

DEMAND DIGNITY (( DEMAND DIGNITY )) DEMAND DIGNITY DEMAND DIGNITY DEMAND DIGNITY DEMAND DIGNITY



**KNOW YOUR OBLIGATIONS**  
A GUIDE TO PREVENTING FORCED EVICTIONS

**AMNESTY**  
INTERNATIONAL



Amnesty international is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

First published in 2012 by  
Amnesty International Ltd  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)

© Amnesty International 2012

Index: ACT 35/009/2012  
Original language: English  
Printed by Amnesty International,  
International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact [copyright@amnesty.org](mailto:copyright@amnesty.org)

Cover photo: Forced eviction, Votanikos, Greece 2007.  
© Greek Helsinki Monitor, 2007

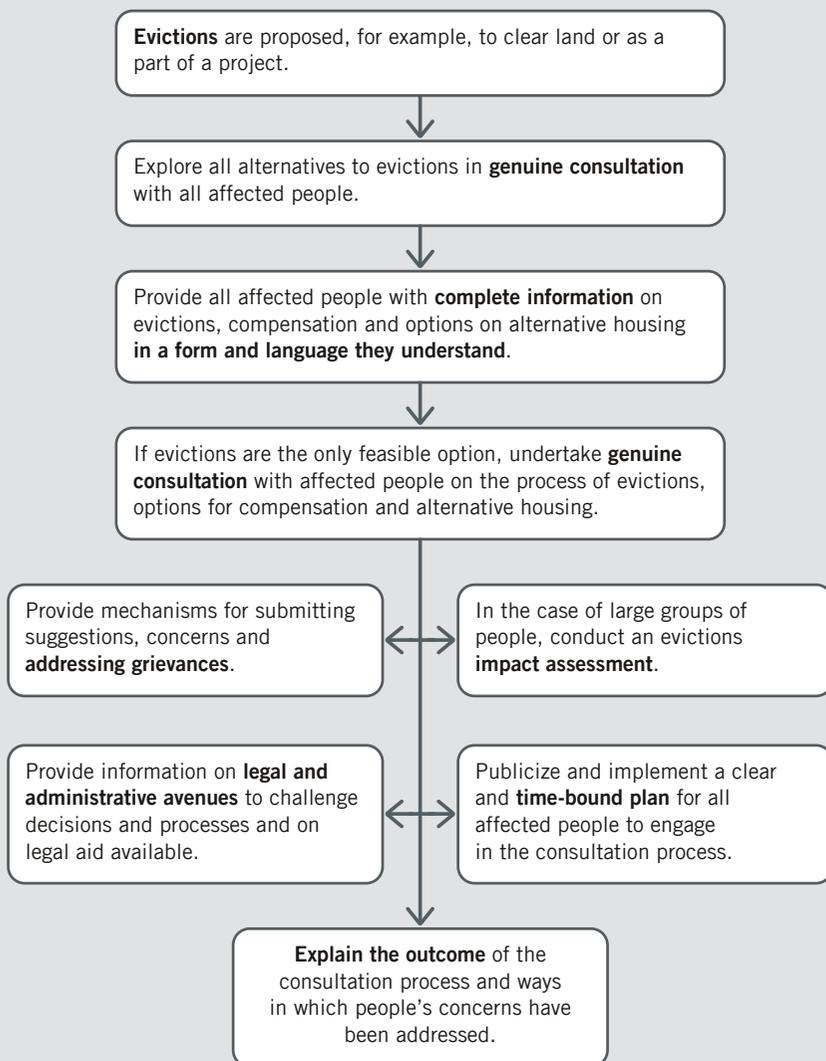
# CONTENTS

<b>KEY STEPS FOR PREVENTING FORCED EVICTIONS</b>	<b>2</b>
<b>1. WHAT IS THIS GUIDE ABOUT?</b>	<b>5</b>
<b>2. THE RIGHT TO ADEQUATE HOUSING</b>	<b>7</b>
OBLIGATIONS UNDER THE RIGHT TO ADEQUATE HOUSING	9
<b>3. FORCED EVICTIONS</b>	<b>12</b>
WHAT IS A FORCED EVICTION?	12
LEGAL SAFEGUARDS TO PREVENT FORCED EVICTIONS	14
<b>4. ENSURING EVICTIONS COMPLY WITH INTERNATIONAL STANDARDS</b>	<b>16</b>
EQUALITY AND NON-DISCRIMINATION	16
TAKING ALL POSSIBLE MEASURES TO AVOID OR MINIMIZE EVICTIONS	17
UNDERTAKING GENUINE CONSULTATION	18
IMPACT ASSESSMENTS	24
ADEQUATE AND REASONABLE PRIOR NOTICE OF EVICTION	27
PROVIDING LEGAL REMEDIES AND LEGAL AID	28
<b>5. ALTERNATIVE HOUSING AND COMPENSATION</b>	<b>29</b>
PROVIDING COMPENSATION FOR ALL LOSSES	29
ADEQUATE ALTERNATIVE HOUSING FOR THOSE WHO CANNOT PROVIDE FOR THEMSELVES	31
KEY STEPS TO ENSURE THAT ALTERNATIVE HOUSING OR RESETTLEMENT COMPLIES WITH INTERNATIONAL STANDARDS	32
ASSESSING OPTIONS FOR ALTERNATIVE HOUSING AND RESETTLEMENT WITH THE AFFECTED COMMUNITIES	35
TEMPORARY HOUSING	35
<b>6. CONDUCTING EVICTIONS</b>	<b>36</b>
<b>7. MONITORING RESETTLEMENT</b>	<b>39</b>
<b>ENDNOTES</b>	<b>41</b>

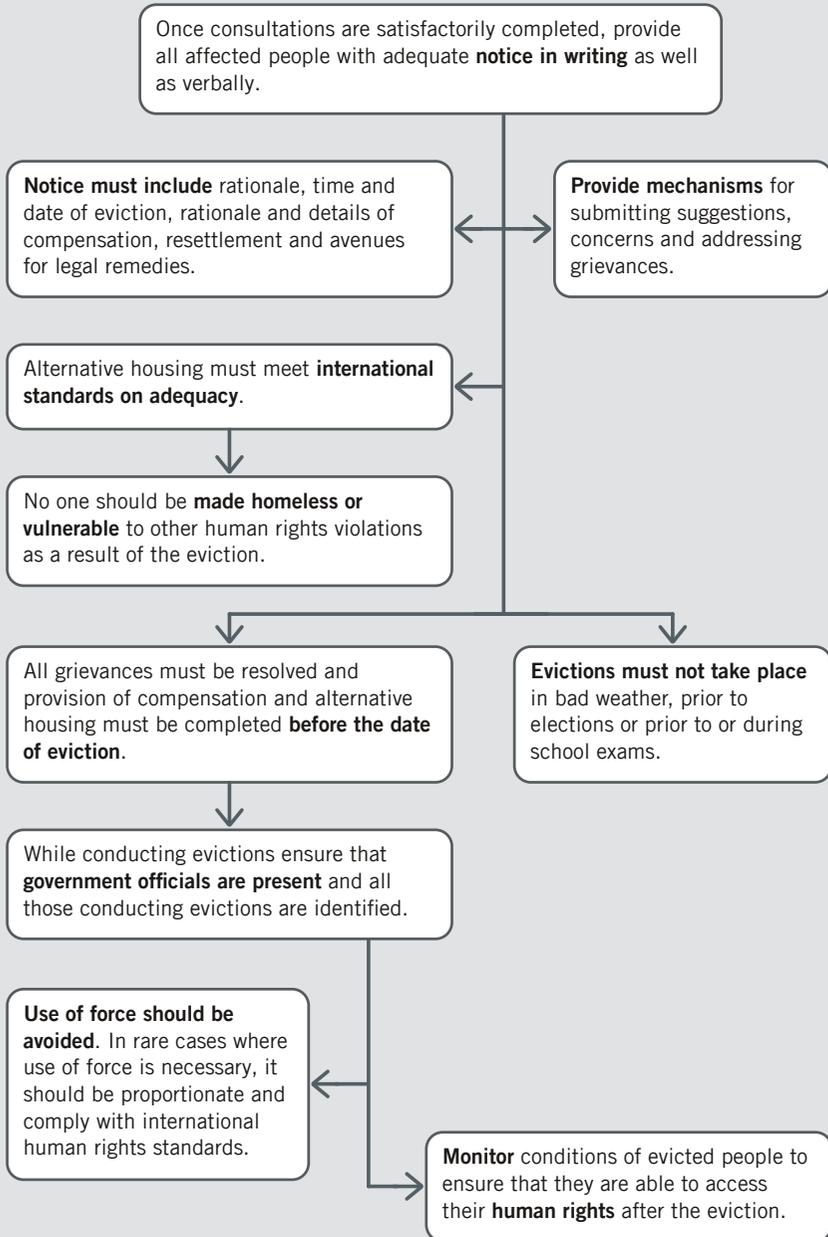
---

# KEY STEPS FOR PREVENTING FORCED EVICTIONS

## IF EVICTIONS ARE PROPOSED



# ONCE CONSULTATIONS ARE SATISFACTORILY COMPLETED



**THIS PUBLICATION HAS BEEN DEVELOPED AS A GUIDE FOR LOCAL AUTHORITIES, PUBLIC OFFICIALS AND OTHERS ACTING ON BEHALF OF THE STATE TO MEET THEIR OBLIGATIONS WITH RESPECT TO THE RIGHT TO ADEQUATE HOUSING. IT OUTLINES THE MAIN INTERNATIONAL HUMAN RIGHTS STANDARDS ON THE RIGHT TO ADEQUATE HOUSING, AND GIVES PRACTICAL GUIDANCE ON KEY MEASURES THAT MUST BE UNDERTAKEN WHEN PLANNING PROJECTS THAT MAY INVOLVE EVICTIONS, OR WHEN CARRYING OUT OR AUTHORIZING EVICTIONS.**

# WHAT IS THIS GUIDE ABOUT?

Everyone has a right to adequate housing and all national and local governments, and their representatives, have a legal obligation to respect, protect and fulfil this human right. The right to adequate housing includes a prohibition on forced evictions.

**A forced eviction is the removal of people against their will from the homes, or land, they occupy, without due process and legal safeguards, including adequate notice, legal remedies and compensation for their losses.**

Local authorities are frequently the first point of contact in the planning and delivery of housing. Often, they are also key stakeholders in projects concerning infrastructure, city regeneration or reorganization, and large-scale events which are also the most common triggers for forced evictions. Regardless of the reasons for an eviction, local authorities are directly or indirectly involved in its implementation. They can, therefore, play an important role in ensuring that people are able to access their right to adequate housing and that they are protected from forced evictions.

Local authorities often have to balance conflicting interests in relation to the use and development of land. They may come under pressure from private landowners who want them to remove people living on the land; they may have to weigh the benefits of building a hospital against the harm caused to people who face eviction from the site where the hospital is to be built. These situations are challenging, but **authorities must ensure that they balance interests in a principled way and that their efforts are directed to protecting the rights of all concerned, especially by minimizing negative impacts on already disadvantaged groups.**

In many contexts, cases of eviction are made worse by negative attitudes among public officials and others towards people living without security of tenure (such as residents of slums and informal settlements, and “squatters”). Local authorities may see their role as enforcing laws against these groups or view these groups as a public nuisance. Such attitudes ignore the deeper reasons that lead people to live in precarious situations and which lead to the creation of slums and informal settlements: migration in search of work, the lack of legal avenues to find affordable housing, the effect of years of neglect or even complicity by corrupt officials in the creation of slums and informal settlements.

It is essential that authorities find sustainable solutions for people who lack security of tenure. State intervention must improve their situation, not worsen it. Under international law, due process must be followed before carrying out evictions regardless of whether the people concerned have legal claims to the land or the house they inhabit. If authorities fail to find adequate housing solutions for people who have to be evicted, in addition to the harm that this may cause through loss of work, investment in homes and access to health care and education, it can force people to live in increasingly precarious situations and risk repeated evictions.

**This guide highlights some of the steps authorities must take to prevent forced evictions and protect the right to adequate housing.**

# THE RIGHT TO ADEQUATE HOUSING

## 2

**“[T]HE RIGHT TO HOUSING SHOULD NOT BE INTERPRETED IN A NARROW OR RESTRICTIVE SENSE WHICH EQUATES IT WITH, FOR EXAMPLE, THE SHELTER PROVIDED BY MERELY HAVING A ROOF OVER ONE’S HEAD OR VIEWS SHELTER EXCLUSIVELY AS A COMMODITY. RATHER IT SHOULD BE SEEN AS THE RIGHT TO LIVE SOMEWHERE IN SECURITY, PEACE AND DIGNITY.”**

UN Committee on Economic, Social and Cultural Rights, General Comment 4:  
The right to adequate housing, 13 December 1991, para 7

All governments are a party to one or more international human rights treaties, which guarantee the right to adequate housing.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the main treaty on the right to adequate housing. Article 11.1 of the Covenant states that all parties to it must “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.”

The UN Committee on Economic, Social and Cultural Rights (the UN Committee) is a body of independent experts mandated to interpret the ICESCR and monitor its implementation by state parties. The Committee provides authoritative interpretation of human rights in the Covenant through documents called General Comments. The Committee’s explanation of the content of the right to adequate housing and the obligations of states is published in General Comment 4 (on the right to adequate housing) and General Comment 7 (on forced evictions).

The right to adequate housing is also protected under various international and regional human rights treaties, including the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>1</sup>

## 2

### **ALL ORGANS OF THE STATE MUST COMPLY WITH ITS INTERNATIONAL OBLIGATIONS**

When a state becomes a party to any international treaty, it is legally bound to perform its obligations under that treaty, including by implementing treaty standards nationally. The state will be responsible if any organ (person or entity) of the state, based in any of its divisions (central, provincial or local government), acts in a manner which is inconsistent with its international obligations. This applies equally to any person acting as an agent of the state or on its instructions. The state cannot use provisions in domestic law to justify as failure to perform its obligations under the international treaties. For example, governments cannot say that, because they have a federal system, they are not responsible for the actions of municipalities that violate the right to adequate housing.

Therefore, regardless of the kind of legal system in the country or the way in which responsibilities are divided between central and local authorities, if any public official or agent of the state fails to comply with international human rights legal standards on the right to adequate housing, the government is responsible and can be held to account for the breach of international law.

## OBLIGATIONS UNDER THE RIGHT TO ADEQUATE HOUSING

States are required to respect, protect and fulfil the right to adequate housing.

In order to respect the right to adequate housing, governments must not interfere with people's housing situations without due process and must not carry out forced evictions.

Public officials have a duty to protect people from any interference with their rights by third parties, such as landlords and companies.

Forced evictions violate the right to adequate housing and must be prevented in practice and prohibited under domestic law. Governments must have legislation in place to prohibit forced evictions, prevent discrimination by landlords and regulate rents and housing conditions.

In line with available resources, governments must take concrete and targeted steps to improve housing and living conditions for all people, as quickly as possible.

In order to fulfil their international obligations, governments must adopt all appropriate legislative, administrative, budgetary, judicial, promotional and other measures required to realize the right to adequate housing for all. Policies and programmes must be developed and implemented in a manner that increases access to adequate housing for all, and improves housing conditions within the country.

**At the minimum, governments must prioritize access to a basic level of housing for everyone**, for example by preventing and addressing homelessness. Governments and public officials, while carrying out their functions, should also prioritize the most disadvantaged groups when allocating resources, and guarantee the right of people to participate in and be consulted on decisions that will affect their lives. Effective remedy must be provided if any of these rights are violated.

## GOVERNMENTS MUST IMPLEMENT THE FOLLOWING MEASURES WITH IMMEDIATE EFFECT

- ☑ Recognize and protect the right to adequate housing as a legal right, enforceable by the courts.
- ☑ Ensure that everyone has at least a minimum level of security of tenure and protection against forced evictions.
- ☑ Adopt and implement a law which prohibits forced evictions and which sets out safeguards that must be complied with prior to any eviction.
- ☑ Prohibit and address discrimination, including racial segregation and discrimination against women in housing.
- ☑ Introduce effective mechanisms to monitor the housing situation in the country. These mechanisms should identify people who lack a minimum degree of security of tenure, the homeless, people who live in inadequate housing and groups who face the greatest barriers in realizing their right to adequate housing. Governments must act on and regularly update this information to assess their progress.
- ☑ Ensure that all programmes and any allocated resources linked to housing prioritize those who are worst off.
- ☑ Prioritize provision of basic services, including minimum essential levels of safe water and sanitation.
- ☑ Review and modify rules and regulations on housing construction, planning and zoning to promote housing for all and try and make it easier rather than harder for people living in poverty to build or maintain their homes.

- ☑ Ensure that the costs of housing and materials to build homes are affordable, particularly for the poorest people.
- ☑ Introduce measures to ensure affordability of housing, such as regulations on rent levels and other housing-related costs, and ensure that increases in rents, mortgages and other forms of housing finance do not threaten people's ability to satisfy other needs.
- ☑ Adopt a housing policy which prioritizes a basic level of housing for everyone and sets out time-limited goals to progressively improve housing conditions, and ensure the participation of people, particularly disadvantaged groups in formulation of such a strategy.
- ☑ Introduce standards to ensure housing is "adequate", setting out requirements of habitability, location and availability of services, facilities and infrastructure, in line with the international standards.
- ☑ Set-up effective mechanisms for monitoring all authorities, at national and local levels, to ensure that they act consistently with the state's international obligations.
- ☑ Ensure that people are able to participate in and are consulted over decisions that will affect their lives.
- ☑ Provide for effective remedies and reparations to all people, whose right to adequate housing has been violated, including through recourse to the courts where necessary.

# FORCED EVICTIONS

**“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.”**

UN Basic Principles and Guidelines on Development-based Evictions and Displacement, para 7

3

## WHAT IS A FORCED EVICTION?

A forced eviction is the removal of people against their will, from the homes or land they occupy, without legal protections and other safeguards.<sup>2</sup> The UN Committee on Economic, Social and Cultural Rights has stated that instances of forced eviction are incompatible with the requirements of the Covenant,<sup>3</sup> emphasizing that a state “must refrain from force evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions.”<sup>4</sup>

**The Committee identifies security of tenure as a crucial element in determining adequacy of housing** and has stated that “Legal security of tenure takes various forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction,

harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.”<sup>5</sup>

In addition, the UN Human Rights Committee has stated that forced evictions contravene Article 17 of the International Covenant on Civil and Political Rights, which upholds the right to protection against arbitrary or unlawful interference with a person’s privacy, family or home.<sup>6</sup> Forced evictions have also been held to contravene the International Convention on the Elimination of All Forms of Racial Discrimination, the UN Convention on the Rights of the Child and the UN Convention on the Elimination of All Forms of Discrimination Against Women. The UN Committee Against Torture stated in the case of *Hajrizi Dzemajl v Yugoslavia*<sup>7</sup> that, in certain circumstances, forced evictions may amount to cruel, inhuman or degrading treatment or punishment, and contravene Article 16 of its Convention.

**The UN Commission on Human Rights has also recognized that forced evictions constitute gross violations of a range of human rights**, in particular the right to adequate housing.<sup>8</sup>

The UN Special Rapporteur on adequate housing, an independent expert mandated to report, advise and provide technical assistance to governments on the right to adequate housing, developed the Basic Principles and Guidelines on Development-based Evictions and Displacement. The guidelines reflect existing standards and jurisprudence on the issue of forced eviction.<sup>9</sup> They describe in detail the steps that should be taken before, during and after evictions in order to ensure compliance with international human rights law. While the Basic Principles focus in particular on evictions and displacement arising from large-scale development projects, which typically affect large numbers of people, their guidance is useful for all kinds of evictions.

## LEGAL SAFEGUARDS TO PREVENT FORCED EVICTIONS

Under international human rights law, evictions may be carried out only as a last resort, once all other feasible alternatives have been explored in genuine consultation with the people affected. Evictions cannot be carried out until appropriate procedural and legal safeguards are in place, such as providing those affected with:

- Opportunities for genuine consultation.
- Adequate and reasonable notice prior to the eviction.
- Information about the proposed eviction and, where applicable, about the alternative purpose for which the land or housing is to be used; to be made available in reasonable time.
- Government officials or their representatives to be present during an eviction.
- Proper identification of anyone carrying out the eviction.
- Ensuring that evictions are not carried out in bad weather or at night.
- Legal remedies.
- Legal aid, where possible, to people who are in need of it to seek redress from the courts.

**Governments must also ensure that no one is made homeless or vulnerable to other human rights violations as a consequence of an eviction.** People must be compensated for all losses and governments must provide adequate alternative housing to those who cannot provide for themselves.

Compensation and alternative housing including resettlement must be provided before the date of eviction. All resettlement measures, such as construction of homes, provision of water, electricity, sanitation, schools, access roads and allocation of land and sites, must comply with international human rights standards.<sup>10</sup>

These requirements apply to all evictions, regardless of whether the people being evicted rent, own, or occupy the land or housing in question, including those living in informal settlements.

**Public officials have a duty to ensure that all evictions, including those ordered by courts or carried out by private actors, comply with these safeguards, and that when they do not, the victims of the forced evictions have access to effective remedies.**

The UN Committee on Economic, Social and Cultural Rights has emphasized that governments must pass laws banning forced eviction, stating that “Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of house and land (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it.” The UN Committee adds that “States parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any [...] that are inconsistent with the requirements of the Covenant.”<sup>11</sup>

International human rights law recognizes that authorities may legitimately carry out evictions in a number of situations, such as when people have persistently not paid their rent or when a particular area of land is essential for a project that serves a significant public interest. Evictions carried out in accordance with the law and international human rights standards do not constitute a forced eviction. Although the use of force must be avoided, the prohibition on forced evictions does not apply to all evictions carried out by force as long as the force used is compliant with international law. This means that force must be used as a last resort, when absolutely necessary, and any force used must be proportionate and reasonable. Hence if a government has put in place all necessary legal safeguards, the eviction would not amount to a forced eviction.

# ENSURING EVICTIONS COMPLY WITH INTERNATIONAL STANDARDS

**“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.”**

UN Basic Principles and Guidelines on Development-based Evictions and Displacement, para 21

## EQUALITY AND NON-DISCRIMINATION

4

Authorities must ensure that evictions and all processes related to eviction, including resettlement, do not directly or indirectly result in or aggravate patterns of discrimination and gender inequality.

While planning projects or considering evictions for any purpose, authorities must assess if any particular groups of people are at higher risk of evictions or have been disproportionately affected by evictions. For instance, certain ethnic groups may be over-represented in informal settlements or other situations where people lack security of tenure due to historical patterns of discrimination. Authorities must address the underlying reasons for this, including by rectifying gaps in laws or policies, and taking positive measures to combat discrimination and improve security of tenure for such groups.

Local and other authorities must also ensure that all processes related to evictions are undertaken in a non-discriminatory manner and promote gender equality. Everyone should have access to consultation, legal remedy, compensation and resettlement without discrimination. International human rights law strictly prohibits discrimination on the basis of race, ethnicity, minority or Indigenous status, gender, religion, language, national or social origin, political or other

opinion, marital or family status or birth, sexual orientation and gender identity, property status or place or residence (which also includes tenure status), economic or social situation, age, disability or health status.

Authorities must take additional measures to reach groups who may, for whatever reason, face greater difficulties in engaging with eviction and resettlement-related processes (these may include women, older people or, people with disabilities or people belonging to particular ethnic groups). Authorities may need to take specific outreach and information measures designed to reach these groups including separate meetings as necessary and ensure that they are supported and encouraged to participate in all processes related to evictions and resettlement.

Local authorities must also ensure that any alternative housing or resettlement, which is provided, acknowledges and addresses the specific needs of disadvantaged groups. Any contracts, titles to property or benefits at resettlement sites must be allocated in a way that ensure equality and non-discrimination, for example by ensuring that women are equal beneficiaries. Additionally, the location of resettlement sites must not perpetuate discrimination or result in racial segregation.

## **TAKING ALL POSSIBLE MEASURES TO AVOID OR MINIMIZE EVICTIONS**

Evictions disrupt the lives of individuals and communities. When someone loses their home, they are often also deprived of a familiar environment and neighbourhood, social networks and opportunities for work, and their access to education, health care and other public services is disrupted.

Authorities are required to take all possible measures to minimize or avoid evictions. They must undertake genuine consultations with all those affected and explore all feasible alternatives. For example, where an eviction is sought because of non-payment of rent, consultations may result in an agreement allowing people more time to pay. Where evictions are planned because people live in unsafe housing, it may be possible to upgrade rather than demolish the properties.

Whatever the situation, authorities must explore alternatives to eviction and give the affected people an opportunity to suggest feasible alternatives as well (see the requirement on genuine consultations below).

While planning projects that may result in evictions, authorities must intervene to ensure that those responsible for the project assess all prospective sites in terms of impacts on people living on or close to the site. If there are multiple sites that may be suitable, preference should be given to those sites which could avoid or minimize evictions.

Authorities must be able to demonstrate that they have explored all possible sites for a given project, assessed the possible impacts on people and made a final selection on the basis of avoiding or minimizing evictions.

UN guidelines on evictions explain that “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.”<sup>12</sup>

## UNDERTAKING GENUINE CONSULTATION

The UN Committee on Economic, Social and Cultural Rights has identified “genuine consultation” with affected persons as a fundamental safeguard against forced evictions. The UN Committee has highlighted that “States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.”<sup>13</sup> Local authorities must undertake this safeguard from the outset of planning for the eviction up until all people concerned have been resettled.

This is important for a number of reasons. The people affected may suggest alternatives which could potentially meet both parties’ needs, and help minimize or avoid evictions. Consultation can also help to ensure that use of force is

minimized or even avoided all together if evictions do proceed, and that any resettlement provision meets the needs of the affected community. While it may seem that consultations delay the process or cost money, in the long term they can ensure that a project is implemented in a more cost-effective way (particularly when hidden social costs of eviction in terms of loss of access to work, food, schooling, health care etc are factored in), while at the same time minimizing inequality, social conflict and segregation.

## PROVIDE FULL, ACCURATE AND TIMELY INFORMATION

Full, accurate and timely information is essential for affected people to effectively participate in any consultation process. Prior to consultations, those affected by a proposed eviction must be given full information on:

- The proposed eviction and the reasons for it, and the intended use of the land or property following the eviction.
- The compensation and alternative housing options that will be provided and any exclusions.
- The alternatives to evictions that were considered by the authorities.
- How the eviction and resettlement will be carried out, including the private and public actors who will be involved and details of their roles and responsibilities.
- Opportunities to challenge decisions or any aspects of the eviction process before administrative bodies and the courts.
- The objectives, method and timeline of the consultation process (including opportunities to engage with different actors who may be involved) and an opportunity for affected people to make suggestions to increase its effectiveness.

Authorities must make sure that the information provided is accessible to all for all people in the community and not just community representatives. The information must be provided in writing and in the local language or languages of the affected community. It must also be provided in a manner that allows all sections of the community – including those who cannot read – to participate effectively in the consultation process. For instance, where necessary, the authority must share information through public announcements via television and radio, and public and focus group meetings.

As highlighted earlier, authorities may need to take additional measures to ensure any information they provide also reaches those groups who face greater difficulties in engaging with the process.

## ENGAGE WITH AFFECTED PARTIES

Anyone affected by a proposed eviction must be given adequate time and opportunity to reflect upon, discuss, raise concerns and submit comments about the eviction and any related plans, including on compensation and resettlement. Affected people should be able to participate collectively, through their elected representatives, if they have any, and in smaller groups and individually. They must also be given an opportunity to suggest any feasible alternatives to eviction. Authorities must make provision for people, individually and collectively, to seek additional information and receive responses to any questions arising from the information provided. They must hold public meetings where they share information and provide people with the opportunity to raise questions, suggest alternatives to evictions and challenge any decisions taken by the authorities. Organizations and advocates working with the affected community must also be able to attend these meetings. The authorities must publicize and keep records of such meetings. People must have an opportunity to view and challenge those records.

For projects with technical aspects that could affect people's rights (such as the construction of plants which may emit pollution close to people's current homes or proposed resettlement sites), it is important that people are supported in order

to understand fully the potential impacts and the mitigation measures being proposed. Such technical details, their possible impacts and risks and how these will be managed will need to be communicated in a clear and accessible manner to those affected. The authorities may also need to provide independent technical, legal or other advice to people to support them through the process so that they are fully aware of their rights and options, including their ability to challenge the process.

In situations where large groups of people may be at risk of evictions, authorities often prefer to engage with community representatives. In that event, the authorities must ensure that representatives have been chosen by the community, are authorized to represent it and that there is a fully inclusive process in place for representatives to report back to all affected people and seek further input on any proposals. Authorities cannot defer the process of providing information and consultations to such representatives and must convene public meetings where people also have an opportunity to receive information independently.

It will often be necessary to convene smaller meetings with groups who face particular difficulties in engaging with the process, such as discrimination within the community or where tensions exist between different interest groups (for example, tenants and landlords). The authorities must, in all cases, assess and address the needs of the most disadvantaged groups and ensure that the process is non-discriminatory. The resettlement solutions offered may not suit everyone and the authorities may need to consider a range of compensation and resettlement options in response to different needs. For example, landlords may be satisfied with compensation but tenants may require support in securing adequate alternative housing. If they cannot afford such housing by themselves, they may need rental subsidies or access to demarcated housing for low-income groups. It is therefore extremely important that the consultation process enables the authorities to engage with disadvantaged groups, that they are able to participate in the process on an equal basis, and that their needs are identified and addressed throughout the process.

## CONSIDER ALTERNATIVE PROPOSALS BY AFFECTED PARTIES

Prior to making a decision on an eviction, authorities must consider all feasible alternatives proposed by the affected community.

Local authorities can play a positive role by involving affected communities and urban planning experts in devising alternatives to evictions. Upgrading settlements with minimum reorganization and constructing high-density housing units in consultation with local communities could be one way to avoid evictions. Where evictions are the result of a dispute over land ownership, or an attempt to restore land to its owner, local authorities could mediate between competing interests and suggest options such as land-sharing that do not result in evictions.

The final decision on any eviction should provide a clear justification of why it needs to be carried out, the alternatives that were considered, the reasons for rejecting them and any other efforts made by the authorities to avoid evictions and minimize negative impacts. The authorities must also clarify how they have addressed any concerns raised by the affected community, and how their input has been incorporated into plans and options for resettlement and compensation and on the timing and process used for the eviction.

UN guidelines on evictions state that “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.”<sup>14</sup>

## INDIGENOUS PEOPLES AND FREE, PRIOR AND INFORMED CONSENT

The UN Declaration on the Rights of Indigenous Peoples (the Declaration) affirms the right of Indigenous Peoples to the “lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired,” and requires that states grant them legal recognition and protection.<sup>15</sup> The Declaration requires states to seek the free, prior and informed consent of Indigenous communities for any developments or plans to use their traditional lands or to remove them from such lands.<sup>16</sup>

Article 10 of the Declaration states that “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.” The requirement of free, prior and informed consent of Indigenous Peoples has also been affirmed by the UN Committee on the Elimination of Racial Discrimination, the UN Committee on Economic, Social and Cultural Rights, the UN Human Rights Committee<sup>17</sup> and the Inter-American Court of Human Rights.<sup>18</sup>

If authorities are planning any project which concerns Indigenous Peoples’ traditional lands or which may result in their being evicted from such lands, they must obtain the affected community’s free, prior and informed consent before proceeding.

## IMPACT ASSESSMENTS

According to UN guidelines on evictions, “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.”

Individuals within a community experience the impacts of eviction differently. The degree of impact is influenced by a number of factors, including economic or social status, race, ethnicity, citizenship, gender, religion, age and disability. Local authorities can play a key role in minimizing these impacts and ensuring that human rights are protected. A vital tool for minimizing impact is detailed impact assessment, which can inform the decision-making process regarding evictions and resettlement.

Accurate and effective impact assessments need the active participation of all stakeholders, in particular the people who will be affected.

To enable active participation, local authorities must provide those affected with all necessary information on the method and objective of the impact assessment. The information must be provided in the local language or languages, and in a manner that is accessible to everyone, including those who cannot read.

Impact assessments must include a baseline survey of the community and provide information about:

- The area or plot of land under consideration.
- The settlement and its legal status, including the ownership of the land in question.

- The number of households and individuals living in the area (including those considered homeless) with disaggregated data according to gender and other relevant grounds of discrimination.
- The number of years or months that the affected people have been living in the area under consideration.
- The individuals who may be working but not living in the area, including those who may be using the area under consideration for access to other areas or resources.
- The tenure status of those living in the area (owners, leaseholders, tenants, those lacking formal tenure as well as those who may be regarded as homeless).
- The work and various income-generating activities (including home-based work) that affected people are engaged in.
- Public services in the area including schools, clinics, water, sanitation, garbage collection, street lighting.
- The type, size and materials used for housing in the area.
- Shops, stalls and canteens in the area.
- The location of the area with regard to major transport links, work opportunities including markets, schools and health care centres.

Once baseline information is obtained, an evictions impact assessment should be carried out. The impact assessment should be designed in a way that will detail specific potential impacts of eviction on the community as a whole, as well as on different sections within the community based on their individual status or situation.

The impact assessment must include specific information on anticipated impacts, including:

- Access to alternative housing.
- Access to transport, schools, crèches, health care and other public services.
- Work and income-generating opportunities.
- Social and community networks.
- Participation in public life.

Local authorities must share the impact assessment with the affected community and its representatives, and invite comments and objections for greater accuracy. The complete assessments must be shared with affected people in a form and manner that is accessible to all members of the community.

The impact assessment must be finalized only after comments and objections from members of the affected community and their representatives have been given due consideration. Local authorities must be able to demonstrate ways in which this has been achieved.

The impact assessment must then be used to determine the feasibility of the eviction in a transparent manner. Where eviction becomes the only possible option, the impact assessment must be used to inform the entire eviction process as well as compensation and resettlement measures.

Where applicable, the costs of mitigating impacts, including through compensation and the provision of alternative housing, must be built into the total cost of the particular project responsible for the evictions.

## ADEQUATE AND REASONABLE PRIOR NOTICE OF EVICTION

Once the consultation process is satisfactorily completed, local authorities must provide all affected people with adequate and reasonable notice of the eviction. Individual notices must be provided in writing, in the local language or languages whenever possible, or translations services must be made available. Written notices must be complemented by measures to provide information in an accessible format for anyone who is unable to read. This may require the use of public television and radio announcements and public and focus group meetings.

The time between the notice and the date of the proposed eviction must be sufficient to enable people to legally challenge the decision. It must also allow enough time for people to be able to assess any potential losses, for which they would require compensation. It should enable discussions on resettlement to be finalized and for resettlement to be available and fully functional prior to the eviction.

According to the UN guidelines on evictions, “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.”<sup>19</sup> For situations involving mass evictions, 90 days would therefore normally be a minimum requirement.

The notice must provide a clear date and time for the eviction and describe the various steps involved in the process. It must also contain detailed information and a rationale for the compensation and resettlement measures to be adopted, and guidance on raising questions and challenging decisions about the eviction, compensation or resettlement, both before the courts and administrative bodies.

Local authorities must make sure that residents have full access to their homes and to all public goods and services, including water, sanitation and electricity throughout the notice period until the actual day of the eviction.

## PROVIDING LEGAL REMEDIES AND LEGAL AID

One of the core safeguards against forced evictions identified by the UN Committee on Economic, Social and Cultural Rights (the Committee, or CESCR) is that “Legal remedies or procedures should be provided to those who are affected by eviction orders.”<sup>20</sup> It has also stated that governments should provide legal aid to people who are in need of it to seek redress from the courts.<sup>21</sup>

The UN Committee has emphasized the obligation on states to have legal remedies within its domestic legal system to safeguard against violations of the right to adequate housing, including “legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions.”<sup>22</sup>

UN guidelines on evictions also emphasize the need for “All final decisions [on evictions to] be subject to administrative and judicial review.” Affected parties must also be guaranteed timely access to legal counsel, without payment if necessary.”<sup>23</sup>

Local authorities must therefore ensure that anyone at risk of eviction is able to challenge decisions to evict them, including before the courts. They must be provided with information on the legal remedies available to them, how to obtain them and legal aid, where necessary. This information should be provided at different stages of the eviction process but information about opportunities to challenge any eviction decision must also be included in the notice for evictions.

# 4

# ALTERNATIVE HOUSING AND COMPENSATION

**“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.”**

UN Committee on Economic, Social and Cultural Rights, General Comment 7:  
The right to adequate housing: forced evictions, 20 May 1997, para 16

## PROVIDING COMPENSATION FOR ALL LOSSES

The UN Committee on Economic, Social and Cultural Rights has highlighted that “States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.”<sup>24</sup>

Local authorities should give affected people time to assess all possible losses and ensure that these are compensated. Monetary or cash compensation should not be used to replace the provision of alternative housing for those who cannot provide for themselves.

5

UN guidelines on evictions also state that “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. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.”<sup>25</sup>

In situations where affected people express a preference for cash compensation over alternative housing, local authorities must ensure that all information about alternative housing and compensation is made available to them, so that they are able to make an informed choice. Local authorities must also ensure that the preference for cash compensation is acceptable to all people within the household, especially women. Both women and men in the household must be co-beneficiaries of the cash compensation provided. In the case of single women and women-headed households, monetary compensation must be given to the women.

People expressing an interest in cash compensation should be given sufficient time to assess the availability of housing and the adequacy of the compensation in securing alternative housing before a final decision can be made.

## ADEQUATE ALTERNATIVE HOUSING FOR THOSE WHO CANNOT PROVIDE FOR THEMSELVES

Local authorities must provide adequate alternative housing to all those who cannot provide for themselves, and ensure that no one is left homeless or at risk of human rights violations as a result of an eviction.

### WHO IS ELIGIBLE FOR ALTERNATIVE HOUSING AND RESETTLEMENT?

The main criteria determining provision of alternative housing is the situation of the person being evicted and their ability to secure adequate housing by themselves. Local authorities must provide all people who would be at risk of homelessness, or only be able to afford inadequate housing through their own means, with adequate alternative housing. Local authorities cannot draw distinctions between evicted people to deny those in need, including on the basis of their tenure status, registration as residents in the city or even migration status. Governments cannot deny people their right to adequate housing in order to punish them for their failure to comply with other laws and policies and must deal with these issues through appropriate procedures. So for instance, governments can deport people following due process if they have breached immigration requirements but cannot demolish their homes and leave them homeless to punish them for being “irregular” migrants.

## KEY STEPS TO ENSURE THAT ALTERNATIVE HOUSING OR RESETTLEMENT COMPLIES WITH INTERNATIONAL STANDARDS

Any alternative housing provided, including through resettlement for large groups of people, must comply with the “adequacy” of housing requirements identified by the UN Committee on Economic, Social and Cultural Rights and other international human rights standards, including the prohibition on discrimination and racial segregation. Local authorities must ensure therefore that:

- ☑ People have legal security of tenure in their new home through a variety of means including rental contracts, documents confirming their right to live there, or titles to the property where people will have full ownership. In all circumstances, people must be protected against forced evictions.
- ☑ All measures relating to security of tenure must provide equal protection for men and women in a household and should therefore be provided in the form of joint titles/tenancy or lease agreements. In the case of single women or women-headed households, titles or tenancy or lease agreements should be in the name of the women concerned.
- ☑ The homes have access to public services including water, sanitation, electricity or other forms of energy for cooking, lighting and heating, garbage collection and street lighting.
- ☑ The material used for house construction must be safe and non-hazardous.
- ☑ Housing must be adequately ventilated and must also provide protection from the cold, wind and other natural elements. All homes must comply with national laws and regulations.
- ☑ Alternative housing must be affordable for affected people. For example, in cases where they pay rent for alternative housing, the rents charged should not threaten people’s ability to satisfy other needs such as food, clothing etc. Local authorities may provide subsidies if the rental housing is through the private market.

- ☑ The homes have adequate space and are not overcrowded. While local standards may vary, according to indicators used by UN-HABITAT, the UN agency for human settlements, there should be no more than three people to a room.
- ☑ The location of the new homes or resettlement sites enables people to access their place of work, schools, health care services and other public facilities and services. Where transport is required to access such services and facilities, transport links should be regular and affordable for people. The housing should not be built on or near a garbage dump, industrial waste site or areas which are prone to environmental hazards or pollution and threaten the health or safety of the residents.
- ☑ Unless the original sites where people were evicted from were segregated or unsafe because of environmental or other factors, preference should be given to locations which are as close as possible to the original areas of residence.
- ☑ The location of the new homes or resettlement sites must not result in racial segregation, and must comply with the cultural requirements of the affected people.
- ☑ Local authorities must ensure that relocation does not impact affected people's ability to participate in elections or other public processes, or their access to benefits and subsidies. Where applicable, they must be assisted with paperwork, including registration of residence, on electoral roles and when obtaining identity cards.
- ☑ In the case of children without families or households headed by children, local authorities must ensure that their rights are protected. This can be done through seeking the involvement of the affected children, in line with their evolving capacities and the intervention of social services, child services authorities and civil society organizations and members of the affected community, to work out resettlement measures that are in the best interests of the child.

## ASSESSING OPTIONS FOR ALTERNATIVE HOUSING AND RESETTLEMENT WITH THE AFFECTED COMMUNITIES

As highlighted in the section on genuine consultation, local authorities should provide affected people with full information on all resettlement options and consult them on these options. People must have the opportunity to visit the proposed alternative housing and relocation sites in order to engage effectively in the consultation process. Local authorities should also provide affected people with an opportunity to suggest alternative sites for relocation.

It is essential that authorities try to comprehensively identify options for providing people with adequate alternative housing and resettlement. Often, there is a tendency to move people to the outskirts of cities where they may be far away from places of work and other facilities, or even racially segregated. This can be extremely damaging to the affected people and often also results in an inefficient use of public resources as people may be forced to move back to slums within the city in order to find work. Authorities should therefore consult people on their housing needs and consider a range of options that could meet those needs. Affected people should also have the opportunity to meet with architects and planners who may be responsible for construction or modification of housing or sites, and to provide input on designs and plans.

Options that authorities may consider include sites closer to the city that could be adapted, including empty or disused buildings that are either privately or publicly owned. Local authorities may be able to use existing social or low-cost housing or consider options such as subsidies to enable placement of people within the private rental market. Where private actors are involved in the project, resettlement can also be included as a condition of the project but the authorities must always retain the role of ensuring the adequacy of the housing provided, that all people are treated fairly and equally and that all safeguards related to evictions and resettlement are complied with.

Affected people are often best placed to suggest options that would best serve their needs and the consultation process offers an invaluable opportunity for the authorities to obtain this input. For example, in some cases, affected people have

asked the authorities to provide them with affordable materials but offered to build homes themselves or suggested that, if the authorities provide services such as water, sanitation and electricity, they would pay the public rates for these services.

For evictions involving large groups of people, local authorities should also use impact assessments and baseline surveys as guidance for developing resettlement plans.

## TEMPORARY HOUSING

Local authorities must ensure that compensation and resettlement measures are completed prior to evictions. Affected people should be provided with temporary alternative housing only when this is unavoidable, such as when their homes are being upgraded to an extent where it is unsafe for them to live there during the process, or where there are serious threats to people's health and safety on the original sites requiring them to be evacuated in a short period of time. These circumstances should be fully explained to the affected people and their representatives.

Local authorities must ensure that evicted people live in temporary housing for as short a time as possible, after which they will be relocated to long-term alternative housing. Local authorities must make sure that this causes least disruption to the lives and particularly to the education, work and health and health care requirements of those affected.

Temporary housing must comply with the core components of the right of adequate housing and fulfil the criteria of access to public goods and services, location and habitability as in the case of alternative housing mentioned above.

Local authorities must make sure that affected people are provided with full and regular information on the progress of provision of long-term housing and have information on and access to remedies through administrative and judicial processes.

# CONDUCTING EVICTIONS

**“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.”**

UN Basic Principles and Guidelines on Development Based Evictions and Displacement, para 47

Once due process has been followed and If evictions are to be carried out, local authorities must ensure that they are conducted in a manner which respects the rights of the people affected and that any use of force is strictly necessary, proportionate and complies with international human rights standards.

According to the UN Committee on Economic, Social and Cultural Rights (the Committee, or CESCR), “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.”<sup>26</sup> The UN Committee has also emphasized that government officials or their representatives must be present during an eviction; anyone carrying out the eviction should be properly identified; and evictions must not take place in particularly bad weather or at night.

**“Any legal use of force during evictions 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.

6

“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.

“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.”<sup>27</sup>

In order to ensure that evictions do not result in human rights violations, local authorities should regularly engage with affected people to assess their preparedness for eviction. Local authorities should also seek to engage the affected community in a dialogue or through a public meeting about any concerns that affected people may have about the eviction as well as for updating information on people requiring assistance and medical attention on the day of the eviction.

Local authorities must inform all affected people about the evictions process and about the roles of all officials of public and private bodies engaged in the eviction.

Local authorities must ensure that affected people are not forced to demolish their own houses or clear rubble except in situations where affected communities express their preference to do so in order to save their belongings from damage and salvage building material for reuse.

Evictions must never involve clearing the area by setting fire to houses. Where bulldozers are used, local authorities must ensure that the area has been cordoned off and affected people and their belongings as well as pets and livestock, where applicable, are out of harm’s way. Local authorities must provide assistance to people to transport their belongings to alternative housing or resettlement sites. Special assistance must be provided to people with mobility difficulties or disabilities, suffering illness, older people, pregnant women and people with young children and babies.

As far as possible, affected people, especially children and older people, should be taken to their alternative housing before house demolitions commence.

Local authorities must ensure that emergency services including fire engines and ambulances are present throughout the eviction.

In order to ensure that evictions do not result in human rights violations, local authorities must engage independent observers during an eviction.

Local authorities should provide gender sensitivity training to all officials – women and men – involved in the evictions process.

Local authorities must provide, and ensure that affected people are aware of, a complaints mechanism on site for registering complaints about the eviction.

# MONITORING RESETTLEMENT

**“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.”**

UN Basic Principles and Guidelines on Development Based Evictions and Displacement, para 69

After evictions have taken place, local authorities continue to play a significant role in ensuring that relocation and any alternative housing provided complies with domestic and international human rights standards.

Local authorities must continue to regularly monitor the situation at relocation sites and alternative housing to ensure that it continues to comply with all the core components of the right to adequate housing. In the case of children without families or children-headed households, local authorities must, along with social services and child care services, regularly monitor their living conditions as well as issues concerning general progress.

Monitoring should also examine whether evicted people are unable to access other human rights as a result of the eviction or relocation including access to education, work and health care.

Affected people must be provided with information on mechanisms whereby they could make complaints about or raise any concerns relating to the alternative housing provided.

Local authorities may institute a liaison officer and an ombudsperson to manage grievances and respond to them effectively. These procedures should not replace legal remedies where resettlement is in breach of international human rights standards.

# ENDNOTES

- 1** Article 17, the International Covenant on Civil and Political Rights; Article 16(1) and 27(4), the UN Convention on the Rights of the Child; Art 5(e), the International Convention on the Elimination of All Forms of Racial Discrimination; Article 14(2), the UN Convention on the Elimination of All Forms of Discrimination against Women; and Articles 9 and 28, UN Convention on the Rights of Persons with Disabilities. At the regional level, the right to adequate housing is protected under Articles 16 and 31, Revised European Social Charter (Article 16, European Social Charter); Article 8(1), European Convention on Human Rights, Articles 14, 16 and 18 (1), the African Charter on Human and Peoples' Rights; Articles 18 and 20 of the African Charter on the Rights of the Welfare of the Child; Articles 16, the Protocol to the African Charter on Human and Peoples' Rights and the Rights of Women in Africa; and Articles 11(1), 21(1) and 26 of the American Convention on Human Rights. While the European Convention on Human Rights the European Social Charter (1961), the American Convention on Human Rights and the African Charter on Human and Peoples' Rights do not explicitly refer to the right to adequate housing, expert bodies or courts who monitor these treaties have clarified that states have obligations to protect the right to adequate housing under these treaties derived from other human rights such as the right to privacy, the right to property and peaceful enjoyment of possessions, and the right to protection of the family.
- 2** The UN Committee on Economic, Social and Cultural Rights (CESCR) defines a forced eviction 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." CESCR, General Comment No. 7: The right to adequate housing (Article 11.1) of the Covenant): forced evictions, para 3, (Sixteenth session, 20 May 1997), E/1998/22.
- 3** CESCR, General Comment 4: The right to adequate housing (Article 11.1), para 18 (Sixth session, 13 December 1991), E/1992/23.
- 4** CESCR, General Comment 7, para 8.
- 5** CESCR, General Comment 4, para 8(a).
- 6** Concluding Observations of the Human Rights Committee: Kenya, UN Human Rights Committee, CCCR/CO/83/KEN, 29 April 2005, para 22.
- 7** Communication No. 161/2000, U.N. Doc. CAT/C/29/D/161/2000 (2002).
- 8** UN Commission on Human Rights Resolution 1993/77, para 1.
- 9** UN Basic Principles and Guidelines on Development-based Evictions and Displacement (Basic Principles), Annex 1 to UN.Doc, A/HRC/4/18.
- 10** Basic Principles, Principles 44, 55 and 56.
- 11** CESCR, General Comment 7, para 9.

- 12** Basic Principles, Principle 38.
- 13** CESCR, General Comment 7, para 13.
- 14** Basic Principles, Principle 41.
- 15** UN Declaration on the Rights of Indigenous Peoples 2007, Article 26.
- 16** UN Declaration on the Rights of Indigenous Peoples 2007, Articles 10 and 32(2).
- 17** See, UN Committee on the Elimination of Racial Discrimination, General Recommendation No. 23: Indigenous Peoples, (Fifty-first session, 08/18/1997), Annex 5 to UN Doc A/52/18. See also, UN Human Rights Committee decision, Ángela Poma Poma 27/3/2009, Communication No. 1457/2006.
- 18** See, eg, I/A HR Court, *Saramaka People v. Suriname*, Series C (No. 172) (2007).
- 19** Basic Principles, principle 56(j).
- 20** CESCR, General Comment 7, para 13.
- 21** CESCR, General Comment 7, para 15.
- 22** CESCR, General Comment 4. para 17(a).
- 23** Basic Principles, Principle 41.
- 24** CESCR, General Comment 7, para 13.
- 25** Basic Principles, Principle 60.
- 26** CESCR, General Comment 7, para 14.
- 27** Basic Principles, Principles 47–50.

# NOTES





# KNOW YOUR OBLIGATIONS

## A GUIDE TO PREVENTING FORCED EVICTIONS

Everyone has a right to adequate housing and all national and local governments, and their representatives, have an obligation to respect, protect and fulfil this human right. Local authorities are frequently the first point of contact in the planning and delivery of housing. Often, they are also key stakeholders in projects concerning infrastructure, city regeneration or reorganization, and large-scale events – some of the most common triggers for forced evictions.

Forced evictions – the removal of people, against their will, from the homes or land they occupy, without legal and other safeguards – are a violation of international human rights law.

Regardless of the reasons for an eviction, local authorities are invariably directly or indirectly involved in its implementation. They can, therefore, play a positive role in ensuring that people are protected from forced evictions and that their right to adequate housing is not violated.

Drawing on Amnesty International's research, this publication aims to assist public officials and others acting on behalf of the state to fulfil their obligations regarding the right to adequate housing. It outlines the main relevant international human rights standards and gives practical guidance on key measures that must be undertaken when planning projects that may involve evictions, or when carrying out or authorizing evictions for any other purpose.

[www.amnesty.org](http://www.amnesty.org)

Index: ACT 35/009/2012  
December 2012

**AMNESTY**  
INTERNATIONAL

