

**Information, Counselling and Legal Assistance Programme
in the occupied Palestinian territory**

April 2015

**Fact Sheet 4:
Reconstruction in Al-Shuja'iyya Neighbourhood
Gaza Housing, Land and Property Rights Series**

The following information is provided as part of a series of eight fact sheets on Housing, Land and Property issues in Gaza. The fact sheets are intended to inform persons displaced in the latest Gaza conflict about their housing rights. The sheets are also designed to help agencies assisting displaced persons with their transitional shelter needs, as well as policy- and decision-makers planning how to address the shelter needs of beneficiaries.

1. Background

Al-Shuja'iyya neighbourhood, located to the east of Gaza City, was one of the most severely affected areas in the Gaza Strip during the 51-day war in July and August 2014. The Popular Committee to Support the Victims of Al-Shuja'iyya Neighbourhood estimates that 2,700 housing units were totally destroyed, and about 2,000 housing units were severely damaged beyond repair. Altogether a total of 4,700 housing units will need reconstruction, while an additional 5,000 housing units are in need of minor repairs.

In order to assist with the reconstruction of homes in Al-Shuja'iyya neighbourhood in a way that provides for security tenure for the displaced population, a range of Housing, Land and Property (hereinafter 'HLP') considerations must be taken into account by agencies in the reconstruction process. These include land surveys, support for beneficiaries with land registration, proper urban planning and legal support with a range of HLP issues, including obtaining ownership documents or building permits for reconstruction grants, inheritance law issues, women's HLP rights, and resolution of property disputes.



Source: UNITAR & UNOSAT

This fact sheet sets out some of the key issues, together with recommendations for stakeholders.

2. Challenges in Land Registration

An essential pre-condition to reconstruction or reconstruction grants is to clarify the land ownership rights of beneficiaries.

Whilst 98 per cent of Al-Shuja'iyya land is privately owned and registered with the Palestinian Land Authority, only 20 per cent of this land is registered in the name of the current owner. Approximately 76 per cent of privately owned land (hereinafter 'private land') is occupied by new owners who do not possess the full chain of ownership documentation necessary to register the land in their own name. In some cases owners have lost property deeds in the conflict; in other cases wrong registration numbers for land plots in contracts have complicated the question of registration. In many cases the cost of registering land, requiring payment of one per cent of the value of the land, discourages people from registration. This land is often registered in the names of their original owners or families – often up to 60 or 70 years ago. This can be resolved through a waiver of ownership rights by the registered titleholder.

The remaining two per cent of private land in Al-Shuja'iyya is unregistered, meaning that the land has never been registered with the Palestinian Land Authority. Whilst the owners of this land can obtain tax deeds from the Property Tax Directorate at the Ministry of Finance to confirm their *de facto* ownership, this type of documentation does not provide long-term security of tenure. Unlike the *Tabu* (title deed) document, which can be obtained through registration of the land with the Land Authority, these documents are not considered official proof of ownership. Whilst it is possible to register unregistered private land with the Land Authority, the process is extremely complex, expensive and lengthy.

i For more detailed information about the complex process for registration unregistered private land, see NRC's Fact Sheet 2: Unregistered Private Land in Gaza and Fact Sheet 3: Registering Land in Gaza.

3. Need for a Land Survey

According to the Palestinian Land Authority, approximately 30 per cent of land in the Gaza Strip has not yet been surveyed. The lack of a proper land survey makes it particularly difficult for the confirmation of the exact boundaries of land parcels, especially in a situation of widespread devastation, such as in Al-Shuja'iyya. This situation will inevitably lead to land disputes which could be resolved through the completion of the land survey.

To facilitate the resolution of land disputes and settle the legal status of people residing on unregistered lands, the Palestinian Land Authority is seeking to obtain funding for the completion of the land survey in Gaza, including Al-Shuja'iyya neighbourhood. Such a project will require financial, technical, and legal support.

4. Other Housing, Land and Property Issues Affecting Security of Tenure

Building permits issued by the municipality can provide another form of property documentation in the name of the owner or occupier. However, many people in Al-Shuja'iyya have either built their homes without a building permit or did not apply for a permit during the period of Israeli occupation of Gaza. Building permits are not considered conclusive proof of land ownership.

Many properties in Al-Shuja'iyya are subject to ongoing inheritance proceedings, including those resulting from the deaths of property owners during the conflict. Inheritance proceedings can be long, complicated and expensive. Many heirs do not have the sufficient documentation to prove their ownership rights through inheritance. This may limit their ability to obtain a reconstruction grant.


In summary, many residents of Al-Shuja'iyya neighbourhood have lived and continue to live on land, although they are unable to prove legal title, or the boundaries of their land plots. This severely undermines their security of tenure and will result in many property disputes. The Popular Committee to Support the Victims of Al-Shuja'iyya Neighbourhood, established immediately after the most recent military offensive, recognised the problems associated with the lack of land registration and proof of ownership documents, stating that more than 80 per cent of the residents of the neighbourhood have been affected.

i For more information on how to obtain a building permit, see NRC's Fact Sheet 8: Building Permits in Gaza.

5. Transitional Housing Solutions

In the aftermath of the Israeli military offensive, most Al-Shuja'iyya residents whose homes were rendered uninhabitable, are still awaiting appropriate shelter solutions that will allow them to return to their land, despite the lack of proof of ownership.

The Ministry of Public Works and Housing (hereinafter 'MoPWH') has proposed a temporary solution for internally displaced persons (hereinafter 'IDPs') from Al-Shuja'iyya neighbourhood, involving the establishment of a collective camp or a gathering of some 400 pre-fabricated housing units. However, the planned location of the temporary displacement site, to the east of the neighbourhood, is close to the border with Israel. This has contributed to the refusal of many residents to relocate there. In addition, many IDPs refused to be relocated away from their families and homes, and indicated that the proposed plots of land would not suffice, as they were not large enough to house all pre-fabricated housing units in accordance to their traditions and customs.

 For further information about the various legal issues and concerns in relation to temporary displacement sites and pre-fabricated housing units, see NRC's Fact Sheet 5: Pre-Fabricated Structures in Gaza.

6. Need for Urban Planning

One of the most fundamental questions in the rebuilding of Al-Shuja'iyya is how the new neighbourhood will be planned. Will it be rebuilt quickly, as before, resulting in overcrowding, lack of proper infrastructure and municipal services and limited public space? Or will the reconstruction allow the local and international community to rebuild Al-Shuja'iyya in a way which better meets the community's needs, resolve many of the previous problems, and is in compliance with basic principles of urban planning?

The reconstruction of Al-Shuja'iyya should be done as a part of a comprehensive urban planning process in coordination with the community and all relevant actors, such as the Gaza Municipality, the Ministry of Local Governance, and the MoPWH, the Palestinian Land Authority, United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter 'UNRWA'), United Nations Development Programme (hereinafter 'UNDP'), and United Nations Human Settlements Programme (hereinafter 'UNHABITAT').



Al-Shuja'iyya neighbourhood, east of Gaza City, 2015. Photo: NRC.

7. Recommendations for Key Stakeholders

In order to provide security of tenure and ensure the legal protection for people living on land that has not been registered in their name, NRC makes the following recommendations:

- **To the Palestinian Land Authority:** Provide for amnesties to encourage registration of land by persons displaced in the conflict without payment of land taxes for a certain period of time, such as one to two years.
- **To the Ministry of Local Governance and the Gaza Municipality:** Establish mediation mechanisms to resolve land disputes quickly and effectively and facilitate the granting of building permits with an amnesty on the payment of fees for a certain period of time for recipients of reconstruction grants.
- **To the Palestinian Legislative Council in light of the Palestinian Government of National Consensus:** Introduce significant land reforms and unify land laws between the West Bank and the Gaza Strip. Such legislation could provide new mechanisms to ease the complexity of land registration and the transfer of ownership with the Palestinian Land Authority. Such an initiative, which would raise the level of land registration and result in greater the security of tenure, should thus be a national priority, particularly in a context of massive and multiple displacement.

- **To the International Community of Donors with an interest in proper land administration:** The widespread destruction in Gaza provides a necessary opportunity for the completion and updating of the land survey, together with initiatives to encourage land registration. Such an approach would play a massive role in the promotion of security of tenure in the Gaza Strip.
- **To organisations facilitating reconstruction, such as UNRWA, UNDP and UNHABITAT:** To take into consideration international and national standards for adequate housing and transitional shelter for IDPs in the reconstruction of Al-Shuja'iyya. The reconstruction should be conducted as part of a comprehensive urban planning process in coordination with all relevant actors.
- **To all agencies:** Use the current reconstruction process as an opportunity to mainstream women's HLP rights into all decision-making, including decisions to provide usage rights over housing units or pre-fabricated structures, as well as in decisions to award reconstruction grants and encourage land registration.

8. NRC Assistance

Through its Legal Aid Centre in Gaza City, as well as Mobile Legal Clinics throughout the Gaza Strip, NRC provides free legal assistance and advice with housing, land and property issues. Legal advice is provided by qualified lawyers on a confidential basis. NRC can also assist with resolution of disputes. Additionally NRC has produced a range of training and research materials on HLP rights in the Gaza Strip and conducts information sessions to beneficiaries, as well as training sessions on HLP rights for civil servants, humanitarian fieldworkers and staff of national and international agencies.

For further information or to make an appointment to see an NRC lawyer, please contact the NRC Legal Aid Centre on +970(0)82860218 or send an email to Elisabeth Koek, ICLA Project Coordinator at elisabeth.koek@nrc.no.

The information provided in this document is provided by way of legal background information only and should not be relied upon by organisations or individuals in taking legal action in such cases. Individual legal advice should be sought in relation to the particular circumstances of each case. This advice should be sought from a practitioner with experience in the field, as there are significant discrepancies between the law and what is being applied in practice. In every case, the various legal possibilities and consequences should be explained to the beneficiary, community, humanitarian organisation or service provider.

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