

## **Draft concept note on land and housing issues arising from the earthquake – 26/01/06**

According to information collected from various sources, in both North West Frontier Province and Azad Kashmir, the question of property rights is critical and requires urgent action. Experience shows that homelessness and landlessness constitute a major impediment to access to basic services, such as food, health and education. The loss of land and housing by affected families will therefore undermine the sustainability of the relief, recovery and reconstruction efforts. Securing land and housing rights for affected people is one way to ensure they will have a place to go after the closing of camps. It also opens rights to compensation and other available support for reconstruction of housing.

In Theory and in accordance with the law, all land in Pakistan belongs to the State. In practice, access to land especially in rural area is however controlled by groups of powerful land owners. A distinction needs to be made between the land system in place in urban and rural areas. In urban areas, title deeds are given to owners of land/houses whereas in rural areas, there is no clear registration system. Residents - who in general are not owners of the land on which they work or live – can only provide domicile certificate as an evidence of their property rights (housing). In the context of the earthquake response, 9 categories of affected people emerge:

- 1) *People that will be affected by the closing of camps at the end of March as they will not have any place to go;*
- 2) *People in both urban and rural areas that will be discriminated against on the ground of sex, age, disability, ethnicity, religious or social origins. Within this category, widow, female heads of households, orphans, families of missing heads of households will be the most affected especially because of the inheritance system that prevails in Pakistan;*
- 3) *People in both urban and rural area who did not receive compensation for the reconstruction of their housing (i.e., those excluded by the criteria for compensation);*
- 4) *People who have land titles in urban areas. In the context of the remodeling of cities, many of them will lose their property through various conflicts that can be prevented if a proper planning is in place. It is however expected that reconstruction will start without a proper planning as a result of political pressure;*
- 5) *People with no clear land rights in urban area. Among the most vulnerable, slum dwellers will be subject to discrimination as they cannot provide any titles;*
- 6) *People in rural area where there is no titling system in place, i.e., peasants that will be replaced by cheaper labor force; money allocated for reconstruction to the landowner instead of peasants;*
- 7) *People in rural area where agricultural lands they cultivate disappeared after mountains collapsed (there is no compensation and land reallocation policy for this type of situation); and*
- 8) *People who are subject to forced eviction or relocation as a punitive measure to impose restrictions on their fundamental freedoms, especially freedom of expression;*
- 9) *Situation of Kashmiri refugees coming from Indian side of the Line of Control who were allocated land by the Pakistani government before the earthquake;*

The above list is very worrying especially as there are no existing mechanisms where the people affected by the earthquake can go to claim their rights, except the court system and revenue court system (quasi-judicial) that are partly dysfunctional and already overloaded.

### **Recommendation:**

- **The Government should declare a moratorium on land sales and the status quo on all disputes related to property rights in the affected quake areas until the transition to reconstruction is completed;**
- **The protection cluster should raise awareness within the ERRA and FRC, and among the donor community on the above mentioned issues;**
- **All clusters should take into consideration the land and housing problems listed above in their programme and policy recommendations;**
- **The National Task Force on Vulnerability should take into account the urgent need to address land and housing issues arising from the earthquake as they impact dramatically on the lives of vulnerable groups;**