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Forced evictions Assessment Questionnaire

The present document is intended to serve as a guidance tool for addressing situations of forced evictions by: a) contextualizing events; b) assessing the existence and the type of human rights violations that are foreseen or on-going; c) offering practical advice to all parties; and d) helping to monitor and report on the situation.¹



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¹ This guidance tool is not exhaustive and should be read in combination with [OHCHR Fact Sheet n° 21 on the right to adequate housing](http://www.ohchr.org/EN/PublicationsResources/Pages/FactSheets.aspx) (<http://www.ohchr.org/EN/PublicationsResources/Pages/FactSheets.aspx>) and other tools that are being developed by OHCHR.

What are forced evictions?

Forced evictions can be broadly defined 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.²

In this context, violations of a wide range of civil, political, economic, social and cultural rights may occur because of i) the *absence of lawful justification/legality* of the eviction and ii) the *improper way the eviction is carried out*.

Forced evictions occur in urban areas under the justification of city beautification and renewal, preparation of mega-events (such as major sport events) or conducted under the pretext of serving “public interest”. In the majority of cases they affect the urban poor and those who lack secure tenure. They may also take place in rural and remote areas because of development projects (infrastructures, dams, roads), mining, extractive and other industrial activities, or land grabbing. In these settings, indigenous peoples and people who earn their livelihood from their land tend to be particularly affected. Corruption and speculation on housing and land are two other important reasons behind many forced evictions throughout the world.

Basic principles that need to be met to comply with international standards include:

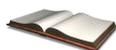
- a) Consultation and participation of affected people and communities;
- b) Adequate notification;
- c) Effective administrative and legal recourse;
- d) Prohibition of actions resulting in homelessness;
- e) Prohibition of actions resulting in deterioration of housing and living conditions; and
- f) Provision of adequate relocation and/or adequate compensation before evictions are carried out.



Common misconceptions

Not *all* evictions are prohibited. In some cases, for instance to protect residents living in a derelict building, evictions may be unavoidable and permissible. Nevertheless, even in these situations, the process of evictions should be in line with national law and relevant international standards.

Even if a national jurisdiction has ruled in favor of an eviction, the situation may still amount to an improper forced eviction if it does not comply with international standards and state-related obligations.



Reference documents and tools

[Committee on Economic, Social and Cultural Rights \(CESCR\), general comment n°7 on forced evictions and general comment N°4 on adequate housing](#)³

[Special Rapporteur on adequate housing, “Basic principles and guidelines on development-based evictions and displacement”, Annex to report A/HRC/4/18](#) (hereafter the “Guidelines”)⁴

² 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.

³ Available at: <http://www2.ohchr.org/english/bodies/cescr/index.htm>

⁴ Available at: <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>

Identification of victims

Situation of victims of forced evictions and their ability to uphold their rights, prevent unlawful evictions, seek redress, and organize vary greatly depending on the context, the group to which they belong and other factors. Thus, it is important to:

- a) Clearly identify the victims (individual, group, community) affected directly or indirectly
- b) Determine the composition and characteristics of the affected group, for instance the proportion of women, children, elderly, persons with disabilities, etc.; their belonging to a minority, indigenous community, etc.; if they are IDPs, refugees, migrants, homeless, etc.; *[Available statistics or surveys can prove useful in this context]*
- c) Identify genuine⁵ representatives of the community or affected people; *[Consider the gender dimension of this issue]*
- d) Take into consideration if some individuals or groups may be in favor of relocations/or may accept the eventual proposed compensation; *[Such consent should be free from any kind of pressure]*
- e) Evaluate if there are tensions, rivalries or other dynamics inside the affected populations or among leaders;
- f) Consider if the affected population generally faces discrimination in terms of access to justice, social services, etc.; *[Through law and/or practice]*
- g) It is also important to consider if any group within the affected population faces specific forms of discrimination, including from their own communities *[For instance women or people with HIV];*
- h) Take into account other human rights violations that the victims face.

Principle 6 of the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2)

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

2. The prohibition of arbitrary displacement includes displacement:

- (a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
- (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
- (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
- (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
- (e) When it is used as a collective punishment.

3. Displacement shall last no longer than required by the circumstances.

Mapping other actors and interlocutors

It is important to consider all actors that are directly or indirectly linked to the situation. Analyzing their role, perspectives and interests may give indications on ways of successfully intervening in a situation. Often views may differ among State authorities. The following is a list of actors, which should be adapted and completed according to the circumstances:

⁵ In some cases, the traditional leader or the interlocutor that put himself/herself forward may not represent the views of the entire community.

- a) Administrative, judicial, legislative and executive State authorities at federal/central level, at regional/provincial level and at municipal level; *[This includes not only authorities dealing with the project and its implementation, police forces or the judiciary but may also concern authorities dealing with labour, education, health, gender issues, etc.]*
- b) Ombudsman, national human rights institutions, etc.;
- c) Private sector companies and entities, including real estate developers, banking companies, extractive industries, agribusiness, investors, etc.;
- d) Universities, business associations, architects, urban planners, etc.;
- e) Trade unions, social movements, tenant associations, etc.
- f) International and national NGOs; *[Including associations resisting the evictions and those that may be in favour of the evictions or that have agreed to the relocation and/or compensation];*
- g) A third party that could act as “mediator” between conflicting parties; *[Whether by easing tensions or by being able to convey a negotiation table]*
- h) Independent observers whether national or international;
- i) Regional or international actors dealing with the situation; *[For instance a regional human rights court which is considering the case and has issued an interim decision or a precautionary measure]*
- j) International organizations (such as UN agencies, OSCE, CoE), financial institutions and donors (World Bank, ADB, EBRD, etc.); *[These institutions may either finance or implement the project, or be an influential actor]*
- k) National and international media (including Internet, social networks, blogs, etc.).

This mapping can give useful strategic information to respond to a given situation, by for instance, prioritizing actions depending on resources, looking at what type and how pressures may be exercised to halt or mitigate the eviction, and considering what platform/network could be created to defend the rights of the victims.

Contextualizing forced evictions

Every day forced evictions take place somewhere in the world. Yet, the environment and the context in which they occur vary greatly from case to case. Addressing the legal and structural problems could prevent their recurrence: a preventive approach to forced evictions is more efficient than trying to resolve cases once the process is in motion. This information can also be very useful for reporting purposes. Here are some questions that can help you to link the events to the more general context.

Legal context:

1. What is the status/recognition of the right to adequate housing in the country’s legislation?
2. Apart from property laws, is there any other legislation that directly or indirectly addresses elements of the right to adequate housing?
3. Is there legislation to protect tenants?
4. What is the country’s legal and regulatory framework for evictions?
5. Are there laws, policies or programmes in place to protect against forced evictions?
6. Are the above-mentioned laws enforced?

Housing context:

7. Which authority/ies is/are in charge of housing in urban and rural areas?
8. Are State competencies and responsibilities for adequate housing clearly defined?
9. Is there a national housing policy? Does it specifically address the needs of the most vulnerable? *[Urban and rural specificities and conditions should be considered.]*
10. Is there a programme for regularizing informal settlements?
11. Is there a programme for slum upgrading?

12. Is there enough affordable housing (both public and private) available?
13. Are there barriers, including discrimination, to accessing affordable housing, in particular for specific groups?
14. What policies are in place regarding housing and livelihoods in rural and remote areas, including in relation to ancestral lands, access to public services and access to productive resources and employment?
15. What is the housing situation in rural areas and is there access to basic services in those areas?
16. Is there speculation on housing and land, including land-grabbing?
17. Is urban planning inclusive of various sectors of the population or does it lead to spatial segregation?
18. Is information, such as master plans, freely and easily accessible to all?
19. Is the right to participation in decision-making applied to housing and land?
20. What indicators, statistics and data are available on adequate housing, including with regard to vulnerable groups?
21. What forms of remedy and redress are available under the national law?

Overall context:

22. Are victims of evictions facing other human rights issues, such as discrimination or racism?
23. What is public opinion on forced evictions?
24. Is the issue of evictions used for political and electoral ends?
25. How free is the press to enquire and report back on forced evictions?
26. Are there NGOs working on housing or forced evictions? Can they work freely? *[Both national and international.]*
27. Can people and communities – including those under threat of eviction – freely associate?
28. Is there generally an efficient judicial system and effective access to remedy?
29. Do officials and State representatives (including police forces) receive any human rights training?

Assessment Questionnaire

Violations of human rights can occur throughout the eviction process. They may differ in form and intensity depending on the phase of the eviction: before (including during the project design phase), during and after the eviction.

Consequently, the aim of a human rights intervention could be to: (a) prevent the human rights violation, for instance by halting the eviction; (b) if the eviction can be considered legally justified, ensure that it is carried out in a manner that respects the human rights and the human dignity of the affected residents; (c) address the human rights violations they experience through protection and recourse to complaint mechanisms, and (d) if the eviction has taken place without adequate relocation or safeguards, immediately address the housing and living conditions of the evicted residents, especially the most vulnerable and those whose life, security or health could be threatened.

The following questionnaire gives an indication of the various human rights violations and issues that could be raised during interviews with victims, communities, NGOs, international agencies, State and local authorities, private companies, etc. It could also serve as a basis for a concrete dialogue with various parties. Not all questions are always relevant depending on the context, the situation or the interviewee. They should be adapted and additional questions should be raised to clarify a point or investigate

“Instances of forced eviction are **prima facie** incompatible with the requirements of the [International Covenant on Economic, Social and Cultural Rights] and can only be justified in the most **exceptional circumstances**, and in accordance with the relevant principles of international law”

CESCR, general comment No. 4, para. 18

other potential human rights violations.

The responses may help you to: (a) assess if this situation qualifies as a forced eviction according to international standards; (b) investigate what human rights are violated and what is required to stop and redress these violations; (c) point out issues that need to be worked on in the medium and long run; (d) monitor the situation; and (e) report (including for treaty body or special procedure purposes).

A. Project design and before eviction

30. Have alternatives to eviction been considered and, if not, why not?
31. Have the redevelopment plans considered the possibility of rehousing evicted residents in the same location after the completion of the project? [*Thus only temporarily relocating them during the project's implementation.*]
32. Was an eviction impact assessment carried out? If so, give details. [*When was it undertaken and by whom, who was consulted, etc.?*]⁶
33. Are disaggregated data, statistics and indicators available to assess the differential impact of forced evictions on women, children, the elderly, people with disabilities, people with illnesses and under treatment, and other groups with specific needs?
34. How, when and by whom were communities informed of the project and possible evictions? How easy is it to access all the information relevant to the project?
35. Were communities consulted at any stage? When and how? By what authorities? Were all communities consulted or only some of them or only community representatives?
36. How were the affected residents/communities notified of the eviction? In which form (written, oral, public billboard, newspaper, radio, etc.)? How long in advance? In a language understandable to all those potentially affected?
37. Did the notification contain: a justification for the decision? An explanation of why there was no alternative to the eviction? Information on relocation? Information on compensation? Information on legal recourses available to challenge the decision and how to access these?
38. Are there administrative or judicial review mechanisms to challenge these decisions? Have they been used? Are they timely and effective? Are they accessible and affordable?
39. Do the affected individuals and communities have access to legal counsel – without payment if necessary?
40. Do the affected persons have enough time to access recourse mechanisms before the eviction takes place?
41. Can the process be suspended during the review of the eviction decision?
42. Was an inventory drawn up to assess the properties, investments and other material goods that are expected to be destroyed or could potentially be damaged?
43. Will the affected persons/households receive support/compensation to evacuate their belongings? Were they or their representatives informed of these measures?
44. What measures are foreseen to prevent them from becoming homeless or vulnerable to violations of other human rights? Were they or their representatives informed of these measures?
45. What short-term and long-term solutions were foreseen to ensure that the affected persons/households are adequately housed? Have the affected persons or their representatives been informed of these measures?
46. What relocation/resettlement measures are foreseen? Have the affected persons or their representatives been informed of these measures?
47. What specific measures were foreseen so that children's schooling is not disrupted?

⁶ The impact assessment is particularly important in evaluating the real cost of eviction that goes beyond material costs. See Basic principles and guidelines on development-based evictions and displacement, paras. 32 and 61–63. For related methodologies: OHCHR/UN-HABITAT, *Losing your home, Assessing the impact of eviction*, 2011 (<http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=3188>)

48. What specific measures were foreseen for those under medical treatment?
49. What specific measures were foreseen for persons with disabilities?
50. Were there consultations with the affected persons/communities on the adequacy of the relocation site?
51. Were there consultations with the current residents of the future relocation site?
52. Are the living conditions at the relocation site at least of the same level as at the original site and are they in accordance with core elements of the right to adequate housing? Is there access to basic services? Would the livelihoods of the relocated residents be guaranteed?
[For instance, if poor individuals and communities are relocated from slums and similar areas, an effort should be made to improve their living conditions at the relocation site. In no case should they be worse off.]
53. Is the relocation site fully operational before the eviction takes place?
54. Is relocation planned in a way that prevents the segregation and marginalization of the evicted communities?
55. Will the affected community or group be split up and relocated to different sites, disrupting their social networks?
56. If the affected residents have an opportunity to be part of the redevelopment project, did their tenure change (from tenant to owner, for instance)? Were measures foreseen to ensure the sustainability of this tenure (for instance, State subsidies), especially for those who are poor or on a low income? *[In some cases, evicted residents are offered an opportunity to buy housing in the newly redeveloped project – a situation that may not be sustainable depending on their income or their work situation.]*

Core elements of the right to adequate housing are:

- Security of tenure
- Availability of services, materials, facilities and infrastructure
- Affordability
- Habitability
- Accessibility
- Location
- Cultural adequacy

B. During evictions

57. When did the eviction take place? *[Time, date, in bad weather, on a public holiday, etc.?)*
58. Who carried out the eviction? *[In some cases, police forces seal off the area, but it is private company workers and bulldozers that destroy the houses.]*
59. Was a formal authorization for the eviction presented?
60. Were independent observers present (civil society groups, international organizations, media, etc.)?
61. How were the eviction(s) carried out? *[Description and details.]*
62. Was violence used by the authorities? *[Description and details. What material was used? Was it proportionate?]*
63. Were lives threatened? *[For example, bulldozers destroying houses with people inside.]*
64. Was there violent resistance from those facing evictions? *[Description and details.]*
65. Were belongings destroyed? *[These could be identification and official papers, cattle and poultry, immovable objects, etc.]*
66. Were those facing evictions forced to destroy their own shelter and belongings?
67. Were measures taken to protect possessions that were left behind against destruction, illegal appropriation and use?
68. Were steps taken to ensure that no one was subject to attacks or other acts of violence, in particular women and children? *[For instance from another community.]*
69. What measures were taken to minimize the traumatic impact of the eviction on women, infants, children, the elderly, persons with disabilities and ill residents?
70. Are video footage, testimonies or any other information on the event available?
71. Is the eviction over or are more evictions planned?

C. After evictions

72. Immediately after the eviction, what measures were taken to provide security, food, water, shelter, clothing, medical care and other essential goods?
73. Were evicted residents taken to the relocation site? With their belongings?
74. What concrete issues do the evicted residents face as a result of the eviction? In particular, what are their humanitarian needs? *[With the help of other agencies, draw up a list of issues with regard to shelter and protection against the cold and the heat, access to food and cooking facilities, access to water and sanitation, health situation of the community and medical care or schooling for children that could serve as a basis for requesting concrete and immediate action from the authorities.]*
75. Did the evicted residents have to bear any of the cost of the eviction and/or resettlement?
76. Could the media freely and impartially cover, investigate and report on the events?
77. Does the State monitor the situation of the evicted residents? *[Whether relocated or not.]*
78. Have there been any tensions/conflicts between the relocated community and the communities that already lived there?
79. Has there been any short-, medium- or long-term negative impact on the livelihoods of the relocated communities?

D. Remedies

80. If a judicial proceeding or hearing was held on the case, did it meet the criteria of fair and impartial justice, and due process?
81. Were victims or their representatives harassed or threatened in any way because of their opposition to the evictions?
82. Was there fair and just compensation for all the losses, whether material (such as personal, real or other property or assets), or non-material (such as loss of livelihood, employment, education and social benefits, psychological and social services)? *[For more details, see Basic principles and guidelines on development-based evictions and displacement, paras. 60–63.]*
83. How were the losses and the compensation assessed? Who was in charge of this?
84. If the livelihoods of the evicted residents were linked to their land and housing, what measures – in consultation with the affected residents – were foreseen so that they could continue to access productive resources and employment? *[Note that, for fishing communities, access to the sea, lakes and rivers may also be relevant.]*
85. How is compensation delivered, including from a gender equality perspective? *[Timeliness, administrative procedures, corruption may be issues to consider.]*

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