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COMMISSION ON HUMAN RIGHTS
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Agenda item 8

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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Mr. Fan, Mr. Fix, Mr. Hatano, Mr. Ibarra, Mr. Khalil, Mr. Maxim,
Mr. Mehedi and Ms. Warzazi: draft resolution

1996/... 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 26 August 1993, 1994/39 of 26 August 1994
and 1995/29 of 24 August 1995,

Recalling also Commission on Human Rights resolution 1993/77 of
10 March 1993 and the analytical report on forced evictions (E/CN.4/1994/20)
prepared by the Secretary-General and submitted to the Commission at its
fiftieth session,

Recalling further Economic and Social Council decision 1996/290 of
24 July 1996 on forced evictions, in which the Council authorized the holding
of an expert seminar on the practice of forced evictions with a view to
developing comprehensive human rights guidelines on development-based
displacement,

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,

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),

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 clearly equated this practice with violations of the obligations arising under the 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),

Noting the provisions on forced evictions contained in the Habitat Agenda adopted by the second United Nations Conference on Human Settlements convened in Istanbul in June 1996,

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 food, the right to freedom of movement, the right to privacy, the right to security of the home, the right to security of the person, the right to security of tenure, the right to equality of treatment and a variety of additional rights;

2. Strongly urges Governments to undertake immediately, measures at all levels, aimed at 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 halt planned forced evictions and to ensure the provision of adequate compensation when evictions have already occurred;

7. Requests the United Nations Centre for Human Settlements (Habitat) in implementing its housing rights strategy (HS/C/15/INF.7) and the Habitat Agenda adopted by the second United Nations Conference on Human Settlements to do everything within its power to prevent the practice of forced eviction 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;

8. Requests the Secretary-General, in accordance with Economic and Social Council decision 1996/290 to convene an expert seminar on the practice of forced evictions and the relationship of this practice to internationally recognized human rights, with a view to developing a set of comprehensive human rights guidelines on forced evictions, including development-based displacement and forced evictions carried out in conjunction with international events, prior to the forty-ninth session of the Sub-Commission;

9. Requests the Secretary-General to submit the report of the expert seminar and the aforementioned guidelines to the Sub-Commission at its forty-ninth session;

10. Decides to consider the issue of forced evictions at its forty-ninth 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.
