

## The Impact of Violence on the Right to Adequate Housing in the North of Central America

The **right to adequate housing** is a fundamental right, and is key to the full enjoyment of many economic, social and cultural rights. Housing is recognised and defined as part of the right to an adequate standard of living in various sources of international law, including the Universal Declaration of Human Rights of 1948 and the International Covenant on Economic, Social and Cultural Rights of 1966<sup>1</sup>. States are therefore responsible for upholding the right to adequate housing and adopting measures to ensure its fulfilment<sup>2</sup>. Housing can be considered adequate if it provides: **security of tenure, protecting its inhabitants against forced eviction** and harassment, access to basic services, affordability, as well as habitability, accessibility, location and cultural adequacy<sup>3</sup>. As displacement often leads to the loss of housing, special protections in terms of accessing the right to adequate housing are included in the Convention Relating to the Status of Refugees of 1951 and the Guiding Principles on Internal Displacement. These protections intend to ensure that displaced people can access safe homes and durable solutions<sup>4</sup>.

In the North of Central America (NCA), access to the right to adequate housing is limited, due to various reasons. This snapshot highlights the main barriers preventing access to this fundamental right, particularly in the **context of criminal violence and forced displacement**. What are the existing vulnerabilities in the housing situation in the NCA? How does criminal violence affect this right? How are States and the humanitarian sector responding to the problem?

### Highlights:

- **Security of tenure in the NCA** has been impacted by decades of poverty, the absence of rule of law, corruption and discrimination.
- **Forced evictions**, in particular due to large-scale development, agricultural projects and mining, and the impact of natural hazards, have gradually displaced communities and individuals, and left them unprotected.
- Over the last few decades, rapid urbanisation has led to the creation of large **irregular settlements** in the peripheries of urban areas, with high levels of **tenure informality**.
- This situation has been exacerbated by **criminal violence and the current protection crisis**. Faced with threats from criminal groups, people are forced from their homes, which can then be dispossessed (through usurpation or illegal/forced sales) or destroyed.
- There are no specialised mechanisms for displaced people to protect their housing rights and ensure that their homes are not sold illegally, or to assist in the **recovery of their properties**. In general, very few displaced people file official reports to the authorities due to fear of reprisals.
- The widespread lack of **temporary shelters** increases the vulnerability of displaced people.
- The humanitarian response, still in its early stages, has little capacity to promote and ensure compliance with the right to adequate housing for people affected by violence in the NCA.
- Several human rights organisations support communities affected by land conflicts and **forced evictions**, in particular with legal assistance, but affected people continue to live in precarious conditions.
- A few humanitarian organisations offer temporary shelter for those displaced by criminal violence, but humanitarian efforts to ensure **recovery and restitution of homes** are obstructed by security issues, the absence of rule of law, and the limited humanitarian access to affected areas.
- In Honduras, a pilot project (still to be approved and implemented) could provide solutions for the restitution process, and establish best practices for the other countries of the region.



NRC / Up Studio, 2019.

## A general update on the protection crisis in the NCA January to May 2019

### Honduras



1,509 homicides were recorded between January and May of this year<sup>5</sup>, or approximately 10 homicides per day<sup>6</sup>.



A child under the age of 18 dies every day in Honduras due to violence<sup>7</sup>. 43% of all victims are under 30 years old<sup>8</sup>.



A Human Rights defender and a family in the Lenca Zone were threatened by men armed with machetes. This is the same area where environmental defender Berta Cáceres was murdered<sup>9</sup>.



7 land defenders opposing a mining company which was excavating by detonation were arbitrarily detained<sup>10</sup>.



In Honduras, 123 people are estimated to have died in the last eight years defending the environment<sup>11</sup>.



The Committee for Free Expression is on high alert due to the frequent impunity of crimes against journalists, with 77 victims in the last 16 years<sup>12</sup>.



A Central American sex trafficking network of women and girls was dismantled. Up to 20,000 lempiras were offered to families in exchange for a minor for illegal 'adoption'<sup>13</sup>.



More than 170,000 families across the country are affected by droughts which have caused extensive damage to crops



and increased poverty and malnutrition<sup>15</sup>.

43,718 persons were deported back to Honduras<sup>16</sup>. So far this year 6,474 boys and girls were deported; already 68% of the total in 2018<sup>17</sup>.



In 2018, Hondurans formed the eighth largest group in the world to apply for asylum, with 41,500 new applications<sup>18</sup>.

### El Salvador



Between January and the middle of May 1,236 homicides were reported<sup>19</sup>, of which 120 were femicides<sup>20</sup>.



Reports were made of a pastor sexually abusing a minor, with the permission of her family<sup>21</sup>.



The alert for missing children was activated 19 times<sup>22</sup>.



Three women were released after serving their 30-year 'manslaughter' sentences after having suffered miscarriages or obstetric emergencies<sup>23</sup>.



The National Civil Police received 405 complaints for domestic violence (primarily from men to women) from January to March 2019, averaging 5 cases per day<sup>24</sup>.



Estimates place annual extortion profits across the country at 4 million dollars<sup>25</sup>.



Heavy rains in May flooded 247 homes<sup>26</sup>.



13,285 people were returned to El Salvador, 1,837 of which were minors. This is a 29% rise in comparison to the same period in 2018<sup>27</sup>.



In 2018, Salvadorans formed the sixth largest group in the world to apply for asylum, with 46,800 new<sup>28</sup>.

## A general update on the protection crisis in the NCA January to May 2019

### Guatemala



A total of 1,958 necropsies, linked to violent events were recorded between January and May<sup>29</sup>.



From January to June the alert for missing children was raised 2,718 times<sup>30</sup>.



On March 25th, a LGBTQI+ rights defender was murdered and found with homophobic messages written on his body<sup>31</sup>.



86% of land and environmental defenders in rural contexts indicated that they had been subject to attacks or threats<sup>32</sup>.



Indigenous groups travelled 200 Km to protest being stripped of their land in the name of development<sup>33</sup>.



A proposed draft law would free more than 30 military and paramilitaries convicted of

enforced disappearances, rape, massacres and other war crimes<sup>34</sup>.



31,245 people were returned to Guatemala<sup>35</sup>.



In 2018, 34,800 Guatemalans applied for asylum<sup>36</sup>.

### Outside the region:



The government of Mexico deployed 6,000 National Guard agents to the border with Guatemala, detaining almost 800 migrants in one single day<sup>37</sup>. They also made mass arrests while migrants were receiving help<sup>38</sup>.



The **United States** (US) plans to establish Guatemala as a "safe country" as a destination for Hondurans, Salvadorans and Nicaraguans seeking asylum. As Guatemala is not a safe country, nor can it offer the adequate conditions for accepting large numbers of people, this would significantly increase the humanitarian crisis<sup>39</sup>. Guatemala is also implementing a 'Governance Plan' which consists in identifying people in transit in Guatemala, and returning them to their countries of origin<sup>40</sup>.



**In Mexico**, 281 Central American victims of trafficking were found; over half were Guatemalan and the rest were Salvadorans and Hondurans<sup>41</sup>.



18,365 people sought asylum in Mexico between January and April this year, the equivalent to 62% of all applications made in 2018<sup>42</sup>. The budget for the Mexican Commission for Refugees was reduced to 20% lower than in 2018<sup>43</sup>.



According to data from the Mexican government, between January and March 2019, 31,675 foreigners were detained, including 8,569 children under the age of 18<sup>44</sup>. Between April and May, a further 44,264 people were detained<sup>45</sup>.



Three transgender women from El Salvador and Honduras reported that they were afraid to wait in

Tijuana to apply for asylum in the United States, as they had been subject to abuse by the Mexican police<sup>46</sup>.



The government of the United States is putting forward a pilot law that would increase the period of time in which children can be detained<sup>47</sup>.



The US government has prosecuted one of its citizens for providing shelter, water and food to two undocumented migrants<sup>48</sup>.



Inhumane conditions have been documented in migrant detention centres in the US, with overcrowding, poor sanitation and lack of adequate food and water<sup>49</sup>. 6 children and adolescents have died in detention in Mexico and the United States in the last 6 months due to these conditions and negligence<sup>50</sup>.



NRC / Up Studio, 2019.

## 1. Access to housing, land and property in the North of Central America

Access to adequate housing, and more broadly to 'housing, land and property' rights, are already restricted in the NCA, even without considering the situation of generalised violence and its impacts. Due to colonial history, the concentration of land in the hands of few landowners, civil wars, poverty, corruption and discrimination, access to housing and land is inherently unequal. Access has been further restricted by the effects of climate change, natural hazards and the expansion of development and mining projects. The challenges in terms of access to land and housing are the following:

### 1.a The lack of affordable housing and inequality in land distribution:

One of the main barriers lies in the **unequal distribution and lack of affordable and adequate housing**. In Guatemala there is estimated deficit of 1.54 million houses, and this gap grew by 39% between 2011 and 2017. In addition, it is estimated that 61% of houses in Guatemala are inadequate, with no access to basic services, or with deficiencies in roofs, walls and floors<sup>51</sup>.

The New Urban Agenda (adopted by the United Nations General Assembly in 2016) commits States to "promoting a safe, healthy, inclusive and secure environment in cities and human settlements enabling all to live, work and participate in urban life without fear of violence and intimidation, taking into consideration that women and girls, children and youth, and persons in vulnerable situations are often particularly affected"<sup>52</sup>.

**Irregular settlements** with conditions failing to uphold basic human rights have increased. According to Techo Honduras, 214,000 people live in informal settlements in the Distrito Central (the municipality of the capital of Honduras), which

are "the epicentre of poverty and extreme poverty in our country (...) environments where we see residents suffering from the systematic violation of their human rights"<sup>53</sup>. Access to 88% of the informal settlements in the Distrito Central are through unpaved roads, making entry difficult during rainy seasons. 60% of these settlements do not have access to adequate water supplies, 90% do not have sewer systems, and 90% of the settlements face risks to human life or infrastructures (due to streams, ravines, garbage dumps, among others)<sup>54</sup>. In El Salvador, it is estimated that a third of the country's population lives in precarious urban settlements<sup>55</sup>. In all three NCA countries, some of these settlements have no access to basic services and are extremely vulnerable. Some examples are the 'Bordos' - irregular settlements on the banks of rivers - in San Pedro Sula, Honduras, and under the Belize Bridge in Guatemala City. In these cases, the authorities are reluctant to provide services, so as not to 'legitimise' the spaces, despite them having been established for decades<sup>56</sup>.

*"The peripheries of the city are zones of abject poverty where people learn to live in violence"*

Humanitarian organisation in Honduras

Despite agrarian reforms in the region, inequality in terms of land distribution persists. In Honduras, 50% of the agricultural land belongs to 15% of the population, and 71% of the rural population lives in conditions of extreme vulnerability<sup>57</sup>. **Access to land and housing is particularly restricted for women.** After the agrarian reform in El Salvador, women obtained low quality land and the majority of female agricultural workers continue to cultivate on rented land<sup>58</sup>. Women are also excluded within rural and indigenous communities, particularly in decision-making and inheritance<sup>59</sup>. According to a report by the Central American Network of Rural Women and Indigenous Communities, women in Honduras own 12% of the land, 13% in El Salvador, and 15% in Guatemala<sup>60</sup>. In Guatemala, although the law stipulates that land or housing should be registered in the name of both spouses, several barriers hinder its implementation in practice<sup>61</sup>. In Honduras, one humanitarian organisation interviewed for this snapshot reported that men receive property titles more often during regularisation processes. As women are more likely to access jobs that are unstable and informal, often failing to pay the minimum wage, they often cannot access housing loans or credit<sup>62</sup>. Overall, the wage gap, income poverty, and time poverty due to additional responsibilities in the home, result in a "property poverty". Women are also vulnerable to losing rights to their land and housing in cases of domestic violence, after losing a spouse or during disputes over tenure<sup>63</sup>.

From colonial times, during civil wars and up to the present day, **indigenous people and communities** have been historically vulnerable and marginalised in the North of Central America. In Guatemala there is no legal framework for the protection of the collective land rights of indigenous peoples, leaving them without protection during territorial disputes<sup>64</sup>.





European Union/ECHO/A. Aragon 2016.

There are multiple ongoing cases where the legitimacy of the communities' land is under question. In the case of 'El Escobal' silver mine in San Rafael las Flores, Guatemala, the mining company argued that there were no Xinka populations living in the region, and consequently prior consultations were not necessary before starting exploitation<sup>65</sup>. Honduras is also behind several Latin American countries in terms of protecting indigenous groups and their lands<sup>66</sup>. The constitution recognises the rights and interests of indigenous people, included related to land, however in practice this article is not implemented<sup>67</sup>. In 2015, a Azacualpa community in Intibucá, Honduras, voted against a mining project that required digging up the dead from a traditional cemetery. The municipal government ignored the decision of the community and allowed the project to be carried out, and the subsequent conflict resulted in the criminalisation of community members<sup>68</sup>. In 2016, the Special Rapporteur on the rights of indigenous peoples reported on 5 different conflicts in rural Honduras<sup>69</sup>. In 2018 the Special Rapporteur on the situation of human rights defenders documented the murders of several leaders of indigenous communities, who had been granted precautionary measures but were still not adequately protected<sup>70</sup>. In El Salvador, the Special Rapporteur on the rights of indigenous peoples reported in 2013 that only 5% of the communities had tenure security for their lands<sup>71</sup>. However, in 2017, a public policy was developed for indigenous communities, including actions intended to facilitate access to housing programmes, improve collective land tenancy, and provide legal assistance for indigenous communities to guarantee land and property rights<sup>72</sup>.

*"Indigenous communities have told us 'we'd rather die than be without our land'"*

Human Rights organisation in Guatemala.

## **1.b Tenure insecurity and low levels of property registration:**

The levels of people living in tenure insecurity, without rental contracts or registration documents for their properties, are high in all three countries in the NCA. In Honduras, urban settlements grew in the 1980s, and many people did not register their properties under the national Property Law. In some communities, local boards or community leaders issue certificates that confirm ownership and facilitate sales<sup>73</sup>. In several cases in Honduras, private companies took advantage of these unregistered lands, and filed the paperwork to become recognised as the official owners, enabling them to then evict people or collect rent from entire communities<sup>74</sup>. According to a humanitarian organisation in Honduras, several institutions are responsible for the cadastral registry, yet they do not have access to each other's databases, generating a duplication of titles. These institutions have not yet reached an agreement to share information with each other. According to a census carried out by the Norwegian Refugee Council in 3,400 households in areas affected by violence in Honduras, 46% of households did not have security of tenure of their properties<sup>75</sup>. In Guatemala, according to an interview, the national cadastre has been accused of registering land on behalf of other people. This can lead to misappropriation of State lands or legalised disposessions of land belonging to private individuals. In addition, cases of corruption within the national cadastre involving senior officials, mayors, and deputies were presented by the Public Ministry and the International Commission against Impunity in Guatemala to the judicial body<sup>76</sup>.



NRC / Ana Karina Delgado, 2017.

In general, there is limited institutional support enabling people to obtain documentation for their homes. According to interviews with humanitarian organisations working in rural areas in the three countries, many people are unaware of how to register their properties, do not have the right documentation for their properties, and cannot pay the costs associated with the formalisation of titles. Without access to documentation confirming security of tenure, people are unable to access credit, further exacerbating their vulnerability.

In El Salvador, according to several organisations present, the centralisation of public services and registry processes is a barrier for people living far from the capital. One humanitarian organisation mentioned that families living in tenure insecurity may be less willing to invest in their homes (for example in roofs or access to services) and consequently live in riskier situations. In Guatemala, according to organisations interviewed, there is no recognition of traditional forms of tenure, as a result families divide their land without following the necessary legal procedures, and there are no judicial guarantees in case of conflict.

## 1.c Land conflicts and forced evictions

This high incidence of people lacking formal registration of their properties generates **land conflicts**, and puts the communities without documentation at risk of forced eviction. A case mentioned by an organisation in Honduras was of a community that had no property title, were unable to register their land, and as a result were evicted by a company that claimed to be the owner. The displaced community spent two months sleeping in the street, then in a half-finished bus terminal in deplorable conditions temporarily made into a shelter, with no access to basic services such as education, health and employment. In terms of the response, the National Commission for Human Rights provided assistance, but this was delayed for several months. In El Salvador, a human rights organisation assisted a community in a similar case: the community was evicted for not having the correct documentation, despite having been living there for three generations. The families from this community have been living in a camp in extreme precariousness since 2018. In just last year, this organisation received requests for assistance from five different communities at risk of eviction.

Forced eviction is defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection” (Committee on Economic, Social and Cultural Rights, general comment No. 7). Forced eviction is considered a severe violation of human rights.

States must ensure that<sup>77</sup> :

- Evictions only take place under exceptional conditions, and that other feasible options have been considered first.
- Residents have participated in the process, through meaningful and genuine consultation, with access to relevant and timely information, and that there is a reasonable period of time to object or comment on the plan.
- Alternative housing of comparable or better quality is provided immediately after the eviction.
- Evicted persons are able to access legal resources.
- People resisting forced eviction are treated as human rights defenders by the authorities and security forces.



NRC / Up Studio, 2019.

- If justified, the eviction is carried out in a legal, reasonable and proportional manner (in particular, not during the night or using excessive force).
- Human rights are respected during the eviction. If there is excessive use of force, the situation must be referred to an independent and impartial panel.

Across the three countries, several of the organisations interviewed for this snapshot have attended to an important number of cases in which the authorities failed to meet the **minimum standards for forced evictions**. Particularly in Honduras and Guatemala, **development and infrastructure projects, mass agriculture and monocultures** (livestock, sugarcane, palm oil cultivation), **conservation projects and mining** have been the driving force behind these conflicts and displacements<sup>78</sup>. In many cases, communities that have lived on their land for generations are accused of aggravated usurpation<sup>79</sup>. Mining concessions have been granted for 65% of Honduras's territory<sup>80</sup>, while in Guatemala, legislation was passed after the civil war to make the country one of the most competitive places in the world for mining<sup>81</sup>. Out of every 10 areas exploited for mining projects in Guatemala, 8 are experiencing conflict<sup>82</sup>. The Inter-American Commission on Human Rights has granted five precautionary measures in the last 8 years for the evicted inhabitants of the Polochic Valley, Laguna Larga, Chaab'il Ch'och', Nueva Semuy Chacchilla and La Cumbre. Additionally, three thematic audiences have been held on the same subject<sup>83</sup>. In El Salvador, advocacy efforts led by communities and human rights defenders led to the adoption of a law prohibiting metal mining, but this is yet to be implemented and some mines remain open<sup>84</sup>.

**The right to adequate housing does not prohibit development projects that could displace people, but establishes conditions and procedures to protect the affected people<sup>85</sup>.** Everyone has the right to be protected from forced evictions; these conditions apply regardless of whether people have property titles or not<sup>86</sup>.



According to several organisations interviewed for this snapshot, the companies behind these projects use a variety of **strategies to convince and intimidate** the communities living in the area they want to operate. First, they try to seek consent and convince communities. If this does not work, threats, media defamation (categorising defenders as terrorists or as being involved with criminal groups), kidnappings, robberies, coercion, the deployment of military forces, and criminalisation begin<sup>87</sup>. In Guatemala, aggravated usurpation is considered a crime 'in flagrante delicto', which implies restrictions on judicial guarantees for those accused<sup>88</sup>. This results in evicted communities being stigmatised, discriminated against, and excluded from due attention by the State. Currently, at least 26 communities are reported to have open cases under investigation, prosecuted or with an eviction order<sup>89</sup>. In some cases, these processes generate internal conflicts within communities, between those who oppose and those who support the project. In others, evictions can be 'silent': in regions destined for development or mining projects, the State reduces the supply of teachers, doctors, and as a result people start to leave. According to a human rights organisation interviewed, it is an extremely traumatic process, generating anxiety and depression for many people. In other cases, according to an environmental organisation, attacks on essential natural resources, the destruction of crops and agricultural tools, the contamination of water sources and the killing of domestic animals, are other ways of violating people's rights, forcing people off their land and worsening the protection environment.



NRC / Up Studio, 2019.

**Human rights defenders opposing evictions and displacement are criminalised, tortured, and imprisoned.** Last year, 18 land defenders and rural community leaders were killed in Guatemala for defending their land from agro-industry and hydroelectric projects. Already in 2019, 6 murders have been documented<sup>90</sup>. Recently, an environmentalist and member of the Environmental Committee of the Siria Valley in Honduras was found killed with bullet wounds and signs of torture<sup>91</sup>. In Guatemala, in 2017 after years of negotiation trying to secure tenure for their land, 111 families of the Laguna Larga Community were **displaced** to the border area between Guatemala and Mexico, where they remain to this day living in **precarious conditions**. The community was never formally notified about the judicial process of their eviction, and as a result of could not defend themselves in court. 1,500 policemen and 300 soldiers were deployed for the eviction, and proceeded to destroy their houses<sup>92</sup>. Although the Inter-American

Commission on Human Rights granted precautionary measures for the displaced community, the Guatemalan State has not addressed the situation<sup>93</sup>. Between the eviction in 2017 and June 2019, 8 people from the community have died, 4 of whom were children<sup>94</sup>. According to a human rights organisation working in Guatemala, there are more than 20 children with chickenpox and other diseases causing the loss of skin and hair. The community does not have access to basic sanitation. The Special Rapporteur on adequate housing commented in 2018: *"The eviction of the Laguna Larga Community appears to have been incompatible with relevant international human rights law in multiple respects. It was carried out without exploring all possible alternatives, without consultation with the community affected, without adequate notice, procedural safeguards or protection of dignity and fundamental human rights. There was no appropriate planning for acceptable alternative land and housing"*<sup>95</sup>.

### **1.d Increasing vulnerability due to climate breakdown:**

Central America is one of the most vulnerable regions to climate change and breakdown, and the three countries of the NCA are part of the 'Dry Corridor', a zone affected by droughts and extreme weather. In recent decades, meteorological events have triggered long-term impacts, and the current conditions reflect the **lack of resilience to natural hazards**. Honduras is among the two top countries in the world most affected by extreme weather events in the last twenty years (66 events between 1998 and 2017)<sup>96</sup>. In particular, Hurricane Mitch in 1998 considerably impacted the country's social and economic development. The hurricane and the collapses, floods and landslides in its aftermath, destroyed 80,000 houses in the region, leaving hundreds of thousands of people homeless, and significantly increasing irregular settlements<sup>97</sup>.

Increasing and intensifying climatic events endanger the homes of the poorest communities, particularly because their **houses tend to be less resistant to hazards**<sup>98</sup>. In 2015, heavy rains caused a landslide in the El Cambray Dos neighbourhood on the outskirts of Guatemala City, killing 280 people and destroying 200 homes. It is estimated that up to 500'000 families are at risk of landslides due to climatic events or natural hazards in Guatemala<sup>99</sup>. In October 2018, heavy rains caused flooding in Honduras, affecting 963 houses, and in May 2019, 247 homes were flooded in El Salvador by overflowing rivers<sup>100</sup>.

*"If it rained for a month non-stop here, half of Tegucigalpa would be at risk of collapsing"*

Humanitarian organisation in Honduras

The increasing meteorological changes are also impacting the **livelihoods** of Central Americans. This year it was reported that 2.2 million people in El Salvador, Guatemala, Honduras and Nicaragua **lost their crops due to rain and drought**<sup>101</sup>. In Honduras, there has been a 70% decrease in corn and bean crops<sup>102</sup>, and there are currently more than 3 million people living in food insecurity<sup>103</sup>.

According to a rights organisation in Honduras, access to water is becoming difficult in some areas, as many rivers are drying up. According to several organisations in the region, the **changes in rainfall patterns have led to harvests being reduced from twice to once a year**, cutting farmers' incomes in half. El Salvador has the lowest water reserves in the region, and could run out of water within 80 years unless comprehensive steps are taken to improve water management<sup>104</sup>. Humanitarian actors note that these pressures on agricultural communities are pushing more people to move to urban areas and to irregular settlements, or to attempt the migration route to Mexico and the United States.

**Although there are scarce concrete figures, according to the organisations interviewed, displacement linked to the impacts of climate change is more common now than 5 years ago.** In some cases, people sell or mortgage their homes or take out loans to finance their journey or to pay a coyote<sup>105</sup>. Another organisation mentioned that in Honduras, although many people are moving from north to south due to violence, there are people moving from the south to the north due to climatic pressures. In addition, one organisation claims that increasingly frequent droughts are increasing the levels of violence, as the livelihoods of young people reduce, some see organised crime as the only possibility of survival.



European Union/ECHO/A. Aragon 2016.



European Union/ECHO/A. Aragon 2016.

## 2. Generalised violence and its impacts on access to housing, land and property rights

In addition to the existing vulnerabilities previously mentioned is the exacerbating situation of generalised violence caused by criminal groups (gangs and organised criminal groups). In many marginalised urban areas of the NCA, criminal groups exert control over communities, and clash against other criminal groups in order to increase their territories and operations. People face threats, extortion, recruitment, homicides, sexual violence, and in many cases are forcibly displaced, having to leave leaving their properties, lands and homes urgently.

For a large number of displacements due to violence, evictions are a consequence rather than a planned outcome of criminal groups exerting control<sup>106</sup>, and houses are left **abandoned**. Some organisations interviewed spoke of entire blocks of abandoned houses in communities affected by violence. In some cases, **displacement can be directly linked to housing**, particularly when a criminal group wants to make temporary or permanent use of the property. In these cases, people are displaced because their houses are located in a strategic place in the community and criminal groups want to **occupy them for illicit activities** (to sell drugs, to kill / torture people), the so-called 'casas locas' (crazy houses). Sometimes, criminal groups sell these properties to make money. In some cases, homes are destroyed by gangs as retribution towards people who have resisted them, or to spread fear.



There is evidence that armed groups have taken a more active role in housing issues in other places affected by criminal violence. In Brazil, organized crime groups have been reported to be appropriating land and selling it for illegal construction projects, lacking regulation and permits. In April 2019 in Rio de Janeiro, two of these apartment buildings collapsed and nine people died<sup>107</sup>.

In the study *'Profiling study on internal mobility due to violence in El Salvador'*, out of the persons surveyed who had displaced between 2006 and 2016, 63% had owned a house in their place of origin, but only 36% currently owned one in their place of destination<sup>108</sup>. Half of all the cases of displaced persons that the Norwegian Refugee Council has attended in Honduras in 2019 have had to abandon their homes. Many people end up being hosted by family or friends, and run the risk of living in **overcrowded conditions**. In other cases, if they do not have relatives, they may find themselves having to move to or make **new irregular settlements**. These are often built with wood and cardboard, and since most flat territory has already been developed, they are obliged to settle on dangerous, steep land or near waste dumps<sup>109</sup>. According to a humanitarian organisation working in El Salvador, sometimes displaced families in rent 'mesons': large houses with several families living together, without formal lease agreements.

After displacement, due to several reasons related to insecurity and the capacity of the state to respond, it is extremely difficult for displaced people to **recover access and use** of their properties. In some cases, unregistered and abandoned homes and land are registered as properties with "unknown occupants", and then can be occupied and registered by others who may not know be aware that there is already an owner<sup>110</sup>. Few people lodge complaints for fear of persecution (in particular due to the infiltration of criminal groups in State structures), or because they do not see the usefulness of doing so due to impunity, or not being aware of their rights. In El Salvador, it is estimated that only 3% of displaced people plan to return to their homes, **fearing the gangs** that expelled them<sup>111</sup>. According to a humanitarian organisation interviewed, a few people are able to put their houses up for rent. Others may send family members to cancel their rental contracts, or may return a few weeks later to pick up their belongings. Those lacking titles or registration documents usually lose their homes, even if they have lived there for years. The help of a lawyer is often too expensive, and there is a widespread lack of knowledge on rights; many people believe that there is nothing that can be done to recuperate their homes after displacement.

According to the Principles on housing and property restitution for refugees and displaced persons - the Pinheiro Principles – *"All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore*

*as determined by an independent, impartial tribunal"*<sup>111</sup>. These principles are based on existing international human rights law, and establish guidance and practices for States for the restitution of housing<sup>113</sup>.

**The lack of recognition and public policies** in the face of displacement in the NCA means that the rights of those affected are violated over and over again. For example, due to the lack of mechanisms to register displacement within national property registries, some displaced people in Honduras are forced to continue paying taxes on their houses and land, even after having to abandon them<sup>114</sup>. This also implies that upon return (after a change in the situation), they could be indebted with a backlog of years of taxes. According to a humanitarian organisation in El Salvador, although there is a National Registry Centre that provides copies of housing countries, enabling people to leave the country, many houses are simply abandoned due to ongoing fear of returning to the community. In El Salvador, a legal framework and related public policies are being drafted to respond to internal displacement, following a ruling by the Constitutional Chamber of the Supreme Court of Justice in July 2018 which called for the protection of the fundamental rights of displaced people, including of the right to housing.



European Union/ECHO/A. Aragon 2016.



European Union/ECHO/A. Aragon 2016.

### 3. The humanitarian and State responses to the impact of violence on access to housing

#### For access to adequate housing:

In Honduras, municipal housing plans are being developed to manage risks increase the supply of social housing. However, according to the organisations interviewed, there is a lack of financial resources to implement these plans. As currently several institutions work separately on the issue of housing from their own perspective, there have been calls from civil society organisations for the creation of a specific Ministry of Housing. Some human rights organisations are working with the Property Institute to support people affected by land disputes<sup>115</sup>. In El Salvador in 2015, after years of organisations advocating on the right to adequate housing, a National Housing and Habitat Policy was adopted, with the aim of 'implementing the right to housing'<sup>116</sup> and facilitating access to quality housing<sup>117</sup>. According to organisations with a presence in El Salvador, the Ministry of Housing provides small loans, but have a long list of requirements, and grant amounts so low that they are only useful for accessing housing in places of high risk of violence. In Guatemala, there is no specific ministry for housing, and little State capacity to respond to needs<sup>118</sup>.

Under the Sustainable Development Goal 11, States have committed to: *"By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums"*<sup>119</sup>.

#### For the communities affected by forced evictions:

The first line of response to evictions is in the affected communities. In particular, resistance against evictions begins with community leaders, who go to the corresponding authorities, file lawsuits or writs of *amparo*, and guarantee that the land is always occupied<sup>120</sup>. However, legal processes can be too expensive for many communities, in particular when they are opposing large corporations or parties interested in the eviction. On the other hand, human rights organisations and grassroots organisations provide support, legal assistance and accompaniment to evicted communities. In Guatemala, a referral and response network is being developed for affected communities, and several organisations are working on training local authorities on international standards in the practice of evictions. In some cases, advocacy at the international level can be key to preventing eviction processes, particularly when the project investors are foreign<sup>121</sup>. One of the measures adopted by the State of Guatemala has been to hold dialogues between communities, the relevant state institutions and civil society organisations to reach alternative solutions to evictions to discuss alternative solutions. However, for the most part, these dialogues have been flawed and ineffective. Arrests take place in parallel to the meetings, delegitimising the discussions, and proposals put forward by the different parties seldom taken into consideration. In Honduras, it is reported that the Directorate of Indigenous and Afro-Honduran Peoples has a shortage of personnel and capacity to defend communities threatened by eviction<sup>122</sup>. A good practice of a humanitarian organisation is providing training for women on security of tenure and land rights. Assistance is also being provided to grassroots organisations on issues of strategic litigation and empowerment. However, there is minimal analysis on the relationship between natural resources and protection, and humanitarian actors and coordination spaces tend to focus more on the integrity of the person than on the protection risks and displacement caused by attacks on natural resources.

#### For displaced persons:

In the North of Central America, support for those displaced by criminal violence falls mainly on civil society organisations<sup>123</sup>. There is also a lack of shelters for displaced people. In both El Salvador and Honduras there is limited capacity to provide shelters, and many shelters are only open to women with children under 12 years of age, and only allow for a stay of one month or less. In some cases, when shelter is only available for women and children, families are forced to split up. According to a humanitarian organisation working in El Salvador, the Victims Assistance Unit under the previous administration was building a shelter for families who are victims of violence and displacement, but there has been no confirmation from the new government as to whether it this project will be continued. Organisations such as Habitat for Humanity and Techo are working to access and build adequate housing, but do not implement projects specially designed for people displaced by violence. Another organisation interviewed working on the right to housing is creating "cooperatives": collective properties in which each family has a contract recognised by the State that provides 'use and enjoyment' of the property. Families involved in the cooperative manage a common relief fund, which supports people who are unable to pay their quota.



Various sources of international law stipulate that States must take steps to ensure that no one is subject to forced displacement (by State and non-State actors). States must prioritise the right to restitution of housing as a remedy for displacement, or compensation for cases of properties that cannot be restored. Transparent mechanisms must be guaranteed to process housing claims for displaced persons, regardless of their place of residence<sup>124</sup>.



European Union/ECHO/A. Aragon 2016.

## On the restitution of housing for displaced persons:

Currently, there are no registries or data listing the abandoned houses of displaced persons. In Honduras, when a person files a complaint of displacement with the National Commissioner of Human Rights, there is no systematic way of registering abandonment or dispossession of land or houses due to violence<sup>125</sup>. The draft bill for the Prevention, Attention and Protection of Forcibly Displaced Persons in Honduras, still yet to be approved, should coordinate State institutions to work together to respond to displacement. UNHCR in Honduras is providing technical advice to the Cadastre Committee, which includes state institutions working in land and housing (AMHON, IP, ICF and INA). The Committee is working to create a process for identifying and registering properties abandoned due to forced displacement. An alert system is being set up within the land and housing registry, to ensure that abandoned properties cannot be sold. The alert also provides information on the owners, their reason for displacement and the relevant dates<sup>126</sup>. The major challenges ahead lie in generating enough trust in State institutions so that displaced persons register their properties and also update the information of their houses, especially due to the aforementioned

high levels of informality. In addition, this project requires the draft bill for the Prevention, Attention and Protection of the Forcibly Displaced Persons (now under construction and negotiation for more than 5 years) to be approved and implemented. Meanwhile, UNHCR has also worked with a network of parishes to identify abandoned houses in communities affected by violence where state institutions do not have access, and to create an alternative registry of abandoned properties, which is intended to be cross-checked with the competent institutions under the process established by the draft law. This practice may be replicable in other countries. In the case of El Salvador, the legislative assembly is designing a legal framework of protection and comprehensive care for internally displaced persons, which aims to incorporate the protection and restitution of properties as a fundamental right.

Beyond the registration and legal protection of housing, the humanitarian sector does not have the physical capacity to access abandoned houses and assist in the restitution of property, due to security reasons. In this situation of high insecurity and violence, the question must be raised as to whether restitutions are realistic, or whether other alternative options such as compensation or other actions such as strengthening access to justice, and supporting property registration systems, should be considered.

Some organisations are building houses for displaced people and deportees, and few (in comparison to the needs) work in resettlement and relocation. The humanitarian country teams and Shelter Groups focus on responding to emergencies in violence and / or displacement. In conclusion, the humanitarian sector is not creating, nor implementing methods to ensure the registration, protection and restitution of housing for displaced people in the North of Central America.



European Union/ECHO/A. Aragon 2016.



NRC / Ana Karina Delgado, 2017.

## Recommendations

1. Honduras, Guatemala and El Salvador must rapidly move towards developing and approving their legal frameworks responding to forced displacement, guaranteeing the incorporation of the Guiding Principles on Internal Displacement, especially those that reaffirm that all internally displaced persons have the right to an adequate standard of living and that authorities have to ensure access to basic accommodation.
2. In the absence of effective State responses, humanitarian actors and donors must ensure access to adequate housing for those displaced by violence. Shelters, temporary housing, and an increased offer of durable solutions for displaced persons are crucial.
3. States must uphold and promote security of tenure, strengthen the Public Ministries so that they can effectively respond to usurpation complaint processes, and support the institutions working on property registration. Security of tenure for both men and women must be promoted to improve gender equality, and indigenous communities must be guaranteed access to land.
4. States must implement the Principles on housing and property restitution for refugees and displaced persons (the Pinheiro Principles), establish confidential registration mechanisms for houses abandoned after displacement, and ensure the restitution or adequate compensation for lost homes.
5. States must follow the Basic principles and guidelines on development-based evictions and displacement (by Miloon Kothari), ensuring that they provide adequate information and prior consultation with communities affected by development projects and land conflicts. The Government of Guatemala must implement the recommendations provided by the Inter-American Commission on Human Rights. Further research must be carried out to support states in understanding the risks and dynamics of forced evictions, and to support the design of relevant public policies.
6. The humanitarian sector must provide a greater

response to the communities affected by evictions, particularly by ensuring access to shelter, food, and legal counselling.

7. The humanitarian sector should expand the focus of coordination spaces to consider how environmental destruction and attacks on natural resources can contribute to protection risks.
8. Overall, to ensure an efficient and effective response to humanitarian needs in the North of Central America, the relevant humanitarian tools must be used, in particular the activation of a regional humanitarian response plan (HRP).

## Methodology

This report is based on a systematic monitoring of the media, operational reports from national and international agencies, and academic documents, as well as semi-structured interviews carried out in May with 10 humanitarian organisations and 2 anonymous informants.

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