four of them were sexually assaulted. According to the reports, the monks did not attempt to defend themselves, but they sat down and started to chant in order to respond in a non-violent manner to the attacks. Two senior brothers, Mr. Phap Hoi and Mr. Phap Sy, were beaten and were held under house arrest without proper charges in Hanoi and Nha Trang. After being evicted, the monks and nuns were offered refuge by Mr. Thai Thuan, the abbot of Phuoc Hue temple in Bao Loc. On 28 September 2009, the police threatened the abbot, claiming he had no right to offer refuge to the Bat Nha monks and nuns. The police then surrounded the temple and they started an intimidation campaign. Flyers were distributed in Bao Loc in order to damage the reputation of the abbot and he was denounced through loudspeakers in schools and in the streets. Police officers threatened to undertake similar attacks on Phuoc Hue temple, than the ones undertaken against the Bat Nha monastery on 27 September 2009. The intimidation campaign culminated with the demand that the abbot surrendered fifteen monks and nuns. Under this extreme pressure, the abbot acceded to the demand and surrendered fifteen monks and nuns, who were taken into police custody and were driven more than 200 km away from Ho Chi Minh city. The other Bat Nha monks and nuns who remained in Phuoc Hue temple were reportedly undergoing pressure and threats from the authorities to leave the temple. They were living under strict control of the police. The police harassed and obstructed people who were bringing food and clothing to the temple. Anyone who stopped in the vicinity of the temple was being stopped and questioned. Concerns were expressed that the crackdown on the Bat Nha Buddhist community was due to the teachings of Mr. Thich Nhat Hanh, leader of Bat Nha Buddhist community. Mr. Thich Nhat Hanh would have made public recommendations in 2007 in order to improve religious freedom, including a request to disband the country's religious police. In addition to comments on the accuracy of the facts of the allegations, the Special

Rapporteurs requested further information on whether a complaint had been lodged; and on the details, and where available the results, of any judicial investigation, or any criminal charges and other inquires carried out in relation to this case.

Response received

95. On 3 February 2009, the Government of Vietnam replied to the joint allegation letter sent by the Special Rapporteur on 25 November 2009. Following the Mission's note verbale No. 028 dated 2 February 2010, the Government informed on the updated report from the Government of Viet Nam stating that after visiting Lam Dong Province from 8-10 December 2009, the Counselor from the EU Mission allegedly confirmed that no acts of destruction took place at Phuoc Hue Temple and agreed that if Lang Mai and any Buddhist organization wished to carry out its activities, it should abide by laws and the Charter of the Vietnamese Buddhist Sangha.

Zimbabwe

Communication sent

96. On 31 July 2009, the Special Rapporteur sent an urgent appeal to the Government of Zimbabwe regarding the threat of forced evictions in settlements in the Harare suburbs of Gunhill and Borrowdale, and along Harare's watercourses. According to the information received, in July 2009 the Harare City Council announced proposals for an alleged urban clean-up programme. The Deputy Mayor of the Harare City Council, Emmanuel Chiroto, has reportedly declared that informal settlements, consisting of both stalls and homes, in the suburbs of Gunhill and Borrowdale, as well as along Harare's watercourses needed to be removed and hence would be target of mass evictions. Health and safety concerns were cited to justify the planned actions. The city's officials allegedly feared that poor water and sanitation facilities may result in another cholera epidemic and also wished to take measures to clamp down on illegal trade that is reportedly taking place in the targeted settlements. The exact numbers of people living in the targeted settlements were not available. However, information received suggests that thousands of people, consisting to a large part of informal vendors and their families, would be affected across Harare. The announced evictions in Gunhill alone are reportedly expected to affect an estimated 200 people. The alleged planned demolition of vending markets and other informal structures will reportedly leave these communities without shelter, as well as without a means by which to earn their livelihood. Notice of the mass forced evictions was reportedly given at short notice and communicated only indirectly to affected communities. According to information received, community consultation did not take place and due process was not been guaranteed. In addition to comments on the accuracy of the facts of the allegations, the Special Rapporteurs requested further information on whether alternative solutions other than demolitions and subsequent forced eviction were considered to address possible health and safety concerns in the targeted settlements; if the affected communities and their representatives were appropriately consulted both when considering these alternatives and at all stages of the subsequent planned eviction procedure; if the exact dates for the allegedly planned urban clean-up action had been determined; if communities were given adequate prior notice; on the measures taken by the authorities to prevent people from becoming homeless or from being inadequately housed as a consequence of the evictions; on the measures foreseen, in the case that evictions are unavoidable, to provide for impartial and independent monitoring, as well as adequate and fair compensation.

Observation

97. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to this communication.

Other actors

European Bank for Reconstruction and Development

Communication sent

98. On 19 June 2009 the Special Rapporteur sent an urgent appeal to the European Bank for Reconstructions and Development concerning persistent reports of forced evictions of informal settlements, mainly inhabited by Roma communities, in Belgrade. One of these evictions concerned communities living under the Gazela Bridge to make way for the reparation of the bridge, a project financed by the European Bank for Reconstruction and Development. In this regard, the Special Rapporteur expressed her wish to share with the Bank the concerns that she raised with the Government of the Republic of Serbia earlier on, which is reproduced further below. In view of the role of the European Bank for Reconstruction and Development in financing the reconstruction of the Gazela Bridge, the Special Rapporteur deemed important to receive information from this institution. Thus, the Special Rapporteur requested further information on whether the European Bank for Reconstruction and Development has guidelines for implementation of projects where no other solution to displacement exist, asked to be provide with these guidelines if they exist; and requested explanations on how the Bank ensures that these guidelines are implemented by the actors involved in the project. In addition, the Special Rapporteur inquired if the European Bank for Reconstruction and Development had been in contact with the City of Belgrade in regard to the foreseen eviction and, if yes, what measures were demanded so that the evictions were carried out in full compliance with international norms and human rights standards.

Response received

99. On 2 July 2009, the European Bank for Reconstruction and Development (EBRD) replied to the urgent appeal of 19 June 2009. The EBRD informed that the rehabilitation of the Gazela Bridge is being financed by the European Investment Bank, whilst EBRD is financing the section of the R251 Belgrade Ring Road between Lestane and Zeleznik and the inner city sections of the E70 and E75 highways which provide access to the Gazela Bridge. The project is governed by the EBRD's 2003 Environment Policy which makes specific reference to the IFC policy on involuntary resettlement and the World Bank Group's O.D. 4.30. The disbursement of both the EIB and the EBRD loans for this Project is dependent on the approval and implementation of a Resettlement Action Plan for all families living under Gazela Bridge who are considered to be Project Affected People. EIB and EBRD are in regular contact with the City Administration with the objective of reaching a satisfactory solution for the project affected community. The City was informed by the banks that resettlement that involves forced evictions would not be acceptable. The banks have been assured by the City of Belgrade that the families living below the Gazela Bridge will not be forcefully evicted. All Serbian government officials have been informed that no disbursement will take place without a satisfactory resettlement action plan. Provisions for reporting and monitoring the implementation of the RAP, as well as

acceptable grievance procedures for the affected families must be incorporated into the final document, if it is to be approved. The Belgrade City Administration has accepted responsibility for resettlement of those families that would be eligible under the City's Action Plan for the Resettlement of Unhygienic Settlements on the Territory of Belgrade in 2009. Of the 175 families living under the bridge, 114 would be eligible, referred to as Component A of the Gazela Resettlement Action Plan. The City Administration did not accept responsibility for the resettlement of the remaining 61 families, who are migrants and temporary workers that have come to Belgrade from other parts of Serbia (Component B). However, the disbursement of the EIB and EBRD loans is dependent on the approval of a Resettlement Plan encompassing components A and B of the families living under Gazela Bridge. A completed Resettlement Action plan has not been presented yet. The most recent proposal from the City Administration was reportedly designed to deal with all Unhygienic Settlements on the Territory of Belgrade and foresees to provide mobile housing units for the families with Belgrade residency. These units would not be acceptable to the banks unless they meet certain standards. Finally, the Ministry of Labour and Social Policy of the Republic of Serbia assumed responsibility for resettling the remaining 61 families, assist them to return to their municipalities of origin and provide them with appropriate shelter and support to find employment.

Newman Ghana Gold Limited

Communication sent

100. On 1 July 2009, the Special Rapporteur together with the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment on human rights, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the right to food sent an allegation letter to Newmont Ghana Gold Limited (NGGL) concerning reports received indicating potential negative impacts that the establishment by Newmont Ghana Gold Limited (NGGL) of an open pit gold mine in Akyem, more precisely within the Ajenua-Bepo Forest Reserve in the Birim North District of Ghana's Eastern Region may have on the enjoyment of economic, social and cultural rights of the affected communities. The Special Rapporteurs shared the concerns that they had had raised with the Government of Ghana, which and drew the company's attention to the relevant provisions of international human rights law. In addition to comments on the accuracy of the allegations, they Special Rapporteurs requested further information on whether any study on social, environmental and health impact of the open mine project had been realized by NGGL and the conclusions of the studies; on the measures taken by NGGL to ensure that the open mine project does not have disproportionate negative impacts on the environment and on the livelihoods of neighboring communities; on the measures been taken by NGGL to ensure that water resources would be protected from risks of leakages, and to ensure that mining wastes would be disposed of appropriately; if the concerned communities had been allowed to participate from the inception of the plans to construct the mine; if the land subject to expropriation had been duly evaluated; if any ongoing consultation was undertaken with the persons threatened with eviction; on the measures foreseen by NGGL in terms of compensation for the persons threatened with eviction; and on the measures taken by NGGL to ensure that the right to health of neighboring communities was respected.

Response received

101. On1 July 2009, Newmont Ghana Gold Limited (NGGL) replied to the allegation letter sent on 1 July 2009. NGGL informed their committement to implement the best possible practices in the areas of Social and Environmental management and impact mitigation at the Akyem project. Newmont's Akyem project has been studied extensively by international and national environmental experts, members of the communities living in the area, and by Ghana's government, as well as the International Finance Corporation (IFC). It has been the subject of a thorough environmental impact study, public consultation processes, an independent review process, and an overall regulatory review. Newmont project leaders have engaged with numerous community representatives, government agencies, nongovernmental organizations and international organizations on many occasions. 600 meetings and events between 2004 and early 2009 were held with different local and regional stakeholders. The Akyem communities demonstrated overwhelming support for the project at three public hearings. In addition, more than 150 Ghanaian community leaders issued statements in support of the Akyem project. Concerns raised by NGOs during the EIS process were discussed with local communities and the results presented in an environmental impact study that was reviewed by the Ghana EPA. The analyses of the company were also reportedly reviewed by national and international environmental experts. The Ghana EPA was granted Newmont an environmental permit to operate at Akyem.