

## HOUSING, LAND AND PROPERTY TASK FORCE (HLP-TF)



### Background

- **Background:** 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.
- 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
- **Housing, land and Property Task Force:** The HLP TF, as part of the Afghanistan Protection Cluster direct its focus on the facilitation of a systematic approach to housing, land and property rights protection of displaced population, and other persons at risk of HLP rights violations- this includes landlessness and homeless persons. The HLP-TF aims to achieve its objective by a) improving access to land, b) strengthening security of tenure and adequate housing c) addressing HLP disputes and strengthening access to civils documentation and d) ultimately the durable solutions of the displaced population.
- Another key focus of the HLP-TF is ensuring legal protection against forced eviction. In 2013 the HLP-TF successfully advocated for the inclusion of the Guidelines for Mitigating Harm and Suffering in Situation of Forced Eviction as an annex to the National IDP Policy (2013). The Guidelines commits the Government to its obligation under international law on the prohibition of forced eviction and three obligations -before, during and after eviction. The HLP-TF thus works on monitoring, preventing and remedying cases of forced evictions.

### Inter-Agency Durable Solutions Initiative: Profile and Response Plan of Protracted IDP Settlements in Herat

An inter-agency 'Durable Solutions Initiative' was launched in July 2016 comprised of six UN agencies (UN-Habitat, UNHCR, UNICEF, IOM, UNDP and OCHA) and two INGOs (NRC and DRC) with the dual objective to facilitate durable solutions for protracted IDPs currently living in IDP settlements in Herat province and to contribute towards operationalisation of the Herat Provincial Action Plan (PAP) and thus ensure concrete progress in implementing the National IDP Policy in Herat. The initiative decided on a phased approach with the first survey and profiling exercise focused on the seven protracted IDP settlements within the Herat municipal boundaries - Karizak, Minaret, Naw Abad, Police Station, Shaidayee, Shaidayee Clinic and Maslakh. The second phase will follow on in the remaining IDP settlements.

The findings from this profiling exercise has led to the development of a Response Plan of intended actions to address the identified durable solutions intentions, priorities and needs. The Response Plan is aligned with the Herat Provincial Action Plan (PAP) for displacement and will feed into the larger planning of the Herat Department of Refugees & Repatriation and the Ministry of Refugees and Repatriation.

▪ **Priority needs:**

- 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

## HLP-TF IMMEDIATE PRIORITIES

### Emergency interventions for the displaced and host communities in the emergency and protracted settings:

- **HLP Dispute Resolution** - counselling and assistance related to the use of statutory and traditional dispute resolution mechanisms, as well as mediation, to resolve cases related to security of tenure, property and land disputes, including access to inheritance rights for women.
- **Provision of Information on HLP** - legal training sessions conducted on inheritance law, property law, HLP rights, durable solutions, land tenure and occupancy certificates, advocacy.

### Development of the Technical procedure for provision of land to returnees and IDPs together with the Government of Afghanistan:

- Identification of suitable land for allocation
- Beneficiary selection & eligibility criteria
- Allocation of land procedures

#### Suitable land for allocation 8 criteria

1. No contamination
2. Under 5 km walking distance form access road
3. Health clinics in close proximity
4. Schools in close proximity
5. Building materials available locally
6. Soil quality sufficient for the construction of houses
7. Not of special cultural, religious, or archeological significance
8. Sufficient quantity of potable water

#### Presidential Decree No. 104

Since 2005, the allocation of land to displaced persons has been governed by presidential decree 104. While the process intended to provide housing and tenure security for displaced persons, in practice it was fraught with problems, plagued with corruption, and failed to provide returnees and IDPs with viable and durable housing options.

The key problems with PD 104 included:

1. Allocated land had no livelihood or employment opportunities and was located in the middle of nowhere. With no way to sustain their families the returnees left and now 86% of housing units that were allocated under presidential decree 104 are empty and derelict.
2. The land had no basic services, no water, and in some cases was mined.
3. Returnees could only apply for land in their province of origin. But where there was insecurity and fighting this was sometimes impossible. And as a result some of the most vulnerable returnees couldn't apply for land.
4. Returnees had to produce an ID card, or tazkera from their province of origin in order to apply for land. But security concerns and lack of government institutions in the place of origin meant returnees struggled to obtain tazkera.
5. To apply, returnees had to prove they had no other land in Afghanistan. But when only 30% of land in Afghanistan is registered, and there is no centralized registration system, there was no effective way to verify land holdings.
6. Corruption – According to the 2013 MEC report, the whole land allocation process was “full of corruption” – from bribery, back-handers, and fraud, and lacked the necessary accountability measures and checks and balances.