

A Handbook on

**UN Basic Principles
and Guidelines on
Development-based
Evictions and Displacement**

Amnesty International India
Housing and Land Rights Network
Youth for Unity and Voluntary Action

Youth for Unity and Voluntary Action (YUVA), Housing and Land Rights Network (HLRN) and Amnesty International India (AI India) have initiated a campaign to bring together the expertise and experience of the respective organizations in order to promote wider dissemination of the new *UN Basic Principles and Guidelines on Development-based Evictions and Displacement* among decision-makers, peoples' movements, civil society groups, and other relevant institutions, with the objective of encouraging use, adoption and implementation of the Guidelines by the concerned local, state and central governments as well as other involved non-state actors.

The Campaign intends to promote awareness on the Guidelines through community interventions, public programmes, interactive sessions, consultations and dissemination of literature.

YUVA, HLRN and AI India seek support and participation from other likeminded peoples' movements and civil society organizations to spread awareness on and advocate towards the adoption of the Guidelines.

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A HANDBOOK ON

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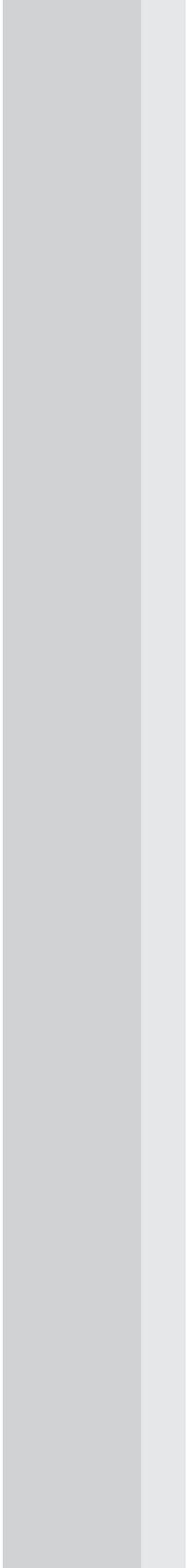
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■ Introduction

The Right to Adequate Housing is a Human Right

While the majority of the world lives in some form of dwelling, around one half of the world's population does not enjoy all the entitlements necessary for housing to be considered *adequate*. It has been well established in international human rights law and its interpretation that housing is not just a physical structure of four roofs and a wall. Instead it is a much broader concept, which encompasses various material and non-material elements of adequacy, which are necessary to create a safe and secure place to live. Furthermore, adequate housing is not merely a desired goal; it is a basic human right of all human beings. This has been affirmed by the Universal Declaration of Human Rights in 1948, which recognizes the right to adequate housing as an integral component of the human right to an adequate standard of living.

The Universal Declaration of Human Rights (UDHR) states under Article 25 (1) that, *“Everyone has the right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”* On the basis of the provisions established in the UDHR, the right to adequate housing was elaborated and reaffirmed in 1966 by the International Covenant on Economic, Social and Cultural Rights (ICESR), which in Article 11.1 declares that, *“The State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”*

The UN Special Rapporteur on adequate housing has defined the human right to adequate housing, as: *“The right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.”*¹

The human right to adequate housing is integral to the realisation of the right to live with dignity, as is the right to land. It is therefore important to also recognise the right to land as a human right. Apart from being inextricably linked to the human right to adequate housing, the human right to land is also related to other human rights such as the rights to food, work, health, and security of the home and person.

Though India has ratified several international human rights instruments, which mandate the guarantee and protection of the human right to adequate housing of all, this basic human right still eludes a large number of Indians – both in urban and rural areas.

According to Census 2001 data, 23.1% of India's total urban population of 286 million lives in slums. The actual figure is likely to be much higher since only 607 cities were covered in this pilot effort. The majority of the population in the metros lives in slums. According to civil society estimates, around 60% of the population of Mumbai and 50% of Delhi's population lives in slums. If those living in sub-standard housing are also taken into account, the number will increase. This indicates that a large percentage of the country's urban population has little or no access to adequate housing and basic amenities. The situation with regard to housing and living conditions in rural areas is even more dismal.

At the end of the Tenth Five Year Plan, the urban housing shortage was 24.7 million dwelling units while for the Eleventh Plan period (2007-2012) it is estimated to be 26.53 million.² This is compounded by the fact that 99% of the housing shortage pertains to the Economically Weaker Sections (EWS) and Low Income Groups (LIG).³ The total rural housing shortage for 2007-2012 has been projected as 47.43 million, of which 90% accounts for below poverty line (BPL) families.⁴

Protection of the Human Right to Adequate Housing under the Constitution of India

The Constitution of India is firmly grounded in the principles of liberty, fraternity, equality and justice. While the right to housing is

not explicitly laid out as a fundamental right, it is encompassed within other fundamental rights and directive principles provided for by the Constitution.

In particular, the Supreme Court of India has held that the right to adequate housing is a fundamental human right emanating from the right to life protected by Article 21 of the Constitution (“*No person shall be deprived of his life or personal liberty except according to procedure established by law*”). There have been several important court judgments that have clearly established the relation between the right to housing and the right to life as guaranteed by Article 21.⁵

The fundamental rights provided for by the Constitution of India include:

- Equality before the law - *Article 14*;
- Non-discrimination on grounds of religion, race, caste, sex, place of birth - *Article 15 (1)*;
- Special provisions in favour of women and children based on the principle of protective discrimination - *Article 15 (3)*;
- Equality of opportunity in matters relating to employment or appointment of any office under the State - *Article 16*;
- Freedom to move freely throughout the territory of India - *Article 19(1) (d)*;
- Freedom to reside and settle in any part of the territory of India - *Article 19 (1) (e)*;
- Right of all citizens to practice any profession, or to carry on any occupation, trade or business - *Article 19 (1) (g)*;
- Right to life and personal liberty - *Article 21*.

All these rights are linked to the protection and guarantee of the human rights to adequate housing and land.

Protection of the Human Right to Adequate Housing under International Law

The obligation of States to take steps towards the realisation of the human right to adequate housing for all is laid down in a number of international legally binding human rights instruments. They include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (Article 11.1), the Convention on the Rights of the Child (Article 27.3), and the non-discrimination provisions found in Article 14.2 (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.

The scope of the right to adequate housing, guaranteed by Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, was defined by the Committee on Economic Social and Cultural Rights (CESCR) in its General Comment 4.⁶ In order for housing to be adequate, it must, at a minimum, include the following seven core elements:

- Legal security of tenure
- Availability of services
- Affordability
- Accessibility
- Habitability
- Location
- Cultural adequacy.

These elements of “adequacy” have further been expanded by civil society organizations as well as the UN Special Rapporteur on adequate housing, to include: physical security; participation and information; access to land, water and other natural resources; freedom from dispossession, damage and destruction; resettlement, restitution, compensation, non-refoulement and return; access to remedies; education and empowerment; and freedom from violence against women.⁷

Forced Evictions Violate the Human Rights to Adequate Housing and Land

General Comment 7 adopted in 1997 by CESCR defines forced eviction as the, “[p]ermanent or temporary removal against the will of individuals, families or communities from their homes or land, which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”⁸

Moreover, it affirmed that forced evictions are *prima facie* violations of the human right to adequate housing, and are a contributing factor to the phenomenon of homelessness. This has also been reiterated in UN Human Rights Commission resolutions 1993/77 and 2004/28.

General Comment 7 of CESCR also encourages State Parties to ensure that “legislative and other measures are adequate to prevent, and if appropriate punish, forced evictions carried out without appropriate safeguards by private persons or bodies.”

Around the world, however, the last few years have witnessed an unprecedented rise in forced evictions. A multitude of factors, including large infrastructure and so-called development projects in both rural and urban areas, such as those related to dams, mines, and ports; urban renewal and expansion; city “beautification”; sports events; and industrial development, including the takeover of farmland, are leading to the eviction of individuals and communities from their homes and habitat. In the absence of adequate rehabilitation, this has exacerbated homelessness and resulted in loss of livelihoods.

Forced evictions also constitute violations of a range of other internationally recognized human rights such as the human rights to security of the person and security of the home. In several cases when accompanied with violence and a lack of due process, they violate related human rights to health, food, water, livelihood, education, freedom from cruel, inhuman and degrading treatment, and freedom of movement.

The authorities carrying out forced evictions especially violate people's entitlements to security of tenure and freedom from forced evictions; access to, and benefit from, public goods and services; information, capacity and capacity building; participation and self-expression; rights to resettlement and adequate compensation for violations and losses; and physical security and privacy. All are elements of the human right to adequate housing as recognized in international law.

As a result of forced evictions, people are often left homeless and destitute, without means of earning a livelihood and, in practice, with no effective access to legal or other remedies. Forced evictions are often associated with physical and psychological injuries to those affected, with a particular impact on women, children, persons already living in extreme poverty, indigenous peoples, minorities and other marginalised groups.

Forced evictions must only be carried out under exceptional circumstances and in full accordance with international human rights law.

UN Basic Principles and Guidelines on Development-based Evictions and Displacement

The UN Special Rapporteur on adequate housing, in collaboration with the German Federal Foreign Office and the German Institute for Human Rights, co-organized an International Workshop on Forced Evictions in Berlin in June 2005, for the purpose of elaborating guidelines aimed at assisting States and the international community in developing policies and legislation to address forced evictions. The *Basic Principles and Guidelines on Development-based Evictions and Displacement* (henceforth *Guidelines*) are the result of this workshop and subsequent consultations.⁹ In June 2007, the Special Rapporteur on adequate housing presented the Guidelines to the Human Rights Council, which formally acknowledged them in December 2007.¹⁰

Highlights of the Guidelines

These basic principles and operational guidelines offer several new prescriptions, based on experiences gathered worldwide since 1997.

The present Guidelines address the human rights implications of evictions induced by development projects and related displacement in urban and/or rural areas. They represent a further development of the Comprehensive Human Rights Guidelines on Development-based Displacement (E/CN.4/Sub.2/1997/7, annex). They are based on international human rights law, and are consistent with General Comment 4 (1991) and General Comment 7 (1997) of the Committee on Economic, Social and Cultural Rights, the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), 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, adopted by the General Assembly in its resolution 60/147, and the Principles on Housing and Property Restitution for Refugees and Displaced Persons (see E/CN.4/Sub.2/2005/17 and Add.1).

In particular, the Guidelines:

- Define the practice of forced evictions (paras. 4-8);
- Lay down stringent criteria under which displacement can occur in “exceptional circumstances”, with “full justification” and procedural guarantees (para. 21);
- Enumerate detailed steps to be taken by States to protect human rights prior to, during, and after evictions (paras. 37-58);
- Call for comprehensive “eviction-impact assessments” to be carried out prior to displacement (paras. 32, 33);
- Call for provision of compensation, restitution and adequate rehabilitation consistent with human rights standards (paras. 42, 60-63);
- Provide useful guidance on other phenomena that lead to displacement such as disasters (paras. 52, 55);

- Establish a “right to resettle” consistent with the right to adequate housing for displaced communities living in adverse conditions (paras. 16, 52-56);
- Call on States, in pursuance of an “immediate obligation” to guarantee security of tenure to all those currently lacking titles to home and land (paras. 23, 25);
- Provide a strong gender perspective, including protection and entitlements to women (paras. 7, 15, 26, 29, 33, 34, 38, 39, 47, 50, 53, 54, 57 and 58);
- Protect children's right to adequate housing (paras. 21, 31, 33, 47, 50, 52, 54, 56);
- Emphasise the differential nature of impacts of evictions on marginalised groups and communities, including persons with disabilities, minorities, historically discriminated groups and older persons, and call for the protection of their human rights (paras. 21, 29, 31, 33, 29, 38, 39, 54, 57);
- Call for protection of related human rights:
 - Human right to work and livelihood (paras. 43, 52, 63);
 - Human right to land (paras. 16, 22, 25, 26, 30, 43, 56, 60, 61, 63, 71);
 - Human right to food (paras. 52, 57);
 - Human right to health (paras. 16, 54-57, 63, 68);
 - Human right to education (paras. 16, 52, 57, 60, 63);
- Stress the obligations of non-State actors (paras. 11, 71-73);
- Call for States to take intervening measures to ensure that market forces do not increase the vulnerability of low-income and marginalized groups to forced eviction (paras. 8, 30).

Potential Uses of the Guidelines

The Guidelines aim to minimise displacement and call for sustainable alternatives, wherever possible. In the event that displacement is inevitable, the Guidelines lay down certain non-negotiable human rights standards that must be respected and upheld in all circumstances.

The Guidelines could serve a range of purposes:

- Improve practices and policies of all actors responsible for displacement and rehabilitation – local government officials, municipal authorities, corporate sector representatives, law enforcement agencies, including police officials – and to ensure that their operations do not violate any human rights but instead incorporate human rights standards.
- Generate awareness among the displaced and those facing threats of displacement as well as civil society groups working on their behalf. When affected people are aware of their human rights and of the responsibilities of governing agencies, they are better equipped to demand their human rights and ensure their implementation.
- Monitor governance as well as practices of all involved parties (including the corporate sector, public sector, and government) with the aim of ensuring compliance with national and international law.
- Influence law and policy reform. The Guidelines could be incorporated into national laws, policies and administrative decisions related to development, displacement and rehabilitation, to ensure the operationalisation of just practices that uphold human rights of affected people.
- Provide guidance to planners in order to ensure that both urban and rural planning are balanced and based on human right standards, and incorporate the needs of marginalised sections of society.

- Assist law enforcement agencies (including the judiciary and human rights commissions) in interpreting and implementing national and international law with a view to minimizing displacement and enforcing adequate and just rehabilitation.
- Promote accountability of both government and non-government agencies.
- Promote human rights education, including among students.
- Mobilize national and international campaigns against forced evictions and to advocate for the recognition, realisation and protection of the human rights to adequate housing and land.

Handbook on the Guidelines

This Handbook intends to introduce readers to the Guidelines, which hold the potential to serve as an important tool to prevent forced evictions and to ensure due process and adequate rehabilitation and resettlement based on human rights standards in the eventuality that evictions occur.

The Handbook first provides a summary of the Guidelines that includes their principle elements, and then presents the actual text of the Guidelines.

Apart from intending to spread awareness on the Guidelines, this Handbook aims to encourage their use and adoption by various actors with the goal of contributing to the process of human rights standard setting – at the local, national and international levels.

It is hoped that these UN Guidelines will be widely disseminated, translated into as many languages as possible, used by relevant authorities, and incorporated into law and policy to ensure that human rights, in particular the rights to adequate housing, work, land, and security of the home and person are respected, protected and fulfilled.

**UN Basic Principles
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Evictions and Displacement**

SUMMARY

■ Summary

Basic Principles and Guidelines on Development-based Evictions and Displacement

This summary highlights the key elements and principles of each section of the Guidelines and is intended to give readers a general overview. It is followed by the actual text of the Guidelines.

I. Scope and Nature (paragraphs 1 - 10)

The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights. In addition, and consistent with the indivisibility of a human rights approach, “(n)o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence”, and “(e)veryone has the right to the protection of the law against such interference or attacks”.

The present guidelines address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas. Having due regard for all relevant definitions of the practice of “forced evictions” in the context of international human rights standards, the present guidelines apply to acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection. Forced evictions constitute a distinct phenomenon under international law, and are often linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing.

Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.

II. General Obligations (paragraphs 11 - 36)

A. Duty-bearers and nature of obligations (paragraphs 11 - 12)

While a variety of distinct actors may carry out, sanction, demand, propose, initiate, condone or acquiesce to forced evictions, States bear the principal obligation for applying human rights and humanitarian norms, in order to ensure respect for the rights enshrined in binding treaties and general principles of international public law, as reflected in the present guidelines. This does not, however, absolve other parties, including project managers and personnel, international financial and other institutions or organizations, transnational and other corporations, and individual parties, including private landlords and landowners, of all responsibility.

B. Basic human rights principles (paragraphs 13 - 20)

According to international law, States must ensure that protection against forced evictions, and of the human right to adequate housing and secure tenure, are guaranteed without discrimination of any kind on the basis of race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or other status. States must ensure the equal right of women and men to protection from forced evictions and the equal enjoyment of the human right to adequate housing and security of tenure, as reflected in the present guidelines.

C. Implementation of State obligations (paragraphs 21 - 27)

States shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their adverse impact on a wide range of internationally recognized human rights. Any eviction must be: (a) authorized by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare; (d) reasonable and proportional; (e) regulated so as to ensure full and fair compensation and rehabilitation; and (f) carried out in accordance with the present guidelines. The protection provided by these procedural requirements applies to all vulnerable persons and affected groups, irrespective of whether they hold title to home and property under domestic law.

D. Preventive strategies, policies and programmes (paragraphs 28-36)

States should adopt, to the maximum of their available resources, appropriate strategies, policies and programmes to ensure effective protection of individuals, groups and communities against forced eviction and its consequences. States should carry out comprehensive reviews of relevant strategies, policies and programmes, with a view to ensuring their compatibility with international human rights norms. States should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, such as speculation in land and real estate.

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” assessments should also include exploration of alternatives and strategies for minimizing harm. Impact assessments must take into account the differential impacts of forced evictions on women, children, the elderly and marginalized sectors of society.

III. Prior to Evictions (paragraphs 37 - 44)

Urban or rural planning and development processes should involve all those likely to be affected and should include the following elements:

- (a) Appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives;
- (b) Effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups;
- (c) A reasonable time period for public review of, comment on, and/or objection to the proposed plan;
- (d) Opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and
- (e) Holding of public hearing(s) that provide affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

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.

Any decision relating to evictions should be announced in writing in the local language to all individuals concerned, sufficiently in advance.

Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. All resettlement measures, such as construction of homes,

provision of water, electricity, sanitation, schools, access roads and allocation of land and sites must be consistent with the present guidelines and internationally recognized human rights principles, and completed before those who are to be evicted are moved from their original areas of dwelling.

IV. During Evictions (paragraphs 45 - 51)

The procedural requirements for ensuring respect for human rights standards include the mandatory presence of governmental officials or their representatives on site during evictions.

Evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of those affected. States must also take steps to ensure that women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected.

Evictions must not take place in inclement weather, at night, during festivals or religious holidays, prior to elections or during or just prior to school examinations. States and their agents must take steps to ensure that no one is subject to direct or indiscriminate attacks or other acts of violence.

V. After an Eviction: Immediate Relief and Relocation (paragraphs 52-58)

The Government and any other parties responsible for providing just compensation and sufficient alternative accommodation, or restitution when feasible, must do so immediately upon the eviction, except in cases of *force majeure*. At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable drinking water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended

upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions.

Special attention should be paid to: (a) the health needs of women and children, including access to female health-care providers where necessary, and to services such as reproductive health care and appropriate counselling for victims of sexual and other abuses; (b) ensuring that ongoing medical treatment is not disrupted as a result of eviction or relocation; and (c) the prevention of contagious and infectious diseases, including HIV/AIDS, at relocation sites.

Identified relocation sites must fulfil the criteria for adequate housing according to international human rights law. These include: (a) security of tenure; (b) services, materials, facilities and infrastructure such as potable drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services, and to natural and common resources, where appropriate; (c) affordable housing; (d) habitable housing providing inhabitants with adequate space, protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors, and ensuring physical safety of occupants; (e) accessibility for disadvantaged groups; (f) access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas and (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.

VI. Remedies for Forced Evictions (paragraphs 59-68)

All persons threatened with or subject to forced evictions have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return,

restitution, resettlement, rehabilitation and compensation, and should comply, as applicable, with 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.

A. Compensation (paragraphs 60 - 63)

Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case. Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better. Women and men must be co-beneficiaries of all compensation packages.

B. Restitution and return (paragraphs 64 - 67)

When return is possible or adequate resettlement in conformity with these guidelines is not provided, 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.

When return to one's place of residence and recovery of property and possessions is not possible, competent authorities must provide victims of forced evictions, or assist them in obtaining, appropriate compensation or other forms of just reparation.

C. Resettlement and rehabilitation (paragraph 68)

While all parties must give priority to the right of return, certain circumstances (including for the promotion of general welfare, or where the safety, health or enjoyment of human rights so demands) may necessitate the resettlement of particular persons, groups and communities due to development-based forced evictions. Such resettlement must occur in a just and equitable manner and in full accordance with international human rights law.

VII. Monitoring, Evaluation and Follow-Up (paragraphs 69-70)

States should actively monitor and carry out quantitative and qualitative evaluations to determine the number, type and long-term consequences of evictions, including forced evictions that occur within their jurisdiction and territory of effective control. Monitoring reports and findings should be made available to the public and concerned international parties in order to promote the development of best practices and problem-solving experiences based on lessons learned.

VIII. Role of the International Community, including International Organizations (paragraphs 71 -74)

The international community bears an obligation to promote, protect and fulfil the human right to housing, land and property. International financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, should take fully into account the prohibition on forced evictions under international human rights law and related standards. Transnational corporations and other business enterprises must respect the human right to adequate housing, including the prohibition on forced evictions within their respective spheres of activity and influence.

**UN Basic Principles
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FULL TEXT

Basic Principles and Guidelines on Development-based Evictions and Displacement*

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* This is the actual and complete text of the Guidelines. Presented in the report of the UN Special Rapporteur on adequate housing, Miloon Kothari, A/HRC/4/18, February 2007. Available online at: <http://www2.ohchr.org/english/issues/housing/annual.htm>.

I. Scope and Nature

1. The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights. These include 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.
2. In addition, and consistent with the indivisibility of a human rights approach, Article 17 of the International Covenant on Civil and Political Rights states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence”, and further that “[e]veryone has the right to the protection of the law against such interference or attacks”. Article 16, paragraph 1, of the Convention on the Rights of the Child contains a similar provision. Other references in international law include Article 21 of the 1951 Convention relating to the Status of Refugees; Article 16 of International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries (1989); and Article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention).
3. The present guidelines address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas. These guidelines represent a further development of the Comprehensive human rights guidelines on development-based displacement (E/CN.4/Sub.2/1997/7, annex). They are based on international human rights law, and are consistent with general comment No. 4 (1991) and general comment No. 7 (1997) of the Committee on Economic, Social and Cultural Rights, the Guiding Principles on Internal Displacement

(E/CN.4/1998/53/Add.2), 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, adopted by the General Assembly in its resolution 60/147, and the Principles on housing and property restitution for refugees and displaced persons (see E/CN.4/Sub.2/2005/17 and Add.1).

4. Having due regard for all relevant definitions of the practice of “forced evictions” in the context of international human rights standards, the present guidelines apply to acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.^a
5. Forced evictions constitute a distinct phenomenon under international law, and are often linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing. Forced evictions share many consequences similar to those resulting from arbitrary displacement,^b including population transfer, mass expulsions, mass exodus, ethnic cleansing and other practices involving the coerced and involuntary displacement of people from their homes, lands and communities.
6. Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.

^a The prohibition of forced evictions does not apply to evictions carried out both in accordance with the law and in conformity with the provisions of international human rights treaties.

^b Consistent with Principle 6 of the Guiding Principles on Internal Displacement.

7. Forced evictions intensify inequality, social conflict, segregation and “ghettoization”, and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous peoples.
8. In the context of the present guidelines, development-based evictions include evictions often planned or conducted under the pretext of serving the “public good”, such as those linked to development and infrastructure projects (including large dams, large-scale industrial or energy projects, or mining and other extractive industries); land-acquisition measures associated with urban renewal, slum upgrades, housing renovation, city beautification, or other land-use programmes (including for agricultural purposes); property, real estate and land disputes; unbridled land speculation; major international business or sporting events; and, ostensibly, environmental purposes. Such activities also include those supported by international development assistance.
9. Displacement resulting from environmental destruction or degradation, evictions or evacuations resulting from public disturbances, natural or human-induced disasters, tension or unrest, internal, international or mixed conflict (having domestic and international dimensions) and public emergencies, domestic violence, and certain cultural and traditional practices often take place without regard for existing human rights and humanitarian standards, including the right to adequate housing. Such situations may, however, involve an additional set of considerations that the present guidelines do not explicitly address, though they can also provide useful guidance in those contexts. Attention is drawn 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, the Guiding Principles on Internal Displacement, and the Principles on housing and property restitution for refugees and displaced persons.
10. While recognizing the wide range of contexts in which forced evictions take place, the present guidelines focus on

providing guidance to States on measures and procedures to be adopted in order to ensure that development-based evictions are not undertaken in contravention of existing international human rights standards and do not thus constitute “forced evictions”. These guidelines aim at providing a practical tool to assist States and agencies in developing policies, legislation, procedures and preventive measures to ensure that forced evictions do not take place, and to provide effective remedies to those whose human rights have been violated, should prevention fail.

II. General Obligations

A. Duty bearers and nature of obligations

11. While a variety of distinct actors may carry out, sanction, demand, propose, initiate, condone or acquiesce to forced evictions, States bear the principal obligation for applying human rights and humanitarian norms, in order to ensure respect for the rights enshrined in binding treaties and general principles of international public law, as reflected in the present guidelines. This does not, however, absolve other parties, including project managers and personnel, international financial and other institutions or organizations, transnational and other corporations, and individual parties, including private landlords and landowners, of all responsibility.

12. Under international law, the obligations of States include the respect, protection and fulfilment of all human rights and fundamental freedoms. This means that States shall: refrain from violating human rights domestically and extraterritorially; ensure that other parties within the State's jurisdiction and effective control do not violate the human rights of others; and take preventive and remedial steps to uphold human rights and provide assistance to those whose rights have been violated. These obligations are continuous and simultaneous, and are not suggestive of a hierarchy of measures.

B. Basic human rights principles

13. According to international human rights law, everyone has the right to adequate housing as a component of the right to an adequate standard of living. The right to adequate housing includes, inter alia, the right to protection against arbitrary or unlawful interference with privacy, family, home, and to legal security of tenure.
14. According to international law, States must ensure that protection against forced evictions, and the human right to adequate housing and secure tenure, are guaranteed without discrimination of any kind on the basis of race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or other status.
15. States must ensure the equal right of women and men to protection from forced evictions and the equal enjoyment of the human right to adequate housing and security of tenure, as reflected in the present guidelines.
16. All persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education.^c
17. States must ensure that adequate and effective legal or other appropriate remedies are available to any person claiming that his/her right to protection against forced evictions has been violated or is under threat of violation.
18. States must refrain from introducing any deliberately retrogressive measures with respect to de jure or de facto protection against forced evictions.
19. States must recognize that the prohibition of forced

^c See general comment No. 4 on the right to adequate housing, adopted by the Committee on Economic, Social and Cultural Rights in 1991.

evictions includes arbitrary displacement that results in altering the ethnic, religious or racial composition of the affected population.

20. States must formulate and conduct their international policies and activities in compliance with their human rights obligations, including through both the pursuit and provision of international development assistance.

C. Implementation of State obligations

21. States shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their adverse impact on a wide range of internationally recognized human rights. Any eviction must be (a) authorized by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare;^d (d) reasonable and proportional; (e) regulated so as to ensure full and fair compensation and rehabilitation; and (f) carried out in accordance with the present guidelines. The protection provided by these procedural requirements applies to all vulnerable persons and affected groups, irrespective of whether they hold title to home and property under domestic law.
22. States must adopt legislative and policy measures prohibiting the execution of evictions that are not in conformity with their international human rights obligations. States should refrain, to the maximum extent possible, from claiming or confiscating housing or land, and in particular when such action does not contribute to the enjoyment of human rights. For instance, an eviction may be considered justified if measures of land reform or redistribution, especially for the benefit of vulnerable or deprived persons, groups or communities are involved. States should apply appropriate civil or criminal penalties against any public or private person or entity within its jurisdiction that carries out evictions in a manner not fully consistent with applicable law and international human rights

^d In the present guidelines, the promotion of the general welfare refers to steps taken by States consistent with their international human rights obligations, in particular the need to ensure the human rights of the most vulnerable.

standards. States must ensure that adequate and effective legal or other appropriate remedies are available to all those who undergo, remain vulnerable to, or defend against forced evictions.

23. States shall take steps, to the maximum of their available resources, to ensure the equal enjoyment of the right to adequate housing by all. The obligation of States to adopt appropriate legislative and policy measures to ensure the protection of individuals, groups and communities from evictions that are not in conformity with existing international human rights standards is immediate.^e
24. In order to ensure that no form of discrimination, statutory or otherwise, adversely affects the enjoyment of the human right to adequate housing, States should carry out comprehensive reviews of relevant national legislation and policy with a view to ensuring their conformity with international human rights provisions. Such comprehensive review should also ensure that existing legislation, regulation and policy address the privatization of public services, inheritance and cultural practices, so as not to lead to, or facilitate forced evictions.^f
25. In order to secure a maximum degree of effective legal protection against the practice of forced evictions for all persons under their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land.
26. States must ensure the equal enjoyment of the right to adequate housing by women and men. This requires States to adopt and implement special measures to protect women from forced evictions. Such measures should ensure that titles to housing and land are conferred on all women.

^e See general comment No. 3 on the nature of States parties' obligations, adopted in 1990 by the Committee on Economic, Social and Cultural Rights.

^f See the guidelines on housing and discrimination contained in the 2002 report of the Commission on Human Rights Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2002/59).

27. States should ensure that binding human rights standards are integrated in their international relations, including through trade and investment, development assistance and participation in multilateral forums and organizations. States should implement their human rights obligations with regard to international cooperation,⁸ whether as donors or as beneficiaries. States should ensure that international organizations in which they are represented refrain from sponsoring or implementing any project, programme or policy that may involve forced evictions, that is, evictions not in full conformity with international law, and as specified in the present guidelines.

D. Preventive strategies, policies and programmes

28. States should adopt, to the maximum of their available resources, appropriate strategies, policies and programmes to ensure effective protection of individuals, groups and communities against forced eviction and its consequences.
29. States should carry out comprehensive reviews of relevant strategies, policies and programmes, with a view to ensuring their compatibility with international human rights norms. In this regard, such reviews must strive to remove provisions that contribute to sustaining or exacerbating existing inequalities that adversely affect women and marginalized and vulnerable groups. Governments must take special measures to ensure that policies and programmes are not formulated or implemented in a discriminatory manner, and do not further marginalize those living in poverty, whether in urban or rural areas.
30. States should take specific preventive measures to avoid and/or eliminate underlying causes of forced evictions, such as speculation in land and real estate. States should review the operation and regulation of the housing and tenancy markets and, when necessary, intervene to ensure that market forces do not increase the vulnerability of low-income and other marginalized groups to forced eviction. In the event of an

⁸ As set forth in article 22, Universal Declaration of Human Rights; Articles 55 and 56 of the Charter of the United Nations; Articles 2, paragraph 1, 11, 15, 22 and 23, International Covenant on Economic, Social and Cultural Rights; articles 23, paragraph 4, and 28, paragraph 3, Convention on the Rights of the Child.

increase in housing or land prices, States should also ensure sufficient protection against physical or economic pressures on residents to leave or be deprived of adequate housing or land.

31. Priority in housing and land allocation should be ensured to disadvantaged groups such as the elderly, children and persons with disabilities.
32. 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.
33. Impact assessments must take into account the differential impacts of forced evictions on women, children, the elderly, and marginalized sectors of society. All such assessments should be based on the collection of disaggregated data, such that all differential impacts can be appropriately identified and addressed.
34. Adequate training in applying international human rights norms should be required and provided for relevant professionals, including lawyers, law enforcement officials, urban and regional planners and other personnel involved in the design, management and implementation of development projects. This must include training on women’s rights, with an emphasis on women’s particular concerns and requirements pertaining to housing and land.
35. States should ensure the dissemination of adequate information on human rights and laws and policies relating to protection against forced evictions. Specific attention should be given to the dissemination of timely and appropriate information to groups particularly vulnerable to evictions, through culturally appropriate channels and methods.

36. States must ensure that individuals, groups and communities are protected from eviction during the period that their particular case is being examined before a national, regional or international legal body.

III. Prior to Evictions

37. Urban or rural planning and development processes should involve all those likely to be affected and should include the following elements: (a) appropriate notice to all potentially affected persons that eviction is being considered and that there will be public hearings on the proposed plans and alternatives; (b) effective dissemination by the authorities of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups; (c) a reasonable time period for public review of, comment on, and/or objection to the proposed plan; (d) opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options; and (e) holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.
38. 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. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.
39. During planning processes, opportunities for dialogue and consultation must be extended effectively to the full spectrum of affected persons, including women and

vulnerable and marginalized groups, and, when necessary, through the adoption of special measures or procedures.

40. Prior to any decision to initiate an eviction, authorities must demonstrate that the eviction is unavoidable and consistent with international human rights commitments protective of the general welfare.
41. Any decision relating to evictions should be announced in writing in the local language to all individuals concerned, sufficiently in advance. The eviction notice should contain a detailed justification for the decision, including on: (a) absence of reasonable alternatives; (b) the full details of the proposed alternative; and (c) where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions. All final decisions should be subject to administrative and judicial review. Affected parties must also be guaranteed timely access to legal counsel, without payment if necessary.
42. Due eviction notice should allow and enable those subject to eviction to take an inventory in order to assess the values of their properties, investments and other material goods that may be damaged. Those subject to eviction should also be given the opportunity to assess and document non-monetary losses to be compensated.
43. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. The State must make provision for the adoption of all appropriate measures, to the maximum of its available resources, especially for those who are unable to provide for themselves, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available and provided. Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted.
44. All resettlement measures, such as construction of homes, provision of water, electricity, sanitation, schools, access roads and allocation of land and sites, must be consistent with the present guidelines and internationally recognized human

rights principles, and completed before those who are to be evicted are moved from their original areas of dwelling.^h

IV. During Evictions

45. The procedural requirements for ensuring respect for human rights standards include the mandatory presence of governmental officials or their representatives on site during evictions. The governmental officials, their representatives and persons implementing the eviction must identify themselves to the persons being evicted and present formal authorization for the eviction action.
46. Neutral observers, including regional and international observers, should be allowed access upon request, to ensure transparency and compliance with international human rights principles during the carrying out of any eviction.
47. Evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of those affected. States must also take steps to ensure that women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected.
48. 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.
49. Evictions must not take place in inclement weather, at night, during festivals or religious holidays, prior to elections, or during or just prior to school examinations.
50. States and their agents must take steps to ensure that no one is subject to direct or indiscriminate attacks or other acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate

^h See section V of the present guidelines.

destruction, negligence or any form of collective punishment. Property and possessions left behind involuntarily should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

51. Authorities and their agents should never require or force those evicted to demolish their own dwellings or other structures. The option to do so must be provided to affected persons, however, as this would facilitate salvaging of possessions and building material.

V. After an Eviction: Immediate Relief and Relocation

52. The Government and any other parties responsible for providing just compensation and sufficient alternative accommodation, or restitution when feasible, must do so immediately upon the eviction, except in cases of force majeure. At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions.
53. Special efforts should be made to ensure equal participation of women in all planning processes and in the distribution of basic services and supplies.
54. In order to ensure the protection of the human right to the highest attainable standard of physical and mental health, all evicted persons who are wounded and sick, as well as those with disabilities, should receive the medical care and attention they require to the fullest extent practicable and with the least possible delay, without distinction on any non-medically relevant grounds. When necessary, evicted

persons should have access to psychological and social services. Special attention should be paid to: (a) the health needs of women and children, including access to female health-care providers where necessary, and to services such as reproductive health care and appropriate counselling for victims of sexual and other abuses; (b) ensuring that ongoing medical treatment is not disrupted as a result of eviction or relocation; and (c) the prevention of contagious and infectious diseases, including HIV/AIDS, at relocation sites.

55. Identified relocation sites must fulfil the criteria for adequate housing according to international human rights law. These include:ⁱ (a) security of tenure; (b) 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 to natural and common resources, where appropriate; (c) affordable housing; (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; (e) accessibility for disadvantaged groups; (f) access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas; and (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.
56. In determining the compatibility of resettlement with the present guidelines, States should ensure that in the context of any case of resettlement the following criteria are adhered to:
- (a) No resettlement shall take place until such time as a comprehensive resettlement policy consistent with the present guidelines and internationally recognized human rights principles is in place;

ⁱ See general comment No. 4 on adequate housing adopted by the Committee on Economic, Social and Cultural Rights in 1991.

- (b) Resettlement must ensure that the human rights of women, children, indigenous peoples and other vulnerable groups are equally protected, including their right to property ownership and access to resources;
- (c) The actor proposing and/or carrying out the resettlement shall be required by law to pay for any associated costs, including all resettlement costs;
- (d) No affected persons, groups or communities shall suffer detriment as far as their human rights are concerned, nor shall their right to the continuous improvement of living conditions be subject to infringement. This applies equally to host communities at resettlement sites, and affected persons, groups and communities subjected to forced eviction;
- (e) The right of affected persons, groups and communities to full and prior informed consent regarding relocation must be guaranteed. The State shall provide all necessary amenities, services and economic opportunities at the proposed site;
- (f) The time and financial cost required for travel to and from the place of work or to access essential services should not place excessive demands upon the budgets of low-income households;
- (g) Relocation sites must not be situated on polluted land or in immediate proximity to pollution sources that threaten the right to the highest attainable standards of mental and physical health of the inhabitants;
- (h) Sufficient information shall be provided to the affected persons, groups and communities on all State projects and planning and implementation processes relating to the concerned resettlement, including information on the purported use of the eviction dwelling or site and its proposed beneficiaries. Particular attention must be paid to ensuring that indigenous peoples, minorities, the landless, women and children are represented and included in this process;
- (i) The entire resettlement process should be carried out with full participation by and with affected persons, groups and communities. States should, in particular,

take into account all alternative plans proposed by the affected persons, groups and communities;

- (j) If, after a full and fair public hearing, it is found that there still exists a need to proceed with the resettlement, then the affected persons, groups and communities shall be given at least 90 days notice prior to the date of the resettlement; and
 - (k) Local government officials and neutral observers, properly identified, shall be present during the resettlement so as to ensure that no force, violence or intimidation is involved.
57. Rehabilitation policies must include programmes designed for women and marginalized and vulnerable groups to ensure their equal enjoyment of the human rights to housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman or degrading treatment, and freedom of movement.
58. Persons, groups or communities affected by an eviction should not suffer detriment to their human rights, including their right to the progressive realization of the right to adequate housing. This applies equally to host communities at relocation sites.

VI. Remedies for Forced Evictions

59. All persons threatened with or subject to forced evictions have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation, and should comply, as applicable, with 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.

A. Compensation

60. When eviction is unavoidable, and necessary for the promotion of the general welfare, the State must provide or ensure fair and just compensation for any losses of personal, real or other property or goods, including rights or interests in property. Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as: loss of life or limb; physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medicine and medical services, and psychological and social services. Cash compensation should under no circumstances replace real compensation in the form of land and common property resources. Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.
61. All those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original dwelling and land lost or damaged in the process. Consideration of the circumstances of each case shall allow for the provision of compensation for losses related to informal property, such as slum dwellings.
62. Women and men must be co-beneficiaries of all compensation packages. Single women and widows should be entitled to their own compensation.
63. To the extent not covered by assistance for relocation, the assessment of economic damage should take into consideration losses and costs, for example, of 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.

B. Restitution and return

64. The circumstances of forced evictions linked to development and infrastructure projects (including those mentioned in paragraph 8 above) seldom allow for restitution and return. Nevertheless, when circumstances allow, States should prioritize these rights of all persons, groups and communities subjected to forced evictions. Persons, groups and communities shall not, however, be forced against their will to return to their homes, lands or places of origin.
65. When return is possible or adequate resettlement in conformity with these guidelines is not provided, 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. 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.
66. Competent authorities have the duty and responsibility to assist returning persons, groups or communities to recover, to the maximum extent possible, the property and possessions that they left behind or were dispossessed of upon their eviction.
67. When return to one's place of residence and recovery of property and possessions is not possible, competent authorities must provide victims of forced evictions, or assist them in obtaining, appropriate compensation or other forms of just reparation.

C. Resettlement and rehabilitation

68. While all parties must give priority to the right of return, certain circumstances (including for the promotion of general welfare, or where the safety, health or enjoyment of human rights so demands) may necessitate the resettlement of particular persons, groups and communities due to development-based evictions. Such resettlement must occur in a just and equitable manner and in full accordance with international human rights law as elaborated in section V of these guidelines.

VII. Monitoring, Evaluation and Follow-up

69. States should actively monitor and carry out quantitative and qualitative evaluations to determine the number, type and long-term consequences of evictions, including forced evictions, that occur within their jurisdiction and territory of effective control. Monitoring reports and findings should be made available to the public and concerned international parties in order to promote the development of best practices and problem-solving experiences based on lessons learned.
70. States should entrust an independent national body, such as a national human rights institution, to monitor and investigate forced evictions and State compliance with these guidelines and international human rights law.

VIII. Role of the International Community, including International Organizations

71. The international community bears an obligation to promote, protect and fulfil the human right to housing, land and property. International financial, trade, development and other related institutions and agencies, including member or donor States that have voting rights within such bodies, should take fully into account the prohibition on forced evictions under international human rights law and related standards.

72. International organizations should establish or accede to complaint mechanisms for cases of forced evictions that result from their own practices and policies. Legal remedies should be provided to victims in accordance with those stipulated in these guidelines.
73. Transnational corporations and other business enterprises must respect the human right to adequate housing, including the prohibition on forced evictions, within their respective spheres of activity and influence.

IX. Interpretation

74. These guidelines on development-based evictions and displacement shall not be interpreted as limiting, altering or otherwise prejudicing the rights recognized under international human rights, refugee, criminal or humanitarian law and related standards, or rights consistent with these laws and standards as recognized under any national law.

Endnotes

1. Report of the UN Special Rapporteur on adequate housing, Miloon Kothari, E/CN.4/2006/41, 21 March 2006.
2. Report of the Eleventh Five Year Plan Working Group on Urban Housing, Ministry of Housing and Urban Poverty Alleviation, Government of India.
3. National Urban Housing and Habitat Policy 2007, Government of India.
4. Report of the Eleventh Five Year Plan Working Group on Rural Housing, Ministry of Rural Development, Government of India.
5. This has been established in numerous Supreme Court decisions, including: *Francis Coralie Mullin v. Union Territory of Delhi* [(1981) 1 SCC 608]; *Olga Tellis v. Bombay Municipal Corp.* [(1985) 3 SCC 545]; *Shantistar Builders v. Narayan Khimalal Totame* [(1990) 1 SCC 520]; and *Chameli Singh and others v. State of UP* [(1996) 2 SCC 549]. Judgements that reaffirm the need to uphold international law and treaty obligations include: *Gramophone Co. of India v. B.B. Pandey* [(1984) 2 SCC 534]; *CERC v. Union of India* [(1995) 3 SCC 42]; *Madhu Kishwar v. State of Bihar* [(1996) 5 SCC 125]; and *PUCI v. Union of India* [(1997) 3 SCC 433].
6. General Comment 4 'The right to adequate housing' (Art.11 (1) of the Covenant),¹ Committee on Economic Social and Cultural Rights, 1991, Sixth session, paras. 7 and 8.
7. These include the Housing and Land Rights Network (www.hlrn.org). See reports of the UN Special Rapporteur on adequate housing (<http://www.ohchr.org/english/issues/housing/index.htm>), in particular, see *Questionnaire on Women and Housing*, Annex 3, A/HRC/4/18, February 2007. <http://daccessdds.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement>).
8. General Comment 7, 'The right to adequate housing (Art. 11.1 of the Covenant): forced evictions', Committee on Economic Social and Cultural Rights, 1997, Sixteenth session, para. 3.
9. The *Basic Principles and Guidelines* are included in the report of the UN Special Rapporteur on adequate housing, Miloon Kothari, A/HRC/4/18, February 2007. Available online at: <http://www2.ohchr.org/english/issues/housing/annual.htm>.
10. Human Rights Council Resolution 6/27, A/HRC/6/L.11/Add.1, 19 December 2007. Available online at: http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_27.pdf.

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WEBSITE: www.amnesty.org.in

Housing and Land Rights Network:

Housing and Land Rights Network (HLRN) is an integral part of the Habitat International Coalition, and works for the recognition, defence, promotion, and realisation of the human rights to adequate housing and land, which involves securing a safe and secure place for all individuals and communities, especially marginalised communities, to live in peace and dignity. A particular focus of HLRN's work is on promoting and protecting the equal rights of women to housing, land, property and inheritance. HLRN aims to achieve its goals through advocacy, research, human rights education, and outreach through network building at local, national and international levels.

WEBSITE: www.hic-sarp.org / www.hlrn.org

Youth for Unity and Voluntary Action:

Youth for Unity and Voluntary Action (YUVA), a voluntary development organization, was founded in 1984 to create access and enable process to a gamut of rights and opportunities for the marginalized, within the human rights framework. YUVA's mission is to empower the oppressed and the marginalized by facilitating their organizations and institutions towards building equal partnerships in the development process, and ensuring the fulfilment of the human right to live in security, dignity and peace.

WEBSITE: www.yuvaindia.org

The right to adequate housing is an internationally recognized human right, integral to the realization of several other human rights, including the right to live with dignity, and the rights to land, food, work, health, and security of the person and home. Around half the world's population, however, does not enjoy all the entitlements necessary for housing to be considered *adequate*.

Aggravating the dire global housing crisis is the unprecedented rise in forced evictions. In India, large infrastructure development projects, urban renewal and expansion, city “beautification,” sports events, and industrial development, are some of the principal factors leading to the eviction of communities from their homes and habitat.

As a result of forced evictions, people are often left homeless and destitute, without means of earning a livelihood and, often with no effective access to legal or other remedies. Forced evictions violate a range of human rights and most severely impact women, children, persons living in poverty, indigenous peoples, minorities and other marginalised groups.

This Handbook provides a summary and the actual text of the *United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement*, presented by the UN Special Rapporteur on adequate housing to the UN Human Rights Council in June 2007.

The Guidelines aim to minimise displacement and call for sustainable alternatives, wherever possible. In the event that displacement is inevitable, the Guidelines lay down certain non-negotiable human rights standards that must be respected and upheld in all circumstances.

The Guidelines have multiple uses and are aimed at improving practices and policies of all actors responsible for displacement and rehabilitation; generating awareness among the displaced and those facing threats of displacement as well as civil society groups working on their behalf; establishing standards for adequate rehabilitation; and promoting accountability of both government and non-government agencies.