

Housing, Land, and Property in Shelter Programs



Learn how to effectively address housing, land, and property issues in humanitarian shelter and settlements programs.



Housing, Land, and Property Issues

What is HLP?

Housing, Land, and Property (HLP) refers to the rules and arrangements that make it possible for people to live on their land and use their property. HLP is not only about laws – although laws are important – but it involves practices, customs, and attitudes that revolve around specific rights to land and property. HLP is therefore not only critical for lawyers and specialists, but also for humanitarian professionals who need to learn, act, and adapt their programs to address concerns and provide solutions for housing, land, and property issues.



Common Land and Property Issues in Emergencies

When people have to flee the area in an emergency, they are forced to leave their houses and land behind. When the emergency is over and displaced people want to return, their house may be destroyed, or their land may be occupied by others or may have even been sold. In many cases, displaced families need to find a new place to live, where they can stay peacefully and rebuild their lives.

Humanitarian program staff providing shelter to displaced people need to consider the different types of housing, land, and property (HLP) issues that can arise when planning and implementing their response programs.



Unclear underlying rights (including, but not only ownership)



Boundary disputes



Conflicting claims



Lack of reliable records



Corrupt or biased authorities



Exclusion of women and other historically marginalized communities

The Importance of Addressing HLP Issues

Addressing housing, land, and property (HLP) issues upfront is essential for ensuring a successful response and sustaining the stability, safety, and livelihoods of the community. Addressing housing, land, and property issues helps solutions last longer by reassuring people that they can stay on the property in the long term. This encourages:

- Peace-making and preventing disputes over land/property from causing future conflict
- Investing in property maintenance and improvements
- Local community engagement
- Stronger relationships with neighbors
- Local school enrollment
- Working towards a productive future in the area



The Importance of Addressing HLP Issues

Consider these action steps to identify potential housing, land, and property issues in your programs.

Step 1: Understand the Context

It is important to understand both the legal context (laws) and the local practices of the property's location. Ask these questions to help understand the context around the property:

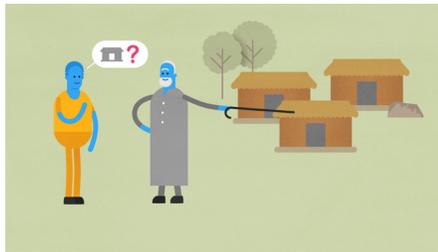
- How do national property rights work?
- Is private land ownership possible, or does the government own the land?
- Are there use rights (allowing others to occupy the property) and are these rights limited in time?
- Can property be transferred between people? If yes, then how?
- Is there a property registry, cadaster, or other land records in the area?
- Do women have the same rights to property as men under the law or in practice? If not, how do the rights differ?
- Are there ethnic tensions in the community that affect property rights and land use?
- Are there excluded minorities or groups who cannot access land or adequate housing?



Step 2: Map the Actors

- Find out about the institutions, government agencies, and authorities that deal with land in the area. This can vary widely in different countries and may include:
- A land agency within the Ministry of Justice
- An independent Land Commission
- Ministry of Agriculture managing rural lands and municipalities overseeing urban properties
- Local, provincial, and national agencies/authorities with different powers and portfolios
- Traditional leaders who allocate land and keep track of occupancy in the community

Make sure to identify all of these actors and understand what they do, how they operate, and if/how they collaborate.



Step 3: Include Non-Owners

Sometimes the government and aid organizations neglect to assist people who are not property owners or people who cannot easily prove that they had rights to a property that was damaged/lost in the emergency. Make sure to identify and include non-owners in your emergency shelter response, such as:

- Renters
- People living in informal settlements
- People who live in their place of work
- Wives in polygamous marriages or with absent husbands





Securing Land Tenure

What is Tenure?

A tenure arrangement determines how long and under what conditions a person can use a specific building, piece of land, or set of resources. There are many forms of tenure arrangements that can allocate the rights, responsibilities, and corresponding obligations between the people involved in different ways. The most common tenure arrangements are **'ownership'**, **'renting'** and **'possession'** but they are not the only types of arrangement, and their meaning can vary in different cultures.



Ownership

Ownership usually (but not always) includes the rights to use, sell, donate, rent to others, and/or leave the property to a family member after death. Ownership tenure can be held by an individual, several people in the same family, by an institution (business, religious, or non-profit), or even the government. There can also be models of co-ownership between multiple distinct households, such as cooperatives and land trusts, that may present innovative options and durable solutions for vulnerable communities.



Renting

Someone occupies a house or land with the agreement of the owner. A renter (or tenant) is allowed by the owner to occupy the property in exchange for money, and sometimes in exchange for goods, labor, or services. Renters are rarely able to transfer their rights to another party. This tenure arrangement is usually limited in time but can be renewed.



Simple Possession

Someone lives on or uses the property without any formal right to occupy it. In a simple possession tenure, there is no authorization from an owner; however, the occupant simply stays on the land or in the house while there is no effective opposition to their occupancy.



Use Right

Someone lives in or uses the property with a formal right to occupy it, but without having ownership and with no obligation to pay rent. In this case, the owner, which can be a private person, company, or the government, allows the occupant to use the property.

Security of Tenure

Security of tenure is the degree of certainty to which people will be able to stay on the land or in the house they occupy. It represents a level of assurance that the terms and obligations of a tenure arrangement will be consistently honored and the person's rights to the property will be protected against infringement or eviction.



Strong Security of Tenure

Here are some examples of a strong security of tenure where there is a low risk that the occupant will be evicted or that the occupants' rights will be infringed upon.



My rights are registered and protected.

My rights to 'own' my house are registered and protected by a fair and accessible system of governance.

I am a tenant and pay rent regularly.

I have a good relationship with the landlord who respects my privacy and does not add unfair charges to my rent.

My community recognizes my rights.

I am an informal occupant of a house in a community that recognizes my right to be in that house.

We lived here long enough to demonstrate ownership.

My family has occupied this house and land over a long enough period of time to demonstrate ownership without legal records.

Local institutions are reliable in my area.

Even if I have a conflict over the land I own, I trust that local institutions are accessible and can intervene in a timely way to provide a fair and transparent solution.

Weak Security of Tenure

Here are some examples of a weak security of tenure where there is a high risk that the occupant will be evicted or have their rights infringed and/or extinguished.



Local authorities are not reliable.

I own a house in a place where authorities do not consistently guarantee property rights. The land administration and rule of law in the area are weak and difficult to access (services are expensive and far from town). Armed groups are able to take land and infringe on rights by force, and the government itself can play an active role in undermining property rights of persecuted groups. I am a tenant and pay rent regularly.

I rent a house month to month, without a clear agreement on my and the owner's rights and responsibilities.

My income is variable and insufficient to cover my household's basic needs, which means that I am occasionally late on paying my rent. My landlord does not maintain the house and enters whenever he pleases even if this violates my privacy.

I live on the land without the owner's agreement.

I occupy a site for shelter although I do not have an agreement with the owner. I have heard that someone in the community nearby owns the land and wants to build something on it. Local institutions are reliable in my area.

Strengthening Security of Tenure: Do's and Don'ts

Strengthening security of tenure helps displaced families plan their future, encourages people to invest in their new lives, reduces the risk of disputes, and prevents forced evictions. There are many ways to increase the certainty that a person will be able to remain on their property without issues. Increasing that certainty is 'strengthening tenure'.

Consider these basic do's and don'ts for strengthening security of tenure.



DO help people obtain personal identification documents (birth certificate, ID).



DO help people obtain copies of property records if these have been lost, damaged, or destroyed.



DO ensure that agreements are inclusive of all rights-holders, especially women who are often excluded from written agreements.



DO work with local authorities to create individual addresses if the houses are not numbered.



DO develop a neighborhood map with the community, identifying each building, street, and public space.



DO work with authorities to create a property record that includes identification of the property and of its alleged rights-holders (including, but not only ownership).



DO build the capacity of local authorities to intervene in disputes in transparent, accessible, and consistent ways.



DO help people gather alternative evidence to prove their connection to the property (electricity/water bills, tax receipts).



DO document verbal testimony from neighbors, community leaders, and people who can confirm the person's relationship to the property.



DO NOT rely only on official property records. Most countries do not have a functioning land registry, and affected populations often do not have access to a registry.



DO NOT neglect non-owners. You can strengthen security of tenure for renters and other occupants, by documenting and improving rental agreements and recording peaceful possession.



DO NOT use ownership titles as a precondition for providing shelter assistance. This will exclude non-owners and even owners who do not have a formal ownership certificate. Requiring ownership titles/certificates usually means that the wealthiest and most powerful members of the community will exclusively benefit from humanitarian assistance.



DO NOT assume that local authorities are reliable and unbiased. Local authorities can be compromised by ethnic or political allegiances and give inaccurate ownership information to favor their allies. If the context demands it, cross-check with other sources.



DO NOT overlook the possibility of fraud. In many contexts it is common to find fake ownership certificates. Be aware of the possibility that a property may be 'sold' more than once to different buyers, who themselves may be acting in good faith.



DO NOT assume that the government knows which properties are owned by the State or that State ownership is uncontested by local communities who may have unrecognized customary rights. Verify the information by consulting other organizations and community



Verifying Property Rights

How to Verify Property Rights (Due Diligence)

To avoid disputes, it is important to verify if the people receiving assistance have the right to build or place a shelter on their land. This verification is called 'due diligence'. Conducting due diligence demands time and resources to triangulate between different types of evidence that are relevant to the context. Your organization must find a reasonable process of due diligence that will not take too much time but will ensure an acceptable level of certainty.

Communities where people from different strata in the community have high levels of confidence in their security of tenure may not require a very complicated process for due diligence. However, areas where tenure is highly insecure will require a more robust due diligence approach.

Due diligence typically involves a combination of the following steps, based on their relevance to the project and the context.

Ask the person being assisted to provide evidence of their tenure agreement. Evidence can be formal records, documents, and contracts, but it can also be utilities and tax receipts, digital trails, or family photos of themselves and their relatives occupying the property. Evidence can also be verbal evidence.

Check existing property records at land registry or equivalent.

Consult local authorities.

Walk around the boundaries of the property and across it to see if there are signs of contested claims. Ask neighbors about the property and its owner.

Consult local elders about the history of the property.

Practice 'Fence and Wait' - place a physical boundary marker (stakes, strings, rocks) and wait for people to claim the land.

Identify and mitigate potential disputes.

How to Secure Land and Property Rights for Women

Women and girls are particularly vulnerable to losing access to land and property. In some cultures, women cannot inherit land or only have access to property through their male relatives. In some legal systems, only the husband's name on behalf of a married couple is recorded on a tenure agreement.

Consider these actions to secure women's rights and access to their land and property.

Record women's names next to the names of their husbands or male relatives on all tenure agreements including titles, rental agreements, and other property documents.

Ensure women are able to provide meaningful feedback on shelter projects that will be implemented in their neighborhood.

Boost the participation and status of women in discussions on housing and land use by including them as leaders in data collection exercises and community consultation activities.

Ensure that female household heads have their rights documented.

Ensure that women are provided with adequate protection and representation in the event of HLP disputes.

Provide incentives/options for housing women-headed households in displacement contexts, who are often excluded from adequate housing, and are vulnerable to exploitation, infringement on their tenure rights, and chronic eviction.

Work with traditional leaders to ensure that women's property rights are recognized and respected by the community.

If you are working with collective tenure (example: registering community land titles), ensure that women's membership to the group of rights-holders is recorded and recognized.