

Eviction Information Note

S&S and ICLA – May 2020

Introduction: Security of Tenure and Evictions

The right to adequate housing and shelter is fundamental to living in dignity and safety. Unsafe housing and insecure housing rights also have serious implications for physical and mental health. Displaced populations' right to housing is especially precarious as they access their housing by negotiating an agreement with a landowner, because a government or an institution has designated an area for settlement, or through informal occupation. Most of these arrangements are temporary at best and landowners have a great deal of power over occupants. Tenants have contractual obligations to landowners to regularly pay rent and utilities – and the most vulnerable are often faced with the impossible choice between paying for rent and paying for other necessities such as food or medical costs.

When landowners or governments decide to end an agreement with occupants or to reclaim land/building from informal occupants, a threat of eviction is triggered. Threats of eviction can vary widely depending on the relationship between the landowner and the occupant and the context in which they live. Threats of eviction can be written or verbal, based on legal reasons or be arbitrary, can be peaceful or violent. The process can be informal or can follow legally defined steps. The type of eviction threat and the reasons for it should thereby shape the way the response is designed.

A forced eviction is *'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'* (Committee on Economic, Social and Cultural Rights, General Comment No. 7 (1997) on the Right to Adequate Housing). There are times where occupants will choose to leave their current home after a threat of eviction - either because they no longer feel welcome or safe, even if there is no basis for lawful eviction. This is called a departure under duress.

Threats of evictions and evictions themselves take massive psychological tolls on occupants and imply several protection risks for occupants (violence, coercion, SGBV, confiscation of legal identity documents, children abandon school, homelessness, detention, deportation, etc.), and make it difficult for occupants to maintain employment. Women are especially vulnerable to these protection risks. For example, threats of evictions are often associated with heightened domestic abuse and sexual exploitation by landowners and government officials.



Displacement settlement in Kismayo. Photo: Christian Jepsen

Marginalized populations such as IDPs and refugees and women-headed households face tremendous discrimination in terms of accessing adequate housing in the first place and are therefore are vulnerable to accepting inadequate living conditions, high fees, and unreasonable and illegal terms in their tenancy agreements. This vulnerability can be exploited by landowners during an eviction since these groups often have greater difficulty advocating for their rights and face barriers of access to legal institutions, which creates situations of impunity.

The eviction of one household can have a destabilizing cascading effect on communities. For example, displaced families are often taken in by their friends, families, and neighbours, which causes overcrowding, overstretches household resources, and can increase the risk that they will also face eviction threats by their landowners.

Typology of Eviction Programming

Eviction programming can be RESPONSIVE or PREVENTIVE. There are several programming options which can be used as stand-alone or in combination with others:

- **EVICTION DIVERSION:** Finding a solution in which the landowner withdraws or indefinitely postpones the threat of eviction. Tenants or occupants can stay in their current homes or stay on/continue to occupy the land. If diversion fails or is not desired for protection reasons, mitigation measures should kick in.
- **EVICTION MITIGATION:** When evictions or departures are unavoidable, mitigating the negative impacts of eviction by ensuring that the tenants/occupants can depart in a safe and dignified way and that an alternative interim or temporary solution is found.
- **EVICTION PREVENTION:** Addressing the 'root causes' of eviction through durable solutions programming and/or advocacy to prevent threats of eviction from happening.
- One particular way of programming on the issue of eviction is setting up a system to systematically track the prevalence, causes, and types of evictions or **EVICTION MONITORING**. A monitoring system can be used as an early warning mechanism or can trigger a rapid response. It can also inform advocacy interventions and the design of prevention interventions.

(The eviction programming typology used in this note has been taken from NRC Jordan.)

The proposed typology of eviction programming is applicable in situations for both forced and lawful evictions and concrete methodologies will need to be adjusted to each situation.

Country Snapshots

Jordan: The main types of eviction threats encountered in Jordan result from refugee tenants who are unable to consistently pay rent and/or their utilities. The reasons for the inability to pay these costs are variable – but about half links the threat to a specific moment of difficulty while the other half is due to a chronic issue. Women-headed households are especially likely to face chronic eviction threats and face higher protection risks because of this. Even though most of the landowners have legal cause for the eviction, they do not follow the legal procedures for eviction.

NRC (Shelter & Settlements and ICLA) in Jordan piloted an emergency response approach which **combined diversion and mitigation**, founded on the premise that everything should be done to keep tenants housed. For diversion, NRC staff attempted to use interest-based negotiations to get landowners to withdraw their threat of eviction. These negotiations were often combined with cash-for-rent (6 months) to stabilize the tenants' housing situation. During this time, nearly half of the tenants were able to reduce unsustainable debt loads and many reported less psychological stress. Where negotiations failed and eviction was unavoidable, or keeping the tenants in their apartment was not desirable because of protection risks, evictees were given an emergency cash grant (unconditional, worth 150% of the average monthly rent) so that they could immediately find new housing on their own and cover their moving costs. NRC then followed with cash for rent support for an additional five months to stabilize their housing and refer them to other essential services.

Nigeria: Most of the IDPs in Nigeria live within 144 informal displacement sites, which are located on land owned by individuals or families. There is only one site which is located on government land. While some sites were settled without the consent of the landowners, on others, the landowners agreed to host IDPs on the parcels with the expectation that the crisis would end quickly – as the crisis goes on, many of the landowners wish to reclaim their land for personal use or to rent it more profitably. The agreements made with the IDPs were done informally, which has given the landowners the ability arbitrarily to evict tenants with little notice. Most of the land in question is administered under traditional forms of land governance.

NRC's approach in Nigeria covers all four dimensions of eviction programming. For **monitoring**, they have mapped all the informal sites and have attempted to identify the landowners for each site to be able to respond quickly if a threat of eviction emerges. They have also established ties with traditional governance structures, who can call NRC if an eviction threat emerges. For **diversion**, they have used a combination of cash-for-rent and rehabilitation-for-rent to stabilize the most vulnerable IDPs for some time, and also have used interest-based negotiation to get landowners to (temporarily) drop threats of eviction. However, understanding that these are temporary solutions, NRC is already identifying new sites where IDPs might be able to move to as a contingency **mitigation** plan if a landowner revives the threat of eviction. Finally, on the side of **prevention**, they are supporting landowners and IDP occupants to prepare agreements which define the rights and obligations of both parties, to reduce the risk of arbitrary evictions and create a foundation to defend occupants' rights if cases emerge. They are also supporting due diligence for the establishment of new sites (and other infrastructure) to ensure that the landowners give their consent before these are built, and thereby reduce the risk of eviction.

Somalia: Most of the evictions of IDPs in Somalia are driven by insecure tenure, inadequate legal and policy frameworks, and weak rule of law. The three most cited reasons for evictions in Somalia are the desire of owners to develop their properties, irregular and arbitrary increase of rental fees, and the inability of tenants to fulfil rental obligations.

NRC Somalia has established an **eviction monitoring & response programme**. **Monitoring** is done through a local network of community leaders, informal settlement leaders, monitors, NRC paralegals and community volunteers, and selected members of the Protection and CCCM clusters. When an eviction event is identified, it is reported in real-time. This information then gets registered into an eviction monitoring platform that provides real-time alerts and updates, which is publicly available through a dashboard (click [here](#) to check out the dashboard). Once an alert is received, a **diversion or mitigation** response is activated. Government focal points are notified and either they or a qualified NRC staff establish contact with the landowner or representative(s) attempt to resolve the dispute so that the eviction threat is dropped and the occupants' tenure is temporarily assured (**diversion**) or, if eviction is unavoidable, to negotiate sufficient time to safely relocate the land occupants to a new site. With that

extra time, NRC and its partners attempt to find a new site or accommodations for dignified relocation and provides emergency cash support (**mitigation**). Once the eviction threat is diverted or mitigated, government focal points and NRC staff negotiate with landowners to provide a written commitment to secure the tenure of occupants for several years as a means to **prevent** future arbitrary evictions.

Lebanon: Most Syrian refugees are either renting sites in informal tented settlements or apartments in residential areas. The main eviction threats result from the inability to pay the rent or from collective evictions organised by the Lebanese army or authorities. None of these evictions follow the required legal procedures.

ICLA in Lebanon has a **three-pronged approach** to dealing with evictions: undertaking legal analysis to understand the technicalities of housing and evictions, undertaking advocacy on the illegality of the ongoing evictions and the consequences for refugees, and counselling refugees on the importance of written rental agreements (**prevention**); provision of dispute resolution to negotiate postponement of the eviction or rental fee decreases (**diversion**); and provision of counselling to evictees and search for relocation sites (**mitigation**). ICLA shares eviction-related information with the Protection Cluster, which tracks overall eviction trends and developments.

Key Takeaways:

- **Evictions are multi-dimensional.** As such, responses must be built on a cross-sectoral approach – they often cannot be tackled with a shelter-only or legal assistance-only perspective.
- **Forced evictions can also apply to the situation of evictions of people from informal settlements and camps, not just from residential housing settings.**
- **Work with the people that are affected.** Organise proper consultations with your target groups (both occupants AND landowners) to understand the causes for evictions, the manner threats of eviction are expressed, the process for evicting, and the impacts of evictions on distinct populations as this will need to inform programme design.
- **Eviction programming (especially diversion, mitigation, and prevention) cannot be driven by the need to achieve quantitative targets,** otherwise, the incentives are too high for an organization may intervene in situations where they could do harm.
- **Diversion responses can create unintended negative incentives that can increase the risk of evictions.** While more research is needed on this, it seems that when landowners learn that cash for rent is available to divert evictions, they can escalate existing threats of eviction to trigger assistance. Strong safeguards need to be built into a project in anticipation of this risk. On a smaller scale, there can be attempts by tenants and landowners to ‘fake evictions,’ but these can often be identified through a rigorous verification process.
- **Diversion and mitigation activities are temporary, emergency measures only.** While these are essential and very effective as humanitarian actions, **it is also crucial to link these with prevention and advocacy,** when possible. Conducting an HLP assessment will assist to give you a proper understanding of the HLP situation and develop a prevention strategy (proactively mapping of settlements and their security of tenure situation, for example).
- **Most diversion, mitigation, and prevention responses need to be founded on a case-management based approach** where one person is responsible for supporting a tenant through each stage of assistance to make sure they are consistently supported. This is time-intensive and resource-intensive and project planning should be done accordingly to ensure quality services and to avoid staff burnout.
- When analysing the facts of each case, it can be useful to consider exactly which **national and international rights or standards** are breached. Possible violations of human rights are set out on page 5 of the OCHCHR/UN-Habitat factsheet on [Forced Evictions](#).

Additional Resources

- [NRC Glossary of Key Terms and Standards and Criteria for Dignified Evictions and Departures](#)
- [NRC ICLA Eviction Monitoring Toolkit](#)
- [Assessing the impact of Eviction \(UN-HABITAT/OHCHCR\)](#)