



**FIFTH SESSION OF THE INTERNATIONAL TRIBUNAL ON EVICTIONS
PEOPLE'S SOCIAL FORUM FOR RESISTANCE TO HABITAT III
QUITO, 17 OCTOBER 2016**

FINAL RECOMMENDATIONS

Proceedings

The Fifth Session of the International Tribunal on Evictions (ITE) was held as part of the People's Social Forum for Resistance to Habitat III (Quito, Ecuador, 17th October 2016).

Prepared, coordinated and carried out by the ITE International Steering Committee with a participatory approach which involved local organisations and international networks via:

- The call for cases, launched on the occasion of the World Zero Evictions Days 2015
- The First Session of the International Tribunal on Evictions for East Asia (Taipei, Taiwan, 2-4th July 2016).

It analysed seven representative cases of evictions from people and communities from each of the five continents.

This selection was made from the 88 cases received from 25 countries from around the world, linked to the eviction of more than 980 000 people.

These are:

- [Africa: Democratic Republic of Congo – Bilangalonzo - COPACO-PRP](#)
- [Europe: France – Roma families – The Shanty Town of la Petite Ceinture, Paris - CNDH Romeurope](#)
- [South America – Brazil – Izidora, Belo Horizonte - Coletivo Margarida Alves de Assessoria Popular](#)
- [Asia: South Korea – Militarisation of Jeju Island - Gangjeong Village Committee against Jeju Naval Base](#)
- [Middle East: Israel/The Occupied Territories of Palestine, Negev - Unrecognized Bedouin villages in Beer Chiva - RCUV](#)
- [South-America – Ecuador, Community of Isla de Muisne](#)
- [North America, Detroit. The massive eviction of the impoverished by the crisis who fail to pay the water bill due to the privatization of the sector](#)

Given the seriousness of the reports received, the ITE decided to include in its Fifth Session, on 15th October 2016, following the visit to the communities of Guayaquil threatened with evictions:

- [South America: Ecuador, Guayaquil – Monte Sinai and surrounding areas](#)
- [South America: Ecuador, Guayaquil 350 families tenants of the Casas Colectivas](#)

The ITE sent formal invitations to the authorities and those responsible for the reported evictions; however, as a whole, they rejected the possibility of exercising their right to present their arguments in the Session. For this reason the ITE has decided to proceed with a trial *in absentia*.

Following the visit to Guayaquil and the Session in Quito, the Jury of the ITE issued two provisional verdicts, which form an integral part of these Final Recommendations.

The legal proceedings were carried out with consistency, based on the regularity of the call made by the parties, the accuracy and reliability of the evidence presented, the appropriateness of the structures used and the collaboration of the Central University of Ecuador, where the Fifth Session was carried out.

The only obstacle to the justice of the ITE was caused by the Police Division of Guayas, the competent jurisdiction for Guayaquil that, following the destruction of the site at Monte Sinaí (where the Fifth Session of the ITE was opened), wanted to prohibit the opening, despite its having been regularly requested. The explanations and composure of the organisers and the public made it possible to overcome this obstacle.

We condemn this violation of the principles of international rights concerning the ITE and we call on the relevant organisations, in particular the independent UN Human Rights Rapporteurs, to intervene to ensure that these principles are complied with and that these attacks on independent justice do not happen again.

General findings

One of the aims of the Tribunal is to analyse the cases presented in light of universally recognised human rights that have a legal value, having been ratified by the States. This is in order to assess national and subnational authorities' execution of their national and international legal obligations. The right to housing's being affected generally indicates that many other rights are being simultaneously violated, such as health, education and the right to work. In short, when an individual does not have a decent and safe place to live, the right to an adequate standard of living loses all value.

From the analysis of the cases, that included the presentation of testimonies and documents, we can conclude that in all cases the following obligations have not been met: respect, protection and promotion of the human rights of people and communities, in particular the right to the habitat. It was worryingly evident that forced evictions have been the tools of housing and urban planning policies, used to guarantee the predominance of systems of absolute private ownership, ignoring their social and ecological function, in favour of economic gains and not inhabitants' rights.

Far from being isolated cases, these evictions are the fruit of a model of urban development and land exploitation that prioritises the real estate business over rights, and of authorities that are shown to be complicit in this situation.

We can conclude that in all the cases presented, forced evictions and other violations of human rights that are forbidden by international human rights law were noted.

For this reason we wish to warn (as was opportunely done by the independent UN Human Rights Rapporteurs), that many of the serious human rights violations are the result of a development model that the "New Urban Agenda" of Habitat III seeks to consecrate.

Violations of Human Rights registered in the cases of the Fifth Session

The cases were analysed in light of the human rights standards of various globally recognised international instruments, including:

- The Universal Declaration of Human Rights (art. 16.1, 27.3);
- The International Covenant on Economic, Social and Cultural Rights (art. 11.1);
- The Convention on the Rights of the Child (art. 16.1, 27.3);
- The International Convention for the Protection of All Migrant Workers and Members of their Families (art. 43.1);
- The Convention on the Rights of Persons with Disabilities (art. 2, 5.3, 9.1 (a), 19 (a), 22.1, 28.1, 28.2 (d));
- The Convention on the Elimination of All Forms of Discrimination against Women (art. 14. 2 (h));
- The Convention on the Elimination of Racial Discrimination (art. 5 (e) (iii));
- The International Covenant on Civil and Political Rights (art. 17);
- The Declaration on the Rights of Indigenous Peoples (art. 10, 21.1, 23, 26, 27, 28, 32).

Additionally, to define the scope of the duties to be fulfilled by nations and local authorities in recognition of the right to housing – particularly duties with regard to evictions – consideration must mainly be paid to the General Observations and other interpretations that have been made by UN bodies. Particular attention must be paid to the Committee on Economic, Social and Cultural Rights, which monitors the fulfilment of the International Covenant on Economic, Social and Cultural Rights.

The following are of particular relevance:

- General Observations 4, 7 and 20 of the abovementioned Committee;
- The Basic Principles and Guidelines on development-based evictions and displacement (henceforth Basic Principles) (A/HRC/ 4/18 5th February 2007);
- The Declaration on the Right to Development, approved by the UN Assembly in 1986;
- The principles on housing and property restitution for refugees and displaced persons (Confr. Resolution 2005/21 of 11th August 2005) among others.

As also highlighted by UN bodies, General Observations 4 and 7 of the UN Committee on Economic, Social and Cultural Rights are authoritative interpretations of the ICESCR that have a legal value that prevails over other regulations. These observations state that any kind of forced eviction is incompatible with the requisites of the ICESCR.

Among the stated violations the following have been observed:

1. A lack of adequate information on the causes of the evictions and no guarantee of adequate consultation and evaluation of alternatives to eviction.
2. A lack of adequate protective actions for particularly vulnerable groups, who have seen a wide range of their human rights increasingly affected, such as the right to health, education, freedom and protection of physical integrity. This serves to strengthen and reproduce structural inequalities.
3. As far as evictions caused by development are concerned, the lack of consultation with the communities concerned or falsification of this consultation is worrying.
4. Violation of the guarantee of due process. In particular, effective judicial remedy and access to justice and free legal defence have been denied them. In this way, judicial and procedural inequalities have been added to structural inequality, which exposes them to the ineffective defence of their rights.
5. Lack of definite housing alternatives that respect all human rights. This reproduces and exacerbates instability, exposing families and communities to repeated evictions. Many families have even been left on the streets.
6. No judicial control over the actions of security forces and the failure to comply with criteria concerning the use of force that is respectful of human rights.
7. Investigation into responsibilities and sanctions of human rights violations produced whilst evictions were carried out are persistently lacking or are denied. In various cases these have resulted in fatalities.
8. Criminalisation of conflict over housing and land.
9. Absence of adequate protection for human rights defenders involved in the process, who suffered execution, criminal prosecution, jail or intimidation by civil actions in the cases analysed.
10. In the case of occupations or human settlements, a serious pattern of human rights violations has been observed. It consists of: a) stopping their growth by means of repressive policies; b) deterring people from living in them through withholding essential services, such as drinking water, in order to ultimately evict them through actions or omissions.
11. We have noted a profound contradiction in evictions from public lands, where the very same States that should guarantee peoples' rights are the ones who directly violate them and guarantees on rights are even smaller than for evictions on private land.
12. The lack of recognition of ancestral communities and their relationship with the territory, which creates a heightened obligation to guarantee their continuation in ancestral lands and prohibit resettlement.

In all of the analysed cases, evictions have had a particularly serious impact on children, women, the elderly and other groups particularly in need of increased protection. This reproduces and strengthens processes of violence and inequality.

These violations have also been highlighted by the requests for clarification and recommendations formulated by the Committee on Economic, Social and Cultural Rights, on the occasion of the ICESCR periodic review and by the UN Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living.

General Recommendations

The Tribunal confirms the Recommendations developed in its Sessions in 2011¹, 2012², 2013³ and 2014⁴ that are still of interest.

These principles bring the Tribunal to issue the following Recommendations in relation to the cases examined in its Fifth Session in 2016:

1. A global moratorium on evictions with the necessary timeframe to analyse, debate, decide and execute housing and land policies that are respectful of the right to housing, land and all human rights.
2. Recognise the need for a system to observe, take stock and control eviction cases globally, with the objective of ensuring that the States, their constituent parts and all social and economic agents involved do not conduct, encourage or tolerate forced evictions. Encourage international and supranational organisations, particularly the United Nations, the European Union, the Bolivarian Alliance for the Peoples of Our America, to create "Observatories" and "Multiple-Actor Task Forces" involving all interested parties, to propose and implement the necessary measures, solving this deficiency that neither UN Habitat, nor the Habitat III Conference, have resolved.
3. Resume dialogue between United Nations organisations and civil society concerning evictions and identification of the ways in which this violation of human rights can be resolved. In this way, amplifying and emphasising the work carried out by the United Nations Special Rapporteur on the Right to Housing.
4. The fulfilment of the human rights obligations entered into by States for the respect, protection and promotion of the rights of people and communities to housing, land and the habitat. These obligations are not only limited to public officials, but also apply to all other agents who intervene in cities and territories (real estate developers, market players, duty).
5. Strengthen democracy in decision making concerning the management and planning of the habitat, so that the social and ecological function of the territory is recognised.
6. Encourage States and the UN to urgently and sufficiently protect human rights defenders involved in eviction processes, who in some cases have suffered execution, criminal prosecution, jail or harassment through civil actions, to consider them as the collaborators of public powers, not criminals.
7. Highlight the essential role of inhabitants' organisations and networks. Advocate for the necessity of solidarity and convergence at national and international levels.

Mechanism

The Tribunal invites all interested parties, especially the Nations where the violations judged in this Fifth Session took place, to immediately apply these Recommendations and send two reports concerning their application, before the 30/04/2017 and 30/09/2017, in order to provide the elements necessary to monitor the relevant jurisdictions.

To this end, together with the organisations that have presented the cases and the United Nations Special Rapporteur on the Right to Housing, the Tribunal commits to monitoring on the part of the aforementioned institutions and organising an initiative for each case on the occasion of the presentation of the Annual Report on the Recommendations during the World Zero Evictions Days in October 2017.

¹ *Recommendations from the International Tribunal on Evictions – First Session, (Geneva, Switzerland, 30th September – 2nd October 2011).*

² *Recommendations from the International Tribunal on Evictions – Second Session, (Geneva, Switzerland, 27th – 29th September 2012).*

³ *[Recommendations from the International Tribunal on Evictions – Third Session, \(Geneva, Switzerland, 18th October 2013\).](#)*

⁴ *Recommendations from the International Tribunal on Evictions 2014 – Fourth Session (Milan, Italy, 9th October 2014).*