

ANNEXES

Annex 1

BASIC PRINCIPLES AND GUIDELINES ON DEVELOPMENT-BASED EVICTIONS AND DISPLACEMENT

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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.¹

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,² 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.

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.

¹ 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.

² Consistent with Principle 6 of the Guiding Principles on Internal Displacement.

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.³

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 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;⁴ (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 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.

³ See general comment No. 4 on the right to adequate housing, adopted by the Committee on Economic, Social and Cultural Rights in 1991.

⁴ 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.

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.⁵

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.⁶

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.

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,⁷ 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

⁵ See general comment No. 3 on the nature of States parties' obligations, adopted in 1990 by the Committee on Economic, Social and Cultural Rights.

⁶ 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).

⁷ 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.

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 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.⁸

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 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

⁸ See section V of the present guidelines.

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:⁹ (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;

⁹ 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.

Annex II

LIST OF ILLUSTRATIVE INDICATORS ON THE RIGHT TO ADEQUATE HOUSING (art. 11 (1) ICESCR;* MDG indicators)

Annex II (*continued*)

Type of indicator	Habitability	Accessibility to services	Housing affordability	Security of tenure
Structural	<ul style="list-style-type: none"> International human rights instruments, relevant to the right to adequate housing, ratified by the State Date of entry into force and coverage of the right to adequate housing in Supreme Law/Constitution/Bill of Rights Date of entry into force and coverage of domestic laws relevant to the implementation of the right to adequate housing Number of registered/operational civil society organizations involved in the promotion and protection of the right to adequate housing 			
	<ul style="list-style-type: none"> Time frame and coverage of national housing policy statement/strategy for the progressive implementation of measures for the right to adequate housing at different levels of Government, as applicable Time frame and coverage of national policy on rehabilitation and resettlement 		<ul style="list-style-type: none"> Date of entry into force and coverage of legislation on security of tenure, equal inheritance and protection against forced eviction 	
	<ul style="list-style-type: none"> Number of complaints on the right to adequate housing received, investigated and adjudicated by the national human rights institution/human rights ombudsperson/specialized institution and other administrative mechanisms (created to protect the interests of specific populations groups) in the reporting period Public expenditure on reconstruction and rehabilitation of displaced persons as a proportion of public development budget Net ODA for housing received/provided as proportion of public expenditure on housing/gross national income* 			
Process (<i>cont'd</i>)	<ul style="list-style-type: none"> Proportions of habitations (cities, towns and villages) covered under provisions of building codes and by-laws Share of public development budget spent on social/community housing Increase in habitable area effected through reclamation, including of hazardous sites and change in land use pattern Addition to habitable area earmarked for social/community housing during the reporting period 	<ul style="list-style-type: none"> Proportion of household budget spent on access to utilities, including water supply, sanitation, electricity and garbage disposal Proportion of vulnerable households dependent on private sources for water supply Share of public development budget spent on provision and maintenance of sanitation, water supply, electricity and physical connectivity of habitations 	<ul style="list-style-type: none"> Proportion of households that receive public housing assistance, including those living in subsidized rented housing and households subsidized for ownership Proportion of households in self-owned, publicly provided housing and squatter settlements Average rent of bottom three income deciles as a proportion of the top three 	<ul style="list-style-type: none"> Average time taken to settle disputes related to housing and land rights in courts and tribunals Number of legal appeals aimed at preventing planned evictions/ demolitions through the issuance of court-ordered injunctions over the reporting period Number of legal procedures seeking compensation following evictions over the reporting period Proportion of displaced or evicted persons rehabilitated/resettled annually over the reporting period <p>Outcome</p>
Outcome	<ul style="list-style-type: none"> Proportion of population (persons per room or rooms per household) with sufficient living space/ average number of persons per room among targeted households Proportion of households living in permanent structures 	<ul style="list-style-type: none"> Proportion of urban population living in slums Proportion of (rural and urban) population with sustainable access to an improved water source* Proportion of (rural and urban) population with access to improved sanitation* 	<ul style="list-style-type: none"> Proportion of households spending more than “x” % of their monthly income/expenditure on housing (“x” being defined normatively for the country context) Annual average of homeless persons per 100,000 population Proportion of homeless 	<ul style="list-style-type: none"> Reported cases of “forced evictions” per 100,000 population (e.g. as reported to United Nations special procedures) over the reporting period Proportion of households with legally enforceable, contractual, statutory or other protection providing security of tenure/proportion of households with access to

	in compliance with building codes and by-laws <input type="checkbox"/> Proportion of habitations/households living near hazardous sites		population using public and community-based shelters	secure tenure* <input type="checkbox"/> Proportion of women among individuals with titles to land/house
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Annex III

QUESTIONNAIRE ON WOMEN AND ADEQUATE HOUSING

Questions on general legal and policy framework

Q1. Please provide information on relevant national legislation with regard to housing and related services. Please also specify whether the right to adequate housing (RAH) is recognized in the Constitution or guaranteed in specific legislation.

In addition, please specify whether women's equality is recognized in the Constitution or guaranteed in specific legislation.

Q2. Does the Constitution provide that the International Covenant on Economic, Social and Cultural Rights, the Convention on All Forms of Discrimination against Women or other international human rights treaties which guarantee the right to housing form a part of national law and have domestic applicability? Is there an effective judicial review process to ensure consistency of legislation with relevant provisions of the international human rights treaties, particularly those which specifically protect women's right to adequate housing?

Q3. How do laws, policies and practices, through existing institutions (both formal and customary and traditional norms and practices), budgets and programmes, ensure substantive gender equality in the various entitlements of the right to adequate housing, including land, access to finance, civic services and information and freedom from violence against women (VAW)?

Q3.b. Do other laws (e.g. personal laws, family laws, domestic violence legislation, inheritance laws) ensure equal right to adequate housing for women?

Q4. What is your assessment of the housing situation of women belonging to particularly vulnerable groups, such as female-headed households, indigenous and tribal women, women with HIV/AIDS, women with disability, rural women living on subsistent farming, women victims of forced evictions, women victims of violence including domestic violence, refugees, migrants, migrant workers, domestic workers, internally displaced women and women of different sexual orientation? Do they have access to justice and legal remedies? Please share case studies and testimonies where available.

Q5. What are the historical, traditional, cultural, religious and other factors affecting the equal access of women to housing, land and related services?

Q6. How have the policies and processes of globalization such as trade, finance, investment and debt affected women's right to adequate housing and access to related services? How do these make women more vulnerable to VAW?

Q7. How have women's rights to adequate housing and access to related services been addressed in poverty reduction strategies and programmes in your country?

Q8. How have women's rights to adequate housing and access to related services been addressed in violence against women legislation and programmes in your country?

Q9. Please share positive examples or "best practices" whereby Governments and civil society have endeavoured, separately or jointly, to protect and promote women's equal right to adequate housing.

Q10. Please provide gender-disaggregated statistics on housing (urban/rural, forms of ownership, female-headed households, homelessness, access to basic services, etc.).

Questions on specific elements of the right to adequate housing

(a) Legal security of tenure. The legal right to secure tenure, whether freehold, leasehold, or other form of individual and collective rights to housing, involves protection from forced eviction, harassment and other threats. It also effectively guarantees access to, use of and control over land, property and housing resources.

Q11. Do women and men enjoy equal tenure and property rights regardless of their civil or other status? Has lack of secure tenure contributed to situations of VAW? How does the Government guarantee such security of tenure to women? What measures have been adopted to give full protection against forced eviction, based upon effective participation, consultation and negotiation with affected persons or groups?

(b) Access to public goods and services. The right to adequate housing cannot be effectively realized without access to public goods and services, including water, health care, transport, fuel, sanitation, lighting and electricity, sewerage and waste disposal, childcare and communications.

Q12. What policies and measures have been adopted by the Government to provide or regulate such services to meet the needs of the community? Do women and female-headed households enjoy equal access to such services? Are the basic services privatized? If so, are there subsidies and/or different pricing mechanisms designed to ensure affordable access by the poor?

(c) Access to land, water and other natural resources. Every community must have access to natural resources necessary for its survival and livelihood, including, inter alia, fuel, fodder, water and building materials.

Q13. What are the laws, policies and measures adopted to ensure equitable distribution of land with emphasis on gender equality and provision of necessary resources for poor households and other marginalized and vulnerable groups? Have land reforms, both urban and rural, been implemented to

ensure its fair distribution as a public good? What steps have been taken to respect the housing rights of land-based indigenous and tribal peoples in general and women within these groups in particular?

Q14. Do women and female-headed households have equal access to natural resources sufficient to their needs, including those necessary for their survival and livelihood, including, inter alia, land, water, building materials, fuel and fodder? What measures have been adopted by the State to effectively regulate distribution and ensure the accessibility and affordability of such resources for women and female-headed households, including through subsidies?

Q15. What measures have been adopted to ensure that clean and safe water is reliably accessible and provided in adequate supply for individual, family and community use? Do women enjoy equal access to safe drinking water and to water for agricultural or other domestic use?

(d) Affordability. Individuals and communities should have access to affordable housing and must have the corresponding right to livelihood so as to be able to afford decent housing.

Q16. Do women enjoy equal access to housing finance? What policies and measures have been adopted by the State, including through subsidies, tax incentives or market regulation, to ensure affordability of housing particularly for women and female-headed households? Is there a national definition of “affordability” of housing (e.g. a maximum of one third of any household income should be sufficient to obtain adequate housing)? How does unaffordability of housing contribute to women’s vulnerability to VAW, e.g. preventing women from leaving situations of domestic violence?

(e) Habitability. Adequate housing must provide needed space to live in dignity and peace. It must also provide protection from natural elements, structural hazards and disease vectors that are threats to physical well-being. The physical conditions of the home can affect the realization of other rights, including the highest attainable standard of mental and physical health, as well as education, and the absence of adequate conditions is not conducive to learning (especially for children).

Q17. How do laws and policies that regulate the habitability of housing or define the habitability aspect of adequate housing take into consideration special needs of women?

Q18. What laws and policies have been adopted to regulate environmental degradation and to guarantee the right to a safe environment?

(f) Physical accessibility. Disadvantaged communities and groups, which often include women and female-headed households, must be allowed full and sustainable access to adequate housing and resources, including land, infrastructure and sources of livelihood, and the State must take account of special housing needs.

Q19. What measures and policies have been adopted to guarantee equality of access to adequate housing for women and female-headed households and other disadvantaged groups within communities (e.g. battered women, women with HIV/AIDS, women with disability, indigenous women, refugees and internally displaced)?

(g) Location. Adequate housing must be in a place that enables access to employment, primary health care, education and other social services and civic amenities. The financial and temporal cost of transport must not place excessive financial and other demands on the household. In addition, both rural and urban housing must be in a location that is safe, particularly from environmental hazards and pollutants.

Q20. Do women face any particular constraints in accessing services and resources necessary for livelihood because of where they live? What policies and measures are adopted to alleviate them?

(h) Cultural adequacy. Housing configuration, spatial design and site/community organization should be determined locally and in harmony with a community's cultural preferences and attributes.

Q21. Are women from all cultural, ethnic, religious or other backgrounds enabled to express cultural diversity, participate in the planning process (also see questions 23 and 24 below) and have the right to self-determination in relation to housing? Please share such cases and examples.

(i) Freedom from dispossession, damage and destruction. Each individual and community has a right to a place to live without threat of dispossession from land, all forms of their property, their homes and resources, as well as all individual and collective holdings required to sustain livelihood.

Q22. Does the State effectively safeguard the right not to be subjected to arbitrary interference with home, person and privacy, including dispossession? What are the policies and measures adopted to protect women, including female-headed households, and compensate, resettle or provide for restitution where dispossession takes place?

(j) Access to information. Individuals and communities must have access to appropriate data, documents and intellectual resources that impact upon their right to obtain adequate housing. Having access to appropriate data means being informed about potential industrial and natural hazards, infrastructure, planning design, availability of services and natural resources and other factors that affect the right.

Q23. What laws and policies exist to facilitate access to information that impacts upon the right to adequate housing, including information about potential industrial and natural hazards, infrastructure, planning design, availability of services and natural resources? Are women regularly accessing such information and benefiting from it?

(k) Participation. Effective participation in decision-making is essential to the fulfilment of all other rights, as well as the elements of the right to housing. At all levels of the decision-making process in respect of the provision of and right to adequate housing, individuals and communities must be able to express and share their views; they must be consulted and be able to contribute substantively to such processes that affect housing, including, inter alia, location, spatial dimensions, links to community, social capital and livelihood, housing configuration and other practical features. The State must ensure that building and housing laws and policies do not preclude free expression, including cultural and religious diversity.

Q24. What policies and measures have been adopted to ensure/encourage popular participation in the decision-making process with regard to housing policies and planning? Are women sufficiently represented in the process?

Q25. Do the housing laws and policies expressly protect, promote and fulfil the right to freedom of expression to ensure harmonious and effective design, implementation and maintenance of the community?

(l) Resettlement, restitution, compensation, non-refoulement and return. Resettlement may be essential to survival in the case of natural or human-made disasters, including in conflict and post-conflict situations. Therefore, the congruent right to freedom of movement can be essential to the fulfilment of all other rights. Any resettlement arrangement, whatever the cause, must be consensual, fair and adequate to meet individual and collective needs.

Q26. Are there special measures adopted in resettlement processes that recognize the need of women and female-headed households to sufficient access to the sources of livelihood, productive land, infrastructure, social services and civic amenities, as well as fair and adequate restitution and/or compensation for losses?

(m) Privacy and security. Every woman, man, youth and child has the right to live and conduct her/his private life in a secure place and be protected from threats or acts that compromise her/his mental and/or physical well-being or integrity inside or outside the home.

Q27. What measures have been adopted to ensure physical and mental security and personal privacy of women, including preventing domestic violence?

(n) Access to remedies. Provision of domestic legal and other remedies is an important part of protecting the right to adequate housing. Individuals and groups must be protected from abuse by landlords, property developers, landowners or any other third party capable of abusing their rights. Where such infringements do occur, public authorities should act to preclude further deprivations as well as guaranteeing access to judicial redress including legal and equitable remedies for any infringement caused.

Q28. Are there remedies and legal aid available for women? What measures have been adopted to ensure equal access of women to judicial processes and remedies? What are other innovative mechanisms such as self-help groups and women's collectives that can facilitate women's access to housing and livelihood?

(o) Education and empowerment. Individuals and communities should have access to technical assistance and other means to enable them to improve their living standards and fully realize their economic, cultural and social rights and development potential. The State, for its part, should endeavour to promote and provide for catalysts and mechanisms for the same, including efforts to ensure that all citizens are aware of procedural measures available for defending and realizing her/his right to adequate housing. Human rights education is a key part of such an empowerment strategy.

Q29. What has been achieved in terms of building capacities and awareness on the right to adequate housing among women in your country? What is your assessment of remaining needs and challenges?

(p) Freedom from violence against women. The State must prevent all forms of violence against women committed by either State or non-State actors to ensure women's RAH. The definition of VAW as per the United Nations Declaration on the Elimination of Violence against Women (1993) is, "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". Further, the State is responsible for addressing both individual and structural forms of violence, in the family, the community and by the State, and for ensuring that there is legal redress for any acts or threats of VAW.

Q30. What forms of VAW and what threats of VAW occur as a result of housing violations, such as rape, domestic violence, assault, trafficking, family abuse, forced marriage, dowry deaths and others? How do housing violations make women more vulnerable to VAW?

Q31. Who are the perpetrators? What kinds of housing violations do victims of VAW face, e.g. battered women, rape survivors? Show information where realization of RAH has led to less VAW.

Q32. What strategies/best practices have been used to address VAW related to housing rights violations, e.g. are there adequate shelters for victims of domestic violence?
