PROMOTING AND PROTECTING HOUSING, LAND AND PROPERTY RIGHTS OF SYRIAN REFUGEES LIVING IN LEBANON: TOWARDS AN INTEGRATED RESPONSE

MARCH 2021
The United Nations Human Settlements Programme (UN-Habitat) is the United Nations agency for human settlements. It is mandated by the United Nations General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. UN-Habitat’s programmes are designed to help policymakers and local communities get to grips with human settlements and urban issues and find workable, lasting solutions.

FOR MORE INFORMATION:

UN-Habitat Headquarters
P.O. Box 30030, Nairobi 00100, Kenya
Tel.: +254 20 762 3120
Fax: +254 20 762 3477
Email: infohabitat@unhabitat.org
Website: www.unhabitat.org

UN-Habitat Regional Office for the Arab States (ROAS)
87 Housing and Building Research Centre; Tahreer Street, 9th floor, Dokki, Giza, Egypt
Tel.: +20 2 37618812
Website: www.unhabitat.org/arab-states-region

UN-Habitat Lebanon Country Programme
UN House, 5th Floor, Riad El Solh, Beirut, Lebanon
Tel.: +961 1 978000
Email: unhabitat-lebanon@un.org
Website: www.unhabitat.org/Lebanon
PROMOTING AND PROTECTING HOUSING, LAND AND PROPERTY RIGHTS OF SYRIAN REFUGEES LIVING IN LEBANON: TOWARDS AN INTEGRATED RESPONSE

MARCH 2021
DISCLAIMER

This report has been produced as the second component of a two-part research project titled “Housing, Land and Property (HLP) Rights Challenges Faced in Syria by Refugees Currently Living in Lebanon – Humanitarian Response” undertaken by the United Nations Human Settlements Programme (UN-Habitat) and funded by Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ). The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning delimitation of its frontiers or boundaries, or regarding its economic system or degree of development. The analysis, conclusions and recommendations of this publication do not necessarily reflect the views of GIZ or of UN-Habitat or its Governing Council.

CREDITS AND ACKNOWLEDGEMENTS

UN-Habitat Regional Office for Arab States

UN-Habitat Lebanon

UN-Habitat Lebanon gratefully acknowledges the support of Basmeh & Zeitooneh Relief & Development NGO in facilitating the focus group discussions held in the Bekaa, Lebanon, as part of this research.


COPYRIGHT © 2021 UN-Habitat. All rights reserved.

COVER PHOTO: © UN-Habitat (2020)
TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS 5

Executive summary 7

Introduction 12
  1.1 Background 12
  1.2 Objective 12
  1.3 Methodology 12
  1.4 Research limitation 13
  Factsheet 14

HLP situation in Syria of selected Syrian refugee communities in Lebanon: Homs, Aleppo and Rural Damascus 16
  2.1 HLP situation of refugees from Homs City 16
  2.2 HLP situation of refugees from Aleppo 23
  2.3 HLP situation of refugees from Rural Damascus 32

Summary of most urgent HLP challenges faced by Syrian refugees in Lebanon 38
  3.1 Main HLP challenges faced by Syrian refugees in Lebanon 38
  3.2 Other challenges faced by Syrian refugees in Lebanon 40

The HLP institutional, administrative and legal frameworks in Syria 42
  4.1 The institutional and administrative framework 42
  4.2 The current legal framework and its capacity to address HLP issues 47

Alternative, additional and transitional measures to address the prevailing HLP issues 56
  5.1 Preparation for HLP restitution 56
  5.2 Protection, reconstruction and (re)issuance of HLP and civil documentation 58
  5.3 Awareness-raising and access to legal aid 59
  5.4 Resolution of HLP disputes 60
  5.5 Access to substitute shelter in Syria 62
  5.6 Prevention of further violations of HLP rights 63
  5.7 HLP measures for refugees during displacement in the host country 63

Recommendations 66
  6.1 Recommendations to promote and protect the HLP rights of Syrian refugees to their properties in Syria 66
  6.2 Recommendations to improve the living conditions and the HLP situation of Syrian refugees in Lebanon 69

Annex 1: Table of restitution legal actions’ costs before Syrian courts 72
Annex 2: List of Syrian legislation obstructing the HLP rights of refugees and IDPs 73
Annex 3: List of documents that can be used as evidence to support HLP claims 84
References 86
| Figure 1   | Location map of Homs, Rural Damascus and Aleppo | 13 |
| Figure 2   | Map of Homs Governorate                         | 16 |
| Figure 3   | Main factors influencing voluntary return to Syria of Syrian refugees from Homs City | 17 |
| Figure 4   | Number of voluntary refugee returnees from Lebanon between 2016 and 2020 | 18 |
| Figure 5   | Distribution of property types among the 16.5% of household survey respondents who indicated having an additional property | 19 |
| Figure 6   | Damage levels in Homs City                      | 21 |
| Figure 7   | Map of Aleppo Governorate                      | 24 |
| Figure 8   | Main factors influencing voluntary return to Syria of Syrian refugees from Aleppo | 25 |
| Figure 9   | Most commonly reported HLP issues in Aleppo's sub-districts | 27 |
| Figure 10  | Photo of green or blue tabu (title deed) in Syria | 28 |
| Figure 11  | City-level damage estimate range (in USD million), Syria damage assessment phases 1-3 (Aleppo) | 29 |
| Figure 12  | Damage levels in Aleppo City                    | 30 |
| Figure 13  | Main reasons for lacking civil documents in Aleppo's sub-districts | 30 |
| Figure 14  | Map of Rural Damascus Governorate               | 32 |
| Figure 15  | Main factors influencing voluntary return to Syria of Syrian refugees from Rural Damascus | 33 |
| Figure 16  | Number of people whose tabu was lost or destroyed, by governorate of origin (based on a household survey targeting 734 households) | 34 |
| Figure 17  | Damage levels in Al Zabadani City               | 35 |
| Figure 18  | Percentage of assessed communities in which respondents reported a lack/loss of civil documentation | 36 |
| Figure 19  | The judicial system dealing with HLP matters in Syria | 43 |
| Figure 20  | Institutional set-up of the land registration system in Syria | 46 |
| Figure 21  | Laws governing different lease contracts         | 51 |
| Figure 22  | Expected land-related disputes                  | 60 |
### LIST OF ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AANES</td>
<td>Autonomous Administration of North and East Syria</td>
</tr>
<tr>
<td>AoR</td>
<td>Area of Responsibility</td>
</tr>
<tr>
<td>COVID-19</td>
<td>Coronavirus Disease 2019</td>
</tr>
<tr>
<td>CRPC</td>
<td>Commission for Real Property Claims of Displaced Persons and Refugees</td>
</tr>
<tr>
<td>CRRPD</td>
<td>Commission for the Resolution of Real Property Disputes</td>
</tr>
<tr>
<td>CTC</td>
<td>Counter-Terrorism Court</td>
</tr>
<tr>
<td>DGAM</td>
<td>Directorate General of Antiquities and Museums</td>
</tr>
<tr>
<td>DW</td>
<td>Deutsche Welle</td>
</tr>
<tr>
<td>FIG</td>
<td>International Federation of Surveyors</td>
</tr>
<tr>
<td>FGD</td>
<td>Focus group discussion</td>
</tr>
<tr>
<td>GDCA</td>
<td>General Directorate of Cadastral Affairs</td>
</tr>
<tr>
<td>GIZ</td>
<td>Gesellschaft für Internationale Zusammenarbeit</td>
</tr>
<tr>
<td>GLTN</td>
<td>Global Land Tool Network</td>
</tr>
<tr>
<td>GoL</td>
<td>Government of Lebanon</td>
</tr>
<tr>
<td>GoS</td>
<td>Government of Syria</td>
</tr>
<tr>
<td>HLP</td>
<td>Housing, land and property</td>
</tr>
<tr>
<td>HNO</td>
<td>Humanitarian Needs Overview</td>
</tr>
<tr>
<td>IBJ</td>
<td>International Bridges for Justice</td>
</tr>
<tr>
<td>IDPs</td>
<td>Internally displaced persons</td>
</tr>
<tr>
<td>ILAC</td>
<td>International Legal Assistance Consortium</td>
</tr>
<tr>
<td>INGO</td>
<td>International non-governmental organization</td>
</tr>
<tr>
<td>IPCC</td>
<td>Iraqi Property Claims Commission</td>
</tr>
<tr>
<td>KII</td>
<td>Key informant interview</td>
</tr>
<tr>
<td>LACs</td>
<td>Local Administrative Councils</td>
</tr>
<tr>
<td>MoIS</td>
<td>Ministry of Interior of Syria</td>
</tr>
<tr>
<td>NAFS</td>
<td>National Agenda for the Future of Syria</td>
</tr>
<tr>
<td>NGCAs</td>
<td>Non-government-controlled areas</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental organization</td>
</tr>
<tr>
<td>No.</td>
<td>Number</td>
</tr>
<tr>
<td>NRC</td>
<td>Norwegian Refugee Council</td>
</tr>
<tr>
<td>NSAGs</td>
<td>Non-state armed groups</td>
</tr>
<tr>
<td>PSL</td>
<td>Personal Status Law</td>
</tr>
<tr>
<td>RDA</td>
<td>Rapid damage assessment</td>
</tr>
<tr>
<td>SARC</td>
<td>Syrian Arab Red Crescent</td>
</tr>
<tr>
<td>SCC</td>
<td>Syrian Civil Code</td>
</tr>
<tr>
<td>SJAC</td>
<td>Syria Justice and Accountability Centre</td>
</tr>
<tr>
<td>SJC</td>
<td>Supreme Judicial Council</td>
</tr>
<tr>
<td>STDM</td>
<td>Social Tenure Domain Model</td>
</tr>
<tr>
<td>SYP</td>
<td>Syrian Pound</td>
</tr>
<tr>
<td>Acronym</td>
<td>Name</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>TDA</td>
<td>The Day After</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>UN ESCWA</td>
<td>United Nations Economic and Social Commission for Western Asia</td>
</tr>
<tr>
<td>UN-Habitat</td>
<td>United Nations Human Settlements Programme</td>
</tr>
<tr>
<td>UNHCR</td>
<td>[Office of the] United Nations High Commissioner for Refugees</td>
</tr>
<tr>
<td>UNHRC</td>
<td>United Nations Human Rights Council</td>
</tr>
<tr>
<td>UNITAR</td>
<td>United Nations Institute for Training and Research</td>
</tr>
<tr>
<td>UN OCHA</td>
<td>United Nations Office for the Coordination of Humanitarian Affairs</td>
</tr>
<tr>
<td>UNOSAT</td>
<td>United Nations Operational Satellite Applications Programme</td>
</tr>
<tr>
<td>USD</td>
<td>United States Dollars</td>
</tr>
<tr>
<td>VASyR</td>
<td>Vulnerability Assessment of Syrian Refugees</td>
</tr>
<tr>
<td>WFP</td>
<td>World Food Programme</td>
</tr>
<tr>
<td>WoS</td>
<td>Whole of Syria</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

This report analyses and identifies trends and patterns of housing, land and property (HLP) issues that Syrian refugees currently residing in Lebanon face in their areas of origin in Syria and looks at solutions offered by the current legal and institutional framework. Focusing on three case studies, the HLP challenges have been identified through several interviews and focus group discussions (FGDs) conducted in Lebanon with Syrian refugees from Homs, Aleppo and Rural Damascus, as well as through the analysis of other existing resources and relevant household surveys.

Findings

In line with previous studies, the findings of the report highlight that Syrian refugees living in Lebanon perceive HLP issues as very important and tightly interlinked to key aspects of their lives, such as personal safety, justice and identity. They also perceive HLP rights as a prerequisite to access health, education and basic services, to make a decent living in Lebanon, and to go back to Syria one day.

HLP issues before displacement

The majority of surveyed refugee households from Homs living in Lebanon already had a complex HLP situation before the conflict. Many did not have land registration documents attesting their HLP rights and relied on customary arrangements or lived in informal settlements. The documents they held were often incomplete, inaccurate, not updated, improperly recorded and/or of uncertain legal standing. For example, a quarter of refugee households from Homs did not have any HLP documentation even before the conflict. Of those who used to be tenants, less than 10 per cent had formal contracts. Women were further disadvantaged, considering that only 10 per cent of them owned properties in their name.

Loss of HLP documents

Many of those who had HLP documents before the conflict lost them during the displacement. For example, while a quarter of refugees from Homs did not have HLP documents before the conflict, now only one third of them still has some form of HLP documentation. The situation of refugees from Aleppo is worse, as almost all of them reported to have lost their documents since they were forced to flee. Unless the current legal provisions in Syria are amended, the loss and lack of HLP documentation will majorly affect the ability of displaced Syrians to recover their properties. The vulnerabilities of those displaced from informal settlements or customary land add to the vulnerabilities caused by the widespread destruction of properties and the new urban development and construction projects in Syria. Respondents also reported regular confiscation of HLP and personal identity documents at checkpoints in Syria, which also raises questions about the willingness of the Syrian Government to allow for return and to create the conditions for HLP restitution for displaced people. Adding to the complexity, property registrations slowed down during the conflict, due to the reduced administrative capacity of dedicated offices and to the decreed suspension of real estate transactions in opposition-held areas.

Beyond HLP documents

The analysis of the information provided by the study participants suggests that the obstacles to the protection of Syrian refugees’ HLP rights and the restitution of their properties are deeper than the mere possession of HLP documentation or the ability to prove ownership in a court. While some participants seemed to be convinced that their HLP documents will be decisive to recover their property, most were doubtful that this would be sufficient. Some of the most pressing obstacles mentioned were bigger issues, such as the destruction of the property, government confiscation of property, blacklisting from government, non-recognition of their documents by the courts, forgery of documents by current occupants, lack of assistance to recover the property, contamination of the property from explosives, inability to return, and difficulty to access the area because of security reasons. Further, some participants reported that from the people who they knew they had returned, no one was able to recover their properties. The most common HLP issue reported is the complete or partial destruction of property, affecting over three quarters of the refugees from Aleppo and Rural Damascus.
Secondary occupation

Secondary occupation of the refugees' properties back home is very widespread. Almost a third of the refugees from Homs have information of people occupying their properties in Syria without their consent. This reaches almost two thirds for refugees from Aleppo. Many participants referred to the forgery of documents and fraudulent sales as issues of great concern, especially as "good faith" purchase might follow the fraudulent sale, making it very difficult if not impossible to reassert one's rights.

Awareness and information

Although most Syrian refugees in Lebanon are relatively well informed about the physical status of their property in Syria, they do not have accurate and reliable information about the different types of their property tenure (e.g. formal, informal, rent agreements, etc.) and the consequent legal implications. Refugees have low awareness of the procedures and measures to protect their property rights in Syria, and of the importance of different documentary property evidence and orderly civil documents to recover their property. Moreover, they are not aware of how the new legislation issued after the start of the conflict in Syria is impacting their HLP rights, and of the administrative and legal remedies under Syrian law for property restitution and compensation. Many reported the unclear or constantly changing HLP regulations as a key challenge.

Loss of civil documentation

Lack or loss of civil documentation affects most of Syrian refugees in Lebanon. According to the latest Vulnerability Assessment of Syrian Refugees (VASYR) in Lebanon conducted by UNHCR, the United Nations Children's Fund (UNICEF) and the World Food Programme (WFP), a mere 20 per cent of all Syrian refugees above 15 years hold a valid temporary residence permit in Lebanon (UNHCR, UNICEF and WFP, 2021). Having access to legal residency in Lebanon is a key protection priority.

Seeking justice

Most participants were concerned about the lack of rule of law in Syria, compounded by the weakness and lack of independence of the judiciary, which is perceived as partial, manipulated by the executive power, corrupted, and with very limited capacity. Participants noted that they would not know how to access the judiciary to seek justice regarding their HLP rights. They also expressed concerns that processing their HLP claims would be too costly and time-consuming and that the enforcement of judicial decisions against powerful and politically connected occupants would be nearly impossible. Some also mentioned fear of retaliation by biased judges. The fragmentation of the judicial system resulting from the fragmentation of the state multiplies the complexity.

HLP legislation

There is a twofold challenge regarding HLP legislation. On the one hand, pre-conflict legislation that did not have discriminatory intentions is being interpreted and applied in a discriminatory way to the detriment of the displaced. On the other hand, discriminatory legislation – on HLP or on issues directly influencing the enjoyment of HLP rights – was passed during the war, including the legislation on redevelopment of urban areas and expropriation, Counter-Terrorism Law, and Military Service Law. The introduction of security clearance as a prerequisite for real estate transactions directly affected many refugees and further exposed them to the risk of property confiscation.

Living conditions in Lebanon

Most respondents reported the unbearable and constantly worsening living conditions in Lebanon. A hostile living environment, lack of freedom of movement, social tensions and isolation, discrimination and denial of basic human rights, family separation, difficulty in accessing humanitarian assistance and education, and frequent forced evictions and violent attacks were reported.
Recommendations

The following recommendations are addressed to the international community, government authorities, national humanitarian and development actors, and donors. It is important that the implementation of these recommendations takes place through multi-stakeholder inclusive processes that take into consideration the large variety of Syrian actors. In particular, displaced people and refugees – men, women and youth – should be actively engaged and even lead some of these discussions. The ethnic, religious, social and geographical richness of the Syrian society must be represented. State and non-state actors, civil society groups, land and HLP professionals and practitioners from different land-related disciplines, academia, and national and international experts must be able to voice their needs and collaborate in crafting solutions that work for everyone. This would not only be a requirement for the success of the solutions put in place, but it will be an important prerequisite for the different parts of the Syrian society to trust the processes.

Recommendations to promote and protect the HLP rights of Syrian refugees to their properties in Syria

Accurate and impartial information should be provided to Syrian refugees about the HLP situation in their areas of origin, the status of their property, as well as key facts and information on administrative or legal issues that would affect their HLP rights, including legislation issued during the conflict that may impact them.

Female and male Syrian refugees should be encouraged and assisted to actively engage in the protection of their HLP rights in Syria, including retrieving and safeguarding any documents or copies of documents that they or their relatives may still have (HLP documents and other evidence that can support their tenure claims), filing property claims before Syrian courts and other state authorities, etc.

A mechanism that can play an intermediary role between refugees and relevant HLP institutions in Syria and Lebanon should be established to help the retrieval and update of HLP and civil documentation through the Syrian Embassy in Beirut. Legal and financial assistance tailored to the HLP needs of Syrian refugees should be provided in Lebanon, especially for women.

The protection of HLP documentation should be supported by working with Syrian institutions on the refurbishment or reconstruction of registration offices, supporting the efforts made on digitalization of the records and developing digital archives, and reissuing lost or damaged HLP documents, while paying attention that the process does not formalize HLP violations that might have taken place during the conflict and that refugees are not excluded or discriminated against. The collection and storage of a broader set of supporting evidence that can be used in courts and in mass transitional justice mechanisms should also be supported. A variety of state and non-state actors, including the United Nations Human Settlements Programme (UN-Habitat), have started to work in this regard and further coordination, alignment and consolidated efforts would be desirable in the months and years ahead. In the longer term, efforts to update, reform and improve the overall performance of the land registration system in Syria will need to be put in place.

The awareness of Syrian refugees in Lebanon, in particular women, should be raised on the importance of civil documents, and they should be assisted to obtain civil documentation in Syria or in Lebanon and to update their civil records. Efforts should continue to document HLP rights violations to support Syrian refugees and civil society in their struggle for those rights. Stabilization assistance should be extended to Syrian refugees in Lebanon who voluntarily return to Syria to assist them to rehabilitate their damaged houses, or to find a substitute shelter.

The international community and the competent national actors should put pressure, should try to influence and should support the Syrian Government to repeal or amend HLP legislation and regulations issued in Syria after the start of the war that obstruct the HLP rights of Syrian refugees.

Provisions that do not allow for adequate reparation of all types of property ownership, namely informal or unregistered ownership, should be removed.

---

1 Such initiatives include but are not limited to mapping of HLP claims using the Social Tenure Domain Model (STDM) tool.
or amended. Further, aspects of the laws that by virtue of their requirements – albeit perhaps unintentionally – end up discriminating against refugees and displaced people should be amended; these include, for example, laws that impose a strict time frame or require physical presence to complete specific processes. The refugees’ access to their property rights in Syria also depends on removing or amending other non-HLP laws that affect their HLP rights, such as the Counter-Terrorism Law and the Military Service Law, as amended, and many others. Statutes of limitation on restitution and compensation claims should be simplified, and rules related to the documentary evidence needed for proving ownership for HLP restitution, notably evidence regarding informal settlements and severely damaged areas, should be amended and made more inclusive.

The reform process should not miss the opportunity of taking concrete actions to ensure that women enjoy equal rights to property in Syria. This can include the removal of legal, financial and traditional barriers impeding their access to full property rights on equal footing with men; the promotion of women’s participation in land- and HLP-related processes and decision-making structures; the promotion of joint marital property; the enforcement of inheritance laws and combating against the practices of renouncing inheritance rights to property; and the enhancement of women’s access to justice and credit.

The reform and modernization of the judicial system should be supported to increase its overall capacity to respond to the needs of people in a just and independent manner and – in particular – to address refugees’ legal issues. Capacity development for justice administrators on international HLP law is needed to resolve HLP disputes in general, but also to establish a possible future restitution programme and the transitional justice mechanisms recommended below, which will require a large number of national lawyers, judges and mediators.

The existing legal framework and judiciary system – even if reformed – are not suitable to address the magnitude of HLP issues faced by displaced Syrians, in terms of both complexity and scale. Alternative, additional and transitional measures will have to be put in place in the short-to-medium term. Pending a comprehensive peace agreement in Syria, the establishment of a mechanism, such as an independent administrative, or quasi-judicial, committee capable of dealing with a large number of property restitution and compensation claims should be supported. The committee will have to operate within a larger transitional justice framework and be adapted to the expected scale of the claims and the general capacity of the Syrian state and its institutions. This will be instrumental to provide equitable redress for all victims of property rights violations, irrespective of their tenure type (formal, informal or customary). Utmost attention needs to be placed in ensuring that displaced Syrians are not discriminated against and negatively affected by the design of such alternative and transitional justice measures. To ensure that their needs and limitations are adequately taken into consideration, their active participation and collaboration in the establishment of these processes should be ensured.

On this basis, a large-scale restitution programme will have to be developed. This will entail the development of the political, technical and financial arrangements that support it. The issuance of a special restitution law to be drafted by national jurists with the support of international experts will be required, together with an accompanying set of operational directives.

As a key part of the restitution programme, but also as an important stand-alone process, the collection and safekeeping of HLP documents and other supporting evidence need to be prioritized, as mentioned above.

Suitable ways of dealing with secondary occupation will have to be established, protecting the rights of the lawful owners, tenants or users, but also addressing the needs of secondary occupants (such as internally displaced families) who might find themselves without alternative shelter options.

Further violations of HLP rights need to be prevented. Measures to ensure this can include creating an inventory of abandoned properties to monitor, discourage and prevent further secondary

---

2 See the 12th legislation listed in the table of Annex 2 for details about the recent amendment of the Syrian Military Service Law by Law No. 39 issued on 24 December 2019, which decided that assets and properties of individuals accused of avoiding or deserting their military duties can be seized, unless they are able to pay the hefty military service exemption fee of USD 8,000.
occupation; managing secondary occupation processes as mentioned above; and revising adverse possession rules to fit the conflict context and consider allowing longer timelines.

When a political solution to the conflict is reached, the provision of support and funding for reconstruction in Syria will be needed.

Furthermore, the land rights and land administration system in Syria had significant weaknesses already before the war. Such weaknesses contributed to inequalities and inefficiencies that undermined the inclusiveness and sustainability of the country’s socioeconomic development. They also contributed to creating the fragility that allowed the escalation to the conflict – and its consequences – to the scale that the world witnesses today. Important aspects to be addressed by the Syrian authorities and their partners in the medium-to-long term are the following: the issue of affordable adequate housing; the formalization of informal settlements; the improvement of the land registration system; the need to ensure gender equality – de jure and de facto – in the enjoyment of HLP rights; and the reform of the legal land framework to ensure compliance with international standards, but also to improve efficiency and effectiveness.

Recommendations to improve the living conditions and the HLP situation of Syrian refugees in Lebanon

The research undertaken highlights the need to improve the living conditions of Syrian refugees in Lebanon and their access to HLP rights in the areas of displacement, although these issues are not directly related to the scope of the report. This would not only protect the human rights of the refugees and create the preconditions for the establishment of peace and justice in the region, but it would also provide the necessary economic conditions and social safety that the refugees would need to return and reinvest in rebuilding their homes and lives in Syria. Thus, it would be important to ensure that Syrian refugees have a legal status in Lebanon, that the procedures of registration with the Foreigners’ Registry in Lebanon are streamlined and made cheaper, that the registration of refugees by the Office of the United Nations High Commissioner for Refugees (UNHCR) – interrupted in 2015 – resumes, and that restrictions to movement and to livelihood opportunities are removed. Finally, their tenure security and the conditions of their shelters in Lebanon should be improved.
1.1 BACKGROUND

Ten years into the Syrian conflict, the Syrian refugee crisis remains the largest refugee and displacement crisis of our time. According to UNHCR (2018c), about 5.6 million Syrians are refugees and another 6.6 million are displaced within the country. The international community is mobilized to assist refugees and internally displaced persons (IDPs), but the scale, severity and complexity of the crisis represent major obstacles for the protection of their human rights.

5.6 million Syrians are refugees and another 6.6 million Syrians are displaced within the country.

Lebanon hosts more than 1 million Syrian refugees scattered throughout more than 2,100 urban and rural communities in the country, mostly living in inadequate housing, sharing small basic lodgings with other refugee families (UNHCR, 2018b). In 2020, the impact of compounded crises in the country increased steeply the number of Syrian refugees living below the extreme poverty line, reaching 89 per cent of the Syrian refugee households (UNHCR, WFP and UNICEF, 2021).

Lebanon hosts more than 1 million Syrian refugees throughout more than 2,100 urban and rural communities in the country.

89% of the Syrian refugee households in Lebanon live under the poverty line.

1.2 OBJECTIVE

The objective of this report is to analyse the challenges related to the HLP rights that Syrian refugees living in Lebanon face back in Syria. The findings aim to assist national and international actors to understand the HLP needs of Syrian refugees, and plan for an integrated and sustainable HLP response that protects the rights of displaced Syrians. The objective is achieved through filling a knowledge gap on HLP procedures, based on the analysis of the identified HLP challenges and related variables, such as the availability of civil documentation and information on the condition of properties.

Available remedies are reviewed, legal loopholes are highlighted, and a set of recommendations for the identified HLP issues is offered, including alternative and transitional measures.3

1.3 METHODOLOGY

This report is based on data collected for the purposes of this UN-Habitat study or other relevant studies undertaken jointly and separately by UN-Habitat and UNHCR between 2017 and 2020, through household surveys, interviews and multiple FGDs on the HLP challenges faced by Syrian refugees originating from Homs, Rural Damascus and Aleppo who are currently living in Lebanon.

More specifically, the report incorporates findings from a 2019 Homs City case study report (UN-Habitat and UNHCR, 2019) and analyses the qualitative data collected by UN-Habitat in December 2020 through seven FGDs conducted in Bar Elias, Lebanon.4 Three FGDs targeted Syrian refugees from Rural Damascus (18 male and 8 female participants), and four targeted refugees from Aleppo (29 male and 9 female participants). The inclusion of both female and male participants allowed to capture a wide range of HLP challenges and the specific needs of women. The data collected through the FGDs looks into property ownership, tenure types and awareness of their implications, access to information about refugees’ properties, concerns about return and property restitution, the likelihood of receiving a compensation for destroyed property, the level of trust in the Syrian judicial system, and

3 These recommendations are also elaborated on in a 2021 UN-Habitat policy brief titled Promoting and Protecting Housing, Land and Property Rights of Syrian Refugees Living in Lebanon (UN-Habitat Lebanon, 2021).
4 Bar Elias is a town located in the Bekaa Valley, Lebanon’s main agricultural area, 15 kilometers away from the Lebanon–Syria border. The town has seen an increase of 50 per cent of its population since the onset of the Syria War; its current population is 100,000 inhabitants (UNDP, 2018). According to UNHCR (2015c), Bar Elias is one of the most vulnerable localities in Lebanon.
concerns about HLP and civil documents while in Lebanon and upon return to Syria. In addition, the FGDs collected data about the maintenance of refugees’ legal status in Lebanon, assistance needs and expectations from the international community to safeguard HLP rights in Syria, refugees’ current displacement implications on their HLP rights back in Syria, livelihood opportunities and access to income-generating activities while in Lebanon and upon return, and awareness about the efforts by the Government of Syria (GoS) and the international community to facilitate return.

The report also benefits from 12 key informant interviews (KIIIs) carried out with stakeholders (including researchers, humanitarian workers and legal experts) working on HLP issues of Syrian refugees to examine their views and collect information on HLP challenges and civil documentation, on alternative or transitional solutions for the return of Syrian refugees, and on the assessment of the HLP institutional and legal frameworks in Syria.

Furthermore, the report reviews the available HLP-related literature and secondary data related to HLP solutions applied in Iraq and that related to the challenges facing IDPs in north-western and southern Syria (the areas of origin of the Syrian refugees targeted by the FGDs) to draw a comparison of the findings and develop a better understanding of key identified HLP challenges faced by Syrian refugees.

1.4 RESEARCH LIMITATIONS

Key challenges and limitations encountered during the development of the report include the study’s limited time frame and the inability to undertake an in-depth household survey and the limited number of FGDs conducted for Aleppo and Rural Damascus, due to logistical impediments resulting from the COVID-19 outbreak and the unstable situation in Lebanon. Moreover, the low number of FGD participants from Aleppo and Rural Damascus made it challenging to identify common patterns of HLP challenges and to generalize findings. This limitation was overcome by cross-referencing the key findings of similar HLP assessments carried out in Syria on IDPs from Aleppo and Rural Damascus, and by analysing the qualitative information obtained from the KIIIs.

Additional challenges included the difficulty of verifying collected information in Syria, due to restricted access and fieldwork constraints.
FACTSHEET

GENERAL

5.6 million Syrians are refugees and another 6.6 million Syrians are displaced within the country (UNHCR 2018c).

Lebanon hosts more than 1 million Syrian refugees throughout more than 2,100 urban and rural communities in the country (UNHCR 2018b).

80% of registered Syrian refugees in Lebanon do not have legal status (UNHCR, UNICEF and WFP, 2021).

89% of the Syrian refugee households in Lebanon live under the poverty line (UNHCR, WFP and UNICEF, 2021).

Voluntary return rates among Syrian refugees in Lebanon is decreasing: 22,728 returnees in 2019 and 9,351 returnees in 2020 (UNHCR, 2021b).

27% of the housing stock is damaged in Syria (World Bank, 2017b).

Only about half of Syria's land is registered, with the rest held informally through a customary family ownership system (Stubblefiele and Joireman, 2019).

456,986 individuals across Syria received shelter assistance from UNHCR in 2018 (UNHCR, 2018b).

ALEPPO

4,867,000 inhabitants in Aleppo prior to the war (in 2011).

2.25 million people in need of humanitarian assistance in Aleppo Governorate (UN OCHA, 2017) and 600,000 people in Aleppo City (ACAPS, 2016), where 35,722 buildings were damaged or destroyed (REACH, 2019).

Lebanon hosts 293,363 refugees from Aleppo Governorate, 25.4% of total registered Syrian refugees in Lebanon as of the end of March 2015 (UNHCR, 2015b).

95% of surveyed households in sub-districts in Aleppo Governorate reported the lack of civil documentation (NRC, 2017c).

The majority of the FGD participants owned land or property in their areas of origin back in Aleppo.
**HOMS**

800,000 inhabitants in Homs City prior to the war (in 2010)  
(UN-Habitat and UNHCR, 2019)

Of the 218,800 IDPs in Homs, only approximately 6% come from outside Homs  
(UN OCHA, 2017)

Lebanon hosts 45% of those displaced from Homs Governorate  
Refugees from Homs Governorate represent around 22% of the total number of registered  
refugees in Lebanon as of the end of 2017

69% of household survey respondents were internally displaced before becoming refugees in Lebanon  
(UN-Habitat and UNHCR, 2019)

57% of the housing stock in Homs has been affected: 36% is destroyed and 21% is partially damaged  
(Syrian Echoes, 2017)

70% of surveyed households from Homs residing in Lebanon are owners in Homs; 17% are tenants  
(UN-Habitat and UNHCR, 2019)

75.4% of surveyed households reported having at least one type of HLP documentation before the conflict (55.7% had permanent/cadastral records, known as “green tabu”). Only 32.5% of surveyed households still retained some kind of documentation at the time of the survey  
(UN-Habitat and UNHCR, 2019)

21% of surveyed households are headed by females  
19% of female-headed households are property owners, representing 5.5% of all surveyed household owners  
(UN-Habitat and UNHCR, 2019)

---

5 Facts on Homs are based on analysis done for another report (UN-Habitat and UNHCR, 2019).
General situation in Homs and of Homs refugees

In 2010, Homs City was home to around 800,000 inhabitants, making it the third most populous city in Syria after Damascus and Aleppo, and one of the country’s main cities, with an important political and economic role (UN-Habitat and UNHCR, 2019).

Ever since the war started in Syria in 2011, the city of Homs has sustained heavy damage, destruction and severe siege under shelling and aerial bombing. One of the characteristics of displacement from Homs City is that the overwhelming majority of IDPs are intracity IDPs coming from more severely damaged neighbourhoods. Out of the 218,800 IDPs in Homs, only approximately 6 per cent come from outside Homs (UN OCHA, 2017). This would make them highly likely to return given their proximity to their original homes.

Out of the 218,800 IDPs in Homs, only approximately 6% come from outside Homs.

Lebanon hosts 45 per cent of the Syrian refugees coming from Homs Governorate (UN-Habitat and UNHCR, 2019). They represent around 22 per cent of the total number of registered refugees in Lebanon as of the end of 2017, and 5.7 per cent of the total Syrian refugee population in the country. Refugees from Homs Governorate have mostly settled in the North and Bekaa governorates (UN-Habitat and UNHCR, 2019).

Figure 2 | Map of Homs Governorate

Source: UN OCHA (n.d.) and MapCruzin (n.d.). Map prepared by UN-Habitat (2021)
Lebanon hosts 45% of the Syrian refugees displaced from Homs Governorate.

Refugees from Homs Governorate represent around 22% of the total number of registered refugees in Lebanon as of the end of 2017.

In July 2017, UN-Habitat and UNHCR Lebanon carried out a joint survey, covering 1,514 Syrian refugee households originating from Homs City and living across 23 districts in Lebanon in order to study their HLP issues and challenges associated with their return to Syria. Furthermore, in February 2018, UN-Habitat and UNHCR conducted seven FGDs in Akkar, Tripoli, Minieh and Zahle to supplement the quantitative information gathered from the household survey and collect perceptions on HLP issues in Homs and on refugees’ future projections (UN-Habitat and UNHCR, 2019). The key findings of the UN-Habitat and UNHCR survey and FGDs are summarized in different sections below.

**Projections in relation to return and the situation in Homs**

The key factors surveyed refugee households from Homs would consider before envisaging return to Syria are safety and security, access to livelihoods, availability of services, access to and condition of their property, and the existence of a political settlement to the conflict. The FGDs confirm that security is at the forefront of refugees’ concerns. FGD participants expressed fears about arbitrary arrests, torture, forced military conscription, disappearance upon return, and heavy social media monitoring.

The situation in Lebanon does not seem to be a significant factor for determining whether refugees will return or not. Such a finding is consistent with the literature on the topic of return, which shows that the deterioration of the situation in the host country does not necessarily increase the likelihood of return to the place of origin if the situation in the latter is still unsafe or not conducive to sustainable return.

This has remained unchanged despite the dire economic circumstances in Lebanon and the deadly explosion at the Beirut Port on 4 August 2020, which have exacerbated the pre-existing socioeconomic hardships of Syrian refugees in Lebanon. At the end of December 2020, UNHCR figures highlighted low voluntary return rates among Syrian refugees in Lebanon: 22,728 returnees in 2019 and only 9,351 in 2020 (UNHCR, 2021b).

Accessibility to livelihood opportunities in Syria — the second main precondition, according to the household survey — was also echoed in the FGDs, where many participants reported a high increase in the cost of living in Homs since the onset of the conflict, which now they say is similar to the one in Lebanon. Some participants also voiced concerns that they may be unable to resume their pre-war work in Syria, because it would require a minimum capital that they are incapable of accumulating in Lebanon (due to the high living costs, low income, and restrictions on freedom of movement), or because the circumstances in Syria might still not be conducive to economic activities.
Access to and the condition of properties in Syria is the fourth most important element to consider ahead of returning, according to the household survey. Several FGD participants raised concerns that restitution procedures might put their life at risk. They reported that returnees have to go through several security screening procedures (including for military conscription), and that in case one family member does not receive clearance, the entire family would not be allowed to return. Consequently, most families are discouraged from attempting to regain possession of their property for fear of being arrested (UN-Habitat and UNHCR, 2019).

**HLP situation in Homs and HLP issues identified by Homs refugees**

**Internal displacement**

The household survey showed that most of the respondents (around 69 per cent) were internally displaced in Syria prior to becoming refugees in Lebanon (UN-Habitat and UNHCR, 2019). This may explain why it was not until 2013 that displacement to Lebanon reached its peak despite the start of the conflict in Homs in 2011.

**Property ownership and documentation**

While almost 85 per cent of Homs residents owned property (according to the 2004 census), only 58 per cent had official ownership titles, such as cadastral or notary documentation, or court orders (UN-Habitat, 2014). The regularization of informal settlements, which was finalized in 2010, increased the proportion of residents with formal ownership documentation, and at least 80 per cent of residents in such areas obtained a property title (UN-Habitat, 2014). Despite the high rate of ownership in the city, providing supporting evidence is hampered by the loss, destruction or inaccuracy of relevant documents, and the multiplicity of actors involved in issuing HLP documentation.
In 2014, Homs City’s municipal records (also called temporary records) were destroyed, leading to the suspension for a period of two years of procedures, such as the issuance of property extracts and registration. Furthermore, the Legislative Decree 11/2016 suspended the issuance of records of real estate transactions in opposition-held areas and created a supplementary registry at the government-run General Directorate of Cadastral Affairs (GDCA) for the registration of such transactions (Yazigi, 2017). Thus, many of the sales operations that took place in opposition-held areas during the two-year period and following the Decree issuance could not be legally recorded, which are likely to result in future property disputes (UN-Habitat and UNHCR, 2019).

According to the 2017 UN-Habitat–UNHCR Lebanon household survey, the vast majority (nearly 70 per cent) of surveyed refugee households from Homs are homeowners in the city. On average, only around 1 per cent of surveyed households reported having lived in informal settlements in Homs, due to the 2007–2010 regularization campaign.

The average tenancy rate in all surveyed households is almost 17 per cent, covering rental contracts that date from both before and after 2000. On average, 9.2 per cent of the surveyed households possess a regular rental contract (post-2000), and 7.9 per cent have a long-term lease agreement or a pawn agreement (pre-2000). Such leases can be residential or commercial, and they are widely used in the Old City of Homs. Almost 12 per cent of the surveyed households lived in a house with the consent of the owner without being neither the tenant nor the owner.

70% of surveyed households from Homs residing in Lebanon are owners in Homs.

17% are tenants — 9.2% possess a regular rental contract (post-2000), and 7.9% have a long-term lease agreement or a pawn agreement (pre-2000).

A limited number of the surveyed respondents (16.5 per cent) stated having an additional property in the form of land (41.3 per cent), shop or workshop (41.3 per cent) or housing accommodation (30.6 per cent). In the context of Homs, tenancy seems to show that financial means were available to rent in a good neighbourhood. However, this might have changed given the sharp devaluation of the Syrian pound and the ongoing financial crisis in Lebanon.

Although 75.4 per cent of the surveyed households reported having at least one type of HLP documentation before the conflict (55.7 per cent of whom had permanent/cadastral records, known as “green tabu”), only 32.5 per cent still retained some kind of documentation at the time of the survey. Less than 2 per cent of the surveyed households sold their property just before or upon their departure from Homs. Among the refugees who reported being tenants, 8.6 per cent had a lease agreement before the conflict and only 1.2 per cent still holds documentation (UN-Habitat and UNHCR, 2019).

**Figure 5 |** Distribution of property types among the 16.5 per cent of household survey respondents who indicated having an additional property

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing accommodation</td>
<td>30.6%</td>
</tr>
<tr>
<td>Shop or workshop</td>
<td>41.3%</td>
</tr>
<tr>
<td>Land</td>
<td>41.3%</td>
</tr>
</tbody>
</table>

Respondents were able to report more than one option.

*Source: UN-Habitat and UNHCR (2019)*
However, the documents serving as lease evidence may now be of a lesser value, considering the high level of property destruction in Homs City and given the fact that, by virtue of law, when rented property is destroyed, the lease contract automatically ends (Article 537/1 of the Syrian Civil Code [SCC]), putting tenants at risk of homelessness, as explained by a judge in a KII.

The pre-war tendencies not to update ownership records following an inheritance case will make dispute resolution and restitution (or compensation) more complicated, as owners’ names may not appear on property records. The high level of destruction in Homs has led authorities to assert that certain neighbourhoods cannot be opened to return before they are completely demolished and reconstructed.

The pre-war tendencies not to update ownership records following an inheritance case will make dispute resolution and restitution (or compensation) more complicated, as owners’ names may not appear on property records. However, only a rather low proportion of the surveyed households (10.7 per cent) indicated having an unresolved inheritance case, linked mostly to inheritance from parents; 21 per cent were women and 13.6 per cent had initiated a legal action to address the issue prior to the war (UN-Habitat and UNHCR, 2019).

**Level of property damage and destruction**

One fourth of the surveyed households did not have any information on the status of their property. Among those who did, nearly 61 per cent reported that their property was either destroyed or uninhabitable, and around one third stated that it was damaged but inhabitable. The findings of the household survey correspond to those of the UN-Habitat rapid damage assessment (RDA) of 2017, which pointed out that 57 per cent of the Homs housing stock (183,000 units) had been affected by the war – 36 per cent (66,000 units) had been destroyed and 21 per cent (40,000 units) partially damaged (Syrian Echoes, 2017). Many neighbourhoods (21 out of 36) are no longer functional in terms of access to housing, services, economic activities, and overall infrastructure.

Moreover, the RDA reported that 72 per cent of the city’s commercial infrastructure had also been affected, out of which 31 per cent was destroyed, notably in the Old City. Destinations have severely compromised the city’s economic activity and its ability to provide livelihood opportunities, the second key condition (after security) for Syrian refugees to consider return, as explained above (UN-Habitat and UNHCR, 2019).

75.4% of surveyed households reported having at least one type of HLP documentation before the conflict. Only 32.5% still retained some kind of documentation at the time of the survey.

57% of the housing stock in Homs has been affected:
- 36% is destroyed
- 21% is partially damaged

Civil documentation in support of HLP rights

- **National ID:** The vast majority (92.2 per cent) of the surveyed refugee households are still in possession of their national ID card. The family booklet, documenting marital status and parental identity, is held by 69 per cent of the surveyed households, but it is not updated.

- **Marriage documentation:** Only 20.4 per cent of the respondents are in possession of their marriage certificate. However, many respondents hold other documents proving their marriage, such as a family booklet or a family civil extract. Divorce verdicts also have implications on the wife’s HLP rights, although this information was not separately collected in the survey.
15.1% of the surveyed refugee households reported that they have lost a parent, spouse or sibling since the beginning of the conflict. 60% did not have any official documents registering the deaths.

- **Death certificates**: Of the surveyed refugee households, 15.1 per cent reported that they have lost a parent, spouse or sibling since the beginning of the conflict in Syria. In almost 60 per cent of the cases, respondents did not have any official documents registering the deaths. This is a serious obstacle to initiating inheritance procedures and a significant risk of losing property rights.

- **Alternative civil documentation**: The breakdown of government structures during the conflict, or the lack of government control over certain areas, paved the way for new institutions to deal with HLP issues in conflict settings. These institutions include civil society actors, such as the Local Administrative Councils (LACs) or religious councils. Using some of the documentation produced by institutions that have emerged during the conflict for the purpose of documenting tenure rights does not necessarily entail a recognition of these institutions’ legitimacy, but could rather be seen as a way to collect as much evidence as possible, thus providing some type of evidence in support of restitution or compensation (UN-Habitat and UNHCR, 2019). Further, the issuing of civil documentation by Lebanese authorities could also help bridge the documentation gap faced by Syrian refugees.

**Fraudulent sales and forgery of documents**

FGD participants reported that they were informed about the sale of their empty property by strangers using forged documents. As mentioned above, the household survey targeting Syrian refugees from Homs indicated that less than 2 per cent of respondents sold their property just before or since their departure from Homs. This suggests that a significant number of refugees’ property sales that occurred during the conflict were likely to have been fraudulent (UN-Habitat and UNHCR, 2019).
Looting

FGDs also highlighted that displacement was often followed by looting in Homs: Furniture, equipment, kitchen and bathroom fixtures, window frames and pipes were reportedly taken away from empty residential, commercial and industrial properties, rendering them uninhabitable (UN-Habitat and UNHCR, 2019).

Secondary property occupation

FGD participants confirmed the widespread occupation of displaced people’s properties in Homs. Occupation can take various forms: renting, sharing with relatives, occupying with authorization of the owner, squatting (without authorization), as well as living in collective shelters. Free occupation with authorization of the owner represents 30 per cent of the occupation cases of IDPs in Homs, while squatting accounts for 15 per cent, renting 22 per cent and 33 per cent distributed over partially damaged or unfinished properties and collective shelters (UN–Habitat, 2014).

30% of the free occupation cases of IDPs in Homs have the owner’s consent.
15% of the free occupation do not have the owner’s consent (squatting).
22% of occupations are regulated through renting agreements.

Secondary occupation is a source of potential tension between occupants and owners: For eviction, owners need to provide evidence of ownership, which they often are unable to do, and occupants may have their original property destroyed or subjected to new urban development plans in their area of origin. When no agreement can be reached, relations can rapidly become hostile and result in forced evictions (UN–Habitat and UNHCR, 2019).

Expansion of informal settlements

The expansion of informal settlements persisted throughout the conflict, especially in Homs. In 2014, 12 informal settlements covered 59 per cent of the city’s surface, providing 42 per cent of the city’s housing stock (UN–Habitat, 2014). Owners of informal housing built during the conflict are likely to have weak tenure rights and to lack ownership documentation, increasing their exposure to evictions and lack of adequate compensation in the event of expropriation, particularly if the area is subject to new urban plans (UN–Habitat and UNHCR, 2019).

Informal settlements covered 59% of the city’s surface, providing 42% of the city's housing stock.

Knowledge of HLP situation in Homs

FGD participants were well informed of property violations in Homs in general and obstacles to return in particular. They reported instances of looting, occupation, sales under duress, fraudulent sales and falsification of ownership documents.

Household survey respondents had limited information regarding the occupation of their own property: Nearly 27 per cent had no knowledge (or did not wish to answer) whether or not their property was occupied, and over 60 per cent believed it to be unoccupied (UN-Habitat and UNHCR, 2019). FGDs reflected refugees’ concerns regarding the possible profiles of their property occupants who might have connections with the government or militias.

Should any possible property dispute arise upon return, the majority of respondents indicated they would first resort to a court or attorney, then to a municipal complaint office or a counselling service. On average, 30 per cent of the respondents were confident that the documents in their possession were sufficient to restitute their property, although less than a third of the respondents still had some sort of documentation (UN–Habitat and UNHCR, 2019).

In several FGDs, participants mentioned that people were not so worried about documentation because they believed they could retrieve it from other governorates, or because “people of the community know each other [well] and what belongs to whom,” as one participant put it. This relative confidence about the ability to prove ownership rights could be a reflection of either optimism or a clear perception that the obstacles to property restitution are deeper than the mere possession of ownership documentation or the ability to prove ownership (UN–Habitat and UNHCR, 2019).

Gender-related issues

In Syria, women have always been at a disadvantage in terms of their HLP rights due to socioeconomic norms and systems, religious practices and even
discriminatory statutory laws. Shared ownership has not been popular in Syria, and less than 10 per cent of women own property in their name, as mentioned by a key informant in one of the KIIs conducted for the purpose of this research.

**In the absence of a death certificate, it is difficult for women to initiate inheritance, compensation or restitution procedures to protect their property. Even when death is confirmed, the lack of civil documentation (such as identity card and marriage certificate) can limit women’s ability to start inheritance procedures.**

Nearly 21 per cent of the surveyed Homs households are female-headed. Some 30 per cent of them are headed by widows, and 45 per cent by women who are married but live apart from their spouses for various reasons, including husband’s detention or disappearance. In the absence of a death certificate, it will be difficult for women to initiate inheritance, compensation or restitution procedures to protect their property. Even when death is confirmed, the lack of civil documentation (such as identity card and marriage certificate) can limit women’s ability to start inheritance procedures. Among the surveyed Homs households, a significant number (83 per cent) of the female heads of households had at least one document proving their marital status.

The household survey showed that a relatively small number of women have property titles in their name. Women owners represent 19 per cent of female-headed households and 5.5 per cent of all surveyed households. Moreover, 11.5 per cent of married women own the property jointly with their husbands. The household survey indicated that among the 82 per cent of refugees who are married, the rate of polygamous marriages is rather low (2.6 per cent). This is a positive fact as polygamy tends to complicate and limit women’s inheritance rights (UN-Habitat and UNHCR, 2019).

### 2.2 HLP SITUATION OF REFUGEES FROM ALEPPO

**General situation in Aleppo and of Aleppo refugees**

Aleppo is the second largest governorate in Syria, after Homs, with 8 regions, 40 sub-regions, 10 cities (including its capital, the city of Aleppo), and dozens of villages. In 2011, prior to the start of the conflict, the population of Aleppo was estimated at 4,867,000 people. According to UNHCR (2015b), as of the end of March 2015, Lebanon hosted 293,363 refugees from the Aleppo Governorate, out of the 1,192,296 registered Syrian refugees in the country. Aleppo Governorate has been severely affected by the conflict and, since 2012, the city of Aleppo has been divided into government-controlled areas in the west and opposition-controlled areas in the east. Fighting has been ongoing in the governorate since 2012, and, according to the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA)’s Humanitarian Needs Overview (HNO) in the Syrian Arabic Republic, an estimated 2.25 million people were reported to be in need of humanitarian assistance (UN OCHA, 2017). In Aleppo City, more than 600,000 people were in need, while services and infrastructure were no longer functioning in the most affected neighbourhoods of the city (ACAPS, 2016).

As of February 2020, the humanitarian situation across north-western Syria, particularly in Idlib and Aleppo governorates, continued to deteriorate due to ongoing hostilities, putting at risk the lives of 4 million people only in the north-west of the country. Under such circumstances, between December 2019 and February 2020, some 586,000 people fled their homes in north-western Syria (UN OCHA, 2020).

**Projections in relation to return and the situation in Aleppo**

Most participants of FGDs undertaken for this study recognized security as the most crucial factor to consider for returning to Syria. Participants mostly voiced concerns over the risks of murder, arbitrary arrest, torture, military conscription and kidnapping upon return. Other important factors
that they mentioned included access to housing, availability of work opportunities and access to livelihood, access to assistance in recovering their property, justice and rule of law, access to civil documents, and access to education for their children. Refugees were also concerned about the lack of financial assistance to cover the COVID-19 polymerase chain reaction (PCR) test costs required upon entry to Syria and the USD 100 mandatory entry fee to Syria.

The ability to recover property is a significant factor for return. One FGD participant stated that he would not return to Syria unless given all his properties back. Moreover, some participants reported that they would need support to restore their land/properties in order to be able to go back. This concern was shared by a number of participants who reported having heard that none of those who had returned were able to recover their properties. However, participants originating from rural areas were more confident about the recovery of their property in Syria, because “everyone knows who the rightful owner of each [piece of] land is,” as mentioned by one of them.

For most FGD participants, their legal status in Lebanon is not a decisive factor affecting their HLP rights and their perceived ability to recover/protect their property in Syria. Nonetheless, some participants expressed concerns about the possible confiscation of their property in Syria.

The inability to update civil status records in Lebanon was also listed among the primary concerns. The fear of being arrested by Lebanese authorities due to lack of legal residence in the country hampers refugees’ ability to move freely in Lebanon and to access the Syrian Embassy in Beirut to renew their civil documents. In the long term, this also impedes their ability to claim or protect their property in Syria upon return. One participant reported, for example: “Children with no or expired identification papers cannot go back to Syria if peace is restored and thus will not be able to reclaim their inherited land or houses.”

6 Updating their civil status records, such as registering children born in Lebanon and obtaining IDs for them to prevent statelessness.
Access to livelihood and employment opportunities was also mentioned as an important factor for return. Some of the participants reported that the situation was unbearable for those who stayed in Syria, as they had to live without electricity, food and health insurance, or to endure long queues to simply get bread. Those who did not leave in 2011 are doing it right now, some participants reported. They expressed concerns about the availability of work opportunities if they ever return. Similarly, some participants questioned the sincerity of the Syrian Government’s calls for refugees to return to Syria at a time when many people in Syria were jobless. Unemployment concerns appear to be in line with HNO 2019 findings, which reported that out of about 4.9 million potential members of the workforce in Syria (people between 18 and 65 years old), over half were unemployed, and the situation is exacerbated by a severe lack of opportunities to attain employable skills and working capital (UN OCHA, 2019).

**Refugees’ employment in Lebanon**

Participants from rural areas of Aleppo who had worked in farming in Syria reported that they have managed to work in the same field in Lebanon, despite the decline in farming activities in the country. One female participant mentioned that she was working for less than LBP 6,000 per day (less than USD 1 per day at the time of the FGD). Other participants criticized the discriminatory and extremely poor working conditions/opportunities in Lebanon, which they nevertheless had to accept to secure their livelihoods. One participant who was an Arabic teacher back in Syria was now working in fruit cutting in Lebanon, while another one who had obtained a bachelor’s degree in history from the Lebanese University was now working at a restaurant. Most of the participants reported that they would like to go back to their original profession upon return to Syria. Unemployment among refugees in the host country negatively impacts their mental health and deprives them of the necessary resources to pay for adequate shelter or to protect their HLP rights in Syria.

---

7 “Over the past year, Lebanon has gained considerable international media attention for its cruel treatment of Syrian refugees; including deportation, eviction, labour exploitation, legal exclusion, and lack of provision of basic services” (Mhaissen and Nasser-Eddin, 2020, p. 6).
HLP situation in Aleppo and HLP issues identified by Aleppo refugees

HLP issues were identified in 95 per cent of the surveyed sub-districts (UN OCHA, 2016). The most commonly reported HLP issues in Aleppo’s sub-districts included damage to property (82 per cent), unclear or constantly changing HLP regulations (68 per cent), unlawful occupation of property (63 per cent), no access to property due to lack of funds (61 per cent) and looting of private property (61 per cent) (NRC, 2017c).

In 2017, the Norwegian Refugee Council (NRC) carried out a joint assessment of the main HLP challenges faced by IDPs in the north-west of Syria with the aim of improving the understanding of the HLP and civil documentation environment in non-government-controlled areas (NGCAs) of Aleppo and Idlib governorates. Key findings of that assessment (NRC, 2017c) are described below:

- **Weak protection of property left behind:** Of surveyed households, 41 per cent reported destruction or damage to property beyond repair. Only 25 per cent of households had a property deed, and only 30 per cent of those with a court decision as proof of ownership still had the documents in their possession and in good condition.

- **Insecure tenancy:** Of surveyed households, 26 per cent reported having a written tenancy agreement for their current accommodation, 15 per cent had the option to remain in current accommodation for the following three months if they wanted, 11 per cent cited forcible eviction, and 92 per cent had been displaced for the previous 13 months for security reasons.

- **HLP disputes:** Disputes over inheritance and ownership/rental were the most commonly reported HLP disputes by surveyed households.

- **Limited access to civil documentation and registration:** Of surveyed households, 6 per cent had access to government-issued civil documentation, only 51 per cent of children under five years old were listed in the family booklet, and 13 per cent of births were undocumented.

6% of surveyed households had access to government-issued civil documentation.

Only 5% of children under five years old were listed in the family booklet and 13% of births were undocumented.

Most of the above-mentioned HLP issues were addressed during the FGDs UN-Habitat conducted in December 2020 with Syrian refugees from Aleppo currently living in Lebanon for the purposes of this study. The key findings of the FGDs are summarized below.

**Property ownership and documentation**

Almost all FGD participants from Aleppo owned property in their area of origin, except for two who were living in rented property before displacement. FGD participants owned different types of property, such as houses, agricultural or farming lands, etc.

Furthermore, participants held property documents with different levels of tenure security: Some had official property documents, such as the green or blue tabu (title deed) or a record issued by the government; others had only a paper from a mayor attesting their land ownership. Some had no property documents at all.

Participants from rural areas of Aleppo explained that in rural communities, it was not the norm to have property documents, because they were only entitled to use or dispose of the land they were harvesting.

In particular, participants from rural areas of Aleppo explained that in rural communities, it was not the norm to have property documents, because they were only entitled to use or dispose of the land they were harvesting. However, some of them were able to buy the agricultural land from the Syrian State and obtain a tabu thereof, or to rent it through official rental agreements signed by the state. Participants explained that some of the agricultural landowners who built their home on their land were unable to have documents proving the ownership of the house. The conflict in Syria has weakened customary land rights as a result of traditional communities’ displacement and resettlement of new people, who in turn had also been displaced.
from other areas in Syria. In addition, a number of the FGD participants, particularly women, reported that their property documents were lost, damaged or registered in the names of their male relatives. These findings corroborate the findings from the 2017 NRC assessment in north-western Syria (NRC, 2017c), revealing weak protection of property left behind due to the lack of relevant documents.

Furthermore, the FGD participants’ knowledge of the different types of HLP documents varied: Some were knowledgeable about almost all the different records, while others did not know the difference between various types of property documents. Such a finding highlights the need for awareness-raising among refugees about different types of property documents and legal implications thereof.

While some FGD participants trusted that if property documents were available, they would be able to recover their property, most of them expressed concerns and doubts about the importance of documentation to recover their property. They reported various reasons behind such concerns: total destruction of the property; government confiscation; inability to return; inability to dispose of property because of blacklisting by the government; lack of fairness; non-recognition of property documents by the government; forgery of property documents by occupants; and lack of assistance to recover the property, particularly for women who do not have a male family member (i.e. a husband or son) to defend their property rights and process the papers as needed. The findings from these FGDs and those derived from Homs FGDs suggest that the obstacles to property restitution are deeper than the mere possession of ownership documentation or the ability to prove ownership.

The obstacles to property restitution are deeper than the mere possession of ownership documentation or the ability to prove ownership.

Level of property damage and destruction

According to the World Bank’s damage assessment carried out between December 2014 and February 2017, Aleppo was the most affected of the assessed cities (Aleppo, Idlib and Hama), accounting for roughly 80 per cent of the total estimated damage, ranging between USD 7.8 billion and 9.4 billion as of February 2017. More specifically, housing accounted for the highest estimated damage in the three cities (USD 4.5–5.5 billion), followed by energy infrastructure (USD 1.8–2.3 billion) (World Bank, 2017a). The World Bank’s findings are supported by another damage assessment conducted by REACH between 2015 and 2018, using satellite imagery analysis carried out by the United Nations Institute for Training and Research.

Figure 9 | Most commonly reported HLP issues in Aleppo’s sub-districts

<table>
<thead>
<tr>
<th>HLP ISSUES</th>
<th>PERCENTAGE*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Damage to property</td>
<td>82%</td>
</tr>
<tr>
<td>Unclear or constantly changing HLP regulations</td>
<td>68%</td>
</tr>
<tr>
<td>Unlawful occupation of property</td>
<td>63%</td>
</tr>
<tr>
<td>No access to property due to lack of funds</td>
<td>61%</td>
</tr>
<tr>
<td>Looting of private property</td>
<td>61%</td>
</tr>
</tbody>
</table>

Respondents were able to report more than one option.

Source: NRC (2017c)
United Nations Operational Satellite Applications Programme (UNITAR-UNOSAT) on 16 selected Syrian cities, which showed that the number of damaged or destroyed buildings in Aleppo (35,722) was the highest of all other assessed Syrian cities (REACH, 2019).

Most of the FGD participants reported that their property was either destroyed or burned. Some of them mentioned that their entire area was razed to the ground and rendered beyond recognition. One participant mentioned that their agricultural land with 500 olive trees was all burned, and that the water wells to irrigate the plantations had been backfilled, while another participant mentioned that their land and wheat crops had been torched.

The high level of property destruction reported by surveyed participants is compatible with the findings of the damage assessments by the World Bank (2017a) and by REACH (2019), mentioned above. See the section titled “General Situation in Aleppo and of Aleppo Refugees” above.

Secondary property occupation

FGD participants reported widespread secondary property occupation in Aleppo. This is manifested through relatives, neighbours or strangers occupying the land and farming it, friends and trusted acquaintances staying in the land with authorization of the owner, squatting, land rented out to strangers by the occupant without consent of the owner, property ownership forging and strangers settling in the property, and property confiscated and rented out to a third party with rent being paid to the government.

Secondary occupation of property (including illegally) is common across Syria and will likely result in a big number of claims and HLP disputes when IDPs and refugees will return to their areas of origin. This underscores the importance of the existence of functioning dispute resolution mechanisms, where legal safeguards and redress are available (NRC, 2016a).

Civil documentation in support of HLP rights

Lack of civil documentation was also reported as an issue in 95 per cent of surveyed sub-districts in Aleppo Governorate (UN OCHA, 2016). The main reported reasons included the lack of available services providing civil documents (79 per cent), no access whatsoever to civil documentation (74 per cent), unaffordability of civil documentation (74 per cent), and loss of civil documentation (66 per cent) (NRC, 2017c).

See the section titled “General Situation in Aleppo and of Aleppo Refugees” above.
Confidence in the legal system to resolve HLP challenges

Most of the FGD participants did not have confidence in the Syrian legal system to assist them in recovering their property or obtaining fair compensation for their loss, especially given the fact that the conflict is not over yet. Only one female participant mentioned that she trusted the court system to assist her in the recovery of her property, as long as the documents were available. The general feeling echoed by the FGD participants was that the judiciary in Syria was notoriously partial and manipulated by the executive power. Some of them emphasized the weak status of the judiciary.

Some of them also said they did not know how to access the judiciary for assistance to resolve their HLP issues. One of the main obstacles impeding access to justice in Syria is that the country houses judicial entities whose decisions come into effect only in specific areas. In most cases, people make their way to judicial entities in regions that are under the control of different groups, instead of those in their places of origin. As such, courts accessible in areas of displacement cannot help address HLP violations suffered in areas of origin (ILAC and IBJ, 2020).

Knowledge of HLP situation in Aleppo

FGD participants were kept informed about the state of their property, violations thereof, and obstacles to return. They did so through family members who remained in Syria, neighbours, trusted acquaintances, or other refugees who had returned to Syria. Some of the participants did not reveal how they accessed information about their properties in Syria. Some participants reported that their land had been confiscated by tribal lords or by the government, taken and rented out to foreigners (i.e. people who are not from Syria or do not originate from the area), or occupied by neighbours. Some participants also reported being informed by their families and friends that the abandoned lands will be seized.
Respondents were able to report more than one option.

**Figure 12 | Damage levels in Aleppo City**

![Damage levels in Aleppo City]


**Figure 13 | Main reasons for lacking civil documents in Aleppo’s sub-districts**

<table>
<thead>
<tr>
<th>Reason</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unavailable services providing civil documents</td>
<td>79%</td>
</tr>
<tr>
<td>Civil documentation had never been accessed</td>
<td>74%</td>
</tr>
<tr>
<td>High cost of civil documents</td>
<td>74%</td>
</tr>
<tr>
<td>Loss of civil documents</td>
<td>66%</td>
</tr>
</tbody>
</table>

Respondents were able to report more than one option.

Source: NRC (2017c)
Gender-related issues

The registration of women’s properties under the names of their male relatives is among the important HLP challenges faced by women in Syria, as mentioned above when analysing the Homs case. One female FGD participant from Aleppo mentioned that her property was registered under the name of her father, who kept her relevant documents in his possession in Syria. This is a common practice that was also reported by an NRC survey in 2017, where 70 per cent of surveyed refugee households in Lebanon, Jordan and Iraq declared that their property was registered in somebody else’s name (NRC, 2017a). If the father of the above-mentioned female FGD participant dies, she will risk losing her property and inheritance in case the heirs refuse to acknowledge that the property under her father’s name was in fact hers and nobody else’s. The vulnerability of women with respect to their inheritance rights is compounded by the Syrian law, which gives men larger inheritance share on mulk land, and by customary practices, which disfavour female inheritance. The law gives men and women equal inheritance rights to amiri land, but this is seldom achieved in practice. Traditional norms promote among women the idea that they do not have any right to their property, as mentioned by one researcher working on HLP issues who was interviewed for the purposes of this report.

The fact that women do not register their property under their own names has serious implications on their ability to protect their property. In the event of a property being occupied by squatters or family members, a woman – albeit being the real owner of the property – is unable to recover it, as the claimant must be mentioned on the property documents. Moreover, a female landowner whose name does not appear on the property document is incapable of concluding any land-related transaction (sale, rent, etc.), as only the official landowner is allowed to do so.

9 Syrian law applies Sharia (Islamic law) for inheritance of all Muslim Syrian citizens.
10 Land categorized as mulk falls within the administratively delineated built-up areas. Mulk land can be fully owned (NRC, 2017d).
11 In the Syrian context, an example of a discriminatory HLP law, norm or practice is the common practice of not including the names of women in HLP documentation, which limits women’s right to HLP assets accumulated during the marriage, upon divorce, or death of the spouse (NRC, 2017c).
12 Land categorized as amiri is a publicly owned land (NRC, 2017d).
2.3 HLP SITUATION OF REFUGEES FROM RURAL DAMASCUS

General situation in Rural Damascus and of Rural Damascus refugees

Rural Damascus Governorate is situated in the southern part of Syria. It is administratively divided into 9 regions, 27 sub-regions, 28 cities, 190 villages and 82 farms (Electronic Government of Syria). In 2011, prior to the start of the conflict, the Rural Damascus population was estimated at 2.836 million. According to UNHCR (UNHCR, 2015b), Lebanon hosts 163,614 refugees from Rural Damascus Governorate, out of the 1,192,296 registered Syrian refugees in Lebanon.13

Eastern Ghouta, at the centre of Rural Damascus,14 was a stronghold for non-state armed groups (NSAGs), thus sustaining extensive destruction of civilian property and infrastructure due to the warfare between the GoS army and NSAGs.

It is estimated that over 158,000 people were displaced from the area of Eastern Ghouta, with 92,000 people evacuated and accommodated by UNHCR in overcrowded conditions in eight IDP collective shelters in Rural Damascus, namely Harjellah, Adra School, Adra Electricity Complex, Najha, Al Nashabiyeh, Dweir, Fayhah Al Sham, and Akram Abu Nasser, and 66,000 others relocated towards northern Syria (Idlib and northern Aleppo) as part of “local agreements” (UNHCR, 2018b; UN OCHA, 2019).15

Projections in relation to return and the situation in Rural Damascus

Similar to refugees from Homs, key factors that Rural Damascus refugees consider before deciding to return to Syria are safety and security. All Rural Damascus refugees in Lebanon who participated in FGDs for the purposes of this report found these two factors crucial. However, female participants claimed that access to health care was their top priority. Access to housing, education, livelihood and basic services, as well as exemption from mandatory military conscription and amnesty were all reported to be important for participants.

Figure 14 | Map of Rural Damascus Governorate


13 Total number of registered Syrian refugees in Lebanon as of the end of March 2015, according UNHCR (2015b).
15 The term “local agreements” refers to agreements reached between the GoS and NSAGs, sometimes facilitated by local or international third parties, and are related to specific localities. The United Nations is not a party to these agreements (UN OCHA, 2019).
Some other FGD participants mentioned the ability to recover occupied property as a significant precondition for return. One participant highlighted this issue by comparing the situation of Syrian refugees to that of Palestinian refugees. Further, participants were informed about the difficult living conditions in Syria, including the high cost of living and energy shortage. According to some participants, many of those who returned to Syria want to come back to Lebanon.

Participants were concerned about their inability to access the Syrian Embassy in Lebanon – due to lack of legal residency in the country – to update their civil status and to register their children in order to secure their inheritance rights in Syria. The cost for processing civil documents (birth certificate, ID renewal, etc.) at the Syrian Embassy was also reportedly a barrier for many participants.

Furthermore, most of the participants reported that their employment status appeared to be on a downward trend since their displacement and settlement in Lebanon. Many factors were reported in this regard. One such factor is related to Lebanese regulations that make it difficult for Syrian refugees to obtain work permits, thus compelling them to accept any income-generating activity to survive even if they are overqualified or had better jobs in Syria. The devaluation of the Lebanese Pound was a further complicating factor to the lack of adequate employment, as mentioned by participants.

### HLP situation in Rural Damascus and HLP issues identified by Rural Damascus refugees

Findings from the FGDs with Rural Damascus refugees conducted for this study as well as from NRC (2017d) suggest that HLP rights and civil documentation concerns are widespread among Syrian refugees and IDPs from Rural Damascus.

#### Property ownership and documentation

Most of the FGD participants from Rural Damascus, except for three female participants who did not own property and one tenant male participant, indicated that they had land or property in Syria before they left, owned either by their parents or by themselves (directly or by inheritance). One female property owner who participated in an FGD indicated that her property was registered under her father’s name.

The majority of the FGD participants from Rural Damascus indicated that they had land or property in Syria before they left, owned either by their parents or by themselves (directly or by inheritance).

Regarding the type of HLP documentation, FGD participants stated they had one of the following property documents: rental contract, sales contract,
sanadat tamlik or green tabu. All female FGD participants, except for three, claimed their HLP documents had been stolen or damaged during the conflict. One of the three had brought along her property documents to Lebanon, and two claimed that their property documents were still held by their parents in Syria. Moreover, two FGD male participants indicated that they had lost their property documents (sale contract) – one had left them in Syria with his mother who passed away since, and another shared property with his siblings who themselves kept the documents. A 2017 NRC survey, which aimed to identify key HLP rights and civil documentation issues faced by IDP households living in southern Syria (accessible parts of Dara’a and Quneitra governorates), also found widespread loss or destruction of property documents. The survey covered 734 households, comprising 467 male and 267 female respondents. The majority (102 by count) of surveyed IDP households from Rural Damascus who had property documents before the conflict reported that those documents were lost or destroyed, and only 13 surveyed IDP households still had their property documents in good condition (NRC, 2017d).

The FGD participants’ level of knowledge of the various types of HLP documents varied. The only female participant who mentioned that she had property registered under the name of her father (mentioned above) said that the property document was a green tabu. The other female participants were unaware of the difference between various property documents and the legal implications/effects thereof on their ability to recover their property.

**Level of property damage and destruction**

All FGD participants were aware of the status of their property. Two male participants indicated that their houses in Syria had been destroyed, and five said their houses had been either demolished or burned. Female participants’ feedback regarding the status of their property ranged from being still habitable to being destroyed, stolen or occupied. The high amount of property destruction reported by FGD participants matches the findings of internationally reported damage assessments in Rural Damascus. According to NRC’s findings, it also appears to be in line with NRC’s findings, according to which 50 per cent

---

**Figure 16 | Number of people whose tabu was lost or destroyed, by governorate of origin (based on a household survey targeting 734 households)**

<table>
<thead>
<tr>
<th>Governorate</th>
<th>Lost or destroyed</th>
<th>Currently present and in a good condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dara’a</td>
<td>354</td>
<td>45</td>
</tr>
<tr>
<td>Rural Damascus</td>
<td>102</td>
<td>13</td>
</tr>
<tr>
<td>Quneitra</td>
<td>60</td>
<td>5</td>
</tr>
<tr>
<td>As-Sweida</td>
<td>11</td>
<td>0</td>
</tr>
<tr>
<td>Homs</td>
<td>14</td>
<td>0</td>
</tr>
<tr>
<td>Other governorates</td>
<td>13</td>
<td>0</td>
</tr>
</tbody>
</table>

16 Tabu or sanadat tamlik (the plural of sanad tamlik— a technical term for a title deed) are the same.
17 See, for example, the above section titled “General Situation in Rural Damascus and of Rural Damascus Refugees.”
of respondents reported that their homes were destroyed or damaged beyond repair (NRC, 2017d).

**50% of respondents reported that their homes were destroyed or damaged beyond repair.**

According to the damage assessment carried out by REACH between 2015 and 2018 using UNITAR-UNOSAT’s satellite imageries of the Rural Damascus area, the number of buildings damaged or demolished in the Eastern Ghouta alone (34,136 units) was greater than that in other assessed Syrian cities (15 in total) and ranked only second to that in Aleppo (35,722 units) (REACH, 2019).

**Civil documentation in support of HLP rights**

An assessment of children’s protection needs in Syria, carried out in 2018 in 160 communities (66 per cent of which are in Rural Damascus), showed that in 83 per cent of the assessed communities, respondents asserted that the lack or loss of civil documentation was an issue of concern. Adolescent boys (74 per cent) and adolescent girls (72 per cent) were considered as the most affected child population groups by lack or loss of civil documentation. Unregistered children may face difficulties in accessing basic services and enjoying their rights (including health, education and freedom of movement), and they can be at risk of statelessness (WoS Child Protection AoR, 2018).

**Secondary property occupation**

Property occupation was also tackled in the FGDs. One participant claimed that their house was occupied by a person who is working for the government and who had forged their property documentation.

**In 83% of assessed communities (66% of which are in Rural Damascus), respondents asserted that lack or loss of civil documentation was an issue of concern. Unregistered children may face difficulties in accessing basic services and enjoying their rights (including health, education and freedom of movement), and they can be at risk of statelessness.**

**Figure 17 | Damage levels in Al Zabadani City**

Source: UNOSAT-UNITAR (2018). Map prepared by UN-Habitat
documents. Another female participant indicated that her property was occupied by a person strongly connected to the government whom she could not evict despite assistance from her brother (a lawyer).

Another participant claimed that her house was occupied (stolen) by unknown people. Two male participants reported that their property was occupied by squatters, and one said his house was inhabited by his neighbours with his own consent.

Confidence in the legal system to resolve HLP challenges

One of the key reported factors for return to Syria is the FGD participants’ confidence in the legal system as a prerequisite for successful property restitution and compensation upon return. All participants expressed mistrust in the ability of the judiciary in Syria to fairly process their claims for property recovery and compensation, except for one who showed greater confidence in the judicial system than in other state institutions. Issues like corruption, fear of retaliation by biased judges, lack of capacity of the existing regime to administer an equitable and effective justice system, inability of the judiciary to organize and process claims, and weak rule of law were all brought up participants to justify their lack of confidence in the current legal system.

Most participants expressed concerns about not being restituted or not receiving compensation for their damaged or destroyed property, due to either lack of trust in the judiciary or loss of their property documents. Even in the event of compensation, many said they would prefer an alternative house rather than monetary compensation, given the sharp devaluation of the Syrian Pound.

Knowledge of HLP situation in Rural Damascus

Most of the FGD participants were kept informed about the status of their property, violations thereof and obstacles to return, either through contacts with their family members, neighbours or friends still living in Syria, or through social media, such as Facebook.

Some of the FGD participants reported having learned about urban planning projects in their areas of origin, which would prevent access to their properties. One female FGD participant claimed that she would be unable to have access to her property, as the area was sealed off by the government for urban planning and private construction projects (Daraya and Ghouta), although she was not sure about it, she added. A male participant claimed that a plan to subdivide the land and sell shares was under way in his area (Kadam). Another one claimed that the area near the airport was undergoing a mass eviction process for a new construction plan that was devised prior to the conflict. Moreover, most of the female participants indicated that their
property was either stolen or occupied by unknown people. One male participant said his house was occupied by squatters and another reported his house being occupied by unknown people. Only a few participants did not have any information about HLP-related matters in their place of origin.

Participants gave mixed feedback on the perceived importance and relevance of property/civil documentation for them to access or recover their property in Syria. One male participant mentioned that as long as his children were not registered in the Civil Registry, they would be denied property inheritance or ownership. Participants further expressed concerns about their inability to access the Syrian Embassy in Beirut – due to the lack of legal residency status in Lebanon – to register their children and safeguard their inheritance rights in Syria. Even for refugees who said they are able to access the Syrian Embassy, the costs they have to incur to obtain their property documents are too high. One female participant indicated that property/civil documentation become less important for property recovery if the owner is in the first place denied access to the property area; returning would hence be impossible, as the government’s requirements for document preparation are too complicated.
Findings from the multiple FGDs conducted with Syrian refugees in Lebanon show that refugees do not perceive HLP issues as stand-alone challenges. As such, other factors that come into play include refugees’ personal safety, access to livelihoods and basic services, income-generating opportunities, children’s education, justice, rule of law and health care, among others.

### 3.1 MAIN HLP CHALLENGES FACED BY SYRIAN REFUGEES IN LEBANON

#### Access to and condition of the property

Most of FGD participants expressed concern about the condition of their property and its accessibility in Syria. These concerns revolve around property destruction or uninhabitability, unavailability of property documents, forced eviction, confiscation by the government, squatting, inability to access the area where the property is located due to security reasons or to reconstruction and land development, among others. Even refugees who were more confident about their ability to access and regain possession of their property in rural areas because “everyone knows who the rightful owner of each land is,” as one of them put it, incur the risk of permanently losing their property due to the destruction of the area or torching of the land. Contamination of land by explosives has also been reported as a cause for lack of access to land and private property in some areas, like Raqqa (IMPACT Initiatives, 2018). Based on a protection needs assessment done by the Whole of Syria (WoS) Protection Sector (2017), agricultural lands are reported to be contaminated with explosive hazards in 33 per cent of the assessed communities, with 90 per cent of all assessed sub-districts somehow affected. Private property is reported to be contaminated with explosive hazards in 17 per cent of the assessed communities, affecting 3 million people.

Refugees’ concerns about their ability to access their land and the condition of their property have been corroborated by the damage assessment findings of various local and international stakeholders. The World Bank (2017b) estimates that 27 per cent of the country’s housing stock has been impacted by the conflict, with 7 per cent of housing destroyed and 20 per cent partially damaged. Further, damage estimates using satellite imageries confirm the high level of property destruction in Homs City, Aleppo and Rural Damascus. Concerns regarding access to and condition of the property are widespread among refugees from all governorates. The 2017 Syria HNO identified HLP rights as a protection issue in 93 per cent of surveyed sub-districts. Concerns related to damages to land and property as well as looting of private property were reported as high frequency HLP issues, while other widely reported issues included unlawful occupancy, unaffordability or unavailability of housing, or restrictions on access to property (UN OCHA, 2016).

In 33% of the assessed communities, agricultural lands are reported to be contaminated with explosive hazards, with 90% of all assessed sub-districts somehow affected.

Private property is reported to be contaminated with explosive hazards in 17% of the assessed communities, affecting 3 million people.

27% of the housing stock in Syria is damaged.
- 7% is destroyed
- 20% is partially damaged

---

18 The assessment covered communities in 254 sub-districts out of 272 sub-districts across Syria. For more information, refer to WoS Protection Sector (2017).
19 For information about housing damage assessments, see sections “General Situation in Homs and of Homs Refugees,” “General Situation in Aleppo and of Aleppo Refugees” and “General Situation in Rural Damascus and of Rural Damascus Refugees” above.
Secondary occupation cases in Homs City have been confirmed by FGDs conducted as part of the study by UN-Habitat and UNHCR (2019) and by the FGDs carried out in Lebanon for the purposes of this report in December 2020 with Syrian refugees from Aleppo and Rural Damascus. Refugees with expired lease contracts (concluded after 2001) or whose rented houses were destroyed will lose the rights by law over their rented property upon return to Syria.\footnote{20}

Many Syrian refugees in Lebanon reported the loss, destruction or falsification of their HLP documents, and the loss of their civil documents. The repeated displacement of Syrian refugees from Homs City before arriving in Lebanon is the main reason behind the loss of their property and civil documents, in addition to their inability to access the Syrian Embassy in Beirut and the lack of financial means to renew their civil documents.

Access to legal documentation

Access to legal documentation includes HLP documents, civil documentation, and the ability to demonstrate legal identity, which is essential to proving HLP rights, such as when filing HLP claims in the courts, or otherwise engaging in dispute resolution.

FGD participants reported having various types of tenure arrangements, ranging from full ownership and formal rental agreements to temporary housing and land occupation in informal settlements. HLP documents also include unofficial ones issued by de facto authorities during the conflict, such as the LACs or religious councils.\footnote{21}

Before the crisis, a significant proportion of Syrians did not possess legally valid documents certifying their HLP rights. Many people in rural areas relied on customary rights. In addition, people who lived in urban informal settlements do not have formal documents to prove ownership, and they will be returning to informal areas that have not been recorded in official registers. Urban informal settlements account for more than 50 per cent of the housing stock in Syria, and house approximately one third of the urban population, especially in large cities, such as Damascus and its countryside, Homs and Aleppo (NRC, 2016a).

Urban informal settlements account for more than 50\% of the housing stock in Syria, and house \textbf{approximately one third} of the urban population, especially in large cities, such as Damascus and its countryside, Homs and Aleppo.

HLP and personal identity documents are also reported to have been regularly confiscated at checkpoints in Syria, which also raises questions about the willingness of the GoS to allow return and create the conditions for HLP restitution for displaced Syrians. Further, many documents are incomplete, inaccurate, unrecorded or improperly recorded, and of uncertain legal standing\footnote{22} (NRC, 2016a). The destruction during the conflict of some of the cadastral administrative buildings in Damascus countryside, Homs and other governorates might impede the recovery of HLP documents of returning refugees.

Fraudulent sales and forgery of documents are issues of great concern for refugees. During the conflict, many individuals and groups in Syria have taken advantage of the breakdown of institutions and law enforcement to dispose of empty properties and sell them using forged documents (Syrian Echoes, 2017; The Syria Institute and PAX, 2017). Some of these “bad faith” purchases can be followed by “good faith” ones, giving rise to competing ownership claims between the original owner and the purchaser in good faith (NRC, 2016a). Irregular HLP transactions and verification of property documents will remain major issues once the conflict is over, thus affecting the HLP rights of returning refugees.

Access to effective HLP restitution mechanisms

Most of the Aleppo and Rural Damascus FGD participants expressed concerns about the lack of a fair and efficient judicial system in Syria to assist them with the recovery of their property rights or to provide them with fair and adequate compensation. Matters

\footnote{20} For information about different lease contracts, see sub-section “The current legal framework and its capacity to address HLP issues” under section “The HLP institutional, administrative and legal frameworks in Syria” below.

\footnote{21} See the sub-section titled “Civil Documentations in Support of HLP Rights” in the “HLP Situation in Homs and HLP Issues Identified by Homs Refugees” section.

\footnote{22} For example, the pre-war tendencies of owners not to update ownership records following an inheritance, which continued during the war, will complicate restitution and compensation, as their name may not appear on property records. On the other hand, in conflict areas, property transactions continued despite the fact that GoS issued Legislative Decree No. 11 of 2016 related to the suspension of the registration of properties in land registries in conflict areas. The legal standing of property owners from conflict areas is uncertain, namely for those owners who bought the property and still retain it. The issue goes certainly beyond the mere possession of HLP documents; rather, it is more about justice and equity.
evoking considerable concerns for Syrian refugees in Lebanon are the lack of rule of law, unorganized and slow processing of claims, corruption, high cost and lack of legal assistance, discrimination against refugees by judges and the government, the control of the judiciary by the executive power, the impossibility of enforcing judicial decisions against powerful occupants connected with the government, and the lack of access to a trusted mechanism to restore property or receive a compensation. These issues prompted participants to look for alternative solutions. As one participant put it, “everything can be resolved with money, and occupants can be bought out of the properties.” However, most of the FGD participants were not aware of anyone who had been able to repossess his or her property upon return to Syria, despite seeking legal assistance. Participants said they have heard from those who had returned that they rented another house or started building a new house.

There are serious concerns that with around 27 per cent of the housing stock in Syria damaged (World Bank, 2017b), the Syrian judiciary’s capacity to deal with the claims of displaced within and outside the country will present institutional and procedural challenges, as confirmed by a legal expert who was interviewed for this study. A representative of a humanitarian NGO stated in a KII that an efficient and swift mechanism capable of assisting refugees to access and recover their HLP rights in Syria would be important not only for refugees who will end up being internally displaced (secondary or tertiary displacement), but also for the establishment of the rule of law and justice in post-conflict Syria and peacekeeping in the region in general.

HLP-related legislation

Many HLP-related laws and regulations issued during the conflict are likely to have an impact on the HLP rights of displaced Syrians and may influence their and their heirs’ eligibility to property restitution (or compensation). Examples of such legislation include Legislative Decree No. 66 of 2012, Law No. 23 of 2015, and Law No. 10 of 2018, all of which facilitated the expropriation procedures in urban centres, making way for new real estate projects in the context of urban renewal and reconstruction of conflict-affected areas, with no regard to the housing rights of the inhabitants of informal settlements. Law No. 10 of 2018 (related to urban development) was specifically mentioned by FGD participants as an impediment to safeguarding their property, because it includes provisions requiring refugees to personally submit property documents in Syria. Further, Legislative Decree No. 11 of 2016 established the suspension of property registration in land registries closed due to unstable security conditions in the country. Legislative Decree No. 12 of 2016 grants legal status to the digital version of a real estate record, when its preparation complies with certain standards stipulated by the legislative decree. Circular Letter No. 4554/W, dated 4 August 2015 and issued by the Syrian Prime Minister, which is about obtaining a security clearance as a prerequisite for recording any property sale in Syria, has a direct impact on many Syrian refugees in Lebanon (and elsewhere), as they will not be able to hire a power of attorney to claim their HLP rights back. Moreover, if a person does not receive security clearance, their property might get confiscated, as stated by a representative of a humanitarian NGO in a KII.

Even before the start of the conflict in Syria, the complex legal framework related to HLP rights was inadequate and had inflicted undesirable and unfair outcomes on many landowners. FGD participants voiced concerns over their ability to access and recover their property in their areas of origin due to the risks arising from private land expropriation for public purposes with no compensation, which used to occur before the start of the conflict. Despite the constitutional protection of private property, the Syrian Expropriation Law, issued by Legislative Decree No. 20 of 1982, still applicable in Syria, has not fairly compensated owners of expropriated land and failed to return the land to its original owners in cases where the expropriated land has not been used to execute a public interest project, as legally required. Moreover, the applicable legal system in Syria related to proof of land ownership primarily relies on documentary evidence, such as the presence of a tabu (land title deed), which is problematic for many Syrians who do not have formal rights.

3.2 OTHER CHALLENGES FACED BY SYRIAN REFUGEES IN LEBANON

Besides the above-mentioned HLP challenges, FGD participants raised the following additional concerns for Syrian refugees in Lebanon considering return to Syria:

---

23 See Annex 2 for a list of Syrian legislation obstructing the HLP rights of refugees and IDPs.
Safety and security: Almost all the FGD participants considered their personal safety and that of their children as the most important precondition for return. Participants from Homs City feared they would be arrested upon return to Syria, which is making them reluctant to attempt to repossess their property there. Similar fears were echoed by FGD participants from Aleppo and Rural Damascus, who also expressed concerns about coerced military recruitment.24

Access to livelihood or income-generating opportunities in Syria and in Lebanon. Many of the lands and properties that displaced people left behind were shops, workshops, factories, agricultural lands, etc. Access to and restitution of such properties are key for securing the livelihood of returning refugees and IDPs.

Access to basic goods and services, including health-care services in Syria.

Existence of a political settlement to the conflict.

Family separation.

Access to humanitarian assistance by the international community: Some of the participants complained that humanitarian assistance was not distributed to refugees in a fair and transparent manner. Refugees’ assistance needs, as reported in the FGDs, vary and include, among others, the following: help with resettlement; assistance with civil and HLP documentation; provision of alternative shelter (help to repossess/rebuild their property, or to buy/rent a new house); monetary assistance; access to basic services in their host countries; and protection against persecution and discrimination in Syria and Lebanon.

Access to education in Syria, including difficulty to obtain recognition in Syria of educational achievements attained in host countries; limitations related to qualification documentations; lack of access to educational programmes; and, for some, being educated in a language other than Arabic (Regional Durable Solutions Working Group for the Syria Situation, 2019). Further, for those returning to Syria, access to education is also constrained by the fact that many schools are being used as emergency shelters.

Hostile living environments and restrictions on freedom of movement in Syria and Lebanon: Many FGD participants mentioned that they were concerned about the checkpoints set up on the way back to their areas of origin in Syria, and the potential arrest of their children or their recruitment into the army. Refugees also expressed that they are worried about their inability to access the Syrian Embassy in Beirut to renew their civil documentation or process other official documents needed to recover/protect their property in Syria. Some of the FGD participants said they are also worried about raids being carried out by the Lebanese Army on their informal settlements.

Social tension and isolation: One female FGD participant feared she might feel like a stranger upon returning back home, if her stay in Lebanon is further extended. Besides the reconstruction of physical assets – such as housing and infrastructure – whole communities will have to be rebuilt.

Denial of basic human rights and discrimination against refugees in Syria and Lebanon: Some of the FGD participants expressed concerns about the discrimination they may face at the hand of the judges and the GoS. They also voiced concerns about the lack of respect of their basic human rights in Lebanon, in particular the denial of any legal assistance in the event of an arrest by the Lebanese authorities. The discrimination against refugees is also displayed through the miserable working conditions many reported they have to bear with in Lebanon, despite having had training and qualifications back in Syria.

Legislation affecting HLP rights of refugees, such as the Counter-Terrorism Law No. 19 of 2012 (arrest fears) and the recent amendment to the Syrian Military Service Law issued by Legislative Decree No. 30 of 2007 (conscription fears): Although not directly referring to HLP rights, such legislation directly impacts the ability of refugees and their heirs to access their properties and seek justice in Syria.

24 A January 2020 report of the Independent International Commission of Inquiry on the Syrian Arab Republic (established by the United Nations Human Rights Council [UNHRC] in 2011) warned that “civilians in areas retaken by the Government suffered from a general absence of the rule of law. Arbitrary arrests, forced disappearances and detentions continued” to be common practice throughout such areas as Dara’a, Duma and Eastern Ghoutah. The report added: “During the period under review, large numbers of adult men were also detained purportedly for conscription” (UNHRC, 2020, p. 13).
Many FGD participants expressed concerns over the inability of the existing national framework in Syria to address HLP issues in a fair and efficient manner. This section examines the three main national systems relevant to HLP – the judiciary, the land registration system, and the civil registration system – and analyses their limitations and available remedies in the national system.

4.1 THE INSTITUTIONAL AND ADMINISTRATIVE FRAMEWORKS

Judicial system

The Syrian legal system draws from Civil Law traditions as well as Islamic and Egyptian legal traditions. Syria’s judicial system is divided into ordinary judiciary, military and extraordinary judiciary, and administrative judiciary.

The regular courts’ system includes secular and religious courts. The secular courts hear both civil and criminal matters. The lowest level includes the Courts of Peace or Conciliation (Mahakim Al Sulh), the Courts of First Instance (Mahakim Al Bidaya), the Juvenile Courts (Mahakim Al Ahdath) for criminal matters only, and the Customs Court (Al Mahkama Al Jumrukia). The regular courts’ system is overseen by the Supreme Judicial Council (SJC) and the High Constitutional Court that recently issued some verdicts related to HLP rights. The diagram below represents part of the judicial system dealing with HLP matters. Other courts, such as commercial courts, are not included in this diagram.

The military and extraordinary judiciary is overseen by the Ministry of Defense. In 2012, Law No. 22 established the Counter-Terrorism Court (CTC) in Damascus, a special court that uses the overbroad provisions in the Counter-Terrorism Law No. 19 of 2012. The set-up of the CTC was widely criticized by human rights defenders, as it does not observe international fair trial standards, nor due process or human rights (Human Rights Watch, 2013). No retrial is possible once judgments are issued by the CTC against absentee suspects, unless they voluntarily surrender themselves to the authorities. The CTC has also wide powers to seize all movable and immovable properties of suspects tried before it. In January 2014 alone, 1,200 cases (with typically two defendants per case) were referred to the CTC, with other reports stating that in May of that same year, 30,000 cases were referred to it. Human rights organizations estimated that the number of arbitrary detainees under the law was around 200,000 in 2015 alone (Stubblefiele and Joireman, 2019).

The administrative judiciary is overseen by the State Council and it is independent from the other courts. The administrative courts decide on disputes between the public administration and individual citizens; this is very relevant for addressing HLP rights, including in case of expropriation.

Limitations of the judicial system

Before 2011, Syria had a somehow functioning judicial system. Its capacity to resolve disputes has been severely affected by the conflict; its fairness and capacity to address the needs of all Syrians on a fair and equal basis has been affected, particularly to the detriment of refugees and displaced people. The main challenges the system faces are the following:

- **Lack of real independence and politicization of the judges:** FGD participants from Aleppo and Rural Damascus mentioned their distrust in the judiciary in Syria due to the interference of the executive power in the court system. They expressed skepticism about its ability to fairly try their HLP cases/process their HLP claims. Moreover, Syrian refugees still worry that they could be harmed on the basis of their political beliefs, as explained by a representative of an NGO working on HLP during a KII. Most judges and prosecutors, if not all, are required to be members of the Baath Party, and are in practice subservient to the political leadership. According to a study by the National Agenda for the Future of Syria (NAFS) programme of the United Nations
Economic and Social Commission for Western Asia (UN ESCWA), before the appointment of any judge, a background security check is carried out by the state intelligence to ensure the incumbent’s loyalty to the political system (UN ESCWA–NAFS, 2018a). During a KII, an HLP expert mentioned: “Even the independent or uncorrupt judges cannot work the way they want, because of the tight control of the executive over the judiciary.”

**Limited expertise of the judges:** Although many Syrian judges are versed into property law, most of them lack knowledge of international Human Rights Law and international law related to HLP. They lack experience in resolving a large caseload of HLP claims or addressing complex contextual HLP legal needs, also because the set-up of the system would not allow the necessary flexibility and has gaps in the legal tools available. During a KII, an expert working for a legal NGO explained that most HLP cases are complex and require training and special expertise for them to be resolved. In the context of displacement, it is essential to understand how to approach cases with secondary occupants (IDPs) who are technically occupying private property but at the same time have their own HLP rights.

**Congested Syrian courts:** Some of the FGD participants from Aleppo and Rural Damascus expressed concern about the lack of efficient mechanisms to expeditiously process their HLP claims. Syrian courts are congested and notoriously slow in rendering verdicts, with cases taking years to be solved. Further, the judiciary in Syria suffers from a very low rate of judges per capita, due to the lack of trained human resources, the state’s weak financial situation, and the scarcity of physical spaces to recruit more judges. Syria is currently suffering from a lack of judges to deal with the significant backlog of cases, let alone to handle new and numerous HLP claims by refugees (UN ESCWA–NAFS, 2018a).
Limited digitalization of the judicial system: The court system in Syria also suffers from limited digitalization, resulting in procedural delays and significant backlog of cases obstructing the judicial system. Digitization of the court system offers the possibility to introduce online workflows to streamline and expedite cases. This involves mapping processes and role identification at each stage (Thomson Reuters Court Management Solutions, 2015). It would support the management of a large caseload of HLP claims more efficiently. Digitization is currently only implemented in civil cases at courts in Damascus countryside and in Sharia courts in the capital Damascus, while the rest of the courts remain undigitized. Sharia courts in Syria perform many important functions related to the HLP rights of refugees, such as assigning a legal guardian for missing persons and minors, authorizing the sale or rent of a minor’s property, determining the inheritance shares in accordance with Islamic Sharia, and issuing inheritance documents, among others. Digitization of all Sharia courts will streamline the process of document issuance, the lack of which is a major concern for many refugees, as revealed in the FGDs feeding this study. Also, the documentation of the verdicts can have the function of HLP documents, especially in informal settlements where court verdicts were used to legalize ownership.

Weak enforcement of final court decisions: The weakened rule of law in the country is another limitation, in particular since the start of the conflict and in the absence of state authorities in many areas of the country. Many FGD participants from Aleppo and Rural Damascus expressed concerns about the lack of rule of law and the courts’ ability to assist them in recovering their occupied property against powerful squatters.

Separate justice systems: Some of the areas outside the control of the GoS have separate justice systems. For example, the justice system in Idlib Governorate is based on Islamic Sharia, while areas under the control of the Syrian Self Administration approved the Social Contract Constitution in 2016 and operate the “Peoples’ Courts” (UN ESCWA–NAFS, 2018a). The multitude of systems within Syria is one of the main challenges, particularly in the context of large-scale displacement, where displaced persons who have moved from one place to another might not be able to solve their HLP issues in the area where they currently reside. In areas under Turkish influence, courts following the Syrian legal system were established. The rule of law is an issue in all areas and types of courts.

Functioning of property courts in a mass displacement context: In Syria, Civil Courts handle various property disputes, mostly subject to the Civil Law, including what was called “Property Law” 3339 dating back to 1930, which has been repealed and replaced by the Civil Code. Property restitution, compensation, lease disputes, secondary occupations, and property destruction are regularly handled by Syrian Civil Courts, but not within a post-conflict set-up, where causes and conditions are different, and the implementation of such laws designed for times of peace could be considered unjust or contingently discriminatory. A new body of transitional justice law would be required. Further, the Syrian judiciary in its current capacity will not be able to cope with massive volumes and complicated matters of civilians dislocated from their property, estimated at about 11.6 million (i.e. half of the Syrian population) (Unruh, 2018).

Property restitution in post-conflict Syria: Property restitution entails various functions, including undoing past injustice and providing an environment conducive to reconciliation, to refugees’ and displaced persons’ return in safety and dignity, and to the achievement of legal clarity (UN-Habitat and UNHCR, 2004). Addressing property restitution in a comprehensive manner is a long-term undertaking that requires political will and significant resources. Collaboration of all national stakeholders and support by the relevant United Nations (UN) agencies and the international community are crucial for the selection of the appropriate mechanisms and processes for property restitution. Such processes need to take into account the post-conflict reality on the ground and apply the Syrian law, after making sure it is aligned with the requirements of a transnational justice process that complies with international human
Promoting and Protecting Housing, Land and Property Rights of Syrian Refugees Living in Lebanon: Towards an Integrated Response

Large-scale property restitution should be addressed within a larger transitional justice framework to include everyone in the reparation process and to avoid discrimination among victims. An adequate allocation of resources and adaption of the reparation process are needed to provide redress to all the victims. The existing capacity of state institutions should also be considered, as the property restitution efforts will always need to rely on the collaboration and input of other established state institutions (Van der Auweraert, 2007). Information about the restitution process should be disseminated both to IDPs in Syria and to refugees in host countries. It is also important to ensure that resources and procedures are accessible to enable the filing of claims also by people living in displacement (UN-Habitat and UNHCR, 2004).

Land registration system

Syrian properties are registered in the Sijel Akaree (Land Registry), inspired by a mixture of the French and Ottoman property systems. In 1858, the Ottoman Land Code introduced a homogeneous property registration system, which meant that a formal deed constituted sufficient evidence of ownership. Since then, the tabu (title deed) has been the most important property document available for Syrians. During the French Mandate period (1919–1946), authorities created a Land Registry for all governorates to enable better property protection and serve as a reliable source of evidence of property transactions. However, the registry does not include land rights outside the planned areas and updating cadastral information is very cumbersome and limiting, thus resulting in incomplete and outdated cadastral records. Furthermore, there is no central national-level registry to accumulate records from different governorates.

Only about half of Syria’s land is registered, with the rest being held informally through a customary ownership system.

Only about half of Syria’s land is registered with the rest being held informally through a customary ownership system (Stubblefiele and Joireman, 2019). Each of the 14 governorates has a Land Registry and a Civil Registry that contain the identification documents necessary for citizens to make a claim to their land (Stubblefiele and Joireman, 2019). However, neither of the registries provides the means to account for land obtained or transferred in the customary system. The loss, destruction or absence of property documents have left many refugees and IDPs unable to prove ownership of land handed down through their family’s succeeding generations. The GoS had acknowledged this loophole before the war began and had embarked on a process of digitalizing newly issued property records in 2010. When the war broke out in 2011, the digitization process got interrupted and some sources report that only a limited number of documents had been digitized, leaving most of the documents available only in hard copies at land registries, while other sources report that most records were scanned and stored in Damascus. Many of the FGD participants from Homs City, Aleppo and Rural Damascus claimed not to hold copies of their property documents ever since having fled their homes.

Their ability to reclaim their property will depend on the preservation of property documents in the registries (Stubblefiele and Joireman, 2019) or on the establishment of a restitution process that will enable the submission of a wide variety of proof of evidence.

The institution in charge of immovable property registration is the GDCA in Damascus and any of its offices in the Syrian governorates. As regulated by Law No. 7 of 2010. The GDCA operates under the umbrella of the Ministry of Local Administration and Environment. There are 14 principal registries, one for each governorate, and 42 local offices, corresponding to 42 clearly demarcated cadastral districts (which in turn correspond to departments) that can receive documents but not register them (GIZ, 2018). Further, parallel registries were established within other institutions that keep
records of, for example, housing schemes, land and property value and taxes, etc. This creates fragmentation and duplication of efforts, burdening the land administration system and hindering the protection of HLP rights.

**Limitations of the land registration system**

- **Unregistered customary rights**: Usufruct rights, *waqf* (religious endowment) land, communal land and rangeland are not systematically demarcated and documented. Informal land transactions are not registered in the Land Registry, which exposes many IDPs who used to live in informal settlements prior to displacement – particularly those from rural areas who only held customary land rights – to the risk of losing their HLP rights upon return to Syria. In fact, there is no law protecting absentee or refugee HLP rights in Syria. When a refugee does not have a green *tabu* (title deed) or valid papers in Syria, influential people can easily confiscate their lands.

- **Destruction of registries’ offices**: Many Land Registry offices across the country were destroyed during the conflict, along with records therein. Refugees who failed to keep any copy of their property documents will find it difficult to prove their property rights, especially given that the land registration system is paper-based and not (fully) digitized.

- **Incomplete and unupdated registries**: There are substantial discrepancies between the registered information and realities on the ground (GIZ, 2018), and the registries do not reflect the reality of land occupation and tenure. Against the backdrop of war and multiple displacements, the potential loss of HLP rights by many IDPs and refugees is significant.

- **Corruption**: Corruption is a huge problem in the land sector. Public servants from the land registry offices, lawyers and public notaries were involved in many detected fraudulent land transactions during the conflict (Business 2 Business, 2017). This was confirmed by the feedback shared by FGD participants from Homs City, Aleppo and Rural Damascus, who claimed that their property in Syria was sold by people who had falsified their property documents.

**Civil registration system**

The Civil Registration Authority, which sits under the Ministry of Interior of Syria (MoIS), is responsible for the registration of births, deaths, marriages, divorces, naturalization processes, records’ rectifications, issuance of ID cards, civil registration database updates, and production of population and other vital statistics (MoIS, 2021). Syrian embassies and consulates abroad are tasked – by virtue of law – with registering the civil status of Syrian citizens abroad. A copy of each record is sent to the Civil Registration Authority in Damascus entrusted with sending it to the registrar in the area where the individual’s record is kept.
Currently, the registration is done manually. Digitizing the system is an ongoing process aiming at creating “Syria’s Unified Civil Registry” (MoIS, 2017). Thanks to the digitalization, it is now possible to obtain any civil registry record from the online gate through any of the citizens’ service offices without having to go in person to the Civil Registry office in the governorate where the person is registered/born.

As it is legally possible to update the civil status of refugees, thus obviating the need to return to Syria especially if the matter is in line with the Syrian law and relevant procedures, it should technically be easier and less expensive for refugees to do so. Nonetheless, many FGD participants mentioned that they were unable to register marriages concluded abroad or births if the marriage has not already been registered. Participants also spoke about their inability to obtain IDs for their children and update their civil status through the Syrian Embassy in Beirut, due to the high cost charged by the embassy, the complicated overall procedure, and the lack of trust in the institution itself, among others.

It should be noted that UNHCR, in cooperation with the MoIS, simplified some procedures related to the registration and access of Syrian refugees to civil documentations, such as the issuance of alternative civil documents to the ones lost or destroyed, registration in Syria of civil events taking place abroad, exempting refugees from late registration fines, etc. (UNHCR, 2015a).

**Limitations of the civil registration system**

Specific challenges related to civil documentation are described below:

- **Loss of documentation:** The conflict in Syria has resulted in the closure and destruction of many Civil Registry offices. Loss of paper records that are electronically preserved can be compensated after the end of the conflict through the reproduction of a hard copy from the electronic version. However, since not all records are digitally preserved, loss or destruction of original documents can lead to the permanent loss of such valuable information. New births, marriages, divorces and deaths are often not entered into official records, thus leaving IDPs and refugees without documents to prove these events took place. The challenge of retrieving civil documents is key to the protection of IDPs’ refugees’ HLP rights; it is not possible for them to defend their HLP rights without having first their civil documentation.

- **Child marriage:** Although child marriage is forbidden under Syrian law before 18 years of age, exceptions can be made once the child is 15 years old if a judge approves the request. Many refugee children got married illegally during the conflict, thus further complicating their civil status (UN ESCWA–NAFS, 2018b).

- **Urfi (customary or informal) marriages:** Urfi marriages are valid according to the Islamic Sharia, so long as they are compliant with the Sharia marriage terms. However, they are illegal in Syria if not concluded by a judge or the authorized person at the matrimonial court. During the conflict, a great number of informal marriages have taken place and resulted in the birth of many unregistered children who had to be registered. There are additional far-reaching HLP consequences related to urfi marriages: Many women who have either lost or been separated from their husbands may be unable to claim marital property without a marriage certificate to prove their relationship (NRC, 2017b).

### 4.2 THE CURRENT LEGAL FRAMEWORK AND ITS CAPACITY TO ADDRESS HLP ISSUES

FGD participants reported many forms of dispossession during the conflict, such as occupation, looting, confiscation, expropriation or sale of abandoned property, based on fraudulent contracts or forged property documents. The initiation of individual and large-scale property restitution processes will likely result in a very high number of competing claims over the use and occupancy of land and property by original owners, secondary occupants, and illegal occupants, as well as in disputes related to property restitution. Documentation related to property and civil status are essential to claim HLP rights and obtain redress against the numerous violations that arose during the conflict and displacement. However, many Syrians did not hold any accurate ownership documentation before the conflict and those who...
did, often lost the documents during displacement (ILAC and IBJ, 2020). Several FGD participants claimed that their property documents had been lost, burned or stolen, or are being kept by a third party. This will have significant implications on the property restitution process. Civil status documentation is also essential to claim HLP rights by owners or their relatives and heirs, and to initiate inheritance procedures (NRC, 2017b; NRC, 2017d).

Civil Courts in Syria evaluate claims in accordance with Al-Kanun Al-Madani (the SCC) and apply Kanoun Ousoul Al-Mohakamat (the Code of Procedures) on the trial proceedings. There is additional legislation that impacts the resolution of property disputes by Civil Courts, many of which have arisen during the conflict. Other influencing matters are refugees’ access to civil and HLP documentation needed to approach administrative authorities and to file property lawsuits, as indicated below.

Restitution of property and compensation are processes where the importance of possession of civil and HLP documentation is brought to the fore. In all legal actions for property restitution, the claimant’s proof of identity and his/her relation to the occupied property is a prerequisite to file the claim. In order to receive legal aid, refugees do not need civil documentation; however, the possession of an ID is necessary for court representation (to obtain a power of attorney), and for the appearance of the refugee before the court when lawfully entitled.

If the property to be restituted belongs to a deceased owner, the claimant must prove their kinship to be entitled to claim and validate the alleged HLP right at the court; this usually requires legal inheritance documents.

In addition, if the property to be restituted belongs to a deceased owner, the claimant must prove their kinship in order to be entitled to claim and validate the alleged HLP right at the court; this usually requires legal inheritance documents. According to the Syrian Code of Procedures, the standing of the claimant and the proof of their personal stake in the case are a prerequisite for the admissibility of the case by the courts. Should the legal inheritance document be unavailable or unissued for whatever reason, the claimant will have to substantiate their legal right to inherit. The owner’s death must be duly recorded with the Civil Registry to proceed with the property claim. Inheritance documents may only be issued once the death of the original owner is communicated to the Civil Registry. Moreover, for a number of types of property restitution claims, the property must be registered in the name of the owner or their heirs as a precondition to filing the claim. The claimant must produce a valid HLP document to the court to authenticate his/her proprietary right.

Throughout the conflict, many persons have gone missing and their death could not be ascertained; for example, this is the case among 17.6 per cent of surveyed refugee households from Homs City settled in Lebanon (UN-Habitat and UNHCR, 2019). The Sharia judge oversees the appointment of a legal sponsor, who is usually one of the parents or the spouse, to manage the assets of the missing person. Furthermore, the Sharia judge declares the death of a missing person in order to have a death certificate issued. However, this can only be done after the elapse of four years from the day of the missing person’s disappearance, in accordance with Article 205 of the Kanun Ahwal Shakhsieh (Personal Status Code). The applicant should be able to prove his/her relationship to the missing person through a family booklet/statement, a marriage contract, or another civil document. However, the issue becomes complicated whenever the marriage has not been registered with the Civil Registry and further legal actions will be required by the relative before being appointed by the judge as the legal sponsor.

Syrian legislation obstructing access to HLP rights

During the conflict, several laws and regulations have been issued in Syria that impact the HLP rights of refugees. Some of them are HLP-related, such as Law No. 10 of 2 April 2018 permitting the establishment of new development areas within the...
general organizational plan of administrative units. Others, albeit not directly related to HLP issues, indirectly affect the HLP rights of refugees, such as the Military Service Law, which allows the seizure of refugees’ and their families’ properties, among others. Annex 2 includes a list of legislation issued after 2011 that obstruct refugees’ access to their HLP rights.

Syrian legislation favouring HLP rights: The Syrian Civil Code (SCC)\textsuperscript{26}

The relevance of the SCC in the post-conflict situation in Syria stems from the fact that the legal system in Syria is based on the Civil Law and on the remedies to typical HLP violations that the SCC provides for, also considering that Syria does not have special legislation on restitution, nor incorporates international principles related to restitution into its national legislation.

The SCC provides for the full protection of property ownership. The owner possesses the exclusive right, within the limits of the law, to use, enjoy and dispose of an owned item (SCC, Article 768). The SCC (Article 771) expressly states that no one may be deprived of his or her property except as provided for by law and upon fair compensation.

Possessory rights are also protected under the SCC: Possession cannot be based on mere facultative acts or acts of simple tolerance (Article 907/1). Similarly, possession cannot be based on acts of violence or extortion. Acquisitive prescription is interrupted if the possessor abandons or loses possession, even if that loss is by the act of a third person (Article 924/1). Acquisitive prescription, however, is not interrupted by the loss of possession if it is reinstated within a year of the time it is lost (Article 924/2).

The SCC makes no distinction based on gender or status and is protective of the owner’s absolute right over the owned property. It complies this respect with international standards set forth in the Pinheiro Principles.\textsuperscript{27} This, clearly, does not mean that practices are not discriminatory, in spite of the gender blindness present in the legislation.

The available remedies under the SCC for specific HLP issues include the following:

**Forced contracts**

Throughout the conflict, indirect coercion has been used by warlords, militias or other armed actors seeking to oust some residents from their homes. Refugees have been forced to convey their property via forced contracts, against no or low payments that are inconsistent with prevailing prices. According to the SCC, a contract can be annulled if one of the parties entered into the contract under the influence of fear of imminent danger to the life, person, honour or possessions of the party or of a third person. Duress is assessed taking into account the sex, as well as the social and health conditions of the victim, in addition to every other circumstance that affects the gravity of the duress or coercion (SCC, Article 128).

The remedy for forced contracts under the Syrian law consists of a legal action for annulment of the contract for duress. The statute of limitations on filing a legal action for the annulment of a contract concluded under duress is one year from the time the coercion ceases, but shall never be extended beyond 15 years from the date of the conclusion of the contract (SCC, Article 142).

In some cases of property dispossession, restitution of the property is not possible under the SCC. For instance, if the purchaser of the property – by virtue of a contract concluded under duress – has conveyed the property to a bona fide buyer, or if a person has taken advantage of the absence of the owner (who may be dead, detained, missing or displaced) to obtain judicial rulings registering the forged sale contract in the name of a bona fide buyer, it would be difficult – if not impossible – to restitute this property to its owner in the future, especially if one or more third person(s) has/have obtained ownership in good faith, unaware of the fact that the seller was not the real owner. The reason is that the SCC restricts the right of the original property owner in such cases to compensation by suing the seller, according to the general rules of tort (SCC, Article 164).

\textsuperscript{26} Issued by Legislative Decree No. 84 on 18 May 1949.

\textsuperscript{27} “The Pinheiro principles are designed to provide practical guidance to States, UN agencies and the broader international community on how best to address the complex legal and technical issues surrounding housing, land and property restitution. For the first time, the Principles provide a consolidated and universal approach to dealing effectively with outstanding housing and property restitution claims. They augment the international normative framework in the area of housing and property.” (Centre on Housing Rights and Evictions, 2005).
**Fraudulent contracts**

If a person sells his/her property under fraudulent circumstances, the legal action under the SCC is annulment. A party who is victim of fraud by a third person cannot demand annulment unless it is established that the other party to the contract knew or should have known of the fraud (SCC, Article 127). The statute of limitations on bringing legal action concerning the annulment of the contract for fraud is one year, starting from the day after fraud is detected, and may not be extended under any circumstances for more than 15 years from the date of the conclusion of the contract (SCC, Article 141).

**Occupancy rights**

The Pinheiro Principles call for a balanced approach between the right of legitimate owners/tenants to repossess the housing, land and property in question in a just and timely manner and the guarantees of due process and alternative housing to secondary occupants (Principles 17/2 and 17/3) (Centre on Housing Rights and Evictions, 2005).

Secondary occupation has been prevalent during the Syrian conflict. It is also a major concern for Syrian refugees from Homs City, Aleppo and Rural Damascus living in Lebanon who participated in the FGDs. Methods of dealing with secondary occupation are numerous under the Syrian law. Some secondary occupation settings, such as the eviction of a secondary occupant by the governor, can be resolved in an administrative manner, based on the powers granted to the latter by the recent amendment of the Local Administration Law (People's Assembly of Syria, 2011). Other, more complex secondary occupation settings require court intervention. However, in all cases, evicted occupants are neither provided with alternate temporary housing nor protected from homelessness, as required by the Pinheiro Principles, and this shortcoming would need to be addressed.

With respect to lease contracts, they are governed by special laws based on the date of their conclusion:

- Old leases (automatically renewed) include properties rented in accordance with Legislative Decree No. 111 of 1952 and prior to Law No. 6 of 2001.
- Leases under Law No. 6 of 2001 and prior to Law No. 20 of 2015.
- Leases that entered into force after 11 November 2015, when Law No. 20 took effect.

Additionally, the general rules laid out in the SCC govern all lease agreements.

The new Syrian lease Law No. 20 of 2015 reformed occupancy rights to become more favourable to landlords. The so-called old leases were abolished, and tenants were evicted and compensated. However, if the landlord could not pay the tenant 40 per cent of the property value, or in other words, the “eviction compensation,” then the old lease would continue to be enforced (Article 12 of Law No. 20 of 2015). While it is difficult to generate exact numbers, it is possible to say that the reform led to increased numbers of landlords leasing private properties (SJAC, 2018).

Although the landlord does not guarantee the tenant against third-party occupation or usurpation of the property, this does not prejudice the right of the tenant to sue the usurper or the occupant to reclaim the property and obtain compensation (SCC, Article 543/1). That said, if the usurpation or occupation of the property was not due to the tenant and the occupation is grave enough to deprive the tenant from the use of the leased premises, the tenant, as appropriate, may claim rescission of the contract or reduction of the rent (SCC, Article 543/2). There is an obligation in the SCC (Article 540/1) for the tenant to immediately report to the landlord any claim of the leased premises, occurring occupancy, or usurpation, which interfere with the rights of the tenant.

New lease agreements are governed by the principle that agreements must be kept and are valid only for the time stated in the lease contract, but eviction...
past the expiry of the contract term must be carried out after service of notice and through the court. In case the property is illegally occupied (i.e. the occupant has no lease contract), the owner may file another lawsuit against the occupant for *ajar al-meethel* or comparable rent, because illegal occupancy of a property is sanctioned by the civil tort rules of the SCC (Article 164), according to which any tort committed to the detriment of another must be compensated by the liable party.

With respect to leaving the rented premises vacant, Syrian courts have not adopted a unified approach towards people who have left leased housing due to the conflict, stating that vacancy of a property for a year may be sufficient to terminate a lease, but conversely forbidding eviction on an in-absentia basis (Al Zien, 2019). In other rulings, the courts did not require the tenant to leave the country and settle abroad, but considered it as sufficient for lease termination whenever a tenant offers the property for the accommodation of students without the consent of the landlord, upon relocating in Syria (Arab Encyclopedia).

**Destroyed property**

Many FGD participants have reported the destruction of their property, as mentioned above in the report. When the rented property is completely destroyed, the tenant has no legal right to a new house but only to a rescission of the contract (SCC, Article 537/1). If the property is only partially destroyed (not by the tenant), the tenant may either rescind the lease contract or claim reduction of the rent. The tenant may not claim compensation if the destruction of the leased premise is not attributable to actions of the landlord (SCC, Article 537/3).

With respect to the rights of property owners, if the property has been destroyed by the Syrian military, the general rules of tort apply to the Syrian State. Three elements determine liability in tort, according to the SCC (Article 164): a wrong, a loss or a harm, and a causation between the wrong and the harm. The Syrian State is civilly responsible for acts committed by its employees or servants while executing their job or as a result of it (SCC, Article 175). Every assault that causes damage entails compensation. In this sense, the Syrian Court of Cassation has ascertained: “Any person who causes harm to a third party by his fault is responsible for compensation with an amount measured in accordance with his liability” (Al-Housseini). Courts in Syria apply restrictions to awarding damages to the maximum amount claimed by the plaintiff, the corollary being that courts cannot award bigger damages than those claimed. The damage amount, in principle, is the amount of money awarded to the victim that is equal to the injury caused to him/her as a result of the offence or the illegal act.

The Syrian State has always maintained in its reporting to the United Nations that the Syrian Army was defending itself against terrorist attacks (UNHRC, 2012) to justify its acts and shield itself against liability. Self-defence bars any compensation claim for tort liability under the SCC.

When the property is destroyed by military action undertaken by the allied forces of the GoS, such as the Russian troops stationed in Syria, the ability of displaced persons to bring a claim against those Russian troops for destruction of property is legally barred by the “Agreement between the Russian Federation and the Syrian Arab Republic on Deployment of an Aviation Group of the Russian Armed Forces on the Territory of the Syrian Arab Republic” (Birnbaum, 2016). This means that displaced Syrians have no recourse for combat-related damage and their ability to restitute properties destroyed by the Syrian military and its allied forces is greatly limited.

---

33 Article 167 of the SCC provides that a person (or the state) may not be liable for tort related to inflicted injuries if the person (or the state) is in self-defence. Other exceptions to liability exist, such as in situations where there is a force majeure or when injury is caused by the fault of the aggrieved person (Article 166), or when personal injuries are permissible if committed in order to ward off public injury (Article 169).
The same tort (i.e. unlawful act) rules apply when the property of the displaced persons is destroyed by insurgent militias or anti-government armed groups. Every wrongful act that is injurious to persons entails payment of damages by the perpetrator.

In view of all the above, the time frame to file a claim for damages based on tort is three years, starting from the day the injured person became aware of the injury and of the liable person (SCC, Article 173/1). A claim can never be brought 15 years after the day of the occurrence of the wrongful act (SCC, Article 173/1). However, such time limitations are subject to exceptions when an impediment prevents the claimant from exercising a right (SCC, Article 379).  

Existing solutions for property restitution

Property disputes in Syria typically fall within the competence of ordinary courts (primarily Civil Courts and Criminal Courts for specific cases). The below paragraphs outline existing legal actions/remedies for property restitution, according to the Syrian law currently in place.

Administrative avenue

This consists of petitioning the governor of the governate where the property is located to lift the usurpation and restore the property to its legal owner. This administrative measure has been made available with the recent amendment of Article 45 of the Local Administration Law, issued by Legislative Decree No. 107 of 2011, by virtue of Law No. 13 dated 21 June 2020. The measures taken by the governor are provisional and do not prejudice the right of the aggrieved person to file a lawsuit with the competent judicial authority to obtain a final judgment about property restitution.

Legal action before the Judge of Urgent Matters

This consists of filing a civil lawsuit with the Judge of Urgent Matters, the First Instance Court Judge, for usurpation of the property provided that the matter is urgent (tard ghaseb or urgent action for usurper’s expulsion), in accordance with Article 79 of the Code of Procedures. Estimation of urgency is left to the discretion of the Judge of Urgent Matters. The General Assembly of the Court of Cassation in Syria has ruled that the Judge of Urgent Matters is competent to try the usurpation action as it falls under his jurisdiction. Urgency in the usurper’s expulsion lawsuit is evaluated based on the need to protect the right of the owner and to enable the owner to maintain and benefit from his/her property straight away, as guaranteed by the relevant articles of the SCC (768–772), without having to tolerate protracted ordinary court proceedings.

The proceedings before the Judge of Urgent Matters are faster than those of the regular courts. In principle, appearance before the Judge of Urgent Matters may be reduced to 24 hours following the service of notice of the court, and can be further reduced to one hour if need be, provided that the defendant is notified of the claim in person.

However, the Judge of Urgent Matters does not determine the ownership of the property, which is left to the verification of the regular courts, but only specifies whether the possession of the property by the occupant is legal or not. This guarantees the non-falsification of the property documents, which is often recurrent during conflicts, as those involved in the falsification activity will not be able to obtain a final judgment from the Judge of Urgent Matters asserting the ownership of the property.

Possessory action

This consists of filing a possessory action before the competent Court of Peace of the location of the property. The aspect to examine in this case would be whether the property occupation is legal or not.

---

34 See the sub-section titled “Effect of the Statute of Limitations on HLP Legal Actions” below for more details.

35 The amended Article 45 of the Local Administration Law provides the following: “45/1 - The governor shall, after the approval of the Public Prosecution, if there is an apparent usurpation of a real estate or real property rights, decide to restore the current situation to the pre-usurpation status. In the event of an apparent assault that would create a public disagreement over the yields/harvest which affects the security, the governor must take the necessary measures to preserve the yields/harvest, and order that they be distributed among the eligible beneficiaries, according to the previous dealings or place them under the custody of a third person. The measures taken by the governor in both cases shall not affect the decision issued by the judicial authority. 45/2 - The effect of the administrative measure remains in place until it is canceled or amended by a reasoned decision of the same authority or until a final decision is issued by the judicial authorities.” (People’s Assembly of Syria, 2011)

36 Syrian Court of Cassation Decision No. 102 of 1996, Case Docket No. 484.

37 In the urgent action for usurper’s expulsion, the Judge of Urgent Matters will only decide whether the defendant occupying the property has any legal ground or entitlement to occupy it, irrespective of who the property owner is. In this case, he is not asked to determine the owner of the property. The aspect to examine in this case would be whether the property occupation is legal or not.
property to restitute the possession (isterdad heyazeh) of the occupied property when conditions for the possessory action stated in articles 65–75 of the Syrian Code of Procedures No. 1 of 2016 are fulfilled.

**Legal action against disturbance of ownership**
This consists of filing an action before the competent Civil Court against disturbance of ownership (mane’ moarada) to prevent a third party from opposing the claimant’s property rights, in accordance with articles 768–771 of the SCC, which grant the owner only the right to enjoy his/her property. The claimant for this case must be the true or registered owner of the property in the Land Registry.

**Legal action before the Criminal Court of Peace**
The legal action before the Criminal Court of Peace consists of filing a petition with the Public Prosecution, pursuant to Article 723 of the Syrian Penal Code, to urge the public prosecutor to initiate a case of usurpation of property (ghaseb akar) before the competent court in order to expel the usurper.

**Effect of the tenure type on restitution legal actions**
The possessory action is useful for displaced persons who have lost their property records, as this legal action only requires the claimant to have legally possessed the property for at least one year right before losing it. The claimant does not necessarily have to be the registered owner of the property.

As for the usurpation lawsuit, the claimant must be the registered owner of the property for the admissibility of the claim. When the property is not registered at the real estate registry for any reason, be it because it is located in a non-surveyed or non-delineated area or because the occupied property is informal, the property owner or the possessor might lose the property because of takadom (the statute of limitations).38 Furthermore, while the possessory action for unregistered property (informal housing) or property located in a non-surveyed area can be undertaken only for one year from the date of the loss of the possession, the statute of limitations remains open in case the property is registered at the real estate registry in the name of the claimant, as per Article 70 of the Code of Procedures. Similarly, in the usurpation legal action, if the owner of the informal property is unable to officially prove his/her ownership, either because the property is not registered at the real estate registry or alterative property documents (court order, electricity and water bills, etc.) are lacking (lost or destroyed), he/she might lose his/her HLP rights.

**Effect of the statute of limitations on HLP legal actions**
According to Article 379 of the SCC, the statute of limitations may be tolled if an impediment (being displaced or having experienced violence) barred the plaintiff/refugee from claiming his/her right, in accordance with the legal principle Contra Non Valentem Agere Nulla Currit Praescriptio (“the prescription does not run against a party who is unable to act”). Moreover, according to Article 173 of the SCC, claims for compensation in civil matters must be made within three years from the date that the complainant became aware of the harmful act and of its perpetrator. The capacity to claim expires in any case following the passage of 15 years from the date of the harmful act (SCC, Article 173/1). There is an exception to this rule: If the civil claim corresponds to a crime having been committed, the capacity to initiate criminal proceedings remains viable as does the accompanying civil claim for redress (SCC, Article 173/2).

The tolling or the suspension of the statute of limitations by Article 379 of the SCC is of obvious benefit to refugees/displaced persons who are unable to reach their homes due to violence or are trapped in Lebanon, Jordan, Turkey, Syria or elsewhere, and might otherwise see their legal rights extinguished. On the other hand, the destruction of the property records throughout the conflict might be considered by the court as a legal impediment that bars the plaintiff/refugee from filing certain legal claims to protect his/her property and a reason for tolling the statute of limitations. In this respect, however, the jurisprudence of the Syrian courts is unclear or unsettled yet.

**Cost of the restitution legal actions**
The cost of the restitution legal action varies depending on the type of the lawsuit and on whether it is filed with the Court of Peace or with the First Instance Civil Court. Annex 1 exhibits cost estimates for the possessory action, which

---

38 Takadom or the statute of limitations is a law that sets the maximum period that one can wait before filing a lawsuit, depending on the type of case or claim (Law.Com Services and Resources Legal Dictionary).
by law is filed with the Court of Peace and is subject to a lump-sum fee, and for the urgent action for usurper’s expulsion or the civil case against disturbance of ownership, which are both filed with the First Instance Civil Court. The costs are based on the law related to Fees, Guarantees and Judicial Expenses No. 1 of 2012, as amended.39 It is however important to take into consideration the associated additional costs of seeking justice through legal action, including travel and time spent in the process and – most noticeably – corruption.

Legal challenges for people who lived in informal settlements before the conflict

Prior to the conflict, over half of Syria’s population lived in urban and peri-urban areas, and approximately one third of the urban population lived in informal settlements. In Damascus and Homs, for instance, between 40 and 50 per cent of the population lived in informal settlements. These settlements offered services, such as electricity and running water, but had only limited official recognition and registration. The informal status of these settlements developed due to the lack of adherence to official regulations regarding land tenure and registration requirements, and/or land use, planning and building requirements. Most residents of informal settlements already lacked security of tenure prior to the conflict (NRC, 2016a).

The problem of informal settlements in Syria is rendered more complicated by the fact that the land registration system in the country does not include or recognize informal property rights.40 Consequently, many residents are unable to produce documents that are enforceable against third parties, to ascertain that their occupation is in order, or to validate their property rights at the court. Nevertheless, documents in the possession of informal inhabitants (such as court rulings, water and electricity bills) will be decisive in establishing evidence of the right of use (hak al-intifaa’a) of the informal property in court.41

Prior to the conflict, over half of Syria’s population lived in urban and peri-urban areas, and approximately one third of the urban population lived in informal settlements. In Damascus and Homs, for instance, 40–50% of the population lived in informal settlements.

Compensation for illegal property occupation

Compensation for illegal occupation of a property is plausible and normally goes through a legal action undertaken by the property owner for comparable rent, based on tort rules of Article 164 of the SCC, as there is no lease contract with the illegal occupant.42 In civil matters, it is entirely the judge who decides on the appropriate compensatory measures based on the facts and circumstances of the case at hand, and in accordance with articles 171 and 222 of the SCC. An appraiser is usually appointed by the court to determine the amount of comparable rent due. The statute of limitations on this lawsuit is three years, according to Article 173 of the SCC; however, the jurisprudence of the Court of Cassation considered it subject to the long prescription of 15 years.43 Since Syrian law requires the claimant to be the registered owner of the property at the property registry, the owner of the informal housing is unable to benefit from this legal action to claim compensation for illegal occupation of the informal property.44

39 Law No. 1 of 2012, as amended, is currently under review to increase all fees, due to the sharp inflation and continuous devaluation of the Syrian Pound against USD, ever since the war started in 2011. There is also other relevant legislation, such as the Judicial Stamps Law.
40 See the sub-section titled “Land Registration System” above.
41 The jurisprudence of the Syrian Court of Cassation distinguished between two independent concepts: the ownership right (hak al-raqaba) and the right of use (hak al-intifa'). It recognized the right of possession of informal property and extended the Civil Code legal protection of possession to it. More specifically, the Syrian Court of Cassation decided the following: “Although the documents of the departments of finance, electricity and water are not suitable to prove ownership as a real right, they are considered as evidence with regard to the rights of real estate investment, because it is an in personam right” (Syrian Court of Cassation, Decision No. 1946, Case Docket No. 2824 of 20 September 1998). In this way, the user or the possessor of the informal property (despite not being the owner) benefits from the legal protection of possession.
42 Comparable rent lawsuit is also possible according to Article 539 of the SCC in a lease relationship, when there is no agreement about the rent amount, or when it is impossible to prove it (rental lawsuit). However, when it is based on Article 164 of the SCC (i.e. no rental relationship but the owner is deprived of his/her property), the lawsuit nature is compensatory.
44 Some jurists contend that it is possible for the owner of the informal property to file the comparable rent lawsuit if he/she proves that he/she is the legal possessor of the informal property and that the occupant is the illegal possessor of it (i.e. his/her possession is based on illegal occupation). They associate this right of the informal property owner to the Syrian Court of Cassation’s Decision No. 226, Real Estate-Docket No. 45 dated 31 July 1975, published in the 1975 Lawyers Magazine Al Mouhamoon, p. 675. However, such a right is not warranted by the text of the SCC.
The current Syrian administrative, institutional and legal frameworks are a point of departure to address the HLP issues identified in this report. However, they are not sufficient and suitable to address the magnitude of HLP issues faced by displaced Syrians. Alternative, additional and transitional measures will have to be put in place in the short-to-medium term, if Syria intends to welcome home the displaced and rebuild itself through physical reconstruction and social reconciliation.

Moreover, the land rights and land administration system had significant weaknesses already before the war. Such weaknesses contributed to the inequalities and inefficiencies that undermined the inclusiveness and sustainability of Syria’s socioeconomic development. They also contributed to creating the fragility that allowed the escalation of the conflict – and its consequences – to the scale that the world witnesses today. Important aspects to be addressed by the Syrian authorities and their partners in the medium-to-long term are the following: the issue of affordable adequate housing, the formalization of informal settlements, the improvement of the land registration system, the reform of the legal land framework, and gender equality – de jure and de facto – in the enjoyment of HLP rights. These issues are not covered in this report.

A detailed outline of the considerations and components of a property restitution (and potentially compensation) programme is beyond the scope of this report, but the key elements that need to be considered are briefly listed below:

1. **Obtain the political buy-in of key actors in the Syria crisis**: Syrian authorities will need to agree on the establishment of a property restitution and compensation programme, and define their type and level of support. An intermediate achievement would be to create consensus among key regional and international actors, including the United Nations system, about such a programme and its main features. A working group towards the achievement of this intermediate goal could be created, composed of the United Nations agencies that have been most engaged on HLP and land issues in Syria and around it – including UNHCR, UN-Habitat, the United Nations Development Programme (UNDP), the Food and Agriculture Organization (FAO), and potentially the UN ESCWA and the UN Department of Political and Peacebuilding Affairs (DPPA) – and key partners.

2. **Design the architecture of the programme**: Documented experiences from other contexts present a wide range of configurations, but the key functions to be catered for are the following: (1) Provision of overall goals and directions; (2) Policymaking and decision-making about restitution and compensation, including developing the legal and operational frameworks; (3) Collection and review of claims and associated information and documentation; (4) Decision-making and adjudication of cases; (5) Recording of the decisions in the Syrian land and property registry; (6) Management of the programme itself (human resources, contracts, payments, communication, information technology, monitoring and evaluation, etc.); and (7) Financing of the programme and of the eventual compensation component of the programme. A well-designed multi-stakeholder process will be necessary to design the options.

### 5.1 Preparation for HLP Restitution

To rebuild itself – physically and psychologically – Syria will have to put in place a property restitution programme.
for the programme’s architecture, which should be conceived as an evolving and regularly reviewed structure.

3. **Set in motion a phased implementation of the restitution and compensation programme**, starting with the piloting and roll-out of some of its functions: It is likely that obtaining the buy-in of all partners will take time. Developing the financing mechanisms and receiving the funds will be one of the main aspects to be addressed. For this reason, a phased implementation of the programme is recommended. The first logical step, on which some UN agencies including UN-Habitat are already working with the support of key partners, is the collection and review of claims (see next point).

4. **Collect and review claims and supporting evidence**: This should start the soonest, as the loss of civil, land and property documentation progresses fast with displacement. Many of the displaced who participated in FGDs analysed in this study confirmed that they had been in possession of documents proving their land tenure rights before displacement, but they have lost them since. An ongoing programme led by UN-Habitat and its partners is providing a tool and a conceptual framework for the collection of HLP claims of Syrian refugees currently living in displacement. Experiences will be ready to be assessed and improved in the course of 2021 to inform a possible replication and upscaling of this process.

5. **Decision-making and adjudication**: A second important component of the restitution and compensation process that should be prioritized and where work can already start, based on existing knowledge and practices, is decision-making and adjudication. Some decisions that will be necessary for adjudicating the claims will only be put in place after the establishment of the programme (policymaking and decision-making/developing the legal and operational frameworks), but capacity development for the large number of people that will be involved in this process can already start. Work around legal assistance and dispute resolution on HLP is already ongoing in Syria and can inform this component of the process. It is clear that the current judicial system in Syria will be inadequate to deal with the large caseload of land and property claims and transitional justice mechanisms will have to be defined. It is crucial that the decision-making for property restitution is independent and impartial; the relationship of the transitional justice mechanisms with the Syrian court system needs to be defined in the process of establishing the programme, including what cases are dealt with in which forum, how the two systems reinforce each other, the issue of appeals, sharing of personnel, legal frameworks to be used, etc. Transitional justice frameworks (in the form of laws, decrees, etc.) will also need to be developed to amend and complement the existing legal framework, as its current shape would not allow the resolution of such a large claim caseload in a relatively short period of time.

6. **Key decisions to be made**: Some of the key decisions that will need to be made when establishing the restitution and compensation programme are the following: (1) Which claims will be dealt with by the restitution and compensation programme and which will remain under the jurisdiction of the Syrian justice system (e.g. HLP violations that took place in the years before the start of the war in 2011)? (2) What are the eligibility criteria of claimants? (3) What type of properties will be considered? (4) Which type of land tenure rights will be considered, along the Syrian version of the continuum of land rights? (5) Which type of evidence will be accepted? (6) Which institution will be responsible for enforcing the decision taken, probably considering that this responsibility is likely to remain within the Syrian institutions? (7) Will the programme deal only with restitution or also with compensation? (8) Who will fund it? (9) How will the programme interact with other land and housing initiatives?

7. **Dealing with secondary occupation**: According to the information collected through KIIs and FGDs undertaken for this study, secondary occupation seems to be high in Syria. It is

---

45 The programme pilots the use of the STDM tool to map the HLP claims of Syrian refugees. The STDM is a pro-poor, affordable, gender-responsive and participatory land information system developed by UN-Habitat in recognition of the need for legal pluralism and a broader recognition of the social element in land administration and person-to-land relationships (FIG, GLTN and UN-Habitat, 2013).

46 See the “The Institutional and Administrative Frameworks” section in the previous chapter.

47 See relevant sections in the chapter “HLP Situation in Syria of Selected Syrian Refugee Communities in Lebanon: Homs, Aleppo and Rural Damascus.”
possible that not all refugee communities experience the same level of secondary occupation as the selected communities assessed as part of this report, but it is likely that secondary occupation will remain significantly high and probably increase as time passes. The large-scale destruction of properties and the waves of displacement have enhanced the phenomenon. Secondary occupation occurs for different reasons; the occupant might have been involved in the displacement of the legitimate owner or occupant, might have purchased the property in good faith from another person, or might have been forced to use the property because of the lack of an alternative shelter. The restitution process should deal with secondary occupants, considering legal and humanitarian issues and in full respect of human rights. This will have administrative, financial and time frame implications. Suitable alternative options must be identified for secondary occupants who have no alternative shelter housing solutions and considering that secondary occupants are entitled to compensation for any improvements they have made to the properties (for instance, in case of repair or reconstruction). Participation of secondary occupants in decision-making should be considered.

It is important that extreme care is put to ensure that the restitution programme complies with international human rights standards and is designed and implemented keeping in mind the safety and interest of the displaced people. Several FGD participants as part of this study reported that they are worried that existing restitution procedures may endanger their lives. Therefore, do no harm considerations need to be factored in.

### 5.2 PROTECTION, RECONSTRUCTION AND (RE)ISSUANCE OF HLP AND CIVIL DOCUMENTATION

The efforts for the protection, reconstruction and (re)issuance of land and property documentation should be continued, enhanced and upscaled. It is estimated that, before the conflict, some 70 per cent of Syrians’ HLP rights could be linked to cadastral forms of evidence, either permanent or temporary records. The remaining 30 per cent of Syrians either had no documentary evidence or relied on non-cadastral forms of evidence (utility bills, court orders, building permits, notary documents, powers of attorney). With the conflict, some of the offices where cadastral evidence was conserved got destroyed; many records were lost or damaged. Moreover, with the widespread destruction of houses and buildings in Syria and the mass displacement that resulted, many individuals lost their HLP documents and supporting civil documents.

According to the 2018 Protection Needs Overview, 84 per cent of the displaced people reported the lack of HLP-related documents as a protection concern (WoS Protection Sector, 2017). The Syrian authorities have also recognized this challenge and are working towards addressing it; Law No. 33 of 2017 allows the use of soft copies of documents as an official form of evidence, although some worry that this law might be used to the detriment of the displaced and end up regularizing illegal sales or acquisitions. As the problem has its roots in decades of weak land administration and land records management, the efforts on this front will have to be incremental and phased, to address the most urgent aspects of the issue first and then progressively deal with more systemic and underlying problems. The actions proposed are the following:

1. Protect and conserve HLP documents that are still archived in the cadastre offices and temporary records’ offices. Measures should be put in place to ensure these locations are safe, refurbished and improved if needed. Hard and soft copies of the documents should be made, and this service should be made available to Syrian communities displaced within and outside the country’s borders. Refugees should be encouraged to undertake all legal and administrative requirements to protect their property rights in Syria – including particularly women, given that their property is often not registered in their names – and to resolve situations where property documents are lost,
destroyed or falsified. Documentary evidence – such as the presence of a tabu (land title deed), as well as a court decision, utility bills (for informal housing), or other types of evidence listed in Annex 3 – should be preserved.

2. **The refurbishment and reconstruction of registration offices** and the reopening of cadastral and other land documentation services should be promoted.

3. **The reissuance of lost or damaged HLP documents** should be simplified and made accessible to people living in displacement and as refugees. For damaged documents, the degree of validity and potential tampering should be assessed (e.g. unusual number or frequency of transactions, transfers between members of different groups in conflict, transfer from public/communal property to private property, etc.).

4. **Develop a digital archive:** While the digitization of the land registration system is a needed action, in the interim, a digital archive of land records should be developed. In this regard, some efforts are already ongoing, including with the support of UN-Habitat and other partners.

5. **Collect and store a broad range of HLP evidence:** Ongoing efforts by UN-Habitat for the collection and storage of a broad range of evidence supporting the HLP claims of displaced Syrians should be evaluated, adjusted, scaled up and replicated.

6. **Update HLP documents:** Land records were largely outdated already before the war. This was due to a variety of reasons, such as the lengthy and bureaucratic processes, the high level of informality and irregularities in the land subdivision and land developments that prevented people from fully registering their transactions, disputes related to inheritance, etc. The conflict further decreased the number of legal land transactions and the updating of land documents to reflect the heirs or the new owners after death or sale. This stream of work deserves attention, as it will significantly ease restitution, compensation and dispute resolution processes, and it will be an important step towards the clarification of land rights and updating of the land registration system in Syria.

7. **Access civil documentation:** The work on land documentation must proceed along with the work on civil documentation, a priority in Syria. Civil documentation is the foundation for the enjoyment of a broad range of rights, as well as for the prevention of statelessness. Lack and loss of civil documentation has been documented by different previous studies, as well as by participants of FGDs undertaken as part of this study, representing the most common protection concern. Efforts should be focused on (1) raising the awareness of displaced people and refugees on the importance of having civil documents, encouraging them to obtain IDs and to register marriages, births and deaths of family members; and (2) granting legal exemptions of fines for late registrations.

### 5.3 AWARENESS-RAISING AND ACCESS TO LEGAL AID

Many participants of FGDs for this study expressed concerns about their lack of knowledge of legal procedures. Female participants reported their inability to process alone the documents needed to protect their HLP rights in Syria. It is therefore essential to provide efficient free legal aid in Syria (by national and international HLP actors) to assist returnees in understanding the opportunities and requirements for pursuing restitution and compensation claims when the property is destroyed or occupied by secondary occupants. According to two HLP experts interviewed for this study, legal aid is also needed to represent returning refugees before relevant judicial and administrative authorities. Many refugees, indeed, distrust government institutions or fear to approach them. Most women are not used to going to institutions like the courts, as there has always been a strong social stigma around doing so. In addition, legal aid is needed to carry out HLP due diligence, which involves collecting information and/or documents, and witnessing evidence of ownership (and other HLP rights, such as the right to use).
Free legal aid for refugees (and IDPs) should also include raising their awareness about new HLP laws and regulations issued during the conflict and affecting their HLP rights. This could assist them with preparing and filing claims, submitting documents to cadastral and administrative authorities as needed, obtaining security clearance for property conveyance, and appealing decisions of property seizures in a timely fashion, among others.

### 5.4 Resolution of HLP Disputes

The HLP-related dispute resolution system needs to gear up to resolve a large number of cases and to be able to address disputes that are specific to the situation of mass and protracted displacement witnessed in Syria. Resolving land disputes and restituting HLP rights will also open the door for reconstruction and voluntary return.

The resolution of land-related disputes already had its challenges before the conflict. The Syrian judicial system is designed to resolve disputes over individuals’ land rights. The process is not too expensive with regard to official fees — to which “unofficial fees” considerably add — but it is extremely slow, already burdened by a huge backlog of cases before the conflict, and undermined by the weak enforcement of its decisions. A progressive improvement of the court system will be required, including digitization and increased capacity to address the cases within a shorter time period. This is a long-term engagement, which is unlikely to address the large number of land disputes that are likely to arise with the large-scale return of refugees (and IDPs).

With its current systems, Syria is unable to handle a large number of land dispute resolution cases in the context of displacement, particularly because of the lack of appropriate procedures; the depletion of human resource capacity due to the emigration, death or displacement of skilled personnel during the conflict; and the lack of impartiality and independence of the judicial system, which is seen by many, particularly some groups of refugees, as an arm of the executive in which they have no confidence. Further complexities are the fragmentation of the judicial system across the Syrian territory, as areas outside government control have separate court systems, afflicting particularly displaced people.

Some of the other challenges are related to the legal framework in place, which is overall unequipped to deal with large population movements and the level of destruction and caseloads.

**Figure 22 | Expected land-related disputes**

<table>
<thead>
<tr>
<th>Expected land-related disputes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contested ownership rights or use rights to land and property</td>
</tr>
<tr>
<td>Secondary occupation</td>
</tr>
<tr>
<td>Fraudulent sale</td>
</tr>
<tr>
<td>Illegal land confiscation and expropriation</td>
</tr>
<tr>
<td>Forgery of land-related documentation</td>
</tr>
<tr>
<td>Forced evictions</td>
</tr>
<tr>
<td>Contested compensation</td>
</tr>
</tbody>
</table>

---

51 See the chapter “The HLP Institutional, Administrative and Legal Frameworks in Syria.”
The most common land-related disputes (or other types of legal redress needed) are likely to fall within the following categories: contested ownership rights or use rights to land and property, secondary occupation, fraudulent sale, illegal land confiscation and land expropriation, forgery of land-related documentation, forced evictions, and contested compensation.

To address mass restitution and compensation claims and to handle the large number of land-related disputes, there is a need to establish a transitional justice mechanism. Such a mechanism can look at the means through which justice is delivered (including existing courts, and alternative dispute resolution and mediation services) and can also complement the existing body of law with transitional and incremental measures that are able to support dispute resolution mechanisms in the context of large displacement and return processes. Such a transitional justice mechanism will support the restitution and compensation programme – if/once that is established – and will also resolve disputes that Syrian people refer to outside the restitution programme.

In discussion with partners and the GoS administration, the United Nations and its partners could consider the approach described below:

1. **Discuss the establishment and characteristics of a transitional justice framework related to land and HLP rights:** Many different models have been tested in comparable contexts and successful experiences exist in Syria and neighbouring countries. The key functions to be catered for are the following: (1) Provision of overall goals and directions; (2) Policymaking and decision-making about dispute resolution, including developing the legal and operational frameworks; (3) Collection and review of claims and associated information and documentation; (4) Decision-making and adjudication of cases; (5) Recording of the decisions; (6) Management of the mechanism (human resources, contracts, payments, communication, information technology, monitoring and evaluation, etc.); and (7) Financing. Important aspects to be determined when defining the overall goals and directions of the transitional justice framework are the following, among others: What cases will it deal with, and which will go through the existing legal system? Who is eligible to resort to it? What types of disputes are addressed and what evidence is accepted?

2. **Define a set of actors that – based on training and recognition of their role in this field – can handle land dispute resolution and mediation processes on the Syrian territory (controlled by the government and other groups, if possible), and build their knowledge and capacity:** These could include UN entities, national or international NGOs, and existing courts already active in Syria that are already performing important functions related to land management. For example, Sharia courts assign legal guardianship for missing persons and for minors, granting authorization for the sale or rent of a minor’s property, determining inheritance shares in accordance with Islamic Sharia and issuing inheritance documents, among others.52 Civil society, including women's groups, have a key role to play in mediation initiatives and should thus be supported.

3. **Develop the capacities of justice administrators:** Training materials and guidance notes should be developed, and capacity-building activities should be carried out (including on the development of linkages to existing legal frameworks, human rights and international standards applied to HLP, etc.) for justice providers, transitional justice administrators, and community members.

4. **Create a repository of the adjudicated cases:** This is important to ensure that such agreements are not lost and that all follow a standardized incremental approach towards formalization, within the rules established by the transitional justice framework.

5. **Clarify the interaction and links of this mechanism with the formal justice framework:** Clear linkages, hierarchies and division of roles with the formal legal system should be defined. The different streams of dispute resolution should be complementary and should mutually support each other, without creating grey areas and incentivizing “forum shopping” among the claimants, which could hamper the effectiveness of the mechanisms and increase the caseloads of claims and disputes. Syria has an existing alternative dispute resolution law focusing mainly on commercial disputes. Such a model

52 In line with the United Nations Secretary General’s note, support should be considered for functioning local systems with social legitimacy (United Nations, 2019).
could be developed and contextualized for HLP disputes. Testing, adaptation and replication would be needed.

6. **Define how the enforcement of transitional justice decisions will be ensured:** The enforcement of transitional justice decisions should fall within the Syrian institutions, as is the case with decisions enforcement by the formal court system. Efforts need to be made to guarantee the highest possible level of enforcement; otherwise, the efforts put into the first steps of the process will be vain and the authority of the mechanism itself will be questioned. A monitoring mechanism for the enforcement needs to be put in place, possibly within different institutions than those responsible for enforcement.

7. **Establish an administrative structure to collect and create a repository of conflicting claims and disputes over land:** These would subsequently be examined once the legal, administrative and adjudicative mechanisms are in place (typologies of violations and possible responses can be identified).

8. **Establish a dedicated desk to retrieve and assess land records and determine the degree of validity of the HLP claims:** A broad range of evidence should be accepted (see Annex 3) and a hierarchy of evidence should be established.

9. **Define how many decentralized dispute resolution units will exist and at what level they will operate:** It is advisable to start in selected strategic areas. For example, some possible prioritization criteria are the following: hotspots, areas where voluntary returns are increasing and more likely to happen, areas where the vulnerabilities are higher, areas where pilots for learning and replication are more likely to succeed, etc.

10. **Ensure accessibility to all these functions for all people claiming properties in Syria:** This should include those displaced in areas under the control of non-governmental groups or those who are abroad. This is especially important as some of these people cannot return due to security reasons.

11. **Disseminate reliable relevant information through the media (radio, television, websites, social media):** This should include information about individual land rights provisions and the existence of remedial options and processes.

12. **Continue the work of providing access to legal awareness, information, counselling and advice on HLP issues,** currently supported by several international actors, together with national partners.

### 5.5 ACCESS TO SUBSTITUTE SHELTER IN SYRIA

Many of the FGD participants in this study mentioned that their homes had been completely destroyed, occupied or expropriated. Some of the refugees who were renting had not paid the rent for a long time, which means that they might not have any shelter when they return to Syria.

In 2018, UNHCR’s shelter response in Syria provided shelter support for IDPs who had fled hostilities as well as returnees who came back to completely or partially damaged houses in their areas of origin. Despite all the challenges, UNHCR managed to reach 456,986 individuals with shelter assistance across Syria in 2018 (UNHCR, 2018b). A similar approach could be undertaken by relevant Syrian administrative bodies in areas under GoS control and with other actors in areas outside GoS control to identify and temporarily allocate public and abandoned property to those in need.

Providing transitional housing solutions for refugees who return to Syria, particularly for vulnerable groups like women who usually do not own properties due to legal and cultural challenges, is essential for their resilience and reintegration in society.

Providing transitional housing solutions (e.g. tents, camps, building materials, etc.) for refugees who return to Syria, particularly for vulnerable groups

---

53 The Syrian Ministry of Religious Endowments (Awqaf) is a large landowner in Syria and negotiations might help find substitute and temporary shelter for stranded Syrian refugees to house them temporarily in the ministry’s properties or build camps on vacant land, for free or against nominal donations to be done to the ministry. Other relevant GoS stakeholders to cooperate with include the Ministry of Labor and Social Affairs and the Ministry of Public Works and Housing.
like women who usually do not own properties due to legal and cultural challenges, is essential for their resilience and reintegration in society. This should be done without waiting for the end of the conflict and irrespective of international reservations regarding funding reconstruction projects in Syria, as it relates to the inalienable right of refugees (and of people) to adequate housing. Financial assistance in various forms (e.g. cash assistance to buy building materials, easy access to loans, etc.) could be extended to returning refugees or those still in Lebanon, so that their family members in Syria can rebuild and rehabilitate damaged property. In addition, legal and financial support could be extended to refugees to temporarily rent units in Syria, until a more durable solution is found. Supplementing such efforts for the provision of alternative shelter, further action is needed to ensure the rehabilitation of schools, medical facilities, and water and sanitary infrastructure.

4. **Adverse possession legislation needs to be revised.** In the medium-to-long term, adverse possession rules must be reviewed and assessed and applied. If it is possible to claim ownership through adverse possession within a short time frame (10–5 years), this will expose those who have been forced out of their territory to lose their rights. Adverse possession claims should not be dealt with until land dispute claims have been settled.

5. **Prevention of further violations of HLP rights**

Housing remains a key need in Syria, as indicated by the 2021 HNO (UN OCHA, 2021). Many HLP rights violations and cases of secondary occupation have already happened, but with over 12 million Syrians still displaced within and outside the country, efforts need to be put in place to curb future illegal occupation of land and properties as well as forced evictions. The United Nations should consider undertaking or supporting the implementation of the following actions to prevent further violations of HLP rights:

1. **An inventory of abandoned properties should be developed** to monitor and discourage/prevent occupation.

2. **Inventoried abandoned properties can be allocated for temporary use** by those unable to return to their original homes or currently living in substandard accommodation. Such an option can be provided to people on the basis of need and vulnerability criteria. A reliable partner should broker and guarantee the legality of such a process. Temporary occupation permits can be developed and issued, confirming and protecting the rights of both landowners and occupants/tenants.

3. **A clear process should be established to deal with secondary occupation.** Secondary occupants should be encouraged to either legalize their status or vacate the properties illegally occupied. The eviction of secondary occupants needs to be weighed against the immediate protection needs and human rights of both landowners and occupants. Those being evicted must not end up being homeless. When lawful eviction is necessary, alternative housing options need to be provided and the enforcement actors need to be assisted with due process guidelines.

5.7 **HLP measures for refugees during displacement in the host country**

Although the report focuses on the HLP rights of Syrian refugees to their properties in Syria, the pressing urgency emerges from the FGDs and interviews undertaken for this study to also address the HLP needs of refugees while they are in Lebanon.

**Access to adequate shelter**

Many FGD participants expressed concern about their inadequate living conditions in settlements in Lebanon, such as the quality of shelter and services, as well as crowdedness. Periodic mass evictions of Syrian refugees by local authorities were reported by UNHCR in 2018. The number one reason cited for such evictions (notably in the North and Bekaa regions) was “perceived risk to security” (UNHCR, 2018a). In December 2020, more than 300 refugees were forced to flee when their informal tented settlement in the Minieh region, northern Lebanon, was set ablaze after a row between members of the settlement and a local family (DW, 2020). In addition, the lack of an affordable housing framework in Lebanon has compelled most refugees to continue to live in tented settlements in very precarious situations or on the weakly regulated and increasingly
unaffordable rental housing market to fulfil their shelter needs (UN-Habitat and UNHCR, 2018).

Providing temporary shelter options for Syrian refugees in Lebanon and improving their conditions constitute a basic human right, which can be achieved with the collaboration of Lebanese institutions and the support of international humanitarian actors. An analysis and proposal of viable options in this regard is beyond the scope of this report. However, this would require a positive change in the attitude of the host communities towards Syrian refugees as well as the proper institutions. The frameworks of subsidized/free shelter (occupancy free of charge programme) or cash for rent for the most vulnerable groups of refugees could be considered. Programmes exist to facilitate right of use or rental arrangements between landlords and refugees as well as schemes granting cash to owners to upgrade substandard or incomplete private property conditioned on use by refugees for shelter with limited rent-free right of use agreements (NRC, 2016b). Other options worthy of consideration are providing housing cooperatives, collective affordable housing complexes (maybe in collaboration with religious authorities), or other facilities to refugees, or incentives to limited-profit developers and/or philanthropists who are willing to build adequate and affordable rental units, among others (UN-Habitat and UNHCR, 2018).

Additional intermediary options related to supporting Syrian refugees’ access to adequate housing include lifting the restrictions imposed on their mobility, so they are able to seek information and move when/if they learn about good housing options, in addition to raising their ability to negotiate an adequate housing lease contract that can provide them with long-term security (UN-Habitat and UNHCR, 2018). The latter can be achieved through training sessions aimed at promoting the refugees’ negotiation skills and through awareness-raising about their tenancy rights in the host country.

Access to livelihood opportunities

The FGDs revealed that many Syrian refugees demonstrated resilience by accepting work opportunities way below their qualifications to rebuild their lives with dignity and in peace in Lebanon. Humanitarian and development organizations, the private sector and the civil society should collaborate to enhance economic opportunities for refugees and host communities. This would foster enhanced inclusiveness in the workforce, according to the needs of the host country, as a means to ensure less dependence on aid, to improve the living conditions of refugees, and to enable them to put aside some money that could support their voluntary and dignified return to Syria in the future.

Improved access to livelihoods could also help remove the financial barriers that prevent refugees to pay the fees associated with updating their civil status and fulfilling the legal requirements related to the protection of their HLP rights in Syria, such as paying the embassy fees for sending a power of attorney to a relative in Syria. Single-parent households and female-headed families should be given priority.

Access to legal status, legal aid and awareness-raising

Only 20 per cent of refugees above 15 years old reported having legal residency in Lebanon in 2020 (UNHCR, UNICEF and WFP, 2021). The lack of legal residency exposes them to the risk of arrest and deportation, since illegal residency in Lebanon is a criminal offence. Lack of legal status in Lebanon impedes the access of refugees to the Syrian Embassy to update their civil status documents and, to an extent because of this, unregistered births, marriages and deaths are very common among Syrian refugees.

Syrian refugees are allowed, in limited cases, to apply for a residency permit in Lebanon for a fee of USD 200 per year per person aged 15 years and above.

Only 20% of refugees above 15 years old reported having legal residency in Lebanon in 2020 (UNHCR, UNICEF and WFP, 2021).

Syrian refugees are allowed, in limited cases, to apply for a residency permit in Lebanon for a fee of USD 200 per year per person aged 15 years and above.
major obstacle for low-income refugees. Lebanese authorities should waive residency fees for Syrian refugees or at least make them more affordable, while revisiting the legal residency requirements in order to make it more attainable to Syrian refugees. Moreover, they should acknowledge that some refugees need to occasionally return to Syria for a few days, including to protect their property rights, without risking deportation or being prohibited to enter Lebanon again.

Although many Syrian refugees in Lebanon know about the status of their property in Syria, many of them are not aware of the importance of and the difference between different types of property documents and their legal implications. They often have general or little information, which they obtain from the media or their neighbours about legislation issued in Syria after the war that impacts their property rights and about the legal process to follow to protect their HLP rights in Syria. Awareness-raising and free legal aid, which could be provided by national or international humanitarian and development actors, would help the refugees to better understand how to protect their HLP rights. This entails providing accurate information about their property in Syria, raise their awareness on their HLP rights and new legislation concerning and affecting them, promote their understanding of the value of evidence (e.g. electricity bills, photos of the property, etc.) and property documents, and assist them to preserve such evidence and documents, so that they can prove their property ownership when they return to Syria. Other ways to support Syrian refugees in Lebanon is by aiding them legally and financially to retrieve their civil documents.

55 For more information on the residency requirements of Syrian refugees in Lebanon, refer to UN-Habitat and UNHCR (2018).
56 Generally, according to UN OCHA (2019), refugees who are aware that their property in Syria is intact or only partially damaged are more inclined to return.
57 This paragraph is based on KIs conducted for this study.
The findings of this research are in line with those from previous studies, showing that Syrian refugees facing unresolved HLP challenges in Lebanon are reluctant to return to their areas of origin, despite the difficult socioeconomic situation they currently experience in Lebanon. Whether HLP rights violations are a cause, tool or outcome of the conflict in Syria, property losses will negatively affect the living conditions of the refugees and their ability to return to Syria. It is essential that the government authorities, international community, humanitarian and development actors and donors prioritize resolving the HLP issues in Syria of Syrian refugees in Lebanon and enhance their resilience as a basis for social reconciliation and reconstruction, and also to facilitate voluntary, safe and dignified return to Syria.

Emerging from the analysis provided in this report, the below recommendations aim at informing national and international HLP actors on how to prioritize assistance and design their response and interventions to protect and promote the HLP rights of Syrian refugees. It is important that the implementation of these recommendations takes place through multi-stakeholder inclusive processes that represent the broad variety of Syrian actors. In particular, displaced people and refugees – men, women and youth – should be actively engaged and even lead some of these discussions. The ethnic, religious, social and geographical richness of the Syrian society must be represented. State and non-state actors, civil society groups, land and HLP professionals and practitioners from different land-related disciplines, academia, and national and international experts must be able to voice their needs and collaborate in crafting solutions that work for everyone. This would not only be a requirement for the success of the solutions put in place, but it will be an important prerequisite for the different parts of the Syrian society to trust the processes.

### 6.1 RECOMMENDATIONS TO PROMOTE AND PROTECT THE HLP RIGHTS OF SYRIAN REFUGEES TO THEIR PROPERTIES IN SYRIA

1. **Provide accurate and impartial information to Syrian refugees about the HLP situation in their areas of origin**, the status of their property (beyond the general information they can obtain from the social media or friends in Syria), as well as key facts and information on administrative or legal issues that would affect their HLP rights, including legislation issued during the conflict that may impact them.

2. **Assist female and male Syrian refugees to safeguard their HLP documents and other evidence** that can support their ownership claims (e.g. water and electricity bills). Particular efforts are needed to reach out to and include women, as their names are often excluded from property documents, and they face specific complexities. Refugees should be encouraged to actively engage in the protection of their HLP rights in Syria; this can include retrieving and safeguarding any documents or copies of documents that they or their relatives may still have, filing property claims before Syrian courts and other state authorities, including through the assistance of their relatives in Syria, through professional help from a property lawyer in Syria to whom they can send a power of attorney, or through other means.

3. **A mechanism that can play an intermediary role between refugees and relevant HLP institutions in Syria and Lebanon should be established.** This would assist them to retrieve/update HLP and civil documents from Syria through the Syrian Embassy in Beirut, which should be adequately capacitated to assist the Syrian refugees.
4. **Legal and financial assistance tailored to the HLP needs of Syrian refugees should be provided** in Lebanon, especially for women. Coordination and cooperation should be facilitated with HLP organizations allowed to work on legal aid in Syria and with property lawyers who can access civil and HLP documentation institutions in Syria and assist Syrian refugees in Lebanon in retrieving lost documents or in formalizing their property documents in Syria.

5. **The protection of HLP documentation should also be supported** by working with Syrian institutions on the refurbishment or reconstruction of registration offices, supporting the efforts made on digitalization of the records and development of digital archives, and reissuing lost or damaged HLP documents, while putting care that the process does not formalize HLP violations that might have taken place during the conflict and that refugees are not excluded or discriminated against. The collection and storage of a broader set of supporting evidence that can be used in courts and in mass transitional justice mechanisms should also be supported, in line with some initiatives being undertaken by UN-Habitat and its partners. In the longer term, efforts to update, reform and improve the overall performance of the land registration system in Syria will need to be put in place.

6. **The awareness of Syrian refugees in Lebanon, particularly women, should be raised on the importance of civil documents.** They should also be assisted to obtain civil documentation in Syria or in Lebanon and to update their civil records.

7. **The documentation of HLP rights violations should continue** to support Syrian refugees and civil society in their struggles for those rights.

8. **Stabilization assistance should be extended to Syrian refugees in Lebanon** who voluntarily return to Syria to assist them to rehabilitate their damaged houses, or to find a substitute shelter in Syria. Local civil society initiatives realizing small-scale property rehabilitation projects should be supported to allow refugees to have a certain level of ownership in Syria, without implications on the international community’s stance on the reconstruction of Syria.

9. In the Syrian legislation system, there are provisions that can protect the HLP rights of refugees and displaced people overall. The SCC addresses forced and fraudulent contracts, occupancy issues – although the rights of lawfully evicted secondary occupants are not protected – and destroyed properties. On the other hand, during the conflict, many laws directly or indirectly affecting the HLP rights of refugees and other vulnerable population groups were issued. Examples are the Expropriation Law of 1982, Law No. 10 of 2018 (related to urban development), and the security clearance for property transactions and powers of attorney. The international community and the competent national actors should put pressure, influence and support the GoS to repeal or amend HLP legislation and regulations issued in Syria after the war that obstruct the HLP rights of Syrian refugees. 58

10. **Provisions that do not allow for adequate reparation (restitution and compensation) of all types of property ownership, including informal or unregistered ownership,** should be removed or amended. Furthermore, aspects of the laws that by virtue of their requirements – albeit perhaps unintentionally – end up discriminating against refugees and displaced people should be amended; these include, for example, laws that impose a strict time frame or require physical presence to complete specific processes.

11. **Non-HLP laws that affect the HLP rights of Syrian refugees,** such as the Counter-Terrorism Law and the Military Service Law as amended, 59 among many others, should be removed or amended.

12. **Statutes of limitation on restitution and compensation claims should be simplified** and rules related to the documentary evidence needed to prove ownership for HLP restitution,

---

58 A list of Syrian legislation obstructing the HLP rights of Syrian refugees is available in Annex 2. An example of such an unfavourable regulation, which was criticized in a KII conducted for this study, is the Circular Letter No. 4554/W of 4 August 2015 related to the security clearance of refugees who voluntarily return to Syria to assist them to rehabilitate their damaged houses, or to find a substitute shelter in Syria. Local civil society initiatives realizing small-scale property rehabilitation projects should be supported to allow refugees to have a certain level of ownership in Syria, without implications on the international community’s stance on the reconstruction of Syria.

59 See the 12th legislation listed in the table of Annex 2 for details about the recent amendment of the Syrian Military Service Law by Law No. 39 issued on 24 December 2019, which decided that assets and properties of individuals accused of avoiding or deserting their military duties can be seized, unless they are able to pay the hefty military service exemption fee of USD 8,000.
notably evidence regarding informal settlements and severely damaged areas, should be amended and made more inclusive.

13. The reform process should take concrete actions to ensure that women enjoy equal rights to property in Syria. This can include the removal of legal, financial and traditional barriers impeding their access to full property rights on equal footing with men; women’s participation in land- and HLP-related processes and decision-making structures; promotion of joint marital property; enforcement of inheritance laws and combating against the practices of renouncing inheritance rights to property; and enhancement of women’s access to justice and credit.

14. The reform and modernization of the judicial system should be supported to increase its overall capacity to respond to the needs of the people in a just and independent manner and – in particular – to address refugees’ legal issues.

15. Capacity development for justice administrators on international HLP law is needed. This is needed to resolve HLP disputes in general, but also to implement the restitution programme and transitional justice mechanisms recommended below, which will require a large number of national lawyers, judges and mediators. The training of Syrian jurists would be recommended – through twinning arrangements or special training missions by specialized UN agencies, NGOs or partners that have extensive experience in technical matters related to post-conflict property restitution and compensation, and are knowledgeable of international legal guarantees of property rights.

16. The existing legal framework and judiciary system – even if reformed – are not suitable to address the magnitude of HLP issues faced by displaced Syrians, in terms of both complexity and scale. Alternative, additional and transitional measures will have to be put in place in the short-to-medium term. Pending a comprehensive peace agreement in Syria, the establishment of a mechanism, such as an independent administrative, or quasi-judicial, committee capable of dealing with a large number of property restitution and compensation claims should be supported. The committee will have to operate within a larger transitional justice framework and be adapted to the expected scale of the claim and the general capacity of the Syrian state and its institutions. This will be instrumental to provide equitable redress for all victims of property rights violations, irrespective of their tenure type (formal, informal or customary). Utmost attention needs to be placed in ensuring that displaced Syrians are not discriminated against and negatively affected by the design of the alternative and transitional justice measures. To ensure that their needs and limitations are adequately taken into consideration, their active participation and collaboration in the establishment of these processes should be ensured.

17. On this basis, a large-scale restitution programme will have to be developed. This will entail the development of the political, technical and financial arrangements that support it. The issuance of a special restitution law to be drafted by national jurists with the support of international experts will be required, together with an accompanying set of operational directives.

18. As a key part of the restitution programme, but also as an important stand-alone process, the collection and safekeeping of HLP documents and other supporting evidence need to be prioritized, as mentioned in sub-section 5.1 above (point 4). A variety of state and non-state actors, including UN-Habitat, have started to work in this regard and further coordination, alignment and consolidated efforts would be desirable in the months and years ahead.

19. Suitable ways of dealing with secondary occupation will have to be established, protecting the rights of the lawful owners, tenants or users, but also addressing the needs of secondary occupants who might find themselves without alternative shelter options.

20. Further violations of HLP rights need to be prevented. Measures to ensure this can include creating an inventory of abandoned properties to monitor, discourage and prevent further secondary occupation; managing secondary occupation processes involving internally displaced families who do not have alternative shelter options, as mentioned in sub-section 5.1 above (point 7); and revising adverse possession rules to fit the conflict context and consider allowing longer timelines.
21. When a political solution to the conflict is reached, the provision of support and funding for reconstruction in Syria will be needed.

22. Furthermore, the land rights and land administration system in Syria had significant weaknesses already before the war. Such weaknesses contributed to inequalities and inefficiencies that undermined the inclusiveness and sustainability of the country’s socioeconomic development. They also contributed to creating the fragility that allowed the escalation to the conflict – and its consequences – to the scale that the world witnesses today. Important aspects to be addressed by the Syrian authorities and their partners in the medium- to long-term are the following:

- The issue of affordable adequate housing;
- The formalization of informal settlements;
- The improvement of the land registration system;
- The need to ensure gender equality – de jure and de facto – in the enjoyment of HLP rights;
- And the reform of the legal land framework to ensure compliance with international standards, but also for to improve efficiency and effectiveness.

### 6.2 Recommendations to Improve the Living Conditions and the HLP Situation of Syrian Refugees in Lebanon

Although not being the main focus of this report, the pressing urgency to also address the HLP needs of refugees while they are in Lebanon, and to improve their living conditions in Lebanon in general, emerged from the research that was undertaken. Some of the recommendations in this regard include the following:

1. It is a priority to facilitate the process of obtaining legal residency in Lebanon, by simplifying the requirements and procedure and by waiving (or reducing) the fee for obtaining a residency permit in Lebanon, and by providing legal information to refugees. The illegal status of refugees in Lebanon is compounding their vulnerability, because it is hindering their mobility, as well as their access to shelter, basic services, the Syrian Embassy, and competent Lebanese authorities (such as the courts and public notary offices) to process their civil and HLP documents, among others. UNHCR has classified the access of Syrian refugees to legal residency in Lebanon as a key protection priority for 2021 (UNHCR, 2021a).

2. The Syrian refugees’ access to livelihood opportunities in Lebanon, particularly for female heads of households, should be supported. Cooperation with international actors to grant access to livelihoods and income-generating opportunities should be promoted, according to the economic needs of Lebanon, to enhance Syrian refugees’ resilience and allow them to pay for adequate temporary shelter in Lebanon until they feel safe to return to Syria. Access to livelihoods and income-generating opportunities for Syrian refugees in Lebanon can also help remove some of their financial barriers, allowing them to pay the fees associated with updating their civil status and fulfilling some of the costly legal requirements related to the protection of their HLP rights in Syria.

3. UNHCR should resume the registration of refugees.  

4. Physical and legal protection should be provided to Syrian refugees in Lebanon, especially in matters of rental law, to prevent exploitation of refugees’ shelter needs by local landowners, and to offer refugees the same legal protection given to Lebanese citizens, namely with respect to the legal guarantees against eviction and housing conditions.

5. Syrian refugees should be allowed to have access to Lebanese courts and other official authorities, and to seek protection and redress in disputes related to their work, residency and lease in Lebanon. Any barriers to their access, particularly the requirement of legal residency

---

60 In an attempt to reduce the official number of refugees in the country – which by March 2015 had grown to almost 1.2 million – in May 2015, the Government of Lebanon (GoL) instructed UNHCR to cease the registration of Syrian refugees in Lebanon (Jammey and Mourad, 2018). Registration of Syrian refugees with UNHCR grants them protection and legal status in Lebanon. Once registered, they are accepted by the GoL and cannot be deported to Syria.

61 In 2019, there was a dramatic increase in emergency response needs in informal settlements, following particularly the harsh climate events of winter 2018/2019, major fire events, and a government decision in spring 2019 to enforce the dismantlement of illegal hard structures in informal settlements in certain areas (GoL and the United Nations, 2020).
in Lebanon (UN-Habitat and UNHCR, 2018), should be removed.

6. Violations of Syrian refugees’ basic human rights should be prevented or punished, in particular their right to adequate housing, and any discriminatory treatment against them either by the Lebanese authorities or by the local host communities. And the violators should be held accountable. Courts in Lebanon are not considered adequate for providing justice to Syrian refugees living in Lebanon, as mentioned above, and measures to mitigate these shortcomings should be established.

7. The registration process of civil events (such as birth, marriage and death) of Syrian refugees in Lebanon should be streamlined, simplified and be made more accessible by facilitating the access of Syrian refugees to the Foreigners’ Registry of the Personal Status Department in Lebanon, among others.

62 Judicial agreements between Syria and Lebanon grant Syrian nationals the right to have recourse to courts and obtain judicial aid in Lebanon, provided that they are legally present in the country. Even if they could go to court, refugees often lack documentation, meaning that their access is prohibited. Thus, in case of lack of legal status, access to court may be denied in the event of a dispute – irrespective of the outcome of eventual judicial decisions (i.e. who wins the case). Furthermore, complaining at police stations could result in the arrest of refugees if they are staying in the country illegally (UN-Habitat and UNHCR, 2018).

63 See footnote 7.
ANNEX 1: TABLE OF RESTITUTION LEGAL ACTIONS’ COSTS BEFORE SYRIAN COURTS\(^{64}\)

The table below presents the estimated costs to file a lawsuit before Syrian Civil Courts for the restitution of a property by the possessor or the property owner. The constant revision and increase of the court and power of attorney fees pose a challenge to the basic right of access to justice for many refugees.

<table>
<thead>
<tr>
<th>COST OF POSSESSORY ACTION FILED WITH THE COURT OF PEACE</th>
<th>COST OF RESTITUTION LAWSUIT FILED WITH THE FIRST INSTANCE CIVIL COURT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court of Peace power of attorney to a lawyer(^{65})</td>
<td>SYP 12,500(^{66})</td>
</tr>
<tr>
<td>Registration fee for court cases subject to a lump-sum fee</td>
<td>SYP 300 registration stamp + SYP 300 fiscal stamp + 10 per cent reconstruction fee + 10 per cent local administration fee</td>
</tr>
<tr>
<td>Various judicial and fiscal stamps charged on the registration of the court petition(^{67})</td>
<td>Around SYP 1,650</td>
</tr>
<tr>
<td>For each supportive document submitted to the court</td>
<td>SYP 200 judicial stamp + SYP 50 registration stamp + SYP 25 fiscal stamp</td>
</tr>
<tr>
<td>Stamps for the service of the court papers on the defendant (per one defendant or on the lawyer of several defendants)</td>
<td>SYP 50 registration stamp + SYP 25 fiscal stamp (should a copy of court documents be attached to the notification, each certified copy of the court documents shall have the following: SYP 200 judicial stamp, SYP 75 registration stamp, SYP 50 courts’ stamp, SYP 25 Red Crescent stamp, SYP 25 martyr’s stamp and SYP 25 fiscal stamp)</td>
</tr>
</tbody>
</table>

\(^{64}\) The costs are based on the law related to Fees, Guarantees and Judicial Expenses No. 1 of 2012, as amended.

\(^{65}\) The cost of the judicial power of attorney is determined by the Syrian Bar Association. It was recently increased by resolution of the General Assembly of the Syrian Bar Association, held on 1 October 2020.

\(^{66}\) USD 1 is equivalent to SYP 1,256, as per the exchange rates bulletin of the Syrian Central Bank on 20 September 2020.

\(^{67}\) The fee may vary depending on the number of defendants. All figures are approximate and do not include attorney fees.
## ANNEX 2: LIST OF SYRIAN LEGISLATION OBSTRUCTING THE HLP RIGHTS OF REFUGEES AND IDPs

During the conflict, several HLP and non-HLP laws and regulations have been issued in Syria, impacting the HLP rights of refugees and IDPs and impeding property restitution. The table below includes a summary of such legislation and highlights their effects on the HLP rights of refugees and IDPs.

<table>
<thead>
<tr>
<th>LEGISLATION NUMBER AND NAME</th>
<th>SUMMARY OF POTENTIAL THREATS OR CONCERNS TO REFUGEES AND IDPs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Legislative Decree No. 43 of 24 March 2011, related to the “Creation, Transfer, Modification and Acquisition of Real Rights in the Lands Located in Border Areas”</td>
</tr>
<tr>
<td>2</td>
<td>Legislative Decree No. 40 of 20 May 2012, as amended, entitled “Construction’s Violations Removal,” also known as “Informal Settlement Law”</td>
</tr>
</tbody>
</table>

---

68 This table is based on a study by GIZ (2018).
<table>
<thead>
<tr>
<th>#</th>
<th>Law/Decree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Law No. 19 issued on 2 July 2012, entitled &quot;Counter-Terrorism Law&quot;</td>
<td>The law gives a clear definition of a terrorist act, terrorist organization and terrorism financing. It provides for sanctions for setting up and running a terrorist organization, and for training to perform, as well as financing, terrorist acts. There are concerns that this law provides a dangerously broad interpretation of what constitutes terrorism and unfairly criminalizes a large segment of the population without any due process guaranteeing their rights or any fair trial. The definition of terrorism under this law is so broad that it affects thousands of Syrians who have been engaged in political, civic or humanitarian activities. Article 12 of the law gives the court the right to confiscate the properties of people charged with the crime of terrorism.</td>
</tr>
<tr>
<td>4</td>
<td>Law No. 22 issued on 26 July 2012 related to “Setting up a Counter-Terrorism Court in Damascus”</td>
<td>This law relates to the set-up of a Counter-Terrorism Court (CTC) in Damascus to try cases of terrorism crimes committed by civilians or military personnel, and other cases referred to it by the Public Prosecutor. Judgments of the CTC may only be appealed before a special chamber within the Court of Cassation, and are therefore not reviewable by the Appellate Court. The procedure applicable before this exceptional court that replaced the State Security Higher Court does not fulfill the requirements of international standards of a fair trial, nor does it provide for a due legal process. Moreover, no conditional release of suspects is allowed before this exceptional court. Furthermore, suspects who were sentenced by the CTC in absentia do not benefit from a readjudication of the case, unless they have voluntarily surrendered themselves to authorities. The court has also the power to order the confiscation of property.</td>
</tr>
<tr>
<td>5</td>
<td>Legislative Decree No. 63 issued on 16 September 2012, related to “Police Powers”</td>
<td>This legislative decree stipulates that while investigating crimes against the state’s internal or external security, and offences set forth in Law No. 19 of 2 July 2012 (the Counter-Terrorism Law, described above), security agencies may file a written request to the Syrian Minister of Finance to take the necessary precautionary measures against the movable and immovable property of the accused. Moreover, during the proceedings, the public prosecution and the investigating judge may take such action against the accused or the defendant, to impose a travel ban until a final decision is issued by the court. Prior to this legislative decree, criminal seizure was originally only permissible in relation to property that was directly used during a terror offence and was therefore relatively limited. While these powers were extended in the 1960s under martial law to allow for seizure of property by way of a simple administrative decision, this legislative decree has replaced that system altogether (Al Zien, 2019). It is estimated that some 70,000 Syrians have reportedly faced asset freezing decisions by the Ministry of Finance in the past two years alone (Baumann, 2019). Many IDPs and refugees are unlikely to return if their property is confiscated during their absence or if they face the significant risk of persecution, freedom of movement restriction, arbitrary arrest, or mistreatment by the security services, or if they must wait for the protracted litigation of the exceptional CTC before they can dispose of their properties, should they be found not guilty.</td>
</tr>
</tbody>
</table>
The declared objective of this legislative decree is to “redevelop areas of unauthorized housing and informal settlements [slums].” This was the original law that established new urban zones within the administrative border of Damascus Governorate, as part of the urban “master plan.”

The legislative decree provides for the creation of two urban development areas inside Damascus, as follows:

- The South-East Mezzeh development area, covering about 214 acres and including two cadastral zones: Mezzeh and Kafarsouseh (including, among others, the informal neighbourhoods of Mezzeh, situated behind Al-Razi Hospital).
- The south of the southern circinate road, covering about 800 acres and including the cadastral zones of Mezzeh, Kafarsouseh, Kanawat Bassateen, Daria and Qadam (including, among others, the informal neighbourhoods of Dahadil, Nahr Aicheh, Louan and Qadam) (GIZ, 2018).

The decree allows the GoS to deal with highly populated urban and slum areas, known for their informal housing, without having to comply with other expropriation and urban development laws. In order to achieve this objective, the decree dissolves the individual rights of property owners and replaces them with shareholder rights in the plot of land to be developed. While there are legislative protection measures, stipulating that the commission responsible for distributing the plots of land should assign the owner a property in the same prior location, there are doubts as to whether this is actually occurring in practice.

This decree further restrains property transactions (including buying, selling, merging, licensing or changing the property) for homes located within the two urban zones, as any transaction taking place within these areas must go through the Directorate of the Execution of Decree 66. It is a criminal offence to violate these administrative limitations, with a penalty of a short detention period (Al Zien, 2019).

This letter adds security clearance requirements to the purchase, sale or leasing of residential units and commercial properties in both urban and agricultural zones. The aim of this letter as stated by the GoS is to prevent terrorism. Currently, buying and selling property requires an official security clearance, which is impossible to be obtained by anyone wanted by the authorities, including for having evaded compulsory military service. As many as 3 million names – 12.5 per cent of the pre-war population – may be on such lists. The Bureau of National Security or the intelligence services determine whether or not someone wishing to make a property transaction could receive clearance. A failure to obtain the security clearance can lead to a freeze on all real property. The letter creates obstacles for land registration and land ownership, particularly for Syrian citizens outside the country (Baumann, 2019).
<table>
<thead>
<tr>
<th>Page</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td><strong>Law No. 23 of 8 December 2015 entitled “Planning and Urban Development Law”</strong>&lt;br&gt;&lt;br&gt;The law reinforces the state’s ability to acquire lands for public purposes using expropriation without prejudice against Article 15/2 of the Syrian Constitution of 2012. The law repealed the old Law No. 9 of 1974 and it applies to the new development areas rules established by Legislative Decree No. 66 of 2012, described above. The objective of the new Law No. 23 of 2015 was to allow the state planning authorities to rezone and redevelop urban areas damaged by natural disasters and acts of war. At the same time, it provides for addressing problems of informal housing, rapid population growth, and fast-growing towns and cities, and for granting administrative units better flexibility and efficiency in devising local development plans that are better aligned with the master plan than it was provided to administrative units by the previous Law No. 9 of 1974. The law allows for the setting up of new urban development areas and establishes a committee within each administrative unit for resolving disputes with aggrieved landowners, having resulted from the creation of new urban planning zones.&lt;br&gt;&lt;br&gt;The main concerns about this law lie in the short deadline given to owners to declare their property rights, that is 30 days as of the zone creation, and the raising of the ceiling for the free expropriation in return for the benefit earned by owners for having included their property in the zoning areas. Expropriated property shall not exceed 40 per cent of the areas outside the provincial centres, and 50 per cent of areas inside the provincial centres. Other concerns are also reflected in the setting up of the committee for property dispute resolution within each administrative unit, a committee that does not observe fair trial standards whereby property is unfairly valuated. Also, informal builders over state land or private land are stripped of their housing rights, being only allowed to take the debris of their informal buildings without any regard to the value of informal buildings. Moreover, the law does not grant the right of alternative housing to the effective tenant.</td>
</tr>
<tr>
<td>9</td>
<td><strong>Legislative Decree No. 11 of 5 May 2016, entitled “Moratorium on Land Registration in Closed Cadastral Offices Due to Emergency Security Situation”</strong>&lt;br&gt;&lt;br&gt;The declared objective of this legislative decree is to safeguard land tenure in times of war. This law suspends the registration processes at real estate administrative offices in parts of Syria where the security situation generated by the conflict with the Syrian opposition groups is of a certain scale. It then provides for the creation of “daily supplementary records,” which can substitute the “real property records,” and renders any other changes made to them invalid. In cases where supplementary records have been established, record-keeping responsibility has been relocated to neighbouring cities under more secure government control. This effectively makes it difficult to carry out transactions in any areas that the government has defined as having security concerns.&lt;br&gt;&lt;br&gt;This has resulted in preventing any amendments or changes to property records in areas outside the control of the GoS. All real estate bureaus in such areas are considered closed and further changes to property ownership cannot be made. This is made more difficult in practice, as attempts to engage with the supplementary system are frustrated by the fact that very few “daily supplementary record” systems have been established. Where it has been put into practice (such as in Arbin, Douma at Damascus countryside and Safira at Aleppo), the supplementary system is controlled by GoS employees and makes access to property even more difficult (Al Zien, 2019).</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>10</td>
<td>Legislative Decree No. 12 of 19 May 2016 related to the “Digital Real Estate Registry Law”</td>
</tr>
<tr>
<td>11</td>
<td>Law No. 33 of 26 October 2017 related to the “Reconstitution of Damaged or Lost Cadastral Records”</td>
</tr>
<tr>
<td>12</td>
<td>Law No. 35 of 15 November 2017, amending the Military Service Law issued by Legislative Decree No. 30 in 2007, and entitled “Confiscation of Assets for Failing to Perform Military Service”, and Law No. 39 of 24 December 2019</td>
</tr>
<tr>
<td>Page</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>13</td>
<td>Law No. 1 issued on 18 January 2018, entitled “Setting up a Restricted Area Around Figeh Water Spring”</td>
</tr>
<tr>
<td></td>
<td>The declared objective of this law is to protect the Figeh water source located in the Barada river valley in Damascus countryside, which is the main drinking water source for the inhabitants of the capital Damascus. The law provides for the creation of a restricted area alongside the tunnel dragging the water from the water source to Damascus.</td>
</tr>
<tr>
<td></td>
<td>There are concerns that the extension of the restricted zone alongside the water source would diminish livelihood prospects of villagers in the concerned area. Houses of villagers have already been demolished near the source and many villagers of Al-Figeh and Ein Al-Khadra areas have been displaced to the north upon the takeover by the Syrian Army in January 2017 of the area previously held by anti-government groups. Moreover, the law endangers the economic livelihood of original inhabitants and displaced persons of the area, who might consider returning to their neighbourhood, as the law turns the area into a paramilitary zone and bans numerous economic activities near the Figeh water source and within the area. For instance, under the pretense of preserving the purity of and the water flow from the source, the law bans activities, such as well digging of any depth; excavation of any magnitude; creation of quarries of stones; dust, sand or pit drilling for any reason; stone, dust or sand movement to outside of the restricted area for whatever reason; construction of any industrial, commercial, agricultural, residential or tourist facilities, including fuel stations, fuel tanks and car start-up centres; or use of fertilizers, pesticides, warehouses, clinics, laboratories and hospitals of whichever size; camp construction and housing construction of any kind, whether buildings or cement, stone, wood, metal or any other material usage; construction and road paving regardless of the rank; and establishment of any extensions or reservoirs whatever the purpose of their use, and the performance of any works in them, whether of an agricultural, industrial, commercial, tourism or construction nature. Aside from all of the above-stated factors, personal safety concerns and fear of prosecution weigh heavily on the ability of displaced persons from this neighbourhood to return.</td>
</tr>
<tr>
<td>14</td>
<td>Law No. 3 of 12 February 2018, entitled “The Removal of the Rubble of Damaged Buildings as a Result of Natural or Abnormal Causes or which are Subject to Laws that Mandate their Demolition”</td>
</tr>
<tr>
<td></td>
<td>This law governs the removal and sale of debris from damaged buildings around Syria. It sets out the process of identifying, removing and selling debris from zones identified by the governor. Claims for ownership of the debris can be made after the governor assesses the damage to buildings and prepares a report detailing the damage, the cost of removal, the value of the debris, and a plan of the area, including personal details of owners. Claims can be made by property owners or their relatives, and must include proof of ownership. In case such a proof cannot be provided, a description of the property can be accepted. The law allows the governor to rule on the condition of an entire cadastral zone, which would include both damaged and undamaged buildings. Obviously, this law is a key piece of legislation connected particularly to other laws, such as Law No. 10 of 2018, described below. It enables each administrative unit of the identified zones to start the process of removing the existing building in order to launch the urban replanning process, even without the presence of the owners. Rubble removal also complicates HLP claims for informal buildings, as water and electricity meters provide evidence when proper documentation is unavailable.</td>
</tr>
</tbody>
</table>
This law allows for the establishment of one or more urban development zones within the general organizational plan of administrative units (the governorate, the city, the village and the municipality, as defined in the Local Administration Law, Legislative Decree No. 107 of 2011) in all Syrian departments. The new law is based on the controversial Legislative Decree No. 66 of 2012, which created two urban development zones in Damascus, the latter being its scope of application, whereas Law No. 10 of 2018 applies to the rest of Syria.

Concerns about Law No. 10 of 2018 undermining the ability of displaced residents to return stem, among other things, from the following:

- Short and inadequate period for landowners (whose property is not listed in the real estate records) in the area to be redeveloped to prove their ownership in the urban development zones (30 days from notification, according to Article 2), a period that was extended to one year by Law No. 42 of 2018 after international pressure on the GoS.

- Difficulties to prove land ownership in some areas, since several local land registries in Syria have been destroyed during the conflict, and only 50 per cent of Syrian land was officially registered even before the conflict (Stubblefiele and Joireman, 2019).

- Relatives up to the fourth degree or legal representatives could submit proof of ownership to local authorities on behalf of absent landowners. However, 70 per cent of refugees lack basic identification documentation, according to the NRC (2017b). Moreover, the appointment of a local agent to submit the land ownership documents requires the use of a proxy or a power of attorney to be sent by refugees from abroad. Such a process is subject to screening and security clearance by several security agencies in Syria, with documents being often denied, particularly if the concerned persons are blacklisted by the government or they simply come from anti-regime areas. The GoS has promised to waive the requirement of security clearance for the power of attorney, but it is yet to happen. Consequently, many individuals will not be able to personally make a land claim or to appoint a legally recognized agent.

- The law does not adequately deal with or take into consideration the right to adequate housing for the residents of informal settlements in the area to be redeveloped. There is no certainty in the law as to whether substitute houses are to be offered to informal residents of the developed area, thus challenging the ability of the urban development projects to provide adequate housing for all formal and informal residents of the area to be redeveloped, a right guaranteed by several international instruments (International Covenant on Economic, Social and Cultural Rights [ICESCR], Pinheiro Principles and many others). There are serious concerns that urban planning is used to justify the eviction and demolishment of informal settlements. It is important that any urban development legislation should uphold the refugees’ right of return to their areas of origin and homes and not make it impossible.

- Reports indicate that Law 10 has been used by Syrian militias to confiscate agricultural property in al-Safsafiyah and al-Tremseh, without zoning being established, and to block residents from returning in Qaboun (Stubblefiele and Joireman, 2019).
### Decision of the Syrian Council of Ministers No. 5 of 20 January 2020 related to the payment of the price of real estates and vehicles exclusively through the banks, as amended by Decision No. 28 of 23 March 2021

On 20 January 2020, the Syrian Council of Ministers issued Decision No. 5, requesting all public entities custodial of real estate and vehicle ownership records of all kinds (including the GDCA), as well as Public Notaries not to record any land or vehicle sale transaction or irrevocable powers of attorney, until after submitting a bank receipt proving payment or deposit of the amount in full or in part by the buyer into the seller’s account or his/her appointed agent’s bank account. According to the Syrian Central Bank, which had approved the executive regulations of Decision No. 5 of 2020, the objective is to increase transparency, reduce dependency on cash payments, and help prepare the groundwork for the processing of electronic payments. However, the decision is labeled by many Syrian lawyers as unconstitutional. The argument is that since the right to contract in cash or otherwise is a private right guaranteed to individuals in the SCC, only the Parliament can amend the SCC to come up with such rules. The effect of the decision on the security of land tenure is more serious than disturbing the principle of separation of powers. Many refugees and IDPs will not be able to sell their property in Syria because of this new decision, which requires them to open bank accounts in Syria to complete property sale transactions. Banks in Syria do not open a personal bank account unless in the presence of the person requesting the opening of the account. They do not accept the opening of bank accounts through a proxy, even if duly appointed by a power of attorney. The activities of Syrian banks are restricted by many Syrian Central Bank regulations and by the anti-money-laundering law. Consequently, it may not be possible or practical for displaced persons or refugees who are unable to return to Syria to open a bank account inside the country in order to sell their property. Alternatively, they have to accept that the price of sale will be deposited in the account of their appointed agent (not theirs) whom they have to trust, which also increases their risks of losing the property and its sale price. Moreover, the said sale exposes the buyer to the risk that the seller might not accept to conclude the sale of the property at the Land Registry after they had received the sale price or part of it in his/her bank account as required. This is because the contract of property sale is not a spot contract and is classified as a forward contract (i.e. the transfer of sale takes time and several procedures).

### Decision of the Syrian Council of Ministers No. 46 of 8 July 2020 “Imposing Foreign Currency Exchange at the Borders as a Condition to Enter Syria”

The decision forces Syrian citizens returning to Syria to exchange at the Syrian borders USD 100 or the equivalent of such an amount in a foreign currency, at the official rate determined by the Syrian Central Bank, as a condition of granting them access to Syria. Those who do not pay will not be allowed to enter. Exempted from the application of this decision are citizens below 18 years old. The decision is an obstacle to Syrian citizens who want to return to their country and may be unable to secure the amount that must be exchanged at the official rate, while the bank itself has not been disbursing foreign currency to citizens at the official rate, and noting that around 83.4 per cent of Syrians live below the poverty line (UN ESCWA and University of St Andrews, 2016).

### Law No. 7 of 12 August 2020, entitled “The Law of the Protection and Management of Absentee Property,” issued by the Autonomous Administration of North and East Syria (AANES)

On 12 August 2020, the Autonomous Administration of North and East Syria (AANES) (Syrian opposition) issued this new law to be applicable in areas in northern Syria under its control. This law is a gross violation of property rights. It violates Article 15 of the Syrian Constitution of 2012, which protects private property from confiscation. It also breaches other international relevant conventions and the Social Contract Pact of AANES itself. Basically, it allows AANES to lay hands on, manage and invest the property of any person who has been abroad for over a year after having decided to permanently leave the geographical area under its control. On 12 August 2020, AANES published a decision on its official Facebook account that it had decided to suspend the implementation of Law No. 7 of 2020 because of sharp criticism by human rights NGOs and other local and international stakeholders (Enab Baladi Online News, 2020).
Legislative Decree No. 82 of 30 September 2010 entitled “Land Use Planning Law,” as amended by Law No. 6 of 17 March 2020

This legislative decree lays down the general provisions regulating the construction and sale of property units. It applies to properties that are located within the urban plans, which are connected by a public road, water and sewage network. The legislative decree allows land developers to sell units on blueprints, provided the sale is recorded in a temporary property registry created for this purpose to protect the buyers. Moreover, the legislative decree provides for penalties to oblige the developer to complete the construction and avoid land speculation. First, within one year of the designation of a specific area as an urban development area, the owner of the land has to request for a construction permit. If the owner does not do so, he/she will have to pay a 10 per cent penalty over the cadastral value of the land, for four years. After these four years, the land will be sold in public auction and the landowner will take the auction price minus the administrative fees. Moreover, once the construction permit has been granted to the developer, the latter has to complete the construction within a special schedule defined in the law, provided that the full period of the permit does not exceed five years.

If the legal construction deadlines are not met, the real estate developer will have to pay a 10 per cent penalty over the value of the land for two years, after which the land will be sold in public auction. In addition, if the construction is finished but there is something missing or not meeting the contractual specifications, the developer will have to pay a 10 per cent annual penalty over the value of the sale contract, until the construction is totally finished. Law No. 6 of 2020, which amended certain provisions of Legislative Decree No. 82 of 2010, allowed landowners to appeal decisions of the committee looking into granting the construction permits and imposing penalties on developers, before the Civil Court of Appeal in the relevant governorate, thus extending the supervision of the judiciary over the decisions of the committee established by the legislative decree.

Law No. 11 of 10 April 2011 entitled “Provisions for Real Estate Rights in Syria for Non-Syrians”

This law replaced the old Law No. 11 of 2008, which regulated the foreigners’ real estate ownership in Syria. The new law laid out the conditions that should be fulfilled by foreigners to be able to acquire real estate in Syria (namely, the foreigner should have legal residency in Syria, the house should not be less than 140 square metres, the house must be used for family residency, and authorization should be granted by the Syrian Minister of Interior). Moreover, the non-Syrian who has acquired ownership of a property in accordance with this law may not dispose of such property in any way before two years have elapsed since the acquisition of the property, unless approved by the Minister of Interior. Furthermore, the law explains cases when land ownership is transferred to a foreign person by inheritance or bequest. It provides that the non-Syrian citizen’s right to such a property shall be revoked in the absence of reciprocity by the state of which they are a national. In this case, the non-Syrian property owner shall transfer his/her property to a Syrian national within two years after his/her own acquisition of such property; otherwise, the property shall be transferred to the Public Property Administration and its estimated value paid in accordance with the provisions of the Expropriation Law. Only the Council of Ministers may override this rule, based on a motion of the ministers of Interior and Foreign Affairs. The law has serious consequences for a Syrian woman married to a foreigner and her children who are not considered Syrian citizens based on the Syrian Nationality Law (according to which, a Syrian woman does not give her nationality to her children) and therefore the children may not inherit the property of their Syrian mother, unless the strict conditions outlined in Law No. 11 of 2011 are fulfilled.
### Law No. 31 of 11 October 2018 entitled “The Regulation of the Ministry of Religious Endowments"

The law regulates the structure and the functions of the Ministry of Religious Endowments (Awkaf) in Syria, and the responsibilities of the minister. It also provides for the setting up of a Jurisprudential and Scholarly Council and determines its responsibilities, as well as terms and conditions for selecting Islamic religion teaching staff, disciplinary measures, and the regulation of religious teaching. The law also creates a Central Council, directed by the minister, with the power to establish a branch in every municipal and administrative centre to oversee religious rituals and celebrations and to evaluate implementation of the ministry's plans. Additionally, the Central Council has the responsibility of managing and administering waqf property, including deciding to invest waqf movable properties in Islamic banking and insurance operations.

On the other hand, the law confirms that waqf properties cannot be acquired by acquisitive prescription; it tasks the minister with prosecuting encroachments on waqf properties, and determines sanctions for encroachments and ways for settlement of violations via the ministry. Moreover, the law exempts waqf properties from any kind of taxes or fees and determines modalities of exchanging waqf properties and the rules for leasing and investing them.

This law triggered widespread controversy in Syria because it expanded the powers of the Ministry of Religious Endowments (Awqaf) in Syria, which is perceived by many Syrians as a threat to religious pluralism and secularism in Syria, and a mere surrender of the authority to religious conservatives in the society. In addition, many scholars consider that this law merely formalizes the Syrian Government’s long-standing hegemony over religious affairs, as a part of its broader pragmatic strategy of manipulating state institutions to keep a tight grip on society (Al-Kassir, 2018).

### Articles 775 and 919 of the Syrian Civil Code (SCC), issued by Legislative Decree No. 84 of 18 May 1949, as amended

**Article 775:**

“The right to dispose of amiri (state) land shall cease in the event such land has not been cultivated or has not been used for a period of five years.”

*Amiri* land is state-owned land, but individuals have the right of disposition (*tasaroq*) over it. This right of disposition over *amiri* land expires due to the non-use of the land for a period of five years. *Amiri* land in Syria is located outside the boundaries of urban planning and is often agricultural. The objective of Article 775 of the SCC is to promote the cultivation and use of *amiri* land.

**Article 919:**

“A right of disposal of amiri (state) land that is not governed by the State Property Department is established 10 years after the possession with or without document, provided that the possessor cultivates the land.”

Article 919 of the SCC provides that the mere possession and cultivation for 10 years of *amiri* land not governed by the State Property Department are sufficient grounds for any person to acquire the disposition right over *amiri* land, even when the *amiri* land possession is not based on a contract or any other legal acts. The objective of this article is to encourage the use and cultivation of *amiri* land as recognized grounds for acquiring the right of disposition over *amiri* land.
A few aspects of Sharia law/Personal Status Law regarding women’s access to land

Syrian Personal Status Law (PSL) No. 59 of 1953 and amendments:

- The PSL does not recognize the legal concept of marital property. Property reverts to the spouse in whose name it is registered (typically the husband), regardless of who has made contributions to it (e.g., in case of divorce, the wife is not compensated for her financial contribution to the marital home, and the house remains the property of the husband alone, because it is registered under his name at the Land Registry).

- Inequality of inheritance shares between male and female children in the PSL: The male receives a portion equal to that of two females. A revision of the PSL in 2019 introduced a positive change, when the PSL inheritance provision related to the wasiyah wajibah (mandated will) was changed to increase parity between female and male siblings inheriting directly from their paternal or maternal grandparents (if the parent died before the grandparent) (PSL, Article 307).

- Marriage of a non-Muslim female with a Muslim male precludes her inheritance from him. His children from her inherit his property but she does not, because of the difference of religions.
ANNEX 3: LIST OF DOCUMENTS THAT CAN BE USED AS EVIDENCE TO SUPPORT HLP CLAIMS

This list has been compiled by UN-Habitat and its partners in preparation for an ongoing project on the mapping of HLP claims of Syrian refugees living in Lebanon and collection of supporting evidence. Tenure claims are being mapped for a variety of tenure types, and the evidence being collected includes cadastral, legal, official and non-official types of documentation.

<p>| 1. Title deed (<em>tabu</em>)                          | 2. Real estate statement                        |
| 3. Real estate statement from temporary register | 4. Irrevocable power of attorney                 |
| 5. Court decision                               | 6. Judicial declaration of transfer             |
| 7. Caveat record statement                      | 8. Sale contract by the Military Housing Establishment |
| 15. Registered lease agreement on public or private lands | 16. Agricultural use permit                      |
| 17. Usufruct agreement                          | 18. Sharecropping agreement                     |
| 19. Unregistered lease agreement                 | 20. Long-term religious endowment lease (<em>akd ejaar awqaf</em>) |
| 21. Registration of historical property with the Directorate General of Antiquities and Museums (DGAM) and/or the Directorate of Old Cities (Damascus) | 22. Report of demarcation/adjudication process |
| 23. Record of acquisition through public auction | 24. Mortgage contract                           |
| 25. Building permit                              | 26. Industrial and commercial permits           |
| 27. For commercial properties in industrial zones, municipality plot allocation statement | 28. Well digging permit                         |
| 29. Other private contracts                      | 30. Residency certificate from <em>mukhtar</em> (<em>warket mukhtar</em>) |
| 31. Bill of quantity (from the municipality)     | 32. Building blueprint and plans (ratified by the municipality) |
| 33. Property tax bill                            | 34. Utility bill                                |
| 35. Internet bill                                | 36. Tax declaration (<em>bayan mabi’ aw tanazul</em>) (Ministry of Finance) |
| 37. Receipt in exchange for a service (usually, cleaning services) |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>38.</td>
<td>Police report</td>
</tr>
<tr>
<td>39.</td>
<td>Decision on property seizure</td>
</tr>
<tr>
<td>40.</td>
<td>Sharia determination of heirs/legal determination of heirs</td>
</tr>
<tr>
<td>41.</td>
<td>Warrant circular</td>
</tr>
<tr>
<td>42.</td>
<td>Security clearance for buying/selling procedures in border areas</td>
</tr>
<tr>
<td>43.</td>
<td>Building violation penalty</td>
</tr>
<tr>
<td>44.</td>
<td>Address on ID card</td>
</tr>
</tbody>
</table>
REFERENCES


Al-Housseini, A. Syrian Cassation Court, Decision No. 1723, Fourth Chamber, Decision No. 1105, Docket No. 1212 of 14 October 1997, Records of the Cassation Court.


Electronic Government of Syria Website. https://egov.sy/page/ar/0/121/%D%8B%9D%+86%9D%8B%3D%88%9D%8B%1D8%9A%D%8A9.html (Accessed 10 February 2021).


International Legal Assistance Consortium (ILAC) and International Bridges for Justice (IBJ) (2020) *Seven Most Pertinent HLP Issues for Syria* [unpublished].


UN ESCWA–NAFS (2018a) Tahil fajwat al-siyasa fi kita’ al-kada’ fi souriya [Policy Gap
Analysis in the Judiciary Sector in Syria. [1]


UN ESCWA and University of St Andrews (2016) Syria At War: Five Years On. [3]


UNHCR (2018c) Syria Emergency. [14]

UNHCR (2021a) Fact Sheet: Lebanon, January. [15]


PROMOTING AND PROTECTING HOUSING, LAND AND PROPERTY RIGHTS OF SYRIAN REFUGEES LIVING IN LEBANON: TOWARDS AN INTEGRATED RESPONSE

MARCH 2021