



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

How to Use This Tool: Step by Step

This Impact-assessment Tool has been developed by Housing and Land Rights Network (HLRN) to enable its users to quantifying the consequences that arise from violations of the human right to adequate housing and equitable use of land. These processes typically involve eviction or displacement, but the tool is adaptable for application to wide range of possible violations of habitat-related human rights. These include also demolitions and confiscations, dispossession, the consequences of privatization, loss of equal inheritance, or other inequities attributable to responsible parties and duty holders. (See **Potential Uses and Applications**).

Consistent with the methodology of human rights, the jurisdictional state remains the primary duty holder in all cases obliged to respect, protect and fulfil the human right to adequate housing, land and related habitat rights. The most-common application of this tool is in cases involving **forced eviction**, which is defined in international law as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land [that] they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”¹ Forced eviction has been classified also as a “gross violation of human rights, in particular, the human right to adequate housing.”²

The Impact-assessment Tool is designed for use by defenders of the human right to adequate housing, land and related habitat rights on behalf of households and communities facing, undergoing or already suffering the impacts of such violations. Ultimately, however, this is a tool that helps states and their government institutions to ensure that they meet their obligations under human rights treaties and general principles of international law by providing the fullest possible data on the consequences of a potential or actual violation of these human rights subject to remedy.

This tool may be used is cases where the human right to adequate housing has been violated, including in cases of eviction, whether or not the process meets of the conditions prescribed for such a process to be legal under the norms of international law.³ In all cases, any equitable

¹ UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, ‘forced eviction,’ para. 3, at: <http://www.hlrn.org/img/documents/GC7.pdf>.

² Commission on Human Rights, “forced eviction,” resolution 1993/77, 10 March 1993, at: <http://www.hlrn.org/img/documents/ECN4199377%20en.pdf>; and “Prohibition of forced evictions,” resolution 2004/28, 16 April 2004, para. 1, at: http://www.hlrn.org/img/documents/E-CN_4-RES-2004-28.pdf.

³ See UN Committee on Economic, Social and Cultural Rights, General Comment No. 7, ‘forced eviction,’ paras. 15–16, at: <http://www.hlrn.org/img/documents/GC7.pdf>.

remedial processes can take place only when they rest upon a basis of a verifiable data that inventory as thoroughly as possible the values at stake.

The tool's versatility enables its users to capture, define and quantify the losses, costs and damages resulting from a violation, with a view to remedying the consequences for the victims of a violation of these human rights through measures ranging from restitution, compensation and/or adequate resettlement. However, the standard for remedying such a gross violation remains reparation, which is a more wholesome concept and set of criteria. And this tool can be used also to verify whether a remedy meets this standard test.

While firmly rooted in internationally agreed-upon standards, this tool embodies the criteria provided in the UN-adopted reparations framework (2006)⁴ and the *UN Basic Principles and Guidelines on Development-based Evictions and Displacement* (2007).⁵

The tool also is designed to be used in the same staged approach as laid out in the *UN Basic Principles and Guidelines*. That means that it could be applied as a baseline study (i.e., before a violation or threat), during a period in which a violation is threatened or imminent, during the actual commission of the violation, as well as in its aftermath.

The *UN Principles and Guidelines* call for an impact assessment *to be undertaken before* any eviction action. They do not, however, explain what an eviction impact assessment (EVI) entails. Thus, this tool could serve as such an *Eviction Impact Assessment (EVI) Tool* to quantify actual and potential losses and costs incurred by individuals, communities, society, and the state, before, during, and after a forced eviction.

In its most general sense, the tool serves as an *Impact-assessment Tool*, capturing data on as many as possible of the various types of loss, cost and damage to assets, property, life and health as possible. Therefore, both terms—*Impact-assessment Tool* and *Eviction Impact-assessment Tool*—may apply, depending on which type of violation it addresses. In the case of an actual or impending eviction, it can be called an *EVI Tool*, no matter at which stage(s) of the eviction process it is applied. Where it is used in the case of other types of violation, the tool could be referred to simply as an *Impact-assessment Tool*, or quantification method.

Stages/phases of Application

Ideally, application of this tool should precede any project involving eviction or change of people's habitual residence, whether that eviction is called a relocation, displacement, "involuntary resettlement,"⁶ or any by other name. The quantification of values at stake is required, in order to know the full costs and consequences of that action. Before an eviction or

⁴ "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," A/RES/60/147, 21 March 2006, at: http://www.hlrn.org/img/documents/A_RES_60_147_remedy_reparation_en.pdf.

⁵ UN Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18).

⁶ A euphemism for forced eviction often used by the World Bank Group, other international finance institutions and those working in related environments.

displacement takes place, two types of values can be identified: (A) the values present in the normal situation without any threat of eviction or displacement, and (B) the change in values resulting from an announced or planned eviction or displacement, before it is carried out. These stages correspond to the various iterations of the tool: **(1) Baseline study; (2) Assessment of values as a result of a notice or threat of eviction, displacement, or resettlement; (3) Assessment of values during an eviction, displacement or resettlement; (4) Assessment of values after the violation.** These stages, or phases, correspond also with the gradual accumulation of losses, costs and damages, as they typically increase with each phase and with the passage of time before remedy.

Often, a violation takes place without advance warning, rendering a pre-emptive or early application of the impact assessment difficult or impossible. This tool is designed also to be used during an eviction or displacement, where an EvIA was not conducted in advance. In such cases, phase **(3) Assessment of values during an eviction, displacement or resettlement** of the tool then can be applied. This stage is critical in many forced eviction and displacement cases for at least two reasons: (1) the data collector doubles her/his credibility as an eyewitness to events in real-time, and, (2) it may be possible to capture values and cases of people who may be impossible to find after the event of the eviction, displacement or resettlement.

Short-term and longer-term

After an eviction, displacement, resettlement, or other form of violation, the tool can be used to determine and/or verify the costs, losses, and damage in both the short term (just after the violation) and in the long term (over a period of time that the user/evaluator determines to be appropriate). Phase 4 of the Tool (**Assessment of values after** a violation) can be applied at any time after the event. However, in all cases, the earlier the intervention, the more complete and reliable the data will up to that moment.

In the post-violation phase, it is advisable to use the tool as soon as possible after the event so as not to waste time, allow detailed memories to fade, lose track of households that flee, or miss potential witnesses. Capturing the long-term consequences could mean that using the tool to take account of any changes in values (costs, losses or damage) after a month or so, in order to establish some kind of a reasonably predictable pattern of such changes in values.

However, using the tool for longer-term assessments means that the data collectors would have to maintain in contact with the affected households over time. That interval may be determined by several factors such as a legal process in the courts, a period of an administrative process (for example, negotiations, deadlines for submitting compensation claims), or the resources available to the data collectors in order to sustain the monitoring exercise.

Evaluating Remedies

This quantification method and the accompanying tool assume that the change in values by the violation will be negative; that is, showing losses and costs. However, the method could also be

used to test whether or not a resettlement or rehousing process actually achieves “equivalent or better”⁷ conditions as promised in certain international financial institution (IFI) policies and claimed “development” outcomes.

This foundational tool could be adapted and used for all categories of housing and land rights violations, including disasters and conflicts, as evidenced in the case studies presented in this publication. That application of the tool has been useful to determine the gap between compensation schemes and the actual losses, costs and damages incurred. The remedy in such cases is not only full reparations for the affected persons, but also policy and budget revisions and reform.

Who are the subjects of losses, costs and damages?

This *Impact-assessment Tool* seeks to cover the widest range of values possible, so as to be useful to *any* situation. That means also that not all categories of values will apply to *every* case. The user/evaluator may leave some categories of non-applicable values blank. The tool could be used to quantify costs and losses of directly affected persons and households, and indirectly affected persons and households, as well as public or social costs.

For example, the demolition of an enterprise in an area subject to forced eviction may affect also employees, suppliers, and clients residing outside that area. Other indirect victims could include those enduring collateral damage from a punitive house demolition. They could be secondary, or indirect, subjects of losses, costs or damages. The indirect victims’ losses and damage should be included in the overall assessment of the violation’s effects. The greater the specificity, the more comprehensive will be the quantification of the total impacts.

Dimension of Values at Stake

Following this logic, the tool organizes and distinguishes the quantification of values to cover the following dimensions:

- Victims’ material values/assets;
- Victims’ non-material values/assets;
- Additional material values/assets (indirect victims and public); and,
- Additional non-material values/assets (indirect and social).

Therefore, the tool categorizes the dimension of values at stake for each stage of the displacement, eviction and/or resettlement process according to the following sub-headings:

- A: Household Values and Assets;
- B: Household Expenditures;

⁷ The literature typically reaffirms that “involuntary resettlement” policies seek to achieve quality or levels “similar to or better,” “equivalent or better” for those physically or economically displaced as a result of a project and to restore their livelihoods so that they “end up no worse off—and preferably, better off—than they were before the project was undertaken.” See, for example, *Handbook for Preparing a Resettlement Action Plan* (Washington: International Finance Corporation, Environment and Social Development Department, 2002, updated to 2014), at: <http://www.ifc.org/wps/wcm/connect/22ad720048855b25880cda6a6515bb18/ResettlementHandbook.PDF?MOD=AJPERES>.

- C: Household's Social Assets;
- D: Civic Values and Assets; and,
- E: Public/State Values and Assets.

General Guidance

The material and otherwise-calculable costs, losses and damages resulting from the violation are determined for each unit (household) affected and then totalled. Alternatively, in the case of multiple units, or an entire community affected, a representative sample should be obtained to determine the average values, which then are to be multiplied by the actual numbers of units/households affected.

The greatest advantage in applying this method is to specify and actually quantify changes in value (i.e., costs, losses and damages). However, some values and their losses are incalculable and still have to be recorded and reported in a narrative form. Such narrative explanation and analysis will be useful as an accompaniment to the tool's quantification table, and should be included when presenting findings.

In any case, it is important to arrive at a global value figure for each impact under review (Column D for short term, Column D for long term impacts/values at stake). The column at the far right under each category of cost should be totalled using the imbedded Excel formula.

Dividing and Distributing Tasks

Whether the monitoring objectives are diverse, supporting legal defence, policy analysis, compensation, or just providing public information, the quantification of the effects of the violation strengthen the fundamental argument and, consequently, help mobilize support for the movement to end, redress, compensate and obtain reparations for the violations. In particular, the findings will make the case that many housing rights violations actually widen and deepen poverty, increase social and economic disparity and marginalization, and often have a de-development effect on households, communities and countries. The findings also may expose the consequences of discrimination that leads to the violation of adequate housing, land, or other habitat-related human rights.

Meeting these multiple targets, like any complex task, requires a division and complementarity of tasks and roles. At a minimum, these tasks may call for a team of persons responsible for the following functions:

- Field researchers/enumerators in sufficient number to cover the affected community or sample group within a reasonable time;
- Legal advisors/practitioners to verify and mount any related legal arguments, including for legal assistance to affected households and impact-assessment team members, and litigation before the courts;
- Technical and/or market experts to determine accuracy of costs, time, other conditions and requisites for restitution, replacement of values lost;

- Manager and coordinator of tasks and inputs;
- Editor or publication specialist to ensure effective presentation of the data.

Refining and customizing the Impact-assessment Tool

Any application of this tool helps to increase its versatility by diversifying it to fit new types of situations. For this purpose, as well as to verify the data collected, the user/evaluator should record explanations and choices of quantification method in the tool's Methodology cell (Column C) in each row.

This is also the point to enter and cite any documentation or receipts that have been used to calculate these values. It is important always to keep copies of such documentation in a safe place in order to substantiate these data, if necessary.

Any modifications in the criteria or classification of values must be shared across the entire team working on the quantification to ensure compatibility of findings. For example, certain direct and indirect victims' losses may need to be separately calculated. Likewise, an additional interval of longer-term impacts might be needed. In such cases, the users/evaluators can simply insert an additional column with its corresponding formulas, but this must be done uniformly across all members of the impact-assessment team.

The user/evaluator may find that a situation warrants an additional type of value to be assessed and recorded. Under each sub-heading the user/evaluator will find a final row for **Other** values to be added. These may contain values that could form their own additional row in the tool.

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You are now ready to get to work. The next section aligns with both the phases of the violation process and, consequently, the structure of the *Impact-assessment Tool*. The methodology guide for each phase and corresponding section provides line-by-line instructions by each (horizontal) category of cost, for each dimension of the affect (i.e., affected household, indirectly affected, public), at each of the four stages of the process of adequate housing and land rights violations and their consequences.

For a graphic presentation of the process (from problem to solution) click [here](#).