



የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ
በተባበሩት መንግስታት የቋሚ መልክተኛ ጽ/ቤት
ጂኔቫ

*Federal Democratic Republic of Ethiopia
Permanent Mission to the United Nations
Geneva*

360/2019-A

30 April 2019

The Permanent Mission of the Federal Democratic Republic of Ethiopia to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to refer to the latter's Note, No. UA ETH 1/2019 dated 25 February 2019 regarding urgent appeal from Special Procedures sent by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, and therefore, the Permanent Mission would like to inform OHCHR that reply of the Government of the Federal Democratic Republic of Ethiopia is attached herewith.

The permanent Mission of the Federal Democratic Republic of Ethiopia to the United Nations Office at Geneva and other international organizations in Switzerland avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration. *



The Office of the United Nations High Commissioner for Human Rights
Geneva

Replies to Information requested by the Special Rapporteur on Adequate Housing as a Component of the right to an adequate standard of living, on the right to non-discrimination in this context.

Ethiopia welcomes the opportunity to address the concerns raised by the UN Special Rapporteur on Adequate Housing as a Component of the right to an adequate standard of living, on the right to non-discrimination in this context.

General Background

Ensuring that everyone has access to adequate housing in Ethiopia has been both a major challenge and one of the government's key priorities for more than a decade. It is in light of this that we appreciate the efforts of the special Rapporteur to promote the right globally and in the developing world in particular. While the government has been providing public housing in the form of condominiums and providing land for citizens for the construction of private housing, we are also cognizant that ensuring the right to adequate housing that meets the standards of human dignity requires housing to be built based on pre-designed urban master plans and certain standards. In this connection, the fast spread of illegal settlements on and invasion of public land reserved for other purposes has been a major challenge. Especially in areas surrounding the capital, many often conspire with corrupt local administrators and erect anything from a small shack to villas over night. As the government had, on previous occasions, legalized illegal settlements, this seems to have exacerbated the rush to occupy public land illegally. The occupants aren't always poor either; many who already have descent housing elsewhere in the city also build expensive multi-floored housing on illegally occupied land in hopes that it will someday be legalized and resold for millions.

Below are the replies of the FDRE government to the concerns raised by the Special Rapporteur in relation to the Lege Tafo Lege Dadi city in the Oromia regional state. While we appreciate the concern of the Special Rapporteur, some of the information received by the Special Rapporteur has factual errors. The replies will rely on providing facts as well as elaborating on the existing national legislation relating to urban land and well as the International Covenant on Economic, Social and Cultural Rights.



Specific replies to allegations:

1- Allegations concerning the absence of consultation and compensation for the affected individuals.

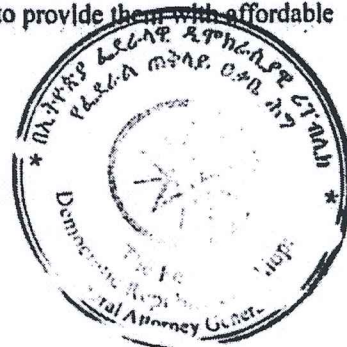
The information provided to the Special Rapporteur is erroneous in this regard. The Urban Lands Lease Holding Federal Proclamation No. 721/2011 requires the concerned government authorities to provide a seven days prior written notice. The affected individuals were told repeatedly about the upcoming measures though repeated consultations with local administration six months before the measures were taken and given written notices, in accordance with the law, seven days in advance. While the law recognizes the right to receive compensation, the right applies only to those houses built on urban or rural lands *legally*.

2. Allegations concerning the number of houses demolished

It is stated in the letter from the Special Rapporteur that government demolished 3000 houses. However, the actual number of occupied houses demolished was 347 while the rest (700 homes) were simply plots of land that had been fenced or houses that were in early stages of construction. The allegation that 3000 houses were demolished is erroneous.

3 - "Evictees are sheltered in churches and some are on streets."

After hearing these allegations surface immediately after the demolitions occurred, the President of the Oromia Regional Government established special Committee composed of different stakeholders. Mandated to investigate facts on the ground and report it to the office of the president, the Committee's objective was to provide alternative housing. If, in fact, there had been any who had sheltered in churches or become homeless as a result of the demolitions. It was, however, discovered that almost all of the evictees had alternative housing. Several of them have expensive housing in Lege Tafo City, in CCD Real Estate (luxury housing compound); each house costing up to fifteen million birr (over half a million US dollars). Despite these facts, there are a few affected persons, whom the committee identified as "yedeha deha" (poorest of the poor) and efforts are on the way to provide them with affordable housing.



3- Allegations that the city's Mayor said houses were "illegally built on green area on master plan"

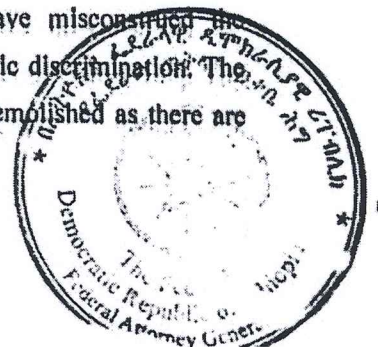
The demolished houses were not just built on land reserved as green area, many of the houses were also built on land reserved for public schools, health centers and forestry areas, buffer zones including in river valleys and land that had been cleared and reserved to serve other public services had been occupied illegally. A look into the urban plan of the city is self-evident. The reality is that there are still large areas around the city that are illegally occupied. Houses demolished this time only targeted those which were constructed on land reserved for public services.

4- Mayor said "the city will not compensate the evictees because their structures were illegal"

The Mayor's statements were consistent with facts and the law. Urban Lands Lease Holding Federal Proclamation No. 721/2011 explicitly states that, when it is a land possessed illegally, however, the city has an outright prerogative to take over a land with a seven days prior notice. The city has no legal duty to compensate eviction happened on individuals occupied the land illegally [Art. 26 sub 4]. The city shall not be held responsible for any property situated on illegally held plot of urban land in the course of clearing the land [Art. 31 sub 5]. None of the plots of land mentioned above are accessed legally. Though the law dictates whosoever fences an urban land, undertakes construction on it be punishable with a rigorous imprisonment from 7 to 15 years and with a fine from Birr 40,000 up to Birr 200,000, the city did not prefer to resort to it [Art. 35 sub 1 (b)]. No one was detained in this regard. Some commentators are criticizing the city admin for failing to uphold this clause of the law.

5- "Some have got title deeds. But some others haven't got title deeds,"

Where a person started residing there before December 2012, provided that their residence complies with the local development plan (master plan) of the city, they were entitled to get title deeds. The conditions are; the land shouldn't be reserved for industrial area, public schools, public health centers, forestry, greenery and buffer zones. Allegations submitted to the Special Rapporteur have misconstrued the differences in possession of title deeds as being based on ethnic discrimination. The truth is, there are many Oromos whose houses were demolished as there are



numerous others from other ethnic groups that have been given title deeds where they met the criteria.

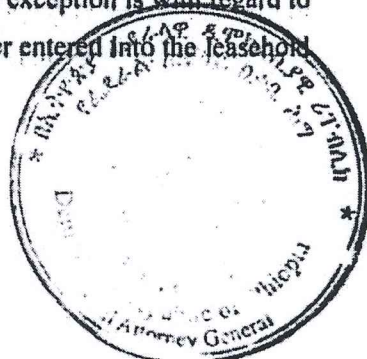
The regional government did not target minorities residing within the Oromia region. The government's moves are guided solely by federal laws governing the matter. In the Lege Tafo Lege Dadi city, in 2018 and 2019, about 5000 (five thousand) titles have been issued, of which more than 2/3 are non-Oromos. Both federal and regional governments have a firm belief that the government shall advance individual rights without of any discrimination on the basis of sex, identity, religion or other grounds.

Legal procedures and remedies available to residents

Any resident who believes (even those with illegal possessions) the authorities are infringing on his/her right of possession can petition the courts to obtain a cease and desist order. They could then file a suit against the authorities to show why their possession is legal according to law and should therefore not be demolished. For legal tenants, the concerned authority shall serve the possessor a written notice three months in advance, stating the time the land has to be vacated, the amount of the compensation to be paid and the size and locality of the substituted plot of land. Legal residents who are served with notices are also able to petition the authorities to object the decision and a further appeal is possible to the Urban Land Clearing and Compensation Cases Appellate Tribunal.

Conditions where compensation is to be paid

Where in the land is possessed in accordance with the law, the city administration has a legal mandate, only where it is in public interest, to clear and take over urban land up on payment of commensurate compensation in advance for the properties to be removed from the land and the person is entitled to have another plot of land in the city (Art. 26 sub 1 and 2 of the Federal Compensation proclamation, No. 455/2005). Any aggrieved party can take its grievance (case) to the concerned authority and to the court as well. Here, it is worthwhile to emphasize that in the post 2011 Ethiopia, land can only be owned by lease holding through tender (and state-allotment) whose bid bench mark is annual land use rent of the locality. The exception is with regard to old possessions, which are acquired before the urban center entered into the leasehold



system or land provided as compensation in kind to persons evicted from old possession.

Conclusions

The city administration engaged in clearing the land on the basis of legal frameworks, particularly the FDRE constitution and Federal Lands Lease Holding Proclamation No. 721/2011 and Compensation Proclamation No. 455/2005 that govern the matter. Additionally, in order to respect other human rights such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions, recognized in the ICESCR, ICCPR and the FDRE constitution, the city took utmost care and informed all persons (claimants) before six months and it also issued seven days prior written notice to all persons.

The Ethiopian Government taking in to account the responsibility it has on the basis of article 2 (1) the ICESCR, adopted a national housing policy that aims reaching the ~~disadvantaged and marginalized groups in cities~~. So far tens of thousands of houses have been built and distributed to citizens across the country. In the Oromia regional state, a law has been adopted which allows residents that don't own their own houses to form their own "housing association" and receive plots of land for free to construct their homes. So far 159 associations (of residents) in the city of Lege Tafe Lege Dadi have received a total of 77 hectares of land.

To conclude, our findings show that clearing of the land has been done in full compliance with article 4 of the ICESCR (international Covenant on Economic, Social, Cultural Rights) that requires any limitations imposed must be "determined by law only insofar as this may be compatible with the nature of these [i.e. economic, social and cultural] rights and solely for the purpose of promoting the general welfare in a democratic society".

