



# HOUSING AND LAND RIGHTS NETWORK

## Habitat International Coalition

### Assessing Loss and Damage Impacts Associated with Climate Change

This submission to the Transitional Committee for the Loss and Damage Fund (LDF) serves as a case study reflecting multiple efforts by the Habitat International Coalition's Housing and Land Rights Network (HLRN) and partners to assess material and non-economic values at stake in prospective displacements, as well as actual costs, losses and damage following such events. These experiences and resulting lessons address loss and damage incurred from destruction, dispossession and displacement, among the most common features of climate change impacts, both rapid-onset and slow-onset in nature. The corresponding methodology of HLRN's Impact-assessment Tool (IAT) developed in eight countries and summarized here enables the user to capture the detail required for remedy and reparations, but also serves pre-emptive efforts to anticipate and prepare for climate change-associated loss and damage to come.

Some 30 case-specific applications of this IAT methodology for quantifying costs, losses and damage with affected communities since 2009 represent diverse contexts. To the extent possible, they include monetary assessments of impacts displacements from unseasonable flooding, development-induced development, armed conflict and customary discrimination against women. These rich examples, however different their contexts, reveal the commonality of the values at stake and the material and non-material needs for remedy and restitution of victims. Correspondingly, the outcomes have produced data used for various purposes: monitoring and reporting, litigation, policy reviews/reform and transitional-justice processes.

The design and applications of the HLRN Impact-assessment Tool are intended to provide specificity at the community level, fulfilling the rights of direct victims. That scale of application also fills gaps left by complementary tools for sector-wide or national-scale climate-risk assessments and the related big data revolution in climate-risk management.<sup>1</sup>

#### Normative Framework

Remedying economic and non-economic loss and damage associated with climate change is inherent in the human right to remedy. Under international human rights law and the corresponding obligations of all states, communities and individuals having experienced human rights violations are entitled to access and benefit from effective remedy. The human rights to life, food, water, adequate housing, sanitation, health, a clean, healthy and sustainable environment, and an adequate standard of living, as well as collective rights to land<sup>2</sup> and culture, are all affected by climate impacts.

The related human rights standards form the foundation of this IAT methodology, including individual, collective, domestic and extraterritorial human rights obligations. Fulfilling these

obligations requires operating treaty-bound implementation principles such as self-determination, non-discrimination, gender equality, rule of law, progressive realization of human rights and progressive improvement of living conditions, the maximum of available resources and international cooperation,<sup>3</sup> as well as substantive equality, inclusion, intersectionality and other good-governance approaches across affected social groups.

This aligns not only with principles, commitments and obligations in the UNFCCC and Paris Agreement, including its preamble, but also on the policies at the Adaptation Fund and Green Climate Fund. By extension, these form operative principles for the emerging LDF.

With regard to the human right to adequate housing, the normative framework of this quantitative method respects the prohibition against forced evictions and the safeguards required for legal evictions, or evacuations, as the case may be.<sup>4</sup> These standards not only prevent a displacement from becoming a gross violation of human rights,<sup>5</sup> but also avoid turning climate change-affected urban areas into conflict zones.

These existing standards, by extension of UNFCCC Conference of Parties (CoP) state obligations, should also form the LDF's normative and operational dimensions, guiding LDF in fulfilling the human rights of the victims. Central to the IAT model offered here is the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, a.k.a. the 'Remedy and Reparations Framework' (RRF).<sup>6</sup> The RRF already has served as important guidance for the applications summarized here, just as it should serve as guidance on matters related to the LDF's activities, content, scope, and eligibility. By virtue of their inalienable human rights, victims of harm should have remedy and reparations independently from the allocation of responsibility and liability for the harm caused. Operationalizing the RRF through the IAT method applied in these 30 illustrative cases prioritizes the fulfillment of the human rights of victims, no matter what other legal or administrative processes may take place elsewhere.

### **Applying the Quantification Method**

The HLRN quantification method has been applied to capture values and assets at stake in all phases of displacement, quantifying them: (1) as an inventory of values and assets or baseline study before any displacement, dispossession or destruction; (2) changes in values and assets upon notice or threat of impact; (3) changes in values and assets during impacts; and (4) changes in values and assets impacted after impact. The method provides for assessing the change in values in the short run, as well as the long run (based on predetermined periods for follow-up), based on the experience of displacement. In all cases of application, these stages, or phases of destruction, dispossession and displacement must take into account the accumulation of costs, losses and damages, as they typically increase with each phase and the passage of time before remedy.

In all categories, the values recorded in the HLRN quantification method are *replacement* costs and values. Notably also, with reference to collective rights such as land and culture, remedy



(replacement) requires a combination of measures, not cash compensation. And in any case, cash compensation is never a remedy for land, including and especially collective tenure.

The HLRN quantification model covers the following dimensions:

- Victims' material values and assets;
- Victims' non-material/non-economic values and assets;
- Additional material values and assets affecting indirect victims and the public; and,
- Additional non-material/non-economic values and assets (indirect and social).

The types of values and assets to be quantified for each stage of the climate impact involving displacement take into account:

- A: Household Values and Assets,
- B: Household Expenditures,
- C: Household's Social Assets,
- D: Civic Values and Assets, and
- E: Public/State Values and Assets.

The last of these sets of values (Public/State Values and Assets) are important to quantify and record, but their remedy and reparation may require channels and processes distinct from the LDF serving victims.

Certain values do not lend themselves to monetary quantification. These correspond to non-economic losses and damage, are noted below with an asterisk (\*) and require qualitative assessments.

The specific categories of valuation of costs, losses and damage in the post-impact phase are as follows:

#### **IV.A Dimension: Household Values and Assets**

1. Structure (dwelling and other buildings)
2. Contents
3. Environment goods, natural resources and ecology
4. Infrastructure/utilities
5. Equipment/inventory
6. Inheritance prospects
7. Inviolable/priceless assets\*
8. Land (see also explanations at 10. Plot and 11 Trees and Crops below.)
9. Livestock and animals
10. Mortgage, other debt penalties
11. Opportunity costs (e.g., in case of household-based business losses)
12. Plot (see also explanation at 8. Land above.)
13. Subsidies and rations
14. Trees and crops

15. Vital documents
16. Water sources
17. Work/livelihood
18. Other

Sub-total

#### **IV.B: Dimension: Household Expenditures**

1. Advocacy
2. Alternative housing/reconstruction/occupancy
3. Interim housing (such as rental/sub-rental housing)
4. Bureaucratic and legal fees
5. Food
6. Health care
7. Education (both monetary costs and qualitative values)
8. Information (both monetary costs and qualitative values)
9. Inheritance loss
10. Investments
11. Land development/reclamation
12. Mortgage, other debt payments
13. Rebuilding community spaces/structures/institutions
14. Rehabilitation (economic, physical, social, cultural, vocational, etc.)
15. Relocation
16. Transportation
17. Other

Sub-total

#### **IV.C: Dimension: Household's Social Assets**

1. Community spaces
2. Nurseries/childcare services
3. Cultural heritage/sacred sites (both monetary costs of restitution and qualitative values)
4. Environmental goods, natural resources and ecology\*
5. Family\*
6. Health Status\* (physical well-being)
7. Identity\*
8. Inheritance status
9. Investment (community)
10. Inviolable/priceless values
11. Life
12. Psychological well-being\*
13. Social and institutional capital (based on replacement at market costs)
14. Social status/solidarity/cohesion/integration\*
15. Other



Sub-total

#### **IV.D: Dimension: Civic Values and Assets**

1. Social cohesion/integration\*
2. Public health (both monetary costs and qualitative values)
3. Political legitimacy\*
4. Political participation\*
5. Civil order (both monetary costs and qualitative values)
6. Crime prevention/management
7. Violence (both monetary costs and qualitative values)
8. Other

Sub-total

#### **IV.E: Dimension: Public / State Values and Assets**

1. Bureaucracy and administrative services
2. Equipment
3. Lawyers/judges/judiciary
4. Police
5. Military
6. Services and fees, including rehabilitation and resettlement (e.g., land, building, site development, etc.)
7. Other

Sub-total

Sub-total for Post-impact Phase

### **Conclusion**

The HLRN methodology provides detailed guidance for each value category, based on experience of numerous applications. Each application involves a process of localization and adaptation to the specific case and the purposes of capturing the values. While this methodology is versatile and subject to further adaptation to cases of loss and damage associated with climate change, it is designed to capture—and restore—the values and assets to the affected people through the envisioned LDF community grant access window.

For further details on the HLRN Impact-assessment Tool and methodology, its applications, survey instruments, outcome reports and other related materials, consult the HLRN website at <https://hlrn.org/spagenew.php?id=qnE=>, or contact [hlrn@hlrn.org](mailto:hlrn@hlrn.org).

## Endnotes:

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- <sup>1</sup> United Nations Disaster Risk Reduction (UNDRR) Bonn Office, “Keeping track of disaster losses and damages,” 8 May 2023, <https://www.undrr.org/news/keeping-track-disaster-losses-and-damages>; UNDRR, United Nations Development Programme (UNDP) and World Meteorological Organization (WMO), “Disaster losses and damages tracking system,” undated, <https://www.undrr.org/disaster-losses-and-damages-tracking-system>.
- <sup>2</sup> As cited in numerous human rights references, this entails “equitable and sustainable access to, use of, and control over land.” CESCR, General comment No. 26 (2022) on land and economic, social and cultural rights, E/C.12/GC/26, 24 January 2023, [https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW1a0Szab0oXTdlmnsJZZVQcunHS9kgT76a2DvT8%2BHqa1YeoMdhTMI%2Fuv4dPhRBcmdDwqOEwVHcbUX%2FF5Jnx95DkKEY%2BHJ267%2B%2BTi8J8%2Fa; UN Women, \*Realizing Women's Rights to Land and Other Productive Resources\*, 2013, <https://www.ohchr.org/sites/default/files/Documents/Publications/RealizingWomensRightstoLand.pdf>.](https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW1a0Szab0oXTdlmnsJZZVQcunHS9kgT76a2DvT8%2BHqa1YeoMdhTMI%2Fuv4dPhRBcmdDwqOEwVHcbUX%2FF5Jnx95DkKEY%2BHJ267%2B%2BTi8J8%2Fa;UNWomen,RealizingWomen'sRightsToLandandOtherProductiveResources,2013,https://www.ohchr.org/sites/default/files/Documents/Publications/RealizingWomensRightstoLand.pdf)
- <sup>3</sup> International Covenant on Economic, Social and Political Rights (ICESCR) (1966), Articles 1–3, <https://www.ohchr.org/sites/default/files/ceschr.pdf>; International Covenant on Civil and Political Rights (ICCPR) (1966, Articles 1–3, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.
- <sup>4</sup> Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: “forced eviction,” 20 May 1997, contained in document E/1998/22, Annex IV, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FGEC%2F6430&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FGEC%2F6430&Lang=en).
- <sup>5</sup> UN Commission on Human Rights affirmed that “the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing,” in “Forced eviction,” resolution 1993/77, 10 March 1993, para. 1, <http://www.hlrn.org/img/documents/ECN4199377%20en.pdf>; and reaffirmed that “the practice of forced eviction that is contrary to laws that are in conformity with international human rights standards constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing,” in “Prohibition of forced evictions,” resolution 2004/28, 16 April 2004, para. 1, [http://www.hlrn.org/img/documents/E-CN\\_4-RES-2004-28.pdf](http://www.hlrn.org/img/documents/E-CN_4-RES-2004-28.pdf).
- <sup>6</sup> Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” A/RES/60/147, 21 March 2006, <http://www.un.org/Docs/asp/ws.asp?m=A/RES/60/147>.

