



**ASSESSING**

**THE IMPACT OF**

**EVICITION**

*Handbook*



United Nations  
**Human Rights**

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

**UN HABITAT**  
FOR A BETTER URBAN FUTURE





## ASSESSING THE IMPACT OF EVICTION

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United Nations Human Settlements Programme (UN-Habitat),  
P.O. Box 30030, GPO Nairobi 00100, Kenya.  
Tel: +254 20 7623120  
E-mail: [habitat.publications@unhabitat.org](mailto:habitat.publications@unhabitat.org)  
[www.unhabitat.org](http://www.unhabitat.org)

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### Acknowledgments

**Main Author:** Graciela Dede

**Editor:** Tom Osanjo

**Design:** Austin Ogola

**Team Leaders:** Mohamed El-Sioufi, Christophe Lalande

**Task Managers:** Bahram Ghazi, Channe Oguzhan, Jagoda Walorek

**Contributions:** Appreciation to all who provided advice, ideas, information and/or reviewed and commented on drafts of this report, including: Michaela Bergman, Natalie Bugalski, Michael Cernea, Shivani Chaudhry, Laure-Anne Courdesse, Pierre Fallavier, Szilard Friczka, Miloon Kothari, Geoffrey Payne, Jean du Plessis, Susan Price, Raquel Rolnik, Tasneem Salam, Joseph Schechla, and Chris de Wet.



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# List of Acronyms

<b>ACHR</b>	Asian Coalition for Housing Rights
<b>ADB</b>	Asian Development Bank
<b>AfDB</b>	African Development Bank
<b>BABC</b>	Bridges Across Borders Cambodia
<b>BMA</b>	Bangkok Metropolitan Administration
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CODI</b>	Community Organisations Development Institute
<b>COHRE</b>	Centre on Housing Rights and Evictions
<b>CRABI</b>	Commission of People Affected by Dams Construction on the Iguazu River
<b>EHS</b>	Emergency Housing Solution
<b>EIA</b>	Environment Impact Assessment
<b>EvIA</b>	Eviction Impact Assessment
<b>FAO</b>	Food and Agriculture Organization
<b>FGDs</b>	Focused Group Discussions
<b>GEM CX</b>	Multidisciplinary Studies Group
<b>GLTN</b>	Global Land Tool Network
<b>HIC</b>	Habitat International Coalition
<b>HLRN</b>	Housing and Land Rights Network
<b>HR</b>	Human Rights
<b>HRBA</b>	Human Rights-Based Approach
<b>IAIA</b>	International Association for Impact Assessment
<b>IASC</b>	Inter-Agency Standing Committee
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>IEA</b>	International Energy Agency
<b>IFC</b>	International Finance Corporation
<b>IRR</b>	Impoverishment Risks and Reconstruction
<b>LARAP</b>	Land Acquisition and Resettlement Action Plan
<b>LNG</b>	Liquefied Natural Gas
<b>MAB</b>	National Movement of People Affected by Dams
<b>MPP</b>	Municipality of Phnom Penh
<b>MST</b>	Landless Workers Movement
<b>NGO</b>	Non-Governmental Organisation
<b>NHRI</b>	National Human Rights Institutions
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>PRIA</b>	Society for Participatory Research in Asia
<b>SEA</b>	Strategic environmental assessment
<b>SEBRAE</b>	Serviço Brasileiro de Apoio às Micro e Pequenas Empresas
<b>SPARC</b>	Society for Promotion of Area Resource Centres
<b>UN</b>	United Nations
<b>UNEP</b>	United Nations Environment Programme
<b>UNESCAP</b>	United Nations Economic and Social Commission for Asia and the Pacific
<b>UNDP</b>	United Nations Development Programme
<b>UN-Habitat</b>	United Nations Human Settlements Programme
<b>UNHRP</b>	United Nations Housing Rights Programme
<b>WCD</b>	World Commission on Dams

## Foreword

This *Handbook on Assessing the Impact of Eviction* has been jointly commissioned by UN-Habitat and the UN Office of the High Commissioner for Human Rights (OHCHR) under the auspices of the UN Housing Rights Programme (UNHRP), in collaboration with leading housing rights partners<sup>1</sup>.

The purpose of the Handbook is to raise awareness of the importance of assessing the impact of eviction for individuals as well as communities, and it provides a framework for doing so during any stage of the eviction/resettlement process. While seeking to consolidate and build upon current eviction impact assessments practices as well as disseminating existing initiatives and tools at the global level,

this Handbook thus intends to increasingly ensure that development projects sufficiently factor in the costs to individuals/communities before, during and after the eviction/resettlement process.

The readers of this Handbook will most often be professionals (academics, policy makers, practitioners) whose work is related to assessing the impact of eviction either in the field or through research. It is also hoped that the Handbook will benefit individuals and communities affected by eviction through creating a greater understanding of both the tangible and intangible costs associated with eviction/resettlement on the part of national/local governments and other actors in development processes.



A young boy carries a heavy bag in an IDP camp in Kabul, Afghanistan June 2008. © Manoocher Deghati/IRIN

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*“Comprehensive and holistic impact assessments [are to 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 eviction”<sup>2</sup>.*

# Introduction

Every year, millions of people around the world are either threatened by evictions or are actually unlawfully evicted. Forced evictions result in severe trauma and in serious declines in the standard of living of those that are already marginalized or vulnerable within their respective societies, often leaving them homeless, landless, and living in extreme poverty and destitution.<sup>3</sup> Even if the phenomenon of forced evictions constitutes a distinct phenomenon under international law, the consequences arising therefrom are similar to those arising from arbitrary and/or involuntary displacement of people from their homes, lands and communities.<sup>4</sup>

In recent years, many cities of the world have undergone urban development processes that, however unintended, have caused the displacement of people including through forced evictions. The commodification of land and consequent increase in the value of land prices has led to contestation and speculative practices. These practices, in turn have been the driver behind gentrification, which has severely and adversely affected the possibilities

of accessing housing by particularly the poorest segments of urban populations.

Forced and unlawful evictions violate the right to adequate housing.<sup>5</sup> The current disconnect in many countries between the international human rights protection system (and its institutional architecture and procedures) and the national institutional systems of housing and urban and territorial development must be addressed. This Handbook on Assessing the Impact of Eviction seeks to document and create an awareness of this disconnect through case studies and knowledge on how to bridge the gap for future urban development practice to minimize and avoid forced evictions.

Development projects have most often been carried out to progress national development in the name of the “public good” or “public interest” and range from large dams, mining and other extractive industries, large-scale land-acquisitions, urban renewal, city beautification and major international business or sporting events. Many such projects have been carried out in both urban

## BOX 1: GLOBAL STATISTICS ON FORCED EVICTIONS

Comprehensive global statistics on forced evictions are not easily available, and estimates are mainly based on reported cases. One example of these cases are the numbers reported by the Centre on Housing Rights and Evictions (COHRE) that estimated that between 1998 and 2008 forced evictions affected over 18 million people. The adverse impacts of

forced eviction are massive, increasing poverty and destroying communities, leaving millions in extremely vulnerable situations. Many others are displaced due to development projects. According to one estimate, in the 2000s, such development projects affected 15 million people annually. Preparations for mega-events are further sources of insecurity and forced

evictions. Conflicts and natural disasters, including those exacerbated by climate change, also trigger displacement and can undermine security of tenure. Over 26 million people were internally displaced at the end of 2011 due to armed conflicts, violence or human rights violations, while nearly 15 million were displaced due to natural hazards.

*Extracted from Report of the Special Rapporteur on adequate housing, Raquel Rolnik, on report on Security of Tenure (A/HRC/22/46) <http://www.ohchr.org/EN/Issues/Housing/Pages/StudyOnSecurityOfTenure.aspx>*

## Introduction *continued*

and rural areas and have had a great many positive impacts as intended. Unintended by-products, however, of such development projects include the generation of displacement and resettlement of large groups of people. Often, the individuals and communities affected find that their rights are inadequately protected when safeguards or procedural guarantees are either lacking or inadequately reinforced.

The majority of these displacements and relocations are rarely conducted in accordance with the international human rights framework, thus resulting in violations of rights in all different stages of the process. While some resettlement processes are appropriately managed, the majority of these processes result in forced evictions. The practice of forced evictions has been found to give rise to cruel, inhumane or degrading treatment, particularly when carried out with violence or with a discriminatory intent. During forced evictions, people are frequently harassed or beaten and occasionally subjected to inhumane treatment or killed. Women and girls are particularly vulnerable to violence, including sexual violence, before, during and after an eviction. Moreover, such evictions may also result in indirect violations of political rights.<sup>6</sup>

Assessing the impact of eviction is complicated by the fact that many evictions are carried out only with limited notice or no notice at all. Baseline data prior to eviction are thus difficult to obtain. However, a number of simple methods as well as more advanced methodologies have been devised globally to assess the impacts that forced evictions have on people's lives. Most notably, the former Special Rapporteur on the Right to Adequate Housing, Mr. Miloon Kothari, developed the *Basic Principles*

*and Guidelines on Development-Based Evictions and Displacement*. These guidelines address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas, clearly distinguishing the obligations of the State and the rights of individuals during different stages of the process. It explicitly recommends that States conduct eviction impact assessments and "... 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".<sup>7</sup>

Assessing the impact of forced evictions is key for individuals and communities to claim their rights, either in terms of compensation or appropriate resettlement options. Impact assessments measure and quantify losses and violations, thus making the claims more tangible. There are, however, also non-material and intangible impacts of eviction as this Handbook will further explore. Additionally, eviction impact assessments, if conducted in a timely and comprehensive manner prior to any forced evictions, may also allow for transforming the impact that forced evictions could have had into a potential positive drive in improving people's lives. Eviction impact assessments (EVIAs) are powerful pre-requisite tools for designing development projects in ensuring their human rights compliance, both in terms of reaching target groups as well as in order to identify, assess and manage the risks that any development project inevitably entails.



# Human rights standards related to forced evictions

This chapter presents a brief description of the role of the State in protecting against forced evictions, International Standards and principles related to forced evictions, as well as references to the *Basic Principles and Guidelines on Development-Based Evictions and Displacement*.

## 1.1 Definition of forced evictions

According to the Committee on Economic, Social and Cultural Rights, General Comment No.7, forced evictions are 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.”***<sup>8</sup>

The practice of forced evictions is sometimes referred to as involuntary resettlement or, simply, evictions. In all cases, this practice involves the involuntary removal of persons from their homes and/or land, an action that may be either directly or indirectly attributed to the State. In 1993, the Commission on Human Rights stated that “forced evictions are a gross violation of human rights, and in particular [a violation of] the right to adequate housing.”<sup>9</sup> Given the interdependent, indivisible and interrelated nature of human rights, it is clear how the violation of the right to adequate housing interferes with the enjoyment of other human rights, including the human right to food; water; health; education; work; security of the person; security of the home; freedom from cruel, inhumane and degrading treatment; private and

family life; property; and freedom of movement.<sup>10</sup> With the right to adequate housing being inextricably linked to other fundamental human rights<sup>11</sup> is thus closely connected to livelihood – or the loss thereof - and it is within this context that States have the obligation to refrain from, and protect against, forced evictions from home(s) and land. Forced evictions all too often result in other severe human rights violations, particularly when they are accompanied by forced relocation or homelessness.<sup>12</sup>

### Fact Sheet No. 25 on Forced Evictions and Human Rights

Further information is available in the Fact Sheet No. 25 on Forced Evictions and Human Rights, co-published by UN-Habitat and UN-OHCHR. The Fact Sheet specifically examines the prohibition on forced evictions under the international human rights framework, specific obligations of States and other actors to refrain from and prohibit forced evictions, and how, when rights violations occur, there can be accountability and remedies.

## BOX 2: ORIGINS OF THE PROBLEM

According to UN-Habitat's 2010/2011 State of the World's Cities Report,<sup>13</sup> large projects and events have in many instances created urban environments that are of little benefit to the poor. These have included large infrastructure projects (e.g. water, sanitation and roads), "city beautification", riverfront development schemes and facilities for major global sports and cultural events. Building facilities for *cultural mega-events* have on occasion led to the resettlement of underprivileged communities (e.g. Seville 1992, Shanghai 2010), as have *political mega-events* (e.g. Manila 1976, Seoul 1985), or *sporting mega-events* such as the Olympic Games,

Soccer World Cup, Commonwealth Games and other major events which, in some cases, can result in some forms of discrimination and inequality, such as forced evictions of people living in slums and informal settlements to make way for infrastructure development (e.g. Beijing 2008, New Delhi 2010, Vancouver 2010). These sporting mega-events can also result in displacement of homeless people (e.g. Osaka 2002, Seoul 2002). Each of these events has more indirect consequences as well. For example, infrastructure improvements through redevelopment can lead to decreases in the public housing stock and an escalation

in real estate prices, which makes housing unaffordable for many low-income residents and other marginalized groups. The desire to "show off" a city and make it an attractive tourist destination is often accompanied by a process of "sanitization", i.e., a "clean-up" of public areas that is facilitated by criminalization of the homeless and increased brutality by police forces. Rebuilding a city's image appears, from the examples of many mega-events, to mean making it more attractive for local, national and international elites (middle- and high-income earners), and as a result, less livable for those who fall outside these categories.

*Extracted from "State of the World's Cities 2010/2011" Bridging the Urban Divide – UN Habitat*

## 1.2 Obligations on States and the responsibilities of others<sup>14</sup>

The obligation of States not to carry out arbitrary evictions is enshrined in various international instruments that guarantee the right to adequate housing.<sup>15</sup> While eviction and resettlement should be a last resort, there are times when such practice is unavoidable. It may, for example, be necessary to ask people to leave ruined buildings, hazard-prone areas, or other high-risk scenarios. In those cases where there are no feasible alternatives to eviction, the removal of individuals and/or communities must be undertaken in full conformity with international human rights standards, i.e. States are obliged to respect, to protect and to fulfil the human rights of the persons affected.

## Obligations of the State related to evictions

### ***The prohibition of forced evictions is of immediate effect and not dependent on resources:***

While the implementation of some State obligations in the context of the human rights framework may require financial resources and time, other obligations are of immediate effect and

## BOX 3: PUBLIC POLICIES AND HOUSING RIGHTS

The right to adequate housing is rarely found at the core of housing policies, and this is known because of the ongoing increase in the practice of forced evictions globally and other violations of housing rights.

*Extracted from Raquel Rolnik- Evictions and the Rights-based approach to urban development. UN-Habitat 2012*

do not require resources. The prohibition of forced eviction is one such instance: States must provide all persons affected by evictions, irrespective of their type of tenure, **a degree of security of tenure sufficient to guarantee legal protection against forced eviction, harassment and other threats in a non-discriminatory way.**<sup>16</sup>

***States must take all measures to prevent the occurrence of forced evictions:***

States are obliged to adopt appropriate legislative, administrative, budgetary, judicial, and other measures to realize the right to adequate housing, including to prevent forced evictions. States are encouraged to adopt specific national housing strategies that are informed by the meaningful participation of different groups in society, particularly those commonly affected by forced evictions. These measures and plans of action should make explicit the prohibition on forced eviction at all times and in particular in the undertaking of development schemes.

***States have to protect all from forced evictions carried out by third parties***

The obligation to protect from forced evictions is of immediate effect and requires States to prevent third parties – including non-state actors - from interfering with the enjoyment of human rights, including any rights jeopardized by forced evictions. In this context, the adoption of specific legislation or measures to ensure the compatibility of private actors' activities — such as landlords, property developers, landowners and various types of business enterprises — with human rights is needed. States should, for instance, adopt legislation regulating the housing, rental and land markets, such as tenancy laws, that protect tenants' due process,

prevent discriminations, and ensure human rights compliant procedures, in case eviction is unavoidable.<sup>17</sup>

***Obligations when an eviction is unavoidable***

Evictions may be permissible only in *the most exceptional circumstances*; after *all feasible alternatives* to eviction that address the exceptional circumstance are explored *in consultation with the affected community*; and after due process protections are afforded the individual, group or community.<sup>18</sup> Evictions must never be carried out in a discriminatory manner and/or render someone homeless and vulnerable to other human rights violations.

With the purpose of respecting, protecting, and fulfilling the human rights of all, and in view of the negative effects of forced evictions, the international human rights protection system together with international institutions have elaborated on the obligations of the State prior to, during and after evictions. A key obligation for the State is to ensure that legal protections are put in place at every stage of the process to ensure that the rights of the most vulnerable are respected.

***Obligations before any eviction takes place:***

- All alternatives to an eviction must have been explored;
- An eviction impact assessment must have been carried out;
- If unavoidable, eviction processes must respect human rights and due process;
- The rights to information and meaningful consultation/participation should be respected in all stages of the process;
- Legal and other remedies should be available at

- all time;
- Forced evictions should not result in homelessness;
  - Adequate compensation needs to be provided in advance of evictions;
  - All necessary measures should be taken to minimize the impact of evictions.

### ***Obligations during evictions***

Eviction should be well planned and clear procedures put in place to prevent human rights violations and respect human dignity.

- Evictions should not take place during bad weather, at night or at periods where people may not be present in their homes;
- Evictees should not be coerced to destroy their dwellings/structures and should be given the opportunity to salvage as much as possible of their belongings;
- Evictions should not be carried out in a way that threatens the health or life of the evictees, for instance the destruction of structures where people are still trying to salvage their belongings.

A number of procedural requirements also need to be put in place, including:

- The provision beforehand of clear information on the actions that will take place;
- The presence of authorities;
- The possibility for independent and neutral observers to be present;
- A clear identification of the persons carrying out the evictions;
- A formal authorization for the eviction.

Any legal use of force 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. Measures should be taken to protect the evictees against assaults or threats by third parties including gender-based violence. Possessions that are left behind need to be protected against stealing and looting.

### ***Obligations after eviction has taken place***

Immediately after the eviction, all relief measures, including medical treatment facilities, need to be in place. A number of issues need to be *monitored* over the short, medium and long term at the relocation site, including:

- The basic needs of the evictees after the eviction;
- The impact of the eviction on the community, in particular on their livelihoods;
- Additional costs resulting from the relocation due to the new site's location;
- Sustainability and quality of relocation facilities;
- Interaction with surrounding communities;
- Improvement in tenure rights;

### **Responsibilities of third parties and non-state actors**

States are also obligated to protect the human rights of all against third parties and non-state actors. In addition, there is an increasing understanding about the extent to which other actors in society — individuals, intergovernmental and non-governmental organisations, and businesses — have responsibilities with regard to the promotion and protection of human rights, including by not directly or indirectly contributing to forcibly evicting people. Third party activities may include the construction of infrastructure and development projects, as well as the development

of policies and laws related to housing and land. It is therefore essential that transparent and accountable mechanisms be put in place to ensure that no human rights violations occur as a result of these activities. Both the World Bank and the Organisation for Economic Cooperation and Development (OECD) have adopted guidelines on relocation and/or resettlement to limit the impacts of potential and/or actual forced evictions. Regional institutions including the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development and the Inter-American Development Bank have adopted similar guidelines.

The World Bank Group has put internal mechanisms in place such as the Inspection Panel and the Compliance Advisory Ombudsman. Some of the cases dealt with by these investigations- and

complaints mechanisms have looked at the issue of forced evictions and have, in some situations, resulted in instruction to put a halt on financing the project in question until proven whether there is compliance with accountability and redress mechanisms.

The Committee on Economic, Social and Cultural Rights (CESCR) has addressed international institutions in terms of responsibilities deriving from the ICESCR: *“International agencies should scrupulously avoid involvement in projects which, for example... involve large scale evictions or displacement of persons without the provision of all appropriate protection and compensation . . . . Wherever possible, the agencies should act as advocates of projects and approaches which contribute not only to economic growth or other broadly defined objectives, but also to enhanced enjoyment of the full range of human rights . . . . Every effort should be made, at each phase”*<sup>19</sup>

#### BOX 4: INTERNATIONAL FINANCIAL CORPORATION, PERFORMANCE STANDARD 5: LAND ACQUISITION AND INVOLUNTARY RESETTLEMENT

(...) 2. Unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for affected persons and communities, as well as environmental damage and social stress in areas to which they have been displaced. For these reasons, involuntary resettlement should be avoided or at least minimized. However, where it is unavoidable, appropriate measures to mitigate adverse impacts on displaced persons and host communities should be carefully planned and implemented. Experience demonstrates that the direct involvement of the client in resettlement activities can result in cost-effective, efficient, and timely implementation of those activities, as well as innovative approaches to improving the livelihoods of those affected by resettlement.

Available at <http://www.ifc.org>

### 1.3 Applying the Human Rights-Based Approach to forced evictions

The human rights-based approach to development (HRBA) integrates and operationalizes the norms, standards and principles of the international human rights system into the plans, policies and processes of development cooperation. Important elements of an HRBA include ensuring that explicit links to human rights standards are made in development projects including through accountability mechanisms. It also includes empowerment of those affected by development schemes, the right of those affected to participate in decisions related to development, as well as non-discrimination of and attention to marginalized groups.

Applying the HRBA with the objective to prevent and minimize the practice of forced evictions will promote substantive and material changes for those affected. For instance, prior to an eviction all potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected parties, have the right to access relevant information, full consultation and participation throughout the entire process. This practice will enable the authorities to establish conversations with groups that otherwise would have been rarely consulted. Such proactive human rights-based community engagement allows for more voices to be heard, thus increasing the chances for finding alternatives and/or reaching consensus on the way forward. In the event that an agreement cannot be reached, those involved can resort to mediation by a third party to assist in the discussion (such as a court of law, tribunal or ombudsperson). Transparency in the decision-making process allows for a non-discriminatory approach and for accountability of duty-bearers and rights enforcement mechanisms.

#### 1.4 Basic Principles and Guidelines on Development-Based Evictions and Displacement

The then Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, elaborated the *Basic Principles and Guidelines on Development-Based Evictions and Displacement in 2007*.<sup>22</sup> These guidelines are, as a matter of course, based on international human rights law, and consistent with General Comment No. 4 (1991) and General Comment No. 7 (1997) of the CESCR. The Guidelines expanded on previous

#### BOX 5: UNITED NATIONS SYSTEM AND THE HUMAN RIGHTS-BASED APPROACH (HRBA)

In 2003, the Agencies of the United Nations System agreed on a Common Understanding on the HRBA: "In a human rights-based approach to programming and development cooperation, the aim of all activities is to contribute directly to the realization of one or several human rights."<sup>20</sup>

Since then, several UN agencies, funds and programmes – including UN-Habitat - have adopted a rights-based approach in their development cooperation programmes and they have gained experience in rendering them operational. The UN, as well as other stakeholders, have been promoting and advocating the fulfilment of the standards that international human rights treaties set in order to enable everyone to live a decent life.

The Common Understanding also calls for the implementation of measures and programmes that would enable States to guarantee the protection and defence of rights, and the obligations enshrined in three categories: (1) the obligation to respect, (2) the obligation to protect and (3) the obligation to meet or fulfil.

UN documents such as the *Guiding Principles on Internal Displacement*<sup>23</sup>, the *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*<sup>24</sup>, and the *Principles on housing and property restitution for refugees and displaced persons*.<sup>25</sup>

The *Basic Principles and Guidelines on Development-Based Evictions and Displacement* address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas and clearly articulate the obligation

**BOX 6: RURAL EVICTIONS**

A rural development association at the village of Masongbo near Makeni.  
© David Hecht/IRIN

The recognition of the livelihood structures of the rural poor is very marginal when decisions on carrying out development projects are taken. It is rare to find projects whose mitigation measures understand the value of housing and location for these groups. The migration to cities by the rural poor and indigenous persons when they are forcibly

evicted from land is one of the reasons for the drastic increase of urban poor. Indeed, the rural poor are often dependent on access to or control over land to realize their rights to an adequate standard of living including their right to food and when they are forcibly evicted for their land there are corresponding violations of those rights.<sup>21</sup>

**BOX 7: THE PRACTICAL VALUE OF A HRBA TO DEVELOPMENT**

**01 Whose rights?** A human rights-based approach focuses on the realization of the rights of the excluded and marginalized populations, and those whose rights are at risk of being violated, building on the premise that a country cannot achieve sustained progress without recognizing human rights principles (especially universality) as core principles of governance. Universality means that all people have human rights, even if resource constraints imply prioritization. It does not mean that all problems of all people must be tackled at once.

**02 Holistic view.** A programme guided by an HRBA takes a holistic view of its environment, considering the family, the community, civil society, local and national authorities. It considers the social, political and legal framework that determines the relationship between those institutions, and the resulting claims, duties and

accountabilities. A human rights-based approach lifts sectoral “blinkers” and facilitates an integrated response to multifaceted development problems.

**03 International instruments.** Specific results, standards of service delivery and conduct are derived from universal human rights instruments, conventions and other internationally agreed goals, targets, norms or standards. A human rights-based approach assists countries in translating such goals and standards into time-bound and achievable national results.

**04 Participatory process.** Accountabilities for achieving these results or standards are determined through participatory processes (policy development, national planning), and reflect the consensus between those whose rights are violated and those with a duty to act. A human rights-based approach seeks both

to assist in the participatory formulation of the needed policy and legislative framework, and to ensure that participatory and democratic processes are institutionalized locally and nationally (including through capacity-building among families, communities and civil society to participate constructively in relevant forums).

**05 Transparency and accountability.** A human rights-based approach helps to formulate policy, legislation, regulations and budgets that clearly determine the particular human right(s) to be addressed—what must be done and to what standard, who is accountable—and ensures the availability of needed capacities (or resources to build the lacking capacities). The approach helps to make the policy formulation process more transparent, and empowers people and communities to hold those who have a duty to act accountable, ensuring effective remedies where rights are violated.

*Extracted from OHCHR, Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation, Geneva. Pp 16*

## BOX 8: SEVEN WAYS TO AVOID EVICTION

There exist many intermediate options which offer alternatives to forced eviction — alternatives which work well for the poor, and well for the cities they live in. And there are many things that governments, NGOs, support institutions and aid agencies can do to open space for these alternatives to be developed, refined and scaled up.

**01** Recognize that the poor are only trying to survive, and that when they squat on land illegally, it is because they have no other options and that squatting is the only way they can survive. They know the risks and drawbacks that come with informal settlements, but they have many good reasons for staying there.

**02** Do not punish the urban poor by forcibly evicting them from the places where they can provide their own shelter and livelihood, by mechanically enforcing laws. The better, fairer and longer-lasting

solutions to structural problems of land and housing will come only when cities can work with the poor as key development partners.

**03** Learn to listen to the voices and ideas of communities facing eviction before developing policies or plans which affect them. This listening and learning can also happen on a national or regional scale, by visiting and learning from some of the many eviction-alternatives and compromise solutions that have been tried and tested in other cities and other countries — solutions in which the poor have been key actors.

**04** Support the strengthening and expansion of community organisations, networks and federations, in order to create a platform for the poor to share ideas and scale up solutions which have been successful in certain places. This is where the seeds of the most creative, pragmatic

and sustainable solutions to eviction will be sown.

**05** Prepare urban development plans in collaboration with poor communities, so that projects planned for the city can be designed to leave room for affordable land for housing, in locations that are close to employment opportunities.

**06** Introduce better land management and administration to make it expensive to hold empty urban land speculatively, and make it profitable to use free land for affordable housing.

**07** Work with legal reform and legal aid organisations to review and reform the eviction laws and procedures which already exist, so that they will take into better consideration the lack of land and housing options for the poor and better protect their rights and property in the event eviction does occur.

*Extracted from Housing the Poor in Asian Cities, Quick Guides for policy-makers on: Urbanization EVICTION: Alternatives to the whole-scale destruction of urban poor communities. UN Habitat / UN United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)*

of the State and the entitlements of persons during different stages of the process. The Guidelines recommend that: “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 and should take into account the differential impacts of forced evictions on women, children, the elderly, and marginalized sectors of society. Such assessments, when relevant, should be based on the collection of disaggregated data, so that all differential impacts can be appropriately identified and addressed. They also state that where livelihoods are affected, proper and adequate support must be given for its restoration within an appropriate timeframe.

**BOX 9: A COMBINATION OF A HUMANITARIAN AND A HUMAN RIGHTS-BASED APPROACH**

Uzbek Women and Children in Aftermath of Kyrgyzstan's Ethnic Clashes Osh, Kyrgyzstan. © UN Photo/EPA

Land sharing is a compromise strategy for resolving urban land conflicts between poor communities (who need the land they occupy for housing) and private or government land owners (who want the land back to develop). After a period of negotiation and planning, an agreement is reached to “share” the land, where the settlement is divided into two portions. The community is given, sold or leased one portion (usually the less commercially attractive part of the site) for reconstructing their housing, and the rest of the land is returned to the landowner to develop. There’s no rule about how the land is divided; the amount of land the people get and how much goes back to the owner

is settled during the negotiations. And finally, everyone wins. Land sharing is usually a long and complicated process and doesn’t work in all eviction and land-conflict situations. Behind a successful land-sharing scheme, there must be a strong community organisation, skilled intermediaries and good technical assistants to help draft out a variety of land sharing plans to bargain with. Land sharing is not a strict or abstract policy or set of guidelines, but a flexible strategy for resolving serious land conflicts. At the core of a land sharing process is the ability to translate needs and conflicting demands into a compromise which takes a concrete “win-win” form, and which is acceptable to all parties involved.

Land sharing is also a way of dividing the cream of urban prosperity a little more fairly. The poor get minimum, decent housing with secure land tenure, and the private sector, which profits from development and from the poor’s cheap labour, helps pay for it. Land owners can clear some land for immediate development and save time and costs of long-term eviction litigation. Slum-dwellers stay where they have been living and working and get much-needed secure land tenure and keep their communities intact. Governments get much-needed land and housing delivered to the city’s poor communities, without having to pay for it.

*Extracted from Quick Guides for Policy Makers 4, Alternatives to Eviction – UN-Habitat / UN ESCAP*

### The Basic Principles and Guidelines on Development-Based Evictions and Displacement call for:

A fair hearing • Access to legal counsel • Legal aid  
Return Restitution • Resettlement • Rehabilitation and compensation.

The *Basic Principles and Guidelines on Development-Based Evictions and Displacement* analyse the scope and framework for **compensation**, defining that the compensation must cover losses of personal property or goods, including rights or interests in property. They also define that all persons, irrespective of whether they hold title to their property, are entitled to compensation for the loss, salvage and transport of the properties affected, including the original dwelling and land lost or damaged in the process. The *Guidelines* define the manner in which the assessment of economic damage should take into consideration losses and costs including land plots and house structures; contents; infrastructure; mortgage or other debt penalties; interim housing; bureaucratic and legal fees; alternative housing; lost wages and incomes; lost educational opportunities; health and medical care; resettlement and transportation costs (especially in the case of relocation far from the source of livelihood). Where the home and land also provide a source of livelihood for the evicted inhabitants, impact and loss assessment must account for the value of business losses, equipment/inventory, livestock, land, trees/crops, and lost/decreased wages/income.

The *Guidelines* recommend that the competent authorities should establish conditions and provide the means, including financial, for **voluntary return** in safety and security, and with dignity, to homes or places of habitual residence. Moreover, responsible authorities should facilitate the reintegration of returned persons and exert efforts to ensure the full participation of affected persons, groups and communities in the planning and management of return processes. Special measures may be required to ensure women's equal and effective participation in return or restitution processes in order to overcome existing household, community, institutional, administrative, legal or other gender biases that contribute to marginalization or exclusion of women. In instances where return is not possible, the *Basic Principles and Guidelines on Development-Based Evictions and Displacement* state that competent authorities must provide victims of forced evictions, or assist them in obtaining, appropriate compensation or other forms of just reparation.

Adequate and reasonable notice provided through consultation should, among other things, enable those who are subject to eviction to take an inventory in order to assess and document the value of their properties, investments and other material goods that may be damaged in the process. Affected persons should also be given the opportunity to assess and document non-monetary losses to be compensated.

# *Eviction Impact Assessments: Methodological considerations*

In view of the very high number of forced evictions all around the world, governments, government institutions, corporations, developers, companies and others, must increasingly re-assess and take stock of the effects of any project that involves resettlement and eviction measures as this may affect the housing rights of families and communities.<sup>26</sup> Additionally, research by du Plessis shows that when the costs of development projects related to forced evictions are disaggregated, financial and social costs and losses are often greater and more extensive than the profits generated in the name of public interest.<sup>27</sup> Comprehensive impact assessments are thus pre-requisites to any development project to determine its profitability and sustainability as well as the risks the project may face in resettling or relocating communities.<sup>28</sup>

## **2.1 Defining Eviction Impact Assessments**

An Eviction Impact Assessment (EvIA) will, if conducted properly, make stakeholders understand the real costs and impact that development projects may have on the community and society. The cost of evictions entails more than the mere market price of the homes the affected individuals/communities inhabit.<sup>29</sup> Decades of studies point to the importance of assessing the risks of displacement and subsequent impoverishment. Cernea's research found that the "considerably expanded research in the anthropology of resettlement has convergently concluded that the dominant outcome of displacement is not income restoration but impoverishment. The accumulated evidence is overwhelming, and it converges in many countries in Asia, Latin America, and Africa". Therefore, the Impoverishment Risks and Reconstruction (IRR) model that Cernea has developed considers in its

impact assessment elements such as landlessness, joblessness, homelessness, marginalization, increased morbidity and mortality, food insecurity, loss of access to common property and social (community) disarticulation.<sup>30</sup>

### **What Is an Impact Assessment?**

An Impact Assessment is the "process of identifying the future consequences of a current, proposed or already conducted action. An Impact Assessment has a dual nature, each with its own methodological approaches: 1) As a technical tool for analysis of the consequences of a planned intervention (policy, plan, programme, project), providing information to stake-holders and decision-makers; or for analysis of unplanned events, such as natural disasters, war and conflicts; 2) As a legal and institutional procedure linked to the decision-making process of a planned intervention.

*Extracted from the International Association for Impact Assessment (IAIA), [http://www.iaia.org/publicdocuments/special-publications/What%20is%20IA\\_web.pdf](http://www.iaia.org/publicdocuments/special-publications/What%20is%20IA_web.pdf)*

## BOX 10: INCLUSIVENESS AND PARTICIPATION IN DEVELOPMENT

- While carrying out assessments and project design, have the widest possible consultations with the targeted groups been ensured?
- Have there been any efforts to ensure participation of the least powerful and assertive from these groups (i.e. women, people living with HIV, children, persons with disabilities, youth, non-citizens etc.), including the creation of conditions to ensure their equal involvement in the process?
- Has the human rights-based approach to development been used to ensure the active, free and meaningful participation of those affected by the development processes?

UNDP, *Marginalised minorities in development programming*, May 2010

## BOX 11: "A LOSS MORE SIGNIFICANT THAN THEY THINK" – POM MAHAKAN, BANGKOK, THAILAND

Pom Mahakan is a small community of approximately 300 people residing next to Mahakan Fort, between the old city wall and the canal in central Bangkok. In January 2003, the residents were served with an eviction notice by the Bangkok Metropolitan Administration (BMA), and were offered relocation to a place 45 kilometres away, on the outskirts of Bangkok.

The community had to make way for a public park, as part of a "conservation and development" plan. The residents had lived at Pom Mahakan for up to six generations. Forced eviction from this area would amount to a violation of housing rights and would, at the same time, mean the death of what the anthropologist Herzfeld described as a "...vibrant, cohesive community with a remarkable sense of collective responsibility and mutual support." In addition, the demolitions would

mean the end of "...a rare complex of vernacular architecture", including beautiful old teak structures, well worth preserving in rapidly modernizing Bangkok.

The Pom Mahakan residents organised themselves and tried to prevent the eviction, using all the well-known methods. (...) What is most interesting about this resistance is that the residents supplemented it with a number of additional, pre-emptive activities. Working with a coalition of NGOs, professionals and human rights activists, they put forward a highly innovative land-sharing plan as an alternative to eviction and relocation. The plan included the renovation of the older buildings and the integration of the residences into an historical park. It was to be a vibrant "park with people", the sort of place that would attract visitors, rather than the sterile, empty park planned by

the authorities. The residents even started implementing aspects of their plan by creating meandering pathways among the buildings and ancient trees, and turning the oldest house in the settlement into a museum and exhibition area for their proposals. In response, many outsiders rallied to their support. Yet despite public support for the land-sharing plan, repeated invitations for dialogue, and petitions and pleas, the Bangkok Metropolitan Administration failed to appreciate the enormous value of this community-driven initiative and refused to consider seriously the proposals put before them. In August 2003, an administrative court ruled that the eviction was legal and could go ahead. (...) The case of Pom Mahakan illustrates how a small community of 300 people, through action and innovation, has tried to open up spaces for the formulation and consideration of creative alternatives to eviction.

*Extracted from "The growing problem of forced evictions and the crucial importance of community-based, locally appropriate alternatives" by Jean du Plessis in Environment and Urbanization (2005)*

## 2.2 Participation in development

Resettlement processes entail potential risks as well as potential benefits. If the EvIA is conducted prior to the eviction, risks can be timeously identified and mitigated, thereby allowing for resettlement to become an opportunity for those living in marginalized communities to improve their living conditions. Through participatory and restorative relocation processes, affected communities could improve their standard of living through access to housing and land, employment, livelihoods, etc. Moreover, evidence suggests that participatory processes promote social integration and social cohesion through the maintenance of community spaces and identity values.

Genuine consultation may avoid or at least minimize resettlement by: Exploring alternative project designs; mitigating adverse social and economic impacts from land acquisition or restrictions on affected persons' use of and/or access to land; restoring the livelihoods and standard of living of displaced people to pre-project levels; and improving living conditions through provision of adequate housing with security of tenure at resettlement sites.

Consultation and discussions with affected communities and groups can help identify options for the economic and local development of communities, recognise long-standing practice, and in the case of agricultural communities it may help understand the relationship with the land that peoples have. Information on traditional values of communities that are to be resettled is crucial for successful and sustainable local development.

## 2.3 Holistic Eviction Impact Assessments

### Preventive approach: Identifying risks for purposes of mitigation

Eviction impact assessments may be conducted both at the initiative of the duty-bearer (most often the State or, by extension, municipal authorities) or of the rights-holders (the individuals/communities likely to be affected by a potential eviction). If the impact assessment is carried out preventively, it holds high chances of being conducted in a comprehensive manner with attention to potential risks including quantifying losses and violations in appropriate detail. Relevant mitigation measures are more easily integrated into development projects in the planning phases rather than ad-hoc during project implementation. Conducting preventive EvIAs also increases the transparency and accountability of the project in question.

For a preventive EvIA to be successful, it is imperative that all stakeholders have a sound understanding of the project in question and are informed of the values and practices of communities that may be affected by an eviction.

A preventive impact assessment:

- Contextualizes the process and significant events;
- Identifies the existence of human rights to be respected in the process, and analyses any possible contraventions to the national and international legal framework;
- Identifies the different actors involved as well as possibly affected individuals, families and communities, thereby ensuring broad and non-discriminatory participation;

## BOX 12: IRR: THE IMPOVERISHMENT RISKS AND RECONSTRUCTION MODEL

The IRR model identifies eight fundamental risks that occur when development projects involve voluntary and/or involuntary population displacement, as well as the appropriate “clusters” of measures that need to be incorporated in the project to address each of the respective risks. The model has four basic functions: 1) Prediction; 2) Diagnosis; 3) Problem-resolution; and 4) Research. It thus guides projects

on how to prevent and manage the risks, or at least to reduce them. Once identified risks have been appropriately addressed at an early stage, many negative impacts are prevented or significantly mitigated.

The basic impoverishment risks and their respective counter-measures:

1: Landlessness > land based re-establishment;  
2: Joblessness > re-employment;

3: Homelessness > house re-construction;  
4: Marginalization > social inclusion;  
5: Food insecurity > adequate nutrition;  
6: Increased morbidity mortality > adequate nutrition;  
7: Loss of access to community property > from expropriation to restoration of community assets/services;  
8: Social disarticulation > community re-construction.

*See Cernea, Michael M. and McDowell, C. (eds.), Risks and Reconstruction: Experiences of Resettlers and Refugees, The World Bank (Washington DC, 2000)*

## BOX 13: HOUSING RIGHTS VIOLATION LOSS MATRIX

The HLRN created the Housing Rights Violation Loss Matrix for undertaking impact assessments. The matrix addresses victims’ rights and duty bearers’ obligations. It lays out the basic principles of the reparations framework (restitution, return, resettlement, as well as all aspects of rehabilitation including, compensation, non-repetition, satisfaction, and non-refoulement). The tool aims to identify the costs and losses prior to, during and after

forced eviction and displacement; to expose the actual and full costs of development projects involving displacement by calculating and including those incurred by affected persons and households; to prove that forced evictions and displacements deepen poverty and deprivation at all stages; to deter future evictions and displacements by recording, and making perpetrators responsible, for the full costs and losses they cause; to provide guidance

toward remedies, including application of the reparations framework (defined in international law as a right); to contribute to conflict resolution (in small-scale cases) and transitional justice (in grand-scale cases); to support local monitoring of housing and land rights violations in select and strategically important cases; to share the quantification experiences among HLRN member organisations and other interested parties across regions.

- Identifies the impacts, costs and losses prior to, during and after eviction and displacement;
- Finds alternatives to projects that bring about relocations and evictions, considering all the impacts in the short, medium, and long term;
- Prevents that individuals, families and communities become impoverished as a result of the eviction process.

Different methodologies address these issues by pre-eviction impact assessments. For instance, the Impoverishment Risks and Reconstruction (IRR) model has confirmed that populations affected by displacement experience either worsened or full loss of housing; yet it has also found that “homelessness” can be effectively prevented through fair and realistic recognition of

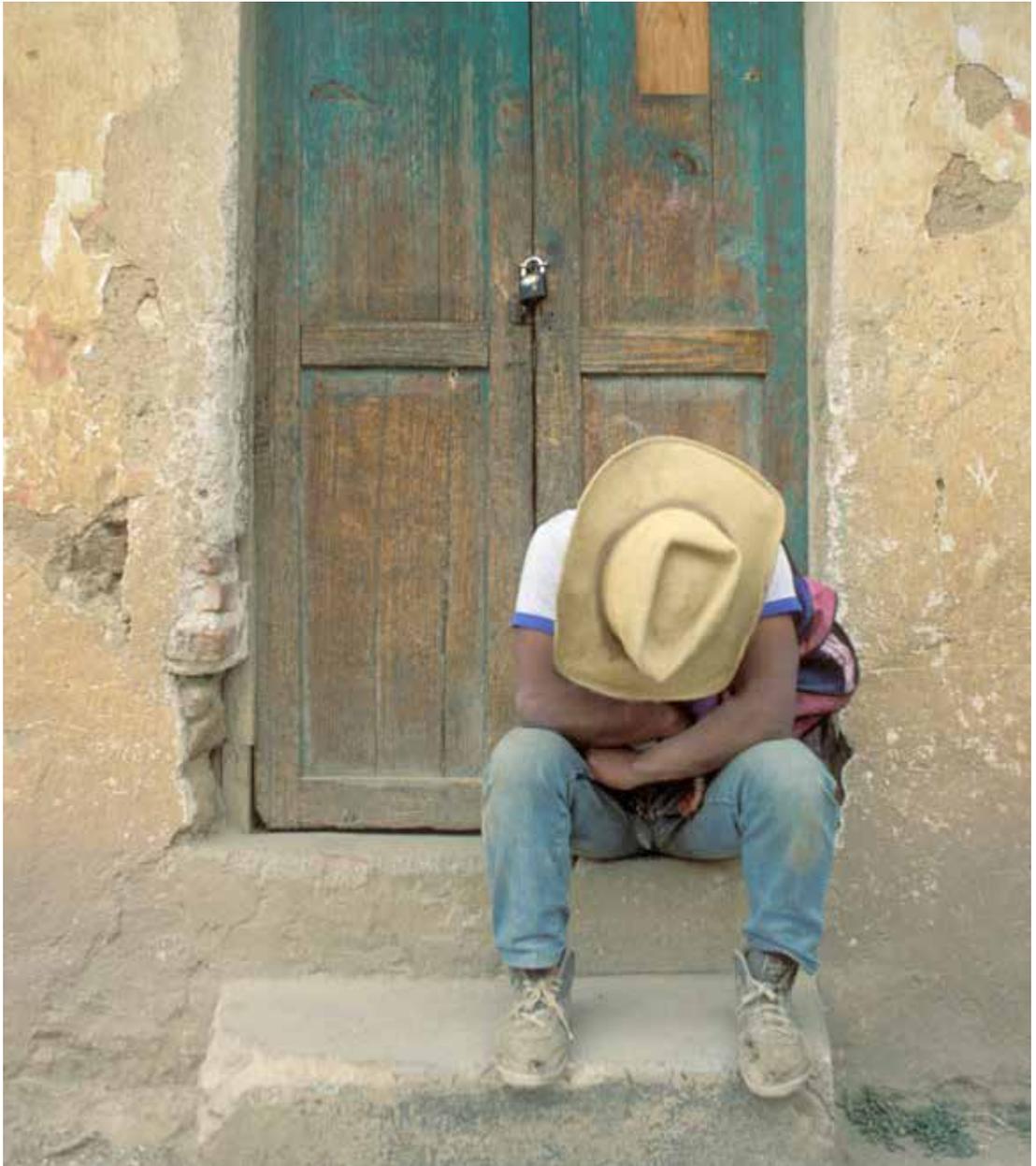
housing reconstruction costs in the budget of the project in question.<sup>31</sup> The box that follows provides a very succinct summary of the impoverishment risks highlighted by the IRR model (including loss of housing). Every one of the risks mentioned below is followed by a brief reference to the types of counter-risk measures that must be included in the development project to protect the rights of the displaced people and to enable the reconstruction of their livelihood, housing, and incomes.<sup>32</sup> Development projects that cause displacement and loss of housing must necessarily include in their compensation provisions either the construction of alternative housing by the project itself, or compensation in cash to those displaced to enable them to rebuild their housing.<sup>33</sup> It is worth noting that the IRR conceptual framework can be used not only in project planning but also in project ex-post evaluation, to assess the risks to people's housing and to evaluate the resettlement outcome in terms of substitute housing as well.

### **Remedial approach: Quantifying losses for purposes of reparations**

The remedial eviction impact assessment following the eviction process provides a more limited context and scope yet enables the identification of victims and thus provides an analysis of the state of the evictees' standard of living, information on

the losses incurred, and provides guidance toward remedies/reparations for any human rights possibly violated. The 2007 *Basic Principles and Guidelines on Development-Based Evictions and Displacement* offer guidance to both duty-bearers and rights-holders on how to comply with international human rights law with respect to the right to adequate housing.

The Housing and Land Rights Network (HLRN), a global network for the right to habitat and social justice, has created a tool aimed at addressing the serious situation relating to housing rights by considering that housing, land rights and living conditions are constrained by the lack of a system that assesses the fulfilment of the human rights dimensions. A toolkit was designed to fill this gap in the field, which seeks to provide a guide for remedial and constructive action through identifying a series of steps allowing for the identification of victims and vulnerable persons as well as the quantification of losses and costs of a violation/deprivation. The quantification process is performed through the *Loss Matrix* and it enables the user to outline the picture with the focus being on the victims' experience.<sup>34</sup> This methodology applies the HRBA in the loss quantification process in an exemplary manner.



Guatemala Man resting on doorstep. © Curt Carnemark / World Bank

# *Main elements of eviction impact assessments*

In order to carry out a comprehensive assessment of the impact of forced eviction and involuntary resettlement, disaggregated data is required in order to assess the differential impact on the different groups constituting the displaced population. This information will assist in identifying the type of measures that are needed to address their various needs.

The assessment should include:<sup>35</sup>

- **Identification of victims:** enables one to analyse the situation of victims of forced evictions and their ability to uphold their rights, prevent unlawful evictions, seek redress, and organise themselves;
- **Mapping other actors and interlocutors:** promotes transparency and participation of the public in decision-making processes;
- **Contextualizing the forced evictions:** addresses legal and structural problems related to forced evictions and it enables one to identify and analyse how the proposed operation could improve equitable access to land, adequate housing and natural resources or, on the contrary, increase inequality; as well as to identify procedures and methods for the follow-up (monitoring and mitigation of adverse consequences) in policy, planning and project cycles;
- **Analysing the project in order to assess violations of human rights throughout the eviction process:**

- Before an eviction: Identify and analyse how the proposed operation could impact on potentially affected rights; Predict potential for the instigation or exacerbation of conflict over land or natural resources due to the proposed operation;
- During the eviction: Identify how the operation has complied with human rights principles and if it has further violated any human rights of the affected persons;
- After the eviction: Calculate the real costs and impact of evictions on the community and demand remedial measures.

In order to assess tentative costs, that involve not only the material compensation but also the compensation for intangible losses, it is necessary to take further measures to ensure that not only material aspects are taken into account. A comprehensive analysis of the cost of the losses and the new costs that evictees may face will help estimate the actual total cost of the operation.

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### 3.1 Actions during different stages of evictions: Before, during and after

In order to effectively evaluate the impact of evictions, the impact assessment must consider specific features and dimensions at each stage of the forced eviction process.

#### **Before**

Impact assessments should identify whether:

- There have been made available opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; whether affected persons and their advocates have had the opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities;
- Inventories have been taken in order to assess the values of affected persons' properties, investments and other material goods that may be damaged;
- Those subject to eviction have been given the opportunity to assess and document non-monetary losses to be compensated;
- There has been provided adequate alternative housing, resettlement or access to productive land. Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted;
- Robust grievance mechanisms have been put in place and have been made available for all;
- The resettlement site is fully equipped with services such as provision of water, electricity, sanitation, schools, access roads and allocation of land and sites.

#### **During**

All evictions should be well planned and clear procedures put in place to prevent human rights violations and respect human dignity. A particular dimension that the impact assessment should observe during this stage relates to the manner in which the eviction is carried out.

EvIAs should report on the following elements:

- Time that evictions take place: Evictions should not take place during bad weather, at night or at periods where people may not be present in their homes;
- Manner in which the dismantling operation is conducted: Evictees should not be coerced to destroy their dwellings and structures and should be given the opportunity of salvaging as much as possible their belongings;
- Manner in which affected persons are treated: Evictions must not be carried out in a way that threatens the life of the evictees (for instance evictees are/should be protected against assaults or threats by third parties including gender-based violence).

The assessment should also look at a number of procedural requirements including:

- The presence of authorities;
- The possibility for independent and neutral observers to be present;
- A clear identification of the persons carrying out the evictions;
- A formal authorization for the eviction;
- The provision of clear information on the actions that will take place;

- Access to independent legal support.

Finally, in case force is used, it 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*. It should also observe any national or local codes of conduct consistent with international law enforcement and human rights standards.

### After

At this final stage it is crucial to monitor and report on certain characteristics of the relocation site. These aspects would reflect the conditions of living that may change over the short, medium and long term. Defining key indicators will enable the establishment of a base line upon which the same dimensions may be periodically measured with different intervals of time over a long period.

The dimensions to be assessed are:

- The needs of the evictees after the eviction;
- The existence of grievance mechanisms accessible for all;

- The impact of the eviction on the community, in particular on their livelihood;
- Additional costs resulting from the relocation resulting from the new site's location;
- Sustainability and quality of the services;
- Possibilities for the community to sell and transport their products;
- Interaction with surrounding communities;
- Improvement of housing and land rights.

### 3.2 Remedies for forced evictions

Impact assessments will show whether there is a need for remedial measures. According to the *Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, remedies should include:

- **Access to legal counsel and legal aid:** It is relevant to evaluate whether persons threatened with or subject to forced evictions have had

#### Identified relocation sites must fulfil the criteria for adequate housing according to international human rights law. These include<sup>36</sup>

- |  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>(a) security of tenure;</li> <li>(b) provision of services, materials, facilities and infrastructure such as potable water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and access to natural and common resources, where appropriate;</li> <li>(c) affordable housing;</li> </ul> | <ul style="list-style-type: none"> <li>(d) habitable housing providing inhabitants with adequate space, protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors, and ensuring the physical safety of occupants;</li> <li>(e) accessibility for disadvantaged groups;</li> <li>(f) access to employment options, health care services, schools, childcare centres and other social facilities, whether in</li> </ul> | <ul style="list-style-type: none"> <li>urban or rural areas; and</li> <li>(g) culturally appropriate housing. In order to ensure security of the home, adequate housing should also include the following essential elements: privacy and security; participation in decision making; freedom from violence; and access to remedies for any violations suffered.</li> </ul> |
|--|---|---|

## BOX 14: DAM CONSTRUCTION COMPENSATION POLICY ISSUE

In 2006, UNEP commissioned the production of a report to recognize compensation practices and to identify existing policies of compensation and resettlement related to the construction of dams in various countries. Benefit sharing mechanisms which ensure the viability of the implementation of these projects and social development generation were identified in different continents.

The document states that:

*Compensation Mechanisms applicable to dam projects can be defined as Malthus Mechanisms that aim to both: a) Compensate project-affected populations for lost assets and lost access to resources, and b) to restore and Improve the livelihoods of project-affected populations living in the vicinity of a dam development (through livelihood restoration and enhancement Schemes, Community Development Schemes, Schemes catchment development and/or monetary benefit sharing schemes). They include: 1) monetary compensation for lost assets and loss of access to resources, and 2) non-monetary or monetary benefit sharing mechanisms.*

The following scheme of priority elements for compensation in such projects and benefit sharing mechanisms is presented:

### COMPENSATION

- 1) Monetary compensation for lost assets and loss of access to resources
- 2) Livelihood restoration and enhancement
  - a. Sustainable agricultural employment
    - i. Land-for-land options
    - ii. Irrigation schemes including access to pumped irrigation from reservoir
    - iii. Drainage
    - iv. Cultivation in drawdown area and other benefits from managed flows and floods
    - v. Agricultural extension services including planting materials and other inputs.
  - b. Sustainable non-agricultural employment
    - i. Local employment during construction and operation
    - ii. Employment in services and industries
    - iii. Reservoir fisheries
    - iv. Skills training.

### 3) Community development

- a. Housing on titled lots
  - b. Access to primary services: schooling, health care, social services (such as family support and income support), etc.
  - c. Access to financial services (such as interest-free loans or micro-credit)
  - d. Domestic water supply
  - e. Roads and public transportation
  - f. Rural electrification
  - g. Markets and public and religious meeting places
  - h. Access to common resources (forests, grazing areas, etc.).
- ### 4) Catchment development
- a. Custodianship or management of catchment resources
  - b. Reforestation, afforestation and planting of fruit trees
  - c. Environmental enhancement for wildlife resources.

### MONETARY BENEFIT SHARING

- 1) Revenue sharing (through royalties or taxes on revenues)
- 2) Development funds

*Extracted from Dams and Development Project: Compendium on Relevant Practices - 2nd Stage. United Nations Environment Programme (UNEP)*

the right to access legal counsel and legal aid. In addition, it should be examined whether complaint or conciliation procedures led by an independent body are available and accessible for all.

- **Compensation:** Any assessment should observe that compensation for housing, land and property should be provided before the eviction. The calculation of compensation should include other aspects and not be solely based on the mere market-value of houses and shacks that the persons inhabit.

The assessment should monitor whether the compensation:

- Replaces the cost of the house, if it allows people to rehouse themselves adequately, if it includes other non-material aspects;
- Remedies all losses, including any losses of personal, real or other property or goods, including rights or interests in property and any of the economic and social losses incurred by those evicted;
- Remedies all economically assessable damage according 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);

- Does not replace (when given as cash) 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.

**Restitution and return:** Any project displacing people should consider the possibility for restitution and return of the initial residents to the same location after the completion of the project; impact assessment should observe whether the eviction has been carried out unlawfully or arbitrarily, as in such case according to the *Principles on housing and property restitution for refugees and displaced persons* (Pinheiro Principles), persons unlawfully or arbitrarily displaced have a right to restitution of their homes and lands.<sup>37</sup>

**Resettlement and rehabilitation:** Although alternatives to evictions must always be considered, there would be cases where the resettlement of particular persons, groups and communities may be unavoidable to promote general welfare, safety, health or enjoyment of human rights. Such resettlement must occur in a just and equitable manner and in full accordance with international human rights law.

## BOX 15: INTER-AGENCY STANDING COMMITTEE: OPERATIONAL GUIDANCE FOR COORDINATED ASSESSMENTS IN HUMANITARIAN CRISES

In certain situations, such as complex emergencies and natural disasters, there may not be sufficient time to conduct comprehensive eviction impact assessments. Rapid need assessments may then be very useful to understand immediate impacts even if it will be lacking some on the comprehensive elements that characterize a human rights-based approach to EvIAs.

The Inter-Agency Standing Committee (IASC) established the Needs Assessment Task Force (NATF) in March 2009 to improve coordinated assessment processes and strengthen the identification of strategic humanitarian priorities in complex

emergencies and natural disasters. Along with emergency preparedness, the timeliness and quality of assessments help determine an effective humanitarian response. The credibility and accuracy of assessment results are the basis for needs-based planning and can have long-lasting effects on everything from the quality of interagency coordination, to donor funding levels and relationships with national governments, local NGOs and disaster-affected populations.

The NATF developed the *Operational Guidance for Coordinated Assessments in Humanitarian Crises* to help realize the goal of better quality and more

timely assessments through coordinated processes. The Operational Guidance was developed primarily on the basis of experience gained during the early phases of large-scale quick-onset natural disasters, but it is also applicable to other types of crises. It provides guidance to coordinate assessments as well as technical tools in the annexes.

The NATF developed this Operational Guidance through a collaborative and consultative process with UN agencies, other international organisations, NGOs and donors at the global, regional and national levels.

*Extracted from IASC - Operational Guidance for Coordinated Assessments in Humanitarian Crises, March 2012 [http://ochanet.unocha.org/p/Documents/ops\\_guidance\\_finalversion2012.pdf](http://ochanet.unocha.org/p/Documents/ops_guidance_finalversion2012.pdf)*

# *How to conduct EVIA*<sup>38</sup>

It has been noted that development actors and governments are increasingly moving towards more flexible and extensive ways of recording and mapping elements for stock-taking prior to any eviction process, resulting in tenure forms and tenure rights being registered. The methods utilised often build upon existing practices or rights and involve communities conducting participatory mapping and participatory data gathering.<sup>39</sup>

It has also been observed that decisions, assessment of options and appeals processes should be based on the collection and analysis of information on: who are the persons that will be evicted; what land rights they enjoy; what natural resources and other assets they depend on for their livelihood; and what community resources, public spaces, burial grounds or religious sites exist within the project area.<sup>40</sup>

In all cases, the generic assessment forms utilised for the gathering of information should be customised to suit the particular contexts. Listed below are a series of constituting elements of EvIAs to be considered for information gathering at different stages of the process.

## **4.1 Enumeration and stock-taking**

Enumeration and stock-taking are fundamental aspects on which assessments rely. They entail various forms of information-gathering techniques enabling the description of the characteristics of a certain process. One type of enumeration

is the **census**, through which data, such as demographic characteristics (sex, age, marital status, etc.), health, access to services, employment, income, access to housing, etc. is gathered.<sup>41</sup> In the context of forced evictions, enumeration allows for the counting or listing of material and non-material assets of a community.

## **4.2 Mapping**

Drawing a map of various actors involved in forced eviction- and resettlement processes may be useful to determine all relevant stakeholders and to characterise the role that each actor/institution plays (figure below). It is relevant to clearly identify the victims (individual, group, community) affected directly or indirectly, as well as to 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.<sup>42</sup>



Displaced Afghans near Herat are moved to a new site outside the city in an effort to better manage new arrivals. © John James/IRIN

### 4.3 Participation

*“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>43</sup>*

*- The Basic Principles and Guidelines on Development-Based Evictions and Displacement*

Participation must be **inclusive**: The information must be provided in the local language(s), and in a manner that is accessible to everyone, including

those who cannot read. Participation must not be discriminatory, and it must aim at having all groups represented. For instance, if the goal is to encourage women’s participation, it should be ensured that consultations are held at times where most of them are not occupied with household or child caring tasks; that meetings are held in safe and lighted venues and with safe accessibility. It is also essential to hold meetings in places accessible to elderly people and disabled persons.

The participation of individuals and communities in the process of measuring the impact of an eviction or resettlement does not only involve access to information. Participation also requires the space to influence and validate the intended

**INTERNATIONAL SPHERE**

**THE STATE**

- Main responsibility for respecting, protecting and fulfilling human rights. In the case of an eviction, it is the main responsible party for planning and implementing the resettlement process in accordance with international and national human rights obligations, principles and standards.
- Main responsibility for planning and

controlling development processes at all levels; as well as assessing the impact of the policies implemented by its organs and third parties.

- Bound by international human rights treaties and domestic laws.
- Main responsibility for negotiating the terms of loan agreements, policies and putting

**MULTILATERAL INSTITUTIONS, CREDITORS, DEVELOPMENT ASSISTANCE BODIES**

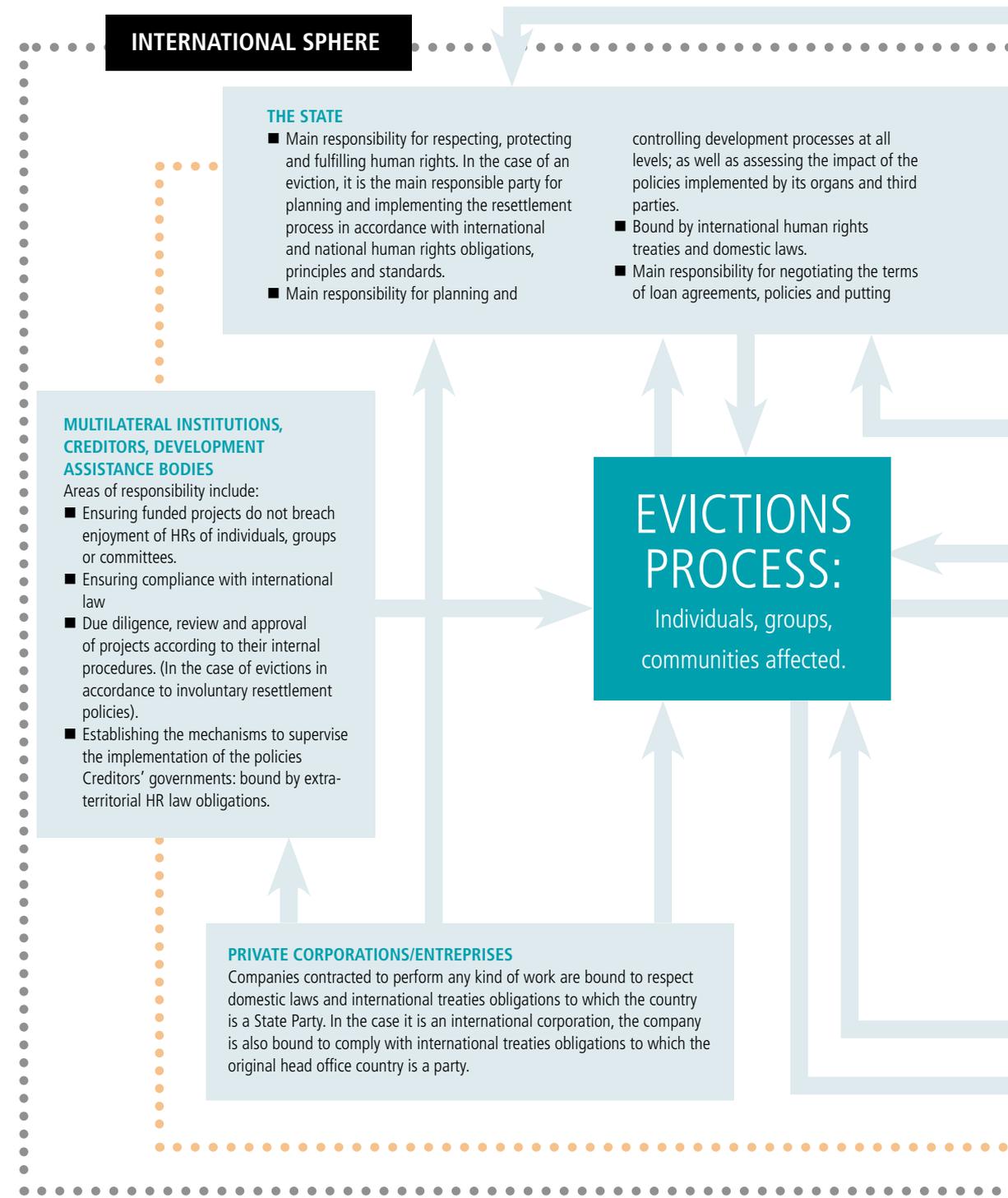
Areas of responsibility include:

- Ensuring funded projects do not breach enjoyment of HRs of individuals, groups or committees.
  - Ensuring compliance with international law
  - Due diligence, review and approval of projects according to their internal procedures. (In the case of evictions in accordance to involuntary resettlement policies).
  - Establishing the mechanisms to supervise the implementation of the policies
- Creditors' governments: bound by extra-territorial HR law obligations.

**PRIVATE CORPORATIONS/ENTREPRISES**

Companies contracted to perform any kind of work are bound to respect domestic laws and international treaties obligations to which the country is a State Party. In the case it is an international corporation, the company is also bound to comply with international treaties obligations to which the original head office country is a party.

**EVICIONS PROCESS:**  
Individuals, groups, communities affected.



in place mechanisms for ex ante evaluation; during and ex post evaluation of any process of development (including research and monitoring processes, legal aid, grievance processes, compensation and rehabilitation).  
(Including research and monitoring processes, legal aid, grievance processes, compensation and rehabilitation)

#### NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRI) OR INDEPENDENT NATIONAL HRs COMPLIANCE MECHANISMS

- The majority of these mechanisms have the mandate to advise the Government and recommend policy or legislative changes, handle complaints, undertake investigations, ensure the ratification and implementation of international human rights treaties, and provide training and public education.
- NHRIs sometimes have quasi-judicial functions and a mandate allowing them to contribute to the development of legislation.
- Some institutions have specific programmes to monitor the realization of economic, social and cultural rights; promote them; address violations of these rights; and conduct research and produce reports on issues related to their enjoyment. They are regularly consulted by the Human Rights Protection System.

#### CIVIL SOCIETY GROUPS AND NGOs

- Must be allowed to:
- Perform independent follow-up of the situation;
  - Access information and carry out field visits and otherwise monitoring actions;
  - Carry out legal aid activities, assisting affected population in claiming their rights.
  - Be in the best place to support communities that call for international attention to the process.

#### NATIONAL SPHERE

#### THE UNITED NATIONS HUMAN RIGHTS PROTECTION SYSTEM

- The United Nations treaty bodies are monitoring committees of independent experts that follow up on the implementation of the United Nations core human rights treaties.
  - These committees issue both concluding observations on the regular reports of States Parties, as well as thematic general comments. Some committees have individual complaints mechanisms where claims can be filed.
- Some committees are also entitled to conduct fact-finding missions to assess the enjoyment of rights in particular situations.
- **United Nations Special Rapporteurs**, under the Special Procedures mechanism, report to the Human Rights Council on issues of concern in all parts of the world. Although their mandates vary, they usually monitor, examine and report publicly on human rights situations in either specific countries or on major thematic human rights issues worldwide. The Special Rapporteurs facilitate the provision of technical assistance, conduct country missions, investigate issues of concern; review communications from individuals or groups alleging violations of the rights and intervene, when appropriate, with Governments in connection with alleged violations.

### BOX 16: ENUMERATIONS TO FIGHT EVICTIONS: WE, THE INVISIBLE

One of the earliest examples of an enumeration of informal settlements was the “people’s census” of pavement dwellers in Bombay (Mumbai), India. A description of this was published in 1985 as *We, the invisible – a census of pavement dwellers*. This enumeration was initiated and jointly organised by the Society for Promotion of Area Resource Centres (SPARC) and the Society for Participatory Research in Asia (PRIA) in response to what they coined a striking paradox: It is a paradox that pavement

dwellers are highly **visible** on the one hand – no one in the city of Bombay can have failed to see them – but virtually **invisible** on the other.

In the course of the enumeration process, meetings were held involving pavement dwellers to discuss and debate issues such as why the census was important and how the information was to be used. People were kept informed at all stages of the process. The census questionnaires used were explained to people in order to clear

up any fears and suspicions. Each area received a copy of their data and a version of the report in their own language. The aim was to use the gathered information to dispel various negative myths about the pavement dwellers and in so doing for them to achieve “legitimate” visibility. They were convinced that the information would force the hand of the authorities to recognize the pavement dwellers and “somehow stave off the demolition of their homes” (SPARC and PRIA 1988).

*Extracted from Count me in, Global Land Tool Network (GLTN) - UN-Habitat*

### BOX 17: EVICTIONS IN PHNOM PENH: OHCHR STUDY

Over 120,000 individuals have since 1990 been evicted in Phnom Penh. The OHCHR country office in Cambodia conducted a study from late 2009 to early 2010 (with follow up visits in late 2011 and early 2012) that focused on seven resettlement sites in order to examine in depth the living conditions of resettled families, including:

- adequate housing;
- water and sanitation;
- tenure security;
- livelihood and employment;
- food security;
- health;
- education; and
- civil and administrative matters and social inclusion.

The study focused on eviction and resettlement processes that took place in urban areas, due mainly to urban or high-end commercial development. It was based on a variety of available information

*Source: OHCHR’s field work*

sources such as first-hand testimonies and information collected by OHCHR staff from individuals and communities in the resettlement sites; interviews with government officials, non-governmental organisations, and service providers; as well as data from OHCHR’s case work on evictions (notably that of the ‘Group 78’ community in Chamkar Mon District); and a review of official and non-official documents.

In order to conduct the study, information was collected by:

1. *Reviewing existing literature* on eviction and resettlement in Cambodia
2. *Conducting community surveys*: In-depth individual interviews and group discussions at selected resettlement sites in Phnom Penh and Preah Sihanouk Province were conducted by the staff. OHCHR developed a general questionnaire based on the relevant human rights affected at resettlement

to guide interviews.

3. *Carrying out organisational interviews*: Meetings and interviews with government authorities at local, municipal and national level, community representatives, as well as representatives from housing and human rights organisations, service providers and development NGOs.
4. *Implementing a technical assessment on water and sanitation* at Andong site, with 45 persons interviewed and water samples sent to Pasteur Institute for microbiological and physico-chemical analyses. A checklist on water and sanitation needs was developed and used for these interviews.
5. *Gathering information drawn from OHCHR’s own case work* about the resettled communities under study and other eviction/relocation cases, notably that of the ‘Group 78’ community in Chamkar Mon District, Phnom Penh.

measures during the development processes in question. Once the process commences, the State (through the competent authorities: the local authorities, institutions and bodies) should ensure that those affected have been provided with all the necessary information on the methodology and objectives of the impact assessment. Allowing participation in the stocktaking of inventories could guarantee, at some stages of the process, the involvement of the people who are being affected. In some cases the entire process is participatory, from inception, through to design, management and implementation, to analysis and use of the data. In others, participation occurs at specific points in the process, such as an initial consultation or information sharing event, a point of boundary identification, or a process of public data verification.<sup>44</sup>

Another important aspect of participatory processes is enumeration. Enumeration does not only refer to a quantitative counting of assets, but rather to *collectively* identify certain basic features of the communities such as the form of land tenure, available basic services, infrastructure, etc. These ways of gathering information in settlements have been called by various names, including “people’s census”, “self-survey” and “community

mapping”. Participatory enumerations empower the community; for instance residents can initiate and retain control of the process. They can ensure that it speaks directly to their needs, aspirations and that it refers to human rights. Independent enumeration processes further serve to contrast with the existing official documents (if any) and it thus consolidates and strengthens communities in their demands in documenting the extent to which their standard of living is adequate as per agreed international minimum human right standards.<sup>45</sup>

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#### 4.4 Data collection methods

##### Different primary data collection techniques can be used depending on the situation:

**Forms:** Allow for data to be gathered rapidly. A rapid assessment of a large area may use community-level data collection forms or questionnaires that predominantly consist of closed-ended questions.

**Surveys and samples:** Allow for more detailed data at household and/or individual level. The conduct of surveys are usually designed in such a way that includes representative sampling from the population. A frequent problem in assessments is that too much information is collected. When many stakeholders are involved, the amount of

#### BASIC CONCEPTS:

The collection of data for any assessment must comply with two main elements that are fundamental in social research: **Validity** and **Reliability**.

**Validity** is the extent to which something is “true” and therefore generalizable. There are different types of validity. Many assessments fail the test of validity and thus are criticized for not accurately measuring the problem and hence having their results rejected.

**Reliability** relates to the indicators and measures chosen and the extent to which different assessors using the same tool to assess the same situation come up with similar results. It is known as inter-rater reliability. Achieving a reliable measure is often determined by both the quality of the survey instrument and the training provided to the assessors.

**BOX 18: ASSESSING THE IMPACTS OF A CASE OF APARTHEID EVICTION IN SOUTH AFRICA**

An eviction impact assessment was conducted in the rural village/administrative locality of Chatha in the magisterial district of Keiskammahoe, in what was the former apartheid homeland/Bantustan of Ciskei in South Africa where a government programme known as 'betterment planning' - a kind of villagization scheme - took place throughout the homelands in the 1960s and 1970s.

Betterment involved the re-organisation of land use in rural localities - officially to combat erosion and for more efficient agricultural production and service provision. The locality of Chatha was divided by the authorities into separate arable, grazing and residential areas, in terms of 'suitability' - which involved a significant loss of arable land for most people.

The forced move to the new concentrated residential areas took place in the mid- 1960s involving 335 households. Eviction thus took place within people's own locality, with people moving close by (varying from half to two kms), carrying their own possessions and housing materials, in hilly countryside. People were paid cash compensation - evidently upfront, before the move - calculated on the number of huts they had before eviction. Accounts of the amount vary,

but people claim that this did not cover the costs of re-building. People moved as they could find the labour and the money, the process taking around three years for the village as a whole to move to the new areas.

EVIA was conducted during the 1980s through 16 months of anthropological fieldwork in-residence, including subsequent fieldwork. The assessment of the impact of the eviction involved: Describing the pre-move situation from archival records, previous research which had been done in Chatha in 1948-1950, government reports, oral accounts of the villagers, constructing maps of the pre-move old residential hamlets. EVIA also included building up a picture of the actual move through detailed interviews with a wide range of villagers who had experienced it, as well as with the two key government officials involved at the time. Regarding the analysis of the post-move situation, the impact was assessed through: a range of socio-economic and agricultural surveys, mapping of the new residential areas, observing patterns of association, cooperation and conflict in action, and on-going participant observation.

The EVIA established that forced eviction arising out of Betterment had impoverished people through loss of land

and disruption of the territorial basis on which their social relationships were constructed.

The analysis of impacts in Chatha has served as the foundation for a successful land restitution claim being awarded to the people of Chatha in the post-apartheid context. However, the impacts of eviction need to be evaluated in both the shorter as well as longer term. Short term, the impacts in Chatha were clearly socially, psychologically and economically severe (with most of Cernea's impoverishment risks being realized). Forty years later things had changed significantly. National and regional economic developments had led to a dramatic rise in real incomes - the loss of arable land notwithstanding; the importance of cultivation had accordingly declined - as it also has in areas that have not undergone Betterment eviction. Movement to concentrated areas has realigned and sharpened political conflict, but this dynamic fluctuates, and is influenced by outside political developments. One important conclusion resulting from this eviction impact assessment is the need to assess the impacts of forced eviction in specific situations dynamically, i.e. in terms of their wider setting, and through time.

*Source: Chris de Wet, Rhodes University, South Africa.*

## BOX 19: EVICTION IMPACT ASSESSMENT IN BALJEET NAGAR, DELHI

In May-June 2011, the Housing and Land Rights Network (HLRN) decided to use the EvIA Tool to assess the extent of losses and thus determine compensation after the forced eviction of Baljeet Nagar, a 25-year old settlement in West Delhi with around 4,000 houses (permanent & semi-permanent) of which 80% of the population was Dalit.

HLRN played the lead role in facilitating an assessment of the losses incurred due to the forced eviction in Baljeet Nagar, Delhi. This consisted of:

- Organising a meeting with experts and key institutions;
- Finalising the EvIA tool for Baljeet Nagar based on Focused Group Discussions (FGDs) with the affected community;
- Translating the finalised tool to Hindi;
- Conducting a training for the survey team;
- Reviewing the first round (pilot phase) of the survey (102 households were selected to inform the sample);
- Revising the tool based on initial field experiences and feedback from the team;
- Documenting and analyzing the data of the survey; and,
- Writing a report of the findings

The EvIA gathered information on:

- Household goods destroyed – quantity, value and repurchase value;
- Food items lost at time of eviction;
- Inviolable priceless assets lost;
- Housing/land/property lost;
- Mortgage/debt penalties;
- Vital documents lost.

It also reported on:

Monthly expenditure on water – before and after;  
Monthly expenditure on food – before and after;  
Livelihood /wage loss;  
Education loss – school drop-out;  
Change in healthcare costs;  
Advocacy costs & legal/bureaucratic fees;  
Change in transportation costs.

The EvIA findings related to losses and costs calculated for 3 months (April -June 2011) confirmed a deterioration in the ability of the individuals and community to enjoy several human rights – housing, health, education, work, security, food, water and information: *Violation of Right to Adequate Housing & Property:* Loss of access to housing, including loss of documentation supporting tenure security; loss of assets and wealth; average household lost Rs. 30,000 (USD 600) from destruction of structure (up to Rs. 400,000 – USD 8,000); household goods lost up to Rs. 20,000 (USD 400) – including TV, clothes, CD players, phones. *Violation of Right to Work:* Substantial labour time loss, wage reduction, job loss (15 days to 4 months); more women lost jobs and had to find new work; average income loss – Rs. 8,000 (up to Rs. 28,000 – USD 580). *Violation of Right to Food:* Three months after the demolition – average family consumed less food; monthly expenditure on food fell by Rs. 400 (USD 8) after demolition; attributed to loss of income /assets and increase in expenditure on healthcare, housing, water.

*Violation of Right to Water:* Average monthly expenditure on water increased by Rs. 300 (USD 6); inconsistency in government water supply, disruption of regular sources, increased travel time to collect water. *Violation of Right to Health:* Average monthly expenditure on healthcare increased by Rs. 7,000 (USD 140) – up to Rs. 30,000 (USD 600); injuries sustained during the demolition; health impacts in the aftermath of the demolition: increased stress, psychological trauma, increase in vulnerability to vector-borne diseases, exacerbation of chronic ailments; several families did not seek medical treatment due to loss of income /increased expenses on essentials; 20% reported increase in trauma; less than 6% sought treatment; permanent health impacts: five-year old boy lost eyesight in one eye; value calculated is not indicative of actual impacts on health, especially long-term. *Violation of Right to Education:* School enrolment dropped 8% post-demolition; 1 in 12 children dropped out of school for 2 - 5 months; average monthly expenditure of a household on education (where at least one child attended school) fell by Rs. 110 in the first 3 months after eviction; demolition during school final exams prevented some children from taking their exams - affected performance and grades. *Other Findings:* Every family lost at least ONE vital document (food subsidy card/ voter card/ birth certificate); some documents have been replaced; not all; substantial costs for replacing document/ obtaining a new document (application forms/ transport/ bribes/ bureaucratic fees).

information requested can be overwhelming. When too much information is collected, the usability of the data collection questionnaire decreases as the assessment takes too long to implement, the population feels over-assessed, the data takes too long to compile, and not all the data is actually analysed and used in decision-making.<sup>46</sup> An ideal assessment is concise: it collects exactly what is required for decision-making, fundraising and advocacy. Therefore it is useful to identify harmonized indicators so that they can be used by multiple actors as well as to use sampling techniques to collect data on representative locations rather than attempting to exhaustively collect data on all locations.<sup>47</sup>

**Surveillance and follow up:** These can be used in on-going assessment. In this case, data is collected repeatedly over a period of time, rather than just once.

**Visual inspection:** Visual inspection of the scene of an eviction is a very effective assessment tool in helping assessors validate secondary data on the level of vulnerability and needs and to verify the statements of key informants.

**Satellite imagery:** This has proven to be useful for providing data on remote areas with difficult field access. Timely access to satellite imagery and accurate geographic information is a key element for the efficient management of recovery planning activities including post-eviction assessments.

**Key informant survey:** This is the most frequently used EvIA technique. It consists of in-depth qualitative interviews with selected people with first-hand knowledge about a certain topic of interest. It is useful when there

#### BOX 20: WOMEN COUNT

In a number of cases women have played a central role in community mapping. It allows grassroots women to assess and record the community's needs and assets and to imagine new solutions to the issues they are facing.<sup>48</sup>

*Extracted from Count me in, GLTN- UN-Habitat*

#### BOX 21: COMMUNITY MAPPING

UN-Habitat has noted that the maps produced through community mapping serve as the basis for action on priority issues. For example, publicly displaying community maps is an important way to verify the results of an enumeration. In the 1990s in Phnom Penh, Cambodia, for example, city surveyors could not finish their map of a particularly poor slum called Basaac: They were unfamiliar with the intricate maze of houses and streets. The residents, however, knew the alleys in detail and could map them with surprising accuracy. With community participation the mapping was successfully completed. Innovative mapping and verification methods produced information that would otherwise not have been readily available (source: MIT).

*Extracted from Count me in, GLTN- UN-Habitat*

is a need to understand motivation, behaviours and perspectives. Qualitative data collection further complements and assists in interpreting quantitative data, advocate for a programme or get buy-in, and help in the design of quantitative surveys.

**Focus group:** It is a technique frequently used for impact assessments as it is useful in producing information about beliefs, opinions, practices and reactions. A focus group will provide insight into a predetermined area of inquiry and help identify the range of responses to a question or allow for an in-depth exploration. It takes the form of a group

## BOX 22: 15-QUESTION QUICK ASSESSMENT OF THE SITUATION AFTER AN EVICTION HAS TAKEN PLACE

- 01 When did the eviction take place?
- 02 Who carried out the eviction?
- 03 Was a formal authorization for the eviction presented?
- 04 Were independent observers present (civil society groups, international organisations, media, etc.)?
- 05 How was the eviction(s) carried out?
- 06 Was violence used by the authorities?
- 07 Were lives threatened?
- 08 Was there violent resistance from those facing evictions?
- 09 Were belongings destroyed?
- 10 Were those facing evictions forced to destroy their own shelter and belongings?
- 11 Were measures taken to protect possessions that were left behind against destruction, illegal appropriation and use?
- 12 Were steps taken to ensure that no one was subject to attacks or other acts of violence, in particular women and children?
- 13 What measures were taken to minimize the traumatic impact of the eviction on women, infants, children, the elderly, persons with disabilities and ill residents? Were medical care professionals available?
- 14 Are video footage, testimonies or any other information on the event available?
- 15 Is the eviction over or are more evictions planned?

Source: OHCHR's *Forced Eviction Assessment Questionnaire*

discussion that gathers people, usually sharing some knowledge or characteristics, to discuss a specific topic of interest. For the most part focus groups are conducted in-person. It does not provide quantifiable information and the results obtained are not scientifically “generalizable” to the larger population from which the group is drawn, although the answers and discussions may accurately describe the larger population’s beliefs, opinion, practices, etc.

Focus groups are useful in creating questionnaires or other data collection methods. They tend to generate a significant amount of information, are typically less costly than surveys, and relatively fast to conduct. They are also useful if the community’s literacy is questionable and allow more flexibility than questionnaires.

**Community mapping:** It is a valuable technique directly related to and often used as part of a participatory enumeration. It is an exercise undertaken by and for residents themselves and it includes a range of activities such as: listing down daily activities; identifying relevant actors related to and acting with the community; compiling information on traditional ways of living and livelihood; sketching maps showing community information on specific issues or themes. The mapping is a relevant input for the conflict analysis as some aspects of a community may not be immediately apparent. It has been observed that the mapping process is in itself transformative, as knowledge is shared, viewpoints are debated, ideas and strategies for action often emerge, and people shape the mapping process itself.

### 4.5 How to develop a questionnaire

The construction of the questionnaire is a valuable technique that aims at obtaining relevant quantitative and qualitative information. This technique is based on the elaboration of a list of questions that aim to feature significant aspects that may need to be addressed. When developing questionnaires, it is necessary to decide whether they will be closed-ended (responding by yes or no, or already established multiple choice) or open-ended questions. Another aspect to take into account when designing a questionnaire is the wording as questions should be clear and uniformly

understood. This is particularly important when surveys are translated into local languages or dialects.

#### 4.6 Capacity building and training on HRs

##### Training data collectors

An important aspect to be considered when carrying out an impact assessment is to ensure that those implementing the evaluation as well as those to be interviewed have the necessary knowledge. The assessors (those who are implementing the impact assessment) should be familiar with the various data collection techniques available so that they can apply the most relevant one to the situation. It is also necessary that the persons carrying out the process share the same criteria when measuring similar situations. Reliability of information is based on this aspect and it increases when the same instrument or measure is used over a number of different events and situations.

To obtain a high quality impact assessment, it is advisable that the assessors incorporate the human rights approach. This approach allows for detecting invisible or unidentified situations and thus making visible conditions of discrimination or lack of voice in the process. Furthermore, data collection teams may need to be trained prior to going to field locations on basic features of the project, on the purpose of the interviews and data gathering and on the manner that the findings will be compiled and used. This is essential as the data collector person/s may be the first operator/s with whom possible affected communities have contact and thus a potential source of information.

##### Training communities

Community training and knowledge may be a decisive factor for the impact assessment. It is recommended, if possible, to empower communities prior to the implementation of the impact assessment, especially to identify risk factors

#### BOX 23: DERAILED: A STUDY ON THE RESETTLEMENT PROCESS AND IMPACTS OF THE REHABILITATION OF THE CAMBODIAN RAILWAY

Bridges Across Borders Cambodia (BABC) conducted a countrywide research over a period of approximately 20 months, on the resettlement process and impacts of the Rehabilitation of the Cambodian Railways Project. The research assessed compliance with the applicable policy and legal instruments, including relevant provisions of international human rights law covenants, Cambodian law and the ADB Policy on Involuntary Resettlement. The research looked at the experience of project-affected people in accessing

relevant information and participating in consultations, the resettlement process and their entitlements. It also evaluated the households' compensation for demolishing homes and other losses and it looked at the selection of resettlement sites, and their appropriateness and adequacy in terms of tenure security, proximity to livelihood opportunities and basic facilities, and the provision of services. Finally, impacts of resettlement on livelihoods and income, as well as debt burdens and the quality of

project-sponsored income restoration programmes were examined as well as the project's local grievance mechanism and the ability of affected households to attain solutions for resettlement-related concerns and to access remedies for harms suffered.

At the end of the process a report was presented compiling the research findings in relation to various aspects of the resettlement process and assessing compliance with policy and legal obligations in relation to each aspect.

*Extracted from DERAILED: A Study on the Resettlement Process and Impacts of the Rehabilitation of the Cambodian Railway (BABC)*

for the communities who have lived in precarious tenure security and access to housing. In this sense, workshops and training sessions may help people learn about the risks and dangers of displacement, as well as their rights and the strategies they can use to protect those rights. Also, communities can be trained on how to understand the information provided by operators, to take part in discussions, and to learn important skills to enable everyone's participation.<sup>49</sup>

#### 4.7 Compiling research findings

Once the information is generated it should be compiled in an accurate manner. Compilation will vary depending on who has generated it, the aim of the EvIA and the actors involved. When the information has been generated by the operators carrying out the process, it is essential to enclose all documents and forms or reference materials through which the surveys and studies were conducted. It is important to demonstrate the accuracy of the information and especially that the query has had a sufficient sample.

When the information has been generated by independent actors, official documents may be presented. It is important to present information related to various aspects of the process and their compliance with human rights obligations. The findings should include the perception and testimonies of the experience of the affected persons, including information on housing and habitat, describing conditions of housing before and after the eviction and in the case that houses were demolished, an exhaustive description of how losses were assessed, compensation evaluated and the manner in which the eviction had taken place. Finally, it is important to include information on grievance mechanisms put in place by the Project

and the ability of affected households to attain alternative solutions and access remedies for harms suffered.

It is advisable, when possible, to include an assessment on how the new site's conditions meet appropriateness and adequacy in terms of tenure security, proximity to livelihood opportunities and basic facilities, and the provision of services.

All the information, findings and conclusions should be compiled and presented as a report to the relevant recipients. Reports addressed to the community, for example, should be presented in accessible form, such as on a leaflet, book or poster format to allow for better understanding of the information.



Sudanese Flee Libyan Crisis, Return to Darfur. © UN Photo/Albert González Farran

# Questionnaire example

## AFTER AN EVICTION: IMMEDIATE RELIEF AND RELOCATION

Location / site: \_\_\_\_\_ Date: \_\_\_\_\_

### General information of the resettlement

Number of emergency housing solution (EHS) provided:

Number of inhabitants:

F \_\_\_\_\_ M \_\_\_\_\_

Number of households: \_\_\_\_\_

Average number of persons per EHS provided: \_\_\_\_\_

Average number of persons per EHS: \_\_\_\_\_

Number of persons evicted from the original site: \_\_\_\_\_

Number of persons coming from other places: \_\_\_\_\_

Indicate if there are Refugees or IDPs:

Number of elderly: \_\_\_\_\_

Number of disabled: \_\_\_\_\_

Number of children: \_\_\_\_\_

Number of school aged children: \_\_\_\_\_

### Information of emergency housing solutions provided

Conditions of housing containers in terms of: protection from cold, damp, heat, rain, wind or other threats to health:

Satisfy Partially \_\_\_\_\_

Satisfy \_\_\_\_\_

Poor \_\_\_\_\_

### Comments

Access to potable water:

Public fountain within settlem. \_\_\_\_\_

Public fountain outside settlem. \_\_\_\_\_

Other \_\_\_\_\_

### Comments

Availability of services in terms of sanitation and washing facilities:

Common public facilities \_\_\_\_\_ Number \_\_\_\_\_

Portable toilets \_\_\_\_\_ Number \_\_\_\_\_

Other \_\_\_\_\_ Number \_\_\_\_\_

### Comments

Main source of the energy for cooking and heating;

Electricity \_\_\_\_\_

Wood stove \_\_\_\_\_

Other \_\_\_\_\_

### Comments

Lighting inside the EHS

Satisfy Partially \_\_\_\_\_

Satisfy \_\_\_\_\_

Poor \_\_\_\_\_

Lighting inside settlement – streetlight

Exist in entire settlement \_\_\_\_\_

Partially exist in settlement \_\_\_\_\_

No \_\_\_\_\_

### Comments

Refuse disposal

Inside the settlem. \_\_\_\_\_

Outside the settlem. \_\_\_\_\_

No \_\_\_\_\_

### Comments



Information of community, services and location	
Access to essential food – vicinity of green market and/or market store	Less than 500m _____ 500m-1km _____ More than 1km _____
Comments	
Vicinity of elementary school	Less than 1km _____ 1km- 2km _____ More than 2km _____
Vicinity of childcare facilities	Less than 500m _____ 500m-1km _____ More than 1km _____
Comments on education of children	
Vicinity of essential medical services;	Less than 1km _____ 1km- 2km _____ More than 2km _____
Comments on Access to medical services in terms of registration in local medical centres and possession of necessary documents.	
Access to local transportation – distance of nearest bus/tram station from the settlement	Less than 500m _____ 500m-1km _____ More than 1km _____
Comments	
Host community	Same ethnic/groups _____ General _____ No _____
Comments on relation with host community	
Access to employment options in the new location;	Number of individuals that gained jobs _____ Number of individuals that lost jobs due to resettlement _____ Possibility to continue with previous working activities _____
Support provided by social welfare centers and other State services;	Any possibility to apply for any social programme _____ Any possibility to apply for public housing _____ Possession of ID card _____
Members of the same extended family or community are not separated as a result of evictions;	
General observation of clothing;	
Remarks	

Source: OHCHR's field work

## *Examples of good practices in the use of EVIA*

The main purpose of the EvIA is to generate an evaluation of the impacts that any project, eviction or resettlement can bring about, and to reflect the reality of the facts both in terms of losses and harm or human rights violations. Analysis of the data often results in a report, statement or document that gives substance to the suggestions, recommendations or complaints.

It is relevant to consider what products will be necessary to produce. It is important to decide the spaces and actors among which findings will be shared. At this stage it is relevant to plan how the findings will be conveyed to the various stakeholders; moreover it is important to decide how the results will be used.

This chapter presents two types of good practices of impact evaluation and joint work towards the improvement of the resettlement conditions. The first type includes cases of good practices of participatory resettlement; it presents the case of Akphiwat Mean Chey Community in Cambodia where the resettlement process was participatory, jointly planned with authorities and with full respect of community choices and adequate time for planning and preparation; it also presents the case of Tangguh Liquefied Natural Gas (LNG) Project where a risk-based planning and development-forced displacement and resettlement (DFDR) was conducted and which resulted in the improvement of livelihood conditions of the community; the land sharing practice in Bangkok; and the construction of the Salto Caxias Dam in Brazil which entailed a participatory implementation of Brazilian Environmental Legislation for resettlement that improved livelihood.

The second type of examples presented show how it is possible to learn from impact assessment applied in other fields; it presents information on what an environmental impact assessment entails according to the experience that the International Association for Impact Assessment has developed; and it presents a case of characterisation of a compensation Policy Issue developed by the UNEP Dams and Development Project.

These cases are good examples of how the joint action and the identification of spaces for interaction of different actors are possible and they can bring about better results for all when forced evictions are unavoidable.

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### 5.1 Good practices of participatory resettlement

***Cambodia: Akphiwat Mean Chey Community produces positive results when authorities, the community and organisations work together***<sup>50</sup>

The resettlement in 1997-1999 of the Akphiwat Meanchey community offers a good model of a resettlement process, which was participatory, respected community choices and left adequate time for planning and preparation.



New construction in the city of Hanoi, Vietnam. © Simone D. McCourtie / World Bank

### *Background*

Akphiwat Meanchey - also known as Veng Sreng - is located 5km south-west of Phnom Penh. The site was selected in 1997 to relocate 129 families who lived on the roadside near the Chinese Embassy at Toul Svay Prey. The community came under threat of eviction when, around Khmer New Year in 1996 and without prior notice, a bulldozer attempted to clear houses for a drainage project. The community requested local authorities to explore alternative options to the eviction, which was agreed. The community leader also sought support from organisations, including the Asian Coalition of Housing Rights NGOs (ACHR) and the United Nations Centre for Human Settlements (UNCHS - now UN-Habitat).

### *Engagement and Support from the Municipality of Phnom Penh*

Discussions, facilitated by UNCHS, took place between the community and the Municipality of Phnom Penh (MPP) in May and August 1996. The Municipality first proposed to give US\$200 to each family, but the community declined the proposal, asking for land instead of money. The community leader requested that the Governor pay slightly more than envisaged - US\$25,300 would have been the total amount given in cash - to enable the community to buy a plot. In response, the governor offered land at Tuol Sambo or Anlong Korng sites, but the community refused and asked to be allowed to identify appropriate land by themselves. The Governor then agreed to give

US\$30,000 to the community to buy land, whilst other relevant organisations agreed to financially support the resettlement process. In November 1997, an agreement was signed between the concerned parties.

*Community's full participation and support from NGOs and UN*

Since early 1996, community members had organised themselves as a savings group under the Solidarity for Urban Poor Federation (SUPF). It is likely that it strengthened their ability to further organise. Community members, supported by NGOs and UNCHS, examined various land sites, and eventually decided upon a site located 5 km from their old site with a low price of US\$3 per m<sup>2</sup>. The size of the land could offer each family a plot of 45m<sup>2</sup>. Community committees were created to manage the work such as layout, infrastructure, and to carry out contracts between the community and UNCHS. Relevant NGOs and UNCHS provided technical training to community members (e.g. on brick making) and paid them for their work at the construction site. Local authorities provided security and safety. The design of housing and the whole resettlement site was done with the full participation of community members. Most families moved to the new site, with the help of the MPP, in January 1999 when work on infrastructure and sanitation were completed. In April 2000, the 'Akphiwat Meanchey Community' was inaugurated by the Prime Minister.

*Results*

- *High satisfaction and retention rates:* People interviewed have been generally satisfied with the process and outcomes of the resettlement. They indicated that since the relocation they have enjoyed strong social bonds and good work

opportunities. Interviewees were grateful to the MPP, UNCHS and NGOs for the support offered.

- *Better living standards:* Residents feel that their living conditions have markedly improved, even though they are farther from schools and hospitals. Water and electricity supplies are more constant and at a steady and reasonable rate. Interviewees did not complain about livelihood opportunities, given how close to the centre of Phnom Penh they remained. There is also a low incidence of reported domestic violence or other social issues, compared to other sites. Even before people received land titles, they felt they had tenure security. In 2000, the local authority issued each family a residency book. In 2002 the community received a "Certificate of possession rights over the immovable property", issued by the MPP Land Department. In 2009, the community received land titles through systematic registration.

***Indonesia: Tangguh Liquefied Natural Gas (LNG) Project, Risk-Based Planning and Development-Forced Displacement and Resettlement (DFDR) with Livelihood Improvement***

The Tangguh Liquefied Natural Gas (LNG) Project in Papua, Indonesia is an example of success in addressing resettlement with development. The project involves government, the private sector (British Petroleum – BP) and several major international financial institutions. It entails the building and operation of offshore gas wells and production platforms; submarine gas transmission pipelines and an on-shore LNG processing plant with associated support facilities (port, airstrip, accommodation) for the processing, transmission and export of LNG to international markets. Construction started in 2004 and LNG production began in 2009.



This project would impact the local people permanently through loss of land, forest and marine resources recognised under *adat* (local customary law). It would also mean the direct loss of one village with its community facilities, houses, gardens, shoreline, trees and perennial crops such as sago, with flow-on impacts on two host villages, which would absorb the displaced villagers. Planning an extractive gas project in such a remote, resource rich, yet poverty stricken area inhabited by indigenous peoples with predominantly traditional lifestyles, and in a politically charged context, could, and did, raise immediate and compelling concerns. Human rights violations or adverse social or environmental impacts would damage the private company corporate image and brand name.

In preparation for implementation the operator established a broad framework of policies, management guidelines and implementation plans to address the risks. This framework aimed for a high level of international scrutiny on human rights, social and environmental issues, open dialogue with people affected, efforts to localise security operations, and to integrate human rights training in project operations. It aimed also to recognize the traditional, localized *adat* systems of beliefs, practices, resource rights and resource use, of the indigenous Papuan inhabitants.

Within this framework the operator commissioned a detailed Land Acquisition and Resettlement Action Plan (LARAP) as part of a broader environmental and social impact assessment which was approved by the Government of Indonesia in 2002. This plan was subsequently improved, to bring it in line with international (and specifically World Bank and ADB) standards on resettlement. A crucial element for the preparation and implementation of the

LARAP was the promotion of consultations with all stakeholders, and in particular with the affected communities. The LARAP was prepared, with the help of anthropologists, over a multi-year period (1999 to 2005) through intensive negotiation and signed agreements with the affected communities, in preference to using legal instruments such as eminent domain. It emphasised careful planning based on detailed social census work and mapping of all land and marine *adat* resource rights and usage by clans and households. Risk analysis and application of the IRR model was an integral part of resettlement planning and management. Overall, the operator and the LARAP authors set objectives that address, but actually exceed, international standards of mere “restoration” to achieve “resettlement with development” - that is better livelihoods and higher standards of living for those affected compared to the pre-Project situation. As such, the LARAP aspired to be part of a “world class model for development”.

The agreements negotiated and signed with affected communities addressed all losses: Land compensation and provision of replacement land; replacement houses to a higher standard with secure title for house plots in the name of both husband and wife; replacement and significant upgrading of village infrastructure and services especially for power, water, community facilities, health and education; and compensation in cash and kind for loss of timber, tree crops, sago, garden crops and for loss of shoreline and marine resources. In recognizing *adat* traditions the LARAP identified sacred sites on affected land, and made efforts, through negotiated agreements, to preserve a number of significant elements of material culture that are part of the local cultural heritage and are spiritually significant to the clans.



Displaced Sudanese prepare for return to West Darfur villages Nyala, Sudan. © UN Photo/Albert González Farran

The LARAP included essential livelihood development programmes that encompassed project work during the construction phase, and also, to mitigate the drop in income expected at the end of the LNG construction period, agricultural systems, fisheries development, as well as expanded and diversified training and income generation opportunities through cooperatives and small business development. Recognizing the difficulty of assigning an economic benefit to land and marine resources, and cognizant of the inherent risk that once-off compensation payments would be used solely for discretionary consumption purposes, funds were put aside for a Foundation on behalf

of the three resource-losing clans, to generate a revenue-sharing stream for them in perpetuity.

Extractive projects too often become magnets for migrants seeking work and other benefits. The LARAP attempted to avoid this syndrome by recruiting skilled labour at centres away from the Project site and would favour locals in employment for unskilled and low-skilled work during construction - all designed to protect local people from being overwhelmed and potentially marginalized by migrants. The LARAP's IRR identified spontaneous in-migration as a specific risk underpinning the possibility of downward mobility and social disarticulation for the affected people.



Public facilities would be handed over to the community, NGOs or to local government, according to an agreed, signed Handover Agreement. A programme that encompassed health, education, women's empowerment, leadership, micro-finance, strengthening of village governance, and other capacity-building activities was set. Following completion of the LARAP activities, scheduled for 2009, the Operator anticipated that the resettlement-affected communities would be fully incorporated into this wider programme operating more broadly.

After six years of independent monitoring visits key features of the planned “resettlement with development” have been achieved. The promised inputs and activities were provided, largely on time, and as planned. Socio-economic surveys have revealed that most affected people have improved their living standards and livelihoods—achieving “resettlement with development”—despite several unrealised outcomes and unintended adverse impacts.

The Tangguh case demonstrates the potential of application of “resettlement with development” that aims to improve the livelihoods and living standards of those displaced. It demonstrates the utility of the IRR Model as an impact assessment and risk mitigation tool. It also clearly demonstrates that the option of resettlement of people is not one that should be taken lightly. Proper application of the IRR Model requires the full costing of a resettlement process, through detailed up-stream risk discovery. It demonstrates that to uproot and resettle a community in a manner that has a just and equitable outcome, without any externalisation of costs onto that community, demands significant, sustained inputs of time, financial resources and expertise. It requires the

ability to design and implement appropriate measures that will effectively mitigate and remedy the negative impacts of resettlement. This in turn requires the sustained commitment and follow-up of numerous parties (in this case including different levels of government, the private sector, international financiers, independent experts, nongovernmental organisations and the people themselves) to drive the process to its intended outcome regardless of obstacles.

Internal and external monitoring and evaluation of compliance and performance has also been a specified requirement throughout the process. When lenders require it, companies can, firstly, commit to transparency, by disclosing independent reports on the impact of their operations, opening themselves to public scrutiny on the achievement or otherwise of their publicly stated objectives on human rights and resettlement. Secondly, rather than taking advantage of governance gaps, companies can take a lead in setting standards and improving upon national standards for land acquisition and resettlement. Thirdly, cognizant of the impoverishment risks even in international policy standards, companies can resolve to aim for “resettlement with development”—and to demonstrate that this objective is within reach.<sup>51</sup>

### ***Thailand: Land sharing in Bangkok***

The small, canal-side squatter community of Klong Lumnoon was far ‘in the middle of nowhere’ when the people first moved there in 1984. But by 1997, the area was gentrifying and the landowner decided to evict them and develop the land commercially. Some residents accepted the cash the landlord offered and moved away. But 49 households who worked nearby and had nowhere else to live struggled to stay and entered into a long and bitter

eviction struggle with the landowner. Eventually, the residents linked with Bangkok's large network of canal-side communities, who showed them how to organise, how to deal with the district canal authorities and helped them to form a savings group. Some senior community leaders from the network helped to negotiate a compromise land-sharing solution, in which the landowner agreed to sell the people a small portion of the land for their housing, in exchange for their returning the rest.

With the District Office acting as mediator, the people even managed to haggle with the landowner down to a below-market selling price of just \$21 per square meter for their part of the site. After registering as a cooperative, the community took a loan from the Community Organisations Development Institute (CODI), an agency of the Thai government, to buy the land collectively.

The people of Klong Lumnoon then worked with young architects from CODI to design an efficient layout for the 49 houses and to develop four low-cost house models for the households who had to rebuild. The first three models were designed with rooms which could be finished later, after the households had paid off their land and housing loans with some cash or building materials to spare.

The people also reserved four plots in the new layout for a community centre, which was designed in close collaboration with the young architects. The community centre, which the people built themselves, also has a day-care centre. All the work of planning and building the infrastructure was done by the people themselves, with subsidy support from CODI's Baan Mankong Community Upgrading Programme.<sup>52</sup>

***Brazil: The Salto Caxias Dam, participatory implementation of Brazilian Environmental Legislation for resettlement that improved livelihood***

The Salto Caxias Hydroelectric Power Plant is located in the State of Paraná in southern Brazil. The State of Paraná enjoys one of the highest standards of living in Brazil. For its operationalisation, the Salto Caxias project had to comply with national environmental policies and especially with norms that regulate the environmental licensing process for big engineering projects where licenses must be obtained which include carrying out an Environmental Impact Report and an Environmental Basic Project, which sets out the required mitigation and compensation measures.

Furthermore, this Project had to comply with the national regulations and with federal laws concerning expropriation and financial compensation for hydroelectric generation. Among these there were three main guidelines: 1) Socio-environmental feasibility of the project; 2) Environmental protection and socio-economic development of the project's area of influence; and 3) Consultation processes and public participation.

The expropriation process in Brazil is regulated by Federal Decrees and Laws which state that people affected by expropriation must receive fair and timely pecuniary compensation. In the past' the compensation and resettlement component of a dam project in Brazil was addressed basically from a legalistic and financial point of view. The utility's role was generally restricted to the acquisition of land and properties and to providing financial compensation for the loss of existing structures. Such an approach was generally appropriate for



large landowners but not for small landowners and other underprivileged groups as it did not effectively protect affected families' livelihoods.

The Salto Caxias Hydroelectric Plant project was expected to affect approximately 1,200 families among which 900 were either owners of small properties or landless families. Landless families and those who owned small properties derived most of their livelihood from agricultural work and were at risk of having to migrate to urban shanty towns if they were not provided with alternative land and livelihoods. Most of the project-affected families were of German or Italian heritage. They had colonised the area in the 1950s and 1960s and were very attached to the land that they worked.

Following announcement of the project in the 1980's, rural workers in the project area expressed strong opposition to the construction of the dam and got organised with the help of National Movement of People Affected by Dams (MAB) and the Landless Workers Movement (MST) and created the Commission of People Affected by Dams Construction on the Iguaçu River (CRABI). Together with the developing company (COPEL), set up in 1992 a Multidisciplinary Studies Group (GEM CX) provided a democratic forum to discuss relevant project-related issues, including indemnity rights and resettlement. GEM CX was composed of different levels of government authorities and of non-governmental organisations such as CRABI and the MST.

Meetings were held in the project region and the functioning of GEM CX was supported by COPEL where, for the first time in Brazil, resettlement and compensation issues were

discussed in an open and democratic way before the beginning of construction of a dam. Then GEM CX discussions led to the signing of agreements with representatives of the affected people related to expropriation and relocation issues. In these agreements guiding principles and approaches to the Indemnification and Resettlement were defined among which it was required that the process should “*Promote social justice and (to) prevent rural exodus; Ensure a fair solution in the resettlement process for small landholders and lessees; Acquire resettlement lands with the consent of people to be evicted; Family relative groups should be taken into consideration as well as neighbour's relationships; Ensure the lands to be acquired should be more fertile than those condemned and the size of each lot of land should be determined taking account of the family work force and quality of soil for cultivation; Develop a plan for agricultural exploitation and improvement of quality of soil for cultivation soil; Complete services, i.e. roads, drinking water supply, electricity, telephone network, houses, community centres, schools, etc. should be provided*”.

The Indemnification and Resettlement Programme was negotiated with each “basic unit”, which was defined as a group of affected people represented by a leader. Criteria for compensation and resettlement were proposed by the leaders of the “basic units”. The programme was composed of two aspects:

- Indemnification of the land owners at market value. The market value was established after the result of a survey carried out by a commission formed by COPEL and by a representative of affected people with mediation from the Paraná State Environmental Institute.
- A Resettlement Programme was offered to small



Thousands of refugees from Libya arrive at Tunisia Transit Camp in Ras Djour, Tunisia. © UN Photo/UNHCR/Alexis Duclos

farmers (less than 30 acres) and to landless workers. The Resettlement Programme provided the option of collective resettlement or of a letter of credit for individual resettlement. Among the approximately 1,200 families affected by reservoir creation and eligible for the Indemnification and Resettlement Programme, 858 were entitled to the Resettlement Programme.

In March 1995, families entitled to Resettlement had to choose between the Collective Resettlement

Project and letter of credit for individual resettlement. A total of 626 families decided to be relocated in the collective project while 232 others settled for individual projects. The approximately 600 families that chose Collective Resettlement were resettled between 1996 and 1998 into 10 collective farms organised into 19 Rural Producers' Associations (or communities). A total of 40,000 acres of land was acquired for resettlement purposes. The programme tried to combine the conservation of the existing forest with the development of new



farmlands. The 11,690 hectares of lands chosen for cultivation purposes were improved on the basis of soil preparation activities carried out by employing project-affected people. COPEL, with the participation of CRABI, encouraged resettled farmers to switch to organic production modes.

Each family received a 3 or 4 bedroom house plus a barn and a piece of land with a minimum size of 40 acres depending on the size of the family. Infrastructure and services including roads, electrical networks and rural telecommunications were provided. Two education centres were built and a special education programme was set up that was oriented toward participation in community life and environmental conservation. Two health centres were also provided with a family doctor programme. COPEL funded agricultural and social assistance for three years after the relocation. Affected people were employed during the construction of the new infrastructure and services.

The massive relocation (25% of the area's population) represented a big impact for the economy of the nine municipalities, which had somehow been stagnant since the 1980s. Motivated by the prevention of rural exodus COPEL, with the assistance of an organisation that develops small businesses (SEBRAE), identified three economic alternatives for the town and COPEL helped in financing those new businesses. After six months, the 40 jobs provided by the small hydroelectric plant were replaced by close to 100 jobs.

In view of the success achieved, these actions were later extended to the whole territory and a regional development plan was produced; however, financing was not available to implement this plan, resulting in the creation of a Municipal Development Fund

in each of the nine municipalities which was financed with 10% of the revenues provided by the royalties from the hydroelectric dam.

In 2000, the Municipal Development Funds helped create 50 new small businesses with more than 300 direct jobs. SEBRAE also provided training for municipal employees to help them adapt to the new reality and to strengthen their public management skills. After one year of preparation, the nine affected municipalities decided to create a Municipal Consortium so as to have a stronger political say inside the State, but also to share services, such as construction equipment, and save money. In 2001, the farming communities were producing substantial crops including a significant proportion of organic soy and corn.

Achievement of the last objective is significant given an initial context characterized by strong mobilisation of groups opposed to the project. In only three years it has mobilised parties with different interests in the development of a compensation and resettlement plan. It enabled the optimal participation of affected people in the definition and implementation of the compensation programme. Participation of affected people in all stages of the compensation programme enabled them and the developer to share responsibility for the Resettlement Project. The developer's commitment to work with the affected municipalities in order to compensate for breakdowns of the economic structure in the reservoir area helped to create small businesses and new economic ventures but also strengthened the collaboration between the different municipalities which could have a lot of positive impact on their future development.<sup>53</sup>

## 5.2 Learning from impact assessment applied in other fields

### *What does Environmental Impact Assessment entail?*

The concept of “**environment**” in **Impact Assessment** evolved from an initial focus on the biophysical components to a wider definition, including the physical-chemical, biological, visual, cultural and socio-economic components of the total environment. IAlA defines Environment Impact Assessment (EIA) as: “**the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made.**”

At the international level, EIA was fully recognized in 1992 at the United Nations Conference on Environment and Development, held in Rio de Janeiro. Principle 17 of the Final Declaration is dedicated to EIA:

*“Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.”*

Most multi-lateral development banks have also developed EIA systems. The first operational directive on EIA at the World Bank dates from 1989. Many multi-lateral institutions have built strong internal procedures, and more recently SEA procedures. As of June 2009, sixty-six financial institutions, including many commercial banks,

with operations in over 100 countries have adopted The Equator Principles, making them the project finance industry standard for addressing environmental and social issues in global project finance.

The *Equator Principles* are based on the environmental and social performance standards of the International Finance Corporation (IFC) in order to ensure that the major projects they finance are developed in a manner that is socially responsible and reflect sound environmental management practices.

IA is an important tool used by national development assistance institutions to integrate environmental and social issues into development cooperation, as well as addressing public participation and good governance issues. The OECD has been active in the coordination work on IA and development assistance.<sup>54</sup>

### *United Nations Environment Programme, Dams and Development Project: Characterisation of Compensation Policy Issue*

One of the key points put forward in recent debates on involuntary resettlement is that ‘dams have made an important and significant contribution to human development, and the benefits derived from them have been considerable’ (World Commission on Dams, 2000). These benefits are varied and include power generation, flood control, irrigation, industrial and domestic water supply, navigation as well as recreation.

However, dam projects frequently involve the unavoidable loss of housing, land, productive



resources and/or community services by locally affected persons. This has been the case in the past and, for a variety of reasons, this can be expected to be the case in the future. An important body of social research has concluded that a large number of dam projects in developing countries have resulted in inadequate compensation and impoverishment of locally affected populations. This has occurred even though since the 1980s international resettlement standards have stressed the need for equitable compensation of all affected parties and the rebuilding of communities and of affected persons' livelihoods.

The need to properly manage these issues is underscored by a globally accepted framework for setting universal goals, norms and standards. The World Commission on Dams (WCD) Report (2000) made the case that the traditional 'balance sheet' approach of assessing costs and benefits of a project is an inadequate tool for development planning and decision-making: "Given the significance of rights-related issues as well as the nature and magnitude of potential risks for all parties concerned, the Commission proposes that an approach based on 'recognition of rights' and 'assessment of risks' (particularly rights at risk) be developed as a tool for guiding future planning and decision making". As emphasized in the International Energy Agency (IEA) Report on Hydropower and Environment (2000), such an approach should also be balanced with needs, and above all the 'need to reduce poverty' which is particularly relevant in developing countries.

Dam project-induced resettlement takes place in a multi-layered framework composed of: a)

International policy and law; b) National laws; c) State or provincial laws; d) Sector level laws and policies (energy, transportation, agriculture, etc.) and e) Policies and standards of dam building and operating agencies. Resettlement and compensation policies adopted by international development agencies are implemented in the context of this overall framework.

Until recently, few developing countries had put into place comprehensive compensation and resettlement normative/policy frameworks. Consequently, international development agency guidelines have played an important role in a number of development-induced resettlement programmes. More recently, international financing institutions such as the World Bank have also played an active role in the development of national or sectoral normative/policy frameworks. More and more national governments are formulating resettlement guidelines and a few, such as China, appear to have these guidelines firmly in view when planning and undertaking dam project-induced resettlement programmes. The World Bank's involuntary resettlement guidelines (OP/OD 4.12) have been particularly influential in shaping the policies of other donors and are often used as a point of reference by potential public and private sector investors in dam projects.

However, certain aspects of the World Bank's guidelines for involuntary resettlement have recently been called into question by the human rights-oriented approaches of many UN agencies, by the World Commission on Dams report (2000) and by a number of bilateral donor agencies and non-governmental organisations (NGOs).<sup>55</sup>

# Conclusion

Throughout this document we have analyzed the most relevant elements that must be taken into account to conduct an EvIA using the framework of international human rights law.



Pedestrian walking in one of the main street in Kigali Rwanda. © Julius Mwelu/UN-Habitat

Addressing this phenomenon in the most comprehensive and exhaustive manner possible is an immediate task for the international human rights community. Every year millions of persons around the world are threatened or directly affected by evictions, resulting in serious declines to their standards of living, many of whom are already marginalized or vulnerable. It is important to understand that this phenomenon not only occurs in developing countries; in fact, cities in the North as well as in the Global South, have gone through urban development processes that have prompted the displacement of people and forced evictions. It has been reportedly predicted that this trend will increase in the following years.

The analysis in this handbook described the disturbing fact that the majority of these situations causing displacement and the relocation of populations globally have seldom been carried out in accordance with the human rights international framework. This implies that the human rights of people affected are not a subject of vital interest to those carrying out the evictions. Most of the time the rush to initiate projects on time, to execute international loans and grants, to clear valuable land for urban development, or to beautify public spaces prevail over the resulting harms for people's lives.

Bearing in mind the purpose of this document, we have identified several considerations that should be applied in situations of forced eviction. It has been argued, on the one hand, that losses (tangible and intangible) must be minimized; and on the other, that forced eviction must not result in human rights violations. For this, it is necessary to comply with the human rights framework during the different stages of any eviction and resettlement process.

No process of eviction is instantaneous. There is always a time to inform, to consult and seek alternatives as well as to improve the options provided to potential evictees before, during and after the action. By analyzing some cases, we have demonstrated a preventive assessment performed prior to the realization of forced evictions enables the evaluation of factors that will impact negatively on the people involved. It may also help anticipate risks that people will face, in order to generate alternatives or mitigation measures. In addition, a post-eviction impact analysis allows a clear identification of the victims. This type of impact assessment provides, among other information: a clear picture of the evictees' quality of life and the status of fulfillment of different human rights, data about the losses and harms evictees have suffered, and guidance toward remedies, including reparations as defined in international standards.

In this vein, attaining viable solutions requires a common understanding amongst credit agencies, financial institutions and development institutions on the essential elements to be considered when assessing the impact of any evictions in accordance with the human rights approach, and to raise awareness about the entitlements of affected individuals. Each of these institutions understands the involuntary removals of inhabitants in a distinct manner; thus, each institution acts differently at the moment of supporting their projects. Most of these institutions have their standards and guiding principles to resettle people who have been involuntarily displaced. However, until the human rights framework is explicitly included in these guidelines, respect for human rights will be subjugated to the considerations of capacity, context in which projects are carried out and of

the sensitive issues of decision makers in charge of implementing an eviction or a resettlement process.

In past years, evaluations of evictions have been piecemeal and have failed to account for the real costs and impacts on the lives of the people who were affected. The UNHRP recalls the need for a holistic approach to this impact, one that calculates the real costs and consequences that actions have on individuals, on the community and on society. It has been repeatedly observed that the cost of evictions entail more than the mere market price of the homes the low-income residents. Any EvIA should pose some key questions. For example: while carrying out assessments and project design, have the widest possible consultations with the targeted groups been ensured? Have there been any efforts to ensure participation of the least powerful and assertive from these groups (i.e. women, people living with HIV, children, persons with disabilities, youth, non-citizens), including the creation of conditions to ensure their equal involvement in the process? Has the human rights-based approach to development been used to ensure the active, free and meaningful participation of those affected by the development processes? Have the legitimate interests of minorities been taken into account in the development of national policies and programmes including in the planning and implementing processes? These questions will elicit information about the real human rights issues at

stake and the necessary responses by those who bear duties.

EvIAs will help identify the needs of the evictees after the eviction; the impact of the eviction on the community, in particular on their livelihood; the additional costs resulting from the relocation resulting from the new site's location; the quality of the services provided; improvement of housing and land rights among other questions. Finally, any assessment must report whether the compensation given or planned will be adequate. This includes whether it covers the replacement of the cost of the house; whether it allows people to rehouse themselves adequately, includes other non-material aspects; whether it provides remedy for all losses, including any losses of personal, real or other property or goods, including economic and social losses incurred by those evicted. It would also ascertain other economically quantifiable damage according 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 earning potential.

Finally EvIA will help us determine the real cost of any eviction process, and identify whether the financial and social costs and losses would be greater and more extensive than the profits generated in the name of public interest.



IDP Camp at M'poko Airport, Bangui. © UN Photo/Catianne Tijerina

## ENDNOTES

- 1 The Handbook has been developed through a consultative process, including a two-day international Expert Group Meeting, with leading experts in the field.
- 2 See Basic Principles and Guidelines on Development-Based Evictions and Displacement A/HRC/4/18.
- 3 UN-Habitat, *Global Report on Human Settlements 2007: Enhancing Urban Safety and Security (Nairobi, 2007)*.
- 4 OHCHR, *Fact Sheet No. 25 (Rev. 1), Forced Evictions*- non edited (Geneva, 2012).
- 5 See Rolnik Raquel in UN-Habitat, *Evictions and the Rights-based approach to urban development*, page 7 (Nairobi 2012).
- 6 OHCHR, *Fact Sheet No. 21 (Rev. 1), The Right to Adequate Housing* (Geneva 2009).
- 7 *Idem supra* n. 2 above.
- 8 See General Comment 7 of the Committee on Economic, Social and Cultural Rights - The right to adequate housing (Art.11.1): forced evictions (Geneva, 1997).
- 9 United Nations Commission on Human Rights, resolution 1993/77 and 2004/28.
- 10 *Idem supra* n. 2 above.
- 11 See General Comment 4 of the Committee on Economic, Social and Cultural Rights - The right to adequate housing (Art.11.1) (Geneva, 1991).
- 12 *Idem supra* n. 4 above.
- 13 UN-Habitat, *State of the World's Cities Report 2010/2011, Bridging The Urban Divide* (Nairobi 2012).
- 14 Based on OHCHR, *Fact Sheet No. 25 (Rev. 1), Forced Evictions*- non edited (Geneva, 2012).
- 15 Among them: the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 1), the Convention on the Rights of the Child (art. 27, para. 3), the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination. In addition, the UN Treaty Bodies, the Special Rapporteurs and experts from the UN, the Inter-American System, the United Nations agencies as well as other institutions have produced tools and recommendations to cease arbitrary acts and minimize impacts in the event that evictions are unavoidable.
- 16 See General Comment 4 of the Committee on Economic, Social and Cultural Rights - The right to adequate housing (Art.11.1) (Geneva, 1991) and FAO, *Voluntary Guidelines on the responsible governance of tenure of lands, forests and fisheries in the context of national food security* (Rome 2012).
- 17 For more information on State obligations to regulate business activities see: *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc. A/HRC/17/31 (Geneva, 2011).
- 18 *Idem supra* n. 7 & 10 above.
- 19 See General Comment 2 of the Committee on Economic, Social and Cultural Rights - International technical assistance measures, paras 6 and 8 (d). (Geneva, 1990).
- 20 The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies was adopted by the United Nations Development Group (UNDG) in 2003. For more information see: <http://hrbportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>
- 21 *Idem supra* n. 4 above.
- 22 *Idem supra* n. 2 above.
- 23 See *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2
- 24 Adopted in December 2005 by the UN General Assembly in its resolution 60/147, originally developed by Theo Van Boven, Former Special Rapporteur for the Sub-Commission on Prevention of Discrimination and

## ENDNOTES

- Protection of Minorities.
- <sup>25</sup> See Principles on Housing and Property Restitution for Refugees and Displaced Persons, E/CN.4/Sub.2/2005/17 and Add.1
- <sup>26</sup> Du Plessis, Jean, *The growing problem of forced evictions and the crucial importance of community-based, locally appropriate alternatives* in Environment and Urbanization, International Institute for Environment and Development (2005).
- <sup>27</sup> Idem supra n 27.
- <sup>28</sup> For more information on a mapping of existing EvIA methodology see UN-Habitat, *Losing Your Home, Assessing the Impact of Eviction* (Nairobi, 2011)
- <sup>29</sup> Idem supra n.
- <sup>30</sup> See Cernea, Michael M. and McDowell, C. (eds.), *Risks and Reconstruction: Experiences of Resettlers and Refugees*, The World Bank (Washington DC, 2000).
- <sup>31</sup> Idem supra n. 31 above.
- <sup>32</sup> For more information on a the IRR model see: [http://www.un.org/esa/sustdev/sdissues/energy/op/hydro\\_cernea\\_population\\_resettlement\\_backgroundpaper.pdf](http://www.un.org/esa/sustdev/sdissues/energy/op/hydro_cernea_population_resettlement_backgroundpaper.pdf)
- <sup>33</sup> For more detailed discussion of the compensation issues, see Cernea, Michael M, *Compensation and Investment in Resettlement: Theory, Practice, Pitfalls and Needed Policy Reform*, in vol. Cernea M. and H.M. Mathur (eds) *Can Compensation Prevent Impoverishment?* Oxford University Press (Delhi-New York, 2008)
- <sup>34</sup> See further information of the Toolkit and Housing Rights Violation Loss Matrix in Annex 2.
- <sup>35</sup> For an instructive introduction and the Excel file of the Housing Rights Violation Loss Matrix see: <http://www.hlrn.org/spage.php?id=p2s=>
- <sup>36</sup> Idem supra n. 10 above
- <sup>37</sup> Idem supra n 26, principle 2.1.
- <sup>38</sup> Based on UN-Habitat, *Count me in, Surveying for tenure security and urban land management* (Nairobi, 2010) and IASC, *Operational Guidance for Coordinated Assessments in Humanitarian Crises* (Provisional Version March 2012). Different extracts of the information published can be found along the chapter.
- <sup>39</sup> See the Preliminary note on the mission to the World Bank Group by the UN Special Rapporteur on the Right to Adequate Housing. A/ HRC/16/42/Add.4
- <sup>40</sup> FAO, *Compulsory acquisition of land and compensation*, Land Tenure Studies vol. 10 (Rome 2008).
- <sup>41</sup> UN-Habitat, *Count me in, Surveying for tenure security and urban land management* (Nairobi, 2010).
- <sup>42</sup> Idem supra n. 39 above
- <sup>43</sup> Idem supra n. 2 above
- <sup>44</sup> Idem supra n. 44 above.
- <sup>45</sup> Idem supra n. 44 above.
- <sup>46</sup> IASC, *Operational Guidance for Coordinated Assessments in Humanitarian Crises* (Provisional Version March 2012).
- <sup>47</sup> Idem supra n. 49 above.
- <sup>48</sup> Idem supra n. 46 above.
- <sup>49</sup> Bridges Across Borders Southeast Asia, Centre on Housing Rights and Evictions, International Accountability Project, *A Cambodian Guide to Defending Land and Housing Rights. Part III: Defending Your Rights* (Phnom Penh, 2009).
- <sup>50</sup> Based on OHCHR's field work.
- <sup>51</sup> Extracted from the Tangguh Land Acquisition and Resettlement Action Plan (LARAP). *For more information see: [http://www2.adb.org/Documents/Resettlement\\_Plans/INO/38919-01-PS-RP.pdf](http://www2.adb.org/Documents/Resettlement_Plans/INO/38919-01-PS-RP.pdf)*
- <sup>52</sup> Extracted from [www.codi.or.th](http://www.codi.or.th)
- <sup>53</sup> UNEP, *Dams and Development Project. Compendium on Relevant Practices - 2nd Stage. Compensation Policy Issue; Final report,*( 2006).
- <sup>54</sup> International Association for Impact Assessment (IAIA)/ [http://www.iaia.org/publicdocuments/special-publications/What%20is%20IA\\_web.pdf](http://www.iaia.org/publicdocuments/special-publications/What%20is%20IA_web.pdf)
- <sup>55</sup> Idem supra n. 56 above.

## Resources

**The Right to Adequate Housing Toolkit OHCHR.** Website that presents Elements of the right to adequate housing, documents, reports, main trends and indicators, as well as interesting resources on housing rights.

*[www.ohchr.org/EN/Issues/Housing/toolkit/Pages/RighttoAdequateHousingToolkit.aspx](http://www.ohchr.org/EN/Issues/Housing/toolkit/Pages/RighttoAdequateHousingToolkit.aspx)*

**Forced evictions Assessment Questionnaire.** Document 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.

*[www2.ohchr.org/english/issues/escr/docs/ForcedEvictionsAssessmentQuestionnaire.pdf](http://www2.ohchr.org/english/issues/escr/docs/ForcedEvictionsAssessmentQuestionnaire.pdf)*

**Cambodia Country Office: Land and Housing Rights Programme.** The Land and Housing Rights Programme works with the Government, civil society organisations, private companies, communities, United Nations agencies and multilateral and bilateral development actors to strengthen the national legal framework protecting land and housing rights, and improve their effective and fair implementation

*[www.cambodia.ohchr.org](http://www.cambodia.ohchr.org)*

**Serbia Country Office: Paving the way to a better future for Roma families in Serbia.** OHCHR's work on housing and eviction in Serbia 2009-2013

*[www.ohchr.org/EN/NewsEvents/Pages/PavingthewaytoabetterfutureforRoma.aspx](http://www.ohchr.org/EN/NewsEvents/Pages/PavingthewaytoabetterfutureforRoma.aspx)*

**Special Rapporteur website on evictions.**

Website that presents information on forced evictions: international instruments, soft law, documents, reports, main trends and indicators, as well as interesting resources on housing rights.

*[www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx](http://www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx)*

**The Global Land Tool Network (GLTN)** is an alliance of global regional and national partners contributing to poverty alleviation through land reform, improved land management and security of tenure particularly through the development and dissemination of pro-poor and gender-sensitive land tools. GLTN is facilitated by UN-Habitat

*[www.gltm.net](http://www.gltm.net)*

**Losing your Home, Assessing the impact of eviction**

Publication that maps out existing eviction impact assessment methodologies globally. This report is an important step towards understanding the tools and approaches that are required to create a solid evidence base of the actual and potential losses of forced evictions and thus promoting viable alternative policies and approaches.

*[www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=3188](http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=3188)*

**Housing the Poor in Asian Cities, Quick Guides for policy-makers on:**

Urbanization, Low-income housing, Land, Eviction, Affordable housing finance, Community-based organisations, Rental housing.

*[www.housing-the-urban-poor.net/QuickGuides.asp](http://www.housing-the-urban-poor.net/QuickGuides.asp)*  
*[www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=2531](http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=2531)*

**UN HRBA Portal– Right to housing.** The UN HRBA portal features a collection of resources designed to assist the practitioner at the country office level integrate a human rights-based approach into their programming work. The portal is supported by the UNDG Human Rights Mainstreaming Mechanism.

*[www.hrbaportal.org/archives/topics/housing-land-property](http://www.hrbaportal.org/archives/topics/housing-land-property)*

**Right to Housing Project.** A website that presents the definition of the right to housing and the international standards. It offers information and contact of several organisations that work on this theme, both internationally and locally. It explains what the UN Special Rapporteur on Adequate Housing is, what activities it develops, what themes have been worked and what countries have already been visited by the Rapporteur. Furthermore, the site contains detailed information on how to place a formal complaint to the Rapporteur regarding human rights violations.

*[www.righttohousing.org](http://www.righttohousing.org)*

### **The Housing and Land Rights monitoring “Toolkit”**

The “Toolkit” has been designed and developed through the combined experiences of Habitat International Coalition (HIC) members with a view to serving the housing rights defender in a wide range of tasks and strategic problem solving. The set of tools and techniques contained in the toolkit provide a common reference for all human rights defenders that embodies a common purpose and implements the means available in the most practical way possible.

*[www.hlrn.org/toolkit//English/start.htm](http://www.hlrn.org/toolkit//English/start.htm)*

### **Haki Zetu – ESC rights in Practice: The Right to Adequate Housing.**

The Haki Zetu handbook series has been developed by Amnesty International in collaboration with other partners. It is an educational tool and not an Amnesty International policy text.

*[www.amnesty.nl/sites/default/files/public/the\\_right\\_to\\_adequate\\_housing.pdf](http://www.amnesty.nl/sites/default/files/public/the_right_to_adequate_housing.pdf)*



Return of Internally Displaced Persons in Malinana area, East Timor. © UN Photo/UNHCR/M Kobayashi

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**UN-Habitat, 2012.** Evictions and the Rights-based approach to urban development, Nairobi.

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**United Nations, 2013.** Mission to the World Bank Group. Annex 4 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. A/HRC/16/42/Add.4



# Annex I

**TABLE:** LIST OF RESOURCE PERSONS THAT PARTICIPATED IN THE EXPERT GROUP MEETING

Last name	First name	Position	Organization/institution	E-mail
Bergman	Michaela	Chief Counsellor for Social Issues	European Bank for Re-construction and Development (EBRD)	Bergmann@ebrd.com
Bugalski	Natalie	Legal Associate	Inclusive Development International, USA/Cambodia	natalie.bugalski@gmail.com
Cernea	Michael	Non-resident Senior Fellow, Brookings Institution and Research Professor of Anthropology	George Washington University	cernea.m@gmail.com
Chaudhry	Shivani	Associate Director	Housing and Land Rights Network - HIC, India	landhousing@gmail.com
Courdesse	Laure-Anne	Human Rights Officer	UN-OHCHR, Geneva	lcourdesse@ohchr.org
de Wet	Chris	Professor	Department of Anthropology, Rhodes University	c.dewet@ru.ac.za
Dede	Graciela	Consultant on EvIA		gracedede@gmail.com
du Plessis	Jean	Capacity Building Expert, Global Land Tool Network	UN-HABITAT	Jean.duPlessis@unhabitat.org
Fallavier	Pierre			fallavie@gmail.com
Fricska	Szilard	Senior Humanitarian Coordinator	UN-HABITAT Geneva Office	fricska.unhabitat@unog.ch
Ghazi	Bahram	Human Rights Officer	UN-OHCHR, Geneva	bghazi@ohchr.org
Kothari	Miloon	Director	Housing and Land Rights Network - HIC, India	miloon.kothari@gmail.com
Oguzhan	Channe	Associate Human Settlements Officer	UN-Habitat, Kenya	Channe.Oguzhan@unhabitat.org
Payne	Geoffrey	Director	Geoffrey Payne and Associates	gkpayne@gpa.org.uk
Rolnik	Raquel	UN Special Rapporteur on Adequate Housing		raquelrolnik@usp.br, raquelrolnik@gmail.com
Schechla	Joseph	HIC-HLRN coordinator	Housing and Land Rights Network Middle East and North Africa (HIC-MENA) of Habitat International Coalition	jschechla@hic-mena.org

## Annex II

### COUNTING COSTS: QUANTIFYING THE CONSEQUENCES OF FORCED EVICTION AND DISPLACEMENT. *HLRN'S HOUSING RIGHTS VIOLATION LOSS MATRIX*

HIC-HLRN has developed housing rights monitoring and problem-solving tools and methods that are grounded in human rights norms and principles. Those include methods for determining the full consequences that persons and households undergo in the process of forced eviction and displacement. It offers to support local efforts actually to quantify the affected persons' related costs and losses with a methodology that housing and land rights defenders, legal practitioners, field researchers and/or actual victims can use to determine a wide range of losses and costs that typically are associated with forced evictions, but are rarely recognized or documented. This method gives precision and a solid basis of argument to support claims of losses and damages from both small-scale and large-scale eviction cases. By "counting the costs," we are now able to determine how, and the degree to which forced-eviction and displacement processes actually deepen poverty.

The Counting the Costs project adapts a quantification method to select cases in order to:

1. Identify the costs and losses prior to, during and after forced eviction and displacement;
2. Expose the actual and full costs of development projects involving displacement by calculating and including those incurred by effected persons and households;
3. Prove that forced evictions and displacements deepen poverty and deprivation at all stages;
4. Deter future evictions and displacements by recording, and making perpetrators responsible

- for the full costs and losses they cause;
5. Provide guidance toward remedies, including application of the reparations framework (defined in international law as a right);
6. Contribute to conflict resolution (in small-scale cases) and transitional justice (in grand-scale cases);
7. Support local monitoring of housing and land rights violations in select and strategically important cases;
8. Share quantification experiences among HLRN Member organizations and other interested parties across regions.

#### **Monitoring with Human Rights Norms toward Solutions**

With HLRN's Housing Rights Violation Loss Matrix, its on-line global monitoring system, the *Violation Database*, and this more-recent work on eviction impact assessment are firmly and explicitly rooted in a normative, human rights framework, with primary emphasis on the right to adequate housing and related rights as enshrined in international treaties, including the Covenant on Economic, Social and Cultural Rights. As a complement to these monitoring tools and methods, HIC-HLRN and its Members remain regular contributors to the review of States parties to the relevant human rights treaties, especially the UN Committee on Economic, Social and Cultural Rights. The outcomes of these critical reviews, "constructive dialogues" with governments and the resulting findings and recommendations reflect the

## Annex II *continued*

heightened attention to housing and land rights conditions as a priority of human well-being and, consequently, of statecraft.

The HLRN eviction impact assessment tool is firmly and explicitly rooted in this normative, human rights framework, with primary emphasis on the human right to adequate housing and related human rights. A key purpose of the HLRN Toolkit and the “Counting the Costs” project is to “return the legal achievements” of establishing this framework “to the people.” A cornerstone of the framework is the status of the right to adequate housing as a fundamental human right (indispensable to the enjoyment of other rights), as well as the fact that the practice of “forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing.” HLRN presentations, therefore, emphasize the reparations framework, which specifies seven dimensions of the right to remedy in the case of gross violations of human rights:

1. Restitution;
2. Return;
3. Resettlement;
4. Compensation for resulting costs and physically unrecoverable losses;
5. Rehabilitation (economic, social, psychological, medical, cultural, etc.);
6. Promise of nonrepetition; and
7. Satisfaction.

### **The Methodology**

The current version of the EvIA methodology, can be applied to monitor the consequence for each of the elements of the human right to adequate

housing. The tool can be used for any and all categories of housing rights violation (including evictions). It aims to capture, assess and document: Both personal costs experienced by victims and public or social costs or housing rights violations.

The material and otherwise calculable costs resulting from the violations are determined for each unit (i.e., household) affected and then added together;

In the case of multiple units affected, a representative sample is obtained to determine the average values, which then are to be multiplied by actual numbers of units affected;

Incalculable losses recorded and reported in narrative terms. Such narrative explanation and analysis is used as an accompaniment to the quantification table;

Both short-term/immediate and long-term values; Personal injury and pain-and-suffering damages, calculated by using methods derived from applicable local jurisprudence, legal cases, actuary science or international practice.

### **Using the Tool**

Using the tool for accurate and thorough quantification of costs and losses requires a great deal of cooperation with the affected community and a sustained relationship with them. The tool reflects an attempt to be comprehensive in the sense of covering any eventuality in the forced-eviction or displacement process. However, because of its theoretical and thorough nature, it would be ambitious to expect the intended user to apply and research all possible categories of loss, cost or damage, particularly those users from understaffed

## Annex II *continued*

and under-resources civil society organizations. Therefore, the user should apply categories of assessments to those subjects of priority in any particular situation.

### **Examples of application:**

Material losses can include: the structure; the plot; contents; collateral damage; infrastructure; business losses; equipment; prospective income; mortgage, other debts and penalties; livestock; land; trees / crops; lost / decreased wages or income; health care; interim housing; bureaucratic and legal fees; alternative / replacement housing; resettlement; transportation costs. HLRN provides a housing contents inventory schedule online;

Nonmaterial losses can include: health; living space; reconstruction licensing; psychological harm; disintegration of family; loss of community; investment in infrastructure; investment in sanitation and waste-management systems; investment in security systems; investment in educational infrastructure; heritage;

Victims'/affected persons' nonmaterial costs can include: environment / ecology; standing / seniority; political marginalization; social marginalization; further vulnerabilities;

Material costs for parties other than direct victims (public costs) can include: police, bulldozers, legal practitioners, army, other forces, bureaucratic and personnel costs;

Nonmaterial costs for parties other than direct victims can include: social costs, civic order and political legitimacy.

Building on the approach of the *UN Basic Guidelines*, the EvIA tool is divided into four

functional stages corresponding to the forced-eviction or displacement process.

### **1. Baseline survey**

The first part of the tool addresses the situation of the household(s) in their “natural” state; that is, preceding the eviction/displacement process. It assumes the advantage that the monitor would be present at the stage in which s/he and the members of the household or community could conduct and inventory of all that they have, in advance of any notification of an impending forced eviction or displacement.

### **2. Pre-eviction**

Using the baseline information as the optimum advantage, in order to begin calculating the impact of a threatened or announced eviction or displacement. At this stage, the threat, as such, may lead to decreased housing values and more-precarious social conditions. It may also result in unrest, resistance and conflict with material or other calculable consequences.

### **3. Assessment of losses/costs > time of eviction**

During actual eviction, material losses are typically immediate and great in degree, especially if the forced eviction is carried out with violence. The consequence could involve the loss of home, building materials, land and accumulated possessions, as well as socially produced services and infrastructure, or social capital may deteriorate with the dispersal of the community.

### **4. Assessment of losses/costs > post-eviction**

After the eviction, the household or entire community could be homeless, having lost the

## Annex II *continued*

house and all that is connected to it, or vital possessions, facilities, food, or even documents necessary for maintaining some level of well-being. In addition to the material losses, the consequences also may be nonmaterial, including the foreclosure of access to sacred sites. In this longer-term assessment of consequences, the user of the EvIA tool may find that, with or without replacement or interim housing, the inhabitants continue to suffer unprecedented costs and losses. Therefore, the post-eviction stage of the assessment tool could be used in several scenarios, including:

- A. Transit camps or temporary intermediate shelter
- B. Resettlement site
- C. No resettlement
- D. Cases of compensation

As in the last of these scenarios, the quantification method can help determining the adequacy of any compensation scheme by allowing for a comparison between the value of the compensation and actual costs and consequences on the people.

Created in a simple Excel format, it is possible to modify the EvIA tool to the user's discretion. Modifications should be indicated, and also be shared among the community of monitors to ensure compatibility of findings. For example, certain direct and indirect victims' losses may for

some reason need to be separately calculated. In that case, for example, an additional column could be added.

It is important to indicate a global cost figure for the violations under review. The column at the far right of the Excel file form under each category of cost should be totaled using an embedded formula.

HLRN and the "Counting the Costs" project's eviction impact assessment tool can be very constructive in providing an authoritative basis for calculating damages (i.e., costs and losses) as well as projecting programs and budgets needed for such reparation components as social, cultural, economic and other forms of rehabilitation and affirmative action.

With the HLRN eviction impact assessment tool one can conceptualize the extent of a future or past violation and, to the extent that this is possible, calculated. This can serve either as a prevention initiative to anticipate consequences, and so to warn against and hopefully deter the violation, or as a remedial tool for a retrospective investigation toward formulating claims for remedy and reparation. As indicated in the abovementioned concept note: "As a largely preventive mechanism, the eviction impact assessment would be a pre-eviction modality, and would hence deter future violations by demonstrating their true cost."

## Annex II *continued*

**TABLE: HOUSING RIGHTS VIOLATION LOSS MATRIX**

HLRN Housing and Land Rights Monitoring "Tool Kit" Housing Rights Violation Loss Matrix*				
Type of violation	Forced eviction	Confiscation		Demolition
	Inheritance	Access denial		Other
Type of cost/loss	Method	Short-term	Long-term	Cumulative
<b>Victims' Material Losses</b>				
(e.g.) Structure	Replacement value, based on reliable estimates from local contractors.	At the time of the violation and during the following 30 days.	The projected or actual costs following the initial 30 days after the violation and the subsequent 11 months.	Combined short-term and long-term values.
Subtotal:				x
(e.g.) Contents	Replacement value of contents inventories provided by inhabitants, preferably taken before the loss.	At the time of the violation and during the following 30 days.	The projected or actual costs following the initial 30 days after the violation and throughout the subsequent 11 months.	Combined short-term and long-term values.
Subtotal:				x
Subtotal of victims' material losses:				x
<b>Victims' Nonmaterial Losses</b>				
(e.g.) Health	(your full description of consequences here)			
(e.g.) Social marginalization	(your full description of consequences here)			
<b>Other than Victims Material Costs</b>				
(e.g.) Collateral damage	Physical damage to home, property, infrastructure, landscaping or other material value belonging to neighbors and others affected by the violation. These could involve material losses in any category considered in quantifying the victim's material losses/costs.	At the time of the violation and during the following 30 days.	The projected or actual costs following the initial 30 days after the violation and throughout the subsequent 11 months (covering the combined period of one solar year).	Combined short-term and long-term values
Subtotal:				x
Total costs/losses to other than victims:				x
Grand total:				
<b>Other than Victims Nonmaterial Costs</b>				
(e.g.) Civil order	(your critical analysis narrative here)			

Source: UN-HABITAT, 2011. *Losing Your Home, Assessing the Impact of Eviction, Nairobi.*

## ASSESSING THE IMPACT OF EVICTION HANDBOOK

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This Handbook on Assessing the Impact of Eviction has been jointly commissioned by UN-Habitat and the UN Office of the High Commissioner for Human Rights (OHCHR) under the auspices of the UN Housing Rights Programme (UNHRP), in collaboration with leading housing rights partners.

The purpose of the Handbook is to raise awareness of the importance of assessing the impact of eviction for individuals as well as communities, and it provides a framework for doing so during any stage of the eviction/resettlement process. While seeking to consolidate and build upon current eviction impact assessments practices as well as disseminating existing initiatives and tools at the global level, this Handbook thus intends to increasingly ensure that development projects sufficiently factor in the costs to individuals/communities before, during and after the eviction/resettlement process.

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**UN  HABITAT**

United Nations Human Settlements Programme  
P.O. Box 30030, Nairobi 00100, KENYA  
Telephone: +254-20-7623120, Fax: +254-20-7624266/7  
Email: [infohabitat@unhabitat.org](mailto:infohabitat@unhabitat.org)