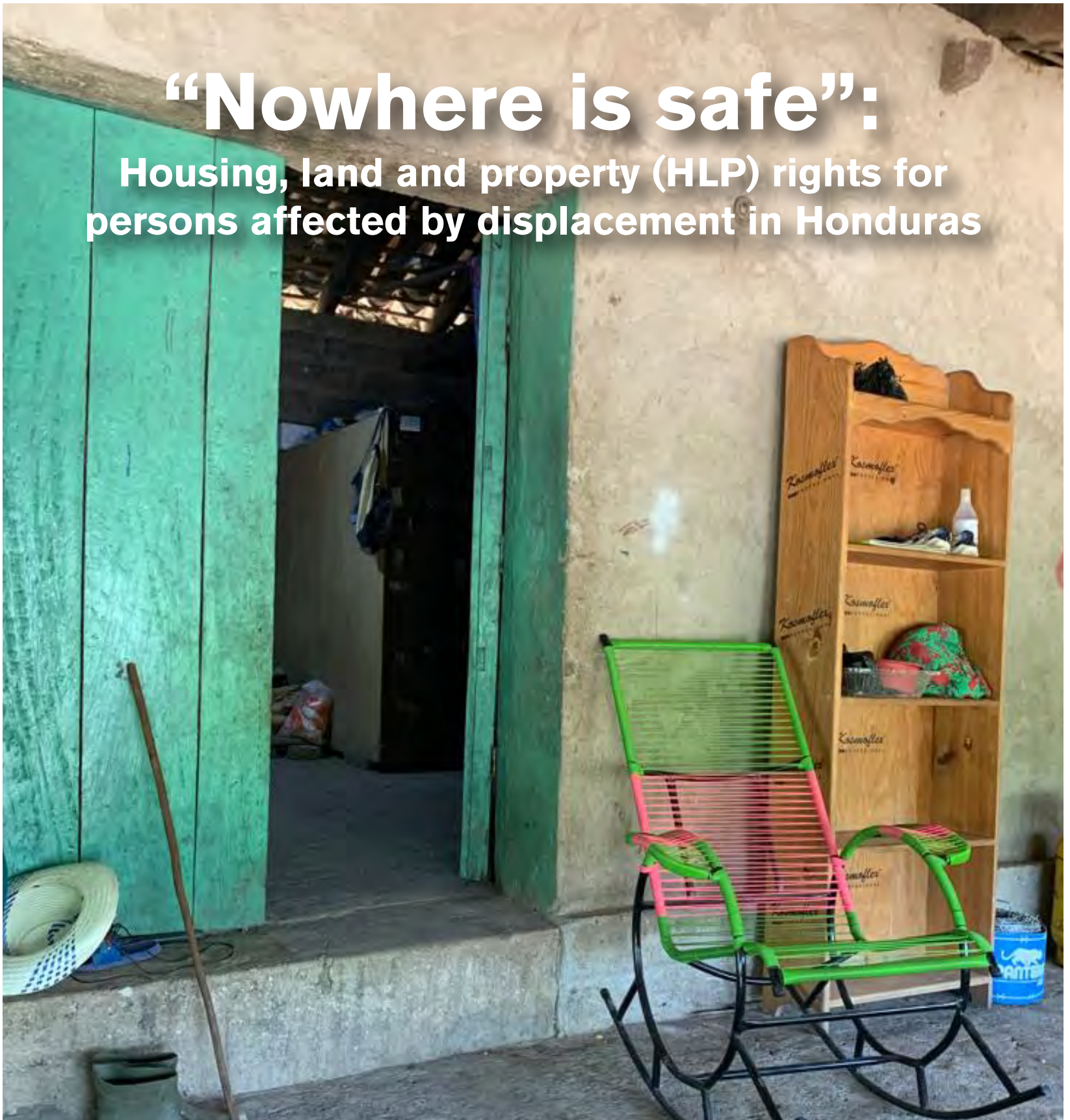


“Nowhere is safe”:

Housing, land and property (HLP) rights for persons affected by displacement in Honduras



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The Norwegian Refugee Council (www.nrc.no) is an independent, international, humanitarian non-governmental organisation which provides assistance, protection and contributes to durable solutions for refugees and internally displaced people worldwide.

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LISTA DE ACRONIMOS

AMHON	Asociación de municipios de Honduras
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIPPDV	Inter-Institutional Commission for the Protection of Persons Displaced by Violence
CONADEH	National Human Rights Commissioner of Honduras
FGD	focus group discussion
HLP	housing, land and property
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICLA	Information Counselling and Legal Assistance
IDP	internally displaced persons
INA	Instituto Nacional Agrario
IP	Instituto de la Propiedad
LMDAS	Law for the Modernization & Development of the Agricultural Sector
NRC	Norwegian Refugee Council
PATH	Land Administration Project
PROLOTE	Programa de Legalización y Ordenamiento de Terrenos
PPT	Proyecto Titulación de Tierras
SINARDEF	National System of Response to Forced Displacement
UDFI	Internal Forced Displacement Unit
UMAPPDEF	Municipal Units for Attention and Protection of Forcibly Displaced Persons
UNDRIP	UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples
UNHCR	The United Nations High Commissioner for Refugees



EXECUTIVE SUMMARY

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The people of Honduras suffer from some of the highest rates of poverty in the Western hemisphere and are increasingly affected by generalised violence and natural disasters. Over 900,000 people were displaced because of Hurricanes Eta and Iota in 2020, while national authorities recognise the presence of over 247,000 individuals internally displaced because of violence. Precise data on people who flee the country is not available, given the irregular character of the migration, but estimates indicate a steady outflow in the tens of thousands.

Whether displaced by natural disasters or violence, people fleeing their homes in Honduras face similar challenges regarding their housing, land and property (HLP) rights. Based on in-depth legal analysis and quantitative and qualitative research, including 15 focus group discussions, 35 interviews of displaced persons, government representatives and humanitarian actors and a survey of 793 households, the report provides a legal analysis of key HLP laws and institutions, gives an overview of the on-the-ground reality for communities affected by displacement and highlights how gaps in these areas could be addressed.



A. LAND ADMINISTRATION

Land Rights in Honduras

- **Dominio Pleno:** In Honduras, full private ownership rights are known as dominio pleno. This gives the holder full control over the property, including the right to sell, rent, mortgage and pass by inheritance. Dominio pleno can be granted by the municipality for municipal ejido land, by the Property Institute for national land, and by the National Agrarian Institute for rural land.

- **Dominio Util:** Usufruct rights, where use rights are granted to individuals/cooperatives but ownership resides with the state, are identified as dominio util. The National Agrarian Institute granted dominio util for land that was distributed during the agrarian reforms, as ownership remained with the state until the stipulated cost was paid in full. Neither the Property Institute nor the municipalities grant dominio util, but all three institutions have the legal authority to convert dominio util to dominio pleno if required conditions are met.

- **Ejidal Rights:** Honduras also recognizes ejidal rights. Ejido lands are generally conceived of as holdings that were allocated for the communal use of local jurisdictions and indigenous groups, which in the past may have been villages and other types of community formations. The concept of ejidos dates back to colonial times, and ejidos have helped provide access to land for those who could not afford it. The understanding of ejidos by different people appears to have changed over time, and many occupants of what was once ejido land may now see it (the land) as their own. Further complicating the situation is that municipalities have granted titles over ejido land, converting them into privately held land.

In Honduras, three government institutions – the Property Institute (IP), the National Agrarian Institute (INA) and the municipalities – have the authority to manage and register land, which has led to the existence of multiple land registries and cadastres with conflicting information. Municipalities are responsible for granting title to urban ejidal lands, and INA is responsible for granting title to rural land in accordance with the country’s agrarian reform laws. In 2004, the Property Law was passed to create the Property Institute, with the aim of establishing a national land registry and cadastre; IP is responsible for overseeing national land regularization efforts and modernizing and integrating the various registries in the country. Unfortunately, none of the three institutions were able to provide information to the research team regarding how much land within their jurisdiction was actually registered with them. Additionally, patronatos (community governance boards) often play a role in helping its members manage land matters.



B. THE INTERSECTION OF HOUSING, LAND AND PROPERTY ISSUES AND FORCED DISPLACEMENT: OBSERVATIONS ON THE GROUND

Unclear Tenure for the Community. In most sites visited, residents explained that the original families of the community “invaded” and took possession of the land – that is, they entered land that was undeveloped and unoccupied – during the 1900s. Once an initial group of families identified an area where they wanted to settle, they formed their patronato to help organize themselves and to allocate land for newcomers that would arrive in the future. It is unclear what documents, if any, were given to the original families, and whether their ownership rights were registered in the IP or INA registry and cadastre. Many properties were never registered, and families who did have documents often did not update transfers of property rights.

Multiple types of HLP Ownership Documents and Lack of Documents. Hondurans use a multitude of documents to prove ownership, which include official dominios pleno (full private ownership rights) and dominios útil (usufruct rights), various documents issued by their patronato, and personal contracts of sale or donation. In most instances, residents felt that the unofficial documents served their purpose of proving and protecting their rights in their immediate circumstances with their neighbors in the community. In NRC’s survey, 64 per cent of people reported having ownership documents, but only 16 per cent had the full dominio pleno. 56 per cent reported having an “escritura pública,” (a public, notarized deed),² 12 per cent reported having documents from the patronato and the remaining 16 per cent had various informal documents such as sales contracts and utility bills. Many people expressed confusion regarding titling processes in their communities, and some reported having paid government actors in the past for titles that never arrived. Others said that government teams had come to their areas to survey and title lands for free, but did not provide the service for all residents.

While there is generally high awareness that property ownership should be registered at the Property Institute and municipal cadastres, many people still have only informal documents, or none at all. In NRC’s survey, 49 per cent of property owners said they had either informal or no documents; the primary reasons given were never having received any in the first place, that they were destroyed or stolen, or that they were with another person. Even where records exist, there is a common perception that the records are often incorrect or out of date.

Inheritance and HLP conflicts: During the field research, most people indicated that it was general practice to leave inheritance divisions as informal arrangements among the family. NRC’s survey reveals the same trend; of people who inherited their home, 60 per cent did not legalize the inheritance divisions. It was reported that disagreements occurred when family members and relatives fought over who would inherit what property. These arguments stem in part from the traditional practice of multiple family members and relatives each having a house on the same plot of land in some cases, as well as bad faith among relatives.

Land disputes between neighbors were not reported as significant issues, but lower level disagreements did seem to occur. If the problem could not be resolved within the community, the municipality could be consulted, though this would only be helpful if the municipality itself has up-to-date cadastral records.

Challenges with Renting. Finding a place to stay after fleeing their homes is especially difficult for the displaced, particularly for those trying to escape violence. In those instances, the entire family leaves and needs to find a place to rent immediately, which can be difficult if there are many family members, many children, or if they are a female-headed household.

²The escritura pública is a document has been notarized by a public notary, and could be anything from a contract of sale to a dominio pleno.



While some people would go to friends or relatives, others simply try and get as far away as possible, often to new areas where no one knows them, but where they also do not know anyone. Additionally, displaced families are also faced with the very real limitation of cost as they often flee with few belongings.

Women and HLP Rights. The research team found a relatively high number of women who had their own property. Legally, the Honduran Civil Code makes no distinction between the ownership and inheritance rights of men and women, and several women interviewed by the research team affirmed that they had inherited property from their parents. In NRC's survey, 53 per cent of respondents said they acquired their current home through purchase, while 10 per cent said they received it via inheritance; these percentages were approximately the same among male and female respondents. However, having their own property still remains a challenge for many women. The lack of independent property ownership and economic independence, combined with social and cultural norms, can serve to disadvantage women who need to flee.

Loss of Property at Place of Origin. One obvious problem for people who flee because of violence is the total loss of their property back at their place of origin. When people flee for this reason, some may have a neighbor or relative who is able to keep an eye on the house. While this practice provides some protection against a stranger deciding to claim the property as his/her own and renting or selling it, it cannot stop the gangs from looting the house or using it for their own purposes. Even if the gangs do not actually occupy the home, the destruction and vandalism that occurs often leaves the structure in an unusable condition. Some respondents said they were too afraid to return, even if they had property at their place of origin; one woman who feared for her life said, *"If I go back I will be gone. For me the house is lost."*

Civil Documentation and HLP Rights. Identity documents are generally needed for any transaction involving housing, land and property: buying or renting a home or land, getting a mortgage, applying for government documents, etc. While most people indicated that they had the necessary documents, a concern was raised regarding access to a new identity card that Honduras has started to use. Nine per cent of respondents in the household survey indicated that a member of their household lacked civil documents, typically either a national ID or a birth certificate, and most often affecting the males in the family, though the reason is unclear. The most common reasons for not having the documents were never having them in the first place, having documents that were expired or having lost them.



C. DRIVERS OF DISPLACEMENT

Gang Violence. The reality for all Hondurans includes a constant risk of violence and threats from the maras, or gangs. Gangs are not the only cause of violence, as increased drug trafficking and corruption among state actors certainly play a role, but this report focuses on gangs as they were the concern most often reported to the field team. In every community, regardless of tenure status, people reported living in constant fear: of not being able to pay the extortion money or “war tax;” of their children being recruited into or kidnapped by the gangs; or of simply being at the wrong place at the wrong time. In the words of one woman who had fled her home after being shot by the gangs for not paying the war tax, “Nowhere is safe in Honduras.” Women have been disproportionately affected by displacement because of violence. One woman said the reason she fled her home was because the gangs wanted her daughter, and others reported being threatened by their husbands, children or other relatives who had become involved in the gangs.

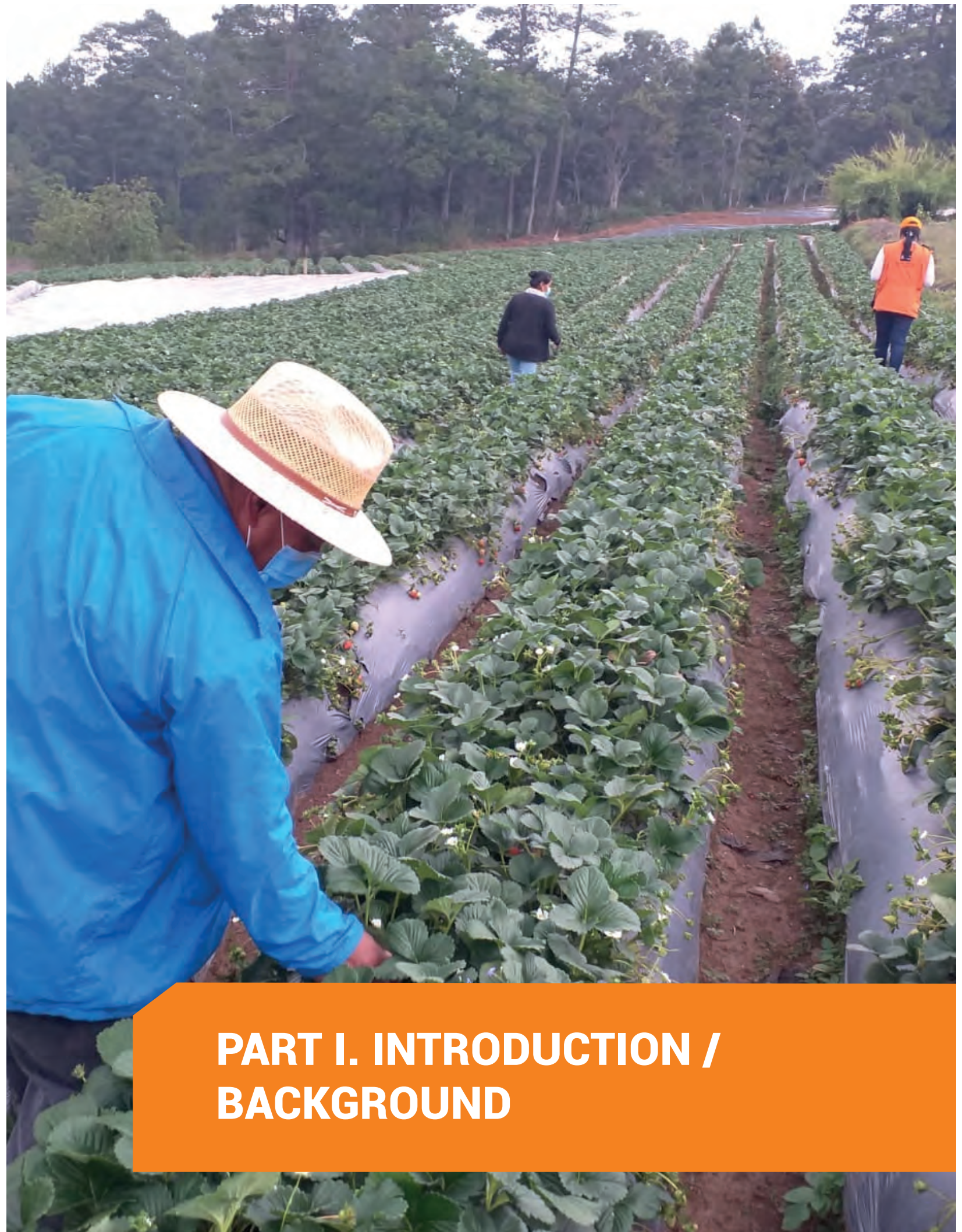
Natural Disasters. In addition to the violence, Honduras suffers the effects from extreme weather; it was the most affected country by extreme weather events between 1997 and 2006. In 1998, 2.1 million people were displaced after Hurricane Mitch, and many people interviewed for this study said that they moved to their present location because they needed a new home after the hurricane. More recently, in November 2020, Hurricane Eta hit Honduras as a category 4 storm, affecting over 1.8 million people, and Hurricane Iota hit less than two weeks later. In December 2020, it was estimated that at least 61,000 Hondurans were left homeless after the hurricanes.

D. LOOKING FORWARD

Recently, there has been increased attention on displacement in Honduras. The Honduran government and humanitarian actors are also trying to better assist those displaced by violence. In 2016, the National Human Rights Commissioner of Honduras (Comisionado Nacional de los Derechos Humanos de Honduras, CONADEH) and UNHCR formed the Forced Displacement Unit (Unidad de Desplazamiento Forzado, UDFI), and CONADEH has established multiple offices throughout the country to assist this population. The shelter cluster has been responding to the needs of those displaced by the hurricanes, and is trying to ensure that assistance provided includes increased security of tenure.

While recognizing the efforts that are being made, the challenges identified during this research show that many HLP needs remain unmet with high levels of tenure insecurity, limited property documentation and fears among community members. Securing HLP rights in Honduras is essential in order to encourage self-reliance and contribute to recovery efforts. The report makes concrete recommendations on how these gaps can be addressed by the Government of Honduras, humanitarian and development actors and donors.





PART I. INTRODUCTION / BACKGROUND

The people of Honduras suffer from some of the highest rates of poverty³ in the Western hemisphere. More than 60 per cent of the population lives in poverty, and a 2018 report by the Spanish Commission for Refugee Aid notes that Honduras had the highest level of economic inequality in Latin America at that time.⁴ The country is also increasingly affected by generalized violence and natural disasters. Over 900,000 people were displaced because of Hurricanes Eta and Iota in 2020, while national authorities recognize the presence of over 247,000 internally displaced persons (IDPs) because of violence. Precise data on people who flee the country is not available, given the irregular character of the migration, but estimates indicate a steady outflow in the tens of thousands. Increasing levels of violence and organized crime add further troubles, causing a steady increase in displacement when people flee to escape. Even after years of declining murder rates, Honduras was still one of the three deadliest countries in the region in 2018.⁵

Recognizing the scale and severity of forced displacement in Honduras, the government created the Inter-Institutional Commission for the Protection of Persons Displaced by Violence (CIPPDV) in 2013. In 2014,⁶ CIPPDV conducted a study in 20 municipalities that estimated that 174,000 people had been internally displaced between 2004 and 2014. In 2017, they undertook a second study, which found that at least one member of approximately 58,500 households had been internally displaced by violence between 2004 and 2018.⁷ Additionally, in 2016, the National Human Rights Commissioner of Honduras (Comisionado Nacional de los Derechos Humanos de Honduras, CONADEH) and the United Nations High Commissioner for Refugees (UNHCR) formed the Forced Displacement Unit (Unidad de Desplazamiento Forzad, UDFI).⁸

Their data found that from July 2016 to July 2021, most reported cases of displacement and being at-risk of displacement came from the departments⁹ of Francisco Morazán and Cortés.¹⁰

Whether displaced by natural disasters or violence, people fleeing their homes face similar challenges regarding their housing, land and property (HLP) rights. They want to know that the homes they are leaving behind will be there should they need them again in the future, and they need safe places to live while they are displaced. To better understand the dynamics of the current situation and the HLP challenges in Honduras, this report provides a short legal analysis of key laws, followed by background information about land tenure regimes in communities around Tegucigalpa, Choloma and San Pedro Sula, perspectives from people who live and are seeking refuge in these areas, and recommendations to inform the current humanitarian and development response.

Methodology and Limitations

Information for this report was gathered through a combination of desk review of existing literature, complemented by both quantitative and qualitative fieldwork conducted around Tegucigalpa, Choloma and San Pedro Sula in February and March 2022. The qualitative data comes from 15 focus group discussions (FGDs) in six communities, and 35 interviews of displaced persons, government representatives and humanitarian actors. The quantitative data comes from a survey of 793 households in nine communities.¹¹

³ ICG (2019)

⁴ Spanish Commission for Refugee Aid (2018)

⁵ ICG (2019).

⁶ UNHCR (2019)

⁷ UNHCR (2019)

⁸ IDMC (2019)

⁹ Honduras is divided into 18 departments (Spanish: departamentos), which are administrative units headed by a governor, similar to the concept of governorates in other countries. See Part II (Legal Analysis) for more information.

¹⁰ CONADEH (2021)

¹¹ The communities include Generación 2000, Villa Nueva, Nueva Capital and Unidad y Fuerza in Tegucigalpa, and Chamelecón, Bordo Río Blanco y La Planeta; and in Choloma La Protección and La Unión in San Pedro Sula.



Most people did not report being displaced,¹² but this may be due to biases in the survey: they could only be conducted in areas that were deemed “safe,” and respondents had to be willing to participate in the survey, conditions which were more likely to be met by non-displaced persons. Additionally, it is important to note that persons who are displaced by violence often do not wish to draw attention to themselves and may not report being displaced if asked. Further, violence is seen as such an ingrained part of life in Honduras that many who are forced to flee for that reason may not actually think of themselves as displaced. However, anecdotal evidence from qualitative interviews suggests that the visited communities include either people who have fled from their original homes because of gang violence, or empty houses whose owners fled because of violence, or both.¹³

Limitations: Security conditions severely limited access to people for both the qualitative and quantitative research, so while it is believed that much of what is detailed in this report is applicable to other communities, it does not claim to be representative of the country at-large. Where this research references information reported, it is important to understand that what is described are the perceptions of the persons who were interviewed, and that there can of course be variations among the perceptions of different people.

That said, the respondents demonstrated significant consistency in describing the kinds of challenges they faced regarding tenure security and the desire to overcome them. Finally, all names and places in this report have been changed to protect the privacy and security of persons who were interviewed for this study.

Figure 1: Map of Honduras



Box 1: Demographic Profile of Quantitative Survey Respondents

The demographic profile of the respondents included in the household survey offers a first contextual dimension to the research findings. Approximately 65 per cent of the 793 respondents were women. According to the women, the low number of male respondents is due to male members of the household being out working/looking for work when the surveys were carried out. With regards to the size of the household, the vast majority were four to six members (60 per cent), and 21 per cent had seven or more members. Fourteen per cent of households reported having a family member with disabilities.

The situation of targeted communities is compounded by economic vulnerability. This is evident by the fact that 228 households depend on a temporary source of income and livelihood (i.e. temporary work), 71 households are supported by family and 40 households are living off remittances, savings, loans, pensions and subsidies. Only 30 per cent (240 households) of surveyed households reported having either permanent employment or their own business.

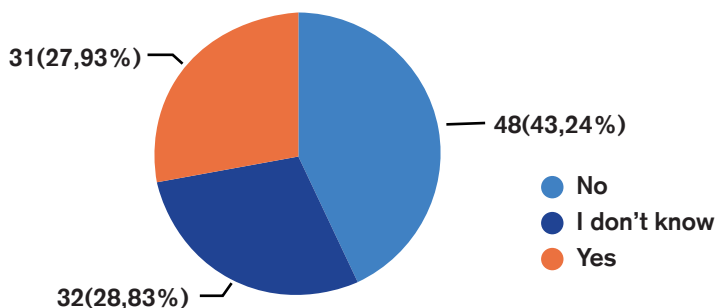
¹² In NRC’s survey, only 102 respondents (13 per cent) said that they considered themselves as internally displaced.

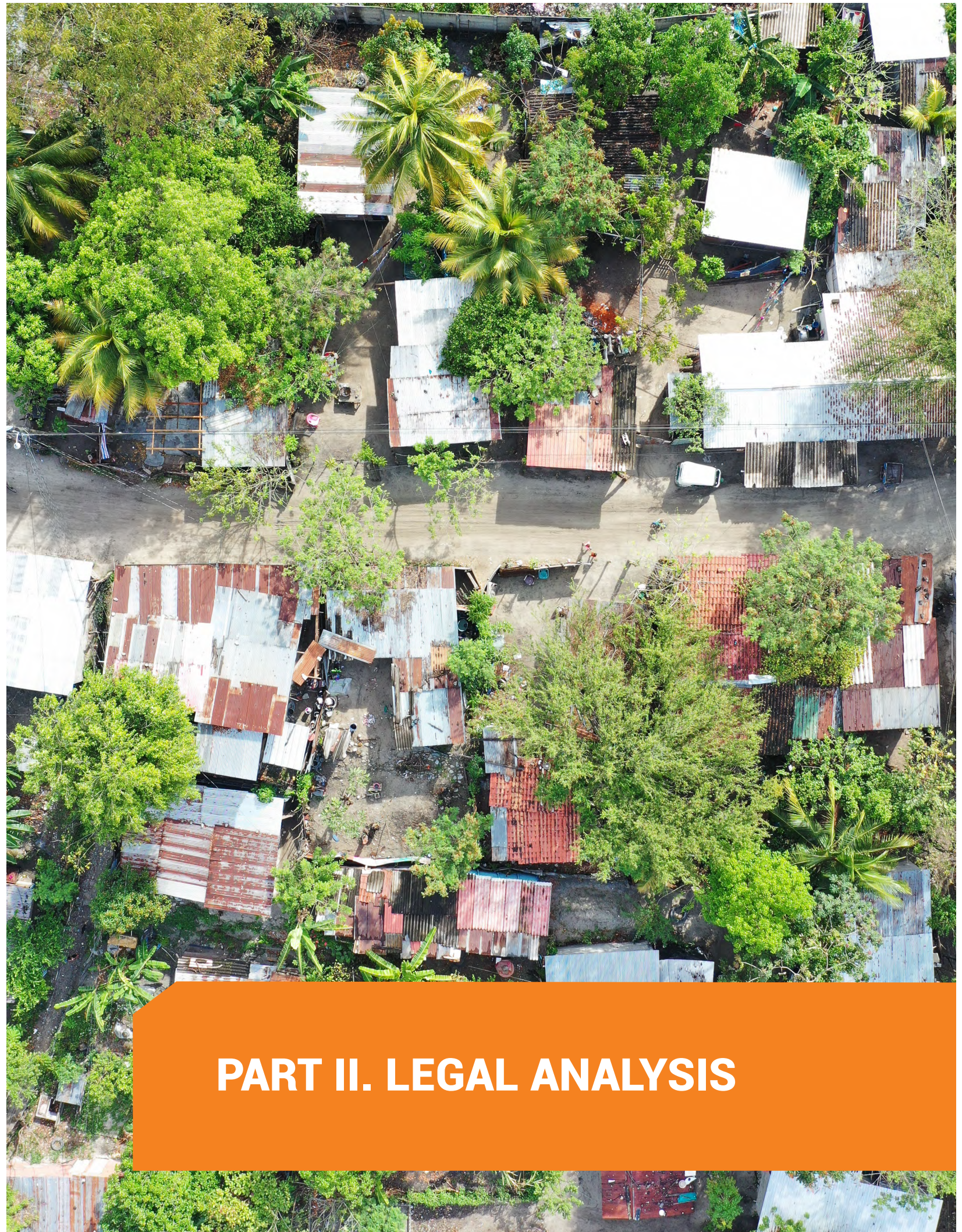
¹³ During the research, some community members told the research team in private conversations that they had been previously displaced, or knew someone in the community who had been displaced because of violence, but did not want to discuss this part of their past in front of a wider audience.



Fourteen per cent of survey respondents said that they had not lived in their present location for the past ten years. The most common reasons for leaving their previous location were family reasons, economic difficulties and lack of job opportunities. Among this group, 28 per cent said they believed they would return to their place of origin, 43 per cent said they would not return, and 29 per cent said they were not sure at this time.

Figure 2. Do you think you will return to your community of origin?





PART II. LEGAL ANALYSIS

Land administration in Honduras is characterized by a multiplicity of institutional actors with overlapping jurisdictions, which leads to a complicated and often confusing system of land administration. Part A of this section introduces key concepts and definitions in regards to understanding land administration and tenure in Honduras. Part B gives an overview of the legal institutions responsible for land administration, including the National Agrarian Institute, the Property Institute, the municipal governments (asociación de municipalidades), and the patronatos, a body that represents a local community and that is chosen by its inhabitants. More detail about their roles and responsibilities is covered in Part C, which describes the evolution of the Honduran legal framework regarding land and property.

A. KEY CONCEPTS

What are housing, land, and property rights?

Housing, land and property rights are about having a home free from the fear of forced eviction and a place that offers shelter, safety and the ability to secure a livelihood. HLP rights are referenced and defined in several international human rights instruments, as well as in national law in Honduras, for instance, in the Constitution and the Civil Code. Organizations providing protection and assistance to persons affected by conflict should respect the human rights, including HLP rights, of affected persons at all times, and advocate for their promotion and protection to the fullest extent.

The concept of HLP includes the full spectrum of rights to housing, land and property held according to statutory or customary law or informally, both public and private housing, land and/or property assets.¹⁶

HLP rights include:

- the right to adequate housing
- the⁷ right of access to natural resources, such as land and water
- the right to security of tenure and protection against forced eviction
- the right to non-discrimination in accessing HLP rights, which often entails special protection for the most vulnerable and marginalized persons

Land tenure is the relationship among people, as groups or individuals, with respect to land. The rules of tenure define how property rights are allocated within societies, and define how access to rights to use, control, and transfer land, are granted. "In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions."¹⁷ As described in the legal analysis, there are many forms of tenure arrangements in Honduras, ranging from full ownership and formal rental agreements, to emergency housing and informal occupation of land. Land tenure is a relationship, which can (and often does) change over time.

Before beginning the discussion, it will be important for the reader to understand key concepts regarding land use and tenure in Honduras.

¹⁴ For example, Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified by Honduras in 1981, recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing". The General Comments of the ICESCR are also binding upon Honduras, including General Comment 4 on "The Right to Adequate Housing (Art. 11 (1) of the Covenant)" and General Comment 7 on "The right to adequate housing (Art.11.1): forced evictions". A further example is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ratified by the Syrian Arab Republic in March 2003, which explicitly protects rural women from discrimination with respect to matters relating to HLP in Article 14 (2) (h) of CEDAW. The Guiding Principles on Internal Displacement also specifically address HLP issues, for example, the right to an adequate standard of living (Principle 18), protection from pillage and arbitrary deprivation of property (Principle 21), and responsibilities relating to the recovery of property (Principle 29).

¹⁵ See Part II for legal analysis.

¹⁶ More information on the scope of HLP can be sourced from the HLP Area of Responsibility of the Global Protection Cluster, <http://www.globalprotectioncluster.org/en/areas-of-responsibility/housing-land-and-property/hlp-area-of-responsibility.html> and from Norwegian Refugee Council (2011) Housing, Land and Property, Training Manual <https://www.nrc.no/what-we-do/speaking-up-for-rights/training-manual-on-housing-land-and-property/>

¹⁷ Land tenure is often categorised into four types: 1) private (rights are assigned to a private party); 2) communal or collective (rights held jointly by a group of people generally on the basis of ongoing use such as cultivation, clearance or access); 3) open access (specific rights are not assigned to any individuals or groups and no one can be excluded i.e. forest can be open access); and 4) state or public (rights are assigned to a public sector state entity). Norwegian Refugee Council (2011) Housing, Land and Property, Training Manual <https://www.nrc.no/what-we-do/speaking-up-for-rights/training-manual-on-housing-land-and-property/>

1. Land Rights in Honduras

- **Dominio Pleno:** In Honduras, full private ownership rights are known as dominio pleno. This gives the holder full control over the property, including the right to sell, rent, mortgage and pass by inheritance. Dominio pleno can be granted by the municipality for municipal ejido land, by the Property Institute for national land, and by the National Agrarian Institute for rural land.

- **Dominio Util:** Usufruct rights, where use rights are granted to individuals but ownership resides with the state, are identified as dominio util. The National Agrarian Institute granted dominio util for land that was distributed during the agrarian reforms that began in the 1960s, as ownership remained with the state until the stipulated cost was paid in full. Neither the Property Institute nor the municipalities grant dominio util, but all three institutions have the legal authority to convert dominio util to dominio pleno if required conditions are met.

- **Ejidal Rights:** Honduras also recognizes ejidal rights. Ejido lands are generally conceived of as communal holdings that were allocated for the communal use of local jurisdictions and indigenous groups,¹⁸ which in the past may have been villages and other types of community formations.¹⁹ The concept of ejidos dates back to colonial times²⁰ and ejidos have helped provide access to land for those who could not afford it. The concept of ejidos as understood by different people appears to have changed over time, and many occupants of what was once ejido land may now see it (the land) as their own.²¹ Further complicating the situation is that as municipalities manage ejido land, they have also issued titles (both dominio pleno and dominio útil) converting them into privately held land.

2. Land Classifications in Honduras

Different classifications of land in Honduras are included in the list below, reproduced from the “Glossary of Terms Associated with Property,” published by the Honduran government and Association of Municipalities.²² Note that land is classified by both ownership and type, so the categories may overlap.

- **National Lands:** Those that, being located within the territorial limits of the Republic, have not been legally titled by the State in favor of natural or juridical persons.²³

- **Rural Ejido Lands:** These are lands whose administration has been granted by the State to the Municipal corporations or villages for the use and enjoyment of the neighbors and which by operation of law become available to the INA.

- **Privately Owned Land:** The full dominion or ownership has been legally transferred by the State in favor of natural or juridical persons, or which, originating from a title granted by the State, are the object of subsequent tradition in accordance with the Law.

- **Agrarian Lands:** Lands that are for agricultural or livestock use.

- **Urban Land:** Land that, regardless of its nature, conforms to the growth plans of populations destined for these purposes.

- **Forest Lands:** These are lands that, due to their agrological conditions or their capacity for greater use, are or have been designated as forestlands that are protected by the State Forestry Administration.

¹⁸ USAID (2003)

¹⁹ Roquas (2002)

²⁰ For example, the Land Regulation Law of 1835 considered the possibility of granting ejidos as a way to gain tax revenue. S3

²¹ Roquas (2002), USAID (2003)

²² https://sace.se.gob.hn/media/documentos_sace/GLOSARIO_DE_TERMINOS_final.pdf

²³ Civil Code, art. 617.

B. RELEVANT INSTITUTIONS

In Honduras, three government institutions – the Property Institute, the National Agrarian Institute and the municipalities – have the authority to manage and register land, which has led to the existence of multiple land registries and cadastral systems with conflicting information. Unfortunately, none were able to provide information to the research team regarding how much land within their jurisdiction was actually registered with them.²⁴ According to one representative, there is currently no standard process in place to address any discrepancies among the different registries, and different institutions use different information systems and technologies which make harmonizing the records difficult.²⁵ Additionally, patronatos (community governance boards) often play a role in helping its members manage land matters. To help the reader understand HLP governance in Honduras, this section will briefly discuss these institutions and their competencies.

1. Municipalities and AMHON ("Asociación de municipios de Honduras")

Historical Background on Municipalities and AMHON

The history of municipal governance dates back to its Spanish colonial period. However, the municipality as a distinct unit of government was not legally recognized until the Municipal Law of 1927, which stated that municipalities were incorporated entities with elected mayors. In 1990 under President Callejas, the Municipal Reform Law was passed which furthered their autonomy, allowing municipalities to determine their own budgets and priorities without the central government's approval; set fees for their services and set several types of taxes – including property taxes; and decide how to distribute some amount of national revenues independently.²⁶ Municipalities' role as an independent unit of governance is enshrined in the current Honduras Constitution.²⁷

For government administration, Honduras is divided into 18 departments, which are further subdivided into 298 municipalities. Departments are headed by governors appointed by the central government to ensure that municipal policies are in line with national policies.²⁸ The Honduran Constitution states that the departments shall be divided into autonomous municipalities administered by corporations (councils) elected by the people.²⁹

AMHON is a civil, non-profit association of mayors that promotes collaboration among municipalities and provides representation on their behalf at the national level to further municipal autonomy. They also provide the municipalities with technical analysis, assistance and support as needed, including on matters related to land management, and more recently on issues of forced displacement.³⁰ AMHON is currently providing technical advice and training in several areas of the country in regards to land use planning and the modernization and updating of cadastral systems. In some instances, they are also providing territorial information to support the cadastral systems, but the capacity of a majority of the 298 municipalities to use this information remains limited. AMHON is also part of the Inter-Institutional Commission for the Protection of Forced Displacement, which is considering HLP issues that should be addressed for IDPs.³¹

²⁴ KILs 30-35

²⁵ KIL 30

²⁶ https://pdf.usaid.gov/pdf_docs/pnaca908.pdf

²⁷ Constitution, art. 294

²⁸ <https://www.oecd.org/regional/regional-policy/profile-Honduras.pdf>

²⁹ Constitution, art. 294

³⁰ S2; KIL 15; https://pdf.usaid.gov/pdf_docs/pnaca908.pdf

³¹ KIL 15; ACNUR (2017)



•The municipality is a population or association of people residing in a municipal area, governed by a municipality that exercises and extends its authority in its territory. It is the basic territorial structure of the State and is governed by directly elected Corporations.³³

•The municipalities' powers include: 1) Preparation and execution of plans for development of the municipality; and 2) Control and regulation of urban development, use and administration of municipal lands; widening of the perimeter of cities; and improvement of populations.³⁴

•Municipalities are obligated to create cadastres of urban and rural areas in their district, and to create a development policy and plans for population distribution, land use, roads, public services, sanitation, environmental protection, and construction, conservation and rehabilitation of urban areas.³⁵

•Municipalities may merge or change their boundaries through a legal process under certain conditions, including lack of sufficient resources to provide municipal services, confusion of their urban centers as consequence of urban development; necessity or administrative economic convenience, and an affirming vote held by 70 per cent of citizens of each of the municipalities to be merged.³⁶

AMHON has been working for three years on a model of local and social management, based on human capital, cohesion and social understanding, with the aim of helping municipalities invest more resources to address social issues. They created investment guidelines and indicators to take into account the need to prevent violence and displacement, as these concerns were not previously addressed in the Municipalities Law. This is relevant as some municipalities provide rental assistance to displaced families as a local emergency response, though not on the basis of recognition of their status as IDPs.³⁷

2. National Agrarian Institute or “Instituto Nacional Agrario” (referred to throughout as INA):

INA was established in 1961 through Decree No. 69 (1961), by then president Ramon Villeda Morales to oversee his vision of agrarian reform for the country and prepare what would be the country's succession of agricultural reform laws.³⁸ The responsibilities of INA have evolved over time due to the changing agricultural reform efforts, policies and goals. However, the institution remains the primary actor to address issues regarding agrarian matters, and houses the National Agrarian Cadastre and the National Agrarian Registry. In addition, INA is responsible for:

- Planning, programming and implementing agrarian reform policy;
- Knowing and resolving all matters related to the tenure, exploitation, expropriation, recovery and distribution of land destined for the Agrarian Reform; and,
- Promoting the economic, social, cultural and technical improvement of farmers.³⁹

The National Agrarian Cadastre should include an inventory of all rural properties throughout the country, whether they are on national, private, or ejido lands.⁴⁰ The National Agrarian Registry is responsible for maintaining significant amounts of information, including, though not limited to: expropriation agreements; property titles, succession lists and sales or transfers of rural plots and lots granted in endowment; cancellations of ownership of such lots; and the list of beneficiaries of the Agrarian reform.⁴¹

³² Municipalities Law, Decree No. 89 (Ley de Municipalidades Y Su Reglamento, Actualizadas con sus reformas, Decreto 89) (2015).

³³ Municipalities Law, arts. 2-3

³⁴ Municipalities Law, art. 13

³⁵ Municipalities Law, art. 18

³⁶ Municipalities Law, art. 19

³⁷ Draft IDP Law

³⁸ INA Website

³⁹ Agrarian Reform Law, Decree No. 170 (1975)

⁴⁰ Agrarian Reform Law, Decree No. 170 (1975), art. 152-54

⁴¹ Decree 170, art. 158



In efforts to achieve this goal, Honduras created at least one property registry office in each political department where land documents were to be registered.⁴² However, mapping and delineating all properties in the country could not be done, due in part to the inability to complete all national surveys, further complicated by the various types of formal and informal tenure structures that existed by this time,⁴³ and because of the lack of human and financial resources.⁴⁴

INA is also responsible for helping landholders access property titles in accordance with the nation's agrarian laws, especially the 1992 Law for the Modernization and Development of the Agricultural Sector, which will be discussed in greater detail below. In this capacity, INA holds the authority to: recognize peasant cooperatives, declare agricultural land that is not being exploited as "idle" or not sufficiently used, and so eligible for reallocation to new owners and granting full title ("dominio pleno") over agricultural land.⁴⁵ While INA can provide these titles to peasants to be included in the National Agrarian Registry, such titles must still be registered in the Instituto de la Propiedad (IP) to have full state recognition.

Within INA, the office of the Procuraduría Agraria and Etnica provides free legal services to small and medium producers and indigenous communities that require access to land. Lawyers in this office represent indigenous communities, as well as peasant cooperatives and individuals holding up to 200 hectares of land, in land titling claims presented at the INA.⁴⁶

3. The Property Institute ("Instituto de la Propiedad" (IP))

As part of the effort to modernize and integrate the country's various existing real property registries, the IP was created in 2004 through Decree No. 82 (2004) with the aim of establishing and operating a national land registry and national land cadastre, and overseeing national land regularization efforts.⁴⁷ The law specifies that the IP should manage an integrated property information system, operate a computer network to allow public access to data in its registry, and execute a program to regularize, title and register real estate not yet registered.⁴⁸ Most importantly, the law stipulates that the Honduran state does not legally recognize the rights over real property held by a person if not registered in the IP land registry.⁴⁹

Under Decree 82, the IP also had the authority to grant title to persons who had occupied rural property that was less than five hectares for a continuous period of at least five years.⁵⁰ However, in 2012, Decree No. 205 was passed to amend this provision, which gave the IP authority to grant title to persons who occupied a property for at least ten years, as long as they are not in spaces designated for public use.⁵¹ The IP can also carry out cadastral work as needed to regularize a particular area if such action would benefit an entire community.⁵²

As cadastral work is also carried out by other government actors, to harmonize the information the law provides that "every centralized or decentralized institution of the government that has prepared its own cadastre shall place it at the disposal of the IP" within a specified term of notification to allow integration into the IP registries.

⁴² USAID (2003)

⁴³ USAID (2003)

⁴⁴ KII 28

⁴⁵ KII 28

⁴⁶ KII 28

⁴⁷ Decree No. 82 (2004), preamble

⁴⁸ Decree No. 82, art. 5

⁴⁹ Decree 82, chapter 1 states, "All constitution, cancellation, encumbrance, conveyance or transfer of ownership of real property and other real rights constituted thereon must be registered. As long as this is not verified, the act or contract only produces obligations and rights between the parties, except in the case of mortgages, which must always be registered in order to be effective."

⁵⁰ Decree No. 82, art. 75

⁵¹ Decree No. 205 (2012), amending Decree No. 82 (2004), art. 75

⁵² UNHCR (2017); KIIs 31, 35.



In the event of discrepancies between the information in the land registry and the cadastre on the area if the boundaries have not changed, the cadastral information will remain valid.⁵⁴

4. Patronatos

Patronatos are local community governing boards that are elected by members of that community. When a suitable site to establish a community is selected, the constitution of the patronato is one of the first community actions that are carried out. The patronato helps organize life in the community, takes responsibility for working with the municipality to address communal needs, such as the construction of roads and access to essential services (water, education, electricity, etc.), and in some cases dispute resolution for problems among the residents. In 2013, Decree No. 253 was passed, which recognized their legal personality in recognition of the citizens' constitutional "right to freely associate ... for the defense and promotion of their interests."⁵⁵ The law provides that patronatos should work together with the municipalities to perform their duties and to achieve common objectives.⁵⁶ Patronatos have the right to plan and administer their own projects (on behalf of the community) regarding public infrastructure, health, education, environmental, security and other needs for the community, provided all works meet the requirements of the Municipalities Law.⁵⁷

While patronatos have no specified right in law to manage land and property, as the governing body that is closest to the community, in many instances they have been observed as a de facto land administration actor. In several communities visited for this research, it was explained that patronatos maintained records of persons who owned property in the community with varying levels of technical sophistication.

Community members also reported that the patronato was able to provide them with documents that holders used to prove their claims to property within that community, including:⁵⁸

- Certificates signed by the patronato president and two witnesses from the community which include the location and owner(s) of the properties;
- Sales contracts signed between seller and buyer, and with additional signature of the president of the patronato;
- Cards which include the name of the owner(s), location and size of the property; and,
- Sales and donations history of the properties, recorded in a patronato notebook.

Members of the communities interviewed for this research often perceived these documents as sufficient documentation to demonstrate their possession and ownership of the land.

C. RELEVANT LAW

The land policies of Honduras reflect the social tensions and ideologies of its history. The Civil Code, laws regarding agricultural reform, laws regarding efforts to title land, and potential legal efforts to address internal displacement are the most relevant for the discussion of this section. The agrarian reforms in Honduras demonstrate the shifting priorities of the country, first ranging from more collectivist approaches to increase access to land for small farmers, to a more market-based approach of land administration and management. Yet despite decades of various agrarian reforms in the region, inequality in terms of land distribution persists. In Honduras, 50 per cent of the agricultural land belongs to 15 per cent of the population, and 71 per cent of the rural population lives in conditions of extreme vulnerability.⁵⁹ In 2004, the task of regularizing and managing urban land was assigned to the Property Institute, as part of their responsibility to maintain a national land registry and cadastre.

⁵³ Decree 82, art. 62

⁵⁴ Decree 82, art 33

⁵⁵ Decree No. 253 (2013), preamble, art 18-19

⁵⁶ Decree 253, art. 3

⁵⁷ Decree 253, arts. 14-17

⁵⁸ Field research.

⁵⁹ REDLAC (2019)



1. The Constitution and Civil Code

The Honduran Constitution guarantees its citizens the right to private property, only limited by law for reasons of necessity or public interest; confiscation of property is prohibited.⁶⁰ The Honduran Civil Code of 1906 serves as the complementary legal text that defines important concepts regarding the ownership of property. Book II of the Code is entitled “Of Property and its Ownership, Possession, Use and Enjoyment,” and from the title, it is clear that there is a legal distinction between the concepts of ownership (“dominio”), possession (“posesión”) and usufruct (“usufructo”), which will be important in later discussions of different kinds of HLP rights. Within this Book, Title II is dedicated to the subject of “Ownership,” which discusses valid ways of obtaining ownership, including possession, prescription (adverse possession),⁶¹ transfer (e.g., sale, donation, etc.), and inheritance.⁶²

Some important definitions:

- Movable goods are those that can be transported from one place to another, either by moving themselves, or by being moved only by an external force.⁶³
- Real property, or immovable goods, are those things that cannot be transported from one place to another, such as lands and mines, and those that permanently adhere to them, such as buildings, trees. Houses and real estates are called predios or fundos.⁶⁴
- Rights are divided into real and personal. 1) Real rights. These are rights held over a thing without reference to a specific person. Real rights are those of ownership, inheritance, usufruct, use or habitation, active easements, pledges and mortgages. 2) Personal rights. These are rights that can only be claimed from certain persons who, by their own act or by provision of law, are subject to correlative obligations.⁶⁵

- Possession is defined as “the holding of a thing or the enjoyment of a right by ourselves in the spirit of owners, or by another on our behalf.”⁶⁶

- Ownership (“dominio”) is defined as “the right to possess exclusively a thing and to enjoy and dispose of it, without other limitations than those established by law or by the will of the owner.”⁶⁷

- Gender, succession and patrimony: Honduran law regards the married couple as constituted by individuals with equal rights and mutual obligations. Where, in practice, women are found to not ordinarily be designated as the owners of the land and house they inhabit with their partner and children, it will be worth considering that the Family Code (Código de Familia) establishes the creation of a common patrimony upon marriage. This is to be constituted with the property of either one or both parties, and it may include their shared house and land. A family's patrimony may be valued at a maximum of One Million Lempiras. Its purpose is to protect the basic means of sustenance of the married couple and their children, and its existence is opposable, e.g., to events of expropriation or property loss derived from mismanagement. Moreover, the Family Code establishes that the objects which constitute a family's household correspond exclusively to the woman, with the exception of the man's personal effects.

- Under Honduran law of successions, the married partner of a deceased person has the right to retain one fourth of the value of the property of the deceased. This is applicable where the surviving partner does not have sufficient means of sustenance, and the value of her or his own property is deductible from the value allocated by virtue of this portion of inheritance.

⁶⁰ Constitution, arts. 103-105

⁶¹ Articles 2272-73 describes “prescription” as follows: “For the ordinary prescription of the domain and other rights in rem, it is necessary to possess the things with good faith and just title for the time determined by law. Possession must be in concept of owner, public, peaceful and uninterrupted.” While the Code uses the term “prescription,” the legal principle is also known as, and often referred to as, “adverse possession.”

⁶² Roquas (2002)

⁶³ Civil Code, art. 601

⁶⁴ Civil Code, art. 602

⁶⁵ Civil Code, art. 610

⁶⁶ Civil Code, art. 717

⁶⁷ Civil Code, art. 613

2. Redistribution: The First and Second Agrarian Reform Laws

a. Agrarian Reform Law, Decree No. 2 (1962) (“First Agrarian Reform Law”)

As referenced above, when INA was created in 1961 under Villeda Morales, one of its responsibilities was to draft the country’s first significant agrarian reform law.⁶⁸ It was intended to provide rural landless peasants with access to their own land. In part, this was a response to the large numbers of rural landless peasants who revolted over the fruit companies’ extensive control over land, and subsequent strikes in other sectors throughout the country. The law targeted idle fruit company landholdings first, and then later national and ejidal lands for redistribution. While initial efforts focused on granting land to individuals, successful peasant cooperatives led to more collective land allocations. However, this law granted only usufruct rights – *dominio útil* – and lands received under this reform could not be sold or rented.⁶⁹

b. Agrarian Reform Law, Decree No. 170 (1975) (“Second Agrarian Reform Law”)

Villeda Morales was overthrown in 1963 through a military coup. The military government under López Arellano continued the reform efforts and passed a second Agrarian Reform Law in 1975. The original text before later amendments affirmed that the owner should work the land, and continued its focus on collective property rights for peasant collectives.⁷⁰ The law called for the expropriation of privately held lands that were deemed “idle,” such that they could be redistributed to other people in need.⁷¹ This law also set out INA’s responsibilities, as discussed above in Part B(2), including the development of a national cadastre and registry regarding rural land, and the responsibility of giving and titling the “idle” lands to those who had been or were willing to work the land.

3. Land Titling and Modernization

a. Rural Land Titling Program (Proyecto Titulación de Tierras), Decree No. 89 (1982)

During President Roberto Suazo Córdova’s term, Decree No. 89, Proyecto Titulación de Tierras (hereinafter “PTT”) was passed in 1982 to attempt a larger scale land-titling program of national and ejidal land, to be run by INA. To be eligible to receive a title under the PTT, the person had to have been living on and exploiting the land for ten years;⁷² the parcel had to be at least five hectares (smaller parcels could only qualify if they grew commercial coffee), and the person had to be able to prove their age, Honduran citizenship and produce witnesses who would confirm that the applicant was the rightful owner.⁷³

INA issued two types of titles for qualified candidates. Plots smaller than 17 hectares could be titled as family agricultural units (*dominio pleno de una unidad agrícola familiar*).⁷⁴ However, the holder of the title was not allowed to transfer or subdivide the property without INA’s permission,⁷⁵ with some scholars suggesting that the intent was to prevent small holders from being forced to sell their land and again concentrating land in the hands of the elite.⁷⁶ Additionally, this title did not allow the holder to divide the land between heirs to prevent fragmentation of the property.⁷⁷ Plots larger than 17 hectares could receive the full title, “*dominio pleno*.”⁷⁸

An analysis of the PTT from 1990 for USAID (who was a funder of the program) indicated that at this time, the administrative boundaries between departments and municipalities were unclear, with boundaries on the ground not matching those in the maps that existed, or with long-standing disputes between the units over their boundaries. This caused confusion, as the cadastral mapping required that the parcels be assigned to a specific municipality.

⁶⁷ See Civil Code, art. 1150ff.

⁶⁸ INA website

⁶⁹ USAID (2003)

⁷⁰ Roquas (2002)

⁷¹ Decree No. 170, art. 4; “National or ejido lands whose use and enjoyment has been granted to a private individual shall be subject to the right to be affected if they are not being exploited in accordance with the provisions of the law.”

⁷² Hendrix (1993); USAID (2003)

⁷³ Stanfield et. al. (1990)

⁷⁴ Roquas (2002); Stanfield et. al. (1990)

⁷⁵ Roquas (2002); Stanfield et. al. (1990)

⁷⁶ Roquas (2002)

⁷⁷ Roquas (2002)

⁷⁸ Stanfield et. al. (1990)

Additionally, it was unclear how the municipalities had acquired land in the past, which led to questions as to whether they had legal authority to manage and grant title over these lands.⁷⁹

As far as results, the analysis determined that the PTT had only titled 16 per cent of the national and ejidal land in the six departments where the titling program was completed. While noting that many parcels were untitled because they did not meet the eligibility criteria, many others that were eligible did not receive the titles. There were also significant differences by department. In Santa Barbara, 5382 out of 6498 eligible parcels (83 per cent) were titled. In Comayagua, 2126 out of 9316 eligible parcels (23 per cent) were titled, and in Cortés⁸⁰ 1277 out of 5912 eligible parcels (22 per cent) were titled.⁸¹

b. Law for the Modernization & Development of the Agricultural Sector, Decree No. 31 (1992)

Not quite satisfied with the outcome of the PTT, the administration of Rafael Leonardo Callejas passed the third agrarian law, the Law for the Modernization & Development of the Agricultural Sector, Decree No. 31 (1992) (“LMDAS”), which significantly changed the legal framework and trajectory of the country’s agrarian policies. The law still aimed to allow peasants to gain title to their land, but as the name suggests, the Callejas administration believed that modernization and market-friendly policies for the land sector would be the way forward for the country.

The LMDAS reduced the time of required occupation before application for title to three years, rather than the ten years required under the PTT.⁸² Additionally, parcels as small as one hectare could now be titled,

while only parcels that were five hectares or more could be titled under the PTT. For the first time, land received under these reforms and private land could be rented, as long as the owner held full title. Cooperatives who had received land through the agrarian reform process could now be subdivided to give individuals ownership.⁸³ However, the land was no longer free – recipients had to pay an amount that was determined by INA. They had 20 years to pay off the debt, and there was a mortgage on the property until this was complete.⁸⁴ Additionally, recipients could inherit, mortgage or sell the property after the debt was paid.⁸⁵

Today, INA still largely operates under the framework of this law. In this capacity, INA holds the authority to: recognize peasant cooperatives, declare (private) agricultural land that is not being exploited as “idle” and eligible for reallocation to new owners, grant full title over agrarian and national rural land and grant individual titles to members of a peasant cooperative if requested.

A peasant cooperative can file a complaint of idle land (“denuncia de terreno ocioso”) with INA, who will send someone from the land registry and an agronomist to conduct a socio-economic survey and investigation to determine if the land is indeed idle. If it is found to be so, INA will issue a certificate of idle land, which gives the applicant 18 months (extendable to 24 months) to exploit the land. If the applicant does not use the land as required, INA can take the land back. The applicant must cover all costs of the visits to the property by INA staff, as well as the final cost that INA assesses for the land itself.⁸⁶ This procedure can also be used for assets that are in the process of being forfeited due to drug trafficking but whose ownership has not yet passed to the State.

⁷⁹ Stanfield et. al. (1990). This research was done by the Land Tenure Center at the University of Wisconsin-Madison in June 1990, and was funded by USAID.

⁸⁰ San Pedro Sula, one of the primary study areas for this research, is located in the department of Cortés.

⁸¹ <https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=8498&context=noticen>

⁸² USAID (2003)

⁸³ Hendrix (1993) and USAID (2003)

⁸⁴ Hendrix (1993)

⁸⁵ Hendrix (1993)

⁸⁶ KII 28



c. Property Law, Decree No. 82 (2004)

The primary function of Decree No. 82 was to establish the Property Institute and its competencies; information discussed above in Part B will not be repeated here. In addition, Decree 82 sets out in greater detail the objectives and parameters of establishing the national registry and cadastre. Article 25 states, “The purpose of the registry is to guarantee to users and third parties that registrations and registry services are carried out under the principles of organization, registry efficiency, legality, priority, rogation, obligatory nature, publicity, successive tract, specialty, celerity, universality and registry public faith.” The established registry should have a folio (file) for each unique piece of registered real property that includes: a unique folio number, cadastral number, legal nature of the property, (potential) use of the property, identifying information for the owner, limitations or conditions affecting the property, and the ordered set of registrations and cancellations.⁸⁷ The information in the national cadastre should match the information included in the registry.

The regularization of untitled land was also set out as a key objective; article 69 states that “the regularization and solution of conflicts over the tenure, possession and ownership of real property, the incorporation thereof into the National Cadastre, [and] the titling and registration in the real property registries is hereby declared a national priority.” Decree 82 further describes the IP’s mandate to regularize both rural and urban land, its authority to convert dominio util holdings to full dominio pleno, and its ability to grant title via adverse possession/prescription⁸⁸ for those who have occupied the land for 10 years or more.

d. The Land Administration Project “PATH” (2004)

The Land Administration Project was established in 2004 as a program attached to IP and funded by the World Bank, with technical support from FAO.⁸⁹ Its co-executors were the Government of Honduras, IP, INA, and AMHON.⁹⁰ The Property Institute explained that the project was aimed at building institutional capacity related to registration and to record cadastral data for communities.⁹¹ Similarly, reports from the World Bank note that the program was aimed at “increasing land tenure security in Honduras by improving decentralized land administrative services, including access to more accurate information on property records and transactions”⁹² with a focus on entire communities in urban settlements, small villages (aldeas) and small rural communities (caseríos). FAO states on its website that “PATH has focused on updating cadastral information, land titling and protected areas delimitation, the recognition of indigenous land and territorial rights, and strengthening land administration institutions, including municipalities.”⁹³

The project had two phases. Among the results of the second phase (2011-2017) listed by the World Bank are an increase in tenure security through the titling of 78 communities of Miskito people, surveying 10 municipalities, issuing new titles to 50,798 households in rural and urban areas, and by recording 174,239 deeds.⁹⁴ The PATH program is no longer operational, but IP retains the mandate to continue land regularization processes when such action represents the interest of entire communities (i.e., granting new rights to people over land they currently possess).⁹⁵

⁸⁷ Decree No. 82, art. 34

⁸⁸ Under adverse possession, a person can acquire title to land by using the land, out in the open for all to see for the timeframe prescribed by the law (i.e. 10 years or more).

⁸⁹ <https://www.worldbank.org/en/results/2017/10/30/setting-a-historical-precedent-for-land-rights-in-honduras-improving-decentralized-land-administration-services>

⁹⁰ UNHCR (2017)

⁹¹ KII 30

⁹² <https://www.worldbank.org/en/results/2017/10/30/setting-a-historical-precedent-for-land-rights-in-honduras-improving-decentralized-land-administration-services>

⁹³ <https://www.fao.org/in-action/herramienta-administracion-tierras/news/detail-events/en/c/889420/>

⁹⁴ <https://www.worldbank.org/en/results/2017/10/30/setting-a-historical-precedent-for-land-rights-in-honduras-improving-decentralized-land-administration-services>

⁹⁵ Decree 82, Title V



Table 1: Summary: Land Management and Registration

Institution & Land Managed	Step 1	Step 2
INA: National rural land	<p>INA issues dominio pleno for national rural land. This is included in the Agrarian Registry.</p> <p>Individuals with dominio util previously obtained from INA during the agrarian reforms can submit a petition with the requisite documents to begin an administrative process to convert the holding to full dominio pleno. If the petitioner does not already hold dominio util over the property in question, they can submit a different form to request dominio pleno.</p>	<p>This title must then be registered in IP. INA may help coordinate the registration process, but the responsibility to register the title with IP remains with the applicant.</p>
Municipalities: Ejido land	<p>Municipality issues dominio pleno for ejido land in its jurisdiction.</p> <p>An application must be submitted to the municipality with the requisite documents proving ownership and location for review and approval. This can be done for either individual or communal submissions.</p>	<p>The title holder(s) must take the title to IP to be registered.</p>
<p>IP:</p> <p>National land acquired through adverse possession</p>	<p>IP issues dominio pleno for national land acquired through 10 years possession.</p> <p>A petition must be submitted to IP with documents proving ownership and location, dependent upon the method by which the land was obtained (e.g., purchase, inheritance, etc.). If unopposed, the request will be transferred to a civil judge who will declare ownership via adverse possession.</p>	<p>The title holder must take the title to the municipality to be registered (generally for tax and other fiscal purposes).</p>



Indigenous Land Rights

In September 2007, the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples (“UNDRIP”); Honduras voted in favor of the declaration. UNDRIP explicitly provides that indigenous peoples cannot be forcibly removed from their lands or territories, and that no relocation can take place without the free, prior and informed consent of the indigenous peoples concerned and, where possible, with the option of return.

Under the terms of the Second Agrarian Reform Law in 1975, INA is to grant indigenous communities full title to land that they have occupied for at least three years, free of charge.⁹⁶ The 2004 Property Law further emphasized that INA is responsible for the regularization processes of unregistered lands of indigenous and Afro-Honduran peoples, and titles that are issued are exempted from the payment of all kinds of taxes, fees and formalities for their registration.⁹⁷ The PATH titling efforts that were established concurrently with the passage of the 2004 Property Law also targeted indigenous communities; the World Bank lists the titling of 78 communities of Miskito indigenous peoples among the program’s accomplishments.⁹⁸

However, it is important to note that indigenous peoples remain vulnerable to threats and land rights violations. Indigenous groups in Honduras include, but are not necessarily limited to, the Miskito, Garifuna, Lenca, Maya Ch’ortí, Toluán, Bay Creoles, Nahua, Pech, and Tawahka. President Xiomara Castro de Zelaya in 2022 has created a commission which includes representatives from the indigenous groups along with representatives from the Secretary of the Interior and Population; Secretary of Cultures, Arts and Heritage; Secretary of Science and Technology; and DIRSAC Monitoring Directorate.

4. Draft IDP law (not yet passed)

In 2013, the Inter-Institutional Commission for the Protection of Persons Displaced by Violence was created “to promote the formulation of policies and the adoption of measures for the prevention of forced displacement due to violence, as well as care, protection and the search for solutions for displaced persons and their families.”⁹⁹ In early 2019, CIPPDV submitted a draft law on the Prevention, Attention and Protection of IDPs to members of the National Congress for their consideration; at the time of writing, the law has not yet been passed, although new impetus is registered that could lead to approval.¹⁰⁰

The law’s purpose would be to prevent internal displacement, provide humanitarian assistance to those displaced and at risk of displacement, and provide conditions and means to facilitate the preferred durable solution.¹⁰¹ If passed, the law would create a National Internal Displacement System with local centers to register, track cases and provide direct assistance to IDPs, and establish a registry of assets of IDPs to protect them during their absence.¹⁰² Some key provisions are included here:

- The law would create the National System of Response to Forced Displacement (SINARDEF) to be headed by the Inter-Institutional Commission for the Protection of Forcibly Displaced Persons (CIPPDEF). CIPPDEF’s members would include various government members and commissions, municipalities and civil society organizations.¹⁰³

⁹⁶ Decree 170, art. 92.

⁹⁷ Property Law, art. 125

⁹⁸ <https://www.worldbank.org/en/results/2017/10/30/setting-a-historical-precedent-for-land-rights-in-honduras-improving-decentralized-land-administration-services>

⁹⁹ Draft IDP Law

¹⁰⁰ <https://globalcompactrefugees.org/article/honduras>

¹⁰¹ Draft IDP Law, art 1

¹⁰² Latin America Working Group Education Fund

¹⁰³ Draft IDP Law, arts 9, 12

- The law would also create the Directorate for the Protection of Internally Displaced Persons by Violence, attached to the Secretary of State in the Office of Human Rights, which would be in charge of “articulating the implementation of policies, plans, programs, projects and protocols” created under the Law. To carry out this work, five units would be established: 1) Case reception unit and needs analysis; 2) Coordination Unit for the implementation and monitoring of assistance and protection measures; 3) Prevention Unit; 4) Durable Solutions Unit; and 6) Registration and Information Unit.¹⁰⁴

- The Durable Solutions Unit in particular would articulate the social protection programs of the state. The Registration and Information Unit would be in charge of the administration of the Single Registry of Forcibly Displaced Persons (RUPDEF), which will maintain a registry of the persons, the family units and the communities that are the object of attention within the System.¹⁰⁵

- To implement the law, Municipal Units for Attention and Protection of Forcibly Displaced Persons (UMAPPDEF) would be created in municipalities that present greater number of displaced population or at risk of being displaced.¹⁰⁶

- Violence and human rights violations in the country will be monitored and analyzed to identify places where there are high risks of forced displacement.¹⁰⁷

- When needed, humanitarian assistance will be delivered through the National System of Response to Forced Displacement for up to three months.¹⁰⁸

- Additionally, the law would mandate the creation of a Registry of Abandoned Assets, to be managed by the Property Institute, where the assets left behind by IDPs will be registered. Being listed in this registry would stop any transfers or claims over the property until the owner’s approval is established. It would also halt any responsibility to pay real estate taxes to the municipality and service charges for water and electricity.¹⁰⁹

- The National System of Response to Forced Displacement would support progressive advancement towards a solution by returning to the place of origin, reintegration in the place of arrival, or resettlement in another part of the country, under voluntary conditions. Forcibly displaced persons shall under no circumstances be encouraged or forced to return to their place of origin or to relocate to other areas where their life, liberty, safety or health are at risk.¹¹⁰

¹⁰⁴ Draft IDP Law, arts 17, 21

¹⁰⁵ Draft IDP Law, arts 25, 26

¹⁰⁶ Draft IDP Law, art 28

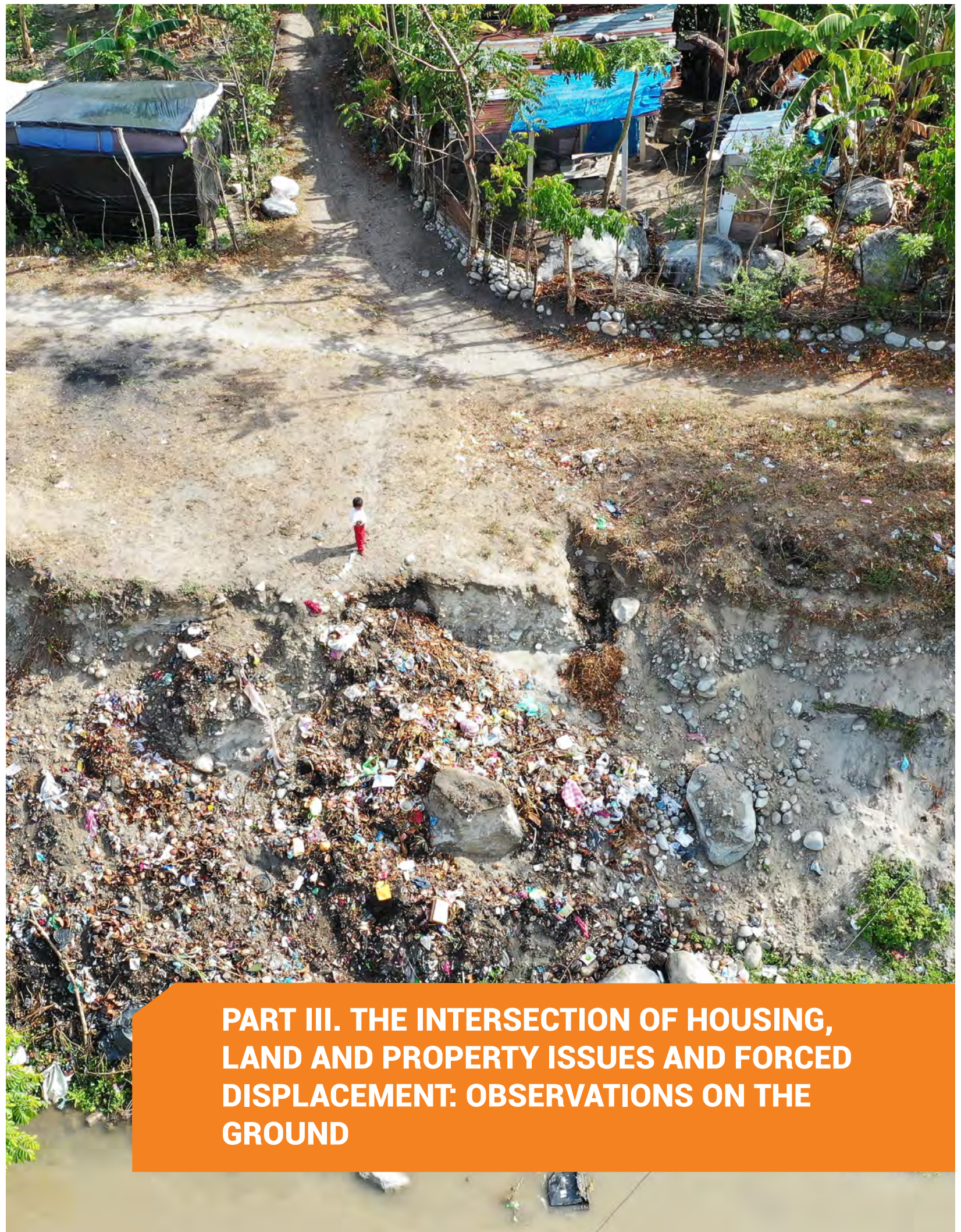
¹⁰⁷ Draft IDP Law, art 37

¹⁰⁸ Draft IDP Law, art 44

¹⁰⁹ Draft IDP Law, art 53

¹¹⁰ Draft IDP Law, art 74





**PART III. THE INTERSECTION OF HOUSING,
LAND AND PROPERTY ISSUES AND FORCED
DISPLACEMENT: OBSERVATIONS ON THE
GROUND**

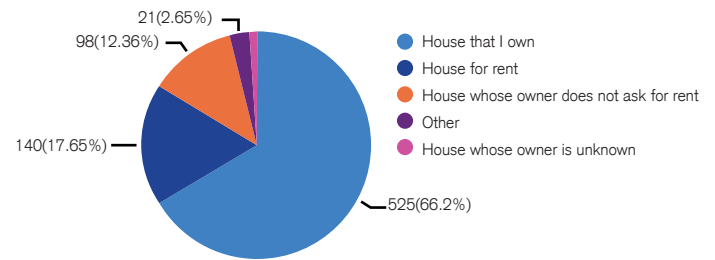
The rest of this report will discuss the challenges posed by the intersection of displacement and the HLP landscape. NRC’s quantitative and qualitative data collection aimed to assess the HLP situation at both the community and family level, as indicated in the methodology section above. The findings below describe the situation of these households and communities. It is important to note that HLP issues affect much of the population, whether displaced or not, and addressing these concerns on a large scale is needed – both because many displaced people live among communities without identifying as such, and because there is a general feeling that everyone is at risk of displacement because of the levels of violence.

A. TENURE INSECURITY

HLP Survey Overview

In NRC’s quantitative survey, 77 per cent of the assessed households (HH) were residing in urban areas, 21 per cent in rural areas and 2 per cent in agricultural area. The majority of assessed HH (72 per cent) reported living in a “casa de material”¹¹¹ while 14 per cent reported living in a temporary accommodation and 9 per cent in a single-room structure. The majority of the households (66 per cent) stated that they owned their current accommodation, though only 55 per cent said that they owned the land that their house was on. Approximately 30 per cent were living in someone else’s home (18 per cent renting and 13 per cent staying in someone else’s house without paying rent). The remaining 5 per cent reported living in a property where they did not know the owner or had some other arrangement. The main source of livelihood for 48 per cent of the HH was temporary work and 11 per cent reported being financially supported by other family members.

Figure 3. What kind of entitlement do you have to the home in which you currently live?



1. Unclear Tenure for the Community

In most sites visited, residents explained that the original families of the community “invaded” and took possession of the land – that is, they entered land that was undeveloped and unoccupied.¹¹² Another organization explained that there was a variation of this practice, where a private owner might invite a group of families to “invade” his/her land for a low price, but without any legal tenure documents or access to public services.¹³ However, none of the communities visited referenced this practice. Lands that were “invaded” could be of any type: unused national, municipal (ejidal) land or private land.

There was variation among the communities that were visited in regards to their origin and their rights to the land, with their founding ranging from 20 to 50 years ago. For the communities visited in Tegucigalpa, it appeared that the founding families had settled mostly on municipal land but had not gotten title documents. Some were seeking refuge after Hurricane Mitch in 1998, and some were simply looking for places where they could build their own homes so they could stop renting. Around San Pedro Sula and Choloma, it seemed more common that families settled on lands that had previously belonged to large fruit companies and had help from campesino (peasant) organizations and cooperatives to engage with INA, likely as a part of the agricultural reform laws.¹¹⁴ Other communities said that they had purchased land from a private person who held large swathes of land, but in many instances never obtained title documents.

¹¹¹ In this context, “casa de material” refers to houses that are made of substantive material, like concrete.

¹¹² FGDs 1-4, 6-10

¹¹³ KII 24

¹¹⁴ FGDs 6, 10

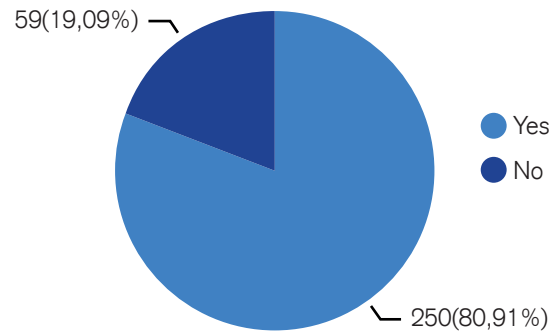
Once an initial group of families identified an area where they wanted to settle, they formed their patronato to help organize themselves, and to allocate land for newcomers that would arrive in the future. Newer residents in some communities said that they paid the patronato for their lots when they arrived, often in installments. This was done until all land was assigned. It is unclear what documents, if any, were given to the original families, and whether their ownership rights were registered in the IP or INA registry and cadastre. Even properties that were registered changed hands numerous times, and records that did exist often were not updated. People with properties that were not registered often used more informal documents.

2. Multiple Types of HLP Ownership Documents

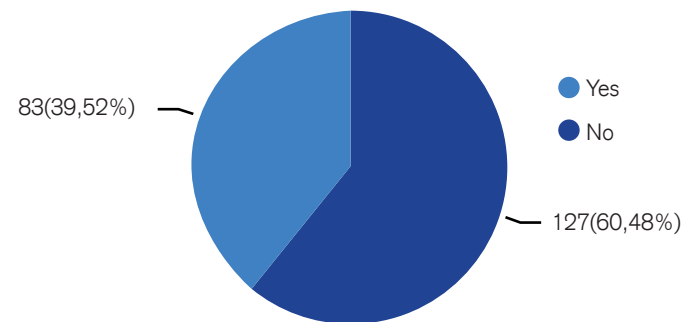
“More paper protects us further; we always live in fear of eviction.”¹¹⁵

The field team also observed a multitude of documents held by people as proof of ownership, which included official dominios pleno and dominios útil, various documents issued by their patronato, and personal contracts of sale or donation. In most instances, residents felt that the unofficial documents served their purpose of proving and protecting their rights in their immediate circumstances with their neighbors in the community. This observation is supported by NRC’s survey, which found that while 64 per cent of people reported having ownership documents,¹¹⁶ only 16 per cent had the full dominio pleno. 56 per cent reported having an “escritura pública,” (public deed),¹¹⁷ 12 per cent reported having documents from the patronato and the remaining 16 per cent had various informal documents such as sales contracts and utility bills. Of interest, levels of document possession varied by location as illustrated in the figures below, with 80 per cent of households around Tegucigalpa reporting having ownership documents, while only 39 per cent of households around San Pedro Sula said the same.

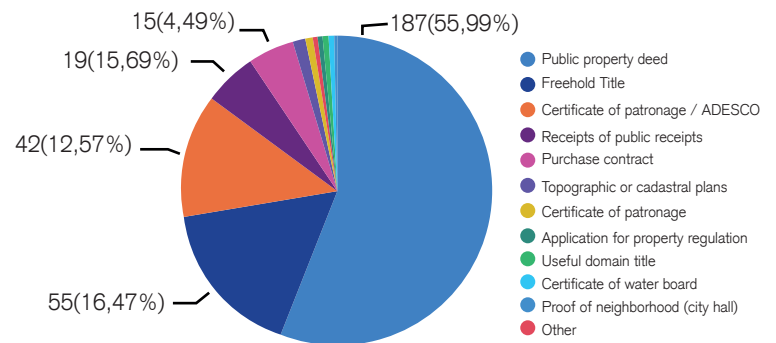
Do you have ownership documents for your home? (Tegucigalpa respondents)



Do you have ownership documents for your home? (San Pedro Sula respondents)



What types of ownership documents do you have?



In some sites, the research team was told that there was a kind of book kept by the patronato that listed the owners of property and kept track of transfers that happened in the community. However, the method of record-keeping varied, based on the strength and capacity of the patronato, and ranged from full involvement to playing no role at all in property matters.

¹¹⁵FGD 2

¹¹⁶ The remaining 36 per cent of the survey sample said they did not have ownership documents

¹¹⁷ The escritura pública is a document has been notarized by a public document, and could be anything from a contract of sale to a dominio pleno (both are attached as Annexes [...]).



Regardless, people were quite aware of the existence of formal documents and the additional protection they could provide. Many wanted to have formal registration papers to guard against strangers who might come and claim the property as their own, or to protect themselves if the government said they had to move in the future: “More paper protects us further; we always live in fear of eviction.”¹¹⁸ They knew that documents from the patronato or seller could be taken to the municipality for registration, but the most common reason given for not having done so was cost: money for a lawyer, money for the government institutions, transport costs, etc. One man explained, “I bought the land from a private owner. I did not deal with the municipality because it is too expensive.”¹¹⁹ The fact that the less formal documents sufficed for their day-to-day concerns did not make the additional costs entailed in obtaining formal registration worthwhile. People prioritized how to spend what money they had, and food, water, education and medical fees were more immediate needs for many families.

Additionally, while many did not know exactly what the process entailed, they did know that formally registered land would involve the annual payment of taxes to the municipality. One woman said that she had purchased land and had her sales contract, but inadvertently discovered that the seller had registration documents from the municipality listing him as the owner of the property. The seller never gave her the official documents, but the woman was also uncertain of what to do, because she was afraid that if she became the registered owner, she would have to pay taxes and she said she could not afford to do so.¹²⁰

3. Confusion Regarding Titling Processes

The research team also observed confusion regarding past titling efforts by the government. Several communities mentioned having paid representatives from PROLOTE (“Programa de Legalización y Ordenamiento de Terrenos”). It is unclear exactly when the program started and ended, but a 1989 USAID report on shelter and urban development in Honduras describes PROLOTE as a program that was proposed by the Honduran government to transfer title to households that were occupying private or dominio pleno land. PROLOTE was managed by FOSOFI (“Fondo Social para la Vivienda”),¹²¹ and was intended to help facilitate the regularization of urban communities who had invaded land to which they had no legal claim.¹²² Under the program, the affected households were to pay PROLOTE/FOSOFI for the cost of their lots; once the requisite amount was paid, full dominio pleno would be transferred to the new owner. Several community members told the field teams that they had paid PROLOTE on a monthly basis in the past, but that they eventually stopped paying because they could never get any information about the status of their titles and never received the titles themselves.¹²³

Communities also reported that there had been times in the past where government officials would come to the communities to survey and title land for free. As referenced above in Part II, there have been and still are government programs to title property.

¹¹⁸ FGD 2

¹¹⁹ FGD 2

¹²⁰ FGD 5

¹²¹ The Social Fund for Housing FOSOFI, is an executive agency whose purpose is to: establish policies for the Housing and Human Settlements Sector and promote favorable conditions to meet the needs of the most dispossessed. <https://portalunico.iaip.gob.hn/portal/index.php?portal=12>

¹²² Cooperative Housing Foundation and UNICEF (1991)

¹²³ FGDs 4, 9



However, at the local level, people seemed to have little to no information about when or why these activities would take place. In one site where some titling was done, it was believed that the government had wanted to survey properties that were along a particular road, while another was in an area where corporate plantations may have had an interest in delimiting the borders for certainty. Another community recalled that about 3-4 years ago, people from the municipal cadastre came and asked for the names of everyone in their sector who did not have titles. The patronato gathered and submitted the names, but said that while some people got the documents, others did not.¹²⁴ Similarly, in other larger communities, some parts received documents while others did not, leaving the latter group confused as to why they were left out.¹²⁵ These past efforts may also lead some residents to believe that they can simply wait until another such initiative takes place.

Current titling efforts tend to be slow, further discouraging people from completing the process. Several communities who had never gotten official documents are currently in the process of “regularizing” – trying to gain official recognition and land titles for the community – with varying levels of success. In one area around Tegucigalpa, community leaders reported that they had been working with a lawyer to regularize their status, but they were unsure of the full process and thought that the initiative had been ongoing for at least the past two years.¹²⁶

This report does not imply that the fault lies with the municipality, as many of their cadastral offices may be understaffed and under-resourced to carry out these efforts, and only seeks to highlight the prevalence of this problem. One municipal office said that they knew their cadastre was missing information on approximately 25 per cent of the property in their jurisdiction,

but that they simply did not have the personnel needed to reach that population.¹²⁷ Another challenge with trying to obtain titles for an entire community en masse is the differing abilities of residents to pay. For instance, one community said that to regularize their status, each person had to pay 1000 lempiras: 500 for the patronato and 500 for the lawyer, but that the process was slow because not everyone had the money to contribute.¹²⁸

All of this has led to a situation where the tenure status of many people is unclear or incomplete. While the various methods of land administration and informal documents do provide some level of tenure security, the uncertainty that exists causes several problems that will be discussed further below.

4. Incorrect, Lost/Damaged Documents, or No Registration Records

People interviewed for this research understood that they needed formal documents from the government to show ownership, but did not always know exactly how to get them. As a legal matter, land ownership must be registered in the “Instituto de la Propiedad” (IP) to be recognized by the state, but it is unclear what proportion of properties in the country are actually registered there, or whether the entries in the registry are up to date.

There is also a general understanding that property should be registered at the municipality within which it sits. Yet the same problem of uncertainty about registration status in municipal records exists. As one man explained, “Everything is registered; the problem is nothing is updated.” The man said that his mother owned property in the community, and ten years ago, they decided to transfer the property to him.

¹¹⁸ FGD 2

¹¹⁹ FGD 2

¹²⁰ FGD 5

¹²¹ The Social Fund for Housing FOSOFI, is an executive agency whose purpose is to: establish policies for the Housing and Human Settlements Sector and promote favorable conditions to meet the needs of the most dispossessed. <https://portalunico.iaip.gob.hn/portal/index.php?portal=12>

¹²² Cooperative Housing Foundation and UNICEF (1991)

¹²⁴ FGD 6

¹²⁵ FGD 3

¹²⁶ FGD 1

¹²⁷ KII 27

¹²⁸ FGD 1



They consulted a lawyer, did the transfer through a sale, and went to the municipality cadastre to complete the necessary process, but the property still remains registered in his mother's name today.¹²⁹ Another person said that his mother had property registered in her name, but one day received a notice related to the property under someone else's name. She went to the municipality to see what happened, and was told her property had been sold to someone else and so was registered under another person's name. She contested and was able to get her name back in the registry.¹³⁰

Despite high levels of awareness about the importance of formally registering HLP ownership rights, many people still only have informal documents, or none at all. In NRC's survey, 13 per cent of respondents reported having informal documents¹³¹ while 36 per cent said that they had no documents at all. Among those who had no documents, the primary reasons given were never having received any in the first place, that they were destroyed or stolen, or that they were with another person.

In some communities, it was widely known that transfers of land still take place based on trust and community practice, even without formal titles. However, in others, it was reported that no one could or should engage in a transaction regarding land that did not have papers. It is also impossible to get a loan/mortgage on a property without having the official title.

While manageable for many residents, the lack of formal title can become a significant problem when people are displaced, whether by natural disasters or violence. People displaced by floods may need proof of ownership of their land when they try to return; in some communities, when asked why they thought property documents were important, people said that it was needed to get humanitarian assistance to rebuild their homes.¹³²

Others who fled because of violence and need to start their life again somewhere else reported that they would like to sell their property, but were told by prospective buyers that they needed formal title documents before a sale could go through. This group of people often said that they had lost or left their papers behind when they fled, or had never had documents at all. In most instances, they did not know what they would need to do to get new or replacement documents, but also said that they could not afford to carry out such processes and were unwilling to return to the place they had fled if that was required. Several expressed the desire for assistance in formalizing their ownership rights so that they could sell, rent or mortgage the property.

Case Study: Emilia¹³³

In 1986, Emilia bought land from her brother and had the sales contract registered at the municipality as proof of her ownership. She lived there with her children and grandchildren; they were 14 persons in total. She said her children tried to warn her about the gangs in their neighborhood, and one of her sons had been mugged, but she did not really feel like there were serious problems. She says she felt safe in the house, and that they would even sleep with the doors unlocked at times.

Then, in November 2021, two of her children were killed. She recalled that the shooting happened on a Monday. She was coming home from another town, and when she got home her daughter was making dinner. Then one of her sons called out to say that men with guns were coming towards their house. The shooting started and went on for about 20 minutes before the men left. When it was quiet, she looked outside and saw her nephew lying dead on the ground outside. She wanted to go look for her oldest son, so she went up to her daughter's room to look for shoes to wear. When she opened the door to the room, she saw both her daughter and oldest son lying still on the ground.

¹²⁹ FGD 6

¹³⁰ FGD 6

¹³¹ This number excludes people who reported having a public deed or *dominio pleno*.

¹³² FGDs 5, 11

¹³³ KII 12



After the police came and collected evidence, she and the rest of the family left. She left all her important papers, except for her own ID, which she had carried with her. She had nowhere to go, so went to her brother's. His house had six rooms. His family consisted of six people, and they used three rooms. He let Emilia and her family use the other three rooms; she had eight people with her. They stayed there for two months, and then had to leave because the house was too crowded. Emilia says it took them one week to find a new house, because no one wanted to rent to them. She finally found a place in a new town in January 2022. It has only three rooms and costs 2500 lempiras a month, plus electricity and water. It is not very big, but she has a written contract for one year and has told the owner that she would like to buy it if he is willing to sell.

She knows now that one of her sons had some business with the gangs, but that he had stopped it. While he will not tell her anything, she knows that is why they were attacked. That son is hiding in the mountains with his wife and three children. He has said he wants to come back, but she has told him not to – she knows he will be killed. She and her daughters try and send him some money when they can.

Her sister checks on her old house from time to time. She says it was looted and that nothing is left inside. She wants to sell it, but she has no title deed. She said there was a man who wanted to buy it, but the price was very low and he wanted papers for the house after paying only one installment. There was another foundation that worked with children which was interested in buying the house, but they could only do so if she had the title deed. Then she tried to call the bank to get a mortgage, but they refused because she did not have the deed. She says she does not know how she could get the deed, but would like to do so, because she needs the money.

5. Inheritance

It was reported that disagreements occurred in regards to the inheritance of property, when family members and relatives fought over who would inherit what property. These arguments stem in part from the traditional practice of multiple family members and relatives each having a house on the same plot of land, as well as bad faith among relatives. One humanitarian worker told a story about a project where emergency shelter assistance was being provided to a community that had been affected by hurricanes IOTA and ETA, where one brother initially refused to allow another to have a house on the family property, insisting that he owned the entire parcel.¹³⁴

In several communities, residents said that it was better for parents to assign property to their children or relatives while they were alive to avoid future arguments.¹³⁵ Most people also indicated that it was general practice to leave inheritance divisions as informal arrangements among the family. One woman told the research team that her father did not want to give his children separate documents for the land he was giving to his children because he did not want the property to be broken up and sold.¹³⁶ NRC's survey reveals the same trend; 60 per cent of people who inherited their home did not legalize the inheritance divisions.

6. HLP Conflicts

Gender Perspectives: Women and HLP Conflicts

HLP conflicts were not reported as significant issues in either the qualitative or quantitative data. However, NRC's survey indicated that women were slightly more likely than men to report having experienced a conflict within the past year over the use or ownership of their property: 3 out of 275 men (1 per cent) and 20 out of 515 women (4 per cent) reported having such difficulties. The three men said their disputes were related to non-state actors, family arguments and use rights over the land.

¹³⁴ FGD 13
¹³⁵ FGD 4, 12
¹³⁶ FGD 10

Of the women, six said the problem was related to a family dispute, two said the problem was with inheritance, three said the problem was with non-state actors, and the remainder reported various other problems.

The men also seemed more successful at resolving their issues. All three men said they had resolved their problem, but only seven of the 20 women were able to find a solution.

In many communities, it was noticed that boundaries between different lots were recognized through natural markers, such as rocks or trees, or not at all. Though land conflicts between neighbors were not reported as significant issues, lower level disagreements did seem to occur. Again, depending on the strength and trust of the community in a particular patronato, members might be asked to check their records and come out to re-measure and mark the boundary lines.¹³⁷ If it could not be resolved at that level, the municipality would have to be consulted, though this would of course only be an option if the municipality itself has up-to-date cadastral records. This avenue would also entail additional costs, as the parties would have to pay for municipal surveyors to come out to the property.

There were accounts of people showing up at the door of someone in the community, claiming to be the rightful owner of a particular property. Sometimes that person was telling the truth, and such incidents have led people to be wary of purchasing any properties that do not have official government documents.¹³⁸ However, in more instances, it was reported that the stranger was using a fraudulent document or trying to extort money from community residents.¹³⁹ Other more serious conflicts were also reported, in extreme cases forcing people to flee, as in Jorge's story below.

Case Study – Jorge “We have been hidden and full of fear.”

Jorge is 32 years old. He and his three siblings are in hiding. He has an older sister who is 34 years old; a 20 years old sister who is mentally disabled and brother who is 15 years old. He is a civil engineer, and his sister is an architect.

Jorge's mother was murdered in 2011. The man who killed her later brought forged documents to the Property Institute, claiming that he had been married to her and that her family's property belonged to him. In December 2013, the man attacked again, killing Jorge's father and severely wounding Jorge's brother, who died a few days later.

In December 2013, Jorge and his three remaining siblings fled. A friend of his father's family helped them to find a place to hide. They had to move a few times but were finally able to rent an apartment for 7500 lempiras a month with an 18 month contract. Then in early 2022, the man discovered their location and tried to kill them. Jorge and his family are running again, even though there are still many months left on their rental contract. They are trying to get help to resettle in another country.

7. Challenges with Renting

One issue that hits especially hard those who are displaced is finding a place to stay after fleeing their homes, particularly for those trying to escape violence. In those instances, the entire family leaves and needs to find a place to rent immediately, which can be difficult if there are many members, many children or if it is a female headed household (as it was reported that some owners would not rent to families without a male head of the family).

¹³⁷ FGD 1
¹³⁸ FGDs 2, 7
¹³⁹ FGD 1, 12



While some people go to friends or relatives, others simply try and get as far away as possible, often to new areas where no one knows them, but where they also do not know anyone. The primary goal is to get away from the particular gang members who threaten them; sometimes this means moving to another neighborhood outside of their reach, while other times it requires moving to an area under the control of an opposing gang. During this research, the team heard from people who said that they would look online or just walk around town, asking if anyone knew of a place available for rent. One woman said that she had to flee after the gangs killed her sister, but she had 17 people with her – six adults and 11 children – and no one would rent to them when they saw all the children.¹⁴⁰ Another who fled because her husband was abusing her recalled how grateful she was when she found someone who would rent to her, because she knew that many owners did not want to rent to women without husbands.¹⁴¹

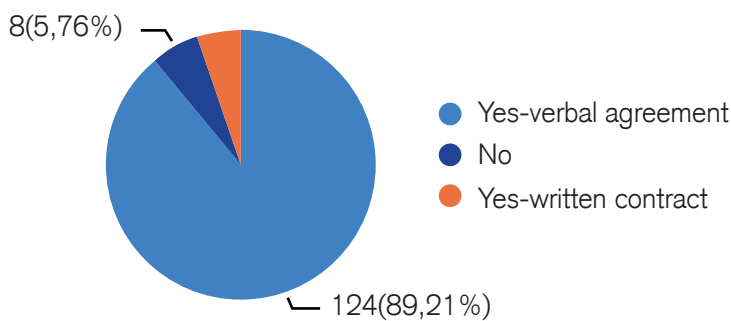
NRC’s survey indicates that rental arrangements are often secured by verbal agreement only. Among renters, the vast majority (89 per cent) reported having a verbal agreement; only 5 per cent reported having a written agreement and 6 per cent reported having no agreement at all. Although most households reported having a cordial relationship with their landlord (87 per cent), the predominance of verbal agreements should be noted as it leaves tenants at risk of losing their home should owners decide to sell or make other arrangements with their property. In NRC’s survey, 63 per cent of renters said that they had difficulty paying rent, and of this group, 77 per cent feared that they might be evicted if they could not make the payment.

Additionally, displaced families are also faced with the very real limitation of cost – most only have whatever money they were able to take when they left, which might put many possible options out of reach. In NRC’s survey, approximately half of the respondents who rented said that they paid 1000 – 2000 lempiras a month for one home for their family, 34 per cent paid 1000 lempiras or less per month and 16 per cent paid between 2000 and 5000 lempiras per month. When multiple generations of a family flee together, they must often pay significantly more to find a space that will accommodate the number of people in their group. For those who are able to find a place, they must then contend with finding livelihood activities so that they can pay the rent. In Honduras, this is often difficult even for people who have not been displaced; NRC’s analysis shows the prevalence of insecurity, with 63 per cent of renters indicating that they have difficulty paying rent, and most fearing eviction if they are unable to pay.

8. Women and HLP Rights

The research team found a relatively high number of women who had their own property. Both men and women reported that women often raised children alone, largely due to the high number of absent fathers, and women had to take care of themselves and their family. Several women also said that their husbands/partners had been killed, and that the communities where they looked for refuge gave them documents in their names after hearing their stories. Overall, the communities visited for this research seemed to accept women’s ownership of property. Another recent study has noted that while still limited, there has been an increase in women’s land ownership over the past decades.¹⁴²

Do you have a rental contract?



¹⁴⁰ KII 7KII 20Los encuestados informaron que la pandilla fijó la cantidad para este "impuesto", que tenía que ser pagado cada semana, y las personas que no pagaron fueron asesinadas.

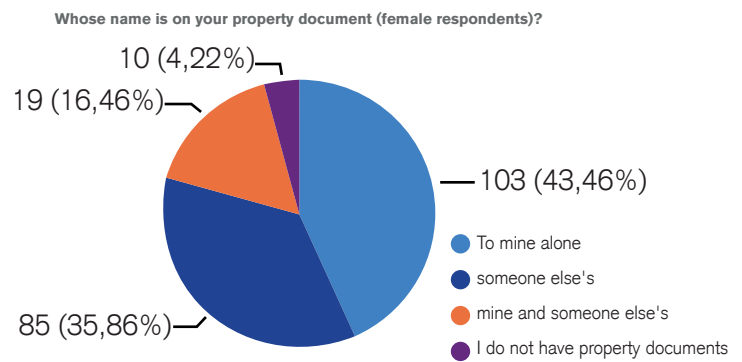
¹⁴² CONDADEH (2021)



Legally, the Honduras Civil Code makes no distinction between the ownership and inheritance rights of men and women, and several women interviewed by the research team affirmed that they had inherited property from their parents. NRC's survey indicates that purchase and inheritance are the two most common ways of acquiring property for both men and women: 54 per cent of women and 53 per cent of men said they acquired their home through purchase, and 11 per cent of women and 10 per cent of men said they inherited their home. The survey also found a promising numbers of women who had property documents in their name: 43 per cent of female respondents said that they had documents in their name alone, and 16 per cent said their documents had their name with someone else.

Gender Perspectives: Names on Property Documents

In NRC's survey, 64 per cent of respondents reported having ownership documents. While the percentage of document holders was approximately the same among men and women (64.3 per cent and 63.8 per cent respectively), there were differences regarding names that were on these documents. Though the survey sample included significantly more women than men as explained above,¹⁴³ 55 per cent of men reported having documents in their name alone, while only 43 per cent of women said the same. 36 per cent of women reported that someone else's name alone was on their document, while only 28 per cent of men said the same. Similar numbers reported having both theirs and another person's name on their document (15 per cent of men and 16 per cent of women).



While such numbers may seem promising, it must still be emphasized that having their own property remains a challenge for many women. One woman shared a story of how she and her husband bought land together, but put everything in his name. She says that at the time she did not mind, but that later their relationship fell apart. She fled because of the hurricanes, and is still sheltering in a church with her daughter. Her sons are rebuilding the house, but she is not sure if she will be able to go back because her husband says the home is his.¹⁴⁴ The lack of independent property ownership and economic independence can also serve to disadvantage women who need to flee, especially when they have partners who have ties to the gangs and drug dealers, as in Mariana's case below.

Mariana's story

When she was 20 years old, Mariana bought her aunt's house to have a home of her own. A few years later, when she was living with her children in the house, drug dealers came and killed her brother. They said that she had 24 hours to leave her house, or they would kill her also. Years later, Mariana found a new partner, and she and her daughter moved in with him. She had a son with him, but when the boy was two years old, she realized that her partner was abusing their son. She went to court and tried to leave the man, but the judge said that she had to stay with him for at least another six months.

¹⁴³The survey sample included 515 women and 275 men.

¹⁴⁴FGD 8

During that time, her husband sent men with drugs and guns to the house to threaten her and the boy; she left with her children as soon as she could. Mariana said it was hard to find a place to live because many landlords did not want children, and they wanted a deposit and a contract – neither of which was possible for her.

9. Loss of property at the place of origin

“If I go back I will be gone. For me the house is lost.”¹⁴⁵

One obvious problem for people who flee because of violence is the total loss of their property at their place of origin. Some people who flee for this reason may have a neighbor or relative who is able to keep an eye on the house. While this provides some protection against a stranger deciding to claim the property as his/her own and renting or selling it, it cannot stop the gangs from looting the house or using it for their own purposes.

Several persons displaced by gang violence interviewed for this research confirmed that they knew the gangs had taken over their home to use as a “crazy house” (hangout for the members), but said there was nothing that they could do about it. A community leader said that they had done a recent mapping in her neighborhood; out of 360 houses, 40 had been abandoned by people who fled, leaving houses that were marked with either “13” or “18” to show which gang had assumed control.¹⁴⁶ Even if the gangs do not actually occupy the home, the destruction and vandalism that occurs often leaves the structure in an unusable condition. Others were too afraid to return; one woman who feared for her life said, “If I go back I will be gone. For me the house is lost.”¹⁴⁷ The CIPPDV’s 2014 study similarly notes that 1/3 of people who had owned housing before displacement had been unable to recover it.¹⁴⁸

Though NRC’s survey could not conclusively identify people who fled because of violence, it did include approximately 10 per cent of respondents who said that they owned other property in the country. While the reasons why they left are unclear, it is notable that about half of this group said the property was either vacant/abandoned, or that they did not know the status of the property; the other half reported that they had given permission to other persons to live in the property.

10. Civil Documentation and HLP Rights

Under the Law of the National Registry of Persons, Decree No. 62 (2004), and its related regulations, the National Registry of Persons is responsible for issuing and maintaining civil documentation for Honduran citizens (e.g., registering Hondurans in the civil registry, issuing identity cards and other documents attesting to a person’s civil status). However, the law is vague in some matters. For example, it does not specify what evidence is needed by someone applying for a civil document, which has led to variations in practice depending on the location and staffing of a particular registry. Such inconsistencies can make it difficult to clearly understand the procedures.

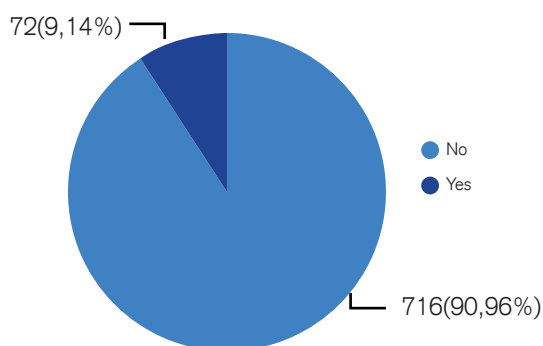
Identity documents are generally needed for any transaction involving housing, land and property: buying or renting a home or land, getting a mortgage, applying for government documents, etc. While most people indicated that they had the necessary documents, a concern was raised regarding a new identity card that Honduras has started to use. One man said that he had applied for the new card, but that he is having trouble completing the process. He has contacted the municipal government several times, but still cannot find out what is going on.¹⁴⁹ He is also in the process of trying to get a title for his property, and he does not know what to do because his old ID card is no longer valid.

¹⁴⁵ KII 13
¹⁴⁶ KII 25
¹⁴⁷ KII 13
¹⁴⁸ UNHCR (2019)
¹⁴⁹ FGD 11

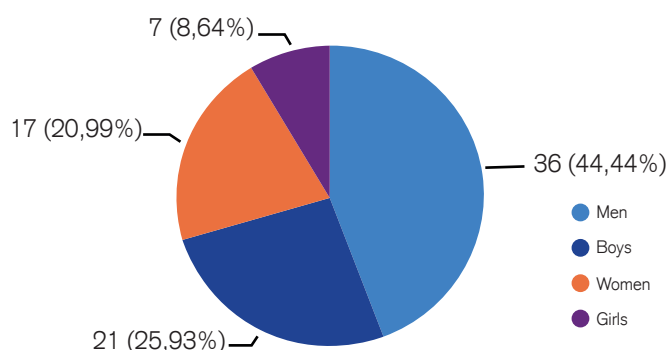


NRC's survey also reveals problems with civil documentation; nine per cent of respondents indicated that a member of their household lacked civil documents, typically either a national ID or a birth certificate, and most often affecting the males in the family. The most common reasons for not having the documents were never having them in the first place, having documents that were expired or having lost them as illustrated in the figures below.

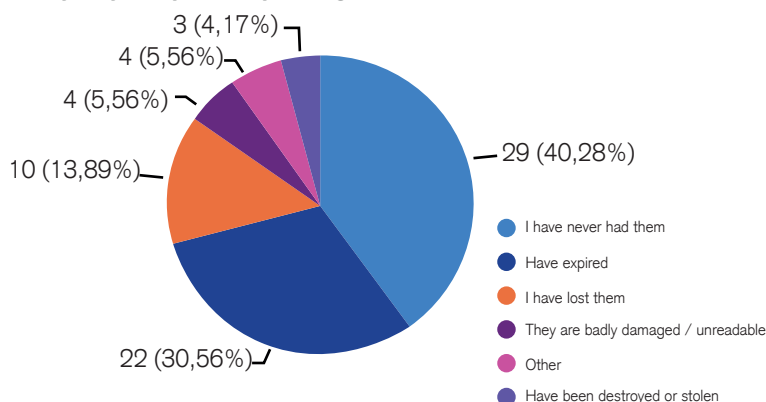
Is any member of your family missing civil documents?



Which members of your family are missing civil documents?



Why are you or your family missing civil documents?



Other concerns about identity documents have been raised by humanitarian actors in the education sector,¹⁵⁰ who have observed a lack of birth certificates among children in some communities, which prevents them from being able to go to school under the rules of some municipalities. Under Honduran law, parents will have to pay a fine if they fail to register their children within six months of birth, which may further discourage them from obtaining birth certificates for their children. While the immediate concerns relate to children not being able to attend school, the lack of identity documents will become more problematic for them in the future.

B. DRIVERS OF DISPLACEMENT

1. Gang Violence: “The neighborhood is hot.”

The reality for all Hondurans includes a constant risk of violence and threats from the maras, or gangs. Gangs are not the only cause of violence, as increased drug trafficking and corruption among state actors certainly play a role, but this report focuses on gangs as they were the concern most often reported to the field team. In every community, regardless of tenure status, people report living in constant fear: of not being able to pay the extortion money or “war tax;”¹⁵¹ of their children being recruited into or kidnapped by the gangs; or of simply being at the wrong place at the wrong time. In the words of one woman who had fled her home after being shot by the gangs for not paying the war tax, “Nowhere is safe in Honduras.”¹⁵²

These fears were already noted in a 2014 report by the CIPPDV, which found that 77 per cent of surveyed displaced households had been victims of specific acts of violence,¹⁵³ and 20 per cent chose to move out of fear of general violence. Because this violence has become so common, many people do not necessarily perceive themselves as being forcibly displaced when they leave their home to get away from the threat.

¹⁵⁰ FGD 14

¹⁵¹ Respondents reported that the gang set the amount for this “tax,” that it had to be paid every week, and people who did not pay were killed.

¹⁵² KII 10

¹⁵³ UNHCR (2019)



Women have been disproportionately affected by displacement, especially when caused by gang and domestic violence. One mother said the reason she fled her home was because the gangs wanted her daughter:

*"We got a call; the guys said they liked her. I didn't say anything. The next day they called and said to put her in a taxi. I called my husband and said we're leaving; I'm not going to wait. As we were getting ready to leave, a lot of taxis were outside. They were there all day. The week after we left, they kidnapped, raped and burned two girls in the neighborhood."*¹⁵⁴

Other women reported being threatened by their husbands, children or other relatives who had become involved in the gangs. One said that her nephews had joined a gang that took over her sister's house where she was living, and made both her and her sister pay them rent.¹⁵⁵ Another talked about how her husband abused their son and sent the gang members to threaten her.¹⁵⁶ Still another explained that she had fled with her children because her husband had abused her for years, and that her husband later threatened her mother, causing her to run as well.¹⁵⁷

MS-13 and the Barrio 18 were identified as two major gangs; it has been reported that these two groups first appeared in Honduras in the 1990s,¹⁵⁸ and that since then, the organized criminal groups have infiltrated state institutions and the judicial system.¹⁵⁹ People interviewed for this report believe that nearly all communities are under the control of one or the other, and there is constant fighting between the two as they compete for territory. Those who lived around the border between their areas of control reported having to flee because it was too dangerous as the members continually fought each other.¹⁶⁰ Most community residents said that no one would go to the police, because they would tell the gangs if someone complained.¹⁶¹

A woman who had fled after gang members killed her sister said, "We had always seen the guys walking by, but we would just look the other way. No one would say anything; no one would risk their life, because the police would not take care of you there."¹⁶² A young man who avoided being a part of the gang said that despite the violence, he believed the gangs were more likely to protect the people than the police, and that it was the police that caused fear among the people.¹⁶³

While finding a place to stay is always a challenge, it is even more so for families who have to run because of the gangs with only a day or a few moments notice, as in Lilia and her family's story below.

Lilia's Story

Lilia is 20 years old. She lived with her family in a house and on land that her mother owned. Her mother cooked and sold snacks in the street, until one day, a boy from the gang came and told her that she had to pay 300 lempiras a week as the "war tax." The family could not afford to pay; Lilia's father had lost his job during the pandemic, and her mother did not make that much. On October 17, 2021, the family received a note that said if they would not pay, then they had to leave the house or they would be killed.

They took their personal documents and title to the property, but nothing else. They could not find a place where there was space for everyone on such short notice, so the family had to separate. Lilia's father went to stay with a friend in the city, her brother went to stay with a grandmother outside of the city, and Lilia and her mother went to stay with one of Lilia's friends. Lilia was also pregnant at this time. The family hopes to be able to come back together at some point in the future.

¹⁵⁴ KII 19

¹⁵⁵ KII 18

¹⁵⁶ KII 13

¹⁵⁷ KII 20

¹⁵⁸ WE Effect (2020)

¹⁵⁹ IDMC (2019)

¹⁶⁰ FGDs 7, 9

¹⁶¹ FGD 6

¹⁶² KII 7

¹⁶³ KII 23



All people interviewed for this research indicated that the threat of violence from gangs is present everywhere, regardless of where a person lives or whether they are rich or poor. Poorer individuals who rent or have irregular tenure status appear to be at greater risk, as they often have few assets, and the absence of economic opportunity makes the risks of gang recruitment higher and reduces options for alternative living arrangements. However, even those who have documents for their property are still at a disadvantage after fleeing, as they cannot return to their homes out of fear. One woman who fled after being shot in two separate incidences for not paying the war tax said that her house is now empty, and she wants to sell it but needs help to do so, because she will not go back to the neighborhood.¹⁶⁴

2. Natural Disasters: “Everything was lost in the flood.”¹⁶⁵

In addition to violence, Honduras suffers some of the worst effects from extreme weather in the world; it was the most affected country by extreme weather events between 1997 and 2006.¹⁶⁶ In 1998, 2.1 million people were displaced after Hurricane Mitch,¹⁶⁷ and many people interviewed for this study said that they moved to their present location because they needed a new home after the hurricane. More recently, in November 2020, Hurricane Eta hit Honduras as a category 4 storm, affecting over 1.8 million people, and Hurricane Iota hit less than two weeks later.¹⁶⁸ In December 2020, it was estimated that at least 61,000 Hondurans were left homeless after the hurricanes,¹⁶⁹ and the shelter cluster in Honduras has been working to provide assistance to those affected by the hurricanes.

Persons interviewed for this research who have received such help expressed gratitude,

saying that it has helped them start to rebuild their lives, but there were others who said that their homes are still full of mud, that they lost everything and are still living in temporary shelters.¹⁷⁰

C. LOOKING FORWARD

Fortunately, there has been a significant increase in the attention on displacement in Honduras. The shelter cluster has been responding to the needs of those displaced by the hurricanes, and is trying to ensure that assistance is given to people in places where they will be able to stay. At times this is complicated by the fact that people may not have documents to prove that they own the land they call home – either because such documents were lost or destroyed in the floods or because they had never possessed them.

NRC continues to help people who are fleeing because of violence, and the Honduran government is also seeking to better assist this population. In 2016, the National Human Rights Commissioner of Honduras (Comisionado Nacional de los Derechos Humanos de Honduras, CONADEH) and UNHCR formed the Forced Displacement Unit (Unidad de Desplazamiento Forzado, UDFI) to generate data on displacement patterns and trends, and the profiles of affected or threatened people and communities.¹⁷¹ CONADEH has established multiple offices throughout the country to assist people who are fleeing because of violence, and it has built relationships with numerous service providers to better support people in their time of need.¹⁷² There are ongoing discussions on how to protect the property that people are forced to abandon when they flee; UNHCR and the Property Institute are jointly advancing the design of a strategy to identify, register and protect dispossessed and abandoned land, house, and property.¹⁷³

¹⁶⁴ KII 10

¹⁶⁵ FGD 7

¹⁶⁶ IDMC (2019)

¹⁶⁷ IDMC (2019)

¹⁶⁸ <https://borgenproject.org/hurricanes-eta-and-iota/>

¹⁶⁹ <https://www.nrc.no/perspectives/2020/thousands-still-homeless-following-honduran-hurricanes/>

¹⁷⁰ FGDs 5, 8

¹⁷¹ IDMC (2019)

¹⁷² KII 1

¹⁷³ UNHCR Factsheet, March 2022



While recognizing the efforts that are being made, this research shows that many HLP needs remain unmet with high levels of tenure insecurity, limited property documentation and fears among community members. Securing HLP rights in Honduras is essential in order to encourage self-reliance and contribute to recovery efforts.

RECOMMENDATIONS

For the Government of Honduras:

1. Take the necessary measures to ensure the security of tenure of all at community and household level pursuant to obligations under international and national law. In accordance with these obligations, it should prioritize the situation of those most vulnerable, including households affected by violence, natural disaster and displacement. Pro-active measures should include:
 - a. Promulgate the IDP law to increase legal protection of individuals and communities affected by displacement.
 - b. Take steps towards strengthening the Property Institute's unified cadastre registry system, including by updating and automatizing processes and services; ensuring access for all citizens, including vulnerable ones affected by displacement; and developing a campaign to raise awareness about the process and requirements.
 - c. Strengthen the process of regularization of land at the community level.
2. Widely disseminate information regarding new ID documents and simplify the process for obtaining such documents.
3. Identify unregistered children and facilitate their access to birth certificates.

For humanitarian and development actors:

4. Provide information on and assistance with the process to obtain new and replacement HLP and civil documents for those who may need them after displacement. Many who have had to flee – whether from floods or violence – reported losing their documents. However, they were uncertain as to the process and costs of obtaining new ones.
5. Provide information on and assistance with the process to obtain legal title. Obtaining these documents and protections is important, and it is easier for people to do so before they are actually forced to flee.
6. Carry out due diligence for shelter interventions to ensure that assistance given can be used in a sustainable matter. Humanitarian actors want to ensure that people will be able to stay in the location where assistance is provided, if that is their wish. This entails conducting some background investigation on what rights are held or claimed over specific pieces of property.
7. Develop guidance on due diligence for large-scale movements of people. Communities that have been devastated by hurricanes may have been in areas that remain at high-risk of future natural disasters. Humanitarian and development actors can provide technical assistance on factors that should be examined in the event of the relocation of a community.
8. Provide assistance with the regularization of land for communities. This research indicates that there is room for collaboration with municipalities, INA and communities seeking to regularize their tenure status.
9. Build the capacity of actors that may engage with HLP disputes, such as community leaders, the patronato and municipality representatives. Efforts should also include training on alternative dispute resolution (ADR) for local actors that are involved in non-judicial dispute resolution.

Para donantes:

10. Advocate for the streamlining and simplification of the process for registering land and property in Honduras.

11. Increase funding to ensure that the humanitarian and development response is able to meet increasing HLP needs of displaced affected populations.



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