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ENDING FORCED EVICTIONS IN LAW AND PRACTICE: A THEMATIC SUBMISSION TO THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

INTRODUCTION

On the occasion of the 50th session of the Committee on Economic, Social and Cultural Rights (the Committee), Amnesty International has prepared this paper to highlight the widespread incidence of forced evictions and the lack of effective remedies for victims of this “gross violation of human rights”.¹ In making this submission, Amnesty International seeks to engage the Committee with a view to both (a) acknowledging and recognizing the important contribution of the Committee towards the realisation of the right to adequate housing under article 11.1 of the International Covenant on Economic, Social and Cultural Rights (the Covenant) and (b) identifying key issues for the Committee’s attention in order to strengthen efforts to end forced evictions.

The impacts of a forced eviction are often extremely serious and enduring, especially for people who are already living in poverty. People lose not only their homes but also neighbourhoods, personal possessions, social networks, access to work and to services such as water, sanitation, schools and health care. Women suffer disproportionately from forced evictions and their impacts; reflecting the discrimination that many women experience in relation to property and inheritance and because of increased risks of violence following evictions and other gendered impacts of homelessness and loss of access to services.

The international community has long recognised forced evictions as an area of serious concern and a gross violation of human rights.² Amnesty International along with several civil society organisations has documented forced evictions in both developing and developed countries around the world.³ While the context may vary - urban renewal programmes, rising real estate prices, increased security, health and

¹ UN Commission on Human Rights Resolution 1993/77, para 1

² CESCR. General Comment No. 7, The right to adequate housing (Art 11.1): forced evictions , 20/05/97, para 2

³ Amnesty International has documented cases of forced evictions in several countries including in Afghanistan, Angola, Brazil, Cambodia, Chad, China, France, Ghana, Haiti, Italy, Kenya, Nigeria, Romania, Serbia and Zimbabwe

safety concerns, infrastructure development projects - forced evictions frequently target some of the most disadvantaged individuals and groups.

Amnesty International recognises the significant work carried out by the Committee particularly with regard to standard setting through the elaboration of General Comments 4 (on adequate housing) and 7 (on forced evictions) and through the reporting system, holding states parties to account for their failure to protect the right to adequate housing including by carrying out and tolerating forced evictions.

Amnesty International notes that the Committee has in the past raised concerns around forced evictions in the context of the Roma, Indigenous People and forced evictions resulting from large development projects such as construction of large dams and urban renewal programmes.⁴ In particular, the Committee has continued to raise concerns around the failure of states parties to carry out evictions in compliance with safeguards articulated in its General Comment 7 and the failure of states to provide compensation and adequate alternative housing to those affected.⁵ The Committee has also periodically sought data from states parties on the people affected by forced evictions.⁶

Furthermore the Committee has in a few select cases made recommendations for a proper legal framework to ensure that the right to adequate housing is protected and to ensure that people who are forcibly evicted are provided with appropriate remedies such as alternative accommodation or just compensation in line with General Comment 7.⁷

THE NEED FOR ALL STATES PARTIES TO PROHIBIT FORCED EVICTIONS IN LAW

Amnesty International's research and advocacy on the right to adequate housing in several countries around the world suggests that one of the key obstacles to ending forced evictions is the absence of national legislation that explicitly prohibits forced evictions.

In the case of several state parties to the Covenant, protection against forced evictions is limited due to the lack of harmonisation between national laws, policies and procedures with international human rights obligations. Provincial and local authorities often charged with carrying out evictions, in many cases, are either

⁴ For instance, in its concluding observations to the periodic reports submitted by Bulgaria – 49th session 2012 and Italy - 33rd session 2004 (Roma), Argentina – 47th session 2011 and Brazil – 30th session 2003 (Indigenous Peoples) and Cambodia – 42nd session 2009, Cameroon – 47th session 2011 and Turkey – 46th session 2011 (urban renewal/regeneration projects).

⁵ For example in the case of Argentina – 47th session 2011, Turkey – 46th session 2011 and Russian Federation – 46th session 2011.

⁶ For example in the case of Serbia – 34th session 2005

⁷ For example, in the case of Afghanistan – 44th session 2012, Argentina – 47th session 2011, China – 34th session 2005, Cambodia – 42nd session 2009 and Spain – 48th session 2012.

unaware of international human rights obligations or resistant to acknowledging the application of these standards in their local contexts.⁸

In light of the above, Amnesty International has consistently called on governments to introduce and implement national legislation explicitly prohibiting forced evictions, to provide a minimum degree of security of tenure to occupiers of houses and land, and to introduce guidelines compliant with the UN Basic Principles and Guidelines for Development-based Evictions and Displacement for officials carrying out evictions.

As noted by the Committee in General Comment 7, "Article 2.1 of the Covenant requires States parties to use "all appropriate means", including the adoption of legislative measures, to promote all the rights protected under the Covenant. Although the Committee has indicated in its General Comment No. 3 (1990) that such measures may not be indispensable in relation to all rights, it is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it. Moreover, in view of the increasing trend in some States towards the Government greatly reducing its responsibilities in the housing sector, States parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. States parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant."⁹

Amnesty International therefore respectfully urges the Committee to consistently highlight the need for legislation where relevant by taking the following measures:

- **emphasising the need to have appropriate legislation that provides protection against forced evictions in the 'list of issues' prepared by the Committee;**
- **calling consistently on all states parties where concerns about forced evictions have been raised to legislate a clear prohibition on forced evictions in their national laws; and**

⁸ In an attempt to bridge the information gap, Amnesty International has produced a guide targeted specifically at local authorities. See "*Know Your Obligations: A guide to preventing forced evictions*", Amnesty International, Index: ACT 35/009/2012, November 2012, available at <http://amnesty.org/en/library/info/ACT35/009/2012/en>.

⁹ CESCR. General Comment No. 7, The right to adequate housing (Art 11.1): forced evictions , 20/05/97, para 9.

- following up with the states parties concerned to ensure that such action is taken, including through the Committee's follow up mechanism and through the subsequent reviews of the states parties reports.

This will not only contribute towards providing effective protection against forced evictions within the country for those lacking secure tenure but will also provide concrete opportunities for victims of forced evictions to seek effective remedies. In turn it will send a powerful signal to other states that they must be more diligent in fulfilling their obligations under Article 11 of the Covenant.

Thus, Amnesty International considers that the concluding observations of the Committee in relation to forced evictions could encompass three key elements:

- the introduction and implementation of national legislation in compliance with international human rights standards to explicitly prohibit forced evictions
- the introduction of guidelines based on, and compliant with, the UN Basic Principles and Guidelines for Development-based Evictions and Displacement for officials carrying out evictions; and
- the provision of a minimum degree of security of tenure to all especially those living in informal settlements.

FORCED EVICTIONS: A GLOBAL PHENOMENON – THE FINDINGS OF AMNESTY INTERNATIONAL'S RESEARCH

As noted earlier forced evictions take place across the world, in both developed and developing countries. Amnesty International has documented forced evictions affecting thousands of individuals, families and communities in all regions. The following section highlights some of the key cases of forced evictions in states parties to the Covenant documented by the organization in recent years.

Italy

Amnesty International has documented the forced eviction of hundreds of Roma from Rome and Milan in recent years. Authorities have pursued plans to close authorised and "tolerated" camps despite the absence of legal and procedural safeguards against forced evictions.

Waves of forced evictions have also targeted Roma living in informal camps. According to local authority sources in Rome, in the first half of 2012 over 850 Roma were evicted from informal camps. Non-governmental organizations (NGOs) informed Amnesty International that between January and July 2012 over 400 people forcibly evicted from informal camps in Milan.

Amnesty International found that the vast majority of Roma evicted, especially those from informal settlements were not offered adequate alternative housing. In many cases, they were not offered any alternative housing at all. For example, out of the 850 persons evicted in Rome, authorities confirmed that shelter was offered in only 209 cases to mothers with young children. Only five women with their nine children accepted the offer, as the rest refused to be separated from the rest of their families.

As a result, in several cases, those forcibly evicted had no other alternative than to set up shacks close to where they were before the evictions. In some cases, the only place they found to build shacks was close to highways or railway tracks. Forced to rebuild their homes in even more precarious conditions, many of them remain at risk of repeated forced evictions.¹⁰

Romania

Amnesty International has documented a number of cases of forced eviction of Roma families in Romania. Not only have the evictions been carried out without ensuring that the necessary safeguards were in place before the eviction but following the forced eviction, local authorities have moved people to unsafe or polluted sites threatening the lives and health of both current and future occupants. Relocation sites have included areas close to landfills, waste water treatment plants, former industrial areas, and former chicken farms. In some cases, the evicted families were left effectively homeless.

In 2004 the municipality of Miercurea Ciuc forcibly evicted 100 Roma from the city centre. They were relocated near a sewage works site and at considerable distance from the city which not only hampered access to a range of services but also put their health at serious risk. In 2010 an estimated 76 Romani families living in the centre of Cluj Napoca (Costei Street) were forcibly evicted and relocated to an area on the outskirts of the city in an area already predominantly inhabited by the Roma. Alternative housing was offered to only about 40 of the families close to a landfill site and a chemical waste dump.¹¹

About 120 Romani families were forcibly evicted in May and June 2012 from the settlement of Craica in Baia Mare in northern Romania. The authorities in Baia Mare relocated the forcibly evicted families to three buildings belonging to a former factory - CUPROM. Two of the buildings were offices and one a former laboratory used for processing chemicals. None were adapted by the municipality for residential use prior to people being moved there.¹²

¹⁰ See *"On the Edge: Roma, forced evictions and segregation in Italy"*, Amnesty International, Index: EUR 30/010/2012, September 2012, available at <http://amnesty.org/en/library/info/EUR30/010/2012/en>

¹¹ See *"Submission to the European Commission on Equality Directives"*, Amnesty International, Index: IOR 61/002/2013, January 2013, available at <http://amnesty.org/en/library/info/IO61/002/2013/en>.

¹² See *"Betrayal of Romani families at Baia Mare places them at ongoing risk of housing insecurity and other human rights violations"*, Amnesty International, Index: EUR 39/011/2012, October 2012, available at <http://amnesty.org/en/library/info/EUR39/011/2012/en>

China

Despite international scrutiny and censure of incidents of forced eviction of people from their homes and farmland amid preparations for the Beijing Olympics in 2008, the pace of forced evictions has not subsided. On the contrary, Chinese housing rights activists, lawyers and academics report that such abuses remain widespread and that the problem has intensified over the past four years amid a nationwide construction boom that has spurred as the local authorities attempt to cover debt incurred during the global financial crisis. Amnesty International is concerned that the forced eviction of people from their homes and farmland has become a routine occurrence in China.

Numerous examples, documented in detail in Amnesty International's report *Standing Their Ground* suggest that Chinese citizens are rarely legitimately consulted prior to evictions and that there is little to no transparency over the proposed evictions in most cases. Local authorities routinely neglect to convene public hearings and according to residents and advocates interviewed by Amnesty International for the above-mentioned report, on the rare occasions that the authorities do convene public hearings the meetings are only for show during which no objections or alternatives are considered. Most typically, residents learn that they are facing eviction only by word of mouth or by the sudden appearance of a poster on a neighbourhood wall just weeks or days before demolition of their homes is scheduled.

The 2011 Regulations on the Expropriation of Houses on State-owned Land and Compensation were a step towards protecting China's urban residents from forced evictions and included several positive provisions. However, the implementation of these regulations has been poor. Furthermore, the regulations do not provide protection to tenants or rural residents.¹³

Nigeria

Amnesty International has documented forced evictions in Nigeria since 2008. In July 2008, the Governor of Rivers State, Rotimi Amechi, announced plans to demolish all waterfronts settlements in the city as part of a programme of 'urban renewal'. The Rivers State government claims the demolition of the waterfronts is necessary to implement the Greater Port Harcourt Master Plan, the main strategy document for the city's redevelopment programme. The Governor of Rivers State

¹³ See "*Standing Their Ground – Thousands face violent eviction in China*," Amnesty International, Index: ASA 17/001/2012, October 2012, available at <http://www.amnesty.org/en/library/info/ASA17/001/2012/en>. Amnesty International's research into forced evictions in China does not cover Tibet Autonomous Region and Xinjiang Uighur Autonomous Region. Forced evictions have been reported in both these regions, and they may be characterized by discrimination against ethnic minorities, but the Chinese government controls access to these areas even more tightly than it does to other parts of the country, making independent research and verifying information extremely difficult.

has stated that “the demolition exercise [will] sanitize and check criminal activities” in the city.

In February 2009, demolitions of buildings and other structures took place along Abonnema Wharf road in the waterfronts area on Port Harcourt. On 28 August 2009, Njemanze waterfront community was demolished as part of the state authorities’ urban renewal programme for the city. It is estimated that up to 17,000 people were forcibly evicted from their homes. In June 2012 authorities in Port Harcourt carried out another forced eviction in the waterfronts area. It is estimated that over 10,000 people were forcibly evicted when Abonnema Wharf, a settlement close to Njemanze was demolished. Several of those forcibly evicted from Abonnema Wharf had faced forced evictions in Njemanze.¹⁴

Amnesty International is also researching forced evictions in Lagos State. In February 2013, hundreds of people were made homeless when over 300 houses were demolished in Badia East, an informal settlement in Lagos, Nigeria. Many of those forcibly evicted have sought shelter along the railway track that runs through the settlement. According to media reports, the demolitions in Badia East were the first and further demolitions have been planned in the settlement.¹⁵

In all of the above cases, as in several others documented by Amnesty International, the organisation has called respective governments to explicitly prohibit forced evictions in law and ensure that adequate safeguards and protections are put in place in line with international law and standards to guarantee a minimum degree of security of tenure, sufficient at least to protect them from forced evictions and other threats and harassment. We are continuing to campaign and advocate for these objectives as key means of preventing forced evictions and protecting vulnerable communities.

¹⁴ See “Forced Eviction of Abonnema Wharf: Pack and Go!”, Amnesty International, Index: AFR 44/034/2012, July 2012, available at <http://amnesty.org/en/library/info/AFR44/034/2012/en>

¹⁵ See “Hundreds forcibly evicted in Lagos, Nigeria”, Amnesty International, Index: AFR 44/002/2013, available at <http://amnesty.org/en/library/info/AFR44/002/2013/en>.