

# Guidelines on Mitigating Harm and Suffering during Forced Evictions in northwest Syria

December 2020

## Introduction – aim and scope

While a forced eviction in itself may violate human rights, it is recognized that humanitarian partners are not consistently able to intervene in forced eviction processes to uphold rights. In certain situations forced evictions may be justified and/or unavoidable – in these situations the manner in which forced evictions are carried out is of the highest relevance and should ensure protection of human rights and maintain the dignity of those being evicted before, during, and after eviction.

These guidelines, aimed at humanitarian partners, civil society, and all other stakeholders in northwest Syria, provide practical minimum standards to avoid, mitigate, or minimize harm and suffering of affected persons, most often IDPs, in the context of forced evictions, thereby contributing to protection of human rights. They intend to inform advocacy, planning and response, and to strengthen prevention.

## Background and context

Continuous insecurity and conflicts have forced a large number of individuals to leave their places of origin or places of habitation in Syria. By end of 2020, over 2.7 Million Internally Displaced Persons (IDPs) reside in northwest Syria (NWS) and have taken refuge in a variety of shelters based on the available options in locations of displacement. Multiple subsequent displacements over the course of years of conflict are commonplace. IDPs reside *inter alia* in self-settled and planned camps in tents and/or self-constructed shelters on plots of public, charity (Waqf) or private land, use unfinished buildings, rent houses, and settle in public buildings including administration offices and schools, shops, gardens, farmlands, and on occasion, caves.

In some locations, IDPs – on occasion supported by humanitarian partners<sup>1</sup> – try to ensure tenure security through establishment of agreements with land and property owners and/or de facto authorities. However, lease agreements established between IDPs and landowners are frequently based on oral arrangements and when documented are frequently unspecific about the parties rights and responsibilities, the duration of the agreement, and drafted in different formats, weakening the tenure security of IDPs. Tenure security is frequently more stable in planned IDP sites where arrangements have been made with support of humanitarian partners.

Housing, Land, and Property (HLP) documentation for the land being settled by IDPs is frequently unavailable because formal land documents were not extensively used before the outbreak of the conflict. This lack of documentation compounds an already highly complex HLP situation,<sup>2</sup> with significant consequences for both

*“The term forced eviction is defined as the 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. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights”.*

[Office of the High Commissioner for Human Rights. The right to adequate housing \(Art.11.1\): forced evictions. CESCR General comment 7, .20/05/1997\). paragraph 3.](#)

<sup>1</sup> In line with the CCCM HLP Due Diligence Guidelines, accessible via: <https://cccmcluster.org/documents/hlp-sensitive-interventions-idp-sites>

<sup>2</sup> Factors further increasing the complexity of the HLP situation in NWS and establishing formal lease agreements, thus increasing the risk of forced evictions, include but are not limited to 1) control of areas by different groups (de-facto authorities) and unclear regulatory frameworks; 2) a blurred delineation between public, private and Waqf (charity) land

host communities and displaced populations who are seeking security of tenure. From an operational perspective, it also increases the complexity for engagement by humanitarian partners.

Procedures for evictions remain untransparent, which by default, makes them “forced,” with important negative impacts for those living in IDP sites as well as public or private buildings in NWS. In many instances it is not clear whether a legal basis<sup>3</sup> for evictions is sought or claimed by the owners of properties or by de facto authorities. Further, it is also frequently unclear which actors are involved in conducting forced evictions. Cases have been reported where forced evictions have resulted in significant short- and long-term harm to evictees, including loss of property, physical harm, severe distress, short-term family separation, etc. However, while a forced eviction in itself may violate human rights, it is recognized that in certain situations forced evictions may be unavoidable and/or justified. In these situations, the manner in which forced evictions are carried out is of the highest relevance and should ensure the protection of IDPs’ human rights and dignity before, during, and after eviction.

## Purpose of these Guidelines

These Guidelines primarily aim to establish a common understanding between humanitarian partners and other stakeholders of basic human rights related to forced evictions and of measures to be taken to mitigate harm and reduce suffering in decision-making and the implementation of an unavoidable and/or legitimate forced eviction. Pragmatic guidance is provided on practical steps to be taken in different phases of a forced eviction, thereby the Guidelines should assist humanitarians and other stakeholders to have a standard approach to cases of forced evictions, working to reduce harm and suffering of affected populations.

Further, the Guidelines offer a concrete basis for engaging with local stakeholders through advocacy. They also provide support for the establishment of lease agreements. Overall, they contribute to protection of human rights of the population subject to forced evictions prior, during, and after evictions take place or through prevention of forced evictions. To this end, proactive and consistent advocacy for the recognition and implementation of these guidelines is required with different stakeholders, including de facto authorities, councils, influential community leaders/elders, military actors, as well as civil society.

The HLP TWG also recommends that to the extent possible, the principles and standards contained in these guidelines are shared and explained to landowners or their representatives by all partners, and that relevant provisions and safeguards are included in lease agreements between IDPs and landowners, thereby formalizing basic protections and mitigating harm.<sup>4</sup>

## When is a forced eviction deemed unavoidable or justified?

Some forced evictions are unavoidable: humanitarian and civil society actors are unlikely to be in a position to stop or intervene in all forms of forced evictions despite continuous work to prevent forced evictions through liaison, advocacy, arbitration, and negotiation as well as support to the establishment of formal lease agreements. Regardless of the situation, known incidents might be documented for analysis, response planning, and advocacy purposes.

There are instances when forced evictions are justified. For this to be the case, they must be carried out only in the most exceptional circumstances as a last resort and after all feasible

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and different uses of these concepts by different actors; 3) limited or improper registry of land parcels as well as loss or destruction of existing registries; 4) a lack of rule of law; 5) severe damage to or destruction of property; 6) reported expropriations of property by de facto authorities; and 7) a lack of clarity on the rights and obligations of residents, tenants, and landlords. Some aspects of these complexities are inherited from the past: some applicable laws have not been amended since 1919 and land categorizations have not been updated for decades. Moreover, in NWS political and power dynamics have shown to evolve rapidly, amplifying uncertainty around HLP dynamics and increasing risks of forced eviction.

<sup>3</sup> Nor is it clear which legal framework is applied.

<sup>4</sup> See forthcoming Syria Protection Cluster (Turkey hub), Checklist for Lease Agreements between IDPs and landlords.

alternatives to eviction that address the exceptional circumstance are explored in consultation with the affected community; in addition, all due process protections are to be afforded to the individual, group, or community. Evictions should never be carried out in a discriminatory manner or render someone homeless and vulnerable to other human rights violations.<sup>5</sup> Duty bearers carry responsibility to uphold human rights in relation to all phases of all forced evictions from private, charity (Waqf), and public land.

For the purposes of these Guidelines, and in accordance with applicable human rights protections,<sup>6</sup> a forced eviction can be deemed justified if each of the following concurrently (i.e. at the same time) are adhered to:

*Decision:*

- The forced eviction is in full accordance with applicable international standards, in accordance with the provisions of agreements between IDPs and landowners, and potential evictees have had opportunities to seek recourse in line with due process protections;
- The forced eviction takes place in consultation with the affected persons, landowners, and other affected populations to explore all feasible alternatives;
- The circumstances are exceptional and where forced eviction is the sole available solution and is determined to be a last resort by individuals/actors responsible for the forced eviction;
- Adequate resources are available, and arrangements have been made to ensure the forced eviction does not render the evictees homeless and vulnerable to other human rights violations;
- When applicable, the forced eviction takes place from public buildings such as schools, universities, or institutions of public benefit for the legitimate purpose of rehabilitation and provision of intended services (with compelling and overriding public interests).

*Manner and process:*

- The forced eviction takes place after giving a proper and timely advance notice (minimum one month) to the family/families subject to eviction;
- The eviction takes place during a proper date and time (i.e. not at night, not during a religious holiday, and not during inclement weather);
- The eviction takes place in the presence of observers from the de facto authorities, civil society, city/town/village council representative(s), imam of a local mosque, and/or de facto local law enforcement bodies to avoid human rights abuses or harassment.

*Outcome:*

- Provisions have been made to ensure a relocation destination with adequate conditions, including shelter, is available for those evicted and the eviction does not render them homeless and vulnerable to other human rights violations;
- Provisions have been made to ensure evictees can seek redress for any damages suffered during the eviction.

## Practical steps to mitigate harm and suffering

When a forced eviction is forthcoming, civil society, humanitarian partners, de facto authorities, camp managers, IDP representatives, and other stakeholders should make joint efforts to ensure that persons subject to the eviction and all populations who may be affected by the

<sup>5</sup> OHCHR & UNHABITAT, Forced Evictions; Human Rights Fact Sheet No. 25/Rev. 1 (2014).

<sup>6</sup> The Committee on Economic, Social and Cultural Rights (CESCR) has provided guidance on the protection of the right to adequate housing, including protection against forced eviction, harassment, and other threats (see General Comments No. 4 [1991] and No. 7 [1997]). See also: <https://www.globalprotectioncluster.org/wp-content/uploads/Guidelines-for-Dignified-Departures-November-2020-1.pdf>

forced eviction are notified at least a month in advance and properly counseled on basic rights as well as on potential alternative locations to settle and available support. This allows affected persons to make informed and free decisions regarding relocation options and provides a sufficient period for planning purposes. Moreover, in case of an unavoidable/justified eviction, engagement should also highlight the landowners' rights, potentially increasing willingness to voluntarily relocate.<sup>7</sup>

Below, practical steps are listed under three phases of the forced eviction process as standards to guide humanitarian and local actors in observing the rights of IDPs and reducing the harm and suffering caused by the forced eviction.

## Before Eviction

- a. Feasible alternatives, including for example relocation to another available and adequate location/accommodation or return to the area of origin if conditions allow, are explored by landowners, de facto authorities, as well as civil society and humanitarian partners in consultation with the affected persons with a view to upholding dignity, avoiding, or at a minimum minimizing, the need for use of force, and identification of an alternative solution for the affected persons that ensures individuals are not being rendered homeless.
  - i. The de facto authorities and landowners as well as humanitarian partners and civil society consider all alternative plans proposed by the affected persons, groups and communities during consultations.
  - ii. Particular attention must be paid to ensuring that all groups within communities, especially minorities, persons with disabilities, older persons, women and children, are represented and included in decision-making in all phases of the process.
  - iii. Any facilitated relocation should adhere to applicable guiding principles and minimum standards.<sup>8</sup> This includes ensuring affected persons can make informed decisions through, for example, offering the option of "go and see visits" as well as ensuring that a destination location satisfies basic minimum standards.
- b. Adequate and reasonable notice of eviction is provided by the landlord or relevant duty bearer to affected persons both verbally and in writing. It is to be ensured that all persons in the community to be evicted are informed about the eviction. In case of doubt, eviction notices may be subjected to public verification.
  - i. Any notice of eviction should contain a detailed justification for the decision, including on: (a) the grounds for eviction; (b) the absence of reasonable alternatives in relation to avoiding the eviction, e.g. IDPs remaining in the current location; (c) the full details of a feasible proposed alternative; and (d) where no mutually agreeable alternatives can be found/exist, all measures taken and foreseen to minimize the adverse effects of the eviction.
  - ii. The notice should be shared during the daytime/daylight hours with all the members of the community subject to eviction. The notice should clearly provide the date of eviction and be issued at least one month prior to eviction. No additional pressure and coercion should be exerted during the period before eviction.

<sup>7</sup> <https://www.globalprotectioncluster.org/wp-content/uploads/Guidelines-for-Dignified-Departures-November-2020-1.pdf>

<sup>8</sup> See forthcoming Syria Protection Cluster (Turkey hub), Guiding Principles and Minimum Standards on Non-Emergency Relocations.

- iii. If contextual difficulties complicate achieving an immediate solution for the evicted persons (either self-organized or supported by de facto authorities, humanitarian partners, etc.), flexibility should be offered regarding the date of eviction. At least one extension should be considered.
- c. IDPs and other at risk of eviction have the right to have the eviction notification reviewed by relevant and mutually recognized (de facto/formal or informal) authorities. Eviction notices are suspended until a decision is made by the mutually recognized authority. Where required and beneficial, affected persons may seek support and guidance from de facto authorities, civil society, and humanitarian partners to inform the review and seek dispute resolution.

## During Eviction

- a. De facto authorities/duty bearers and representatives from civil society and humanitarian organizations are present during the forced eviction as deterrents to human rights abuses and harassment.
- b. All persons carrying out the forced eviction are properly identifiable prior to and during the eviction. They must be identified, and they should pronounce to affected communities as well as observers which stakeholder or entity they represent prior to the eviction.
- c. Forced evictions shall not be carried out in a manner that violates the dignity, safety, and human rights, including the right to life, of those affected.
  - i. Any application of coercion and/or force must be in line with international standards.
  - ii. It is prohibited to destroy or demolish habitations and possessions, including as a show of force.
- d. Specific steps are to be taken to ensure human rights of children are protected. Evictions should not result in family separation.
- e. Persons carrying out the evictions consider that among the communities are persons with mobility restrictions and disabilities. Specific measures are taken to ensure their safety, dignity, and wellbeing.
- f. Evictions do not take place in particularly bad weather, during nighttime, or during religious holidays and days of religious significance. Evictions preferably do not take place during winter unless adequate compensatory accommodations are provided and immediately inhabitable.

## After Eviction

- a. Individuals affected by forced evictions enjoy the right to claim compensation for any damages to their properties as a result of forced eviction. They have the right to seek legal aid and/or counselling from de facto/formal and informal authorities and civil society and humanitarian partners to seek redress.
- b. Forced evictions should not result in individuals being rendered homeless or at elevated exposure to violations of other human rights; adequate assistance and support should be available and immediately accessible. De facto authorities and civil society and humanitarian partners should follow-up with evicted communities to mitigate risks.

- c. Upon provision of informed consent, individuals should be linked to/referred to additional services to reduce chances of recurrence (if inability to pay rent was a driver), to health and psycho-social support, school registration for children (if relocated too far from previous educational institution), and other services as applicable based on assessment of the situation of the individuals, households, and communities affected.

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## Annex 1 – Potential violations of rights due to evictions

Forced evictions of IDPs, both justified and unjustified, potentially violate the ‘full spectrum of civil, cultural, economic, political and social rights enshrined in international instruments. This includes, as listed in OHCHR & UNHABITAT, Forced Evictions; Fact Sheet No. 25/Rev.1(2014), the following international instruments:

- *The right to life (International Covenant on Civil and Political Rights, art. 6.1)*
- *Freedom from cruel, inhuman and degrading treatment (ibid., art. 7)*
- *The right to security of the person (ibid., art. 9.1)*
- *The right to an adequate standard of living, including the right to adequate housing, food, water and sanitation (International Covenant on Economic, Social and Cultural Rights, art. 11, and related Human Rights Council resolutions)*
- *The right to non-interference with privacy, home and family (International Covenant on Civil and Political Rights, art. 17)*
- *Freedom of movement and to choose one’s residence (ibid., art. 12.1)*
- *The right to health (International Covenant on Economic, Social and Cultural Rights, art. 12)*
- *The right to education (ibid., art. 13)*
- *The right to work (ibid., art. 6.1)*
- *The right to an effective remedy (International Covenant on Civil and Political Rights, arts. 2.3 and 26)*
- *The right to property (Universal Declaration of Human Rights, art. 17)*
- *The rights to vote and take part in the conduct of public affairs (International Covenant on Civil and Political Rights, art. 25).*

These violations can be directly or indirectly attributed to:

- ***The way evictions are decided*** (for instance, no consultation or participation, no information, no recourse mechanisms)
- ***The way evictions are planned*** (for instance, no notification, no relocation available, compensation not provided, delayed or subject to unjustified conditions)
- ***The way evictions are carried out*** (for instance, at night or in bad weather, no protection for people or their belongings)
- ***The use of harassment, threats, violence or force*** (for instance, forcing people to sign agreements, using bulldozers when people are still salvaging their belongings, ...)
- ***The results of the eviction*** (for instance, disruption of children’s education, interruption of medical treatment, mental trauma, loss of jobs and livelihoods, inability to vote because of homelessness, no access to basic services or justice because identity and property papers were destroyed during the evictions, etc.)