

Learning Workshop on Women, Land and Housing Rights: Assessing the impacts of dispossession

30 September–2 October 2020

Lusaka, Zambia



Civic Forum
on Housing and
Habitat



**Housing and
Land Rights
Network •**
Habitat
International
Coalition



What/who is the State?

- **Distinct land / territory**
- **Population (people/peoples)**
- **Public institutions, including government recognized by other states**

Convention on Rights and Duties of States (“Montevideo Convention, inter-American), 26 December 1933, 49 Stat. 3097, Treaty Series 881:

Article 1:

The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.



Rights of Victims to Remedy and Reparations

Two types of victim

Victims of crime:

A person who is suffering from harm, including physical or mental injury, psychological suffering, economic loss, or any damage to the essence of his/her fundamental rights as a result of an act or of negligence that constitutes a violation of the criminal laws in force within the State, including laws that prohibit the abuse of power that amounts to crime.

Two types of victim

Victims of a human rights violation:

A person who has suffered, including physical or mental injury, psychological suffering, economic loss or any damage to the substance of his/her fundamental rights through an act or omission that is a violation of internationally recognized human rights standards.



Sources in Law

Treaty law:

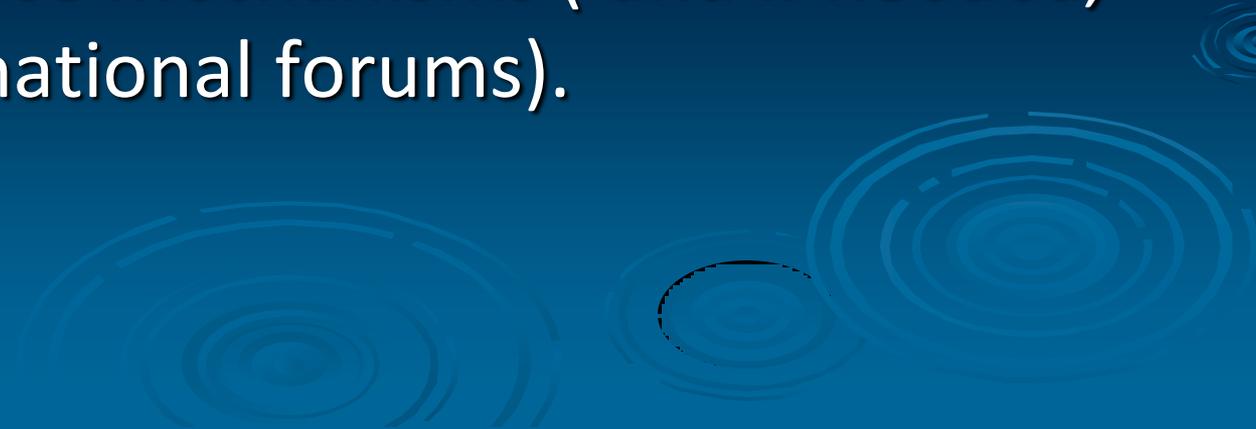
- ICCPR, Article 2 (legislative provisions)
- ICERD, Article 6 (protection and remedies)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Articles 14 and 22 (1984)
- CRC, Article 39 (recovery and reintegration)
- The Hague Convention, Article 3 (compensation)
- GVA Conventions, OP1, Article 91 (compensaiton)
- Rome Statute of the ICC, Articles 68 (appropriate protective measures, security arrangements, counselling and assistance) and 75 (reparations)

Source in law

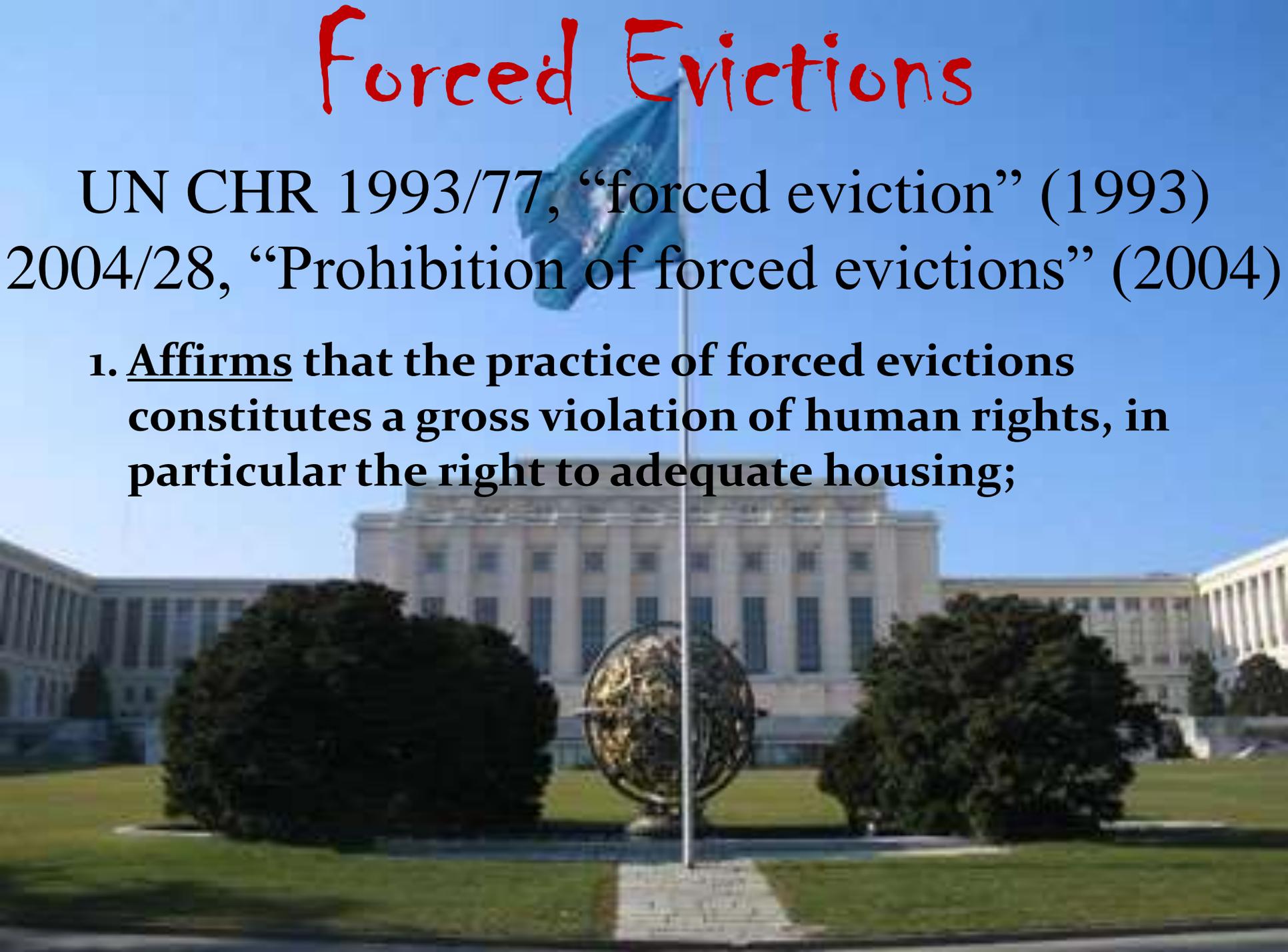
Declaratory law:

- Universal Declaration of Human Rights, Article 8 (right to an effective remedy)
- Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)
- Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989)
- 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 (2006)

Reparations in International Law

- Traditionally, wrongful acts and ensuing reparations were dealt with as a matter of interstate responsibility (Chorzow Factory Case)
 - Progressive recognition that the victims of human rights violations have the right to pursue their claims for redress and reparations before national justice mechanisms (and if needed, before international forums).
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Forced Evictions

The background of the slide features a photograph of the United Nations Secretariat Building in New York City. In the foreground, a large globe sculpture stands on a pedestal, and a United Nations flag flies on a tall pole. The building's classical architecture with its columns is visible in the background under a clear blue sky.

UN CHR 1993/77, “forced eviction” (1993)

2004/28, “Prohibition of forced evictions” (2004)

1. **Affirms** that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing;



General Assembly

Distr.: General
21 March 2006

Sixtieth session
Agenda item 71 (a)

Resolution adopted by the General Assembly

[on the report of the Third Committee (A/60/509/Add.1)]

60/147. 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

Reparation

The United Nations logo, featuring a white dove with its wings spread, perched on a blue laurel wreath, is centered in the background of the slide.

Restitution:

- **Return,**
- **Resettlement,**
- **Rehabilitation: all aspects;**

Compensation;

Nonrepetition;

Satisfaction.

A Handbook on

**UN Basic Principles
and Guidelines on
Development-based
Evictions and Displacement**

Amnesty International India
Housing and Land Rights Network
Youth for Unity and Voluntary Action

Challenges

➤ **Financing reparations**

- Political constraints as significant as economic
- Two models– trust funds or introducing a dedicated line in the yearly national budget

➤ **Interpreting reparations benefits – linking reparations and other justice measures**

- Reparations should be linked to other TJ measures; i.e., criminal justice, truth telling
- Such connections provide incentive to interpret the reparations benefits in terms of justice, rather than as an exchange of money for appeasement

➤ **Linking reparations programmes to civil litigation**

- Judicial resolution of individual reparations cases often catalysed the willingness of the governments to establish massive reparations programmes
- Some programmes have been final and foreclosed other avenues of civil redress (germany)
- The victims access to courts should be preserved

➤ **Making a reparations programme a gender sensitive**

Reparation

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