

Housing, Land and Property (HLP)

22 December 2023

Key points

- Encourage local authorities to take measures to ensure that displacement does not cause the loss or destruction of land and property registries, cadastral records or personal documents that can prove ownership or rights of tenancy or use
- The land tenure arrangement(s) within a given locality should be clearly understood before land is utilized for emergency shelter or associated activities (e.g., for livelihoods, etc.). Different types of land tenure systems (statutory, customary and religious) may overlap and/or conflict with each other
- Traditional justice mechanisms should be utilized to the extent that they are accessible and effective at resolving disputes promptly and reliably – this of course is with the understanding that their decisions may not be legally enforceable or entirely impartial. Applying them in the wrong contexts could perpetuate or instigate discrimination
- Consideration should always be given to the local experiences of men, women, boys and girls with respect to housing, land and property. In many localities and traditions, women's access to housing and land is often subject to the authority of a male relative, while female-headed households may either be restricted from accruing the full range of rights otherwise ascribed to male counterparts or may be prohibited from inheritance altogether
- HLP information should be collected as early as possible. Attention should be given to customary and statutory land regimes (including laws and local customs); occupations or contested land claims tied to return; and HLP assets that forcibly displaced persons may have lost or been forced to abandon

1. Overview

Secure access to adequate housing and land plays a critical role in facilitating access to a range of human rights, including the right to food, shelter, water, sanitation, health, work, security,

freedom of movement – just to mention a few – and is therefore a key factor in addressing the drivers and the consequences of forced displacement.

Land issues underpin many conflicts. Scarce natural resources are often at the root of conflicts over land. In some regions, displacement follows land-grabbing, occupation by force, or the compulsory acquisition of land by State or non-State actors that want to use it for construction, infrastructure or cash crops. Prolonged disputes over land often occur between pastoralists and farmers. State or non-State actors may deliberately confiscate and destroy housing, land and property in efforts to displace or even ethnically cleanse populations. Parties to a conflict may intentionally destroy land registries, pass laws that facilitate ethnically-based evictions, or arbitrarily alter official HLP documentation. Forcibly displaced persons may also settle in areas that expose them to floods, unexploded ordnance, forced recruitment or abduction, or other risks.

2. Relevance for emergency operations

In many instances, forcibly displaced persons lose their tenure documents during displacement, or may have never possessed such documentation. These documents are essential for restitution claims and for dispute resolution purposes. Pastoralists, sharecroppers and other communities may hold their HLP assets under customary tenure arrangements, which may not be documented or may not be legally recognized by statutory law. To recover abandoned assets, it may be necessary to furnish evidence of ownership, occupation or usage. Displaced persons may encounter difficulties proving their claims, especially if witnesses cannot be found, or reforms in the wake of an emergency – intended to mitigate against fraudulent claims to housing, land and property – a strict requirement of documentary evidence of prevailing HLP rights.

3. Key Considerations

1. Understanding HLP Rights

The rights referred to collectively as HLP rights are interdependent and partially overlap. The right to housing is the right to obtain and occupy a safe and secure home in which to live in peace and dignity. The right to land affirms entitlements to land that are recognized socially or legally. Property rights refer to the right to own property and decide how it is used.

HLP rights go beyond the right to adequate housing and property ownership. Protection of HLP rights may encompass enjoyment of the right to food, privacy, education and political participation, for instance.

HLP rights can be exercised via many forms of tenure arrangement, including private ownership, public or private rental accommodation, cooperative housing, lease, occupation or rent in informal settlements, and customary or traditional arrangements.

All persons, whether they are owners or occupiers, should enjoy secure HLP rights that guarantee legal protection from forced eviction, harassment and other threats.

When persons are temporarily or permanently removed from their housing, land or property against their will and without appropriate forms of legal or other protection, this constitutes forced eviction, which is a serious violation of human rights.

Discrimination, including discrimination against a person on the grounds that he or she owns, rents or occupies land or a residence, is prohibited under international human rights law.

2. HLP in Emergency Settings

Different types of land tenure systems (statutory, customary and religious) may be overlapping and/or competing. It is therefore important to understand the prevailing/ most widely acceptable land tenure arrangement(s) within a given local jurisdiction.

While traditional justice mechanisms are often accessible and resolve disputes swiftly, their decisions may not be legally enforceable nor entirely impartial. Using them could perpetuate or instigate discrimination.

Consideration should always be given to the potentially differentiated experiences of men, women, boys and girls with respect to housing, land and property.

In many local jurisdictions (and entire regions) women's access to housing and land is often subject to the authority of a male relative, while female headed households may either be restricted from accruing the full range of rights otherwise ascribed to male counterparts, or may be prohibited from inheritance altogether.

Secondary occupation of land in displacement situations can occur in good faith; it must be distinguished from illegal occupation or land-grabbing.

Ensure that HLP is fully mainstreamed across the cluster system and advocate for the establishment of an HLP sub-cluster in emergency operations.

Facilitate and promote coordination between all the actors involved in HLP issues (UN, clusters, government, NGOs, donors, etc.).

All land-based activities (whether for shelter or other purposes) must be informed by the full range of relevant statutory or customary laws and practices governing access to, use and development of land within a given jurisdiction.

Collect relevant HLP information as early as possible. Give attention to formal and informal national and local legal frameworks; occupations or contested land claims tied to return; and HLP assets that forcibly displaced persons may have lost or been forced to abandon.

Document, including by photography or satellite imagery, HLP assets before and after conflicts.

Make sure that protection monitoring and reporting mechanisms document violations of HLP rights and include indicators for tracking the scale and incidence of HLP issues.

Encourage forcibly displaced persons to protect their HLP documents, advising them on appropriate means of doing so.

Encourage the authorities to take measures to ensure that displacement does not cause the loss or destruction of land and property registries, cadastral records or personal documents that can prove ownership or rights of tenancy or use. This may entail ensuring that registries and records are kept in a safe location and that copies are regularly taken for safe storage elsewhere (including digital copies where possible).

Encourage authorities to place a moratorium on the purchase or transfer of HLP resources in areas affected by, or at high risk of, displacement, in order to protect HLP rights once displacement has occurred.

Organize public information and outreach campaigns to discourage the illegal occupation of, as well as damage to abandoned HLP.

Post emergency phase

HLP issues can be root causes, triggers or effects of violence or conflict. In most emergencies, respect for HLP rights deteriorates quickly, delaying and complicating responses and solutions. Actors involved in an emergency response should be aware of local HLP practices and history (in both the area of origin and the area of refuge) in order to avoid doing harm. They should look for HLP solutions from the start.

In many situations, ensuring that forcibly displaced persons have access to shelter and land facilitates humanitarian action – whether by way of feeding themselves over the short and medium term or becoming self-reliant over the longer term.

Providing assistance without taking account of HLP rights can prevent or delay solutions. For example, a response can address issues of restitution, compensation and occupation more easily in the early recovery phase if it has already documented temporary tenure arrangements, abandoned HLP and violations of HLP rights during the emergency phase.

Responses to emergencies affect local land tenure and settlement arrangements. If humanitarian actors are aware of HLP issues in the emergency response phase, they are less likely to inadvertently cause or worsen HLP-related disputes. (To illustrate, disputes are likely to arise if local authorities allocate privately-owned land for use as camps without consulting or properly compensating the owners.)

Protecting HLP rights can promote gender equality and can ground cultural identity in societies in which the custodianship of land is intimately associated with a community's identity, religion, and social relationships.

The objectives of the Global Compact on Refugees emphasize alternatives to camps, self-reliance and access to national systems – in the context of safe and dignified returns and easing the pressure on host countries – thereby placing HLP rights at the center of the solutions agenda.

Checklist

• **Displaced Persons**

- Are UNHCR staff and the staff of partner organizations familiar with local HLP practices, laws and customs, both in areas of origin and refuge?
- Have displaced persons been asked about their HLP rights and the status of related assets prior to and post-displacement?
- Have steps been taken to register the HLP rights and assets of displaced persons (for example, by scanning HLP-related documents into ProGres)?
- Have displaced persons been informed of their HLP rights and obligations?
- Do they know which authorities and other service providers can assist them to obtain or protect their HLP rights?
- What mechanisms are in place to ensure that women, and other groups at risk of being left behind, are consulted on HLP matters and that their views are taken into account?
- If national mechanisms already exist, do these need support to enable groups at risk to access them more easily?

• **National Government / Local Authority**

- Are authorities aware of their mandate and obligations with regard to HLP rights?
- Is it clear which rights, processes and institutions are relevant to each population group in the region in question?
- Have the local authorities (government or traditional) been consulted about who owns the land on which refugees, IDPs or stateless persons are settled, and who else might be affected by the displacement?
- What tenure system is in place in the area in question?
- What rights do displaced persons hold in respect to allocated or otherwise acquired HLP assets?
- Is there a national plan for housing? Does it include contingency measures to address displacement (growth of informal settlements, forced evictions, rental costs)?
- Is there a national land policy? Does it include language on the HLP rights of forcibly displaced persons? Does it take into consideration the age, gender and diversity dimension of tenure security?
- What therefore is the State's policy position on the HLP rights of forcibly displaced persons?
- Has a public statement been issued regarding the illegal transactions and unsubstantiated claims on abandoned HLP assets?
- Have urban HLP concerns been addressed? For example, can displaced persons afford current rental rates? Have the rates increased as a result of displacement?

- What effect has displacement had on the availability of adequate housing?
- What mechanisms are in place to address arbitrary evictions, or protect those with fewest resources in the event of conflict or disagreement?
- Do local dispute resolution systems function well? Can forcibly displaced persons access them?

• **Host Community**

- Are landlords aware of their obligations to tenants under national and international law?
- Are displaced and stateless persons, returnees and host communities (including landlords and other providers of shelter) aware of their own rights and obligations and the rights and obligations of others?
- Have mixed committees (including forcibly displaced persons and representatives of host communities) been formed? Do they work together to address and resolve HLP issues?
- Has the host community been consulted about the location of settlements for forcibly displaced persons or the expansion of municipal or residential areas to accommodate such persons?
- How does the access to basic services of host populations compare to the access to basic services of displaced populations?
- Is it clear which groups have imperfect access to services and institutional resources? What arrangements can be made to address their needs?
- When non-formal and traditional authorities are consulted, are women and other groups at risk free to express their views?

4. Standards

SDG Indicator 1.4.2

Proportion of total adult population with secure tenure rights to land, (a) with legally recognized documentation, and (b) who perceive their rights to land as secure, by sex and type of tenure.

COMPASS Core Outcome Indicator 16.1

Proportion of PoC with secure tenure rights and/or property rights to housing and/or land.

Annexes

[Committee on Economic, Social and Cultural Rights - General comment No. 26 \(2022\) on Land and Economic, Social and Cultural Rights](#)

[Centre on Housing Rights and Evictions - The Pinheiro Principles – United Nations Principles on](#)

[Housing and Property Restitution for Refugees and Displaced Persons, 2003](#)

[Centre on Housing Rights and Evictions - Handbook on Housing and Property Restitution for Refugees and Displaced Persons – Implementing the Pinheiro Principles, 2007](#)

[UN Food and Agriculture Organization \(FAO\) - Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, 2012](#)

[Committee on Economic, Social and Cultural Rights - General Comment 7 – The right to adequate housing \(art. 11.1 of the Covenant\): forced evictions, 1997](#)

5. Learning and field practices

[UNHCR Learning Module on Housing, Land and Property Rights](#)

6. Links

[Norwegian Refugee Council - Housing, Land and Property \(HLP\) Rights Catalogue UNHCR Learning Module on Housing, Land and Property Rights Women, Land and Peace \(UN-Habitat\)](#)

7. Main contacts

Division of Resilience and Solutions, Comprehensive Solutions Section/Durable Solutions Task Team, Global Protection Cluster and HLP Area of Responsibility