



WHAT IS A FORCED EVICTION?

A forced eviction is the removal of people against their will, from the homes or land they occupy, without legal protections and other safeguards.¹



Residents pick through the remains of their destroyed homes in Abonnema Wharf, Port Harcourt, after the Rivers State government forcibly evicted thousands of people. 27 June 2012. © HURSDEF

The UN Committee on Economic, Social and Cultural Rights has stated that instances of forced eviction are incompatible with the requirements of the Covenant,² emphasizing that a state “must refrain from force evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions.”³

The Committee identifies security of tenure as a crucial element in determining adequacy of housing and has stated that “Legal security of tenure takes various forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.

¹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Article 11.1) of the Covenant): forced evictions, para 3, (Sixteenth session, 20 May 1997), E/1998/22.

² [CESCR, General Comment 4: The right to adequate housing (Article 11.1), para 18 (Sixth session, 13 December 1991), E/1992/23]

³ CESCR, General Comment 7, para 8.

States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.”⁴

In addition, the UN Human Rights Committee has stated that forced evictions contravene Article 17 of the International Covenant on Civil and Political Rights, which upholds the right to protection against arbitrary or unlawful interference with a person's privacy, family or home.⁵ Forced evictions have also been held to contravene the International Convention on the Elimination of All Forms of Racial Discrimination, the UN Convention on the Rights of the Child and the UN Convention on the Elimination of All Forms of Discrimination Against Women. The UN Committee Against Torture stated in the case of *Hajrizi Dzemajl v Yugoslavia*⁶ that, in certain circumstances, forced evictions may amount to cruel, inhuman or degrading treatment or punishment, and contravene Article 16 of its Convention.

The UN Commission on Human Rights has also recognized that forced evictions constitute gross violations of a range of human rights, in particular the right to adequate housing.⁷

The UN Special Rapporteur on adequate housing, an independent expert mandated to report, advise and provide technical assistance to governments on the right to adequate housing, developed the Basic Principles and Guidelines on Development-based Evictions and Displacement. The guidelines reflect existing standards and jurisprudence on the issue of forced eviction.⁸

They describe in detail the steps that should be taken before, during and after evictions in order to ensure compliance with international human rights law. While the Basic Principles focus in particular on evictions and displacement arising from large-scale development projects, which typically affect large numbers of people, their guidance is useful for all kinds of evictions.

⁴ CESCR, General Comment 4, para 8(a).

⁵ Concluding Observations of the Human Rights Committee: Kenya, UN Human Rights Committee, CCPR/CO/83/KEN, 29 April 2005, para 22.

⁶ Communication No. 161/2000, U.N. Doc. CAT/C/29/D/161/2000 (2002).

⁷ UN Commission on Human Rights Resolution 1993/77, para 1.

⁸ UN Basic Principles and Guidelines on Development-based Evictions and Displacement (Basic Principles), Annex 1 to UN.Doc, A/HRC/4/18.