HOUSING, LAND, & PROPERTY RESOURCE LIBRARY

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1. INTRODUCTION

Lessons learned from post-conflict contexts show that leaving housing, land, and property (HLP) interventions until the recovery or development phases will not build sustainable peace. On the contrary, HLP issues will become more problematic, costly, and contentious and risk causing blockages to safe and voluntary returns.

In South Sudan, the anticipated return of millions of internally displaced persons (IDPs) and refugees, when political and security conditions allow, requires carefully planned HLP responses. Following the signing of the Revitalized Agreement on the Resolution of the Conflict in South Sudan 2018 and a gradual improvement in security, a growing number of displaced persons may be willing to leave protection of civilians sites or informal settlements and return to their HLP or resettle elsewhere. However, large-scale destruction of property across South Sudan and high levels of secondary occupation mean that many families may return to find their HLP illegally occupied, grabbed, damaged, or destroyed. Without mechanisms and programming to support returnees to peacefully resolve HLP disputes, reconstruct destroyed property, or obtain new land, there is a risk that HLP issues could become a barrier to safe and voluntary returns, spark further conflict, and undermine peacebuilding initiatives.

In collaboration with the Parliamentary Standing Specialized Committee on Land and Physical Infrastructure and the Housing, Land, and Property Technical Working Group (HLP TWG), UNMISS Rule of Law Advisory Section compiled this HLP Resource Library. The purpose of the HLP Resource Library is to assist the Government, civil society, NGOs, and UN organisations to develop and operationalise HLP solutions that will assist displaced persons to achieve durable housing and livelihood solutions. The HLP Resource Library includes different strategies, approaches, best practices, methodologies, guidelines, checklists, programmes, projects, models, precedents, and lessons learned from HLP interventions in countries emerging from conflict as well as in South Sudan. The resources are structured according to cross-cutting themes (including women's rights, conflict sensitive approaches, national ownership, and legal frameworks), data gathering, advocacy and awareness raising, dispute resolution, reconstruction, and tenure security.

This HLP Resource Library is an organic document that can be continuously updated and expanded by members of the HLP TWG to reflect current HLP programming, solutions, and innovations. Ultimately, this HLP Resource Library provides an information platform to support national and international actors to identify and operationalise practical HLP solutions to assist the people of South Sudan to safely and voluntarily return or resettle, achieve durable housing and livelihood solutions, and build durable peace.[1]

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[1] Disclaimer: The HLP Resource Library's reference to the documents and publications cited below does not mean that the contents of such documents and publications has been endorsed by South Sudan's Housing, Land, and Property Technical Working Group. The documents and publications cited in this Resource Library are solely for the purpose of information and research in order to assist HLP actors to develop and identify HLP solutions and interventions.

2. CROSS-CUTTING THEMES

A. GENERAL HLP ISSUES

International HLP Resources
Publication: United Nations High Commissioner for Refugees (UNHCR)/Scott Leckie – Housing, Land and Property Rights in Post-Conflict Societies: Proposals for a New United Nations Institutional and Policy Framework (March 2005) The UNCHR/Scott Leckie Handbook sets out key HLP issues, explains how the international community has addressed violations of HLP rights in post-conflict societies, and provides recommendations on how to more effectively uphold HLP rights by institutionalizing operational responses within the United Nations (UN). The institutional and policy framework is premised on a series of lessons learned, since 1990, which focus on HLP issues within peace operations. It is divided into four phases common to peace operations: planning phase; emergency phase; transition phase; and development phase. It begins with an outline of proposed actions for the UN to undertake before the initial stages of a peace operation and then identifies institutional and policy interventions that could be taken by and/or supported by the UN to more consistently address the full spectrum of HLP rights.

Publication: United Nations – Guidance Note of the Secretary General: The United Nations and Land and Conflict (March 2019)
 	
This Guidance Note was developed to assist the UN system to effectively address and integrate land and conflict issues into operational mandates. The principles and framework for UN engagement are designed to achieve a sustained and strategic common approach across the peace and security, human rights, and development pillars, and are tailored to inform programming and advocacy interventions. The Framework for Action helps to identify entry points to integrate land issues in conflict analyses, planning and assessment processes, and leadership engagement.
 	
Section (A) presents the following guiding principles for UN engagement related to land and conflict:
  1. Assistance is based on international norms and standards related to land and conflict
  2. Ensure coherence across the three pillars for land interventions
  3. Interventions should be strategic, incremental, and timely
  4. Prioritize national ownership and recognize that land is a sovereign issue
  5. Support human rights-based and gender-sensitive approaches
  6. Support effective coordination and partnerships between the UN, non-UN Organizations, and national actors
 	
Section (B) presents the following framework for action by the UN across the three pillars:
  1. Ensure land is an integral part of conflict analysis
  2. Ensure consistent engagement of Senior UN Leadership on land and conflict

3. Incorporate land into the UN's key assessment and planning processes
4. Integrate land within relevant UN institutional mechanisms, joint programmes, and financing instruments
5. Integrate land and conflict related issues in country level interventions
6. Enhance system-wide capacity to address the land-conflict nexus
7. Expand partnerships with non-UN entities and actors
8. Develop and use practical tools that address the land-conflict nexus

Publication: UN International Organisation for Migration (IOM) – Guidance Note: Integrating HLP Issues into Key Humanitarian, Transitional, and Development Planning Processes (July 2018)

This Guidance Note identifies entry points for integrating HLP issues into key planning processes across the humanitarian, transitional, and development phases in order to mainstream consideration of HLP issues into all levels of response. The Guidance Note focuses on five HLP themes:
1. HLP rights in emergency contexts
2. HLP in peace processes, peacekeeping, and peacebuilding
3. HLP rights in rule of law and development programming and durable solutions
4. Access to HLP rights for vulnerable groups
5. HLP in disaster risk reduction and climate change

Each theme presents a brief overview of relevant planning processes, possible entry points for HLP engagement, and suggested activities, including stand-alone HLP activities or HLP components of larger programmes.

Publication: Norwegian Refugee Council (NRC) – Home Sweet Home: Housing Practices that Support Durable Solutions for Urban IDPs (March 2015)

This report sets out analytical tools and practices to address the specific challenges to achieving durable solutions for urban IDPs, including their specific HLP needs and rights. The tools identified address the complexity of infrastructure, institutional, legal, political, and policy frameworks relevant to urban areas. The report guides and supports policymakers and practitioners to design, fund, and implement housing policies and programmes that facilitate durable solutions for urban IDPs. The report addresses the following key topics:
1. Incremental housing
2. Incremental tenure
3. Profiling of urban IDP situations
4. Eviction impact assessments
5. Legal aid
6. Community participation approaches
7. Social Tenure Domain Model

Publication: Humanitarian Policy Group (HPG) and Overseas Development Institute (ODI) – Returnee Land Access: Lessons from Rwanda (June 2007)

The report addresses the challenges for Rwandan returnees to access land, the impact of land access policies in the post-conflict period, and the roles played by international humanitarian agencies and NGOs. The report includes key lessons learned relevant to the South Sudanese context, including land access for returnees, re-establishing security of tenure, do-no-harm humanitarian principles, and the political imperatives of peace-making versus the international principles of return and restitution.

HLP Resources in South Sudan

Publication: Bonn International Centre for Conversion - Back to turmoil: Refugee and IDP return to and within South Sudan (October 2016)

This publication addresses the challenges faced by South Sudanese returnees and displaced persons and provides information and guidance on:
1. Patterns of return in South Sudan
2. Access to land and property as a challenge to sustainable return and a conflict driver
3. Building meaningful relationships between returnees and host communities
4. Required resources and livelihood and development support

B. WOMEN'S HLP RIGHTS

Women's rights to access, own, use, and inherit land in South Sudan are protected by South Sudan's 2011 Transitional Constitution, the 2009 Land Act, the 2009 Local Government Act, and the anticipated 2020 National Land Policy. Despite these protections, gaps in recognition and implementation persist, and women face daily challenges to assert their land rights. Programmers should, therefore, ensure that all HLP engagement includes gender-sensitive ways to raise awareness of and operationalise women's land rights.

International HLP Resources
Publication: Global Land Tool Network (GLTN) and United Nations Human Settlements Programme (UN-HABITAT) - Gendering Land Tools: Achieving Secure Tenure for Women and Men (2008) After wide-ranging stakeholder consultations, the strategies and outline for the GLTN gender mechanism were adopted at a round table on gendering land tools at the World Urban Forum in June 2006. The GLTN gender mechanism provides a framework of methodologies to systematically develop gender responsive land tools that promote equal tenure security for women and men. The approaches advocated by this mechanism include: adopting a multi-stakeholder approach; employing a systemic multi-stage methodology to develop gender responsive land tools; using scalable tools; and recognizing the important contributions that men can make to integrate gender concerns. The mechanism is based on the idea that gender responsive land management systems must respond at scale to country contexts and needs and cannot be delivered through piecemeal and short-term goals. The components for building gender-sensitive tools include: 1. Fostering a gender-responsive environment 2. Reviewing gendered land issues 3. Determining objectives through gendered land analysis 4. Developing a framework of principles, values, and priorities 5. Making an inventory of gender responsive tools 6. Piloting and scaling up gender responsive tools 7. Evaluation of gender responsive tools 8. Improving land governance
Assessment Tool: GLTN and UN-HABITAT - Gender Evaluation Criteria for Large-Scale Land Tools (November 2016) The Gender Evaluation Criteria was developed as a practical tool to systematically measure the impact of land tools and interventions on women and men to gather concrete evidence on gender dimensions. The gender evaluation criteria framework explores how to determine whether a large-scale land tool is sufficiently gender-responsive and identify entry-points to ensure a tool is equally beneficial to women and men. The Gender Evaluation Criteria assist to identify: 1. Best practices of gender responsive land tools

2. Entry-points to ensure existing and anticipated large-scale land tools are more gender-responsive
3. Areas requiring redress due to severe inequality
4. Gendered tools that qualify for upscaling

Training Package: GLTN and UN-HABITAT - Designing and Evaluating Land Tools with a Gender Perspective: A Training Package for Land Professionals (2011)

This training course on "Designing and evaluating land tools with a gender perspective" complements the Gender Evaluation Criteria (see assessment tool above) by building capacity to apply and operationalise the criteria. The training course was designed to enable land professionals to independently integrate the criteria into their work. The course covers the principles of the GLTN/HABITAT Gender Evaluation Criteria and demonstrates how land professionals can use them to evaluate the gender equality of specific land tools and integrate gender considerations in the initial design phase.

Training Package: GLTN and UN-HABITAT- Improving Gender Equality and Grassroots Participation Through Good Land Governance: Volume 1: Trainees handbook - readings and references (2010)

This training package focusses on how to improve land governance to enhance gender equality and grassroots participation in land-related issues. The training package is designed for professionals engaged in land issues, land governance, grassroots participation, and gender mainstreaming in public institutions or civil society organizations. The training identifies some of the competencies needed to address the complex yet day-to-day issues of land management and administration in order to improve women's land and property rights and promote the participation of grassroots communities in land processes.

Publication: Food and Agriculture Organisation of the United Nations (FAO) – Governing Land for Women and Men: A Technical Guide to Support the Achievement of Responsible Gender-Equitable Governance Land Tenure (January 2013)

This technical guide is designed to assist implementation of the 2012 FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT Guidelines)' principle of gender equality by achieving responsible gender-equitable governance of land tenure. The guide focuses on equity and on how land tenure can be governed in ways that address the different needs and priorities of women and men. It moves away from long-standing debates about gender equality and land access and, instead, focuses on mainstreaming gender issues to achieve more gender-equitable participation in the processes and institutions that govern decision-making about land.

The guide provides advice on mechanisms, strategies, and actions that can be adopted to improve gender equality in the processes, institutions, and activities of land tenure governance and provides useful recommendations as basic guidance. The guide consists of five modules:
1. Policymaking: Building gender-equitable participation into land policymaking processes
2. Legal issues: Legal pluralism, legal drafting, access to justice, land dispute resolution, legal support
3. Institutions: Gender-equitable participation and representation in the institutions of land tenure governance

4. Technical issues: Gender equality in land administration activities, technologies, and systems, and women's participation in land administration
5. Getting the message across: Communication strategies and methods to support responsible gender-equitable land tenure governance

Publication: FAO – Practical Guide for Improving Gender Equality in Territorial Issues (IGETI) (2018)

This Guide targets a broad spectrum of stakeholders, including governmental officials, CSOs engaged in gender, land, and rural development issues, development practitioners, humanitarian agents, and land professionals. FAO developed the Guide to promote the adoption of a people-centred gender approach to increase and improve the provision of goods and services from agriculture, forestry, and fisheries in a sustainable manner while reducing rural poverty. The Guide sets out five phases for gender-responsive planning processes and presents participatory tools to support each phase:
1. Gender-sensitive territorial and landscape analysis
   - Tool: Village/community resource map
   - Tool: Seasonal calendar
   - Tool: Documenting changes in farming practices
   - Tool: Analysing climate-related risk management practices
2. Dialogue and gender-responsive proposal planning
   - Tool: Problem tree and problem analysis chart
3. Negotiation and consensus building
   - Tool: The pairwise ranking matrix
   - Tool: The Venn diagram of stakeholders
   - Tool: Stakeholders' Conflict and Partnership Matrix
4. Implementing the agreement
5. Gender-responsive monitoring and evaluation

Assessment Tool: FAO – Developing Gender-Equitable Legal Frameworks for Land Tenure: A Legal Assessment Tool (2016)

This paper introduces a Legal Assessment Tool (LAT) for gender-equitable land tenure that was developed by the Gender and Land Rights Database (GLRD) of FAO to provide prompt, targeted, and effective policy and regulatory advice to countries working towards gender-equitable land tenure. The LAT contributes to the global efforts to achieve responsible governance of land tenure by focusing on the legal issues surrounding land policy and reform processes. It addresses challenges such as contradictions between statutory and customary law, tenure security in consensual unions, women's legal capacity, equality of rights with respect to nationality, property, and inheritance, and women's representation in formal and customary land institutions.

The paper is structured in three parts:

- Part 1 explores the range of legally and non-legally binding international standards developed in multilateral processes and highlights good practices from international organizations and development agencies to promote gender-equitable land tenure
- Part 2 describes the LAT's evaluation process, the scope of the assessment, and methodology
- Part 3 provides the results from the LAT's application in three African countries – Sierra Leone, Madagascar, and Morocco

Assessment Tool: ActionAid – Assessment Tool kit: Assessing Gender-Sensitive Implementation and Country-Level Monitoring of the Tenure Governance and Africa Land Policy Guidelines (November 2017)

This gender-sensitive tool kit enables CSOs, women, and communities to assess each country's legal framework and tenure governance arrangements in line with the provisions of the VGGT Guidelines. The tool kit aims to:
1. Monitor country implementation of the VGGT Guidelines with a focus on women and small-scale food producers and rural, agricultural communities
2. Incorporate community empowerment and capacity-building to enhance communities' understanding of the VGGT Guidelines (and related land frameworks) and build capacity to implement the Guidelines
3. Enable concise presentation of the results of implementing the VGGT Guidelines as a basis for cross-country comparison and to track changes over time

Publication: USAID – Intimate Partner Violence and Land Toolkit

This Toolkit addresses activities and projects to strengthen and secure land tenure, property rights, and land governance in rural, peri-urban, and urban areas. It is an easily accessible resource, designed to increase awareness of concerns related to intimate partner violence (IPV) in land-related policies and programming (more detailed analysis of this issue can be found in: Intimate Partner Violence and Land Tenure, 2018). The Toolkit provides guidance to address the possibility of IPV and recommends tools to ensure:
1. Project design based on clear understanding of local context
2. Gender-sensitive land programming

Publication: USAID – Intimate Partner Violence and Land Tenure - What Do We Know and What Can We Do? (February 2018)

This publication identifies the relationship between land and property ownership and incidences of IPV, outlines the benefits of secure land tenure for women, and proposes a theory of change about how land tenure and property rights can protect against and increase the risk of IPV.

HLP Resources in South Sudan

Publication: NRC – Nowhere to Go: Displaced and Returnee Women Seeking HLP Rights in South Sudan (February 2014)

This report addresses the challenges affecting displaced and returnee women seeking to protect and assert their HLP rights in South Sudan. It sets out:
1. International protection of women's HLP rights
2. South Sudan's legal framework and institutions relevant to HLP
3. Statutory and customary law and institutions relevant to women's HLP rights
4. Mechanisms for resolving HLP disputes in South Sudan
5. Specific challenges women face to access their HLP rights in South Sudan

Publication: World Vision International And The South Sudan Secretariat of Legal and Constitutional Affairs – A Study of Customary Law in Contemporary Southern Sudan (March 2004)

This report is a review of customary law in contemporary southern Sudan. It examines the history of customary law and the principal customary legal systems in the region. It also explains how the customary law systems function and assess the strengths and weaknesses of customary law, and identifies areas where conflict, actual or potential, exists between the different systems, domestic statutory and international law.

C. CONFLICT SENSITIVITY

It is important that aid and development partners consider and mainstream HLP issues in risk assessments and due-diligence planning, both pre- and post-delivery of aid and assistance. Failure to consider HLP angles increases the risk of solidifying secondary occupation, destroying legitimate HLP rights, and fueling conflict over land.

International HLP Resources
Publication: GLTN and UN-HABITAT – Land and Conflict: Lessons from the Field on Conflict Sensitive Land Governance and Peacebuilding (2018) This publication demonstrates how addressing land issues can mitigate conflict, facilitate returns post-conflict, and contribute to overall peace. It includes case studies from nine countries in Arab States, Africa, and Latin America with a range of conflict parties. The cases and analysis provide examples of how land-related approaches have been used throughout the conflict cycle and how practical tools and methods can be adapted to suit specific post-conflict situations. The tools include: 1. Peru: Addressing conflict over natural resources at national, regional, and local levels 2. Honduras: Creating land records of abandoned housing and land 3. Colombia: Victim's law that addresses land restitution, the reconstruction of housing, human rights abuses, and gender considerations 4. Somalia and Iraq: The development of credible land records to address displacement, dispute resolution, and conflict prevention, even during conflict 5. Peru and South Sudan: The importance of territorial agreements for peacebuilding 6. Honduras: The protection of land and property rights of forcibly abandoned properties by the state's land registration system
Publication: International Organisation for Migration (IOM) – Guidance Note: Integrating HLP Issues into Key Humanitarian, Transitional and Development Planning Processes (July 2018) The Guidance Note focuses on how to integrate HLP issues into assessments and analysis preceding or during any response. The Note addresses five HLP themes: HLP rights in emergency contexts; HLP rights in peace processes, peacekeeping, and peacebuilding; HLP rights and rule of law and development programming and durable solutions; access to HLP rights for vulnerable groups; and HLP in disaster risk reduction and climate change. Each theme presents a brief overview of the relevant planning processes and possible HLP entry points. The Note suggests the following HLP activities that could be undertaken: 1. Including HLP-related questions in general assessments 2. Designing and conducting dedicated HLP assessments 3. Determining relevant planning processes and entry points for HLP programming 4. Setting up coordinating structures 5. Developing sector-level strategies

Publication: GLTN and UN-HABITAT – Land and Conflict: A Handbook for Humanitarians (September 2009)

The 2005 Humanitarian Response Review identified land as a critical gap in the international response capacity. This Handbook was prepared by UN-HABITAT to provide guidance to address land issues in a post-conflict environment, including:
1. "Do no harm" and conflict sensitive approaches to land
2. Key issues, including land disputes, land records, livelihoods, HLP in displacement and return, vulnerable groups, rural land use, urban settlements, camps, donors and coordination, advocacy, and high value natural resources
3. Assessments and rapid appraisal guides and mapping

Publication: USAID – Land and Conflict: A Toolkit for Intervention (2004)

This toolkit provides a practical introduction to the relationship between land and violent conflict. It covers key issues, discusses lessons learned, suggests relevant program interventions, and provides a rapid appraisal guide to determine which land issues are most relevant to a specific conflict.

HLP Resources in South Sudan

Publication: Conflict Sensitivity Resource Facility (CSRF) – Contextualised Conflict Sensitivity Guidance for South Sudan (2017)

This publication provides context-specific guidance on conflict sensitivity for agencies operating in South Sudan. It also provides guidance on how to integrate conflict sensitivity in practice and develop conflict sensitive policies and institutional commitment, strategies, programmes, and projects.

Publication: CSRF – Housing, Land and Property, Aid and Conflict in South Sudan: A Conflict Sensitivity Analysis of Emerging HLP Issues and Trends (September 2018)

This publication provides recommendations to help aid agencies make contextually informed and conflict sensitive decisions about when, where, and how to approach aid interventions involving HLP in South Sudan. The note provides guidance on:
1. Determining HLP ownership and access rights
2. Determining local capacities to manage HLP risks
3. Recommendations on how to adopt conflict-sensitive approach to HLP issues

D. COMMUNITY INVOLVEMENT AND NATIONAL OWNERSHIP

Community involvement and national ownership is a key consideration for all HLP-related activities. HLP resources must be developed and implemented in partnership with local actors to ensure sustainability, community involvement, and national ownership.

International HLP Resources
Publication: IOM – Guidance Note: Integrating HLP Issues into Key Humanitarian, Transitional and Development Planning Processes (July 2018) *See above* under **Conflict Sensitivity**. The Guidance Note underscores the importance of participatory community, or state-driven land governance processes.
Publication: GLTN and UN-HABITAT – Land and Conflict: Lessons from the Field on Conflict Sensitive Land Governance and Peacebuilding (2018) *See above* under **Conflict Sensitivity**.The publication addresses the importance of including host communities, local authorities, and traditional leaders in land-related programming.

E. STRENGTHENING LEGAL & POLICY FRAMEWORKS

HLP resources can provide best practices, lessons learned, and precedents to assist national authorities to strengthen the legal and policy frameworks governing HLP rights in order to enhance communities', women's, and vulnerable groups' HLP rights, promote transparent and accountable land governance, peacefully resolve HLP-related disputes, and support the displaced population to protect and re-assert their HLP rights.

International HLP Resources
Legal Framework: FAO – Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (2012) On 11 May 2012, the Committee on World Food Security endorsed the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT Guidelines) to provide guidance to improve the governance of

land tenure with the overarching goal to support the progressive realization of the right to adequate food in the context of national food security. These Guidelines contribute to global and national efforts to eradicate hunger and poverty, based on the principles of sustainable development and the centrality of land to development, through the promotion of secure tenure rights and equitable access to land, fisheries, and forests. The Guidelines address the following topics:
1. Legal recognition and allocation of tenure rights and duties
2. Transfers and other changes to tenure rights and duties
3. Administration of tenure
4. Responses to climate change and emergencies
5. Promotion, implementation, and monitoring and evaluation

Legal Framework: International Labor Organization (ILO) – ILO Convention on Indigenous and Tribal Peoples, 1989, No. 169: A Manual (2003 revised edition)

In general, indigenous and tribal peoples are not effectively protected by existing laws and policies. Indigenous and tribal peoples are often among the most impoverished and disadvantaged groups in any country and national laws often do not address their specific situations, characteristics, and needs. These concerns led to the development and adoption of ILO Convention No. 169 to protect indigenous and tribal peoples and their rights. Convention No.169 is the only dedicated international legal instrument which deals specifically with indigenous and tribal peoples' rights. Articles 13 to 19 deal specifically with indigenous and tribal peoples' land rights and tenure security.

Legal Framework: FAO, NRC, United Nations Office for the Coordination of Humanitarian Affairs (OCHA), UN-HABITAT, UNHCR, and Office of the United Nations High Commissioner for Human Rights (OHCHR) – Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles (March 2007)

The approval of the Principles on Housing and Property Restitution for Refugees and Displaced Persons ("Pinheiro Principles") by the UN Sub-Commission on the Protection and Promotion of Human Rights in August 2005 was an important step towards providing guidance on international standards governing the effective implementation of HLP restitution programmes and mechanisms. Building on the Pinheiro Principles, this Handbook provides practical guidance on the restitution of housing and property and ways to achieve durable solutions for IDPs and refugees, including the right to return to their original HLP.

The Pinheiro Principles specifically address:
1. Human rights applicable to refugees, displaced persons, and returnees
2. The right to voluntary return in safety and dignity
3. Legal, policy, procedural, and institutional implementation mechanisms, including legislative reform, HLP records and documentation, secondary occupation, and enforcement of restitution and compensation decisions
4. The role of the international community

Legal Framework: International Conference on the Great Lakes Region – Protocol on the Property Rights of Returning Persons (2006)

The International Conference on the Great Lakes Region (ICGLR) is an inter-governmental organization of the countries in the African Great Lakes Region. In December 2006, Member States adopted the Pact on Security, Stability, and Development in the Great Lakes Region. The Pact comprises ten protocols, including the Protocol on the Property Rights of Returning Persons, which are legally binding for all signatories. South Sudan joined the ICGLR in 2012.

Legal Framework: Housing and Land Rights Network – Handbook on United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement (2008)

The UN Basic Principles and Guidelines on Development-based Evictions and Displacement is an operational tool to minimise forced evictions and ensure the human right to adequate housing for all people and communities threatened with evictions. This Handbook introduces the UN Guidelines, explains how they provide a framework to prevent forced evictions, and, where evictions occur, ensure due process and adequate rehabilitation and resettlement based on human rights standards. The Handbook provides the full text of the UN Guidelines as well as a summary of their key elements.

SDG Goal 1.4.2: Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure

Sustainable Development Goal indicator 1.4.2. of the 2030 Agenda encourages countries to monitor the proportion of the total adult population with secure land tenure rights. This indicator focuses on two components of tenure security that advance the concept of the continuum of tenure rights:
1. The proportion of the adult population with documented tenure rights that are legally recognized by governments
2. The proportion of the adult population who perceive their tenure rights as legally secure, regardless of whether these rights are documented

The Land Portal provides country-by-country assessments on indicator measurements, monitoring, relevant meetings, and targets.

HLP Resources in South Sudan

HLP Programme: Danish Refugee Council (DRC) – Housing, Land, and Property and Rule of Law Assessments in Rubkona and Koch Counties (2019-2020)

The project includes the following components:
1. Extensive analysis of the existing legal structures and processes relating to HLP issues

2. Identification of key actors and stakeholders, current legal practices, and perceptions of legitimate HLP rights
3. Identification of the main HLP issues and challenges faced by the community
4. Identification of the main opportunities and constraints for HLP programming and assistance
5. Development of a roadmap or recommendations for appropriate HLP programming
(for access to the assessments, please contact babette.schots@drc.ngo)

Publication: South Sudan Law Society (SSLS) – South Sudan Synthesis Report: Findings of the Land Governance Assessment Framework (LGAF) (January 2014)

In 2013, SSLS conducted a comprehensive assessment of land governance in South Sudan. The research was structured around the Land Governance Assessment Framework (LGAF), a tool developed by the World Bank to evaluate the legal framework, policies, and practices relating to land governance in a given country. The assessment focused on the following thematic areas in South Sudan:
1. Legal and institutional framework
2. Land use planning, land management, and taxation
3. Management of public land
4. Public provision of land information
5. Dispute resolution and conflict management
6. Large-scale acquisition of land rights
7. Forestry

Publication: USAID – Country Profile: Property Rights and Resource Governance: South Sudan

This Country Profile provides an overview of land and property rights and resource governance in South Sudan. The report includes information on:
1. Key issues and intervention constraints
2. Land tenure and security of land rights
3. Land use, distribution, administration. and governance
4. Land disputes and conflict
5. Overview of the legal framework relating to land

3. GATHERING HLP DATA

A. HLP SURVEYS

To develop fit-for-purpose HLP solutions, it is first necessary to identify specific HLP challenges and conduct surveys to gather data to determine whether displaced persons have HLP that they would like to return or relocate to, are landless and require support to obtain land and resettle, or have HLP that they would like to reclaim. Preliminary HLP surveys will help programmers to determine the type, location, and description of displaced persons' HLP rights, any evidence (both formal and informal) of these rights, whether their HLP is vacant, occupied, confiscated, misappropriated, looted, or destroyed, and whether they are able and willing to return to their HLP. The information collated by such surveys can be mapped using software, such as KoBo Toolbox, to assess information about displaced persons' HLP rights and highlight the general types of challenges they may face to return or resettle.

International HLP Resources
Publication: GLTN and UN-HABITAT – Monitoring Tenure Security, Data Collection Questionnaire Modules and Manual: Cameroon, Nigeria, and Kenya (2017) This publication provides an overview of pilot testing by GLTN and UN-Habitat on a land tenure data collection module conducted in Cameroon, Nigeria, and Kenya. The pilots' objective was to test the application of a comprehensive land tenure data collection module consisting of three questionnaires to collect data on the tenure security of land and dwellings at individual, household, and community levels in rural and urban areas. The publication documents the household survey processes used to collect data and test comparability and provides key lessons learnt from the data collection. The land tenure modules and questionnaires can be used for individual, household, and communal assessments and can be adapted for use in different context and countries.
Publication: GLTN and UN-HABITAT – Land and Conflict: A Handbook for Humanitarians (September 2009) *See above* under **Conflict Sensitivity**. The publication provides guidance on conducting assessments and rapid appraisals, including a summary checklist to include in key land assessments and questions that address issues at different phases of conflict (e.g. relief, recovery, reconstruction)
Publication: USAID – Land and Conflict: A Toolkit for Intervention (2004) *See above* under **Conflict Sensitivity**. The publication provides guidance on conducting assessments and rapid appraisals, including sample questions and key topics.

HLP Resources in South Sudan

Tool: Compendium of Questions to Include in HLP Surveys (2019) (circulated to members of the HLP TWG)

This compendium of HLP questions was compiled to assist organisations to identify fit-for-purpose HLP solutions to support the safe, informed, voluntary, and dignified return, reintegration, or relocation of South Sudan's displaced population. The compendium was compiled by UNMISS Rule of Law Advisory Section at the request of the HLP TWG based on questions and recommendations provided by its members and other HLP experts. The compendium will assist HLP programmers in South Sudan to develop focused surveys to capture the data necessary to identify and develop informed programmatic responses. Topics included in the Compendium are:
1. Displaced persons' HLP rights
2. Secondary occupation
3. Dispute resolution
4. Destruction of property
5. IDPs who are landless or unable or unwilling to return
6. Land allocation
7. Land administration and governance
8. Women's land rights
9. Community land
10. General HLP perceptions

Surveys: UNHCR and Humanitarian Development Consortium (HDC) - IDP Protection Profiling: Improving Protection Response and Solutions Programming, Focus on HLP
(2018-2019)

UNHCR and HDC conducted protection profiling on HLP issues experienced by the IDP population in PoC sites, Temporary Protected Area (TPA), urban settings, collective sites and spontaneous sites. The powerpoint presentation on the profiling sets out the preferred locations of return and provides information about the number of IDPs that intend to return and the reasons why IDPs wanted to either return, remain, or relocate.

Programme: Danish Refugee Council (DRC) – Housing, Land, and Property and Rule of Law Assessments in Bentiu and Koch (2019-2020)

See above under **Cross-Cutting Themes – Strengthening Legal Frameworks**

Programme: Shelter/NFI Cluster and DRC – NFI and Emergency Shelter Assessments and Verification Report Maiwut (2018)

Assessments include HLP-related questions (see: Coping Strategies and Housing, Land, and Property).

Assessment: Shelter/NFI Cluster – Household Assessment Questionnaire and Analysis Report Template (December 2018)

A tool used by Shelter/NFI Cluster partners when assessing a new area for potential engagement. Part V of the assessments deal specifically with HLP.

Survey: SSLS – Housing, Land, and Property Disputes in South Sudan: A Pilot Survey in Nimule, Torit, Wau, and Yei (March 2019)

In March 2019, SSLS conducted HLP surveys conducted in 677 households in the towns of Nimule, Torit, Wau, and Yei. The households were asked a series of questions about their perceptions of and experiences with HLP disputes.

Surveys: IOM Displacement Tracking Matrix (DTM) DTM South Sudan Page

Wau PoC Adjacent Area Intention and Perception Survey (January 2019)
In December 2018, IOM conducted an intention-perception survey in the Wau PoCAA to establish how many residents intend to leave the Wau PoCAA site, the tentative time frame of return, and return destinations.

Wau Town (Western Bahr el Ghazal) Multi-Sectoral Survey (October 2018)
IOM conducted a multisectoral survey in Wau Town in August 2018. Sections 3 (Livelihood) and 6 (Shelter/NFI) include HLP-related questions about ownership of housing, land, and property, destruction of property, documentation to prove ownership, land disputes, and dispute resolution mechanisms.

Wau Intentions Survey and Multi-Sectoral Needs Assessments (December 2017)
In November 2017, IOM conducted intention surveys in Wau's seven displacements sites. The surveys included HLP-related questions about the ownership of housing, land, and property, particulars of displacement, and intentions to return, resettle, or integrate locally.

Malakal Combined Assessment (February 2018)
In February 2018, IOM conducted a combined assessment in Malakal Town, which included a PoC Site Survey. The survey included HLP-related questions about ownership of housing, land, and property, particulars of displacement, and intentions to return, resettle, or integrate locally.

Survey: Norwegian People's Aid - The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan (2011)

This report is part of a baseline survey on large-scale land-based investment in Southern Sudan commissioned by the Land and Natural Resource Rights program at Norwegian People's Aid (NPA). It presents data on 28 foreign and domestic investments that were planned or underway across 10 States of South Sudan. The report found that in just four years, between the start of 2007 and the end of 2010, foreign interests sought or

acquired a total of 2.64 million hectares of land (26,400 km2) in the agriculture, forestry and biofuel sectors alone. The report goes on to propose a series of recommendations that may help the Government, its international partners, civil society, companies, investors, and rural communities in South Sudan to address risks and opportunities of largescale land investments moving forward.

B. MAPPING HLP DATA

Data gathered from preliminary HLP assessments can be mapped through software such as Kobo Toolbox. Mapping this data will provide a comprehensive overview of the location of displaced persons' HLP and where they want to return or resettle, while simultaneously flagging areas of secondary occupation, destruction, pre-existing land disputes, and active areas of conflict. Such software can also be used as a tool to scan and preserve and documentary evidence of HLP rights.

International HLP Resources
Tool: Kobo Toolbox: Free and open source toolbox for field data collection in challenging environments KoBo Toolbox is a suite of tools for field data collection and analysis for use in challenging environments. The software is free and open source and can be used for mobile data collection. Mobile devices, such as mobile phones or tablets, can be used to collect data. The toolbox includes the following features: 1. Form builders 2. Question library 3. Android or browser-based data collection 4. Data submission to secure server 5. Data management (allowing aggregation, editing, and annotation, as well as mapping of geo-referenced data and photo display)
Tool: Land Tenure Domain Model (STDM) The Social Tenure Domain Model (STDM) is a complimentary approach to land administration which addresses difficulties in handling customary and informal tenure. It provides a standard for representing people-land relationships independent of the level of formality, legality, or technical accuracy. STDM allows users to easily create and customize data profiles and define different data attributes that fit well with questionnaire forms through a simple and intuitive step-by-step configuration interface. The toolbox includes the following features: 1. Definition of data profiles and data attributes 2. Ready to use data forms 3. Supporting documents (allows external documents to be attached to records) 4. Spatial unit manager 5. Creating and viewing social tenure relationships 6. Document designer
Tool: Mobile Applications to Secure Tenure (MAST) Learning Platform

The MAST platform helps communities define, map, record, and document their land and resources. It provides easy-to-use mobile phone applications that empower citizens in the process of understanding their rights and documenting their land and resources. The programme combines the applications with a simple data management platform to capture the information necessary for securing rights.

Publication: GLTN and UN-HABITAT – Land and Conflict: A Handbook for Humanitarians (September 2009)

See above under **Conflict Sensitivity**. The publication provides guidance on conducting HLP mapping including:
1. Map availability, technical considerations, and technological sustainability
2. Mapping that can facilitate humanitarian action, including coordination, boundary identification, site selection, community and land-use planning, conflict mapping, documenting HLP claims, urban services, and taxation

Tool: MapAction – Field Guide to Humanitarian Mapping (July 2011)

This field guide was produced by MapAction to help humanitarian organisations to use mapping methods using Geographic Information Systems (GIS) and related technologies. This guide explains some tried-and-tested methods suitable for humanitarian field work which use free or low-cost tools.

C. GO AND SEE VISITS

Go and see visits where logistical and financial circumstances permit are a valuable tool to assist displaced persons to evaluate their HLP options and take an informed decision about whether to return or relocate.

International HLP Resources and Strategies
Publication: Internal Displacement Monitoring Centre (IMDC) and NRC – Burundi - Secure Tenure and Land Access still Challenges for Long-Term IDPs: A profile of the Internal Displacement Situation (August 2011) Experiences in Burundi highlight the importance of site visits by local leadership and others intending to return, as well as visits by stayees and members of the host community to refugee and IDP camps. Visits both ways need to focus on the expectations and realities of return regarding land rights. The Burundi example demonstrates that it is important to address stayees' assumptions that those who left would not likely return and returnees' assumptions that they will be able to easily return, immediately reassert their HLP rights, and access community resources such as grazing, fuelwood, water, food security, markets, and other local institutions.

D. HLP SITE VISITS

Where logistical and financial circumstances do not permit displaced persons to conduct a go and see visit to assess the status of their HLP, organisations and HLP actors on the ground in the area of return can conduct assessments and engage with host communities. This information can be reported to IDPs to assist them to make an informed decision about return.

International HLP Resources
Publication: GLTN and UN-HABITAT – Monitoring Tenure Security, Data Collection Questionnaire Modules and Manual: Cameroon, Nigeria, and Kenya (2017) *See above* under **Tools and Strategies – Data Gathering – HLP surveys.** This publication provides an overview of pilot testing by GLTN and UN Habitat on a land tenure data collection module conducted in Cameroon, Nigeria, and Kenya. The pilots tested the application of a comprehensive land tenure data collection module consisting of three questionnaires to collect data on the tenure security of land and dwellings at individual, household, and community levels in rural and urban areas. The publication documents the household survey processes used to collect data and test comparability and provides key lessons learnt.
HLP Resources in South Sudan
Tool: Compendium of Questions to Include in HLP Surveys (2019) (circulated to members of the HLP TWG) *See above* under: **Tools and Strategies – Data Gathering - HLP Surveys**. The Compendium includes question sets that would assist HLP actors to conduct a comprehensive assessment of the status of displaced persons' HLP and the mechanisms and assistance available to support the reassertion of their HLP rights.

E. SECONDARY OCCUPATION

Secondary Occupation can be one of the biggest challenges to safe and voluntary returns. Experience in post-conflict contexts has shown how large number of returns compounded with high levels of secondary occupation can result in increased HLP-related disputes. Absent functioning mechanisms to peacefully resolve such disputes, there is a risk they could spark conflict and jeopardise peacebuilding initiatives. The following HLP Resources provide practical solutions to peacefully resolve HLP-related disputes originating from secondary occupation.

International HLP Resources
Legal Framework: Housing and Land Rights Network – Handbook on United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement (2018) *See above* under: **Cross-Cutting Themes – Strengthening Legal Frameworks**. Resolving secondary occupation often requires current occupants – who are often themselves displaced – to be evicted or resettled. The UN Basic Principles and Guidelines on Development-based Evictions and Displacement is an operational tool to minimise forced evictions and ensure the human right to adequate housing for all people and communities threatened with evictions.
HLP Resources in South Sudan
Tool: Compendium of Questions to Include in HLP Surveys (2019) (circulated to members of the HLP TWG) *See above* under: **Tools and Strategies – Data Gathering - HLP Surveys**. The Compendium includes questions on secondary occupation for displaced persons, host communities, and local authorities.
Survey: SSLS – Housing, Land, and Property Disputes in South Sudan: A Pilot Survey in Nimule, Torit, Wau, and Yei (March 2019) *See above* under: **Gathering HLP Data – HLP Surveys – HLP Tools in South Sudan**. In 2019, SSLS conducted HLP surveys in Nimule, Torit, Wau, and Yei. Households were asked a series of questions about their perceptions of and experiences with HLP disputes, including those relating to secondary occupation.
Publication: Norwegian People's Aid (NPA), South Sudan Law Society and State Land Alliances - Land Disputes in Urban and Peri-Urban South Sudan (2016)

This report contains the findings from a survey of land-related disputes in urban and peri-urban areas of South Sudan. 942 individuals were interviewed across 10 locations in South Sudan. The report found that land-related disputes in urban environments are widespread and difficult to resolve. Although the Land Act, the draft National Land Policy and the Peace Agreement provide a foundation for land governance, the lack of implementation of these frameworks has resulted in a legal vacuum which continues to undermine tenure security. To resolve these issues, the report recommends that customary and statutory mechanisms to resolve land disputes must be strengthened in South Sudan.

4. ADVOCACY AND AWARENESS RAISING

A. DISPLACED POPULATION & LAND AUTHORITIES

To make a voluntary and informed decision about return, displaced persons need to understand their HLP rights and the available assistance that can help them to protect and reassert these rights. Advocacy and awareness raising about HLP rights among displaced populations and national institutions and authorities will enhance understanding and implementation of displaced persons' HLP rights and enable service providers to assist displaced persons to protect and reassert their rights.

International HLP Resources
Publication: IOM – Guidance Note: Integrating HLP Issues into Key Humanitarian, Transitional and Development Planning Processes (July 2018) *See above* under **Conflict Sensitivity:** The Guidance Note underscores the importance of raising awareness on HLP rights among crisis-affected populations, including the services available to support claiming such rights (e.g. legal assistance, dispute resolution, and shelter assistance) and local rules and regulations on HLP matters. The Note also underscores the importance of sensitizing authorities on their responsibility to protect abandoned HLP against destruction and unlawful occupation and provides guidance on: 1. Assessing national capacity to protect HLP rights that existed prior to the emergency and identifying capacity gaps 2. Raising awareness among local authorities on HLP rights and obligations and strengthening legal, facilitation, and mediation skills 3. Raising awareness among communities on their rights and obligations 4. Providing assistance to navigate procedures to access statutory and customary structures 5. Conducting awareness-raising and provision of information on HLP issues
Publication: GLTN and UN-HABITAT – Land and Conflict: Lessons from the Field on Conflict Sensitive Land Governance and Peacebuilding (2018) *See above* under **Conflict Sensitivity**: The publication addresses the importance of advocacy and awareness raising. It provides guidance on: 1. Information, awareness raising, and the dissemination of information 2. Language, content, and means of communication to ensure that guidance is accessible to targeted groups 3. Advocacy and community mobilization to build consensus and change harmful practices 4. Referral to legal support and the design of legal aid and information programmes 5. Dissemination of information to displaced populations 6. Development of flexible media strategies The note also provides examples of advocacy campaigns from various conflict settings, including Somalia, Liberia, Burundi, and Timor.

HLP Resources in South Sudan
Programme: HDC – HLP Pilot Project, Juba PoCs, Central Equatoria (2016 - present) Since 2016, HDC has implemented the HLP project in Juba PoCs. Under this project, HDC's legal team strived to resolve HLP cases, in collaboration with local authorities. Community Land Committees (CLCs) formed under this project, included representatives of local authorities and aimed to register cases of HLP and ensure restitution of property, with the support from HDC's Legal Aid Centre. The CLCs were trained on the land act and other national laws through sensitization programs conducted by HDC's Mobile Legal Aid Clinics. In 2019, Land Committees formed outside of and inside the Juba PoC facilitated the handover of land plots and houses belonging to IDPs, which were occupied by other individuals in urban Juba.
Programme: Shelter/NFI and IOM – Settlement Pilot Project, Wau, Western Bahr-el-Ghazal (2018-2019) The project provides returnees and host communities with multi-sectoral services centred around settlements. Settlements are designed to bring communities together to ensure access to livelihoods, health, education, nutrition, water supply and sanitation facilities, and protection against physical threats. IOM supports communities to establish inclusive Village Development Committees to peacefully resolve disputes. The project includes sensitization and training sessions on topics including HLP and land dispute resolution.
Manual: SSLS – Land Rights Training Manual and Handbook (2016) This Training Manual was developed by South Sudan Law Society (SSLS) in 2016. SSLS uses the manual when training various actors, including official and traditional authorities and CSOs, on land rights according to the South Sudanese Constitution, the Land Act, and the Local Government Act.

B. DIGITAL PLATFORMS

Digital platforms based on mobile technology can be an effective way to increase the reach and reduce the cost of awareness raising programmes. Digital platforms can also be used to send mobile data to displaced populations about available assistance if their HLP is occupied, damaged, or destroyed.

International HLP Resources
Tool: Kobo Toolbox: Free and open source toolbox for field data collection in challenging environments

See above under **Tools and Strategies – Data Gathering – Mapping HLP Data.** KoBo Toolbox is a suite of tools for field data collection and analysis for use in challenging environments. The toolbox includes the following features:
1. Form builders
2. Question library
3. Android or browser-based data collection
4. Data submission to secure server
5. Data management (allowing aggregation, editing, and annotation, as well as mapping of geo-referenced data and photo display.)

Tool: Land Tenure Domain Model (STDM)

See above under **Tools and Strategies – Data Gathering – Mapping HLP Data.** STDM provides a standard for representing people–land relationships independent of the level of formality, legality, and technical accuracy. STDM allows users to easily create and customize data profiles and define different data attributes for questionnaires through a simple step-by-step configuration interface.

Tool: Mobile Applications to Secure Tenure (MAST) Learning Platform

See above under **Tools and Strategies – Data Gathering – Mapping HLP Data.** The MAST platform helps communities define, map, record, and document their land and resources. It provides easy-to-use mobile phone applications to assist citizens to better understand their rights and document their land and resources.

5. DISPUTE RESOLUTION

A. MEDIATION

Without functioning and effective mechanisms to peacefully resolve HLP disputes, displaced persons risk becoming embroiled in land-related disputes which, if unresolved, could spark further conflict and undermine peacebuilding initiatives. According to regional and global best practices, mediation is the most appropriate method to resolve HLP disputes because it tries to restore social balance, build social cohesion, and allows the parties to find a mutually acceptable solution.

International HLP Resources

Publication: GLTN and UN-HABITAT: Guide to Land Mediation: Based on the Experience in the Eastern Democratic Republic of the Congo (2013)

This guide explains the mediation method and process as well as other methods of alternative land conflict management. The guide recommends a mediation process that can restore or strengthen interpersonal, community, and social relationships. The guide's purpose is to support mediation actions on a case-by-case basis. It provides examples of land dispute resolution mechanisms including:
1. General information on mediation
2. General principles and values that should accompany each land mediation programme
3. The key steps and the process of mediation
4. The necessary tools to carry out a mediation process

Publication: United Nations Peacebuilding Programme – Identification of Good Practices in Land Conflict Resolution in Acholi, Uganda (November 2011)

This study examines how existing community level mechanisms can effectively resolve land disputes. Traditional leaders are generally trusted by the community and are well positioned to engage in alternative dispute resolution. They can also support the resolution of land disputes by documenting existing boundaries for admission as evidence in statutory court proceedings. The study's findings underscore the importance of clarifying the legal status of traditional authorities, strengthening their knowledge of relevant arbitration laws and procedures, providing traditional authorities them with more detailed evidence compiled by traditional leaders, and formalizing the interaction between traditional authorities and statutory courts.

HLP Resources in South Sudan

Publication: NRC – Customary Law and Land Rights in South Sudan (March 2012)

This study combines literature reviews of customary traditions of land tenure with field study in three states of South Sudan: Northern Bahr el Ghazal, Warrap, and Central Equatoria. The study documents current practices in customary land allocation and dispute resolution to inform NRC programming supporting returnee and other vulnerable populations to access land and gain greater control over their land.

Manual: SSLS – Community Mediation Groups Handbook (2018)

In 2019, SSLS established Community Mediation Groups (CMG) in Wau, Yei, Nimule, and Torit. This Handbook was designed to train CMGs on land rights as part of SSLS's efforts to support community initiatives and local dispute resolution mechanisms. The manual addresses:
1. Rights and freedoms relating to housing, land and property
2. Land Act, 2009

3. Land classifications in South Sudan
4. Access to land, ownership, possession, and user rights
5. County land councils
6. Land dispute resolution
7. Expropriation
8. Consultation
9. Alternative dispute resolution

Manual: SSLS – Land Rights Training Manual and Handbook (2016)

This Training Manual was developed by South Sudan Law Society (SSLS) in 2016 to train various actors, including official and traditional authorities and CSOs, on land rights according to the South Sudanese Constitution, the Land Act, and the Local Government Act.

Programme: Shelter/NFI and IOM – Settlement Pilot Project, Wau, Western Bahr-el-Ghazal (2018-2019)

See above under: **Tools and Strategies: Advocacy and Awareness**. IOM supports communities to establish inclusive Village Development Committees to peacefully resolve disputes. The project includes sensitization and training sessions on topics including HLP and land dispute resolution.

HDC and UNHCR – Community Land Committee

HDC has set up Community Land Committees in some of their project areas. These Committees are mediation panels which resolve land and property disputes between host communities and returnees.

Publication: HDC - Housing, Land and Property Assessment Report Conducted at PoC 3, Urban Juba (July 2017)

See above under: **Displaced Population and Land Authorities: Advocacy and Awareness**. The report outlines the findings of the focus group discussions and individual interviews of 70 IDPs (including 18 women and 52 men). The report found that collaborative dispute resolution mechanisms, which included traditional chiefs and local authorities, could yield desirable results for IDPs, in resolving their HLP issues.

B. SPECIALIZED TEMPORARY INSTITUTIONS

Where HLP disputes originating from large-scale returns cannot be resolved through mediation, consideration should be given to establishing specialized temporary institutions, such as panels, commissions, or dedicated units, within the existing court system.

International HLP Resources
Commission for Real Property Claims of Refugees and Displaced Persons in Bosnia Herzegovina The Commission was established in 1995 under Annex 7 of the Dayton Peace Agreement and completed its work in 2003. The Commission's mandate was to guarantee the rights of all those who had lost property to be able to return or receive compensation for their loss. It focused on restoring people's rights and the rule of law to ensure the population's safety and stability. This report documents the Commission's work and provides details about its mandate, procedures, implementation strategies, and statistics relating to claims.
Kosovo Housing and Property Claims Commission On 15 November 1999, UNMIK passed Regulation 1999/23 establishing the Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) in order to regularize housing and property rights in Kosovo and resolve disputes over residential property. The HPD and HPCC were specifically set up to create an impartial and independent mechanism to resolve claims using local and international legal expertise.
Iraq Property Claims Commission In 2003, the Government of Iraq established the independent Commission for the Resolution of Real Property Disputes (CRRPD) to resolve land and property rights violations incurred under the former regime. The Commission has now been now renamed the Property Claims Commission (PCC), which collects and adjudicates real property claims in Iraq.

C. EVIDENCE

The circumstances under which HLP violations or losses occurred often make it difficult, and sometimes impossible, for displaced persons to provide the necessary information or documentation to reassert their HLP rights. Claims programmes in post-conflict regions have addressed this challenge by relying on alternative forms of evidence and reversing the burden of proof in favour of returnees so that secondary occupants have the burden of proving lawful ownership.

International HLP Resources

Publication: International Journal of Security and Development – Mass Claims in Land and Property Following the Arab Spring: Lessons From Yemen (2016)
This article describes the land and property mass claims process initiated by the Yemeni transitional government with support from international partners. It describes a series of evidentiary techniques, including the reversal of the burden of proof, to improve the mass claims process once it recommences.
Publication: IOM – Property Restitution and Compensation: Practices and Experiences of Claims Programmes (2008)
This report provides a volume of comparative research on various legal and technical aspects of property restitution and compensation claims programmes. The report addresses evidentiary challenges and gives examples of claims processes where evidentiary requirements have been relaxed in favour of claimants including: 1. The CRRPD in Iraq   2. The South Africa Programme   3. The United Nations Compensation Commission
HLP Resources in South Sudan
Programme: Shelter/NFI and IOM – Settlement Pilot Project, Wau, Western Bahr-el-Ghazal (2018-2019)   *See above* under: **Tools and Strategies: Advocacy and Awareness.** IOM provides beneficiaries with occupancy certificates which can be used to support any claim to land or property at a later stage.
Presentation: NPA and NRC - Formal and Informal Mechanisms for Land Disputes Settlement in South Sudan: A brief presentation to the HLP TWG (March 2020)   The presentation highlights the formal, informal and collaborative modes of dispute resolution available under the existing legal framework of South Sudan to resolve HLP issues.

D. RESTITUTION AND COMPENSATION

Restitution claims are about restituting land and property that was lost, damaged, destroyed, or occupied during the conflict. An alternative is to give different land of similar monetary and livelihood value or to compensate claimants for their losses through cash payments or collective development or livelihood projects.

International HLP Resources and Strategies
Publication: FAO, NRC, United Nations Office for the Coordination of Humanitarian Affairs (OCHA), UN-HABITAT, UNHCR, and Office of the United Nations High Commissioner for Human Rights (OHCHR) – Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles (2007) *See above* under: **Cross-Cutting Themes: Strengthening Legal Frameworks.** Building on the Pinheiro Principles, this Handbook provides practical guidance on housing and property restitution issues ways to achieve durable solutions for IDPs and refugees, including the right to return to their original HLP.
Publication: International Journal of Security and Development – Mass Claims in Land and Property Following the Arab Spring: Lessons From Yemen (2016) *See above* under: **Tools and Strategies: Dispute Resolution (Evidentiary Standards).** The article describes the land and property mass claims restitution process initiated by the Yemeni transitional government with support from international partners.
Publication: IOM – Property Restitution and Compensation: Practices and Experiences of Claims Programmes (2008) This report provides comparative research on various legal and technical aspects of property restitution and compensation claims programmes. The report assists policymakers to plan and design appropriate claims programmes and provides an overview of different approaches taken to deal with the restitution of property rights, payment of compensation, and the provision of other remedies to victims of conflict. The report discusses claims programmes in various contexts including: 1. The CRPC in Bosnia and Herzegovina 2. The HPD/HPCC in Kosovo 3. The CRRPD in Iraq 4. The South Africa Programme 5. The United Nations Compensation Commission
HLP Resources in South Sudan
Programme: FAO – South Sudan Emergency Livelihood Response Programme (2018)

FAO's emergency response programme is part of the organization's broader resilience-building efforts in South Sudan and bridges the divide between humanitarian and development outcomes. In 2019, the Emergency Livelihood Response Programme included resilience outputs to contribute to a longer-term vision for food security, including the creation of better linkages between short and long-term interventions.

Programme: World Food Programme (WFP) and NRC - Wau Urban Safety Nets Programme (2019)

Through a partnership with NRC, the WFP Wau Urban safety nets programme supports displaced households to meet their immediate food needs through markets. The programme also develops the resilience of targeted households through training to enhance skills, strengthening long-term livelihood options, and rehabilitating public assets.

Programme: Shelter/NFI and IOM – Settlement Pilot Project, Wau, Western Bahr-el-Ghazal (2018-2019)

See above under: **Tools and Strategies: Advocacy and Awareness**. The project provides returnees and host communities with multi-sectoral services centered around settlements to ensure access to livelihoods, health, education, nutrition, water supply and sanitation facilities, and protection against physical and violent threats.

E. LAND ALLOCATION

Land allocation is an effective way to reinstate HLP rights when it is impossible to restitute displaced communities' original HLP or when displaced families are landless. It is important that land allocation programmes support national and local authorities to allocate land parcels in a manner that is transparent, accountable, and upholds women's and vulnerable groups' land rights.

International HLP Resources
Legal Framework: Afghanistan: Presentation on Executive Decree on the Identification and Allocation of Land for Sustainable Housing for IDPs, Returnees, and Martyrs' Families (2018)   This PowerPoint presentation focusses on innovations in Afghanistan's new Executive Decree (adopted in 2018) to allocate state land to returnees, including: 1. Core allocation criteria to ensure access to livelihood opportunities, employment, basic services, and water   2. Allowing applicants to apply for and receive land in the province of their choice   3. Anti-corruption measures   4. Security of tenure for women
Article: Access to State Land for IDPs and Returnees in Afghanistan (2018)   This report provides an overview of Afghanistan's previous land allocation framework and explains the events that led to the Government's development of a new and improved framework. It also examines the procedure to assess and allocate land anticipated by the new framework and underscores important innovations. The report also provides recommendations on how, once finalised and adopted, the Government can operationalise the legal framework to ensure that the provisions translate into actual assessments of suitable land and the allocation of land parcels to Afghanistan's most vulnerable returnees and IDPs.
Legal Framework: Housing and Land Rights Network – Handbook on United Nations Basic Principles and Guidelines on Development-Based Evictions and Displacement (2018)   *See above* under: **Cross-Cutting Themes – Strengthening Legal Frameworks**. The Guidelines provide guidance on the expropriation of land for the purposes of allocation. They also provide protections against forced evictions and, where evictions occur, ensure due process and adequate rehabilitation and resettlement based on human rights standards.

HLP Resources in South Sudan
Publication: NRC- Briefing paper on Southern Sudan: IDPs return to face slow land allocation, and no shelter, basic services or livelihoods The publication examines the Government of South Sudan's 2010-2011 Accelerated Returns and Reintegration Initiative, which supported the return of hundreds of thousands of refugees to South Sudan. The paper highlights the challenges and solutions related to access to land and land allocation.

6. RECONSTRUCTION AND TENURE SECURITY

A. RECONSTRUCTION

Large-scale destruction of HLP during multiple conflicts prevents IDPs from leaving displacement sites and returning to their original HLP. In some cases, IDPs may need windows, doors, or roofs before they are able to return. In other cases, they may require full-scale reconstruction of housing and property. To assist displaced persons to achieve durable housing solutions it is, therefore, important that HLP programmes focus on reconstruction and shelter interventions.

International HLP Resources
Publication: International Committee of the Red Cross (ICRC) – Rapid Tenure Assessment Guidelines for Post-Disaster Response Planning: Pilot Version (2015) These Guidelines were designed to assist assessment of a country's HLP sector to ensure a more equitable, informed, and sustainable shelter response. The Guidelines' questions will assist responders to promptly understand and apply relevant frameworks and safeguards. The information will improve the quality of assessment and beneficiary selection and enable practitioners to design and deliver effective shelter responses.

Publication: IOM – Guidance Note: Integrating HLP Issues into Key Humanitarian, Transitional and Development Planning Processes (July 2018)

See above under **Conflict Sensitivity:** The Guidance Note identifies possible entry points for integrating HLP issues into key planning processes across the humanitarian, transitional, and development phases and focuses on five HLP themes:
1. HLP rights in emergency contexts
2. HLP in peace processes, peacekeeping, and peacebuilding
3. HLP rights in rule of law and development programming and durable solutions
4. Access to HLP rights for vulnerable groups
5. HLP in disaster risk reduction and climate change

Each theme presents a brief overview of the relevant planning processes and possible HLP entry points.

Publication: Global Shelter Cluster – The State of Humanitarian Shelter and Settlements 2018

This publication covers approaches, strategies, and practice regarding the provision of humanitarian shelter and settlements in disasters. The report reflects the work of the Global Shelter Cluster and shares best practices within the humanitarian community to promote a more integrated humanitarian response. The publication provides tools, examples, and best practices on the following key topics:
1. Sectoral assessments for a more effective shelter response
2. Coordination and collaboration in humanitarian shelter and settlements response
3. The emerging importance of the settlements approach
4. Area-based approaches: coping with urban complexities
5. Reduction of GBV in shelter and settlement responses
6. Prevention of dispossession in HLP response
7. Maps, models, and data management for geospatial analysis in shelter response
8. Online housing platforms: current tools and future opportunities
9. Measuring the adequacy of shelters: definitions, criteria, and methodologies

Publication: NRC – Home Sweet Home: Housing Practices that Support Durable Solutions for Urban IDPs (March 2015)

See above under: **Cross-Cutting Themes – General**. This report sets out analytical tools and practices to address specific challenges to achieving durable solutions for urban IDPs, including their specific shelter needs. It guides and informs policymakers and practitioners when designing, funding, and implementing housing policies and programmes and addresses the following key topics:
1. Incremental housing
2. Incremental tenure
3. Profiling of urban IDP situations

4. Eviction impact assessments
5. Community participation approaches
6. Social Tenure Domain Model

HLP Resources in South Sudan

Publication: Shelter Cluster and IOM – Humanitarian Shelter and Land Rights in South Sudan: Due Diligence Guidelines for Shelter Actors (2015)

These guidelines are an adaptation of the "Land Rights and Shelter: The Due Diligence Standard" document adopted by the Global Shelter Cluster in December 2013 to the South Sudanese context. They assist shelter actors in South Sudan to understand existing land rights and to minimize the risk of shelter activities further contributing to land disputes in South Sudan. The Guidelines are intended for emergency shelter actors who support the construction of humanitarian shelter for beneficiaries on host-community and government-allocated land.

Publication: IOM and UKAID – Key HLP Issues in Urban Areas of South Sudan: Context, Actors and Legislation (September 2017)

This publication provides an overview of key HLP challenges in the expanding urban and peri-urban areas of South Sudan. It identifies key issues to be considered by shelter actors engaging in shelter programming in urban areas, particularly with regards to the return and relocation of IDPs. It also presents an overview of land actors and legislation which should inform shelter interventions undertaken in urban settings. The publication provides updated background information which complements and adds to the 2015 Land in Shelter: Due Diligence Guidelines for Shelter Actors in South Sudan (see above).

Publication: SSLS - Between a Rock and a Hard Place: Land Rights and Displacement in Juba, South Sudan (2016)

This paper addresses relevant issues relating to the land rights of displaced populations, with a view towards anticipating some of the legal issues that are likely to arise with large-scale return and resettlement activities in urban areas of South Sudan. The paper focuses on land rights issues that arise in Juba as a result of the large-scale violence and displacement that took place since December 2013. The paper is organized in two sections:
1. An overview of relevant land governance mechanisms and processes
2. Land rights issues confronting IDPs in Juba

Programme: Shelter/NFI and IOM – Settlement Pilot Project, Wau, Western Bahr-el-Ghazal (2018-2019)

See above under: **Tools and Strategies: Advocacy and Awareness.** The project aims to provide returnees and host communities with multi-

sectoral services centered around settlements - defined as a physical environment of household shelters that protects the health, security, privacy and dignity of resident families. Some of the project's main activities include:

1. Construction of one-room shelters and shelter repair works
2. Capacity building of local technicians and artisans to assist shelter support
3. Rehabilitation/construction of essential infrastructure

B. TENURE SECURITY: LAND GOVERNANCE, ADMINISTRATION, AND REGISTRATION

To enhance tenure security for returning or relocating IDPs and returnees, land administration and registration bodies should adopt an incremental approach. This can start with the acknowledgement of informal rights and later transition into more concrete ownership rights.

International HLP Resources
Tool: GLTN – Social Tenure Domain Model: A Pro-Poor Land Information Tool (2013) The Social Tenure Domain Model is a pro-poor land management tool that addresses the technical gaps associated with unregistered land, the upgrading of slums, and urban and rural land management. Security of tenure in these areas relies on forms of tenure that are distinct from individual freehold. STDM supports a continuum of land rights, including rights that are formal and informal and documented and undocumented from individuals and groups.
Publication: GLTN and UN-HABITAT – Designing a Land Records System for the Poor (2012) The publication outlines an innovative and affordable land recording system that can record different types of land rights and tenure and operate within a co-management framework with the community. The publication incorporates best practices from post conflict regions, existing land systems, as well as the experiences of professionals, government authorities, civil society, researchers and others in trying to address land-related issues.
Publication: NRC – Home Sweet Home: Housing Practices that Support Durable Solutions for Urban IDPs (March 2015) *See above* under: **Cross-Cutting Themes – General.** The publication provides tools and best practices which take into account the complexity of infrastructure and institutional, legal, political, and policy frameworks relevant to urban areas. The publication provides best practices and tools to support incremental housing and tenure.
HLP Resources in South Sudan

Publication: IOM and UKAID – Key HLP Issues in Urban Areas of South Sudan: Context, Actors and Legislation (September 2017)

See above under: **Tools and Strategies: Reconstruction and Tenure Security – Reconstruction**. This publication provides an overview of key HLP challenges in the expanding urban and peri-urban areas of South Sudan. It identifies key issues to be considered by shelter actors engaging in shelter programming in urban areas, particularly regarding the return and relocation of IDPs. It also presents an overview of land actors and legislation which should inform shelter interventions undertaken in urban settings. The publication provides updated background information which complements and adds to the 2015 Land in Shelter: Due Diligence Guidelines for Shelter Actors in South Sudan.

Publication: South Sudan Law Society (SSLS) – South Sudan Synthesis Report: Findings of the Land Governance Assessment Framework (January 2014)

See above under: **Strengthening Legal & Policy Frameworks - HLP Tools in South Sudan:** In 2013, SSLS conducted a comprehensive assessment of land governance in South Sudan. The research was structured around the Land Governance Assessment Framework (LGAF), a tool developed by the World Bank to evaluate the legal framework, policies, and practices relating to land governance in a given country. The assessment focused on seven thematic areas in South Sudan:
1. Legal and institutional framework
2. Land use planning, land management and taxation
3. Management of public land
4. Public provision of land information
5. Dispute resolution and conflict management
6. Large-scale acquisition of land rights
7. Forestry

Publication: USAID – Country Profile: Property Rights and Resource Governance South Sudan

This Country Profile provides an overview of land and property rights and resource governance in South Sudan. The report includes information on:
1. Key issues and intervention constraints
2. Land tenure and security of land rights
3. Land use, distribution, administration, and governance
4. Land disputes and conflict
5. Overview of the legal framework relating to land