

**HOW TO  
DEAL WITH  
PROJECTS  
THAT INVOLVE  
FORCED  
EVICTIONS  
AND  
DISPLACEMENT?**

This Guide, prepared by the UN Special Rapporteur on Adequate Housing, summarizes international human rights standards applicable to involuntary displacement caused by public and private infrastructure and urbanization projects.

It provides guidance for all involved parties: urban planners and architects, public authorities, the legal community, national or international financing entities, governments, civil society, and affected populations.

The objective of this document is to provide guidance to assist in the execution of development projects that respect, protect and fulfil the human right to adequate housing of the communities that will be affected by them.

If you want to learn more about this theme, please visit:  
[www.righttohousing.org](http://www.righttohousing.org)  
[www2.ohchr.org/english/issues/housing/index.htm](http://www2.ohchr.org/english/issues/housing/index.htm)  
[www.unhabitat.org/unhrp](http://www.unhabitat.org/unhrp)



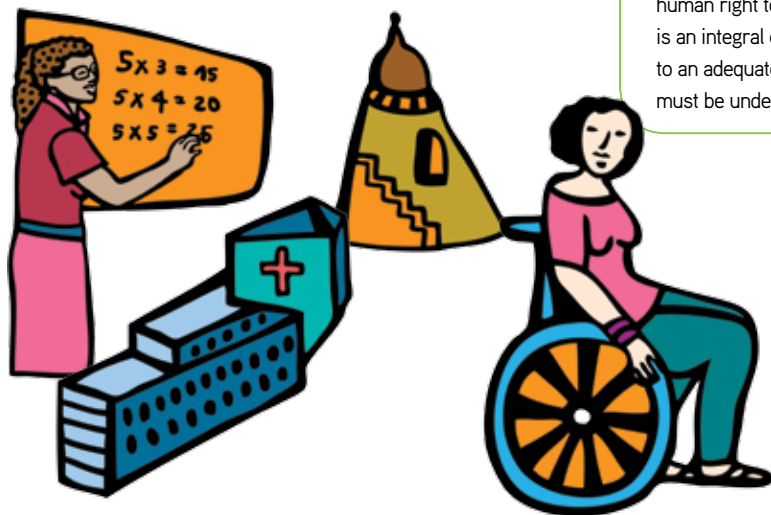
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# WHAT IS THE RIGHT TO ADEQUATE HOUSING?

## EVERY PERSON HAS THE RIGHT TO ADEQUATE HOUSING, AND THE PROTECTION AGAINST FORCED EVICTION IS INCLUDED IN THIS RIGHT.

The right to adequate housing is not limited to the house itself, that is, it does not refer only to a roof and four walls. Housing has to be understood in broader terms, taking into account, for example, cultural aspects of the place where it is located and of the community living therein. The concept of adequate housing also encompasses access to natural

The Universal Declaration of Human Rights 1948, established that the right to adequate housing is one of the human rights internationally recognized as universal, that is, rights which are accepted and applicable in all parts of the world and are valid for all people. Subsequent to the Declaration, international treaties provided that States are obliged to respect, promote and fulfil such rights. The International Covenant on Economic, Social and Cultural Rights is especially important, providing in its Article 11 that, "everyone has the right to an adequate standard of living for himself/herself and his/her family including adequate housing, as well as a continuous improvement of his/her living conditions." Currently, there are more than 12 different United Nations texts that explicitly recognize the human right to adequate housing. It is an integral component of the right to an adequate standard of living and must be understood in such a context.



### GENERALLY, IT CAN BE SAID THAT, BOTH IN THE URBAN AND RURAL ENVIRONMENTS, HOUSING INCLUDES:

- security of tenure (including protection against forced evictions);
- access to basic services, including education, healthcare, potable water, food, electricity, sanitation, waste disposal, transport, leisure, green spaces, and a healthy environment;
- use of appropriate and adequate materials ensuring habitability, including adequate space and effective protection against cold weather, heat, rain, wind, fire, flood, risks of collapse or other threats to health and life;
- priority to the needs of specific groups, such as women, and vulnerable groups, including persons with disabilities, older persons, children, persons living with mental illness and HIV/AIDS, minorities and other historically marginalized groups;
- access to means of subsistence, including access to land, infrastructure, natural and environmental resources, and sources of livelihood and work;
- use of materials, structures and space organization in accordance with the inhabitants' cultural requirements and preferences;
- affordability and access to financial resources; housing-related costs should not place excessive financial burdens on households;
- participation in all stages and processes of decision-making related to housing;
- privacy, security and freedom from violence;
- access to remedies for any violations suffered.

# THE UN SPECIAL RAPPORTEUR ON ADEQUATE HOUSING



In the year 2000, the United Nations (UN) Human Rights Commission, now the UN Human Rights Council, appointed a Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living. The objective of the mandate was to report on the status, around the world, of the right to adequate housing and related rights; to promote cooperation among and assistance to governments, UN and non-governmental organizations in their efforts to secure these rights; and to make recommendations on the realization of the rights relevant to the mandate. Since the beginning of the mandate, the Rapporteurs have undertaken several country missions, developed various studies, and provided practical recommendations on housing related issues, addressing themes such as women's rights to adequate housing, land, property and inheritance, discrimination in access to housing, forced evictions and displacement, and the impact of the international financial crisis on the right to adequate housing.

The Special Rapporteur has developed a website to publicize and disseminate information on the right to adequate housing and related issues, including emerging norms and rights. The website also provides more information and complementary materials to this guide. [www.righttohousing.org](http://www.righttohousing.org)




In 2004, the first Special Rapporteur dedicated his annual report to the theme of forced evictions and in 2007 elaborated the **Basic Principles and Guidance on Development-Based Evictions and Displacement**. The Guidelines aim at providing guidance and operational assistance to States on how to deal with cases of involuntary displacement and evictions, ensuring compliance with international law and standards and respecting the rights of the affected populations.

# THE UN AND FORCED EVICTIONS

Forced evictions and involuntary displacement may result from different situations and causes. This guide addresses specifically the evictions caused by so-called **"development projects"** which, in general, have as a consequence the removal and transference of individuals, families and communities.

Forced evictions have deep and long-lasting effects, including psychological trauma, especially because they are often accompanied by brutality and violence or result in individuals or families being rendered homeless or without access to their regular means of subsistence and livelihood.


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



Dams, road and transportation works, industrial and mining projects, agricultural projects, urban renewal, slum upgrading, infrastructure for mega sport and cultural events, rehabilitation of city centres, projects designed to eliminate or reduce risks in disaster-prone areas, environmental recovery and conservation projects, among others.



The UN Committee on Economic, Social and Cultural Rights defines forced evictions as the *"permanent or temporary removal against the will of individuals, families or communities from the homes or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection"* .

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- Irrespective of the legal nature of residence or occupation, and whether or not people hold formal titles to their homes, land or property, they are entitled to receive protection from being unjustly evicted.
  - Evictions can take place only under "exceptional circumstances," that is, absolutely necessary cases which involve protecting health and well being, and when there is no other feasible alternative.
  - Some evictions may be considered necessary, for example, in the case of people living in precarious areas under grave risk to their health and lives, such as areas prone to collapse or imminent floods.
  - 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.
  - Evictions considered "legitimate" shall always be related to works and projects that promote the public interest. In such cases, the 'public interest' shall always be established by a participatory process that gives proper attention to, and takes into consideration, the views and interests of those living in the areas that would be impacted. A public interest project should not render communities worse off than before.
  - In addition, the analysis concerning the need and opportunity of any "development" project shall be carried out in a transparent manner, with room for presentation of alternative options. Potentially affected parties must have the opportunity to receive adequate and timely information, participate democratically, and propose alternatives that minimize displacement and reduce negative impacts on people's lives. Projects that result in involuntary displacement without the involvement of affected parties in the planning and decision-making processes, do not comply with international human rights standards.
  - Forced evictions are considered illegal when carried out with the use of physical force or violence. However, evictions carried out peacefully can also be considered as violating human rights standards when undertaken without full legal justification or appropriate procedural protection and due process.
  - In addition to taking all measures to avoid unnecessary evictions and respecting the human rights of the communities that have to be displaced, governments are also responsible for protecting people against forced evictions carried out by third parties. This means that, without exempting private parties of their responsibility for any damages caused, the State, in its executive, legislative and judiciary duties, is responsible for not preventing evictions from occurring.

The UN recommends that States should adopt specific laws against forced evictions as an essential basis for the construction of an effective system for protecting the human rights of affected communities. Such legislation must be in accordance with international human rights standards and must provide for sanctions in case of violations.

*To be filled with information about your country...*

**What are the applicable rules, laws and policies in your country that prevent forced evictions and protect the human right to adequate housing?**

# HOW TO DEAL WITH PROJECTS THAT INVOLVE FORCED EVICTIONS AND DISPLACEMENT

This document has been inspired by the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, and developed after a series of consultations carried out under the project *"Disseminating Practical and Operational Tools to Promote, Monitor and Implement the Human Right to Adequate Housing."*



Access the full text of the Basic Principles and Guidelines on Development-Based Evictions and Displacement at: [www.righttohousing.org](http://www.righttohousing.org) or [www2.ohchr.org/english/issues/housing/docs/guidelines\\_en.pdf](http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf)

The UN Guidelines propose several recommendations on how to prevent forced evictions. Their main objective is to lay down basic principles and provide operational guidance for those instances in which, despite all precautions to avoid displacement, evictions are inevitable. Their purpose is to guide States on how to carry out evictions with due process, and in compliance with international human rights standards, with the goal of ensuring protection of the rights of the affected people and communities. While explaining the obligations of States, they also stress the responsibilities of non-state actors.

The Guidelines have been structured to cover the entire displacement process, from prior measures and the elaboration of the project, until the definitive resettlement of the affected community. Recommendations and operational guidelines have thus been organized according to the following three stages:



**BEFORE  
EVICTIONS**

**TO INFORM AND INVOLVE THE AFFECTED POPULATION IN ALL STAGES OF PLANNING AND DECISION-MAKING IS A MANDATORY REQUIREMENT DURING THE WHOLE PROCESS!!!**



**BASIC CONDITIONS TO ENSURE EFFECTIVE PARTICIPATION OF ALL SECTIONS OF THE POPULATION THROUGHOUT THE EVICTION PROCESS:**

- All information on the project shall be made available in advance, in simple and clear terms and in the language of those affected;
- Affected individuals have the right to seek independent counsel to discuss and elaborate an alternative project. It is recommended that funding sources are made available to allow for the preparation of alternative proposals. Partnerships and other arrangements with universities may often make these alternative projects feasible;
- All men and women shall have the right to express their views and opinions, without any kind of intimidation. These views and opinions, including different cultural expressions, shall always be taken into consideration.

Both the affected communities and the State should have assigned and trained representatives to negotiate conciliatory settlements for projects involving forced evictions.

**AVOIDING FORCED EVICTIONS**

When a development project that may require the eviction of individuals and communities is conceived, even before planning for it begins, great caution should be exercised in evaluating the need and opportunity for such a plan. Is the project really indispensable? Who will benefit from it? What will be its impacts? Are there less harmful alternatives?

All these questions must be answered with a profound respect for the human rights of all involved parties, since any such project would generate a significant impact on their lives and livelihoods. Such discussions and evaluations must involve a wide diversity of opinions and positions regarding the proposed project, in a participatory manner.

**PREVENTIVE MEASURES:**

**MAP THE AFFECTED COMMUNITY:**

- All those who will be directly or indirectly affected by the proposed eviction must be mapped. Using a mapping exercise, the most vulnerable groups within the community must be identified. Affected parties consist not only of those who will be displaced, but also those who will be subject to any restrictions on their access to resources required for continuity of their way of life, or any loss or reduction of employment, income or means of subsistence. Affected parties also include those living around the project sites, those that may be segregated from their original communities, those living in or near resettlement sites, and downstream communities in the case of a dam project. Owners and non-owners, renters, sharecroppers, partners, occupants, lessees, informal workers, for example, may be considered as the affected community.

## EVALUATE THE IMPACTS OF THE EVICTION:

- Clear criteria must be established to assess the impact of a project and the resulting eviction, through an "eviction impact assessment," which takes into consideration not only economic impacts, but also social and cultural aspects, considering pre-existing relationships, community interaction, and living conditions, and other non-material impacts such as psychological trauma and loss of services such as education and healthcare on different groups such as women, children, older persons, persons living with disabilities or illness, and other marginalized.

**RIGHT TO HOUSING MOVEMENT MODIFIES A HIGHWAY PROJECT IN THE PHILIPPINES**

The extension of a highway in Longos, Bacoor, in the Philippines, financed by foreign investors and the World Bank, initially foresaw the construction of a landfill on an area occupied by a fishing community, requiring the displacement of 5,000 families. While still in the design stage, however, the project was altered, with a proposal for construction of a viaduct to the sea. As a result, the number of families that would be displaced decreased to 600.

The resettlement plan for those 600 families proposed their relocation to a place 25 kilometres from the area where they lived, place without adequate infrastructure located far from the sea, the community's source of livelihood. In view of this situation the local population, with the support of a group of right to housing advocates, began a process of mobilization and proposition of alternatives to avoid the approval of the project and demolition of their houses.

An important achievement of their efforts was to gain access to the work plans and design of the project and resettlement. Studying these tools with government technicians, they were able to find a technically feasible alternative, which avoided negatively affecting an additional part of the fishing community.

*The information pertaining to this example is taken from the book "Longos: Community Struggle against Forced Displacements", 2004; posted at the website of the Habitat International Coalition ([www.hic-net.org](http://www.hic-net.org))*

- The criteria for the eviction impact assessment must be developed through a genuine consultative process (according to the chart above), and must be carried out with the participation of the affected population. Women must be given equal opportunities to participate and to express their views and concerns.
- The results of the impact assessment study must be publicized and used to decide whether to go ahead with the project or not.

**OTHER MEASURES TO BE TAKEN BEFORE THE EVICTION:**

- The community must be notified, in writing, of the exact date of the eviction and resettlement.
- Ensure opportunities and efforts to facilitate the provision of legal, technical and other advice to affected persons about their rights and options. The affected community has the right to defend its rights and views and challenge the evictions, including before the Courts. When required, those affected shall receive free legal aid.
- The decision relating to evictions should be announced in writing in the local language to all individuals concerned. The eviction notice should contain a detailed justification for the decision, including information on proposed alternatives. In the absence of reasonable, non-displacing alternatives, demonstrate that eviction is "unavoidable" and that all measures will be taken and foreseen to minimize any adverse effects of the evictions, and to protect the human rights of the affected.
- The community must be given time to make a detailed survey (inventory) of affected assets and rights;

**TOOL TO CALCULATE LOSSES CAUSED BY THE EVICTION**

The Habitat International Coalition – Housing and Land Rights Network (HIC-HLRN) has developed a tool that establishes a methodology for financial appraisal of material and non-material costs and losses resulting from an eviction. The function of such a tool is the calculation of losses already incurred, but it can be used also for conducting a baseline survey to help in the registration of assets.

An interesting element of this methodology is the recognized existence of material assets that go beyond the value of the structure, as it also includes the value of land, agricultural production, value of livestock and natural resources, rent, mortgage, and taxes already paid, value of the commercial site, as well as cost of the resettlement process and transport. The tool also takes into account the non-material assets, such as health, psychological trauma, loss of education and social ties and community disintegration.

Currently, this tool is being developed further to be used to conduct eviction impact assessments, as discussed above. The eviction impact assessment could be used both to suspend a project as well as to claim just compensation in post-eviction scenarios.

*To know more: <http://www.hic-mena.org/documents/Loss%20Matrix.pdf>, or write to: [info@hic-sarp.org](mailto:info@hic-sarp.org)*

- If there is disagreement between the affected community and the evicting authority, the final decision concerning the eviction shall be taken by an independent body, which may remedy the situation through adjudication, mediation or arbitration. Such independent body can be related to the executive, the legislative or the judiciary branch.
- The resettlement site must be ready - construction of homes, provision of water, electricity, sanitation, schools, access roads and allocation of land and sites - before the community is moved there. It must meet the basic criteria and conditions of adequate housing (see chart on page 26).



## DECISIONS ON THE DISPLACEMENT IN SACADURA CABRAL, BRAZIL, INVOLVED THE AFFECTED COMMUNITY

Sacadura Cabral was a slum located in the City of Santo André, metropolitan region of São Paulo, Brazil. In order to remedy the high population density and the problem of floods, the first stage of the re-urbanization project, within the Santo André Mais Legal Program, proposed the removal of a sector of the slum, implying the displacement of 200 families from a total of 780 families. A participative strategy was used to select the families and define the resettlement criteria.

The selection process tried to identify which families agreed to be resettled in an apartment in another place and those that did not agree. From the 200 families, 122 agreed to be removed. The remaining 78 wished to stay at Sacadura Cabral and exchanged their homes with families that would not have to be removed but that were willing to go the new site. The family exchange process was defined by the slum dwellers themselves and followed-up by government social workers.

The displacement procedure was widely discussed with the population, took 10 days and involved several departments of the Municipality, transport companies and more than 1300 dwellers. During the relocation, the population received information on the apartments, their surrounding area and a basic guide on how to keep the new housing in good condition. In addition, the entire urbanization and resettlement process was accompanied by social and employment generation policies.

*This example is documented by the article "Community Participation in Relocation Programs: The case of the Slum Sacadura Cabral in Santo André – Brazil", by Rosana DENALDI and Márcia G. de OLIVEIRA, published in Open House International magazine, volume 24, No. 3.*



*To be filled with information about your country...*

**Who provides free legal assistance in your country or region?**

## DURING EVICTIONS



- No eviction shall take place without the presence of authorized and duly identified government representatives, who shall effectively watch for the safety of the population that is being evicted;
- Duly identified independent observers shall be present to ensure that no force, violence or intimidation is used, and to ensure transparency and compliance with international human rights principles;
- Formal communication of the eviction shall be delivered in advance and in writing to all those who will be evicted. On the day of the eviction, identified government employees shall present formal authorization to carry out the eviction;
- Public legal, social and human rights entities shall be notified of all eviction operations;
- Evicted persons shall receive assistance for leaving their homes and moving to the resettlement site;
- The authorities responsible for the eviction must cover all costs, including transport for the families and their belongings to the resettlement site.
  - When required, the responsible authority shall also undertake responsibility for the temporary custody of the belongings of the affected community.
- Special assistance shall be given to groups with specific needs.
- The date and time of evictions shall be reasonable, adequate and previously agreed upon:
  - Evictions cannot take place at night, during bad weather (such as rain, snow, intense cold and heat)
  - Evictions must not affect educational activities of children, adolescents and youth; they cannot take place during or before school examinations
  - Religious holidays and festivals must be respected; evictions cannot take place on such days;
  - Crops and harvest cycles must be respected.
- Property and possessions left behind involuntarily should be protected.



Some non-government organizations (NGOs) monitor the implementation of housing and land rights, including violations related to evictions. These include Amnesty International, Centre on Housing Rights and Evictions (COHRE), Habitat International Coalition (HIC), among others.



## EVICTIONS CANNOT:

- Use violence and intimidation, in any circumstance;
- Violate the dignity or human rights of the affected;
- Be performed in a discriminatory manner or reinforce discriminatory patterns;
- Result in individuals and families being rendered homeless or vulnerable to the violation of other human rights.
- Use the demolition of houses or destruction of property, possessions, or crops as retaliation or threat against the community;
- Cause the destruction of the belongings of the affected families;
- Force anyone to destroy their own homes or property;
- Disregard the specific needs of women and vulnerable groups (older persons, persons with disabilities, children, as well as other groups);
- Result in gender-based violence or discrimination against women, and violation of children's rights.



*To be filled with  
information about  
your country...*

Which organizations could follow-up eviction operations as neutral observers in your country or region?

Whenever possible, priority will be given to the return of the temporarily displaced population to its original place of residence. All persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and adequate housing.

The return or resettlement plans must be developed in consultation with the affected people and must be widely publicized, including with details on the number and identification of all those affected.

- Affected people, groups and communities must agree to the resettlement. The right of affected persons, groups and communities to full and prior informed consent regarding relocation must be guaranteed before the resettlement and the return to the original housing location.
- The parties carrying out the resettlement shall be required by law to pay for all resettlement costs.
- Medical and psychological assistance may be required during the planning and carrying out of the eviction operations, as well as during resettlement or return.
- Technical assistance and social rehabilitation policies shall be developed for the affected community, both in case of resettlement, as well as in the case of return.
- 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.



→ All evicted people must be provided with:

- Just compensation
- Sufficient alternative accommodation
- Safe access to:
  - essential food, potable water and sanitation
  - provisional shelter and basic housing
  - appropriate clothing
  - essential medical services
  - livelihood sources and fodder for livestock
  - access to common property resources
  - education and childcare facilities

→ Measures must be taken to ensure that temporary/emergency housing does not become permanent, as often happens, with people living for years in temporary shelters or containers.

### RURAL DWELLERS OF URBAN EXPANSION AREAS RECEIVE COMPENSATION IN HONG KONG

The land policy of the city of Hong Kong is based on a land lease instrument: the government purchases rural properties in the zones of future urban expansion, in order to lease them to entrepreneurs, and thus charges for their use and invests it in the city's infrastructure.

In the process of acquisition of these lands, the government established three main modes of compensation and rehabilitation of the rural families that would be displaced: financial compensation for the lands, employment programmes in the industries, and a social-economic rehabilitation/integration programme.

The social-economic rehabilitation programme is implemented by distribution of subsidies that take into consideration the gender and age of the affected population. For example, elderly people receive funds from social security and may receive monthly payments from social security for a period of up to 15 years (the age for retirement is 60 years for men and 50 for women). Men older than 45 years and women older than 35 years receive social security funds and receive the monthly payments from social security only after they retire.

Another form of subsidy is an annual payment equivalent to the average agricultural income of the last three years of production. In addition to subsidies, this programme foresees the possibility of exchange of agricultural lands for urban lands for the development of activities of secondary and tertiary sectors. In some cases, agriculture workers also have the opportunity to be employed in the industries that will be installed on their lands.

*This information was extracted from the paper "Land Acquisition in China: Reform and Assessment", of Chengri Ding, Lincoln Institute of Land Policy, 2005.*



### IN CASE OF EVICTIONS, IT SHALL BE ENSURED THAT WOMEN:

- Are not subject to violence and discrimination;
- Have 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;
- Are joint beneficiaries, together with men, in all compensation packages;
- Single women and widows are entitled to their own compensation;
- Have equal and effective voice in all planning and decision-making processes, including the return or restitution processes, in order to overcome domestic, community, institutional, administrative, legal or other gender-based prejudices.



### RENTAL ALLOWANCE: A PROVISIONAL HOUSING ALTERNATIVE IN SÃO PAULO, BRAZIL

A possible alternative in cases where a definitive solution of adequate housing is not ready, is the support to the temporarily displaced through financial subsidies for access to housing units of third parties.

The monthly subsidy is equivalent to the amount of a rental to ensure the access of low income families to housing units, as a transient situation between the displacement and the return or resettlement. This measure is an alternative to avoid inadequate but often frequently used solutions, such as the provisional housing in containers or the transformation of temporary housing into permanent housing.

*To know more about this tool, consult the book "Planos Locais de Habitação de Interesse Social: Estratégia de Ação", from the Ministry of Cities, Brazil, 2009, edited by Rosana Denaldi for the Course, "Local Plans of Social Interest Housing" of the Ministry of Cities: Brasília 2009 ([www.cidades.gov.br/secretariasnacionais/secretaria\\_de\\_habitacao](http://www.cidades.gov.br/secretariasnacionais/secretaria_de_habitacao))*



## REMEDIES FOR FORCED EVICTIONS

- Everyone has the right of access to timely remedy;
- Remedies include: fair hearing, access to legal counsel and legal aid, return, restitution, resettlement, rehabilitation and compensation.

## RESTITUTION AND RETURN

- The return of the affected community to the original area of its housing shall always receive priority after temporary displacement.
- In the case of restitution, the parties responsible for the project shall provide the affected community with a legal document ensuring return after the end of the project.
- If, however, the community and the families are not willing to return, they shall not be forced to return against their will.
- When the return is possible and desired, the State shall set conditions and provide the means, including financial means, for the voluntary return of individuals and communities with safety and dignity.
- The authorities shall facilitate the reintegration of those that return to their original housing site and ensure the full participation of individuals, groups and communities in the planning and management of the return process.
- The participation of returning persons and communities must be ensured in the project benefits.
- Responsible authorities must assist returning persons to recover the property and possessions that they left behind or were dispossessed of upon their eviction.



### DWELLERS ENSURE THE RETURN TO THEIR HOMES AFTER URBANIZATION IN COROA DO MEIO, BRAZIL

The dwellers of the community of Coroa do Meio (Aracaju/Sergipe – Brazil) had their 600 blockhouses returned, after the urbanization project in an area close to the beach and to the central area of the City of Aracaju. The area was owned by the Union's assets and was an Environmental Preservation Area.

The area was a plot of land of medium to high income value, which was not fully developed. Low income families started occupying it, mainly near a swamp area, favourable for fishing, which was their means of livelihood. There were several attempts to remove them, but after much community mobilization, the dwellers achieved physical and social improvements to the neighbourhood by means of the "Moradia Cidadã" Programme. This was made possible with municipal and federal support, university advisors and financing from Caixa and Inter-American Development Bank. Before the commencement of the project, the families were registered. During the project work, the Municipality paid the rent; and after their return, follow-up for programmes for social integration and sustainability of housing were implemented.

*This example was taken from the Bank of Agrarian Regularization Experiences in Brazil, of the Urban Programs Department of the Ministry of the Cities, Brazil ([www.cidades.gov.br/secretarias-nacionais/programas-urbanos/biblioteca/regularizacao-fundiaria/experiencias-de-regularizacao-fundiaria-no-brasil/se/Coroa.pdf](http://www.cidades.gov.br/secretarias-nacionais/programas-urbanos/biblioteca/regularizacao-fundiaria/experiencias-de-regularizacao-fundiaria-no-brasil/se/Coroa.pdf))*

## RESETTLEMENT

When return is not possible, as is the case in certain circumstances (including for safety and health reasons), resettlement must occur in a just and equitable manner and in full accordance with international human rights law.

- Rehabilitation policies must include programmes for women and marginalized and vulnerable groups to ensure equal enjoyment of their human rights
- The resettlement site must be complete with all provisions, before the eviction takes place
- The resettlement site must fulfil the criteria for adequate housing according to international law
- The new housing, land or territory shall be of superior quality or equivalent to the original one. This includes the same environmental, geographic and structural conditions such as, for example, conditions for livelihood and work, agriculture, irrigation, and spaces for social interaction, etc.
- The new housing shall be located as close as possible to the original location, as well as to means of subsistence, unless otherwise agreed with the community. Cultural adequacy and community traditions shall be respected.
- The cost of transportation to reach work or to access essential services in the resettlement site shall not be disproportionate to the income of the resettled families.



- The resettlement site must not be situated on environmentally protected areas, contaminated land or be located close to pollution sources that may affect the inhabitants' right to the highest attainable standards of mental and physical health.
- The resettlement process should be fair and equitable, and must not result in discrimination against specific groups or the formation of segregated areas and ghettos.
- Resettlement must not result in infringement of the human rights of the transferred population or affect negatively the life conditions of the population that already lived in that area.



### AGRARIAN REFORM INCLUDES SUPPORT TO BUILD HOUSES IN DOM TOMÁS BALDUÍNO, BRAZIL

After continued repossession in several places, 61 families, formerly street dwellers and currently members of the Homeless Workers Movement, obtained a settlement close to a large urban centre known as Comuna da Terra Dom Tomás Balduino, in Franco da Rocha, in the São Paulo Metropolitan Region, in Brazil. After INCRA (National Institute of Colonization and Agrarian Reform) demarcated the land, the community faced scarcity of resources for building houses. With the support of an extension group of the University of São Paulo and of the Technical Advisory Office – USINA, a participatory solution was developed to collectively construct houses.

The dwellers together with students and technicians from the advisory company participated in all stages of the project, from design to the actual implementation. This resulted in the development of five types of housing of equal cost. These five types of housing offered solutions that met the varied requirements and needs of the families' ways of life.

*The summary of this example is in the Report "Building of rural housing by self-management, Assentamento Comuna da Terra Dom Tomás Balduino", produced in partnership by USINA and MST, Brazil.*



### FAIR AND JUST COMPENSATION

- Fair and just compensation must be provided for all personal and real losses, including property and goods. Independent experts could be used to arbitrate a fair amount.
- Compensation should cover both material and non-material costs and losses, including:
  - Lost wages/income/ opportunities, including employment;
  - Lost education/ health and medical care / social benefits;
  - Lost equipment/ livestock/ trees/ crops/ business losses;
  - Increase in transportation costs;
  - Medicines and medical services, and psychological and social services.
- Irrespective of whether they hold titles or not, all those evicted should be compensated for loss or damage of properties,
- Land should be compensated with land commensurate in quality, size and value, or better.
- Cash compensation cannot replace real compensation in the form of land and common property resources.
- Women and men must be co-beneficiaries of all compensation packages. Single women and widows are entitled to their own compensation.
- In case of human rights violations before, during or after the eviction, all damages caused as a result of such violations shall be included in the compensation, and compensation amounts shall be proportional to the severity of the infringement and the circumstances of the case.
- When the relocation is not facilitated by the actor proposing and/or carrying out the eviction, and emergency housing is not made available by such actor, the costs related thereto shall be indemnified.

# PERMANENT POLICY TO PREVENT FORCED EVICTIONS

## STATES SHOULD HAVE A PERMANENT POLICY OF PREVENTION AGAINST FORCED EVICTIONS! THIS POLICY AND ITS RELATED PROCESS SHOULD INCLUDE:

- continuous monitoring of evictions in the country, with participation of the affected communities;
- availability of information, for all major projects, on the number of displaced families and their current housing and living situation;
- periodic evaluations of the status of evictions and displacement in the country;
- findings of eviction impact assessments carried out in all cases;
- adoption of proper laws and regulations, in accordance with international human rights standards;
- training of specialized personnel and human rights education, and when feasible, the creation of a specific body dedicated to the theme.



*To be filled with information about your country...*

Does any agency engage in such monitoring of forced evictions and displacement in your country?

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# SOME SPECIFIC RECOMMENDATIONS...

The UN Guidelines and the information presented in this guide could be used by various actors and agencies to promote and improve their human rights records and their operations.



- **Financing agencies** – the World Bank, Inter-American Development Bank, Asian Development Bank, international financial institutions, international cooperation agencies, central and local governments: should use these guidelines in their projects to minimise displacement and protect human rights, and also as a criteria for allocation of resources for housing purposes
- **Judiciary:** should actively engage in all cases brought to its attention, trying to fully understand the situation by visiting relocation and resettlement sites, as well as by ensuring that the views and opinions of a large number of stakeholders are heard and considered during the process.
- **Technicians:** should value and take into consideration the views and opinions of affected communities and should not disqualify such views on the basis that they lack technical knowledge. They should contact the affected population in the project area before designing the project. Technicians should determine whether any agreements were previously set up with the affected community and, if so, observe the terms of such agreement at the time of project planning.
- **Police forces:** should seek prior dialogue with the affected community before the day of eviction. Police officers shall abstain from using intimidation and violence, and should ensure that other officials do the same.
- **NGOs and rights organization:** should assist in the mobilization of the affected community, provide awareness and counselling on human rights and on relevant laws and policies, and facilitate communication with, and information to, the community.
- **Affected communities:** should mobilize and seek alternatives to give visibility to their situation. They could also contact the media and partner organizations, and use different strategies, including political action and the use of litigation to protect their rights. to varied strategies, including political action and the use of litigation.

*To be filled with information about your country...*

To whom would these recommendations apply?  
How have these entities been acting?

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# HOW TO SUBMIT A COMPLAINT



IF YOU CONSIDER THAT THESE RECOMMENDATIONS ARE NOT BEING COMPLIED WITH OR IF YOU UNDERSTAND THAT YOUR RIGHTS ARE BEING VIOLATED, **GATHER THE INFORMATION BELOW, IN A CLEAR AND OBJECTIVE MANNER, AND SEND IT TO A LEGAL AID ENTITY CLOSE TO YOU.**

→ Detailing the eviction:

- Who are the victims? Describe, with the highest possible level of detail, who are the affected individual(s) and/or community, providing data such as number of affected persons, place where they live and their current status, number of women and children, if there are people with special needs or vulnerable groups involved.
- Who are the parties responsible for the violation? In cases involving government employees or authorities, identify the specific body, the level of government, how many were they, their official titles or names (if known), if they were wearing uniforms, identification numbers, etc.
- Detailed date, place and description of the circumstances in which the violation occurred: number of evictions that occurred, number of people affected in each, identification of the affected community, motivation, what happened with the people, if there were lawsuits before or after the displacement, if violence was used, if new evictions are expected, where and when.

→ Identification of the organization or people that are submitting the complaint: when this information is sent to the office supporting the UN Special Rapporteur, the source of all information received is kept confidential. Always indicate what information you would like to be kept confidential.

→ Measures taken by relevant authorities: Which state authorities have already received the complaint? Who is involved? Was there any response? What measures did they take?

→ Updating the information: please submit any new information or updates related to the case, at the earliest.

You may also send your complaints to the Office of the High Commissioner for Human Rights (OHCHR) in Geneva, which supports the work of the Rapporteur: [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org).

# ANNEX

## INTERNATIONAL LAW AND STANDARDS

THEMES	STANDARDS
International human rights treaties of the UN system that protect the right to adequate housing	Universal Declaration of Human Rights (UDHR) Article 25, paragraph 1 International Covenant on Civil and Political Rights (ICCPR) Article 17, paragraph 1 International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 11, paragraph 1
Regional human rights treaties that protect the right to adequate housing	American Convention on Human Rights Article 11 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights
On the content of the right to adequate housing	General Comment No. 4 of the Committee on the Economic, Social and Cultural Rights
On forced evictions and displacements	General Comment No. 7 of the Committee on the Economic, Social and Cultural Rights United Nations Comprehensive Guidelines on Development-Based Displacement, 1997 Basic Principles and Guidelines on Development-Based Evictions and Displacement, 2007
Discrimination	International Convention on the Elimination of All Forms of Racial Discrimination Article 5, e, iii Convention on the Elimination of All Forms of Racial Discrimination Against the Woman Article 14, paragraph 2
Children and adolescents	Convention on the Rights of Children Article 16, paragraph 1

For a general overview of international standards in this area, check the Fact Sheet No. 21 (rev.1) – The Right to Adequate Housing - prepared by the Office of the High Commission for Human Rights and UN-HABITAT, available in print format or on-line, in the websites mentioned on the right.

These documents can be found at the following sites:  
[www.un.org](http://www.un.org)  
[www.ohchr.org](http://www.ohchr.org)  
[www.unhabitat.org/unhrp](http://www.unhabitat.org/unhrp)

THEMES	STANDARDS
Internally displaced persons and refugees	Convention Relating to the Status of Refugees Article 21 Guiding Principles on Internal Displacement United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons
Persons with disability	Convention on the Rights of Persons with Disability, 2008
Indigenous peoples	Declaration on the Rights of Indigenous Peoples, 2008 ILO Convention 169
Trabalhadores migrantes	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990 Article 43, 1
People living in war or conflict situation	Geneva Convention (fourth) about Protection of Civilian Persons in Time of War, 1949
Migrant workers	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990
Use of police force	Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
Reparation for victims of violations of human rights	Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law



This publication is based on the UN "Basic Principles and Guidelines on Development-Based Evictions and Displacement", presented by former United Nations Special Rapporteur on Adequate Housing, Miloon Kothari in his 2007 annual report to the UN Human Rights Council. It has been revised and reformulated to create a user-friendly guide for people who are not familiar with the human rights system and UN language. The text is the result of team work, and has been developed during four workshops and a public seminar in which target audiences also participated.

## TEAM

### *Supervision*

Raquel Rolnik, UN Special Rapporteur on Adequate Housing

### *Text writing*

Paula Ligia Martins, Marcia Saeko Hirata and Joyce Reis

### *Text revision*

Shivani Chaudhry, Denise Hauser, Bahram Ghazi

### *Text editing*

Bruno Lupion

### *Designer*

Elisa von Randow

### *Illustrations*

Joana Lira

### *Administrative support*

Paula Zwicker

### *Trainee*

Maria Isabel de Lemos Santos

## WORKSHOP PARTICIPANTS

The workshops were held on 21 August, 18 September, 23 September and 2 October 2009 with organized movements, government servants, technicians involved with the development of projects, non-governmental organizations, and universities.

### LIST OF PARTICIPANTS AND ORGANIZATIONS PRESENT IN THE WORKSHOPS:

Assessoria deputado Paulo Teixeira – Gisela Mori; Central de Movimentos Populares (CMP) Rio de Janeiro – Marcelo Edmundo Braga; Central dos Movimentos Populares (CMP), setor Juventude São Paulo – Luana M. Cardozo; Centre On Housing Rights and Evictions – Sebastián Tedeschi; Centro de Trabalho Indigenista – Sonia Lorenz; Centro Gaspar Garcia de Direitos Humanos – Benedito Barbosa, Fabiana Rodrigues, Luiz Kohara; Defensoria Pública Estado do Rio de Janeiro – Maria Lucia Pontes; Defensoria Pública Estado de São Paulo – Carlos Henrique Loureiro; Departamento Jurídico XI de Agosto – Stacy Torres; Diagonal Urbana consultoria – Elza Maria Braga de Carvalho, Marta Maria Lagreca de Sales; Escritório Modelo da Pontifícia Universidade Católica – Daisy Puccini Oliveira, Daniela Custodio, Delana C. Corazza, Irene M. dos Santos Gusmão, Sabrina Marques; Grupo de pesquisa Direito Políticas Públicas – Julia A. Moretti; Instituto de Terras do Estado de São Paulo – Luiz Marques; Instituto Pólis – Luciana Bedeschi, Margareth Uemura, Nelson Saule; Instituto Sócio-ambiental – Nilto Ignácio Tatto; Liderança indígena Fulni-ô e Conselho Estadual dos Povos Indígenas – Avani Florentino Oliveira; Liderança indígena Paynaré – Luiz Gonzaga Xipaia de Carvalho; Liderança indígena Tupinambá – Ubiratã Kuripaku Tupinambá; Movimento de Moradia da Região Centro (MMRC) e Frente de Luta por Moradia – Nelson C. Souza; Movimento dos Ameaçados por Barragens (MOAB) – Ewerton Benedito da Costa Libório; Movimento dos Atingidos por Barragens (MAB) – Elias Paulo Dobrovolsky, Helio Mecca; Movimento dos Sem Terra (MST) – Rosângela Santos; Movimento Nacional da População de Rua (MNPR) São Paulo – Joel Porto Lima, Anderson Miranda; Movimento Sem Teto do Centro (MSTC) e Frente de Luta por Moradia – Ivanete de Araújo, Ivanilda Rodrigues de Souza; Peabiru Trabalhos Comunitários e Ambientais – Caio Santo Amore; Prefeitura de São Paulo, Secretaria de Habitação – Angelo S. Filardo, Violeta Kubrusly; Prefeitura Municipal de Taboão da Serra – Angela Amaral; Prefeitura Osasco – Patrick Carvalho, Rubens Liberatti; Serviço de Assessoria Jurídica Universitária, Universidade de São Paulo – Ana Flor de Souza Pontes, Bianca Tavorari, Patricia Meneguini da Silva, Ricardo Silva; União dos Movimentos de Moradia (UMM) – Evaniza Rodrigues; União dos Movimentos de Moradia (UMM) e Habitat Internacional Coalition – Maria das Graças Xavier; Universidade Federal do ABC – Rosana Denaldi; Usina Assessoria técnica – José Baravelli.

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**IF YOU HAVE  
QUESTIONS  
OR WANT TO KNOW  
MORE, CONTACT:  
UNITED NATIONS  
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ON ADEQUATE  
HOUSING**



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

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