

Land & Conflict

THEMATIC GUIDANCE NOTE 01

**RESTITUTION, COMPENSATION
AND DURABLE SOLUTIONS TO
DISPLACEMENT AND DISPOSSESSION**



Thematic Guidance Note on Land & Conflict

Disputes over land access and control often escalate into violence and conflict leading to dispossession and forced displacement within and across borders. Estimates indicate that 56 percent of conflicts are related to land and that most conflicts take place in developing countries. At the end of 2015, 95 percent of the 65 million refugees and internally displaced people were living in developing countries.

The central role of land to livelihood, identity and power, most notably in rural-based economies explains why disputes over access and control of land frequently escalate into armed conflict and mass displacement.

This Note is part of a series of World Bank Thematic Guidance Notes on land and conflict that present key issues, challenges and guiding principles to address land tenure issues in conflict and post-conflict environments. The three Notes in the series are:

- 01.** Restitution, Compensation and Durable Solutions to Displacement and Dispossession
- 02.** Integrating Customary Tenure into Formal Systems
- 03.** Protecting and Strengthening the Land Tenure of Vulnerable Groups

The audience for these Notes is both laymen and practitioners who are preparing a project or program in a conflict or post-conflict setting, including multi-lateral and bi-lateral institutions, governments, NGOs and others. These Guidance Notes seek to provide guidance on where to start and what questions to ask, not to be an exhaustive 'how to' for land and conflict issues.

While these Notes are meant to stand alone, they are inter-related and may cross-reference relevant material from other Notes.



Issue and Why It is Important

This section describes how programs such as restitution, compensation and complementary reintegration measures for displaced people can contribute to their sustainable recovery and to durable solutions through return or local integration in place of displacement or relocation elsewhere.

Please see the Glossary at the end (Annex 1) for definitions of key terms.





Durable solutions

Durable solutions¹ for displaced persons² are achieved through sustainable integration in people's place of origin (return); in their area of displacement, (local integration); or in a third location (settlement elsewhere in the country for internally displaced people, or resettlement to a third country for refugees). Since the term "settlement elsewhere" can create confusion with the notion of resettlement, this paper uses the word "relocation" to refer to settlement in a location different from the place of origin and displacement. Return, local integration and relocation elsewhere in the country are not durable solutions per se but merely settlement options requiring a range of legal, civil, political, economic and social conditions to turn into durable solutions.

In relation to refugees, UNHCR considers that « solutions are secured when persons of concern enjoy their fundamental rights, including access to national services and systems, without facing any discrimination. It entails addressing four interrelated dimensions, namely: economic, legal, socio-cultural and civil-political rights, and serves to strengthen communities, while reducing the risk of disenfranchisement and frustration among newcomers as well as hosts. »

In the context of internal displacement, the IASC Framework on Durable Solutions for Internally Displaced Persons identifies eight criteria to measure progress towards durable solutions:

- safety and security
- adequate standard of living
- access to livelihoods
- restoration of housing, land and property
- access to documentation
- access to effective remedies and justice
- family reunification
- participation in public affairs

These criteria reflect the central role of land and housing in the achievement of durable solutions and the need to address housing, land and property (HLP) issues in post-conflict settings either through demining (safety and security), provision of access to land and housing with secure tenure (adequate standards of living, access to livelihood), and restitution and compensation programs (access to effective remedies, restoration of housing, land and property, access to documentation).

- Most restitution and compensation programs in post-conflict settings have been supported by humanitarian actors with the objective of redressing land and housing dispossession. Although this objective is key,

the preceding definitions show that mere restitution or reconstruction of property will not suffice to ensure durable solutions; it requires complementary legal and socio-economic measures, which are beyond the scope of this paper. For restitution to lead to a successful and sustainable restoration of livelihoods, it should be combined with measures improving access to health and education services, access to markets, infrastructure, utilities and other public services. In Colombia, as part of the restitution program, the government is supporting the implementation of income-generating projects and providing financial support to IDPs.

In addition, transitional justice measures such as the prosecution of perpetrators of human rights violations and violations of land rights, or actions to break up the criminal networks that are responsible for land grabbing can play a key factor in tackling some of the roots of land conflict injustices, avoiding the validation of land rights violations and preventing new land related injustices.

The implications and challenges to land and housing programming differ in return, local integration and relocation contexts. In return areas, programming on housing, land and property have to address the issue of destruction and occupation of properties through restitution and/or compensation and reconstruction. In the contexts of local integration or relocation, the solutions designed for the displaced need to take into account the land and housing rights of those living in or owning the areas where IDPs will be settled. If such lands are privately held or held collectively, compensation needs to be considered.

Protracted displacement

Addressing HLP in post-conflict situations often takes place in situations of protracted displacement where refugees or IDPs have not been able to achieve durable solutions within a short time-frame. In refugee contexts protracted displacement is defined quantitatively as a situation in which 25,000 or more refugees of the same nationality have been in exile for five years or longer in a given asylum country. In contexts of internal displacement, the definition is more qualitative and refers to "situations where the process for finding durable solutions is stalled, and/or where IDPs are marginalized as a consequence of violations or a lack of protection of their human rights, including economic, social and cultural rights. Solutions are absent or have failed and IDPs remain disadvantaged and unable to fully enjoy their rights. »

Protracted displacement is a widespread phenomenon. UNHCR estimated in 2012 that nearly 75 percent of the

refugees were in this situation. While figures are more difficult to obtain for IDPs, countries affected by internal displacement have reported IDP figures for an average of 23 years. The scope of protracted displacement has led to the realization that humanitarian aid alone is insufficient to achieve durable solutions and reduce poverty for refugees and IDPs. This was reflected at the global level by calls to share responsibility and improve coordination between humanitarian and development actors when addressing forced displacement. The centrality of land to durable solutions and the increased calls for development actors to engage with humanitarian actors in support of such solutions is one of the justifications for this Guidance Note.

One of the reasons for protracted displacement is the difficulty for people forcibly displaced to make a free and informed choice on the area where they want to settle. In reality, circumstances often impose certain solutions either because return areas are unsafe or inaccessible, or because assistance is mostly geared towards one solution. In both cases, there is a risk to create a situation of unresolved displacement.

There is a known tendency for host governments, humanitarian organizations, and their donors to push for programs supporting return over relocation or local integration regardless of displaced people's preferences. This tendency can be because host regions or governments consider displaced populations as a burden on their services and economy, or because they have a political agenda to return the displaced to reassert the presence of a given group in a certain region. In Serbia, authorities exclusively supported return programs for years to ensure that Serbian displaced would go back to Kosovo, therefore reasserting Serbian claims over their former province. IDPs were left without assistance to locally integrate for fear that an improvement of their living conditions would diminish their desire to return.

In other cases, the "return bias" takes place with the best intentions, because it is seen as a measure of justice and the best way to reverse the displacement resulting from the conflict. In Bosnia and Herzegovina, since ethnic cleansing had been a typical feature of conflict and displacement, the consensus among donors and international organizations was to support return programs as a way to restore return and the multi-ethnicity of the population that existed before the conflict. It took a decade after the end of the conflict for the first programs supporting local integration and settlement elsewhere to appear. In the meantime, many of those who did not want to return lived in miserable conditions in collective centers with limited assistance, while considerable amount of money was spent to implement a restitution program and invest in reconstruction in the areas of origin of the displaced. The compensation fund for lost properties provided by

the peace agreement remained empty because it was feared that it would forfeit the return option and therefore contribute to consolidating the results of ethnic cleansing. While the restitution program was successful in giving the lands and houses back to the displaced, this program did not result in the expected return. Similarly, many of the reconstructed houses remained empty or were sold by beneficiaries. The fact is that international assistance financed only return programs without trying to identify the preference of the displaced, affected the cost-efficiency of the program and delayed the achievement of durable solutions and economic recovery for the many who could not envisage return.

Protracted displacement has a strong bearing on the displaced's intention to return. The longer people remain in displacement the more likely they are to prefer local integration or relocation in a third location over return. For those able to return (for example, when the conflict has ended or some stability reached) but unwilling, reasons can range from remaining trauma, new family born in displacement, or new social ties and economic opportunities found in the place of displacement. Return is not the most frequent solution for refugees. Over the last 6 years, only 27 percent of refugees exited this status through return. The tendency to neglect assistance to solutions other than return contributes to protracted displacement and related impoverishment and vulnerability.

The tendency of the displaced to prefer local integration is even stronger in cases of displacement from rural to urban areas where, over time, people might have lost the skills to return to rural areas, or have become used to the services and employment opportunities of the city. In Colombia, where the situation of internal displacement has been going on for several decades, 60 percent of the population fled to shantytowns and most of them are unwilling to return to their areas of origin. Moreover, the poorest among them may not even have land to repossess so that they cannot benefit from restitution or compensation for their property. However, the peace agreement, the government development plan and the United Nations Development Assistance Framework focus on boosting the economy and rural areas with no local integration strategy for urban IDPs.

The choice of programs addressing HLP issues in conflictive environments (restitution, compensation, land reform, housing assistance) is often not neutral and should be informed by a thorough analysis of the context and the identification of the displaced preferred choice in terms of settlement.

Resettlement and relocation

The notion of resettlement has a very distinct meaning in humanitarian and development contexts. In refugee situations, the United Nations High Commissioner for Refugees (UNHCR) defines resettlement as a solution where a refugee is transferred from an asylum country to another state that has agreed to admit him or her and ultimately grant them permanent settlement. In situations of internal displacement resettlement refers to a settlement in a location different from the place of origin, either in the place of displacement or elsewhere in the country. Finally in development contexts, resettlement refers to situations where people displaced by development projects “are assisted in their efforts to improve, or at least to restore, their incomes and living standards”. To avoid confusion, this Guidance Note does not use the term resettlement and specifies whether it is referring to local integration (in the place of displacement) or to relocation (referred to as “settlement elsewhere” in IDP contexts). This Note does not cover issues of resettlement abroad for refugees, nor resettlement as a measure of disaster risk reduction or as a result of a development project. However, many of the safeguards used in contexts of development or disaster induced displacement have similarities with the principles used to ensure that relocation of IDPs does not result into forced evictions or renewed forced displacement

Each occurrence of displacement, especially when involuntary, tends to increase the vulnerability of displaced population. This is why it is usually preferable to support local integration rather than relocation, unless this is the preference of the displaced or the current displacement location is dangerous, inadequate and cannot be adapted to the needs. If the displaced need to be relocated because the area where they settled temporarily is required for development purposes the relocation must be justified by compelling and overriding public interests .

The Guiding Principles on Internal Displacement provides guidance on measures to take to protect from displacement when taking place other than during the emergency stage of an armed conflict . These measures should be applied when envisaging sustainable relocation projects for people who have already been displaced:

- Authorities should explore all feasible alternatives to displacement and if no alternatives exist, measures should be taken to minimize the impact of displacement.
- A specific decision shall be taken by a state authority empowered by law to order such measures.
- Inform displaced persons on the reasons for their relocation and, where applicable, on compensation and relocation.
- Seek the free and informed consent of those to be displaced and their participation, notably of women, in the planning and management of their relocation.

- Enforcement measures shall be carried out by competent legal authorities.
- Family unity should be preserved during and upon relocation.
- An appeal procedure should be guaranteed.
- Authorities have a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.
- These elements are consistent with measures to prevent forced evictions. Similar safeguards can be found in the World Bank’s Operational Policy 4.12 and the 2006 Basic Principles and Guidelines on Development-Based Evictions and Displacement, which also identifies criteria for ensuring the adequacy of the relocation site.

Once the settlement location has been identified measures should be identified to mitigate the effect of this new displacement and ensure that the displaced can enjoy an adequate standard of living in safety and security based on the criteria for durable solutions.

Depending on whether the context is urban or rural, the emphasis of programs will be on affordable housing or access to land.

Challenges

Some of the typical challenges in relation to local integration or relocation are:

- Lack of professional skills adapted to the new environment.
- The land allocated is not fertile.
- Hostility or discrimination from the host population especially if a temporary settlement lasts longer than planned or transforms into a permanent one.
- Disputes over the ownership or access rights of land or housing where displaced people settle temporarily or for a longer-term solution. Such disputes can result into forced evictions.
- Increased density of population and deteriorating living conditions and access to services in urban areas, particularly in slums due to the influx of refugees and Internally Displaced Persons (IDPs)
- Difficulty of upgrading housing and improving living conditions in urban and peri-urban slums due to dense and precarious habitat.
- Relocation in isolated areas with limited access to services, livelihood opportunities, and interactions with neighboring population.

Guiding Principles

The parameters to take into account when supporting local integration and relocation are mostly similar, and detailed guidance already exists on the issue. Some key aspects mainly drawn from this guidance are highlighted in the following sections:

Land and housing

- Clarify existing ownership and use claims on the land or housing to be used for local integration or relocation to adequately compensate those whose rights will be affected.
- Negotiate use of premises or land before resettling people.
- Determine the type of use and occupancy rights granted to the displaced as well as the duration of these rights and conditions for use and renewal of agreement with owners (individual or community, private or public)
- Ensure that women will have access to these rights.
- Document agreements and have them signed and recorded by local authorities in addition to the owners.

Settlement planning

- Plan to ensure the suitability of locations in relation to access to services (utilities, health and education facilities), transport and livelihood opportunities, and the impact on surrounding neighborhoods.
- Facilitate the upgrading of slum and housing conditions to achieve an adequate standard of living, in cases where local integration occurs in marginal or peri-urban areas.

- Avoid using collective buildings used by the host community (schools and hospitals) to house the displaced in the long term as it limits access to public services.
- Plan for the long term even if the solution is presented as temporary. Experience shows that temporary solutions tend to last beyond initial plans so it is important to integrate this expectation from the beginning.
- Link settlement planning to wider area development planning to ensure the complementarity of services and to contribute to social cohesion between the host population and refugees.

Social aspects

- Ensure that the relocation does not serve any discriminatory purposes to marginalize or displace specific groups.
- Identify any ethnic composition, religious or other characteristics of the population for the settlement, which may be perceived as problematic by the host community and invest in mechanisms to mitigate concerns and potential security risks linked to discrimination against settlement inhabitants.
- Adopt an area-based approach to service delivery and encourage mixing of displaced and non-displaced to reinforce social cohesion.
- Ensure that the resettled population has access to civil offices to register changes in civil status such as weddings and births.

The following examples present ways of strengthening land and housing tenure security in support of local integration and settlement elsewhere. The examples focus on the tenure security dimension but are also identified because several aspects of their implementation support the achievement of durable solutions by ensuring consultation with the population, and providing access to employment, livelihoods and services :

Local integration: Housing solutions through ownership. In Georgia, the collective centers where IDPs had been accommodated for years were upgraded and privatized to the benefit of the displaced for a symbolic amount. Legal support was provided to the new owners for them to learn how to manage a condominium. This option provided a permanent and secure housing option through ownership.

Local integration through strengthening of tenancy agreements. In Somalia, a tri-partite agreement between UN HABITAT, the municipality of Bosaso and owners of land on which urban IDPs had settled led to an upgrade of the settlement's living conditions (access to utilities, settlement layout with wider streets to prevent fire outbreaks, separate latrines for men and women) and more secure tenure through written lease agreements of 5 years. Lease agreements included obligations of owner and tenant, a notice period between 60 and 90 days, and a dispute resolution mechanism involving the municipality. A wide information campaign on the use of tenancy agreements contributed to an increased demand for such agreements from both tenants and owners.

Relocation through incremental tenure. Also in Somalia, many IDPs had settled in peri-urban areas around the city in a wild/un-planned manner. As displacement became protracted, UN HABITAT in consultation with IDPs, asked authorities to identify areas where IDPs could be resettled a few kilometers away from their current location. Once the area was identified, it was included in urban development plans as land to be connected to services. Landowners volunteering to donate part of their land to the municipality benefited from the operation since the value of their remaining land in the area increased. IDPs resettled were given free-rent contracts by the municipality and assistance to improve their housing. They also benefited from income-generating activities. Immediate relatives could inherit the occupancy right in case of death. After 15 years of continuous presence they acquired full ownership of the plot. The objective of the free rent contract increased the likelihood of the housing and land to remain for IDPs since they did not have the right to rent it or sell it.



Restitution

The Handbook on property restitution for refugees and IDPs defines restitution as follows:

“The term restitution refers to an equitable remedy (or a form of restorative justice) by which individuals or groups of persons who suffer loss or injury are returned as far as possible to their original pre-loss or pre-injury position. The right to a remedy for human rights violations has perhaps been best articulated in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of International Humanitarian Law (2005), which states that “restitution should, whenever possible, restore the victim to the original situation before the gross violations of human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship; return to one’s place of residence, restoration of employment and return of property.”

Conflict leads to forced displacement and dispossession and is characterized by widespread violence, human rights violations, and a breakdown of justice, rule of law and social cohesion. The homes and land left behind by refugees and internally displaced persons (IDPs) are often their most valuable assets and can be central to their livelihoods and identities. Their recovery is therefore critical for the displaced to overcome the socio-economic difficulties linked to their displacement and to resume their lives.

Challenges

The typical challenges to restitution programs are:

Political obstruction and social tensions: Those who benefited from dispossession to acquire new land or to assert their political power during the conflict are likely to be opposed to restitution programs and will use their position at national or local level to obstruct implementation. In Colombia, one of the key obstacles to property restitution is the connection between local politicians and the interests of big landowners, companies and armed groups. This collusion has resulted in the development of insecurity and targeted attacks against land rights activists to deter restitution claims or their implementation .

Informal tenure and lack of documentation proving legitimate ownership rights: Most conflict take place in agrarian states where 90 percent of the land is held customarily . In Colombia the rural areas that were most affected by conflict, lack cadastral and registry records,

Several key standards on forced displacement such as the Guiding Principles on Internal Displacement , and the Principles on Property restitution for refugees and IDPs (hereafter referred to as Pinheiro principles) consider restitution as a preferred remedy to dispossession and displacement. Compensation is only envisaged when restitution is impossible or when it is the choice of the displaced . Authorities have a responsibility to assist the displaced in recovering their property.

Restitution is considered as a preferred remedy for several reasons:

- It leaves open all settlement options: Once the land or house is repossessed, the person can decide whether to return, to rent it until he or she decides that conditions are conducive to return, or to sell it and use the funds to settle elsewhere.
- It provides justice and redress for dispossession and forced displacement.
- It contributes to peace-building by appeasing the resentment resulting from past violations of rights.

As a result, provisions on property restitution have been included in an increasing number of peace agreements in Latin America, Europe, Asia, Africa and the Middle-East. Several restitution programs were initiated and confronted with a wide range of challenges.

resulting in high figure of land tenure informality, close to 54 percent rural farms do not have a formal tenure. The lack of formal documents confirming land ownership and boundaries makes it particularly difficult to resolve competing claims over land. In addition, traditional boundary markers such as trees and rocks may also have been removed, intentionally or not, during displacement. Finally, the displacement of the customary land chief and population, who could have confirmed the rights allegations of the parties, renders restitution even more complex. For those people who had formal property documents, these may have been destroyed or lost, and the institutions in charge of issuing such documents might be unavailable or inaccessible to the displaced. Furthermore, the time between the violation of their rights and the beginning of the land restitution program can negatively affect the capacity of claimants to gather information supporting their claims.

High number of claims: In situations of conflict and mass displacement, the number of claims for restitution might be very high, which has the potential to overwhelm the institution that will be in charge of addressing such claims. The choice of institution should be determined based on the expected number of claims and their capacity to satisfactorily address those claims within a reasonable time-frame. Delays in the implementation of the restitution risks heighten tensions and threaten the fragile post-conflict environment.

Weakness of institutions and legal pluralism: Conflict usually results in a disruption of the functioning of institutions because their staff has been displaced, because administrative buildings or public infrastructure are damaged or certain areas of the countries are difficult to access. This situation can affect formal institutions such as courts and land administration whose records may have been lost or destroyed, but also local dispute resolution mechanisms. Moreover, the conflict may have affected the legitimacy of pre-war authorities, as they may have lost credibility due to their attitude during the conflict. In parallel, new forms of authorities may have emerged at the local level. In Côte d'Ivoire, the conflict was closely linked to the denial of land rights to long-term migrants who had bought land and which the original inhabitants claimed back sometimes decades after the deal. The authority of customary leaders who had endorsed such land deals was challenged during and after the conflict by the youth of the original inhabitants rejecting land sales to "outsiders". Youth committees were created in various villages to address land disputes and circumvent the authorities of traditional leaders. This situation creates a climate of legal pluralism whereby the same land dispute can be presented before different forums based on the expectation of a positive result. This "forum shopping" leads to legal uncertainty and instability because it is unclear whether the issue has been decided once and for all. This situation is not conducive to tenure security and investment. On the other hand, when formal institutions are not functioning adequately, customary institutions can provide a form of access to justice.

In addition, informal tenure and weak institutions make it difficult to obtain the data necessary to accurately assess the scope of the situation and establish a baseline against which an adequate response and mechanism can be elaborated.

Weakness of the rule of law: The widespread violations of human rights that commonly affect conflict situations provide to many a sense of impunity facilitating the continuation of dispossession and abusive land acquisition by individuals or companies. This dispossession and abusive

land acquisition is sometimes done in violations of the safeguards included in the legislation or, on the contrary, encouraged by authorities at the local or national level as a way to boost economic recovery. The improvement of security in the post-conflict phase opens access to certain areas. In the absence of the displaced this improvement encourages new land acquisitions. In Colombia, indigenous people's organisations have expressed their concern about increased pressure from multinationals and the government to exploit their land since the cessation of hostilities. The combined weakness of institutions and of the rule of law hinders the capacity of good-will authorities to stop continuing dispossession and enforce restitution decisions.

Protracted displacement: Protracted displacement represents a significant obstacle to property restitution. The length of dispossession complicates the process as several waves of dispossession and displacement may have taken place. In such circumstances it might be particularly difficult to identify the rightful owner: issues of succession and inheritance with multiple heirs may arise, the property may have been sold several times over the years including by people in good faith who did not know the property had been acquired illegally. Any restitution will have to determine how far back the restitution entitlement can go, as this decision has practical but also political, economic and social implications. In South Africa, where land had been confiscated during the 200 years of white minority rule, the restitution program covered land confiscation all the way back to 1913, and was combined with redistributive measures for prior dispossessions.

Root causes of conflict: If the root causes of the conflict are linked to skewed patterns of access to land and landlessness, the return to the pre-war state of things is unlikely to bring satisfaction and social cohesion.

Occupation of property: Many of the properties left behind by refugees and IDPs end up being occupied or used according to different modalities: some may have just moved in from their own initiative, others may have been allocated the property temporarily or permanently by official or de facto authorities or may have bought it in good or bad faith. This creates a serious obstacle to restitution as the occupants might be reluctant to leave and the state reluctant to evict them if the land allocation was a way to ensure political support.

Guiding principles

Detailed and authoritative guidance on how to design and implement property restitution programs already exist so the recommendations following provide an overview of key aspects to take into account and adds information on the analysis that should take place to determine which approach or which combination of approaches will more comprehensively and sustainably prevent and mitigate land and housing disputes.

Assess the situation to determine the choice of approach: HLP issues in conflict and post-conflict situations can be addressed through restitution; compensation; measures of transitional justice such as moral reparations; measures providing land and housing in areas of return, local integration or relocation, or broader reform of land tenure and administration. The choice of one or more approaches should be made based on analysis looking at the following:

- **Causes of displacement:** Before embarking into a restitution process, it is important to assess whether the population considers the pre-conflict distribution of land and property as more legitimate than the one resulting from the conflict. If HLP disputes are merely a consequence of displacement and conflict, like in Bosnia and Herzegovina, restitution is likely to be an appropriate option. If disputes over unequal access to land were among the root causes of the conflict like in Colombia, restitution will need to be complemented by redistributive land reform to better contribute to peace and durable solutions.
- **Length of displacement:** In some cases of protracted displacement, compensation or measures of land distribution might make more sense and be more practically and politically feasible than restitution.
- **Preferences of refugees and IDPs:** Consulting dispossessed populations allows the identification of solutions that correspond to their needs and that are more likely to bring them rapid and satisfactory solutions. This consultation can be done through surveys or a profiling exercise. Neglecting the displaced preference risks creating unnecessary delays in the achievement of durable solutions and could affect the cost-efficiency of programs.
- **Analysis of tenure relations and existence of land and property records:** Determine whether dispossessed land and housing are held under formal or informal arrangements and whether the legitimate owners can be easily identified. (Are the property records still available? In case of customary tenure, are customary authorities reliable and still in function? Are there alternative forms of evidence that can be used?).

- **Identification of power-brokers and political and economic consequences of land programs:** Identifying opposition to programs aimed at addressing land dispossession is key to choosing the approach to adopt, the institutions (national, local, customary) in charge of implementing it, and the compromises to make in order to ensure some results. The key is to balance what is fair with what is feasible, socially and politically. Depending on the power dynamics and the capacity of the state to impose its authority at the local level, some compromise measures may have to be found to accommodate various interests and get the power brokers on board: “A soft approach targeting occupants can take the form of financial or in-kind compensation such as allocation of alternative land, partial restitution, or economic incentives to give the land back, granting a form of amnesty for some crimes, or increasing salaries of staff involved in property restitution to limit corruption. The hard approach would focus on prosecuting perpetrators of illegal acquisition to end impunity and demonstrate political will.”

When designing and implementing a restitution program, the key issues to consider are

- Principles
- Scope and admissibility issues
- Process and procedures
- Institutions

Principles guiding restitution programs:

- **Non-discrimination, equality between men and women, children’s rights:** Land-related conflicts are frequently associated with discrimination against certain religious, ethnic or political groups. Women’s land rights are usually at risk particularly in customary settings where they cannot own land. This can limit their capacity to repossess property in case they become widows or separated from their husband. Restitution programs should include provisions on non-discrimination and take specific measures to ensure that rights of women are recognized: they should be able to own property in their own name otherwise they risk being unable to inherit from their parents or husband. All forms of marriage (traditional and common law) should be recognized for the purpose of inheritance rights. Events such as death or divorce that occurred during displacement may also have an impact on restitution rights of women and specific measures should be taken to facilitate their claims. For more information on the protection of land tenure for vulnerable groups, see the Thematic Guidance Note on protecting and strengthening tenure rights of vulnerable groups.

- **Conformity with national and international standards**

- **Right of appeal**

- **Consultation:** Displaced people should be consulted to collect information on the property they left behind and the types of land access they had in order to facilitate restitution.

- **Rights of occupants:** The occupants might themselves be displaced and in need of housing. Restitution programs should include measures requiring authorities to provide alternative accommodation (AA), or cash for rent as part of their obligation to respect the right to adequate housing. In any case, the procedures to evict the current occupant should respect international standards so as not to render people homeless or constitute a forced eviction.

The provision of AA is based on needs and is only an obligation when the occupants do not have and/or cannot afford their own accommodation. In Bosnia and Herzegovina, the entitlement to alternative accommodation was decided on a case-by-case basis looking into the availability and habitability of the pre-war domicile and the income of the occupant. This income would then be put in perspective with the value of the consumer basket in the area to determine whether the occupant was above or below the threshold entitling him/her to AA. This process was essential to limit occurrences of AA being used as a pretext by authorities not to evict occupants because they had to provide AA. Occupants who were determined not to be entitled would receive a restitution decision requiring them to vacate the premises within 15 days, while those entitled to AA had 90 days to do so. This gave authorities some time to identify AA.

In cases of multiple waves of displacement, the occupants might themselves have been displaced and settled many years or even decades ago. Over the years, they may have invested significantly in the property. In such cases, where it can be determined that occupants were not involved or had no knowledge that the property they occupy resulted from dispossession of the original owners, compensation can be considered for the occupants. In Iraq, the budget for the restitution program included financial compensation for 2,000 secondary occupants who were not involved in the displacement of rightful owners, although the lesson learned is that institutional capacity was not set up to fully provide the compensation payments to such secondary occupants.

- **Substantive issues: scope and admissibility**

- **Types of rights covered:** The restitution program should determine, based on the context, which rights are covered: formal ownership, customary ownership, tenancy and user's rights, and secondary rights such as grazing rights. This determination is key to ensure that restitution does not weaken pre-existing access rights, notably those of vulnerable groups such as women, indigenous people, minorities or pastoralists. According to the Pinheiro principles, restitution rights extend to "tenants, social occupancy rights holder, and other legitimate occupants or users of housing, land and property". Experience has shown that it is important not to limit restitution to housing and land but to also extend it to business premises. In Bosnia and Herzegovina, restitution of business premises was excluded from the administrative restitution program and related claims had to go through a lengthy court process. This exclusion hindered the capacity of many returnees to be self-reliant. When key to livelihoods, restitution of livestock could also be included.

- **Time and geographic scope:** Determine which period of dispossession is covered by the restitution program. Ensure that this determination does not give rise to new tensions by discriminating against certain groups. This consideration is particularly relevant where a country has been affected by several waves of displacement and dispossession some dating back to colonization. In such cases, it might be worth envisaging a mix of approaches combining restitution, compensation and land distribution as in South Africa. Such a decision can be made in consultation with the population for instance in the context of a transitional justice process where land grievances can be part of the issues debated.

In cases of long-term land dispossession, there may be several overlapping or competing claims and a significant number of people who bought the dispossessed property in good faith. In such cases, redressing old dispossession would result in violating the rights of the good-faith buyers. Compensation might therefore be a more appropriate solution in such cases.

- **Collective claims:** In many informal settings, part of the land is held collectively. Where relevant, restitution processes should accept collective claims for restitution.

- **Deadline for application:** In order to provide legal certainty and to close the restitution chapter, it is important to establish a deadline for the restitution process. The application period should be sufficiently long to ensure that all the potential beneficiaries in country or abroad are informed about the process and assisted to apply.
- **Accessibility:** Access to the restitution process can be enhanced by accepting applications in any office (area of displacement or origin), by mail, or electronically, ensuring a wide geographic coverage of offices taking claims in. Mobile teams can also be sent to remote areas to that effect. Free legal assistance contributes to improved accessibility.

Process and procedures

- **Consultation:** Consultation with population affected by dispossession is necessary to decide on the best form of remedy to the situation (restitution, compensation, housing assistance, land distribution) and to better comprehend the types of rights that need to be integrated into the restitution process. Once the mechanism is defined, it is key to create a community engagement strategy and reach out to groups that are socio-economically marginalized to facilitate the rebuilding of the social fabric in the community and territory and ensure that the restitution rights of vulnerable groups are not omitted.
- **Information:** Having a public engagement campaign and a communication strategy aiming at reaching out political forces and the public is crucial to ensure the understanding of what the restitution program aims to do and set expectations right from the start. The communication strategy should engage the variety of stakeholders and inform the general public about the land restitution process, especially in those cases where the restitution program faces opposition by political and economic forces.

The public information campaigns on the modalities of the process are key to ensure wide participation. These campaigns can be implemented through a wide variety of means: printed pamphlets, newspapers, radio, television, internet or public meetings. Specific measures should be adopted in the application process to reach and support vulnerable or marginalized groups. In the case of people forcibly displaced, information should be disseminated in displacement areas, camps or collective centers, or by informing refugees through UNHCR or the authorities of the host countries.

In Bosnia and Herzegovina, a restitution institution, the Commission for Real Property Claims (CRPC) provided special outreach campaigns in countries hosting refugees from Bosnia, and delivered specific assistance to help them access property registries. Information materials can also be disseminated through civil society organizations specialized in the support of vulnerable groups such as women, indigenous people or minorities.

- **Exemption of fees for claimants:** Considering the potential financial difficulties faced by those dispossessed, procedures aimed at issuing or reissuing personal or property documentation necessary for the restitution claim should be free as well as the restitution process itself. In Kosovo, specific campaigns targeting Roma people were initiated to issue personal and property documentation free of charge.
- **Flexibility of evidence:** Since many claimants will not have documents to prove their rights, either because they lost them or never had any, procedures should accept alternative evidence to establish rights: utility bills, tenancy contracts, witness testimonies. In Kosovo, discriminatory laws prior to the conflict limited the right of Kosovo Albanians to purchase property. As a result, very few had legal documentation proving ownership. To address this problem, the regulations on property restitution adopted by the UN Mission in Kosovo considered that informal transfers of property concluded in violation of the discriminatory legislation should be treated as lawful. The same regulations also allowed to accept relaxed evidentiary standards in support of restitution claims. Flexibility of evidence in relation to events such as disappearance, death or divorce may also need to be used to facilitate the claims of legitimate right-holders.

Participatory methods such as community-mapping can also be used to define boundaries and preserve evidence to support restitution claims. This method has been used in a post-disaster context like in Indonesia where buildings, cadaster registries and land markers had been destroyed by the December 2004 tsunami, making it very difficult to identify properties and owners eligible for reconstruction. The Reconstruction of Land Administration Systems in Aceh and Nias (“RALAS”) project proposed by the Indonesian government in 2005 with the support of the World Bank used a method based on a community-driven adjudication of land rights, which could also be used in conflict settings: the landowner signs a declaration of ownership and receives the confirmation of his neighbors and the village chief. In the case of the death of the owners, the village chief and imam help to identify potential heirs.

A mix of methods can also be used during the conflict to start documenting dispossession and collecting

evidence, thus preparing the ground for restitution in the post-conflict phase. A McGill University project has recently been designed to that effect. It aims to collect information on housing, land and properties of Syrian refugees combining information from different sources: satellite imagery, HLP surveys with displaced people, and documentation of customary land rights and practices. The project suggests using the registration of refugees or internally displaced people to document their land rights. Such projects can also have a preventive effect if they are sufficiently advertised by letting potential occupants know that evidence is being collected and that his or her presence on the property may be at risk as a result. By using different datasets of information, including from social media, and comparing information obtained from individuals, patterns of dispossession can also be identified and demonstrated, which can be helpful in confirming the likelihood of dispossession when the claimant has only partial evidence.

In Iraq, the UN Compensation Commission dealing with claims resulting from the 1990-1991 Gulf war, accepted lower evidentiary standards taking the circumstances and context of the damage into account and also used a “plausibility standard” to grant compensation.

- **Alleviate or shift burden of proof:** In normal circumstances, because violations are exceptional, it is up to the victim to prove that a violation has been committed. In conflict situations where there is a known pattern of violations, there can be a legislative assumption that people who left their homes during the conflict did it under duress. Similarly, in cases of sale under duress, it can be decided that it should be up to the defendant to prove that there was no duress involved. This assumption would allow for accelerating the processing of claims to the benefit of the claimant. This acceleration was the case in Colombia where the restitution procedures included a presumption of illegality of the land transactions or conveyances on dispossessed lands. The burden of proof was transferred to the opposite party.
- **Enforcement:** Since there is often resistance from occupants to vacate the properties, it is key to identify the institutions and mechanisms of enforcement to ensure that decisions actually result in physical restitution. The institution should be chosen based on its expected loyalty to the restitution process to prevent a failure of the process. In Guatemala, authorities in charge of implementing restitution were the same ones involved in persecuting the displaced and allocating their land, which limited the success of the program.

- **Registration or demarcation of repossessed property:** Housing, land or user rights should be recorded “as necessary to ensure legal security of tenure” including the possessory rights of traditional and indigenous communities to collective land. The objective is to protect the rights related to the recovered land or housing in case of further disputes.

Institutions: The type of institution in charge of the restitution process will influence the level of guarantees it provides, its accessibility, and efficiency. The judiciary will provide maximum guarantees of protection in terms of procedures, but the proceedings are lengthy and complex making it less accessible. Moreover, it is often ill-adapted to mass claims situations, which may clog the system and delay restitution.

The use of administrative bodies presents several advantages:

- They are usually present throughout the territory.
- Procedures are simplified compared to judicial ones.
- They are more adapted to mass claims but there is a risk of partiality and obstruction at the local level. In Bosnia and Herzegovina, municipal departments had the responsibility to process and instruct claims.
- Administrative bodies can also be responsible for having a proactive approach by trying to identify land claimants, instead of limiting themselves to cases where they received a land claim.

Ad hoc mechanisms: The use of ad hoc mechanisms specifically designed to address restitution claims prevents the overload of other institutions. It can have a mixed composition (international and national) to provide more guarantees of impartiality like in Kosovo. However, when an ad hoc institution does not have enforcement powers, like the Commission for the Resolution of Real Property Disputes in Iraq, or the Commission for Real Property Claims (CRPC) in Bosnia and Herzegovina, it is essential to define clearly and from the outset, the institution in charge of enforcement and the modalities of such enforcement to avoid unnecessary delays. In Bosnia and Herzegovina, holders of CRPC decisions had to go through the local administrative process in addition to the CRPC process to have their decisions implemented. This requirement not only delayed the restitution process but defeated the purpose of an impartial ad hoc mechanism designed to circumvent biased local processes.

Traditional or customary dispute resolution mechanisms: In countries where state institutions are not present or fully functional at the local level, and rural land is held and managed customarily, it may be relevant to rely on

customary bodies to address post-conflict land disputes. They provide a cheap, accessible and rapid solution to land disputes. Their social legitimacy usually results in a good enforcement rate of their decisions. Finally, these bodies are more familiar than the formal system with the overlapping rights that may coexist on the same land, so they are more likely to acknowledge and protect them in their decisions. However, in terms of land access they tend to discriminate against outsiders and women, who can be granted access rights but are usually not allowed to own land according to customary tradition. Customary decisions are usually guided by the desire to maintain social cohesion and use mediation, arbitration and negotiation techniques. They usually result in a compromise solution favoring sharing of land between claimants rather than full restitution. This compromise is particularly suitable in cases of protracted displacement like in Burundi. The majority of the decisions made by the Land Commission in Burundi resulted in sharing the land between the returnee and the occupant. The share obtained varied based on the number of respective family members, the availability of alternative land, and the level of investment in the land by the occupant.

When insufficient state capacity exists, cooperation with informal dispute resolution bodies may be the most efficient way to rapidly address HLP disputes. However, to limit the influence of power play at the local level and the risks of discrimination against vulnerable groups or individuals, government should establish clear principles to guide the resolution of land disputes and put in place an appeal process and monitoring mechanism.

Guiding principles for action:

- Recognize informal HLP rights in the context of restitution and compensation programs.
- Use lower evidentiary thresholds to establish HLP rights (witnesses, community mapping, traditional boundary markers).
- Train informal dispute resolution bodies to settle property disputes in line with human rights standards and compliant national legislation.
- Inform population, notably the vulnerable and marginalized, of their land and housing rights under national legislation and train paralegals in the community for easier access to information and monitoring of decisions.



Compensation

Compensation is a way to remedy the violations of HLP rights through the provision of cash or kind aiming at covering losses linked to land or housing. According to the Pinheiro principles, compensation should be envisaged only when restitution is impossible or when the victim accepts compensation in lieu of restitution. This approach is to prevent cases where the victims would be put under pressure to accept compensation in order to prevent restitution and return for political or discriminatory purposes.

Challenges

The key challenge to compensation programs is its financing, especially if cash compensation is envisaged.

The political and institutional constraints are similar to the ones presented under the restitution topic so they are not repeated here.

Guiding principles:

Estimate the number of claims likely to be submitted and the amounts required to compensate such claims.

Identify funding sources: In Colombia, the compensation fund is financed by a mix of public sources, including cash financial resources and productive land recovered by the state through eminent domain.

Determine the type of losses covered by the compensation scheme:

- Types of ownership or user rights: the same considerations as in the restitution section should apply.
- Destruction, loss of harvest, loss of rent, loss of livestock.
- Compensation linked to relocation.
- Compensation for necessary investments made by the current occupant on the property to be vacated (to prevent property from decay or structural damage) further to return or restitution. This type of compensation should be put in perspective with the fact that the occupant may have benefitted from and occupied the property without rent for years.
- Decide whether compensation will consist in the provision of an equivalent parcel or a cash compensation, or in a mix of both measures, defining the cases where one or the other should apply.

Decide whether the compensation amount will be individualized or standardized: A standardized amount allows for a faster processing of claims. It may be less adjusted to the loss incurred but it provides symbolic reparation and a means to rebuild one's life after the conflict. The value of the asset to take into account should be its value at the time of the claim to ensure adequate compensation. This valuation is particularly important in the case of protracted displacement where the value may have significantly changed.

Providing compensation instead of restitution may be the best solution in cases of protracted displacement where various legitimate claims might coexist on the same property. The European Court of Human Rights, which has defended the right to restitution in numerous cases, accepted recognizing compensation in lieu of restitution in the case of Greek Cypriots displaced from Northern Cyprus. The Court considered that after three decades of displacement “a blanket restitution of all the cases of Greek Cypriots dispossessions could give rise to disproportionate new wrongs against the occupants of such properties”.

Offer a plurality of option to address land

dispossession: In case the conflict affected population is not interested in restitution, or where dispossession occurred too long ago, the victims should have the option to choose between restitution and compensation to avoid unnecessary delays as in Colombia and Iraq.

Determine whether compensation will be provided

in addition to restitution: Compensation can also be provided in addition to restitution, for example, when the property is destroyed, or when livestock or equipment has been lost.

If cash compensation is difficult because funds are not forthcoming, envisage in-kind alternatives such as allocation of public land, housing reconstruction assistance, development of social housing programs, tax exemptions, subsidized credit for housing or business activities, and vocational trainings. If well adapted to needs, such measures can have a more lasting effect than cash compensation.



Annex 1:

- **Compensation:** provision of a benefit in cash or kind to respond to a loss, suffering or injury. In the context of this Note, compensation can take the form inter alia of financial assistance, land allocation, or reconstruction of destroyed homes.
- **Displaced people:** When the type of displacement is not specified, “displaced” refers to both refugees and IDPs.
- **Durable solutions:** A gradual and often long-term process of reducing displacement-specific needs and ensuring the enjoyment of human rights without discrimination. This process should address human rights, humanitarian, development, reconstruction and peace-building challenges through the coordinated and timely engagement of different actors. Durable solutions also suppose access to national services and social welfare.
- **Housing, land and property (HLP):** The term housing, land and property was created to reflect the diversity of rights subject to restitution and compensation, in particular in contexts of forced displacement. Based on economic, social and cultural rights as well as civil and political rights, it highlights the fact that the right to restitution and compensation applies beyond ownership, to tenants and people with informal or customary land rights.
- **Internally displaced persons (IDP):** Persons who have been forced to leave their homes to avoid the effects of generalized violence, conflict, violation of human rights or natural or human-made disasters, and who have not crossed an international border. The reference document defining the term and protecting their rights is the Guiding principles on internal displacement (1998)
- **Refugee:** UNHCR defines a refugee as a person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”
- **Resettlement:** The notion of resettlement has a very distinct meaning in humanitarian and development contexts. In refugee situations, the United Nations High Commissioner for Refugees (UNHCR) defines resettlement as a solution where a refugee is transferred from an asylum country to another state that has agreed to admit him or her and ultimately grant them permanent settlement. In situations of internal displacement resettlement refers to a settlement in a location different from the place of origin, either in the place of displacement or elsewhere in the country. Finally in development contexts, resettlement refers to situations where people displaced by development projects “are assisted in their efforts to improve, or at least to restore, their incomes and living standards”. To avoid confusion, this Guidance Note does not use the term resettlement and specifies whether it is referring to local integration (in the place of displacement) or to relocation (referred to as “settlement elsewhere” in IDP contexts).
- **Restitution:** process and remedy by which individuals who suffered a loss and in violation of their rights are returned as close as possible to the situation prevailing before the violation. Restitution can apply to restoration of liberty and employment and also to restoration of property and possessions from which people have been dispossessed. This Note focuses on this last dimension of restitution.



Endnotes

1. « A durable solution is achieved when internally displaced persons (IDPs) no longer have specific assistance and protection needs that are linked to their displacement, and such persons can enjoy their human rights without discrimination resulting from their displacement», IASC, Framework on Durable Solutions for Internally Displaced Persons, April 2010, p.5. See also Glossary.
2. When not specified, « displaced persons » refer to both IDPs and refugees
3. For refugees, the terminology is the same except for the 3rd option where “resettlement” refers to installation in a country different from the country of asylum. This guidance note does not cover this type of resettlement.
4. New approaches to solutions, UNHCR, EC/67/SC/CRP.14, 7 June 2016, paragraph 5
5. The IASC is the primary mechanism for inter-agency coordination of humanitarian assistance. It comprises key UN and non-UN humanitarian partners and was established in June 1992 in response to United Nations General Assembly Resolution 46/182 on the strengthening of humanitarian assistance.
6. While the IASC Framework focuses on IDPs, the criteria identified can also apply in refugee context.
7. See definition in Glossary
8. Global trends: forced displacement in 2015, UNHCR, June 2016
9. IDPs in protracted displacement: is local integration a solution? Brookings/IDMC 2011
10. Protracted displacement: uncertain path to self-reliance in exile, HPG, September 2015, p.12.
11. Ibid, p.1
12. See United Nations Secretary General’s report, “One humanity: shared responsibility” (A/70/709), May 2016 ahead of the World Humanitarian Summit, and “The Grand bargain: a shared commitment to serve people in need”
13. The local integration and local settlement of refugees: a conceptual and historical analysis, by Jeff Crisp, UNHCR, New issues in refugee research, Working paper n°2, April 2004, p.4-5
14. World Bank, Forcibly displaced : towards a development approach supporting refugees, the internally displaced and their hosts, 2016, p. XIX
15. Martin Gottwald, Peace in Colombia and solutions for its displaced, in FMR 52, May 2016, pp. 14-16
16. Guiding principles on internal displacement, Principle 28 relating to return, resettlement and reintegration. Commission on Human Rights, Guiding principles on internal displacement, E/CN.4/1998/53/Add.2, 1998
17. Resettlement factsheet, World Bank website accessed 13 November 2017
18. Guiding principle on internal displacement 6. 1. c), Commission on Human Rights, Guiding principles on internal displacement, E/CN.4/1998/53/Add.2, 1998
19. Guiding principles on internal displacement 7 and 9, Commission on Human Rights, Guiding principles on internal displacement, E/CN.4/1998/53/Add.2, 1998
20. The Operational Policy 4.12 will be complemented by a new Environmental and Social Framework
21. For more details see World Bank, Good practices on refugee settlements
22. For more details on the examples presented : IDMC, Home sweet home : Housing practices and tools that support durable solutions for urban IDPs, March 2015
23. This section focuses on restitution in post-conflict settings and not on post-socialist restitution.
24. FAO, NRC, IDMC, OCHA, OHCHR, UN HABITAT, UNHCR, Handbook and property restitution for refugees and displaced persons, implementing the « Pinheiro principles », March 2007, p.24
25. Brookings Institution, Protecting IDPs : Manual for Law and Policy Makers, 2008, p.171
26. Commission on Human Rights, Guiding principles on internal displacement, E/CN.4/1998/53/Add.2, 1998
27. UN Sub-Commission on Protection and Promotion of Human Rights, Principles on housing and property restitution for refugees and displaced persons, 11 August 2005, referred to as the Pinheiro principles
28. Guiding principle on internal displacement 29
29. Pinheiro principles 21
30. Guiding principle on internal displacement 29
31. Revista Latino-Americana de Derecho Internacional (LADI) Housing, land and property in forced displacement situations a key to peace, justice and durable solutions, by Barbara McCallin, December 2016, p.22
32. International Center for Transitional Justice (ICTJ), Linking broad constellation of ideas: transitional justice, land tenure reform and development, by Chris Huggins, June 2009
33. Gobierno de Colombia, Ministerio de Agricultura, Estimado de informalidad de tenencia rural UPRA, 2016
34. There were around 200,000 restitution claims in Bosnia and Herzegovina and almost 90,000 restitution claims were registered in Colombia as of April 2016
35. IDMC, Whose land is this? Land disputes and forced displacement in the western forest area of Côte d’Ivoire, November 2009
36. Reuters, Conflicts over land are likely to increase following a peace deal as once no-go areas open up for business and development projects, experts say, by Anastasia Moloney, 23 September 2016.
37. FAO, IDMC, OCHA, OHCHR, UN HABITAT, UNHCR, Handbook : Housing and property restitution for refugees and displaced persons, implementing the Pinheiro principles, March 2007; and Brookings, Protecting Internally Displaced Persons : A manual for law and policymakers, October 2008, chapter 12, Property and possessions, pp. 169-188
38. The Joint IDP Profiling Service (JIPS) is an inter-agency service, supporting government, humanitarian and development actors to design and implement collaborative profiling exercises. The Service seeks to promote a culture of evidence-based decision making in displacement situations. www.jips.org
39. LADI, 2016. p.26
40. For more information on this see World Bank thematic note « Protecting and strengthening the land tenure of vulnerable groups »

41. Pinheiro principle 16.1
42. For more information on this see World Bank thematic note “Protecting and strengthening the land tenure of vulnerable groups”
43. FAO, NRC, IDMC, OCHA, OHCHR, UN HABITAT, UNHCR, Handbook and property restitution for refugees and displaced persons, implementing the « Pinheiro principles », March 2007, p.70
44. Brookings institution, Protecting internally displaced people : manual for law and policy makers, October 2008, p. 180
45. Daniel Fitzpatrick, Addressing Land Issues after Natural Disasters: Case-Study (Aceh, Indonesia), 2006
46. Jon Unruh, Use of Upgraded Evidence in Cadaster Approaches for Syrian Refugee Return, 2015. See also Jon Unruh, Assembling evidence for a land and property restitution database during the Syrian civil war, Paper prepared for presentation at the “2016 World bank conference on land and poverty” The World Bank - Washington DC, March 14-18, 2016
47. Jon Unruh, 2015
48. Jon Unruh, 2016, p.7
49. Jon Unruh, 2016, p.9
50. International Center for Transitional Justice, ICTJ, The contemporary right to property restitution in the context of transitional justice, by Rhodri Williams, Occasional paper series, May 2007 p.43.
51. Pinheiro principles 15.2
52. Pinheiro principles 15.3
53. FAO, NRC, IDMC, OCHA, OHCHR, UN HABITAT, UNHCR, Handbook and property restitution for refugees and displaced persons, implementing the « Pinheiro principles », March 2007, p.64
54. Commission Nationale Terres et Biens (CNTB) : The Commission gathered officials and customary leaders
55. Pinheiro principle 21
56. FAO, IDMC, OCHR, UN HABITAT, UNHCR, 2007. p.28
57. European Court of Human Rights, Demopoulos v. Turkey (decision on admissibility) 1st March 2010, paras 116-117
58. UCLA Law Review Discourse 65, Property and transitional justice, by Bernadette Atuahene ; FAO, IDMC, OCHA, OHCHR, UN HABITAT, UNHCR, Handbook, opus cit. p.94
59. IASC, Framework on Durable Solutions for Internally Displaced Persons, April 2010.
60. UN Sub-Commission on Protection and Promotion of Human Rights, Principles on Housing and Property Restitution for Refugees and Displaced Persons, 11 August 2005 Resolution 2005/21
61. Convention relating to the status of refugees, 1951
62. Guiding principles on internal displacement, Principle 28 relating to return, resettlement and reintegration. Commission on Human Rights, Guiding principles on internal displacement, E/CN.4/1998/53/Add.2, 1998
63. Resettlement factsheet, World Bank website accessed 13 November 2017

Guidance Note on Land and Conflict:

I. Restitution, Compensation, and Durable Solutions to Displacement and Dispossession

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