

E/CN.4/1996/52/Add.2 for the first part) and contains information on, *inter alia*: violence and threats affecting life and personal security, discrimination, implantation of settlers, evictions and loss of land and housing, the negative impact of development projects, damage to the environment, the obligations of non-state actors, freedom of movement and choice of residence, protection from interference with one's home, the right to housing, prohibition of forced movement in emergencies, including situations of armed conflict, prohibition of religious and racial discrimination, prohibition of genocide, and laws relating to indigenous peoples. The context within which these subjects are addressed is based in part on:

- forced displacement being understood to involve policies that have the purpose or the effect of compelling people to leave their home and place of habitual residence, including in some cases relocating them to another area of the country against their will;
- the understanding that the absence of such will or consent implies coercion and the question of whether such coercion is lawful to the extent that forced removal may be based on legitimate grounds and undertaken in accordance with international and domestic law; and
- the fact that unlawful eviction or displacement occurs when: it is based on grounds not permissible under international law; minimum procedural guarantees are not met; the manner in which an eviction is carried out violates other human rights such as personal liberty, freedom from torture and ill treatment or the right to life; or the effects of evictions and displacement have a negative impact on the enjoyment of other human rights, in which case the state is required to take measures to respond to the concerns that arise.

Consideration of the causes of displacement notes that: violence and threats affecting life and personal security are frequently used to induce displacement and, in such cases, may amount to genocide, including "ethnic cleansing", or to inhuman and degrading treatment; systematic patterns of discriminatory treatment in the enjoyment of civil, cultural, economic, political and social rights, discrimination against persons belonging to minorities or indigenous peoples and discriminatory economic or social policies are often responsible for forced movements of persons; "discrimination" is commonly understood to imply any distinction, exclusion, restriction or preference which is based on any specified ground, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms; however, not every distinction constitutes discrimination — only those that are not based on reasonable and objective criteria. The report also notes that the implantation or establishment of settlers is a particularly serious form of discrimination: it may occur in order to transfer a more "compliant" population, for such military objectives as maintaining better control or discouraging insur-

gent activity, and for non-military objectives such as demographic manipulation or future annexation. Settlers may themselves be internally displaced if they are settled in an area other than their own against their will. The implantation of settlers will violate the principle of non-discrimination where the settlers receive preferential treatment vis-à-vis the population into whose territory they move and where this results in institutionalized discrimination against the affected population.

Additional commentary on causes notes that displacement may occur as a result of the confiscation or expropriation of land or other real property as a result of, for example, military attacks, conflicts over land, poorly planned and executed development projects that render an area uninhabitable, or the failure of the state's legal system to recognize traditional forms of ownership and use of land. Restrictions on the state's power to expropriate and confiscate land or other real property may apply in the case of persons greatly affected by loss of their land, such as peasants or indigenous peoples; and, where subsistence and cultural values are threatened, persons at risk of displacement are entitled to additional human rights protections. Development projects and their impact on land tenure and on the natural environment may have negative consequences on the enjoyment of human rights, for example in cases of evictions and relocation or resettlement undertaken to facilitate development projects, such as the building of dams, roads and airports. Significant damage to the environment — for example, as a result of scorched-earth tactics, nuclear tests, unsafe industrial projects, submergence caused by the building of dams, chemical or radiation leaks or the movement of hazardous waste — often causes or compounds forced movements of persons.

The report states that few express international legal norms exist which protect people against individual or collective eviction and displacement or transfer from one region to another within their own country. Taken together, however, a number of norms establish a general rule according to which forced displacement may not be effected in a discriminatory way or arbitrarily imposed. These norms, both international and regional, are noted as relating to: freedom of movement and choice of residence; protection from interference with one's home (privacy); the right to housing; the prohibition on population movements during genuine public emergencies which have the effect of violating non-derogable human rights; the prohibition of religious and racial discrimination, for example as an element in policies of ethnic separation or homogenization as well as "ethnic cleansing"; and, the prohibition of genocide, within which "ethnic cleansing" and extreme suppression of ethnic or indigenous peoples (e.g., apartheid) may be included.

The report provides a summary of provisions in ILO Convention No. 169, concerning Indigenous and Tribal Peoples in Independent Countries and notes that article 16 stipulates that these peoples "shall not be removed from the lands which they occupy." The article also stipulates that: in cases where relocation is necessary as an excep-