

Land and Natural Disasters

Guidance for Practitioners



UN HABITAT



**GLOBAL
LAND
TOOL
NETWORK**

Land and Natural Disasters: Guidance for Practitioners

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United Nations Human Settlements Programme (UN-HABITAT)

P.O. Box 30030, Nairobi 00100, Kenya

Tel: +254 20 762 3120

Fax: +254 20 762 3477

www.unhabitat.org

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In 2005, following the Humanitarian Response Review, the Humanitarian Inter-Agency Standing Committee (IASC) endorsed a Humanitarian Cluster Approach System to improve responses to complex emergencies, post conflict situations and natural disasters (<http://www.humanitarianreform.org/humanitarianreform>). The Humanitarian Clusters have been asked to develop framework responses to common issues after emergency situations. These common issues include land - an area identified by the Humanitarian Response Review as a major gap in humanitarian responses.

In 2007 UN-HABITAT was requested by the Global Cluster Working Group on Early Recovery (CWGER) to prepare guidelines for addressing land issues after natural disasters. The proposal was funded through the IASC Humanitarian Global Cluster/Global Capacity Building Appeal. Additional financial support was provided through the Global Land Tool Network, facilitated by UN-HABITAT (<http://www.gltn.net>). UN-HABITAT and the UN Food and Agriculture Organization (FAO) have collaborated to prepare these Guidelines.

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| Country/Region | Type of disaster | Year | Authors |
|----------------------------|-------------------|-----------|--------------------------------------|
| Pakistan/South Asia | Earthquake | 2005 | Robert Home, Nilofer Qazi |
| Indonesia/Asia-Pacific | Tsunami | 2004 | Daniel Fitzpatrick, Jaap Zevenbergen |
| Grenada/Central America | Hurricane Ivan | 2004 | Grenville Barnes, Jerry Riverstone |
| Honduras/Central America | Hurricane Mitch | 1998 | Grenville Barnes, Jerry Riverstone |
| Mozambique/Southern Africa | Recurrent floods | 2000-2005 | Simon Norfolk, Paul de Wit |
| Gujarat, India/South Asia | Earthquake | 2001 | Tony Burns |
| USA/North America | Hurricane Katrina | 2005 | David Stanfield |

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Robert Wagner did the design and lay-out and many colleagues contributed with their own pictures.

Land and Natural Disasters

Guidance for Practitioners

2010

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Chapter 1 Introduction

Good land use is critical for disaster prevention and early recovery.

The main purpose of the Guidelines is to provide a holistic approach to addressing land issues from the immediate aftermath of a natural disaster through early recovery and reconstruction phases. It is targeted at humanitarians and land professionals, as well as Government officials. The Guidelines take an inter-disciplinary approach to land, one that also brings together emergency relief and early recovery perspectives.

This Section provides an introduction to why land issues are important in the context of natural disasters. It also outlines the structure of the Guidelines, who should use the Guidelines, and how and when the Guidelines should be used. It concludes with a table summarizing the issues covered and where further information can be found in the Guidelines. It should be emphasized that the Guidelines have been developed as a modular product, including information regarding important processes, critical land issues, references to relevant tools, and guidance on who should do what when. Users are encouraged to read through this Section to learn where they can find the information they seek.

1.1 Why land issues are important

A disaster is the consequence of a natural hazard (e.g. volcanic eruption, earthquake, landslide, tsunami) which moves from potential into an active phase, and has an impact on human vulnerabilities. Human vulnerability, exacerbated by the lack of prevention and preparedness or lack of appropriate emergency management response systems, leads to human, structural, and financial losses. The resulting loss depends on the capacity of the affected population to support or resist the hazard, that is, their resilience.

Good land use and planning are essential for the prevention of disasters. In addition, land is fundamental to the recovery from disasters. It provides a site for shelter, a resource for livelihoods and a place to access services and infrastructure. Therefore, land issues - such as security of tenure, land use, land access and land administration - are important to key humanitarian sectors after a disaster. These issues include:

Shelter. People need access to land for all forms of shelter: emergency, transitional and permanent. Information about land is necessary for shelter actors to provide assistance in the right place for the right people. Planning for land use is necessary to build disaster resilient human settlements.

Protection. Rights to land are integral to the human rights of all individuals affected by humanitarian operations and critical to the protection of vulnerable groups, including women, children and the

landless. Victims of disaster have:

- Rights to non-discriminatory access to property (i.e, gender equality, recognition of customary rights, etc);
- Rights to adequate housing, which includes security of tenure;
- Rights against arbitrary deprivation of property.

Livelihoods. Access to land is essential for livelihoods, particularly for women, the poor and others left vulnerable after a disaster. In rural areas, insecure rights to land can undermine food security and reduce investment in agricultural and resource-based livelihoods, and leave landholders open to evictions. In urban areas, security of tenure is critical for reconstruction, social and economic recovery and for restoring urban livelihoods, which in many cases may be home-based enterprises or other activities based in the informal economy. Rebuilding homes quickly also allows displaced population to save on rent and use their resources to rebuild livelihoods. Land planning is necessary to prevent unsustainable exploitation of marginal or unsafe land.

Early Recovery. Addressing land issues facilitates the transition from emergency relief to sustainable development. Security of land tenure is essential for durable shelter and sustainable livelihood solutions. Land use and settlement planning is essential to build back better and safer after a disaster. This requires a quick transition to institution-building after the initial humanitarian phase is over.

1.2 What these Guidelines do

These guidelines are part of framework responses to disasters, derived from natural phenomenon and human vulnerabilities, prepared by the UN Cluster Working Group on Early Recovery (CWGER). They:

- Outline an analytical framework to understand post-disaster land contexts;
- Provide guidance on specific humanitarian sectors or clusters dealing with land;
- Describe responses to land issues that cut across humanitarian sectors;
- Identify potential tools to be adapted to specific country contexts;
- Identify key measures that can help reduce risks and a country's vulnerability to natural phenomena from a land perspective.

Box 1. Rapid-onset natural disasters

A natural disaster is defined as “a serious disruption triggered by a natural hazard causing human, material, economic or environmental losses, which exceed the ability of those affected to cope.” A rapid onset natural disaster is defined as “a disaster that is triggered by an instantaneous shock. The impact of this disaster may unfold over the medium- or long-term. An earthquake is a prime example.”

Source: ISDR Secretariat publication, *Living with Risk: A Global Review of Disaster Reduction Initiatives*.

These guidelines are designed for use after a rapid onset natural disaster.

1.3 Who should use these Guidelines

These guidelines are directed at relief and recovery actors responding to natural disasters, often through the global humanitarian cluster system approach. The audience includes:

- UN humanitarian and development agencies;
- Housing, land and property (HLP), shelter and other relevant focal points for different humanitarian sectors;
- National and international land professionals;
- The Red Cross/Red Crescent Movements;
- International and national NGOs;
- Bilateral donors and multilateral financial institutions;
- National and local governments;
- Affected communities and grassroots organizations.

1.4 When to use these guidelines

These guidelines are designed for use after a rapid onset natural disaster (see definition, below). They are not directly concerned with:

- Contingency planning or preparedness for disaster;
- Slow-onset disasters such as drought; or
- Land issues after armed conflicts (please see, for example, UN-HABITAT (2010) Quick Guide to Land and Conflict).

1.5 How to use these guidelines

The Guidelines are organised in eight parts.

Part 1 introduces the methodology, approach and structure.

Part 2 establishes the framework for analysing land issues after disasters.

Part 3 reviews key procedural issues related to post-disaster land (assessment, planning, coordination and advocacy).

Part 4 and Part 5 deal with issues related to specific interventions.

Part 6 establishes a time-line for intervention.

Part 7 provides guidance for the monitoring and evaluation of land interventions.

Part 8 concludes with final recommendations to key stakeholders.

These Guidelines include more than 30 boxes focussing on specific case studies and different tools for addressing land issues after disasters. In these Guidelines, a tool is a practical method to achieve a defined objective in a particular context.

The Guidelines are produced in a modular format that allows readers to select areas in which they are most interested, as summarized in the table below.

| Section | Content |
|--|--|
| Part 2 - Understanding Land Issues after Natural Disasters | A Framework for readers to understand and analyse land issues across a range of disaster and country contexts. The framework is also useful for developing programming responses . |
| Part 3 - Land and the Initial Humanitarian Response | Guidance on land and 4 key humanitarian process issues: assessment, planning, coordination and advocacy. These humanitarian processes are essential mechanisms for including land issues in early recovery frameworks. |
| Part 4 - Land and Key Humanitarian Sectors | Guidance on land and three important humanitarian sectors: emergency shelter, human rights protection, and agriculture and rural livelihoods. These sectors are the most likely to have significant issues relating to land. There is no separate Section on land and early recovery because early recovery considerations underpin the entire guidelines. |
| Part 5 – Land as a Cross-cutting issue | Guidance on five important cross-cutting issues (security of tenure, the landless, land administration, land-use planning and access to land for relocation and infrastructure). These issues can impact humanitarian action across a variety of sectors or clusters. |
| Part 6 – Operations Timeline | Provides an overview of Who does what when during different stages of humanitarian response: emergency response; early recovery and reconstruction. |
| Part 7 – Monitoring and Evaluation | Provides guidance to the development of a monitoring and evaluation system, including a selection of potential indicators. |
| Part 8 – Conclusion & Recommendations | Final recommendations for different actors and stakeholders in the humanitarian response process. |

1.6 Early recovery land issues

From a humanitarian perspective, the following table provides an overview of what humanitarian sectors are covered in these Guidelines.

| Sector or issue | Section of Guidelines |
|----------------------------------|---|
| Shelter | 4.1, 5.1, 5.3, 5.4, 5.5 |
| Protection | 4.2, 5.1, 5.2, 5.5 |
| Agriculture | 4.3, 5.1, 5.4 |
| Livelihoods | 4.3, 5.1, 5.2, 5.4, 5.5 |
| Water and Sanitation | 5.4 |
| Camp Management and Coordination | 4.1 |
| Customary Systems | 4.2.4, 4.3.4, 5.1.2 |
| Gender | 4.2.3, 4.2.5, 4.2.6, 4.3.5, 5.1.2, 5.1.3, 5.3.4, 5.3.5, 5.3.6 |
| Children | 4.2.6 |
| Disaster Risk Reduction | 5.2, 5.4, 5.5 |
| Natural Resource Management | 4.3, 5.5 |
| Monitoring and Evaluation | 8.2, 8.3 |

Chapter 2 Understanding land issues after natural disasters

Part 2 outlines a framework for understanding land issues and responses after natural disasters based on concepts of vulnerability and resilience in land governance systems. It provides a basis for analysing land issues across a range of different disaster and land system contexts and developing appropriate responses at different stages of disaster relief and recovery.

2.1 Post-disaster contexts

Post-disaster contexts create extremely dynamic and fluid circumstances, relationships between people, resources and institutions. In post-disaster situations, intense periods of social rearrangement can occur, and legitimacy, authority, and rules are much more fluid and open than perhaps at other times. While such situations present challenges such as low predictability, on the other hand they can also provide a window of opportunity for implementing positive changes. Care must be taken, however, to ensure that good intentions are grounded in “Do no harm” principles for humanitarian action.

These guidelines take as a starting point the need to understand land tenure systems and to support collective livelihood strategies. Equally important is the need to support the capacity of Government institutions to recover and re-establish themselves. By building on existing capacities and opportunities instead of focusing on weaknesses, this approach can facilitate constructive analysis of and responses to changes in land and natural resources access in post-disaster situations.

Crisis situations force affected persons to adapt their livelihood strategies to a new context. The adoption of new income generating activities, non-traditional roles and work patterns affects entire communities, and may present particular challenges for women. Government institutions will also be affected by natural disasters but may be able to re-establish themselves quickly due to the typically localized effects of natural disasters (as opposed to, for example, conflict-affected contexts). Indeed, once the immediate relief work of the emergency phase is over, there may even be new opportunities to support systemic institutional reforms through the ground gained during early recovery programming.

It is worthwhile to briefly consider the similarities and differences between post-disaster and post-conflict contexts. Both present opportunities for development due to their fluidity, however, several important differences should be noted. In particular:

Windows of opportunity. While natural disasters can coincide with

These guidelines take as a starting point the need to understand land tenure systems and livelihood strategies.

armed conflicts, those that occur in the absence of war tend to be associated with less politicized and socially divisive circumstances. There is also less risk either of deliberate destruction of land records, or land grabbing. Duplicate land records, for example, may exist in a more secure location. There is also likely to be more government capacity and political will to respond to disasters (although governments may still be reluctant to support secure land rights for poor and vulnerable groups). Humanitarian interventions can and should build on existing capacity.

Damage or destruction of land. Natural disasters such as earthquakes, landslides and flooding can result in a significant loss of land. Addressing the needs of those who have lost land in such circumstances is often a distinct imperative of post-disaster land programming. The need to find new land, undertake risk assessments, or clarify ownership of remaining land can often delay recovery and contributes to residual caseloads of people without access to land after a disaster.

Secondary occupation and legal adjudication mechanisms. The sudden onset nature of many natural disasters and their typically relatively localized impact reduces, but does not eliminate, the risk that abandoned land or housing will be occupied by persons other than the pre-displacement owner (i.e. “secondary occupiers”). For most landowners, the primary land issue will be tenure security for those who have already returned rather than legal adjudication or restitution mechanisms to allow them to return. Conversely, those who will require adjudication or restitution are more likely to be without adequate and recognized land rights before the disaster, including tenants, informal landholders and women.



Make-shift housing after the earthquake in Haiti

source: Alain Grimard, UN-HABITAT

Box 2. Definitions of vulnerability and resilience

Vulnerability: The characteristics and circumstances of a community, system or asset that make it susceptible to the damaging effects of a hazard. Vulnerability includes the likelihood of disproportionate impacts on certain social groups, including women, children and the poor. Vulnerability may arise from physical characteristics (such as age, sex, etc.), but it can also arise from economic, social, political and cultural processes. Conditions such as extreme poverty, food or land tenure insecurity are often linked with vulnerability since they reduce an individual's ability to cope with or respond to an unexpected shock, especially when he or she has no other source of livelihood.

Resilience: The ability of a system, community or society exposed to hazards to resist, absorb, accommodate to and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions. A household's or community's livelihood strategy determines its ability to cope with risks that arise from shocks, both economic and 'natural', and their comparative vulnerability to hazardous events.

Adapted from UN International Strategy for Disaster Reduction, Terminology on Disaster Risk Reduction (2009), <http://www.unisdr.org/eng/library/lib-terminology-eng.htm>.

2.2 Land, vulnerability and resilience in natural disasters

Natural hazards such as floods, earthquakes or hurricanes do not necessarily produce disastrous effects. A natural hazard becomes disastrous when human systems fail to cope with its social, economic and physical impacts. While some natural hazards will become more severe as a result of global climate change, the root causes of a disaster remain underlying vulnerability and lack of resilience in human systems.

The impacts of natural disasters on men, women and their communities depend in large part on earlier development choices and the extent to which capacities to reduce and mitigate known risks have been created and sustained. Human causes of disaster vulnerability can be classified according to a geographic scale (see, for example, UK House of Commons Committee on International Development (2006) Humanitarian Response to Natural Disasters).

Global: anthropogenic climate change, population movements, and demographic change.

National and regional: poor governance, civil war, landlessness and tenure insecurity, economic policies, epidemic disease and urbanisation.

Community and local: unsustainable land use, chronic hunger, poorly constructed buildings and poor urban planning

These causes of disaster vulnerability relate to land use, planning and tenure in a number of respects. The impact of natural disasters on land and human land use is shaped by the nature of vulnerability within a particular land governance context. Addressing land issues after a natural disaster can promote disaster resilience by providing (1) secure access and rights to land, especially land for shelter and livelihoods; and (2) effective land use and settlement planning, particularly so as to build back better and safer after a disaster. The interaction between vulnerability, disaster and resilience may be illustrated in simple terms by the following diagram.

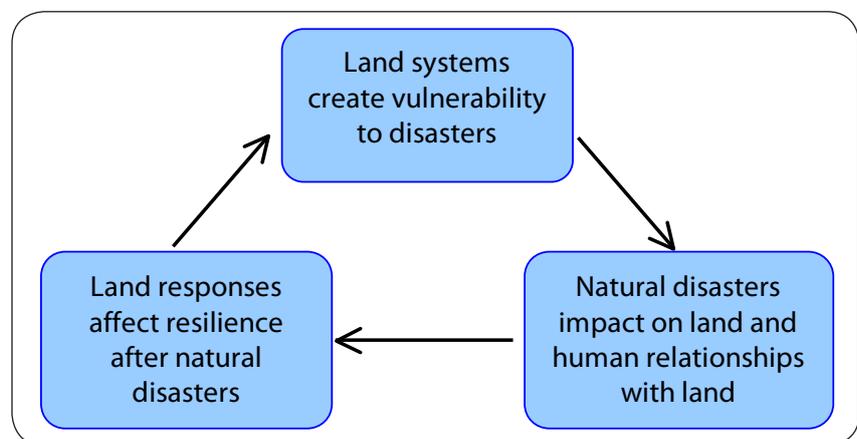


Figure 1. Understanding post-disaster land issues through vulnerability and resilience analysis

This interaction of vulnerability, disaster and response needs to be understood in a dynamic sense. It requires analysis of:

- Pre-disaster land tenure, land administration and land governance systems, including the interaction of their component parts, and the way in which they fostered disaster vulnerability (or resilience) for human land users.
- The effects of the disaster on land systems, both in terms of quantitative damage to land and human land use and qualitative transformation of land system actors and incentives.
- New forms of interaction among component parts and human users of land systems after a disaster, and the way in which these interactions promote recovery and resilience to future disasters.

This system-oriented analysis directs attention to a range of actors outside the formal land administration system. Table 1 summarizes the actors involved in a land governance system.

Table 1. indicative list of potential land stakeholders

| Public Sector | Private Sector | Civil Society |
|---|---|---|
| Politicians Military (where appropriate) Disaster Management institutions (existing and specially created) Line Ministries: Land, Housing, Justice, Forestry, Agriculture, Planning, Finance Local Government | Land developers (formal/informal) Estate agents (formal/informal) Lawyers, notaries Surveyors, Planners, engineers, other professional groups/societies Construction industry Bankers, financiers Chamber of Commerce Small holders/ farmer groups | Civil society organisations (including NGOs and community-based organisations) Universities, research institutes, technical institutes Religious and faith-based organisations Media organisations |
| Traditional Authorities | Households/Individuals | International Development Partners |
| Traditional Chiefs, elders, councils Informal settlement leaders Conflict resolution mechanisms Influential persons (religious, etc) | Individuals disaggregated according to age, gender and social and economic classifications Households, groups and communities, whether organized on ethnic, religious or other basis Beneficiaries of land related programmes People affected by land management decisions Land owners and leaseholders Informal landholders Refugees and internally displaced people | UN Specialized Agencies World Bank IFAD Bilateral agencies Private Foundations International NGOs/ Charities |

2.3 Land and vulnerability to natural disasters

Low capacity to access and use resources and vulnerability to natural hazards are closely linked and mutually reinforcing. Marginalized groups are usually more vulnerable to hazards because they enjoy fewer options to diversify their livelihood sources or because they live in more hazardous locations, which influences in building their own resilience. Increasing the sustainability of land systems will result in lower damages in case of a natural disaster, more stable access to resources, lower vulnerability and shorter recovery time. Figure 2 below summarizes how the vulnerability of land systems can affect the impact of natural disasters.

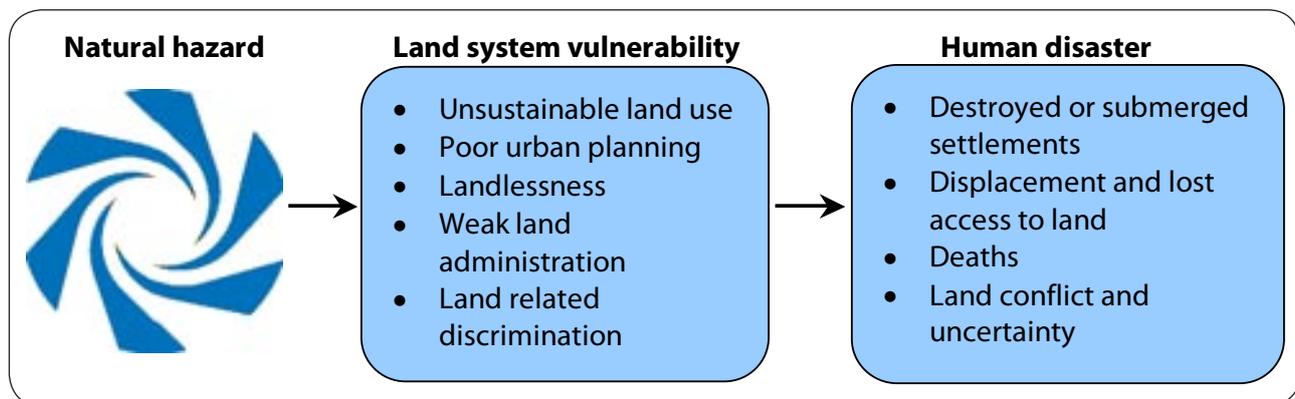


Figure 2. How land system vulnerability can create human disasters

2.3.1 Predictors of land system vulnerability

While there is considerable variety across systems for governing land worldwide, a number of characteristics of poor land governance are commonly observed and can help to identify vulnerability to natural disasters. They may be summarized as follows.

Unsustainable land use. In many developing countries, choices of housing location and building materials are restricted. Poor settlements tend to be located on steep hillsides, flood plains, water catchments or seismically unstable areas. Natural protections such as forests and mangrove swamps may be destroyed or damaged through unsustainable resource exploitation. Poverty, hunger and settlement on hazardous land are induced by the exhaustion of water sources, soil fertility and natural resources.

Poor urban planning. City boundaries in developing countries rarely correspond with actual settlement patterns and zoning bye-laws, building codes and construction standards tend to be unaffordable and unrealistic from the perspective of the poor. Informal settlements tend to proliferate on hazardous land without access to basic services and infrastructure or the benefit of disaster risk reduction planning. Land use plans tend to be incomplete, out-of-date and uncoordinated with land administration systems across different institutions and levels of government.

Landlessness. In development settings, many people either own land that is insufficient for agricultural livelihoods or have no access to land at all. Unequal land distribution patterns typically prevail, often due to a history of social conflict over land. Holders of secondary rights (eg. sharecroppers, pastoralists, etc.) to lease, use or occupy land are not sufficiently protected against eviction, or excluded from land information systems.

Weak land administration. Key land actors typically lack both technical skills and incentives for efficient, transparent and accountable land management and may not serve the needs of all members of the population. Responsibilities for land tend to be fragmented between various ministries and agencies, blocking coordinated approaches. Significant amounts of land are not covered by land information systems; indeed, globally, only some thirty percent of land is formally registered. Data on registered parcels may be poorly recorded, limited to urban or other high-value areas or may simply be out-of-date. The boundaries between different types of land, including land claimed by the state, may not be surveyed or defined with sufficient precision. Land-related disputes tend to proliferate and, in contexts characterized by legal and institutional pluralism, ‘forum shopping’ (claimants pursuing grievances in multiple decision-making forums) may be common.



Destruction of government buildings, Port-au-Prince, Haiti 2010

source: Alain Grimard, UN-HABITAT

Land-related discrimination. Many landholders’ rights are deemed illegal or unrecognized despite being based on systems with considerable social or traditional legitimacy. These systems may be based on customary, religious or informal practice. There is often a weak interaction between statutory and customary laws and adjudication mechanisms, with statutory systems bearing little relation to the social practices of poor landholders or the landless. Rules for adjudicating rights to land may be unclear, and subject to excessive discretion by key land decision-makers. Vulnerable groups such as women, children and minority groups may face discrimination on the basis of property, including barriers to accessing, inheriting and enforcing rights to land.

Table 2. Five land-related characteristics of disaster vulnerability

| Characteristic | Nature of disaster vulnerability |
|-----------------------------|--|
| Unsustainable land use | Land degradation Severe erosion/landslides or landslips Flooding/inundation Marginal or unsafe settlements |
| Poor urban planning | Unsafe settlements Inappropriate and/or unaffordable zoning, building codes, standards Weak Institutional capacity |
| Landlessness | Lack of access to shelter solutions Lost livelihoods Social conflict |
| Weak land administration | Incomplete/lost/fraudulent/out-of-date land data Insecurity of land tenure Weak or inefficient land dispute resolution mechanisms Weak institutional capacity |
| Land-related discrimination | Insufficient access to land services and institutions of justice Insecurity of land tenure Lack of access to land Eviction, land grabbing |

These vulnerability characteristics tend to be the product of deep-seated historical patterns and national and local power relationships. While international actors can use these indicators to identify vulnerability to natural disasters, a high degree of local expertise is needed to understand how and why this vulnerability developed, and how it can best be addressed so as to promote sustainable recovery and resilience after disaster.

2.4 Disaster impacts: destruction, displacement, death

Different types of disasters have different effects on land and land tenure. Hydro-meteorological hazards such as floods and tsunamis may leave large amounts of land uninhabitable through long-term inundation. Seismic events may destroy land through land slips, leaving other areas too unstable for safe habitation. High wind events have relatively little physical impact on land, but displace large numbers of people and destroy much of their housing.

In addition to the physical impacts, the social and economic impacts of disasters are also often catastrophic. Natural disasters can fragment family structures and force new roles and responsibilities on remaining individuals. Perceived scarcity of usable land can create insecurity and conflict within and between communities. Disasters may economically isolate communities, restricting their access to markets and requiring them to diversify their income-generating activities. Natural disasters disproportionately affect vulnerable groups such as women, children, youth, the elderly and disabled people by undermining traditional assistance and support systems and coping strategies. The impacts of natural disasters on affected communities depend in large part on prior development choices and the extent to which capacities to reduce and mitigate known risks have been created and sustained.

As summarized in Figure 3 below, all natural disasters have the potential to produce common land issues in terms of (1) destruction, (2) displacement, and (3) deaths.

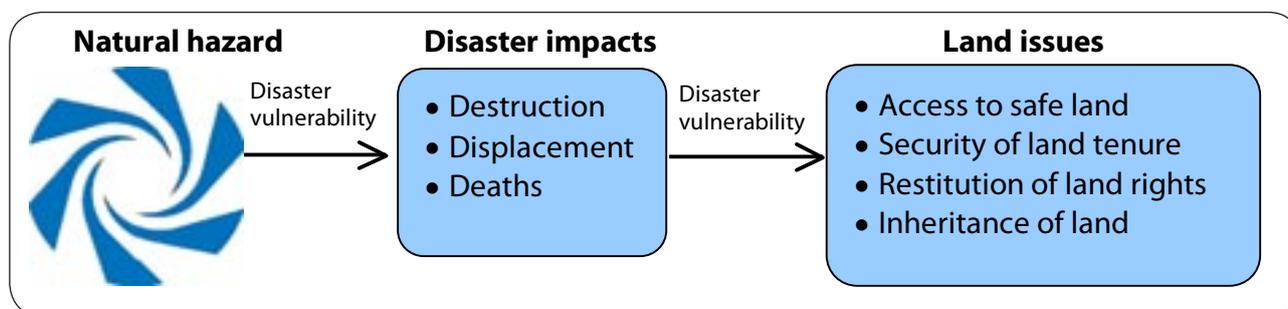


Figure 3. Disaster impacts and resultant land issues

2.4.1 Degree of destruction

Land issues can emerge after natural disasters as a result of loss or damage to land, housing, infrastructure and land records:

Land. A key variable after a disaster is the extent of physical destruction of and damage to land. The need to find new land for housing and livelihoods relates proportionally to the amount of land lost, submerged or otherwise rendered uninhabitable.

Housing. Actors building temporary housing or reconstructing damaged or destroyed homes need reliable information about pre-disaster land ownership and boundaries. Otherwise, housing providers may create conflict and uncertainty by building in inappropriate

Natural disasters can increase land-related insecurity and conflicts.

locations for ineligible people, exhausting natural resources in the area, or failing to consult the local population.

Infrastructure. Damage or destruction to infrastructure can create landowner demands for compensation when decisions are made to rebuild in new locations. Building or replacing infrastructure also requires strategic land use planning to ensure that all settlements have adequate access to utilities and services.

Land and related records. Loss of or damage to land records - including personal identity records - may delay recovery, and lead to discrimination against vulnerable groups. Disaster victims need to establish their legal identity, as well as the nature of their land rights and the boundaries of their property in order to achieve durable shelter solutions, and secure their rights to land.

2.4.2 Extent of displacement

Displacement occurs when victims of disaster leave their homes in order to avoid the effects of disaster. Displacement-related land issues tend to increase in severity in accordance with the distance people are displaced from their homes, the duration of their absence and the degree of tenure security they have prior to – or after – displacement.

Shelter. Emergency shelter in the context of displacement or relocation may give rise to further risks in situations where sites are poorly planned or located, when local communities are not sufficiently consulted, or when emergency shelter becomes long-term in nature without the inhabitants being granted secure rights to land and associated natural resources.

Protection. Displacement presents a risk that land and property left behind may be lost for a variety of reasons, including lost documentation, lack of access to state institutions, or land grabbing by neighbors, commercial interests, or government actors. Displacement compounds the vulnerability of women and children, who may lose access to land should male family members die or be separated from them. Displaced landless groups may become destitute without any prospect for sustainable return.

Livelihoods. Displacement inhibits the pursuit of land and natural resource-based livelihoods, and may require the adoption of new livelihood activities. In communities where land is the main asset, hazard vulnerability is strongly influenced by factors such as the choice of the crops to grow or the manufacturing and service sectors. (See for example, A. Kreimer, M. Arnold, “Managing Disaster Risk in Emerging Economies”, World Bank, 2000).

2.4.3 Deaths

Land inheritance and documentation issues may become points of dispute after a natural disaster, in particular where such documents

Loss of identity documents or land records can delay recovery.

have been lost or damaged, or official records never existed or have not been regularly updated. Such issues tend to emerge in proportion to mortality rates after a disaster.

Deaths of family members - particularly male heads of household - may raise particular problems in disaster settings. For example, without legal evidence of death (eg. physical remains), it may be difficult to legally prove death and obtain a death certificate, preventing the determination of who is entitled to ownership or use of land. In other cases, inheritance may be determined according to customary or traditional practice that may adversely impact the housing, land and property rights of women, orphans, disabled persons or other vulnerable groups.

Land inheritance issues may require responses from the following humanitarian sectors:

Shelter. It is important to link inheritance with land administration, particularly for the purposes of housing reconstruction. Those who inherit rights to land may miss out on housing assistance if they cannot present legal evidence of their rights.

Protection. Inheritance is the primary mechanism by which widows and orphans obtain access to land after disasters. However, women and children may face heightened obstacles to claiming inherited land rights in post-disaster settings, increasing their vulnerability.

Livelihoods: Land is closely associated with the livelihoods of both the urban and rural poor. Without secure access to land, women and vulnerable groups' livelihoods strategies may be severely constrained or undermined.

In summary, the severity of disaster impacts such as destruction, displacement and death is shaped by underlying vulnerability related to weak land governance. Table 3 below summarizes the potential impacts of land issues due to destruction, displacement and death.

Table 3. Summary of potential disaster impacts on land and human relationships with land

| Disaster impacts | Areas affected | Associated land issues |
|------------------|---|--|
| Destruction | Land Housing Infrastructure Land records | New suitable land for shelter, livelihoods and infrastructure. Tenure security for house reconstruction Land and property disputes; Hazardous land; risk reduction. |
| Displacement | Shelter Protection Livelihoods | Site selection, planning and management Secure access to land for vulnerable groups Secure access to land for livelihoods Housing, land and property rights of displaced persons. |
| Deaths | Shelter Protection | Secure access to land for durable shelter solutions. Secure access and rights to land for widows and orphans. Degraded Government response capacity. |

2.5 Land and resilience after a natural disaster

Land tenure systems are dynamic, changing over time to meet the needs of society, and vary from place to place - even within the same country - according to socio-economic, political, cultural and institutional contexts.

In a post-disaster context, land is crucial to housing reconstruction, food security and recovery of production systems. However, the value of land can also be degraded through the effects of over-exploitation, abandonment, disputes, isolation from markets, destruction of infrastructure and occupation by high concentrations of displaced persons. In both rural and urban areas, disasters can be exploited to evict tenants and usurp land.

While such negative changes may eventually be overcome or redressed, the resilience of the land tenure system will significantly impact early recovery and reconstruction efforts. Securing the equal rights of both women and men to land is essential for post-disaster recovery, social equity and economic growth. However, powerful groups may conspire to undermine the land rights and security of tenure of vulnerable groups in order to advance their own interests. These risks must be addressed as part of the recovery and reconstruction phases.

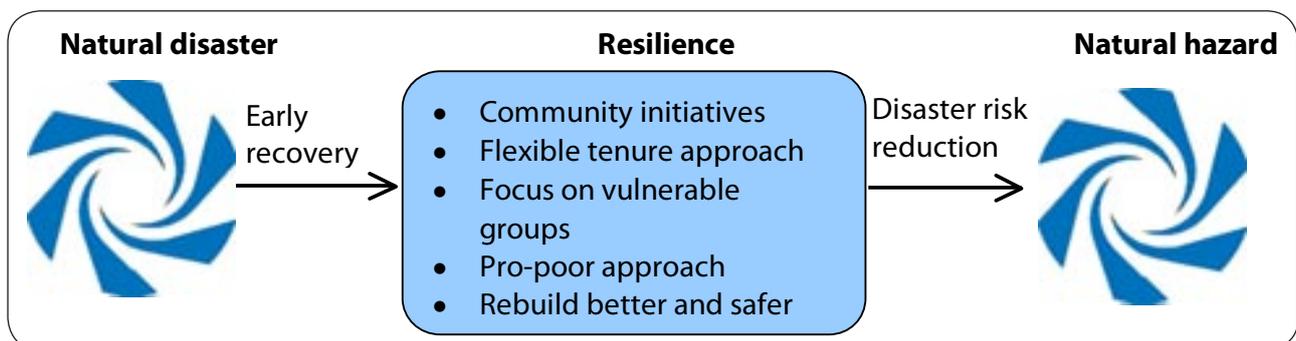


Figure 4. Strengthening land system resilience after natural disasters

2.5.1 Key Principles underpinning land system resilience

These guidelines will outline steps to address vulnerability and promote resilience in a land governance system based on the following key principles:

Build on community-based initiatives. Understanding and supporting community response strategies is critical to improving resilience in the long-term, particularly where they serve to strengthen land rights documentation and land use planning, and can be integrated into the broader land governance system.

Take a flexible tenure approach. Promoting a range of tenure options, including short-term use rights, can reduce the risk of eviction and

promote recovery. Flexible hierarchies of evidence can ensure that people without legal documentation are not excluded from shelter, livelihoods or other assistance programs.

Adopt flexible and timely planning, land-use and construction policies. Flexible land use planning standards can facilitate reconstruction aimed at building back better and mitigating the risk of future disasters. Housing standards should aim to reduce the risk of hazards by building on existing skills and practice, rather than promoting unaffordable or inappropriate techniques and materials.

Focus on vulnerable groups. Secure rights and access to land are crucial for the vulnerable groups most affected by a disaster, including renters, informal landholders, widows and orphans. At the same time it should be recognized that vulnerable groups often depend on less vulnerable groups for access and use of land, and that exclusive focus on vulnerable groups can be perceived as threatening to those less vulnerable, creating incentives for them to limit access and use rights. Mutually beneficial arrangements that promote access to land without arbitrarily destabilizing ownership relations should be promoted.

Take a pro-poor approach to land administration. Land administration systems should be pro-poor; they should not require levels of education, wealth, influence and technical capacity beyond the reach of poor individuals or Government capacity.

Table 4. Key principles for land responses that promote disaster resilience

| Principle underlying land response | Effects on disaster resilience |
|--|---|
| Build on community initiatives | Builds on local risk reduction strategies Leverages local knowledge Builds local capacity Encourages sustainable resource management |
| Take a flexible tenure approach | Strengthens security of land tenure Improves access to shelter and livelihoods |
| Focus on vulnerable groups | Minimises landlessness Strengthens livelihoods |
| Take a pro-poor approach to land administration | Strengthens security of land tenure Strengthens local land institutions Allows inclusive land management and planning |
| Adopt flexible and timely planning, land use and construction policies | Improved access in informal settlements Hazard resistant and sustainable building reconstruction Improved disaster risk reduction |

2.5.2 Constraints on land system resilience

Mechanisms to address vulnerability and promote disaster resilience, as outlined above, can be perceived as threatening by government agencies or vested interests from the professional, commercial or other sectors. They also require a high degree of cooperation and coordination among key stakeholders, including community, government and humanitarian actors, at a number of levels.

In all land systems, some actors stand to benefit from extending control over land and natural resources, often to the detriment of poor and vulnerable groups. In this context, vulnerable groups will typically require the support of government and humanitarian actors in order to secure their rights. Finally, high barriers to coordination are inherent to all land governance systems due to the presence of a wide range of stakeholders with disparate institutional incentives.

Deep-seated land issues do not readily lend themselves to solutions, though disasters may create windows of opportunity for positive change.

2.5.3 Designing measures for land system resilience

Programming to promote disaster resilience must address institutional obstacles through mechanisms or structures including:

- Early emphasis on strengthening the capacity of both government structures and customary or traditional institutions.
- A greater focus on response through communities, grassroots organizations and civil society, particularly where there is competition and fragmentation among government agencies.
- A greater focus on advocacy, awareness-raising and outreach to ensure that communities and individuals are enabled to make informed choices.
- More leadership by the UN Humanitarian Coordinator/Resident Coordinator, humanitarian cluster or sector leads, and housing, land and property focal points where there is competition and fragmented responses by international actors.

These design mechanisms are elaborated in these Guidelines. There is no guarantee that they will be entirely successful. Deep-seated land issues do not readily lend themselves to solutions, though disasters may create windows of opportunity for positive change. Addressing land issues through appropriate design mechanisms that improve the quality of land governance will help to facilitate early recovery after a disaster and improve resilience to future disasters.

Further reading

Brown, O and Crawford, A (2006) *Addressing Land Ownership after Natural Disasters*, International Institute for Sustainable Development, Winnipeg, Manitoba.

FAO, (2004) *Post – Conflict Land Tenure, Using a Sustainable Livelihoods Approach*, <ftp://ftp.fao.org/docrep/fao/008/j5415e/j5415e00.pdf>

FAO, (2005) *Access to Rural Land and Land Administration after Violent Conflicts*, <ftp://ftp.fao.org/docrep/fao/008/y9354e/y9354e00.pdf>

FAO, Julian Quan with Nat Dyer, (2008) *Climate Change and Land Tenure*, <ftp://ftp.fao.org/docrep/fao/011/aj332e/aj332e00.pdf>

UN-HABITAT (2007), “A Post-Conflict Land Administration and Peacebuilding Handbook, Vol. 1: Countries with Land Records.



Disaster aftermath in Indonesia

source: UN-HABITAT

Chapter 3 Land and the initial humanitarian response

The initial humanitarian relief phase is typically characterized by confusion, as stakeholders attempt to understand the scope, scale and spatial distribution of the disaster's impacts. While more powerful sections of the affected population may be able to navigate this chaotic environment to secure their rights and restore their livelihoods, vulnerable communities will struggle to rebuild their lives.

This Section sets out policy steps and options relating to four important process issues arising during the initial humanitarian response: assessment, planning, coordination, and advocacy. These processes are essential to ensure that peoples' land related priorities – and land issues more broadly – are incorporated in humanitarian and early recovery frameworks. They are summarized in Table 5 below.

3.1 Land assessments

The post-disaster response is usually initiated through a series of assessments to determine the scope, scale and distribution of a disaster's impacts. This Section describes four key types of assessment related to land that are important to identify time-critical barriers to early recovery:

- Rapid land assessment
- Needs assessment
- Loss and damage assessment; and
- Land availability and risk assessment



Access and assessment in difficult circumstances - northern Pakistan.

source: Maggie Stephenson, UN-HABITAT

Humanitarian actors use a broad range of assessment tools after a natural disaster. These assessments can be multi-sectoral in nature, or specific to humanitarian sectors or clusters. Multi-sectoral assessments include the UN Interagency Post-Disaster Needs Assessment (PDNA). Key sectoral assessments include:

Shelter. The Local Estimate of Needs for Shelter and Settlement (LENSS) Tool Kit by UN-HABITAT.

Livelihoods. The Rapid Livelihood Assessment Guidelines (RLAG) by FAO and ILO.

Additional assessment guidance can be found in Section 4.1.2, Land and Shelter; Section 4.2.2 Land and Protection Issues; Section 4.3.2 Rural Land and Livelihoods; Section 5.1.2 Tenure Security; and Section 5.3.2 Land Administration and Capacity.

Land tool alert! These assessment tools may be found at www.disasterassessments.org portal, or at www.humanitarianreform.org/humanitarianreform/

Because land can be a time-critical barrier to early recovery, it is important to include questions relating to land in immediate post-disaster humanitarian assessments. This section sets out template land assessments that may be undertaken as exercises in their own right, or as part of sectoral or multi-sectoral humanitarian assessments. These assessments are divided into 4 types: (1) rapid, (2) needs, (3) loss and damage, and (4) land availability and risk mapping.

Box 3. What if assessments relating to land are not undertaken?

A failure to include land issues in the rush of post-disaster assessments can lead to delays and complications in early recovery. For example, the Post-Nargis Joint Assessment in Myanmar (PONJA) identified a high degree of landlessness – largely involving farm laborers – in pre-cyclone tenure patterns. But questions relating to land tenure or lost and submerged land were not included in either the needs assessment or in the loss and damage surveys. As a result, post-PONJA early recovery planning was not able to calculate the numbers and locations of landless after the disaster, and the numbers of persons wanting to settle elsewhere. These calculations would have allowed targeted and timely assistance to landless groups.

Source: Daniel Fitzpatrick (2008), *Access to Land for Shelter and Livelihoods in Post-Nargis Myanmar*, www.escap.org. See also POST-NARGIS JOINT ASSESSMENT (JULY 2008), Tripartite Core Group (Government of Myanmar, ASEAN, UN, and the Humanitarian and Development Community), at 102.

Table 5. Key humanitarian processes after a disaster

| Humanitarian process | Early recovery purpose |
|----------------------|--|
| Assessments | Identifying land issues that are time-critical barriers to relief, early recovery and the restoration of livelihoods and peoples' response strategies. |
| Planning | Addressing land issues through phased and funded recovery frameworks, building on people's own response strategies. |
| Coordination | Addressing overlaps and ensuring coherence in land responses. |
| Advocacy | Addressing obstacles and resistance to effective land responses, including ensuring that the specific issues of women and vulnerable groups are addressed. |

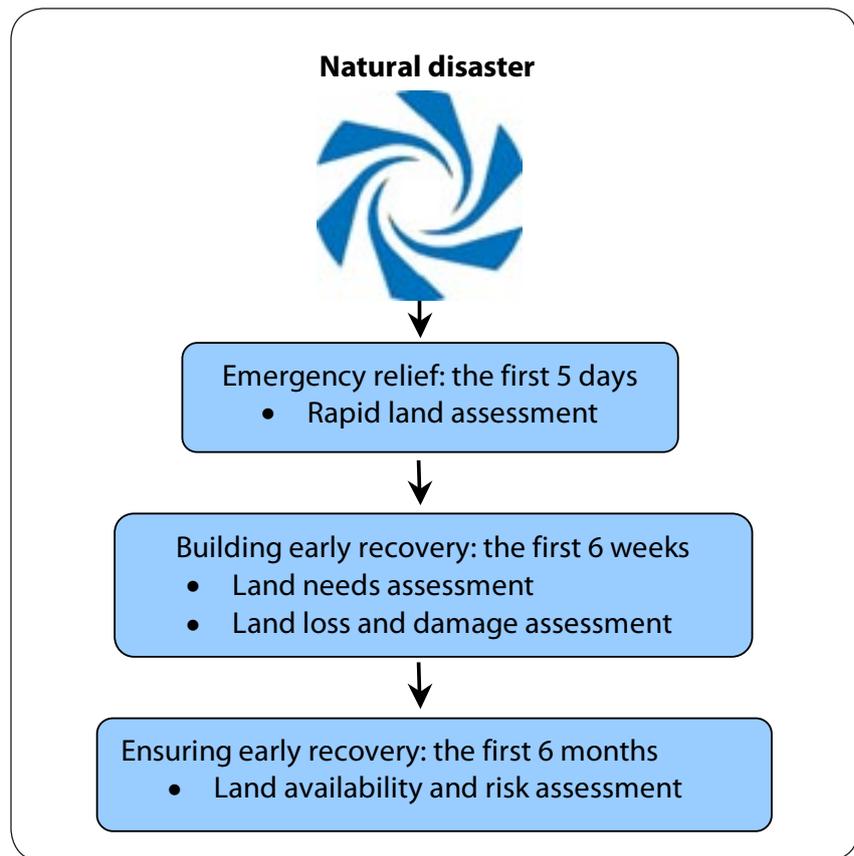


Figure 5. Timeline of land assessments after a natural disaster

3.1.1 Rapid land assessment

Numerous urgent issues will compete for humanitarian attention in the immediate aftermath of a natural disaster. In this context, humanitarian actors need tools to assess rapidly whether (and which) land issues will be relevant to emergency relief operations. The following paragraphs describe practical policy steps and options for undertaking a rapid land assessment as part of emergency relief operations.

When to undertake a rapid land assessment

Rapid land assessments should take place immediately after the declaration of a disaster or emergency. In most cases, there is no time for any formal questionnaire or survey method; rather, information is gathered directly from key informants and stakeholders. These assessments should not interfere with the primary emergency relief objective of saving lives. They should be completed within five days of a declaration of disaster or emergency, in order to feed into emergency requests for humanitarian funding, and particularly UN Flash Appeals, which must be formulated within five to seven days of declaration of an emergency or disaster.

For the global humanitarian system, rapid land assessments may be revised within six weeks as part of the inter-agency needs assessment

process. The data from revised land assessments should be included in any revised Flash Appeals or the Consolidated Appeals Process. It should also be included in any early recovery donor conference.

Who should undertake a rapid land assessment

For the global humanitarian system, rapid assessments should be undertaken by qualified national and international experts working with the IASC Country Team under the coordination of the UN Humanitarian Coordinator or Resident Coordinator. Coordination and information exchange support may be provided by UN Disaster Assessment and Coordination (UNDAC) teams. Land expertise exists in several UN organizations, including FAO and UN-HABITAT.

What information is required in a rapid land assessment

The land assessment should identify (1) the location and extent of land affected, (2) urgent humanitarian requirements for land, and (3) potential time-critical risks to early recovery (eg. lost or damaged land records). Key questions include:

Land impacts. How much land has been directly affected and where? What are the types of impacts on land, e.g. loss, access issues, hazard risks and secondary threats? How have land impacts affected people and their livelihoods?

Land requirements. How much land is required for emergency relief purposes – shelter, camps, livelihoods, and other infrastructure? What are the mechanisms to access land for emergency relief purposes?

Potential time-critical barriers to relief. Is there a history of insecure tenure, unsustainable land use, poor urban planning, landlessness, land conflicts, weak land administration or land-related discrimination in the affected region?

These questions need brief answers only for rapid assessment purposes. The objective is to provide a snapshot of potential land issues after the disaster. More detailed questions and material relating to land will be developed as part of the needs assessment process.

Where information can be found for a rapid land assessment

A typical challenge for rapid assessments is a lack of baseline data relating to land, particularly in countries with weak land administration systems, or where governments are reluctant to work with international actors on land issues.

Rapid assessment relating to land should be completed - with appropriate qualifications - even where data sets are incomplete or potentially unreliable. Later assessments can correct errors and omissions in any rapid assessment. Typically, there will not be time to use questionnaires or surveys. Data relating to land can come from the following sources:

- Government officials, land administration agencies, local

A typical challenge for rapid assessments is a lack of baseline data relating to land.

authorities, traditional leaders, etc.

- Local and international land experts.
- NGOs and civil society actors.
- Affected communities and individuals, including both women and men.
- Contingency plans, should any exist.
- OCHA Situation Reports
- UNITAR Operational Satellite Applications Program (UNOSAT).
- United Nations Platform for Space-based Information for Disaster Management and Emergency Response (UN-SPIDER).
- Google Earth.

How to use a rapid land assessment

Rapid land assessments should be included in other forms of rapid assessment. During the analysis and planning, the information collected should be combined with data relating to displacement, mortality and damage and destruction.

Rapid land assessments should be used for urgent humanitarian funding mechanisms, including Flash Appeals. They should allow land responses to be prioritized as appropriate, and incorporated into requests for humanitarian funding, particularly in relation to shelter, protection and agriculture. Section 3.2 on *Land Planning* sets out programming responses to land issues identified by a rapid land assessment.

It is essential that land assessments and Flash Appeals feed into early recovery planning after a natural disaster.

3.1.2 Land needs assessment

Needs assessments are important instruments for governments and humanitarian actors to plan for both emergency relief and early recovery. In the global humanitarian system, multi-sectoral assessments such as Post-Disaster Needs Assessment (PDNA) exercises or Joint Assessment Missions (JAMs) are typically undertaken in the wake of a disaster.

Readers should note that this section includes summary questions for a multi-sectoral needs assessment only. Detailed questions for specific humanitarian sectors are set out in the relevant sections of these guidelines (e.g. Section 4.1 –Emergency Shelter; Section 4.2 – Human Rights Protection; Section 4.3 – Agriculture and Rural Livelihoods).

When to undertake a land needs assessment

It is essential that needs assessment data be incorporated into early recovery planning after a natural disaster. A needs assessment relating to land should be undertaken within six weeks of the declaration of a disaster or emergency, as part of a revised Flash Appeal process (or other humanitarian funding equivalents). It is essential that as

much information as possible relating to needs is collected as soon as possible, particularly during the brief window of opportunity for reliable data to avoid the risk of ineligible local or national actors manipulating land data in order to access or manage humanitarian entitlements.

Who should undertake a land needs assessment

Land needs assessments should be led by the relevant government agency or department, with assistance if possible from specialized UN agencies and the IASC Country Team, under the coordination of the UN Humanitarian Coordinator/Resident Coordinator. They should involve the participation of at least one international and one national land expert.

In some cases, needs assessments relating to land may be undertaken separately by humanitarian clusters or working groups involved in sectors such as protection, shelter, livelihoods or agriculture. Needs assessments may also be undertaken by affected communities or community-based organizations. All such assessments should, at a minimum, include the template questions set out in these guidelines.

What information is required for the needs assessment?

It will not be possible to include numerous detailed questions relating to land in a multi-sectoral needs assessment. The basic objective is to assess needs related to safe and secure access to land for shelter and livelihoods, particularly in relation to groups vulnerable to landlessness after a disaster.

This information will require quantitative and qualitative data collection techniques. Some priority questions for inclusion in quantitative surveys of affected households after a disaster are listed below. Care must be taken in formulating specific questions to avoid (i) creating insecurity of tenure where none may have existed; (ii) raising expectations that may not be met; (iii) avoiding biasing the answers of respondents. Key questions relate to the following:

Tenure status. What type of land right or claim do you have, e.g. ownership, lease, occupation? How are you using your land, e.g. for shelter, livelihood, rental income, etc.

Land records. Do you have land rights documentation or other evidence of your rights? Were such documents lost or destroyed in the disaster? Do you know the names of your immediate neighbors?

Lost land (for displaced persons). Are you unable to return to your land, for example, because it is destroyed, submerged or otherwise too hazardous for habitation? Do you have land elsewhere? Is it usable and if so, how is it being used?

Desire for return (for displaced persons). How have you secured your land rights in your absence? What are your intentions for recovery? Will you return to your land, and, if so, under what circumstances?

Qualitative data in multi-sectoral needs assessments should be collected through participatory techniques.

Will you stay with a family member or neighbor?

Women and Vulnerable Groups: Does the community or family include any widows or orphans? Who has taken responsibility for them?

The survey data should be disaggregated by sex and age and should be used to estimate:

Relocation requirements. The numbers of people potentially requiring relocation because their land is destroyed, submerged or otherwise uninhabitable as a result of the disaster.

Landlessness risks. The number of tenants and informal land occupiers without access to land after the disaster.

Documentation requirements. The number of landholders who may require new forms of land documentation, including replacements for lost or destroyed documents.

Risks for Women and Vulnerable Groups. The relative numbers of women, including widows, who may be in vulnerable categories, such as renters, informal occupiers, and persons without land documentation, or without access to land at all. Careful record should also be made of orphaned children.

Livelihood options: needs and livelihood strategies that may require support.

Qualitative data collection techniques should be used to identify elements of disaster vulnerability in the land system. Such processes are essential both to early recovery after a disaster, and to strengthen resilience to future disasters.

Qualitative data in multi-sectoral needs assessments should be collected through participatory techniques, including separate groups of women. Questions for qualitative analysis include:

Unsustainable land use. Did the way in which land was used contribute to the disaster, e.g. through construction on hillsides or water catchment areas, settlements on floodplains or near fault lines, or destruction of forests or mangroves?

Poor urban planning. Did land use and settlement planning - or failure to plan - exacerbate or fail to mitigate the effects of disaster, e.g. through exclusion of informal settlements from risk reduction planning, or failure to allow for evacuation routes or other risk reduction techniques? Are existing urban plans out-of-date or inconsistent with actual practice?

Landlessness. Are there significant numbers of renters or informal landholders in the affected region?

Weak land administration. Are land records incomplete or out-of-date? Is there evidence of fraud or tampering? What typologies of land disputes exist? Have land-related disputes been common? How are such disputes resolved?

Land related discrimination. Do land laws and institutions discriminate against women, children and the landless, e.g. by restricting the ability of widows or orphans to exercise rights to property inherited from deceased male relatives?

***Official land data
should always
be cross-checked
against other sources
of information.***

Where information can be found for needs assessments

Needs data relating to land can come from the same sources as data generated in the rapid land assessment. A land needs assessment should also include

- Quantitative data from government agencies and household surveys.
- Qualitative data from focus groups, including meetings with stakeholders, community group meetings, walkabout observations and informal individual interviews.

Qualitative data collection should adopt participatory methodologies to include the views of those most at risk, including women, children, indigenous groups, the disabled, the landless and holders of secondary rights to land and housing. These groups should be interviewed and their views assessed separately, including through local institutions or civil society groups that are already working on the ground and therefore will be best able to access and collect relevant information. Official land data should always be cross-checked against other sources of information.

How to use Needs Assessments

Needs assessments are important tools for providing inputs to early recovery planning and resource mobilisation. They can be used to update initial information from the rapid assessment, enabling humanitarian actors to adjust priorities and locations as new information is generated. Needs assessment data can also help establish baselines to facilitate the monitoring and evaluation of land related interventions.

For international humanitarian actors a land needs assessment should be:

- Integrated with the Needs Analysis Framework (NAF) and Early Recovery Programmes developed with Humanitarian Coordinators, Early Recovery Advisors and IASC Country Teams;
- Coordinated with the UN Office for the Coordination of Humanitarian Affairs (OCHA);
- Integrated into the Common Humanitarian Action Plan (CHAP), which is typically the basis for humanitarian response in a given country or region.

3.1.3 Land damage and loss assessments

Damage and loss assessments calculate damage to land and systems of land administration, providing preliminary baseline data for emergency relief and early recovery planning. They may be conducted separately, or together with other assessments relating to needs and land availability.

Box 4. Surveying displaced persons in tsunami-affected Indonesia

After the 2004 tsunami disaster, the NGO Garansi and the Indonesian Bureau of Statistics surveyed 347,775 displaced persons in the affected provinces of Aceh and Nias. The survey included questions relating to: marital status; return status; land rights status; land condition; and land documentation.

This survey generated age and gender disaggregated data on land issues that was essential to subsequent advocacy and programming efforts. However, the survey took place in late 2005, after the preparation of the Master Plan for Rehabilitation and Recovery. Hence the Master Plan itself did not adequately identify groups vulnerable to landlessness after the disaster - including in particular renters, squatters, widows and those whose land had been submerged. By 2006, these vulnerable groups constituted substantial residual caseloads in the temporary living centers known as the "barracks". Specific policies targeted at these residual caseloads - in order to decommission the barracks - were not developed until mid-2006

Source: Fitzpatrick, D. and Zevenbergen, J., *Addressing Land Issues after Natural Disasters: A Case-Study of Tsunami-Affected Aceh, Indonesia*, www.gltm.net.

When to undertake a land damage and loss assessment

A loss and damage assessment should be undertaken within six weeks of declaration of a disaster or emergency. It may be divided into preliminary and final assessments.

Who should undertake a damage and loss assessment

A loss and damage assessment relating to land should be incorporated into general damage and loss assessments. Efforts have been made in order to have Land issues covered as part of the Post-Disaster Needs Assessment (PDNA), which is a UN-World Bank and EC initiative. This initiative envisages close collaboration with government agencies and IASC Country Teams in affected countries.

What information should be in a damage and loss assessment?

A damage and loss assessment relating to land is concerned with three basic questions.

- How much land has been affected by the disaster? What is the nature of physical damage to affected land? How many land parcels have been damaged by the disaster? What percentage of disaster-affected land may be hazardous?
- What types of land documents have been lost or damaged? What are the prospects for recovery of damaged documents? Is there a back-up of records available elsewhere?
- What damage has been done to the capacity and infrastructure for land administration? What is the damage to land administration buildings and equipment? How many staff have died or been injured?

Box 5. Hazard mapping in Pakistan

In post-earthquake negotiations, the World Bank's loan agreement with the Government of Pakistan included a condition that an assessment be conducted of the extent of hazardous land in both rural and urban areas. This hazard risk mapping was to identify areas susceptible to future earthquakes, landslides and rock-falls, mud-flows, and erosion subsidence. It would lead to localized re-sitting of structures, or special treatment of foundations. But there was no formal definition of the categories and classifications of hazards, and disagreement over how these should be formulated. Full hazard risk mapping would require specialist consultant teams of seismologists and geotechnical engineers, working over large land areas under difficult conditions. In the event, relatively little hazard risk mapping was undertaken immediately after the earthquake, particularly in rural areas, and many people are still living on clearly hazardous land. In some places, entire communities could be at risk of landslips. The situation was further complicated by the fact that much of the affected area was hazard-prone, making practical policy options difficult to identify. Overall, the lack of reliable information concerning hazardous land remained a significant barrier to managing reconstruction. Valuable geotechnical assessments have been undertaken in particular areas, for instance Muzaffarabad, and in one remote rural area by experts consultants (classifying four risk categories for housing), but resources and capacity for this immense task, with major implications for future reconstruction strategy, were limited.

Robert Home and Nilofer Afridi Qazi, (2008) *Case Study of Pakistan Earthquake*, <http://www.gltm.net/en/e-library>

Where information may be found for a damage and loss assessment

Damage and loss assessments tend to rely on existing data sources rather than dedicated surveys or interviews. The data sources can include information from line ministry assessments, relief and recovery agencies on the ground, satellite imagery and aerial photography, and pre-disaster survey data. Various sources of satellite imagery can also assist in identifying physical damage to land through satellite imagery.

How to use Damage and Loss Assessment information

Damage and loss assessment information needs to be carefully analyzed in order to identify cases in which existing infrastructure, services and construction techniques may not be appropriate for future livelihoods or human settlements needs. Such infrastructure may be poorly located or no longer appropriate for the needs. In other cases, such as land administration systems, for example, the original systems may have been inappropriate or inadequate for local needs – limited coverage, biased in favour of male property owners, incapable of recording customary land rights, financially and technologically unsustainable – and careful consideration must be given to future reforms. Finally, the costs of relief and early recovery projects may also require adjustment based on such policy considerations.

3.1.4 Other assessment tools: Land availability and risk mapping

A land availability survey is meant to identify suitable land for emergency shelter, durable shelter and/or relocation. Identifying land availability requires close coordination between affected communities

A land availability survey is meant to identify suitable land for emergency shelter, durable shelter and/or relocation.



A pastor gives a service outside his church destroyed in the earthquake, Leogane, Haiti.

source: Alain Grimard, UN-HABITAT

and early recovery actors, including local government agencies. It can involve an audit of public or state land.

Section 4.1 on Land and Emergency Shelter provides guidance on determining land availability for emergency or transitional shelter. Section 5.5 on Access to Land for Relocation and Infrastructure provides further guidance on determining land availability for relocation and infrastructure and estimating the amount of land required for relocation after natural disasters.

Risk mapping involves surveys by community actors or experts on the vulnerability of sites for shelter and livelihood activities to natural hazards. The tools of risk mapping can include community-based techniques, aerial photos, satellite imagery, Geographical Information Systems (GIS) and historical records.

Remote sensing is a process of deriving information about land and water from a distance, usually from a satellite or through aerial imaging techniques. Remote sensing can be used to monitor the progress of some types of natural disasters, particularly dynamic processes such as floods, fires and lava flows. Remote sensing can also be used to provide regular updates on land inundation, which can assist in estimating the amount of land required for relocation.

When correlated with Geographical Information Systems (GIS) data (see below), remote sensing can contribute to situation reports, ongoing estimates of the expansion of disaster impacts, and predictions of actual disaster impacts. After a disaster, remote sensing combined with GIS data can be used to calculate actual disaster losses, and to predict the impact of future disasters.

Geographical Information Systems are a mechanism for geographic data management, including data related to water, transport, land cover, demographics and socio-economic indicators. GIS data can be combined with remote sensing to predict, monitor and calculate disaster impacts. Soil and agro-ecological data have particular value for identifying flood-prone areas. GIS data is of less value after earthquakes, where hazard mapping requires on-the-ground geotechnical surveys by expert teams.

Weather warning systems. Weather warning systems can include disaster alerts, weather hazard impact assessments, drought predictions and assessments of the progress of wet seasons or cyclone seasons.

Community-based risk mapping. Hazard mapping after an earthquake can utilize RADIUS (Risk Assessment Tools for Diagnosis of Urban Areas against Seismic Disasters), a community-based risk mapping tool that does not utilize GIS or satellite imagery. A simplified RADIUS methodology underpins the global Risk Mapping and Shelter Response Planning activity employed by UN-HABITAT and the Global Risk Identification Program (GRIP) of UNDP.

Land tool alert! UNOSAT Humanitarian Rapid Mapping Service: www.unitar.org/unosat.

Land tool alert! Singhroy, V et al. (1998) *Landslide Characterisation in Canada Using Interferometric SAR and Combined SAR and TM Images*, *Advances in Space Research*, Vol 23, Issue 3, p 465, Zhang, J et al (2002) *Floor Disaster Monitoring and Evaluation in China*, *Global Environment Change Part B: Environmental Hazards*, Vol 4, Issues 2-3

Land tool alert! RADIUS tools www.gripweb.org.

In summary, Table 6 below provides an overview of the different assessment tools, the issues they examine and the objectives for their use.

Table 6. Summarising the assessment process in relation to land issues after natural disasters

| Type of assessment | Key issues for assessment | Key objectives of assessment |
|------------------------------------|--|--|
| Rapid | The disaster's land-related impacts Urgent humanitarian requirements for land. Time-critical risks to early recovery from vulnerability in the land governance system. | Identify urgent land requirements for emergency relief. Identify time-critical land issues that may delay in early recovery. |
| Needs | Loss and availability of land for shelter and livelihoods. Overall risks to early recovery from vulnerability in the land governance system. | Provide inputs into strategic planning on land and disaster recovery. Update the initial identification and prioritisation of land issues in the rapid land assessment. Provide baseline data to allow monitoring and evaluation of land programs. |
| Damage and Loss | The nature and extent of damage to (1) land, (2) land documents and (3) land administration | Calculate damage to land and systems of land administration and cost to restore to original condition. |
| Land Availability and Risk Mapping | Availability of sites for shelter and livelihoods. Vulnerability to natural hazards of sites for shelter and livelihoods. | Building back better and safer after a disaster. |

Further reading

UN-HABITAT (2007), *An Immediate Measures Land Management Evaluation Tool for Emergency through to Reconstruction Post – Conflict Situations*, www.gltm.net

UN-HABITAT (2009), *Local Estimate of Needs on Shelter and Settlements (LENS) Toolkit*, www.disasterassessment.org

UN-WB-EC (2009), *Post Disaster Needs Assessment Framework (PDNA/RF) Toolkit*

3.2 Planning for relief and recovery

This Section provides policy steps and options for planning land responses after a natural disaster, from contingency planning, through Flash Appeals (FAs), Consolidated Appeals (CAPs) and Exit Planning (see Figure 6 below). Such responses are important for early recovery because they:

- Facilitate sequencing activities in circumstances of competing priorities and limited time and institutional capacity;
- Identify critical areas for capacity development and institutional strengthening;
- Improve coordination among stakeholders, including government agencies;
- Establish benchmarks and indicators for monitoring and evaluation of early recovery programs;
- Support evidence-based policy advocacy; and
- Create a credible framework for resource mobilization.

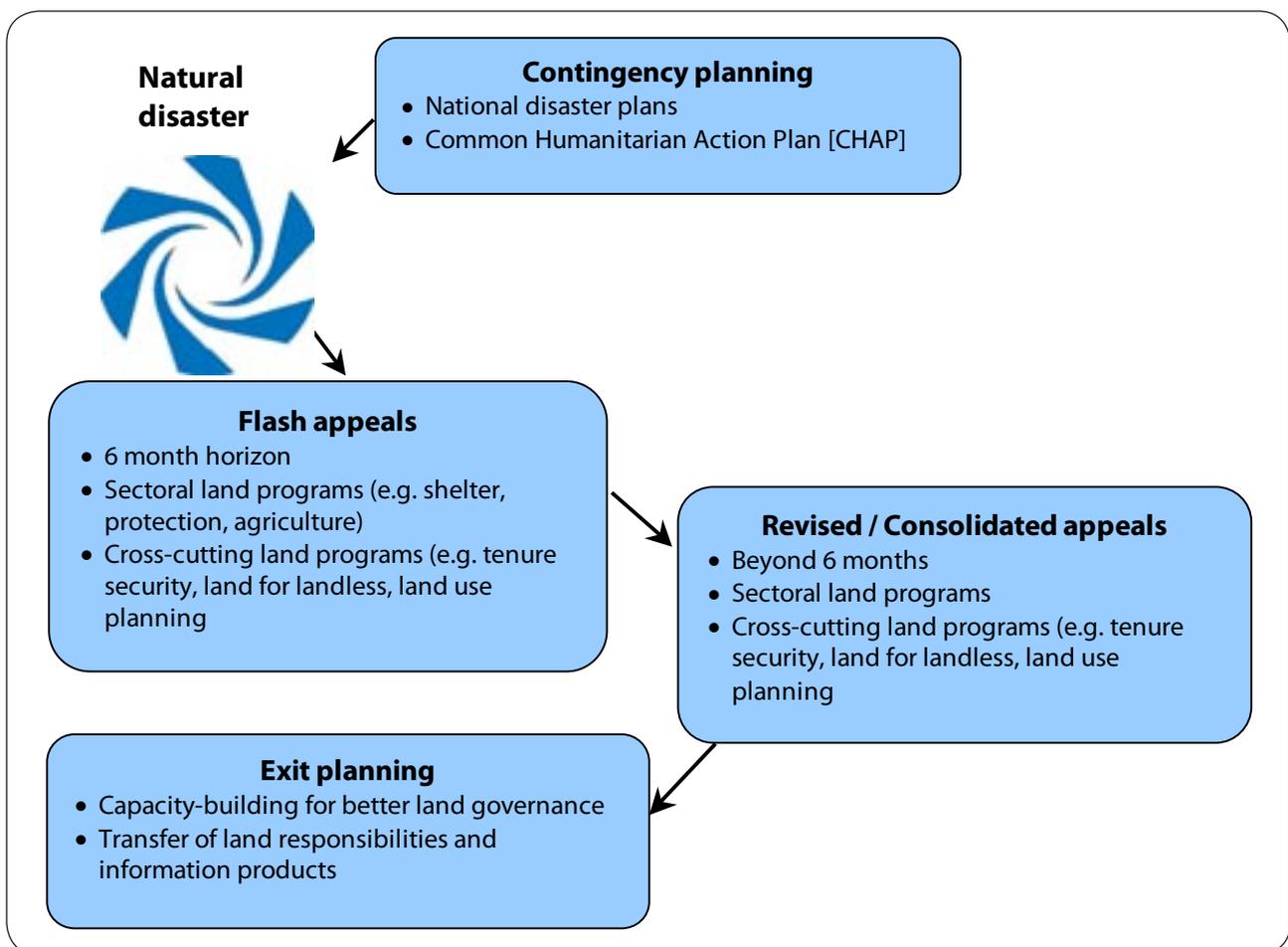


Figure 6. Planning land responses through humanitarian action

3.2.1 When to plan early recovery land responses

Planning early recovery responses to land issues should begin immediately after a disaster, or at the latest upon completion of the rapid land assessment. Early planning is essential because land issues can be a time-critical barrier to early recovery, particularly in relation to:

- Security of tenure as necessary to facilitate housing reconstruction;
- Access to land for livelihoods, infrastructure and, where necessary, relocation; and
- Improved land use and settlement planning for prospective hazard risk reduction.

Planning responses to land issues should draw on pre-disaster contingency planning, including national hazard reduction plans and any relevant UN plans such as the Common Humanitarian Action Plan for the region or area. Planning should:

- Take place within and across humanitarian sectors;
- Take into account the mechanisms of humanitarian funding;
- Build upon existing institutions at the community, local and national levels; and
- Support people's own response and recovery strategies.

Box 6. Flash appeals and UNDP/UN-Habitat land programming in tsunami- affected Indonesia and earthquake-affected Peru

In tsunami-affected Indonesia, UNDP received a large amount of Flash Appeal funding for its Emergency Recovery and Transitional Reconstruction (ERTR) program. The ETRT program included shelter, livelihoods and governance components. The shelter component was quick to bring in a consultant with land expertise, who initiated UNDP programs focused on inheritance, relocation and tenure security for reconstruction. In conjunction with the UN Recovery Coordinator, UNDP also played a key role in advocating the housing, land and property rights of renters and informal land occupiers in tsunami-affected Indonesia.

In earthquake-affected Peru, UNDP and UN-Habitat received joint Flash Appeal funding to provide technical assistance to the Peruvian authorities on policy development and recovery in the housing sector; to prepare assessments of damage and criteria for rehabilitation of settlements; to develop settlement plans; to develop guidance on tenure rights; and to train masons in seismically safe techniques. Outputs of the project included the development of manuals on anti-seismic building techniques, land-use planning and land tenure rights as well as updated risk mapping of the affected areas. Approximately seven out of ten people affected did not have legal documentation for their properties hampering the Government's attempts to compensate those whose properties were lost or damaged. UN-Habitat's work on this project was vital in assisting both the government and affected communities to realize peoples' rights to their land, as well as to support gender equality in a context where previously only a man could be named as the tenant or owner of a property. The UN's work highlighted this discrepancy and spurred attempts to change the law accordingly.

Fitzpatrick, D. and Zevenbergen, J. (2008), *Addressing Land Issues after Natural Disasters: A Case-Study of Tsunami-Affected Aceh, Indonesia and Earthquake-Affected Peru*; Interview with UN – HABITAT Geneva; www.gltm.net.

Box 7. Four strategies to get land on the recovery agenda

Land issues must compete with other important priorities for humanitarian funding. Four complementary strategies are required to ensure land issues will be funded and addressed:

- Awareness that land issues can be a time-critical barrier to early recovery.
- Inclusion of basic questions relating to land in relevant assessments.
- Inclusion of basic land-related responses in Flash Appeals and the Consolidated Appeals Processes.
- Early appointment of land experts, both international and national.

Governments have the primary responsibility for coordinating the response to natural disasters and should lead early recovery planning relating to land and housing.

3.2.2 Who should plan early recovery land responses

Governments have the primary responsibility for coordinating the response to natural disasters and should lead early recovery planning relating to land. Where government institutions themselves suffer from the impacts of a natural disaster or had limited pre-disaster capacity, humanitarians should work closely with the government and a diverse range of national, local and international land stakeholders. Table 2 of Part 2 provides a list of potential stakeholders.

3.2.3 What early recovery land response planning does

Early recovery land response planning ensures that responses to land issues are incorporated into other areas of humanitarian planning. Strategic planning for land responses should be undertaken in conjunction with different stages in the funding of early recovery programming. For the global humanitarian system, these stages include: (1) Flash Appeals (FA) for interventions up to six months and (2) Consolidated Appeals for interventions beyond six months.

Flash appeals. Flash Appeals are coordinated requests for urgent humanitarian funding. They are formulated within five to seven days from the declaration of an emergency or disaster. They are directed at life-saving measures, but may also include time-critical recovery responses that can be completed within a six-month period. Funding may be sought from external donors, or from the internal UN Central Emergency Relief Fund (CERF).

Land responses funded by Flash Appeals should be developed on the basis of rapid land assessments. Flash Appeal time requirements mean that most land responses must be formulated as part of established humanitarian clusters. For example:

- **Protection** programs can include support for the housing, land and property (HLP) rights of vulnerable disaster victims, including women, children, tenants and informal landholders;
- **Shelter** programs can include support for (1) rapid mechanisms to provide tenure security in shelter locations; (2) participatory community-based mechanisms of settlement planning or (3) housing solutions for people without legal documentation of rights to land; or, where unavoidable (4) relocation programmes.
- **Livelihoods and agriculture** programs can include support for (1) the land rights of sharecroppers and other agricultural tenants, (2) livelihood and food security programs, and (3) community-based mechanisms for land use planning.

The early engagement of land experts is critical to ensuring land issues are incorporated in humanitarian programming. Funding for contracting with land experts can come from a variety of sources including:

- Flash Appeal funding for protection, shelter, livelihood or agriculture programs. Alternatively, coordination support for land issues may also be funded.
- Lead/Convener agencies for humanitarian clusters or sectors (eg. IFRC for Emergency Shelter in Natural Disasters, or UNHCR for Protection).
- Core funding from bilateral donors (eg. DFID, EC, etc., or multilateral agencies (including UN-HABITAT, FAO and UNDP).

Consolidated Appeals Process. The Consolidated Appeals Process (CAP) is an annual UN appeal for humanitarian funding. It is based on the Common Humanitarian Action Plan (CHAP) and can fund land responses that extend beyond the six-month time-frame for Flash Appeal programs. Consolidated Appeals are led by the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Humanitarian Coordinator in collaboration with the IASC Country Team. Consolidated Appeals are issued every September or October. They may be revised in June or July, particularly so as to respond to emerging disasters or emergencies.

3.2.4 What should be included in early recovery land planning

For the global humanitarian system, the Early Recovery Cluster recommends two planning documents, namely an early recovery framework and an early recovery action plan.



Post-disaster planning in Myanmar

source: UN-HABITAT

The *early recovery framework* is a short summary document. In relation to land it should include the following:

- Analytical summary of findings from the needs assessment.
- Identification of key actors and overall land responses to date.
- Analysis of key gaps or issues to be addressed.
- An outline of the sequencing of priorities and demarcation of responsibilities relating to land responses.
- Proposed and existing coordination mechanisms for early recovery land responses.
- A summary of long-term objectives of land responses in terms of the transition from relief to development.

The *early recovery action plan* relating to land should set out responses to identified land issues. These responses must be sufficiently standardized to allow them to be integrated with early recovery planning for other sectors. The plan should be costed, phased and prioritized, specifying the unit or agency responsible for implementation and providing targets and monitoring indicators. The early recovery action plan should also identify land responses that have been developed outside the framework of early recovery planning.

Planning land responses after a disaster must be an ongoing process involving regular reviews and constant collection of information. Strategic reviews should identify:

- Progress made against agreed targets as reflected in the monitoring and evaluation (M&E) framework.
- The obstacles to delivery of good quality results.
- The extent of exclusion of vulnerable groups from land programs.
- Alternative programs or policy strategies that may produce better quality results.
- The capacity-development needs of key stakeholders.

Land response planning will take place at multiple levels and locations of humanitarian activity. Most will involve programs that are limited to specific issues or locations. In this case the key planning issues will include the nature and extent of program delivery through partners – including governments, civil society and grassroots organizations.

Some land responses may involve engagement with land policy and the land sector generally. In this case the key planning issues include:

- The extent to which land policy changes may have implications beyond the disaster impact zone;
- The politics of land and how the disaster affects the relationship between the government and humanitarian or recovery actors, between Government and its citizens, and between public and private interests; and
- The respective roles of key land actors, including affected communities, grassroots organizations, civil society, the government and international agencies.

Planning land responses after a disaster must be an ongoing process involving regular reviews and constant collection of information.

Land tool alert! UNDP/ Oxfam *Addressing Land issues in Tsunami-Affected Indonesia*, www.iisd.org/pdf/2006/es_addressing_land.pdf. This policy document - prepared soon after the tsunami disaster - sets out a detailed and costed plan for responding to identified land issues in the Indonesian province of Aceh, including security of tenure for shelter and livelihoods rehabilitation.

3.2.5 How to plan for exit by humanitarian and recovery actors

Humanitarian actors tend to play an active role in the immediate aftermath of a disaster, but should strive to engage with government officials and land sector institutions from the outset. Humanitarian actors should ensure their activities are integrated into the overall national response and that institution-building begins as early as possible. Exit strategies should be developed to ensure that information, knowledge and capacity is effectively transferred to:

- Institutions of local governance, including grassroots and community organizations as well as local authorities;
- Line ministries or specialized departments with specific land responsibilities (e.g. land, mapping, housing, agriculture, public works, or social affairs); and
- Specially-created reconstruction entities – including organizations created by governments to coordinate disaster response (e.g. the Earthquake Reconstruction and Rehabilitation Authority (ERRA) in Pakistan and the Reconstruction and Rehabilitation Authority (BRR) in tsunami-affected Indonesia).

Effective mechanisms to strengthen government agencies and community governance institutions require attention to:

- Design of projects and programs together with governments and with an explicit institution-building focus;
- Active participation in land interventions by relevant institutions, including community based institutions;
- Capacity-building programs to ensure the sustainability of the transfer;
- Standardized information products to allow easy transfer where appropriate into existing government information systems.
- Focus on disaster risk reduction and disaster preparedness.

Further reading

IASC, *Introduction of Flash, CERF and CAP*, <http://ocha.unog.ch/humanitarianreform/Default.aspx?tabid=143>

IASC, (2006) Guidelines for Flash Appeals, www.humanitarianreform.org

IASC, (2007) How to Apply to the CERF, www.humanitarianreform.org

3.3 Land response coordination

Coordination is crucial to recovery after disasters. The fragmented nature of the land sector – with responsibilities divided between various ministries, agencies and departments – makes land a particularly challenging area for coordination. Moreover, international actors tend to provide support to specific actors or in specific locations, adding more complexity and challenges for developing a coherent response. This situation has raised awareness of the need for:

- Lead agencies and thematic working groups to promote coordination;
- Greater integration of emergency responses into longer term strategies for sustainable development;
- Greater focus on building on existing capacity within national and local government institutions and community organizations; and
- More holistic approaches to recovery and reconstruction.

Because land issues tend to be cross-cutting in nature, most coordination of humanitarian land responses will take place within humanitarian sectors or clusters as part of an overall sector strategy.

This Section sets out policy options relating to land response coordination under three headings:

- What it means to coordinate land responses.
- When to coordinate land responses.
- How to coordinate land responses.

Box 8. Sectoral land programming in tsunami-affected Aceh, Indonesia

In tsunami-affected Aceh, Indonesia, restoration of land rights was primarily handled by the national land agency, working in conjunction with the World Bank. The land office of the reconstruction authority formed part of the shelter branch. Spatial planning was addressed by national and district planning authorities, the reconstruction authority and district and city governments, working in conjunction with the Asian Development Bank (ADB) and UN-HABITAT. Inheritance issues were managed by the Sharia Court, with assistance from UNDP. Access to land and housing for renters and squatters was addressed by the reconstruction authority, working in conjunction with UNDP, the UN Recovery Coordinator, Oxfam and UN-HABITAT. ADB also assisted in the reconstruction of rental housing. Acquisition of land for relocation and infrastructure was handled by district and city governments and the reconstruction authority, with assistance from UNDP.

There was no single stakeholder forum that allowed oversight and coordination of land programs across different sectors of activity. This absence created constraints on early recovery. In particular, there were obstacles to integrating:

- community-based programs for restoration of land rights with the formal system of land administration;
- legal restoration of land rights with village planning mechanisms that altered some land boundaries;
- house reconstruction programs with spatial and land use plans for restricted development areas (which covered significant numbers of areas where houses had been rebuilt); and
- reconstruction of rental housing with general housing and shelter policies (particularly in light of the fact that early shelter policies did not provide sufficient incentives or mechanisms for construction of rental housing).

Fitzpatrick, D. and Zevenbergen, J., *Addressing Land Issues after Natural Disasters: A Case-Study of Tsunami-Affected Aceh, Indonesia*, www.gltm.net.

3.3.1 What it means to coordinate land responses

Land sector coordination includes the following elements:

- Monitoring who is doing what where (the “3Ws”) in the land sector;
- Policy development to support Government, ensuring information-sharing and consultation with the full range of land stakeholders;
- Improved donor coordination, particularly in relation to policy advice and funding;
- Knowledge management, including accessible and harmonized information formats;
- Outreach and communications, including capacity-building for key actors to lead coordination efforts.

The goal should be to harmonize and align responses to land issues throughout all stages of relief and recovery programming. However, the fact that land responses take place at different levels within government as well as civil society and affected communities means

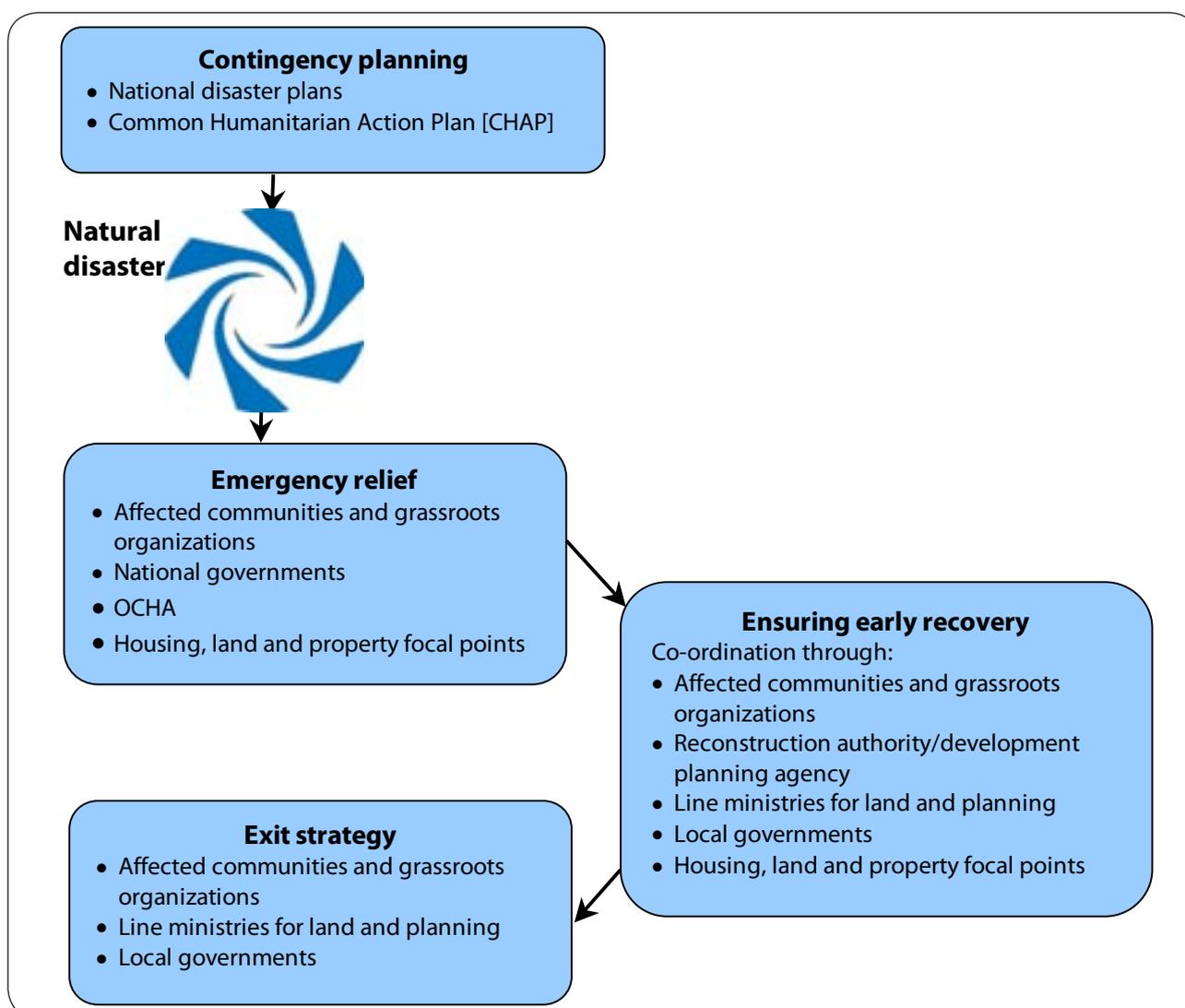


Figure 7. Timeline of land response co-ordination

that communication and information-sharing may be the best that can be achieved in the short-term. As the response moves towards early recovery, however, greater opportunities may arise for joint programming.

While coordination remains crucial within each humanitarian sector, overarching coordination of land responses across different sectors will help to ensure effective early recovery transitions to sustainable development.

3.3.2 When land response coordination should occur

There are four main stages of land response coordination.

- i. Preparedness and contingency planning (before a disaster);
- ii. Emergency relief (immediately after a disaster);
- iii. Early Recovery (the intermediate stage after life-saving is concluded); and
- iv. Sustainable development (exit strategies for international actors and reconstruction authorities).

3.3.3 How to undertake land response coordination

Each of the four stages listed above has its own specific needs, opportunities and constraints from a coordination perspective. This section provides some simple guidance as to how coordination objectives may be pursued in each stage.



Land records in Haiti after the earthquake

source: Florian Bruyas, UN-HABITAT

Preparedness and contingency planning

Coordination mechanisms may be in place even before a disaster through national disaster preparedness plans and/or the Common Humanitarian Action Plan (CHAP). IASC country teams are the lead actors involved in preparing the CHAP. The CHAP provides a platform for funding coordination mechanisms through Flash Appeals and the Consolidated Appeals Process.

Emergency relief: immediately after a disaster.

The national government should lead coordination efforts after a natural disaster. Where government capacity to coordinate is degraded either as a result of the disaster or because of fragmented responses across different agencies and levels of government, the burden of advocating and supporting coordination may fall on the Humanitarian Coordinator/Recovery Coordinator with support from (1) OCHA and UN Disaster Assessment and Coordination (UNDAC) teams and (2) specialized land agencies such as UN-Habitat and FAO.

Beyond emergency relief: recovery and rehabilitation.

Critical coordination challenges arise during the transition from humanitarian work to early recovery and coordination mechanisms may fall into disuse if:

- Relevant government agencies lack capacity, willingness or funding to coordinate with recovery actors;
- Emergency relief actors exit the country without effective handovers of information and communication forums; or
- Early recovery actors are not able to take on coordination responsibility.

Under the current distribution of responsibilities in the IASC, no single agency has been identified as the automatic land coordination leader for all disaster contexts, and across all humanitarian sectors. The general qualities required to lead land coordination include: technical capacity; credibility and legitimacy with Government, donors and NGOs; links with key land actors; ability to manage political risks; and ability to mobilize funding. Agencies with a comprehensive policy mandate such as a reconstruction authorities or national development planning agencies may also be better placed to coordinate than the line ministry responsible for land.

Towards sustainable development: coordinating exit strategies for international actors and reconstruction authorities

Exit strategy coordination may include:

- Designing interventions with an explicit capacity- and institution-building focus;
- Participation of national and local government representatives and any stakeholder that has been involved in previous stages in exit strategy planning;

Box 9. Coordinating land responses in Pakistan

After the 2005 earthquake in Pakistan, land issues raised were addressed by a sub-committee on land within the Protection Cluster, chaired initially by Oxfam, then by UN-HABITAT. The landless were identified as one of five vulnerable groups under the Protection Strategy and human rights protection arguments were used to overcome objections that land matters were a state rather than federal responsibility, enabling the Earthquake Rehabilitation and Reconstruction Authority (ERRA) to become engaged. High-level lobbying and support from ERRA was necessary prerequisites for the establishment of a rural landless programme and a steering committee on landlessness was created within the Protection Cluster, with representation from about fifteen key actors, including the ERRA departments covering planning, housing, protection and environment, provincial governments, the Land Authority, NGOs involved in land issues and relevant UN Agencies. The sub-committee was also a forum through which policy decisions could be disseminated to some 250 key stakeholders. High-level support from the Chairman of ERRA, as well as Provincial/State and District actors guaranteed the success of the rural landless program. Effective collaboration between the main actors and teamwork at the local level was demonstrated by mobile land documentation units that ensured tight administrative procedures and record-keeping through a one-window operation.

Robert Home and Nilofer Afridi Qazi, (2005) *Case Study of Pakistan Earthquake*, <http://www.glt.n.net/en/e-library>

Box 10. Advocacy on land and relocation in tsunami-affected Sri Lanka

In tsunami-affected Sri Lanka, Oxfam developed an advocacy strategy on land and relocation issues through the following steps:

Analysis of Issues and Policy Environment: This analysis focused on the key issue of the implications of the government’s buffer zone policy

Formulation of Strategy: This strategic formulation was divided into 1) aims, 2) what we want to achieve, 3) who should be influenced, 4) how to influence, 5) who will manage, 6) how do we monitor, 7) what human resources are available.

Source: Oxfam, *Advocacy Strategy for Post-Tsunami Land and Relocation Issues in Sri Lanka.*

- Pilot projects to ensure that land information is provided in formats that are compatible with national and local government systems; and
- Secondment programs to ensure that government officials are seconded to be part of the recovery programmes and supported in capacity building.

Where land governance is weak, it is essential that secondment and capacity-building programs focus on basic managerial, administration and planning skills before introducing long-term technical land administration techniques or software. Any solution proposed should be evaluated based on its appropriateness, likely long-term effectiveness and sustainability (including its resistance to the effects of future natural hazards) in the given context. The transfer of land information to national and local governments may be constrained by the proprietary nature of mapping software used by humanitarian and recovery actors. For example, UNHCR and UNDP often use MapInfo and Arcview, which are subject to proprietary licensing arrangements involving fees that may not be affordable for developing country budgets.

Further reading

IASC, (2007) *Key Things To Know About Integrating Cross – Cutting Issues*, <http://www.humanitarianreform.org/humanitarianreform>

CSLT, (2007) *Global Humanitarian Platform: Principles of Partnership*, <http://www.humanitarianreform.org/humanitarianreform>.

3.4 Land advocacy

Advocacy is an essential strategy to address post-disaster land issues, particularly when they are seen as sensitive, complex and difficult to address. Advocacy is essential to:

- Raise awareness of the importance of land issues to early recovery;
- Develop appropriate policy options to address land issues at different stages of relief and recovery;
- Overcome inertia or resistance to important land responses by government agencies, international actors or elite interests; and
- Ensure participation by all stakeholders in responses to land issues.

The IASC Cluster/Sector Leadership Training program has identified six steps in building an advocacy strategy, which can be adapted for the land sector as follows:

- Identifying land issues requiring advocacy.
- Establishing goals and objectives.
- Defining target audience and stakeholders.
- Selecting messages and tactics.

Advocacy is essential to include post-disaster land issues on the humanitarian agenda.

- Developing an action plan.
- Monitoring and evaluation.

This Section sets out advocacy steps and options in relation to land issues after natural disasters, focusing on two core advocacy challenges from the above list: analysis of the land policy environment, and selecting core messages and advocacy tactics.

Land tool alert! IASC Cluster/Sector Leadership Training, Building and Advocacy Strategy, <http://www.humanitarianreform.org/humanitarianreform/Default.aspx?tabid=143>

3.4.1 Land policy environment

It is important to analyze the land policy environment in order to identify land issues requiring advocacy, and formulate advocacy strategy. The formulation of land policy after disasters may be affected by (1) lack of coordination or competition among agencies or stakeholders, (2) technical and political challenges of responding to deep-seated issues such as landlessness or informal settlements and (3) lack of reliable information about how land was managed before the disaster. Land institutions will often interact in dynamic ways among themselves and with newcomer institutions after a disaster (for example, international agencies and dedicated reconstruction authorities). It is also important to assess what individuals and communities know about their land rights and the government's policy response to the disaster; advocacy campaigns may begin by simply informing individuals and communities about these issues.

The following issues should guide analysis of the land policy environment after a natural disaster.

Land stakeholders, their interests, constraints and relationships, including statutory, customary and informal actors and institutions;

Land Policy Formulation (national level). Who sets the land policy agenda and how? What are the respective roles and forms of interaction among political institutions, reconstruction agencies, line ministries or agencies responsible for land at national, provincial and district levels of government, as well as the military and outsiders such as international advisers or agencies? What is the role and position of land professionals regarding future land policy? What policy advice is being provided by international actors – is there a coherent position?

Land practice (local level). Is the formal land system applied in the area hit by the disaster? Is there a customary system in place? What are its rules and regulation? Does it protect the rights of vulnerable groups?

Post-disaster context. What is the impact of the disaster on the different actors, their interests, constraints and relationships? What new rules or practices have emerged? What opportunities exist for

Box 11. People-centred advocacy for land tenure rights in Nepal

Approximately 20% of all agricultural households throughout Nepal and 80% of such households in certain districts are tenant farmers. Beginning in 1984, the Nepalese NGO Community Self Reliance Centre (CSRC) identified the importance of agricultural lease arrangements through a Participatory Rural Appraisal. Over the next 10 years, CSRC campaigned to improve the rights of tenant farmers through alliances with local partners, community-based organizations and the farmers themselves. By 2003, 3,262 farming households had been granted land tenancy rights. Of these households, 953 exercised the legal right of agricultural tenants to receive ownership of up to 50% of the land they farm. Other achievements include increased local capacity, formation of a National Action Group and external donor support for extension of the program into eight new districts. The program provides a successful example of an advocacy program that built on local initiatives, adopted a networked approach and successfully scaled up to the national level.

Source: Actionaid, *People-Centred Advocacy for Land Tenure Rights in Nepal, Working Paper 6 November 2005*, www.actionaid.org/assets/docs/final6.pdf.

Box 12. Emergency and transitional shelter defined

Emergency and Transitional Shelter can be distinguished as follows:

Emergency Shelter. Protection from wind, rain, freezing temperatures and direct sunlight are minimum requirements. Minimum shelter area 3.5 sq. m/person. Minimum total site area 30.0 sq. m/person.

Transitional shelter. This term describes family shelter which provides a habitable covered living space and a secure, healthy living environment, with privacy and dignity, for both displaced or non-displaced occupants over the period between a conflict or natural disaster and the completion of transitional reconstruction, that is intended to be relocated, upgraded, or disassembled for materials and that may be supported as an assistance method.

Source: UN Emergency Shelter Cluster (2009), *Local Emergency Needs for Shelter and Settlement Tool Kit* (LENSS), www.humaitarian.org

Land interventions should aim to understand and build on the tenure system that was in place prior to the disaster.

policy reform? What vested interests exist that may oppose change? What specific measures need to be implemented to ensure that the needs of women and vulnerable groups are met?

If customary and statutory institutions do not work in accord in a post-disaster situation, this may generate conflict. Local tenure systems tend to emerge or reemerge quickly after disasters. This means that customary or informal rules will be up and running, generating binding obligations related to local land assets by the time that dissemination of statutory law occurs. This can complicate the implementation and enforcement of formal law, particularly if the formal law lacks local legitimacy.

Interventions in a post-disaster context should aim to understand and build on the tenure system that was in place before the hazard, ensuring that all members of the community (particularly women and vulnerable groups) have equal access to institutions and mechanisms for accessing land and ensuring security of tenure. Devised in this way, formal interventions have a higher probability of gaining local legitimacy.

3.4.2 Advocacy messages and tactics

The rule of law is reinforced when there are many people who understand and use the law to protect their rights. Information itself becomes an asset in these contexts, underscoring the importance of effective outreach in settings where dissemination capacities are often significantly compromised, both in statutory and customary systems.

While individuals and groups who are more educated or connected may be able to readily obtain information and understand how the formal system is adapting to a post-disaster environment, the rest of the population (which normally includes all the most vulnerable groups) will be excluded if they are not informed properly.

The core messages for an advocacy campaign should be as inclusive as possible to allow for the broadest possible support. International law and human rights provide a framework for shaping advocacy campaigns. Core advocacy messages, however, should also be framed in terms of practical early recovery outcomes. Evidence-based advocacy, including reliable qualitative and quantitative data, is critical to framing advocacy measures in terms of practical outcomes.

Wherever possible, advocacy campaigns should be based on pre-existing community concerns and organisations. A strong community focus allows the scaling up of campaigns through a networked approach. Advocacy campaigns should always take into account the specific needs of the target audience and consider factors such as language and media selection in order to be effective.

Different actors in an advocacy network can play different roles. For example, the UN Humanitarian Coordinator/Resident Coordinator can leverage official access to engage in private advocacy, while

national and international NGOs may be better suited to public forms of advocacy, such as mobilizing partners and networks, developing information materials and undertaking media campaigns. Local public and private actors can raise awareness of people's rights and the means to enjoy and protect them.

Box 13. Private and public advocacy for tenants and extralegal occupiers in tsunami-affected Indonesia

In June 2006, Indonesia's Aceh and Nias Reconstruction Authority (BRR) issued a regulation that made distinctions between landowners, renters and extralegal occupiers. Pre-tsunami landowners who had lost land would receive free land and a basic 36m² house. Pre-tsunami renters and extralegal occupiers who could not return home would be given a cash payment that could be used for housing purposes only. This payment was not sufficient to enable outright purchase of land, but was intended to be used as a rental installment or a down-payment for land or housing on credit. Without land of their own, renters and extralegal occupiers would not receive a house from the government.

The BRR policy of cash payments to renters and extralegal occupiers ran into substantial delays because the banks refused to act as a conduit for payments. Over time, it became clear that temporary living centres ("the barracks") could not be decommissioned without land and housing solutions for homeless renters and extralegal occupiers. Without a decommissioning process, there were fears that the barracks would foster social unrest and welfare dependency. At the same time, there was considerable pressure on BRR to revise its policies because of concerns that renters and extralegal occupiers would be left disproportionately worse off than landowners as a result of the tsunami.

With international advice and support, the UN Recovery Coordinator made a number of private representations to BRR on behalf of renters and extralegal occupiers. In early 2007, Oxfam provided a memorandum on renters and extralegal occupiers to Bill Clinton, the UN Special Envoy for Tsunami Recovery. President Clinton duly raised the issue with the head of BRR. In February 2007, BRR announced major amendments to Regulation 21/2006. These amendments largely replaced the program of cash assistance with a policy of free land and housing for renters and informal or extralegal occupiers.

Fitzpatrick and Zevenbergen, J, *Addressing Land Issues after Natural Disasters: A Case Study of Tsunami-Affected Aceh, Indonesia*, www.gltm.net

Further reading

ActionAid (2005) "Action Research on Planning, Assessing and Learning in People-Centred Advocacy", <http://www.actionaid.org/assets/docs/final1.pdf>

Cohen, de la Vega and Watson (2001) *Advocacy for Social Justice: A Global Action and Reflection Guide*, Oxfam Publishing.

Oxfam Land Rights in Africa advocacy experience. See <http://www.oxfam.org.uk/resources/learning/landrights/intro.html>

Chapter 4 Land and key humanitarian sectors

Chapter 4 provides guidance related to the three humanitarian sectors most likely to be affected by land issues: emergency shelter, human rights protection, and agriculture and rural livelihoods. There is no separate Section on land and early recovery as an early recovery approach informs the entire Guidelines. Further material relevant to the livelihoods and water and sanitation sectors is set out in Part 5 (Land as a Cross-Cutting Issue).

Land is related to the key humanitarian sectors in many different ways and assessments to identify target populations and establish their needs should take into account factors related to land access, use and secure tenure. The amount and accuracy of information collected and the state of the land administration system or systems in place can determine whether land issues will ultimately come to represent a factor for vulnerability or recovery. Table 7 below summarizes some of the key land issues in the relevant humanitarian sectors.

Table 7. Summary of land and key humanitarian sectors

| Sector | Land issues |
|-----------------------------------|---|
| Emergency shelter | Site selection, planning and management for transitional shelter. |
| Protection | Protecting and restoring land left behind by displaced persons (especially vulnerable groups). Facilitating proof of personal identity Supporting women and children's right to inherit land. |
| Agriculture and rural livelihoods | Supporting agricultural tenants Strengthening women's rights to rural land. Supporting community-based land and resource management systems. |

4.1 Land and emergency shelter

This Section provides policy guidance on land and emergency shelter after a natural disaster. It focuses on three issues, namely selection, planning and management of sites for shelter for persons displaced by a natural disaster. Before turning to address these issues in more detail, a few introductory notes are provided regarding displacement and return, as summarized in Figure 8 below.

When populations are displaced from their homes by disasters,

they require sites for emergency and transitional shelter. In these circumstances, the primary land question is whether these sites are safe and suitable for habitation. Beyond the emergency phase of displacement, other factors such as avoiding land and other tensions with host communities and positively addressing their land issues and recovery needs come to the fore. Displaced persons have various transitional shelter options, including:

Grouped settlements, such as collective centres, self-settled camps and planned camps.

Dispersed settlements, such as urban self-settlement, rural self-settlement and host family accommodation.

Where persons affected by disaster have returned to their homes, or were never displaced in the first place, the primary land issue will be to ensure tenure security in their pre-disaster locations. Such tenure security is essential to facilitate post-disaster shelter reconstruction; care must be taken to ensure that shelter and reconstruction assistance are provided to rightful occupants of disaster-affected property. Displacement can be both temporally and spatially fluid, with people periodically returning to check on their land and property, maintaining a presence so as to maintain their claim to the land, or sending some family members back while others remain displaced

This Section considers the selection, planning and management of sites for emergency or transitional shelter for persons displaced by a natural disaster. Section 5.1 (Security of Tenure) discusses the relationship between land rights and transitional and durable shelter solutions. Section 5.4 (Land-use and Settlement Planning) describes how land rights are secured in a community and settlement context. Section 5.5 on Access to Land for Relocation and Infrastructure addresses situations in which return is not possible.

Tenure security is essential to facilitate post-disaster shelter reconstruction.

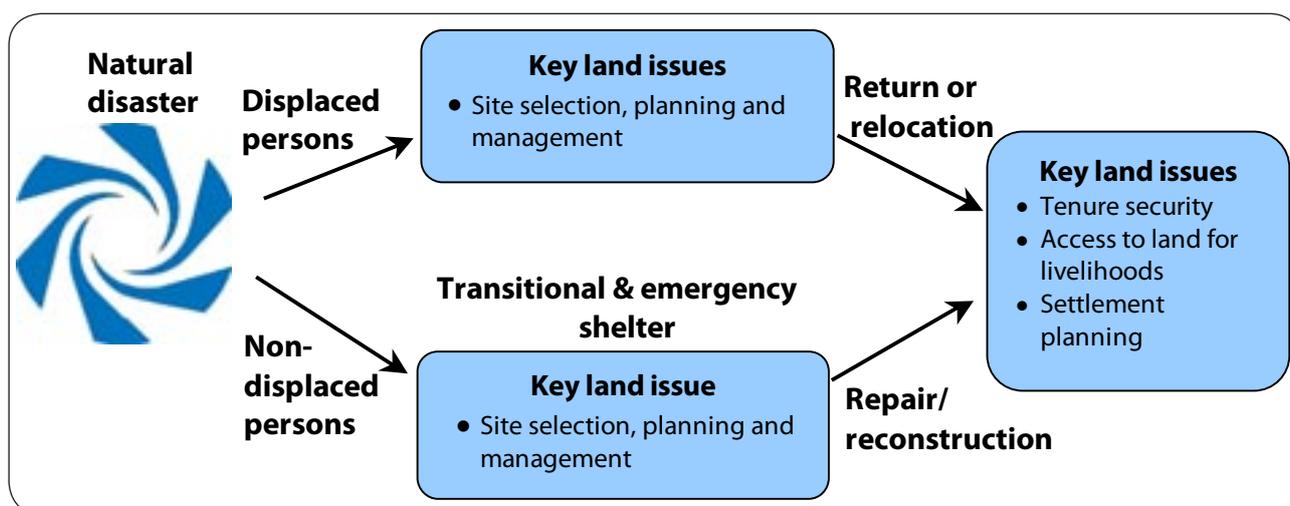


Figure 8. The relationship between land and shelter after a disaster

4.1.1 Land and shelter needs assessment

The following questions are based on the Local Emergency Needs for Shelter and Settlement (LENSS) Tool Kit prepared by the Emergency Shelter Cluster. These questions apply to transitional and durable forms of shelter but should more generally contribute to understanding the intentions of disaster-affected individuals and communities and to develop appropriate response programs to support their strategies.

Ownership. Who claims to own the land – Government, private individual(s), community? What is the legal basis/evidence for this claim? Is the claim contested by another party?

Hazards and Risks. Has there been a risk assessment of the land selected for transitional shelter? Is it suitable for shelter and livelihoods? Is it sufficiently free from natural hazards? How high is the risk of land and resource conflict with local communities?

Legal mechanisms. Does the constitution or national law include protection against eviction? Do existing land recovery or compensation mechanisms apply to an emergency like this?

The local tenure system. Is land tenure in the locality formal, customary, informal or mixed? Does the system(s) provide sufficient security of tenure for affected landholders? Do people in the host community area consider that the land tenure system provides sufficient security of tenure?

Household tenures. Are affected persons landowners, renters or occupiers with landowner consent? What type of land rights does the



Maldives, provisional shelter after the Tsunami.

source: UN-HABITAT

host community have? Are there any secondary rights holders – eg. pastoralists, persons with specific use rights?

Land records. Do land records exist for the locality affected by the disaster? Do these records provide sufficient security of tenure for house reconstruction? Do alternative forms of evidence of land rights exist? Do these enjoy widespread local legitimacy? Do prevailing land dispute resolution mechanisms include steps to restore or provide tenure documentation for house reconstruction?

Women and Orphans. Are there impediments to women owning, using or inheriting land in their own names? Can orphans register rights to land in their own names?

Land use planning. Is there a land use planning process for the locality? Is it community-based, participatory and/or consistent with actual settlement practices?

These shelter questions should be combined with land availability and risk mapping assessments set out in Section 3.1 to allow effective early planning in the shelter sector.

4.1.2 Standards on site selection for transitional shelter

Shelter should be provided in pre-disaster locations rather than sites of displacement or relocation whenever it is safe to do so in order to reduce the risk of:

- land disputes or fraud when new land is required for shelter sites or settlements;
- loss of livelihoods when new shelter sites or settlements are far from pre-disaster lands;
- fragmentation or break-up of communities and their social networks.

Constraints on Suitable Site Selection for Transitional Shelter

The primary responsibility for selecting official sites for transitional shelter lies with national and local governments. As settlements tend to be located in areas where displaced persons have already begun to cluster, humanitarian actors may not have a great deal of direct control over site selection for transitional shelter. Governments, humanitarian actors or self-settled groups may select sites without reference to:

- claims to the land by local or adjacent groups or an understanding of any secondary rights-holders;
- risks to life and health posed by natural or man-made hazards;
- the carrying capacity of the land when large numbers are displaced;
- sufficient consultation and participation with affected groups, including vulnerable persons such as women and children; and
- the possibility that the site may become a longer term place of settlement.

“Everyone has a right to be protected against arbitrary displacement, including displacement in cases of disasters, unless the safety and health of those affected requires evacuation.”

“Competent authorities shall provide internally displaced persons with and ensure safe access to basic housing and shelter.”

UN Guiding Principles on Internal Displacement, Principles 6, 18.

“The location and lay-out of camps and settlements for persons displaced by the disaster should be situated in areas with a low natural hazard risk. They should be designed so as to maximize the security and protection of displaced persons, including women and others whose physical security is most at risk...”

UN Operational Guidelines on Human Rights and Natural Disasters, paras. A.4.1, A.4.2.

***Site selection
should be made
based on a careful
determination
of underlying
customary and use-
rights.***

Governments may also have their own views and interests when they select sites for transitional shelter. Inadequate information or poor policy advice may support choice of sites that marginalize certain displaced groups, or support political plans to develop or appropriate valuable lands left behind by displaced persons.

When the choice lies with the humanitarian agencies, the urgency may impede the need to gather enough information and lead to the selection of sites that for example belong traditionally to the local community or are used seasonally. Many if not most countries do not have up-dated land records and the reality on the ground often is not reflected, hence the importance of consultations with the local communities and local land experts.

Guiding principles for site selection

Humanitarian and recovery actors should take into account human rights to life and an adequate standard of living in responding to inappropriate selection of sites for transitional shelter. However, humanitarian relief, including the provision of transitional shelter, should not necessarily be suspended simply because sites are not the most suitable locations.

Site selection should be made based on a careful determination of underlying or pre-existing land rights, including customary rights, on the part of adjoining communities. Where such rights exist, local consent or even some form of lease may need to be negotiated in order to avoid host community tensions, even where such rights are not officially recognized.

Site selection should be based on the informed consent of persons displaced by the disaster. In accordance with the right to freedom of movement and the right to be free from arbitrary displacement, humanitarian actors should not support transitional shelter sites that involve forced relocation. As long as displaced persons provide informed consent, however, essential humanitarian relief should be provided even where sites are not optimal for transitional shelter. Humanitarian and recovery actors should provide information on site risks to allow displaced persons to make informed decisions. Even in cases where the government allocates the land for the informal settlement unilaterally and the camp is being built, humanitarian and recovery actors should collect the same information to be aware of existing conflicts and claims.

Risk mapping entails surveys of the vulnerability of transitional shelter sites to natural hazards, including ongoing effects of the original disaster. Hazard mapping can take the form of urban neighborhood consultations, rapid rural appraisal (RRA), participatory rural appraisal (PRA) or, in urban areas, Community Action Planning (CAP). These tools are useful for identifying underlying land rights, local governance institutions and potential social risks. Risk mapping can also benefit from consulting aerial photos, satellite imagery, Geographical Information Systems (GIS) and historical records.

Risk mapping of prospective sites for transitional shelter also involves assessment of:

- Neighborhood and community socio-economic characteristics, as well as governance structures and potential social risks;
- The potential for conflict with host or adjacent communities over rights and access to land and related natural resources;
- The carrying capacity of selected land in terms of shelter, water and sanitation, and environmental management;
- Opportunities and barriers to accessing livelihoods, employment and services for people in transitional shelters, including vulnerable groups;
- Obstacles to return, and threats to housing, land and property rights, presented by the location of the site for transitional shelter.

Information gained from risk-mapping exercises must be made available to affected persons and host communities through consultation mechanisms that utilize grassroots and community organizations, and create space for separate discussions involving vulnerable groups such as women and children. Information gained from hazard and risk mapping should form the basis for advocacy programs in accordance with Section 3.4, above, if transitional shelter sites are either unsafe or unsuitable.

4.1.3 How to plan and manage sites for transitional shelter

Short-term shelter solutions can become long-term settlements when displaced persons face barriers to return, relocation or the attainment of other durable solutions. Transitional shelter that becomes a long-term settlement tends to be poorly planned and disproportionately occupied by vulnerable groups. Further complications arise in cases of self-settlement, where gravitation to areas with access to natural resources, including water-sources and arable land, can foster conflict with local communities or environmental degradation.

The primary responsibility for site planning and management lies with national and local governments. However, humanitarian actors also exercise considerable influence due to their key role in the distribution of humanitarian relief supplies.

Avoiding the risks associated with transitional shelter requires promoting rapid voluntary return by displaced persons to their pre-disaster locations, or relocation when return is not possible or desired in the short or long term. Rapid return, in particular, requires support for the housing, land and property rights of persons displaced by the disaster, as described in Section 4.2 on *Land and Human Rights Protection*.

“Persons displaced by a disaster should, to the maximum extent possible, be provided with the means to recover as quickly as possible and become self-sustainable (even in places of temporary displacement). Camps are a last resort and should only be established as long as the possibility of self-sustainability or fast rehabilitation assistance does not exist.”

UN Operational Guidelines on Human Rights and Natural Disasters, paras. A.4.1, A.4.2.

Addressing self-settlement and informal landholdings

Urban and rural self-settlement by disaster victims can lead to conflict when it occurs on land owned, used or claimed by others (including the state). Informality arises when the occupation persists without recognition by law or land administration institutions, blocking access to services, infrastructure, urban planning and investment. In many countries, long-term informality is a fact of life for many poor and vulnerable communities and is not confined to post-disaster contexts. More information on informal settlements is provided in Section 5.4 Land-use and Settlement Planning.

Self-settlement may be one of the quickest options to access shelter and livelihood opportunities for displaced populations.

Urban self-settlement can also lead to informal land subdivisions meant to create space and entitlements for extra housing. This typically occurs without reference to law or formal institutions but may reflect established practice enjoying a degree of social legitimacy. Regardless, informal sub-division contributes to over-crowding and long-term informality. Section 5.2 on Land and the Landless provides policy guidance on addressing informal tenure after a natural disaster.

After natural disasters, urban self-settlement often provokes a sudden and massive increase of population in existing informal settlements and slums with no proper planning or services. This may increase the settlements' inherent vulnerability to natural disasters. However it should be appreciated that such self-settlement may be one of the quickest options to access shelter and livelihood opportunities for displaced populations.

Decommissioning sites for transitional shelter

Although humanitarians may come under pressure to decommission sites for transitional shelter, this should not occur until durable solutions are found for all their inhabitants. Otherwise, residual caseloads may remain consisting of vulnerable groups with limited access to land for housing as well as those who were living in poverty or landlessness already before the disaster. In such cases, evidence-based advocacy is critical: bringing the scope and scale of the challenges to the government's attention, as well as policy options, may be the most effective way forward.

Related issues are described in: 3.4 on *Land Advocacy*; Section 5.2 on *Land and the Landless* provides guidance on land and shelter solutions for tenants and informal landholders. Section 4.2 on *Land and Human Rights Protection* includes guidance on land and shelter solutions for women and children; Section 5.5 on *Access to Land for Relocation and Infrastructure* provides guidance on relocation of persons for whom there is no other durable solution.

Successful decommissioning of transitional shelters also builds on early attention to eligibility criteria and verification mechanisms, without which, transitional shelters may be populated by people who did not lose land or housing in the disaster. Civil society and grassroots organizations should play a monitoring role in order to enhance transparency and protect vulnerable groups in the eligibility and verification process.

Managing disputes with local communities

Where transitional shelters become longer term settlements, tensions with host communities over land may be exacerbated, and particularly in cases when:

- Statutory and customary laws operate in parallel – the State may claim to own the land, but this is disputed by local communities;
- There are multiple ‘host communities’ in the area with unclear or disputed boundaries;
- Community leadership has not sufficiently consulted with their membership regarding proposals to accommodate the displaced;
- Competition for scarce resources presents the risk of environment degradation;
- Long-term (or even short-term) use of land by displaced persons for shelter and livelihoods undermines the land claims of local groups;
- Displaced persons receive forms of legal recognition relating to their occupation that are not provided to local communities;
- Displaced communities are perceived to benefit from other forms of humanitarian assistance that is not provided to local communities.

Any potential for land-related disputes with host communities, or within displaced populations should be identified early in the site selection and addressed early in the planning process through consultations with the local communities. Local actors - including land officials, civil society and representatives from affected communities - are usually best placed to manage these types of disputes. Humanitarian actors should work with donor agencies and other stakeholders to support, inform and encourage local management of such land disputes, including through:

- Local government or judicial institutions;
- Referral to local customary dispute resolution mechanisms; or
- Interim “no violence” agreements by all parties to the dispute.

Humanitarians should avoid ad hoc attempts to resolve such land disputes as the risk of inadvertently aggravating them is too great. However, as the situation stabilizes, greater opportunities may become available for local and international experts to resolve land disputes, based on methods such as:

- Land use agreements (either interim or final) that include provisions for allocating use of scarce resources such as water sources or firewood;
- Mediation by local or trained mediators with written agreements witnessed by community and government representatives, and recorded in local government and land agency offices;
- Clarification or upgrading of the land rights and boundaries of host or adjacent communities through available legal means;

Humanitarians should avoid ad hoc attempts to resolve land disputes as the risk of inadvertently aggravating them is too great.

- Community-based demarcation of boundaries in transitional settlements; and
- Community-based agreements relating to land use and rights of access to land in transitional settlements.

Providing tenure security at transitional shelter sites for displaced persons

Formal allocation of land rights and demarcation of boundaries is very risky when adjudication mechanisms are weak.

Ensuring a minimum level of tenure security for both displaced persons and host communities is essential. The mechanisms to provide tenure security should be community-based and locally appropriate. The challenge emerges when such sites appear to be becoming more permanent.

Proposing formal allocation of rights, and demarcation of boundaries, is only appropriate (1) if and when the underlying land rights and claims have been resolved to the satisfactory agreement of all concerned, (2) when the settlement has a clear potential to become socially, economically and environmentally sustainable, and (3) when there is an official determination that the transitional shelter site will become a longer term settlement. Early liaison with local land officials, support from civil society in negotiations and monitoring is essential to ensuring effective and equitable adjudication and recording of land rights and boundaries. Section 5.1 on *Security of Land Tenure* sets out policy options to strengthen tenure security for persons affected by natural disasters.

As the above discussion illustrates, the selection of sites for emergency and transitional shelter is one of the most challenging land-related issues faced by humanitarians. Critical land and emergency shelter issues are summarized in Table 8.



Camp on an industrial site in Tajikistan

source: Mohamed El-Sioufi, UN-HABITAT

Table 8. Summary of land and emergency shelter issues

| Key Issue | Brief description of responses | Typical challenges |
|------------------|---|---|
| Land and shelter | 1) Understand existing or underlying land rights and claims, as well as the intentions of affected families and communities; 2) Select, plan and manage sites for transitional shelter. 3) Decommission temporary shelters through land and housing solutions for all disaster victims. | 1) Conflicts between displaced and host communities and between host communities and the Government; 2) Difficulties in establishing the amount of land required for transitional shelter. 3) Selection of unsuitable sites by governments, international agencies and/or affected groups. 4) Difficulties decommissioning transitional shelters due to lack of land and housing options for the landless. 5) Population of temporary shelters by victims of poverty who are not victims of disaster. |

Further reading

The Sphere Project: Humanitarian Charter and Minimum Standards in Disaster Response. See www.sphereproject.org

Office of the United Nations Disaster Relief Coordinator (UNDRO), (2008) *Shelter after Disasters*, www.sheltercentre.org

4.2 Land and human rights protection

Rights to land are integral to the enjoyment of essential human rights of all displaced individuals and communities and critical to the protection of vulnerable groups. People affected by disaster have:

- The right to be free of discrimination on the basis of property;
- The right to adequate housing, including security of tenure; and
- The right to protection and recovery of land and property left behind due to displacement.

These rights should be interpreted in the broader context of rights to live in freedom, safety and dignity, with sufficient access to information and assembly to make informed decisions about locations for shelter and livelihoods. This Section describes steps to support human rights relating to land after a natural disaster under the following headings:

- How to Assess Land and Protection Issues
- How to Protect Land Left behind by Displaced Persons;
- How to Restore Land Left behind by Vulnerable Groups;
- How to Restore Land in Customary Environments;
- How to Facilitate Proof of Legal Identity; and
- How to Facilitate Inheritance of Rights to Land by and Children.

4.2.1 Land and protection issues: needs assessment

Responses to the following inquiries on land and protection issues should be analyzed jointly with data collected by the multi-sectoral needs assessment (see Section 3.1). Critical issues to assess include:

Displacement risks. Are displaced persons concerned about living on unsafe land, tensions with host communities, or insufficient access to land for livelihoods?

Dispossession risks. Are displaced persons worried about losing land that they have left behind? What are the key threats to such land? To what extent are government restrictions on returns justified on grounds of public safety? Will people prevented from return be compensated through due process and adequate compensation or alternative land?

Restitution risks. How many people have been displaced? What are the key threats to return and recovery of land to displaced persons? Are displaced people’s properties occupied? What are the institutions that will manage restitution of land to displaced persons?

Documentation Issues: Have displaced persons lost land and personal identity documents? What institutions will provide new or replacement documents? What evidence must be produced in order to obtain the new documents? Are alternative forms of evidence available – utility bills, tax receipts, neighbour testimony?

Discrimination risks. How many displaced persons were renters? How many lived in informal settlements prior to the disaster? How many displaced landowners are women? Is there gender-disaggregated

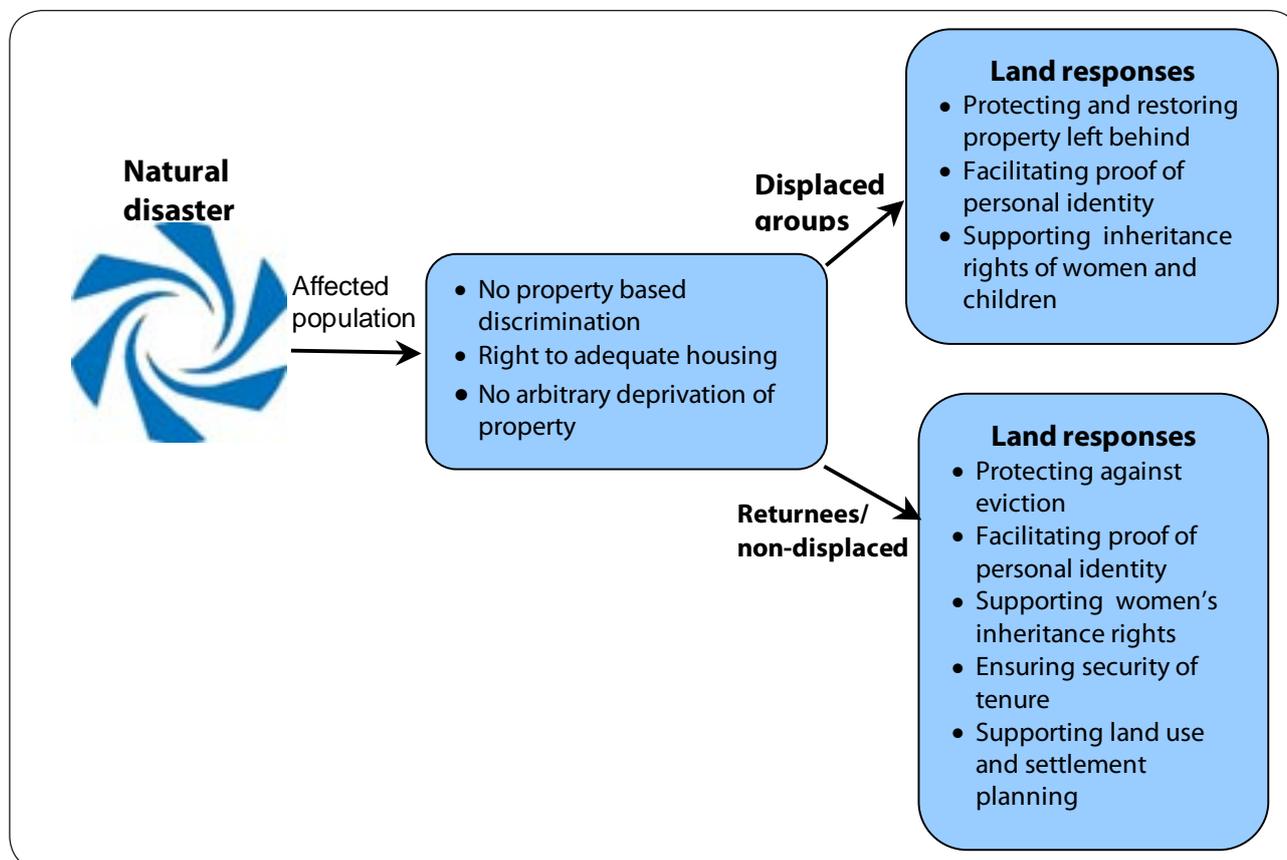


Figure 9. Land and human rights after a natural disaster

data on different types of rights to land, and is this data correlated with the existing information on persons killed or displaced? What formal or customary mechanisms exist to secure the land rights of orphans? Do vulnerable groups lack proof of personal identity, or was their documentation damaged or destroyed in the disaster? Do legal procedures relating to documentation and inheritance discriminate against poor and vulnerable groups? Are there discriminatory barriers to access to justice for poor and vulnerable groups?

4.2.2 Standards on protection of land left behind by displaced persons

Displacement gives rise to risks of looting, destruction and appropriation of land, particularly in countries with weak land governance systems where:

- Land records and data are incomplete, inaccurate or out-of-date, or have been destroyed by the hazard;
- Government capacity to enforce property rights and the rule of law is weak;
- Poor and vulnerable groups face disproportionate obstacles to protecting their land through formal institutions; and
- Institutional corruption and legal uncertainty facilitates land-grabbing by socially powerful groups.

The risks of looting is greatest in the immediate aftermath of the disaster when law enforcement or land administration officials are absent and existing systems are in a state of chaos. The risks of wrongful appropriation of land may emerge over time as a result of:

- Opportunistic actions by neighbors, relatives or outside speculators who take advantage of people with weak or insecure rights to land;
- Unjustified declarations by government – sometimes in alliance with commercial developments – that certain areas are unsafe for house reconstruction; or
- Occupation by other individuals or groups seeking shelter and livelihoods after a disaster.

Immediately after a disaster, humanitarian actors should encourage relevant authorities to take necessary measures against looting, destruction and wrongful appropriation of land left behind by displaced persons. These actions can include official statements that rights to land will be protected, and support to community-based groups in monitoring and documenting land and house occupations.

Every effort should be made to locate transitional shelters close to pre-disaster homes to facilitate protection of land by displaced persons themselves. Transparent and participatory community mobilization techniques can also be effective mechanisms to protect land left

“Everyone has the right to own property alone as well as in association with others.”

“No one shall be arbitrarily deprived of his property.”

Universal Declaration of Human Rights, Art. 17.

“Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.”

UN Guiding Principles on Internal Displacement, Principle 21

behind by displaced persons. Examples include involvement of displaced persons in community-based agreements on land rights and locations, as set out in Section 5.1. Ultimately, the best form of land and property rights protection for displaced persons is return and recovery of land.

Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were disposed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

UN Guiding Principles on Internal Displacement, Principles 28-30.

Restoring pre-disaster land rights is the preferred response to displacement caused by natural disasters.

4.2.3 Standards on restoring land to vulnerable groups

Restoring pre-disaster land rights is the preferred response to displacement caused by natural disasters. Delays in the restoration of land rights of displaced persons may:

- prevent displaced persons from accessing their pre-disaster sources of livelihoods;
- lead to dependence on humanitarian assistance as residual caseloads of displaced victims face long-term periods in temporary shelters or housing;
- expose vulnerable groups to sexual or economic exploitation and other human rights violations in temporary shelter locations; and
- inhibit access to appropriate social services, particularly for the disabled and elderly.

Restoring land rights after a natural disaster

In all natural disasters involving displacement, there will be residual caseloads of people unable to return their pre-disaster places of residence, requiring more active interventions to achieve return and restoration of land rights. This category includes:

- *Women and children* whose rights and access to land depend on husbands or male relatives who are deceased or missing;
- *Tenants*, whether agricultural or residential, who could not afford to pay rents, or who were otherwise refused access to their former land.
- *Informal landholders* and occupiers of public or private land who could not return because access is denied, or because their house would not be rebuilt due to lack of legal tenure.
- *Customary landholders* or other secondary rights holders who lost common property or other access, mobility and use rights to land necessary for shelter or livelihoods.

Gender disaggregated data

Gender-disaggregated data must be collected and updated in order to plan restitution programs for women and assess their impacts. This data should not simply count the number of joint land ownership documents or the number of women involved. More extensive evaluations are required on restitution effects, subsequent transactions

(formal and informal), inheritance processes, access to credit and effective access and use of the land.

Land tool alert! World Bank (2003), *Gender Issues and Best Practices in Land Administration Projects: A Synthesis Report*, www.worldbank.org/INTARD/Resources/Gender-Land/

Global Land Tools Network (2009), *Gender Evaluation Criteria for large-scale land tools*, gltm.net

Disaster Watch – an initiative of the Groot International and the Huairou Commission to enable women and communities to strengthen community resilience. <http://www.disasterwatch.net/>

Legal aid and information programs can support women's legal rights to land, particularly when those rights are recognized by law but denied by political or traditional leaders or state agencies. Advocacy campaigns to support women's equal land rights and access are crucial measures when needs-assessments identify social and legal forms of discrimination against women. Local NGOs and grassroots organizations are often best-placed to deliver these types of advocacy campaigns due to their out-reach capacity and familiarity with the context.

Land tool alert! Norwegian Refugee Council, *Information, Counseling and Legal Assistance Programs (ICLA)*, www.nrc.no

Mechanisms to restore land rights should support joint recording of co-owned marital land in the names of the husband and wife. NGOs and donors undertaking community land mapping, or assisting with land rights documentation, should also ensure joint recording of marital property. Section 5.1 on Security of Land Tenure provides further guidance on gender-sensitive tenure security measures.

Land tool alert! BRR and BPN (2006), *Guidelines for Joint Land Titling in Relocation Areas (Tsunami-Affected Indonesia)*, www.e-aceh-nias.org

Addressing the land rights of children, the elderly or other vulnerable groups.

The following responses can address the risks to orphans presented by land grabbing or abuse of power by guardians:

- Restoration programs should register land rights in the name of eligible orphans rather than their guardians.
- There should be a separate inventory of all landowning children orphaned by a disaster, the names and addresses of their guardians, and the location of their land holdings.

Mechanisms to restore land rights should support joint recording of co-owned marital land.

Box 14. When should early recovery actors support government programs to restore land rights

Early recovery actors should support government land rights restoration programmes that comply with international standards.

States should establish and support equitable, timely, independent, transparent and non-discriminatory procedures, institutions and mechanisms to assess and enforce housing, land and property claims.

States should ensure that housing, land and property procedures, institutions and mechanisms are age and gender sensitive, and recognize the equal rights of men and women, as well as the equal rights of boys and girls, and reflect the overarching principle of the “best interests of the child”.

Everyone who has been arbitrarily or unlawfully deprived of housing, land and/or property should be able to submit a claim for restoration and/or compensation to an independent and impartial body, to have a determination made on their claim and to receive notice of such determination. States should not establish any preconditions for filing a restitution claim.

States should ensure that all aspects of the claims process, including appeals procedures, are just, timely, accessible, free of charge, and are age and gender sensitive. States should adopt positive measures to ensure that women are able to participate on a fully equal basis in this process.

Based on the Principles on Housing and Property Restitution for Refugees and Displaced Persons (“the Pinheiro Principles”), Principles 12 and 13.

- International actors should coordinate with national and local actors to identify and support specialist institutions to monitor guardians of landowning orphans.
- Interventions should also identify and address the specific needs of the elderly, handicapped or other vulnerable groups;

Tenants and informal landholders

Section 5.2 on *Land and the Landless* sets out options to deliver land and housing for tenants and informal or extralegal occupiers after a natural disaster.

4.2.4 How to restore land and property rights in customary environments

Characteristics of return in customary environments

Strong customary systems of land governance will have the capacity to manage return and recovery of land by displaced community members where they remain intact after disasters. This may require allocation of surplus land to returning group members, raising problems where there is (1) limited surplus land due to population pressure, lost land, etc., (2) limited formal recognition of customary rights to surrounding common property areas, or (3) exploitive, non inclusive, or otherwise problematic customary leadership.

Strong customary systems may also have the capacity to manage return and recovery of land for community outsiders. Many customary systems manage long-term processes of migration and displacement through traditional mechanisms of granting temporary use-rights, forming alliances and inter-marriage. While these mechanisms can take time, and carry risks of discrimination and abuse of power, they will operate in most customary environments, with or without external recognition.

In strong customary land environments, external mechanisms for adjudicating return and recovery of land can exacerbate latent conflicts if local processes and hierarchies are not sufficiently understood or recognized. While customary mechanisms can be time-consuming and require safeguards against discrimination, they may offer greater prospects for successful return and reintegration of community outsiders than externally imposed restitution institutions.

In areas where local customary systems meet the tenure needs of community members without the need for land documentation, the involvement of external actors such as housing providers can generate pressure for documentation programs to accompany return and recovery of land. The extension of land documentation into previously undocumented areas, particularly rural areas with customary land governance systems, can create overlap between state and customary law. Without an adequate regulatory and institutional framework, the resulting legal pluralism can foster long-term conflict and uncertainty.

Measures to return land in customary environments

Humanitarian and recovery actors should understand and facilitate customary mechanisms for return and recovery of land. In countries where customary law and practice enjoys social legitimacy, these mechanisms will likely be the default mechanism for returning land. Other criteria may include:

- Land available to returnees in areas under traditional control;
- Recognition of customary claims to land that is available for returnees;
- Absence of land-related conflicts with adjacent communities;
- Adequate safeguards to protect the housing, land and property (HLP) rights of IDPs, women and vulnerable groups.

Where there is insufficient customary land available for returnees, humanitarian and recovery actors should be alert to the resulting potential for conflict within customary systems and prepared to :

- Avoid winner/loser models of legal adjudication;
- Emphasize negotiated solutions through mediation by trained local facilitators; and
- Use interim “no violence” solutions prior to final resolution of any claims.

Land tool alert! FAO (2006), Land Tenure Alternative Conflict Management Manual, www.fao.org

Where necessary to ensure sustainable return for all persons affected by a natural disaster, humanitarian and recovery actors should support legal recognition of customary group claims to land, while taking care not to advantage one customary group’s claim over another. Humanitarian and recovery actors will have limited knowledge of disputes between customary groups, and should seek a balanced view of any disagreement among customary groups.

Humanitarian and recovery actors should support the ‘welcoming capacity’ of customary systems, meaning the capacity to manage return and recovery of land for persons who are not members of a customary group. Where the customary group does not allow non-members to exercise these rights, humanitarian and recovery actors should support:

- Efforts to ascertain why such practice is not allowed, with a view to understanding whether or not there is an underlying grievance or dispute.
- Local institutions that include representatives from affected groups (including the customary group(s)), particularly where they emphasize negotiated settlements through use of trained mediators.

Every human being has the right to recognition everywhere as a person before the law.

To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

UN Guiding Principles on Internal Displacement, Principle 20

- Legal aid and information services for appeals to Courts of Law, in so far as they are available.
- Investments in infrastructure which will benefit both the local community and the displaced community.

4.2.5 Land and proof of legal identity

Proof of legal identity is closely connected to protection after a natural disaster as it is often necessary to access a range of basic services, including health, education and utilities, or to restore legal rights to land. Disaster victims without land records or the ability to prove legal identity can be excluded from humanitarian and early recovery programs or forced to pay bribes to government officials or purchase forged identity documents.

Legal identity is often related to tenure status. People with insecure forms of tenure, including agricultural tenants and informal occupiers, are less likely to have birth records and other legal identity documents. In many countries legal identity records do not exist or are limited to residents of formal urban areas. People who move to informal urban settlements may also lose their legal identity status because they have breached restrictions on relocation without official permission.

Some individuals may, however, prefer the anonymity that comes with a lack of clear legal identity. The fluid and sometimes conflictual post-disaster environment may actually enhance the recovery and livelihood strategies of vulnerable groups. With legal certainty, for example, the risk of eviction or discrimination from benefits may increase.



Girl displaced by the disaster, Indonesia

source: UN-HABITAT

Community-based proof of personal identity

Community-based approaches can provide rapid mechanisms to confirm individuals' identity and eligibility for aid in circumstances of state weakness or lack of capacity and avoid the need to rely on inaccurate or discriminatory government records. Where a disaster-affected area includes well-organised local communities, community-based identification of members can substitute for documentary evidence of legal identity so long as:

- There are safeguards relating to (1) transparency, (2) public notice and (3) prevention of discrimination; and
- There are no legal restrictions on community-based mechanisms to confirm identity for humanitarian purposes.

Where humanitarian actors do rely on community-based mechanisms for proof of identity, the transition from humanitarian relief to sustainable development should incorporate measures to ensure formal recognition of beneficiary identities as set out in Section 5.1.

Legal proof of identity

Legal proof of identity will be important for humanitarian purposes when:

- Local or community-based mechanisms are not able to identify eligibility for humanitarian assistance because of social conflicts or population displacement; and
- The state requires proof of legal identity in order to access shelter, public services, utilities and infrastructure.
- Legal identity involves recognition by a state that a person exists for the purposes of legal obligations and capacity and relies strongly on records, including birth registrations and national identity cards. Potential responses to legal identity issues after a disaster include:
 - Advocacy and support for relevant government agencies to restore and provide personal identity documents to disaster victims.
 - Support for mobile identity documentation units where victims are dispersed, or local government agencies are unwilling or unable to restore and provide identity documents in a timely manner.
 - Support for campaigns to raise awareness among disaster victims of documentation rules and programs.
 - Monitoring of proof of documentation efforts by civil society organizations.
 - Advocacy for appropriate safeguards relating to privacy and abuse of government power.
 - Support for alternative mechanisms of proof of identity and recognition of non-traditional forms of evidence (e.g., utility bills, tax receipts, oral testimony of neighbours).

Box 15. Mobile teams for personal identity verification in Pakistan

Following the 2005 earthquake in Pakistan, the Government's livelihoods and housing reconstruction programmes were designed to be accessed through family units. Some 20,000 survivors, however, found themselves with no relative and no legally recognized identity document. The problem of identity documentation was further compounded by other practical challenges including: inaccurate survey data, loss of property records, situations in which inheritance rights have not been formalized, joint ownership cases, and owner-tenant eligibility issues. Collectively, these issues placed a premium on correctly identifying people, their age and address. The Government, through the National Database and Registration Authority (NADRA), had developed a sophisticated system of computerized national identity cards (Computerized National Identity Card or CNIC). The post-earthquake challenge was to extend this system to rapidly reach affected families who had either lost or never possessed a CNIC. In partnership with ERRA and the World Bank, NADRA developed a specialized software and database to assist in identifying and verifying individuals who could claim funds as victims. Local registration centers were established in most towns, and mobile units were used to help with registration. Ultimately, NADRA processed some 1.2 million requests for CNIC, playing a critical role in restoring livelihoods and rebuilding houses.

Adapted from Robert Home and Nilofer Afridi Qazi, (2008) *Case Study of Pakistan Earthquake*, <http://www.glt.net/en/e-library>

Box 16. Inheritance of rights to land after hurricane Katrina

Successions and inheritances proved to be problematic after Katrina, particularly for poorer families who had avoided costly and complex legal requirements for handling the estates of deceased family members, leaving survivors without legally valid documentation of their rights.

In some cases, two or three generations of successions of heirs emerged to peri-urban household plots, many without updating title. Most people neither understood the requirements for a legal succession nor basic rules such as the fact that the eldest do not automatically inherit everything and that adopted children and legitimate children from prior marriages have rights.

J. David Stanfield et al. (2008) *The Challenges of Sudden Natural Disasters for Land Administration and Management: The Case of the Hurricane Katrina in New Orleans*, <http://www.gltm.net/en/e-library>.

4.2.6 Land and inheritance rights

Inheritance is a key means by which women access land and can therefore be a time-critical early recovery issue, particularly after disasters that have high mortality rates.

Potential responses to address land inheritance barriers after a disaster include:

- Programs aimed at improving access to justice.
- Advocacy and information campaigns in support of affected women and children.
- Early collection of age and sex-disaggregated data and identification of the numbers of widows and orphans affected.
- Anticipation and management of local resistance to inheritance of land rights by women through (1) information and rights awareness programs, and (2) justice mechanisms that allow women to take claims beyond the family and community levels.
- Support for information programs and tenure security mechanisms that explicitly identify marital land as co-owned by a husband and wife.
- Support for human rights-compliant customary or family-based mechanisms for identifying heirs.
- Integration of customary or family inheritance agreements with mechanisms to restore tenure security in a manner allowing disputes to be referred to appropriate institutions.
- Advocacy and capacity-building support for inheritance disputes to be managed at the lowest administrative level possible (where they cannot be resolved at the family, community, or customary level).
- Advocacy and capacity-building support for Courts to verify and recognize customary or family agreements, and to resolve disputes referred by family members or local government officials.
- Advocacy and capacity-building support for mediation of inheritance disputes, both at the community level and in the Courts.
- Diversification of legal requirements for processing claims, and/or requiring all co-owners to consent to sale or rebuilding.

Evidence is critical to the clarification of legal identity in inheritance settings. Evidence may be formal, customary or informal as long as it is considered legitimate by the community. Formal adjudication systems often accept only physical evidence such as titles, deeds or surveyed maps showing physical borders of parcels and will exclude other forms such as oral evidence, testimony, customary demarcations, etc. Customary systems are generally more open to accepting alternative forms of evidence.

Further reading

UNHCR, UN-HABITAT, OHCHR, UNOCHA, IDMC/NRC & FAO, (2007) *Handbook on “Housing and Property Restitution for Refugees and Displaced Persons – Implementing the Pinheiro Principles”*, <http://www.humanitarianreform.org/Default.aspx?tabid=54>

PCWG, (2007) *Land Property, (Part V.11), Handbook for the Protection of Internally Displaced Persons (Provisional Edition)*, <http://www.humanitarianreform.org/Default>.

I-S Aursnes, C Foley, (2005) *Property Restitution in Practice: The Norwegian Refugee Councils’ Experience*, <http://www.humanitarianreform.org/Default>.

Box 17. Relaxing inheritance requirements in Louisiana

The Road Home program initially required that the possessors of properties who requested disaster related assistance had to have legal title or a Judgment of Possession for inherited property to qualify. This requirement excluded many people who could qualify only after lengthy and costly procedures.

The Road Home eventually agreed to accept an affidavit signed and sworn by all heirs as to their status as heirs. But these arrangements have only been accepted for Road Home petitioners. The affidavits prepared for the Road Home generally would not be accepted by Louisiana Title companies, as legal proof of ownership. As a result, if the possessors of damaged properties wish to sell them to the Road Home, they must still follow the standard legal procedures for clarifying successions. The Road Home also now allows for the surviving spouse to sign the Road Home covenants without the participation of the “naked owners” (children) including minors and disabled heirs.

J. David Stanfield et al. (2008) *The Challenges of Sudden Natural Disasters for Land Administration and Management: The Case of the Hurricane Katrina in New Orleans*, <http://www.gltn.net/en/e-library>.

4.3 Land, agriculture and rural livelihoods

While improvements in tenure security and land use practices can foster resilience to disasters through increased food security and environmental sustainability, mismanagement of these issues can increase vulnerability through unsustainable land use and insecurity of tenure. This Section considers land, agriculture and rural livelihoods under five headings:

- How to Understand Natural Disasters and Agricultural Land.
- How to Assess Land Needs in the Agriculture Sector.
- How to Support Agricultural Tenants.
- How to Support Community-Based Land and Resource Management Systems.
- How to Support Women's Rights to Rural Land.

For additional information, see Section 5.2, on Land and the Landless; and Section 5.4 on Land Use and Settlement Planning.

4.3.1 Agricultural land, livelihoods and natural disasters

Before the disaster: sources of vulnerability

Vulnerability to natural disasters tends to correlate with dependence on agricultural land for livelihoods in situations where:

- Destruction or inundation of agricultural land creates food shortages and removes primary source of incomes and livelihoods; and
- The risks of lost livelihoods are not diversified through non-farm employment.

Weak land governance can also enhance vulnerability in the agricultural sector through:

Unsustainable land use: failing to provide incentives for sustainable use of natural resources (including water, forests, etc.) through secure property rights and appropriate recognition and regulation of community-based land use systems;

Insecurity of land tenure: providing insufficient tenure security for landholders to increase agricultural productivity through investment and development of agricultural surpluses for market sale;

Discrimination against women: failing to provide incentives for sustainable investment and development by recognizing the key economic decision-making role of women, both within households and in the broader economic sphere.

Discrimination against secondary rights-holders: failing to protect secondary rights holders such as agricultural tenants from landlessness or food insecurity, the mobility and use rights of pastoralists, informal settlement occupants from the risks of arbitrary eviction; and

Barriers to market access: excluding informal, legal or unrecorded landholders from formal markets for agricultural credit.

Disaster impacts: lost land and population displacement

Natural disasters often have immediate physical impacts on agricultural and forest lands. Land may be unsafe for return and restoration of livelihoods or lost through destruction, inundation, contamination or salination.

Displacement can exacerbate the effects of disaster by removing people from their sources of livelihoods, including forests and fisheries. Displacement and loss or destruction of land tends to have a disproportionate livelihood impact on the landless because they have less access to social insurance networks, including the asset of land itself and are more likely to lose access to land should rents rise after a disaster, or landowners refuse to allow their return.

4.3.2 After disaster: coping strategies and changes in resource use

After a disaster, displacement and loss of livelihoods can create clusters of over-production and consumption in the agriculture, fisheries and forestry sectors. Displaced persons can:

- Congregate around agricultural land, water-points and other sources of livelihoods;
- Occupy land claimed by others, including land that has no formal owners but was used seasonally and is vacant at the moment of the disaster; and
- Adapt coping strategies that involve large-scale shifts in resource use or consumption.

Coping strategies, settlement preferences and changes in resource use can be difficult to predict after a disaster. Often, they will draw on cultural histories of adaptation to the local environment. They will also be affected by local land tenure patterns and relationships. Those who are most likely to migrate or change their methods of resource use are people with small land holdings or no access to land at all.

Land is a central asset for restoration of rural livelihoods after a disaster. It provides food, cash incomes, and access to social networks and other forms of capital, including financial capital. There is a direct link between secure rights to land and improved rural development outcomes in relation to food security, health and welfare. Equitable access to secure property rights is also essential to minimize welfare dependency, food insecurity, unsustainable rural-urban migration, and vulnerability to future disasters.

18. Land tenure and vulnerable agricultural systems in Grenada after hurricane Ivan

The impacts of Hurricane Ivan in 2004 illustrated the vulnerability of Grenada's agricultural sector and brought long-standing land tenure issues to the foreground. Agriculture in Grenada is increasingly the domain of elderly farmers dependent on two tree crops, nutmeg and cocoa, for their cash earnings. The devastation to Grenada's nutmeg, cocoa, and banana plantations showed the need for a more diversified approach to farm production, including wind-resistant crops and small livestock. An over-reliance on tree crops increases vulnerability to natural disasters, since cocoa trees take approximately 7-8 years to reach maximum production, and nutmeg 20-25 years. In the wake of Hurricane Ivan, earlier failure to recognize and formalize family or group ownership as a legally valid element of Grenada's land tenure system prevented many farmers from accessing the necessary loans for investing in agricultural improvements, diminishing Grenada's overall agricultural productivity.

G. Barnes, G. Riverstone (2008) Post – Hurricane Land Issues Case Study: Hurricane Ivan (2004) in Grenada. <http://www.glt.net/en/e-library>

Displacement can exacerbate the effects of disaster by removing people from their sources of livelihoods.

Box 19. Land and rural vulnerability in Myanmar after cyclone Nargis

Land ownership is the primary dividing line between wealth groups in Burma. Typical “poor” households represent 10 to 25% of the population (or about 40% of landholders) and only own around 1-5 acres of land. Small parcel sizes and poor locations result in low production, leaving such households less able to cope with shocks than their better off counterparts.

About 45 to 55% of rural households comprise very poor landless laborers who earn their food and cash income from agricultural labor and salt extraction from seawater. Landless laborers are most vulnerable to any change or shock that reduces the market price of labor. The high proportion of landless households is indicative of an area with high pressure on land; as the population increases, the number of landless households is expected to rise. In the absence of alternative income opportunities to agriculture, further impoverishment can be expected for the poorest landless population.

Adapted from FAO, Myanmar Emergency and Rehabilitation Program: Assessment for the Cyclone Nargis-Affected Areas 2008.

Care should be taken to ensure that measures meant to strengthen the land rights of women and vulnerable groups such as tenants do not have the opposite effect. Stronger groups such as male heads of household or landlords perceive such policies as a threat and may take pre-emptive action. Figure 10 below summarizes the relationship between land, livelihoods and natural disasters.

4.3.3 Rural land and livelihoods needs assessment

The following questions can guide assessment of rural land issues after a natural disaster.

Land use. What are the main uses of land and associated resources for rural livelihoods? How has the disaster affected land and resources so as to change or remove sources of livelihoods? In what season did the disaster occur? Do people have other assets or savings/deposits on which they can draw?

Agricultural leases and rental arrangements. Are agricultural leases and other forms of rental arrangements unwritten, unrecorded or highly dependent on local power arrangements? What are the primary mechanisms by which poor and vulnerable groups access to land for rural livelihoods? To what extent are different arrangements and means of accessing land (including forest areas) recognized by formal law and state officials?

Land Tenure. What are the categories and types of rural land tenure in the affected area? How many people can be defined as landless and jobless, without any alternative livelihood options? How many landholders own plots or parcels that are too small for agricultural surpluses or sustainable livelihoods? Do livestock owners have seasonal rights to graze their animals on another’s land after harvests and/or during fallow periods?

Women’s rights to land. Do household structures and formal land records discriminate against women’s rights to land? To what extent do rural women access land through their relationship with a husband or male relative? How effective do intra-family or community mechanisms appear to be in terms of protecting the land and property rights of women and vulnerable groups?

Customary arrangements with outsiders. Do customary groups have long-standing arrangements for outsiders and subsidiary groups to access traditional land on a usufruct (but not ownership) basis?

Overlaps between local claims and state claims to land. Do local communities access state or private concession on the basis of their traditional claims to that land?

Coping strategies. Where have displaced groups clustered immediately after the disaster? Are these clusters putting pressure on local natural resources? To what extent have people affected by disaster, including poor farmers and landless groups, changed - or planned to change - their livelihoods strategies after the disaster?

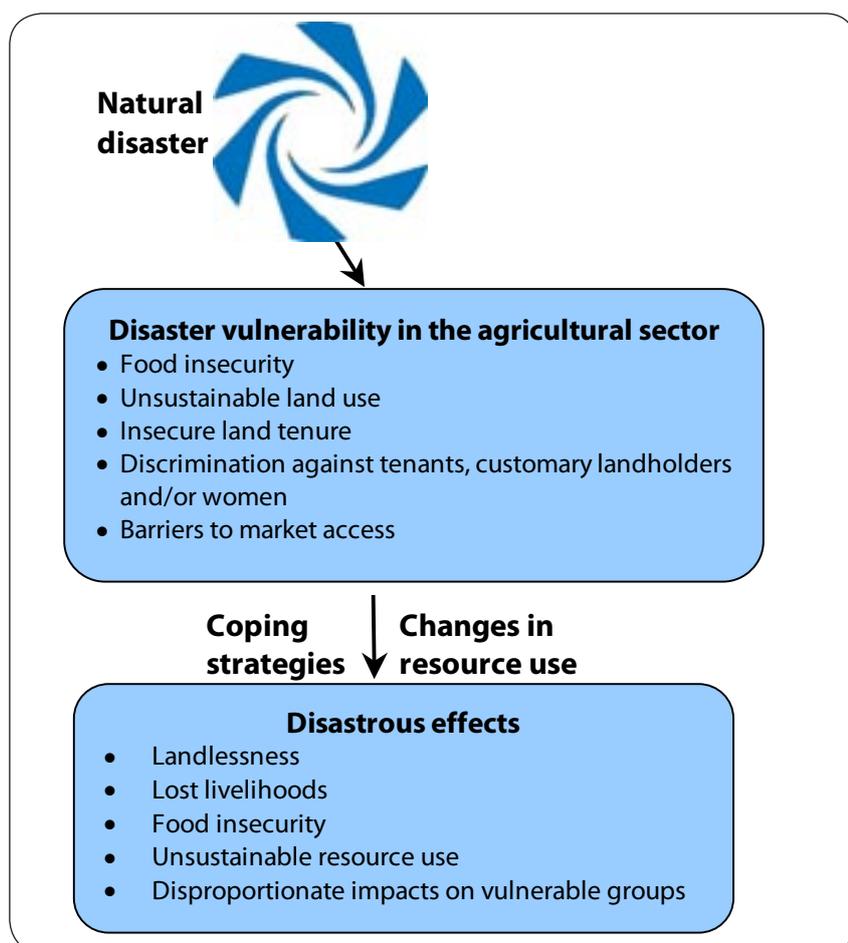


Figure 10. Land issues and responses

4.3.4 Support to agricultural tenants

Agricultural leases and rental arrangements are a common means for rural people, especially the landless, to access land for food and agricultural production. After a disaster, agricultural leases can take on particular importance because they are responsive to rapid changes in land, livelihoods or capital. Hence they can be used as a means to provide access to land and livelihoods for people who would otherwise be excluded.

Agricultural lease arrangements can also be a source of food insecurity where displaced tenants are not allowed to return by landlords, or due to exploitative terms in the pre-disaster agreement. Agricultural leases require safeguards against exploitation and abuse of power.

FAO recommends the use of model agricultural lease arrangements that include the following elements:

- Names of the parties;
- Commencement and duration of the agreement;
- Description of the property;
- Amount of rent, or other arrangements;

- Rights to possession and use on the part of the tenant;
- Obligations to maintain the land;
- Provisions concerning the condition of the land on its return to the landowner;
- Provisions on improvements or changes of use, and any legal consequences upon completion of the contract;
- Arrangements for compensation;
- Responsibility for paying taxes and other charges;
- Dispute-resolution procedure;
- A record of the agreement;
- An explicit right of reversion, without which the landlord may not lease or rent at all.

Further FAO recommendations relating to agricultural leases include:

Sustainability. Regulatory intervention may require the parties to engage in sustainable land use practices.

Equity and fairness. Policy, technical and operational measures are needed to promote equity and fairness between the parties, especially where there are significant power imbalances as between landlord and tenant.

Transparency. Transparency in the process of negotiating agricultural leases helps to minimise corruption

State intervention. Regulatory intervention should be facilitative rather than overly prescriptive, particularly as too much regulation can create informality in the agricultural lease sector (See Jim Riddell (2000), Agricultural Land Leases and the Development of Effective Land Registries, www.fao.org/sd/LTdirect/LTan0036.htm).

Land tool alert! FAO, Good Practice in Tenancy Arrangements, www.fao.org.

4.3.5 Support to community-based land and resource management systems

Community-based land governance systems can support effective responses to displacement and promote sustainable resource use after a natural disaster. While safeguards are necessary against local abuses of power, early recovery actors can build on community incentives to maintain social order and ensure sustainable resource use through appropriate facilitation, capacity-building and legal or institutional support. Because so much has been written on the topic of community-based natural resource management (CBNRM), these Guidelines will simply reference a few useful tools and links.

Land tool alert! Community Based Natural Resources Network, a portal of actors and resources engaged in CBNRM. See <http://www.cbnrm.net/>

Land tool alert! IFAD (2006) Community Based Natural Resource Management See <http://www.ifad.org/pub/other/cbnrm.pdf>

Land tool alert! John Lindsay (1998), *Creating and Legal Framework for Community-Based Management: Principles and Dilemmas*, www.fao.org/docrep/,

Land tool alert! Daniel Fitzpatrick, (2005) 'Best Practice' Options for the Legal Recognition of Customary Tenure Development and Change 36(3), 449-475.

4.3.6 Support to women's rights to agricultural land

Strengthening rural women's rights to land after a natural disaster is good economic and development policy. Women are important actors in agriculture-based systems. They are responsible for most of the household and child-rearing work, contribute directly to agricultural labor and are responsible for food and livelihoods should their husbands or male relatives die or go missing in the wake of a disaster.

Shelter and livelihoods programs involving the documentation of tenure in rural areas may risk discriminating against women by formalizing rights to land in the name of men only. However, such programs are operating in the context of longstanding traditional rules; therefore attempts to engage in systematic social reforms must be undertaken with sensitivity and a 'do no harm' perspective. Options for securing women's land rights include:

- Assessments of existing formal and customary rights for women;
- Targeted information campaigns on the importance of documenting women's rights to land, including rights that do not amount to ownership;
- Development of gender-sensitive land document databases that have fields related to women's rights to land;
- Public meetings and site adjudications that takes into account language, education, household duties and transportation costs (including the possibility of holding separate women-only meetings);
- Monitoring of tenure documentation programs by local women's NGOs and grassroots organization.

Land tool alert! World Bank (2003), Gender Issues and Best Practices in Land Administration Projects: A Synthesis Report, www.worldbank.org/INTARD/Resources/Gender-Land/

Strengthening rural women's rights to land after a natural disaster is good economic and development policy.

Chapter 5 Land as a cross-cutting issue

Part 5 sets out five key land issues that cut across humanitarian sectors and action:

- Security of land tenure
- Land and the landless
- Land administration
- Land use and settlement planning
- Access to land for relocation and infrastructure

Addressing these issues can facilitate effective transitions from humanitarian relief to sustainable development after a natural disaster, as summarized in Table 9 below.

Table 9. Summary of key cross-cutting land issues

| Land issue | Early recovery significance |
|--|---|
| Security of land tenure | Underpins durable shelter solutions Supports food security and rural livelihoods Supports private sector recovery, including the informal sector in urban areas |
| Land and the landless | Avoid residual caseloads Protects vulnerable groups |
| Land administration | Supports shelter and livelihoods solutions Contributes to restoring land markets Protects vulnerable groups |
| Land use and settlement planning | Encourages sustainable land use and resource management Supports disaster risk reduction Improves access to services and infrastructure |
| Land for relocation and infrastructure | Avoids residual caseloads Supports shelter and livelihoods solutions Supports disaster risk reduction |

5.1 Security of land tenure

Security of land tenure cuts across humanitarian sectors and it is critical to early recovery after a disaster, as outlined below:

Shelter. Housing providers need to know that they are building in the right place for the right people. A failure to identify land rights and claims, and obtain consent from all parties, can lead to or exacerbate disputes and insecurity in residential areas.

Protection. Security of tenure is critical to freedom from forced eviction. The human right to adequate housing includes the right to legal security of tenure.

Early Recovery. Eligibility for housing or livelihoods assistance is often conditioned on the ability to provide clear title to land. Early recovery actors may avoid working in areas where there is no clear legal title. Yet those who are most vulnerable to disasters are people who are not landowners, or who lack clear documentary evidence of rights to land.

Livelihoods. Disaster victims require secure tenure not only to protect their land from grabbing when temporarily displaced, but also to be able to invest time, labor and capital into productive uses of land, such as planting crops, repairing buildings and establishing small businesses. Tenure security is also important for access to common property resources, including forest and fisheries, as well as for access to credit from financial institutions.

Gender. Women who lack independent rights to land, and depend on access through their relationship with a husband or male relative face disproportionate risks of insecure land tenure after a natural disaster.

Disaster risk reduction. Disaster victims may be unwilling to move, even if for a short period, from hazard-prone areas when they perceive that their rights to land are insecure. Disaster risk reduction is also difficult when land rights holders cannot be identified for planning purposes, or are excluded from consultations over settlement planning.

This Section outlines steps to strengthen tenure security after a disaster under the following headings:

- How to assess needs for tenure security
- How to respond rapidly to tenure insecurity
- How to work towards long-term tenure security

5.1.1 How to assess needs for tenure security

Tenure insecurity after a disaster can be due to:

- Poor quality, incomplete, out of date or fraudulent land records prior to the disaster;
- Lost or damaged land records (including personal identity records);
- Inadequate legal recognition of forms of tenure other than ownership;
- Land grabbing by elites or powerful groups;
- Inheritance disputes among family or community members, particularly in relation to claims by women and children;
- Inappropriate measures to restrict reconstruction in areas designated as unsafe or set aside for future investment; and
- Breakdown of formal and customary land institutions.

These elements of tenure insecurity can be identified from the “multi-sectoral needs assessment”, land questions, set out in Section 3.1.1 on *Land Needs Assessments*.

“As soon as possible, appropriate measures should be taken, without discrimination of any kind, to allow for the speedy transition from temporary or intermediate shelter to temporary or permanent housing, fulfilling the requirements of adequacy in international human rights law. The criteria for adequacy are... security of tenure”

IASC Operational Guidelines on Human Rights and Natural Disasters, C.3.1 and C.3.2.

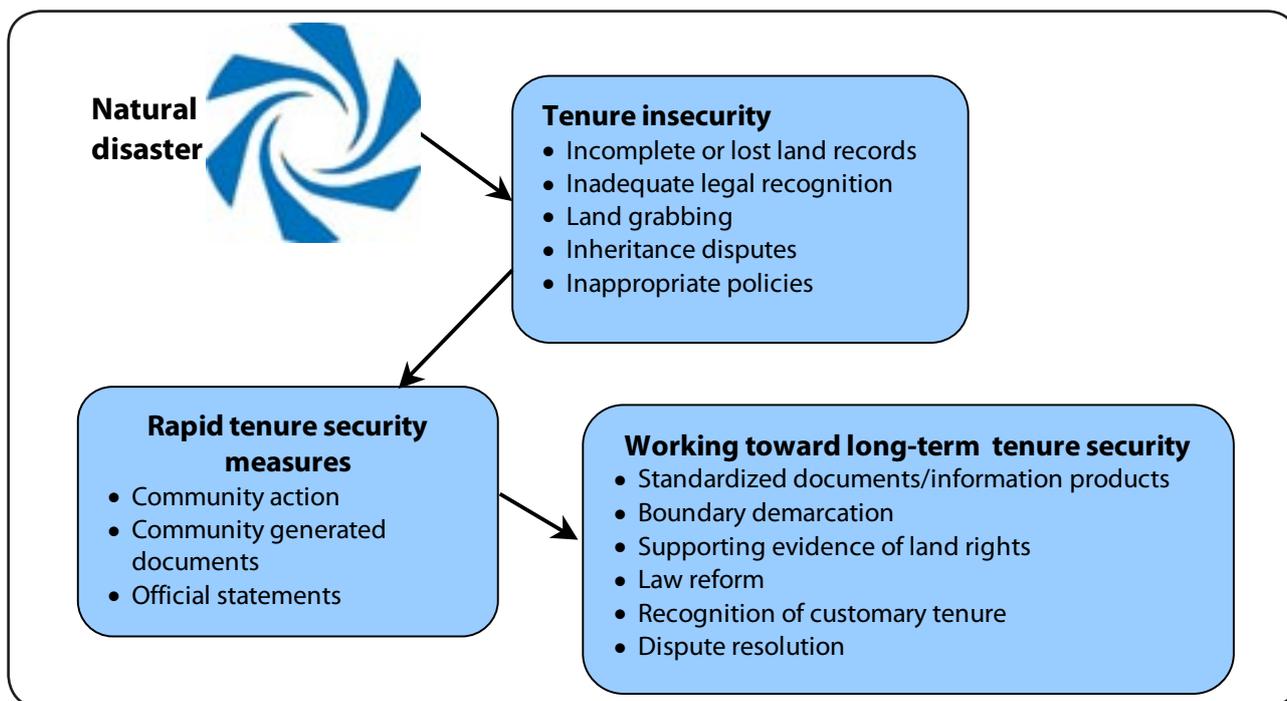


Figure 11. Time and sequencing tenure security measures after a natural disaster

Tenure insecurity is less likely to be a significant issue in cases in which:

- Disasters are small-scale or relatively localized;
- A regularly updated, secure, non-discriminatory, and inclusive national identity documentation system exists;
- There is good quality land data in relation to rights and parcels;
- There is relatively little damage to land records;
- There is a responsive and accessible land administration system;
- Government makes strong public statements promoting security of tenure for all citizens;
- There are responsive and accessible legal institutions to process claims to land and inheritance in a relatively conflict-free fashion;
- Strong local or customary land tenure systems that are sufficiently recognized by the state;
- There are few landless people or secondary rights holders;
- Land-related conflicts are effectively managed prior to the disaster by customary or statutory institutions; and
- There are no underlying or historical grievances between communities.

A strong system of customary authority may facilitate either shelter reconstruction or relocation.

A strong system of customary authority may facilitate either shelter reconstruction or relocation. Donors and shelter providers may proceed with reconstruction without official documentation provided that post-disaster assessments conclude that:

- Customary systems are sufficiently authoritative to allow reliance on undocumented identification of rights and locally accepted boundaries;

- Customary systems of land tenure are sufficiently recognized in law or have tacit Government support; and
- Adequate safeguards are in place to mitigate any risks to housing, land and property rights faced by women and vulnerable groups in customary systems.

5.1.2 Rapid response to tenure insecurity

Tenure security responses must be rapid so as not to delay return and reconstruction but must also be capable of upgrading land rights over time to ensure secure and sustainable legal rights to land.

Systematic land registration and titling should not be regarded as an appropriate post-disaster response. The fluidity of the post-disaster context does not lend itself to thorough adjudication of rights and claims and carries the risk of undermining underlying or competing claims. Moreover, degraded or weak land administration systems will be overloaded by attempts at rapid roll-out of a systematic titling program. The Aceh, Indonesia, experience with implementing the ambitious RALAS programme is illustrative (see Box 20 below).

Affected communities often quickly undertake informal tenure security measures such as placement of signs, flags and markers, tree cutting, plowing, and piling of rubble on previous house foundations. Early recovery actors should identify and build on community efforts to promote tenure security after a natural disaster and avoid undermining them with overly formalized approaches.

Relevant land administration authorities should publicly confirm that land rights will be respected after a disaster and initiate early and well-publicized measures to prevent land grabbing, such as temporarily suspending land sales, mandating local leaders to monitor land possession, and seeking to avoid loss of boundary-related terrain features during debris clearing.

Relevant authorities should also publicly confirm that evidence of customary tenure will be sufficient to facilitate housing reconstruction and farmland cultivation. If they are reluctant to do so, international actors may support advocacy efforts by civil society and NGOs to highlight the land and housing needs of unregistered, customary and informal landholders.

Rapid tenure security measures do not need to be based on undisputed and conclusive proof of land rights or boundaries. At the stage of house reconstruction, for instance, boundary marks will usually be present, and houses can be rebuilt towards the middle of the land parcel and away from disputed areas if necessary. Rapid tenure security mechanisms often take two forms: community-generated tenure documentation, and government records of ownership or occupancy.

Box 20. Community-generated tenure documentation in tsunami-affected Indonesia

Indonesia's Land Registration Manual for Post-Tsunami Areas provides an innovative "bottom-up" approach to systematic land rights documentation after a natural disaster. Under the community-driven adjudication (CDA) provisions of the manual, each landowner signs a statement of ownership that is endorsed by his or her neighbors and the village chief. These statements of ownership are then endorsed in a community meeting, which will also agree to a community map showing land parcels and boundaries. Where the landowner is deceased, the manual provides a form for family agreement and identification of heirs. This form is witnessed by the village head and village *imam*. The village head and *imam* will also endorse forms in the manual that identify guardians for under-age landowners. In both cases (i.e. inheritance and guardianship), a mobile Sharia Court provides legal confirmation of the decision by the village head and village *imam*.

Community-driven adjudication of land rights in Indonesia successfully provided sufficient security of tenure for house reconstruction but was less successful as a basis for the second part of the Reconstruction of Aceh Land Administration System RALAS Project, which involved systematic registration of all tsunami-affected land parcels. This was in part due to (1) insufficient legal support for community-driven adjudication, (2) capacity problems in the National Land Agency, and (3) difficulties integrating community-driven adjudication products with land registry maps and databases.

Source: Fitzpatrick, D. and Zevenbergen, J., (2008) *Addressing Land Issues after Natural Disasters: A Case-Study of Tsunami-Affected Aceh Indonesia*, www.glt.net.

Rapid tenure security through documentation.

Community-generated documents include:

- Signed statements of ownership verified by neighbors and/or community leaders;
- Placement of property or boundary markers by survivors in consultation with neighbors;
- Informal maps of land parcels, and the locations of terrain features such as trees, burial locations, ritual locations and public areas agreed through community mechanisms;
- Signed statements of inheritance verified by family members;
- Signed statements of guardianship of orphans verified by community members.

This approach to identification of housing sites and beneficiary lists and can be facilitated by NGOs or community leaders supported by rapid appraisal and community participation tools.

Community-generated tenure documents are particularly useful for reconstruction purposes where:-

- Community groups are relatively close-knit, and not too traumatized or dispersed to engage in cooperative decision-making;
- There are few disputes with adjacent communities;
- National and local government and land administration institutions are unable or unwilling to issue interim tenure documents in a timely fashion;
- Community-based mechanisms allow women to obtain secure rights and access to land.

Land tool alert! *BPN Decree 114-III/2005 on the Land Registration Manual for Post-Tsunami Areas*. This Decree includes detailed steps for community-driven adjudication of land rights and boundaries after the tsunami disaster in Indonesia. siteresources.worldbank.org/.../DFitzpatrick-AddressingLandIssuesafterNaturalDisasters.pdf

Community-based tenure processes should take into account the following issues:

- The identification of land boundaries through community-based methods needs to be supported by facilitators with appropriate skills to clearly mark the outcome with locally accepted boundary markers. These skills should always be used to support what already exists and works well on the ground, rather than be imposed with top-down approaches. Measures to prevent the opportunistic movement of markers may also be required.
- Checking community-generated land documents against pre-disaster land records may cause undue delays, particularly where such records are of poor quality.

- Community-driven processes focus on employing locally legitimate methods to confirm tenure for housing reconstruction, with secondary priority given to ensuring linkages with the formal land administration system.
- Significant advocacy may be required to convince national authorities of the advantages, particularly where land relations have become politicized or land disputes have arisen between the state and communities.
- In order to ensure that community-based methods do not deprive women or vulnerable groups of rights to land, risk analysis should be carried out and the capacity of excluded and vulnerable groups should be built so that they can be part of the process. The need for rapid strengthening of local tenure security must be balanced against the need to resolve long-standing and possibly deep-seated obstacles faced by women and vulnerable minorities over land.

Rapid tenure security through government records of ownership or occupancy.

The government or people affected by a disaster may retain some evidence of ownership or occupancy even where official records are largely incomplete, lost or damaged. Private evidence for rapid tenure documentation may include utility bills, electoral rolls, land tax payments or personal identity cards while relevant government records include:

- Pre-disaster satellite imagery or aerial photography to confirm land parcels and boundaries;
- Beneficiary verification against existing government records and other available lists;
- Public notice of documented land claims that are accessible to the entire displaced population, including vulnerable and linguistic minority groups, and set out specified complaint deadlines and dispute resolution mechanisms that take into account a flexible legal hierarchy of evidence;
- Provisional certificates of ownership or occupancy issued by the Land Department or local governments (which may be issued after the early recovery phase);

Government records of ownership or occupancy have a number of limitations as mechanisms to provide rapid tenure security prior to on-site house reconstruction:

- Documents such as utility bills, electoral rolls, land tax payments or personal identity cards are usually records of residence rather than ownership; they indicate the address, but not necessarily the land right, of the resident.
- Government records may not cover vulnerable groups who lived in informal or extralegal settlements. Government records may not even be accurate in relation to land when the underlying land governance system is poor in quality.

Land tool alert! Social Tenure Domain Model – capable of registering a range of land rights and claims, including community rights and overlapping rights and claims is being developed by the International Federation of Surveyors and ITC, within the umbrella of the Global Land Tool Network. See <http://www.glttn.net>

5.1.3 Long term tenure security

Rapid mechanisms to secure land tenure should generally be recognised or integrated over time with formal land administration systems in order to ensure that beneficiaries of shelter or livelihoods assistance gain long term tenure security through enforceable, legally recognised rights to their land. Exceptions to this rule exist where:

- Formal land records coverage is limited or non-existent,;
- Rapid mechanisms are accepted in the context of local or customary systems that successfully provide tenure security to their members;
- Local or customary systems have sufficient legal recognition to ensure that rapid tenure documentation generated under their auspices does not undermine their existing customary or secondary rights.

In all other cases, linking interim measures for tenure security to

Box 21. Post-disaster land regularization in Bhuj, India

Informal land tenure is a significant factor in a disaster such as the 2001 earthquake in Gujarat. Much of the government land identified in the land records was in fact occupied by informal settlers. This was a factor in Gujarat, although Kutch had the advantage of a relatively low population density. There were pressures on government to respond in a systemic manner to regularize property following the 2001 disaster. First, as noted above, regularization was a necessary prerequisite for a household to access assistance under the rehabilitation packages. The World Bank, Asian Development Bank and other donors providing funds to support housing reconstruction and infrastructure development also insisted on regularization, in part to address re-settlement and other safeguard policies. The disaster thus increases pressure for the mass regularization of land rights. There was no systemic response by government to this need. It took time for the government to respond to the needs of informal settlers and NGO input provided a catalyst for this response.

The example of regularization in Bhachau is illustrative of the response. At the time of the earthquake there were 15-20,000 households in Bhachau (about 45-60,000 people). Virtually all houses were destroyed in the earthquake. About 1,800 households (about 10%) could not produce land records documenting their rights. In 2003 the NGO, UNNATI, bought satellite imagery from prior to the earthquake to identify and mark plot boundaries. The average plot size was 50-80 m². The government Collector was responsive to the needs for regularization and a systematic regularization process was developed. A database was compiled of the 1,800 households, collecting information such as available records, use, socio-economic circumstances, preference to stay or relocate, status of construction, installments received and status of building permission. The regularization and reconstruction was mostly in situ. A land valuation committee was formed and land valued at substantially less than market prices. The amount to be paid by the informal settlers for the land, based on 2.5 times the assessed value plus a penalty, was about Rs 8,000 (USD 170) for 25 m² plot, substantially less than the market price of Rs 30-40,000 (USD 650-850). The 25 m² was substantially less than that occupied, but the government suggested that the people accept this as the de jure right, and accept that the remaining 25-50 m² be maintained as a de facto occupation. The government rationale for the smaller plot was based on the fact that the housing reconstruction

policy only provides for 25 m². This policy, in a way, therefore, may be perceived as contributing to undermining security of tenure. As of 2008, 300 of the original 1,800 households had still not received a housing package.

Source: Tony Burns, Post Disaster Land Issues: Case Study of the 2001 Earthquake in Gujarat, India. <http://www.glttn.net/en/general/post-disaster-land-guidelines.html>

longer-term reconstruction can involve the following steps:

Standardised information management tools. Including beneficiary lists, data on tenure status, location, etc. It is necessary to translate information from interim tenure documents into digital databases or official records. It also facilitates verification, quality control, and recognition of resulting tenure documents by other donors and reconstruction actors. International actors should advocate and support the issuance of standardized documents by competent domestic authorities.

Gender-sensitive databases. Post-disaster tenure documentation databases should include fields to record (1) details of women's rights to land, including rights other than ownership; and (2) marital land co-owned by a husband or wife. The introduction of such measures should be accompanied by gender-sensitive training and information campaigns.

Boundary identification. In many cases, community members and NGOs need only identify basic parcel layouts and sites for utilities and public facilities. Formal surveying of boundaries is expensive, time-consuming and may be difficult or impossible to achieve at the required national standard.

Law reform. Law reform with a view to creating tenure security for all disaster victims should recognize a flexible hierarchy of legal evidence of land rights, including: sworn witness or community leaders statements; marriage and birth certificates; house numbers and addresses; land tax payments; utility/telephone bills; confirmations of inheritance; sale or mortgage documents, parcel maps; proof of long-term occupation; genealogical records; and burial grounds.

Collection of supporting evidence. Where formalization of land rights will enhance tenure security for landholders, program beneficiaries should be assisted to collect evidence for applications to record or register formal legal rights to their land, wherever possible in the names of men and women.

Recognition of customary tenure. Where initial tenure security for reconstruction is based on customary mechanisms, intermediate steps may involve documentation of customary groups' claims to land. Where there are existing procedures, donors should assist customary groups to obtain documentary evidence of their rights to land. Otherwise, donor agencies should support advocacy and preliminary social mapping efforts to obtain formal recognition of customary claims to land.

Resolution of disputes. Interim tenure documentation should not be issued where rights to land remain disputed, but the parties should rather be referred to mediation and adjudication mechanisms.

Further reading

UN-HABITAT (2007) *A Post-Conflict Land Administration and Peace-building Handbook*, www.unhabitat.org

Box 22. Bhuj, India: urban tenants – the residual caseload

The status of tenants in the Bhuj reconstruction program was an important issue in the recovery from the earthquake. In Bhuj it has been estimated that as much as 40% of the households were tenants. These tenants are not a homogeneous group and range from relatively well off government officials to rural inhabitants with little resources. The houses occupied by tenants include formal housing on formal land, informal housing on formal land to informal housing that has been built on informal private land (particularly agricultural land that has been converted to housing without approval) or on illegally occupied government land. Some tenants have protection under the Bombay Rent Act.

The government tried to address the requirements of tenants in the packages, but this proved challenging. There were issues in providing proof of tenancy, which mainly relied on evidence such as rent receipts, bank account records, and statements by owners/ neighbours. Many tenants were unable to provide evidence. However the process to prove eligibility took too long for many potential applicants, and there was little NGO engagement in these issues in urban areas in the early stages after the disaster. Owners with tenants had access to an extra 60% of assistance to reconstruct the tenant's accommodation, but few people took advantage of this. In urban areas, particularly in Bhuj, the assistance package was very low when compared to the increasing land values. The consequences of these delays were that many tenants had little formal assistance in recovering from the disaster. Many tenants spent long periods in temporary housing in relocation sites in Bhuj.

Source: Tony Burns, Post Disaster Land Issues: Case Study of the 2001 Earthquake in Gujarat, India.

5.2 Land and the landless

This section discusses the issue of landlessness with a focus on two specific groups: (1) tenants, renters and other secondary holders of rights to land; and (2) informal land-holders whose rights are not legally recognized. Addressing landlessness raises particularly difficult protection issues and policy recommendations regarding the landless may inadvertently increase tenure insecurity of the most vulnerable people affected by disaster.

Longer-term and more structural issues of landlessness may not be possible or even desirable to address in a post-disaster context.

The primary focus should be on tenants, renters and informal rights holders who have physically lost land due to the disaster. Longer-term and more structural issues of landlessness may not be possible or even desirable to address in a post-disaster context. This section begins with a short introduction to the issue of landlessness and then describes measures to:

- Restore lease agreements for displaced tenants;
- Support the repair or reconstruction of rental housing; and
- Strengthen the tenure rights of informal landholders.

This section should be read in conjunction with Section 5.1 on Security of Tenure and Section 3.4 on Advocacy.

5.2.1 Landlessness and vulnerability

Landlessness describes the state of having no security of tenure. In a post-disaster context, landlessness refers to the physical loss of land due to the disaster by two key groups: (1) tenants, renters and other secondary holders of rights to land, and (2) informal landholders whose rights are not recognised by State law.

The infographic is titled "ریاض کو ملی زمین اپنے گھر کی تعمیر کے لئے" (Riayaz ko Milli Zamin Apne Ghar ki Teemir ke Liye). It features logos for UN-HABITAT and ERRA. The content is organized into eight numbered panels:

- Panel 1:** Identification of landless households. A family of four is shown. Text: "پہلے ریاض کو ملی زمین کے لئے گھرانے کی شناخت کی جاتی ہے۔" (First, the households are identified for landless policy.)
- Panel 2:** Assessment of needs. A man is talking to a woman. Text: "پھر ریاض کو ملی زمین کے لئے گھرانے کی ضرورتوں کا جائزہ لیا جاتا ہے۔" (Then, the needs of the households for landless policy are assessed.)
- Panel 3:** Allocation of land. A man is talking to a woman. Text: "پھر ریاض کو ملی زمین کے لئے گھرانے کو زمین کی تخصیص کی جاتی ہے۔" (Then, the households are allocated land for landless policy.)
- Panel 4:** Issuance of land certificates. A man is talking to a woman. Text: "پھر ریاض کو ملی زمین کے لئے گھرانے کو زمین کی تخصیص کی جاتی ہے۔" (Then, the households are allocated land for landless policy.)
- Panel 5:** Issuance of land certificates. A man is talking to a woman. Text: "پھر ریاض کو ملی زمین کے لئے گھرانے کو زمین کی تخصیص کی جاتی ہے۔" (Then, the households are allocated land for landless policy.)
- Panel 6:** Issuance of land certificates. A man is talking to a woman. Text: "پھر ریاض کو ملی زمین کے لئے گھرانے کو زمین کی تخصیص کی جاتی ہے۔" (Then, the households are allocated land for landless policy.)
- Panel 7:** Issuance of land certificates. A man is talking to a woman. Text: "پھر ریاض کو ملی زمین کے لئے گھرانے کو زمین کی تخصیص کی جاتی ہے۔" (Then, the households are allocated land for landless policy.)
- Panel 8:** Issuance of land certificates. A man is talking to a woman. Text: "پھر ریاض کو ملی زمین کے لئے گھرانے کو زمین کی تخصیص کی جاتی ہے۔" (Then, the households are allocated land for landless policy.)

Graphic explanation of Pakistan's Landless Policy

source: ERRA/UN-HABITAT

Tenants, renters and informal landholders are highly vulnerable to the impacts of a disaster for several reasons, including:

Relative poverty. Tenants, renters and informal landholders are more likely to be poor before the disaster, and to suffer disproportionate livelihoods and income losses afterwards.

Lost access to land. Tenants, renters and informal landholders may be more at risk following a disaster if (1) they cannot afford to pay rent, (2) they are prevented from returning by landlords, or (3) they are not included in shelter assistance programs. Tenants can be denied access to land for shelter programs, when:

- Their lease expires during the period of displacement;
- Their rights are not recorded in the formal land administration system or protected through residential tenancies legislation;
- Their rights are dependent on continuous occupation and/or the productive use of the land; or
- Their traditional rights to land are not recognized or supported by the law.

In some legal systems, residential leases may be discharged automatically, making them unenforceable, when the house subject to the lease is destroyed by a natural disaster.

Housing eligibility. Tenants and informal landholders may be excluded by reconstruction programs limited to owner-occupiers, and requiring legal evidence of land ownership and/or proof of legal identity.

Consultation and participation. Tenants and informal landholders may not be sufficiently identifiable from pre-disaster records to ensure their specific inclusion in consultation processes that would identify risks they faced and appropriate land and housing options.

Box 23. Tenants and informal and extra-legal landholders: explanation of terms

Tenants obtain possession of land or housing from a landlord in exchange for the payment of rent, based on a lease of limited duration, after which the land or house reverts to the landowner.

Different forms of tenancy include:

Residential. Residential tenants typically occupy multi-family apartment blocks, detached housing and even single rooms in a house, usually in an urban setting.

Agricultural lease. The tenant works agricultural land for a fixed period and pays rent from the produce.

Sharecropping. The tenant works agricultural land and pays rent to the landlord through an agreed division of the produce. These arrangements may be seasonal or long-term. In general, the longer the term of the lease, the greater the security of tenure.

Government lease. The tenant obtains a lease over state land from the government.

Tenants may have leases over land or housing. In some systems, tenants may own a house and lease the land, or lease the house and own the land. Tenants such as agricultural workers may lease a house, but have no rights to land at all.

Extralegal land occupiers possess private or state land without the consent of the landowner, in circumstances where that consent is required by law. Informal land occupiers occupy land without recognized legal rights but often have grounded claims, based on rights such as:

Rights of first allotment. The occupier has priority rights to the land should the state decide to allocate it to a private user.

Permission to cultivate. The occupier has some type of permission letter, often from local government officials, to cultivate state land.

Letters of land tax payment. Some governments collect land tax on the basis of occupation alone, and will issue letters or receipts of tax payments to informal landholders.

Government mortgages. In some systems, occupiers of state land can obtain loans from the government that are secured by a form of mortgage over the land.

Allocation of house numbers and addresses. Residents of urban informal settlements, in particular, may view house numbers and addresses as *de facto* recognition by the government of their claims to land.

Box 24. Direct house reconstruction grants to tenants in Pakistan

After the earthquake in 2000, Pakistan’s Emergency Recovery and Reconstruction Authority (ERRA) provided financial assistance for housing directly to tenants on condition that they sign a Memorandum of Understanding (MoU) requiring them to spend the entire amount on house reconstruction and prohibiting landlords from evicting them for three years. While the MoUs provided increased security of tenure for “tenants at will,” who are otherwise liable to eviction without notice, there was initial concern that “hereditary tenants” (who have more secure, long-term land rights) might become more vulnerable to eviction than they were prior to the disaster, when detailed legal procedures deterred many landlords from attempting ejection suits. Clarification of the policy, however, meant that hereditary tenants were not adversely affected.

Adapted from Robert Home and Nilofer Afridi Qazi, (2005) *Case Study of Pakistan Earthquake*, <http://www.glt.n.net/en/e-library>

5.2.2 How to restore leases and/or support reconstruction of rental housing

After a natural disaster, tenants face a disproportionate risk of lost access to land and housing as a result of factors such as rapid inflation in the land and housing market and increased insurance premiums. Providing durable shelter and livelihoods solutions for these tenants will require restoration of pre-disaster lease agreements and/or support for repair or reconstruction of rental housing.

In undertaking such programs, it is important to recognize that the security of tenure of tenants is linked to that of landlords. Focusing solely on strengthening of tenants’ security may lead landlords to perceive their interests to be threatened, resulting in pre-emptive measures will weaken tenants’ security and, in the worst cases, lead to the eviction of tenants or renters. Policies must be based on an in-depth understanding of the relationship between landlords and tenants and ensure that the interests of both are secured.

This section sets out three policy options to strengthen tenants’ rights: direct grants to renters; assistance to small-scale landlords; and assistance to multi-family landlords. As the examples illustrate, few policy options have proved successful in implementation.

Direct grants to renters

Tenants may be provided direct grants tied to reconstruction of their rental housing, subject to consent from the landowner. Such agreements should be based on detailed knowledge of local lease conditions so as not to create less secure rights for the tenant than before the disaster.

The relationship between landlessness and vulnerability is summarized in Figure 12 below.

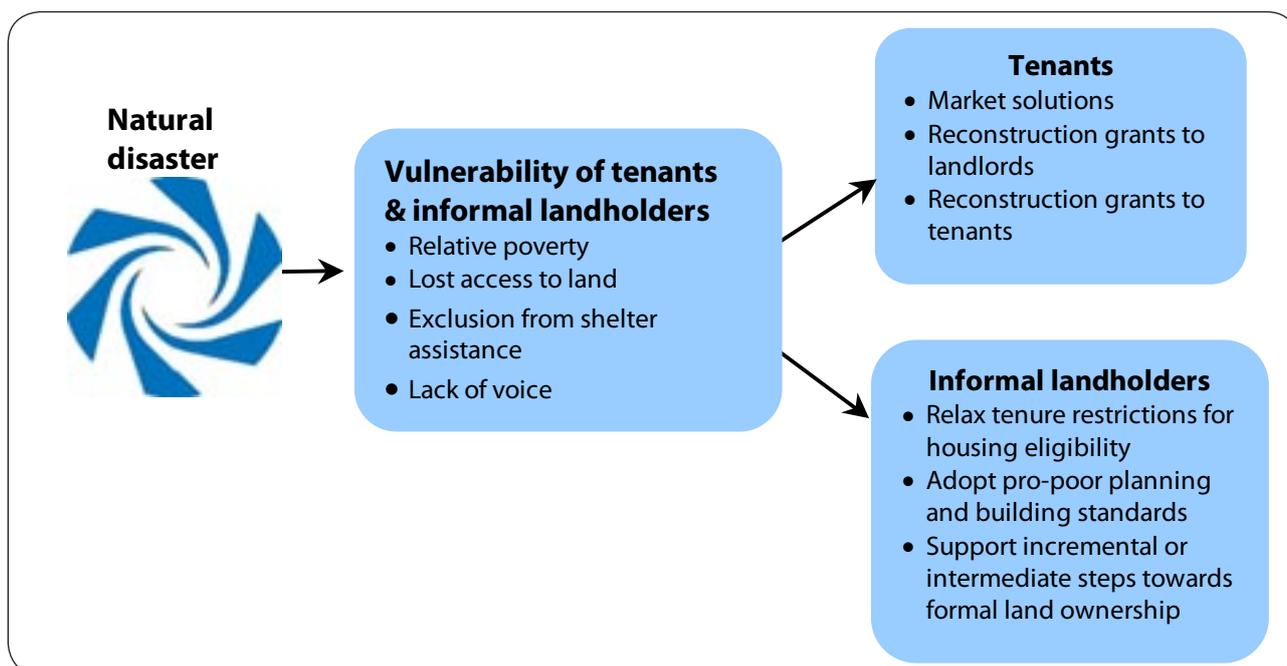


Figure 12. Access to land for the landless Small-scale landlord assistance

Box 25. The small rental property repair program in Louisiana

Louisiana's *Small Rental Property Repair Program* offered zero-percent interest and potentially forgivable loans to landlords who own small rental properties of ten or fewer units, if they agreed to make their units affordable to low- to moderate-income tenants. Unfortunately, the program was crippled by its policy of providing "permanent" or "take out" loans to be awarded only after an applicant completed construction of a planned unit, passed numerous inspections and located a qualified tenant. By the end of 2007, not a single unit of affordable rental housing had been built with program funds, while approximately two-thirds of those who received "conditional award" letters had dropped out of the program both state-wide and in New Orleans, and less than 300 landlords had been issued commitment letters in the entire state. The primary explanation for the program's poor performance seems to be that the small family' landlords the program was designed to aid lacked the income, credit histories, and financial and administrative sophistication necessary to obtain loans to finance the construction of the units they envisioned.

Source: J. David Stanfield et al. (2008) *The Challenges of Sudden Natural Disasters for Land Administration and Management: The Case of the Hurricane Katrina in New Orleans*, <http://www.gltm.net/en/e-library>

Direct grants or subsidized loans to landlords for reconstruction of rental housing can be conditioned on (1) agreement to restore prior leases with a grace period for payment of grants, or (2) agreement to make the housing affordable to low-income tenants.

Land tool alert! ADB (*Asia Development Bank*) *ETESP Housing in Tsunami-Affected Indonesia*. This program rebuilt rental housing, without cost to the landowner, on condition that the landowner restore the pre-disaster lease agreement with a rent-free period of up to 5 years. www.adb.org

Multifamily apartments

Direct grants or subsidized loans to private developers for construction of multi-family housing to serve lower income and special needs populations can benefit persons who were renters prior to the disaster.

5.2.3 Securing access and rights to land for informal landholders

There are a number of potential programming responses to provide secure access to land for informal landholders after a natural disaster. They include:

Public Statements by Government Officials affirming the principle of security of tenure for all;

Box 26. Multi-family rental apartments in Louisiana

The multifamily (large) rental program, administered by the Louisiana Housing Finance Agency (LHFA) received a special \$170 million allocation of Low Income Housing Tax Credits (LIHTC) in the years 2006-2008 to spur housing redevelopment through incentives provided to private developers. The aims included creating 18,000 to 33,000 housing units and allocating credits and CDBG piggyback funds proportionally to restore rental housing loss in the most heavily damaged parishes. Overall, the allocations for 2006-2008 LIHTC projects were meant to create 14,957 apartments and homes—replacing one-fifth of the rental housing damaged or destroyed by Hurricanes Katrina and Rita. Significant opposition in a number of parishes to multifamily tax credit developments—as well as to the idea of affordable housing in general – dogged the implementation of this programme due to the perception of social problems accompanying these types of housing developments.

Source: J. David Stanfield et al. (2008) *The Challenges of Sudden Natural Disasters for Land Administration and Management: The Case of the Hurricane Katrina in New Orleans*, <http://www.gltm.net/en/e-library>

Relaxing tenure restrictions on eligibility for housing assistance, subject to measures to avoid housing reconstruction in hazardous areas and providing for minimal planning and building guidance.

Relaxing planning standards and building codes that were inappropriate before the disaster in order to align them with practice. Careful consultation is required to strike an appropriate balance in light of the risks posed by hazards.

Incremental or intermediate steps towards legally recognized land rights can be a viable alternative in cases where authorities are reluctant to provide registered individual title to persons who occupied land in an informal or extralegal manner prior to a disaster. Intermediate tenure forms provide security without compromising the state's long-term land rights, for example, through issuance of "certificates of occupation," which recognize that the claimant has the right to a space within a settlement even though the location of this right is not precisely fixed, and that these rights have the potential to be upgraded over time.

Land Swaps allow private developers to receive land from the government in exchange for developing housing for informal landholders, based on safeguards to ensure that the livelihoods and social assets of landholders are not undermined.

Audits of state land, along with legal presumptions that government agencies must prove their ownership of alleged state land, can be effective measures to ensure transparency and consistency in the classification of extralegal occupiers in situations where landholders risk being classified as extralegal even though they are unaware that they live on state-claimed land due to poor quality land governance systems .

Land tool alert! *Tribal lands information system in Botswana*. See <http://www.glt.n.net>

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Further reading

UN- HABITAT, (2004) *Urban Land For All*, <http://www.glt.n.net/>

UN-HABITAT, (2006) *Analytical Perspective of Pro-poor Slum Upgrading Frameworks*, <http://www/glt.n.net>

5.3 Restoring and improving land administration systems

This Section sets out measures to restore and improve land administration after a disaster, including systems for recording land rights and transactions; managing land information; managing state or public land; mapping and identifying land parcels; and valuing and taxing land holdings. Affected institutions can include customary, religious or community-based bodies; local, district or municipal authorities; and national land agencies. This section is structured as follows:

- Land administration and disaster vulnerability
- How to assess land administration capacity and needs
- Land administration and early recovery: initial measures
- Land administration and early recovery: consolidating gains
- Transitioning to sustainable land administration systems

Related guidance may be found in Section 5.1 on security of tenure and Section 5.4 on land-use and settlement planning.

5.3.1 Land administration and disaster vulnerability

Land administration systems are essential to early recovery because they can support tenure security, settlement planning and the transition to sustainable development. In developing countries, land administration systems tend to be weak and may lack the capacity to carry out critical functions at the required scale and speed, including:

- Issuing interim tenure documents.
- Demarcating land parcels and boundaries.
- Recognizing post-disaster land tenure and planning documents.
- Supporting women's rights to land.
- Integrating the allocation of new land into post-disaster spatial planning.
- Releasing state or public land for temporary settlements or relocation purposes.
- Valuing and compensating rights to land that are acquired by the government.

Under such circumstances, parallel short-term administration systems may take root, performing essential short-term humanitarian purposes, but posing long-term development challenges if they are not ultimately integrated with, or at least recognized by, formal institutions of land administration.

The characteristics of land administration that enhance disaster vulnerability include:

Institutional fragmentation, in which the responsibilities for land are scattered across agencies and levels of government complicating coordination, management and information-sharing.

Lack of up-to-date or incomplete coverage of land records can inhibit identification of rights-holders and delay the identification of appropriate land for transitional shelter and livelihood activities.

Complicated procedures for land transactions can strain administrative capacity after a disaster, forcing affected persons to resort to informal transactions and jeopardizing the long-term integrity of the entire land registry.

Discriminatory land rules, proceedings and institutions fail to serve the needs of poor and isolated groups, undermining both the legitimacy of official institutions and the accuracy of official land records.

Inadequate capacity can prevent government systems from being able to cope with the sudden strain of a post-disaster environment.

Inadequate recognition of customary tenure by statutory law, or unclear relationships between statutory and customary laws and institutions can exacerbate tenure insecurity, particularly in rural areas where statutory rules were not applied before the disaster.

The effect of the above indicators of disaster vulnerability may be exacerbated by the demands placed by disasters on land administration capacity including:

- Trauma and loss of life affecting government staff;
- The large volume of land rights and planning documentation produced by humanitarian and recovery actors;
- The proliferation of requests for inheritance determinations, boundary demarcation, land valuation and land acquisition by key land administration actors, as well as documents proving land rights to establish eligibility for humanitarian programs; and
- Reluctance to support policy innovations and interim measures introduced during the emergency relief and early recovery phases.

Measures to strengthen land administration after a natural disaster must be sequenced carefully so as to avoid institutional capacity constraints, to avoid undermining the land rights of those absent due to the disaster's impacts, and to ensure integration or recognition of post-disaster tenure and planning products.

5.3.2 Land administration capacity and needs assessment

Post-disaster capacity and needs assessments are crucial to determine whether land administration institutions can meet key needs. Such assessments should be led by national experts, and, where necessary,

supported by international expertise, including the appointment of land experts through Flash Appeals and other humanitarian funding mechanisms, as set out in Section 3.2 (Planning Land Responses). While the post-disaster environment may present opportunities for strengthening land administration capacity, it may not be necessary, desirable or even possible to initiate a full-scale reform of land administration systems, which normally require between 10 and 30 years to implement even in a stable environment.

The following questions can help assess land administration needs after a natural disaster:

Capacity. Before the disaster, was formal land administration overloaded, out of date or serving only a small (often middle-class) portion of the population? Was land administration put into crisis by the disaster, through loss of records, death of staff or damage to infrastructure?

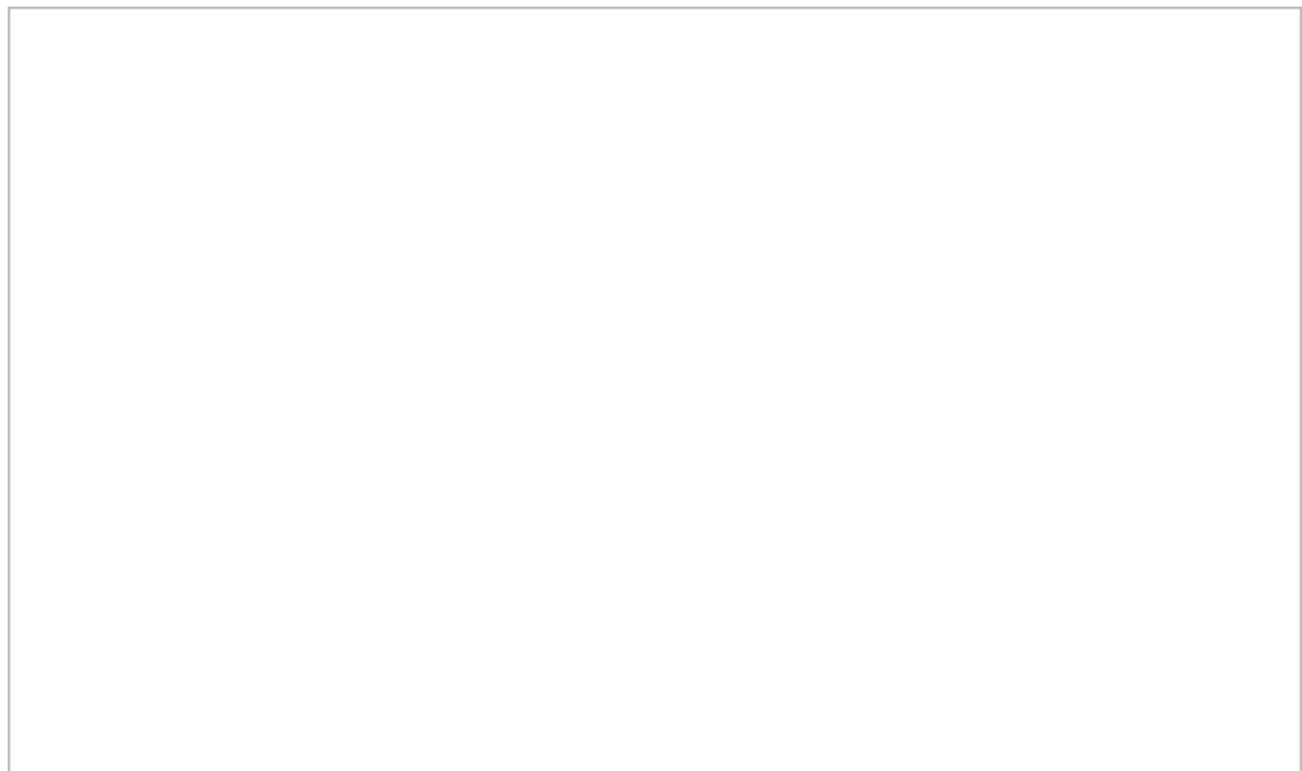
Land records. What was the nature and extent of documentary records relating to land before the disaster? What documents are accepted as proof of ownership of land? Do these documents support the rights of women? What documents were lost or damaged as a result of the disaster?

Public lands. What systems are in place to identify or manage public land (including state land)?

Land administration systems. What types of documentary systems or databases are used in the land administration process? What are the steps involved in common land-related procedures and transactions? Is there room for simplification?

INSERT PHOTO

**Best if from
KATRINA**



Caption

source: Mohamed El-Sioui, UN-HABITAT

Mapping Information: What maps are available and at what is their quality? Are high-resolution satellite imagery or aerial photos available for the affected areas? Are land information products - including land use, geology, drainage, slopes, geomorphology, geohydrology or seismotectonic maps - available for the disaster-affected areas?

Legal framework of land administration. How do national land laws protect existing rights to property? Do the laws include mechanisms to manage informality or customary law, institutions and practice relating to land? What laws govern specific issues raised by the disaster, including protection of women's rights to land, and demarcation of boundaries and proof of rights to land?

Information for land administration needs assessments may be obtained from government records, the Post-Disaster Needs Assessment or Joint Assessment Mission, and participatory data collection techniques, as set out in Section 3.1 (*Land Needs Assessments*).

5.3.3 Early recovery and land administration – initial measures

The most practical entry point for interventions to strengthen land administration can come in the early recovery phase. Land administration systems can greatly influence the time needed for recovery, while lack of clarity regarding land rights can delay recovery and reconstruction in the case of disputes. Failure to understand underlying land rights may mean that resources are spent in the wrong place or for the wrong beneficiaries. This section provides guidance on two disaster contexts: areas covered by written and registered land records; and areas without written land records.

Areas with written and registered land records

Where early recovery land responses build on written records and formal land administration institutions, key steps should be initiated in the following areas during early recovery:

Land records and data

- Finding and securing land records.
- Seeking support from the land registry to verify land records in case of disputes regarding ownership in which community-based methods have not delivered a clear determination;
- Recovering damaged paper records through, for example, digitization or freeze drying techniques.
- Identifying available public lands that may be used for temporary shelter, with safeguards to ensure that there are no underlying land rights, held either customarily or informally, which may not be recorded in the registry
- Reviewing existing maps and/or obtaining satellite imagery and aerial photos.
- Developing gender-sensitive databases of land rights and claims for rapid post-disaster tenure security and land planning measures.

- Distributing available land information products to early recovery actors (e.g. base maps, GIS products).
- Planning and capacity-building for those who will use and update land information.

Capacity-building and technical assistance.

- Appointing and training new staff to replace those who died or relocated as a result of the disaster.
- Supporting rollout of rapid tenure security measures through advocacy, high-level Government statements confirming security of tenure for all, the granting of short-term use rights, and the deployment, secondment, or appointment of staff to Government.
- Supporting simplification of procedures to cope with any increased demand for services.
- Preparing or restoring basic infrastructure damaged in the disaster, including buildings, furniture, archival areas and - where appropriate - computer software.
- Providing computer software and hardware to back up existing records and protect against the effects of future disasters.

Legal evidence of land rights

- Advocating or supporting flexible hierarchies of land rights evidence for the purposes of house reconstruction or livelihoods assistance.
- Advocating or supporting reduction or removal of fees associated with the issue of post-disaster tenure documentation.
- Advocating or supporting the relaxing of legal evidence rules to remove obstacles to documentation of formal, customary and informal pre-disaster land rights.

Public information campaigns

- Advocating or supporting establishment of cost-effective, accessible and sustainable public information campaigns to provide information on land policy and rights, maps and other relevant information to the public.

Areas without written or registered land records

Where urgent early recovery land responses are coordinated or implemented through local informal or customary land administration actors, rapid land administration measures can include:

- Identifying local land experts familiar with the land tenure in the affected area;
- Participatory appraisals to identify local informal or customary actors and institutions exercising authority over land administration matters. Such authorities may vary from place to place: hence it is important to undertake field appraisals across a range of locations and cross-check the information collected through consultations

with other members of the community, including women and vulnerable groups.

- Initiating programs to ensure that land responses are developed in consultation with local informal or customary land administration actors, and that feedback is obtained from those actors over the time-span of any programs.
- Training programs where necessary to familiarize local stakeholders from Government and customary institutions with new techniques and mechanisms of land administration necessary for post-disaster recovery.
- Advocacy and legal documentation programs where necessary to ensure adequate recognition by formal land administration systems.
- Advocacy and capacity building targeting vulnerable and marginalized groups to ensure their participation.

5.3.4 Land administration and early recovery: consolidating gains

A second stage of land administration measures should ensure the long-term sustainability of early recovery land responses by supporting better coordination, shifting from project implementation to institution-building and providing recognition to post-disaster land responses by formal land institutions. Disaster contexts create opportunities to identify and understand customary, informal or even hybrid systems that emerge as a practical response to weak land administration systems and apply this understanding to reforms to strengthen the formal system.



Training on improved housing construction after the Pakistan earthquake .

source: Maggie Stephenson, UN-HABITAT

Key steps to be carried out in collaboration with national land administration institutions and in the framework of an overall legal reform agenda can include:

- Studies to identify existing practice and procedures used at local levels and recommendations for strengthening them;
- Strategic plans and work plans in collaboration with land administration institutions.
- Public information campaigns to increase awareness of post-disaster land planning and tenure issues and responses.
- Pilot projects on key land administration issues (e.g. integrating community-level tenure and planning documentation into land administration databases).
- Initiating procurement procedures for surveying equipment as necessary, including GPS base stations and rover units.
- Planning and capacity-building for those who will use and update land information in the long term.
- Gradual re-assignment or definition of land administration functions to minimize any duplication or institutional competition that emerged after the natural disaster.

5.3.5 Transition to sustainable land administration systems

A final set of land administration measures undertaken as part of exit planning by early recovery actors can include:

- Continued work with national institutions to re-assign or create land administration functions to bring coherence to post-disaster tenure and planning activities.
- Supporting the scaling up of effective pilot land administration projects.
- Supporting the move from international to local capacity, where necessary.
- Building capacity to enforce land transactions and legal determinations.
- Advocating or supporting tenure upgrading for informal landholders and regularization of developments that took place in the emergency relief phase.
- Supporting integration of gender disaggregated land data into gender-sensitive land administration and information systems.
- Supporting decentralization or de-concentration of land administration, so that parallel land systems at the local level can be integrated into formal land administration systems.
- Supporting scanning paper records into digital formats.

Land tool alert! further information on these land administration measures should turn to the *Handbook on Post-Conflict Land Administration and Peace building- Countries with Land Records* (UN-HABITAT 2007). www.unhabitat.org

Table 10 below summarizes the critical land interventions at various stages of humanitarian and early recovery response.

Table 10. Summary of key land administration measures after a natural disaster

| Phase of disaster recovery | Key land administration measures |
|--|---|
| Emergency Relief: The First 5 Days | Undertake rapid land assessment. Fund land expert position(s) through Flash Appeal (or equivalent). |
| Early Recovery: The First 6 Weeks | Find, secure and recover land records. Obtain satellite imagery and aerial photos. Support rapid tenure security measures through initial capacity-building. Advocate flexible hierarchies of land rights evidence. Develop simple gender-sensitive databases of post-disaster tenure and planning documentation. |
| Early Recovery: The First 6 Months | Develop strategic plan and work plans. Establish land administration priorities and pilot projects. Advocate measures to integrate all recognise post-disaster tenure and planning documentation (including women's documentation). |
| Towards Sustainable Land Administration Systems: The First 2 Years | Re-assign or create land functions to bring coherence to post-disaster tenure and planning documentation. Scale up from effective pilot projects. Support move from international to local capacity. Build capacity to enforce land transaction and legal determinations. Advocate or support tenure upgrading for informal landholders. Advocate or support gender-sensitive land data and information systems. |

Further reading

FAO, (2002) *Gender and Access to Land*, <ftp://ftp.fao.org/docrep/fao/005/y4308e/y4308e00.pdf>

FAO, (2006) *Improving Gender Equality in Access to Land*, <ftp://ftp.fao.org/docrep/fao/007/y3495e/y3495e00.pdf>

UN – HABITAT, (2007) *An Immediate Measures Land Management Evaluation Tool for Emergency Through to Reconstruction Post – Conflict situations*, <http://www.unhabitat.org/content.asp?cid=1269&catid=404&typeid=16&subMenuId=0>

UN – HABITAT, (2007) *Handbook on Post – conflict Land Administration and Peace Building Countries with Land Records*, <http://www.unhabitat.org/content.asp>

5.4 Land use and settlement planning

Land use and settlement planning are important land-related entry points for early recovery. Land use planning is relevant in both rural and urban areas. In rural areas the focus is on an assessment of land and natural resources potential (including water, forests, fisheries, etc.) from a livelihoods and natural resources management perspective. In urban contexts, the focus should be housing and economic development, infrastructure and services delivery, as well as hazard risk reduction. Settlement planning, by contrast, seeks to understand how peoples' interactions shape the physical space of the village, town or city.

Land use and settlement planning encompasses:

- Community mobilisation and strengthening linkages with local authorities;
- Zoning areas for types of use (residential, commercial, green space, etc);
- Site layouts and development plans for communities, neighborhoods and cities;
- Infrastructure and service delivery;
- Spatial and strategic planning to facilitate urban growth and economic development;
- Environmental management and protected areas;
- Disaster risk reduction through hazard and risk mapping and mitigation;
- Natural resource management through protected areas, land use agreements and support for local systems of resource management; and
- Mechanisms to identify and preserve social, historical or cultural heritage.

In a post-disaster context, land use and settlement planning are embedded in a wider process of reconstruction planning that may occur simultaneously at various levels – community, municipality, district, provincial/state and national. Despite the potential for chaos in such scenarios (see Box 26 below), coordination between levels is possible.

Humanitarians and planners should exercise humility in their desire to 'build back better'. While disasters present opportunities to improve livelihoods and the spatial character of settlements, the chaotic environment of the post-disaster context argues for a conservative, enabling approach that builds on affected people's own response strategies. People's response strategies in developing countries are likely to be dictated more by social and economic considerations (family or community connections, going where they can sustain themselves productively in rural areas, (re)settle where they can afford to in urban areas) than by safety considerations. Land use planning is a process that intersects people's response; in terms

of timing it is likely to take place when spontaneous resettlement is far advanced. But a basic vulnerability mapping is the preliminary planning tool designed to guide people's own response. The extreme case is the establishment of 'exclusion zones' where hazards to natural disasters are the highest; examples in this respect are specific urban and peri-urban areas in Managua (Nicaragua) and Guatemala City where seismic risk was assessed to be extreme and where settlements were therefore not permitted unless at very low density.

This section reviews land use and settlement planning from the following perspectives:

- How land use and settlement planning can support early recovery
- How to sequence land use and settlement planning measures
- How urban planning differs from rural land use planning
- How to undertake community planning
- How to develop district plans
- How to manage reconstruction plans

5.4.1 How land use and settlement planning can support early recovery

There may be a wide variety of planning instruments and inputs available after a natural disaster, including: hazard and risk maps; existing spatial, developmental and land use plans; needs assessments data; participatory rural appraisals; livelihoods assessments; community action plans; community land use plans; and reconstruction plans.

The challenge lies in coordination and information quality in contexts where existing plans may be decades out of date and reconstruction plans or large-scale risk mapping often take too long to develop or are superseded by developments on the ground. The most reliable place to start in such contexts is at the community level, with the idea that local information gathered will support higher-order planning tools as they evolve. Community level processes should be supported with any available risk mapping information. Much of this information will be available at the local level; empowering local authorities to take early planning decisions rather than awaiting highly centralized post-disaster reconstruction would therefore be advisable.

Despite the inherent difficulties of accuracy and timelines, these planning instruments and inputs are essential to early recovery and reconstruction. The processes of displacement, return and reconstruction offer opportunities to improve the sustainability, inclusiveness and resilience of human settlements, including:

- Reviewing existing land-use, mobility issues, settlement patterns and development priorities to develop a new vision for the community and guide reconstruction investments accordingly;
- Improving the quality of life in informal settlements and rural communities through better access to infrastructure, services,

livelihoods, employment and clean water and sanitation.

- Implementing measures to mitigate the risks of natural hazards or adapt to the realities of climate change.

Water and sanitation are closely connected to land use and settlement planning.

- Unsustainable land use may contribute to the pollution of water resources.
- Without secure tenure, informal landholders may have difficulty gaining access to adequate, safe, reliable and affordable water.
- Unregulated and unplanned growth of urban areas can dramatically increase the cost of extending infrastructure, particularly piped-water supply.
- Conflicts often arise over access to land with adequate water supply, particularly when such land exists within a wider drier area with little water.
- Land conflicts can emerge over the grazing and water rights of pastoralists when water tables are affected by natural disasters.
- Women often bear most of the responsibility for water supply, and their residential location relative to secure water supply affects the amount of time they may contribute to child care, livelihoods and other key tasks.

5.4.2 Sequencing land use and settlement planning measures

As mentioned above, finding the appropriate balance between planning and action is particularly difficult to achieve in a post-disaster context. Insufficient planning risks poor quality settlements while lengthy planning processes can lead to delays. Even in the best case scenario, experience shows that people may not wait for plans, or will resist plans that require relocation.

The following timing and sequencing principles should be borne in mind when early recovery actors undertake land use and settlement planning after natural disaster.

- Reconstruction actors should be prepared to roll out participatory land use planning programs quickly in order not to delay housing reconstruction.
- Rapid risk mapping should be considered a required input into planning in order to guide and inform communities' choices according to the principle that large-scale prohibition of return and reconstruction in hazardous areas should be applied only in severe cases of high vulnerability.
- Areas or neighborhoods should be identified that can be rebuilt without changes in land use, where reconstruction can begin immediately. This can boost morale among affected populations.
- Urgent measures should be undertaken to identify landowners and others with a claim, and confirm housing site locations,

so that planning consultation and agreement with landowners can proceed rapidly. In areas with confused, ad hoc and largely informal tenure relations, opportunistic ‘surges’ of multiple claims to areas selected for settlements can arise. Adjudicating such claims can take a good deal of time and should not be approached through various ‘special arrangements’ as this will encourage repeated opportunistic claim attempts.

- Capacity-building for district or municipal governments is essential to ensure implementation of plans and development of popular consent.
- In case of self-building, households should be supported with appropriate minimal guidance on how to rebuild using hazard-resistant techniques;
- Reconstruction master plans should avoid over-ambitious disaster risk reduction measures, particularly in the context of weak institutional environments, and be flexible enough to take into account changing settlement practices and reconstruction realities on the ground.

5.4.3 Urban planning and rural land use planning

Urban planning varies in comparison to rural planning due to the particularities of cities, such as:

Urban populations tend to increase considerably after major natural disasters as people move to cities to access support

- Higher population density, greater social and ethnic heterogeneity and possibly less social cohesion than rural settlements;
- Cash-based economies, with limited subsistence livelihoods apart from kitchen gardens;
- More cost effective delivery of infrastructure and services;
- More detailed regulation (e.g. town plans, zoning, building codes), even if these are rarely enforceable at scale;
- More comprehensive (though not necessarily up-to-date) land record coverage;
- Greater potential for land scarcity and higher land values, which may foster competition, speculation, corruption and land grabbing;
- Predominance of informal settlements, particularly in developing countries, where between 30 and 60 percent of the urban population may live in informal settlements, often in hazardous areas, with limited security of tenure, and subject to ‘property mafias’; exacerbating the impact of disaster.
- Greater diversity of stakeholders and actors, each with competing interests;
- Higher turnovers of residential tenants; and
- Greater proportions of business and commercial property.

Urban populations tend to increase considerably after major natural disasters as people move to cities to access support and seek shelter with host families. Post-disaster planning instruments may not address these migratory impacts through appropriate linkages between rural and urban development and may overlook their effects on peri-urban

areas, where competition for land may create conflict among local landholders and urban developers.

Because urban land issues can be more complicated than rural issues, governments and donors may be reluctant to engage with urban planning issues. Political vested interests may also prefer to maintain chaotic urban land relations where this facilitates their agendas, contributing to delays in early recovery and private-sector rehabilitation. Conversely, Government and/or donors may have ambitious plans to redevelop or relocate cities; such plans are rarely implemented, however, invariably cause major delays and uncertainty in urban reconstruction.

By contrast, rural land use planning involves distinct issues from urban planning, including:

- Identification of local resource management institutions and community lands.
- Improvements to rural livelihoods and agricultural production systems.
- A greater range of types of tenure and management systems, including more forms of overlapping rights to agricultural lands.
- Management of arable land, forest areas, watercourses and natural areas.

Land tool alert! *Rapid Urban Spatial Analysis (RUSA)*: RUSA is designed as a simple spatial planning tool to be used as the first step in a more comprehensive urban planning process. The tool seeks to create a common understanding of how urban space is organized and used and why certain areas face specific problems in order to encourage confidence in the planning process and build momentum for tackling larger-scale planning challenges. RUSA Guidelines (UN-HABITAT 2006). www.unhabitat.org

Land tool alert! *Urban Strategic Planning Training Materials*: Developed in the complex planning environment of Kosovo, these materials are based on a four-phase approach to strategic urban planning, including situation analysis; sustainable urban development planning; action planning; and project implementation and management. UN-HABITAT (2007) Strategic Urban Planning Training Materials. www.unhabitat.org

Land tool alert! *Strategic citywide spatial planning*: An analysis of metropolitan Port-au-Prince, Haiti. This in-depth study of metropolitan Port-au-Prince gives background to the city's needs in terms of urban development and planning. The report maps a way forward for future planning of the metropolitan area. www.gltn.net

These are among the existing tools for urban planning. They are complementary, and both are based on the identification of strategic entry points and projects, which, if implemented, can make a significant impact on the quality of life in cities.

Box 27. Integrated planning for sustainable management of land resources

FAO recommends that rural land use planning for sustainable land resource management have the following elements:

Holistic and comprehensive programs that encompass all possible land use options, land resource developments and environmental conservation requirements.

Integrated activities and inputs that adopt participatory mechanisms to include the perspectives of all disciplines and groups.

Clear understanding of the objectives and needs of individual land uses, so as to develop a framework of incentives, sanctions and negotiations to ensure sustainability of resource use.

Consensus in relation to all actions and programs, involving partnerships among governments, other institutions and affected peoples. This consensus must involve sufficient consultation and informed decision-making.

Institutional structures at all levels to develop, debate and implement agreed proposals for sustainable land use and management.

Source: FAO, (1992) *The Future of Our Land: Facing the Challenge – Guidelines for Integrated Planning for Sustainable Management of Land Resources*, <http://www.fao.org/docrep>

Box 28. Rural land use planning in Mozambique

The Land and Water Department (DTA) of the IIAM is the institution that has put participatory land use planning on the map in Mozambique. In 1994-1995, a land use plan for the district of Xai-Xai was prepared and discussed with the involvement of provincial and district authorities, affected communities and their leaders, and the private sector. Key elements for the elaboration of the plan were in depth knowledge of the field based on the permanent presence of a team for two years, continuous interaction with the communities and local leaders, appropriate technical mechanisms to assess land use and management options, dialogue and negotiation.

Specific tools used for the plan's elaboration were:

- In-depth Rural Appraisal with emphasis on agrarian systems
- Soil survey and land evaluation including farmers generated land suitability evaluation
- Land management zoning
- Social surveying with identification of community territories and their leaders
- Grass roots level consultation and dialogue
- Appreciation of indigenous knowledge and community long term development views
- Community negotiation of technical proposals

Source: FAO, De Wit, P and Norfolk, S (2008) *Addressing Land Issues Following a Natural Disaster: Case Study of Floods in Mozambique* <http://www.glt.net/en/e-library>

5.4.4 Community land use and settlement planning

Community planning is a micro-planning process that utilizes participatory techniques. It is directed at small-scale residential settlements such as villages or neighborhoods and involves community decisions relating to siting of areas for private use (housing, agriculture, commercial), and public purposes (schools, green spaces, health and religious facilities, green spaces). It can also involve community development planning.

Key community planning activities can include:

- Hazard and risk assessment and mapping.
- Assessment of existing land-use, infrastructure and service access.
- Building on existing community capacity and mechanisms for participatory planning.
- Siting areas for private and public use.
- Reducing disaster risk through land adjustments.

At the neighborhood level, community planning can take into account the special needs of vulnerable people, secure accessible facilities and services, and preserve traditional cultural patterns. Community planning can also involve disaster risk reduction activities requiring relatively small boundary adjustments such as road-widening and creation of access and exit routes or re-siting of land parcels to other less exposed locations in the area based on land swaps, gifts, purchases or agreed allocations.

Community-planning should be led by local residents and based on available methods, including participatory rural appraisals, community action plans, and community land use plans. External facilitation may be required to support these community processes.

Land tool alert! UN-HABITAT (2006) *Community Action Planning Guidelines*. www.unhabitat.org

Community-based land management is a proven method for rural areas developed by FAO, and involving the following components:

- Mapping existing land rights and claims on the individual, family and group level;
- Mapping existing land use, including assets, resources, and hazards;
- Visioning exercises to determine how best to make use of existing land and natural resources;
- Agreeing on a Social Territorial Pact, including an agreement between different groups on how to accommodate each other's land rights and claims and visions for the future;
- A land use management portfolio, or an agreement on how to develop resources, grant concessions and distribute revenues.

Land tool alert! FAO (2005) Community Land Management.
www.fao.org

Advocacy measures may be required to overcome:

- Limited donor or government support for including communities in the planning process or strengthening their capacity for participatory planning.
- Lack of awareness of the importance of community planning, or concerns that community planning may be unduly time-consuming.
- Lack of support for external facilitation to support community planning.

5.4.5 How to develop district plans

District plans are led by local government but should be driven by community plans produced at the neighborhood or village level and balanced with higher level plans at the district or ward level. They may be rural or urban in nature but should involve the following elements to be effective:

- Linkages to higher-order infrastructure investments, e.g. schools, clinics, water supply;
- Local government planning capacity, including in relation to disaster risk reduction measures;
- Civil society links between local government and affected communities through neighborhood associations, community development committees and the like; and
- Consistency with higher level planning objectives, including regional, and national and recovery master plans.

Box 29. Community planning after floods in Mozambique

In Mozambique, the Fidel Castro community hosts the 6,000 flood victims from Xai-Xai (a city of the south of Mozambique, among the worst hit by the floods in 2000). Until recently, the Fidel Castro community did not have access to developed peat soil areas for farming. However, wetlands close to the village have now been cleared, a drainage system was put into place, and the area was parceled into small plots. This investment was funded by an outsider and made on the condition that the parcels made available for production were to be divided among members of the host community and the relocation village. This win-win situation is the result of a holistic vision of development and relocation planning, which was fully integrated in the government program.

Source: FAO, De Wit, P and Norfolk, S (2008) *Addressing Land Issues Following a Natural Disaster: Case Study of Floods in Mozambique* <http://www.gltn.net/en/e-library>

Box 30. Land swaps in hurricane affected Grenada

After Hurricane Mitch, the Grenadian government brokered deals in which a private developer purchased Crown Lands, and agreed to provide alternate housing to informal landholders in a new location. Under such an arrangement informal landholders are provided with a home and secure land tenure. In one such land swap, the owner of the Port Louis coastal development in St. George's funded the relocation of a group of informal landholders to La Sagesse, to the east of St. George's. In such cases, however, adequate safeguards must be in place to ensure that the relocation is done based on informed consent, due process and appropriate compensation.

Source: G. Barnes, G. Riverstone (2008) *Post – Hurricane Land Issues Case Study: Hurricane Ivan (2004) in Grenada*, <http://www.glttn.net/en/e-library>

District plans should ensure coordination and compatibility between various community plans, particularly in terms of trans-community infrastructure such as roads, sewerage and water supply. Alignment problems resulting from incompatible community plans should be mitigated by district plans that display lines of infrastructure and connections.

City-wide urban planning focuses on spatial and strategic plans, including links to the peri-urban area and rural planning. It should involve a metropolitan tier of government or a special planning authority. The primary issues will include the coordinated provision of food, water and energy, transportation, disposal of solid and fluid waste, pollution control, education and health delivery.

Rural district planning is typically directed at employment opportunities, adequate services and the provision of infrastructure to widely dispersed populations, with intermediate settlements or towns operating as centers for a rural hinterland.

Land tool alert! City-wide Planning Guidelines, GLTN (2009) based on experience in Haiti, combining recurrent disaster with a conflict environment. www.glttn.net

5.4.6 How to manage reconstruction plans

Post-disaster reconstruction plans may be prepared at the provincial or national level and should identify strategic priorities in reconstruction and include specific land-use and urban reconstruction plans. They often provide guidance down to the district level, and purport to override or replace pre-disaster planning instruments.

Reconstruction plans should:

- Ensure consistency with national, district and community plans (at least where those plans are not out-of-date or inconsistent with each other);
- Establish mechanisms for consultation with affected communities on reconstruction restrictions in hazardous locations;
- Identify strategic urban investments that can facilitate the reconstruction process and economic recovery (e.g. improvements to markets, bus terminals, etc.)
- Ensure realistic zoning and flexible standards to accommodate post-disaster settlement and shelter practices; and
- Develop capacity for eventual return or transfer of planning functions to community, district and national institutions

Box 31. Return and the urban footprint of New Orleans

Proposals to shrink the urban footprint of New Orleans, in order to reduce the risk of future cyclonic disasters, included the following suggestions.

- Prohibiting return to low-lying areas.
- Prioritizing assistance for house reconstruction in safe areas.
- Providing options for landowners to sell damaged houses to the reconstruction authority.
- Establishing a moratorium on building permits in unsafe areas.
- Requiring residents to prove neighborhood viability by reference to the extent of voluntary return and reconstruction.
- Allocating sites for intensive investment in order to stabilize neighborhoods.

Key lessons from New Orleans include the following:

- In most land systems, large-scale prohibitions on reconstruction in hazardous locations will fail as a result of social and political resistance to relocation.
- Granting owners of damaged housing in hazardous areas the option of sale to a reconstruction authority may be a useful tool to reduce the risk of future disasters.
- Land use planning in hazardous areas, including decisions not to rebuild, must be bottom-up and participatory in nature.
- Identifying sites for intensive investment, in order to stabilize neighborhoods, is important to allow informed decisions on return and reconstruction in hazardous locations.

Source: J. David Stanfield et al. (2008) *The Challenges of Sudden Natural Disasters for Land Administration and Management: The Case of the Hurricane Katrina in New Orleans*, <http://www.gltm.net/en/e-library>

Further reading

IASC, *Introduction of Flash, CERF and CAP*, <http://ocha.unog.ch/humanitarianreform/Default.aspx?tabid=143>

IASC, (2006) *Guidelines for Flash Appeals*, www.humanitarianreform.org

IASC, (2007) *How to Apply to the CERF*, www.humanitarianreform.org

IASC, (2008) *2008 CAP Technical Guidelines*, www.humanitarianreform.org

Box 32. Bhuj, India: Legal instruments for post- disaster land readjustment

The Town Planning and Urban Development Act (TP&UDA) in Gujarat, India provided a mechanism for the pooling of land holdings to provide land for infrastructure and other public purposes. The Act specifies that the Area Development Authority (ADA) can claim up to 40% of the land (15% for roads, 5% for parks, play grounds, gardens and open space, 5% for social infrastructure and 15% for sale by the appropriate authority with the proceeds to be used to provide infrastructure).²³ In Kutch the schemes claimed less than 40% provided under the act, in the range of 12-20%. The act provides mechanisms to value the land being taken and the benefits from the Town Planning Scheme (TPS). Land holders will lose land under the arrangement and may receive compensation, but also may end up owing money to the authority. The procedures to determine compensation/money owing are well documented. Residents in areas covered by the TPSs had the option of taking up plots in the re-location sites in return for transferring all rights on their old site to the Government. The TP&UDA also provides for grievance mechanisms, including administrative and judicial redress options. The Government appointed an Ombudsman to keep issues out of court and provide speedy solutions.

Source: Tony Burns, Post Disaster Land Issues: Case Study of the 2001 Earthquake in Gujarat, India. <http://www.glt.n.net/en/general/post-disaster-land-guidelines.html>

5.5 Access to land for relocation and infrastructure

This Section provides guidance on securing access to new land for the permanent relocation of persons displaced by a natural disaster or the reconstruction of infrastructure. Relocation may be necessary when such persons are unable to return, including cases where the land they left behind is too hazardous to return to. Under such circumstances, land will be necessary for infrastructure and in order to relocate facilities from hazardous land, as well as to build new facilities for disaster risk reduction purposes.

It should be emphasized that relocation should be seen as an exceptional policy response. Return, restoration of land rights and reconstruction of destroyed infrastructure, homes and facilities is the preferred response to displacement after a natural disaster. Relocation should only be implemented when there is no alternative or when there is a compelling public safety issue. Relocation must be implemented based on informed consent and due process considerations, ensuring that adequate social, environmental and livelihood safeguards are in place.

This Section uses the humanitarian expression “relocation” rather than “resettlement”. Relocation should be understood not only as a physical act, but as a process that results in sustainable and resilient settlements. Resettlement is often used in a similar sense by development actors but can also refer to durable solutions for both IDPs and refugees in situations where they choose to live somewhere other than either their place (or state, for refugees) of origin or the place (or state, for refugees) they were displaced to.

Land may be required for relocation and infrastructure development after natural disasters in two main cases:

Lost Land: land that is lost, submerged, contaminated or otherwise uninhabitable as a result of the disaster (see Section 5.2 on Land and the Landless).

Hazardous Land: land that is unsafe for *in situ* reconstruction.

Land may be required for infrastructure for two main purposes.

Relocating facilities. Where infrastructure such as roads, bridges and communications equipment is damaged after a natural disaster, its relocation to safe areas can build resilience and reduce the risk entailed by future disasters.

Building new facilities. Where new forms of infrastructure are required after a natural disaster, acquisition of appropriate land by the authorities can facilitate provision of better services in a safer manner.

Acquisition of land for relocation and infrastructure presents timing and sequencing challenges, with delays inhibiting early recovery but overly hasty compulsory acquisition without sufficient consultation or adequate compensation feeding tensions that may also inhibit the process. More generally, acts such as acquisition of land and relocation

of communities involve significant government interventions in the lives of individuals and communities. As such, they should always be justified on the basis of compelling public interests (Guiding Principles on Internal Displacement, Principle 6). While mitigating the effects of future disasters and restoring the livelihoods of displaced populations clearly serve such interests, humanitarian actors should identify and actively monitor any cases in which relocation may arguably not be necessary. In some cases, powerful political or economic interests may have incentives to order unnecessary relocations as a pretext for freeing attractive land for development purposes or manipulating demographic patterns or electorates.

Humanitarian and early recovery actors should follow up on any allegations of unjustified relocation that arise in the course of assessment activities and work together with affected populations, civil society groups and local authorities in order to ensure that the criteria for ordering relocations are set out in law and correctly applied; and to advocate appropriate government action where this does not appear to be the case.

This Section does not comprehensively address the process of relocation; broader issues, such as the restoration of livelihoods and development of community cohesion are dealt with in a number of other development guidelines. Instead, this Section focuses on the narrower issue of access to land for relocation and infrastructure under the following headings (see also Figure 13 below):

- How to estimate the amount of land required for relocation and infrastructure
- What steps are involved in accessing land for relocation and infrastructure
- What options exist to access land for relocation and infrastructure

Relocation should only be implemented when there is no alternative or when there is a compelling public safety issue.

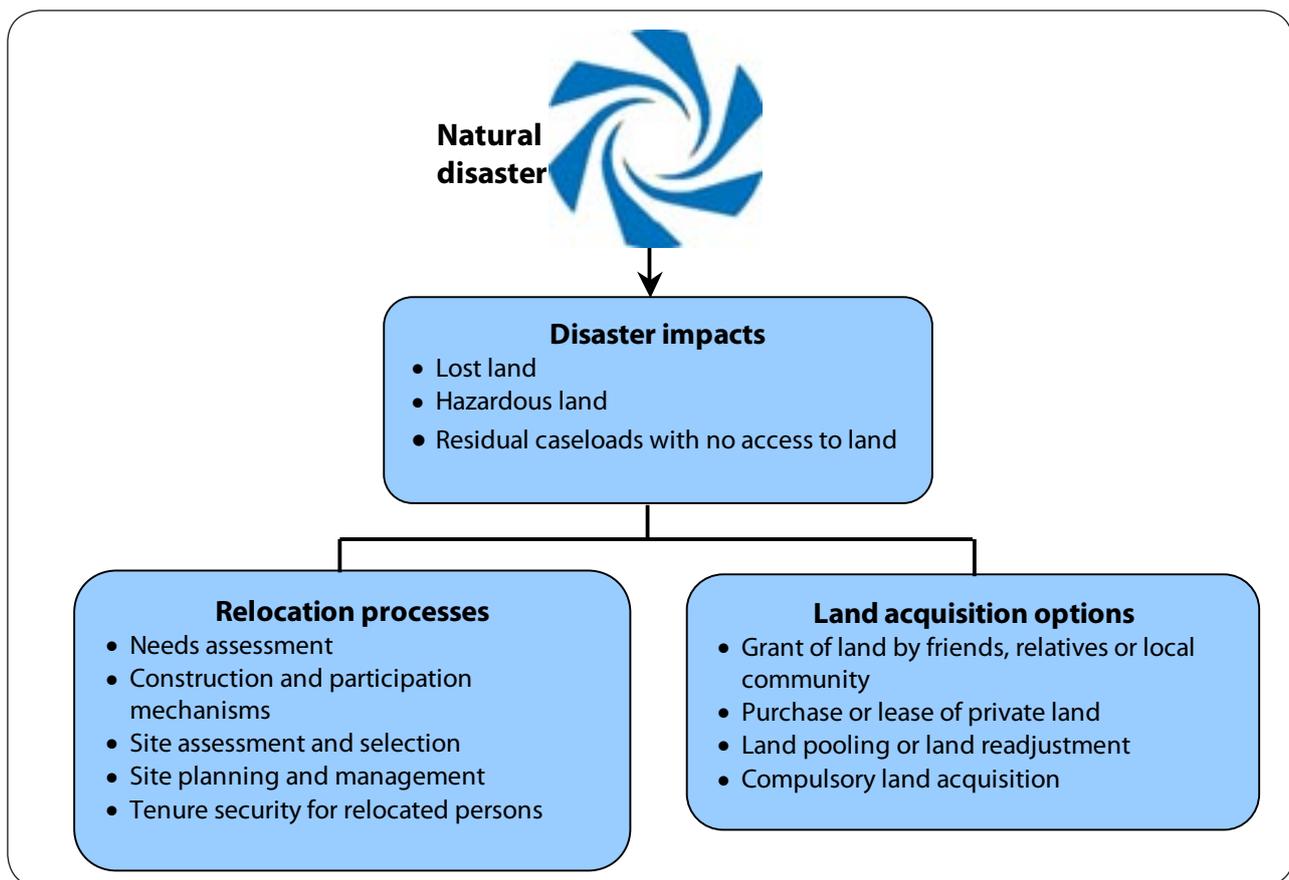


Figure 13. Access to land for relocation after a natural disaster

5.5.1 How to estimate the amount of land required for relocation and infrastructure

Accessing land for relocation can involve long lead times, particularly where it entails compulsory land acquisition and the attendant necessities of ensuring the availability of sufficient funds for compensation and following legal procedures for selection of appropriate land, notification of affected parties, consultation, provision of compensation and hearing of appeals.

In order to avoid or minimize the perpetuation of residual caseloads of displaced persons without access to land or housing, it is essential to estimate the amount of land required for relocation as soon as possible after a disaster. This estimate will be complicated by:

- The need to develop reliable figures on the number of displaced persons ultimately likely to require shelter assistance both in original and relocation locations;
- The potential range of relocation options available, including local integration at the site of displacement, self-settlement elsewhere and community-based mechanisms;
- The need to establish an appropriate amount of land to be set aside per household by governments and recovery actors, based

on factors such as the livelihood activities of the relocated community;

- Difficulties distinguishing between situations in which loss of land access is likely to be temporary (e.g. inundation, earthquake hazard risks, etc.), and those that require access to new land for relocation.

Practical means of estimating the amount of land required for relocation include:

- Inclusion of questions related to destroyed, inundated or uninhabitable land in quantitative multi-sectoral needs assessment surveys.
- Use of sectoral or multi-sectoral needs assessment surveys to collect data on widows, orphans, tenants and extralegal/informal land occupiers who are unable to return to pre-disaster land and require new land for relocation.
- Development of integrated beneficiary databases to track persons receiving shelter assistance in order to update and verify the numbers of people requiring relocation.
- Use of surveys to ascertain the amount of land or property required by relocated households, taking into account their livelihood activities, e.g. farmers versus wage laborers, etc.
- Use of remote sensing techniques to estimate and regularly revise the amount of land destroyed, inundated or rendered uninhabitable by the disaster, in light of factors such as receding flood or sea waters.
- Verification of remote sensing data through local field assessments.

5.5.2 Accessing land for relocation and infrastructure

Rapid access to suitable land for relocation and infrastructure can be facilitated by means of the following steps.

Audit of state land. Audits of state land should be undertaken soon after a disaster in order to identify holdings, boundaries as well as the government agencies that hold identified parcels of state land. Allocation of state land may facilitate rapid relocation by preempting the need for lengthy negotiations with private landholders, but where such land is already occupied by others (with or without a recognized legal basis) or where the state's claim to the land does not enjoy local legitimacy, relocation efforts are likely to be impeded by local claims.

Needs Assessments. Multi-sectoral needs assessments should specifically identify groups that may require relocation after a natural disaster (see Section 3.1 on *Land Assessments*). Specific follow-up surveys may be required to determine intentions and the scale and nature of needs with respect to relocation.

Verification. Identification of persons requiring land for relocation

Box 33. Relocation without employment in Honduras

In Ciudad España the housing and services available to the inhabitants is a vast improvement over what they had previously, but the effect of this is significantly undermined by the lack of employment in the vicinity. In the words of one resident:

Today we live in Ciudad España and here we have many things we did not have before beginning with the houses, the health center, a home for the elderly, a child care center and two more are on the way. Yes, we have many good things and it is nice here. The bad thing is that there is no work and people are poor. It is not that people don't want to work. There is no work. If there was work it would be better. The Red Cross is helping. They built the market and are willing and doing all what is possible, they are aware of the difficulties, mainly the unemployment. But then we stop and consider, if there is no work, how are people going to buy at the market? (Smith Wilshire, D., H. Hernandez and S. Salazar (2004). Voices of Victims and their Families Five Years after Hurricane Mitch. Alfa Omega Publishers, Panama: 85)

Reducing vulnerability and building resilience in poorer communities requires that we address the problem of employment given its central role to family livelihoods.

Source: G. Barnes, G. Riverstone (University of Florida), C. Lanza (UN – HABITAT) (2008) *Post – Disaster Land Study: Hurricane Mitch in Honduras*, <http://www.gltn.net/en/e-library>

must be accompanied by robust verification measures that should, where appropriate, be built into general programs for land rights confirmation. Integrated databases have proved to be effective tools for minimizing the complication and delays entailed by verification and effectively preventing fraudulent claims.

Consultation and participation. Institutional arrangements should be established with landless groups, as well as appropriate civil society groups and other stakeholders, as soon as possible after a disaster, in order to foster consultation regarding the feasibility and desirability of relocation and participation in the selection of sites for acquisition. Consultations should also be undertaken with host or adjacent communities in the area where communities will be relocated.

Policy formulation. Capacity-building, effective consultation with affected populations and information campaigns are required to ensure public debate and informed choices on relocation options. Such measures are of particular importance in situations where concerns exist that unnecessary relocation measures may be ordered for inappropriate reasons.

Institutional incentives. Institutional incentives should ensure acquisition of land of adequate quality and location. As a rule, the agency responsible for acquiring land should dispose over the corresponding funding. Self-funded land acquisitions can ensure access to land with appropriate characteristics and location and impose a higher degree of financial discipline than where funding comes from another agency.

Site assessment. Sites under consideration for acquisition should be assessed in terms of:

- The suitability of the site for the primary occupation(s) of persons resettled, and all secondary sources of livelihood support. Consultations with the adjacent or host community should also be undertaken early.
- The proximity of the site to primary and secondary sources of employment and livelihood support.
- The extent of access or potential access to roads, schools, markets, hospitals or health clinics, retail outlets, public transport and other social services.
- The extent of access or potential access to electricity, clean water, sewerage and drainage, telephone services and other forms of infrastructure.
- The extent of access or potential access to social support services for vulnerable persons or groups identified in the initial survey(s).

The resulting suitability assessment should be distributed to all stakeholders, including the prospective beneficiaries themselves.

Allocation. Allocation of parcels of land in support of relocation measures can be complicated by attempts to match the size and characteristics of each parcel to those of the specific parcels lost by

each displaced family. Such attempts can also reproduce inequitable land relations where ownership of land was highly concentrated before the disaster. One possibility is to simply allocate the same amounts of land and housing to all eligible landless persons regardless of the size or value of their pre-disaster landholdings.

Tenure security. Persons relocated to new land should receive secure rights to use it for residential and livelihoods purposes. Humanitarian actors should not support relocation processes that do not include such guarantees.

Voluntariness. Relocation must be a voluntary process that is free from coercion or intimidation. The informed consent of affected populations must be sought in every case.

Box 34. Human rights Standards related to relocation

"Everyone has the right to freedom of movement and residence within the borders of each State."

Universal Declaration on Human Rights, Article 13.

"Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence. The prohibition of arbitrary displacement includes displacement in cases of disasters, unless the safety and health of those affected requires their evacuation."

"Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily... or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of ... resettled internally displaced persons."

UN Guiding Principles on Internal Displacement, Principles 6, 28.

Relocation must be a voluntary process that is free from coercion or intimidation.

Land tool alert! World Bank (2002) *Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects* http://extop-workflow.worldbank.org/extop/e-commerce/catalog/product-detail?product_id=2444882&

Land tool alert! International Finance Corporation (2002) *Guidelines on Preparing a Resettlement Action Plan* [http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_resettle/\\$FILE/ResettlementHandbook.PDF](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_resettle/$FILE/ResettlementHandbook.PDF)

Land tool alert! Asian Development Bank (1998) *Handbook on Resettlement: A Guide to Good Practice* <http://www.adb.org/Documents/Handbooks/Resettlement/default.asp>

Land tool alert! *Computerised Landless Information Management System (LIMS) in Earthquake-Affected Pakistan.* This database tracked the financial assistance provided to beneficiaries of the rural landless policy in Pakistan. www.unhabitat.org

Box 35. Relocation on communal land in Mozambique

After the year 2000 floods in Mozambique, most affected people were resettled on community lands in rural areas. This is a laudable policy, as it may offer at least minimum conditions to engage in economic activities in support of local livelihoods. Local communities have established rights over these lands through long-term occupation according to local rules and customs. These community land rights are recognized by the Land Law, and can be made visible by means of community land delimitation processes. Local land management institutions and many of the community members have a clear idea of the position and extent of the community boundaries. The land policy and law embrace negotiations and community consultations as mechanisms for outsiders to obtain access to community land. The community, represented by a local land management body, agrees or disagrees with the request for access to land and the use of this land under certain conditions. The latter may refer to the duration of the right to use the land, but also to the benefits that this temporary transfer entails for the community. Relocation sites on community land are identified by the local government authorities or district administrations, with the involvement of the local community representatives.

De Wit, P and Norfolk, S (2008) *Addressing Land Issues Following a Natural Disaster: Case Study of Floods in Mozambique*

5.5.3 Options for accessing or acquiring land for relocation or infrastructure

The main options for obtaining land for relocation or infrastructure after a disaster include:

- Granting temporary occupancy permits or other short-term use rights by competent authorities;
- Grant of land by friends, relatives or a local community;
- Purchase or lease of land on the private land market;
- Land pooling or land readjustment; or
- Compulsory acquisition of land by the competent authorities.

Beneficiary-driven land acquisition has proved to be a useful policy option. Beneficiaries are typically best-placed to negotiate a reasonable price and evaluate the suitability of land under consideration for relocation in relation to their residential and livelihoods needs. Without access to employment and livelihood opportunities, otherwise well-designed relocation projects will be undermined by long-term poverty and ongoing vulnerability to future disasters. Relocation project design should also take into account the need to avoid generating resentment in adjacent communities and ensure that beneficiaries do not simply sell their land and move to occupy other land. Consultation and the participation of all affected communities in relocation project design is likely to be crucial in avoiding these negative outcomes.

Temporary occupancy permits

Temporary occupation permits or other short-term use rights designed to provide basic security without actually conferring ownership may be granted for sites selected and settled by displaced persons who cannot or do not wish to return to their pre-disaster lands. Section 5.3 on *Land and the Landless* provides further guidance on upgrading insecure and intermediate forms of land tenure.

Grant of land by friends, relatives or a local community

Facilitation of grants of land and or housing to displaced persons by friends or relatives is an effective mechanism to ensure beneficiary participation and choice of suitable relocation sites. Allocation of communal land, in particular, minimizes many of the livelihood and sustainability risks associated with official land acquisitions but requires formal recognition of community authority over such land. National laws relating to land rights should be analyzed soon after a disaster, to determine the extent to which changes may be necessary to facilitate relocation of rural communities to safer locations within communal territories.

Purchase or lease of land on the private land market

Direct purchase or lease of land on the private land market can be an effective mechanism to ensure beneficiary participation and input in the selection of relocation sites. For landless groups affected by poverty, private purchases or leases may only be a realistic option if financial assistance is made available.

Direct purchases by international agencies for allocation to beneficiaries can be hindered where (1) local laws prohibit foreign land ownership, (2) large block purchases require subdivision through slow and complex dealings with the Land Department, or (3) the chain of ownership title rests on poorly documented land records systems. Transfer of funds by international agencies to allow beneficiaries to purchase land for themselves, may also be prevented by the rules of national land agencies. As a result, financial assistance programs to allow the landless to purchase or lease land tend to be channeled through public authorities.

Financial assistance to subsidize land purchase may be constrained by its inherent expense or limited to rural areas where land is relatively inexpensive. Any financial assistance provided should be sufficient to allow purchase of a meaningful amount of land. If not, beneficiaries may be left with substantial debt, giving rise to discrimination concerns where displaced landowners receive more generous benefits such as free housing.

Assistance programs for land purchases by the landless may be based on the award of vouchers redeemed at the time of purchase. This avoids the risks inherent in direct transfers of cash, which can easily be appropriated by corrupt intermediaries or dissipated by beneficiaries for purposes other than land purchases.

Land pooling

Land pooling is a land readjustment technique that can facilitate relocation when public funds for compulsory purchase and infrastructure provision are limited. This technique proceeds on the basis of pooling of land titles, re-parceling of land for better planning, establishment of financial mechanisms to recover infrastructure costs, and distribution of the financial benefits of development between land-owners and a development agency.

Land pooling can secure serviced urban development with little direct public funding, and avoid the costs of land expropriation. Land for public purposes and physical infrastructure are paid for out of the shared profits of the development, and land-owners participate in these profits. Land pooling is best suited to countries with social traditions of a strong state role in land management, and in situations where land ownership has become fragmented or previous land tenure patterns have been disrupted by events such as natural disasters (see for example, R. Home, Nilofar Afridi Qazi, 2008, *Case Study of Pakistan Earthquake*, <http://www.glt.net/en/e-library> and RICS

Box 36. The rural landless policy in earthquake-affected Pakistan

On 30 March 2007 Pakistan's Earthquake Reconstruction Authority approved the Rural Landless Policy. This policy provides rural landless families with Rs 75,000 (approximately US \$1200) payable for a new plot (of a minimum size of 5 marla or 125 m²) at the time of purchase, under the owner-driven policy. The financial assistance was intended to support the purchase of land with the balance, if any, available for building of the house. If the price of the land exceeded the financial assistance, the balance would be borne by the beneficiary, who was responsible for finding and negotiating the land purchase (usually within their village, from relatives or community members). A 'one-window operation' allowed beneficiaries to complete all administrative procedures for land acquisition in a single day. The one-window operation was supported by a central database prepared with UN-HABITAT assistance. During its operation, UN-HABITAT helped to download necessary data from the central server, capture the identities of buyer and seller on a web camera, save the data of the operation, and print the Financial Assistance Report.

Robert Home and Nilofar Afridi Qazi, (2008) *Case Study of Pakistan Earthquake*, <http://www.glt.net/en/e-library>

Research, Land Readjustment as a Global Land Tool: Focus on the Middle East, www.rics.org).

Compulsory acquisition of land by the government

Compulsory acquisition of land by the government is likely to occur where there are large numbers of landless, particularly in urban environments. As noted above, the effectiveness of compulsory acquisition as a means of supporting relocation may be compromised by factors such as:

- Questionable use of “public interest” to justify acquisition of land;
- Short lead times constraining the opportunity for effective participation and consultation, and accurate calculation of the number of beneficiaries;
- Lack of transparency and accountability regarding the choice of land, valuation and procurement; and
- Potential to cause delays and conflict in relocation programs for landless disaster victims.

Acquisition of land for relocation should, wherever possible, be voluntary, participatory, transparent and accompanied by payment of market prices. Where voluntary acquisition is not possible, compulsory acquisition should be (1) conducted according to law, (2) limited to defined public purposes, (3) accompanied by payment of just compensation, and (4) open to judicial appeal and civil society oversight.

Land tool alert! FAO (2008), *Land Reform*, www.fao.org/catalogue/bulletino. This document sets out guiding principles to deal with compulsory acquisition and *compensation*.

Further reading

World Bank (2004) *Involuntary Resettlement Sourcebook*;

FAO (2008) *Compulsory Acquisition of Land and Compensation*. FAO Land Tenure Series Number 10. <http://www.fao.org/docrep/011/i0506e/i0506e00.htm>.

Chapter 6 Operations timeline: who does what when

This Part provides a summary of key land activities, responsible actors and indicative timelines for when activities should be undertaken after a natural disaster. For the purposes of these Guidelines, the timeline is organized into four phases as summarized in Figure 12 below: emergency response (first 5 days); building early recovery (first 6 weeks); ensuring early recovery (first 6 months); and towards resilient settlements (first 2 years). Priority activities and steps are summarized in tables for each of the four phases, with references to further information found elsewhere in these Guidelines. It should be noted, however, that the identification and sequencing of priorities is illustrative only; the precise response will depend on the nature of the disaster and the country context.

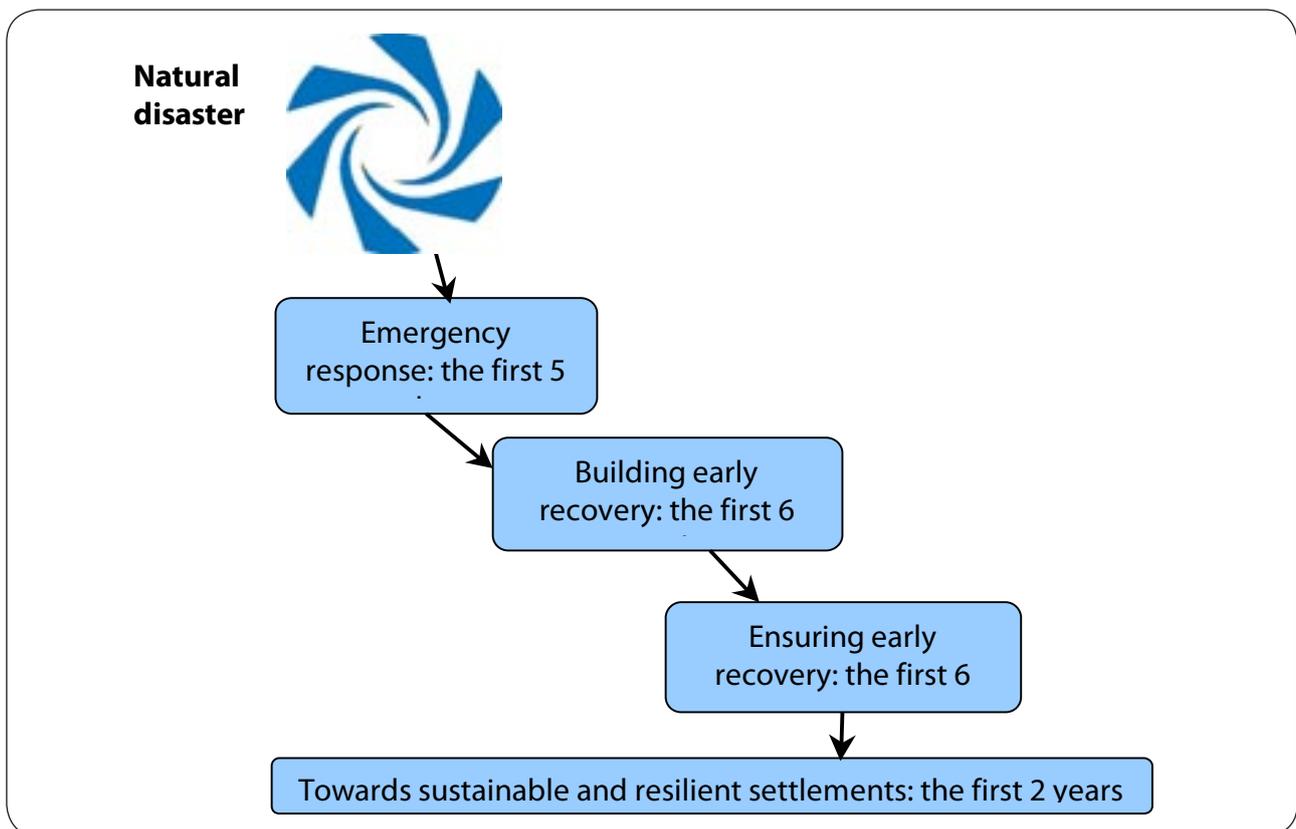


Figure 14. Phases and steps in addressing land issues after a natural disaster

6.1 Emergency response: the first 5 days

Step 1: Undertake rapid land assessments

A rapid assessment relating to land should identify:

- The location and estimated amount of land (and populations) affected by the disaster;
- Urgent land requirements for emergency relief (eg. shelter, livelihoods, etc.); and
- Time-critical land issues that may delay early recovery (eg. unclear land rights, land conflicts, secondary occupation, etc.).

Step 2: Incorporate urgent land issues in Flash Appeal and other funding requests

Flash Appeals may include time-critical recovery responses that are able to be completed within a six-month period. Flash Appeal time requirements mean that most land responses will be folded into separate humanitarian sector programming (e.g. shelter, protection, livelihoods, or agriculture) or under a coordination responsibility.

Step 3: Encourage authorities to protect land left behind by displaced persons

Law enforcement officials should remain in the disaster zone wherever possible, or at least be among the first to return after evacuation or displacement. Transitional shelters that are close to pre-disaster locations are more likely to allow protection of land by displaced persons themselves.

Table 11. The first 5 days: key activities and actors

| Activity | Actors | Guidelines section |
|--|--|--------------------|
| ✓ 1) Undertake rapid land assessment. | Emergency response authorities, IASC Country Teams, OCHA, HC/RC and UN land agencies, | 3.1.1 |
| ✓ 2) Incorporate urgent land issues in Flash Appeal (and other humanitarian funding requests). | Humanitarian Cluster/Sector Leads, Cluster, HLP focal point | 3.2.1 |
| ✓ 3) Encourage relevant authorities to protect land left behind by displaced persons. | Affected communities, Emergency response authorities, Law enforcement officials, HC/RC with support from HLP focal point | 4.2.2 |

HC/RC = Humanitarian Coordinator/Resident Coordinator
IASC = Inter-Agency Standing Committee

HLP = Housing, Land and Property OCHA = Office for the Coordination of Humanitarian Affairs

6.2 Building early recovery: the first 6 weeks

The first six weeks represent a critical assessment and planning window, culminating in the preparation of the early recovery framework. The activities, actors and sources of additional information are summarized in the table below. The precise sequencing of activities will depend on the local context.

Table 12. The first 6 weeks: key activities and actors

| Sector | Activities | Actors | Guidelines section |
|--|---|---|-----------------------------------|
| Assessments, Planning and Coordination | 1) Undertake land needs, and damage and loss assessments 2) Incorporate responses to land needs in early recovery planning, establishing land sector coordination mechanisms if required | Affected communities, Emergency response authorities, IASC Country Teams, OCHA, HC/RC, Cluster/ Sector leads, HLP focal points. | 3.1.2, 3.1.3, 3.2.1, 3.2.2 |
| Shelter | 3) Support site selection, planning and management for transitional shelter 4) Facilitate community mobilisation for rapid tenure security (shelter) 5) Estimate amount of lost or hazardous land | Affected communities, NGOs Local governments, Emergency Shelter Cluster lead (UNHCR, IFRC), IOM, HLP focal point. | 4.1, 5.1.2, 5.5.1 |
| Protection | 6) Facilitate return by displaced persons to safe pre-disaster lands. 7) Analyse obstacles to return and restitution for vulnerable groups. | Affected communities, NGOs, Media organisations, Law enforcement officials, Emergency response authorities, HC/RC, land/ law experts. | 4.1.3, 4.2.3, 4.2.4, 4.2.5, 4.2.6 |
| Agriculture | 8) Identify risks to food security as well as local land tenures and resource management systems | Line-Ministry for Agriculture, NGOs, FAO. | 4.3.1, 4.3.2 |
| Livelihoods | 9) Facilitate community mobilisation to promote security of tenure for livelihoods | Affected communities, NGOs, Emergency response authorities, HLP focal point. | 5.1.2 |
| Land administration | 10) Secure land records and consult satellite imagery and aerial photos 11) Advocate flexible hierarchies of land rights evidence 12) Develop simple gender-sensitive land databases | Line-Ministry for land, Emergency response authorities, HLP focal point, UNOSAT/UN SPIDER. | 5.3.3 |
| Land use and settlement planning | 13) Build capacity and awareness for community land planning. | Affected communities, NGOs, UN-HABITAT | 5.4.4 |

HC/RC = Humanitarian Coordinator/Resident Coordinator

HLP = Housing, Land and Property

Step 1: Undertake land needs, and damage and loss assessments

Post-disaster assessments should assess needs relating to safe and secure access to land for shelter and livelihoods, particularly in relation to vulnerable groups. A land damage and loss assessment should estimate the amount of lost/unusable land, damage to land records, and damage to land administration capacity and infrastructure. Every effort should be made to work with national land tenure and land administration experts.

Step 2: Incorporate responses to land needs into early recovery planning

Land issues identified by needs assessments and by damage and loss assessments should be addressed through the revised Flash Appeal, the Consolidated Appeal and/or an early recovery donor conference. Coordination mechanisms may be established to facilitate information sharing and response planning on land-related issues. Planning and coordinating responses to land issues should draw on pre-disaster contingency planning, including the Common Humanitarian Action Plan for the region or area (if available).

Step 3: Support selection, planning and management of sites for transitional shelter

The guiding principle for site selection should be informed consent from persons displaced by the disaster. Consultations with adjacent or host communities must also be initiated at an early stage. Humanitarian and early recovery actors should undertake risk mapping to support informed consent by displaced persons. To decommission transitional shelters, early recovery actors should emphasize rapid return by displaced persons to their pre-disaster locations, or at least rapid relocation and resettlement where return is not possible.

Step 4: Facilitate community mobilization for rapid tenure security responses

Measures to strengthen security of tenure are important to prevent land conflict and land grabbing, and create legal and social certainty for assistance programs. High level Government statements promoting security of tenure for all and the provision of short-term use rights can be accompanied by community-based methods (eg. community based land adjudication) to facilitate shelter and livelihoods recovery.

Step 5: Estimate amount of lost or hazardous land

Local expert knowledge, data from displaced populations and remote sensing techniques can be used to make a preliminary estimate of lost or destroyed land soon after a natural disaster. This preliminary estimate can be confirmed through local field assessments and post-disaster needs assessments.

Step 6: Facilitate return by displaced persons to safe pre-disaster lands

Risk assessments should identify hazardous land according to agreed categories of risk. Displaced persons should then make informed decisions on return to pre-disaster land. Community facilitation and mobilization, and holistic return policies that include support for shelter, livelihoods, social services, etc. should be developed.

Step 7: Analyze obstacles to return and restoration of land rights of vulnerable groups

Most landowners will return to their pre-disaster land without the need for formal adjudication or restitution mechanisms. Those who are unable to return will disproportionately include vulnerable groups, including widows, orphans and the landless (tenants, renters, secondary rights-holders, etc.). The obstacles to their return may include legal restrictions, landowner or government prohibitions, and resistance by local elites or male relatives. Depending on how long they have been away from the land, and the level of tenure insecurity, some conflict resolution and facilitation alternatives on the event of occupation and land grabbing might be needed.

Step 8: Identify agricultural tenures and natural resource management systems

Tenure and resource management analysis will identify (1) risks to food security and specific vulnerable groups such as women or farm labourers, and (2) local systems that can manage population clustering and changes in resource use after a disaster.

Step 9: Facilitate community mobilisation to support rapid tenure security measures (livelihoods)

Community mobilisation can play a critical role in restoring rural livelihoods. Measures that confirm access and use rights can enable affected families to remain close to their land and, where possible, continue their livelihood activities.

Step 10: Secure land records and consult satellite imagery and aerial photos

Pre-disaster land records can be helpful to promote tenure security and to facilitate land use planning (though in many cases, such records are out-of-date and have limited geographic coverage). Land records should be secured as soon as possible and, where necessary, restored as soon as possible to support post-disaster planning and recovery. Satellite imagery and aerial photos may be used to monitor a disaster's impact on land, and to select and plan sites for shelter and livelihoods.

Step 11: Advocate flexible hierarchies of land rights evidence

Identify alternative forms of land rights evidence, including: utility bills, tax receipts, oral evidence, etc. that may be used to promote recovery and reconstruction. Flexible hierarchies of land rights evidence are essential to support access to land for vulnerable groups, not only those whose land documents are damaged or destroyed, but also tenants, informal landholders, customary landholders and women.

Step 12: Develop simple gender-sensitive land databases

Early recovery actors will generate land tenure and planning documentation through their shelter, protection and livelihoods programs. These documents need to be recorded in simple databases to allow use by a range of actors, and recognition by formal systems of land administration. They should also be gender-sensitive to avoid the potentially discriminatory effects of land documentation programs.

Step 13: Build capacity and awareness for community land planning

Community land planning needs local capacity and facilitation to ensure results that are participatory and supportive of sustainable and disaster-resilient settlements.

6.3 Ensuring early recovery: the first 6 months

Step 1: Facilitate transfer of land information, tools and functions from humanitarian to government, community and development actors

Early recovery actors should plan to transfer or make available land information, tools and functions, developed by humanitarian programs, to government, community and development actors. This transfer process will require a degree of standardisation in land documentation, and ease of cross-referencing from documents/maps to physical features in the field.

Step 2: Support rapid tenure security measures for returnees (shelter)

Rapid tenure security responses can occur through community action, personal documentation and/or official records. Government decrees or new regulations may be required to support rapid tenure security measures, but particularly in terms of flexible hierarchies of land rights evidence.

Step 3: Support participatory and voluntary relocation mechanisms

Participatory and voluntary relocation mechanisms involve:

- Estimating the number and assessing the needs of persons requiring relocation.
- Identifying and assessing suitable sites for relocation.
- Establishing consultation and participation mechanisms.
- Ensure voluntary decisions to choose relocation.

Table 13. The first 6 months: key activities and actors

| ❖ | Sector or issue | Activities | Actors | Guidelines section |
|---|--|--|--|----------------------------|
| ✓ | Assessment, Planning and Coordination | 1) Plan for transfer of land products and functions from humanitarian to government, community and development actors | Affected communities, Local governments, Emergency response authorities, NGOs, HLP focal point | 3.2.5, 3.3.3 |
| ✓ | Shelter | 2) Support rapid tenure security measures for returnees' (shelter) 3) Support participatory and voluntary relocation mechanisms | Affected communities, NGOs, Local governments, Reconstruction authorities, Line-Ministry for land, HLP focal point | 5.1.2, 5.5.2 |
| ✓ | Protection | 4) Support access and restitution of land for vulnerable groups | Affected communities, NGOs, line-ministry for land, reconstruction authorities, local governments, justice institutions, HLP focal point | 4.2.3, 4.2.4, 4.2.5, 4.2.6 |
| ✓ | Agriculture | 5) Support secure rights and access to agricultural land for vulnerable groups, including tenants and women 6) Support local land and resource management systems | Affected communities, NGOs, Line-Ministries for agriculture, land and law, FAO, HLP focal point | 4.3.3, 4.3.4, 4.3.5 |
| ✓ | Livelihoods | 7) Support rapid tenure security measures for returnees (livelihoods) | Affected communities, NGOs, Reconstruction authorities, Line-Ministry for land, HLP focal point | 5.1.2 |
| ✓ | Land Administration | 8) Support land dispute/conflict management (9) Plan for recognition of post-disaster tenure and planning documentation | NGOs, Bilateral donors, Line-Ministry for land, Judiciary, HLP focal point | 5.3.4 |
| ✓ | Land use and settlement planning | 10) Commence community land planning and ensure coherence with district plans and reconstruction plans | Affected communities, NGOs, Reconstruction authorities, UN-HABITAT | 5.4.2, 5.4.4 |

HC/RC = Humanitarian Coordinator/Resident Coordinator HLP = Housing, Land and Property

Step 4: Support restitution of land to vulnerable groups

Supporting restitution of land to groups such as widows, orphans and the landless can involve:

- Land rights information campaigns and access to justice mechanisms for widows.
- Programs to record orphans' rights to land in their own names rather than those of the guardian.
- Rental housing reconstruction and/or lease restoration programs.
- Flexible recognition of tenures and tenure upgrading mechanisms for informal landholders.

Step 5: Support secure rights and access to agricultural land for vulnerable groups, including tenants and women

Potential measures to support rights of access to agricultural land for vulnerable groups include:

- Developing model leases that facilitate access to land for poor rural groups, while minimising the risks of abuse of power and exploitative terms.
- Implementing information and awareness-raising campaigns, access to justice programs and gender-sensitive land documentation databases.



Pakistan housing reconstruction - local women hear about improved standards

source: Szilard Friczka, UN-HABITAT

Step 6: Advocate and plan support for local land and resource management systems

Potential measures include advocating law reform and planning institutional capacity-building measures to recognise local land and resource management systems.

Step 7: Support rapid tenure security measures (livelihoods)

See Step 4 above.

Step 8: Support land dispute/conflict management

Disputes may arise regarding the location or boundaries of land and properties affected by the disaster. Or, the disaster may expose latent grievances, or may be deliberately used by groups to address perceived grievances. Measures may be required to strengthen Government capacity to address land-related disputes and conflicts, including through the judiciary or through mediation.

Step 9: Plan for recognition of post-disaster tenure and planning documentation

Potential measures to plan for recognition or integration of post-disaster tenure and planning documents include advocating appropriate law reform, undertaking capacity-building and awareness-raising measures, and strategic planning for new land administration functions in local governments and the line-Ministry for land.

Step 10. Commence community land planning and ensure coherence with district plans and reconstruction plans

Community planning should commence before reconstruction begins, and be based on participatory gender-sensitive techniques (often with the assistance of an external facilitator). District plans should align infrastructure to ensure compatibility among community plans. Reconstruction plans should accommodate community planning, and be flexible enough to accommodate changes in settlement practices after a disaster.

Community planning should commence before reconstruction begins, and be based on participatory gender-sensitive techniques

6.4 Towards sustainable and resilient settlements: the first 2 years

After the first six months, recovery efforts can gain in stability, as summarized in the table below. Efforts during this phase should focus on institution and capacity-building, preparing for an eventual hand-over to Government and local institutions as appropriate.

Step 1: Implement transfer of land information, tools and functions to government and community actors

Transferring land information, tools and functions generated by humanitarian action to government and community actors will involve a degree of standardisation, coordination and capacity-building - with substantial programming horizons to ensure sustained integration into government and community systems.

Step 2: Ensure recognition of tenure security measures by land administration systems

Potential measures to ensure recognition of post-disaster tenure security measures include:

- Law reform that supports flexible hierarchies of land rights evidence, and upgrading of informal or intermediate forms of land tenure.
- Collection and submission of supporting land rights evidence on behalf of beneficiaries of shelter or livelihoods programs.

Step 3: Ensure tenure security for all beneficiaries of shelter programs, including relocated persons

Shelter providers and early recovery actors should ensure that all beneficiaries of their programs, including relocated persons, have legal security of tenure - or at least have the documentation necessary to obtain legal security of tenure.

Step 4: Support international standards for legal adjudication of rights to pre-disaster land

Continuing advocacy, monitoring and program design should ensure that restitution mechanisms incorporate international standards so as to provide durable solutions to ongoing displacement for vulnerable groups.

Step 5: Implement steps to strengthen/upgrade land tenure for informal landholders

Measures to strengthen or upgrade informal land tenures include:

- Relax restrictions on housing eligibility.
- Relax planning standards and building codes that were an (?) implementable before the disaster.
- Adopt incremental or intermediate steps towards legal rights to land.

Step 6: Ensure secure rights and access to agricultural land for vulnerable groups, including tenants and women

Potential measures to ensure secure rights and access to agricultural land for vulnerable groups include:

- Developing a supportive legal, policy and operational framework for model leases that include safeguards against exploitative terms.
- Adoption of gender-sensitive land documentation systems.
- Implementation of access to justice programs aimed at women.

Step 7: Ensure support and recognition for effective community-based land and resource management systems

Potential measures to support and recognize community land management systems include:

- Developing legal and institutional frameworks to support community plans and decisions.
- Implementing capacity-building and external facilitation programs to help develop sustainable resource use plans.
- Implementing monitoring and protection measures to ensure compliance with resource plans and avoid local abuses of power.

Step 8: Develop administrative functions to bring coherence to post-disaster land measures

Potential measures to develop administrative functions to bring coherence to a wide range of post-disaster land responses include:

- Scaling up from affected pilot programs.
- Building capacity to enforce land transactions and legal determinations.
- Supporting operational moves from international technical advisers to local staffing capacity.

Step 9: Ensure inclusive land policy development for sustainable development and disaster risk reduction and preparedness

Potential measures to support inclusive land policy development include:

- Supporting a land stakeholders forum.
- Supporting an inter-ministerial land committee.

Step 10: Ensure flexible and participatory planning standards that adapt to changing settlement practices

Potential measures to adopt flexible and participatory planning standards include:

- Consistency among community, district, regional and national land plans.
- Land policy stakeholder forums.
- Decentralisation of land planning authority.
- Settlement monitoring mechanisms.

Table 14. The first 2 years: key activities and actors

| Sector or issue | Activities | Actors | Guidelines section |
|--|---|--|----------------------------|
| Assessments, Planning and Coordination | 1) Implement transfer of land information, tools and functions to government and community actors | Affected communities, NGOs, Private land sector organizations, Local governments, Line-Ministry for land | 3.2.5, 3.3.3 |
| Shelter | 2) Ensure recognition of tenure security measures by land administration systems 3) Ensure tenure security for all beneficiaries of shelter programs, including relocated persons | NGOs, Local governments, Shelter providers, Line-Ministry for land, HLP focal point | 5.1.3 |
| Protection | 4) Support international standards for legal adjudication of rights to pre-disaster land 5) Implement steps to strengthen/upgrade land tenure for informal landholders | Affected communities, NGOs, HC/RC, HLP focal point | 4.2.3, 4.2.4, 5.2.2 |
| Agriculture | 6) Ensure secure rights and access to agricultural land for vulnerable groups, including tenants and women | Affected communities, NGOs, Local governments, FAO | 4.3.3, 4.3.4, 4.3.5 |
| Livelihoods | 7) Ensure tenure security for all beneficiaries of livelihoods programs. 8) Ensure land use plans that include sustainable resource management measures | Affected communities, NGOs, Local governments, Line-Ministry for land, HLP focal point | 4.3.4 5.1.3,, 5.4.3, 5.4.4 |
| Land administration | 9) Develop administrative functions to bring coherence to post-disaster land measures 10) Ensure inclusive land policy development for disaster risk reduction and sustainable development | Affected communities, Local governments, Line-Ministry for land, national planning agencies, Bilateral/multilateral donors | 5.3.6 |
| Land use and settlement planning | 11) Ensure flexible and participatory planning standards that adapt to changing settlement practices | Affected communities, NGOs, Local governments, National and regional planning authorities, UN-HABITAT | 5.4.4 |

HC/RC = Humanitarian Coordinator/Resident Coordinator
HLP = Housing, Land and Property

Chapter 7 Monitoring and evaluation

This part provides for monitoring and evaluating land-related interventions undertaken as part of early recovery activities. Monitoring and evaluation are two parts of a system for reviewing progress towards expected accomplishments or results. *Monitoring* is a function that enables managers to verify whether their project or programme activities are happening as planned and whether resources are being used appropriately and efficiently. *Evaluation*, by contrast, is a selective exercise that aims to systematically assess progress towards results. Evaluation is not a one-time event, but rather should aim to respond to changing circumstances on the ground and evolving knowledge and learning requirements. Ideally, evaluations should be carried out every six months.

As many valuable tools have been developed for monitoring and evaluation, this section will focus on three issues: first, why monitoring and evaluation is important; second, the elements of monitoring and evaluation system; and, finally, to present a menu of potential indicators to be considered for monitoring land related early recovery interventions.

7.1 Why invest in monitoring and evaluation

Monitoring and evaluation may seem a secondary priority in a post-disaster context; however, there are at least six important reasons for investing in monitoring and evaluation activities from the outset of humanitarian action:

Planning and management: As described above, the basic function of monitoring and evaluation is to support programme planning and management: what needs should be prioritized; is the programme on track to meet its objectives; are resources being used efficiently?

Adapting programmes to changing realities: The post-disaster context is extremely fluid and dynamic. Critical decisions must be made very quickly, often based on incomplete information or understanding. This is particularly relevant in the land sector, which is characterized by fragmented information, complex tenure systems, and vested interests. As new information or knowledge becomes available, programmes can be adapted to ensure that the desired results will be achieved, and negative impacts avoided.

Evidence-based advocacy: Verifiable information based on information or experience from the field can be a powerful advocacy tool. Decision-making (and decision-makers) are often concentrated in capital cities, in which case monitoring and evaluation data can play a critical role

in shaping or revising post-disaster policy (see, for example, Box 22 on how Pakistan's policy vis-à-vis agricultural tenants was changed).

Communicating results: Governments, donors and implementing agencies all need to be able to communicate results and progress to different audiences. Monitoring and evaluation data can play a critical role in communicating results. The choice of indicators is critical, however, as they must not only be technically sound, but must also resonate with policy and decision-makers.

Resource mobilisation: Post-disaster needs often exceed available resources, fueling competition between priorities and actors. Monitoring and evaluation data showing positive impact over time are fundamental to an effective resource mobilization strategy.

Knowledge management: Monitoring and evaluation provides information, which, if internalized and mainstreamed within an organisation, can improve the design and implementation of future programmes. It can also support broader awareness raising objectives, for example, demonstrating through reference to different emergencies, the value of early and effective action to address land issues.

7.2 Developing a monitoring and evaluation system

The importance of monitoring and information data means that M&E systems design should be incorporated into programme formulation and data review should be made routine. The Early Recovery Guidance Note (2008) suggests that an effective monitoring and evaluation system should be able to answer the following five key questions:

What: Monitoring and evaluation should occur at two closely-related levels: **activities/outputs**, that is, the delivery of services and products specified in the programme; and **outcomes**, that is, the (positive) changes in broader development conditions to be achieved through the programme. A menu of potential land-related indicators is included in section 7.3 below.

When: The timing and frequency of monitoring and evaluation should be based both on basic reporting requirements as well as more strategic milestones in programme implementation. Monthly or bi-monthly reporting is usually the norm, while more in-depth evaluations can be undertaken quarterly or to coincide with programme milestones such as the completion of policy consultations on land issues, the completion of a phase of a training programme for land administration staff.

How to monitor and evaluate: A variety of tools and methods exist for monitoring and evaluation, including: work plans and reports, field visits, spot checks, real-time evaluations (RTE), external monitoring, external assessment, client survey, annual stakeholder review, etc. In the land sector, desired outcomes such as increased security of tenure, may be more amenable to client surveys, while coordination objectives

may be served by stakeholder reviews. Real-time evaluations can be a useful tool to provide immediate feedback to staff and counterparts in a post-disaster context. The definition of baselines (data that describe the situation to be addressed by a programme and that serve as the starting point for measuring programme performance) will be critical to effective monitoring and evaluation. Gender considerations should be mainstreamed in all stages of design, collection, analysis and dissemination of information.

Who: Monitoring and evaluation can be undertaken directly by staff or indirectly through third parties. Working with a local university or professional association can be an effective way to strengthen capacity in the land sector and bring a more critical perspective to the project.

How to use the results: Data and lessons can be used for a variety of objectives, as described in section 7.1 above.

7.3 Potential indicators for land-related interventions

The table below presents selected objectives, activities and potential indicators for inclusion in a monitoring and evaluation system for land interventions in an early recovery context. The activities are grouped to support four broad intervention objectives: (i) improved coordination; (ii) security of tenure for shelter and livelihoods; (iii) land records and administration; (iv) improved land management practices. Disaster risk reduction elements should be incorporated to support each intervention objective.

The activities and indicators are intended to give Guidelines users a basis for developing their own indicators sets and monitoring systems. They are not meant to be either comprehensive or blue-prints; they should be adapted to specific country contexts and programme baselines (starting points). All monitoring systems should be designed to facilitate gender analysis (eg. through disaggregated data).

Table 15. Monitoring framework

| Objective | Potential activities | Potential indicators |
|---|--|--|
| Improved coordination | <ul style="list-style-type: none"> Land sector coordination group and/or development partners group established and operational. Establishment of issue-specific working groups Who, what, where (3W) table developed and regularly updated Inter-agency work plans developed and implemented Basket funding or multi-donor funding secured and operational | <ul style="list-style-type: none"> % of stakeholders regularly participating in various coordination meetings Quality of policy and decision-making improved as evidenced in meeting minutes % of donor funds allocated based on sector work plan Improved information sharing across Government Ministries and departments Perception survey results |
| Security of tenure (shelter and livelihoods) | <ul style="list-style-type: none"> Government statements confirming security of tenure for all or anti-eviction declarations In depth understanding of local tenure systems in disaster affected areas Short-term tenure types introduced New laws, policies adopted Legal assistance/information programmes Community-based land adjudication Additional technical and material support for shelter or livelihoods | <ul style="list-style-type: none"> Number of forced evictions Number and types of land disputes over time Number of people with legally recognized land rights Number of landless due to disaster impacts Perception survey results Legal and policy reforms to promote equitable access to land as part of DRR strategy |
| Protection and restoration of land rights | <ul style="list-style-type: none"> Assessment of secondary occupation, including impact on vulnerable groups Mechanisms to replace/issue personal identity documents Information and advocacy programmes for vulnerable groups (widows, orphans, tenants...) Mobile or decentralized court services Programmes to record and monitor land rights of widows, orphans, tenants, secondary rights holders Shelter, livelihood or land programmes targeting tenants/renters Alternative dispute resolution programmes | <ul style="list-style-type: none"> Number of replaced/new identity cards issued Number of widows, orphans, tenants, secondary rights holders with recorded rights to land over time Size and composition of the residual caseload over time Awareness surveys Focus group assessments Number and types of land disputes over time by institution (courts and mediation) Number of IDPs benefiting from programmes promoting durable solutions Legal and policy reforms as part of DRR strategy |
| Land records & administration | <ul style="list-style-type: none"> Secure land records Programmes to restore identity documents Programmes promoting policy and legal reform to recognize alternative forms of evidence of land rights and a range of land rights, including short-term use rights Interim measures to support secure land rights and facilitate land market transactions Capacity-building programmes for Government and local institutions | <ul style="list-style-type: none"> Number of land records restored (digitized, freeze-dried, etc.) Number of identity documents issued (new/replacement) Number and types of training carried out Number and gender of training participants Number of days/steps required for interim measures for administrative procedures Data back-up system in place as part of DRR strategy |

| Objective | Potential activities | Potential indicators |
|--|---|---|
| Improved land management practice | <ul style="list-style-type: none"> • Settlement and rural hazard and risk assessments carried out • Inventory of public/state land • Support to community planning, including linkages to district and provincial/state plans • Infrastructure investments take into account the land rights of affected/adjacent communities; • Measures to relax planning and building regulations to facilitate reconstruction • Land readjustment or land pooling programmes • Relocation/resettlements programmes are implemented only as a 'last resort' with a clear public interest and with due process and informed consent • Review of land-use, planning and management regulations as part of DRR strategy | <ul style="list-style-type: none"> • Information on hazardous land and relocation policy is widely available to facilitate informed choices • Number of settlements/population occupying hazardous land over time • Information on state/public land is available and regularly updated • Number of people relocated/resettled out of total affected population; • Results from surveys of people forced to relocate due to hazardous land or affected by infrastructure investments • Policy and legal reforms implemented as part of DRR strategy |

Further reading

UNDP (2009) *Handbook on Planning, Monitoring and Evaluating for Development Results* <http://www.undp.org/eo/handbook/>

World Bank (2007) *Impact Evaluation for Land Property Rights Reform*, PREM, Washington, DC.

USAID (2005) *Land and Conflict: A Toolkit for Intervention*

http://www.usaid.gov/our_work/cross-cutting_programs/conflict/publications/docs/CMM_Land_and_Conflict_Toolkit_April_2005.pdf

Chapter 8 Conclusion and recommendations

It is only very recently that land issues have been recognized as critical to post-disaster recovery and reconstruction. The preparation of these Guidelines is, therefore, only the first step in a much broader process of strengthening the capacity of the international system to address land issues in a coherent and predictable manner. Advocacy, capacity-building and monitoring programmes are envisioned as follow-up activities to these Guidelines. Feedback from users is welcome and appreciated.

This section concludes with some final recommendations for two important stakeholder groups: (i) national governments and civil society; and (ii) the global humanitarian system.

8.1 Government and civil society

Post-disaster programming must take into account the underlying issues that create vulnerability to natural disasters. It is essential that short-term reconstruction efforts include planning for early recovery land programs to reduce vulnerability and build resilience to future disasters. These land programs should include measures to:

- Build on community-based measures to ensure tenure security after a natural disaster, with a goal of securing land tenures for all those affected (including women, tenants and informal landholders).
- Adopt rapid risk assessments and public consultation mechanisms to ensure public support for return and reconstruction restrictions on unduly hazardous land.
- Target the shelter and livelihoods needs of vulnerable groups who have lost access to land after a disaster, including women, the landless and customary landholders.
- Apply flexible participatory community planning techniques to all disaster-affected settlements, including customary and informal settlements, so as to improve long-term sustainability and mitigate the risk of future disasters.

8.2 Global humanitarian system

Addressing land issues is essential to early recovery after a natural disaster, particularly in terms of effective transitions from emergency relief to disaster risk reduction and sustainable development. It is important to get land issues on the early recovery agenda through:

- Awareness that land issues can be a time-critical barrier to early recovery.

- Inclusion of basic questions relating to land in multi-sectoral and other needs assessments.
- Inclusion of basic land-related responses in Flash Appeals and the Consolidated Appeals Process.
- Appointment of land experts through Flash Appeal or Consolidated Appeals Process funding.

Developing global humanitarian capacity to address land issues through early recovery frameworks would also require:

- Training programs based on these guidelines for early recovery actors, including OCHA, Humanitarian Coordinators/Resident Coordinators, and Humanitarian Cluster leads.
- Strengthening the surge capacity of international land expertise to allow quick placement of land experts into disaster-affected areas.
- Clear understanding of international standards and best practices to guide international actors as they work with and through national governments after a natural disaster.
- Training programs based on these guidelines for early recovery actors, including OCHA, Humanitarian Coordinators/Resident Coordinators, and Humanitarian Cluster leads.
- Strengthening the surge capacity of international land expertise to allow quick placement of land experts into disaster-affected areas.
- Clear understanding of international standards and best practices to guide international actors as they work with and through national governments after a natural disaster.

Glossary of key land concepts and terms

| Term | Definition |
|---------------------------------------|--|
| Land | The delineable area of the earth's terrestrial surface, encompassing all attributes of the biosphere immediately above or below this surface, the human settlement pattern and physical results of past and present human activity (terracing, water storage, drainage, roads, buildings, etc.) |
| Land ownership versus land use | Given its finite nature and the fact that any piece of land normally has multiple rights, restrictions and uses and users, it is more appropriate to talk about land-use than land ownership. |
| Land access | The ability to use land and associated natural resources (for example, to build a house, graze animals, grow crops, or gather forest products). |
| Land rights | Land rights are authorized entitlements to land. They are also described as property rights in land. Commonly, they encompass rights to use, lease, and transfer, inherit or sell land. They may be held by individuals or groups. They can be created by ancestral occupation and use of land by traditional societies. Rights are accompanied by restrictions and responsibilities. |
| Land tenure | The relationships among people, as individuals or groups, with respect to land and associated natural resources. Land tenure systems determine who can use what resources for how long and under what conditions. Land tenure includes both rural and urban tenures and ownership, tenancy and other land use arrangements. |
| Continuum of land tenure | In any country a range of possible forms of tenure may exist. The range of possible forms of tenure can be considered as a continuum. Each point on the continuum provides a different set of rights, restrictions and responsibilities. Each point also provides a different degree of security of tenure. The continuum in any country may span from perceptions of tenure security, customary forms of tenure, intermediate forms of tenure (such as temporary occupation permits, residential licenses, certificates, etc.), group tenures, or registered leaseholds or individual titles. |
| Security of tenure | The degree of confidence that land users will not be arbitrarily deprived of the rights they enjoy over land and the benefits that flow from it; the certainty that these rights will be recognized and protected in case of specific challenges; or, more specifically, the right of all individuals and groups to effective government protection against forced evictions. |
| Gender | The differences between woman and men within the same household and within and between cultures that are socially and culturally constructed and change over time. These differences are reflected in: roles, responsibilities, access to resources, constraints, opportunities, needs, perceptions, view, etc. held by both woman and men. Thus gender is not a synonym for woman, but considers both woman and men and their interdependent relationships. |
| Land administration | The system and processes of making land tenure rules operational. It includes the administration of land rights, land use regulation, and land valuation and taxation. Land administration may be carried out by agencies of the State, or through local or customary leaders. |
| Informal land tenure system | It arises where neither formal nor customary legal frameworks are effective or appropriate and it may have its own rules, authorities and institutions. Its lack of legitimacy makes it an insecure land tenure system |
| Land governance | Includes (1) the structures, rules and processes governing the access to and use of land, (2) the manner in which land-related decisions are made, implemented and their impacts distributed within society, and (3) the way that conflicting interests in land are managed. It includes statutory, customary and informal institutions. It emphasizes power and the political economy of land. |

| Term | Definition |
|------------------------------|--|
| Land policy | The set of intentions embodied in various policy instruments that are adopted by the state or other forms of socio-political authority to organize land tenure and land use. |
| Land use planning | The systematic assessment of land and water potential, alternatives for land use and economic and social conditions in order to select and adopt the best land-use options. Its purpose is to select and put into practice those land uses that will best meet the needs of the people while safeguarding resources for the future. The driving force in planning is the need for change, the need for improved management or the need for a quite different pattern of land use dictated by changing circumstances. |
| Landlessness | The state of owning no land. In the case of a post-disaster context, landlessness refers to the physical loss of land due to the disaster by two key groups: (1) tenants and other secondary holders of rights to land, and (2) informal landholders whose rights are not recognised by State law. |
| Leases | Agreements between landowners and tenants. Commonly, they grant tenants exclusive possession and use of land for a fixed period of time, in exchange for the payment of rent. |
| Tenants/Renters | Those who have exclusive possession and use of land under a lease with a landowner. Tenants can also be described as renters. |
| Informal land-holders | Those who occupy or use land without formal recognition or protection from the law. They are often recognized by customary law or local practices. |
| Indigenous people | Peoples who descend from the population which inhabited the country or a geographical region to which the country belongs, at the time of conquest or colonization, or the establishment of present state boundaries and who irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. |
| Livelihood | It comprises the capabilities, assets (including both material and social resources) and activities required to make a living. A livelihood is sustainable when it can cope with and recover from stresses and shocks and maintain and enhance its capabilities and assets both in the present and in the future, while not undermining the natural resource base. |
| Social capital | Is the notion that social bonds and norms are important for the achievement of livelihoods. Access to land depends upon social status, power and identity, and must ultimately be gained through the different social relationships held by the actors and social capital networks. |
| Settlement planning | Solving the problems derived from the relationship between people, the environment, and the political, social and economic context, in a continuous process of change and mutual adjustment. The physical ambit of planning of individual settlements is concerned with the best use of the present stock - through renewal, rehabilitation and other forms of improvement - and the integration of marginal or peripheral settlements or the creation of new ones. |
| Vulnerability | Conditions of economic, physical, social and environmental infrastructure that determine the probability that a certain hazard will cause a certain degree of damage. |

Adapted from FAO (2003), Multilingual Thesaurus on Land Tenure, http://www.fao.org/sd/2003/in0602_en.htm.

Resources

ActionAid, (2005) *People – Centred Advocacy for Land Tenure Rights in Nepal*, <http://www.actionaid.org/assets/docs/final6.pdf>

ActionAid, (2005) *Action research on Planning, Assessing and Learning in People – Centred Advocacy*, <http://www.actionaid.org/assets/docs/final1.pdf>.

Asian Development Bank (1995) *Involuntary Resettlement*, ADB.

Brown, O and Crawford, A (2006) *Addressing Land Ownership after Natural Disasters*, International Institute for Sustainable Development, Winnipeg, Manitoba.

Deininger, K, (2003) *Land Policies for Growth and Poverty Reduction (World Bank Policy Research Report)*

FAO, (1985) *Agroforestry pathways: Land Tenure, Shifting Cultivation and Sustainable Agriculture*, <http://www.fao.org/docrep/50630e/50630e02.htm>

FAO, (1992) *The Future of Our Land: Facing the Challenge – Guidelines for Integrated Planning for Sustainable Management of Land Resources*, <http://www.fao.org/docrep>

FAO, (1993) *Guidelines for Land-use Planning*, <http://www.fao.org/docrep>

UNCED, (1993) *Agenda 21: Programme of Action for Sustainable Development*, <http://www.fao.org/docrep>

FAO, (1995) *Tree and Land Tenure: Using Rapid Appraisal to Study Natural Resource Management*, <ftp://ftp.fao.org/docrep/fao/006/x7760b/X7760B58.pdf>

FAO, (2002) *Land Tenure and Rural Development*, <http://www.fao.org/DOCREP/005/Y4307E/Y4307E00.HTM>

FAO, (2002) *Gender and Access to Land*, <ftp://ftp.fao.org/docrep/fao/005/y4308e/y4308e00.pdf>

FAO, (2004) *Leasing Agricultural Land*, www.fao.org/docrep/007/y5513e/y5513e00.HTM

FAO, (2004) *Post – Conflict Land Tenure, Using a Sustainable Livelihoods Approach*, <ftp://ftp.fao.org/docrep/fao/008/j5415e/j5415e00.pdf>

FAO, (2005) *Access to Rural Land and Land Administration after Violent Conflicts*, <ftp://ftp.fao.org/docrep/fao/008/y9354e/y9354e00.pdf>

FAO, (2006) *Improving Gender Equality in Access to Land*, <ftp://ftp.fao.org/docrep/fao/007/y3495e/y3495e00.pdf>

FAO, (2006) *Land Tenure Alternative Conflict Management Manual*.
<http://www.fao.org/docrep/009/a0557e/a0557e00.htm>

FAO (2007), *Good Governance in Land Tenure and Administration*, http://www.fao.org/nr/lten/abst/lten_071101_en.htm

FAO / International Fund for Agricultural Development, World Bank (2008), *Gender in Agriculture Sourcebook*, unhq-appspub-01.un.org/lib/dhlrefweblog.nsf/dx/13102008041924PMMVAS5F.htm

- FAO, Quan, J with Dyer, N, (2008) *Climate Change and Land Tenure*, <ftp://ftp.fao.org/docrep/fao/011/aj332e/aj332e00.pdf>
- FAO / UNEP, (1996) *Our Land Our Future, A New Approach to Land Use Planning and Management*, <http://www.fao.org/docrep>
- FAO / UNEP, (1997) *Negotiating a Sustainable Future for Land. Structural and Institutional Guidelines for Land Resources Management in the 21st Century*, <http://www.fao.org/docrep>
- Fitzpatrick, D, *Addressing Land Issues after Natural Disasters: Scoping Report* (UN-HABITAT September 2007, available at www.gltm.net).
- Fitzpatrick, D and Zevenbergen, J, *Addressing Land Issues after Natural Disasters: A Case Study of Tsunami-Affected Aceh, Indonesia*, www.gltm.net
- G. Barnes, G. Riverstone (University of Florida), C. Lanza (UN – HABITAT) (2008) *Post – Disaster Land Study: Hurricane Mitch in Honduras*, <http://www.gltm.net/en/e-library>
- G. Barnes, G. Riverstone (2008) *Post – Hurricane Land Issues Case Study: Hurricane Ivan (2004) in Grenada*, <http://www.gltm.net/en/e-library>
- Humanitarian Reform Support Unit, Office for the Coordination of Humanitarian Affairs, United Nations, (2008) *Developing a Strategic Operational Framework*.
<http://www.humanitarianreform.org/humanitarianreform/Portals>
- IASC, *Introduction of Flash, CERF and CAP*, <http://ocha.unog.ch/humanitarianreform/Default.aspx?tabid=143>
- IASC, (2006) *Guidelines for Flash Appeals*, www.humanitarianreform.org
- IASC, (2007) *How to Apply to the CERF*, www.humanitarianreform.org
- IASC, (2007) *Key Things To Know About Integrating Cross – Cutting Issues*, <http://www.humanitarianreform.org/humanitarianreform>
- IASC, (2008) *2008 CAP Technical Guidelines*, www.humanitarianreform.org
- IASC, *Cluster/Sector Leadership Training, Building and Advocacy Strategy*, <http://www.humanitarianreform.org/humanitarianreform/Default.aspx>
- International Covenant on Civil and Political Rights*, UN Resolution 2200A of 16 December 1966, entered into force on 23 March 1976 .
- I-S Aursnes, Foley, C, (2005) *Property Restitution in Practice: The Norwegian Refugee Councils' Experience*, <http://www.humanitarianreform.org/Default>
- J. David Stanfield et al. (200-) *The Challenges of Sudden Natural Disasters for Land Administration and Management: The Case of the Hurricane Katrina in New Orleans*, <http://www.gltm.net/en/e-library>
- IASC (2006) *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and National Disasters*, Inter-Agency Standing Committee.
- Organisation for Economic Cooperation and Development (1992) *Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects*, Guidelines on Aid and Environment No. 3, OECD.

De Wit, P and Norfolk, S (2008) *Addressing Land Issues Following a Natural Disaster: Case Study of Floods in Mozambique (Draft)*

PCWG, (2007) *Land Property, (Part V.11), Handbook for the Protection of Internally Displaced Persons (Provisional Edition)*, <http://www.humanitarianreform.org/Default>

Principles on Housing and Property Restitution for Refugees and Displaced Persons, United Nations, E/CN.4/Sub.2/2005/17 (2005)

Robert Home and Nilofer Afridi Qazi, (2005) *Case Study of Pakistan Earthquake*, <http://www.gltm.net/en/e-library>

Shelter Centre Library (2008) *Transitional settlement and reconstruction after natural disasters*,

<http://www.sheltercentre.org/library/>

The Global Land Tool Network (GLTN), (2007) *Gendering Land Tool Development*, http://www.gltm.net/index.php?option=com_docman&gid=49&task=doc_details&Itemid=24

The Global Land Tool Network (GLTN), (2008) *Secure Land Rights for All*, http://www.gltm.net/index.php?option=com_docman&gid=170&task=doc_details&Itemid=24

The Global Land Tool Network (GLTN), (2009) *Gendering Land Tools: Achieving Secure Tenure for Women and Men*, http://www.gltm.net/index.php?option=com_docman&gid=202&task=doc_details&Itemid=24

UNIFEM, UNDP and ECLAC (2005) *Grenada: A Gender Impact Assessment of Hurricane Ivan – Making the Invisible Visible*, available at <http://www.eclac.cl/publicaciones/xml/7/23217/L.48.pdf>, accessed 5 September 2007.

UNDP (2004) *Reducing Disaster Risk: A Challenge for Development*, www.undp.org/bcpr

United Nations Development Programme (UNDP) and United Nations Economic Commission for Latin America and the Caribbean (UN/ECLAC). *Post Disaster Recovery Damage and Needs Assessment (PDNA) Methodologies and Tool Kit - Draft Guide for Post Disaster Needs Assessment*, www.undp.org/cpr/iasc/content/docs/

UNISDR (2009) *UN International Strategy for Disaster Reduction, Terminology on Disaster Risk Reduction*, <http://www.unisdr.org/eng/library>

UN – HABITAT, (1999) *Women's Rights to Land, Housing and Property in Post Conflict Situations and During Reconstruction, A Global Overview*, <http://www.gltm.net/en/e-library/gender/women-s-rights-to-land-housing-and-property-in-post-conflict-situations-and-during-reconstruction-/details.html>

UN-HABITAT (2003). *The Challenge of Slums. Global Report on Human Settlements*

UN – HABITAT, (2004) *Urban Land For All*, http://www.gltm.net/index.php?option=com_docman&gid=107&task=doc_details&Itemid=24

UN – HABITAT, (2005) *Shared Tenure Options for Women*, <http://www.gltm.net/en/search-publication/gender/shared-tenure-options-for-women-/details.html>

- UN – HABITAT, (2006) *Progress Report on Removing Discrimination against Women in respect of Property & Inheritance Rights – Tools on Improving Women’s Secure Tenure Series 1*, http://www.gltm.net/index.php?option=com_docman&gid=74&task=doc_details&Itemid=24
- UN – HABITAT, (2006) *Analytical Perspective of Pro-poor Slum Upgrading Frameworks*, <http://www.gltm.net/en/e-library>
- UN – HABITAT, (2006) *Mechanism for Gendering Land Tools – A Framework for Delivery of Women’s Security of Tenure*, <http://www.gltm.net/en/e-library/gender/mechanism-for-gendering-land-tools-a-framework-for-delivery-of-women-s-security-of-tenure/details.html>
- UN – HABITAT, (2007) *An Immediate Measures Land Management Evaluation Tool for Emergency Through to Reconstruction Post – Conflict situations*, <http://www.unhabitat.org/content.asp?cid=1269&catid=404&typeid=16&subMenuId=0>
- UN – HABITAT, (2007) *Handbook on Post – conflict Land Administration and Peace Building Countries with Land Records*, <http://www.unhabitat.org/content.asp>
- USAID (2005) *Land and Conflict: a toolkit for intervention*, U.S Agency for International Development, available at: http://www.usaid.gov/our_work/cross-cutting_programs/conflict/publications/docs/CMM_Land_and_Conflict_2004.pdf
- UNHCR, UN – HABITAT, OHCHR, UNOCHA, IDMC/NRC & FAO, (2007) *Handbook on “Housing and Property Restitution for Refugees and Displaced Persons – Implementing the Pinheiro Principles”*, <http://www.humanitarianreform.org/Default.aspx?tabid=54>
- World Bank/IFC (2004) *Involuntary Resettlement Source Book*, World Bank

The Global Land Tool Network

The main objective of the Global Land Tool Network (GLTN) is to contribute to poverty alleviation and the Millennium Development Goals through land reform, improved land management and security of tenure.

The Network has developed a global land partnership. Its members include international civil society organizations, international finance institutions, international research and training institutions, donors and professional bodies. It aims to take a more holistic approach to land issues and improve global land coordination in various ways. These include the establishment of a continuum of land rights, rather than a narrow focus on individual land titling, the improvement and development of pro-poor land management, as well as land tenure tools. The new approach also entails unblocking existing initiatives, helping strengthen existing land networks, assisting in the development of affordable gendered land tools useful to poverty-stricken communities, and spreading knowledge on how to implement security of tenure.

The GLTN partners, in their quest to attain the goals of poverty alleviation, better land management and security of tenure through land reform, have identified and agreed on 18 key land tools to deal with poverty and land issues at the country level across all regions. The Network partners argue that the existing lack of these tools, as well as land governance problems, are the main cause of failed implementation at scale of land policies world wide.

The GLTN is a demand driven network where many individuals and groups have come together to address this global problem. For further information, and registration, visit the GLTN web site at www.glttn.net.

About these Guidelines

The main purpose of the Guidelines is to provide a holistic approach to addressing land issues from the immediate aftermath of a natural disaster through early recovery and reconstruction phases. It is targeted at humanitarians and land professionals, as well as government officials. The Guidelines take an inter-disciplinary approach to land, one that also brings together humanitarian emergency relief and early recovery perspectives.

Throughout the text, readers will find many short cases illustrating practical aspects of bringing land issues into the post-disaster recovery process. The information provided in these Guidelines will be of interest and use to anyone directly working to support rapid yet sustainable recovery of human settlements following a natural disaster.

UN HABITAT

UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME

Shelter and Sustainable Human Settlements Development Division

Shelter Branch (UN-HABITAT)

P. O. Box 30030, Nairobi 00100, Kenya

Tel: +254 207623120; Fax: +254 207624266 Website: www.unhabitat.org



**GLOBAL
LAND
TOOL
NETWORK**

GLTN contributes to the implementation of
pro-poor land policies to achieve
secure land rights for all
www.gltn.net