



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



Prohibition of forced evictions

Commission on Human Rights Resolution: 2004/28

The Commission on Human Rights,

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

Recalling also Sub-Commission on the Promotion and Protection of Human Rights 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, 1995/29 of 24 August 1995, 1996/27 of 29 August 1996, 1997/6 of 22 August 1997 and 1998/9 of 20 August 1998,

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 unlawfully, arbitrarily or on a discriminatory basis from their 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, however, that general comment No. 2 (1990) on international technical assistance measures (art. 22 of the International Covenant on Economic, Social and Cultural Rights), 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, and general comment No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant) in which the Committee considered that instances of forced eviction were, prima facie, incompatible with the requirements of the Covenant and could only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law,

Noting with interest the recent case law of the European Court of Human Rights, the Inter-American Commission on Human Rights and the African Commission on Human and Peoples' Rights regarding the prohibition of forced eviction,

Recalling the adoption of general comment No. 7 (1997) on the right to adequate housing (art. 11, para. 1, of the Covenant): forced evictions by the Committee on Economic, Social and Cultural Rights, in which the Committee recognized, inter alia, that women, children, youth, older persons, indigenous people, ethnic and other minorities, and other

marginalized or vulnerable groups all suffer disproportionately from the practice of forced eviction, and that women in all groups are disproportionately affected, given the extent of statutory and other forms of discrimination which often apply in relation to the property rights of women, including homeownership and rights of access to property of accommodation, and given the particular vulnerability of women to acts of gender-based violence and sexual abuse when they are rendered homeless,

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

1. *Reaffirms* that the practice of forced eviction that is contrary to laws that are in conformity with international human rights standards constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing;
2. *Strongly urges* Governments to undertake immediately measures, at all levels, aimed at eliminating the practice of forced eviction by, inter alia, repealing existing plans involving forced evictions as well as any legislation allowing for forced evictions, and by adopting and implementing legislation 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 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 to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups and consistent with their wishes, rights and needs, and recognizing the obligation to ensure such provision in the event of any forced eviction;
5. *Also recommends* that all Governments ensure that any eviction that is otherwise deemed lawful is carried out in a manner that does not violate any of the human rights of those evicted;
6. *Reminds* 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 the obligations under international human rights and humanitarian law on the practice of forced eviction;
7. *Requests* the United Nations High Commissioner for 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 prevent planned forced evictions from taking place and to ensure the provision of restitution or just and fair compensation, as the case may warrant, when forced evictions have already occurred;
8. *Welcomes* the report of the expert seminar on the practice of forced evictions convened in Geneva 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, annex);

9. *Invites* all States to study the Comprehensive Human Rights Guidelines, with a view to considering further appropriate action;

10. *Decides* to consider the issue of forced evictions at its sixty-first session under the same agenda item.

52nd meeting

16 April 2004

[Adopted by a recorded vote of 45 votes to 1, with 7 abstentions. See chap. X.- E/2004/23 – E/CN.4/2004/127]