

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

April 2015

**Fact Sheet 6:
Women's HLP Rights
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

Women's ownership of assets, be it housing, land, or property, is a crucial element of economic empowerment. It increases participation in household decision-making by women, expands their range of choices, enables them to better deal with economic loss and crises, and provides them with security and protection if and when they lose access to male income through widowhood or divorce. Women who feel secure and able to make decisions at home are also more likely to participate in their communities and societies more broadly.



A Palestinian woman from Khuza'a, Gaza Strip, stands in front of her destroyed house. She lost her husband during the latest conflict. The house was registered in her husband's name, which hampers her access to a reconstruction grant. Khuza'a, 2014. Photo: NRC.

In international law, women's rights to own, manage, enjoy and dispose of property are inherent in the rights to be free from discrimination; to an adequate standard of living (including adequate housing); to enjoy financial independence; and to earn a livelihood. Taken together, this bundle of rights goes some way towards securing women's housing, land, and property (hereinafter 'HLP'), and inheritance rights. It should be noted that neither the right to land nor the right to inheritance appear as independent rights in international human rights law. For this reason, the right to housing is particularly important in the struggle for women's HLP rights, as is the principle of non-discrimination.

2. Focus on Women in Gaza

The HLP rights of women living in the Gaza Strip have been seriously affected by the three large-scale military operations following escalations of hostilities between Israel and Palestinian militant groups in Gaza during the last six years.

As a result of protracted on-going conflict, thousands of women in Gaza have been displaced and lost their houses, while others have become widowed. Others have had to leave their houses and return to their original, often overcrowded, parental houses, facing unsuitable living conditions. After the most recent military offensive in July and August 2014, many displaced women continue to live with host families or in rental units.

Reconstruction of Gaza presents a major opportunity for advancing women's rights and gender equality through enabling displaced women to exercise their HLP rights, ensuring effective involvement of women in the reconstruction process, and through engaging in meaningful consultation with women's (rights) organisations and representative bodies.

Recommendation to Donors, Implementing Agencies and the International Community:

- Women's organisations should be encouraged and invited to participate in the Shelter Cluster and Protection Cluster to assist UN agencies and I/NGOs involved in the reconstruction effort with shelter assistance that takes into account specific needs of women.
- Advocating for women to take on leadership and decision-making positions within the HLP sector ensures that their needs are heard, addressed and incorporated into HLP structural and policy reform.

3. Women's Inheritance Rights

Inheritance is one of the major ways in which women can access land and gain an asset that can provide them with security of tenure, either through ownership of land or acquisition of its monetary value. Although it does not provide equal rights to inheritance, *shari'a* law does allocate a share of the inheritance to women – generally half of what is allocated to a male descendant.

But there are many pressures outside the statutory system placed on women who may face social ostracism and sanction if they pursue their inheritance claims, often resulting in women waiving their inheritance rights or accepting smaller shares. While Islamic jurisprudence and the legal system in Palestine provide no overt barriers to women's ownership or leasehold of housing, land or property, social norms and traditions often act to preclude women from taking full advantage of their rights, including inheritance rights.

Social and cultural attitudes and traditions in patriarchal Palestinian society mean that even educated and working women do not own or otherwise have any security of tenure in the homes they live in and their contribution, financial and otherwise, to matrimonial property is often undocumented and unrecognised. For many Palestinian women, legal status and security of tenure is achieved only through their relationships with men – their fathers, husbands, brothers or sons.

4. Elements of the Right to Adequate Housing

The United Nations Committee on Economic, Social and Cultural Rights (hereinafter 'UNCESC') has long emphasised that the right to adequate housing should not be understood narrowly as merely providing four walls and a rooftop. Adequate housing includes the ability to live somewhere in security, peace and dignity. Security of tenure is one of the core elements of the right to adequate housing and refers to the certainty that a person will be protected against forced eviction, harassment and other threats.

The UNCESC's General Comment No. 4 (1991) on the right to adequate housing identified several standards, applied in accordance with the principle of non-discrimination, that any shelter provision should meet in order to be considered as adequate; those include:

4.1. Security of Tenure

Security of tenure is understood as a set of relationships with respect to housing, land and property established through statutory or customary law or informal or hybrid arrangements, that enables one to live in one's home in security, peace and dignity.

Tenure for women is often dependent upon their relationship to a man. Women without a legal interest in their home cannot be said to be enjoying security of tenure, as they may not be entitled to remain in the home upon death or divorce. Security of tenure does not have to mean ownership only, it can be a lease that provides clearly defined terms of length, amount of rent and the lawful manner in which the tenancy can be brought to an end.

Recommendation to Donors, Implementing Agencies and the International Community:

- UN agencies and I/NGOs must ensure women's security of tenure in shelter and housing programmes. Women's needs should be taken into account when initiating reconstruction projects and new housing programmes, and women should be consulted about programmes that involve the reconstruction or repair of their homes. Women should also be involved as decision-makers and participants in any plans and proposals for large-scale housing projects that will affect them and their communities.
- UN agencies and I/NGOs should recognise the joint ownership rights of both male and female heads of households as an explicit component of the restitution process. The joint rights with equal powers between spouses best protects women's

right to adequate housing and to equality. It is clear that such a policy led by UN and international agencies would lead to greater security of tenure and protect women's HLP rights.

4.2. *Availability of Services, Materials, Facilities and Infrastructure*

All people have the right to adequate housing, which should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.

The importance of the proximate availability of these services is clear, considering the reality of many women's daily lives, often bearing the primary responsibility for the care of household, children and other family or community members.

Recommendation to Donors, Implementing Agencies and the International Community:

- Integrate women's needs into all phases of planning and implementing reconstruction and rehabilitation projects in the Gaza Strip by, for example, ensuring that utilities are available and accessible to all households.

4.3. *Habitability*

Inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates. Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.

4.3.1. *Overcrowding*

In March 2013, NRC commissioned a report that aimed to inform on-going shelter programming in Gaza and help service providers offer the most appropriate housing options to the Gaza population living in substandard shelter conditions.¹ The report, entitled 'Overview of the Housing Situation in the Gaza Strip', highlighted overcrowding as an under-reported but serious issue, particularly affecting the lives of Palestinian women.

Recommendation to Donors, Implementing Agencies and the International Community:

- Support transitional shelter and (permanent) reconstruction projects that specifically address overcrowding. Priority should be given to small to medium-scale interventions aimed at expanding and reorganising living space to allow for more privacy for family members.
- Support community-level efforts to create women and children-friendly public spaces in overcrowded neighbourhoods and temporary displacement sites.
- Support the development of urban and regional planning in the Gaza Strip, including offering technical assistance to relevant ministries, and encourage its use in the housing sector. □
- Support financing and the construction of affordable housing for low-income families and first time home owners, such as newly married couples.
- Prioritise programming to address the effects of overcrowding on women and children, including initiatives to reduce domestic violence, early marriage, poor academic performance and school drop-out. □

4.3.2. *Domestic Violence and GBV*

The research commissioned by NRC concluded that women face particular problems in overcrowded conditions, with a lack of privacy at home and few public spaces where their presence is considered acceptable. Most usually simply stay indoors caring for children and elderly relatives. Additionally, overcrowding is believed to be one of the major causes for divorce in Gaza, as well as a stimulant to early marriage and, in many cases, sexual violence, incest and domestic violence.

In the Initial Rapid Assessment conducted by the UN's Office for the Coordination of Humanitarian Affairs (hereinafter 'OCHA') post conflict, 52 per cent of Gaza's community representatives identified gender-based violence (hereinafter 'GBV') as a major concern. There are clear links between GBV and women's HLP rights, yet organisations are not making these connections in their projects. Feeling safe and secure in one's home and having access to legal mechanisms to ensure and preserve that safety, whether in the marital home or in refuge, is key to protection from GBV.

¹ NRC, 'Overview of the Housing Situation in the Gaza Strip' (March 2013). Available online at: <http://sheltercluster.org/sites/default/files/docs/Overview%20of%20housing%20situation%20in%20the%20gaza%20strip.pdf>

Recommendations to Donors, Implementing Agencies and the International Community:

- Support sensitisation campaigns or collective psycho-social programmes in schools or community-based organisations to target communities where the occurrence of domestic violence and sexual abuse are perceived as widespread.
- Promote a referral system for women and children experiencing violence and develop the physical infrastructure and quality of services available to them.
- Consider the formation of a coalition to advocate for law reform that provides protection for victims of domestic violence and enhances security of tenure. One option is to reform the criminal law to allow for the exclusion of perpetrators of domestic violence from the home.

4.4. Location

Adequate housing must be in a location that allows access to employment options, health-care services, schools, child-care centres and other social facilities. Housing should not be built on polluted sites or in immediate proximity to pollution sources that threaten the right to health of the inhabitants.

Moreover, adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere.

Recommendation to Donors, Implementing Agencies and the International Community:

- The location of housing is especially vital for women to allow them the opportunities to fulfil other fundamental rights and achieve gender equality. Therefore, women must be involved in the design and planning of the transitional shelter assistance and the (permanent) reconstruction effort.

5. NRC Assistance

Since August 2011, NRC's Information, Counselling, and Legal Assistance (hereinafter 'ICLA') Programme in Gaza and the Palestinian Center for Democracy and Conflict Resolution (hereinafter 'PCDCR') entered into a partnership agreement to improve women's access to their HLP rights before formal and informal justice mechanisms. The project involves capacity building on mediation, arbitration, women's HLP rights, domestic violence and inheritance rights, among other topics for *mukhtars* (traditional community leaders).

Funded by the European Union, this project is innovative in its engagement with *mukhtars* in the customary dispute resolution system. It employs lawyers who oversee the process and act as the initial point of contact for women who approach PCDCR. Lawyers refer cases complete with full summaries to *mukhtars* who, with the agreement of complainants, attempt to resolve disputes by working with all parties to negotiate a mutually acceptable agreement. Working with lawyers, *mukhtars* are able to resolve HLP disputes in a non-adversarial manner through mediation, thus helping to maintain family relations.

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.

This fact sheet has been produced with the financial support of the European Union, the UK Department for International Development, and the Norwegian Ministry of Foreign Affairs. The contents of this document are the sole responsibility of the Norwegian Refugee Council and can under no circumstances be regarded as reflecting the position or the official opinion of the European Union, the UK Department for International Development, and the Norwegian Ministry of Foreign Affairs.

