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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on Prevention  
of Discrimination and  
Protection of Minorities  
Forty-seventh session  
Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mr. Ali Khan, Mr. Eide, Ms. Gwanmesia, Mr. Hakim, Mr. Hatano,  
Ms. Warzazi and Mr. Yimer: draft resolution

1995/... Forced evictions

The Sub-Commission on Prevention of Discrimination and Protection of  
Minorities,

Recalling its resolutions 1991/12 of 26 August 1991, 1992/14 of  
27 August 1992, 1993/41 of 28 August 1993 and 1994/39 of 26 August 1994,

Recalling also Commission on Human Rights resolution 1993/77 of  
10 March 1993,

Recalling further the analytical report on forced evictions prepared by  
the Secretary-General (E/CN.4/1994/20),

Reaffirming that every woman, man and child has the right to a secure  
place to live in peace and dignity, which includes the right not to be evicted  
from one's home, land or community,

Recognizing that the often violent practice of forced eviction involves the coerced and involuntary removal of persons, families and groups from their homes, lands and communities, whether or not deemed legal under prevailing systems of law, resulting in greater homelessness and inadequate housing and living conditions,

Disturbed that forced evictions and homelessness intensify social conflict and inequality and almost invariably affect the poorest, most socially, economically, environmentally and politically disadvantaged and vulnerable sectors of society,

Aware that forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a range of actors, all of which possess legal obligations to refrain from such practices,

Aware also that discriminatory motivations are the actual basis of a large number of forced evictions,

Emphasizing that ultimate legal and political responsibility for preventing forced evictions rests with Governments,

Recalling that General Comment No. 2 (1990) on international technical assistance measures, adopted by the Committee on Economic, Social and Cultural Rights at its fourth session, states, inter alia, that international agencies should scrupulously avoid involvement in projects which involve, among other things, large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation (E/1990/23, annex III, para. 6),

Mindful of the questions concerning forced eviction included in the guidelines for States parties' reports submitted in conformity with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/1991/23, annex IV),

Noting with appreciation that the Committee on Economic, Social and Cultural Rights, in its General Comment No. 4 (1991) on the right to adequate housing considered that instances of forced eviction were, prima facie, incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights and could only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law (E/1992/23, annex III, para. 18),

Taking note of the observations of the Committee on Economic, Social and Cultural Rights concerning forced evictions, in which the Committee has clearly equated this practice with violations of the obligations arising under the International Covenant on Economic, Social and Cultural Rights,

Recalling that forced evictions are unacceptable under international human rights law unless accompanied by all necessary legal and other safeguards, including due process, when carried out against any persons, notwithstanding their tenure status,

Taking note of the explicit recommendations concerning the practice of forced evictions contained in the final report of the Special Rapporteur on the right to adequate housing (E/CN.4/Sub.2/1995/12, chap. VIII),

Aware of the many similarities between the phenomena of forced evictions, internal displacement, population transfer, mass expulsions, mass exodus, "ethnic cleansing" and other practices involving the coerced and involuntary movement of people from their homes, lands and communities,

1. Reaffirms that the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to security of the home, the right to security of tenure, the right to food and a variety of additional rights;

2. Strongly urges Governments to undertake immediately measures, at all levels, aimed at rapidly eliminating the practice of forced eviction through, inter alia, immediately renouncing existing plans involving forced evictions, repealing legislation allowing forced evictions and ensuring the right to security of tenure to all citizens and other residents;

3. Also strongly urges Governments to confer legal security of tenure on all persons, in particular those currently threatened with forced eviction, and to adopt all necessary measures giving full protection against forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups;

4. Recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes, rights and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups, and recognizing the obligation to ensure such provision in the event of any forced eviction;

5. Invites all international financial, trade, development and other related institutions and agencies to take fully into account the views contained in the present resolution and other pronouncements under international human rights and humanitarian law on the practice of forced eviction;

6. Requests the High Commissioner for Human Rights to give due attention to the practice of forced eviction in discharging his responsibilities and to undertake measures, whenever possible, to persuade Governments to repeal planned forced evictions from taking place and to ensure the provision of adequate compensation when evictions have already occurred;

7. Requests the United Nations Conference on Human Settlements (Habitat II) to take fully into account the practice of forced eviction as a gross violation of human rights and to include in the final declaration and plan of action explicit references to the non-acceptability of this practice under international human rights law and concrete measures designed to prevent forced evictions;

8. Requests the United Nations Centre for Human Settlements (Habitat) in implementing its housing rights strategy (see HS/C/15/INF.7) to do everything within its power to prevent the practice of forced evictions by, inter alia, using the good offices of the Secretary-General to persuade Governments to refrain from carrying out forced evictions and by compiling annual lists of all eviction cases brought to its attention;

9. Takes note of the report of the Secretary-General on guidelines for international events and forced evictions (E/CN.4/Sub.2/1995/13);

10. Requests the Secretary-General to submit an updated report to the Sub-Commission at its forty-eighth session;

11. Also requests the Secretary-General to convene an expert seminar on the practice of forced eviction and the relationship of this practice to internationally recognized human rights, with a view to developing comprehensive human rights guidelines on development-based displacement;

12. Decides to consider the issue of forced evictions at its forty-eighth session under the agenda item entitled "The realization of economic, social and cultural rights" and to determine how most effectively to continue its consideration of the issue of forced evictions.

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