

DRAFT

Afghanistan Housing, Land and Property Task Force Terms of Reference

Forced displacement often leads to the loss of land, homes and other property with serious consequences for individuals and communities, who as a result are deprived of their main source of physical and economic security. Disputes involving housing, land and property (HLP) are both a fundamental cause of conflict as well as a result arising in the aftermath of conflict and can pose obstacles to return, reintegration and reconciliation. These disputes pose immediate protection and early recovery challenges in humanitarian operations. If left unaddressed, disputes on HLP can undermine peace and re-fuel hostilities.

During or after conflict, displaced population will try to claim access to HLP. This process could generate tensions within and across communities, whether in the areas of origin, current displacement or upon return or settlements elsewhere.

- ◆ During displacement: site selection, water, pastoral and agricultural access for informal and formal camp settlements can be challenged by the difficulty of determining who has the rights to the land;
- ◆ When considering return, displaced population will base their decision largely on whether they will be able to reclaim their HLP rights;
- ◆ In case the displaced population decide to settle elsewhere, the management and security of tenure also vis-à-vis the local communities and authorities could determine the success or failure of a sustainable integration.

Loss of land and property can have serious consequences for the lives, health and well-being of individuals and communities and expose them to various risks. Without access to land, homes and property people are often deprived of their main source of physical and socio-economic security, including shelter, water, and food as well as the ability to earn a sustainable livelihood.

Lack of a home or a fixed residence can also restrict people's access to assistance and services, including education and health care, and limit their access to credit. As a result, displaced persons may suffer increased poverty, marginalization and risk of harassment, exploitation and abuse.

Women and children often suffer disproportionately from loss of land, homes and property.

Discriminatory laws and practices frequently prevent women and girls from owning, leasing, renting and/or inheriting property. In case of divorce or the death of husbands, fathers or other male relatives, women and girls may be forced to leave their homes, coerced into marriage, or subjected to other harmful practices.

Land issues are often root causes of armed conflict, yet often go unaddressed. The technical complexities and political sensitivities surrounding land issues have discouraged humanitarian actors, donors and even governments from engaging with them, often based on an assumption that meddling with the post-conflict status quo may be more destabilizing than simply letting it be. Experience has shown, however, that an entirely passive approach to land grievances may ultimately be far more destabilizing than an informed and conflict-sensitive approach. In 2005, the Humanitarian Response Review identified protection of HLP rights as one of the major gaps in the humanitarian response system. Safeguarding land, housing and property rights should form part of the protection strategy during all stages of displacement. These rights are integral to any attempt to restore justice and the rule of law in post-conflict settings and to ensure a safe,

sustainable and dignified return. With the realization of these rights, displaced persons might have better chances of earning their livelihoods, would be less dependent on humanitarian assistance, and might be less exposed to further violations.

Objectives:

The HLP Task Force in Afghanistan consider the following general objectives for 2012:

Mapping of actors and HLP issues and national legal instruments in Afghanistan:

- ◆ Develop a mapping matrix to catch the key issues of HLP;
- ◆ Pilot the mapping exercise in the Eastern region where a HLP TF is already established by the end of July 2012;
- ◆ Extend the mapping exercise to the rest of Afghanistan by the end of 2012.

Strengthening the HLP TF:

- ◆ Identify at least focal points of HLP in the region, and establish a direct communication line with them;
- ◆ Have HLP issues discussed at the monthly meeting of the protection regional cluster;
- ◆ Define the support the focal points of HLP TF at regional level needs from the national TF;
- ◆ Enlarge participation of the HLP TF at national level;
- ◆ Hold regular meeting, at least on a monthly basis at national level;
- ◆ Establish regular communication with the Global cluster on HLP;

Eviction Guidelines:

- ◆ Present the Eviction Guidelines drafted to the different governmental stakeholders;
- ◆ Organize a workshop, in the first week of September, where the Guidelines are presented and where the Government will agree in develop a policy where the practice of eviction will be in conformity with international human rights law, at the different steps of eviction (prior, during and after) and will include also the concepts of resettlement, relocation and compensation

Awareness rising

- ◆ Enhance awareness on specific issues related to HLP to different partners;
- ◆ Develop tailored advocacy messages to specific HLP issues;
- ◆ Prepare a one pager on HLP issues in Afghanistan with the aim of awareness rising.

Communities of concern in Afghanistan:

The HLP TF, as part of the Afghanistan Protection Cluster, direct its focus and activities towards the vulnerable returnees and displaced population in Afghanistan facing landlessness and a weakened land tenure legal regime. However, the increasing mixed reasons for forced displacement in the country and, the mixed nature of the populations living within informal settlements in cities may lead the HLP Task Force to consider the provision of its expertise guidance in complex situations involving other vulnerable Afghan families facing HLP Rights violations.

Priority needs and actions:

Violent disputes and clashes involving HLP rights in Afghanistan are both (1) a fundamental cause of localised conflict and forced displacement, as well as (2) a result arising from the decades of armed conflict.

Protection of HLP rights remains one of the major gaps in the humanitarian response in Afghanistan. In this context, disputes over land and access to its natural resources (water sources, pasture and agriculture land) continue to pose immediate and urgent protection challenges to the humanitarian community.

Risks identified

The absence of a national land tenure policy and standards and rules related to HLP rights adversely affects both individual families' activities, livelihoods and government programs, in addition to contribute to the worsening of humanitarian situations and emerging conflicts around land and other natural resources.

Afghanistan's population has in practice doubled since 1979. Nevertheless, the percentage of arable land and pasture land in relation to its national territory has diminished in capacity, with a substantial part of it remaining in need of rehabilitation and more sustainable policies and practices. This situation contributes to the existence of new land conflicts and the re-emergence of old land disputes, with the potential for violence escalating.

Another risk factor is the continuous and self-interested influence exercised by powerful *warlords* and other local powerbrokers in different areas of the country over issues around land ownership.

Inter relation with other clusters/ sectors

Considering that HLP issues are cross cutting in nature and require a multi-disciplinary approach, the HLP TF will engage in mainstreaming HLP issues with other Cluster mainly the Early Recovery, Food Security, the Emergency Shelter and Non-food Items (NFIs) and the de-mining operations in order to seek that HLP related issues are included in assessments and surveys.