



Guide to Legal Observing of Forced Evictions



Human Rights Clinic
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Abbreviations

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| CESCR | Committee on Economic, Social and Cultural Rights |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICCPR | International Covenant on Civil and Political Rights |
| NGO | Non-Governmental Organisation |
| OHCHR | Office of the [United Nations] High Commissioner for Human Rights |
| UDHR | Universal Declaration of Human Rights |
| UN | United Nations |

Foreword

Raquel Rolnik, UN Special Rapporteur on Adequate Housing

Recent years have witnessed a considerable increase in the number of individuals, families and communities forcibly evicted from their lands, housing and/or properties, for various reasons. Large scale infra-structure projects, such as hydro-electric dams and mining, city renewal projects and the hosting of sporting events like the Olympics and the World Cup are among the mega-events responsible for displacing thousands of households around the world. The impacts of forced eviction are generally devastating for individuals, families and communities. They represent gross violations of human rights that could be easily solved if States and other actors simply refrained from engaging in the practice, by respecting the human right to housing and its elements.

Forced evictions very often result from discriminatory policies aimed at particular groups recognised as requiring protection from discrimination, such as national minorities, women and indigenous peoples. Roma communities have been subject to both direct and indirect discrimination by governments and the general public, especially with respect to forced evictions and housing. The lack of special measures aiming to protect their traditional nomadic or semi-nomadic way of life, and the absence of policies seeking to provide affordable and culturally adequate accommodation, leaves them at an especially high risk of forced eviction.

In recent years a growing number of organisations and institutions have been working to prevent forced evictions from occurring and to protect those affected by this practice, covering the entire displacement process - from prior measures seeking to prevent forced evictions until definitive resettlement of the affected community.

This guide on legal observing, prepared by the Human Rights Clinic of the University of Essex, has been inspired by the **UN Basic Principles and Guidelines on Development-Based Evictions and Displacements**. It has been developed to assist independent observers with monitoring forced eviction operations, in order to ensure transparency and compliance with international human rights law. Human rights work has become a specialized profession which requires adequate preparation, specific technical skills, and significant knowledge to be effectively conducted. Therefore, this guide summarizes why, how and when legal observers have to act and what they have to monitor during an eviction operation.

Considering that no eviction shall take place without the presence of government representatives and independent observers, who shall effectively watch for the safety and security of the population being evicted, this guide is offered to a wide audience as a manual for action. It is hoped that those in charge of human rights monitoring will find it a useful contribution to their work.¹

¹ The UN Special Rapporteur on adequate housing is an independent expert, appointed by the UN Human Rights Council to examine and report on the issue of adequate housing as a component of the right to an adequate standard of living, see <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>, and <http://www.righttohousing.org/>, last accessed 20 July 2011.

1. Introduction

The Essex Human Rights Clinic, part of the Human Rights Centre and School of Law at the University of Essex, was established in 2009 to offer students the opportunity to gain valuable practical experience in promoting and protecting human rights. The Human Rights Clinic emphasises practice as a way of addressing complex human rights issues while meeting the needs and interests of real people. Since spring 2009, teams of postgraduate human rights students from the Clinic have been working on the Dale Farm project, aiming to develop, in consultation with the community, and in support of engaged solicitors and related organisations, alternative solutions to the planned forced eviction of the Gypsy and Traveller community located in Billericay, UK.²

This Guide was compiled by Human Rights Clinic students involved in the Dale Farm project in order to give guidance to legal observers in the UK and around the world regarding best practices for the conduct of legal observation. It provides information on relevant international human rights norms and standards, along with monitoring methodologies, to aid legal observers in ensuring that forced evictions are conducted in accordance with human rights standards.³

² For more information on the Dale Farm project, see http://www.essex.ac.uk/human_rights_centre/hrc/projects/dalefarm.aspx

³ For a general guide on methodologies involved in human rights monitoring, see the OHCHR's Training Manual on Human Rights Monitoring at <http://www.ohchr.org/EN/publicationsResources/Pages/TrainingEducation.aspx>, last accessed 20 July 2011.

2. Legal Observing

2.1 What is Legal Observing?

Legal observing is the process of **independent monitoring** of situations which may potentially result in harm to individuals and human rights violations. 'Legal observers' are the individuals who perform this function, typically **pro bono**.

2.2 Who can participate?

Legal observing can be done by anyone, whether or not they have a legal background, although relevant **training** in legal observing is necessary to perform effectively. Lawyers, law students and academics have typically acted as legal observers. The observer must not be intending to engage or otherwise participate in direct action – for or against any party – because of the importance of strict independence in the legal observing role.

2.3 Principles of Legal Observing

Independence

Legal observers perform a highly important function. Their purpose is purely to observe and to provide an **unbiased account of the facts**. As such, it is vital that they remain independent, and do not engage in any other activities or advise anyone (whether the authorities or those who may be resisting, i.e. potential victims) about what they should or should not do. It is also important to refrain from involvement in negotiations amongst disputants or other actors since this may jeopardise the trust and spirit of cooperation between different sides and legal observers. While not taking either side in the dispute, **cooperation and consultation** with all involved parties as to the operation of legal observing is vital in ensuring the success of the monitoring operation.

Impartiality

Legal observers must collect and report facts **impartially** and **honestly**, and **without inference**. Adding bias, opinion, or rhetoric weakens evidence, damages the credibility of the monitoring operation, and may invalidate information collected. Rather than identifying violations, it is better to ensure a complete recording of facts, allowing legal representatives to make full and correct analyses of situations and to communicate these when needed and as appropriate. Legal observers should also ensure they do not offer legal advice to protesters.

2.4 Benefits of Legal Observing

The presence of independent and impartial observers is beneficial to the affected population as they can **deter** authorities from **using force, violence or intimidation**, and ensure **compliance with human rights and other standards**. Where violations of rights occur, information should be passed on to solicitors and human rights bodies; evidence of abuses can be used to make formal complaints or for civil or criminal litigation.

There are also benefits for the responsible authorities. The presence of legal observers may encourage officers to adhere to human rights, and can help clarify exactly what happened during incidences, e.g. in the case of false allegations. It is also in authorities' interests to ensure that the media and general public have confidence that the evictions are being conducted according to human rights standards.

2.5 Risks of Legal Observing

Harm

Lawfully sanctioned use of force, such as in the conduct of forced evictions, can be dangerous, and can escalate to violent situations. It is important to consider carefully the risk of injury. For example, if there are a large number of people attending, it may not be possible for legal observers to stand in key positions away from crowds or possible violence. It is a key part of any training of legal observers that such considerations are conveyed to observers, so that they know the particular risks involved in the operation before they attend.

To minimise potential risks, observers should make their role clear to all actors before and during the operation. They should remain at a safe distance from possible violence, and take care to note escape routes in case of a need to evacuate the area. Legal observers should be reminded that their safety is important to the success of the operation, and that they should therefore leave the area if their own safety is threatened. For their own safety and protection, legal observers should be easily identifiable and known to all actors.

Arrest

Legal observers may be arrested if police, rightly or wrongly, consider them to be obstructing attending officers. Observers may also compromise their position and risk arrest if involved in direct action, or by provoking eviction officers. This can put the operation at risk, as the legal observer may no longer be allowed to perform their function, and may jeopardise the legal observation team by increasing chances that the whole group will be removed. Additionally, arrests can undermine the mission by diverting attention from the purpose of the legal observing mission – to ensure human rights compliance – by focusing the attention of the police, individual observers and their teams, media, and the public on the arrest of the observer rather than on the process or activities intended to be monitored. Arrest can have wider implications, including the revocation of visas for non-nationals, and making processes more difficult for intended beneficiaries. The importance of remaining strictly an observer, and not being involved in direct action is therefore of paramount importance.

To avoid arrest, legal observers should make themselves clearly identifiable as such, through marked clothing, and calmly communicate to the authorities and others about their role as legal observers. Where possible, legal observers should contact interested parties in advance of the event to advise them about the role. The team of observers should indicate to the authorities and intended beneficiaries the intended role of the team, their number, and their means of identification.

If there is a threat of arrest, equipment and information collected should be passed to any legal observers not threatened with arrest, and the coordinators of the legal observing operation should be immediately and fully informed. If detained or arrested, it is advisable to comply with police requests, and to contact a lawyer as soon as possible.

Confiscation of legal observers' property

It is important to be aware that both notes and recording equipment being used by legal observers may be confiscated by police if they consider it to contain "evidence", although police should not delete or destroy evidence.

Note should be made of all equipment brought for the legal observation before attending. This information should be kept in a safe place or passed on to the legal observer coordinators. If equipment is confiscated, ensure a receipt is obtained if possible. Advanced planning and police cooperation can alleviate the likelihood of equipment being confiscated.

Individuals abandoning the legal observer role

It is not advisable to abandon the role of legal observer, since this may affect the credibility of information collected, and may greatly reduce the effectiveness of the whole legal observing operation. However, it is important to note that legal observers may make personal judgements about whether to leave or intervene in, (temporarily or permanently), a situation in which harm is being caused. If the person decides to leave permanently, they should pass their notes and equipment to their coordinator or to another legal observer.

3. Legal Observing of Forced Evictions

3.1 What is a Forced Eviction?

Article 25(1) of the Universal Declaration on Human Rights (UDHR) prescribes the right to an adequate standard of living, including **adequate housing**. This is also stipulated in article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which in article 2 obligates each State party to “take steps [...] to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”, and in this regard to guarantee that the Covenant’s rights “will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Universal Declaration of Human Rights

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

International Covenant on Economic, Social and Cultural Rights

Article 11

(1) The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

The right to adequate housing has been interpreted by the UN Committee on Economic, Social and Cultural Rights (CESCR) – mandated with monitoring State compliance with the ICESCR – to include protection against forced eviction.⁴ According to the CESCR, a forced eviction is deemed to be a **prima facie human rights violation**, particularly the right to adequate housing,⁵ and involves the “permanent or temporary removal against the 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”, which is directly or indirectly attributable to the State.⁶

States are generally only permitted to undertake such evictions in exceptional circumstances. Even in such circumstances, evictions must be: (a) authorised by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare; (d) reasonable and proportional; and (e) regulated so as to ensure full and fair compensation and rehabilitation.⁷

Where eviction is deemed necessary, persons evicted have the right to be resettled by the provision of alternative lands or housing of equal or better quality.⁸ In accordance with the principles enshrined in General Comment No. 4 of the CESCR, alternative housing or housing at relocation sites must be adequate and satisfy the following criteria: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services.⁹

4 This only applies to States which have ratified the ICESCR (160 States parties as of 25 July 2011). For a list of these, and any reservations States may have entered to the Covenant, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en.

5 CESCR General Comment No. 4, 1991, paras. 8 and 18 UN Doc. E/1992/23, and Commission on Human Rights resolution 1993/77, para. 1. For other rights affected, see *infra* n. 14.

6 CESCR General Comment No. 7 on the right to adequate housing: forced evictions, para. 3, 1997, UN Doc. E/1998/22, annex IV.

7 See Annex I of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Human Rights Council, A/HRC/4/18, 5 Feb 2007, para. 21. http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf, last accessed 20 July 2011.

8 *Ibid.*, para. 16.

9 *Supra* n. 5, CESCR General Comment No. 4, para. 8.

3.2 Basic Principles for Legal Observation of Forced Evictions

The **Basic Principles and Guidelines on Development-based Evictions and Displacement**, elaborated by the UN Special Rapporteur on Adequate Housing, address the human rights implications of development-linked evictions and related displacement.¹⁰ They contain the premise that “evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of those affected”.¹¹

The Guidelines state that “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”.¹²

Legal observing of forced evictions is, thus, the independent monitoring of forced evictions in accordance with, and for the purposes of upholding, international human rights norms and standards, notably to ensure transparency and accountability.

10 The Guidelines propose several recommendations on how to prevent forced evictions, covering the entire displacement process, from prior measures and the elaboration of the project, until definitive resettlement of the affected community. See *Supra* n. 7, Annex I of the report of the Special Rapporteur on the right to adequate housing.

11 *Ibid.*, para. 47.

12 *Ibid.*, para. 46.

3.3 Preparation

Police

Contact with police prior to and during the eviction operation is crucial. It is the police, along with the authority or agent implementing the eviction,¹³ who determine whether observers can have access to the eviction site. Usually police and bailiffs limit access to, and visibility of, their activities, e.g. by putting up fences. Legal observers may also be removed from the site, usually at the beginning of the operation, on the basis of real or purported safety concerns. Legal observers can also be useful during the police planning stages.

Prior agreements might help legal observers gain access if denied by the implementing agents for the eviction. However, observers should be aware that police may decide not to uphold agreements relating to the eviction operation, possibly altering or reneging on them at the last minute. Legal observers should consider alternative such as turning up to eviction sites well before they are due to take place, or issuing press releases if police decide to change prior agreements and refuse access to the eviction site on the day. To gain specific information about police and contractors' roles and rules of engagement during the eviction, it might be necessary for legal observers, prior to the eviction, to engage in freedom of information requests. This will provide legal observers with information concerning arrangements amongst the authorities implementing the eviction, its contractors and the police, general health and safety arrangements and risk assessment for the operation. It should be noted that not all States will require that this information be divulged in advance of the operation.

It must also be noted that while legal observers should be in contact with police, they should not act as negotiators amongst police, protestors and evictees. This is necessary to protect their independence and to maintain the trust of all parties.

Government officials

As with police, it may be necessary to establish channels of communication with local or national authorities. Human rights violations can best be avoided when local authorities and central government take all necessary measures to ensure risks of these are averted or strictly minimised. It also might be necessary to engage in freedom of information requests to obtain information about the arrangements for operational issues, including but not limited to, safeguarding children and vulnerable persons, disconnection of utilities, storage of evictees' property and belongings, and general health and safety arrangements.

Media

It is crucial to liaise with the media, at all levels, including national newspapers and television networks. This is vital to ensure that transparency and to add a sense of urgency and importance to the situation which legitimises the presence of legal observers and the work. Using new media such as Twitter is useful, since it is fast, adding to public pressure for the authorities to comply with human rights, and it gives followers the idea of being part of the observation. Liaising with the media also legitimises the organisation(s) coordinating the legal observers, which can aid

¹³ In some States, this may be the police while in others it may be someone other than the police, e.g. bailiff companies. Contractors may be bound by similar or the same duties as the police, but in practice may have less training and be less inclined to cooperate with other parties.

future work. Publicity may pressure the police to allow observers to perform fully their function and persuade authorities and decision-makers to reconsider controversial measures and risks, or be more willing to negotiate alternative solutions. This may best be coordinated by designating persons in the legal observing operation to be part of a media team to organise media-related coordination.

However, it should be noted that when dealing with media, it is best to be prudent with certain information: for example, if an individual's name is given, there is a possibility that words can be attributed incorrectly, or the situation misrepresented. Where available, direct the media representative to the media team or to legal observation coordinators. Individual legal observers should not give spontaneous interviews to the media which may distract them from their legal observation function and possibly compromise their role.

Other organisations

Liaising with other organisations is crucial in order to share experience and resources, increasing the efficiency and legitimacy of legal observation. It is important to clarify what legal observers, or the organisation as whole, can and cannot do. Legal observers should remain a separate entity, not only to maintain their own identity as a group or organisation, but also for reasons of accountability and independence from direct action or other groups. Legal observers cannot risk jeopardising good relations with the implementing agent for the eviction and the police as this would endanger their willingness to continue to cooperate or to do so in the future.

Training legal observers

Legal observing workshops should be organised to ensure participants have an understanding of the principles, risks, preparation and practical information related to the forced eviction. Workshops offer good opportunities to establish links with other networks and organisations, set up communication ties and alerts, and coordinate the operation in advance. They can also clarify what information is still lacking, e.g. knowledge of health and safety regulations, international human rights standards regarding forced evictions, consideration of the cultural needs and sensitivities of the affected population, and consideration of the needs of any ill or disabled persons who may be on site during the operation. Potential trainers may include former police officers, lawyers, or representatives of non-governmental organisations (NGOs) and civil society with experience in legal observing, and those with knowledge of similar eviction operations.

Closer to the eviction date

Legal observers should familiarise themselves with the area in advance of the operation, identifying the location of toilets, medical or care facilities, exit routes, or temporary holding facilities, as well as with relevant information such as police ranks, human rights standards, and what to observe during the eviction. Check-lists may be helpful, including emergency contact information for legal observers and relevant authorities.

If the eviction is expected to last for several weeks, a rota to coordinate times and days for legal observers should be considered. If possible, organise back-up in case of last minute cancellations by observers.

3.4 During the Eviction

What to observe

A. Procedural protections

General Comment No. 7 of the CESCR states that appropriate procedural protection and due process are especially pertinent in relation to forced evictions, which directly affect a large number of the rights recognised in both the ICESCR and the International Covenant on Civil and Political Rights (ICCPR).¹⁴

The Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) are the three principal instruments of international human rights law.

The Committee considers that the following procedural protections should be applied, among others:

- (a) an opportunity for genuine **consultation** with those affected;
- (b) adequate and reasonable **notice** for all affected persons prior to the scheduled date of eviction;
- (c) **information** on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- (d) especially where groups of people are involved, government officials or their **representatives to be present** during an eviction;
- (e) all persons carrying out the eviction to be **properly identified**;
- (f) evictions **not to take place in particularly bad weather or at night** unless the affected persons consent otherwise;
- (g) provision of **legal remedies**; and
- (h) provision, where possible, of **legal aid** to persons who are in need of it to seek redress from the courts.¹⁵

Legal observers are to monitor whether the implementing authority is complying with these procedural protections.

¹⁴ CESCR General Comment No. 7, para. 3, 1997, UN Doc. E/1998/22, annex IV, para. 15. The Committee names some of the other rights affected in para. 5, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home, and the right to the peaceful enjoyment of possessions.

¹⁵ Ibid.

B. Police behaviour

Experience has shown that there is a likelihood of excessive use of force by authorities or their agents during forced evictions. The **UN Code of Conduct for Law Enforcement Officials** states that “law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty”.¹⁶ Use of force may take the form of verbal threat, bodily force, baton, CS spray (tear gas), Taser, or firearm or other weapon, or heavy machinery such as a bulldozer.

The **UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials** outlines the circumstances in which firearms may be used:

- a) Self-defence or defence of others against the imminent threat of death or serious injury;
- b) To prevent the perpetration of a particularly serious crime involving grave threat to life;
- c) To arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape;
- d) When less extreme means are insufficient to achieve the above objectives.¹⁷

Instances of arrest should be noted, including how persons are restrained or held, whether restraint appears to be painful, why the person was arrested, any communication made by police to the person prior to and during arrest, and to where the arrestee is being taken. Try and obtain witness statements and their contact details. Any instances of assault or use of force on persons should also be noted, including what type of weapons or force was used. If police fail to wear clear identification (e.g. police ID numbers on shoulders) when carrying out duties, this should also be noted. If you cannot see a number, ask for it politely, or contact the officer in charge, though note that they may not be under any obligation to provide you with that information. Do not interfere in the police or eviction authorities' actions.

C. Demolition of housing and destruction of property

According to international human rights law, forced evictions, demolition of houses and destruction of property as a punitive measure are inconsistent with the provisions of the ICESCR.¹⁸ The implementing authority for the eviction shall seek to avoid damaging or destroying the evictees' properties and possessions. If property is removed, damaged or destroyed, details of this should be noted.

¹⁶ Article 3. Adopted by General Assembly resolution 34/169 of 17 December 1979, see <http://www2.ohchr.org/english/law/codeofconduct.htm>.

¹⁷ Article 9. Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, see <http://www2.ohchr.org/english/law/firearms.htm>, last accessed 20 July 2011. Both the Code of Conduct and the Basic Principles are authoritative, but not legally binding on States. See further an independent initiative of States, business, international organisations and NGOs: the Voluntary Principles on Security and Human Rights, at www.voluntaryprinciples.org/files/voluntary_principles_english.pdf.

¹⁸ Supra. n. 6, para. 12.

D. Health and Safety

Protection from breaches of health and safety should be contained in national legislation. Examples of relevant legislation include those related to instances of heavy machinery operating where children are present, comprehensive risk assessments covering the likelihood of physical injury and trauma, and legislation regarding necessary training for handling those in vulnerable groups, such as children, the elderly, disabled or ill.

E. All authorities implementing the eviction

Both police and other authorities implementing the eviction should be monitored for adherence to general human rights and health and safety standards, and for compliance with procedural protections. Any relocation(s) should also occur in a prompt, fair and effective manner and in compliance with human rights standards. Families should not be placed in significant hardship, and vulnerable persons such as women, children, the elderly and the disabled should be adequately assisted, and receive extra care and protection. It may also be of interest to note the gender balance of eviction agents, and if women are employed to address the specific circumstances of women evictees.

Again, instances of use of force should be monitored. Omissions to provide assistance to those in need, and whether medical aid is provided if physical injuries occur, should also be noted. Instances of discrimination, racial abuse, disrespect and unprofessional behaviour should be recorded.

Five Ws

- **Who?** Who was involved? – e.g. “officer GX17, mid-20s female, long brown hair, 5’10””, get their name(s) if possible, but do not press for this – some people may be unwilling to give their name if involved in an incident;
- **What?** Briefly describe what happened – e.g. “officer pulled a woman from a caravan, by her arm”. Also take notes during quiet moments, to give a picture of general conditions and atmosphere;
- **Where?** Detail where you are, where the people around you are, and where the action is in relationship to both you and to identifiable objects – e.g. “Paradise Way, home belonging to X, in the doorway”;
- **When?** Take note of time regularly, even when nothing appears to be happening, as this can be useful subsequently in getting a clearer picture of events. SMS provides a timestamp, but note this too;
- **Why?** What happened in the run-up to the event? Consider drawing a diagram. If, for instance, there is an arrest or destruction of an evictee’s property, try asking police or the implementing authority why such actions were carried out.

Other things which may be useful are signed witness statements, including contact details of witnesses, a note of things said by police, and registration numbers of any vehicles. Consider the possibility of incident report forms which will standardise information and ensure nothing is omitted.

Where to observe

Legal observers should position themselves close enough to the area where evictions are taking place to be able to see what is happening, while remaining at a safe distance from possible violent clashes, and ensuring that they are not too close to risk being charged with obstruction. In large operations, legal observers, with prior consent of police, could be present in the police operations office.

How to report

- Written notes, to be written up in full later for use as evidence;
- Audio, photographic or video recording devices;
- SMS can be used to send relevant information to an offsite base, e.g. for immediate use in obtaining injunctions, or to protect information from confiscation by police; or
- Twitter or blogging services.

If possible, work in teams of at least two to allow one person to take written notes and the other to use recording devices or to communicate with legal observation coordinators, the control room, the media team or others.

Legal observer coordinators

Such an operation is best conducted where there is organisation and oversight by a group of coordinators. On the day, legal observer teams could be headed by a coordinator who will brief the team, give them relevant contact numbers, check on the legal observers throughout the day, liaise with other coordinators, engage at an institutional level with other actors, and collect information from observers to relay to lawyers or a control room.

Control room

An offsite base, equipped with several phones, is useful for legal observers to call or to send regular updates via SMS. Information about serious incidents should be sent immediately. The control room's phone number can be circulated on paper to those arrested. The base can act as a link between lawyers, the press, and observers. It can circulate information through social media websites or direct legal observers to where they are most needed or to cover breaks required by other observers, or organise pick-up and safe storage of observers' notes.

Legal representatives

There may potentially be more than one law firm involved during the eviction operation, notably: one or more representing arrestees, and one or more who have been representing evictees throughout the legal process. If possible, lawyers should be present on the site, to be alerted to serious situations or arrests by legal observers. Alternately, lawyers should be on standby, to be contacted if an injunction is required to halt the eviction if the eviction implementing authorities have acted outside their powers. Legal observers should alert those manning the control room if they think this has occurred so information can then be relayed to lawyers. If coordinators have contact details of police supervisors, they can also be notified of misconduct, so they can ensure it be stopped.

Medics

Legal observers should alert any medics present if they witness serious injury.

Complaints

If a crime or serious human rights violation is committed, it should be reported to the authority implementing the eviction and/or police overseeing the eviction. It may also be reported to any representative from local authorities or other agencies attending the eviction, such as a health and safety officer. If the legal observer feels the implementing authority or a police officer has carried out unacceptable conduct, a complaint should be made to a more senior officer, if possible.

Practical information

It is important to carry certain essential equipment at all times:

1. A **notebook** with a hard back, so that you can write more easily on the go. It needs to be an adequate size (notebooks that fit in a pocket are particularly useful). Legal observer **incident report forms**, or waterproof **reminder cards**, containing information that should be noted down, could be used as an aid to remember which points to specifically observe. Do not forget to include your name and contact details on everything you write, in case papers become mixed up with other legal observers' notes.
2. It is important to have several **pens and pencils** so that you are never left without one. Pens with waterproof ink or pencils are best-suited to write in the rain.
3. It is essential to carry a **mobile phone** or **walkie talkie** to communicate with colleagues or the control room and to send important information. An old mobile phone with a new SIM card can avoid costs in case of damage or loss.
4. Noting the time of events is essential, so it is advisable to have a **watch**, which allows for checking time more easily than a mobile phone.
5. A **map** of the area where the legal observing will take place.
6. Consider bringing **recording equipment, photo or video cameras**, though it is important to be careful and to assess the risks associated with their use. If you decide to bring electronic devices, make sure the date and time are correct and bring extra batteries. Also, to keep video camera batteries for longer, turn the camera off and remove the battery when not in use. Remember to clean the lens regularly. If filming or taking photographs, be aware that some people may refuse to be filmed or photographed. Try and explain to them the importance of the role of legal observers.
7. A Pair of **binoculars**, in case observers are kept at a distance from eviction actions. If used, this must be reported in written notes.
8. A list of relevant **contact details** of legal observer coordinators, and possibly those of public authorities related to the eviction, the police and NGOs, can be contacted in case of abuse against legal observers. Bring emergency contact information (and, where necessary, health insurance information), and give a copy to coordinators.
9. Enough **water and food**. Eviction operations do not necessarily stick to normal working hours.
10. A **plastic bag** or **foldable chair** to sit on, since long periods standing may be uncomfortable.
11. Wear **shoes and clothes** that are comfortable, waterproof and suitable for the weather, and consider wearing **clearly labelled legal observer identification**, such as an armband, t-shirt, bib, hat or high-visibility vest.

Those coordinating the legal observing operation should consider supplying some of the equipment above on the day of the eviction.

3.5 After the Eviction

Debrief

Legal observers should meet after the event to give notes to the person designated to compile and safely store all information. This information should then be passed on to lawyers and organisations representing the affected families or community, and should include:

- Information about the organisation or group acting as legal observers, and about preparations, communications and collaboration with third parties before the event;
- Logistics during the event, e.g. number of observers and location, as well as their names and contact details in case further clarification is needed;
- All information collected by legal observers during the eviction operation; and
- Legal observers' contact details.

Press release

Consider drafting a press-release on the legal observing operation. This will help the general public to understand the nature and role of legal observing, and inform police and implementing authorities about the outcomes of the legal observing operation. In addition, it is a manifestation of the desired standard of transparency which the authorities should also meet.

Making a complaint

If you have witnessed or experienced misconduct such as rudeness, excessive use of force, unlawful arrest or violation of rights, it may be possible to make a complaint directly to bailiffs, to police or local authorities. Be aware of potential time limits for making a complaint. Complaints can also be made to Ombudspersons or other independent complaints-handling bodies, to a Member of Parliament, or to international human rights bodies.¹⁹ The media will be able to put a spotlight on violations, and NGOs may be able to support the case. Seek legal advice if you consider a crime to have been committed, or believe compensation is warranted.

Acting as a witness

Legal observers may be asked to attend a defendants' meeting shortly after the event, to identify defendants for lawyers and to clarify events. They may also be called upon to act as witnesses in court or to give formal statements for example to the police.

¹⁹ Where the government has ratified international treaties, some UN bodies can receive complaints from individuals about violations of the relevant treaties: the Human Rights Committee; the Committee on the Elimination of Racial Discrimination; the Committee on the Elimination of Discrimination against Women; and the Committee on the Rights of Persons with Disabilities. The UN Special Rapporteur on the Right to Adequate Housing can receive complaints about human rights violations, see <http://www.ohchr.org/EN/Issues/Housing/Pages/IndividualComplaints.aspx>, last accessed 20 July 2011. For those in Europe and Latin America, a case may be brought before the European Court of Human Rights or the Inter-American Court of Human Rights. Cases may also be brought to various national human rights institutions or bodies, where these are mandated to take up such cases.

4. Useful Links

UN Treaty Collection

<http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

The UN Special Rapporteur on Adequate Housing

<http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndexOld.aspx>

Annex I of the report of the Special Rapporteur, Human Rights Council, A/HRC/4/18, 5 February 2007

http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf

UN Commission on Human Rights Resolution on forced evictions 1993/77

http://www.unhabitat.org/downloads/docs/1341_66115_force%20evic%20chr1.htm

UN Committee on Economic, Social and Cultural Rights (CESCR)

<http://www2.ohchr.org/english/bodies/cescr/index.htm>

OHCHR, CESCR General Comment No 7

<http://www.ewash.org/files/library/forced%20eviction.pdf>

OHCHR's Training Manual on Human Rights Monitoring

<http://www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducation.aspx>

OHCHR, Forced Evictions and Human Rights, Fact-Sheet number 25, Centre for Human Rights, Geneva,

http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf

The UN Principles on Housing and Property Restitution for Refugees and Displaced Persons,

<http://www.unhcr.org.ua/img/uploads/docs/PinheiroPrinciples.pdf>

An independent initiative of States, business, international organisations and NGOs: the Voluntary Principles on Security and Human Rights

www.voluntaryprinciples.org/files/voluntary_principles_english.pdf

UN-Habitat Advisory Group on Forced Evictions

<http://www.unhabitat.org/content.asp?typeid=19&catid=24&cid=3480>

The housing and land rights monitoring tool kit – Habitat International Coalition

<http://hln.org/toolkit/English/start.htm>

International Alliance of Inhabitants – Zero Eviction Campaign

http://www.habitants.org/campagna_sfratti_zero

Centre on Housing Rights and Evictions

<http://www.cohre.org/>

Liberty (UK-based NGO)

<http://www.liberty-human-rights.org.uk/>

Dale Farm Housing Association

<http://www.advocacynet.org/page/dalefarm>

Essex Human Rights Clinic, Dale Farm Project

http://www.essex.ac.uk/human_rights_centre/hrc/projects/dalefarm.aspx



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Cover and Printing
Print Essex at the University of Essex

Printed July 2011



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2009

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