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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of  
Discrimination and Protection  
of Minorities  
Fiftieth session  
Agenda item 4

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mr. Benqoa, Mr. Boutkevich, Ms. Daes, Mr. Diaz Uribe, Mr. Eide,  
Mr. Fix Zamudio, Mr. Goonesekere, Mrs. Hampson, Mr. Yokota,  
Mr. Joinet, Mr. Kartashkin, Mr. Mehedi, Mr. Oloka-Onyango,  
Mr. Sang Yong Park, Mr. Pinheiro, Ms. Warzazi, Mr. Weissbrodt  
and Mr. Yimer: draft resolution

1998/... Forced evictions

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

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

Recalling also its resolution 1991/12 of 26 August 1991, 1992/14 of  
27 August 1992, 1993/41 of 26 August 1993, 1994/39 of 26 August 1994, 1995/29  
of 24 August 1995, 1996/27 of 29 August 1996 and 1997/6 of 22 August 1997,

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 arbitrarily or on a discriminatory basis 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,

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), and general comment No. 4 (1991) in which the Committee 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),

Noting with interest the recent case law of the European Court of Human Rights and the Inter-American Commission on Human Rights,

Noting with appreciation the adoption of general comment No. 7 (1997) on forced evictions by the Committee on Economic, Social and Cultural Rights (E/1998/22, annex IV), in which the Committee recognized, inter alia, that women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable groups all suffer disproportionately from the practice of force eviction, and that women in all groups are especially vulnerable, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including home ownership and rights of access to property of accommodation, and given the particular vulnerability of women to acts of violence and sexual abuse when they are rendered homeless,

Noting also the provisions on forced evictions contained in the Habitat Agenda (A/CONF.165/14), adopted by the United Nations Conference on Human Settlements (Habitat II) convened in June 1996,

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 property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment;

2. Strongly urges Governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced evictions by, inter alia, repealing existing plans involving arbitrary forced evictions and legislation allowing arbitrary forced evictions and ensuring the right to security of tenure for all residents;

3. Also strongly urges Governments to protect all persons who are currently threatened with forced evictions, and to adopt all necessary measures giving full protection against arbitrary or unreasonable 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. Recommends that all Governments ensure that any eviction, whether forced or not, is carried out in a manner which does not violate any of the human rights of those evicted;

6. Invites all international financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, 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;

7. Requests the United Nations High Commissioner on Human Rights to give due attention to the practice of forced eviction in discharging her responsibilities and to undertake measures, whenever possible, to persuade Governments to comply with relevant international standards, to repeal planned forced evictions from taking place and to ensure the provision of adequate compensation when forced evictions have already occurred;

8. Welcomes, the report of the expert seminar on the practice of forced evictions convened from 11 to 13 June 1997 and the comprehensive human rights guidelines on development-based displacement adopted by the expert seminar (E/CN.4/Sub.2/1997/7);

9. Urges the Commission to invite all States to consider the comprehensive human rights guidelines on development-based displacement as contained in document E/CN.4/Sub.2/1997/7, with a view to approving the guidelines in their present form at its fifty-sixth session;

10. Decides to consider the issue of forced evictions at its fifty-first session under the agenda item entitled "The realization of economic, social and cultural rights".

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