



# Emergency response to Housing, Land and Property issues in Iraq

Briefing note | December, 2016

## KEY MESSAGES

Humanitarian actors need to take into account the Housing, Land and Property (HLP) dimensions of the displacement crisis in Iraq. Many of the displaced are compelled to reside in sub-standard accommodation and those wishing to return face significant challenges in reclaiming their HLP.

On-going liberation efforts and changes in the frontline will trigger new waves of displacement and will further exacerbate the situation.

While humanitarian response must remain focused on immediate life-saving activities, steps to address HLP issues should be considered at the outset, as the failure to do so can undermine the efficacy and durability of humanitarian assistance, returns and recovery.

HLP in Iraq is used as a tool for warfare, providing incentives to recruit fighters and rewarding affiliation; it is therefore important to protect HLP rights of the population to remove one of the key incentives to continued sectarian war in the country.

## HLP CONTEXT IN IRAQ

The current conflict in northern and central Iraq has resulted in the displacement of 3.1 million individuals, of whom 15% reside in camps. Further displacement is expected throughout 2017 due to ongoing and planned military operations in Mosul. At the same time, over one million IDPs have returned to their areas of origin since January 2014.

Of the returnees, 89% returned to their habitual residence, and the remainder resides in unfinished buildings, with host families, in informal settlements or in rented accommodation. Moreover, continued conflict in Syria has increased the number of refugees in Iraq to 249,395 individuals, of whom 39% reside out of camps. Iraq also possesses around 1.1 million protracted IDPs from earlier waves of displacement (i.e. 2006-2008), particularly in the south-central regions, who have yet to achieve durable solutions.

As a result, the crisis combines the humanitarian elements of short-term displacement with the problems of protracted displacement. The sectarian nature of part of the displacement renders a resolution to the Housing, Land and Property crisis much more challenging.



*Aftermath of ISIL occupation, Hardan, 2016*

## HLP CONCERNS IN AREAS OF DISPLACEMENT

### Shortage of affordable and adequate housing:

Iraq is facing an acute shortage of affordable and adequate housing in areas of displacement, compelling IDPs and refugees to reside in sub-standard accommodation, including collective centres, tents, unfinished or abandoned buildings, informal settlements, and open air. These settings provide limited access to essential services and inadequate guard against harsh weather conditions. Accommodation is often overcrowded, exposing people to significant protection risks due to the lack of privacy and physical security. This is in particular a concern for women and children.

### Lack of tenure of security:

The majority of IDPs residing in rented accommodation lack written lease agreements and thereby face a heightened risk of evictions. IDPs face difficulties in restoring lost civil documentation which is required to enter into lease agreements and familiarity with lease agreements and acceptance of them is low. Women are rarely parties to lease agreements in Iraq, which leaves them particularly vulnerable to evictions.

### Forced evictions and relocations:

While the number of established and planned camps is limited and most IDPs and refugees live in urban, out-of-camp settings, government authorities are putting pressure on people to relocate to collective sites and newly established camps, sometimes before basic services and shelter that meet SPHERE standards have been put in place. Local authorities in certain Governorates also do not always support upgrades of sub-standard housing in urban areas by humanitarian shelter actors. Evictions and relocations have led to increased vulnerability and severe protection risks, secondary displacement, exposure to harsh weather conditions, interruption of education, loss of livelihoods, exploitation of vulnerable IDPs, and resort to negative coping strategies.

### Economic hardship:

As the duration of displacement becomes prolonged, financial resources are quickly being depleted, and indebtedness is increasing. Livelihood opportunities – which are linked to the possession of residency permits and other civil documentation – remain scarce, particularly in areas that host a large number of IDPs and refugees. Because of the influx of displaced people, rental prices increase and IDPs and refugees are often charged inflated rent fees, including those in unfinished privately owned buildings and informal settlements.

## BARRIERS TO RETURN

### Loss of HLP documents:

Many IDPs wishing to return cannot demonstrate their ownership of property and land due to missing documentation. A rapid assessment conducted by UN-Habitat in late 2014 in Basra, Dahuk, Erbil and Baghdad on the barriers to return of displaced populations to their former properties found that among respondents who were HLP owners in their areas of origin and possessed an official deed, the vast majority did not know the whereabouts of their HLP documents, but could rely on someone else as guarantor of their HLP claims. As well, a significant number of returnees surveyed in return areas report that official property records, to the extent they once existed, had been damaged, dispersed, or completely destroyed as a deliberate act of various armed groups, predominantly ISIL.

### Lack of formal property rights:

Even before the 2014 displacement crisis, IDPs from some regions report a low incidence of formal registration of their residential property with the Central Iraq Real Estate Registry. A 2016 IOM-conducted preliminary assessment of IDPs from the Governorates of Ninewah, Diyala, and Salah al Din show that in Ninewah specifically, only 10% of those surveyed had formally registered their residential property with the Real Estate Registry. Instead, according to the assessment, 85% of Ninewah residents surveyed indicated that they opted for informal alternatives with regards to registering residential property. This informality needs to be understood when designing potential interventions to re-establish HLP rights in areas of return.

### Destruction and unlawful seizure and sale of HLP:

In conflict affected areas, unlawful seizure and sales by armed opposition groups, secondary occupation, and the systematic looting and destruction of homes and property, are all too common. The HLP of Christians and Yazidis have particularly been singled out for illegal seizure by ISIL. In response, in August 2014 the Iraqi Ministry of Justice declared all transfers of ownership and registration of real estate in Anbar, Salahadin & Ninewa areas under ISIL control as void.

## TYPES OF ACCOMMODATION

**3.1M**

displaced persons

**43%**

are hosted in rented houses

**23%**

are with host families

**15%**

stay in camps

**17%**

are in critical shelter arrangements

**2%**

other unspecified shelter types

## General Security and the Prevalence of Mines and IEDs in Areas of Return:

In conflict affected areas, general security remains a concern, particularly as it relates to the prevalence of mines, IEDs, booby traps, and unexploded ordnance in the areas of return. While IDPs have returned to areas that have yet to be cleared, many are reluctant to expose themselves and their families to the potentially unsafe conditions that exist in areas of return.

## HLP property restitution/compensation:

Prior histories of dispossession and weak or non-existent mechanisms for property restitution and compensation make it difficult for IDPs who wish to return, or those who have already done so, to reclaim their HLP. Iraqis, and in particular certain minority groups, have experienced a long history of dispossession and property destruction due to political violence and ethnic/sectarian cleansing policies during the Ba'athist period and military operations from 2003 onward. Many earlier claims for property restitution and compensation remain unresolved, impeding the achievement of durable solutions for these and new caseloads of IDPs and returnees.

## HLP dispute resolution:

The authorities' ability to resolve HLP issues and competing claims will be compromised by the fact that land cadastres have been destroyed in some regions. Also, returns will take place to disputed areas where there is ambiguity about which body has the legal authority to take binding decisions on HLP issues. While property records were digitally scanned and archived in Baghdad prior to the current conflict, the actual coverage of digitization and whether those records were regularly updated is uncertain. For the time being, replacement of HLP documentation outside of one's area of origin is only possible through the General Directorate of Cadastre Records in Baghdad.

## Political decisions for homogenous ethno-religious communities:

The returns process is likely to be affected by political decisions and community preferences to build more homogenous ethno-religious communities. Political authorities may wish to favour one ethno-religious group in a territory over another in order to solidify their political control over the territory. Having experienced terrible violence, some communities express a wish to live in geographic isolation from other groups. These trends are likely to lead to discriminatory patterns in returnees' access to their property, since groups that are an unwanted minority may not be allowed to return at all, or upon return may find that their property has been destroyed or occupied.

## LEGAL FRAMEWORK

### Land registration and property rights in Iraq:

The Iraqi land administration is known as the Tapu (title deed) system and includes categories that provide individual property rights and group ownership. The Real Estate Registration Law from 1974 established Real Estate Registration Departments (RERDs) throughout the country.

### 1975 Arabisation policy and forced evictions:

As an attempt to enforce the Arabisation of the northern areas inhabited by Iraqi minorities, the Algiers Agreement signed in 1975 led to the forced deportation of ethnic minorities to collective townships. These minorities were subsequently denied the possibility to register the assigned parcels in their names. Many have been displaced for the second time in the current conflict with ISIL.

### Property recovery policies and mechanisms:

Following the collapse of the previous regime in 2003, a property dispute mechanism, the Iraqi Property Reconciliation Facility was established (succeeded in 2004 by the Iraq Property Claims Commission, IPCC), to resolve the claims resulting from the Arabisation Policy. The effectiveness of the IPCC has been poor due to a backlog in claims and the lack of enforcement of adjudicated claims. Also, its statute only provides for the settlement of property claims arising between 1968 (when the Ba'ath Party seized power) and 2003. The state does not yet have a coherent policy on property restitution or compensation for destroyed property.

### The disputed territories and Article 140:

In northern Iraq, HLP grievances are further compounded by the contested administrative affiliation of the disputed territories which disproportionately affects minority groups. Any attempt to settle these long-standing property issues has been hampered by the political impasse concerning the implementation of Article 140 of the 2005 Iraqi Constitution, which was originally intended to solve the issue of the disputed land but essentially froze any land allocation processes in these areas.



Returnee family, Hardan, 2016





## **PRIORITIES FOR ACTION**

- Support government authorities to restore lost civil documentation with a view to strengthen the exercise of HLP rights, either to enter into lease agreements, obtain legal employment and claim occupied HLP assets.
- Document and recognise a broader range of supporting evidence (beyond civil documentation) as a proof of HLP rights of displaced communities.
- Provide legal assistance and services to displaced populations to prevent forcible evictions and provide accurate legal information regarding HLP issues.
- Providing shelter-related assistance to IDPs living outside of camps, such as repairs or winterization assistance to families living in unfinished buildings and cash grants to pay rent.
- Shelter actors need to include measures to ensure security of tenure, such as lease agreements and rent-control mechanisms, into their programming.
- Supporting government authorities to expand IDPs' access to adequate and affordable housing with security of tenure, regardless of the durable solution that they choose.

## **FOR MORE INFORMATION**

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