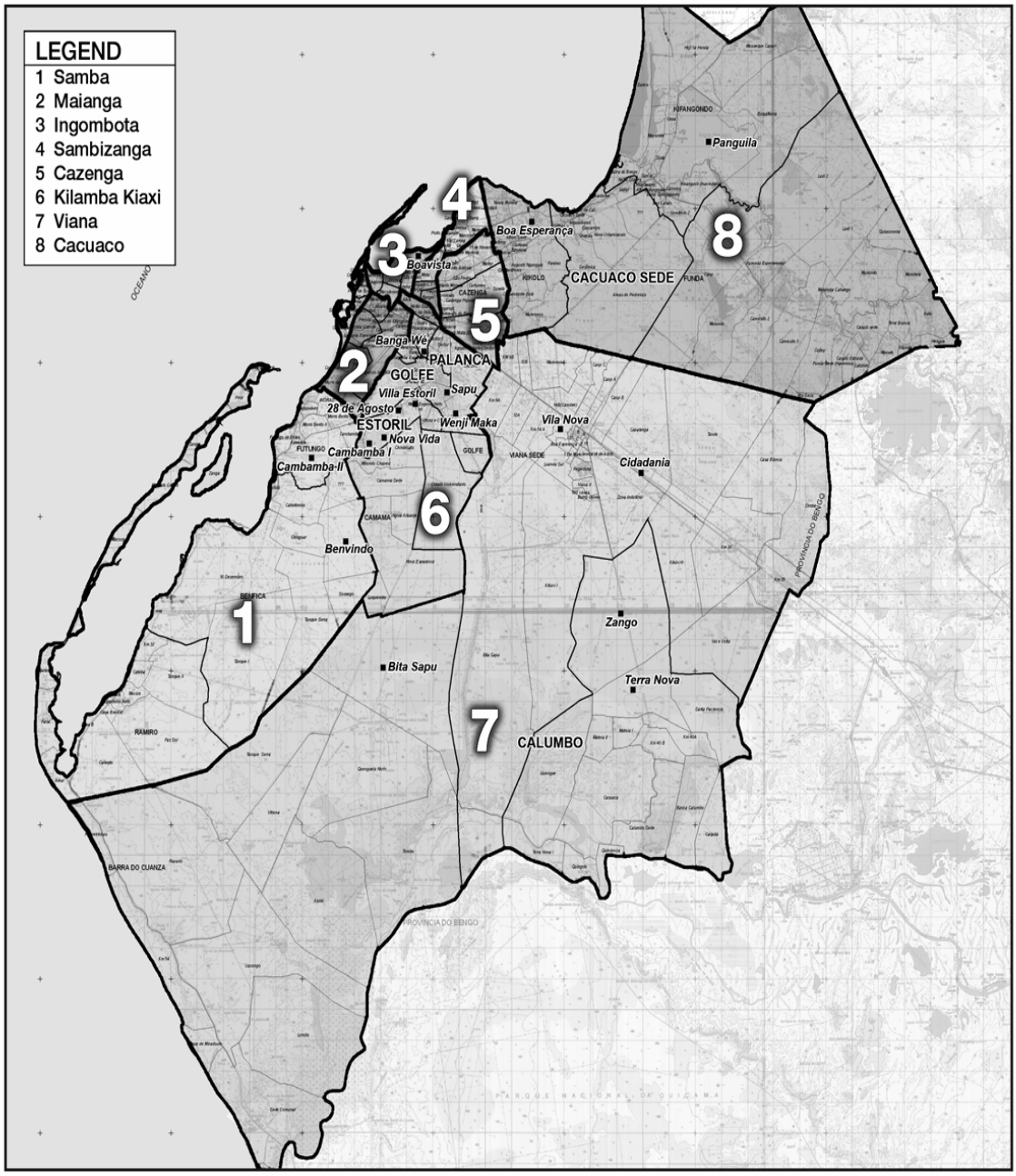
Map of Luanda



© Private

TABLE OF CONTENTS

Map of Luanda …… iii

1. Introduction…… 1
2. Forced evictions since January 2004…… 5
   - 2.1 Viana Municipality – Cidadania…….. 7
   - 2.2 Kilamba Kiaxi Municipality …… 10
     - 2.2.1 Cambamba I and II, Banga Wé and 28 de Agosto neighbourhoods…… 10
     - 2.2.2 Forced evictions resulting from land disputes with the Catholic Church 15
3. International and National law prohibiting forced evictions…… … 17
   - 3.1 International law…… 17
   - 3.2 National law…… 19
     - 3.2.1 The Constitution of Angola…… 19
     - 3.2.2 The Civil Code…… 19
     - 3.2.3 The Land Laws…… 20
       - 3.2.3.1 The Land Law…… 20
       - 3.2.3.2 The Law of Territorial and Urban Management…… . 21
       - 3.2.3.3 The Regulations…… 22
4. Conclusion …… . 24
5. Amnesty International's Recommendations……..… 25
6. Appendix……..… 27

GLOSSARY

ACHPR - African Charter on Human and Peoples' Rights

CESCR - Committee on Economic, Social and Cultural Rights

FAA - *Forças Armadas de Angola* (Armed Forces of Angola)

ICCPR - International Covenant on Civil and Political Rights

ICESCR - International Covenant on Economic, Social and Cultural Rights

PIR – Polícia de Intervenção Rápida

Angola
Lives in ruins: forced evictions continue

Between September 2004 and July 2006 hundreds of families in several neighbourhoods of Luanda were forcibly evicted and had their homes demolished repeatedly. Having nowhere else to go they erected temporary shelters and continued to live their lives in the ruins.

Destruction of homes and the immediate aftermath in Cambamba I and II neighbourhoods in Luanda, Angola, in November 2005
©Private, 2005

1. Introduction

In April 2002 the former Portuguese colony of Angola emerged from a 27-year-long civil war. With peace came an increased potential for business and foreign direct investment in the country and attendant pressure on urban land. Since the end of the war the government of Angola has increasingly applied its energies towards urban reconstruction. In 2003 the government established a new Ministry of Urban Development and Environment. This was followed by a National Reconstruction Office *(Gabinete de Reconstrução Nacional)* which was set up in 2005 to oversee post-war rebuilding. In 2006 it was reported that the government was planning 'the biggest urban project ever attempted in Africa.'[1] This urban project aims to construct a mega-city dubbed the *Nova Cidade de Luanda* (the New City of Luanda) to house four million people. The government has also implemented other construction projects with the aid of the Chinese

[1] New Luanda's Gleaming Towers, *Africa Confidential* vol. 47, Number 14, 7 July 2006

government, including the building of roads and other infrastructure. It is within this context of competing claims and increased pressure for urban land that forced evictions have occurred in Luanda.

Between 2001 and 2006 thousands of families were forcibly evicted from various neighbourhoods in the Angolan capital of Luanda. These forced evictions[2] were typically carried out without prior notification or consultation, without due process and with recourse to excessive use of force. The forced evictions left tens of thousands without shelter. In most cases armed members of the National Police or Armed Forces of Angola (*Forças Armadas de Angola*, FAA), who carried out the evictions, shot indiscriminately at those being evicted, beat them, and arrested those who tried to resist the evictions. Houses were demolished and property destroyed or stolen by those carrying out the forced evictions. In almost all the incidents of forced evictions police arrested human rights defenders, especially members of the local housing rights organization, SOS-Habitat.

The forced evictions have targeted the poorest families who have least access to the means of securing their tenure and for whom the state has done little to provide affordable adequate housing. Hundreds of those forcibly evicted remain without shelter and have not received compensation. Some were forcibly relocated to other areas, which were almost invariably far away from schools and places of work, and which often lacked services such as sanitation and amenities. Furthermore, they were not given security of tenure to the land making them vulnerable to further forced evictions. The evictions have had the effect of driving people deeper into poverty. In this context Amnesty International echoes the words of the "Basic principles and guidelines on development-based evictions and displacement" prepared by United Nations Special Rapporteur Miloon Kothari, which include the recognition that "forced evictions intensify inequality, social conflict, segregation and 'ghettoization', and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society".[3]

In November 2003 Amnesty International published a report entitled, *Angola: Mass Forced Evictions in Luanda – a call for a human-rights based housing policy.*[4] The report documented the forced evictions which took place between 2001 and June 2003 in the *musseques* (slums) of Luanda, specifically in the neighbourhoods of Boavista, Soba Kapassa and Benfíca. In the report, Amnesty International showed how the forced evictions violated the right to adequate housing and other human rights, as guaranteed in international and regional human rights

[2] According to the UN Committee on Economic, Social and Cultural Rights (CESCR), the body set up to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which Angola is a party, the term 'forced evictions' refers to 'the permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.' The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with International Human Rights Law.

[3] UN Doc. E/CN. 4/2006/41, p 15.
[4] AI Index: AFR 12/007/2003

instruments to which Angola is a State Party. These include the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights (African Charter).[5] The report also showed how the forced evictions contravened Angola's national laws.

The report examined the Angolan government's obligations under international human rights law as well as Angolan national law and appended extensive extracts of the human rights instruments relating to the right to adequate housing and not to be forcibly evicted. Amnesty International called upon the Angolan government to stop all forced evictions and place a moratorium on all mass evictions pending the development of a comprehensive human rights-based housing policy and a legal framework providing effective remedies for those evicted; and to provide assistance to victims of forced eviction who remained without shelter. The organization further called on the authorities to set up a commission of inquiry to review the role of the police and other forces in assisting in evictions. The commission of inquiry was to further look into the allegations of excessive use of force during the evictions with a view to bringing to justice those suspected of human rights violations.

Between June and September 2001 more than 4,000 families who had reportedly lived near a dangerous cliff were forcibly and violently evicted from the neighbourhood of Boavista in Luanda. These families were relocated to Zango and Terra Nova in the municipality of Viana, where they lived in tents for several years. Half of them were re-housed in 2003. Amnesty International has since learned that all the families evicted from this area have now been re-housed in permanent houses. However as late as 2004 some families were still living in tents. Apparently some of the houses built for them had instead been given to others by government officials. On 11 July 2006 the Angola Press Agency reported that the Luanda Provincial Government had transferred 167 families from Boavista to Zango ward in Viana, where they were reportedly accommodated in three bedroom houses with bathroom facilities and a garden. The same article also indicated that another 100 families from Boavista were to be moved to Zango and Sapu wards on 15 July 2006. Apparently the place where these families were evicted from was fenced off to hinder the construction of new houses.[6]

In Soba Kapassa, Kilamba Kiaxi municipality, the residents' initiative to turn their neighbourhood into a carefully planned housing estate was thwarted by the government. Between October 2001 and February 2003 the authorities demolished a total of 1,167 houses and forcibly evicted residents from Soba Kapassa.[7] On 22 November 2002, after some houses had already been demolished, the then Luanda Provincial Governor, announced publicly that houses were to be demolished in order to construct the Luanda Provincial Hospital, which was to be built with funds provided by the Chinese government.[8] The new hospital was inaugurated on 3 February

[5] Angola became a state party to the ICESCR and the ICCPR on 10 January 1992 and to the African Charter on 9 October 1990.
[6] Luanda Government Transfers Over 100 Families, *Angola Press Agency*, Tuesday 11 July 2006
[7] *Angola: Mass Forced Evictions in Luanda – a call for a human-rights based housing policy,* AI Index: AFR 12/007/2003, pg. 9
[8] *op cit*

2006 in the Kilamba Kiaxi municipality. After the demolition of their homes, the former residents went to live with relatives or in rented accommodation elsewhere. There is no record that the government attempted to rehouse these victims or that it paid them any compensation. To the knowledge of Amnesty International there have been no developments concerning official complaints registered by two of the former residents about the beatings that accompanied these evictions; nor have there been any developments concerning investigation by the Criminal Investigation Police of cases of fiscal agents suspected of carrying out beatings and theft of property.

Most of the residents of the more than 470 houses in Benfíca Commune demolished between July 2001 and April 2003 were given new houses in Panguila, Cacuaco Municipality. However, the government failed to provide housing to 16 families.

The authorities have not commenced investigations into these cases of forced evictions and excessive use of force by police officers and fiscal agents. Similarly, there have been no developments in the compensation claims initiated against the provincial authorities by evicted residents. These actions were being prepared by lawyers working with the victims of forced evictions in Soba Kapassa at the time of writing the 2003 report.

The current report examines what steps have been taken by the authorities to implement the recommendations made by the Amnesty International in 2003. Between 2004 and 2006 there have been several notable developments as appears below:

- In 2004 the government of Angola enacted a series of Land Laws.[9] These land laws were promulgated after consultation with Angolan civil society. However, as will be shown later in this report, these laws do not fully address the problem of forced evictions and security of tenure.
- There were a few cases of evictions that do not appear to have violated the human rights of the evictees. For example, in 2004 residents of Ingombotas and Sambizanga were evicted from land that belonged to Luanda Railways (*Caminhos de Ferro de Luanda* – CFL) but only after they had been consulted, given adequate prior notice and offered compensation.
- In 2006, the Angolan government publicly acknowledged the right of those forcibly evicted to be compensated.[10]
- In June 2006 the government proclaimed that it was reviewing its housing strategy with a view to responding to the housing needs of its urban population.[11]

[9] *Lei de Terras de Angola, Lei 9/04 de 9 de Novembro de 2004*; and *Lei de Ordenamento do Território e do Urbanismo, Lei 3/04 de 25 de Junho de 2004*

[10] In an article in *Jornal de Angola* dated 3 May 2006, the Prime Minister reportedly said the government had conducted a census of all people on land earmarked for housing projects in the Cambamba I and Cambamba II neighbourhoods and informed them of the imminent evictions with the intention of re-housing and or compensating them. However, according to the Prime Minister, at the time of the evictions a group of about 30 individuals who had not been on the land before had occupied it in order to ask for compensation which was not due to them.

Despite these positive steps, between 2005 and 2006 there was an intensification of large-scale forced evictions in Luanda. This prompted the UN Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living (UN Special Rapporteur on the right to adequate housing) to issue a press statement on 30 March 2006, expressing serious concern about the persistent practice of forced evictions in Angola and calling on the government to "comply with its human rights obligations and promptly act to address this gross violation of human rights."[12]

Amnesty International is concerned that a visit by the UN Special Rapporteur on adequate housing to Angola, planned for February 2006, was postponed by the Angolan government. In a press statement issued on 30 March 2006, the Special Rapporteur was concerned that the Angola government had not yet rescheduled the visit.[13] In response the representative of the Angolan Permanent Mission in Geneva reportedly said the Special Rapporteur had issued his statement at a time when the Angolan authorities were preparing his visit. He added that the UN Special Rapporteur's statement was based on non-verified reports and from non-official sources, a situation which could only be interpreted as a "demonstration of bad faith and intolerable pressure on the Angolan Government."[14] At the time of writing the visit of the Special Rapporteur had still not occurred. Amnesty International urges the Angolan government to ensure that a visit by the Special Rapporteur is re-scheduled as a matter of urgency.

This report is based on information gained through communication with contacts based in Angola and additional background research. Amnesty International attempted to go to Angola to interview the relevant parties. However, despite several requests to the Angolan government for an invitation letter, which is required to obtain a visa, Amnesty international has not yet received one.

2. Forced Evictions since January 2004

Since the publication of the report *Angola: Mass Forced Evictions in Luanda – A call for a human-rights based housing policy* in November 2003, Amnesty International has received numerous reports of continuing forced evictions in Luanda, particularly in several neighbourhoods in the Samba, Kilamba Kiaxi and Viana municipalities. Although Amnesty International has also received reports of forced evictions in other provinces, including Benguela and Moxico, the organization has not been able to obtain detailed information about those incidents to include them in this report. Evictions of peasant farmers from their land have also been brought to the organization's attention. However, those incidents are not discussed here as the scope of the present report is forced evictions in urban areas. Furthermore, some forced evictions were carried out in Camama Onga, Samba municipality in July 2003 and in Aldeia

[11] *Angola Press Agency*, 28 June 2006
[12] See http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/9F65289128697047C1257141004B493E?OpenDocument
[13] IRIN, 30 March 2006
[14] *Angola Press Agency*, 1 April 2006

Nova, Kilamba Kiaxi municipality between 15 August 2002 and September 2003 which were not covered in the report issued by the organisation in November 2003. However this report focuses on forced evictions from informal urban settlements which have occurred since January 2004.

The mass forced evictions described in this report, like those carried out in previous years, appear to have been carried out without the procedural protections and due process required by international law and standards. These requirements are set out in CESCR, as well as in the guidelines developed by the UN Special Rapporteur on the right to adequate housing.[15] None of these requirements appear to have been fully met. Furthermore, forced evictions have often been carried out violently and without eviction orders by officials from the fiscal department of the Municipal or Provincial Government assisted by National Police officers, who often used firearms against the residents. In some cases, guards from private security companies took part in the forced evictions. They demolished houses and were apparently used to control the crowd. In several cases, residents and members of *SOS-Habitat* were arrested and ill-treated. The forced evictions occurred more than once in some areas as residents forcibly evicted from their homes returned to the ruins and attempted to rebuild their homes only to be subsequently re-evicted. No alternative accommodation was provided for the residents forcibly evicted, many of whom could not provide for themselves. Nor were they compensated for their losses. Although in one instance, following forced evictions in Cambamba I, the judge referred the case to the criminal investigation police for investigation, no investigations into any of these incidents of forced evictions and the allegations of excessive use of force and firearms, by the police and the arrests of residents and human rights defenders are known to have been carried out.

Most of the evictions were related to urban development projects. However, the individuals affected were not given full disclosure, access to the territorial plans or opportunity to consult at any point in time, as required by the Territorial and Urban Management Law.[16]

Government officials, including the Luanda Provincial Governor, often justified forced evictions by claiming that the houses were "randomly and illegally" built on land owned by the government and earmarked for development projects, including housing, or that the land belonged to private individuals. In the course of a press conference on 23 January 2006, the Luanda Provincial Governor reportedly announced that the demolitions of houses built "in a disorderly fashion" would continue and that his office would continue to penalise citizens who insisted in operating outside the law. He added that those who had been granted provisional land concession titles but had not yet built on the land within the time frame established by law would have their titles revoked and that the land concession would be passed to individuals with the financial capacity to carry out building projects within six months. He was quoted as having said it was time to end the anarchy of spaces filled with zinc sheets and to bring order by activating the mechanisms of the law.[17]

[15] See above, section 2.
[16] Article 54 *Lei de Ordenamento do Território e do Urbanismo,* op. cit
[17] 'GPL vai retira títulos provisórios de concessão de terrenos', Jornal de *Angola*, 24 January 2006

2.1 Viana Municipality - Cidadania

Between September 2004 and May 2006 more than 500 families were forcibly evicted and had their houses demolished in the Cidadania neighbourhood. Despite concerns being raised in Parliament and an important ruling by the local procurator the authorities persisted in carrying out forced evictions well into May 2006.

Bairro Cidadania, also known as Km 25 neighbourhood, is located 25 km east of the centre of Luanda along the National Highway 1, in the Viana municipality. Forced evictions in the area have occurred on several occasions and it appears that after each incident the residents refused to move and tried to rebuild their homes. To Amnesty International's knowledge, the first wave of forced evictions in this area occurred on 21 September 2004, when the local government demolished 80 houses despite reported earlier promises not to do so. According to reports, those carrying out the evictions did not present an eviction order but were protected by police in a jeep. In October 2004 the weekly Angolan newspaper, *Semanário Angolense*, reported that more than 100 police and military soldiers under the command of the head of the local Fiscal Administration Office had demolished about 100 houses that month. It also reported that the then municipal administrator said some 1000 houses randomly built on land in an industrial area not meant for habitation which had been 'illegally sold' by *bandidos* (crooks) would be demolished. He stated, '*ninguém pode vender aquilo que não tem*' ("No one can sell that which he does not have").

The residents reportedly claimed that they had bought the land on which they built their houses from the Viana Municipality through the head of the Fiscal Administration Office and four other men for US$300. However, the Director of the Institute for Private Investment *(Instituto do Investimento Privado)* said the land belonged to the Institute which had paid US$800 to individuals in the office of the local authorities for every 20m x 30m plot. The residents have said that the majority of them had tried to legalize their plots and had complied with all the requirements including effecting payment. As they had received no response from the authorities within the required 90 days designated by Article 57 of Law 16A/95 of 15 December 1995, on Procedural and Administrative Activities Norms, they assumed they had automatically acquired the property.[18]

Further forced evictions were reported in December 2004 and on several occasions in 2005. On 26 and 27 September 2005, municipal fiscal officials led by the head of the Viana Municipal Fiscal Office and assisted by about 10 police officers from the Seventh Territorial Division of the National Police in Luanda and some 15 military police, all armed with guns and AKM rifles, demolished 314 houses using a bulldozer. Apparently, they had no eviction order. When asked by members of SOS-Habitat who went to the area, they allegedly said that they did not need one and that they were following orders from the Viana Administration pursuant to an Administrative order of 2004. Further, SOS-Habitat activists confirmed to Amnesty International that their attempts to persuade those carrying out the forced evictions and property demolitions to

[18] *Administrador de Viana processado',* Seminário Angolense, semana de 16 a 23 de Outubro de 2004

stop were ignored. In addition, the police reportedly beat those who tried to protect their houses and resist the evictions. Two residents were arrested, but subsequently released without charge. It was apparently the fifth time in a year that the Cidadania residents had been evicted and had their homes demolished and property stolen by those carrying out the forced evictions.

Residents reportedly told SOS-Habitat that some weeks previously the employee of a former minister had been seen showing the site to a 'European' which led them to believe the eviction was for private development. On the second day of the evictions, 27 September, members of *SOS-Habitat*, including its coordinator **Luís Araújo**, and some residents met the Municipal Police Commander who, after accusing Luís Araújo of being an agitator, reportedly told him that she would no longer provide police agents to protect fiscal agents carrying out forced evictions in the community. However police participation in forced evictions in Cidadania did not cease following this statement.

The Residents' Committee and SOS-Habitat wrote to the Minister of Interior, the Viana Municipal Administrator and the Procurator General demanding an investigation into the September 2005 forced evictions and compensation for losses occasioned by these forced evictions. In response, the Viana Municipal Administrator sent a letter to the Residents' Committee informing them that a private construction company, *BAUHERR*, was authorised to fence off the area and it should be allowed to do so without impediment.[19]

On 29 March 2006, the Viana Municipal Procurator wrote to the Residents' Committee acknowledging that the Viana Administration had failed to comply with Article 9 of Law 16-A/95, which recognises individuals' right to petition and states that the administrative bodies must always pronounce themselves on matters raised by individuals. The Procurator recognised that this process was not followed in this case and added that by failing to respond to the residents' application to register their plots in a timely manner, the Viana Administration had created the premise for the illegal constructions from which they had been forcibly evicted. The letter ended by calling on the Viana Administration to take urgent measures to re-house those affected by the forced evictions in adequate areas; failure to do so would violate one of the fundamental principles of the Constitution according to which the "State respects and protects people's property, be it individual or collective."[20]

Despite this letter, on 11 and 12 April 2006, fiscal agents, police officers from the Command of the Units for the Protection of Strategic Objectives (*Comando das Unidades de Protecção de Objectivos Estratégicos* - CUPOE), Military Police officers and soldiers, armed with AK47 machine guns, proceeded with the forced evictions. On 11 April, 16 families who apparently agreed to vacate the area were taken to Bita Sapu neighbourhood, the area designated by the Viana Municipality to re-house them. However, most residents refused to move alleging that they had not been consulted. In addition, they were concerned that Bita Sapu did not have access to public transport and schools or to services such as water and that they were not given

[19] Letter signed by the Viana Administrator, João Pedro Alberto , reference: OF.119/GAB.ADMV/2006
[20] Letter signed by Maria Eugênia dos Santos, Municipal Procurator, dated 29, March 2006, reference: Ofo. No. 112/01.11/06

houses but a plot of land to which they had no documents conferring legal title and were therefore vulnerable to future eviction. On 12 April, fiscal agents and police returned, threatened the remaining residents and demolished one house. The demolitions stopped following the arrival of *SOS-Habitat* activists and UN officials at the scene of the forced evictions.

On 18 April 2006, 12 families received a notification from the Viana Municipal Administration ordering them to vacate their plots within 48 hours. The notice stated that the families were illegally occupying land which the State had reserved for industrial purposes and went on to say that the Municipal Administration had created the conditions to grant another area to satisfy the families' housing needs, if they voluntarily vacated the area within 48 hours of receiving the notification. Failure to do so, the note continued, would prompt the Administration to forcibly remove everything in the area and the families would lose "rights to other benefits." The note did not specify what these "other benefits" were. The next day, the Cidadania residents and members of SOS-Habitat met with members of the Viana Municipal Administration with whom they raised their concerns. In view of their refusal to move to Bita Sapu, the administrators reportedly suggested that they find another area before the 48-hour deadline expired, to which the residents reportedly responded that it was the responsibility of the authorities to find them adequate accommodation. The threat to forcibly evict them after 48 hours was not carried out. However, SOS-Habitat reported further forced evictions on 5, 6, 7, 10 and 11 May 2006. At the time of these forced evictions Amnesty International spoke to the Luanda Police Commander who did not deny that the evictions had taken place.

On the morning of 5 May between 20 and 30 people including police officers, fiscal agents and others in civilian clothes, arrived in Cidadania and began to demolish houses. **Rafael Morais**, a member of SOS-Habitat, was arrested by a CUPOE officer who apparently justified the arrest by saying that he had "orders from superiors" to arrest SOS-Habitat activists.

Rafael Morais was handcuffed and kept in the sun without his shoes or shirt for over four hours and was released shortly after being taken to the Viana Municipal Fiscal Office. A Cidadania resident, **João Manuel Gomes,** was also arrested and handcuffed to Rafael Morais. While they were cuffed together, João Manuel Gomes was beaten with a hose. Another resident, **Domingos Mungongo**, was reportedly beaten by CUPOE officers inside the Viana Municipal Fiscal Office where he had gone with others to see what was happening to Rafael Morais. No action was taken to investigate these cases.

The Cidadania residents remain in temporary shelters in this area and to Amnesty International's knowledge, they have not been compensated to date for the losses incurred during the repeated attempts to remove them from the area. Although there have been no further evictions since May 2006, the threat of forced evictions remains.

2.2 Kilamba Kiaxi Municipality

2.2.1 Cambamba I and II, Banga Wé and 28 de Agosto Neighbourhoods

Since September 2004 there have been several waves of forced evictions in the Kilamba Kiaxi neighbourhoods of Cambamba I and II, Banga Wé and 28 de Agosto after the land where they are sited was apparently granted by the authorities to the *Nova Vida (New Life)* housing project without meeting any of the requirements set out under international law. Since then, there have been several attempts to forcibly evict the residents from the area. On each occasion, they had their homes demolished and other property destroyed or stolen. At the time of writing, none of the residents had been compensated for their losses. Many have once again reconstructed temporary shelters and, without security of tenure, live under fear of the police returning to forcibly and violently evict them.

Heavily armed police in the background during forced evictions in Kilamba Kiaxi on 24 November 2005. © Private, 2005

Amnesty International received information that on 28 September 2004, approximately 50 uniformed and heavily armed members of the National Police, accompanied by workers of Group Five, a civil construction company, and of the Military Construction Brigade (*Brigada de Construcção de Obras Militares* also known as BECOM) carried out demolitions in Banga Wé and Cambamba I, leaving over 300 families homeless. An estimated 148 houses housing 625 people in Cambamba I and 192 houses housing 555 people in Banga Wé were demolished. The demolitions were reportedly ordered by the Kilamba Kiaxi Administrator and carried out using a bulldozer and other mechanical equipment. According to reports, although the police did not beat any of the residents, eye-witness reports stated that one person, **Gaspar António José**, was shot

in the left foot and injured during the demolitions. The evictions were carried out without an eviction order and without prior notification. However, Amnesty International was informed that a few days before the demolitions, a Group Five representative reportedly announced on television that the evictions would take place, and justified them as an action against "opportunists" who had "occupied the land in order to receive compensation from the government."

After their houses were demolished the families remained in the area, where they rebuilt their homes. These were subsequently demolished repeatedly throughout 2005 and 2006 by police, soldiers, private security guards and fiscal municipal agents who tried to evict them from the area.

In September 2005 SOS-Habitat reported that, without prior notice, armed police once again demolished most of the homes in the area adjacent to the *Nova Vida* housing project, including the neighbourhoods of Cambamba I and II and Banga Wé. They reportedly ordered the residents to move out of the area, but many refused and rebuilt basic zinc shelters where their homes had previously stood.

Further evictions occurred in Cambamba I and II on 24 November 2005 when heavily armed police from the Fifth Police Division and municipal fiscal agents arrived in the areas at 7am and started to demolish the homes, leaving over 500 families homeless in Cambamba I and II neighbourhoods. The residents attempted to impede the demolitions, initially peacefully, although stones were later thrown at the police. At 9.30 am Luís Araújo and other members of SOS-Habitat arrived in the area and, together with members of the Residents' Committee, tried to stop the forced evictions and house demolitions by talking to those carrying them out.

Shelter constructed from the ruins of demolished homes in Cambamba.
Some residents were still living in such shelters at the time of writing.
© Private, August 2006

The police beat and arrested 12 people, including Luís Araújo, whom they accused of incitement to violence. The 12 were taken to the 32nd Police Station where they were reportedly kept in overcrowded conditions in one cell measuring approximately 16 square metres together with 10 other detainees who were already there. Luís Araújo and the other 11 were released the next day following their appearance in court. They were not charged with any offence. However, the judge referred their case to the Criminal Investigation Police for further investigation. To Amnesty International's knowledge this investigation was either not carried out or the results of such an investigation were not made public

.

On the same day, 77 families in Bairro 28 de Agosto and 23 families in Banga Wé were forcibly evicted from their homes, which were then demolished. Six days later, on 30 November, 70 heavily armed police officers from the Fifth Police Division, together with military police, soldiers, members of a private security company and private demolition personnel, reappeared in the Cambamba neighbourhoods to continue with the forced evictions and house demolitions.

On 19 December 2005 Luís Araújo and several residents from the affected neighbourhoods met the President of the National Assembly to complain about the forced evictions and the use of force by the police. Amnesty International believes that it was this meeting that led the President of the National Assembly to convene a meeting with the Luanda Provincial Governor in January 2006 to discuss the forced evictions. Despite this meeting, on 22 December the authorities carried out further forced evictions in these neighbourhoods. Armed police reportedly arrived at 6am, together with security guards and agents of the fiscal department of the Luanda Provincial Government. They beat and shoved the families as they evicted them, and demolished their shelters. Seven people were arrested in Cambamba II, including the coordinator of the residents' committee, **Quartim Bimbi** and his wife, **Amélia José Faustino**, who was reportedly beaten at the police station. In Bairro 28 de Agosto, a woman called **Maria** was arrested and held with her three small children, and a man called **Lourenço**, who was reportedly beaten when arrested. All those arrested were taken to the 32nd Police Station and released without charge the following day.

On 10 January 2006, the President of the National Assembly and members of two parliamentary commissions held a meeting with the Luanda Provincial Governor reportedly to enquire about the forced evictions and the Provincial Government's urban policy. Following the meeting the Provincial Governor set up a commission of inquiry. However, the purpose of this commission appeared to be only to investigate the involvement of Provincial Government officials in the illegal sale of land and the granting of land permits. As far as Amnesty International is aware the results of this inquiry have not been made public.

Almost a month later, on 6 February 2006, the director of the private housing project *Nova Vida* announced on *Rádio Ecclesia,* a private radio station owned by the Catholic Church, that the shelters erected by the residents since the evictions in November and December 2005 would be demolished. He gave the residents 72 hours notice to leave the area, which expired on the morning of 9 February. Evictions did not take place on this date. However, on 11 March, the residents who had remained in the neighbourhoods of Cambamba I, Cambamba II, Banga Wé

and 28 de Agosto were informed by the Head of the Fiscal Communal Administration of the Futungo de Belas that they had until the following night to collect their belongings and leave their homes, as houses in the area would be demolished. He reportedly informed the residents that the evictions were necessary to enable the housing project *Nova Vida* to commence the second phase of its housing programme.

At about 9.30am on 13 March, members of the National Police and guards from a private security company, *Visgo*, and others in civilian clothes arrived in Cambamba II with bulldozers and demolished 200 houses. The residents, mainly women, children and the elderly, stood in front of their houses and refused to move. When the director of *Nova Vida* arrived in his car, some of the residents allegedly threw stones at it, while others threw objects at the police and guards, who fled the scene. The police and guards returned at about 11.30am, with some 100 heavily-armed riot police officers (*Polícia de Intervenção Rápida*), who reportedly got out of their cars firing into the air and on the ground. They beat and kicked residents, including a pregnant woman, who then started haemorrhaging. A boy of about four years of age was hit and injured by a bullet in the knee and had to be taken to hospital.

Nine people were arrested, apparently for resisting the evictions and were all released without charge by the end of the following day. Those arrested included four women: **Eunice Domingos,** Amélia José Faustino, who had been arrested previously on 22 December 2005**, Aida Cordoso** and **Isabel Miguel Francisco.** A 14-year-old boy was also arrested.

Members of the United Nations Human Rights Office in Angola *(*OHCHR*)*, Oxfam, *SOS-Habitat* and a British Broadcasting Corporation (BBC) journalist went to the area and witnessed the forced evictions. They informed Amnesty International that Eunice Domingos, Isabel Miguel Francisco and Aida Cardoso were beaten during their arrests and later in the police station. Aida Cardoso, who was eight months pregnant, started haemorrhaging after she was kicked in the abdomen. Another woman, **Lúzia Chinepa** who was not arrested, was also reportedly beaten by the police during the attempts to evict her. Four men were reportedly arrested including Quartim Bimbi (who, together with his wife Amélia José had been briefly detained in December 2005), **Laurindo Catica, Domingos Ricardo** and **Eduardo Ngola.** Two men who were not arrested were also beaten: **Bartolomeu Chabuco** was apparently beaten by seven police officers while **José Mastona Pinto** was beaten on the head with the butt of a gun.

Evictions carried out on the same day in the neighbourhoods of Cambamba I and Banga Wé were accompanied by similar violence. In Cambamba I, where 130 houses were reportedly demolished, a private security guard armed with an automatic weapon, an AK 47, reportedly shot in a semi-circle around the feet of a youth as he tried to flee. The security guard and seven police then encircled the boy, beat him with a hose and kicked him. A number of women were arrested including **Domingas Manuela Batista**, who was pregnant at the time, **Helena André, Maria Ganga, Luciana Inácia** and **Leonora Martins Miguel.** These last three were arrested with their young children. Those who resisted arrest were pushed to the ground and beaten, including a woman who was carrying a baby on her back. A man, **Alvarito Francisco Medina**, was also beaten and arrested. The police also arrested two members of SOS-Habitat, **Manuel Pinto** and

Luís Araújo. They were released shortly afterwards, reportedly after intervention by members of OHCHR. The police confiscated the SOS-Habitat activists' camera and mobile phone storage chips. Reportedly the camera was subsequently returned. However, the mobile phone storage chip had not been returned at the time of writing. The police also questioned and threatened staff from the OHCHR and the international NGO, Oxfam reportedly as they were suspected of taking photographs of the events.

According to reports, workers from the *Nova Vida* project returned to the four neighbourhoods on 15 March, accompanied by members of the National Police, apparently in an attempt to flatten all remaining homes and expel any residents who had returned. It appears this attempt was unsuccessful. On 29 March fiscal agents from the municipal administration, police and private security guards returned to Cambamba I, where about 130 houses had remained after the forced evictions on 13 March, and destroyed the shelters they had rebuilt. **Celeste N'Gueve**, who had reportedly given birth three days earlier, watched as all her possessions were buried in a hole by a bulldozer. **Jaime Francisco** was tied up and taken by police in a car. He was released three hours later.

On 24 April 2006 the United Nations Integrated Regional Information Networks (IRIN)[21] reported that residents of Cambamba I and II had congregated outside the National Assembly earlier in the month with the view of handing individual petitions to a government official. It was reported that the Luanda Provincial Governor had set up another commission of inquiry into the forced evictions. No further details about this commission are known to Amnesty International.

At the request of opposition parliamentarians, on 2 May 2006 the Prime Minister appeared before the National Assembly to answer questions regarding the forced evictions, particularly in the Cambamba neighbourhoods. He reportedly explained that the neighbourhoods of Cambamba I and II had been selected for a pilot project for urbanization and that the Kilamba Kiaxi Municipal Administration had consulted some 100 occupants of the land and registered them to ensure they were eligible for compensation. He then accused *SOS-Habitat* of inciting 30 people to erect shelters in the area after the registration had been completed with the aim of them being unduly compensated. He added that the Governor of Luanda had organized a meeting with these 30 people, but none of them had turned up. He further stated that all who were legally occupying the land, either in terms of statute law or customary law, would receive compensation. However, according to him, the Governor of Luanda had decided to halt the payment of the compensation because certain individuals were attempting to take advantage of the situation to claim compensation which was not due to them.[22] At the time of writing none of those who had been evicted from this area had been compensated.

[21] Poor Shut out of New Life**,** *IRIN*, 24 April 2006 http://www.irinnews.org/report.asp?ReportID=52947&SelectRegion=Southern_Africa (accessed 24 April 2006)

[22] *Governo denuncia aproveitamento indevido de indenizações por expropriações***,** *Notícias Lusófonas*, 2 May 2006

The frustration of forced evictions: woman sits on top of her demolished house. © Private, 2005

3. 2.2 Forced evictions resulting from land disputes with the Catholic Church.

Palanca, Sapú and Wenji Maka, three neighbourhoods in the Municipality of Kilamba Kiaxi, have been the setting for forced evictions sparked by land disputes between the residents and the Catholic Church. The most recent of these were in Wenji Maka where forced evictions occurred at regular intervals between at least June 2004 and 2005. The forced evictions in Palanca and Sapú occurred in 2003 and will not be discussed in detail here.

It appears that the Catholic Church has been reclaiming land in these areas that it had owned prior to independence but had since been occupied. The government formally returned the land to the church in 1998 in response to a request by the late Pope John Paul II during his visit to Angola in 1992. The church intended to build a university or a sanctuary on this land. Reportedly, when granting title over the land to the Catholic Church, the Angolan authorities did not take into consideration those people already occupying the land. In the Palanca neighbourhood, for instance, a total of about 59 finished and unfinished houses belonging to teachers of the *11 de Novembro* boarding school were reportedly demolished by the police in August 2003. In September and December 2003, over 100 houses were demolished in Sapu, allegedly on the orders of the Luanda Provincial Governor. Approximately 90 police officers armed with guns and other heavy weapons were involved and reportedly opened fire on the residents. At the time the provincial and municipal authorities said that many of those evicted were farmers who had made no attempt to legally secure title to the land and that, although the residents claimed to have authorisation from the Ministry of Agriculture to cultivate the land, they could and did not receive title to the land (*Título de Concessão do Terreno*).[23]

[23]"Demolições e o contra-senso do GPL" *O Independente*, 23 August 2003; and "Igreja tira sono a populares" *Folha 8*, 20 December 2003

Wenji Maka

Forced evictions in the Wenji Maka neighbourhood appear to have started in June 2004. Since then, there have been repeated attempts to expel the over 2,000 families who have lived in the area for several years, some for decades, and to demolish their homes and destroy their vegetable gardens. Their occupation of the land apparently did not stop the government from granting it to the Catholic Church, which intends to build a sanctuary upon it. Forced evictions have been carried out apparently at the request of the Catholic Church by members of the National Police from the Fifth Division who regularly arrested, beat and used firearms against the residents, seriously injuring some.

According to a communication sent by the Wenji Maka farmers and SOS-Habitat, on 21 June 2004, police officers from the Fifth Division, Calemba II Police Station, demolished an undetermined number of houses in the area, destroyed vegetable gardens and trees and opened fire on the residents who opposed the demolitions. **Sebastião Manuel** received four bullets in his right leg. **José Valentim** was also injured in the right leg while **José João Fernandes** was shot in the head and lost his speech as a result. However, no investigation has been carried out into this serious incident and no police officer has been brought to justice.

There were further forced evictions the following year. On Sunday 26 June 2005, at about 7am, 12 police officers from the Calemba II Police Station demolished four houses belonging to **João Nsudisu, Zua Cassule, Arcanjo Miguel** and Sebastião Manuel. The latter was reportedly also beaten**.** The police had shot Sebastião Manuel in the leg in the course of forced evictions a year earlier. After demolishing the four houses the police left the area but returned at about 12.40 pm and demolished three zinc houses that had been demolished in the morning and rebuilt. SOS-Habitat activist, Rafael Morais, who was already in the area when the police arrived the second time, approached the officer in charge and asked him about the legality of their actions. The police responded by arresting him and a resident, **Sérgio N'Goma**. They were apparently taken to the police station in Calemba II.

On learning about the arrests, Luís Araújo, **Adriano Parreira**, a lawyer, and two members of the Wenji Maka Residents' Committee, known to Amnesty International only by their first names, **Frederico** and **Amadeu**, went to the police station to make enquires and were also arrested whilst there. While they were there, a group of about 70 Wenji Maka residents gathered outside the police station to protest aloud but peacefully against the demolition of their homes. Five people were arrested including three women: **Indalina Narciso dos Santos, Cecília Pedro Inácio**, and **Branca Dália,** as well as **Francisco Mulemba,** and **Afonso André**, who were apparently among the protestors. Francisco Mulemba was reportedly beaten by the police on the mouth, ribs and legs and required medical treatment. All the detainees were then taken to the headquarters of the Fifth Division Police, where they were interrogated by a criminal investigation police officer. They were accused of attempting to invade the Calemba II Police Station, but the police officer subsequently ordered their release, apparently due to insufficient evidence.

On 30 July 2005 further forced evictions and house demolitions were reported and the police apparently arrested 16 members of the Wenji Maka community and took them to the headquarters of the Fifth Division Police. The 16 were released the same day following intervention by Luís Araújo.

According to reports, forced evictions and house demolitions were also carried out between 3 and 7 November. They were carried out at night (between 6pm and 6am), by several police officers. On 3 November they reportedly demolished 25 homes. The next day they demolished the same homes which had been re-built by the families. On 7 November, 21 police officers allegedly arrived in Wenji Maka around 7.15 pm by car and demolished nine zinc houses.

Amnesty International wrote to the Roman Catholic, Archbishop of Luanda expressing concern about these forced evictions and requesting further information concerning the Church's involvement in the evictions. In response, in a letter faxed to Amnesty International, the Archbishop of Luanda stated that the Church, when reclaiming its title over the land, had requested the government to provide land in other areas for the affected individuals. The Archbishop also alleged that in many instances individuals put up constructions on the land as soon as they found out that the Church had intentions to use the land. The letter specifically mentioned the case of Palanca where he alleged that teachers of the *11 de Novembro* boarding school only put up buildings on the land when it became apparent to them that the Church had the intention to build a university on it. The Archbishop further justified the actions of the Church by saying, "*summum ius summa iniuria" (*extreme law, extreme justice) or as the Archbishop interpreted it "*justiça absoluta pode desembocar em injustiça* (absolute justice can result in injustice)."

No further forced evictions had been reported in these areas at the time of writing. However, as residents of these areas still have no title to land, the risk of further evictions and other human rights violations in Wenji Maka and the other communities mentioned above continues.

3. International and National law prohibiting forced evictions

3.1 International Law

The UN Commission on Human Rights has recognised that forced evictions constitute gross violations of a range of human rights, in particular the right to adequate housing.[24] As a State party to the ICESCR, the ICCPR and the African Charter, Angola has the obligation to refrain from and prevent forced evictions, as well as to take steps, including through international cooperation and assistance, to progressively achieve the full realization of the right to adequate housing for all, prioritizing the most vulnerable.

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

Forced eviction has been defined by the CESCR, as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection."[25] The CESCR has further noted that "instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."[26] The African Commission on Human and Peoples' Rights, in a decision concerning a complaint against the Federal Republic of Nigeria, has similarly stated that "[a]t a very minimum, the right to shelter obliges the Nigerian government not to destroy the housing of its citizens and not to obstruct efforts by individuals or communities to rebuild lost homes." [27]

The CESCR sets out a number of measures to be followed by State parties to the ICESCR to safeguard the rights of persons subjected to evictions. These consist of: "(a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts."[28]

To provide guidance to governments on measures and procedures to be adopted in order to ensure that development-based evictions are not undertaken in contravention of existing international human rights standards and do not thus constitute "forced evictions", the UN Special Rapporteur on adequate housing has developed Basic Principles and Guidelines on Development-Based Evictions and Displacement. These guidelines, which reflect and develop existing standards and jurisprudence on this issue, were presented to the Human Rights Council by the Special Rapporteur in September 2006 and are appended to this report.

3.2 National Law

3.2.1 The Constitution of Angola

The Constitution of Angola does not explicitly prohibit forced evictions; nor does it regulate the manner in which evictions or expropriation of land should be carried out. However, forced evictions could be seen as a violation of Article 12.4 of the Constitution which states: "The State

[25] CESCR, General Comment No. 7, The Right to Adequate Housing (Art.11(1) of the Covenant): forced evictions, para 3.
[26] CESCR, General Comment No. 4 on right to adequate housing (1991), para. 18.
[27] *Centre for Economic and Social Rights and Social and Economic Rights Action Centre (SERAC) v. Nigeria*, 30th ordinary session, African Commission of Human and Peoples' Rights, Banjul, 13-27 October 2001.
[28] CESCR, General Comment No. 7, para 15.

shall respect and protect peoples' property whether of individuals or collectives, and the property and ownership of land by peasants, without prejudice to the possibility of expropriation in the public interest, in accordance with the law." Although this section does not contain the international human rights standards for forced evictions, it calls upon the State to respect and protect peoples' property - a requirement which has been violated by the forced evictions in Luanda.

3.2.2 The Civil Code

The Civil Code also does not contain any provision specifically referring to forced evictions, but some provisions of the code may be used to contest forced evictions. Article 1308 says that an individual can only be deprived of his or her rights over property[29] as provided by the law. The Civil Code further states that adequate compensation should be given to the proprietor of the expropriated property and to holders of any real rights affected.[30] However, these provisions on expropriation do not sufficiently protect against forced evictions as they only protect those with rights over property, as recognised before the law, and so do not constitute an effective guarantee against forced eviction from informal settlements.

3.2.3 The Land Laws

In December 2004, the Land Law and Law of Territorial and Urban Management[31] (together commonly known as the Land Laws) came into force. Amnesty International had hoped that these Laws would accord fully with international human rights law and standards, protect the people's right to adequate housing and in particular their right not to be forcibly evicted.[32] However, these Land Laws fail to do so and even diminish protections informal settlers had prior to the enactment of these laws.

Furthermore, they do not advance security of tenure for the informal urban settlement dwellers, although Angola is obliged to take appropriate legislative steps and has expressly committed to ensure legal security of tenure to all in the Istanbul Declaration on Human Settlements (Habitat II).[33] The legislative steps should "(a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the ICESCR and (c) be designed to control strictly the circumstances under which evictions may be carried out."[34] The Basic Principles and Guidelines on Development-Based Evictions and Displacement, developed by the UN Special Rapporteur on the right to adequate housing states: "In order to secure a maximum degree of effective legal protection against the practice of forced evictions for all persons under

[29] Article 1302 of the Civil Code states that property rights can be acquired over corporeal, immovable or movable objects. Article 202 states that property *[coisas]* refers to anything that can be the object of legal (judicial) relations.
[30] Article 1310 of the Civil Code
[31] *Lei de Ordenamento do Território e do Urbanismo*
[32] See *Angola: Mass Forced Evictions in Luanda – a call for a human-rights based housing policy* AI Index: AFR 12/007/2003
[33] Istanbul Declaration on Human Settlements and the Habitat Agenda of 1996, para 8.
[34] CESCR, *General Comment No. 7: the right to adequate housing (art.11(1) of the Covenant): forced evictions*, UN Doc. HRI/GEN/1/Rev.7, para 10.

their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including those who do not have formal titles to home and land."[35]

3.2.3.1 The Land Law

The Land Law sets out the different types of rights or concessions over land that can be acquired[36] and the circumstances in which these rights may be terminated.[37] Among these are nationalization[38] and expropriation by the State for public use.[39] The Land Law itself does not set out the procedure for acquisition of title to land. It states that the process for acquisition of these concessions will be set out in the General Regulation for Land Concession.[40] Like the Constitution and the Civil Code, this law does not set out the procedural requirements for expropriation of land.

Amnesty International is concerned that certain provisions of this law diminish the protections informal settlers had prior to the enactment of the law. In terms of the Civil Code rights over land could be acquired through long-term occupation,[41] however the new Land Law makes it illegal to acquire land through this manner. Those who occupy land without title stand to be evicted from this land if they fail, within three years of the publication of the relevant regulations, to apply for land Concession over the land.[42] Furthermore, the law indicates that rights over land acquired in terms of laws in place prior to 1992 can be confiscated (a) if these rights were not regulated in accordance with the laws that came into force in 1992[43] and/or (b) if the land was unjustly abandoned.[44] Rights over lands will also be terminated if the holder of the right fails to make useful and effective exploitation of the land over three consecutive years or six interrupted years.[45] However the Land Law does not contain due process provisions which protect residents' right to be consulted and receive adequate and reasonable notice prior to being evicted; and to receive prompt, fair and adequate compensation for their loss. Instead of providing settlers with the greatest possible security of tenure, as required by the Istanbul Declaration, this law leaves them more vulnerable to forced evictions.

[35] UN Doc. E/CN.4/2006/41, p 17.
[36] Article 34 of *A Lei da Terra de Angola*, op cit. The different types of rights that can be acquired over land are right of ownership [*direito de propriedade*]; Surface rights [*direito de superfície*] that is, right to property on another's land; temporary occupation rights [*direito de ocupação precária*]; customary beneficial ownership [*domínio útil consuetudinário*] that is, use and usufruct of rural community land by those occupying and using the land in terms of customary law; and civil beneficial ownership [*domínio útil civil*]
[37] Article 64 Ibid.
[38] Article 11 Ibid.
[39] Article 12 Ibid.
[40] Article 58 Ibid.
[41] Article 1528 of the Angolan Civil Code
[42] Article 84 *Lei da Terra de Angola*, op. cit
[43] The Laws that came into force in 1992 are The Land Law 21C/92 of 28 August and its regulation, *Regulamentos de Concessões*, Decree 32/95 of 8 December and 46/92 of 9 September
[44] Article 83(3) *of the Land Law*, op. cit
[45] Article 64 Ibid.

Amnesty International is also concerned that this law does not conform with international human rights law and standards, as it does not effectively control the circumstances in which evictions may be carried out. The law does not provide for effective legal remedies for those who are forcibly evicted. The law does state that local authorities must provide just compensation for those affected by expropriation,[46] but as stated above, provisions on expropriation are only applicable to those with title over land. In particular, they are not sufficient to ensure that informal settlers are protected from forced eviction. Furthermore the type of compensation for expropriation is not properly clarified in the Land Law. The law only requires "just indemnity"[47] without providing criteria for the determination of this "just indemnity." When rights are terminated due to failure to make useful and effective exploitation of the land, the State is obliged to return the fee paid for acquisition of the title, but no compensation is given for useful improvements to the land.[48]

In addition article 84, which permits the State and local authorities to evict those who occupy land without title if they have not regularised their occupation of land within three years of publication of the relevant regulations,[49] opens the door for future forced evictions. The law does not require that any of the procedural requirements set out by the CESCR be followed in this case. On the other hand, it may be argued that by giving those without legal title to land which they occupy a period of three years after publication of the General Regulation for Land Concession in which to rectify their status,[50] the law places a moratorium on forced evictions of informal settlers. It is arguable that persons occupying land without title cannot be evicted without being afforded the requisite time to rectify their status. However, a temporary end to forced evictions without any commitment to ending them permanently is insufficient. Furthermore, at the time of writing these regulations had still not been published. However, to date the government of Angola has continued to forcibly evict residents of informal settlements without affording them any due process safeguards or allowing them to rectify or perfect their occupation of the land in question.

3.2.3.2 The Law of Territorial and Urban Management

The Law of Territorial and Urban Management regulates territorial and urban planning. Like the Constitution, Civil Code and Land Law, it permits expropriation for public use, but does not set out the procedural requirements for expropriation.[51] Although this law also does not take into account international standards concerning the right to adequate housing, certain provisions do refer to human rights. However, these provisions alone are not sufficient for compliance with international law and standards.

The law states that territorial planning should respect fundamental rights, liberties and guarantees and create conditions of occupation and use of territory that give effect to these

[46] Article 12 of the Land Law, op. cit
[47] Article 12(3) Ibid.
[48] Article 48 Ibid.
[49] Article 84 read in conjunction with article 1277 of the Civil Code
[50] Article 85 of Land Law, op cit.
[51] Article 20 and 41, *Lei de Ordenamento do Território e do Urbanismo*

fundamental rights.[52] It goes further to say that territorial plans should contribute to the improvement of the quality of life of the population,[53] including by converting and restoring derelict urban areas and areas of illegal origin.[54]

Unlike the Land Law this law contains a provision concerning rights to access information and to consultation which may provide some degree of practical protection from forced evictions if it is applied in practice, especially in the context of urban development in Angola. Article 53 provides for the right of all stakeholders, including the formal and informal residents of the areas affected to access information concerning the content of territorial plan. This includes full disclosure before approval of the plans and after publication and an opportunity to be consulted. The disclosure includes stakeholders receiving copies of territorial plans.[55]

3.2.3.3 The Regulations

Both the Land Law and the Law of Territorial and Urban Management provide for the publication of complementary regulations. In terms of the Land Law these regulations should have been approved six months after the Laws came into force,[56] however this did not happen. Amnesty International has been informed that there are four regulations related to these laws.[57] According to reports,[58] the General Regulations on the Territorial, Urban and Rural Planning were approved and published in the State Gazette on 23 January 2006. Amnesty International requested a copy of this regulation from the Angolan authorities, as well as copies of the latest versions of the other three draft regulations. However, the organization was unable to acquire the documents.

In late May 2006, a government official informed Amnesty International that the General Regulation on the Granting of Land, which includes both urban and rural land, had received a third reading and was with the Council of Ministers for approval. The third version of the Draft General Regulation on the Granting of Land, which Amnesty International obtained, lays down the procedure for the acquisition of concession rights over land[59] and the conditions for occupying urban land.[60] It contains a provision on evictions, which lays down the circumstances in which an individual can be evicted from land.[61] However, the section on evictions does not

[52] Article 10 Ibid.
[53] Article 13 Ibid.
[54] Article 18 Ibid.
[55] Article 54 *Ibid*
[56] Article *85 Lei da Terra de Angola*, op. cit
[57] *Projecto de Regulamento Geral dos Planos Territoriais – Urbanístico e Ruraris, Projecto de Regulamento de Licenciamento das Operações Urbanístico de Loteamentos e Obras de Construção, Projecto de Regulamento Geral de Edificações Urbanas,* and *Projecto de Regulamento Geral de Concessão de Terrenos*
[58] Government Regulates Territory, Urbanisation Organisation Law**,** *Angola Press Agency*, 30 March 2006
[59] Chapter 6 of the third version of the Draft General Regulation on the granting of land
[60] Article 32, op. cit
[61] Article 196 these include if (a) a Declaration of expiration of the concession (*Declaração da caducidade da concessão*) has been made; (b) a Declaration for the reversion of the leasing contract (*Declaração da*

include any of the CESCR's procedural safeguards against forced evictions, including the need for genuine, adequate and reasonable consultation prior to the evictions and effective legal remedies for those forcibly evicted.

Amnesty International is concerned that these draft regulations like the Land Law, set an arbitrary time limit of three years calculated from the date of publication of the regulations for those who occupy land informally to regularise their occupation.[62] After that period occupants are obliged to voluntarily return the land to local authorities or risk forced eviction.[63]

The third version of the draft regulations however does contain due process provisions that may arguably go some way towards protecting the population from forced eviction. Like the laws examined above this draft regulation states that expropriation of land can be carried out for public use.[64] When private property is expropriated for public use there should be just and adequate compensation.[65] This includes compensation for necessary and useful improvements to the land, as well as, with the consent of the affected individual, the allocation of land within the same jurisdiction as the expropriated land and suitable for similar use. The authorities should give the affected person six months notice before the expropriation.[66] Furthermore the draft regulation states that competent authorities should inform interested parties of decisions that could possibly adversely affect them and the reason for these decisions.[67] If these provisions in the draft regulation are included in the final version of the regulations, they could possibly be used to ensure that future evictions are carried out in accordance with international standards.

In August 2006, Amnesty International was informed by local NGOs that the Council of Ministers had approved the fifth and final version of these regulations. At the time of publication of this report the regulations had not yet been published in the Government Gazette and Amnesty International was unable to acquire a copy of this document. The organization welcomes the government's consultations with Angola's civil society groups over the contents of these regulations.

4. Conclusion

Amnesty International is seriously concerned by the human rights violations described in this report which include the violation of the right to adequate housing and the right not to be forcibly evicted. The organization remains concerned at the use of excessive force and firearms by those

resolução do contrato de arrendamento) has been made; or (c) the concession holder fails to vacate the land at the expiry of a contract that has not been renewed

[62] Article 84 of the Land Law and article 215 of the Draft Regulation

[63] Article 215 of the Draft Regulation (3rd version)in conjunction with article 1277 of the Civil Code

[64] Draft Regulation on the granting of land (3rd version), articles 21, 28 and 132

[65] Article 21 Ibid.

[66] Article 132 Ibid.

[67] Article 5 Ibid.

carrying out the evictions and by the intimidation and arrest of the communities affected by the forced evictions and of human rights defenders. The organization is concerned that no investigations have been carried out into this use of excessive force and firearm.

Not only do these actions violate Angola's international human rights obligations, but Amnesty International also believes that the forced evictions were carried out in contradiction to national law. The authorities forcibly evicted those in informal settlements without affording them an opportunity to acquire title to land which they occupied in accordance with Article 85 of the Land Law. Arguably, the article gives those without legal title to land which they occupy a period of three years after publication of the General Regulation for Land Concession to rectify their status. These regulations had still not been published when the forced evictions mentioned above occurred.

The forced evictions carried out for the *Nova Vida* housing project further violated the provisions of the Law of Territorial and Urban Management, as seen above. Occupants in this area were not given access to relevant information or an opportunity to be consulted in accordance with Article 53 of this law.

The organization is also concerned that the authorities have as yet taken insufficient steps to ensure security of tenure for those in informal settlements. At the same time, Amnesty International is concerned that some of the articles in the Land Law and the draft regulations reduce the protection from forced eviction of those occupying land or those living in informal settlements. At present, Angolan Land Laws do not conform to the requirements of international human rights law and standards, as they do not effectively control the circumstances in which evictions can be carried out.

The organization recognises the need for urban planning and development. However, evictions should only be carried out as a last resort. Where necessary, evictions must be carried out in accordance with international human rights law and standards. This did not happen in the cases described above. The organization reminds the authorities of their obligations to ensure respect for human rights, including the obligation to ensure access to adequate housing and to legal remedies and other redress for forced evictions, as well as their duty to bring perpetrators of human rights violations to justice.

Amnesty International acknowledges that some progress has been made by the Angolan authorities. However, the organization regrets that forced evictions are still not specifically prohibited by Angolan law and that little has been done to implement the recommendations the organization made in its report from 2003, *Angola: Mass Forced Evictions in Luanda – A call for a human-rights based housing policy*. Amnesty International draws the authorities' attention to these recommendations once more, and calls upon the authorities to immediately take steps to fulfil these recommendations, summarised below. Above all, the organization calls on the Angolan authorities to **stop forced evictions**.

5. Amnesty International's Recommendations

The Government of Angola should:

- stop all forced evictions;
- place a moratorium on mass evictions until such time as a comprehensive human rights-based housing policy and a legal framework providing effective remedies have been adopted;
- ensure that aggrieved persons have access to legal remedies or redress against forced eviction;
- provide assistance to victims of forced eviction who remain without shelter;
- set up an independent commission of inquiry into the manner in which the evictions described in this report, and others, have been carried out and to make recommendations for effective remedies for victims of forced evictions and for the prevention of further forced evictions. The inquiry should include an investigation into the role of the police and other law enforcement agencies in assisting evictions, including the proportionality, legality and necessity of use of force and firearms, as well as illegal arrests and intimidation of residents and human rights defenders during the evictions, with a view to bringing to justice those responsible for human rights violations. The report of such commission of inquiry must be made public;
- law enforcement authorities should issue clear orders to the effect that police personnel must not take part in illegal actions such as forced evictions and should inform the administrative authorities of this position;
- ensure that the various regulations under discussion contain provisions for conferring security of tenure for individuals and families lacking such protection;
- develop a legal framework which respects the right to adequate housing and the right not to be forcibly evicted;
- devise strategies for the progressive fulfilment of the right to adequate housing, including allocating funding in accordance with the requirement of Article 2.1 of the ICESCR, to the maximum of available resources, including those available through international cooperation and assistance;
- provide training and capacity-building for planners involved in the development of strategies, and training of provincial and municipal government officials to enable them to implement human rights-based laws and policies;

- prepare and submit Angola's overdue initial reports to the CESCR and the Human Rights Committee and submit its overdue reports to the African Commission on Human and Peoples' Rights;

- extend, as a matter of urgency, an invitation to the UN Special Rapporteur on the right to housing as a component of the right to an adequate standard of living to visit the country, which would enable him to assist with the development of legislation and policies that would comply with international human rights law and standards.

Consistent with the findings in this report, Amnesty International also calls on the Catholic Church to ensure that it does not request that the Angolan authorities to take any actions which would entail violations of human rights.

Amnesty International calls on the Catholic Church in Angola to:

- refrain from requesting the Angolan authorities to evict those occupying land to which the Church has been granted title until such time as the authorities have put in place a comprehensive human-rights based housing policy and a legal framework providing effective remedies;

- continue to use its influence with the authorities to call for the authorities to take steps to realise the right to adequate housing of those who have been forcibly evicted from land to which the Church has been granted title.

5. Appendix

E/CN.4/2006/41

UN Basic principles and guidelines on development-based evictions and displacement

I. SCOPE AND NATURE

1. The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights. These include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Rights of the Child (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination.

2. In addition, and consistent with the indivisibility of a human rights approach, article 17 of the International Covenant on Civil and Political Rights states that "(n)o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence", and further that "(e)veryone has the right to the protection of the law against such interference or attacks". Article 16, paragraph 1, of the Convention on the Rights of the Child contains a similar provision. Other references in international law include article 21 of the 1951 International Convention regarding the Status of Refugees; article 16 of International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries (1989); and article 49 of the Fourth Geneva Convention relative to the protection of civilian persons in time of war of 12 August 1949.

3. The present guidelines address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas. These guidelines represent a further development of the United Nations Comprehensive Human Rights Guidelines on Development-based Displacement (E/CN.4/Sub.2/1997/7, annex). They are based on international human rights law, and are consistent with general comment No. 4 (1991) and general comment No. 7 (1997) of the Committee on Economic, Social and Cultural Rights, the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in its resolution 60/147, and the Principles on Housing and Property Restitution for Refugees and Displaced Persons (E/CN.4/Sub.2/2005/17).

4. Having due regard for all relevant definitions of the practice of "forced evictions" in the context of international human rights standards, the present guidelines apply to acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling,

residence or location, without the provision of, and access to, appropriate forms of legal or other protection. **a**

5. Forced evictions constitute a distinct phenomenon under international law, and are often linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing. Forced evictions share many consequences similar to those resulting from arbitrary displacement, **b** including population transfer, mass expulsions, mass exodus, ethnic cleansing and other practices involving the coerced and involuntary displacement of people from their homes, lands and communities.

6. Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.

7. Forced evictions intensify inequality, social conflict, segregation and "ghettoization", and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous peoples.

8. In the context of the present guidelines, development-based evictions include evictions often planned or conducted under the pretext of serving the "public good", such as those linked to development and infrastructure projects (including, for example, the construction of large dams, large-scale industrial or energy projects, or mining and other extractive industries); land-acquisition measures associated with urban renewal, slum-upgrades, housing renovation, city beautification, or other land-use programmes (including for agricultural purposes); property, real estate and land disputes; unbridled land speculation; major international business or sporting events; and ostensibly environmental purposes. Such activities also include those supported by international development assistance.

9. Displacement resulting from environmental destruction or degradation, and evictions or evacuations resulting from public disturbances, natural or human-induced disasters, tension or unrest, internal, international or mixed conflict (having domestic and international dimensions) and public emergencies, domestic violence, and certain cultural and traditional practices, often take place without regard for existing human rights and humanitarian standards, including the right to adequate housing. Such situations may, however, involve an additional set of considerations that the present guidelines do not explicitly address, though they can also provide useful guidance in those contexts. Attention is drawn to the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, the Guiding Principles on Internal Displacement, and the Principles on Housing and Property Restitution for Refugees and Displaced Persons.

10. While recognizing the wide range of contexts in which forced evictions take place, the present guidelines focus on providing guidance to States on measures and procedures to be adopted in order to

ensure that development-based evictions are not undertaken in contravention of existing international human rights standards and do not thus constitute "forced evictions".
These guidelines aim at providing a practical tool to assist States and agencies in developing policies, legislation, procedures and preventive measures to ensure that forced evictions do not take place, and to provide effective remedies to those whose human rights have been violated, should prevention fail.

II. GENERAL OBLIGATIONS

A. Duty-bearers and nature of obligations

11. While a variety of distinct actors may carry out, sanction, demand, propose, initiate, condone or acquiesce to forced evictions, States bear the principal obligation for applying human rights and humanitarian norms, in order to ensure respect for the rights enshrined in binding treaties and general principles of international public law, as reflected in the present guidelines. This does not, however, absolve other parties, including project managers and personnel, international financial and other institutions or organizations, transnational and other corporations, and individual parties, including private landlords and landowners, of all responsibility.

12. Under international law, the obligations of States include the respect, protection and fulfilment of all human rights and fundamental freedoms. This means that States shall: refrain from violating human rights domestically and extraterritorially; ensure that other parties within the State's jurisdiction and effective control do not violate the human rights of others; and take preventive and remedial steps to uphold human rights and provide assistance to those whose rights have been violated. These obligations are continuous and simultaneous, and are not suggestive of a hierarchy of measures.

B. Basic human rights principles

13. According to international human rights law, everyone has the right to adequate housing as a component of the right to an adequate standard of living. The right to adequate housing includes, inter alia, the right to protection against arbitrary or unlawful interference with privacy, family, home and to legal security of tenure.

14. According to international law, States must ensure that protection against forced evictions, and of the human right to adequate housing and secure tenure, are guaranteed without discrimination of any kind on the basis of race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or other status.
15. States must ensure the equal right of women and men to protection from forced evictions and the equal enjoyment of the human right to adequate housing and security of tenure, as reflected in the present guidelines.

16. All persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education. **c**

17. States must ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that his/her right to protection against forced evictions has been violated or is under threat of violation.

18. States must refrain from introducing any deliberately retrogressive measures with respect to de jure or de facto protection against forced evictions.

19. States must recognize that the prohibition of forced evictions includes arbitrary displacement that results in altering the ethnic, religious or racial composition of the affected population.

20. States also must formulate and conduct their international policies and activities in compliance with their human rights obligations, including through both the pursuit and provision of international development assistance.

C. Implementation of State obligations

21. States shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their adverse impact on a wide range of internationally recognized human rights. Any eviction must be (a) authorized by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare; **d** (d) reasonable and proportional; (e) regulated so as to ensure full and fair compensation and rehabilitation; and (f) carried out in accordance with the present guidelines. The protection provided by these procedural requirements applies to all vulnerable persons and affected groups, irrespective of whether they hold title to home and property under domestic law.

22. States must adopt legislative and policy measures prohibiting the execution of evictions that are not in conformity with their international human rights obligations. States should refrain, to the maximum extent possible, from claiming or confiscating housing or land, and in particular when such action does not contribute materially to the enjoyment of human rights. For instance, an eviction may be considered justified if measures of land reform or redistribution, especially for the benefit of vulnerable or deprived persons, groups or communities, are involved. States should apply appropriate civil or criminal penalties against any public or private person or entity within its jurisdiction that carries out evictions in a manner not fully consistent with applicable law and international human rights standards. States must ensure that adequate and effective legal or other appropriate remedies are available to all those who undergo, remain vulnerable to, or defend against forced evictions.

23. States shall take steps, to the maximum of their available resources, to ensure the equal enjoyment of the right to adequate housing by all. The obligation of States to adopt appropriate legislative and policy measures to ensure the protection of individuals, groups and communities from evictions that are not in conformity with existing international human rights standards, is immediate. **e**

24. In order to ensure that no form of discrimination, statutory or otherwise, adversely affects the enjoyment of the human right to adequate housing, States should carry out comprehensive reviews of

relevant national legislation and policy with a view to ensuring their conformity with international human rights provisions. Such comprehensive review should also ensure that existing legislation, regulation and policy address the privatization of public services, inheritance, and cultural practices, so as not to lead to, or facilitate forced evictions. **f**

25. In order to secure a maximum degree of effective legal protection against the practice of forced evictions for all persons under their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land.

26. States must ensure the equal enjoyment of the right to adequate housing by women and men. This requires States to adopt and implement special measures to protect women from forced evictions. Such measures should ensure that titles to housing and land are conferred to all women.
27. States should ensure the integration of binding human rights standards in their international relations, including through trade and investment, development assistance and participation in multilateral forums and organizations. States should implement their human rights obligations with regard to international cooperation, **g** whether as donors or as beneficiaries. States should ensure that international organizations in which they are represented refrain from sponsoring or implementing any project, programme or policy that may involve forced evictions, that is, evictions not in full conformity with international law, and as specified in the present guidelines.

D. Preventive strategies, policies and programmes

28. States should adopt, to the maximum of their available resources, appropriate strategies, policies and programmes to ensure effective protection of individuals, groups and communities against forced eviction and its consequences.

29. States should carry out comprehensive reviews of relevant strategies, policies and programmes, with a view to ensuring their compatibility with international human rights norms. In this regard, such reviews must strive to remove provisions that contribute to sustaining or exacerbating existing inequalities that adversely impact upon women and marginalized and vulnerable groups. Governments must take special measures to ensure that policies and programmes are not formulated or implemented in a discriminatory manner, and do not further marginalize those living in poverty, whether in urban or rural areas.

30. States should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, such as speculation in land and real estate. States should review the operation and regulation of the housing and tenancy markets, and when necessary, intervene to ensure that market forces do not increase the vulnerability of low-income and other marginalized groups to forced eviction. In the event of an increase in the price of housing or land, States should also ensure sufficient protection against physical or economic pressures on residents to leave or be deprived of adequate housing or land.

31. Priority in housing and land allocation should be ensured to disadvantaged groups such as the elderly, children and persons with disabilities.

32. States must give priority to exploring strategies that minimize displacement. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. "Eviction-impact" assessment should also include exploration of alternatives and strategies for minimizing harm.

33. Impact assessments must take into account the differential impacts of forced evictions on women, children, the elderly and marginalized sectors of society. All such assessments should be based on the collection of disaggregated data, such that all differential impacts can be appropriately identified and addressed.

34. Adequate training in applying international human rights norms should be required and provided for relevant professionals, including lawyers, law enforcement officials, urban and regional planners and other personnel involved in the design, management and implementation of development projects. This must include training on women's rights, with an emphasis on women's particular concerns and requirements pertaining to housing and land.

35. States should ensure the dissemination of adequate information on human rights and laws and policies relating to protection against forced evictions. Specific attention should be given to the dissemination of timely and appropriate information to groups particularly vulnerable to evictions, through culturally appropriate channels and methods.

36. States must ensure that individuals, groups and communities are protected from eviction during the period that their particular case is being examined before a national, regional or international legal body.

III. PRIOR TO EVICTIONS

37. Urban or rural planning and development processes should involve all those likely to be affected and should include the following elements: (a) appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; (b) effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; (c) a reasonable time period for public review of, comment on, and/or objection to the proposed plan; (d) opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and (e) holding of public hearing(s) that provide affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

38. States should explore fully all possible alternatives to evictions. All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.

39. During planning processes, opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, including women and vulnerable and marginalized groups, and when necessary, through the adoption of special measures or procedures.

40. Prior to any decision to initiate an eviction, authorities must demonstrate that the eviction is unavoidable and consistent with international human rights commitments protective of the general welfare.

41. Any decision relating to evictions should be announced in writing in the local language to all individuals concerned, sufficiently in advance. The eviction notice should contain a detailed justification for the decision, including on: (a) absence of reasonable alternatives; (b) the full details of the proposed alternative; and (c) where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions. All final decisions should be subject to administrative and judicial review. Affected parties must also be guaranteed timely access to legal counsel, without payment if necessary.

42. Due eviction notice should allow and enable those subject to eviction to take an inventory in order to assess the values of their properties, investments and other material goods that may be damaged. Those subject to eviction should also be given the opportunity to assess and document non-monetary losses to be compensated.

43. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. The State must make provision for the adoption of all appropriate measures, to the maximum of its available resources, especially for those who are unable to provide for themselves, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available and provided. Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted.

44. All resettlement measures, such as construction of homes, provision of water, electricity, sanitation, schools, access roads and allocation of land and sites must be consistent with the present guidelines and internationally recognized human rights principles, and completed before those who are to be evicted are moved from their original areas of dwelling. **h**

IV. DURING EVICTIONS

45. The procedural requirements for ensuring respect for human rights standards include the mandatory presence of governmental officials or their representatives on site during evictions. The governmental officials, their representatives and persons implementing the eviction must identify themselves to the persons being evicted and present formal authorization for the eviction action.
46. Neutral observers, including regional and international observers, should be allowed access upon request, to ensure transparency and compliance with international human rights principles during the carrying out of any eviction.

47. Evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of those affected. States must also take steps to ensure that women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected.

48. Any legal use of force must respect the principles of necessity and proportionality, as well as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and any national or local code of conduct consistent with international law-enforcement and human rights standards.

49. Evictions must not take place in inclement weather, at night, during festivals or religious holidays, prior to elections or during or just prior to school examinations.
50. States and their agents must take steps to ensure that no one is subject to direct or indiscriminate attacks or other acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. Property and possessions left behind involuntarily should be protected against destruction, arbitrary and illegal appropriation, occupation or use.

51. Authorities and their agents should never require or force those evicted to demolish their own dwellings or other structures. The option to do so must be provided to affected persons, however, as this would facilitate salvaging of possessions and building material.

V. AFTER AN EVICTION: IMMEDIATE RELIEF AND RELOCATION

52. The Government and any other parties responsible for providing just compensation and sufficient alternative accommodation, or restitution when feasible, must do so immediately upon the eviction, except in cases of force majeure. At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable drinking water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions.

53. Special efforts should be made to ensure equal participation of women in all planning processes and in the distribution of basic services and supplies.

54. In order to ensure the protection of the human right to the highest attainable standard of physical and mental health, all evicted persons who are wounded and sick, as well as those with disabilities, should receive the medical care and attention they require to the fullest extent practicable and with the least possible delay, without distinction on any non-medically relevant grounds. When necessary, evicted persons should have access to psychological and social services. Special attention should be paid to: (a) the health needs of women and children, including access to female health-care providers where necessary, and to services such as reproductive health care and appropriate counselling for victims of sexual and other abuses; (b) ensuring that ongoing medical treatment is not disrupted as a result of eviction or relocation; and (c) the prevention of contagious and infectious diseases, including HIV/AIDS, at relocation sites.
55. Identified relocation sites must fulfil the criteria for adequate housing according to international human rights law. These include: **i** (a) security of tenure; (b) services, materials, facilities and infrastructure such as potable drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and to natural and common resources, where appropriate; (c) affordable housing; (d) habitable housing providing inhabitants with adequate space, protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors, and ensuring physical safety of occupants; (e) accessibility for disadvantaged groups; (f) access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas and (g) culturally appropriate housing. In order to ensure security of the home, adequate housing should also include the following essential elements: privacy and security; participation in decision-making; freedom from violence, and access to remedies for any violations suffered.

56. In determining the compatibility of resettlement with the present guidelines, States should ensure that in the context of any case of resettlement the following criteria are adhered to: (a) No resettlement shall take place until such a time that a comprehensive resettlement policy consistent with the present guidelines and internationally recognized human rights principles is in place; (b) Resettlement must ensure that the human rights of women, children, indigenous peoples and other vulnerable groups are equally protected, including their right to property ownership and access to resources; (c) The actor proposing and/or carrying out the resettlement shall be required by law to pay for any associated costs, including all resettlement costs; (d) No affected persons, groups or communities, shall suffer detriment as far as their human rights are concerned nor shall their right to the continuous improvement of living conditions be subject to infringement. This applies equally to host communities at resettlement sites, and affected persons, groups and communities subjected to forced eviction; (e) Affected persons, groups and communities' right to full and prior informed
consent regarding relocation must be guaranteed. The State shall provide all necessary amenities, services and economic opportunities at the proposed site; (f) The time and financial cost required for travel to and from the place of work or to access essential services should not place excessive demands upon the budgets of low-income households; (g) Relocation sites must not be situated on polluted land or in immediate proximity to pollution sources that threaten the right to the highest attainable standards of mental and physical health of the inhabitants; (h) Sufficient information shall be provided to the affected persons, groups and communities on all State projects and planning and implementation processes relating to the concerned resettlement, including information on the purported use of the

eviction dwelling or site and its proposed beneficiaries. Particular attention must be paid to ensuring that indigenous peoples, minorities, the landless, women and children are represented and included in this process; (i) The entire resettlement process should be carried out in full consultation and participation with the affected persons, groups and communities. States should, in particular, take into account all alternate plans proposed by the affected persons, groups and communities; (j) If, after a full and fair public hearing, it is found that there still exists a need to proceed with the resettlement, then the affected persons, groups and communities shall be given at least 90 days notice prior to the date of the resettlement; and (k) Local government officials and neutral observers, properly identified, shall be present during the resettlement so as to ensure that no force, violence or intimidation is involved.

57. Rehabilitation policies must include programmes designed for women and marginalized and vulnerable groups to ensure their equal enjoyment of the human rights to housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman or degrading treatment, and freedom of movement.

58. Persons, groups or communities affected by an eviction should not suffer detriment to their human rights, including their right to the progressive realization of the right to adequate housing. This applies equally to host communities at relocation sites.

VI. REMEDIES FOR FORCED EVICTIONS

58. All persons threatened with or subject to forced evictions have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation, and should comply, as applicable, with the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

A. Compensation

59. When eviction is unavoidable, and necessary for the promotion of the general welfare, the State must provide or ensure fair and just compensation for any losses of personal, real or other property or goods, including rights or interests in property. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as: loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medicine and medical services, and psychological and social services. Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. **j** Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.

60. All those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original

dwelling and land lost or damaged in the process. Consideration of the circumstances of each case shall allow for the provision of compensation for losses related to informal property, such as slum-dwellings.

61. Women and men must be co-beneficiaries of all compensation packages. Single women and widows should be entitled to their own compensation.

62. To the extent not covered by assistance for relocation, the assessment of economic damage should take into consideration losses and costs, for example, of land plots and house structures; contents; infrastructure; mortgage or other debt penalties; interim housing; bureaucratic and legal fees; alternative housing; lost wages and incomes; lost educational opportunities; health and medical care; resettlement and transportation costs (especially in the case of relocation far from the source of livelihood). Where the home and land also provide a source of livelihood for the evicted inhabitants, impact and loss assessment must account for the value of business losses, equipment/inventory, livestock, land, trees/crops, and lost/decreased wages/income.

B. Restitution and return

63. The circumstances of forced evictions linked to development and infrastructure projects (including those mentioned in paragraph 8 above) seldom allow for restitution and return. Nevertheless, when circumstances allow, States should prioritize these rights of all persons, groups and communities subjected to forced evictions. Persons, groups and communities shall not, however, be forced against their will to return to their homes, lands or places of origin.

64. When return is possible or adequate resettlement in conformity with these guidelines is not provided, the competent authorities should establish conditions and provide the means, including financial, for voluntary return in safety and security, and with dignity to homes or places of habitual residence. Responsible authorities should facilitate the reintegration of returned persons and exert efforts to ensure the full participation of affected persons, groups and communities in the planning and management of return processes. Special measures may be required to ensure women's equal and effective participation in return or restitution processes in order to overcome existing household, community, institutional, administrative, legal or other gender biases that contribute to marginalization or exclusion of women.

65. Competent authorities have the duty and responsibility to assist returning persons, groups or communities to recover, to the maximum extent possible, the property and possessions that they left behind or were dispossessed of upon their eviction.

66. When return to one's place of residence and recovery of property and possessions is not possible, competent authorities must provide victims of forced evictions, or assist them in obtaining, appropriate compensation or other forms of just reparation.

C. Resettlement and rehabilitation

67. While all parties must give priority to the right of return, certain circumstances (including for the promotion of general welfare, or where the safety, health or enjoyment of human rights so demands) may necessitate the resettlement of particular persons, groups and communities due to development-based forced evictions. Such resettlement must occur in a just and equitable manner and in full accordance with international human rights law as elaborated in section V of these guidelines.

VII. MONITORING, EVALUATION AND FOLLOW-UP

68. States should actively monitor and carry out quantitative and qualitative evaluations to determine the number, type and long-term consequences of evictions, including forced evictions that occur within their jurisdiction and territory of effective control. Monitoring reports and findings should be made available to the public and concerned international parties in order to promote the development of best practices and problem-solving experiences based on lessons learned.

69. States should entrust an independent national body, such as a national human rights institution, to monitor and investigate forced evictions and State compliance with these guidelines and international human rights law.

VIII. ROLE OF THE INTERNATIONAL COMMUNITY, INCLUDING INTERNATIONAL ORGANIZATIONS

70. The international community bears an obligation to promote, protect and fulfil the human right to housing, land and property. International financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, should take fully into account the prohibition on forced evictions under international human rights law and related standards.

71. International organizations should establish or accede to complaint mechanisms for cases of forced evictions that result from their own practices and policies. Legal remedies should be provided to victims in accordance with those stipulated in these guidelines.

72. Transnational corporations and other business enterprises must respect the human right to adequate housing, including the prohibition on forced evictions within their respective spheres of activity and influence.

IX. INTERPRETATION

73. These guidelines on development-based evictions and displacement shall not be interpreted as limiting, altering or otherwise prejudicing the rights recognized under international human rights, refugee, criminal or humanitarian law and related standards, or rights consistent with these laws and standards as recognized under any national law.

Notes

a) The prohibition of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties.
b) Consistent with Principle 6 of the Guiding Principles on Internal Displacement.
c) See general comment No. 4 on the right to adequate housing, adopted by the Committee on Economic, Social and Cultural Rights in 1991.
d) In the present guidelines, the promotion of the general welfare refers to steps taken by States consistent with their international human rights obligations, in particular the need to ensure the human rights of the most vulnerable.
e) See general comment No. 3 on the nature of States parties' obligations, adopted in 1990 by the Committee on Economic, Social and Cultural Rights.
f) See Guidelines on Housing and Discrimination contained in the 2002 report of the Commission on Human Rights Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.
g) As set forth in article 22, Universal Declaration of Human Rights; Articles 55 and 56 of the Charter of the United Nations; articles 2, paragraph 1, 11, 15, 22, 23, International Covenant on Economic, Social and Cultural Rights, articles 23, paragraph 4, and 28, paragraph 3, Convention on the Rights of the Child.
h) See section V of the present guidelines.
i) See general comment No. 4 on adequate housing adopted by the Committee on Economic, Social and Cultural Rights in 1991
j) See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.