



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

Cairo, 21 June 2004

Bader Meshari al-Humaidhi
Director General
The Kuwait Fund for Arab Economic Development
Mirqab - Mubarak al-Kabir St. - Kuwait City
P. O. Box 2921 Safat
13030 Kuwait
State of Kuwait

Dear Mr. al-Humaidhi:

The housing and Land Rights Network of Habitat International Coalition has received information from civil society organizations in Pakistan that the Kuwait Fund for Arab Economic Development (KFAED) is funding the Lyari Expressway Project in Karachi, Pakistan. KFAED's backing of the controversial project has been confirmed also in the Pakistani press.

This project has been extremely destructive for impoverished Pakistani people in its path and has earned widespread repudiation in Pakistan and abroad. Its opponents range from the affected families and communities, civil society organizations, professional associations, the mass media, academics and political parties to international civil society institutions, including the Asian Coalition for Housing Rights. Already in July 2002, the UN Special Rapporteur on the right to adequate housing wrote in July 2002 to President Perviz Musharaff to express his deep concern about the project and the forced evictions that it has caused. It is regrettable that KFAED is now implicated as a source of the deprivation arising from the Lyari Expressway Project.

As project funder, KFAED has an obligation to respect the Comprehensive Human Rights Guidelines on Development-based Displacements developed through the Office of the UN High Commissioner for Human Rights (1997). They point out the General Obligation No. 8 of States to "ensure that international organizations in which they are represented refrain from sponsoring or implementing any project, programme or policy [that] may involve the carrying out of forced evictions not in full conformity with international law and the present Guidelines." Preventive Obligation No. 16 stipulates that "States should fully explore all possible alternatives to any act involving forced eviction. In this regard, all affected persons...shall have the right to all relevant information and the right to full participation and consultation throughout the entire process and to propose any alternatives."

South Asia Office:

B-28 Nizamuddin East
New Delhi 110 013, INDIA

Tel./FAX: +91 11 2435-8492

E-mail: hichrc@ndf.vsnl.net.in

Coordination Office:

7 Muhammad Shafiq St., No. 8
Muhandisin • Cairo, EGYPT

Tel./FAX: +20 (0)2 347-4360

E-mail: hic_mena@hic-mena.org

Web: www.hic-mena.org
www.hlrn.org

UN Liaison Office:

8, rue Gustave Moynier
1202 Geneva, SWITZERLAND

Tel./FAX: +41 22 7368-8167

E-mail: hic-hrc@iprolink.ch

The Lyari Expressway Project has resulted in the violation of thousands of local inhabitants' human right to adequate housing, as guaranteed in Article 11 of the International Covenant on Economic, Social and Cultural Rights, which the State of Kuwait ratified on 21 August 1996.

Article 2 of the Covenant binds the State to exercise its obligations to uphold these also through its international cooperation. The elements of the covenanted right of everyone to to adequate housing includes secure tenure, freedom from dispossession, people's participation, adequate compensation and resettlement, environmental protection, democratic governance and accountability. The UN Committee on Economic, Social and Cultural Rights, which oversees the Covenant, has found that "instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law" (General Comment No. 4, para. 18). The Committee issued its General Comment No. 7 to elaborate further that procedural protections should be applied in cases of forced evictions, including:

- “(a) an opportunity for genuine consultation with those affected;
- (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- (e) all persons carrying out the eviction to be properly identified;
- (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- (g) provision of legal remedies; and
- (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts” (para. 15).

Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the responsible parties must take all appropriate measures, to the maximum of available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available (para. 16).

The UN Committee has issued the legal directive such that “international agencies should scrupulously avoid involvement in projects [that], for example...promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account” General Comment No. 2, paras. 6, 8) Some institutions, such as the World Bank and the Organisation for Economic Cooperation and Development (OECD) have adopted guidelines on relocation and/or resettlement with a view to limiting the scale of and human suffering associated with forced evictions. It appears that the Kuwait Development Fund has not yet taken such a measure.

In 2003 the Asian Coalition for Housing Rights (ACHR) conducted a fact-finding mission on the Lyari project and found numerous violations of the human rights of the affected families, including the right to adequate housing. Eviction Watch group of ACHR forwarded a copy of the mission's statement was sent to you at the time. Local opposition politicians also have publicly raised questions of corruption related to the Lyari project.

In October 2003 the Sindh High Court ordered the Pakistan government to review the project and to look into alternatives that will minimize the number of evictions and demolitions, the destruction to the environment and the negative impacts on Karachi, as well as reduce the cost of the project.

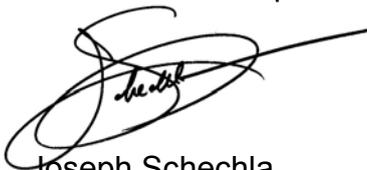
The said project will affect some 25,000 families. So far, it has forcibly evicted nearly 5,000 families with KFAED help. Thousands of shops, schools, clinics, mosques and churches have been demolished as well. Not all evictees were relocated and the minority who were found themselves in inadequate wholly conditions.

While we recognize the Kuwait government's and KFAED's good intention to help the people of Pakistan through this project. However, we urge you to adopt a more responsible and thorough consideration of the human consequences of KFAED-supported projects by considering the following measures:

- Take advantage of available information about the project with nongovernmental Pakistani sources. One good source is the Urban Resource Center, in Karachi, and its website: www.urckarachi.org/
- Investigate by way of an inspection/fact finding mission whose members consult directly with the affected families, representatives and leaders of the affected communities, nongovernmental organizations and other civil society organizations. This should include visits to the project-affected communities in Lyari and at the resettlement site.
- The team and KFAED, in general, should study this and other projects comprehensively, in order to know the objections as well as the alternative proposals to evict fewer families and require less cost to all parties and ensure against detrimental to the environment.
- Demand that the Pakistani government observe its still-unfulfilled 2002 promise to the affected families and communities to: (1) form a technical committee of three experts chosen by the affected communities and three experts from the government to conduct a project review, and (2) study the alternative design formulated by the affected communities and civil society experts.

In the meantime, all evictions should be suspended. It is our wish and hope that the Kuwait Development Fund will contribute to resolving the problems arising from the Lyari Expressway Project, rather than serving as one of its causes. Such as role would benefit the affected communities, civil society and the government, whose legitimacy is being undermined by its own performance under this KFAED-funded project.

Mr. al-Humaidhi, please be assured of my highest consideration.



Joseph Schechla
Coordinator

CC:

Abdulwahab A. al-Bader, Deputy Director General
Hamad S. al-Umar, Deputy Director General, Administration and Finance
Hisham I. al-Waqayan, Deputy Director General, Operation and Disbursement