

## **GUIDANCE NOTE:**

# HLP Issues in Informal Settlements and Collective Centres in Northern Syria

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# PART I: INTRODUCTION

## A. Introduction and Methodology

The purpose of this Guidance Note (“guidance”) is to increase knowledge and understanding of housing, land and property (HLP) issues in informal camps/settlements<sup>1</sup> and collective centres in the northern part of the Syrian Arab Republic (Syria), with an emphasis on the situation in areas outside of Government control<sup>2</sup> in the Deir Hasson Cluster (Idlib Governorate) and Azaz sub-district (Aleppo Governorate).<sup>3</sup> The majority of existing material regarding informal settlements and collective centres reference the need to ensure that housing, land and property issues are addressed, but offer little guidance on how to do so. In part, this is because HLP issues are quite context specific, and it is thus difficult to offer blanket guidance on how to handle them. What guidance there is, is also targeted towards planned (“formal”) camps, with little written frameworks on how to cope with HLP challenges in self-settled or informal camps and collective centres that are more prevalent in Syria. This guidance therefore aims to offer practical information and tools to humanitarian practitioners and others working with IDPs in Northern Syria, on how to identify and address HLP issues during the course of humanitarian programming, in particular as it relates to HLP rights for internally displaced persons (IDPs) in need of shelter assistance.

This guidance also seeks to provide more clarity regarding: ownership and usage rights over land used for camps /informal settlements and collective centres; rental or other arrangements between owners, de facto local authorities and camp managers, and potential gatekeepers to HLP and other services in camps and collective centres. The guidance can be used by a broad range of humanitarian and other actors delivering assistance and services in northern Syria, as they navigate the existing complex HLP arrangements and the implications they have for IDPs’ security of tenure and other rights and protections.

The information contained within this guidance is based primarily on information gathered through 22 interviews with Syrian and international humanitarian actors in Gaziantep, Turkey from 28 July to 12 August 2016, and relies heavily on interviews with people who work directly inside Syria; including members of 10 local NGOs (either Syrian or Turkish), 7 international NGOs, and relevant branches of the United Nations agencies. Interviews were conducted face to face or over the phone in English or Arabic by a NRC consultant, with the assistance of a NRC staff interpreter. The primary data is supplemented by secondary desk review research.

*Limitations:* Due to the lack of access to the most relevant stakeholders – i.e., Syrian IDPs living inside Syria – and the opportunistic (rather than targeted) selection of stakeholders to interview, this report should be considered illustrative, but not necessarily representative, of the situations throughout the country. Additionally, HLP issues are very location-specific, and Syria represents a collection of many different environments and systems; there is no single set of universal features that applies to all areas.

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<sup>1</sup> Collectively referred to throughout this guidance as “camps” and “informal settlements.”

<sup>2</sup> These areas were under the control of opposition groups at the time this study was conducted.

<sup>3</sup> All information in this guidance should be assumed to refer to these areas only, unless otherwise specifically noted.

Finally, it is important to acknowledge that Syria remains in the midst of an ongoing war. The political dynamics remain fluid and it is necessary to constantly seek out and assess new information. Lack of access remains a significant constraint, and information gaps will likely persist for the foreseeable future. This guidance highlights the findings from the fieldwork, but also points out that there is still much that is not understood, and that analysis will be needed on an ongoing basis.

## B. Definitions and Existing Guidance

**Housing, land and property (HLP) rights** are about having a home, free from the fear of forced eviction; a place that offers shelter, safety and the ability to secure a livelihood. HLP rights are referenced and defined in several international human rights instruments, and organizations providing protection and assistance to persons affected by crisis should respect the human rights, including HLP rights, of affected persons at all times, and advocate for their promotion and protection to the fullest extent. The concept of HLP includes the full spectrum of rights to housing, land and property held according to statutory or customary law or informally, both public and private housing, land and/or property assets.<sup>4</sup>

HLP rights include:

- The right to adequate housing
- The right of access to natural resources, such as land and water
- The right to security of tenure and protection against forced eviction
- The right to non-discrimination in accessing HLP rights, which often entails special protection for the most vulnerable and marginalized

**Land tenure** is the relationship among people, as groups or individuals, with respect to land. The rules of tenure define how property rights are allocated within societies, and define how access to rights to use, control, and transfer land, are granted. "In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions."<sup>5</sup>

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. Land tenure is a relationship, which can (and often does) change over time.

Regardless of the tenure arrangement, all persons still retain HLP rights, and organisations providing protection and assistance to those affected by the war inside Syria should respect these rights at all times, and advocate for their promotion and protection to the fullest extent. Thus, people living in informal settlements, who are often internally displaced, may not possess a "legal" right to occupy the land but do still possess the right to adequate housing and the protection against forced eviction from their home.

<sup>4</sup> Norwegian Refugee Council (2016), Briefing Note: Housing, Land and Property (HLP) in the Syrian Arab Republic. NRC (2016).

<sup>5</sup> Global Land Tool Network (GLTN), <http://www.gltn.net/index.php/land-tools/themes/access-to-land-and-tenure-security>



### What is a “Camp or Collective Centre?” in Syria

The Camp Coordination and Camp Management (CCCM) Cluster in Northern Syria’s Induction Package defines camps and collective centres as follows, distinguishing between planned camps and informal settlements/camps:<sup>6</sup>

- *Planned Camp* – Structures that are established by an accountable humanitarian actor and which, to the extent possible, meet the minimum SPHERE standards.<sup>7</sup> Where the site was chosen by the humanitarian actor and, where possible, the infrastructure was established before the arrival of some IDPs.
- *Informal Settlement/Informal Camp* - Also called spontaneous settlements or self-established camps. Typically a group of tented or other types of housing units established by IDPs themselves, or by non- experienced actors, often erected on land that the occupants have no legal claim to. Currently, most of the IDP camps in Syria fall under this category.<sup>8</sup>
- *Business-Oriented Camp* – This is a camp established by a non-humanitarian actor with the intention of financially profiting from the presence of the IDPs, most commonly through the diversion of aid. Business-oriented camp owners often try to create the appearance that IDPs are actually living in the space and inflate the numbers of IDPs living in the area. Humanitarian actors should take precautions to avoid supporting business-oriented camps, sometimes called fake camps, including by verifying IDPs are actually living in the location at all hours, and are not receiving aid in other locations.<sup>9</sup>
- *Collective Centre*<sup>10</sup>- Other types of settlements, i.e. public buildings, schools, private collective buildings, e.g. factories, which are inhabited by five or more IDP families.

### Global Guidance on HLP in Informal Settlements/Camps is Lacking

The majority of existing global guidance on HLP issues in camps and collective centres is targeted towards planned (“formal”) camps, and NRC’s desk review revealed little written guidance on how to address the HLP challenges prevalent in the self-settled or informal camps and collective centres that are common in Syria.

For example, the Camp Management Toolkit notes that good site planning (including land selection) is essential, stating that the Camp Management Agency should:

- Prioritize negotiation of agreements regarding the use of land and

6 CCCM Cluster in Northern Syria (2016) Member Induction Package, published 2 August 2016, Global CCCM Cluster and UNHCR.

7 <http://www.sphereproject.org/>

8 Humanitarian actors typically used the term “informal tent settlements” (ITS) to refer to these settlements. There does not seem to be a minimum number of households required to be deemed an ITS; some actors reported providing assistance to an ITS of just 3-4 tents.

9 CCCM Cluster in Northern Syria (2016). See footnote 6 for details

10 The terms “collective centre” and “collective shelter” are used interchangeably by humanitarian actors to refer to collective centres.

structures;

- Plan for a natural population increase in camps of between 3 and 4% and allow room for family expansion; and
- Resolve ownership issues before shelter construction begins.<sup>11</sup>

The Collective Centre Guidelines are slightly more instructive, and offer a list of helpful questions to ask when preparing to work in/with collective centres, including:

- Who exactly owns it?
- How long will it be available?
- What is the nature of access, services & utilities?
- In what condition should the structure or facility be left eventually?
- How will the structure need to be modified?
- What authorizations (administrative or otherwise) are needed for modifications?
- Who is (or is not) liable if the building is not returned to the agreed upon state?<sup>12</sup>



11 NRC/IDMC (2015) Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC) (2015), Camp Management Toolkit, available at: <http://www.globalccmcluster.org/tools-and-guidance/publications/camp-management-toolkit-2015>.

12 UNHCR/IOM (2010) UNHCR/IOM (2010). Collective Centre Guidelines, available at <http://www.globalccmcluster.org/tools-and-guidance/publications/collective-centre-guidelines>

Nearly all guidelines stress the importance of verifying ownership of property, whether land, buildings or otherwise, as the owner is the entity who is viewed as being able to authorise the use of that property. For example, the Collective Centre Guidelines state that, “Ownership claims should always be verified as there is always the risk of fraud, specifically in contexts where cadasters (real estate registries or land registries) are destroyed, incomplete, or non-existent.<sup>13</sup> However, this endeavor is complicated in an ongoing emergency setting like Syria, where land and property may no longer be under the control of the “legal” owner, and other actors assert the ability to authorise its use.

### Challenges to Addressing HLP in Informal Settlements/Camps in Syria

In many situations, camp management teams can help understand and address HLP issues and problems. However, lack of access to the history of formation of many of Syria’s informal settlements poses significant challenges to implementing camp management activities, as noted by the CCCM cluster in Gaziantep:

*The majority of the existing IDP camps are informal. They are managed either by camp land-owners or other individuals who don't represent any humanitarian organization or de facto authority. These camps are established on [an] arbitrary basis without prior site planning or security analyses. In addition to exposing IDPs to various risks, the absence [of] a camp management that is accountable to the humanitarian principles combined with the arbitrary nature of these camps remains a constant challenge for the humanitarian actors to support the IDPs living in these camps. Due to immense challenges related to the lack of access and remote management nature of the humanitarian response, very few humanitarian actors are able to provide direct camp management services inside Syria.<sup>14</sup>*

The Cluster recommends that all members “ensure that land and property issues of the location where the camp will be established are addressed,” and has offered policies to address some of the challenges specific to their context. For example, in response to the phenomenon of landowners asking humanitarian actors for tents to attract IDPs, the cluster advises, “To avoid any harm by supporting the benefit-oriented settlements, distributing tents for empty spaces where no IDPs are observed should not happen. In case of new settlements, the settlement has to be endorsed as a ‘needs-based settlement’ by filing the settlement verification online tool that was developed by CCCM.”<sup>15</sup>



<sup>13</sup> UNHCR/IOM (2010) Ibid.

<sup>14</sup> CCCM Cluster, Southern Turkey/Syria (2015) CCCM Cluster, Southern Turkey/Syria (2015). Guidance Note: Establishment of camps for the Internally Displaced Persons.

<sup>15</sup> CCCM Cluster, Southern Turkey/Syria (2016) See footnote 6.



## PART II: UNDERSTANDING THE HLP CONTEXT

Before implementing activities in camps in Syria, humanitarian organizations should first understand the context in which they wish to operate and ensure that they have sufficient certainty that they are dealing with the real owner of the land on which they will implement their activities. This is part of the due diligence they are required to perform as humanitarian actors in order that they do no harm. For activities relating to land for camps or buildings for collective centres, this may include an analysis of: the interested stakeholders; the history of the land/building and its use; and the current land/building usage arrangements.

### A. Analysing the Role and Power of Interested Stakeholders

NRC's research identified the following as the most relevant stakeholders in regards to HLP issues in the areas of Azaz and Idlib to which this guidance refers: State authorities, armed opposition groups (AOGs), new Shari'a Courts created/supported by AOGs, de facto local authorities, IDPs and their leadership, host communities, international and national NGOs, and other civil actors. In areas covered by this study a combination of one or more of these actors was usually present.

However, while the actors identified below appeared to be the most influential in regards to HLP issues at the time NRC's research was conducted, the landscape of actors and alliances should be periodically assessed in recognition of both imperfect access to information on the ground and shifting power dynamics.

- **Armed Opposition Groups (AOG).** The presence, influence, and role of AOGs varied by area and by sector. AOGs have created civilian bodies to carry out the coordination and administrative activities of interventions and for liaison with (I)NGOs. NRC's research found that AOGs were involved primarily in high-level coordination, and did not often interfere in the daily affairs of IDP camps; however, the level of intervention appears to vary between areas and depending upon which AOG is in control.
- **Local Councils.** Local Councils, also called Civil Councils in some areas, were identified as the primary form of de facto "local authority" in areas outside of Government control. These bodies are described as responsible for civilian affairs, and are often the preferred contact point for humanitarian (I)NGOs. However, contact is often complicated by the fact that membership of the councils may change, and their relationships with AOGs and other actors, for instance, the Interim Government of Syria (IGS), varies and is not always well understood. It is also important to remember that there is significant variation in the quality, behaviour, and capacity of local councils. The councils formed throughout Syria in response to context-specific conditions, and thus their maturity, capacity, efficacy and mandate can vary widely.<sup>16</sup>

<sup>16</sup> Menapolis, (2013) Local Councils in Syria: A Sovereignty Crisis in Liberated Areas.

- Shari'a Courts. Interviewees report the existence of different kinds of "Shari'a Courts," which are illustrative of the complex governance structures in areas outside of Government control.<sup>17</sup>
- Shari'a Courts – AOG affiliated: Interviewees reported that AOGs have created their own Shari'a Courts with the authority to hear complaints (including against members of the AOG) and mete out requisite punishment if deemed appropriate. The relevant AOGs each appoint members to the court, to ensure that they have representation and will thus abide by the court's rulings (this phenomenon has also been reported elsewhere).<sup>18 19</sup> Some humanitarian actors are reticent to engage with these courts due to their affiliation with armed actors. However, others interviewed for NRC's research indicated that these courts were often the best form of protection for their agreements, with several citing that when their projects were threatened by members of armed groups, if they had contracts/agreements that had been approved by the appropriate Shari'a Court, the armed groups would often respect them.
- Shari'a Courts – Local: These courts are generally not established by AOGs, and still exist in some areas to hear cases between members of the local population. It was not clear from the interviews how many of these local courts were still functional. Syrian NGO actors emphasized that the courts established by the AOGs were more useful in terms of protection against interference from members of AOGs. Their observation highlights the importance of examining the function of particular structures vis-à-vis different stakeholders, as it may vary from one group to another and from place to place.
- Turkish Actors. INGO actors have also been coordinating with various Turkish agents, including insan Hak ve Hürriyetleri ve insani Yardım Vakfı ("IHH"), the Turkish NGO which has played a substantial role in facilitating and coordinating humanitarian assistance in northern Syria.
- Host Community. Host community members will generally have the best understanding of the history of land ownership and use in the area, and are invaluable to humanitarian actors conducting due diligence on the ownership background of land and property. Understanding the feelings and concerns of the host community in regards to the siting and/or presence of IDP camps or collective centres can help humanitarian actors address tensions between these two groups, which is often a barrier or threat to IDPs' access to HLP rights. Additionally, host community members will likely have suffered HLP violations themselves, and humanitarian actors should be sensitive to this dimension of the context.
- IDPs: IDPs are not a homogenous group; they come from different areas and have different interests and desires. Some may be seeking

<sup>17</sup> See also, Cafarella, J. and Casagrande, G. (2016) Institute for the Study of War. Background: Syrian Armed Opposition Forces in Aleppo.

<sup>18</sup> In "The Syrian Jihad: Al-Qaeda, the Islamic State and the Evolution of an Insurgency," Charles Lister details how the armed groups elected scholars to sit on jointly established Shari'a Courts that could then manage the conflicts between these different groups.

<sup>19</sup> See also, Hanna, A., "Syria's Shari'a Courts," Syria Pulse, (11 Feb 2016), available at <http://www.al-monitor.com/pulse/originals/2016/02/syria-extremist-factions-shari'a-courts-aleppo-idlib.html>, arguing that extremist organisations "established Shari'a Courts to rule the areas under their control, and they run them based on their own interpretation of Islam to solve everyday problems in the absence of legitimate judicial bodies."

a place to stay that allows them to quickly move on, whilst others are seeking a more long-term displacement solution because their route to return home is not safe and they do not wish to continue moving. It is best to ask them directly about their perceptions of tenure security and control over their current shelter arrangement.

- **(I)NGOs:** (I)NGO actors in this space are increasing in numbers and diversity, and include national and international actors with different interests, priorities, and values. Some (I)NGOs may face difficulties when other actors make deals or create precedents that are incompatible with their operating guidelines or values. Understanding the various arrangements that exist can help (I)NGOs predict and plan for the kinds of operational challenges they may face in acquiring/using land, maintaining camps, and interacting with other stakeholders etc.

It is important to remember that the situation in northern Syria is fluid and context-specific. Some stakeholders may exit while others emerge, the balance of power and alliances between stakeholders may shift, and there may be others of whom humanitarian actors are not yet aware. A stakeholder analysis in this context should not be a one-time exercise, where findings are assumed to be stable and accurate throughout the life of project activities. Factors that may be considered include: an understanding of the stakeholder's role in managing and influencing HLP issues; how the stakeholder may impede or contribute to efforts to assist displaced Syrians; and benefits and risks of engagement (or non-engagement). As noted by one Syria specialist, "Governance during conflict is about multi-layered power dynamics across and within the state, market and civil society spheres. It hosts a diversity and fluidity of actors, systems, institutions, procedures and boundaries at the international and domestic levels."<sup>20</sup>

## B. Understanding the History of Land and Land Use

Land in Syria can be broadly divided into two categories: State ("public") land, and private land. Since the start of the war, Local Councils have often become de facto managers of public land in the areas covered by NRC's research. However, the research also suggested that AOGs have acquired control of land that belongs to people who have left or fled the area.

Documentation to prove land ownership is problematic.<sup>21</sup> While many people had tabou (land title deeds) or other papers documenting land ownership or use, many others never did – even before the start of the current war. Additionally, some who did possess relevant documents may have lost them during displacement. Land registries have also sustained significant war-related damage and sometimes appear to have been directly targeted. It is not clear what records remain or how secure they are. During the research, Syrians working inside Syria reported that if replacement documents are desired, alternate papers may be obtained from Local Councils and/or Shari'a Courts. NRC's research also suggested that there is a market for fraudulent documents that resemble original ones. It is therefore currently very difficult to verify if a person's claim to land ownership is legitimate.

<sup>20</sup> Khalaf (2015) Governance without Government in Syria: Civil Society and State Building during Conflict Syria Studies, vol. 7, No. 3 (2015), Centre for Syrian Studies, University of St. Andrews.

<sup>21</sup> The "tabou" is the official document that is issued by the General Directorate of Cadastral Affairs for a private owner to hold as proof of ownership. Many Syrians will refer to the documents as the "green tabou," as the original forms were on green paper.

Against this already complex background is the complicating factor that control and administration of camp lands is often heavily influenced by the local AOG. The majority of camps are unplanned, and therefore (I)NGOs have had no role in how land was acquired for camp use – the underlying assumption appears to have been that ownership of land was not likely to be a problem as large numbers of people were already present before interventions began, with the tacit acceptance of the occupying AOG, although not necessarily the land owner. In somewhat counter-intuitive fashion, the provision of tangible humanitarian assistance seems to have encouraged owners, or persons pretending to be owners, to come forward and demand that IDPs leave unless they are given some benefit for themselves as well.<sup>22</sup> In other cases, landowners do not object to the presence of IDPs as long as no changes are made to the nature of, or the ability to use, the land in the future.

If ownership of the land of a settlement is unclear, it leaves open the possibility that someone may come and claim ownership in the future, increasing the likelihood that IDPs may be at risk of actual, or threats of, forced eviction or demands for payment. Such claimants may also attempt to block humanitarian activities. At the time of writing, persons in both Azaz and Idleb claiming to be landowners had brought cases to the de facto authorities (the Shari'a court) to close IDP camps and reclaim their lands.

Given such risks, it is important to understand, to the extent possible, which persons own the land and have recognizable authority over its use. Different parties have different interests and experiences, so in trying to gather this information, it is advisable to speak with multiple sources to triangulate information and confirm veracity. Some key pieces of information include whether: ownership is known and can be verified physically (i.e., with documents) and/or verbally (i.e., usually with oral history from de facto local authorities and long-term residents of the area); whether the land has changed hands since the start of the conflict; whether there are conflicting claims to the land at the present time; and whether there is a likelihood of conflict over ownership or use of land in the future.



<sup>22</sup> A similar phenomenon has been observed in the Kurdistan Region of Iraq: Syrian families took refuge in abandoned structures, and after humanitarian actors started providing assistance in the form of shelter improvements, persons proclaiming themselves to be the owners of the structures came forward and demanded that the family either pay rent or leave.



It is also helpful to consider the system of land administration in the area of concern pre 2011. For example, lands around urban centres and Real Estate Registries (such as Idleb City or Aleppo City) may be more likely to be documented. Land that held particular political or economic significance (such as Syria's border lands or extremely large areas of agricultural lands) may also be more likely to have been documented, as it was likely in the government's interest to maintain control over how that land was used, and owners would have wanted to protect their claims. In contrast, more rural areas may be less documented and more likely to have been governed by customary practices and/or social systems of recognition and legitimacy. Several interviewees described villages where "no one has papers, but everyone knows where his land is." Some tenure systems also recognize the acquisition of ownership through use, and a few interviewees expressed concerns that this might be happening in parts of Idleb where IDPs were beginning to build more permanent shelters, and claiming ownership of the space they occupied.

## C. Understanding Land and Building Usage Arrangements

Persons interviewed for this study indicated that the following are the most frequent arrangements regarding land use for informal settlements/camps:

- Public Land: established with the agreement of the de facto local authorities
- Private Land: established with the agreement of the land owner (or proxy)
- Private Land: established without the agreement of the land owner
- AOG controlled land: established with the agreement of some civilian branch of an AOG; ownership/usage history of the land may be unclear, and there is anecdotal evidence that some camps have been located on land that has been expropriated

Each method has its advantages and disadvantages. For example, some actors in Idleb report a preference for using public land for camps, because Local Councils did not charge rent for the use of land, and it was possible to confirm the public nature of the land. However, it was noted that public land in those areas was less contested because it was often rocky, mountainous, and not well-suited for living or agricultural activities. This meant that the land was available, but often much more expensive to prepare as a campsite.

Other actors felt that using public land created other risks – such as "taxes" that might be levied by AOGs. These actors preferred using private land if there was reasonable certainty they could verify ownership, as then there was one set of terms and conditions that would apply to the life of the agreement. The obvious risk here is the difficulty in ensuring that one is communicating with the actual owner.

NRC's research suggests that, regardless of whether the land is public or private, it is best to have the documented approval of both the Local Council and the relevant Shari'a Court for agreements before commencing infrastructure work such as site rehabilitation, including gravelling and leveling, fencing or the installation of WASH infrastructure, *whether in*

*new or existing camps.* As referenced above, a stamp from the court can serve as a deterrent and means of redress against arbitrary or unlawful actions by individual armed or civilian actors. This approval may also provide additional protection for the agreement if the membership of the Local Council subsequently changes. However, there remain valid concerns regarding formal arrangements with these courts, in light of their perceived association with armed actors. NRC is simply highlighting here what was shown by the research and is not suggesting that it is or is not best practice to seek approval of the Local Council and/ or the Shari'a Court. Humanitarian actors will need to decide this for themselves on the basis of their stakeholder analysis for the area in which they are working, their own policies on engagement with non-government actors and any guidance provided by the UN on engagement with non-government actors.



# PART III: HLP ISSUES IN INFORMAL CAMPS/ SETTLEMENTS

The kinds of HLP issues most frequently observed regarding the informal settlements in Syria can be broadly grouped into 5 categories: A) the ownership and acquisition of land for camps; B) rental arrangements; C) HLP and Water, Sanitation and Hygiene (WASH) interventions; D) rights relating to the ownership and use of tents; and E) gate-keeping and diversion risks.

## A. Ownership and Acquisition of Land

In areas controlled by AOGs, they often maintain tight control of the use and allocation of land.

NRC's research revealed conflicting responses as to whether and how due diligence on land ownership is being done, indicating that such a background check remains a significant gap *whether humanitarian actors are planning on working in new or existing camps*. The failure to clarify who owns the land, and/or who has the ability to authorize activities on that land, has led to several complications, including instances where persons claiming to be landowners stopped and/or refused to allow humanitarian activities, asserting that they had not been consulted.

It is advised that humanitarian actors conduct due diligence on the background of the lands/buildings in question, to better understand their history. Basic questions that should be answered include: who owned the lands/ buildings in the past; how were they used, and by whom; who claims authority over how they are used now; and are there any conflicts concerning this authority from either the past or present. Additionally, a physical demarcation of the site and its boundaries would be helpful, to avoid future conflicts with adjacent landowners, and ensure that all relevant actors have the same understanding of the project site. Different parties have different interests and experiences, so in trying to gather this information, it is important to speak to multiple sources to triangulate information and confirm veracity.

Given the Syrian context, such due diligence must acknowledge the reality that prior documentation may have been destroyed, and that there always remains some level of risk of fraudulent activity, or that respondents will not tell the truth. In many areas, people who have lost their documentation may only be able to produce letters that have been validated by a Local Council and Shari'a Court. However, this makes it all the more important that actors conduct what diligence they can, and document what they have done.

While the falsity of some documents may be apparent on their face, this can be more difficult to determine in other cases. Some warning signs that may indicate a need for further verification include: claims of ownership of very large tracts of land; conflicting statements from de facto authorities/ communities as to whether lands in the area are documented or not; claims of ownership by foreign nationals (which is limited by Syrian law);



documents that lack (typically standard) essential elements, such as clear identification of the parties to the agreement, specific descriptions of the property, term, source of authority, etc. Additionally, documents with suspicious dates may warrant further investigation, such as agreements where significant HLP rights were transferred during the conflict, or inconsistencies in the dates on a contract and its supporting documents. As a general rule, it is advised that camps are not established on private land which has been transferred since 2011 unless it can be proved that the transfer has been officially registered.

*Actors cannot assume that there are no land problems simply because IDP camps are present, or that provision of humanitarian assistance such as shelters or WASH facilities do not implicate HLP issues. In some instances, it is the injection of humanitarian assistance that changes the status quo regarding land usage and increases the possibility of eviction – perhaps by introducing assets that hold some monetary value, or by making changes to the land and property that will impact how it can be used in the future.*

As a practical matter, conducting full due diligence in an emergency context with limited access is a clear challenge. The difficult reality is that there are glaring humanitarian needs, and some actors may wonder how understanding land ownership would change the assistance being provided. However, while there is an obvious humanitarian need for land for IDP settlements, it is important to remember that failure to consider and involve landowners may ultimately increase the risk of forced eviction for IDPs and may increase conflict. Many of the IDPs have lost their own homes and lands, and have nowhere else to go, and there have been reports of IDPs constructing more permanent shelters for themselves in some of the camps. The Syrian war is in its sixth year, without a clear end in sight, and it is not unreasonable for landowners to fear that they will never get their land back. Discussions with landowners can help clarify the temporary use of their land, and addressing such fears may prevent them from seeking evictions. Additionally, if land was expropriated by an individual or group (thus violating the HLP rights of the Syrian owners) who then proceeds to collect rent for use of that land as a camp, providing unquestioning support to maintain a camp may de facto legitimise and encourage such behaviour.





## B. Land Rental Arrangements

There is no standard practice about whether or how land rental arrangements for settlements are documented. NRC's research shows that rental periods range from multi-year arrangements for a larger NGO-supported camp, to weekly or monthly for an individual household who might be renting space for a single tent.

Actors who made arrangements to rent land for camps report having contracts with landowners, or representatives of landowners. However, the kinds of problems reported indicate that even where agreements do exist, there is a lack of clarity about:

- Precise locations and boundaries of the lands that are the subject of the agreement
- Future rental prices after the end of the specific term
- The condition in which the land must be returned

## C. HLP and WASH

As referenced above, HLP rights include the right of access to natural resources like water, and WASH infrastructure generally requires the use of land. Lack of clarity about land ownership or rental terms also leads to ambiguity as to what WASH activities are (or are not) allowed in informal camps or settlements. Syrian NGOs interviewed for this study indicated that landowners gave them permission to carry out "whatever activities are necessary for the camp," but documentation was at times less specific. For instance, a common term was some variation of the promise that the land be returned in the condition in which it was received, which may be problematic if agencies have constructed pit latrines, or need to install more intricate WASH infrastructure. (I)NGOs who reported problems with landowners said they were usually related to either gravelling or WASH work. Others explained that they tried to avoid such misunderstandings by including specific descriptions of project activities in their agreement documents.

Additionally, communal WASH facilities, such as latrines and water points, require maintenance and, as the practice in a number of camps has been for (I)NGOs to provide salaries for people to do this work, it has been difficult for camps that do not have outside financial support for this purpose to maintain their infrastructure. Irregular maintenance can lead to conflicts over access, and may impede equal use rights for all beneficiaries. Another concern reported relates to how wastewater run-off would be directed, as some humanitarian actors have encountered adjacent landowners complaining about wastewater entering their property.

## D. Rights Relating to the Ownership and Use of Tents

The Cluster system uses a process by which a member of the CCCM cluster and two members of the Shelter/Non Food Items (NFI) cluster review requests for tents from the HUB contingency stock. After the requests are reviewed and distribution is completed, international humanitarian actors state that they are typically no longer involved in dynamics around tent use and ownership, particularly as the estimated lifespan of the tent is

approximately one year.

Generally, tents that are given to beneficiary families in camps belong to the family, but only for as long as they stay in the camp. This practice was observed in both Azaz and Idleb, and reasons for the practice relate to: the safety of the families, in that humanitarian actors do not wish to have families moving to locations that may be less secure than their current location; and a desire to ensure that those who need to use the tents most receive them, rather than those who may seek to receive and sell a tent for money they can use for other purposes. However, actors should consider that this stance may put IDP families in the difficult position of having to choose between their need for shelter and their right to freedom of movement, in that families will lose their shelter should they decide that another location is more appropriate for their needs. The practice might also encourage exploitation and/or abuse of beneficiaries.

The question of whether IDPs' ability to use their tents should be conditional upon their staying in the informal settlements/camps is a complicated one, and while it is highlighted here due to concerns that humanitarian actors at times lack clear information about the camp management systems, those working on the ground are generally best situated to determine whether such a requirement is indeed necessary. However, in making the decision, factors that could be considered include: how IDP families feel about this restriction and to what extent their rights are limited (such as freedom of movement and right to choose place of residence); benefits of this arrangement and to whom they accrue; risks created by this arrangement and who bears these risks; and an analysis as to whether removal of this restriction would result in the uncontrollable movement of IDP families.

As a practical matter, these tents are large and require substantial work to set up, take down, and transport, making constant moves unlikely, but also suggesting some significant motivation if such moves are undertaken. Whatever arrangement is selected, families receiving the tents should clearly understand any terms, conditions, and limits of use, and where possible, should also receive some kind of documentary evidence that makes clear the rights of all family members.

**Spotlight: Women's HLP:** Issues about rights to use, access and control tents that arise after distribution are considered internal problems to be handled by internal camp management/governance systems of the camps, in which women are rarely allowed to participate. While some humanitarian actors expressed the belief that social pressures in the camps would prevent family disputes that would negatively impact women's HLP rights, several problems were reported by national NGOs working inside Syria. Some of the cases that were reported included: disputes over which member of the family "owned" the tent and could stay after a divorce; needs for new tents as family members got married; and protection concerns about young men and women sharing the same tent as they got older. Women are particularly vulnerable, because they are generally excluded from the decision-making process in resolving such disputes.

## E. Gate-keeping and Diversion Risks

The concept of gate-keeping in humanitarian interventions refers to the idea that an actor is standing in between those who wish to provide humanitarian assistance and the intended recipients, functioning as a “gate” that either does or does not allow the assistance to go through. Although the role does not inherently impute ill intent, and may even be necessary under circumstances where direct access to beneficiaries is not possible, it is often referred to negatively due to the prevalence of gatekeepers taking advantage of their position. This might be done by demanding something in return for the provision of access to those in need (such as the use of a particular contractor) or by redirecting some part of the assistance for themselves or selected persons (i.e., aid diversion), rather than facilitating its transfer to the intended beneficiaries. While in theory any leadership or focal point of camp management structure may pose a gate-keeping risk, the positions that are associated with the AOGs have been reported as the most problematic. A general challenge in regards to these actors is a lack of clarity as to where their governing authority comes from, and which other stakeholders are supporting them.



## PART IV: HLP ISSUES IN COLLECTIVE CENTRES

This guidance focuses on land for informal camps/settlements, but will offer here a few observations about the HLP context of collective centres, highlighting particular similarities and differences with the context of camps.

As with camps, collective centres may be (or have been) established in either public or private buildings, with the majority being self-settled. Humanitarian interventions are typically geared towards upgrades in exchange for some guarantee of free rent for some period of time for the IDP families living in the buildings. NRC's research found projects that provided beneficiaries with shelter for periods of six months to one year without rent, with one instance where the terms of stay were not discussed.

The due diligence process before interventions begin is similar to camps: Local Councils are typically the contact point for public buildings, although they do in some instances serve as intermediaries between owners of private buildings and humanitarian actors. The agreement of the owner (or his/her proxy), the Local Council, and sometimes a Shari'a Court, should all be obtained before work begins. According to the Shelter Cluster in Gaziantep, cluster members implementing humanitarian projects involving privately owned buildings must verify full ownership.

One of the most challenging aspects of supporting collective centres is grappling with the reality that the building is meant to be a shelter on a temporary basis. Collective centres are often public buildings, and at some point, the host community will want to use the building for its originally intended purpose. The use of particular types of buildings offers different risks. For example, schools are often used as collective centres, but carry some of the highest risks of eviction because host communities eventually want to use them as schools again. None of the actors engaged in collective centre upgrades interviewed for this report had any plans for follow-up action regarding what would happen at the end of the project, even though the term was fixed and relatively short.

It may be helpful for humanitarian actors to discuss what will happen at the end of the project period with both the IDP residents and the de facto local authorities, before interventions start. For example, in setting the duration of the initial lease or rent-free period, the parties involved should conduct a realistic assessment of the situation, including how long IDPs are likely to need that housing, how likely the host community is to reclaim the building for its intended purpose, and try to agree upon a time period that addresses these realities, rather than basing the time frame solely on a project budget or funding cycle. Obtaining agreement for longer periods of use may require discussing different conditions at different periods in time (i.e., conditions for use in year three may be slightly different from conditions for use in year one). If a length of time is set, there should also be some discussion about what will happen at the end of the term, i.e., possibility of / terms for extension, automatic renewal, what conditions can or cannot change, etc. Ultimately, some kinds of buildings are more likely to be needed for their original purpose than others. For example, if it is decided that necessity dictates the use of a school as a collective centre, project activities can include steps to prepare the centre residents for the need to move at a particular time, and assist with the identification of an alternate shelter.



# PART V: CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

- **Have a clear understanding of which stakeholders (particularly de facto authorities) to engage with, how, and why.**

Humanitarian actors need better assessments of the different stakeholders who can influence or are involved with HLP matters, including some understanding of the roles/power/functions of each stakeholder, and the power balance among these stakeholders. For example, NRC's research highlighted that in some areas outside of Government control, AOGs have created civilian administration entities to address administration issues that necessarily arise when hundreds of thousands of displaced people are present (such as land use and camp management), who are therefore critical decision-makers. In other areas, Local Councils appear to have a more prominent role in matters relating to IDPs. There were also incidents where Shari'a Courts were involved in disputes over land ownership and use, or issued documents that validated a particular position. Understanding the balance of power among these various actors can help humanitarian actors ensure that they are engaging with the necessary stakeholders to protect the HLP rights of their beneficiaries.

While project teams need flexibility in deciding how to implement, it would be greatly beneficial for organisations to generally decide which stakeholders – particularly those functioning as de facto authorities – it will or will not engage with, why, and what any engagement (or non-engagement) strategy should be. This organisational understanding can then serve as a general position from which any deviation can be decided on a case-by-case basis.



- **Conduct due diligence on land and property.**

Humanitarian actors cannot assume that there are no land problems simply because IDP camps are present, or that provision of humanitarian assistance such as shelters or WASH facilities does not implicate HLP issues. *Whether they are working in new or existing camps*, it is advised that humanitarian actors conduct due diligence on the background of the lands/buildings in question, to better understand their history. Basic questions that should be answered include: who owned the lands/ buildings in the past; how were they used, and by whom; who claims authority over how they are used now; and are there any conflicts concerning this authority from either the past or present? Additionally, a physical demarcation of the site and its boundaries would be helpful, to avoid future conflicts with adjacent landowners, and ensure that all relevant actors have the same understanding of the project site.

Given the Syrian context, such due diligence must acknowledge the reality that prior documentation may have been destroyed, and that there always remains some level of risk of fraudulent activity, or that respondents will not tell the truth. Different parties have different interests and experiences, so in trying to gather this information, it is important to speak with multiple sources to triangulate information and confirm veracity.

Warning signs that may indicate a need for further verification may include: claims of ownership of very large tracts of land; conflicting statements from de facto authorities/communities as to whether lands in the area are documented or not; claims of ownership by foreign nationals (which is limited by Syrian law); documents that lack (typically standard) essential elements, such as clear identification of the parties to the agreement, description of property, term, source of authority, etc. Additionally, documents with suspicious dates may warrant further investigation, such as agreements where significant HLP rights have been transferred during the conflict, or inconsistencies in the dates on a contract and its supporting documents. As a general rule, it is advised that camps are not established on private land which has been transferred since 2011 unless it can be proved that the transfer has been officially registered.

- **Consider sustainability of collective centres.**

Collective centre interventions should include a realistic assessment of the housing needs of IDPs, and the likelihood that the host community will reclaim the building for its intended purpose. Ideally, the period that the centre will be used for housing should address these realities, rather than being arbitrarily based on a project budget or funding cycle. Obtaining agreement for longer periods of use may require discussing different conditions at different periods in time (i.e., conditions for use in year three may be slightly different from conditions for use in year one). If a length of time is set, discuss what will happen at the end of the term, i.e., possibility of/ terms for extension, automatic renewal, what conditions can or cannot change, etc. It may also be necessary to recognize that some buildings are more likely to be needed for their original purpose than others; for example, if it is decided that necessity dictates the use of a school as a collective centre, prepare the centre residents for the need to move at a particular time, and assist with the identification of an alternate shelter.

- **Better understand IDP needs and preferences.**

While needs assessments are conducted as is standard before the delivery of humanitarian assistance, interviews for NRC's research indicate that there remains a mismatch in terms of how the identified needs are met. For example, some actors reported complaints from IDPs that the assistance provided did not match their needs; some of these included the provision of winter materials in the summer, but not in the winter; and the provision of food that required cooking when IDPs had no method or place for cooking. Little was known as to whether IDPs fear eviction or want more freedom of movement.

- **Train and improve IDP Camp Management.**

The issues that affect HLP rights within the camp (i.e., family disputes over who owns a tent; how to respond to a request to move etc) are typically handled by camp management staff, who often lack the knowledge as to how to address such issues in a way that protects HLP rights. Methods to train and improve the IDP camp management could thus also help protect HLP rights of more vulnerable groups, like women, widows, and the elderly.

- **IDP Empowerment.**

As mentioned above, the involvement and empowerment of IDPs should be increased. Humanitarian actors should ask IDPs what kinds of skills they think they need, but some ideas may include trainings on how to form committees and represent themselves when in a weaker position of power (as is usually the case vis-à-vis camp or collective centre management), as well as trainings on dispute resolution. Such capacity building activities can also be used as an opportunity to ensure that the more vulnerable members of the community are protected, by including aspects to improve representation of groups like women, people with disabilities and youth in decision-making capacities.

- **Be prepared for problems.**

Syria is a very complex context. While everyone should hope that projects will be implemented as initially planned, it is advised that INGOs and their partners spend time together before implementation begins, to identify the key potential problems that may occur. While a natural tendency of INGOs may be to include longer and more detailed agreements, in practice this may be difficult to implement and unduly burdensome on national partners who may already be struggling to meet the administrative requirements of INGOs. Instead, this guidance recommends that humanitarian actors work with their partners in the beginning to draft template documents that include essential terms, and then jointly map both the people and process by which to raise and address HLP issues that may occur during implementation. For example, one possibility could be to create a risk mapping document and a corresponding set of contingency plans, with mutual understanding of how they will be implemented.<sup>23</sup>

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<sup>23</sup> Such risk mapping should go beyond generic issues, like increased fighting or loss of access, and consider specific scenarios, such as what to do if someone comes after the project has started, claims to be the landowner, and demands payment, or how to respond if an IDP family reports that someone is forcing them to move.



