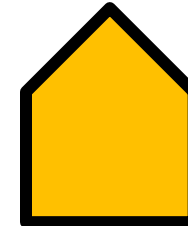




FCDO GLOBAL FUTURE CITIES PROGRAMME NIGERIA COUNTRY LEVEL EVENT 13 OCTOBER 2021

Alessandro Ercolani, Housing Rights Expert ,Land, Housing & Shelter Section, UN-Habitat HQ



CONTENT

1. The international human rights framework on housing and prevention of forced evictions – Where do these obligation come from?
2. Implications for stakeholders – How to conduct human rights-based relocations?



1.1. FOUNDATIONAL INSTRUMENTS



25.1 “Everyone has the right to a **standard of living adequate** for the health and well-being of himself and of his family including **housing**”



International Covenant on
Economic Social and Cultural Rights

11.1 “The States Parties to the present Covenant recognize the right of everyone to an **adequate standard of living** including **housing**”

1.2. CORE HUMAN RIGHTS INSTRUMENTS

- Art. 17 of the 1966 International Covenant on Civil and Political Rights
- Art. 21 of the 1951 Convention Relating to the Status of Refugees
- Art. 5 (e) (iii) of the 1965 Convention on the Elimination of all Forms of Discrimination
- Art. 14 (2) (h) of the 1979 Convention on the Elimination of all Forms of Discrimination Against Women
- Articles 16 (1) and 27 (3) of the 1989 Convention on the Rights of the Child
- Articles 2; 5 (3); 9 (1) (a); 19 (a); 21 (1); 28 (1); and 28 (2) (d) of the 2008 Convention on the Rights of Persons with Disabilities
- Articles 10; 21 (1); 23; 26; 27; 28; 32 of the 2007 Declaration on the Rights of Indigenous People
- Art. 43 (1) of the 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families
- Art. 5 (b) of the 1985 ILO Convention Concerning Occupational Health Services
- Art. 2 of the 1962 ILO Convention Concerning Basic Aims and Standards of Social Policy
- Art. 88 (1) of the 1958 ILO Convention Concerning Conditions of Employment of Plantation Workers
- Art. 20 (2) (c) of the 1989 ILO Convention Concerning Indigenous and Tribal People in Independent Countries
- Articles 49; 53; 85; and 134 of the Geneva Convention on the Protection of Civilian Persons in Time of War

1.3. THE UN CESCR GENERAL COMMENTS

General Comment n. 4 The Right to Adequate Housing

- Authoritative interpretation of Art. 11.1 ICESCR
- Broad scope “not merely having a roof over one’s head”
- Criteria of housing adequacy (legal security of tenure; availability of services; affordability; habitability; accessibility; cultural adequacy; location)
- Forced evictions are incompatible with the requirements of the Covenant

General Comment n. 7 Forced Evictions

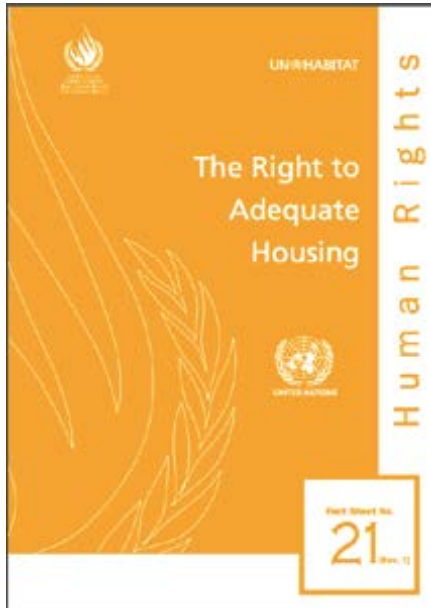
- “Permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”
- States must refrain from forced evictions and ensure third parties do the same
- Proportionality test
- Adequate compensation and remedy
- Evictions \neq human rights violations
- Human rights-based resettlement guidelines

1.4. GUIDELINES OF THE SPECIAL RAPPOREUR ON THE RIGHT TO ADEQUATE HOUSING

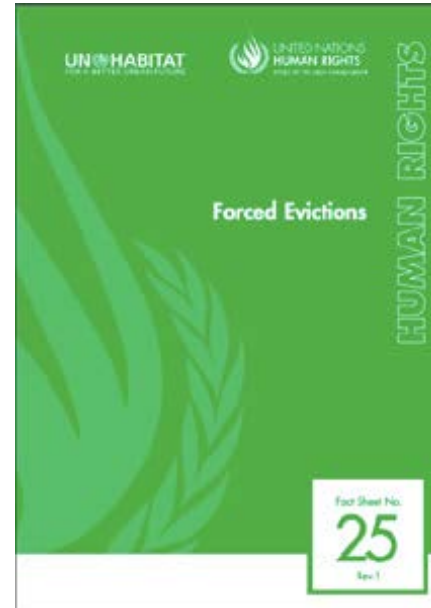


- Guidelines for the implementation of the right to adequate housing (2020)
- Access to justice for the right to housing (2019)
- Human rights-based national housing strategies (2018)
- Responsibilities of local and other subnational governments in relation to the right to adequate housing (2015)
- Guiding Principles on security of tenure for the urban poor (2014)
- The right to adequate housing in disaster relief efforts (2011)
- Basic principles and guidelines on development-based evictions and displacement (2008)

1.5. UN-HABITAT NORMATIVE TOOLS



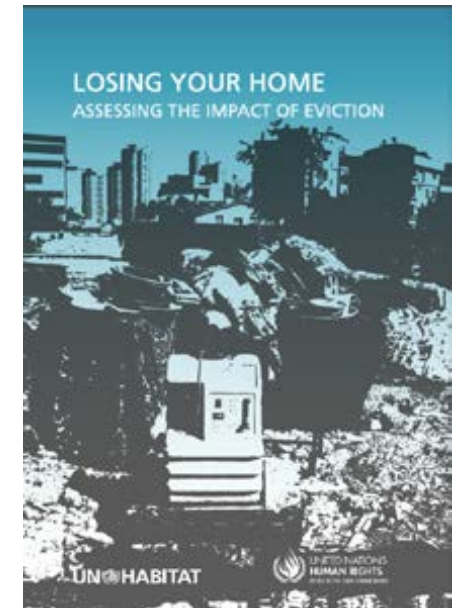
**The Right to Adequate Housing:
Fact Sheet No.
21/Rev.1 (UNHRP
2014)**



**Forced Evictions:
Fact Sheet No.
25/Rev.1 (UNHRP
2014)**



**Assessing the
Impact of Eviction:
Handbook (UNH
2014)**



**Losing your Home,
Assessing the
impact of eviction
(2011)**

2.1. IMPLICATIONS FOR STAKEHOLDERS

Across entire project life cycle

Respect, protect and fulfil all human rights - and in particular the human rights to adequate housing and standards of living of project affected peoples - and support states in their efforts to meet their obligation to do the same

Ensure that under no circumstances human rights are – directly or indirectly - threatened by the Government actions or the actions of implementing partners

Assess and account for potential threats to human rights and devise mitigation strategies

Actively plan for the (progressive) realisation of human rights of project affected persons

2.1. IMPLICATIONS FOR THE GOVERNMENT AND ITS AGENTS

Before relocation

Alternatives to an involuntary relocations must have been explored

An eviction impact assessment must have been carried out

Rights to information and meaningful consultation/participation should be respected at all stages of the process

Legal and other remedies should be available at all times and adequate compensation needs to be provided in advance of involuntary relocations

A resettlement protocol should be devised

2.1. IMPLICATIONS FOR THE GOVERNMENT AND ITS AGENTS

During relocation

Involuntary relocations should not take place during bad weather, at night or at periods where people may not be present in their homes

Those affected by involuntary relocations should not be coerced to destroy their dwellings/structures and should be given the opportunity to salvage as much as possible of their belongings

Involuntary relocations should not be carried out in a way that threatens the health or life of affected persons, for instance the destruction of structures where people are still trying to salvage their belongings

Procedural Requirements

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

2.1. IMPLICATIONS FOR THE GOVERNMENT AND ITS AGENTS: WHAT TO MONITOR AFTER THE RELOCATION?

After involuntary relocations

The basic needs of the PAPs after the relocation

The impact of the relocation on the community, in particular on their livelihoods;

Additional costs resulting from the relocation due to the new site's location

Sustainability and quality of relocation facilities

Interaction with surrounding communities

2.2. HUMAN RIGHTS CHECKLIST

1. Identify all (direct and indirect) PAPs, including main beneficiaries and other indirectly affected peoples and groups in situation of vulnerability
2. Investigates the risk of project activities to directly and/or indirectly violate human rights and/or impact the human rights of PAPs based on applicable human rights law.
3. Produce sufficient evidence to ensure that project activities do not violate human rights and/or impact the human rights of PAPs based on applicable human rights law and identified PAPs.
4. If human rights related risks - as per points 2 and 3 above - are identified, devise strategies to mitigate such risks and related implementation plans (meaningful consultation with the PAPs mentioned under point 1 above)

2.2. INVOLUNTARY RELOCATION CHECKLIST

1. Investigates the risk of project activities to directly and/or indirectly lead to voluntary and/or involuntary relocation of people.
2. If relocation risks are identified, devise strategies to mitigate such risks and mainstream international human rights law in the design and implementation of any action that may directly or indirectly result in involuntary relocation of PAPs.
3. Provide guidance on how to devise a human rights-based resettlement protocol (in consultation with PAPs) to prevent that unlawful forced evictions take place at any time during the relocation of PAPs.
4. Conduct eviction impact assessments (EVIAs) before, during and after project implementation to assess the socio-economic impact of relocation on PAPs and put in place mitigating strategies.

2.2. RESETTLEMENT PROTOCOL CHECKLIST

1. Based on the [Eviction Impact Assessment \(EvIA\)](#)
2. Identify [relocation sites](#) that fulfil the housing adequacy criteria (GC 4) and is [informed by GC 7](#)
3. Provide for an analysis of the [proportionality](#) of the relocation
4. Prescribe that the relocation process should never expose or lead to [homelessness](#)
5. Prohibit the use of [physical and verbal violence or abuse](#)
6. Prohibit carrying out relocations in particularly [bad weather or at night](#)
7. Prescribe that representatives from [public authorities](#) should be present when the resettlement takes place
8. Prescribe [compensation](#) – agreed upon in consultation with PAPs - for losses directly or indirectly caused by the relocation
9. Prescribe that [adequate notice](#) should be given to affected individuals and communities
10. Provide adequate and affordable [recourse mechanisms](#)

UNHABITAT
FOR A BETTER URBAN FUTURE

