



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

Housing and Land Rights Network Solutions to Loss and Damage Associated with Climate Change

Housing and Land Rights Network (HLRN), the structure of the Habitat International Coalition (HIC) specialized in the human rights dimensions of habitat, envisions a world with active cooperation of competent civil society and organs of the state to recognize, defend and fully realize the human right of everyone, everywhere to a secure place to live in peace and dignity (i.e., a human rights habitat). HLRN has operated within HIC since 1991 as an advocate before the UN Human Rights System, and has been an active standard setter on the human right to adequate housing and other codified and emerging human rights related to human habitat, namely water, land, food sovereignty and the environment.

Through this scope of activities, HLRN encourages and supports the engagement of HIC Members and other civil society organizations to apply these norms in their program development and both local and international advocacy to solve problems and meet the integrated contemporary challenges associated with displacement, conflict, occupation, war, sustainable development, environmental hazards, climate change, food sovereignty, and economic disparity.

To these ends, HLRN is dedicated to developing, refining and popularizing arguments, tools and methods for civil society constituents and their partners to navigate this complexity through a common human rights-based approach (HRBA) to monitoring, policy analysis and cooperation with local and central spheres of government. HLRN capacity development, knowledge creation and advocacy outputs streamline the seeming cacophony of global policy frameworks that address those major contemporary challenges at the convergence of human rights and development.

Since the First UN Conference on Housing and Human Settlements (1976), where HIC was founded, has remained dedicated to supporting the progressive realization of the human right to adequate housing for all, with a focus on remedies for impoverished communities and those in need of shelter and dignified living conditions.

The wider Coalition of some 350 organizations in over 80 countries has evolved through five decades of global processes, especially the iterations of UN human rights standards and development policies. Accompanying those processes, HIC Members have developed four specializations in human habitat: human rights, gender, sustainable development and

production, especially the social production of habitat.¹ HLRN operates within this configuration and corresponding HIC structures to realize their complementarity and find the synergies among these dimensions of human habitat to create social force with a value greater than the sum of its parts.

Meanwhile, HLRN has functioned as a HIC structure for the study, learning, implementation, monitoring and further development of the applicable norms and tools to guide standard setting and policy analysis to realize the vision of a world in which everyone, everywhere has a secure place to live in peace and dignity.

Methodologies and tools

Through its history, HLRN has developed multiple tools and techniques within its specialization for HIC Members and civil society allies to optimize their constructive roles. The program began by creating an encyclopedic [Housing and Land Rights Toolkit](#) in Arabic, English and Spanish. That foundational work began as the world's only reference for monitoring implementation of the Habitat II Agenda in its entirety. At the core of that global policy was the commitment of all states to ensure "the progressive realization of the human right to adequate housing."

HLRN then developed and refined a unique, publicly accessible and constantly updated [Violation Database \(VDB\)](#), storing global entries on forced evictions, dispossession and destruction of housing and land, as well as the negative consequences of privatization. The VDB forms the basis for HLRN's global forced eviction and other violation-trend reports on World Habitat Day every year since 2006. HLRN also has operated an [Urgent Action System](#) that mobilizes and channels the practical solidarity of HIC Members and allies to prevent and/or remedy violations of housing and land rights. These methodologies and tools have identified and filled many gaps in housing and land rights monitoring and reporting techniques.

Quantification

One of the gaps identified in operating these tools has been the need for data about the consequences that so many households and communities undergo from housing and land rights violations. The UN's recognition of forced eviction as a "gross violation" of human rights, in particular, the human right to adequate housing,² and the adoption of the [reparations framework](#) to remedy such gross violations.

In response, HLRN undertook to develop a system with tools and research instruments for quantifying the losses, costs and damages that victims incur from such violations. Developed in serial iterations since the HLRN Toolkit, as the "Loss Matrix," Eviction Impact-assessment (EVIA) Tool and the all-purpose Violation Impact-assessment Tool (VIAT), the HLRN impact-quantification method enables users to gather, analyze and report the material and nonmaterial values at stake before, during and after forced eviction, displacement,

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dispossession, destruction and/or privatization of people's habitat. The nearly 30 applications of the VIAT have proved versatile and scalable to apply to a variety of cases, ranging from the effects on a single household, to the violent razing of entire communities, to cases of large-scale conflict, and genderized to capture women's values at stake through serial dispossessions and loss of inheritance across regions.

Applying the VIAT

The VIAT offers an opportunity to the broader public to scale-up use of this much-needed tool, which is still underutilized. HLRN recognizes that greater efforts and resources are needed to apply the VIAT to its true potential.

Building on the initial development and use of the VIAT, HLRN proposes to work with GLTN and partner NGOs to support housing and land rights advocacy to apply proven tools and techniques for quantifying and documenting the full costs, losses and damages arising from violations of rights to access, use and control land for housing and subsistence. The project will be based on the foundation of states' human rights treaty obligations as the normative standard, while training local defenders in the implementation of HLRN's VIAT to survey and enumerate the values (such as wealth, well-being and habitat) at stake or lost due to violations, and how to use the data to pose remedy, including entitlements defined in the UN reparations framework, as well as seeking deterrence of further violations. With the project's normative foundation and robust technical training, participating organizations and affected communities will gain research skills and greater capacity for evidence-informed advocacy.

This strategy has been validated through a series of valuative HLRN fact-finding, impact assessments and monitoring reports in Cameroon, D.R. Congo, India, Kenya and Yemen, which have contributed to remedies including adjudication (e.g., [Muthurwa Estates](#), Nairobi), improved administrative compensation ([Bainsiria](#), Odisha, India) and even transitional justice processes (e.g., [Yemen until 2016](#)). Findings from these assessments vividly illustrate how human rights to livelihood, food, health, security and privacy are inter-related with their enjoyment of their human rights to adequate housing and land.

The VIAT method is extraordinarily versatile, and can be:

1. *scaled up* and applied to larger patterns of displacements in a country, revealing the enormity of land dispossessions and forced evictions, including the [2008 post-election displacements](#) or the [war in Yemen](#);
2. *genderized*, as has been the case since 2017, where methodology and research instruments were adjusted as part of the "[Assessing Impacts of Women's Dispossession from Land and Home project](#)," to capture women's expressed values at stake in India, Kenya, Uganda, Zambia and Zimbabwe;
3. adapted to specific contexts and communities, such as in research conducted by the leading university Massachusetts Institute of Technology (MIT), where HLRN's evaluation tool was used to [quantify the impacts of gentrification](#) in the Chinatown area

of Boston after working with activists from the Chinese Progressive Organization (CPA) to simplify the tool to suit the needs of the community.

Applying the VIAT in the context of environmental hazard and climate change

The VIAT is groundbreaking in its ability to aid communities and defenders to quantify the costs, losses, and damages from habitat-related human rights violations. In addition to recording impacts, considering an event to be a violation requires determination of a duty bearer, or other party responsible for the consequences. That determination is made clear by applying the international-law criteria arising from the human right to adequate housing. However, a dilemma arises in cases of loss, cost and damage incurred as a result of environmental disaster or climate event.

For cases of destruction or displacement resulting from environmental hazard or climate change, remedies may come from emergency relief, charitable works or *ex gratia* compensation provided by a public or private actor. However, in order to claim a violation subject to reparation, as defined in international law, the claimant must demonstrate a violation by either commission or omission.

Through 2022, HLRN applied the criteria of human rights and international law to develop a methodological guide for establishing responsibility of duty holders and third parties for the losses, costs and damages incurred. This tool development enabled HLRN to update VDB entries and compile its evidence-informed 2022 World Habitat Day report: *In Pursuit of Climate Justice: Housing and Land Rights Violations in the Context of Environmental Hazards and Climate Change*.

That new report takes a hard look at violations of adequate housing land and other habitat-related human rights in the context of environmental hazards and climate change. Based on VDB entries spanning more than a century, each instance explores the root causes and consequences of loss, cost and damage resulting from human activity.

Taking a human rights approach, the report seeks to identify the scope of impacts and the public, private and/or corporate responsibility for the remedies and reparation to which victims and affected persons are entitled. The collection of cases gives rise to a pattern of 13 causes/contexts for monitors, duty bearers and human rights defenders to consider:

- Conflict situations
- Cross-border effects
- Development-induced displacement
- Environmental racism/discrimination
- Extractivism
- Governance
- Industrial pollution/contamination
- Large-scale agriculture/livestock farming
- Megaprojects
- Neglect
- Tourism
- Urbanization
- Other human factors

Out of these categories also emerges one overarching pattern, whereby the persons subject to these violations in the context of environmental hazard and climate change are most often the most vulnerable among us. The many lessons contained in the report on World Habitat Day give occasion also to numerous recommendations for duty holders to prevent and remedy the devastating events accompanying environmental destruction and climate change, which promise to become even costlier and more frequent.

All human rights defenders need legal precision and reliable data. HLRN has learned through experience how much civil society organizations (CSOs) need to develop capacity to conduct human rights-based monitoring of both the voluntary commitments and binding obligation of their states. This was made painfully clear in the surprise decision of the East African Court in October 2022, where judges dismissed the Maasai claim of forcible eviction from Ngorongoro Conservation Area for insufficient evidence of harm done by their eviction. Among the most-compelling ways to articulate the impact of violations is by producing reliable data that conveys the full costs, losses and damages that typically deepen poverty and lead to further deprivation.

With the [UN recognition](#) of the human right to a clean, healthy and sustainable environment, a plethora of cases of violations have already come to the attention of HLRN, as documented in [In Pursuit of Climate Justice](#). The vital inquiry into habitat violations for these and other cases requires a dedicated application of the VIAT in the field with local partners monitoring and seeking remedy and reparation for gross violations and their consequences.

Climate Justice amid Loss and Damage

The CoP27 decision to establish a loss-and-damage fund is a monumental gain toward survival of the communities most-vulnerable to climate change and its effects. However, this hopeful statement comes with several caveats: Perhaps primary among them is the condition that the fund be properly funded. In addition, it must satisfy the standard evaluation criteria of having (1) relevance, (2) coherence, (3) effectiveness (including timeliness), (4) efficiency in its use of resources and (5) sustainability of impacts (i.e., ensuring their adequate quality, and without repetition or retrogression, or creating further vulnerabilities). Furthermore, it must advance climate justice.

The climate-justice objective has been the subject of much discussion and normative development. Examples include the Mary Robinson Foundation's [Principles of Climate Justice Framework](#), which provide the conditions for achieving climate justice:

- **Respect, protect [and fulfill] human rights**
- **Supporting the right to development**
- **Sharing benefits and burdens equitably**
- **Ensuring that decisions on climate change are participatory, transparent and accountable**
- **Upholding gender equality and equity**
- **Harnessing the transformative power of education for climate stewardship**
- **Using effective partnerships**

Comparing favorably to these criteria are the more outcome-oriented criteria set out in HIC President Adriana Allen's 2021 World Habitat Day [statement](#) "Climate Justice *IS* a Human Right":

- **Profound economic redistribution** (democratic control of climate finance and support for SPH, ending forced evictions, displacement)
- **Recognition of differences and invisibilities** (convergence, globalism and nondiscrimination)
- **Gender parity in political participation** (climate action, remedies)
- **Make human rights habitat, not war** (rural and urban peace)
- **Mutual care, solidarity and social responsibility** (ESG)

Climate discourse and action to date have focused rather on diagnostics and what climate change and its impacts to expect, prevention measures, adaptation and mitigation. The remedial measures deliberated so far have focused on global efforts and measures of success at reducing greenhouse gas emissions (GGE), in order to help cool the planet. However, the discussion of remedying consequent loss and damage has been around for no less than three decades, for at least as many years as the CoP27 itself.

However, negotiations eventually led to a breakthrough led to establishment of the Warsaw International Mechanism on Loss and Damage associated with Climate Change (WIM) at CoP19 held in the Polish capital in 2013. The decision [2/CP.19](#) established a guiding Executive Committee comprised of representatives of UNFCCC party governments, including: 10 members from [Annex I parties](#) and 10 members from [non-Annex I parties](#); two members from each of the African, Asia-Pacific and Latin American and Caribbean regions; one member from small island developing states (SIDS), one member from the least-developed-country (LDC) parties, and two additional members from non-Annex I Parties (decision [2/CP.20](#)).

The WIM assumed three key functions:

1. Enhancing knowledge and understanding of comprehensive risk-management approaches;
2. Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders; and
3. Enhancing action and support to address loss and damage.

Article 8 of the [Paris Agreement](#) (2015) ensured that the WIM would maintained in the post-2020 climate regime with a focus on:

- Slow-onset events (SOE);
- Noneconomic losses (NEL);
- Comprehensive risk management approaches (CRM);
- Human mobility (HM); and
- WIM finance, action and support (FAS).

Over the years, the WIM finance, action and support have been the [weakest](#) aspects of the WIM.

A challenge remains to make both the Paris Agreement and its successor decisions human centered, principally by practically applying human rights in all aspects of climate response. This requisite applies also to any loss-and-damage mechanism, including its funding machinery.

As positive as the CoP27 decision to establish a loss-and-damage fund may be, deliberations have emphasized state-to-state “compensation,” taxing the rich industrial states to support needed remedies in the poorer and disproportionately more-affected states. This discourse carries two hazards: (1) it focuses on, and emphasizes cash transfers, mainly from the North to the South, rather than the more-comprehensive and more-relevant [reparations framework](#), especially where the gross violation of forced eviction/displacement is concerned, and (2) the state-to-state approach seems to overlook the local needs and human rights of affected communities that the human-centered approach would bring. Notably, [previous state-to-state reparation arrangements](#) have proved to be subject to politics and not to reach the human victims effectively or efficiently, and run the risk of corruption.

HIC-HLRN is seeking to contribute to the needed human-centered alternative to assessing and remedying loss and damage that is built upon the combined basis of Human Rights Treaty-based obligations, human rights related to development commitments, accountability, transparency and the victims’ rights to remedy and reparation.

Therefore, HIC-HLRN is arguing for a human-centered approach akin to applying its VIAT. This applies a methodology and set of norm-based survey instruments to determine costs, losses, damage and all values at stake in the cases of forced eviction/displacement, destruction, dispossession and negative impacts of privatization. This tool has undergone some [30 applications](#) in diverse cases, ranging from individual house demolitions, slum removals, environmental disasters, displacement due to post-election violence, and even scaled up to address housing, land and property restitution in the context of transitional justice.

This proposal was the subject of HIC-HLRN’s cooperation with the Arab NGO Network for Development (ANND) and the Third World Network (TWN) in a [webinar](#) during CoP27 on 14 November 2022. Lessons derived from this experience reveal how community-generated data with a verifiable methodology can deliver the kind of specificity and thoroughness required in decision making to achieve not only relevance, efficiency and effectiveness, but also promote equitable distribution of benefits grounded in applicable norms, including human rights. Such approaches are indispensable for the WIM to align with climate justice.

In response to the immense current and future consequences associated with climate-change, the great need for human-centered climate action and climate justice, more generally, the possibilities of using methods based on the VIAT are great to meet the emerging demand.

Follow developments in the HLRN periodical [Land Times/أحوال الأرض](#)