



Reality of Housing, Land, and Property Rights in Syria

HLP Working Group - Research 2020

Informal Housing in Syria Harvest of Decades of Neglect

(Research Paper)



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Introduction

Informal housing has been one of the most salient and complex issues that the Syrian state and society have learnt to adjust to. Their increasing salience is manifested in the fact that informal dwellings in the country constitutes approximately half of the total number of residential buildings,¹ and their complexity by the differing legal statuses of such dwellings from one region to another. Some of them were built outside the planning zones and some inside them, some built on government land and some on private property owned by other residents or absentees. Perplexingly, most of the large informal settlements have a combination of these legal statuses.

Another layer of complexity has been added since the outbreak of the conflict in the country, with escalating hostilities leading to massive destruction of residential areas – most of which naturally informal settlements – as well as the mass displacement movement. With half of the population now displaced either internally or as refugees, most of those owning a property have now turned into absentee owners.

Consequently, there is an increasing need today to re-examine the issue of informal housing in Syria, with the repercussions of over ten years of conflict taken into account. How has the conflict intensified the impact of decades of legislative, administrative and regulatory neglect of housing and property rights in Syria? What are the dangers posed by the future for millions of informal property owners? And finally, what are the main challenges to resolving the informal housing problem once and for all, whether with regard to the older settlements that have been damaged by the war or recently formed as a result of it?

The paper is divided into four parts. Part I looks at the origins of these informal settlements and their historical growth, focusing on the legal and legislative background that has contributed to this phenomenon. Part II expounds the way in which state institutions, such as the Land Registry, the municipalities, the judiciary and real estate development institutions, have dealt with the phenomenon. It argues that they have played a significant role in the normalization of informal housing in Syria. Part III provides an analysis of informal housing from a political point of view. It argues that the Syrian regime has willfully ignored the problem of informal housing and disregarded any solutions to it, choosing to exploit its economic and political ramifications in pursuit of domination. Finally, Part IV offers an overview of the multifaceted problem in the post-conflict setting, with significant challenges posed by the issues of the right to return for refugees, IDPs and forcibly displaced persons; the massive destruction, reconstruction and the requirements for it at the housing, land and property rights level; and the newly emerged informal settlements. What are the preconditions for addressing these issues at the political, legal, and administrative levels?

1) A statement by the Syrian regime's Minister of Housing, published on the website of the local pro-regime newspaper Al-Watan, 2018, available at <https://bit.ly/3j03nEw>, last accessed 24 September 2020.



Concepts and Definitions

Unregulated or informal buildings: It is a building built outside the boundaries of the zoning plan, also called mukhālif (illegal) or ashwā'i (random). Some buildings are considered illegal even while built inside the boundaries of the zoning plan, such as when they violate the building codes. Building outside the zoning plan constitutes the essence of “random” or informal settlements, which are urban agglomerations developing in lands not intended for housing, thus constituting an infraction and a trespassing of state property and/or agricultural lands.²

Delimitation and legal formulation:

Delimitation (Arabic, tahdid) is the development of a blueprint that delineates the boundaries of the real estate and its overall area, as well as a master plan showing the neighboring real estate in the area. Legal formulation (tahrir) is the development of a document called mahdar tahrir (“record of formulation”) that details the property’s status in terms of ownership, descriptions, legal type, and rights and obligations. This document is then transferred to the Land Registry, where a new record is opened that matches the mahdar tahrir. In other words, delimitation and legal formulation are the process that produces two documents unique to each property, the first being technical (the site plan) and the second legal (record of formulation), and both worked out by the departments of the Directorate General of Real Estate Interests and under the supervision of a real estate judge.

Site plan:

It is an official document issued by the Cadastral Secretariat in the Land Registry department to which the property belongs. This plan delineates the boundaries of the property and its area. The site plan is developed in parallel with the delimitation and formulation work carried out by technicians and under the supervision of a real estate judge. All changes that occur later to the property are required to be reflected in the site plan.

Zoning plan:

It is a plan issued by the administrative unit and clarifies the future vision of the population and potential urbanization of the area. It defines the urban boundaries, the main road network, the uses of different types of lands, and the methods and regulations for building in each of them.

Common ownership:

If two or more persons own a property without specifying each one’s share, then they are common co-owners of it.³

Segregation:

It is a technical transaction carried out by the Directorate General of Real Estate Interests or its affiliate departments. It results either in dividing the property into several sections or taking out a section and annexing it to a neighboring property. A property owner may resort to

2) Elias al-Dairi, “Informal Settlements in Syria and their Relation to Family and Population Characteristics,” Central Bureau of Statistics, Damascus, 2007, available at <http://cbssyr.sy/studies/st24.pdf>, last accessed 9-04-September 2020.

3) The Syrian Civil Code, Article 780, the Syrian Parliament website, available at: <https://bit.ly/32ZmcAM>, last accessed 4 September 2020.

segregation for several reasons, including:

- Selling a section of the property to an independent new owner of a separate property.
- Dividing the property among children, with each becoming an independent new owner.
- Removing the common ownership so that co-owners become independent owners.

Ownership records or cadastral records (al sahifa al aqariya):

Cadastral records are the core around which the Land Registry is built. A cadastral record of a property includes a full description of it, and it serves as a reference for all information about it. For each property, and within the real estate area to which it belongs and in which delimitation and legal formulation took place, a unique cadastral record is opened based on the records of the temporary real estate judge.

Notarized power of attorney:

It is the power of attorney organized with the relevant judicial department by the employee who maintains the notary records. For properties undocumented in the cadastral records or whose cadastral descriptions do not match their reality on the ground, notarized powers of attorney have been used extensively as evidence of real estate sales and purchases. An irrevocable power of attorney is thus akin to a sale contract.



Part I: Historical and Legal Background of Informal Housing

The informal housing phenomenon in Syria began in the middle of the last century, with a major turning point of increased expansion during the 1980s until it took the shape of major urban slums. What the Syrian law calls “areas of collective infraction” has become increasingly visible in almost all Syrian cities, especially in Damascus, Aleppo and Homs.

Many countries have suffered from such a phenomenon due to socioeconomic pressures, especially in the second half of the last century and its unprecedented population growth. One major cause of such a phenomenon is massive rural migration, which is caused by the uneven distribution of economic, educational, and healthcare opportunities between rural and urban areas. Yet very few countries have had their informal settlements reach such outsize levels as in Syria, which is largely due to a uniquely poor governmental response. Indeed, many Syrian legal experts argue that the laws and regulations issued by the Syrian state have rather exacerbated the problem rather than solved it. On the other hand, the high levels of state corruption have particularly facilitated the growth of these settlements by encouraging “brokers” and allowing an economy of urban infraction to flourish.

The Magnitude of the Informal Housing Phenomenon

Based on the national consensus, the population in Syria has consistently grown from around 3 million in 1947, to 6.3 million in 1970, reaching 9 million in 1981, then 13.8 million in 1994, and finally a whopping 23.7 million in the peak year of informal housing in 2010.⁴

This growth has been accompanied by mass migration from rural areas to urban centers, which further increased the demographic and housing pressure on said centers. In 1981, for example, Aleppo had a population of less than 1 million, but it became home to more than 3 million in 2010. Similarly, the population of Homs rose from 345,000 in 1981 to more than 1.1 million in 2010.⁵

As this population increase was not accompanied by corresponding urban planning, an insufficient supply of affordable dwellings forced people to buy property in informal settlements, despite their several shortcomings such as poor structural safety, illegal status, overcrowding, and poor services.

This misfortune has plagued at least of Syria’s residential areas, and even more than half in some urban centers. In response to a remark that the informal housing exceeds 60% of Syrian cities, the Minister of Housing in 2018 acknowledged that they constitute 40-50%.⁶ A study on urban expansion between 1981 and 1994 found that 961,000 housing units have been newly built, of which only 482,000 were legal; that is, the percentage of informal housing over this period exceeded 50%. In Damascus in particular, only 35,000 out of 102,000 new housing units were legal, which means 67% of the expansion was informal settlements.⁷

4) Qassem Al-Rabdawi, “Population Growth and the Problem of Informal Housing in Urban Centers of Syrian Governorates in 1981-2010,” *Damascus University Journal*, Volume 31, Issue 3, 2015, available at: <https://bit.ly/3i6ioDq>, last accessed 29 September 2020.

5) *Ibid.*

6) *Al-Watan* newspaper on 13 May 2018, available at <https://alwatan.sy/archives/150723>.

7) “The Reality of Informal Housing in Damascus,” Seminar of the Supreme Council of Science in 2002, delivered by Dr. Saadallah Jabbour, available at: <https://bit.ly/3cCcyds>, last accessed 27 September 2020.

An official study published in 2007 found that the density of informal settlements (in terms of population and construction) exceeded 200% between 1990 and 2004.⁸

The Legal and Regulatory Aspect of Informal Housing

Real estate laws serve either to put an end to a certain problem or to tackle it shortly after it has arisen. In Syria, however, laws have long been a contributing factor to the problem of informal housing. A prominent example of this is the Law of Zoning, Regulation and Urbanization (Law No. 9 of 1974), which granted administrative units the right to expropriate a third of any planned area. If the general and detailed zoning plans are required, such expropriation may take up to half the land, free of charge and without compensation to the original owners. More drastically, the implementation of urban plans was extremely slow, and failure to finalize zoning and regulation gravely contributed to the spread of informal housing. The demographic growth in the cities was not accompanied by new master plans, which created a situation in which slum housing was the only alternative for those looking for new homes.

Another law that aggravated informal housing was the Urban Expansion Law (Law 60 of 1979), which deprived the owners of unsegregated houses located within zoning plans from autonomy over their properties. In addition, it facilitated the appropriation of land at low prices that were hardly higher than their real price, prompting owners to construct unlicensed buildings on their lands to disrupt appropriation and paving the way for further informal expansions. Parallel to all that was a tragic absence of any legislative policy aimed at securing housing for low-income people.

Other laws that have contributed to the problem include the Rental Law, which remained in force for more than half a century and effectively discouraged owners from leasing their properties and made them prefer them vacant. Furthermore, the state consistently neglected to carry out delimitation and legal formulation.

One major factor that contributed to outsize informality was a political decision taken by the Ba'ath Party at its Central Committee meeting in 1982. It stipulated the provision of basic services to slum settlements, acknowledging their de facto reality and indicating an indecision or inability to remedy it.⁹

The right-holders in informal settlements have thus become victims of both corrupt authorities and well-connected brokers. Rather than deeming them as violators of law, any solution to this issue needs to take into account the history of informal settlements and the reasons behind their proliferation. As such, violations were rather committed by the state agencies, either directly or via corrupt collaborators.

8) Elias al-Dairi, *ibid.*, p16-17.

9) *Ibid.*



Part II: State Agencies and Informal Housing Prior to the Conflict

This part examines the different roles four state agencies have played with regards to informal housing: (1) the General Directorate of Real Estate Services (and its branches), which is concerned with documenting real estate properties in the country; (2) the municipalities affiliated with the Ministry of Local Administration, which are concerned with providing basic services to residential areas, as well as granting building permits and outlining building codes; (3) the institutions concerned with real estate development, such as the General Company for Studies and Consultations, which set up zoning plans for cities and towns, and the General Authority for Real Estate Development and Investment, which was created by the Law of Real Estate Development (Law No. 15 of 2008) and entrusted with solving the informal housing problem;¹⁰ and finally (4) the judiciary and other departments of the Ministry of Justice, which also played a substantial role in facilitating sales and purchases of informal dwellings.

It must be noted that the ways in which these state agencies have dealt with the issue of property rights in slum areas were differed from one region to another, as well as from one period to another. The following presentation suffices with an overview of main patterns.

1- Land Registry

The Land Registry was established in Syria by Resolution 188 of 1926, which became the primary reference for documenting and protecting real estate ownership in Syria. The first article of the resolution defines the Land Registry as “the collection of documents that show the descriptions of each property, its legal status, rights and obligations, and related transactions and modifications.”¹¹ The work of the Land Registry is organized around the procedures of delimitation and legal formulation, and therefore, properties with no such procedures delineating their technical and legal status are not subject to the provisions of the Land Registry.

Accordingly, no informal settlements have no Land Registry records, at least not as buildings and apartments. Many of these settlements are never mentioned in said records, in which case rights-holders rely on customary contracts that lack official status. Most of these settlements, however, are registered as agricultural lands, that is, are commonly owned by their dwellers, each owning an equity within an unsegregated property. As most such properties are described in relevant cadastral records as agricultural lands, it is impossible to attest to any buildings or structures erected on them. A famous example of this situation is Jabal Badro in eastern Aleppo, a slum neighborhood located within the city’s zoning plan¹² with no cadastral records indicating its reality as a neighborhood. The average area of each property in Jabal Badro is 40,000 m², and the average number of owners per property is 500: each a common owner according to the Land Registry but in reality a right-holder in an unlicensed apartment.

10) See Real Estate Development Law No. 15 of 2008, available at: <https://bit.ly/2FGH207>, last accessed 18 September 2020.

11) See the Syrian Civil Registration Law and its amendments, available at: <https://bit.ly/3hSdzxA>, last accessed 9-22-2020.

12) Aleppo Governorate Council, “President of the City Council Visits Jabal Badro Neighborhood,” Governorate Council Facebook page, 2018, available at: <https://bit.ly/2G20G6z>, last accessed 21 September 2020.

Consequently, such real estate owners and agents have resorted to court rulings, registering sales and assignments through a formalistic lawsuit that documents a court case reference in the Land Registry. A case reference included in the records of what is legally an agricultural land is often the only indication of property rights in informal settlements.

Despite the discrepancy between the reality of real estate in the country and the static image in official records, common ownership remained the most widespread method of documenting property rights in informal settlements, serving to circumvent the legal predicaments represented by informality. We will discuss these court case references and the context of their use in the following section on the judiciary and its interrelations with the Land Registry.

2- The Judiciary

The judiciary's role is to examine cases and litigations. Since property rights in informal settlements lacked legislation and regulation, courts have taken discretionary approaches in tackling the cases related to these settlements. Right holders filed cases for the purpose of documenting sale and purchase, obtaining a court order to place a "reference" to the property in the Land Registry, as well as a decision confirming the sale after the judge examines the property and registers its descriptions – which naturally differ from those registered in the Land Registry. Normally, a court decision includes an order confirming the assignment in the Land Registry following a segregation and an update of descriptions, which in the case of informal housing cannot be transferred to the Land Registry. Informal property owners are thus left only with an unenforceable judicial order and a court case reference, the latter potentially added to hundreds and sometimes thousands of other case references referring to other owners and rights holders within the same property.

Since this approach involves breaking or bending the law, other judicial departments have come up with another approach called *iqrār* ("acknowledgment"). Here, the stakeholders file a case of property dispute in the court and obtain a "reference" in the Land Registry. The seller and the buyer then attend the first trial session, where the former confirms the sale and has that recorded in the court records, and the judge postpones the session. When the pretense claimants stop attending the subsequent sessions, the judge decides to dismiss the case without a court ruling. Eventually, the stakeholders get an acknowledgment document issued by the court, which does not necessarily entail any subsequent procedures, but still serves as a proof of ownership right in the event of any changes in the status of the property in the future.

The third approach used by the stakeholders is to establish their rights through notarized documents, which serve as proof of giving power of attorney, selling property, and transferring of ownership between stakeholders. Many transactions of informal housing units have been carried out via noters in the form of irrevocable powers of attorney, which technically mean a transfer of ownership. This way, stakeholders obtain an official document describing the rights of the different parties, without registering this document at the Land Registry or matching the property's official descriptions with reality.



3- Municipalities

As stipulated in the provisions of Syrian law, municipal councils are concerned with running local administration affairs and undertake the economic, social, cultural and urban development of governorates. According to Article 62 of the Local Administration Law: “The Executive Office of City and Town Councils is concerned with a set of procedures related to construction operations and the provision of basic services.”

Accordingly, municipalities are responsible for the building codes system, as well as the guiding principles for granting building permits and other administrative licenses required after the issuance of general and detailed zoning plans. Building codes determine the type of housing within the areas (first-tier, second-tier, villa, multi-story, tower, etc.) as well as the setbacks allowed. For informal housing, however, two obstacles persist. First, as explained by former municipal president in Rural Damascus Eng. Mazhar Sharbaji, “building permits requires payment a lot of money, as well as adherence to building codes and standards, which winds up raising the costs and prices of formal housing.”¹³ Second, even if owners wish to obtain permits, municipalities do not grant them in informal housing areas, often citing their contravention of the general or detailed zoning plan or other issues regarding the descriptions and segregation of property.

On the other hand, municipalities play a key role in providing informal housing areas with basic services such as water, electricity, and cleaning. Since the early 1980s, extending services to these areas was “based on a political decision by the Central Committee of the Arab Socialist Baath Party in its 1982 cycle, given the absence of effective legislation and procedures to solve the informal housing problem on the legal and administrative level.”¹⁴ Notably, according to Sharbaji, municipalities would not allow installing water and electricity meters and provide telecommunications services without official committees surveying the properties and identifying their descriptions and owners. Sharbaji confirmed that “municipalities do have zoning plans for all properties in informal settlements, including descriptions of them and information about their owners or occupants. However, due to pressures from security services, as well as complicity on the part of municipal administrations, residents of informal settlements were deliberately from any documentation of property rights.”¹⁵

4- Institutions of Real Estate Development

This paragraph will address two of the most influential government real estate development organizations: (1) the General Company for Studies and Consultations, which had been until 2004 the only body in Syria authorized to study and issue zoning plans for urban expansion, and (2) the General Authority for Real Estate Development and Investment, which was established under Law No. 15 of 2008, and tasked with solving the problem of informal settlements.

13) Interview with Eng. Mazhar Sharbaji, former municipal president of Daraya and former president of the Syrian Engineers Association, 20 August 2020.

14) Iyas al-Dairi, *ibid.*

15) Mazhar Sharbaji, see footnote 13.

General Company for Studies and Consultations

The monopoly by the General Company for Studies and Consultations over the study of zoning plans caused delays in developing plans for urban expansion. As a consequence, an enormous gap arose between the increased need for housing, given the demographic pressure, and the general inability to work out zoning plans accommodating this need, and that only allowed informal settlements to expand. Even when the monopoly was broken after 2004, and consulting offices and engineering departments in universities began to study detailed zoning plans, progress remained far too slow, and plans often came too late, that is, at a time when “random” housing units had already swallowed up the area planned for regulated expansion.

The reason behind this, as argued by Eng. Firas Masri, a former member of the Aleppo Governorate Council, is corrupt administrative institutions. The detailed zoning plans required after the issuance of general plans take a long time, sometimes exceeding seven years, given the complex laws and regulations and further governmental constraints a detailed plan must go through. Notably, such a process cannot be carried out without the intervention of security services, which eventually have to approve the detailed plans. Even afterwards, construction work cannot begin unless a building codes system is in place, and this too can take a very long time.

Masri cites an example from Aleppo. Before issuing the city’s zoning plan in 1979, the president of the municipal council and a group of his partners purchased large areas of agricultural land west of the city at very low prices. Later on, as the zoning plans directed the expansion westward to include the lands purchased, these contractors sold the land at exorbitant prices while entrusted with its construction projects

Eng. Masri added: “If we look at the current map of the Aleppo, regulated urban expansion took place west of the city, while the areas of informal housing are all located in the north, east and south. Informal housing settlements had already become a reality by the time the zoning plans of these areas were completed.”¹⁶

In sum, the General Company for Studies and Consultations played a disruptive role in urban expansion in Syria. It was too slow and inefficient in responding to the increasing need for housing, and more notably, it failed to provide citizens with affordable housing in regulated areas, naturally causing an expansive growth of slum and informal areas.

General Authority for Real Estate Development and Investment

The General Authority for Real Estate Development and Investment was established under Law No. 15 of 2008, which gave it broad powers and entrusted it with “solving the problem of informal settlements.”¹⁷ Some of its powers include proposing real estate appropriation, demolishing and rebuilding real estate, and even reshaping residential areas. Many Syrian

16) Remote interview with Eng. Firas Masri, former member of the Aleppo City Council, former director of Real Estate Development and Investment for Northern Syria, and former employee in the Syrian Tourism Directorate, 15 August 2020.

17) See Law No. 15 of 2008 on the Authority’s website, available at: <https://bit.ly/3ctRFzt>, last accessed 23 September 2020.



experts believe that Law No 15 and its amendments “grant the Authority unchecked powers and zero legal guarantees to property owners in informal settlements. For example, it approves reliance on social surveys to determine property rights, even when the majority of dwellers in informal settlements are displaced, which ultimately deprives them of their rights.”¹⁸ Article 13 of the executive instructions of Law No. 15 of 2008 stipulates that the real estate developer is obliged either to “secure alternative housing for the occupants of houses in the area to be developed, either inside or outside the real estate development zone, based on the findings of the social survey of the occupants that the real estate developer conducts according to models prepared for this purpose by the Authority and certified by the concerned administrative unit” or to “provide monetary compensation to the occupants of these dwellings in lieu of alternative housing, according to what is agreed upon between the real estate developer and these occupants and according to approved instruments submitted to the Authority.” J. Anwar Majnni considers that this text may be utilized to seize the absentees’ property. “The law provides for securing alternative housing for the occupants of the property, rather than to the owners, based on a social survey. Former residents of informal settlements can be forcibly displaced from their homes, and their properties occupied by pro-regime armed groups, for example, will not benefit from the property rights that the displaced persons are supposed to obtain.”¹⁹

Another criticism levelled at the Authority with regards to its treatment of informal settlements is that it has a mentality of a private company, prioritizing material profit over the rights of owners. But what is more serious is the Authority’s subordination to security services. Although the law states that “the real estate developer must clean the real estate records included in the development area, whose ownership belongs to him or to other individuals, from references and rights in rem set for the benefit of all others,” real estate development companies clean all references except those related to security and intelligence matters.

18) Phone interview with Anwar Majnni, legal advisor and former judge, 10 July 2020.

19) Intervention made by the source in a panel discussion that included many informal housing experts on 17 July 2020.

Part III: Politics of Informality: How the Regime Instrumentalized Informal Settlements to Gain Loyalty and Control

The issue of informal housing in Syria has been viewed differently during the conflict years. Rather than an administrative and regulatory problem, it has now become a political and societal cause, and it stands as almost the most complex issue related to the conflict, connecting the refugees' and forcibly displaced persons' right to return with post-conflict reconstruction efforts, as well as the political and economic battle witnessed by the country at large.

The fact that almost half the homes in the country are informal dwellings,²⁰ or "contraventions" as the regime puts it, makes it difficult to exclude the political dimensions and political functions of the phenomenon. This is especially the case when the regime weaponizes housing rights to consolidate its political domination, tighten its security control, and serve the interests of its crony economic elite²¹ at the expense of slum dwellers – or some of them at least. How have slums or informal settlements continued to grow and expand for decades up until the current point? Where have the state's legislation and institutions been all that period?

A former member of the Aleppo Governorate Council, Eng. Firas Masri argued that "informal housing in Syria reached its expansion peak in the 1980s. Up until 2008, no laws were issued to address this problem."²² As zoning plans for new urban expansion were delayed years and decades, informal expansion was only the closest response to a growing need for housing. Our source Eng. Masri related that "since its issuance in 1979, the zoning plan for the city of Aleppo was not completed with detailed plans for more than twenty years. A new plan was issued in 2004 and the wheel began to spin again." This begs the question, was the lack of governmental response throughout the decades a failure of administration and planning, or was it a deliberate negligence with political goals?

What's more, TDA's legal advisor Anwar Majnni emphasized that the regime in fact sponsored the growth and exacerbation of the problem of informal housing. "In 1982, it decided to provide informal settlements with electricity, water and other services, which required considerable efforts that it never used to regulate these settlements, although they were at their beginning. Even the people behind their construction were but contractors connected with the regime; otherwise it wouldn't have allowed them to build. In fact, most of the dwellers were not the builders themselves, but rather people who bought real estate and lived in them."²³

Some analyses²⁴ indicate that informal settlements have been for decades part and parcel

20) Statement made by the regime's Minister of Housing to a local newspaper, see footnote 1.

21) Jihad Yazigi, "How the Syrian Regime Capitalizes on Property Destruction and Land Legislation," Friedrich Ebert Foundation, 2017, translated by Yaaser Azzayyaat, available at: <https://bit.ly/2HFHWuE>, last accessed 20 September 2020.

22) Intervention in a panel discussion, see footnote 19.

23) Ibid.

24) Izzat Al-Baghdadi, "Project to Protect the Displaced from Damascus and its Rural Areas," unpublished report by a group of Syrian organizations, 2019.



of the power equations in the country. With converting nearly half of the country's into lawbreakers in their own homes, they become in one way or another at the mercy of the authority, without any legal protection for their property. Amjad al-Farkh, a property rights activist, described the issue as follows: "In Qaboun (an informal neighborhood surrounding the capital), a hundred thousand citizens lived and owned property, but none of them had a title deed to prove their ownership. The state did not grant them any opportunity to obtain legal housing, but allowed them to live randomly, as if the rule was 'Obey me, so I turn a blind eye to you.'²⁵ Currently, the Qaboun neighborhood is completely destroyed and empty, and its residents are prevented from returning to it. As the regime has included it in its zoning plans, former residents of Qaboun – most of whom escaped the regime's actions – are required to appear before the authorities and prove their ownership of their "illegal" properties that are undocumented in the cadastral records.

Furthermore, the political dimension of informal settlements intersects with the "ruralization of cities,"²⁶ another policy the regime utilized to extend its domination. Since most of the dwellers of informal housing units are migrants from rural areas who have come to urban centers in waves since the 1970s, informal settlements are reasonably claimed to be a tangible embodiment of that policy. The Baath regime, especially under al-Assad, created a political landscape characterized by military tyranny and sectarian strife, and an economic landscape characterized by the domination of public sector over economic life and a developmental imbalance between the city and the countryside. In addition, it has sought to aggressively assimilate internal migrations through a social engineering that "struck the historic urbanization process of Syrian cities and disrupted the structures of urban societies in particular."²⁷ As this process continued for decades, it has become characteristic of major Syrian cities (such as Damascus, Aleppo and Homs) to have three distinct and contiguous urban/demographic blocs: old neighborhoods, modern neighborhoods, and "random," informal or slum neighborhoods.

Notably, the slum areas, with their different types and sizes, have in most cases acquired distinct social, regional, religious and ethnic identities. In Damascus, for example, there were Kurdish settlements, Haurani settlements, Christian settlements and Alawite settlements. Some areas happen to possess more than one social identity, with some alleys occupied by people from certain regions and backgrounds. There were also settlements for Palestinians, and others for Syrians displaced from the Golan Heights, not to mention former old towns adjacent to the capital that were not subject to regulation, and by virtue of urban expansion, they became slum parts of Damascus.

Ultimately, this drastic demographics / urban composition in major Syrian cities enabled the regime to pit the residents of neighboring areas against each other, especially after the outbreak of the protests in 2011. For instance, pro-regime slum residents were encouraged

25) Intervention in a panel discussion, see footnote 19.

26) For more on the phenomenon of ruralization of cities, see Future for Advanced Research and Studies (in Arabic): <https://bit.ly/32pnkyG>, last accessed 14 September 2020.

27) Yasser Al-Saeed, "Rural Syria," Al-Jumhuriya, 2013, available at: <https://www.aljumhuriya.net/ar/18522>, last accessed 14 September 2020.

to suppress anti-regime demonstrations in neighboring slums. Perhaps the most prominent embodiment of this policy was in Damascus, where the presence of several loyalist settlements in the vicinity of the capital helped quell its protest movement.

Apart from the legal status of informal settlements and that of their owners, they remain victims of either the failure of development policies or the maliciousness of the hegemonic policies devised by the regime. Besides, the Syrian real estate legislation in general, and the most recent ones in particular, have tended towards criminalizing the dwellers of informal settlements as trespassers on public or private property, thus nullifying their rights to housing and ownership and transferring the culpability from the state to citizens.

Many of the laws and decisions that have been rolled out since 2012 indicate that the regime considers newly conquered areas as an opportunity to solve the informal housing problem at the expense of its former residents. The most notorious of these laws is Decree No. 10 of 2018, which provides for the establishment of urban planning zones within the general site plans throughout Syria for the sake of reconstruction. The decree gives the regime a legal cover to expropriate the properties of slum dwellers who cannot produce documents proving their ownership. This extends to those who do not possess or had lost their documents, as well as to all refugees and displaced persons who cannot appear before regime institutions or authorize others to do on their behalf. These legislations are alarmingly impactful on the opposition-leaning population, which is further proven by the regime's attempts to apply its legislation exclusively on the neighborhoods that had rebelled against him.



Part IV: Challenges Ahead in the Post-Conflict Phase

Since the demonstrations of 2011, which were noticeably active around slum settlements in major cities – especially in Damascus and Aleppo – the problem of informal housing areas has taken on new dimensions. These areas became subject to retaliation and collective punishment by the regime, which only intensified as peaceful demonstrations turned into an armed rebellion. Under the pretext of fighting “the militants,” the regime has consistently targeted informal settlements with barbaric bombing, causing massive destruction and mass displacement of their population, expelling them to other regime-controlled areas, forcibly displacing them to rebel-held areas in the north – as happened in Damascus, Homs and Aleppo – or forcing them to seek refuge in other countries.

Furthermore, these vacated areas were subject to widespread looting campaigns carried out by the regime’s army and militias.²⁸ The regime’s war crimes were not limited to direct targeting of property, but it is also well proven that it has systematically targeted the Land Registry offices. Bombing and burning down such offices has been documented in a number of areas, including Zabadani, Daraya, Homs and Al-Qusayr.²⁹

In addition to direct bombing, retaliation and collective punishment, a number of new legislations and decrees have been issued since 2012 under the pretext of urbanization and reconstruction. The articles and applications of these legislations make it clear that they are, first and foremost, politically motivated and aimed at punishing residents of informal settlements and violating their rights to housing and property. On the other hand, these laws offer incentives for profit and investment that are designed to serve the interests of the regime’s leaders and crony businessmen under the guise of reconstruction.³⁰ In this context, the Assad regime has issued and approved a number of laws and legislative decrees in pursuit of this goal, including Legislative Decree No. 66 of 2012, Law No. 23 of 2015 on Urban Planning and Urbanization,³¹ and the detailed Zoning Plan No. 105,³² all of which laid the legislative foundations for expropriating the lands of many informal settlements in Damascus. Likewise, the infamous Law No. 10³³ of 2018 and its amendments included articles that make it difficult, if not impossible, for dozens of thousands of Syrians to prove their ownership of property, chiefly those who have been forcibly disappeared, detained, displaced or expelled from their homes.

Subsequently, any endeavor to preserve the property rights of the forcibly displaced, IDPs and refugees must deal with a set of challenges posed by the nature of the informal settlements problem on the legal and political levels.

28) “Assadist Looting Reaches Daraa after Ghouta, Yarmouk Camp, Deir ez-Zor and Raqqa,” Al-Sharq Al-Arabi, 7 November 2018, available at: <https://bit.ly/2CEFWk6>, last accessed 16 August 2020.

29) “Iran repopulates Syria with Shia Muslims to Help Tighten Regime’s Control,” The Guardian, 14 January 2017, <https://bit.ly/323DZ9I>.

30) Mahmoud al-Lababidi, “Damascus Businessmen: Ghosts of Marota City,” Middle East Direction Programme website, 16-04-2019, available at: <https://bit.ly/3aEqily>.

31) Legislative Decree No. 66 of 2012, the Syrian People’s Council website, 18 September 2012, available at: <https://bit.ly/2YeBznp>, last accessed 15 August 2020.

32) “Announcement of Zoning Plan for Both Al-Qaboun and Yarmouk,” Syriandays, available at: <https://bit.ly/3j3cCnw>, last accessed 16 August 2020.

33) Law No. 10 of 2018, Presidency of the Syrian Cabinet, 2 April 2018, available at: <https://bit.ly/34isNIK>, last accessed 8-15-2020.

1- Proof of Ownership

Proof of real estate ownership is the biggest challenge currently facing Syrians, especially the forcibly displaced, refugees, IDPs, detainees and their families. Where proof of ownership is almost impossible in many cases due to the loss or destruction of documents, or as mentioned above, due to the inability of rights holders to appear before the regime institutions to prove their ownership or rights. Given the legal status of ownership within informal housing areas, there are still obstacles for owners even if they have documents,³⁴ especially with the security services directly involved in issuing all kinds of identity papers.³⁵ Therefore, an independent body must be established, bringing together experts, civil initiatives and organizations to document and archive documents related to ownership in general and real estate in particular. Such a body must take care to include informal settlements and ensure the preservation of rights away from political interests and disputes.

2- Legislative and Institutional Reform

Legislations and laws are some of the most powerful instruments used by the Syrian regime to appropriate properties, especially from former slum dwellers. It should be noted that there are approximately 160 legislations that are related either to real estate in particular or to property rights in general, which further complicates the issue from an administrative and legal point of view. It is therefore necessary to establish independent committees with a clear timeframe to review these laws and legislations and their amendments and appendices to determine what parts of them violate the constitutional rights of Syrians to own and to reside. In the same context, priority must be given to legal and institutional reforms, paramount over which the addressing of the rampant corruption plaguing the regime's institutions, especially the judiciary. Until a mechanism is introduced to allow Syrians to restore their properties or obtain appropriate compensation, the political process must insist on the cessation of all appropriations, as well as freezing real estate development zones in regime-controlled areas established under the pretext of reconstruction.

3- Restitution and Compensation

The lack of successful precedents at the international level regarding the issue of compensation and property restitution after years of conflict is one mounting challenge that complicates the framing of this process. Therefore, it is difficult to determine whether any rules governing funded initiatives or programs aimed at property rights will succeed in making their way into the Syrian law within a comprehensive reform mechanism. In light of the arbitrary practices of the Syrian regime and its continuous violation of the rights of Syrian people, including property and housing rights, these initiatives and programs will likely continue to operate independently. The possibility of restituting these rights and

34) Ownership of property in informal settlements is often transferred based on a written sale contract or notarized power of attorney, and sometimes based on a court ruling. Property is often registered in the name of the owner of the land, which would still be registered with the Directorate of Real Estate Interests as agricultural land since it has been officially urbanized and regulated. Ownership is therefore proved with a definitive sale contract and utility bills.

35) "Property Restitution in Post-Conflict Syria," Syrian Justice & Accountability Center, September 2019, available at: <https://bit.ly/2Ye3iEC>.



compensating their holders hinges on the political process, which must be accompanied by intensive efforts by jurists and constitutional experts to address the violations of property and housing rights – especially in informal settlements, whose legal status is much more precarious and uncertain. A clear and unambiguous discourse must be formed in support of an international agreement that guarantees the right of citizens to return to their original homes, including fair compensation for residents of destroyed neighborhoods, slum areas and illegal settlements.

4- Emerging Slums in Rebel-Held and Kurdish-Controlled Areas

Local statistics indicate that the total population in rebel-held northern Syria has reached 4.1 million people,³⁶ with those displaced from other areas constituting about half of that population or slightly higher.

Among these, more than a million people live in camps that have turned into quasi-urban spaces. If we assume that every five of these have built a house, then we have about 200,000 informal housing units, excluding another million displaced persons who live in informal settlements on the outskirts of cities and towns in the north – as is the case in Azaz, al-Bab and others. All of these properties have been constructed without a recognized administrative authority granting licenses or regulating construction.

Therefore, it is necessary to work on an independent survey of the new informal settlements outside the regime-controlled areas, including the opposition-controlled areas and the Kurdish-controlled areas. Here, too, legislative and regulatory solutions must be sought that guarantee the rights of original landowners and current owners or occupants.

36) "Response Coordinators Team Reveals Demographic Composition in Northwestern Syria," Baladi News, 2020, available at: <https://bit.ly/2EK4BF6>, last accessed 28 September 2020.

Conclusion and Final Remarks

This paper attempted to provide a brief overview of the problem of informal housing in Syria from several aspects, highlighting the implication of the problem today after a decade of conflict. Decades-long failure to respond to the growing need for housing in the main Syrian cities has led to the expansion of informal housing areas. As the state became unable to control the problem, its institutions directed their efforts towards adapting to informality as an existing reality, providing informal settlements with basic services on a large scale while devising legal solutions, direct or indirect, to allow for the purchase and sale of informal housing units. This resulted in a state of delicate balance between the state – that is unable to secure adequate housing for its citizens so allows them to build randomly – and the society – whose members are unable to afford formal housing so move within a narrow margin of bending the law.

Behind the state institutions, however, lies a regime obsessed with control and domination. It has pursued a policy of crisis management and exploitation rather than finding viable solutions, as argued by a number of experts we spoke with. For example, the regime has largely capitalized on the settlement of social support base in informal housing areas within Damascus and Homs. On a wider level, it has benefited from the transformation of major Syrian cities into divergent and discordant demographic/urban agglomerations in terms of religious, ethnic and regional background.

That state-society balance has collapsed with the spark of the conflict in 2011. The impact of decades-long neglect exploded as dozens of informal housing areas became devastated and vacated dwellings with little legal documentation that protects the rights of their owners. Meanwhile, other parts of the country have witnessed the further spread of new informal settlements, whether in regime-controlled, Kurdish-controlled, or most significantly opposition-controlled areas, where more than two million Syrians are displaced or forcibly expelled from their homes. All those newly formed informal properties are outside the real estate documentation system adopted in the country.

The problem of informal housing poses great challenges to the post-conflict phase and the stabilization efforts in the country. Chief among these is the need to prove and preserve property rights in informal settlements, as well as to compensate the owners of damaged properties and restitute absentees' properties. This requires a legislative framework compatible with a transitional phase in terms of means of proof and ability to reconstitute property, in addition to a reparation program for those who are impossible to return to their homes.

There are also other dangers posed by the regime's attempts to expropriate property and re-engineering cities. This is evident in a set of laws and decisions it has issued since 2012, the most notorious of which is Law No. 10 of 2018. The reconstruction process should not be at the expense of the rights of Syrians, who need a guarantee that the legal and political framework for reconstruction will not ignore the rights of informal housing owners. It is also necessary that the next constitution includes constitutional determinants that guarantee these rights, deter the regime from proceeding with its policies, and nullify any that have been implemented.



It is also necessary to link the issue of the voluntary, safe and dignified return of the displaced and the refugees with that of their real estate properties in informal settlements. We also find it necessary to create a special legal status for women, especially widowed wives who need help finding decent housing.

Finally, there is the challenge of overhauling and reforming the real estate documentation system at the national level, which in turn requires legislative and institutional reforms and creative problem-solving.

All of the above will not work unless there is a political will to solve the problem, which seems unclear in light of the divisions between different political parties. States and international institutions involved in Syria must include the real estate issue as a whole, and the part related to informal housing areas in particular, on the negotiation agenda between the regime, the opposition and any other forces attending. Their aim should be to put an end to the regime's exploitation of destruction and absentees and to its attempts at imposing a new demographic and urban reality, as well as to guarantee the rights of those expelled from their properties located in areas controlled by the opposition or the Autonomous Administration. Establishing the preservation of property rights as a major principle of the post-conflict phase will have a positive impact on the return of refugees and displaced persons, as well as lay the foundation for sustainable stability. The opposite, by contrast, will only sow the seeds of future conflicts. Let us not forget that lands nationalized under the Agrarian Reform Law of 1958 have become a spark that triggered several local conflicts in rebel-held areas after 2011.

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Informal Housing in Syria Harvest of Decades of Neglect