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**Report of the Special Rapporteur on adequate housing as a component of the
right to an adequate standard of living, Miloon Kothari**

Addendum

**Summary of communications sent and replies received from Governments
and other actors, 16 December 2004 - 1 December 2005**

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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 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. This addendum to the report of the Special Rapporteur contains, on a country-by-country basis, summaries of communications, including urgent appeals, government replies, observations and follow-up relating to the Special Rapporteur's mandate for the period 16 December 2004 to 1 December 2005. The report also reflects one communication that originated prior to 16 December 2004 but for which a government response was received after that date and therefore not included in the Special Rapporteur's previous report (E/CN.4/2005/48/Add.1). The Special Rapporteur urges all Governments and other actors to respond promptly to his communications and, in appropriate cases, 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.
2. The Special Rapporteur has sought to condense details of communications sent and received. To the extent that his resources permit, the Special Rapporteur continues to follow up on communications sent and monitor the situation where no reply has been received or where questions remain outstanding.
3. Where appropriate, the Special Rapporteur has sent joint urgent appeals or letters with one or more special procedures of the Commission on Human Rights where the allegations raised concerns relating to the right to adequate housing as well as rights addressed under other mandates. The majority of communications and urgent appeals reflected in this report deal with cases where there is an allegation concerning forced evictions. That is also one of the focuses of the Special Rapporteur's annual report (E/CN.4/2006/41), which proposes a set of draft guidelines on forced evictions. During the period covered, the Special Rapporteur also took action on communications that deal with housing rights of indigenous peoples, the presence of toxic chemicals on land that create environmental and health hazards affecting the right to adequate housing, and proposed funding cuts to accommodation assistance programmes.
4. During the period under review, the Special Rapporteur sent a total of 15 communications concerning the right to adequate housing to 11 Member States as well as 1 communication to the United Nations Interim Administration Mission in Kosovo (UNMIK). Of the 15 communications sent, 3 replies from Governments and from UNMIK were received. One government reply was also received concerning a communication sent prior to 16 December 2004 (Sri Lanka). The Special Rapporteur appreciates these replies; however, he regrets that the majority of Governments have failed to respond at all, or 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 urgent actions, including all concerns raised in each communication. There are also a number of communications included in last year's report for which a reply has still not been transmitted to the Special Rapporteur, including ones addressed to the Governments of

Bangladesh, India, Israel, Nigeria, the Philippines, Slovakia, Sri Lanka and the Sudan (see E/CN.4/2005/48/Add.1). The Special Rapporteur continues to follow with interest developments and information from various sources on the relevant issues.

Governments

Australia

Communications sent

5. On 23 May 2005, the Special Rapporteur sent a letter concerning proposed funding cuts in the State of Victoria to the Supported Accommodation Assistance Programme (SAAP). According to information received, SAAP, a joint federal-state programme under the Supported Accommodation Assistance Act 1994 (Cth), is intended to provide crisis accommodation and related support services to people experiencing homelessness and to prevent, alleviate and resolve homelessness. It was alleged that funding cuts by an amount of up to \$30 million over five years were proposed to the SAAP programme. Concern was expressed that the proposed funding cuts could be deemed a retrogressive measure; such measures should only be taken by the State in exceptional circumstances, evidence of which was not apparent in Australia. It was further alleged that the current levels of SAAP funding were insufficient to meet the demand for crisis accommodation and support services as only one in seven of the estimated 100,000 homeless people in Australia finds a bed through assistance programmes. According to information received, more than 500 homeless people per day are turned away from homelessness services across the country. Concern was equally expressed that violence against women has been identified as both a cause of homelessness and as part of the experience of homelessness in Australia. The Special Rapporteur noted that the Australian Federation of Homelessness Organisations has already raised these issues with the Australian Government, calling for funding to SAAP to be increased by 40 per cent to meet the demand for homelessness assistance services. The Australian Council of Social Services has also called for the state and federal Governments to cooperate in this crucial area of unmet need, to increase SAAP funding and to retain the Commonwealth-State Specific Purpose Payment to ensure that states and territories spend their allocated funds on homeless people.

Observations

6. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to monitor the situation with interest.

Botswana

Communications sent

7. On 16 November 2005, the Special Rapporteur sent a joint urgent appeal with the Representative of the Secretary-General on the human rights of internally displaced persons and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, regarding Bushmen in the Central Kalahari Game Reserve. According to information received, hundreds of Bushmen were relocated from their traditional homes and hunting grounds

in the reserve. It was alleged that their land and resource rights in the Central Kalahari, to which they and other Bushmen still living within reserve boundaries were entitled, were infringed. Concern was expressed over the deterioration of the situation of those living within the reserve and those who have been relocated out of it over the last years. Despite reports that the purpose of the relocation was the provision of better basic social services, the Bushmen outside the reserve reportedly continue to face urgent problems affecting the full enjoyment of their human rights, including lack of access to adequate housing.

Observations

8. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to monitor the situation with interest.

Brazil

Communications sent

9. On 18 March 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, concerning the evictions of a number of families from the Guarani-Kaiowá community living on the Cerro Marangatú territory, in the State of Mato Grosso do Sul. According to information received, while the Government is taking significant action to remedy the situation, indigenous people in Brazil remain one of the poorest and most deprived segments of the population. It was alleged that orders issued to evict the Guarani-Kaiowá were temporarily suspended on 2 March 2005, the day before they were due to take effect, and 31 March 2005 was set as the eviction date. Concern was expressed that an eviction would violate the economic, social and cultural rights of the affected families, including their right to adequate housing. It was further alleged that the small area the community had occupied was demarcated as indigenous territory and if the Brazilian Federal Government were to ratify the territory as Guarani-Kaiowá land, in accordance with its allegedly constitutional and international obligations, the families would be protected against eviction.

10. On 7 July 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, concerning approximately 100 members of the Guarani indigenous community. According to information received, on 26 June 2005, a group of Guarani occupied a portion of the Floresta ranch, situated in Sombreiro indigenous territory, located in the Sete Quedas municipality, which was allegedly considered to be a historically indigenous land. Reportedly, they were shot by some cattle ranchers. One Guarani man, named Dorival Benites, died and four others were injured. It was alleged that the same cattle ranchers were currently surrounding the Guarani, whose lives were still under threat. Concern was expressed over the ongoing evictions affecting the Guarani community and over the general land situation of the Guarani people in Brazil.

Communications received

11. By letter dated 11 May 2005, the Government of Brazil replied to the communication sent on 18 March 2005 on the homologation of indigenous lands, including those in Cerro Marangatu (State of Mato Grosso do Sul), whose case was the subject of an urgent appeal sent by the Special Rapporteur on 18 March 2005. The Government reported that, over a two-year period, 9.1 million hectares belonging to indigenous peoples had been certified as indigenous land, including the 1.7 million hectare indigenous area of Raposa Serra do Sol. Concerning the Guarani-Kaiowá living in Cerro Marangatú, the Government noted that on 28 March, the President of the Republic signed a decree ratifying Cerro Marangatú as indigenous land.

12. By letter dated 29 July 2005, the Government replied to the communication sent on 7 July 2005. The Government expressed regret for the murder of Dorival Benites during a conflict with illegal occupants of lands (*posseiros*) and explained that it was assisting the injured individuals, and that the Federal Police and the Public Prosecution were carrying out investigations. The Government confirmed that the region of Sombrerito was in the process of being identified as indigenous territory.

Observations

13. The Special Rapporteur thanks the Government for its replies.

14. The Special Rapporteur notes the Government's information according to which the measures taken to ensure the certification of areas belonging to the indigenous peoples constitute a benchmark of the government's policy for the protection and promotion of indigenous rights, including their right to adequate housing. The signing by the President on 28 March 2005 of an official declaration certifying Cerro Marangatú as indigenous land constitutes an important step in the official process of transferring these lands.

Bulgaria

Communications sent

15. On 13 October 2005, the Special Rapporteur sent an urgent appeal regarding recent and planned forced evictions of Roma in Sofia. According to information received, at least 24 homes of Roma families in the neighbourhood of Hristo Botev in the Slatina district of Sofia were demolished during September 2005. It was alleged that 150 Roma individuals were made homeless without having received prior notice of the intended eviction; an eviction order by the Slatina district mayor was posted in an ad hoc manner on doors and/or walls of houses. Allegedly, no prior consultation procedure was initiated with the affected families and those evicted did not receive compensation or alternative housing. Allegedly, Bulgarian authorities considered the evicted families to "belong to the countryside", thereby justifying the denial of alternative housing, although some inhabitants had reportedly lived in Hristo Botev since 1960. The forced evictions in Hristo Botev neighbourhood were allegedly part of a large-scale plan to evict Roma throughout the capital, including in the districts of Vazrazhdane (Serdika neighbourhood), Lyulin, Krasno selo and Suhodol-3. The eviction of 56 families, a total of 167 persons, in Vazrazhdane planned for 26 September 2005 was reportedly halted by an order

of the Sofia District Court following a complaint challenging the legality of the eviction order. Some of the families have lived in Serdika for generations and their dwellings had in the past been tacitly recognized by local authorities. The majority of those at risk of being evicted were reportedly legally registered.

Communications received

16. By letter dated 7 November 2005, the Government replied to the communication sent on 13 October 2005. It provided information prepared by the Sofia local authorities regarding the demolition of so-called “illegal” structures of Roma families. The Government explained that the demolished homes in the districts of Slatina, Hristo and Botev were mainly sheds without electricity and running water with extremely poor sanitary conditions, and that new buildings were now being constructed and infrastructure upgraded. The Government confirmed that the decision to demolish homes in the district of Vazrazhdane, scheduled to take place on 17 September 2005, was suspended by decision of the Sofia City Court. It also stated that it was working with local authorities to consider alternative possibilities for accommodation of the Roma since many own real estate in other parts of the country.

Observations

17. The Special Rapporteur thanks the Government for its reply. His work under Commission resolution 2002/49 has highlighted the need for continuing to focus on the situation of Roma, and he continues to monitor their situation with concern.

Cambodia

Communications sent

18. On 30 September 2005, the Special Rapporteur sent an urgent appeal concerning approximately 168 families who have been living on the premises of Preah Monivong Hospital in Phnom Penh. According to information received, a total of 168 families have been living on the premises, consisting of hospital staff, policemen and their families, since 1988 and 1993. The land had been allocated to them by the then Hospital Chief. During their residence, the families have reportedly built better houses, roads, drainage systems and clean water and electricity systems on the land. In 2000, City Hall awarded the “Preah Monivong A-B Community” residents a Certificate of Appreciation as a “standard community”. In February 2005, the Ministry of the Interior reportedly traded the hospital land to a private business for redevelopment. On 22 February 2005, the Ministry allegedly issued a letter advising residents to remove their dwellings and leave the hospital compound within 30 days or face eviction. Reports indicated that 27 September 2005 was the deadline for the eviction of some 48 national policemen residing in Preah Monivong A-B Community. It was alleged that the next step would be to remove other residents and their families.

19. On 11 November 2005, the Special Rapporteur sent an urgent appeal regarding the threat of imminent forced eviction of residents of Koh Pich Island, in the Tonle Bassac in central Phnom Penh. According to information received, residents were pressured by local officials and a real estate development company to leave Koh Pich Island in 2004 in order to allow for its development into a “satellite city”. Reportedly, over 300 families residing on the island, most of

which are farming families who have lived there since the 1980s, were offered a small amount of money and resettlement on marginal land in Kandal Province. Residents were allegedly verbally and physically threatened to force them to accept the arrangement, though the compensation offered was much lower than the market values and the relocation sites were unsuitable. On 24 August 2005, the Phnom Penh Municipality filed a complaint with the municipal court claiming that the remaining families were illegally occupying State property, and filed a further complaint on 30 August 2005 requesting an injunction for their eviction. After negotiations between residents and the lawyer representing the Municipality failed, the court held a hearing on 3 November 2005. Allegedly, residents refused to participate in view of the judge's decision to hold it in a closed court. Subsequently, the court reportedly issued an interim injunction order requiring residents to leave the island immediately or be forcibly removed. The Special Rapporteur sought clarification as to whether the municipal court had jurisdiction to hear the case in light of the Joint Prakas on Determination of Competence of the Court and the Cadastral Commission Regarding Land Disputes, which states that the Cadastral Commission has the sole competence to hear cases regarding land disputes of unregistered lands. According to information received, the Supreme Court instructions on injunction hearings by municipal and provincial courts provide that emergency injunction orders "must not seize the property which a party is managing and give it to another party".

Observations

20. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communications. The Special Rapporteur conducted a country mission to Cambodia in 2005 (see E/CN.4/2006/41/Add.3) and continues to monitor these cases with interest.

China

Communications sent

21. On 5 April 2005, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on the situation of human rights defenders, concerning Guozhu Ye, a housing rights activist. Reportedly, on 24 August 2004, Mr. Ye applied for legal permission to hold a 10,000-person protest march against forced evictions in Beijing in mid-September 2004. On 27 August 2004, he was allegedly arrested and charged with "disturbing social order". On 18 December 2004, the Beijing Intermediate People's Court sentenced him to four years' imprisonment. He was allegedly being detained at an unknown location. Concern was expressed that his arrest, detention and conviction may have been directly linked to his application to hold a protest march against forced evictions.

Observations

22. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to receive information on the violation of the rights of housing activists protesting forced evictions, most recently at the United Nations Global Compact Summit in Shanghai on 1 December 2005 when approximately 60 activists were detained by police, though later released

or returned to their home districts, when they attempted to deliver a letter to United Nations officials attending the Summit. The letter was addressed to the Secretary-General of the United Nations and reportedly documented allegations against the local Shanghai authorities and police of human rights abuses, including forced evictions and land grabs. The Special Rapporteur continues to monitor the situation with interest.

Israel

Communications sent

23. On 30 May 2005, the Special Rapporteur sent a joint letter with the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of 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 regarding the spread of toxic chemicals on fields located near the villages of Tuwani, Umm Faggara and Kharruba in the southern Hebron region. According to information received, sheep and other animals appeared to have been contaminated by the toxins and several had died. As a result, Palestinian farmers had been forced to quarantine their flocks and were deprived of their livelihood. Reportedly, prior to the first field poisoning incident in Tuwani on 22 March 2005, a security guard from the nearby Israeli settlement Ma'on had told villagers that he wanted Palestinian farmers to stop grazing their flocks near the settlement and that, if they did not agree, he and the settlers had "ways to make them stop". According to analyses carried out by the Centre for Environmental and Occupational Health Sciences at Bir Zeit University and by the Israeli Nature Protection Authority, two types of toxic chemicals were spread in the area: 2-Fluoracetamide, which is banned in several countries, including Israel, and severely restricted in international trade, and Brodifacoum, an anticoagulant used as a rodenticide. Both chemicals endanger human health. Reportedly, on 12 April 2005, one of the toxins was found in a field in the Northern West Bank village of Yasouf. It was alleged that the areas where the toxic chemicals were found are located in Area C, which is under the full control of the Israeli authorities.

Observations

24. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to monitor the situation with interest.

Philippines

Communications sent

25. On 22 February 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders regarding Bienvenido Salinas and his children. According to information received, Mr. Salinas, a lawyer and head of the St. Thomas Law Centre, a unit of the Urban Poor Associates (UPA), a non-governmental organization that works on the right to adequate housing, has been involved in

litigation cases representing urban poor families who have allegedly been forcibly evicted or threatened with forced eviction. He had reportedly filed administrative cases at the Office of the Ombudsman on 31 January 2004 against personnel at the Metro Manila Development Authority and police officers, in connection with the alleged demolition on 21 January 2005 of the houses of seven poor families living under the bridge in Barangay Sta. Cruz, Quezon Avenue, Quezon City. It was alleged that on 8 and 9 February 2005, a man telephoned the St. Thomas Law Centre saying "Salinas' days are numbered, so are his children's". The man reportedly telephoned the office of the UPA and made a similar threat. On 17 February 2005, two vans with tinted windows were allegedly carefully watching the UPA office. Concern was expressed that the alleged death threats against Mr. Salinas and his children may represent an attempt to discourage his human rights activity and in particular, his legal work advocating housing rights for the urban poor.

Observations

26. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to monitor the situation with interest.

South Africa

Communications sent

27. On 18 October 2005, the Special Rapporteur sent an urgent appeal regarding recent forced evictions in Johannesburg, including from Bree Chambers on Bree Street and two buildings in Hillbrow. According to information received, the City of Johannesburg regularly forcibly evicts people from "bad" buildings, citing health and safety concerns, as part of its Inner City Regeneration Strategy aimed at transforming Johannesburg into a "world class city". Approximately 600 residents, including children, pregnant women, and elderly and disabled persons, were reportedly evicted from Bree Chambers in July 2005 because the building was considered unhealthy due to overcrowding and poor sanitation. It was alleged that no emergency shelter was provided to individuals in need, no meaningful consultation process was undertaken with residents, no alternative forms of shelter were sought to house the residents and no compensation has been provided to those evicted. It was alleged the City invokes legislation, such as the National Building Standards and Building Regulations Act, with respect to hundreds of thousands of shacks within its area of jurisdiction, on a selective basis, in order to evict people from "bad" buildings. It was further alleged that the City routinely admits that it actively avoids engaging with the occupiers of "bad" buildings before seeking their eviction. Eviction raids were also allegedly conducted on two buildings in Hillbrow on 20 September 2005, affecting approximately 300 "poorest of the poor". According to information received, the Hillbrow dwellings at BJ Alexandra and Eagle Mount were considered illegal, and the police claimed the residents were illegal immigrants and wanted criminals squatting on the premises. As a result, they were allegedly denied housing and faced living in conditions that do not meet the most fundamental international standards related to the right to adequate housing.

Observations

28. By letter dated 28 October 2005, the Government informed the Special Rapporteur that his letter of 18 October 2005 had been transmitted to the relevant authorities in Pretoria for attention and a response. However, the Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to receive information documenting allegations of forced evictions in Johannesburg and he is monitoring the situation with concern.

Sri Lanka

Response received on cases sent by the Special Rapporteur in preceding years

29. By letter dated 13 December 2004 and received on 20 December 2004, the Government replied to the communication sent on 27 August 2004 concerning the evictions of the Oliyamulla families (E/CN.4/2005/48/Add.1, paras. 37 and 38), which was the subject of a corrigendum (E/CN.4/2005/48/Add.1/Corr.1) to the previous report. In its reply, the Government explained that the Urban Development Authority (UDA) does not provide alternative accommodation to unauthorized occupants and squatters. It confirmed that in consideration of recommendations made by the Human Rights Commission of Sri Lanka, the Ministry of Urban Development and Water Supply and the UDA decided to intervene and to identify suitable State land jointly with the Divisional Secretary Wattala, purely on humanitarian grounds. UDA has recommended accommodating the displaced families through the land allocation system followed by the Divisional Secretary, but it is not in a position to provide compensation to the unauthorized occupants removed from UDA land.

Observations

30. The Special Rapporteur thanks the Government for its reply and is pleased that it has followed recommendations of the Human Rights Commission. However, he regrets that affected families have not been provided compensation.

Thailand

31. On 10 August 2005, the Special Rapporteur sent a joint urgent appeal with 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 situation of human rights and fundamental freedoms of indigenous people regarding the situation of the Lao Hmong people. According to information received, an estimated 6,500-7,000 Lao Hmong, including 3,000 children under the age of 15, have been occupying land in Petchabun Province in north-eastern Thailand, bordering the Lao People's Democratic Republic. Approximately 2,000 people have arrived in Thailand in the past six months, while another 4,500-5,000 were living in a camp in central Thailand that closed earlier in the year. The latter reportedly fled Laos in the 1970s and 1980s after being accused of collaborating with the CIA and were rejected for resettlement in the United States. The Hmong allegedly refused to return to Laos for fear of persecution. Reportedly, in preparation for their deportation to Laos, the Government requested

local authorities and landowners to evict the members of the community on 5 July 2005. It was further alleged that the Hmong were camping alongside the roads and had uncertain access to the facilities adequate housing requires, including water.

Observations

32. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur continues to monitor the situation with interest.

Zimbabwe

Communications sent

33. On 3 June 2005, the Special Rapporteur sent an urgent appeal concerning evictions being carried out under "Operation Murambatsvina" ("Drive out rubbish"). According to information received, Operation Murambatsvina was designed by the Government to "rid the capital of illegal structures, businesses and criminal activities". Informal traders and families that had been living in informal settlements were allegedly being massively evicted all over the country, with no prior notice, no opportunity to appeal and no opportunity to retrieve possessions from their houses or goods from their shops prior to the destruction of their property. In one eviction carried out during the night of 26 May 2005, more than 10,000 people were allegedly forcibly driven from their homes in the informal settlement of Hatcliffe Extension in northern Harare. Reports indicated that around 200,000 people had already been affected and that more than a million others could face eviction if the operation continued. Many of the informal settlements had reportedly already benefited from improvements and there were some basic services, such as water and electricity, and one of them had a school. The vast majority of those evicted were allegedly told to go back to the rural areas where they originally came from. Concern was expressed that the mass evictions had allegedly led to widespread homelessness that also impacted on the dwellers' rights linked to adequate housing. Concern was equally expressed that the mass evictions had disproportionately affected women and had caused undue hardship on children.

34. On 19 August 2005, the Special Rapporteur sent a follow-up urgent appeal regarding the mass evictions being carried out under Operation Murambatsvina. The Special Rapporteur reminded the Government of its obligations under international human rights law and emphasized that the standards governing exceptional circumstances in which forced evictions could be carried out imposed certain requirements which States parties to the International Covenant on Economic, Social and Cultural Rights must respect prior to, during and after carrying out evictions, and in particular when evictions involve large groups. The Special Rapporteur also reminded the Government that where evictions are considered justified, they should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with the general principles of reasonableness and proportionality. More importantly, they should never result in individuals being made homeless or vulnerable to the violation of other human rights. The Special Rapporteur noted that the evictions being carried out under Operation Murambatsvina might constitute a gross violation of human rights.

Communications received

35. By letter dated 24 June 2005, the Government replied to the communication sent on 3 June 2005, stating that the primary objective of Operation Murambatsvina was to rid urban environments of illegal structures and unlicensed trading premises. According to the Government, the evictions commenced on 18 May 2005 after due and sufficient notice was given to targeted groups in the local newspapers after extensive consultations were held with stakeholders. The Government claimed that the clean-up exercise was blown out of proportion and out of context by the Western media. The Government explained that the evictions did not breach human rights obligations because they were carried out in a manner consistent with domestic legislation. Furthermore, it stated that the basic entitlements implied in the right to adequate housing were not applicable since the evictions involved illegal structures. The Government also claimed that legal recourse was available to those individuals who wished to challenge the evictions.

36. In a second letter dated 3 August 2005, the Government replied further to the communication sent on 3 June 2005. The Government explained that Operation Murambatsvina was a precursor to a reconstruction programme, Operation Garikai/Hlalani Khuhle, designed to provide decent and affordable accommodations as well as to create an environment which promotes small and medium business enterprises.

Observations

37. The Special Rapporteur thanks the Government for its reply. However, he regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his further communication of 19 August 2005.

38. The Special Rapporteur notes that forced evictions can constitute a gross violation of human rights. He is deeply concerned over recent reports that the Government refused to accept assistance for thousands made homeless by Operation Murambatsvina. He is also concerned that Operation Garikai has been unsuccessful and that many people remain homeless. The Special Rapporteur continues to monitor the situation with profound concern.

Other actors

United Nations Interim Administration Mission in Kosovo

Communications sent

39. On 13 October 2005, the Special Rapporteur sent a joint urgent appeal with 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 adverse effects of the illicit movement and dumping of toxic waste and dangerous products and wastes on the enjoyment of human rights regarding Roma, Ashkali and Egyptian internally displaced persons (IDPs) affected by severe lead contamination in camps located near Mitrovica, northern Kosovo. According to information received, IDPs continue to live in camps that were built on highly toxic land. Reportedly, the camps were built as an ad hoc, temporary response (expected to last 45-90 days) to the flow of refugees in 1999. Individuals living there, including children, have allegedly been

and continue to be exposed to serious lead poisoning and other environmental health problems. Concern was expressed that IDPs and their children are reported to face serious health problems because of lead contamination in the soil, which makes the housing clearly inadequate. Concern was also expressed that the search for new camp sites has not been exhaustive or speedy.

Communications received

40. By letter dated 21 October 2005, UNMIK replied to the communication sent on 13 October 2005. UNMIK confirmed that living conditions in the current camps were neither ideal nor adequate. UNMIK had devised a strategy to provide adequate housing for Roma, Ashkali and Egyptian communities which deals with the immediate emergency needs while working towards a long-term solution through the permanent return to the Roma Mahalla in Mitrovica. UNMIK confirmed that the search for suitable relocation sites had been time-consuming and difficult, but that a viable option existed in Camp Oesterode which allowed for relocation to take place mid-December 2005. Camp Oesterode had full infrastructure in place, including water, sewerage and electricity. Existing buildings could accommodate approximately 300 people and, with the addition of containers, all 560 persons from the three camps would be housed with sufficient space for the necessary leisure, washing, cooking, educational and medical facilities. UNMIK emphasized that although some funding had been secured and a communication plan involving consultation had been developed to inform affected communities about the emergency relocation and to solicit their cooperation, funding and consultation remained a challenge and were critical to the eventual success of the relocation.

Observations

41. The Special Rapporteur thanks UNMIK for its reply. However, he notes with concern the information received from non-governmental organizations in November 2005 that several IDPs, including children, have allegedly died from lead poisoning in the camp. The information seriously questions the suitability of suggested future relocation sites alleged also to be contaminated by toxic chemicals. The Special Rapporteur believes that the United Nations should be held accountable for the protection of the human rights standards recognized by its Member States, particularly when replacing government authorities. He welcomes information about the financial contribution made in December 2005 by the Government of Sweden which will allow relocation to proceed speedily. He continues to monitor this situation with serious concern.
