

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

**April 2015**

**Fact Sheet 5:  
Pre-Fabricated Structures in Gaza  
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.*



*TDS, Khuza'a, Gaza Strip, 2014. Photo: NRC.*

## **1. Background**

Israel's military offensive, codenamed 'Operation Protective Edge', against the residents of the Gaza Strip during July and August 2014 resulted in the displacement of over 16,000 families, whose homes were either totally destroyed or severely damaged rendering them uninhabitable. In response to the mass displacement, local authorities and humanitarian agencies erected pre-fabricated structures (hereinafter 'pre-fabs') in two temporary displacement sites (hereinafter 'TDS') in Khuza'a, east of Khan Yunis, Gaza Strip.

As of February 2015, an estimated number of 388 persons resided in 100 pre-fabricated housing units. On account of the history of 'transitional shelter arrangements', such as refugee camps becoming long-term arrangements for refugees and displaced persons in Palestine, the construction of pre-fabs in Gaza has been a sensitive issue. The pre-fabs are intended to be a short-term shelter option for displaced persons until reconstruction of their homes can take place.

There are various legal issues and concerns, which must be taken into consideration by shelter actors, government bodies, and donors involved in the distribution of such units. The main legal issues relate to the type of land on which the pre-fabs have been set up, contractual relations between agencies and beneficiaries, and security of tenure.

## **2. Ownership of the Pre-Fabs**

Ownership of the pre-fabs is governed by the contractual arrangement between the beneficiaries and the agency providing the pre-fabs. In most cases, the pre-fab structures are owned by the Ministry of Public Works and Housing

(hereinafter 'MoPWH') and Human Appeal International, who are considered the 'first party' to the contractual arrangement. The right of usage (*usus*) is given by both entities to beneficiaries through the usage contract for the duration of one year, renewable at the first party's discretion. According to the usage contract, the beneficiary has an obligation to use the pre-fabs for housing purposes only and is obliged to return it to MoPWH after the beneficiary's destroyed house has been rebuilt.

### 3. Ownership of TDS Land

The issue of land ownership in Gaza is extremely complex on account of the lack of a unified land law, the history of Ottoman, British, Egyptian and Palestinian laws governing land issues in Gaza, and the complicated process of land registration. There are five main types of land in Gaza and each type of land has a different status and different rights for owners or occupiers.

Shelter actors, government bodies and donors involved in the distribution of pre-fabs must clarify the status of the land on which the pre-fabs are constructed prior to implementation of such agreements. The following issues should be considered when planning the implementation of pre-fabs on different land types:<sup>1</sup>

#### 3.1. Private Land

Some 50 per cent of the land in the Gaza Strip is classified as private land.<sup>2</sup> The two TDS in east Khan Yunis, Gaza Strip, were established on private land leased by the local municipality from families residing in the area. The lease agreement is for one year, but is renewable based on the need to continue the two sites.

#### **Recommendation:**

- When humanitarian organisations seek to install pre-fabricated housing projects on private land, informed consent must be obtained from the owner(s) of the land, especially in those instances where the beneficiary is not the rightful owner of the land.

#### 3.2. State Land

Approximately 30 per cent of land in Gaza is estimated to be state land.<sup>3</sup> At present, many persons are unlawfully residing on state land and are at risk of eviction from this land.

#### **Recommendation:**

- Humanitarian organisations must obtain permission from the Palestinian Land Authority and the Ministry of Public Works and Housing to use state land for the construction of TDS in accordance with Gaza Council of Ministers Resolution No. (15/291/11) 2013.

#### 3.3. Waqf Land

*Waqf* land represents less than two per cent of all land in the Gaza Strip and the majority of *Waqf* land is located in Al-Mughraqa area in the Middle of Gaza Strip. It is considered endowment land and slated for religious purposes. As a result, it can never be inherited or transferred to others and may only be used for charitable purposes.

Palestinian law prohibits residence on or use of *Waqf* land without entering into a contract with the Ministry of *Waqf*, Sacred and Religious Affairs Unit. Moreover, the law provides the Ministry with the ability to evict unlawful residents from this type of land.

#### **Recommendation:**

- Humanitarian agencies must coordinate and obtain the necessary permission from the Ministry of *Waqf*, Sacred and Religious Affairs before installing pre-fabricated housing projects on *Waqf* land.

<sup>1</sup> The land size percentages provided in the following paragraphs are an estimation of what each land type represents in comparison to the total area of the Gaza Strip. The information is based on estimates provided by the Palestinian Land Authority. It must be noted that unregistered land, refugee camp land, and former settlement land may influence the percentages once the land is registered.

<sup>2</sup> Private land provides the individual with full ownership, enabling the owner(s) to dispose of the property and perform all legal transactions as long as these are in accordance with the local laws.

<sup>3</sup> Typically, this land is used for public purposes, such as schools, hospitals, housing projects, roads, government offices, parks, and, in some cases, refugee camps.

### 3.4. Refugee Camp Land

Following the 1948 war and the massive influx of Palestinian refugees into the Gaza Strip, eight refugee camps were defined. The boundaries were set by the Egyptian Administration in 1960 through the allocation of areas of land owned by the state and other private land for usage as refugee camps. Egyptian authorities determined the borders and specified the parcels and blocks of land within the camp.

Land in camps is thus owned either by the government, or by private owners. While the United Nations Relief and Works Agency for Palestine Refugees (hereinafter 'UNRWA') did not exercise any formal function of governance (nor had such power transferred to UNRWA from the authorities) with regard to the use and ownership of land, UNRWA was in effect “organising” such relations to virtue of providing shelter and relief assistance. Whilst land in UNRWA camps can technically not be bought or sold, in practice there is a large informal land market and the situation of ownership or usage rights remains unclear.

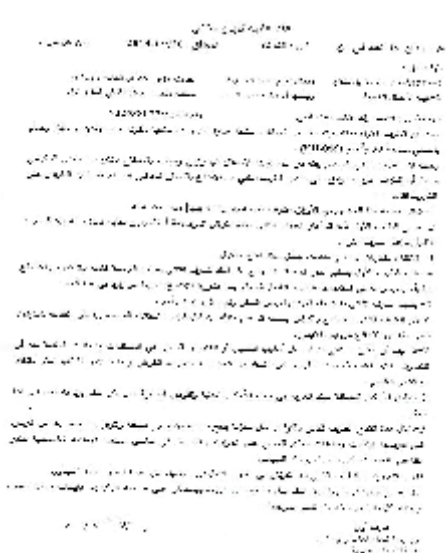
*i* For further information about the different types of land in the Gaza Strip, see NRC's Fact Sheet 1: Types of Land Ownership in Gaza.

### 4. Rights of Residents over Pre-Fabs

The conditions of usage of the pre-fabs are governed by contractual agreements between the agency providing the pre-fabs and the beneficiaries. The agreement specifies the terms of use of pre-fabs, the ownership of the unit, and the rights of both the occupant and the agency providing the pre-fabs. As the agreements are usage contracts, they are governed by the provisions related to *usus* contracts under the Ottoman Civil Code and subsequent legislation.

Occupants of pre-fabs are required to keep the pre-fabs in good condition and to abide by the conditions specified in the agreement between beneficiary and agency. According to the agreement, they are also responsible for all utility fees concerning the pre-fab unit services (including water, sanitation, and electricity) provided by the local municipality and/or any other local authorities. To date, occupants of pre-fabs have not been charged for utility services. The agreement also requires beneficiaries to acknowledge that they will not receive rental subsidies as they are using the pre-fabs as temporary shelters.

The agency supplying the pre-fabs is responsible for ensuring that they are in good and habitable condition. After the delivery of the unit, there is no obligation on the agency to conduct repairs or provide maintenance for the pre-fabs. The local municipalities are responsible for ensuring the connection of water, sewerage and electricity to the areas in which the pre-fabs are located. Currently, there is no clear complaints system in place to allow occupants the opportunity to raise complaints in relation to issues arising from the pre-fabs.



The rights and responsibilities are stipulated in the contract between the MoPWH, Human Appeal International and the beneficiary. Khuza'a, Gaza Strip, 2014. Photo: NRC.

**Recommendation:**

- There is a need to establish a complaints system to adequately address complaints raised by the occupants of the pre-fabs. Humanitarian agencies should establish a maintenance follow up system to ensure the adequacy of the pre-fabricated housing unit to serve as temporary shelter.

**5. Rights of Female Beneficiaries**

The rights of women as a potentially vulnerable group to adequate housing must be respected, protected and fulfilled as part of the provision of humanitarian aid.

**Recommendation:**

- Contractual agreements for the pre-fabs should stipulate that the units and other services are for the benefit of all family members. Such arrangements will provide protection to women and girls.
- It is recommended that the agreements for use of the pre-fabs are signed by both the male and female heads of households.

*i* For more detailed information about women's housing, land and property rights, women's inheritance, and security of tenure for women in the Gaza Strip, see NRC's Fact Sheet 6: Women's HLP Rights.

**6. 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, including for issues arising in relation to pre-fabs. Legal advice is provided by qualified lawyers on a confidential basis. NRC can also assist with resolution of disputes.

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](mailto: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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