

ADVISORY ON THE CONDUCT OF FORCED EVICTIONS AND HOUSE DEMOLITIONS

Several complaints have been lodged before this Commission from urban poor groups regarding numerous demolitions that have allegedly been conducted in a manner that is not compliant with Republic Act No. 7279 otherwise known as the “Urban Development and Housing Act of 1992”, and the International Covenant on Economic, Social and Cultural Rights.

Recent reported incidents include:

1. March 5, 2008 MMDA demolition of the Philcoa Wet and Dry Market where there was allegedly no notice of demolition issued and protesters clashed with the demolition team;
2. March 5, 2007 demolition at Levi Mariano Avenue, Taguig City where the demolition crew failed to file for a Certificate of Compliance and issue a notice of demolition;
3. August 2, 2007 MMDA demolition at Culiat Bridge along Mindanao Ave. where, allegedly, the MMDA did not issue a notice of demolition at all;
4. May 14, 2008 MMDA demolition at the Balintawak Market, Quezon City, which was also allegedly without notice or consultation; and
5. May 20, 2008 demolition at Quinta Market where a notice to vacate was allegedly issued only 7 days prior.

The requirements for a valid demolition vis-à-vis actual procedures will be the subject of a clarificatory meeting with various agencies. While the incidents are under review/investigation by the Commission to determine whether or not demolitions conducted are compliant with existing statute and convention, the Commission issues this advisory to all concerned agencies and local government units that are tasked with demolitions, to abide by the following provisions of law and international covenants:

A. International Covenant on Economic, Social & Cultural Rights

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an **adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.** The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Article 2

1. **Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.**

B. Office of the High Commissioner on Human Rights: General Comment on “*The right to adequate housing (Art.11.1): forced evictions: (20/05/97)*”

14. In cases where eviction is considered to be justified, it **should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality.** In this regard it is especially pertinent to recall General Comment 16 of the Human Rights Committee, relating to article 17 of the International Covenant on Civil and Political Rights, which states that interference with a person's home can only take place "in cases envisaged by the law". The Committee observed that the law "should be in accordance with the

provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances". The Committee also indicated that "relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted".

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, **the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.**

C. Republic Act No. 7279

Sec. 28. Eviction and Demolition. — Eviction or demolition as a practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:

(a) **When persons or entities occupy danger areas** such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds;

(b) When **government infrastructure projects** with available funding **are about to be implemented**; or

(c) When there is a **court order** for eviction and demolition.

In the execution of eviction or demolition orders involving underprivileged and homeless citizens, the following shall be mandatory:

(1) **Notice upon the effected persons or entities at least thirty (30) days prior to the date of eviction or demolition**;

(2) **Adequate consultations on the matter of settlement** with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated;

(3) **Presence of local government officials** or their representatives **during eviction or demolition**;

(4) **Proper identification** of all persons taking part in the demolition;

(5) Execution of eviction or demolition **only during regular office hours from Mondays to Fridays and during good weather**, unless the affected families consent otherwise;

(6) **No use of heavy equipment for demolition except for structures that are permanent** and of concrete materials;

(7) **Proper uniforms for members of the Philippine National Police who shall occupy the first line of law enforcement** and observe proper disturbance control procedures; and

(8) **Adequate relocation, whether temporary or permanent**: Provided, however, That in cases of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, **relocation shall be undertaken** by the local government unit concerned and the National Housing Authority with the assistance of other government agencies **within forty-five (45) days from service of notice of final judgment by the court**, after which period the said order shall be executed: Provided, further, That should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing minimum daily wage multiplied by sixty (60) days shall be extended to the affected families by the local government unit concerned.

The Department of the Interior and Local Government and the Housing and Urban Development Coordinating

Council shall jointly promulgate the necessary rules and regulations to carry out the above provision.

Sec. 29. Resettlement. — Within two (2) years from the effectivity of this Act, **the local government units, in coordination with the National Housing Authority, shall implement the relocation and resettlement of persons living in danger areas** such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and in other public places as sidewalks, roads, parks, and playgrounds. **The local government unit, in coordination with the National Housing Authority, shall provide relocation or resettlement sites with basic services and facilities and access to employment and livelihood opportunities sufficient to meet the basic needs of the affected families.**

Through this advisory, the Commission reminds all persons that demolitions must be conducted in a just and humane manner. In some instances, such evictions may be legally justified. However, in no instance, legally or otherwise, can the deprivation of one's shelter be done in a manner that robs a person of his dignity as well.

The Commission cautions the police, local government units and other government agencies against possible abuses in the conduct of demolitions. All persons who are victims of illegal demolitions conducted by the police, local government officials or the law enforcement agents may inform the Commission.

Issued this 6th day of May, 2008 at Quezon City, Philippines.

ATTY. LEILA M. DE LIMA
Chairperson