



Global Shelter Cluster
ShelterCluster.org
Coordinating Humanitarian Shelter



Securing Tenure in Shelter Operations

Guidance for Humanitarian Response

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Cover photo: Forced evictions in Kismayo, Somalia, February 2018 (Photo/NRC).

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List of acronyms

<i>CAR</i>	Central African Republic; Commission d'Accueil de Réinsertion (Home Reinsertion Commission)
<i>CBO</i>	Community-based organisation
<i>CDR</i>	Collaborative Dispute Resolution; Community Dispute Resolution
<i>CLRC</i>	Customary Land Registration Committee
<i>CLT</i>	Community land trust
<i>DRC</i>	Democratic Republic of the Congo
<i>ECHO</i>	European Commission's Humanitarian Aid and Civil Protection department
<i>FGD</i>	Focus Group Discussion
<i>FS</i>	Food security
<i>GPS</i>	Global Positioning System
<i>HLP</i>	Housing, land and property
<i>HoH</i>	Head of Household
<i>ICLA</i>	Information, counselling and legal assistance
<i>IDP</i>	Internally displaced person
<i>IFRC</i>	International Federation of Red Cross and Red Crescent Societies
<i>ITS</i>	Informal tented settlements
<i>LCD</i>	Legal civil documentation
<i>M&E</i>	Monitoring and Evaluation
<i>MoU</i>	Memorandum of Understanding
<i>NFI</i>	Non-food items
<i>NGO</i>	Non-governmental organisation
<i>NRC</i>	Norwegian Refugee Council
<i>OFC</i>	Occupancy free of charge
<i>OCHA</i>	United Nations Office for the Coordination of Humanitarian Affairs
<i>OHCHR</i>	Office of the United Nations High Commissioner for Human Rights
<i>OVI</i>	Objectively Verifiable Indicators
<i>PAD</i>	Person affected by displacement
<i>SSU</i>	Small Shelter Unit
<i>SWOT</i>	Strengths, weaknesses, opportunities, threats
<i>ToR</i>	Terms of Reference
<i>UNDP</i>	United Nations Development Programme
<i>UNHCR</i>	United Nations High Commissioner for Refugees
<i>UNRWA</i>	United Nations Relief and Works Agency for Palestine Refugees in the Near East
<i>WASH</i>	Water, sanitation and hygiene

1. Introduction

In a number of regions and contexts where humanitarian shelter programmes are implemented, the use of and access to land and housing by individuals and communities is of a different character and subject to a different type of governance than in the Global North context of formal ownership evidenced by written documents and official records.

Despite this operational reality, until recently, both donors and shelter agencies have largely adhered to traditional notions of shelter based on individual property ownership, given the view that this was the only sufficiently secure form of tenure. As a result, people lacking individual ownership – often among the most vulnerable – were excluded from shelter assistance.

This guidance is part of The Global Shelter Cluster’s and the HLP AoR’s efforts to develop an *operational definition of security of tenure applicable in humanitarian settings*, which will enable the sector to effectively address the shelter needs of its beneficiaries. It incorporates learning from field operations as they apply basic concepts of security of tenure together with knowledge of the local context to devise shelter solutions based on the legal realities and the diversity of tenure systems and tenure forms in place.

Shelter actors strive to promote the design of flexible solutions with tenure that is *secure enough*; by providing the greatest degree of protection for beneficiaries that is feasible in the context. On the one hand is the ideal of formal tenure with a high degree of security evidenced by official documents. On the other, the immediate need of beneficiaries for some security in a situation where formal documented tenure is difficult to obtain.

This document presents operational efforts in a range of contexts to find the *right balance*, using tenure options for beneficiaries short of private ownership, with emphasis on how tenure can be secured and documented in the absence of rules or documentation issued by formal authorities. Going forward, one goal is to continue to explore options for the use of additional forms of tenure.

1.1 Structure and use of this guidance

Chapter 2:	Provides a brief summary of four types of tenure systems as well as four forms of land tenure and four forms of housing tenure.
Chapter 3:	Details four approaches to tenure that are commonly used in humanitarian shelter programs, three of them are related to statutory tenure systems: right of use, rental, and ownership – and the fourth describes customary tenure systems.
Chapter 4:	Discusses the importance of understanding the local context; how to obtain information necessary for programme design; what is “secure enough” at different stages of the emergency timeline; challenges linked to discrimination and access, as well as advice and suggested indicators for monitoring and evaluation.
Chapter 5:	Presents lessons and models from seventeen selected shelter programmes where there is support for security of tenure. Each example looks at how tenure is secured; key challenges, lessons learned and cross-cutting issues.

2. Overview of Tenure

Security of tenure: Security of tenure means that people can live in their homes without fear of forced eviction, whether in communal settlement situations, informal settlements, host communities or after return. It is the foundation of the right to adequate housing and many other human rights.

In the humanitarian context, an incremental – or step-by-step – approach may be the most appropriate approach to security of tenure. This recognises that displaced people can be supported to improve their living conditions in different types of accommodation.

Attention to security of tenure in shelter programmes does not mean prioritising owners for assistance, nor does it necessarily convey permanence or ownership. Shelter actors have been developing an understanding of what is “secure enough” for the purposes of designing shelter options that support the most vulnerable and tenure-insecure (see box below).

As is recognised in the sustainable development goals (SDGs), security of tenure is also linked to perceptions of the individual, families or communities. Threats of violence, harassment or forced eviction violate human rights and should never be ignored by humanitarians and their partners. But it is also the case that the personal estimations of the likelihood of future threat or forced eviction can be a decisive factor, when families are deciding how long they can stay in a shelter, and whether they have the confidence to invest in their own recovery, in that location.

Sphere Handbook

Shelter and settlement standard 6: Security of tenure

The affected population has security of tenure in its shelter and settlement options.

Key actions

- 1. Undertake due diligence in programme design and implementation.**
 - Achieve as much legal certainty about tenure as possible (the “secure enough” approach), given the context and constraints.
 - Coordinate and work with local authorities, legal professionals and interagency forums.
- 2. Understand the legal framework and the reality on the ground.**
 - Map tenure systems and arrangements for the different post-crisis shelter and settlement scenarios; identify how these affect the most at-risk groups.
 - Work with local authorities to understand which regulations will be enforced and which will not, and the related time frames.
 - Understand how tenure relations are managed and disputes resolved, and how this may have changed since the onset of the crisis.
- 3. Understand how tenure systems, arrangements and practices affect security of tenure for at-risk groups.**
 - Include security of tenure as an indicator of vulnerability.
 - Understand what documents may be required by people participating in a programme, noting that the most vulnerable may not have, or be able to access, these documents.
 - Ensure that the response is not biased towards owner-occupier or freehold arrangements.

4. Implement shelter and settlement programmes to support security of tenure.

- Use local expertise to adapt programming to the different types of tenure, especially for vulnerable groups.
- Ensure that documentation, such as tenure agreements, is properly prepared and reflects the rights of all parties.
- Reduce the risk that the shelter programme may cause or contribute to tensions within the community and with surrounding local communities.

5. Support protection from forced eviction.

- In case of eviction, or risk of eviction, undertake referrals to identify alternative shelter solutions and other sectoral assistance.
- Assist with dispute resolution.

Key indicators

- Percentage of shelter recipients that have security of tenure for their shelter and settlement option at least for the duration of a particular assistance programme.
- Percentage of shelter recipients that have an appropriate agreement for security of tenure for their shelter option.
- Percentage of shelter recipients with tenure challenges that have accessed, independently or through referral, legal services and/or dispute resolution mechanisms.

Guidance notes

Tenure is the relationship among groups or individuals with respect to housing and land, established through statutory law or customary, informal or religious arrangements. Tenure systems determine who can use what resources, for how long, and under what conditions. There are many forms of tenure arrangements, ranging from full ownership and formal rental agreements to emergency housing and occupation of land in informal settlements. Regardless of the tenure arrangement, all people still retain housing, land and property rights. People living in informal settlements, who are often internally displaced, may not possess a legal right to occupy the land but still possess the right to adequate housing and protection against forced eviction from their home. In order to determine whether an appropriate security of tenure is in place, information such as tenure documentation and organisational use of due diligence methods are required.

Security of tenure is an integral part of the right to adequate housing. It guarantees legal protection against forced eviction, harassment and other threats and enables people to live in their home in security, peace and dignity. All people, including women, should possess a degree of security of tenure. It is important to understand how tenure relations, including dispute resolution mechanisms, are managed and practised, and how they may have changed since the onset of the crisis. Data to assess security of tenure can include numbers of disputes, eviction rates and perceptions of security of tenure.

Incremental tenure: One of the most effective ways to strengthen security of tenure is to build on existing tenure systems that enjoy a degree of social legitimacy.

Urban considerations: The majority of the urban displaced live in informal settlements or in rental accommodation without formal ownership, lease and/or use agreements. Therefore, the risk of forced eviction and related forms of exploitation and harassment is a defining feature of their lives. Shelter and settlement assistance options for urban areas should address complex tenure situations and consider incremental tenure approaches for renters, informal settlers, squatters and others.

Do no harm: In some contexts, a humanitarian shelter intervention can lead to the eviction of vulnerable groups. In others, highlighting security of tenure issues can increase the risk of eviction for vulnerable groups. A due diligence approach will identify security of tenure risks facing different groups. In some cases where the risks to security of tenure are too great, it may be best to do nothing at all.

Common triggers for eviction: The threat of eviction comes from a complex interaction of factors, most of which are also triggers for exploitation and abuse. They include:

- inability to pay rent, often due to restrictions on livelihoods such as the right to work;
- absence of written lease agreements with landlords, making people vulnerable to price increase and eviction;
- disputes with landlords;
- discrimination against affected people;
- restrictions on improving the housing environment, with those in breach of building permissions coming under constant threat of eviction;
- users or occupants of buildable areas being unable to regularise their situation with the civil administration;
- housing transactions taking place within customary or religious frameworks, and therefore not being recognised by statutory law, or vice versa;
- for women: divorce, intimate partner violence and other forms of domestic violence, or the death of their husband; and
- a lack of civil documentation for women (they may be included in their father's or husband's documentation) and for other marginalised or persecuted groups.

Evictions and relocation: Resettlement may be consistent with human rights law to protect the health and safety of inhabitants exposed to natural disasters, environmental hazards or to preserve critical environmental resources. However, misusing regulations aimed at protecting public health and safety or the environment to justify eviction in the absence of genuine risk, or when other options are available, is contrary to international human rights law.

2.1 Tenure Systems

In most countries, different land tenure systems (statutory, customary and religious) co-exist and may overlap, as a hybrid. Each of these systems has legitimate authorities who define rights and resolve disputes. This is known as legal pluralism in land rights.

Statutory

► 3.1 - 3.3

Statutory land tenure systems are regimes where State legislation and institutions govern land and natural resource rights within the State's boundaries. Freehold ownership and rental are common forms of housing tenure commonly used in statutory systems.

Customary

► 3.4

Customary land tenure systems regulate people's right to the use of land arising from customary practice, rather than through written or codified law. Customary land tenure is often characterized by lack of written documentation or formal registries, significance of collective ownership and other collective rights and special procedures for allocation.

Religious

Religious forms of tenure are regulated by religious institutions. In some contexts, religious law dominates and religious leaders deal with all issues related to land tenure, including registration and dispute settlement. This is particularly the case in countries with Islamic land tenure systems.

Hybrid

Combination of two or more tenure systems, including those referred to as informal or *extralegal* (not sanctioned or regulated by law), e.g. customary and religious.

2.2 Forms of Land Tenure

Private

Rights are assigned to a private party (e.g. an individual, a group, a company or a non-profit organisation), and usually controlled through statutory law schemes.

Communal or collective

Rights held jointly by a group of people generally on the basis of ongoing use such as cultivation, clearance or access (i.e. each member of the community may use the land and resources of the community). Members from other communities may be excluded. This land tenure form is common in customary systems, or in cases where statutory law has designated land for a specific tribe or minority ethnic group.

Open access

Specific rights are not assigned to any individual or group and no one can be excluded. Forests may be under open-access tenure. During an emergency in urban areas, public parks where informal camps have been built may fall into this category.

State/public

Rights are assigned to a public-sector state entity (e.g. a public hospital or airport) and in some instances to a private company.

2.3 Forms of Housing Tenure

Ownership

▶ 3.1

Individual ownership provides the holder with full control over housing and land with the rights to use, control, and transfer, subject to law and local regulations, as well as adverse possession rights (“squatter’s rights” or acquisition of rights through prolonged occupation of the land) and the State’s expropriation powers.

Use rights

▶ 3.2

The right of people to use public or private property for their housing needs under certain conditions; right of use can apply without payment of rent or exchange of other valuable consideration, or satisfaction of formal rental requirements.

Rental

▶ 3.3

A form of the right to use either housing or land, which includes additional rights and responsibilities. Rental provides the right to use housing or land for a specified period of time at a given price, without transfer of ownership, on the basis of a written or verbal contract with a private or public owner. Unlike simple Use Rights tenure, rental is a form of contract, and as such may come under the protection of national contract law.

Collective

tenure

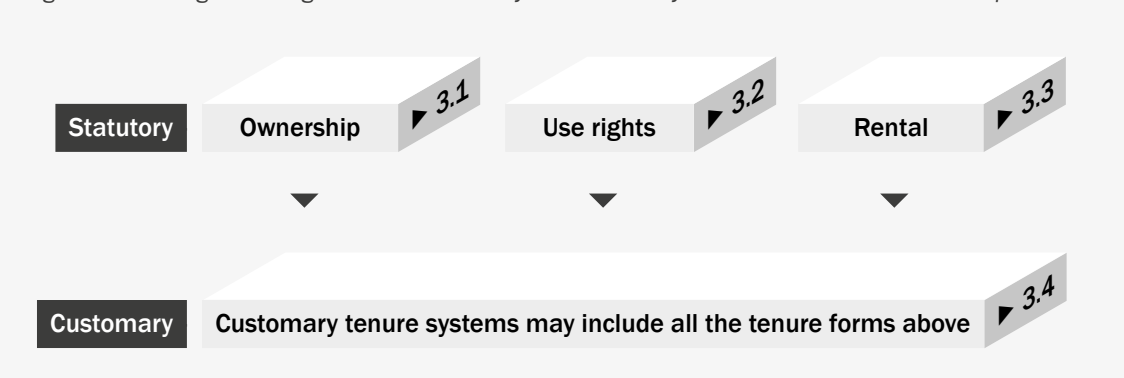
Ownership, rental or use rights over land and housing are shared under joint governance structures. Rights are allocated to individuals according to rules established by statute or in customary tenure systems, by the group or local custom.

Housing cooperatives - established by a group of persons who form a legal entity to develop and maintain a housing project for the collective benefit of its members.

Community land trusts (CLTs) - held by non-profit community-controlled organizations that acquire land for the purpose of providing affordable housing.

Hybrid collective tenure models - combine cooperatives and CLTs. Multi-residential buildings are owned and managed by a housing cooperative and the underlying land is owned by the CLT.

Diagram illustrating the linkages between statutory and customary tenure forms described in Chapter 3:



3. Tenure in the Humanitarian Shelter Context

This chapter goes into further detail on approaches to tenure commonly used in connection with humanitarian shelter activities. These include ownership ▶3.1, use rights ▶3.2, rental ▶3.3, as well as a dedicated section on customary tenure ▶3.4.

Implications of each tenure option is presented in the form of a SWOT¹ analysis. In this case, our objective is the timely provision of adequate (emergency) shelter with secure tenure. The SWOT analysis examines four elements:

Strengths *Internal attributes of this tenure approach that support the objective.*

Weaknesses *Internal attributes of this tenure approach that work against the objective.*

Opportunities *External factors that could represent an advantage using this tenure approach.*

Threats *External factors that could jeopardise your project using this tenure approach.*

A separate page offers guidance on documentation to secure tenure for each of the four selected forms, including essential terms that should be incorporated into written agreements.

Finding the most suitable approach will depend on the existing legal framework, displacement patterns and the current tenure situation of beneficiaries, as well as the available housing stock. However, some basic trends can be identified based on the programmes profiled in Chapter 4. Customary tenure frequently comes into play when providing durable solutions for returnees, while most of the programmes targeting IDPs and refugees have opted for statutory tenure solutions.

Selection of housing tenure in country profiles organised by legal system

Statutory system	Greece ▶5.6	use rights/rental
	Lebanon ▶5.9	use rights/ownership
	Syria ▶5.15	ownership/use rights/rental
	Ukraine ▶5.16	ownership/use rights/rental/collective
Customary system	Afghanistan ▶5.1	ownership/use rights/rental
	Central African Republic (CAR) ▶5.2	use rights
	Democratic Republic of the Congo (DRC) ▶5.4	ownership/use rights/rental
	Nigeria ▶5.11	ownership/use rights/rental
	Somalia ▶5.14	ownership/use rights
Hybrid system	Colombia ▶5.3	ownership/use rights/rental
	Yemen ▶5.17	ownership/use rights

¹ SWOT analysis (strengths, weaknesses, opportunities, threats) is a framework for identifying and analysing the internal and external factors that can have an impact on the viability of a project, product, or initiative.

3.1 Ownership

This tenure solution is relevant in situations of non-displacement or return, and an important activity is support with obtaining new ownership documentation if papers have been lost. It is also relevant in displacement situations, when agreements are reached with private owners to provide shelter for PADs. See country snapshots ► **4.4 Iraq/Kurdistan**, ► **4.5 Jordan** and ► **4.6 Lebanon**.

Freehold ownership provides the holder with full control over housing and land in perpetuity with the rights to use, control, and transfer, subject to law and local regulations as well as adverse possession rights and the State's expropriation powers.

Contextual applicability: The lack of efficiency (high cost, long time delay, and various administrative barriers) associated with gaining or re-asserting ownership in many countries, can make support for this form of tenure unrealistic for shorter, emergency humanitarian shelter projects.

SWOT Analysis:

Strengths

- Provides high degree of tenure security for indefinite period with full rights and maximum control over property and land subject to local rules and regulations; enforceable remedies available.
 - Provides collateral for credit.
-

Weaknesses

- Requires formal documentation and administrative/judicial processes to function to enforce security of tenure; in conflict/disaster, formal records can be missing/destroyed or individuals may lose title documents; processes for documentation and confirmation and resolution of disputes can be time consuming and costly.
 - Costs of access to property can be high; requires either finances sufficient to purchase land or housing outright or a financial system willing to make funds available on acceptable terms and conditions to enable households to repay a loan over time. Ownership may be forfeit and residents made homeless with the loss of all payments made if repayments are not made as required.
 - May expose owners to property taxes and other charges.
 - Requires owners to take full individual responsibility for property maintenance.
 - Places a heavy burden on land administration agencies responsible for surveying, registering and allocating titles.
 - If ownership is in the man's name only, rather than in joint names, this can lead to loss of home for the wife if her husband dies or after divorce.
-

Opportunities

- Full rights and control over property provides opportunity to use both housing and land to generate income, increase value, provide family security through transfer to heirs.
 - Ensuring women's secure tenure through joint ownership increases protection for women and their families.
-

Threats

- Value of property may go down as well as up, resulting in negative equity.

Refer to the checklist in chapter ► **5.3** for steps to identify beneficiaries' tenure situation and obtain the necessary documentation.

Documentation to secure tenure (3.1)

Certificate of Title; Deed (transfer/sale of property)

- In general, a *certificate of title* is one example of a tenure arrangement guaranteeing ownership, according to statutory, and not customary, tenure systems. It is a document issued by a formal land registration/cadaster office, which is responsible for land administration, as evidence of ownership. These offices maintain permanent land records.
- The formal requirements for registering land and obtaining such official documentation of title are determined by the law and custom where the housing/land is located, including form, contents, fees as well as other requirements.
- Deeds document transfer of private property from the *grantor* (seller) to the *grantee* (buyer).

The following are examples of elements included in documentation to prove ownership:

Who?

Title must identify the owner(s) of property; deeds transferring ownership must identify the grantor and grantee. Ideally, both wife and husband of a family should be named in ownership documents.

What?

Specific description of the property including boundaries, GPS, street address, cadastre reference number (if any), survey or sketch, location of structures/housing.

Value

May include value of the property.

What are the rules?

Title would indicate any limit on ownership or rights/claims by third parties, such as mortgages, liens, easements, rights-of-way, etc.

Depending upon local rules, title may include information related to taxes.

Term

Title/land records will indicate date ownership began.

Tenure options for beneficiaries in shelter interventions that involve private property are:

<i>Become first-time individual or collective owner</i>	NRC would not usually generate documents to prove formal private ownership. Instead, Shelter and ICLA would need to know what official documents establish ownership and how and where they are obtained.
<i>Regain or confirm individual or collective ownership</i>	Take possession/move occupiers: what are the mechanisms for resolving dispute? Obtain documents to establish claim/title? Is this realistic based on your context and timeframe? Consider the risk for further displacement.
<i>Become user with legal owner's permission</i>	Identify owners and their willingness to comply with formalities for right of use or rental agreements (see ►3.2 & 3.3). How much time is involved to meet requirements? Is it realistic based on context, budget, and timeframe?
<i>User/occupier without legal owner's permission</i>	If empty properties with absent owners is available or already occupied by the target population (through self-help or guided by authorities): find out if the law recognises <i>adverse possession</i> , and what the requirements are.

3.2 Use rights

The right of people to use public or private property for their housing needs under certain conditions; right of use can apply without payment of rent or exchange of other valuable consideration, or satisfaction of formal rental requirements.

Contextual applicability: Formal requirements for rental cannot be satisfied for logistical, cost, or other practical reasons.

SWOT Analysis:

Strengths

- ▶ Specification/acknowledgment of specific rights and obligations with or without contract can enhance security of tenure.
- ▶ Can facilitate security of tenure for defined and potentially renewable periods to match period of displacement/need.
- ▶ Perception of security of tenure enhanced with or without contracts meeting all formal legal requirements, depending upon national law written contracts on right of use considered legally binding/enforceable.

Weaknesses

- ▶ Tenure security limited by time and conditions.
- ▶ Use of single contract between NRC and owners for Iraq model for shelter for IDPs risks reducing tenure security as IDPs have no agreement with owner of premises in which they reside.
- ▶ Increased rate of eviction in Lebanon rent-free model where or upgrades to private property for refugees already living and paying rent due to owner's loss of income.
- ▶ If documentation is in the man's name only, rather than in joint names, this can lead to eviction of the wife and children if the husband dies or after divorce.

Opportunities

- ▶ Flexibility can facilitate willingness of property holders/owners to provide this form of tenure and expand range/number of holders/owners who can participate in such arrangements including those who may lack full legal documentation of ownership.
- ▶ Including women's names in documents can protect women from being evicted and reduce risk of homelessness if the family breaks down.

Threats

- ▶ Lebanon model contracts emphasize that no consideration given in exchange for shelter (despite NRC investment) risks reducing security of tenure.
- ▶ Lack of tenure documents for IDPs in Iraq model risks reducing security of tenure.

Right of use agreements are relevant for shelter interventions which:

- ▶ Invest in private property in exchange for rent-free shelter and/or
- ▶ Do not satisfy formal legal requirements of rental/lease agreements

A right of use agreement between the property owner/holder and the user provides the right to use either housing or land subject to specified conditions and limitations usually in exchange for something of value, usually money. It can be oral or written. Local law and custom may determine the validity and/or enforceability of such agreements.

Documentation to secure tenure (3.2)

Right of Use Agreement

The following are examples of elements to be included in order to provide security of tenure for parties to a right of use agreement and aid in avoiding misunderstandings/disputes. Increasingly, this form of agreement between a tenant and owner is supported by a separate agreement between NRC and the owner, whereby NRC agrees to provide funding and other support for repairs or improvements to the building, in exchange for the owner signing the Right of Use Agreement with the beneficiary. Depending upon the local context, the Right of Use Agreement should make clear mention of the separate building-improvement agreement between NRC and the owner.

Who? The agreement should name all parties who are bound by it.

Ideally to secure tenure for all members of the beneficiary family/group, all household members (including women and children) should be named (including children who might be born/adopted). As a minimum standard, both wife and husband should be identified by name on the document.

What? Specifically identify the premises/land

E.g. street address, plot, GPS, metes/bounds.

Value Is exchange of consideration (payment) a requirement for rental under local custom/law?

If consideration is required, are there limits under local law or custom on the type (e.g. cash, lump sum, in-kind, percentage of harvest) or amount of consideration (e.g. market rate vs. symbolic)?

What are the rules? Agreement should specify rights and obligations of parties such as:

For housing:

- Owner's right of entry and inspection, consistent with user's right against intrusions.
- Whether users permitted to "sub-let," make alterations, have guests (time limited to distinguish from de facto new/additional occupants); have pets; run a business from the premises with/without permission of the landlord.
- Assign clear responsibility for payment of utility costs and type and costs of repairs
- Owner's responsibility for condition of premises at handover
- User's responsibility for damages, and for maintaining condition of premises as handed over
- Specify access to/right to use either common areas or common facilities
- If consideration to be given, specify the date or period within which it must be provided and how.
- Penalties for breaking terms of agreement
- Conditions or events that permit landlord or user to terminate
- Specify how disputes between owner and user will be resolved

For land:

Specify any limits of what can be done with the land or resources on the land, e.g., grow only certain types of crops, only grow food for personal consumption, not dam streams, not cut down trees.

For how long? The term may be fixed, periodic or of indefinite duration

<i>Fixed term</i>	<i>Periodic</i>	<i>Tenancy at will</i>	<i>Renewal</i>
Indicate start and end dates and the duration of the agreement.	E.g. month-to-month.	Lasts only as long as the parties wish it to (termination by either party without penalty).	Can specify conditions for renewing the agreement.

3.3 Rental

Rental provides the right to use housing or land for a specified period of time at either a given price or exchange of other valuable consideration, without transfer of ownership, on the basis of a written or verbal contract with a private or public owner. The right to use may be limited to specified individuals (e.g. only immediate family members), and/or specified purposes (e.g. residence, self-sustaining agriculture).

In terms of humanitarian shelter, this form of tenure is often available in urban areas, but can be found in rural areas as well. Formal requirements for a lease are determined by the law and custom where the housing/land is located, including form, content and registration of leases with authorities.

SWOT Analysis:

Strengths

- ▶ Good tenure security if protected by a legally or socially enforceable contract *and* if legal or other remedies are actually available.
- ▶ Option for those who cannot afford to buy housing or mobile households.
- ▶ Provides income influx into host community.
- ▶ Investment in host community builds confidence as benefitting from aid for PADs.
- ▶ When combined with upgrades of rental stock, relatively quick completion of shelter for PADs through use of existing housing.
- ▶ Process for discussion, negotiation, acknowledgement of rights and obligations key to perception and adherence to tenure security.

Weaknesses

- ▶ Requires legal recognition.
- ▶ Supply may not be able to meet demand.
- ▶ When rent covered by donor (including when shelter provided in exchange for housing upgrades), time-limited shelter likely to result in PADs lacking shelter again, particularly in circumstances of protracted conflict.
- ▶ Either requires continued project budgets to finance rental costs, limiting beneficiary period, and/or number of beneficiaries, with possible result that beneficiaries are left uncovered although no durable solution found.
- ▶ No guarantee that expanded rental stock will be made available to PADs.
- ▶ If contracts state that no consideration given in exchange for shelter (despite investment in upgrades), this may reduce beneficiaries' tenure security.
- ▶ If documentation is in the man's name only, rather than in joint names, this can lead to eviction of the wife and children if the husband dies or after divorce.

Opportunities

- ▶ Where incomplete/partially completed buildings available, shelter programs funding owners to complete/upgrade buildings can increase rental stock.
- ▶ Upgrade investment can be exchanged for time-limited "rent-free" shelter for PADs, which can permit PADs to stabilize.
- ▶ If displacement continues and if funds for rent are available, the beneficiary can negotiate a lease in upgraded property.
- ▶ Where PADs are already renting sub-standard accommodations, there is a possibility to increase standard as well as tenure security with information/counseling/legal assistance and/or lease contracts.
- ▶ Including women's names in documents can protect women from being evicted and reduce risk of homelessness if the family breaks down.

Threats

- ▶ If displacement continues or increases, the ability to provide rented shelter – including through increasing rental stock – will level out or end and rents rise as market pressure increases with increased demand.

Documentation to secure tenure (3.3)

Rental Contract/Lease Agreement

In general, a lease agreement is a legally enforceable contract between two parties:

- Lessor (owner, landlord): legal owner of either the housing or land
- Lessee (renter, tenant) obtains the right to use housing or land (usually in exchange for money)

The following are examples of elements to be included in a lease in order to provide security of tenure for both the tenant and landlord and aid in avoiding misunderstandings/disputes. Specific context and program conditions should also be reflected.

Who? *Identify all lessors and lessees who are bound by the agreement*

Ideally all household members (including women and children) should be identified by name and other relevant identifiers as well as providing for additional children who might be born/adopted. As a minimum standard, both wife and husband should be identified by name on the document.

What? *Description of the property (as precise as possible)*

Identify the context the leased premises/land, e.g., street address, plot, GPS, metes/bounds.

Value *Is exchange of consideration (payment) a requirement for rental under local custom/law?*

If consideration is required, the amount of rent and when it is owed should be specified as well as the requirement that a receipt or other acknowledgement of payment be provided by the lessor. Are there limits under local law or custom on the type (e.g. cash, lump sum, in-kind, paid by third party, e.g. donor) or amount (e.g. market rate vs. nominal/symbolic)?

What are the rules? *Rights and obligations as well as any limits of lessor and lessee*

- Owner's right of entry and inspection including time, notice, etc., consistent with renter's right against intrusions by the landlord (or other tenants).
- Whether renter permitted to *sub-let*; make alterations; have guests (time limited to distinguish from de facto new/additional occupants); have pets; run a business from the premises with or without permission of landlord.
- Assign clear responsibility for payment of utility costs and for type and cost of repairs.
- Owner's responsibility for condition of premises at handover, as well as renter's responsibility for maintaining condition of premises and responsibility for damages.
- Specify renter's access to/right to use either common areas or common facilities.
- If rent is to be paid, specify the date or period within which rent must be paid and how and that a written receipt or other acknowledgement of payment is provided by the lessor to the lessee
- Conditions or events that permit either landlord or renter to terminate the lease (e.g. nonpayment or damage), as well as any notice period involved.
- If registration of rental agreements is required by law or custom, specify who will fulfil this obligation and pay associated costs. Specify penalties for breaking terms of agreement, and how disputes between the owner and the renter will be resolved.

For how long? *The term of the lease may be fixed, periodic or of indefinite duration*

<i>Fixed term</i>	<i>Periodic</i>	<i>Tenancy at will</i>	<i>Renewal</i>
Indicate start and end dates and the duration of the agreement.	Month-to-month is the general rule if the period is not specified.	May be terminated by either party without penalty.	Conditions for renewing the agreement for an additional term.

3.4 Customary tenure

Customary land tenure systems derive from authorities such as a community, ethnic group or family. Decisions regarding land allocation, use and transfer are the responsibility of traditional authorities (usually male elders) and regulation often takes the form of negotiated interaction between community members and leaders. Disputes are managed through negotiation, mediation or arbitration. Women's land rights are often, but not necessarily, embedded in family and community land rights.

In a number of countries, particularly in Africa, customary land rights also enjoy statutory recognition. Elsewhere, customary rights may not be recognised in law, but enjoy widespread social legitimacy. Customary tenures usually include some forms of community land rights, pastoralist rights, access to resources and use rights. Customary tenure systems can give rise to categories of tenure rights similar to many of those seen in statutory systems, e.g. right of use, rental, right to transfer to heirs.

In some countries, religious law regarding tenure may have been codified into statutory law, but in other cases it may exist parallel to the statutory system. In some common examples, such as Waqf land in Muslim countries, the tenure law will also dictate whether and how the occupant is able to sell on the property, as well as the terms for acquiring and use of the property.

Contextual applicability: Customary and legally pluralistic contexts where formal government institutions are either weak or not present and customary authorities are the de facto decision-makers and dispute resolvers.

SWOT Analysis:

Strengths

- ▶ Where formal government institutions and procedures are non-existent, inefficient, time-consuming, and costly, customary tenure can be less costly, more time efficient, and easier to administer.
 - ▶ In many regions, local people including PADs are familiar with decision-making according to customary rules and in customary decision-making bodies.
 - ▶ Can be seen as supporting social cohesion.
-

Weaknesses

- ▶ Poor customary leadership may weaken legitimacy and enforcement.
 - ▶ Frequently there are no written and/or standard rules of decision or procedures for allocating or documenting tenure rights, increasing potential for arbitrary decisions. Community validation process resource intensive and time consuming.
 - ▶ Rights of more vulnerable groups may not be adequately protected.
 - ▶ Tenure insecurity for women can be common as customary rules and decision-making often disadvantage women and children in disputes within and among family members for rights to housing and land, with significant risk of women being evicted or otherwise dispossessed after death of husband, addition of new wife into polygamous household, etc.
 - ▶ As a result of conflict, customary land tenure systems may be weakened, sometimes fatally. Knowledge can be lost when customary leaders are killed, displaced or lose respect and legitimacy. In addition, natural features used to demarcate property may have been lost or damaged by conflict.
-

Opportunities

- ▶ Can build capacity of communities/leaders to standardize and document customary ownership/rights rules and decisions to secure tenure including greater tenure security for women.
 - ▶ Can introduce new custom of tenure documentation where not previously used and upgrade/standardize documentation where it already exists.
-

Threats

- ▶ Sustainability/enforceability of tenure rights beyond shelter project engagement/support unverified and uncertain.

Customary Certificate/Agreement for Allocation of Land

The following are examples of elements to be included in a customary use document in order to provide security of tenure and aid in avoiding disputes. The specific purpose of the document as well as context and programme conditions should also be reflected in these documents. Attach any other documents the PAD has that provide evidence of the right set out in the certificate including the continued exercise of the right over time.

Who? Identify by name and other relevant identifiers all who are bound by the agreement.

Customary certificate

- Identify authority/person/body issuing the certificate (with official signature/stamp).
- Identify by name and other relevant identifiers (e.g. ID card, date of birth, father's name) person(s) to whom certificate issued, including both male and female heads of household with signatures/thumbprint.
- If consent by neighbours is part of the process, list by name and other relevant identifiers each neighbour who agreed to issuance of certificate including signature/thumbprint.

Customary agreement for allocation of land (Donation of land by customary rights holder)

- Identify by name and other relevant identifiers the customary land rights holder who donates land.
- Identify customary authority that is receiving donation of land.

What? Identify the premises/land (as precisely as possible).

Street address, plot drawing, GPS/metres/bounds, cadastre reference number (if any), landmarks.

Value Is exchange of consideration (payment) a requirement under local custom/law?

If consideration is required, are there any limits under local law or custom on the type or amount?

What are the rules?

Customary certificate

- Specify the nature of the rights to which the holder of the certificate is entitled including any limits (e.g. use/duration) on those rights.
- Specify obligations that must be met to continue to enjoy the right (e.g. pay taxes, renew the certificate every year to demonstrate continued use, not to dam water, not to cut down trees).

Customary agreement for allocation of land

- Specify the purpose of the donation, and the rights the PAD may have on the land and to shelter/materials well as any limits.
- The rights and obligations the customary owner retains during the donation period (if any), e.g. not interfere with PAD's use during the donation period, not to levy fees, rent.
- How disputes are resolved.

For how long? Document should include:

- Date of issuance of document.
- Whether the rights and validity of the document extend for indefinite time or have a time limit.
- For rights and documents of limited time, the date on which the document's validity and rights end including any conditions that will terminate validity, as well as options to renew.

4. Tools and Recommendations for Implementation

Under ▶4.1 is a description of key contextual aspects to consider when preparing your shelter intervention. ▶4.2 links this to the more practical approaches available and a discussion on what is “secure enough” when it comes to tenure in emergencies, and points to the processes for more durable solutions. ▶4.3 presents cross-cutting issues such as women's access to tenure security, and tenure security for landless people and people with disabilities. Guidance on monitoring tenure security, and how to track the effectiveness, sustainability, and impact of tenure security efforts and inter-team collaboration is included in ▶4.4.

4.1 Understanding the context

Local context is the overriding determining factor for the success of any programme which combines Shelter and HLP aspects. Context may also vary within one country from one province or from one city to the next. Not only may there be changes in the variety of tenure arrangement, but also in how accessible those different arrangements are; to women, marginalised minorities, or those with disabilities. Identifying those local contextual differences can make programme development more efficient, identify stronger synergies between Shelter and HLP components and provide necessary alerts to significant risks.

There are three main aspects to consider when determining which options and approaches are best suited to your context:

Context factor 1: The current tenure situation of the beneficiaries,

Context factor 2: The available housing stock, and

Context factor 3: The local legal framework for tenure and housing.

The following questions are intended to assist staff in gathering information relevant to security of tenure as part of the shelter programme planning at project start-up.

Based upon the gathered information, it is possible to take decisions, in consultation with the affected population and with other partners, about whether a Shelter-HLP programme is needed and can be initiated, and what form it should take. However, it must be emphasised that in almost all cases, households with shelter needs, including security of tenure needs, will also have some form of wider HLP support needs, including documentation, information, legal advice, etc. An incremental approach to strengthening both shelter and HLP support as a series of steps over time can allow programming to start, even if there are significant barriers in place.

During these consultations, including the assessment phase, it is essential that the risks of Shelter-HLP programming are explored with the affected populations and other partners. Tenure is built incrementally by being aware of and understanding threats and risks and how to mitigate accordingly.

Consult ▶Chapter 3 for more details on typical tenure forms used in displacement situations, and read the case study snapshots in ▶Chapter 5 to get a better understanding of what the context factors may look like in different countries.

Checklist (4.1)

Tenure Security Inquiry in Shelter Intervention Planning

Context factor 1: Tenure situation of the target population

Question 1.1 Do the target population have pre-existing or current access/rights to housing/land?

If YES, does beneficiary:

- ▶ Have documentation of rights/tenure?
- ▶ Need access to land in order to access shelter?
- ▶ Need to regain access/rights to previous shelter/residence and/or land, which is available/unoccupied?
- ▶ Need to regain access/rights to previous shelter/residence and/or land now occupied by someone else?
- ▶ Need to retain access/rights to current shelter/residence and/or land, which they currently occupy with permission?
- ▶ Need to retain access/rights to current shelter/residence and/or land, which they occupy without permission?

If NO:

- ▶ How can target population gain access to shelter rights in the first instance within the host/integration/return communities' system for structuring housing and land?
- ▶ Is access to land (i.e., individual assignment/allocation/right to use for members of the target population/shelter beneficiaries) required to fulfil the need for shelter?
- ▶ If yes, is it feasible to design a shelter intervention that includes first-time land allocation/assignment either on a temporary or longer term basis?

Question 1.2 What type of access/rights did/does PAD have (i.e. what form of tenure)?

Statutory or customary? Ownership? Use rights? Rental? Collective?

Question 1.3 If beneficiaries of the shelter intervention need land as part of the solution to their housing (regardless of displacement status or prior rights), do they need it for:

Shelter only? Shelter + sustenance/food security/livelihood? WASH/other?

Question 1.4 In what displacement context is intervention for intended shelter beneficiaries (target population) proposed to take place?

- ▶ Durable solution (*Return & resettlement/local integration*)
- ▶ In displacement (*Short-term vs. protracted*)

The displacement status affects the analysis of the degree of tenure security that is "secure enough" for the context including time frame.

Question 1.5 Is the intention to design shelter interventions for:

Individual members of the target population? Group/community?

▶ Continued on the following page.

Context factor 2: Available shelter / housing stock

Question 2.1 What housing stock is already available in the host community that could be used or made usable for shelter to benefit populations/persons in displacement?

- ▶ None
- ▶ *Abandoned housing/shelter (due to absence of original residents, including through displacement)*
- ▶ *Completed/empty or other available housing*
- ▶ *Incomplete/sub-standard/enlargeable housing*

Question 2.2 Who controls access to/use of any identified available housing/shelter stock?

Context factor 3: Local legal framework for land and housing tenure

Question 3.1 What Legal System, Decision-Makers, and Rules are in practice at the specific location and time of the shelter intervention that control use and allocation of housing and land, and resolution of disputes?

Relevant information should be available from:

- ▶ *Local lawyers with knowledge on property relations (can include local ICLA staff)*
- ▶ *Officials and institutions charged with regulating or resolving disputes related to housing/shelter/land?*

NRC frequently operates where either:

- ▶ *Multiple legal systems are present at the same time – legal pluralism, e.g., formal laws and regulations are on the books, but in practice local customs, which may vary from region to region, apply.*
- ▶ *The legal system has been disrupted by either conflict or disaster and either there is a vacuum with no apparent authorities or interim authorities have taken over the pre-disruption system or put in a new place a system.*

It is important to identify:

- ▶ *What system of rules and decision-making applies in fact (not just formally) to the proposed shelter intervention in different locations?*
- ▶ *Do the same rules apply to housing/shelter and to land when it comes to access, use, control, and transfer?*
- ▶ *What rules structure shelter/housing and land tenure arrangements between individuals, and between individuals and authorities (of whatever kind)?*

Question 3.2 Identify type of tenure system: Is housing and land actually and currently managed and allocated in this location according to:

- ▶ *Written laws/regulations issued by formal authorities, and implemented by formal government institutions that keep records and issue documents to individuals that evidence their right to shelter and land, and provide remedies for disputes? (Statutory)*
- ▶ *Informal community leaders according to rules (written or not) developed by the community with or without records or documents evidencing rights with disputes resolved by community leaders using local methods? (Customary)*

For statutory tenure systems:

Identify laws that regulate access, use, control, and transfer of housing & land.

- ▶ Can both private individuals and the state own housing & land?
- ▶ Where private individuals can own housing & land, are there restrictions on which individuals can acquire ownership or other legal access (e.g. based on gender or citizenship)?
- ▶ What are the rules about women's access to/control of housing & land in particular within their families?
- ▶ Where private individuals can own housing & land, are there limits on the owner's uses?
- ▶ Who do you need to deal with to arrange for using private or state property for target populations? Who is authorised to grant use?

Identify formal institutions that in fact manage land & housing arrangements, maintain records, issue documentation and resolve disputes.

What are the formal documents (title) that demonstrate ownership?

- ▶ In the context, do most owners have formal title documents and/or comply with the requirements to have these documents? Are there other documents that in context are accepted as providing "second best evidence of ownership"? What are they (e.g. tax or utilities bills, investments, lengthy residence)?
- ▶ What documents evidence right of use and rental arrangements?
- ▶ What are the legal mechanisms/remedies for resolving disputes?

Additional lines of inquiry might be necessary depending on your specific context (e.g. in case of abandoned property or squatting on state land).

For more detail regarding statutory tenure options, refer to ▶ **Chapter 3.**

▶ **3.1** Ownership p.12

▶ **3.2** Use rights p.14

▶ **3.3** Rental p.16

For customary tenure systems:

Identify the rules, written or not, that determine who in the community has access to, use and control of housing & land and what those rules provide.

- ▶ Is it local custom to have written rules about land & housing access and/or documents that evidence the extent and kind of individual, family, or group access to/rights to land & housing?
- ▶ If no, who knows/decides/implements local rules on housing & land tenure?
- ▶ What are the rules? What is the system of keeping records? What are the local documents used to evidence land & housing access rights?
- ▶ If there is no local custom of using written documents to evidence individual access rights, what is the process for assigning/recognising land & housing access rights?
- ▶ Are there any obligations linked to use/access, or restrictions (e.g. based on gender or citizenship)?

What types of access/use rights are recognized for individuals, families, or groups (tenure options)?

- ▶ Rights holder has broad use rights for indefinite time and can transfer land/housing to heirs?
- ▶ Rights holder has limited use rights, including restrictions on type and duration of use?
- ▶ What are the rules about women's access to/control of housing and land within the community and family?

Identify who are the decision-makers/arbitrators that in fact manage rights, access, and disputes for land and housing arrangements?

- ▶ Who is authorised to grant use of community property?
- ▶ What are the community mechanisms/remedies for resolving disputes?
- ▶ If there are no documents used, is it feasible to introduce documentation process that would be accepted and respected over time?

For more info on customary systems, see

▶ **3.4** Customary tenure p.18

Go/no-go overview

Do no harm: In some contexts, a humanitarian shelter intervention can lead to the eviction of vulnerable groups. In others even highlighting security of tenure as part of programming issues can increase the risk of eviction. A due diligence approach will identify security of tenure risks facing different groups. In some cases where the risks to security of tenure are too great, it may be best to do nothing at all. Source: Sphere Handbook, Shelter chapter, Standard 6. Security of Tenure.

An increased risk of eviction is often the most visible adverse result of a Shelter-HLP Programme in which a do no harm and risk analysis has not been sufficient. However there are others; including the potential that shelter programmes can inadvertently support or consolidate land rights violations that have occurred as a result of forced displacement and land grabbing during the conflict. This could be the case when secondary occupants take possession of properties from where the original inhabitants have been displaced. In other cases, people presenting themselves as owners may have acquired the house/land through force or confiscation and reallocation by the government or armed groups. Also, the tenure of house/land planned for shelter intervention may be disputed. In these situations, community leaders and other local authorities may be compromised. Due diligence must therefore involve consultation with a wider range of sources and investigation to understand patterns of HLP rights violations; underlying disputes; and to verify claims.

4.2 Security of tenure in shelter intervention planning

In most cases when implementing a shelter intervention, there will be a range of tenure arrangements and evidence to demonstrate them. It is good practice among humanitarian shelter actors to collaborate on formulating an understanding of security of tenure that is 'good enough' – that is, secure enough the purposes of humanitarian programming depending on the phase of the response. The risk of forced eviction can never be completely removed but minimized as much as possible during the programme intervention. Over time, and as the shelter options become more durable, the aim is to strengthen security of tenure incrementally. One of the most effective ways to do this is to build on existing tenure systems that enjoy a degree of social legitimacy.

As highlighted in Section 2.0 above, the SPHERE Guidelines 2018, Shelter and Settlements Section 6.0, provide key actions for in Shelter intervention planning. The first being Due Diligence. Recent work by Shelter/NFI Cluster X-Border Operation – Turkey provide a practical guide to this process and how it worked in that context.

The key question will always be, 'What is Secure Enough' in any situation? There is no right or wrong answer, as the context will dictate what is acceptable and what is not acceptable and with an ever-shifting context, decisions made at the beginning of an emergency may look very different as events un-fold. It is therefore of paramount importance that decisions are taken from a position of knowledge, understanding while upholding the conflict-sensitive do no harm principles.

How many instruments are 'secure enough'?

For many programmes in the initial or emergency phases, 'good enough' programming, with a focus upon giving first shelter support to as many households as possible, may mean engaging with or using a small number of locally available tenure arrangements which are efficient enough so that all beneficiaries can access them within the shorter time frame of an emergency project, even if those arrangements do not have the highest level of security.

How many instruments could be useable in the future?

As the programme timeline continues, it may be possible to expand the number of tenure arrangements which can be used or supported – by finding ways to help beneficiaries undertake the more complex or time-consuming processes necessary to access tenure arrangements which may be more secure in the long term.

How many instruments can be adaptable?

Shelter-HLP programmes in a number of countries have been able to increase the number of local tenure arrangements which are 'good enough' to engage with, by working with local authorities and community leaders in order to make changes or adaptations to existing tenure arrangements, so that either secure arrangements become more efficient, or efficient arrangements become more secure. The choice of which arrangements to try and adapt will always depend upon discussions with the local community, local authorities and community leaders, and other key actors.

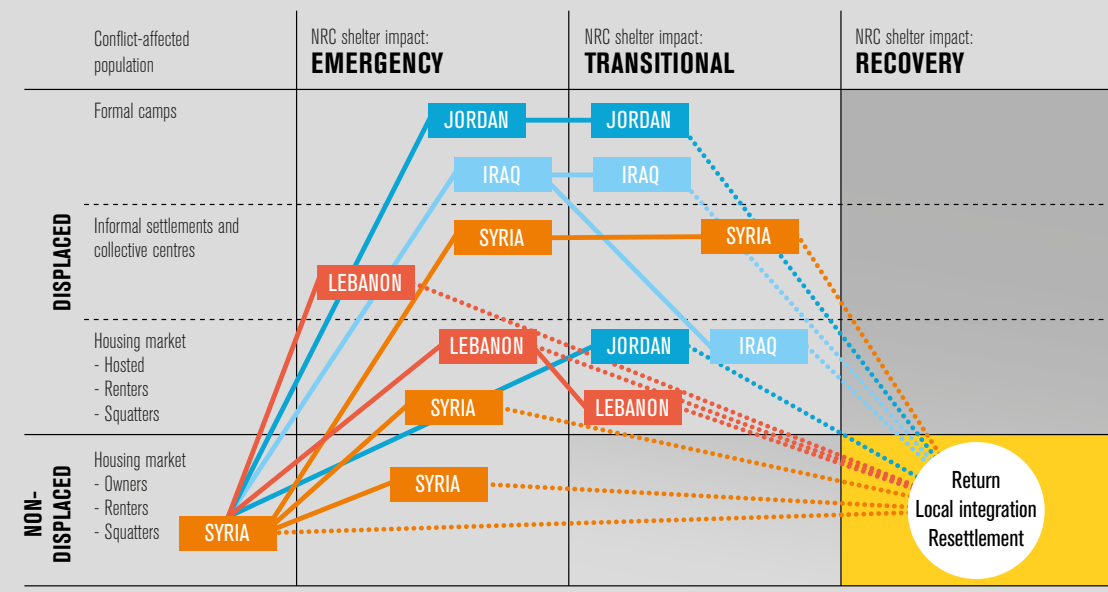
Understanding Risk

During the implementation of the key actions listed in Sphere (see below) it is important to always bear in mind that no security of tenure is 100% certain. All tenure has an element of risk and it is important that this is recognised during programme design. Discussions with humanitarian partners and donors on what is secure enough (see above) should also include an understanding of the risks in deciding what is feasible for each context and intervention.

Various routes to durable solutions

Security of tenure is the cornerstone of the right to adequate housing and is intrinsically connected to durable solutions. Without security of tenure people may be unlawfully evicted from shelters, from their business premises, and farmlands. Without security of tenure people cannot return home, and they cannot integrate locally in camps and other settlements, given any uncertainty over their tenure arrangement and future. Security of tenure across the different shelter and settlement options identified by affected populations is essential in promoting pathways to durable solutions. Not only is this important when durable solutions are available, but it is equally important in the emergency and transitional programming which supports in stabilizing and reinforcing forms of capital.

In the country profiles in Chapter 5, Shelter programmes in the Middle East have integrated security of tenure throughout their programmes in response to the different shelter and settlement options chosen by the affected population - ranging from agreements with local stakeholders for collective centres in Syria, through to signing hosting agreements with landlords and beneficiaries in Iraq. In all the examples below, the programmes may have started with relatively simple forms of security-of-tenure support, which then became more diversified in order to take into consideration the wider range of displacement and shelter options of the populations in need. Eventually, there can be a convergence of objectives towards commonly found durable solutions.



4.3 Marginalisation, discrimination and access

Challenges linked to identity documents and residency

Possession of identity documents is a key prerequisite to facilitating beneficiaries' access to services in displacement, including access to shelter assistance services which include (?) secure tenure and tenure documentation. In at least one NRC country programme, national authorities have tightened registration and identity document issuance to require that those nationals hosting refugees sign a "housing pledge," which may require documentation of the housing arrangement as well as notification as to when the arrangement ends. Recent changes to the registration process in Lebanon for registration of Syrian refugees may have implications for the shelter response that relies on agreements NRC does not consider leases. In Iraq, differences on the basis of ethnicity/sect in requirements to obtaining required residency permit affects security of tenure.

Several country programmes incorporate assistance to shelter beneficiaries on obtaining identity documents as a component of integrated ICLA/Shelter programmes. For example, in Mali in 2014, identity documents facilitated beneficiaries of rent subsidy assistance to obtain rent funds from banks and obtain tenure documents from either formal or customary authorities. For women, who suffered structural discrimination, possession of an identity document was viewed as buttressing potential assertion of rights.

Challenges to women's security of tenure

Many if not most of the profiled shelter programmes take place in contexts characterised by structural discrimination against women in access to secure tenure. However, many programmes continue to face serious challenges in implementing safeguards for women's security of tenure in shelter assistance to families, citing amongst other reasons, prevailing custom and resistance from various directions, including implementing partners, staff, and other shelter sector providers.

Generally, security of tenure arrangements which are the least efficient – that is, the most difficult to access – for all members of the affected population, are even more difficult to access for women. In many countries, there are extra barriers hindering or practically preventing women from accessing formal written contracts, or legal certification from local courts. At the same time, field experience has shown that women may also encounter specific challenges in accessing those security of tenure arrangements which are otherwise the most efficient, and the most commonly used by humanitarians as 'good enough' for mass distributions of emergency shelters: examples of this sort of challenge are the cultural barriers against women engaging in agreement-signalling handshakes with men (including male landowners), or being able to represent themselves verbally and directly in front of individual or group gatherings of male elders or community leaders.

Women and evictions:

The demographic changes that conflict entails result in increased number of widows and women-headed households. Conflict and displacement also result in socioeconomic ruptures within the family, the loss of work and income, as well as changes in social roles and status, which can result in an increase in family violence. Displaced women may be forced to make a decision to stay in a violent and abusive relationship when the rent or ownership of the house is controlled by the abuser. The ability to access safe and affordable housing are two of the most pressing concerns for women to escape violence and remove herself and her children from an abusive situation.

In this sense, when a woman is evicted or loses her home and ends up having to live with relatives or host families, she is effectively homeless. These women are likely to be less visible because they may not be 'sleeping on the streets'; but nevertheless are often in precarious housing situations, having to compromise their safety; forced to adopt risky coping mechanisms, such as engaging transactional sex; or trade other commodities, including humanitarian aid for accommodation.

Challenges to the security of tenure of persons with disabilities

Displaced persons with disabilities have seen coping mechanisms and support structures disappear, and often face multiple discrimination in access to housing. Lack of legal status can be a barrier to challenging discriminatory practices. As a result, displaced persons with disabilities may be unable to rent adequate shelter and forced to live in unsafe and tenure insecure conditions and particularly at risk of forced evictions. Persons with disabilities tend to be more tenure insecure due to:

- ▶ Higher rates of poverty and discrimination which may force people into informal settlements.
- ▶ Ownership/tenure status transferred to family members or legal guardians. Lack of protection or adequate shelter may in some cases lead to unnecessary and/or involuntary institutionalisation.
- ▶ Higher rates of illiteracy and stigma. Lack of accessible information on HLP rights.
- ▶ Exclusion from claims and restitution processes and other HLP support initiatives.
- ▶ Disruption of national social services (e.g. housing or rental support).

Other challenges facing minorities or marginalised groups

Several sub-Saharan country programmes (particularly those operating in rural areas) have highlighted the importance of reliable access to land by IDPs/refugees who rely on agriculture for sustenance and income, hence the need to incorporate security of tenure into food security programming together with inter-team collaboration. In DRC, for example, ICLA and Food Security work together to help displaced families meet food and livelihood needs and increase resilience. ICLA negotiates access to land (for 4-24 months) on which families in displacement can cultivate, while Food Security provides seeds, tools, and technical agricultural assistance. Where IDPs wish to integrate, ICLA and Food Security collaborate to gain permanent access to land and livelihoods. Land access is secured through written agreements developed by ICLA between beneficiaries, land owners or local chiefs.

4.4 Monitoring

The text below is a summary of Principle 8: Include security of tenure in monitoring and evaluation, page 38 of the: Norwegian Refugee Council (2017) Security of tenure in urban areas. Guidance note for humanitarian practitioners.¹ Please refer to the Guidance Note for more information.

Introduction

Despite the increasing focus on tenure security in humanitarian programmes, it is often something that is not systematically monitored. It is important to make security of tenure an objective in shelter strategies and theories of change because of the complexity of tenure arrangements and because there is such a high risk of evictions among displaced and vulnerable populations prioritised by humanitarian shelter and legal assistance programmes. By doing so, humanitarian actors can assess the protective effects of their programmes for immediate and longer-term tenure security.

Key actions

- Security of tenure should be identified as an objective in shelter programme strategies and theories of change.
- Consult with communities about the change they want to see as a result of the intervention and how it should be monitored: build this into the programme monitoring component (M&E) This can include the community's and individual's own perceptions of security of tenure.
- Develop ways of monitoring security of tenure throughout the programme cycle.
- Use assessments to design indicators that are tailored to context-specific threats to security of tenure; for example the level of disputes between displaced and host communities.
- Analyse the data at key points in the programme to manage and adapt the response.

¹ IIED, London. <http://pubs.iied.org/10827IIED>.

Background

It is important to monitor whether the humanitarian shelter intervention is achieving the planned changes and to adapt and adjust the project accordingly. This requires building security of tenure into your organisation's M&E framework: building it into programme objectives and defining results to measure from the beginning. Programme theories of change should show how the provision of shelter goods and services contribute to tenure security. It also requires identifying the key results that should be being tracked and assessed as a part of programme monitoring and evaluation.

This goes beyond the development of indicators, which are only one way of tracking results. It is even more important to make security of tenure explicit in the objectives and results levels of the programme design, to design the relevant results, and to build monitoring and evaluation around this. It also entails deciding which results to monitor on an ongoing basis or through different evaluations. When this is decided, the results that require an indicator can be selected and then indicators designed accordingly – see examples below.

Some of the elements to consider when designing M&E systems to capture security of tenure in legal assistance and shelter programmes can include:

- Occupancy rates of rehabilitated shelter units
- Possession of tenure documentation
- Threats of eviction
- Incidences of eviction
- Perceptions of tenure security
- Incidences of disputes
- Resolution of disputes between tenants and their landlords
- Receipt of ICLA /legal assistance services
- Levels of negative coping mechanisms
- Changes in income and debt accumulation, and
- Changes in rental prices.

Examples of indicators from NRC shelter programmes

Host community relations

- ▶ % of households report that relationships with landlords and neighbours have improved during the hosting period
- ▶ % of key informants stating modality has contributed positively to the communities' capacity to respond to the housing needs of refugees and host community

Enabling environment associated with security of tenure

- ▶ % of beneficiaries reporting increased disposable income for debt repayment, education, health
- ▶ % of shelters occupied by intended beneficiaries after 3 months of hand-over

Programme activities

- ▶ % of tenure documents including women, either in own or joint names
- ▶ # of agreements signed with property owners
- ▶ # of agreements signed with beneficiary households
- ▶ # of land or housing disputes resolved due to NRC intervention

5. Country Programme Profiles

The following pages give an overview of how tenure has been documented in the context of NRC shelter response in seventeen different country programmes.

Each snapshot includes a basic description of the country's legal system and goes on to describe the shelter intervention, including its context, beneficiaries and forms of tenure used. Snapshots include a mixture of durable solutions and shelter in displacement, in both urban and rural situations.

	Context				Beneficiaries				System		Form of tenure			Page number
	Urban	Rural	Peri-urban	Camps	Refugees	IDPs	Host comm.	Returnees	Statutory	Customary	Ownership	Right of use	Rental	
▶ 4.1 Afghanistan	•	•	•		•	•	•	•	•		•	•	•	32
▶ 4.2 CAR	•	•				•	•	•		•		•		36
▶ 4.3 Colombia	•	•	•			•	•	•	•	•	•	•	•	39
▶ 4.4 DRC	•	•	•	•		•	•	•	•	•	•			41
▶ 4.5 Ecuador	•	•	•		•		•		•	•	•	•	•	43
▶ 4.6 Greece	•				•				•			•	•	46
▶ 4.7 Iraq/Kurdistan	•	•	•	•	•	•	•	•	•			•	•	49
▶ 4.8 Jordan	•	•	•			•	•		•				•	51
▶ 4.9 Lebanon	•		•		•		•		•		•	•		54
▶ 4.10 Myanmar		•		•		•	•	•		•	•	•		57
▶ 4.11 Nigeria	•	•	•			•	•	•	•	•	•		•	59
▶ 4.12 Palestine/Gaza	•	•	•		•	•	•	•	•		•	•	•	62
▶ 4.13 Panama	•				•				•	•	•	•	•	65
▶ 4.14 Somalia	•	•	•		•	•	•	•		•	•	•		67
▶ 4.15 Syria	•	•	•	•	•	•	•	•	•		•	•	•	70
▶ 4.16 Ukraine	•	•				•	•	•	•		•	•	•	73
▶ 4.17 Yemen	•	•	•			•	•	•	•	•	•	•		76

Note: The classification is based on CO self-assessment, and not on an overall survey or comparison between programmes. Discrepancies may occur, but the matrix is intended to provide a quick overview of potential differences and similarities.

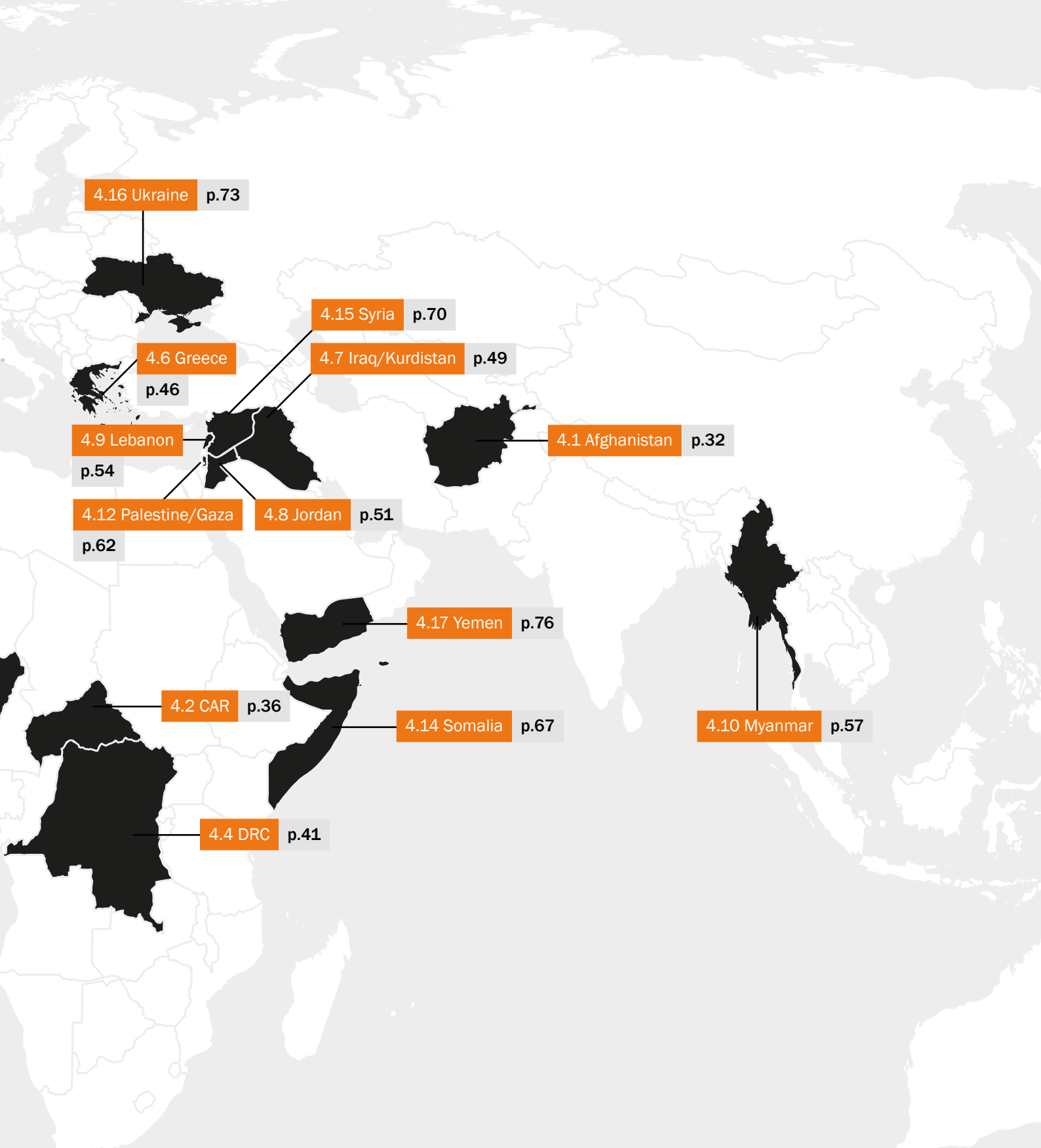
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4.11 Nigeria
p.59

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5.1 Afghanistan

Afghanistan has a mixed legal system of civil, customary, and Islamic law.

Context: rural urban peri-urban

Beneficiaries: refugees IDPs host communities returnees

Also targeting non-war affected families living below the poverty line in substandard housing. Refugees originate from Waziristan, Pakistan.

Form of tenure: statutory ownership right of use rental

Also looks at mortgage agreements.

Shelter response:

- ▶ Repair of war-damage combined with upgrade to Shelter minimum standard for Refugees, Returnees, and Non-war affected families living below the poverty line.
- ▶ Rent-free accommodation to displaced families most in need by upgrading substandard housing units in host communities.
- ▶ Reconstruction of totally destroyed housing units (through UNOPS as a partner) with NRC-UDOC (Urban Displacement & Out-of-Camps) support to ensure community engagement through active involvement of municipal forum members in the implementation of the project (beneficiary selection, mediation in difficult cases, complaint mechanism).

Main HLP challenges for beneficiaries:

Lack of a centralized land registry

- ▶ Nearly 70% of land in Afghanistan is unregistered, which can prevent property transfer even when both parties are in agreement. Additionally, registering a land transfer incurs a tax and may require paying a bribe, which is a further disincentive to formal registration, meaning it is not a priority in most land transfers. Many rental arrangements are not formalised or lack an enforceable, written contract. When contracts do exist, enforcement may still be prevented due to lack of documentation from the the landlord to prove land ownership.

Land registration laws favors the government where ownership is uncertain

- ▶ The 2000 Land Management Law provides that all unregistered land belongs to the government. Private individuals only own land if they hold a valid, government-issued title or deed. Despite long-term use and occupation by individuals, unregistered land is considered government-owned.

De facto exclusion of women from property registration documents

- ▶ Although both the 1977 Civil Code of Afghanistan and the 2004 Constitution grant women the right to inherit, own and transfer property, in practice women are frequently prohibited by their families from entering into legal agreements of any kind and must instead rent, lease or mortgage property through their male family members, such as a father, husband, or son.

Loss of HLP documents during displacement; land usurpation

- ▶ When people flee their homes during conflict or natural disaster, the property left behind is often taken over and resold or exchanged, making it difficult to reclaim when they eventually return to their place of origin. The problem is compounded by the fact that many people lose their documents during displacement, making it difficult to prove they had ownership rights on return.

Forced eviction

- ▶ Many IDPS and returnees live in informal settlements without formal occupancy agreements, making them vulnerable forced eviction. Where the individuals do have a formal tenancy agreement in place, the landlord's claim to ownership may not be enforceable, given the large gaps in the national land registration scheme.

Lack of effective land allocation scheme

- ▶ In 2005, the government of Afghanistan ratified Presidential Decree 104 which provides a framework for land allocation to returnees and IDPS. The decree has lacked effective implementation and has in some instances resulted in IDPs being separated from land they were occupying without a viable alternative. The government began reviewing the decree for amendment in 2016, though review remains ongoing as of mid-2018.

How tenure was documented – and why was that method chosen?

Assist beneficiaries in obtaining title deeds

- ▶ Where individuals have returned to their place of origin and have an unsettled claim to land but lack adequate documentation, whether because documents were lost during displacement or never existed, NRC assists beneficiaries in obtaining deeds through the local cadaster or, where that is impossible, by obtaining a customary deed. NRC also assists beneficiaries in mediating land disputes with neighbours, relatives, and subsequent occupiers.

Tripartite agreements between NRC, landowner and beneficiary

- ▶ Tripartite agreements are used when NRC's shelter programme builds either transitional or permanent shelters on private land that is provided for short or long-term use/occupancy by beneficiaries. The agreement codifies the relationship between the landowner, NRC, and the beneficiary, and specifies how long occupancy is expected to last.

Occupancy letters for residents of informal settlements

- ▶ Beginning in 2018, ICLA Afghanistan has begun developing an occupancy letter for inhabitants of informal settlements (primarily on state-owned, or at least state-claimed land) who will also receive shelter upgrades. The letter is not proof of ownership, nor a guarantee that the government will not evict them, but is an intermediate step to offer a basic level of tenure security. The programme is also considering occupancy letters for use where displaced families are being accommodated by relatives.

Assist beneficiaries to obtain a letter of sale

- ▶ A key qualification criterion for shelter assistance is land ownership. In 2017, NRC implemented a shelter programme in Herat province. Beneficiaries purchased land and the ICLA program assisted with obtaining a letter of sale from the landlord.

Assist beneficiaries to constitute rental, lease and mortgage agreements

- ▶ As a new initiative in 2018, ICLA has provided assistance to beneficiaries with existing rental agreements, to reflect the reality that many displaced people in urban areas do not own land. Through this assistance, NRC reviews existing occupancy agreements where they exist, and for individuals who do not currently have a formal agreement in place, assists landlords and beneficiaries in developing one that is legally enforceable.

Key lessons learned:

Due diligence (stakeholder analysis, ensuring dealing with real owner)

- ▶ A joint ICLA-Shelter project in 2017 was halted when community members claimed that land allocated to project beneficiaries in fact belonged to them, and that beneficiaries had purchased land from sellers with invalid ownership documents. While it is not possible to entirely eliminate the potential for land disputes during project implementation because of the low rate at which land is formally registered, Shelter can, wherever possible, select land where ownership appears formally settled, and ICLA can work with the community to establish agreements to avoid conflict.

Closer Shelter/ICLA coordination, including on projects that are not formally cross-sectoral

- ▶ In line with the need to conduct thorough due diligence, several shelter projects implemented in 2017 encountered issues over the disputed authenticity of ownership documents after beneficiaries had been assigned land. While ICLA and shelter do joint field assessments on all projects involving both competencies, this practice needs to be expanded.

Even when we reach female beneficiaries, we may not have helped them achieve significant benefit

- ▶ Because of the cultural norm of excluding women from legal documents, even when a woman has successfully resolved an HLP dispute in her favor, she may have no legal proof if her family insists on registering the property in a male relative's name, leaving her vulnerable to future eviction. Wherever possible, Shelter and ICLA attempt to make sure tenure documents such as sale letters, occupancy certificates, and mortgage agreements include women's names.

How does this programme support beneficiaries for the long term?

Assist beneficiaries in obtaining formal title deeds

- ▶ In most cases, property transfer in Afghanistan occurs through the exchange of customary documents which are not legally enforceable. NRC's ICLA programme assists beneficiaries in exchanging customary documents for legally recognized title deeds wherever possible. When this is not possible, NRC helps beneficiaries mediate disputes and trains local Shuras and Jirgas on land ownership laws to reduce the risk of eviction.

Assist beneficiaries in obtaining certificates of occupancy

- ▶ In 2017, the Afghanistan Land Authority passed regulations intended to formalise ownership in informal settlements by issuing occupancy certificates to qualifying individuals. Although the occupancy certificate is not a document of ownership, it a) protects the inhabitants of informal settlements against forced eviction and b) is intended to be replaced with a title deed in coming years. As the regulations come into place, ICLA will assist target groups in informal settlements to obtain certificates of occupancy and eventually, convert these into ownership documents.

Cross-cutting issues:

Gender inclusiveness

- ▶ As described previously, cultural norms exclude women from most legal documents. As a result, though ICLA may have successfully assisted a woman in claiming an inheritance share from her brothers, even after the property transfer, her name may not appear on the deed, leaving her vulnerable to future disputes and with no legal proof of ownership. ICLA aims to increase the rate at which ownership documents are held by women, rather than their male relatives. This has been done on a small scale in parts of Afghanistan where cultural resistance is lower (primarily in western Afghanistan) and ICLA intends gradually encourage the practice in other areas of Afghanistan, while remaining cautious of doing no harm.

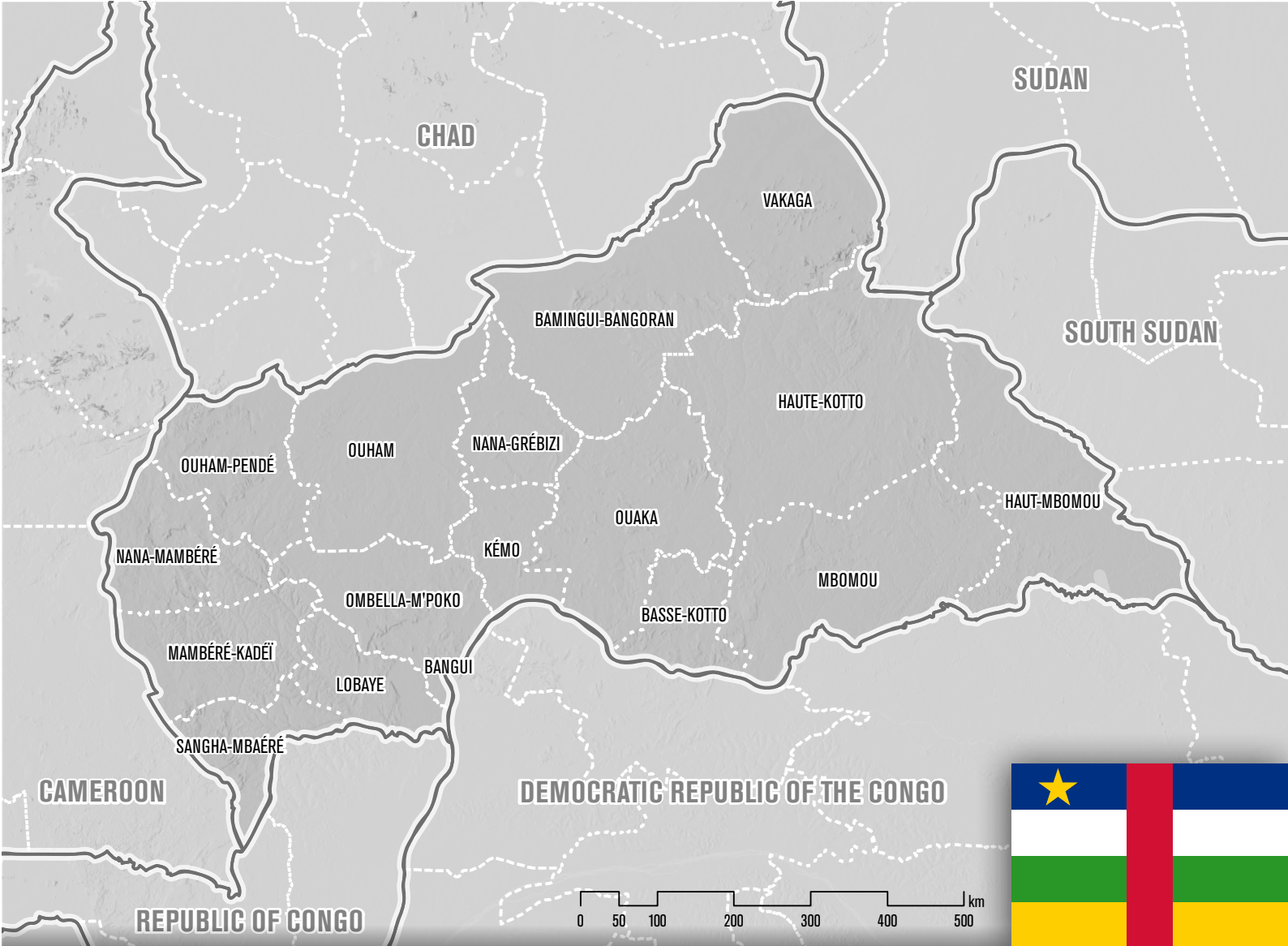
Protection: psychosocial trauma and improving basic service referrals

- ▶ In late 2017, ICLA Afghanistan piloted a programme to train ICLA staff to offer basic psychosocial first aid to traumatized beneficiaries and identify instances where referral to address other urgent needs, including health, food assistance, or a professional mental health provider would be appropriate. The impetus for the introduction of this programming was the fact that individuals who would benefit from ICLA assistance frequently first interact with NRC when they are too preoccupied by other issues, including psychosocial trauma, to consider the value of obtaining tazkera or resolving an inheritance dispute. Improved referrals and the introduction of basic PFA counselling among ICLA staff aims to enable staff to help beneficiaries address pressing needs so that they can benefit from ICLA services.

Tools used for documenting and securing tenure in the Afghanistan shelter programme:

Tripartite
land tenure
agreement for
shelter

Letter of
occupancy
in informal
settlements



5.2 Central African Republic (CAR)

The Central African Republic has a civil law system based on the French model, but formal law and institutions are not functional for most practical purposes and customary practices prevail.

Context: rural urban

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: customary right of use

Shelter response:

- ▶ The shelter programme provides materials to returnees/IDPs to rebuild or rehabilitate destroyed/damaged houses through community-based mechanisms;
- ▶ Access to land is a precondition for receiving shelter assistance.
- ▶ The shelter programme provides material and construction support to rehabilitate damaged community spaces chosen through community-based systems.

Main HLP challenges for beneficiaries:

Inadequate or missing documentation

- ▶ Less than one percent of the population in CAR have legally recognised documentation for their shelter or property. Individuals who fled violence frequently left behind or lost what paperwork they had. Lack of documentation extends to both official and unofficial proof of property ownership or occupancy, proof of sale, identity documents, educational documentation, and birth certificates. The issue affects the vast majority of IDPs and returnees but also members of host communities. Conflicts can easily escalate where opposing parties claim rights to property or land without evidence of ownership or other rights.

Insufficient presence of state actors

- ▶ Armed groups control entire regions of the country and even state-controlled prefectures frequently lack courts and administrative officials to issue documents and enforce property decisions.

Secondary occupation

- ▶ Throughout the country, civilians, local leaders, and members of armed groups occupy the homes and property of displaced people. In some cases, secondary occupants are themselves displaced people without other housing alternatives. In other cases, members of an armed group or majority community may view their secondary occupation as a post-conflict prize or compensation. Additional conflicts arise when civilians, members of armed groups, and local leaders have repaired or rebuilt on abandoned parcels of land. If they return the property to displaced people, they risk losing their investment.

Conflicts related to intra- and intercommunal tensions

- ▶ As IDPs return to communities, they may encounter resistance from the current residents. For certain communities, the conflict derives from the same ethnic tension that initiated the original displacement. Moreover, the community may not want to jeopardise their own economic security by handing over properties to returnees.

Destroyed and inhabitable homes

- ▶ In many prefectures, armed groups have used property destruction as a weapon of war and as a means of vengeance against specific communities. Accordingly, many displaced people return to their homes to find them partially or totally uninhabitable. Without outside support, many of these households do not have the means to rebuild or repair their shelter, preventing reintegration and perpetuating displacement. Where displaced people receive assistance, the community may react negatively to what they perceive as preferential treatment.

How tenure was documented – and why was that method chosen?

- ▶ To make up for the extensive lack of documentation, ICLA developed a community consultation process to verify land rights, including a "witness/testimony certificate" modelled on official forms issued by land offices and practices used in communities. ICLA and Shelter, implementing partners or government authorities consult with community members, neighbours, heads of districts/villages (up to 8-10 persons per beneficiary) who serve as a "witness" to the beneficiary's tenure. Through consultations for each beneficiary, ICLA (or an implementing partner) obtains each consulted person's confirmation of the beneficiary's prior use/residence, absence of disputes, and agreement to beneficiary's return. The certificate is signed by the witnesses, the beneficiary, and a local authority. ICLA and Shelter provide each beneficiary, local authorities, and community leaders with copies of final signed document which includes GPS coordinates for the identified property and a list of supporting documents.

- ▶ This year the Central African Government officially recognized the certificate as valid proof of property tenure.

Key lessons learned:

- ▶ In 2017 ICLA and Shelter launched a fully integrated project to address HLP conflicts. In consultation with communities and local authorities, ICLA teams created databases of HLP conflicts. After additional consultation with communities, Shelter selected beneficiaries for reconstruction and rehabilitation from these lists. For example, if a secondary occupant restituted a home to returnees as part of an ICLA mediation, Shelter would assist the secondary occupant household with rehabilitation or reconstruction. Although this approach does not always target the most vulnerable, ICLA/Shelter learned that assisting with solutions for returnees and secondary occupants prevents conflicts, improves community cohesion, and does no harm to secondary occupants.
- ▶ For the following years, ICLA/Shelter HLP activities will increasingly include social cohesion and community development components to programs to address community resistance to returnees.

How does this programme support beneficiaries for the long term?

- ▶ In addition to providing both returnees and host communities with homes, this programme rehabilitates social infrastructures (training centers, community centers, sports facilities) that will support beneficiary communities' activities and growth in the long term.
- ▶ Moreover, property documentation and community HLP dispute resolution mechanisms also serve as long term systems for resolving HLP challenges.

Cross-cutting issues:

- ▶ Despite equality under the law, women do not have equal access to land ownership or other land rights in CAR and widows and divorcees risk eviction and displacement throughout the country. In some cases, humanitarian shelter providers, implementing partners, NRC staff and local authorities continue to resist advancing women's right to tenure security. ICLA includes components on women's property rights in all trainings, but these elements frequently meet cultural resistance. Programmes have not designed specific solutions for addressing housing challenges in polygamous or child-headed households.

Tools used for documenting and securing tenure in the CAR shelter programme:

Attestation
de
Témoignage

Checklist
LTB
(HLP)



5.3 Colombia

Context: rural urban *peri-urban*

Beneficiaries: refugees IDPs host communities returnees

Also targeting non-war affected families living below the poverty line in hardship situations.

Form of tenure: statutory customary ownership right of use rental

Also involves hybrid tenure systems. Land Tenure: Private, Communal or collective, open access and state/public. Housing Tenure: Ownership, use rights, rental and collective tenure

Shelter response:

- ▶ Cash for rent with ICLA counseling HLP rights for access to temporary shelter.
- ▶ Regularization of land titles in educational facilities for access to transitional/permanent educational infrastructure.
- ▶ Regularisation of land titles for rural population.
- ▶ Access to transitional shelter solutions for returnee indigenous displaced population in indigenous reservation with collective ownership.
- ▶ New construction of collective centers for IDPs in urban and rural context.

Main HLP challenges for beneficiaries:

- ▶ Lack of economic funds in HLP interventions to guarantee the adequate access to rental housing solutions according to the minimum standards
- ▶ Problems of integration with the host community, due to discrimination, stigmatization and lack of cultural adaptation
- ▶ For land regularization, ineffectiveness of legal mechanisms
- ▶ Legal procedures develop slowly in land restitution processes
- ▶ Lack of economic and technical resources of the municipalities for the elaboration of technical diagnoses that are required in the processes of formalization of the titles
- ▶ Educational facilities, shelters and community infrastructure are sometimes found in environmentally protected areas
- ▶ Lack of security in the place of origin.
- ▶ Lack of capacity in the host communities for the management of conflicts associated with HLP, between the displaced population and the host community.

How tenure was documented – and why was that method chosen?

- ▶ For the regularization of educational facilities titles, it is coordinated with NRC Education program, the need for the educational site is identified and coordinated with the ICLA and Shelter team. The documents of the educational facility are collected and formalized through the National Land Agency.
- ▶ For the return of ethnic population to collective territories, coordinated work with the Victims Unit (UARIV) in the processes of Collective Reparation, with emphasis on the component of ethnic housing.

Key lessons learned:

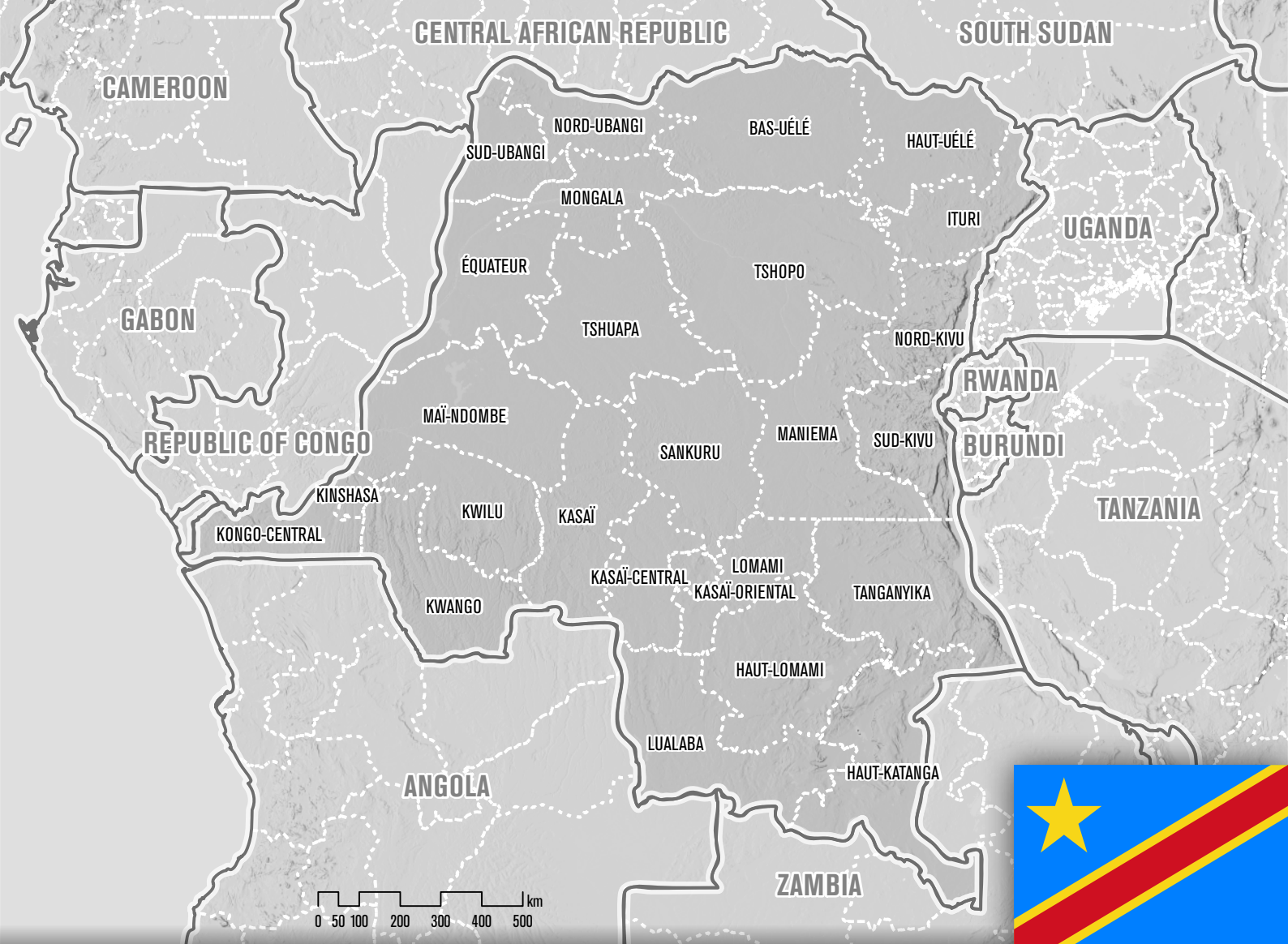
- ▶ Strengthen the documentation and systematisation of HLP processes.
- ▶ The need to highlight and strengthen the relationship with Livelihood activities to protect investment and increase long-term tenure security.

How does this programme support beneficiaries for the long term?

- ▶ The regularisation of land tenure for educational facilities will allow future investment from the State in these centers, something which is currently not possible.
- ▶ In land restitution processes, ICLA services are a gateway to obtaining adequate and durable housing solutions in addition to land titles.

Cross-cutting issues:

- ▶ NRC local staff prioritise the selection of women for registration in rental contracts and the secure of tenure.
- ▶ Adaptation of shelter solutions (individual or collective) to the local customs and cultures of different ethnic groups (afro and indigenous).



5.4 Democratic Republic of the Congo (DRC)

DRC has a civil law system primarily based on Belgian law, but also customary, and tribal law. Customary systems prevail in all regions in which NRC operates, although there are significant variations from region to region in the extent, formality, and organization of customary authorities.

Context: rural urban camps peri-urban

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: statutory customary ownership

Hybrid (combination of statutory and customary forms including those referred to as informal or extralegal (not sanctioned or regulated by law)).

Shelter response:

- ▶ Shelter construction/repair with community participation through cash and material distribution.
- ▶ Vocational training.
- ▶ Distribution of cash for door and windows in areas where housing have destroyed.
- ▶ Distribution of cash for housing rent in urban area.
- ▶ Distribution of NFIs.

Main HLP challenges for beneficiaries:

- ▶ Returnees often lack access to funds and materials to repair or rebuild their shelter. In many areas in DRC, housing has been burned down or otherwise destroyed during the crisis. When people return they have lost their livelihoods and money to rebuild their housing. For that reason, they often prefer to postpone their return until they are able to improve their financial situation, and thus the ability to reestablish their livelihoods and tenure-secure housing.
- ▶ IDPs in rural areas face difficulties in accessing land for shelter. They cannot afford rental costs, or face the resistance from host communities or tenants to facilitate access to land. Some of the resistance stems from the fear of losing control over the property for a prolonged period of time. In urban contexts, IDPs face higher rental costs due to increased pressure on the housing market. Considering their financial capacity, many prefer to stay with host families when possible until alternative solutions become available. In addition, many beneficiaries have lost possessions due to their displacement.

How tenure was documented – and why was that method chosen?

- ▶ In rural contexts, land tenure is usually regulated by customary authorities, without written documentation. The NRC shelter programme collaborates with ICLA in order to ensure that a basic mechanism for land tenure is established, in order to ensure tenure security for beneficiaries. The approach is developed with community participation, and using a combination of legal and customary solutions.

Key lessons learned:

- ▶ The community participation in the design of the land tenure mechanism was relevant because it ensures that the needs of beneficiaries and authorities are covered while increasing security of tenure for beneficiaries. The approach reduces the risk of applying standard solutions not adapted to the context and not recognised by the community or local authorities.
- ▶ The interest and joint engagement of shelter and ICLA staff in securing the right to land tenure shortened the time for initiating the shelter response. The collaboration has also increased community acceptance of NRC activities.

How does this programme support beneficiaries for the long term?

- ▶ The shelter intervention was focused on durable solutions. To support beneficiaries for the long term, NRC encouraged community mobilisation in finding shelter solutions in areas of return. NRC also made efforts to increase the involvement of local authorities in this process and secure their commitment. Vocational training was considered as a means to enhance the community's capacity to better address shelter needs.

Cross-cutting issues:

- ▶ Participation of women and protection of their HLP rights is a big challenge in many areas in DRC. NRC considered this in all phases of developing and implementing the joint Shelter and ICLA programme, both through internal sensitization efforts and community dialogue around gender-based discrimination.
- ▶ Community tension is widespread in the DRC and many shelters have been destroyed due to this tension. NRC has supported the construction/rehabilitation of community infrastructure benefiting host communities as well as IDPs, and integrated community mediation in all projects to ensure that approaches and solutions are conflict sensitive.



5.5 Ecuador

Context: rural urban *peri-urban*

Beneficiaries: refugees IDPs host communities returnees

Including persons in need of international protection (PNIP) and asylum seekers

Form of tenure: statutory customary ownership right of use rental

High diversity with coexisting statutory, customary and hybrid tenure systems. Land tenure forms encountered are private, communal or collective, open access and state/public. Forms of housing tenure include ownership, use rights, rental and collective tenure.

Shelter response:

- ▶ Cash for Rent. ICLA services in terms of informing about rights and duties in lease agreements, how to enforce them and how to guarantee them. This assistance usually requires preparation of various legal documentation on lease issues (lease, receipts, agreements, etc.).
- ▶ Regularisation of titles: obtaining proof of ownership for beneficiaries. Legal assistance in this type of response requires advocacy actions, preparation of legal instruments and permanent accompaniment in actions, mainly with the Municipality.
- ▶ Legal assistance to guarantee access to the right to property: transfer of ownership (purchase sale) of urban properties.

Main HLP challenges for beneficiaries:

Informality and state weakness:

- ▶ The State (Cadastral and the Land Registry) does not have reliable information; different criteria are applied by different officials at local and national levels, often due to lack of knowledge on the part of officials and confusion concerning the legal concepts on HLP issues
- ▶ The regularisation of titles is a long process, and informal settlements are often located in areas of risk or of environmental protection which makes legal access to land difficult; informal settlements also lack required facilities such as safe water, sanitation systems, light, energy, etc.
- ▶ Informality in the tenancy of the leased house: in urban areas, there are no written lease agreements that regulate the relationship between landlords and tenants, which reflects on the fact that the beneficiaries are often unaware of their rights and obligations as tenants. This situation causes the rights of the weakest tenants to be constantly violated, for example through evictions without taking into account the time foreseen in the law, or breach of guarantee refund.
- ▶ In rural areas properties change hands without following procedures required by law, such as presenting proof of ownership before relevant authorities (notary, land registry). This leads to the buyer not being considered as the legal owner, but merely a possessor.
- ▶ Informal sales, sales in land that cannot be accessed by the foreign population (rural land near the border), land trafficking or land sale by people who are not the rightful owners.
- ▶ Abandonment of community values and the weakening of rules of coexistence (statutes) in the long run leads to internal conflicts that threaten the security of tenure in informal settlements.

High rental costs:

- ▶ Finding adequate shelter and with basic services is complicated, and often outside the budget of displaced families. As a result, beneficiaries rent homes in rural or peri-urban areas where there is a lack of infrastructure with few or no means of transport, and in protected natural environments or areas with natural risks such as flooding or landslides. In addition, they are required to pay one or two months rent in advance as a guarantee when entering a rental contract.

Discrimination suffered by PNIP:

- ▶ Beneficiaries experience xenophobia and stigmatisation leading to exclusion from the rental market, especially in the case of large families and in informal settlements.
- ▶ The Ecuadorian state, through public institutions such as Municipalities, GADS, MIDUVI, give priority to the vulnerable Ecuadorian population. The PNIP population is left out of state aid, in many cases because they have not regularized their immigration status.

How tenure was documented – and why was that method chosen?

- ▶ Tenure is documented through a legal instrument, institutional response, or local certificate, according to the 3 levels of security of tenure (local, state and legal). These documents can be lease contracts, public deeds of property, possessory rights, housing award certificate, tax payments, etc, according to the Ecuadorian context and legislation.
- ▶ Minutes of privately held mediation meetings signed by the parties.

Key lessons learned:

- ▶ The importance of the alternative methods of resolving conflicts presented, as well as reaching agreements between the parties as a strategy and a useful way to reduce costs.
- ▶ The importance of managing expectations around cash support being linked to the objective of obtaining and exercising HLP rights through ICLA services.
- ▶ Joint intervention and coordination with other organisations complementary to HLP issues, such as livelihoods, permits a better and more comprehensive response, focusing on durable solutions.

- ▶ The importance of the verification of documents of the beneficiaries, as well as the technical and legal verification of the objects of the transaction/agreement.
- ▶ The need for advocacy on formal lease relationships and its advantages: the beneficiaries are motivated that in all rental relationships there is a written lease agreement, signed and accepted by the parties, to guarantee the rights of lessors and tenants.
- ▶ Effective support of cash delivered: All cash given to our beneficiaries for HLP purposes must be accompanied, if the situation warrants, by legal assistance.
- ▶ The analysis for intervention in collective cases: Before intervening in collective cases, a preliminary survey was carried out with information on residents, legal and technical status of the property, organisation of the collective, in order to determine the ifs and hows of an intervention.

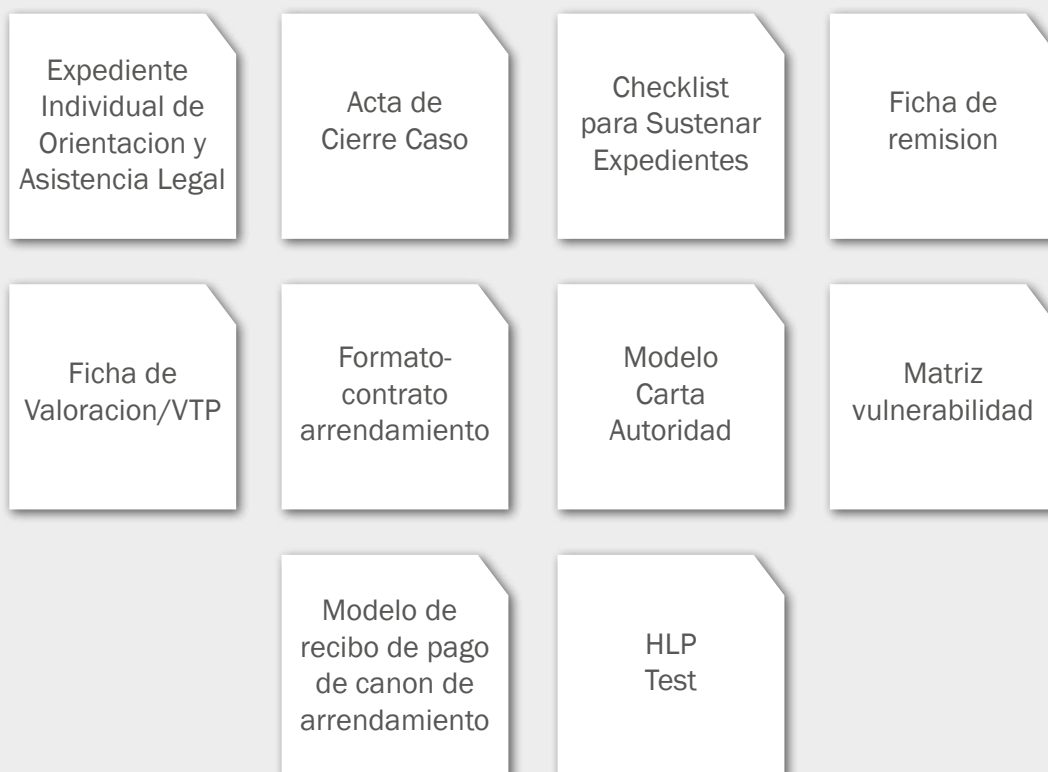
How does this programme support beneficiaries for the long term?

- ▶ The main objective of the project is to guarantee the security of tenure of the beneficiaries over their assets, with which they not only exercise their HLP rights, but mainly the services provided by HLP, seek to be a support for the local integration of the beneficiary, as a lasting solution.
- ▶ The HLP project is part of a long-term solution by providing stability, protection and family unity.

Cross-cutting issues:

- ▶ In delivering conditional cash for rent, priority has been given in the analysis of vulnerabilities to women, especially female heads households, Most of the cases for assistance with HLP have been identified through women, who are listed as the main beneficiaries in the respective cases and those who have been most taken into account during the execution and implementation of projects. In 100% of cases the participation of men and women in the procedures concerning the solution of HLP cases has been verified.

Tools used for documenting and securing tenure in the Ecuador shelter programme:





5.6 Greece

Context: urban rural

Refugees waiting for transfer to another European country or remaining in Greece in urban settings.

Beneficiaries: refugees IDPs host communities returnees

Mainly Syrian refugees applying for Relocation or Family Reunification in Europe.

Form of tenure: statutory right of use rental

Shelter response:

NRC finds and rents accommodation for refugees (housing units ready for occupancy)

- ▶ Looks, on behalf of the beneficiaries, for apartments that meet certain accommodation standards, while ensuring there is no inflation or distortion in the local rental market prices.
- ▶ Collaborates with real estate agents and launches radio campaigns to identify properties available for rent.
- ▶ Concludes lease agreements with property owners on NRC name with the explicit mention that the properties will be used for refugee accommodation (grant of use rights free of charge).
- ▶ Beneficiaries sign two 'rights of use' documents (Consent Form and Terms of Housing) in order to be accommodated in apartments rented by NRC.

NRC upgrades private property as condition to be rented and used for refugee accommodation

- ▶ Improves economic influx in the host community by investing maximum two rents in upgrades on the property or paying out utilities debts. This supports the owners affected by the economic crisis to be able to rent the apartments again.
- ▶ Increased acceptance of refugees by investing in local communities, contractors and suppliers.

Main HLP challenges for beneficiaries:

- ▶ Refugees face significant difficulties in finding accommodation due to language barriers and cultural differences, as well as lack of knowledge of national legislation and tenancy structures.
- ▶ Rent prices in Greece along with relevant household costs (utilities, common expenses, etc.) have not been affordable to the target population without compromising other basic needs, given the lack of access to livelihoods.
- ▶ Refugees face difficulties in obtaining formal tenure agreements; According to Greek legislation, renting property legally requires a valid tax registration number (TRN). In order to receive a TRN, the individual has to present documentation of a current address in Greece. Prior to being hosted by NRC in rented accommodation, most of the beneficiaries were not able to provide this documentation, because they were living in informal settlements or camps.
- ▶ Property owners have been reluctant to rent their property directly to refugees due to perceived insecurity of rent payments and fear that they would not be able to get the free use of their property back at the end of the lease. Also, property owners were aware that lease agreements for primary residence have a three-year minimum duration by law, so in case the lease is for a shorter time, they might still not be able to get their property back before the end of the set period.

How tenure was documented – and why was that method chosen?

NRC lease contract with private owner:

- ▶ NRC concluded Lease Agreements with property owners in its name, explicitly stating that the property would be used to accommodate refugees. No names or identification numbers of beneficiaries were included due to high turnover (the average stay per tenant was four months).
- ▶ Lease agreements were accompanied by a set of documents ensuring that owners complied with the obligations for good delivery and maintenance of the properties.
- ▶ If any refurbishment was done on behalf of NRC, the owner received a Bill of Quantities and drawings in advance, and was requested to sign a consent form.

NRC grants rights of use to beneficiaries:

- ▶ Beneficiaries signed the consent form which was accompanied by maps, pictures and annexes, to inform about the location, proximity to services, physical condition and technical housing specifications. Acquiring written consent from renters is mandatory for the transfer to take place.
- ▶ In order to be accommodated in apartments rented by NRC, beneficiaries signed the Terms of Housing which explain their rights and obligations during their stay.
- ▶ Lease agreements were declared to the tax office by both the owners and NRC. These declarations, along with a Certification of Address were used by beneficiaries for school enrolment, the issuance of a TRN, and for any other requests from authorities.

Key lessons learned:

- ▶ The preparation of the apartment suffered many delays due to issues in connection with reestablishing public utilities (unpaid debts, lack of meters, long queues for installation, etc). Therefore, owners were required to restore the utilities prior to the signature of the Lease Agreement. NRC merely changed the name to receive and pay the bills.

- ▶ To avoid conflicts and extra costs for damages not caused by the beneficiaries, NRC documented all the items and existing deficiencies in the apartment with pictures and filling a Condition Survey and Inventory List together with the owner, to be signed during the first and last day of tenure.
- ▶ The Shelter team conducted a technical assessment together with the owner, where upgrades are specified and then reflected in an annex attached to the Lease Agreement. To avoid delays in the delivery of the agreed refurbishments, the owner was contacted prior to the starting date to remind them of their responsibilities. In case of delays, the owner received a Damage Notice indicating a timeframe to finalise the works and the amount to be deducted from the rent.
- ▶ The Damage Notice was also used for maintenance issues on behalf of the owner. It specified the timeframe and price for fixing the issue. In case of uncooperative owners, NRC made the necessary works and then deducted the amount from the rent.
- ▶ The fact that the beneficiaries were not included in the Lease Agreement represented a risk to tenure security and a lack of perceived ownership. Despite signing the Terms of Housing, some beneficiaries didn't take good care of the rented accommodation, causing maintenance issues and/or overspending on utilities. NRC carried out trainings and information campaigns to address the issue. In addition, a system of warnings and rewards was set up to impact behavior.

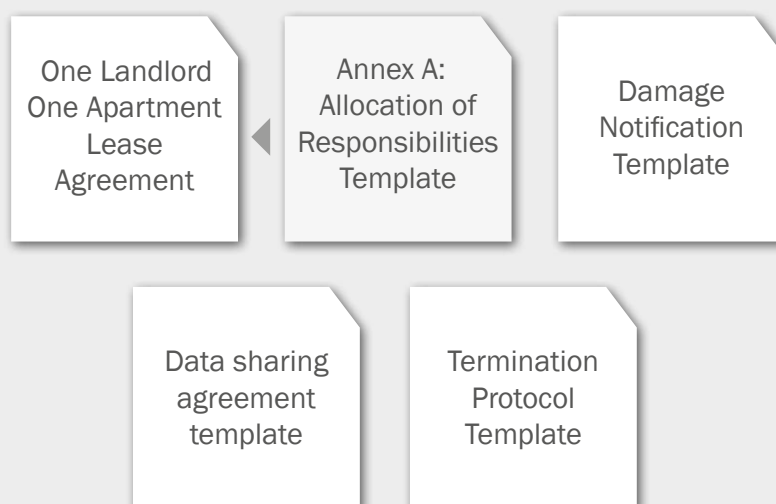
How does this programme support beneficiaries for the long term?

- ▶ Beneficiaries received private and safe accommodation along with access to services, cultural activities and education, thus facilitating their local integration whether they remain in Greece or continue to another European country.
- ▶ NRC set up the basis of an integration programme that could serve as a future reference after handover to local partners, thus guaranteeing rental support for beneficiaries.
- ▶ NRC invested in capacity-building and awareness-raising activities with all stakeholders (local communities, government, local NGOs, etc.), that could continue serving and supporting the beneficiaries longer term.

Cross-cutting issues:

- ▶ Different nationalities' refusal to cohabitate may cause tension in housing with multiple units.
- ▶ In Europe there are the same HLP rights for women and men. In NRC accommodation the HoH are mainly men, but also there are women heads of households with kids.

Tools used for documenting and securing tenure in the Greece shelter programme:





5.7 Iraq/Kurdistan

Context: rural urban camps peri-urban

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: statutory right of use rental

Shelter response:

- ▶ No-cost shelter in upgraded or rehabilitated private properties of Iraqi/Kurdistani owners where IDPs have previously been residing in sub-standard conditions for no rent without written agreements. NRC invests in upgrades to private property, conditioned on the owner agreeing that IDPs continue to reside in same upgraded accommodation rent-free for twelve months.
- ▶ Rent-stabilised shelter in upgraded properties of Iraqi/Kurdistani owners where people have previously resided in sub-standard conditions, paying rent without benefit of written agreements.
- ▶ Rehabilitation of 14 collective centers in Baghdad, with an average of 4-8 households per centre, in exchange for rent-free accommodation for up to twelve months.

Main HLP challenges for beneficiaries:

- ▶ Some beneficiaries face challenges in accessing their HLP rights due to being affiliated with ISIS. In addition to negative attitudes from the community, local authorities sometimes exclude these households from lists of people in need, thus restricting their access to humanitarian assistance.

How tenure was documented – and why was that method chosen?

Upgrades to private property as condition of time-limited no-cost shelter (IDPs)

- ▶ NRC Cooperation Agreement structures the relationship between NRC and the beneficiary owner, NRC and the beneficiary tenant, and between the owner and tenant.

Upgrades to private property as condition of time-limited rent-controlled shelter (refugees & IDPs)

- ▶ ICLA developed two documents (Right of Use Contract and Rent-Controlled Lease Agreement) to structure relationships between NRC, owner, and refugee/IDP household using templates from the Jordan shelter project with adaptations to the Iraqi context. “Agreement on Rehabilitation” between NRC and the house owners is also signed to allow NRC and the contractor to carry out the rehabilitation works in their property.

Upgrades to private property as condition of time-limited rent-controlled shelter (refugees & IDPs)

- ▶ Memorandum of Understanding developed between NRC, building owners and local authorities, supplemented by an Occupant Undertaking highlighting the occupants' rights and responsibilities.

Key lessons learned:

- ▶ Some modification and changes have been made to the HLP documents, to adapt to the local context and needs. NRC has rehabilitated war-damaged shelters in Mosul, and for securing tenure, NRC has an HLP component as part of the project. In order to ensure that all parties understand their rights and obligations in the project implementation process, prior to starting the rehabilitation works, the NRC shelter team with the support of the ICLA HLP team has signed an Agreement on Rehabilitation with the house owners, to allow NRC and the contractor to carry out the rehabilitation works in their property.

How does this programme support beneficiaries for the long term?

- ▶ Having in place the HLP agreement, NRC secures at least 12 months tenure for the tenant. This allows the beneficiaries to concentrate and focus more on the livelihood activities to recover from the economic hardship. This results in stabilizing their lives and recreating their economic activities again.

Cross-cutting issues:

- ▶ Women of households listed and sign the lease in addition to male representative.
- ▶ Differences on the basis of ethnicity/sect in requirements to obtaining required residency permit affects security of tenure.

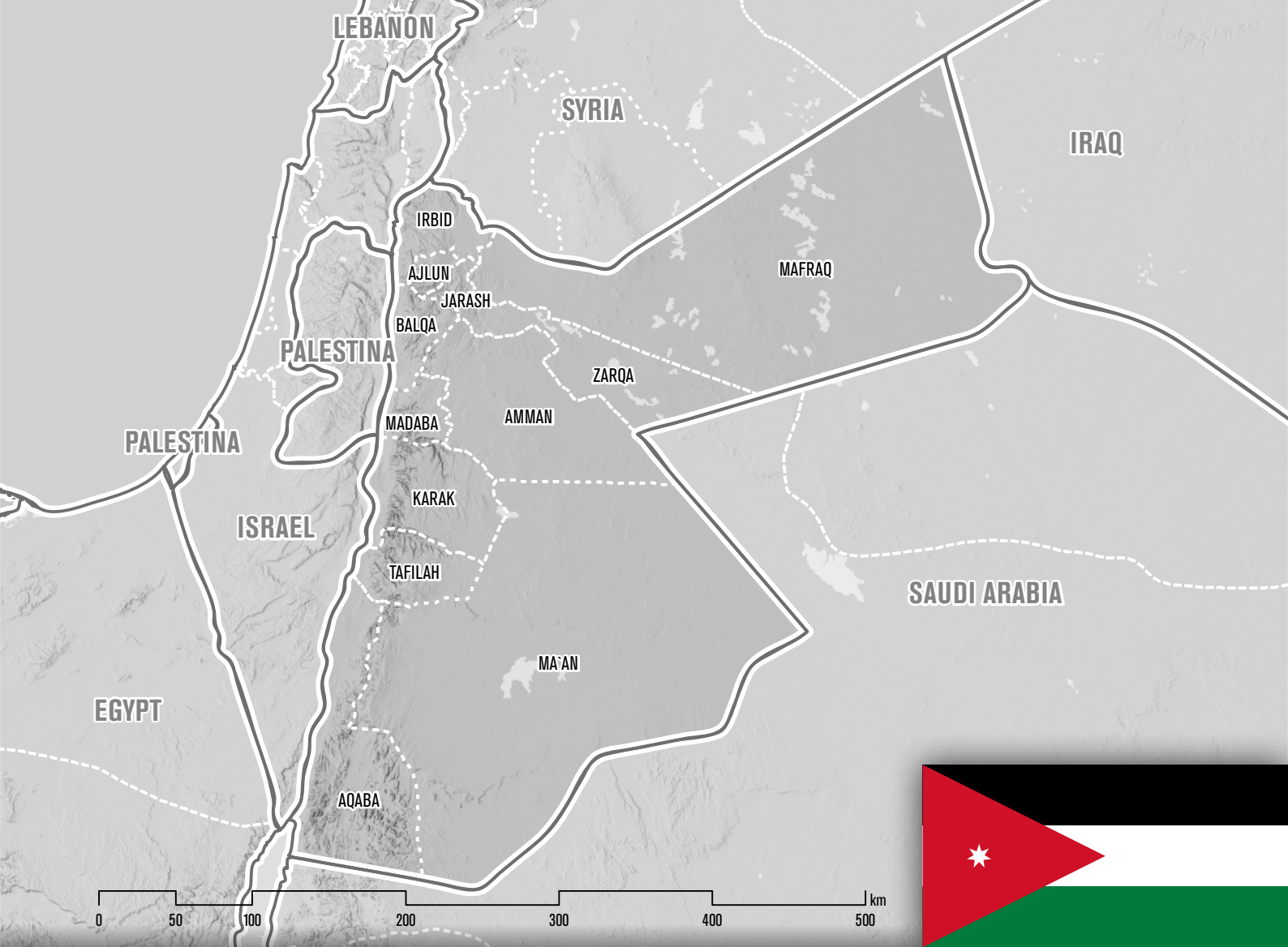
Tools used for documenting and securing tenure in the Iraq/Kurdistan shelter programme:

Agreement on Rehabilitation,
NRC-Owner

Rent Controlled Lease Contract,
Owner-Tenant

Tenancy Agreement
without rental,
Owner-Tenant

Stipulation Agreement
for Benefit
of Returning
Households



5.8 Jordan

Context: rural urban peri-urban

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: customary ownership right of use rental

Shelter response:

- ▶ Cash for rent assistance limited to cases affected by evictions
- ▶ Upgrading sub-standard properties in return for occupancy free of charge.
- ▶ Information provision on housing market and access to services.

Main HLP challenges for beneficiaries:

The standard Jordanian rental agreement:

- ▶ Template contracts that are available in bookshops and widely used are strongly weighted in favor of the landlord. In some respects, they facilitate eviction processes and therefore substantially lessen a tenant's security of tenure, particularly in the case of female-headed households.

Informal lease and the absence of lease agreements:

- ▶ One third of the Syrian refugees living in rented housing report not having a lease agreement. The rate is highest in the poorest areas of Jordan, with over two third of refugees in Mafraq reporting not having a lease agreement. The absence of a formal lease agreement exposes the lessee to risks of forced eviction and abuse by the landlord (rent increase, additional utility costs, limited access to amenities, embezzlement, etc).

Large informal housing market:

- ▶ The influx of refugees into Jordan significantly increase the demand on low-income and affordable housing, provided traditionally to the most part by the informal market. Cheap properties occupied by refugees, particularly in dense urban areas, included shops, basements and garages. In addition to the inhabitable, sub-standard condition of these properties, the absence of property documentation and registration, makes it impossible to have a formalized lease agreement leaving the lessee at the mercy of the landlord without any protection from eviction or abuse.

Confiscation of refugee documentation:

- ▶ A practice that landlord use in the case of delayed rental payment by refugees is the confiscation of the head of household's identity card and registration pending due payments. This significantly limits the refugee head of household freedom of movement and puts them at risk of arrest.

How tenure was documented – and why was that method chosen?

- ▶ All beneficiaries supported through the NRC shelter program are required to have a written lease agreement valid at least for 12 months from the start of the assistance. The terms of the lease are fixed for the duration of the agreement, including the rent amount. In addition, across all intervention modalities, NRC's engagement with the landlord (covering rent, providing grant for upgrades) is covered through a side agreement/contract outlining the responsibilities of the two parties. Before entering into an agreement with NRC, the landlord is required to prove ownership of the property, presenting a copy of the title deed and occupancy permit.

Key lessons learned:

- ▶ In the case of the occupancy free of charge, ensure that the rent value after the end of the OFC period is negotiated at the time of the signature of the OFC lease agreement. Establishing the terms of the lease following the OFC period is vital to protect the beneficiary/tenant from unrealistic rent values imposed by the landlord once the assistance duration is over.
- ▶ The lease agreement template has been revised to ensure the protection of the tenant. Examples of adaptation includes listing the names of all family members on the lease agreement, ensuring the lease agreement is signed by both the male and female heads of the household, naming NRC as the primary alternative mediation contact in cases of disputes.
- ▶ Lease agreements are not enough, tenancy monitoring is essential. While pre-tenancy information sharing and awareness raising on the roles and responsibilities of the two parties is important, evidence in the case of the Jordan program show that disputes are most likely to take place at three distinct phases during the tenancy, the first and last few months and after two thirds of the tenancy period has passed. The timing can change depending on the shelter intervention and the terms of the agreement between the parties, however identifying these times during the tenancy and monitoring the tenancy closely is essential to avoid disputes and reduce the risk of evictions.
- ▶ Soft programming such as the provision of information can have a wider and more efficient impact on beneficiaries' housing choices and the housing market. Empowering beneficiaries/tenants with access to information on the housing market, helps them inform their decisions and choices of housing, landlord and location, it also allows them to better negotiate the terms of the lease including rent. For example, accessing information on average rent prices reported by the same population group in the same area, can mitigate against opportunistic landlords and overpriced properties and help reduce the inflation of the market prices.

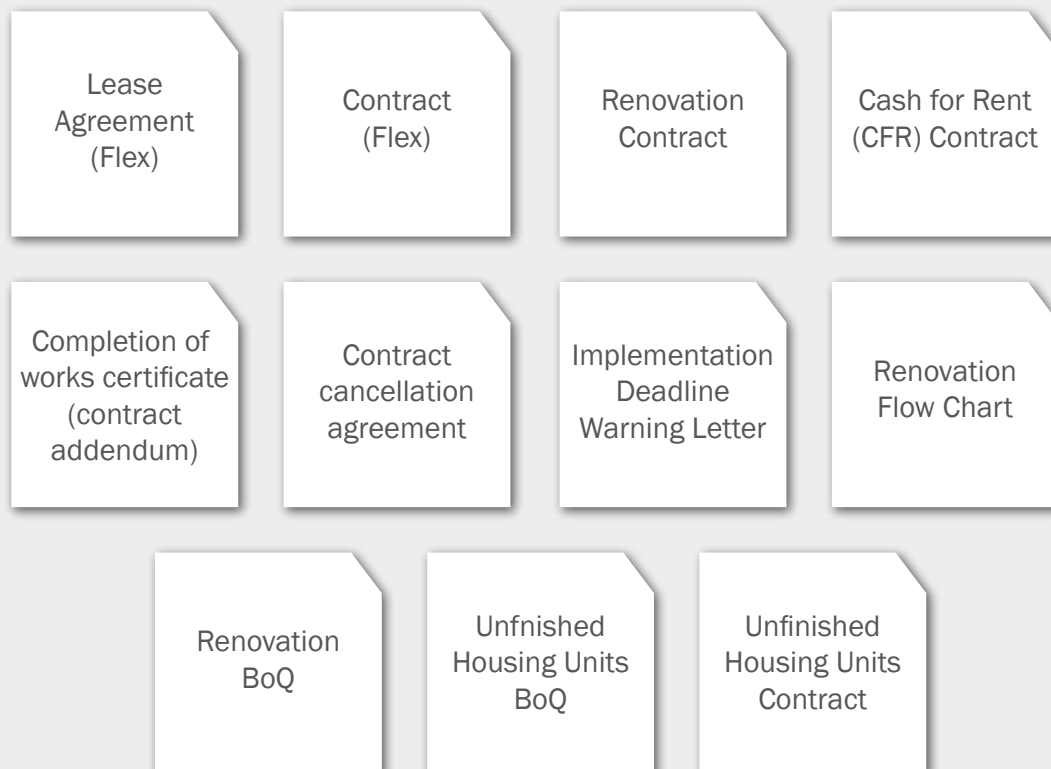
How does this programme support beneficiaries for the long term?

- ▶ The urban shelter program links the provision of adequate housing to the relief of household economic pressure and improving their chances of building their resilience. The program provides adequate living conditions for vulnerable Syrian refugees and Jordanians for the medium term (to a maximum of 18 months), while improving the housing stock quality through property upgrades. The investments made in the homes are durable and will continue to benefit the Jordanian host community after the Syrian refugees return home. All works are contracted locally and most labor is hired locally, with materials purchased in the community. Overall, this allows for greater impact in terms of fostering positive relationships between the host community and refugees. Information provision and housing rights awareness further improves the programs outcomes and empower refugees to make informed housing choices during their time in displacement.

Cross-cutting issues:

- ▶ Gender: The program ensures that the different needs of men, women, boys and girls are captured in needs assessments, beneficiary feedback and consultations, data collection and analysis. The program prioritises female headed households with no working members.
- ▶ Disability: The program supports people with disabilities and other people with functional limitations (e.g. older persons, injured persons, etc.) with inclusion kits relevant to their specific needs securing accessibility to and in their shelters/houses.
- ▶ Environment: Renewable energy programming in Jordan has been mainstreamed into the urban shelter programme, providing cost saving (utility) solar equipment and awareness raising to refugees and host community on energy and water saving measures.

Tools used for documenting and securing tenure in the Jordan shelter programme:





5.9 Lebanon

Context: urban rural *peri-urban*

Including Palestinian refugee camps.

Beneficiaries: refugees IDPs host communities returnees

Syrian refugees, Palestinian Refugees from Syria and Palestinian Refugees in Lebanon.

Form of tenure: statutory right of use ownership

Private land tenure mandated by UNRWA. Use rights recognised by UNRWA.

Shelter response:

- ▶ Syrian Refugees: Upgrading of residential buildings in return for rent-free hosting period – ‘Occupancy Free of Charge’ (OFC).
- ▶ Palestinian Refugees: Reconstruction/rehabilitation of destroyed or sub-standard properties – ‘Minor/Major Rehabilitation’ (MR) and ‘Totally Destroyed Buildings’ (TDB)

Main HLP challenges for beneficiaries:

Syrian refugees:

- ▶ In Lebanon, an estimated 88% of the population is urbanized. With the Syrian crisis, many refugees settled in residential and non-residential buildings following a similar urbanization trend to that of the Lebanese. The housing market – highly privatised and following a neoliberal market – has been unable to react to the large increases in demand following the displacement crisis. It is estimated that poor urban neighbourhoods and Palestine Refugee camps now host a larger proportion than ever before of displaced Syrians. The move to urban areas has made it harder for organisations to assist displaced Syrians as people in need are difficult to identify and locate.
- ▶ The low-income rental market in Lebanon is highly informal and led exclusively by property owners, slumlords and tenants. Therefore, vulnerable communities have no choice but to abide by this market to secure housing. This increases informality in the housing sector and deregulates supply and demand affecting rental prices. As for the formal rental market, prices are relatively high which makes the formal housing sector not only inaccessible for refugees but also for low-income Lebanese. The majority (73 %) of the displaced Syrian population are residing in residential buildings. Programs targeting displaced Syrians living in residential buildings face several challenges: most live in urban/semi-urban areas surrounding main cities and coastal areas where rental costs are high and security of tenure limited. Out of the displaced Syrians that changed accommodation in the first six months of 2017, 32 percent reported they had done so due to eviction by the landlord. In the 2017 ‘Vulnerability Assessment for Syrian Refugees’ (VASyR), 80 % of households reported paying rent, but only 6 % had a written rental agreement with the landlord. 7 % covered the costs of their accommodation by working for their landlord, 4 % through support from humanitarian agencies, and 7 % were being hosted for free.

Palestinian refugees:

- ▶ Unlike ordinary Lebanese citizens, generations of Palestinian refugees living in Lebanon have been denied the enjoyment of basic human rights including the right to adequate housing, however, with UNRWA’s support Palestinian refugees in the 12 officially recognized camps have pseudo-rights to the use of land; whilst acknowledging that they don’t access to legal land and property rights. Property purchases that were in the past undertaken legally remain informal due to the failure of the purchasers to register the sales with the government’s Real Estate Registry, a step necessary for such transactions to be enforceable against third parties.
- ▶ In 2001 legislation was amended to determine all Palestinian tenure to property into informality or outright illegality. In banning the acquisition of real rights, the amendments prohibited not only future purchases but also the registration of property rights based on existing sales contracts where registration had not previously occurred. Leases over ten years in duration were also banned along with sales. Perhaps most dramatically, the amendments prohibited the inheritance of registered property rights from titular holders to their heirs. In practice, this meant that even those with fully recognised titles to their homes could only enjoy them during their lifetime. After their deaths, ownership would become *waqf*, a form of religious endowment found across the Muslim world.

How tenure was documented – and why was that method chosen?

Syrian Refugees – ‘Occupancy Free of Charge’ (OFC)

- ▶ In the OFC modality, NRC Lebanon employs a ‘Right of Use’ tolerance agreement through a two-contract structure, between three parties, namely the Landlord (LL), the beneficiary household (HH), and NRC Lebanon. A ‘Cooperation Agreement’ is signed between the landlord and NRC. The contract specifies the financial transaction to the owner for upgrades (to be completed within eight weeks) in exchange for owner providing shelter for 12 months to refugees selected by NRC. Further, it obligates the owner to sign an ‘Occupancy Free of Charge (OFC) Agreement’, which is defined as a *"separate agreement signed between the Owner and each Household that allows the Household to live in the allocated Housing Unit(s) without paying rent (in money, services or goods) during the Hosting Period"*.

- ▶ The 'OFC Agreement' is between the owner and refugee household, the contract facilitated by NRC bears the names of all members of household to be sheltered. The rent-free occupancy period is specified (usually 12 months) and details the occupant's responsibility for utilities. The agreement states that no rent is paid by the beneficiary. Parties have to give notice to NRC of disputes including if either owner or occupant wants to end the agreement. NRC is the *de facto* mediator of disputes between parties, through ICLA's 'Collaborative Dispute Resolution' (CDR) teams. If disputes remain unresolved, Lebanese law applies. Both the landlord, and the beneficiary household are required to provide NRC a signed copy of the OFC agreement. The 'OFC Agreement' is then attached to the 'Cooperation Agreement' between NRC and owner.

Palestinian refugees – 'Minor/Major Rehabilitation' (MR) and 'Totally Destroyed Buildings' (TDB)

- ▶ In the MR and TDB modalities, proof of ownership/habitation is secured through a mixture of UNRWA family registration documentation, supported by a signed and stamped attestation from the relevant Palestinian Popular Committee (*de facto* municipality) stating that the beneficiary household live in the selected property.

Key lessons learned:

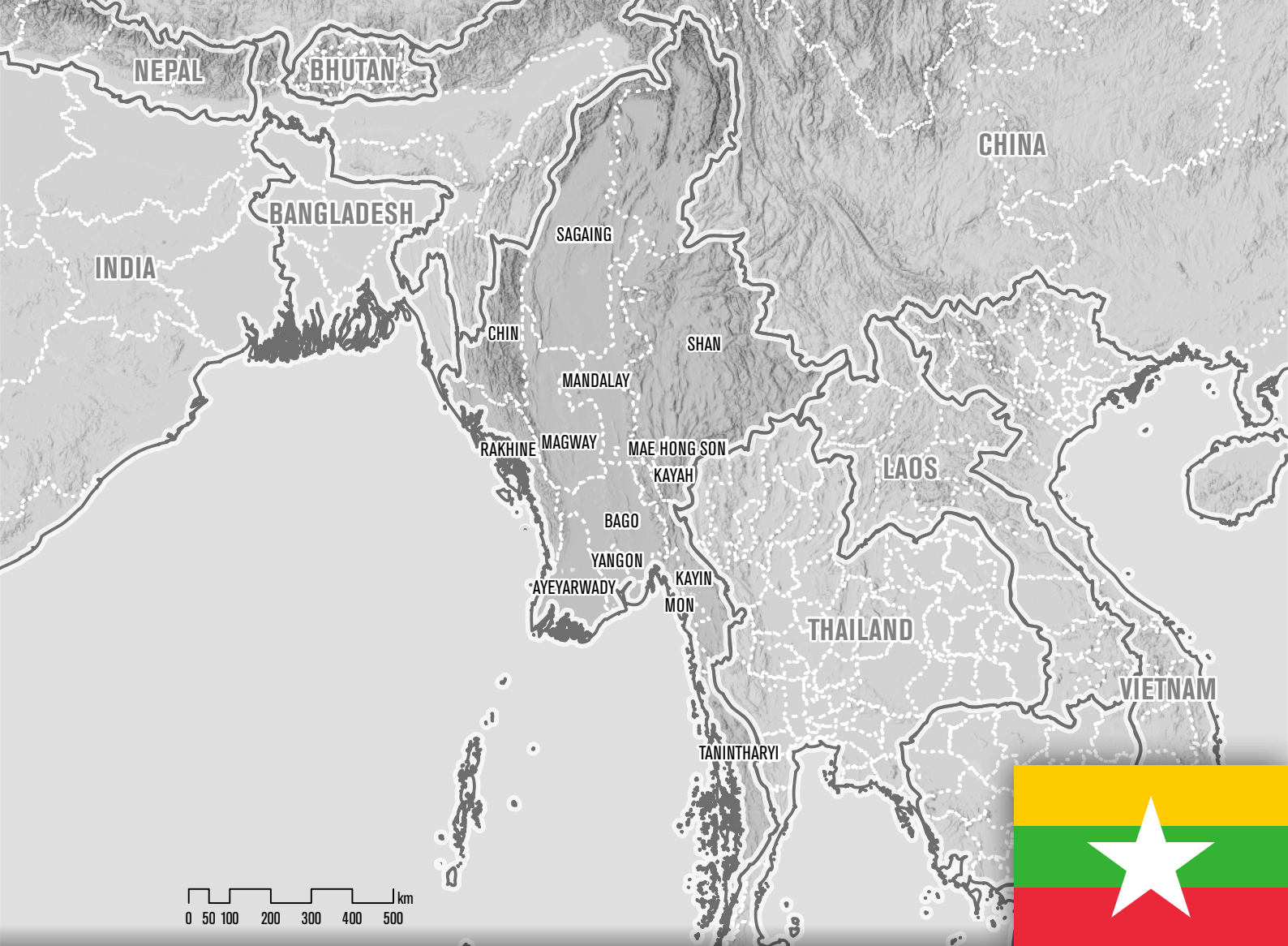
- ▶ Inter-agency household profiling tools and vulnerability weighting: In keeping with other shelter actors, NRC Lebanon from 2016 into 2017 adopted the 'Desk Formula' (socio-economic indexing based on dependency ratio) algorithm as a means of vulnerability weighting for defining beneficiary eligibility for assistance, however, during this period, NRC Lebanon has determined that this approach is insufficient for shelter responses, and in 2018, the shelter programme is developing improved vulnerability profiling tools, especially for additional OFC periods, factoring in gender, age, disability and social barriers to accessing adequate housing.

How does this programme support beneficiaries for the long term?

- ▶ In protracted urban displacement, there are considered to be four key 'capitals' at refugees' disposal: material, financial, social and human. While in Lebanon most of these resources are in decline for Refugees from Syria, the OFC modality supports refugees to create significant new social capital through establishing networks, and it is this capital that is in many cases refugees' most important asset in a protracted displacement context. Research conducted in Lebanon indicates that social capital appears to be the only capital that can be created even in situations of relative vulnerability, and then exchanged for access to livelihoods or used in cost-saving measures or as a form of basic social insurance. The OFC programme remains one of the most robust forms of support for vulnerable families – providing them with accommodation for a period of 12 months, while providing a financial boost to local economies, and the added benefit of increasing the availability of adequate, affordable housing stock for low-income households. Assistance to host communities helps to build community acceptance.

Cross-cutting issues:

- ▶ In Lebanon, the position of women and girls in society severely limits their opportunities to even access housing, let alone exercise and fully enjoy their rights. Gender inequality in accessing the rental market is caused by many factors, ranging from their ability to identify vacant properties to landlords' disinclination to rent to single males or females, or female-headed households. During focus groups conducted by NRC, female Syrian refugees reported that they faced protection risks as they travelled looking for vacant properties, providing examples of harassment and maltreatment.
- ▶ The shift to longer-term development-focused activities and effective interventions by the shelter sector has been an opportunity to address structural challenges and bottlenecks in the low-income housing ecosystem in Lebanon through looking at comprehensive affordable housing solutions for all vulnerable populations, with a particular focus on vulnerable Lebanese households. NRC Lebanon is looking to support local authorities through facilitating targeted capital and technical assistance, and supporting municipalities as the critical linkage between vulnerable households and adequate, affordable housing options, and access to services.



5.10 Myanmar

Context:	rural	urban	camps	
Beneficiaries:	refugees	IDPs	host communities	returnees
Form of tenure:	customary	ownership	right of use	rental

Shelter response:

Integrated Shelter Assistance to IDPs, IDP returnee and host communities:

- ▶ Support to targeted beneficiaries to rebuild destroyed or damaged houses, including family latrines, through a community-based mechanism.
- ▶ School rehabilitation including school furniture and school toilets with sanitation facility to NRC targeted communities in displacement.

Community Infrastructure assistance to IDPs, IDP returnee and host communities:

- ▶ The Shelter program has been assisting displacement-affected communities in South-East Region through participatory methods (village development plans) to identify priority needs.
- ▶ NRC provides basic community infrastructure such as roads, bridges, culverts, gravity flow water supplies, schools, teacher houses etc; based on identified priority needs.

- ▶ The implementation of infrastructure was delivered via contractors and Community Based organization (CBO) approach.

Integrated Shelter Assistance to IDPs, IDP returnee and host communities:

- ▶ The Shelter-Emergency team provides Temporary shelters, NFI distributions and Temporary Learning Spaces (TLS) including school furniture and student kits to IDPs in the camps and outside camps.

Main HLP challenges for beneficiaries:

- ▶ People normally do not have any document on their properties. They believe their houses are in land that belongs to them in accordance with customs. The village boundary is defined by custom through ancestral traditions.
- ▶ Most beneficiaries are lack of knowledge on land tenure.
- ▶ Land Record Department has no updated maps especially in rural areas.

How tenure was documented – and why was that method chosen?

- ▶ Regarding to the individual transitional/permanent shelter assistance, Shelter team worked in collaboration with the village committees to carry out a board-based community consultation which included community leaders, head of village authority, community members and neighbours to confirm the prior residence/ use of housing/property by each beneficiary. Some of the beneficiaries have the receipt of ground-rent for their gardens.
- ▶ Almost schools have the registered school land map that certify by land record officer.
- ▶ Most of the camp settings are on the religious lands (Church or monastery compounds) but some are in host community's garden land. The beneficiaries have been contracting lease contract with garden land owners

Key lessons learned:

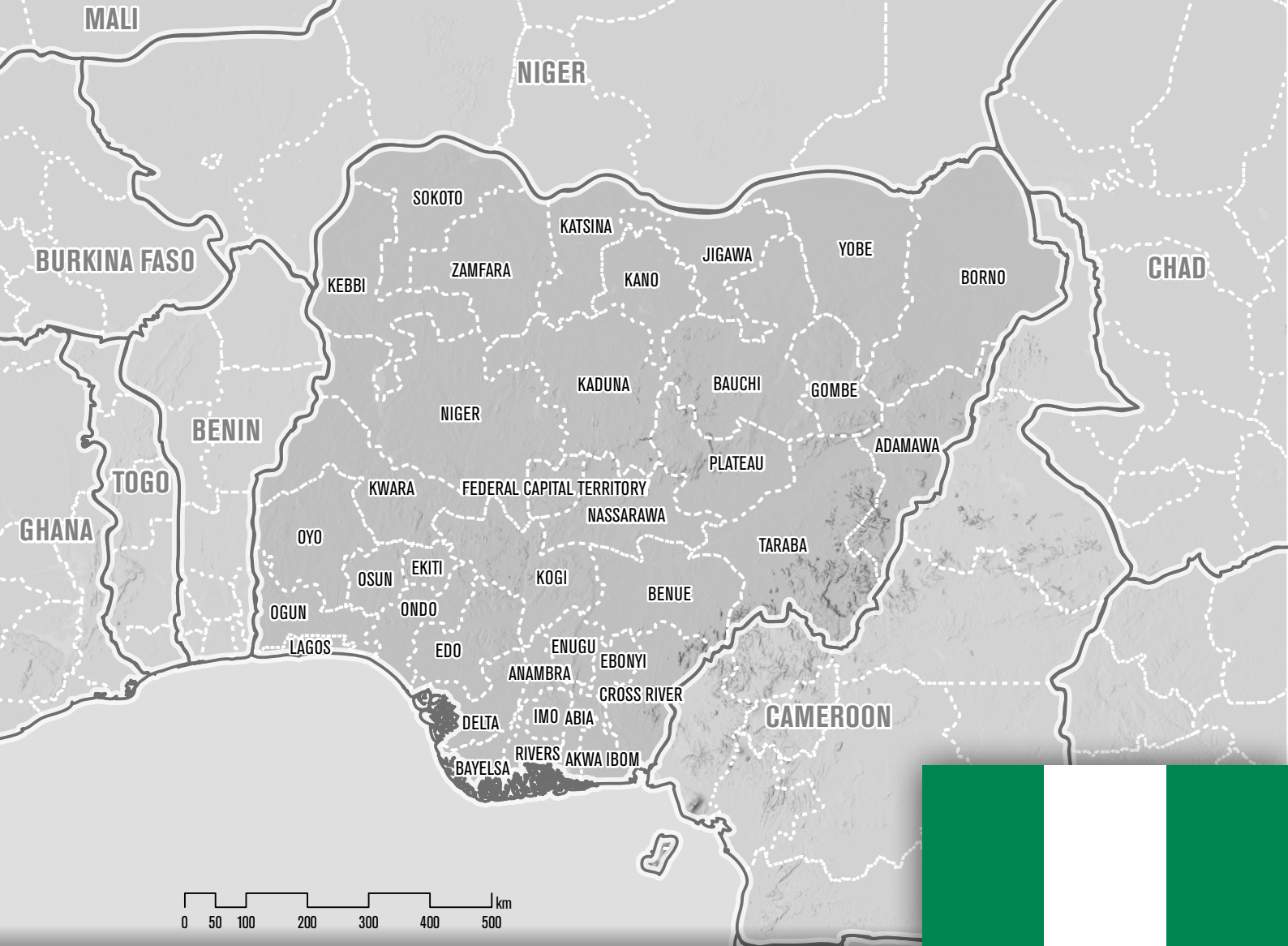
- ▶ Shelter staffs are acquiring understanding of relevant land laws and context of land-use in Myanmar. In Myanmar land is categorized as either Agricultural land or Non-agricultural land.
- ▶ We shared and advocated to our beneficiaries and village heads how to change the land title from “agricultural land “into “non-agricultural land” during our implementation period.
- ▶ It is necessary to get the land use permission in accordance with the 1953 Land Nationalization Act, Article No., 39.

How does this programme support beneficiaries for the long term?

- ▶ Shelters together with ICLA give the awareness session for secure tenure and how to apply and process of ownership document in targeted areas.
- ▶ ICLA consults with communities and local authorities for HLP issues and support beneficiaries in according to the local land laws.

Cross-cutting issues:

- ▶ NRC mentioned the name of head of household on shelter handover certificates. Generally male heads of households are identified as holding property ownership but some women heads of households such as widows, elderly women as representative of the families etc: also have the rights to hold ownership in Myanmar. Now a day we mentioned the both names that husband and wife, on our handover certificates for their property ownership.



5.11 Nigeria

Context: rural urban *peri-urban*

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: statutory customary ownership right of use rental

Shelter response:

- ▶ Emergency Shelter kits: Specific shelter items provided to newly arrived IDPs.
- ▶ Emergency Shelter: Complete emergency shelter provided to IDPs
- ▶ Shelter reinforced kit: Specific shelter items provides to already established IDPs, for shelter repair
- ▶ Shelter rehabilitation: Shelter items and labour support to facilitate shelter rehabilitation for returnees
- ▶ Cash for rent: Emergency shelter solution provided to IDPs in rental houses
- ▶ NFIs: household items provided to IDPs and returnees to improve household living conditions
- ▶ Shelter training: Training on shelter construction provided to selected local technicians for shelter repair or shelter construction.

Main HLP challenges for beneficiaries:

- ▶ Insecurity of tenure and risk of forced evictions based on informal, short term and/or temporary tenancy arrangements
- ▶ Forced evictions caused by inability to pay rent due to lack of livelihoods to generate income
- ▶ Lack of written tenancy agreements and poor understanding of the distinctions and consequences;
- ▶ Non-compliance by the landlord with the terms of a tenancy agreement; Refusal by landlords to repair rented houses
- ▶ Imperfect 'tenancy agreements', such that normal enforcement mechanisms may not be available;
- ▶ Absence of commercial terms for use of land or property, and a resulting over-reliance on charitable contributions of land or property by landowners that undermines the security of tenure;
- ▶ Confusion as to the status of and title to shelters provided by NRC and other humanitarian actors;
- ▶ Violation of Inheritance rights of land or property (especially when women and children are the heirs);
- ▶ Settlement of property upon dissolution of marriage or separation of spouses;

How tenure was documented – and why was that method chosen?

- ▶ Current practice and contract laws in Nigeria give priority to signed documents which are deemed admissible in evidence in the court of law. Written agreements are preferred due to the nature of the displacement, where landowners voluntarily give vacant plots of land to IDPs for free without conditions nor duration of stay. Hence the need to prevent the risk of forced evictions and also to have documented evidence of the terms of the tenancy in the event of death, or in case disputes arise between the landowner and the tenant. Traditional dispute resolvers also recognise/ acknowledge written tenancy agreements.
- ▶ Written tenancy agreements signed by Landlords and the IDP representatives when an open site is provided for shelter construction (for formal settlement/IDPs camps or for shelter beneficiaries located in individual plots in host communities).
- ▶ Written tenancy agreements signed between Landlords and the individual household IDPs benefiting from rental assistance.

Key lessons learned:

- ▶ Having documented tenancy agreements has generally protected the beneficiaries from the risk of forced evictions from landowners. Sometimes land owners will ask tenants to share their shelter with the relatives of the landlord – newly arrived IDPs – who are also in need of shelter. With the agreements, shelter beneficiaries are able to enjoy security of tenure over the land without interruption from the landlord for a specified period of time (as included in the agreement) which is generally enforced by the community leaders in case of dispute.

How does this programme support beneficiaries for the long term?

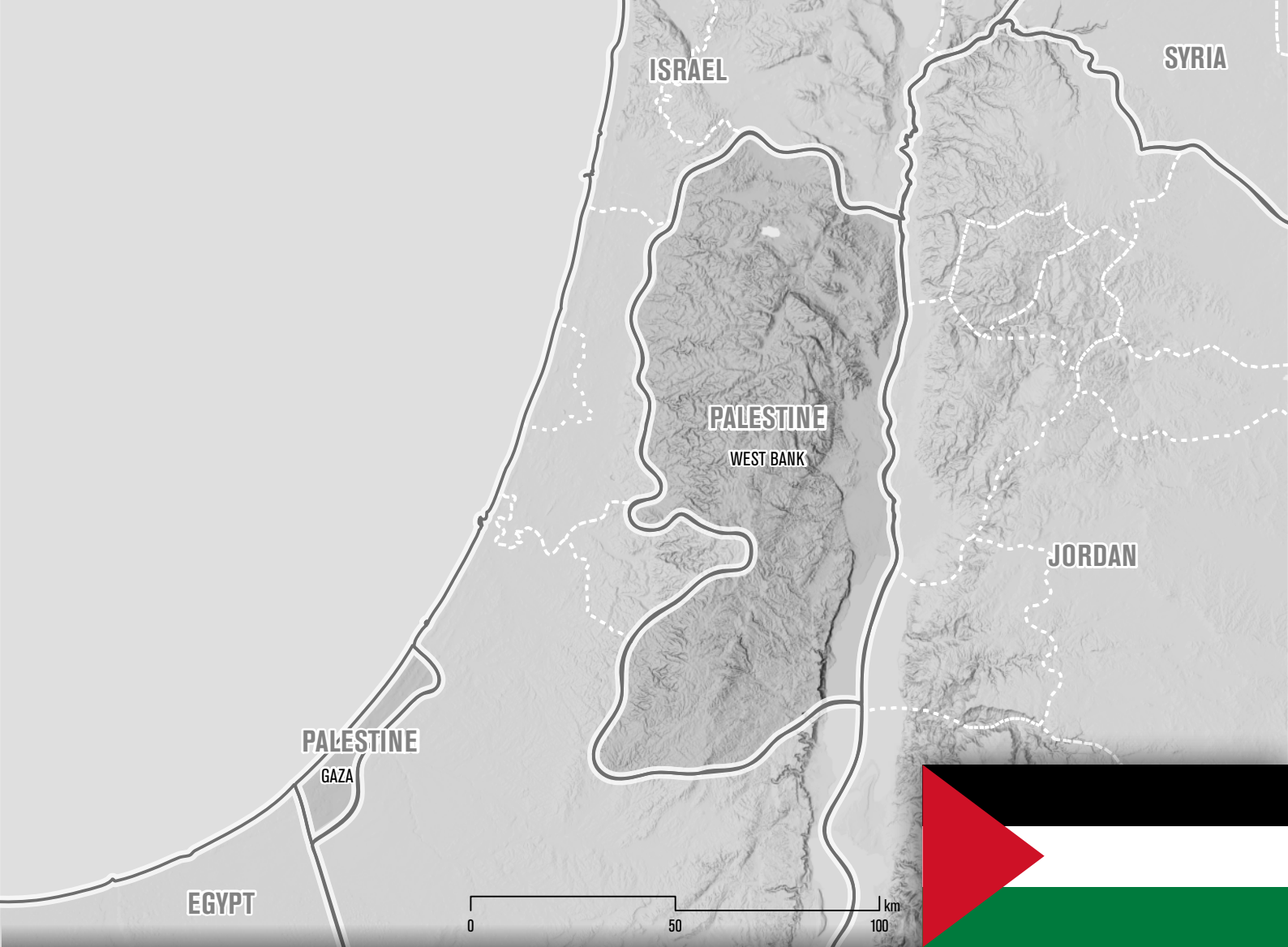
- ▶ Emergency Shelter: Written tenancy agreement signed prior the shelters construction have provided the right of use of lands provided to IDPs for a certain period.
- ▶ Shelter rehabilitation: An ownership certificate is established prior the start of shelter rehabilitation activities. The ownership certificate per beneficiary allow to avoid land dispute in case assistance might be provided to wrong owners.
- ▶ Cash for rent: The tenancy agreement provide right of use for a certain period (defined according to the project requirement) and have no effect after the end of the project period. However, the beneficiaries are sensitized to renew their tenancy agreements if needed as the payment responsibility is transferred to them after the end of the assistance.

Cross-cutting issues:

- ▶ Making provision for the spouse of male beneficiaries to sign tenancy agreements has proved helpful and prevented eviction and secondary displacement. Especially in situations where the male spouse wants to marry a second wife, the female spouse who had signed the tenancy agreement will not have to vacate the shelter because of the new wife. The male spouse will have to look for alternative accommodation.

Tools used for documenting and securing tenure in the Nigeria shelter programme:





5.12 Palestine/Gaza

Context: rural urban *peri-urban*

Beneficiaries: refugees IDPs host communities returnees

Also supporting non-war affected families living below the poverty line in hardship situations.

Form of tenure: statutory ownership right of use rental

Shelter response:

- ▶ Repair of war-damaged housing combined with upgrade to minimum shelter standards for refugees and returnees as well as vulnerable non-war affected families.
- ▶ Rent-free accommodation to displaced families most in need by upgrading substandard housing units in host communities.
- ▶ Reconstruction of destroyed housing units (through UNOPS) with NRC-UDOC (Urban Displacement and Out-of-Camp) support to ensure community engagement through active involvement of municipal forum members in the implementation of the project (beneficiary selection and support with difficult mediation cases and complaints).

Main HLP challenges for beneficiaries:

HLP concerns constitute a major challenge for the population in Gaza, especially for those affected by the 2014 conflict. Given the complexity and wide variety of HLP issues in Gaza (coexistence of different types of land and several land laws, 30% of land not surveyed, 30% of privately owned land unregistered, lack of ownership documentation due to the difficulty of proving continuous chain of property ownership, limited recognition of women's inheritance and HLP rights, etc.), specialist advice is required.

- ▶ General lack of ownership documents: Tenure security is a key protection against arbitrary evictions and forced displacement. However, there is a general lack of tenure documents in Gaza due to the difficulty of proving full chain of title. IDPs in Gaza are therefore in need of legal aid to secure documentation of their ownership status, often a prerequisite to obtaining reconstruction grants for destroyed houses.
- ▶ Limited knowledge of HLP rights and the importance of security of tenure: Many Palestinians in Gaza are unaware of the consequences of failing to properly register their ownership rights or how to assert their HLP rights.
- ▶ In the absence of a unified Palestinian Land Law, the law governing land usage in Gaza is a overlapping and often contradictory mix of Ottoman, British, Egyptian, Israeli and Palestinian regulations and practices. This has resulted in a large number of HLP disputes, which are further exacerbated by the high population density and limited availability of land in Gaza..
- ▶ Women in Gaza are more vulnerable in HLP disputes, often forfeiting inheritance and with no independent assets: Women (especially widows and divorcees) are particularly vulnerable, since they need to go through complex inheritance proceedings as a prerequisite to obtaining new or repaired shelters for their families, and they risk facing social consequences within their families if they resort to formal legal mechanisms in their fight for HLP rights. More than 80% of disputes affecting women's HLP and inheritance rights are therefore managed through informal mechanisms.
- ▶ Lack of understanding of land law amongst legal practitioners in Gaza: Legal practitioners in Gaza suffer from limited knowledge and expertise on HLP issues, due in part to the fact that none of the law faculties in Gaza teach HLP as part of their curriculum.
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How tenure was documented – and why was that method chosen?

- ▶ Lease Agreements for Rent-Free-Accommodation to ensure protection against further displacement and arbitrary eviction;
- ▶ Ownership documents for Shelter repair/upgrades to improve security of tenure and mitigate the risk of potential eviction;
- ▶ Ownership documents for Shelter reconstruction to ensure security of tenure and facilitate eligibility of IDPs to access reconstruction funds;
- ▶ Land usage / lease agreements in Waqf land for Shelter repair/upgrade interventions to improve security of tenure and mitigate the risk of potential eviction;
- ▶ No-objection from Land Authority in State land for Shelter operations to mitigate the risk of shelter repair/upgrade interventions prompting forced evictions.

Key lessons learned:

- ▶ Shelter Cluster agreed standards for needed HLP-documents within the range of shelter activities;
- ▶ Agreement between Shelter and ICLA programs not to condition the shelter intervention to the legal intervention but to provide shelter and legal support in parallel; exception: no shelter intervention in case of eviction order;

- ▶ As the ICLA program provides legal support to more than the Shelter-target number of beneficiaries, it was agreed between both programs not to inform beneficiaries in case they were not selected for shelter-support until the legal support was completed by ICLA to ensure cooperation of beneficiaries to receive legal support without shelter support;
- ▶ Regular updates and coordination between ICLA and shelter teams on status/progress of cases, as well as providing the space for exchanges between lawyers and engineers and understanding of each other's work (process synergy flowchart).

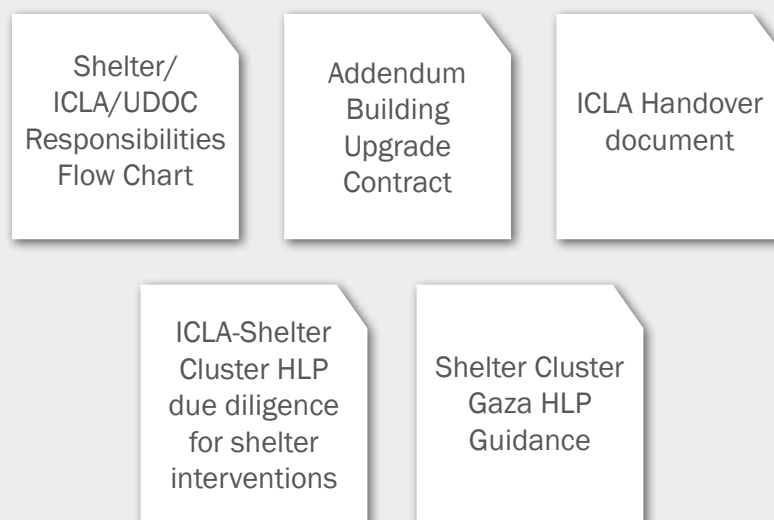
How does this programme support beneficiaries for the long term?

- ▶ Enhanced security of tenure for owners of repaired/upgraded housing units considering the repeated cycle of emergencies in Gaza;
- ▶ Access to adequate rental accommodation for at least as long as the rental agreement lasts; during the rent-free accommodation period, the beneficiary might access livelihood opportunities to be able to renew the rental agreement and paying the rent;
- ▶ Long-term access to reconstructed shelter and security of tenure for owners considering the repeated cycle of emergencies in Gaza.

Cross-cutting issues:

- ▶ Livelihood: Potential for ICLA to support livelihood-beneficiaries with ownership and/or rental documents to start small businesses.
- ▶ Gender: Mainstreaming women's rights: co-signing for house reconstruction. Contract co-signing protects all family members, especially women and children, by recognizing and guaranteeing that both male and female heads of household enjoy the right to use and benefit from the project housing unit being rebuilt. NRC promotes contract co-signing for spouses based on a recommendation for reconstruction agencies contained in ICLA's 2013 women HLP report.
- ▶ Gender: Mainstreaming women's rights: access to HLP and inheritance rights. When supporting male beneficiaries in accessing their HLP rights and proofing ownership over a piece of land, ICLA ensures that women's HLP and inheritance rights are acknowledged by male family members.

Tools used for documenting and securing tenure in the Gaza shelter programme:





5.13 Panama

Context: rural urban

Beneficiaries: refugees IDPs host communities returnees

Persons in need of international protection (PNIP), asylum seekers.

Form of tenure: statutory customary ownership right of use rental

High diversity with coexisting statutory, customary and hybrid tenure systems. Land tenure forms encountered are private, communal or collective, open access and state/public. Forms of housing tenure include ownership, use rights, rental and collective tenure.

Shelter response:

- ▶ Writing of private sales documents that allow constitute proofs for legal processes;
- ▶ Drafting models for lease contract that avoids leonine clauses;
- ▶ Cash for rent with ICLA counseling HLP rights for access to temporary shelter;
- ▶ Contribution with the delivery of construction materials for housing improvement;
- ▶ Realization, through appointments of parties (landlord and tenant), dispute resolution mechanisms alternatives.

Main HLP challenges for beneficiaries:

Lack of access to right of possession and property generate lack of access to adequate shelter:

- ▶ The PNIP, as well as any foreigner who does not carry a valid identity document in the country, has many restrictions to access to adequate housing, Government policies and programs. The goods that they acquire cannot be registered or legally recognized, due to the limitations established in the Panamanian legislation. In most cases, they must put the acquired goods on behalf of third parties (Panamanians).

Lack of affordable housing stock and housing quality for PNIP:

- ▶ High rental costs make it difficult for the population of interest to obtain a leased house;
- ▶ Lack of legal status makes difficult or impossible to access to an adequate livelihood.

Lack of adequate access to livelihoods for PNIP, in order to generate income to pay for rent:

- ▶ Lack access to materials to improve their houses.

How tenure was documented – and why was that method chosen?

- ▶ The drafting of leases and purchase contracts was made privately, to safeguard the property and possession rights of the target group;
- ▶ Appointments of landlord/landlord/possessor appearances were applied as an alternative measure of conflict resolution.

Key lessons learned:

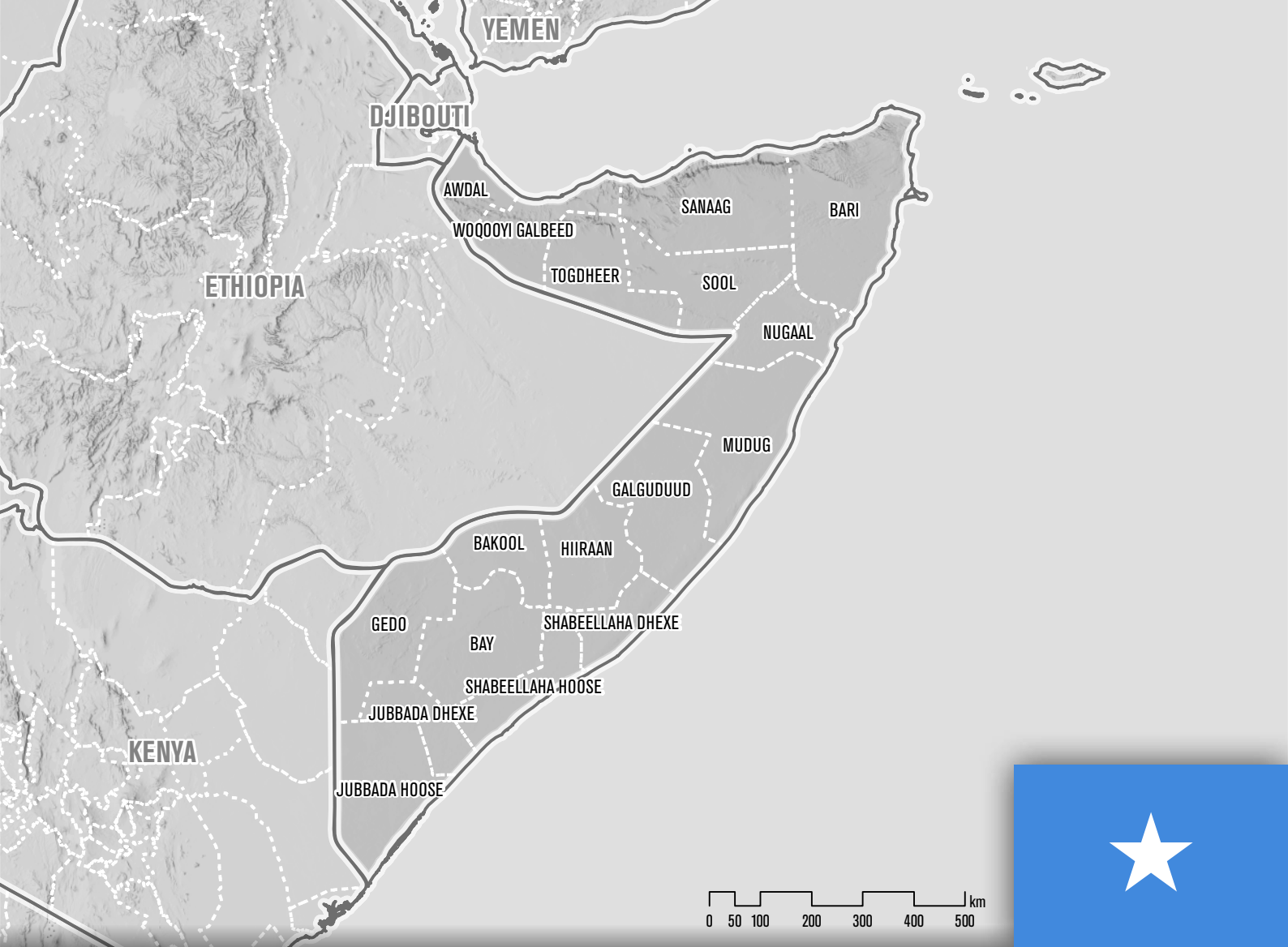
- ▶ That the ICLA services in HLP have been effective in preventing forced evictions or abusive practices from landlords against beneficiaries.
- ▶ That the legal work of the NRC has been recognized by the authorities and the population.

How does this programme support beneficiaries for the long term?

- ▶ With the writing of private documents, proof is pre-established that allows the beneficiary to remain in possession or property and guarantee the use of the property;
- ▶ With the alternatives of conflict resolution (appointments of appearance to the parties) evacuation is avoided and the permanence of the beneficiaries in the dwelling is guaranteed.

Cross-cutting issues:

- ▶ NRC ICLA team has been given a differential approach of attention by gender (single women, head of family, caregiver of biological children or with a family member);
- ▶ The NRC team has been given a differential approach of attention for seniors or people with disabilities.



5.14 Somalia

Context: rural urban *peri-urban*

Also includes settlements.

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: customary ownership right of use

Shelter response:

- ▶ NFIs
- ▶ Temporary Shelters or Emergency Shelters
- ▶ Transitional or Semi-Permanent Shelters
- ▶ Permanent Shelters

Main HLP challenges for beneficiaries:

Land limitation;

- ▶ Most of the land in urban centers is owned by private landlords who occupied after the collapse of the national government in 1991. Thus is difficult for Displaced people to get land easily, although local administrations/state have exercised to donate land in some urban centers e.g. Puntland, Jubbaland, Somalia, recently Galmudud.

Gatekeepers:

- ▶ In some locations in the country, private landlords donated land temporarily in specific period of time but later evicted the beneficiaries within the agreement duration.

Eviction:

- ▶ Settlements where there are no written land tenure agreements who occupy private plots with the consent of the landlords are sometimes evicted due landowners interest.

How tenure was documented – and why was that method chosen?

Temporary tenure documentation;

- ▶ 5-10 years' agreements between local authorities and private landlords for which IDPs use the land for that duration. Type of Shelters implemented is Transitional Shelter and Emergency Shelters, which are upgradable and portable so as to enable the beneficiaries to move to somewhere else if need be. After the end of the agreement, the landlords are consulted/ requested for extension. If not possible, Shelters are transitioned to other plot where tenure is possible.

Permanent tenure documentation:

- ▶ These are title deeds given for the people attained duration solution e.g. returnees, locally integrated IDPs, Poor host communities. The type of Shelter implemented is Permanent Shelter.

Key lessons learned:

Temporary tenure documentation:

- ▶ Local authorities have played a key role for the facilitation, allocation and documentation of land and site planning. They have also participated in the monitoring part and solution of problem during the implementation face. One external challenge arisen was; private landlords who donated the land were trying to get some benefits in return e.g. benefiting from the contracts or to be respected as beneficiaries. Disturbances on the ongoing constructions were reported. Techniques for adaptation include; (1) raising awareness on the humanitarian principles and the project designs from the onset of the project to avoid any potential expectation from the stakeholders (2) using the local authorities as a shield to solve these issues, (3) including 20% of poor host communities in projects designs as most of the private landowners are poor host communities who conquered a plot of land.

Permanent tenure documentation:

- ▶ Local authorities and host communities have shown willingness to advocate and accept IDPs local integration and return to their country. Therefore, this is an opportunity for durable solution if supported by the humanitarian community. Local authorities have played a key role for the facilitation, allocation and documentation of land and site planning. They have also participated in the monitoring part and solution of problem during the implementation face. In some locations, private landlords claimed the land donated by the local authorities but the governments have solved these issues. One technique used was to demarcate the plot and make clear surrounding boundaries before the construction and site planning. This has prevented any claims from the neighboring plot owners.

How does this programme support beneficiaries for the long term?

Temporary tenure with transitional shelter:

- ▶ This has helped IDPs beneficiaries to live in stable settlements for 5-10 years, within which they can decide for longer term solutions i.e. whether to return to their original locations, re-settle to elsewhere or locally integrate.

Permanent title deeds with Permanent Shelter (Sustainable Shelters):

- ▶ Beneficiaries received their own land and Shelters, were they can live indefinitely.

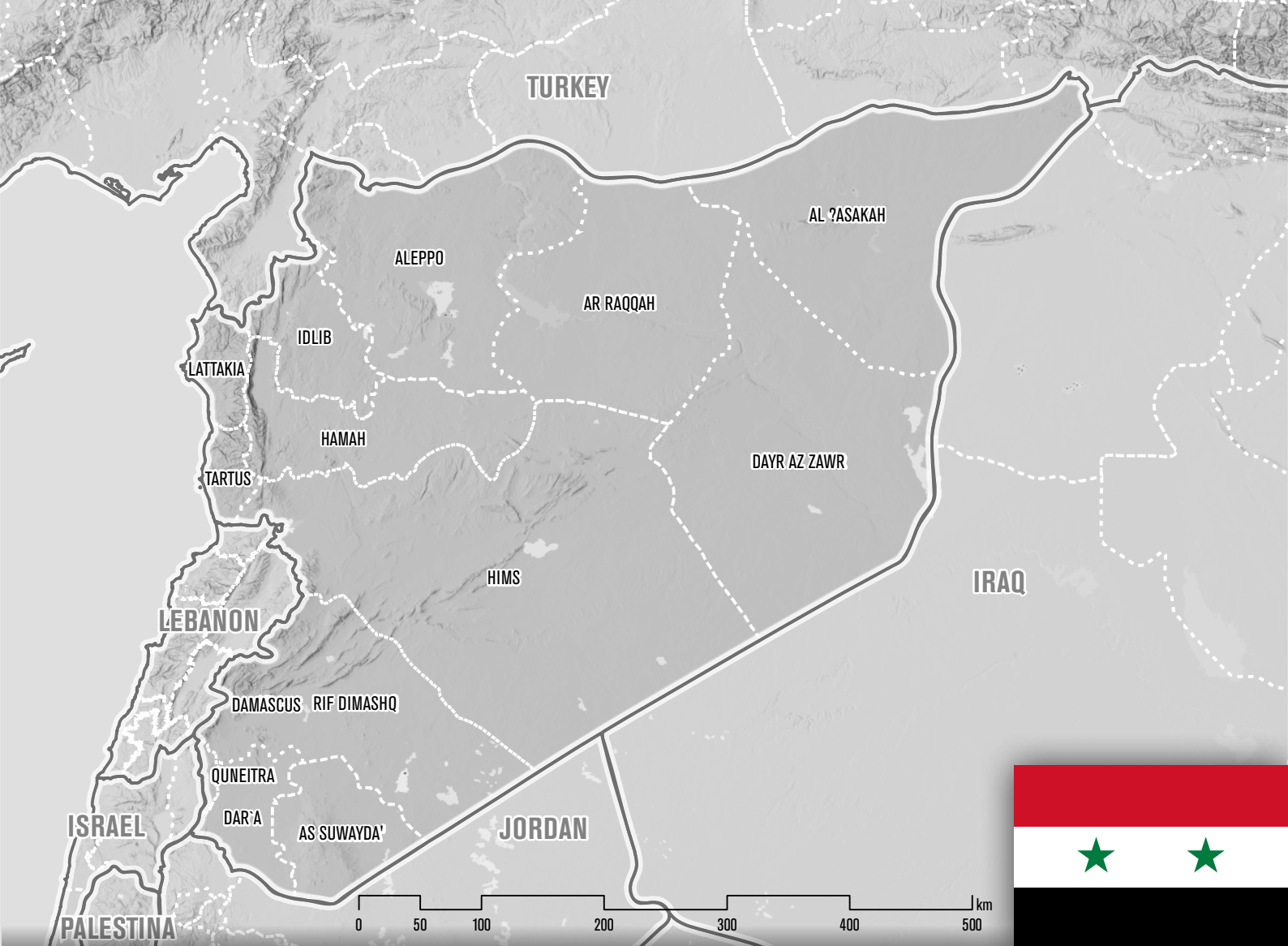
Cross-cutting issues:

- ▶ Gender and protection have been mainstreamed into the project through the specific consideration of the needs of women, men, boys and girls during the beneficiaries' selection, site planning, community consultation, trainings awareness raising and mobilization. Registration data was disaggregated based on gender, age and other diversities. Assistance prioritized the most vulnerable within the settlements, female-headed households being 70% of the beneficiaries, and households with pregnant or lactating women. Site planning was developed jointly with the local municipality, beneficiaries and the land owners.

Tools used for documenting and securing tenure in the Somalia shelter programme:

Final MoU
for Titles

Handover
Certificate for
Shelter



5.15 Syria

Context: rural urban peri-urban camps

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: statutory ownership right of use rental

Shelter response:

- ▶ Housing rehabilitation for vulnerable households living in damaged and/or sub-standard properties. This response option only conducted for properties where ownership and usage rights can be verified to a reasonable degree of certainty. Where the occupant is a tenant, this rehabilitation is provided in exchange for a 12 month period of occupancy free of charge.
- ▶ Temporary upgrades through Sealing-Off Kits for vulnerable households living in damaged and/or sub-standard properties. This response option is implemented in lieu of the above when ownership and usage rights cannot be verified to a reasonable degree of certainty.
- ▶ Distribute tents as part of our Rapid Response Mechanism In-kind tents distributed to newly displaced households without shelter or living in improvised shelters, as part of a multi-sector Rapid Response Mechanism HLP provisions limited due to focus on timeliness of assistance. However, a handover certificate was jointly developed between Shelter and ICLA. This includes both spouses as recipient signatories in order to strengthen female ownership rights of the asset

Main HLP challenges for beneficiaries:

HLP issues were identified as a problem by 57% of the communities surveyed for OCHA's 2018 Humanitarian Needs Overview (HNO). During the crisis, over half of the population has been forced from their homes, and IDPs in opposition-controlled areas in south and northwest Syria have been displaced on average three times. Whilst the context and needs vary significantly throughout Syria, the following HLP challenges have been identified:

Lack of formal tenancy agreements:

- ▶ IDPs in opposition-controlled northwest and south Syria reported very weak security of tenure, with only 5% of respondents in the south having a written tenancy agreement.

Rental & ownership disputes:

- ▶ The combination of overlapping waves of displacement, undocumented transactions and destruction of land registries has resulted in HLP disputes.

Exploitation and negative coping strategies:

- ▶ The exploitation of IDPs who are renting accommodation and the use of negative coping strategies was widely reported during focus group discussions, including an increased risk of sexual and gender-based exploitation and abuse.

Women's HLP rights:

- ▶ Only 14% of females, as compared with 78% of males, reported that their name alone was recorded on documentation relating to home ownership. This will pose additional barriers for women trying to claim their HLP rights especially in case of divorced and widowed women.

How tenure was documented – and why was that method chosen?

- ▶ Housing rehabilitation was implemented as part of an integrated NRC Shelter and ICLA programme. Prior to implementation, a community-level assessment was conducted in order to understand the local legal frameworks, local conflict dispute resolution mechanisms, etc. Following the identification of potential vulnerable households, the ICLA team conducted a household-level HLP Due Diligence assessment to verify ownership and usage rights of the occupied property to a reasonable degree of certainty. Beneficiary tenants and landlords signed a Certificate of Occupancy outlining the terms and conditions of the occupancy free of charge period. In addition, NRC's engagement with the landlord was outlined in a Memorandum of Understanding (MoU) that defined the responsibilities of the 2 parties.

Key lessons learned:

The following were identified during a joint Shelter and ICLA lessons learned workshop conducted at the end of the 2017 programming cycle:

Neighborhood/Area-Based Approach:

- ▶ From 2018 onwards, NRC will implement its integrated Shelter and ICLA programming using a neighborhood / area-based approach by focusing on selected villages/communities for all sectoral components. This will improve our joint understanding of HLP context and needs, beneficiary accountability and operation efficiency; and will streamline principled access negotiations. It is also NRC's belief that an integrated approach will yield greater impact for its beneficiaries.

Refined Housing, Land and Property (HLP) Due Diligence Process:

- ▶ The HLP due diligence process is fundamental to a do-no-harm approach, and is a requirement of the 2018 HRP for Shelter programming. NRC will further refine its HLP due diligence processes through the following initiatives: including an analysis of the HLP situation at village/community level as standard, strengthening its community-verification processes for households lacking their HLP documents, resourcing dedicated HLP positions to focus on HLP processes, and allowing sufficient time in the project work-plan.

Local Authority Approval:

- ▶ The formal approval from all relevant local authorities was the critical factor affecting timely completion of NRC integrated Shelter and ICLA programming. From 2018 onwards, NRC will allow significantly more time in the project work-plan for local authority approval, including for planning, assessment and monitoring related activities.

Integrated Planning

- ▶ NRC has identified opportunities to improve operational efficiencies through greater internal coordination and joint Shelter and ICLA planning throughout the project-cycle (i.e. including assessments, monitoring and follow-up visits). This includes the use of joint tools and methodologies, as well as joint planning meetings.

How does this programme support beneficiaries for the long term?

- ▶ The objective of the integrated Shelter and ICLA program is to support vulnerable populations enjoy the right to adequate housing in pre and post-recovery Syria. This is intended to contribute to pathways to Durable Solutions for conflict and displacement affected populations. NRC programming's contributes to this through improving living conditions for occupants, reducing their rental burden and strengthening their security of tenure in the medium term (typically 12 months +). Furthermore, the program has increase the adequate housing capacity which will continue to benefit the local population in the long-term.
- ▶ Information provision on HLP rights conducted by the ICLA teams increases the program impact through raising awareness amongst host and displaced populations and enables them to make informed decisions.

Cross-cutting issues:

Safe programming:

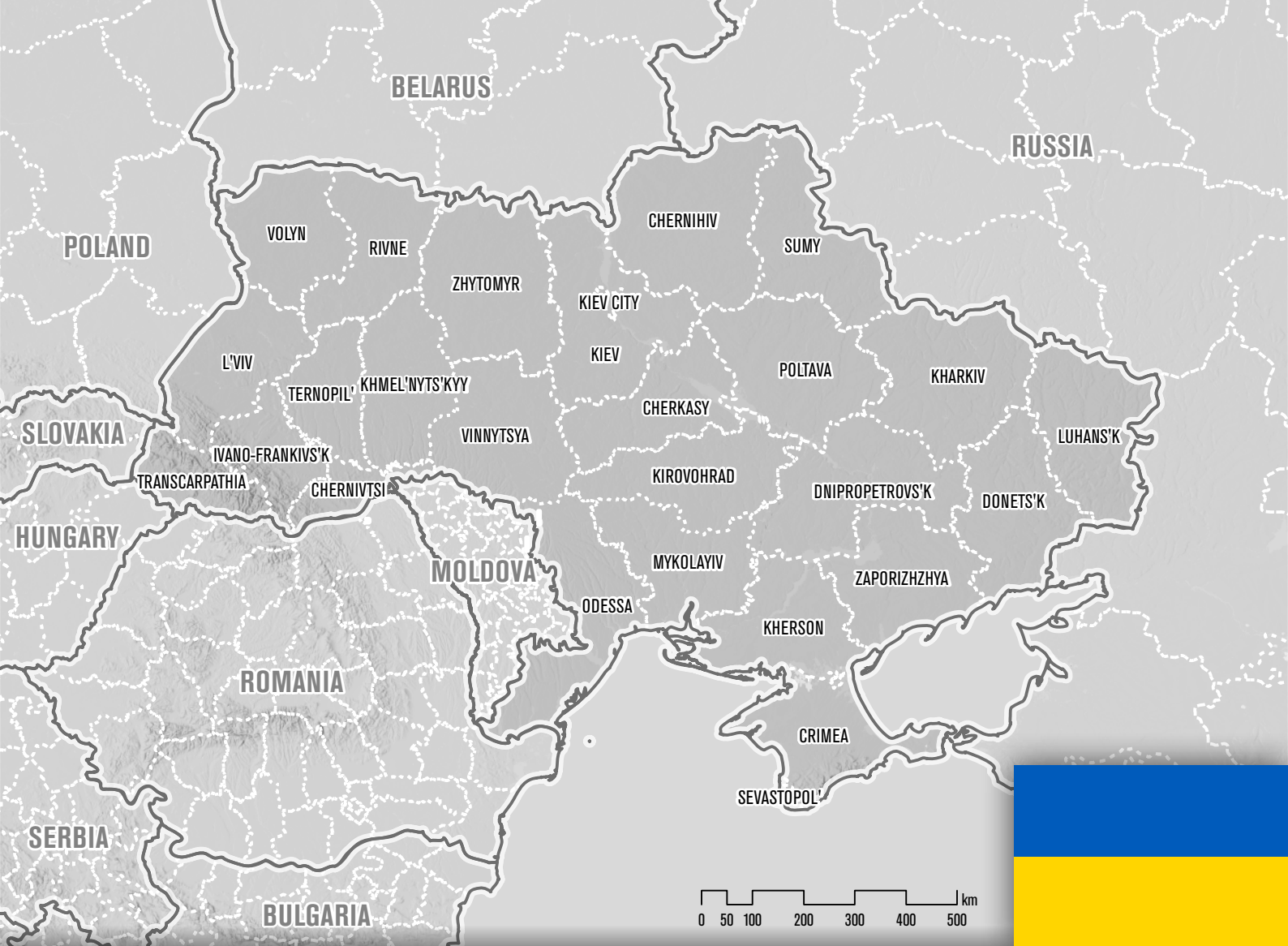
- ▶ The program ensures that the different concerns, priorities and needs of men, women, girls, boys, elderly and people with disabilities are considered throughout the project cycle. Specific examples include targeting and selection, technical assessment, tailored assistance, follow-up support and beneficiary feedback mechanisms.

Partnership and Remote Management:

- ▶ Due to access constraints, NRC delivered this project through remotely-managed local humanitarian partners in certain geographic areas. This necessitated the development of specific tools and training packages in order to enable the successful delivery of a complex project.

Monitoring and Evaluation:

- ▶ Further to the above, NRC has utilized appropriate information and technology solutions to support project monitoring. In addition to mobile data capture, NRC has piloted the use of geo-tagged Virtual Reality images to monitor rehabilitation progress and completion.



5.16 Ukraine

Context: urban rural

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: statutory ownership right of use rental collective

Collective tenure forms lack legal basis, but can still be used.

Shelter response:

- ▶ Support of affected population with acute emergency kits (plastic sheeting and construction materials for quick repairs);
- ▶ Provision of construction materials and cash grants to IDPs and host communities with damaged or destroyed property in order to repair or reconstruct their dwellings;
- ▶ Distribution of materials and cash grants for thermal insulation of the attic and/or façade of the houses;
- ▶ Delivery of construction materials to the social and educational institutions for the renovation of essential infrastructure to the communities.

Main HLP challenges for beneficiaries:

- ▶ **Absence of the legal base for compensation for the lost property.** It's been already 4 years since the beginning of the conflict in Ukraine and no significant steps were done on the state level in order to develop legislation which could cover the cases of the compensation provision for damaged or destroyed property as well as abandoned dwellings left by IDPs in NGCA. Also it is not clear if people who received assistance from NGOs will have the right to apply for the compensation when such mechanism will be in place.
- ▶ **High cost of the court fees and long-term procedures in case of restoring or gaining ownership documents.** There is number of cases when people need to restore lost documents or obtain new one through the court decision due to the fact that property was owned by parents or grandparents. Not only it takes from 3 months to 2 years to pass all procedures but as well the cost of all payments and fees could reach 5'000 USD which is not affordable.
- ▶ **Lack of security of tenure for IDPs in rented accommodation.** The majority of landlords are unwilling to enter into formal rental agreements, preferring informal arrangements, because they fear that formalization will result in their rental income being taxed, invite penalties for tax avoidance and open the door for quality checks and controls.
- ▶ **Overall lack of knowledge on legal issues.** The area of NRC Shelter activities is mainly rural and significant number of damages or destructions lay on private houses thus the issues with ownership documentation are typical. While NRC provides necessary legal counseling and support many cases could be avoided if beneficiaries followed procedures of documents registering properly.

How tenure was documented – and why was that method chosen?

- ▶ The availability of the ownership documents is crucial criteria for beneficiaries of Shelter program in order to participate in activities related to repair or reconstruction of the houses. The documents confirming right of ownership or right to use a residential building or land (e.g. certificate of ownership, contract of sale/barter/gift (notarized), certificate of inheritance) are kept in the package of the documents for each case of Heavy repair and Core house reconstruction.
- ▶ For Light and Medium repairs or thermal insulation the availability of registration by address is required thus the copies of the passports are taken.

Key lessons learned:

- ▶ Starting from 2016 with further increase in 2017 NRC Shelter program in Ukraine narrowed down mainly to the repairs of heavily damaged houses and core houses reconstruction. This gave an impetus to closer cooperation with HLP Unit of the ICLA program due to the fact that a lot of beneficiaries were in need of legal support in terms of documentation regain or issuance. As the result the framework suggestions for internal NRC's SoP were elaborated, to which HLP and the financial department contributed in order to propose solutions for the cases when beneficiaries do not own traditional ownership documents.

How does this programme support beneficiaries for the long term?

- ▶ As the experience in Ukraine shows, light and medium repairs by Shelter program do not imply involvement of HLP lawyers while beneficiaries of heavy repairs and core houses might require legal support further after the assistance provision. The counseling is necessary for people in order to register properly the repaired dwelling as it is perceived as newly designed project.
- ▶ Shelter team follows all cases of assistance provision in order to ensure that beneficiaries reside in the building after the repair or reconstruction. Thus in case of identification that provided assistance is not enough and beneficiary still has vulnerabilities preventing to improve shelter conditions with own means NRC tries to provide further support.

Cross-cutting issues:

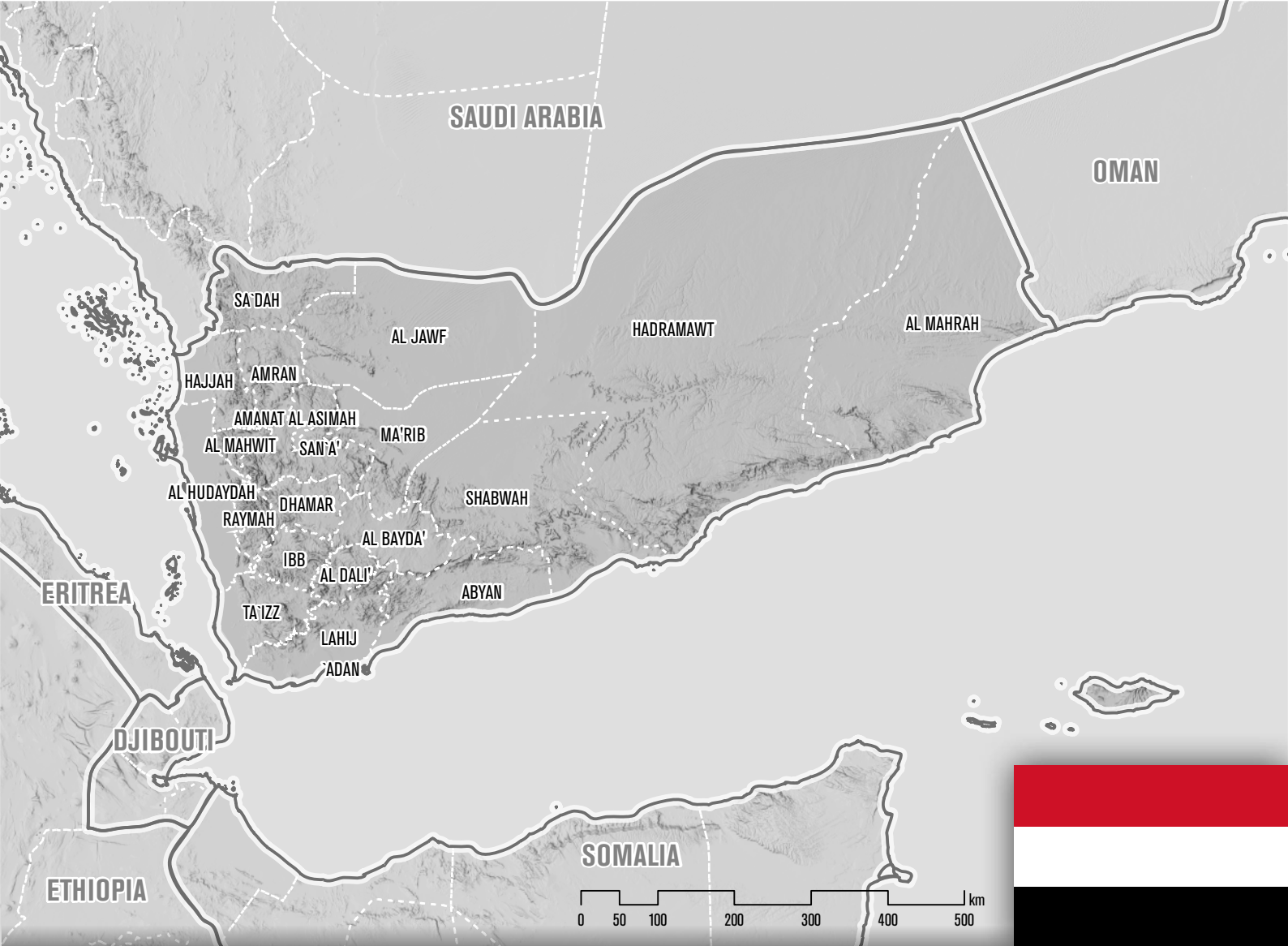
- ▶ NRC gives equal opportunities to all categories of affected population to participate in its shelter interventions however focusing on the support of the most vulnerable such as elderly, disabled, low income households, families with many children or single parents. No discrimination towards women's participation in the programs is observed and on the contrary women are more active during the projects implementation. Also promotion of own-driven approach when beneficiaries have to organize the rehabilitation works themselves stimulates dignity recovery in people affected with the conflict who have feeling of frustration and anxiety.

Tools used for documenting and securing tenure in the Ukraine shelter programme:

NRC Tripartite
Agreement

Technical
survey form

MoU NRC
Shelter Project,
Ukrainian
Template



5.17 Yemen

Context: rural urban *peri-urban*

Beneficiaries: refugees IDPs host communities returnees

Form of tenure: statutory customary ownership right of use

Property rights under Yemeni Law are expressed both in customary and statutory forms, but both are informed by sharia (Islamic law), which provides the basic property categories for land in Yemen. There are unfortunately no reliable official statistics for land within these categories, or how much arable land (a small percentage of total land area) falls within each. It is clear however that certain groups suffer from disadvantages in accessing land and land rights.

Shelter response:

- ▶ Emergency Shelter Kits normally distributed in the rapid onset of displacement or in spontaneous collective centres;
- ▶ Distribution of Winterization kits to improve on the living conditions in winter;
- ▶ Rehabilitation of host community houses that are hosting displaced families;
- ▶ Cash/Vouchers for the improvement of shelters in a protracted emergency setting or working with refugees or returnees.

Main HLP challenges for beneficiaries:

- ▶ Inadequate shelter. Majority of the displaced persons who live in collective centers and spontaneous settlements lack adequate shelter and live in makeshift made up of tattered and improvised locally available materials including clothes, cartons, blankets and sacks as a shelter
- ▶ Risk of eviction. Over three million persons are internally displaced with majority either renting or hosted by the community. Those renting face constant challenge of being evicted as they can't afford or fall behind on rents.
- ▶ Conflict with the host community over the occupation of public schools. Over 76,000 individuals have settled in public buildings mainly schools after the civil war broke in Yemen. Host community blame the IDPs for their children not going to school or having to walk further to attend school elsewhere. There were several reports of IDPs forcibly evicted from public schools by the hosting community using armed militia.
- ▶ Destruction of houses. Many of the displaced who owned houses no longer own one due to the destruction caused by the shelling and airstrikes of warring parties.
- ▶ Squatting. Urban migration resulted in large squatter and informal settlements in most of major cities and secondary towns in Yemen. This is due to lack of adequate and affordable housing for the displaced or migrants. These groups are vulnerable to evictions as they lack security of tenure for the land they occupy.
- ▶ Lack of Access to beneficiaries. The locations where some of the most vulnerable groups are settled are not easily accessible and this limits the assistance available to the affected populations. The beneficiaries themselves will need permission or guidance from their local leaders to receive assistance. If they act on their own accord there is a threat of losing protection or even forfeiting what they receive.

How tenure was documented – and why was that method chosen?

- ▶ NRC Yemen is mainly implementing emergency shelters by providing emergency shelter kits and fewer shelter rehabilitations. For emergency shelter kits, it is directly distributed to the target groups who are responsible in erecting the shelters hence no tenure documentation is applied. While rehabilitations of shelters are documented through a simple contract between the displaced beneficiary hosted by relative host community and the Norwegian Refugee Council (NRC) where the beneficiary declare that; 1) he/she can't claim ownership of the rehabilitated house 2) that all rehabilitation material belong to the house and the owner 3) that he/she can't ask for anything in return while vacating the house. The reason why this form of tenure was chosen is to compliment the hosting arrangements that is already in place between displaced and the hosting families while also encouraging and the rewarding the hospitality of host community by supporting them with rehabilitation of their homes.

Key lessons learned:

- ▶ The programme in designing interventions is closely sharing experiences with other partners and this collaboration is greatly informing the structure of the new interventions. Through the Shelter Cluster, the humanitarian partners have managed to lobby for the community leaders Sheiks, Akils and Imams in some cases to inform them about the type of assistance and the intervention modalities. UNOCHA has facilitated these meetings and they are greatly improving access to beneficiaries.
- ▶ The program has adopted cash transfer programming modalities to address the shelters needs of beneficiaries. The banking systems do work in some of the major locations and this are effective in settings where comprehensive assessments have been completed.

How does this programme support beneficiaries for the long term?

Refugees (5%) and host communities (15%):

- ▶ These constitute a small proportion of the program beneficiaries and these are normally targeted with Non-food Items or emergency shelter solutions. The response to this kind of beneficiaries is coordinated with the UNHCR. Since NRC has other sectors like Education, Food Security and WASH – these initiatives are integrated into the regular shelter programming.

Internally Displaced People (IDP's) (80%):

- ▶ These constitute the highest number of beneficiaries of NRC's programming in Yemen. All the shelter interventions target these beneficiaries- Emergency shelters, Rehabilitation of shelters within host communities, distribution of NFI's among other interventions.

Cross-cutting issues:

Gender mainstreaming:

- ▶ The shelter interventions that are implemented by NRC consider the needs of both men, women, boys and girls in the design of the shelter. Assessments have considered this, in some cases men in some communities have volunteered to construct housing for the female-headed households, helped with transportation of the housing materials. The use of local skill artisans is greatly improving the livelihoods and payments made to such people and purchase of construction materials locally is stimulating the local markets.

Environmental protection:

- ▶ NRC in Yemen continues to seek more environmental friendly solutions in the provision of shelter. Construction in Yemen mainly involves the use of stones, mud or thatched house or a combination of stones and cement – all this is dependent on the geographical location. Suitable solutions that match the community context are sought and the use of cash/voucher modalities are used to address these housing needs.

Tools used for documenting and securing tenure in the Yemen shelter programme:

Agreement for Upgrade and Rehab of IDPs houses for rent

Beneficiaries Agreement Sanaa

Report on Shelter Rehabilitation Amran

Shelter/CCCM/ NFIs Cluster Vulnerability Criteria

Technical Assessment Report for Shelter

Yemen CCCM Integrated Minimum Assistance, IDP Hosting Sites

Yemen Rental Subsidies Guidance

Shelter Contract



NORWEGIAN
REFUGEE COUNCIL

www.nrc.no

Norwegian Refugee Council
Postboks 148 Sentrum
0102 Oslo, Norway