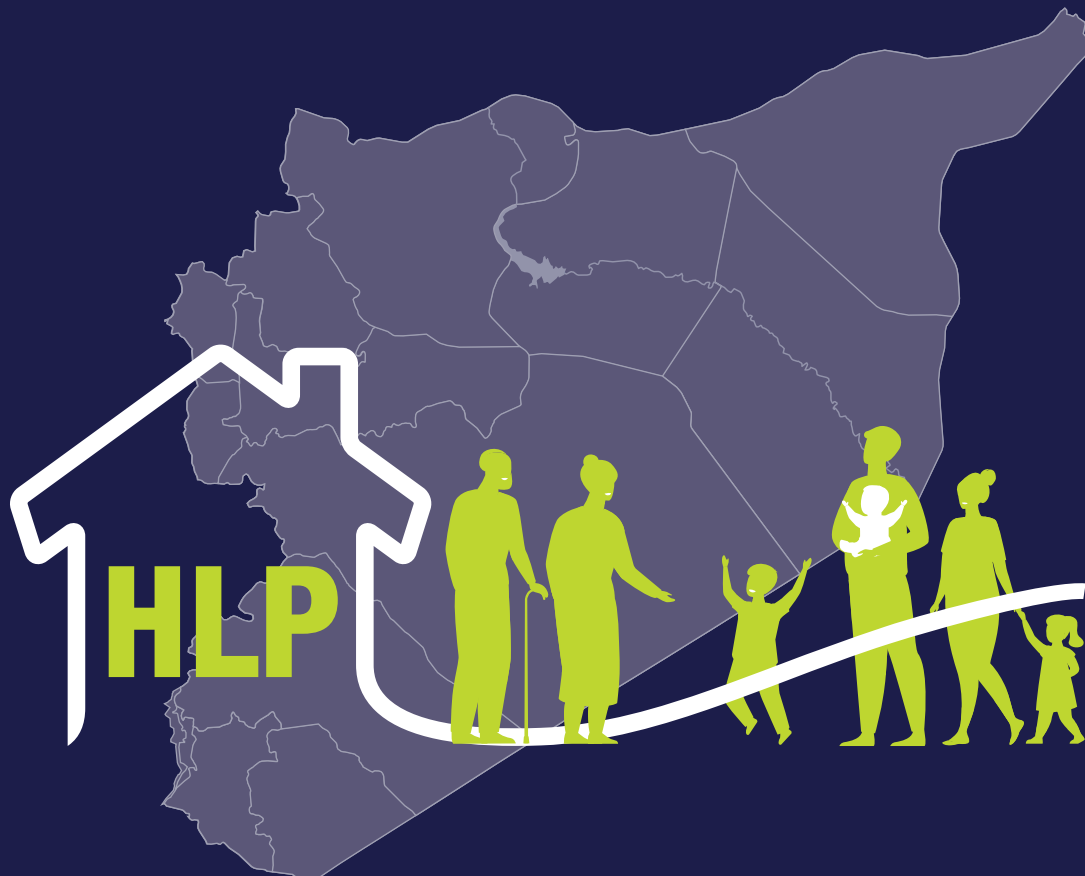




# Reality of Housing, Land, and Property Rights in Syria

HLP Working Group - Research 2020

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## Reality of Housing, Land, and Property Rights in Syria

HLP Working Group - Research 2020

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The Day After (TDA) is a Syrian organization that works to support democratic transition in Syria, and its scope of work is focused on the following areas: Rule of law, transitional justice, security sector reform, electoral system design and Constituent Assembly election, constitutional design, economic reform and social policies.

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مركز السياسات وبحوث العمليات  
Operations & Policy Center

Operations and Policy Center (OPC, formerly Orient Policy Center) is an independent think tank and service provider based in Gaziantep, Turkey. Established in 2014, OPC conducts original research and provides consulting services to enhance policymaking, development programs, and humanitarian response projects. Syrian-led and owned, OPC combines local knowledge with technological and scientific expertise, utilizing in-house statisticians and graphic designers to create original and intuitive final products.

Between 2014 and 2018, OPC was an exclusive service provider to the Orient Research Center (ORC) in Dubai. Since then, OPC has focused on cultivating relationships with governmental and non-governmental bodies working in Syria or with the Syrian diaspora. Currently, OPC is in a stage of growth after significantly upscaling its capabilities due to increased demand from a growing clientele.



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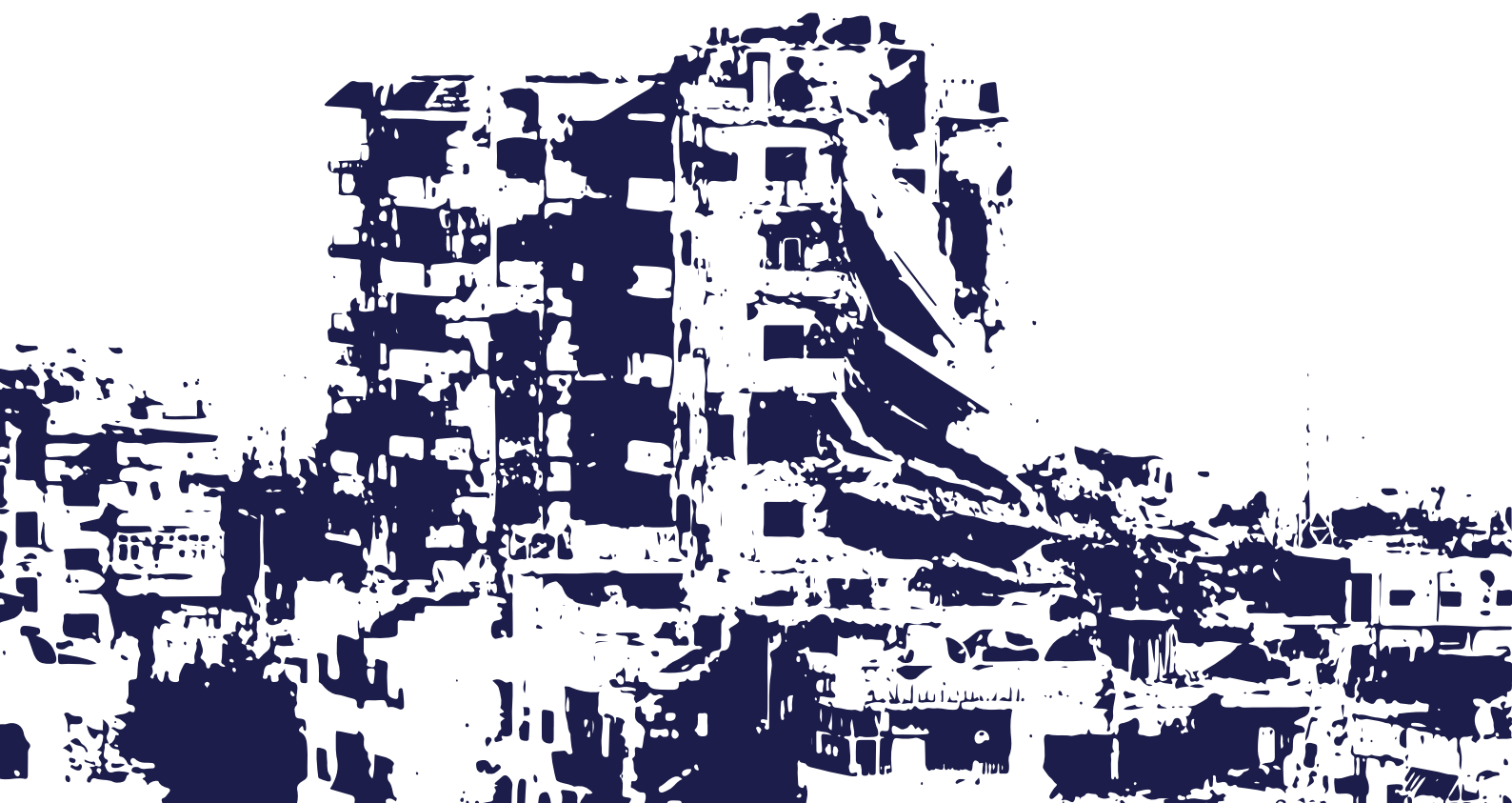
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## Preface

*Based on the importance of the housing, land and property rights file in the Syrian people's future, and on how this is linked to the right of return, peace building, community cohesion and Syrian social fabric, TDA has devoted much effort over the years to address this file through a number of related projects. To stress the importance of this file and of joint collaboration, TDA has established a working group for housing, land and property rights; a group comprised of several Syrian organizations concerned with these rights, coming together to advocate the file and unify efforts to preserve Syrians' rights. The group works with the broader spectrum of human rights CSOs in order for this task to complement their own work, thereby contributing more effectively to a just and sustainable peace based on restoring rights and the return of the displaced in a safe, voluntary and dignified manner to their places of residence.*



# Introductory Paper



## Introductory Paper:

This paper is based on the discussions that took place between members of the platform in the introductory session, rearranging and reading it with a view to drawing general scenarios for the challenges of the “property and housing rights” file, and touching upon the position of the platform within the map to respond to these challenges as follows.

### I: Property and Housing Rights & their Challenges:

When discussing «property and housing rights» in Syria, we are discussing a file whose chronic problems have accumulated without solutions for decades. With the start of the Syrian revolution, these problems grew more complicated and acquired new forms which accompanied the massive destruction of infrastructure, significant demographic changes in population structures, and the collapse of institutional and legal systems at the state level.

As a result, many Syrians today are losing their property and housing rights for a number of reasons, including destruction of their homes and properties, lack of documents proving ownership, or inability to return to their communities and properties. The scene is further complicated by laws and legislations promulgated by the Syrian regime in recent years, such as Decree 66 and Law No. 10, which restructure the population and exclude large groups of people from their property and homes.

In this context, the legal principle of (ensuring a person’s right to live in a safe shelter and to protect his rights to own lands and properties without discrimination) is a priority and an urgent need for the majority of Syrians, a need expressed in different ways and forms with its own set of challenges. Challenges to humanitarian aid and relief in providing shelter are of course the most urgent, while minimum requirements of living conditions and shelter for the overwhelming majority of Syrians do not exist, and with more than half of Syrians displaced from their homes.

However, the range of challenges extends beyond the humanitarian to legal, economic and societal aspects, which are manifold and interrelated, and no less important in terms of their impact on Syrians’ present and future. Legal problems relating to property disputes and financial compensation are certainly the most important challenges, exacerbated by the loss of documents, collapse of institutions and multiplicity of governance patterns. For example, various surveys prove that the majority of IDPs and refugees do not possess ownership documents or have lost them in the destruction, especially those residing in areas that were forcibly evacuated after a long siege.

However, the “property and housing rights” file cannot be summarized in property disputes without taking into consideration the social and economic dimensions. We could say the collective nature of violations in Syria of the right to housing and the large scale of the demographic catastrophe, makes the outcome of this file a basic determinant of the future of existing rifts and societal divisions, and a prerequisite for preserving the social fabric.

The following figure shows the most important ideas presented in the introductory session on challenges relating to the «Property and Housing Rights” file.



## Most important challenges associated with the “property and housing rights” file

### Devastation to property, lands and infrastructure

The long years of war in Syria have caused great damage to residential and commercial areas and lands, and have led to the collapse of basic services and infrastructure. This devastation has affected large areas of Syria’s main cities, in addition to the countryside, villages, and agricultural lands.

### Poor documentation and destruction of legal documents

This is a complex and intertwined problem caused by lost or destroyed ownership deeds for most IDPs and refugees, multiple governance bodies managing the real estate registry, the existence of large areas of irregular housing, and collapse of relevant state institutions, as well as inherent property problems since before the beginning of the Syrian conflict.

### Legal problems

The legal problems surrounding this file are complicated as they range from legislation on property rights issued by the Syrian regime in recent years, and the absence of legal frameworks to resolve current disputes, to emergency situations relating to IDPs, detainees and missing persons.

### Limited access

About half of the Syrian population today cannot access their properties and areas of residence, especially with the regime regaining control of large areas of Syria and the intensification of hostilities in other regions. Accessibility challenges have increased with the regime imposing the condition of obtaining security approval for property transactions, not to mention security risks that property owners or their agents may be exposed if they go to claim their property and housing rights. The same problem faces organizations and bodies working on the file as they suffer from major challenges to their ability to do their work.

### Collapse of relevant institutions and the absence of alternatives

Real estate registries were heavily damaged and even targeted, and most of them were lost, as the real estate registry system in Syria relies mainly on paper copies to document property. In this context, the experiences of real estate registry management varied from one area to another, but creating an institutional alternative was ultimately unsuccessful.

Ensuring property rights is one of the main steps to ending conflicts and bringing about peace, and therefore it is not surprising that this file extends and is linked to a number of important legal and political files which are considered foundations for a solution in Syria. The following figure shows how the file is linked to other files, according to participants in the introductory workshop.

## “Most important files relating to property ownership and housing rights”

### Transitional justice

The right to housing file is linked to transitional justice and constitutes one of its foundations, as justice cannot be achieved after conflicts without beginning to guarantee property rights. Priorities here range from legislative reform to institutional reform and reparation.

### Return of refugees and IDPs

We could say that finding practical solutions to property problems in Syria is a key condition for the return of refugees and IDPs in a voluntary, safe and dignified manner to their original areas of residence, as statistics indicate that the overwhelming majority of IDPs and refugees have problems relating to property, from loss of ownership documents to confiscation of property .

### Reconstruction

It is not possible to discuss frameworks to govern the “reconstruction” process without noting their links to IDPs’ property rights; thus, any real efforts for reconstruction in Syria must be accompanied by work to find practical solutions to property problems.

### The negotiating and political process

The “Property and Housing Rights in Syria” file is closely linked to the negotiating and political process, especially the constitutional process and subsequent elections in the future of Syria. This is because the return of refugees and IDPs to their areas of residence depends on the results of the political process and the extent of change it will bring about, and return is a prerequisite for them to be able to exercise their electoral right within their constituency. This can only be pursued through a political solution that guarantees their rights, preserves their property, guarantees their return, and creates the required effect at the legislative level and relevant institutions.

Among the most important challenges that we face is the ambiguity surrounding this file with regard to the final solution negotiations.

### Women’s rights

A large part of property and housing rights problems for Syrian women arise from social, cultural and legislative factors prior to the conflict in Syria. Under the conflict, women were affected just like men by displacement, arrest and enforced disappearance, and the reflections of these occurrences on property issues. Women were worse affected, especially in cases where husbands are lost, because the legal, social and economic system has made property mostly registered under the names of husbands, and because of the lack of sufficient legal mechanisms to protect their right to marital abode.

These aspects should be taken into account for any future legislative and institutional reform.





### Detention and enforced disappearance

The file of property ownership and housing rights in Syria relates to the issue of detainees and enforced disappearances in two ways; on one hand, missing persons' families are unable to dispose of their property while their fate is unknown. In the meantime, criminal networks often seize such properties through forgery or other methods to bypass the law. On the other, the majority of detainees are referred to the Terrorism Court, which means confiscation of all their property if convicted.

### Preserving the Syrian social fabric

The issue of ownership is not only a financial one, but extends to the social, too. This is because removing a population from its usual place of residence destroys the Syrian social fabric. Therefore, importance must be placed on the return of Syrians to their places of residence in a safe, dignified and voluntary manner.

### Civil documents

The issue of civil documents is closely linked to that of property; a whole generation has grown up under years of conflict, many of whom do not have civil documents and therefore will not be able to claim their property rights. This requires that Syrians' rights to civil documents are linked to and considered essential for obtaining property rights.

## II: Responding to challenges related to property ownership and housing rights:

Despite the importance of the property file and its connection to others, it was not one of the priorities of the international response to the crisis in Syria. Within the available limited capabilities, civil groups and initiatives and local governance bodies have played an important role in saving what they can, especially with regard to documentation, document storage, management of real estate registries, awareness, advocacy, and legal services.

With the growing importance of the "Property and Housing Rights" file, a set of initiatives has emerged aiming to increase coordination among effective actors, among which are:

### International response

1. The German Agency for International Cooperation (GIZ) project, an integrated project to raise awareness, advocate and preserve property documents, analyze the legal framework governing them, publish relevant studies and research, and form a network of Syrian experts.
2. Central and Eastern European Law Initiative (CEELI), in cooperation with the International Legal Assistance Consortium (ILAC) which has undertaken several projects to train Syrian lawyers and legal experts in the field of property ownership and human rights.
3. The Norwegian Refugee Council NRC, in cooperation with the UNHCR, established a working group for the protection of housing and properties, by issuing a brief memorandum entitled Housing, Land and Ownership in the Syrian Arab Republic, in July 2016.

## Local response

### Previous work on the property ownership and housing file:

Civil society organizations noticed early on the importance of this file and its connection to Syrians' rights, and they worked on several projects to preserve Syrians' rights, raise their awareness and support them. Organizations in the working group as well as others all contributed, and the most important of these projects and activities were:

#### Documentation:

Especially documenting real estate registries and related matters before the courts and the notary public, so that the rights of Syrians in terms of property and housing are preserved.

#### Awareness:

A number of organizations carried out activities to educate Syrians on the importance of preserving their property rights, and the connection with their right to return and with peace-building. This was done through activities and projects, or in meetings to bring the organizations together.

#### Advocacy:

Particularly after the promulgation of Law No. 10 of 2018, by highlighting the threat to Syrians' property and housing rights under legislation that ignores the reality on the ground and the absence of half of the Syrian population from their places of residence, which put their rights at risk.

#### Studies:

Relating to real estate, and in particular the new laws issued during the conflict and their impact on Syrians' rights.

#### Activities:

Member and other organizations participated with both local and international organizations in many activities, workshops, meetings and platforms, contributing to a better understanding of the real estate problem and its connection to Syrians' rights and impact on other legal files.



### III- Objectives of the Property and Housing Rights Group:

Based on the foregoing, there is an urgent need for a Syrian national initiative that includes actors from civil society organizations and activists in the field of property and housing rights, with the aim of coordinating various efforts within an integrated and cumulative framework. Among the most important goals pursued by the working group are:

- To create an integrated vision for the property issue and mechanisms for dealing with it.
- To exchange experiences and information to ensure coordination, complementarity, and cooperation among its members.
- To understand the legal and constitutional structure inherited from the regime and to follow up on new legislation for the property it confiscated.
- To hold events raising awareness among affected Syrians regarding the property and housing rights issue, and to advocate for their cause in international forums.
- To build a database for indexing “property and housing” laws, in order to analyze them and reach better and more comprehensive visions to handle them in the future.
- To monitor and document official and unofficial acquisitions throughout Syria.

To achieve these goals, the working group starts producing a set of “research papers”, studies that highlight and deepen the understanding of the most prominent aspects regarding property and housing rights issue referred to above. It also looks into impacts of the property and housing rights problem on the economic, social and political realities of Syrians during and after the conflict.

Results of this joint effort are published on an electronic platform and made available as an open source to researchers, journalists, civil society organizations, political forces, and others interested in the topic. These studies and research papers will also be used to form a solid basis of knowledge for advocacy and awareness-raising activities that may later be implemented by partner organizations, and that may reflect on the effectiveness and efficiency of these activities and programs.



# Housing, Land and Property and Access to Documentation

## Outside of Regime-Held Areas in Syria

Case Studies of Six Areas in Syria







## Executive Summary

Land Registries in most countries in the world provide property owners with a land title guaranteed by the government, thereby guaranteeing the real estate rights of their citizens. In Syria, there is more than a 40%<sup>1</sup> discrepancy in some regions, between registered land/property, and actual land/property owned by citizens.

The institution that formally oversaw real estate documentation, the General Directorate of Real Estate Interests, worked with hardcopy records, and distributed them to various sub-directorates, and subsidiary offices in the Syrian provinces. Consequently, when the regions began to fall to the opposition, and outside of the regime's control, the central database of real estate properties in the country was dispersed among the various military forces that controlled those territories.

In most opposition-controlled areas, there were attempts to reactivate real estate records, and authorities in those areas established alternative directorates and land registry offices. However, the lack of a central land registry/directorate, insecure public records, and the different methods of managing each land registry in each area, created a myriad of challenges that the regime today is attempting to exploit for its own political interests.

This study provides an in-depth summary on the issue of property in six Syrian areas, where alternative land registries were established - in Daraa, Duma, Azaz, al-Bab, Afrin, and Idlib. The study presents the most significant issues that have accumulated in each region in the pre-conflict stage and lists the military changes that have occurred throughout. It investigates the alternative land registry situation in those areas:

- Who they're managed by
- How various authorities in those areas deal with real estate records
- Groups or organizations that filled the administrative vacuum left by the absence of state institutions
- How the alternative management institutions were formed
- Who they're supported by
- Documents and transactions that are left behind, and challenges that may arise in the future

This study on the current situation of real estate records in Syria is of great importance, as real estate registries are the main reference for protecting the property rights of citizens - especially in a country that lacked formal or organized property rights even before the conflict. About half of the population was forced to leave their areas, as their homes and urban structures were destroyed. This makes the property issue one of the most complex problems in the country, and relates to the issues of reconstruction, the return of refugees, and conflict resolution.

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1) Statement by the former Minister of Housing in the regime's government, published at the link: <https://bit.ly/35eJ1n4>, seen on: Sep 07, 2020

Results in the study indicate that all alternative land registry offices that were established in the six areas of study followed the Syrian property law, and worked with the same administrative structure, and followed the same stipulated procedures, with a few differences from one region to another. The lack or absence of real estate records was a common dilemma for most areas of study, resulting in their reliance on various methods to fill gaps in their databases. One of those methods included their reliance on information (databases) leaked by former regime employees, as was the case in Daraa. In Afrin, property owners were asked to provide the alternative land registry offices with their ownership documents that were missing from the archives. In al-Bab, alternative land registries utilized records from various municipal and treasury directorates to prove ownership, and substitute for property records.

Areas of the study that were re-seized by the regime, like Daraa and Duma, were faced with the problem of the regime's dismissal of all procedures and transactions organized by the alternative land registry offices. Most of their staff were displaced, but they managed to preserve most of their work by digitizing their records before they were seized by the regime. As for the areas that remained outside the regime's control, such as Idlib, and cities in the northern countryside of Aleppo, the alternative land registries there still operate in a relatively independent manner within their local framework of policies; and without the presence of a central administration or any organizational body linking the sub-administrations to each other. The Syrian Interim Government was expected to act as the centralized body overseeing those land registries but was not able to fulfill that role. The future of the manifestation of those experiences is still open to all possibilities and is dependent on the political solutions in those areas. Therefore, it is necessary to include the issue of property in the agenda of negotiations between the Syrian opposition and the regime, especially with regard to the tens of thousands of transactions organized by the alternative land registry directorates and offices, which are unrecognized by the regime.

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## Introduction

After less than a year of protests breaking out in Syria, the Syrian regime began to lose many areas, and its territories shrunk further during 2013, as the forces opposed to it gained more strength and momentum, and intensified their attacks. By the end of the year, most Syrian territories fell to the opposition. In most of these areas, alternative administrations were formed, and included local councils, courts, and police services. Directorates of education, health and others were also restructured. These changes varied greatly from one area to another according to the nature and political environment of every area. Furthermore, these experiences varied between civil administrations and others of a religious nature, and multiple ideological orientations, and they presented different levels of competence in performance, as well as legal ramifications.

These alternative administrations, in their various structures, have constituted a broad topic that has been addressed by many studies and reviews during the past years. However, one of its most important and complex aspects remains vague to this day, and it is related to land registry offices in areas that have fallen out of the regime's control. Directorates of property records or property documentation offices that had previously existed, were re-activated, which resulted in various methods of managing real estate records — specific to each area. Some are still in function to this day, and some whose services ended with the regime re-seizing the areas where they operated.

This study that sheds light on real estate records management in Syria, is important because property records guarantee property rights in a country where half of its population was displaced or was forced to seek refuge abroad. The documentation of property in Syria was not reliable before the conflict and relied on hardcopies in its land registry offices in each province. Those records were digitized and were in the possession of the Directorate of Real Estate Interests in Damascus. They were last updated in 2010, according to unconfirmed sources. Consequently, any city that fell out of the regime's control meant that the original records documenting the properties of its residents fell into the hands of other authorities. Most of these alternative land registries continued to work for years, during which tens of thousands of real estate transactions were carried out. When the regime re-seized some of those areas, it did not recognize the legitimacy of those transactions, while the property issue remains opaque regarding the areas outside the regime's control to this day.

This study divided the land registry operations in areas it targeted into: “completed operations” which are areas that the regime was able to re-seize, and “continued operations,” which are still functional in the opposition areas. It was based on two focused discussion sessions that included a group of experts to conceptualize a theoretical coherent understanding of the topic, before starting the data collection process, which mainly depended on interviews conducted with experts and former or current workers in the land registry offices, and

activists from all the mentioned regions. It also used a wide variety of databases from regime land registry offices, and secondary sources.

This study investigates the process of managing real estate records in ten different regions of Syria during the years of the conflict, and the main actors who supported that process. The study also targeted the areas of Raqqah, Deir ez-Zor, Hasakah, and Aleppo. After the completion of the first exploratory study, it was found that the aforementioned provinces did not experience the whole process of operating an alternative land registry office. Raqqah and Deir ez-Zor, for example, were under ISIS control for many years of the conflict, of which the latter was not interested in establishing alternative administrations for real estate records. While real estate records in Raqqah remained protected, sources suggest that parts of Deir ez-Zor's records have been damaged. The size of the damage remains unknown, given that the area today is under the regime's control.

In the case of Aleppo, although the opposition forces previously controlled most of the province's territory, and more than half of the city, they were never able to access the Real Estate Interests Directorate in the city, and therefore there was no database on which to base an alternative property land registry in the city. Regulating real estate transactions was only limited to contracts that were organized by the courts in the opposition areas only. In Hasakah, despite the People Protection Unit's (YPG) control of most parts of the city since 2012, the regime still maintains its control over its institutions inside the security square. The Real Estate Interests Directorate there is still functional, where most residents resort to documenting their real estate transactions, either directly or through lawyers.

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## Glossary:

### Common Ownership:

refers to holding the assets of an organization, enterprise or community indivisibly rather than in the names of the individual members or groups of members as common property.<sup>2</sup>

### Partition:

a technical transaction that aims to divide the property into several sections, or deduct a part of it and merge it with a neighboring property, and the property owner may resort to division for several reasons, including:

- They want to sell a part of the property, and the buyer has this part as independent real estate.
- They want to divide the property among their children, and for each of them to own those separate properties independently.
- The property is commonly owned by several owners, and they want to remove the common property quality from it, so that each of them may own property independently.

### Document of a Sharia Settlement of Succession:

a legal document in which the amount of the shares of the heirs of a deceased person is indicated in accordance with the provisions of Islamic Sharia, issued by the Sharia court, and it relates to real estate with the legal Sharia process of ownership.

### Legal Settlement of Succession:

The Legal Settlement of Succession is issued by the Magistrates Court, according to which inherited lands and real estate are divided, and the female has the same share of the male.

### State Lands:

real estate controlled by the state, and the state has the right of leasing them, and it includes all real estate outside the scope of administratively specified property. In the case of the state lands, inheritance is distributed according to the law, whereby children inherit the real estate equally, without distinction between male and female.

### The Fee Simple Estate:

entitles the owner to all rights of the property, which are only restricted by law or private restrictions, such as zone ordinances or covenants.

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2) From the text of the Syrian Civil Code, Article 780, the Syrian Parliament website, at the link: <https://bit.ly/32ZmcAM>, seen on: Sep 04, 2020

### **Title Plan:**

an official document issued by the secretariat of the area to which the property belongs. The plan shows the boundaries of the property on its four sides, and its area. The title plan is drawn up by specialized technicians and under the supervision of the real estate judge, and then all changes that occur to the shape of the property are recorded on the plan later.

### **Site Plan:**

Is a plan issued by an administrative unit, clarifying the future vision of the population and expansion. It is a detailed engineering drawing of proposed improvements to a given lot. A site plan usually shows a building footprint, travel ways, parking, drainage facilities, sanitary sewer lines, water lines, trails, lighting, and landscaping and garden elements.

### **Makeshift Dwellings/Informal Settlements:**

are residential areas, which have developed without legal right to the land or permission from the concerned authorities to build, and as a result, of their illegal status, infrastructure and services are usually inadequate. They are agglomerations that arose in places not originally intended for construction, in violation of the law and encroaching on state property and agricultural lands, as stipulated by Syrian law.<sup>3</sup>

### **Cadastral Certification:**

is an extract from the Land Registry. It is a report of the property's physical characteristics. The measurements of the building are described and the borders of the plot.

### **Boundary Marking:**

is a plan put in place to identify the corner points of a property.

Registration: generally describes a system by which matters concerning ownership, possession, or other rights in land can be recorded (usually with a government agency or department) to provide evidence of title, facilitate transactions and prevent unlawful disposal. Boundary Marking and Registration: regulate the two documents for each property, the first is technical (the Title Plan), and the second is legal (the Cadastral Certification).

### **Notary Public Office:**

is a public office constituted by law to serve the public in non-contentious matters usually concerned with estates, deeds, powers-of-attorney, and foreign and international business. A notary's main functions are to administer oaths and affirmations, take affidavits and statutory declarations, witness and authenticate the execution of certain classes of documents, take

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3) Ilyas al-Dairi, *Areas of Informal Settlements in Syria and their Association with Characteristics of Family and Population*, Central Bureau of Statistics, Damascus, 2007, p. 7, available at the link: <http://cbssyr.sy/studies/st24.pdf>, seen on: Sep 04, 2020



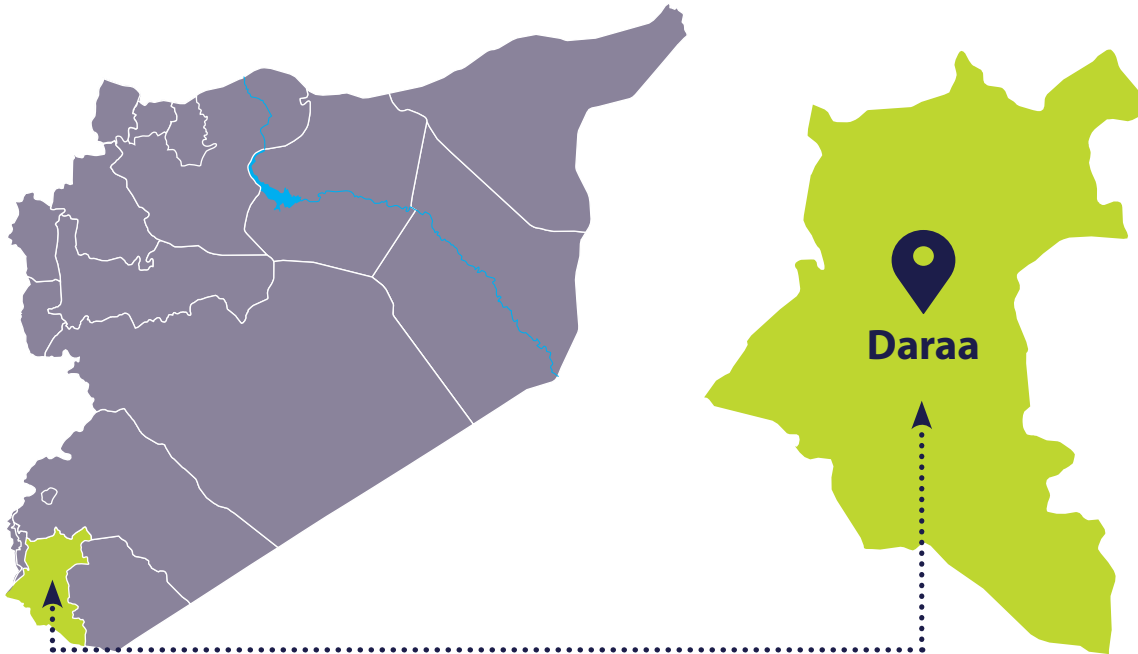
acknowledgements of deeds and other conveyances. In Syria, notary agencies have been used extensively in establishing the sale and purchase of real estate that is not documented in land registries, or whose description in the registry does not match its reality on the ground. There was what was known as an irrevocable power of attorney for outright purchases.

### **Border Areas Decree:**

Legislative Decree 43 of 2011 - the amendment of Law 41 of 2004, which stipulates that it is impermissible to establish, transfer, amend or acquire any real property right on lands located in a border area or to occupy it through lease or investment, or in any way, for a period exceeding three years in the name or the benefit of a natural or legal person, except with a prior license.

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## I. Daraa



Real estate area

1,840 km<sup>2</sup>



Population

1,1 M



Number of property registries

2,500

Entity or persons who reactivated Land Registry

The Free Bar Association in Daraa /Daraa alternative Governorate Council

Entity that supported and financed reactivation

Daraa Governorate Council/The opposition

New Land Registry administration subordinate to

Daraa Governorate Council

Entire work period of Land Registry

Almost four years



Date/period regime lost control of the area

2011

Regime Administration

Uncertain



Number of workers



Date Alternative Administration for Land Registry was established

2014

Alternative Administration

24 Employees

### Status of property registries:

Original registries with the regime  
Alternate administration maintains an electronic copy  
Copies of registries were preserved

Average number of annual transactions:

11,000



2,750



## 1- Background on the Status of Real Estate in the Area before the Conflict:

Daraa province is located in the Southwest of Syria, along the Jordanian border, and extends over an area of 4000 square kilometers.<sup>4</sup> The population of the province, according to the statistics of the Central Bureau of Statistics in 2011, was about 1.1 million, while estimates of some experts that The Day After (TDA) spoke to indicate that the number today is around 800,000.<sup>5</sup>

Before 2011, there was a Directorate for Property Interests in Daraa, with Land Registry and Survey Offices branches, and eight sub-offices located in the province's countryside (in Izraa, Busra al-Sham, Sanamayn, and others). On average, those offices were carrying out more than 11,000 property transactions annually, including sales, ownership transfer, mortgage, claims and others.

According to estimates of lawyers who previously worked in the Land Registry, the number of property records in the province reached about 2500 records, the majority of which were agricultural properties (64%), while residential properties reached about 28%, with the remaining share of 8% for industrial properties.

### Challenges before the Conflict:

Although Daraa was the province with the least number of informal settlements<sup>6</sup> in Syria, it has suffered, like other areas, from the problem of common ownership. Multiple owners hold the assets of a property indivisibly rather than in the names of the individual members, which makes it impossible to transfer the property's ownership except in shares. This problem accumulated over the years until it became one of the most significant administrative and legal challenges in Daraa, as well as in most of the Syrian provinces.

Daraa also suffered severe ramifications from the effects of the Border Areas Decree and its amendments. The Border Areas Decree made it impossible for property owners to sell their property, transfer ownership, or even place a legal claim. Property owners needed to obtain security approvals that were costly and time consuming, and difficult to obtain in most cases. Additionally, the decree applied to large parts of the province such as the towns of Tal Shihab, Zaizoun, ash-Shajarah, and Daraa al-Madina, which prompted people to resort to dealing with customary or foreign contracts as they are known locally.

The contracts are organized by private real estate offices and are not documented in the land registry. With the increase in the number of these contracts, the margin of discrepancy between property records and the reality of ownership on the ground increased, resulting in repeated sales, and associated legal and social problems.

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4 ) The Syrian Electronic Government Portal (Bawabat al-Hukuma) website, available at: <https://bit.ly/3mPQCP6>, seen on: Sep 25, 2020.

5 ) Based on a telephone interview researcher conducted with Sulaiman al-Qarfan, head of the Free Lawyers Syndicate in Daraa, June 02, 2020.

6 )Based on cross-estimates of a number of experts and former land registry workers who we spoke to.

## 2. Establishing an Alternative Land Registry in the Area:

### Sequence of Events:

Daraa was the first province that witnessed protests against the Syrian regime in March of 2011, and the first to witness the regime's crackdown and violence against protesters. With the escalation of the regime's violence, civilians began to take up arms. The Free Syrian Army was formed and included defected members of the regime's army and security services, as well as civilians who took up arms in defense of their areas.

By the end of 2011, some areas in the province fell to the opposition, and further expanded in 2012 and 2013, until the opposition seized control of nearly two-thirds of the province's territory, and shared control of the center of Daraa city with the Syrian regime.

Despite the emergence of some extremist Islamist factions in Daraa province later, most notably Jabhat al-Nusra, the Islamic Muthanna Movement and the Khaled bin Al-Walid Brigade — they were not able to exercise full control of the province, as in other opposition-controlled areas of Syria. The role of these factions remained marginal, vis-à-vis the local, non-ideological factions backed by civil forces, who were mostly in control of the area after expelling the regime forces. This allowed civil society actors to work and establish a provincial council, local councils, and institutions that worked to fill the administrative vacuum left by the regime, including the Directorate for Property Interests, which was established in the last quarter of 2014. The directorate was to operate independently from the directorate affiliated with the regime, which remained functional simultaneously inside the city of Daraa, and within the areas that remained under the regime's control in the province.

### Actors and Parties Reactivating the Land Registry:

The Free Lawyers Syndicate in Daraa, established in late 2012 included hundreds of lawyers who defected from the regime, launched an initiative to establish the Directorate for Property Interests, which was supported by the Provincial Council and backed by the Ministry of Local Administration of the Syrian Interim Government that was formed in March 2013. Lawyer Sulaiman al-Qarfan of the Free Lawyers Syndicate in Daraa, who was later appointed as the General Supervisor of the Directorate for Property Interests by the Ministry: "We started work in Nawa, the most populated city in the western countryside of Daraa, and the directorate continued to operate in one center until mid-2015 when another office was established in the eastern region of Daraa in the town of Giza. Its records were transferred from the Property Documentation Office in Busra al-Sham, so we now have two centers, one covering the western region and the other covering the eastern region."

The records of the real estate office in Nawa were complete and intact, while the records in the Busra al-Sham office were partially damaged before they were transferred to the town of Giza. However, even if Busra al-Sham's records were complete, they would not have compensated for the absence of a database of properties or real estate records that covered the entire province, as they remained in the regime's possession. This was the first challenge the alternative directorate faced in Daraa, and it required bold and risky steps to overcome it.





Al-Qarfan continued: “At the beginning of our work, a law expert who held the position of head of the real estate documentation office in one of the regions defected from the regime, brought with him the index of properties in Daraa on a hard disk, containing data on all real estate properties in the province, and the names of their owners. Later, another employee in the Survey Office defected and brought in all the cadastral plans of the province.” This data leaked by former employees of the Directorate for Property Interests of the regime solved a large part of the problem, and enabled the new alternative directorate to build an almost complete database on the distribution of land, and the reality of property properties in the province, but it did not include legal claims or seizure in the event of their presence on any property. Nevertheless, its availability was necessary for the alternative land registry’s work, especially in light of the aforementioned common ownership problem. To fill this gap, the alternative land registry staff had to take a more drastic step. Al-Qarfan explains this: “We worked with some lawyers and transaction trackers in regime areas to secure copies of original records related to the real estate documentation. We had to confirm any recent sales that have occurred, and whether the properties were entangled in any lawsuits and mortgages and other types of agreements.”

### **Features of the New (alternative) Land Registry:**

The number of staff in the Real Estate Services Directorate in Daraa reached 24 employees, including six women, the larger part being former employees of the regime. These employees followed the same old job hierarchy of the regime, and applied the same real estate law in force in Syria to their current work including the paperwork and procedures in organizing real estate transactions, with the exception of one change mentioned by al-Qarfan: “We only replaced the image of the regime flag on title deeds with the revolution flag.”

As for the mechanism for documenting transactions, al-Qarfan said: “In the beginning, the documentation was written in pencil on the regime’s original records that we were able to access in Nawa and Busra al-Sham. Later on, new records similar to the regime’s records were printed for all regions of the province, and then those new transactions in pencil were transferred to the newly printed records.” The documentation of those alternative records continued, and they were also digitized. Ultimately, no changes were made to the original records, with the exception of the partial damage to the records of Busra al-Sham, as mentioned earlier in this section.

Administratively, the alternative directorate was subsidiary to the Daraa Provincial Council, and to a lesser degree linked to the Ministry of Local Administration of the Syrian Interim Government (SIG). The SIG however, did not have the capacity or clout to manage real estate records countrywide, so its contribution and support were limited. Even staff salaries and logistical support for the alternative directorate were provided by the Provincial Council only, without the directorate receiving any external support from non-governmental organizations or bodies interested in governance in areas outside of the regime’s control at the time.

Based on memoranda of understanding, the alternative directorate was operating under legal supervision from the Free Lawyers Syndicate in Daraa, and it accepted documents

issued by the “Court of Justice in Hauran,” the most prominent local judicial body that had emerged after the region fell to the opposition. The alternative directorate also accepted documents issued by the Free Police and civil society bodies. It also accepted documents issued by regime institutions, such as legal inheritance documents and others.

### **Challenges during Operating:**

Daraa did not suffer from the domination of armed opposition forces with political agendas, like in other regions of Syria. Local administrative institutions enjoyed a large margin of freedom of work and civil support. However, the Provincial Council being the only contributing and supportive body to the alternative Property Interests Directorate limited the development of its work. This was also reflected in the small number of staff working in the directorate and its centers in the sub-districts, compared to when the regime was in control.

Additionally, the general conditions in areas outside the regime’s control in Daraa, were subjected to frequent shelling by the regime forces, resulting in the deterioration of the security and economic situation. This constituted a challenge for all local actors and residents. However, the biggest challenge began in mid-2018, when the Russian-backed regime forces began to advance to regain control of territories.

### **Outputs of the Practice/Future Prospects:**

The practice of the Property Interests Directorate in Daraa lasted for a period of four years, during which it organized more than 6500 property transfer transactions, and thousands of procedures for lawsuits, seizures, ownership information, and other related procedures. These transactions were geographically exclusive to all areas that were outside the regime’s control in the province, as most of the residents did not dare enter regime-controlled areas to conduct their transactions. Many of the residents were not expecting the regime to regain control of their areas, so the overwhelming majority of them registered their transactions at the new alternative directorate.

In June of 2018, the regime violated the de-escalation agreement that was in place in Daraa with international consensus and launched an offensive by attacking several axes in an attempt to infiltrate opposition-controlled areas. The attack, which had air cover by Russia, lasted for about a month, and ended with more than 320,000 civilians being displaced. The offensive was followed by negotiations with the opposition forces led by a group of Russian officers, to reach a ceasefire agreement. The agreement stipulated that fighters and civilians who rejected reconciling with the regime, be evacuated to the northwest of the country, of which 22,000 did evacuate. The regime called it the ‘reconciliation agreement’, while the opposition called it the ‘displacement agreement’. The agreement’s provisions remain vague to this day. Al-Qarfan added, “We demanded that the regime recognize educational certificates, civil registry documents, land registry documents, and documents from the Transportation Directorate. This was agreed upon in the presence of both representatives from Russia and the regime, and they promised to audit and approve all documents through the formation of audit committees, but after the regime took over, those agreements were not fulfilled.”



Most of the workers in the Real Estate Services Directorate were displaced, like other workers in other alternative local administration institutions. With the escalation of the attack and the fall of Daraa to the regime looming, the staff at the alternative directorate hid the original records that they had from the regime, as well as the alternative records that they created, and buried them underground. They also kept an electronic copy of all records and property transactions on a hard disk, which is still located somewhere our sources preferred not to disclose. Later, the regime recovered 122 real estate records from the Nawa and Busra al-Sham documentation offices, dating back to 2013, and disregarded all transactions that were made afterwards.

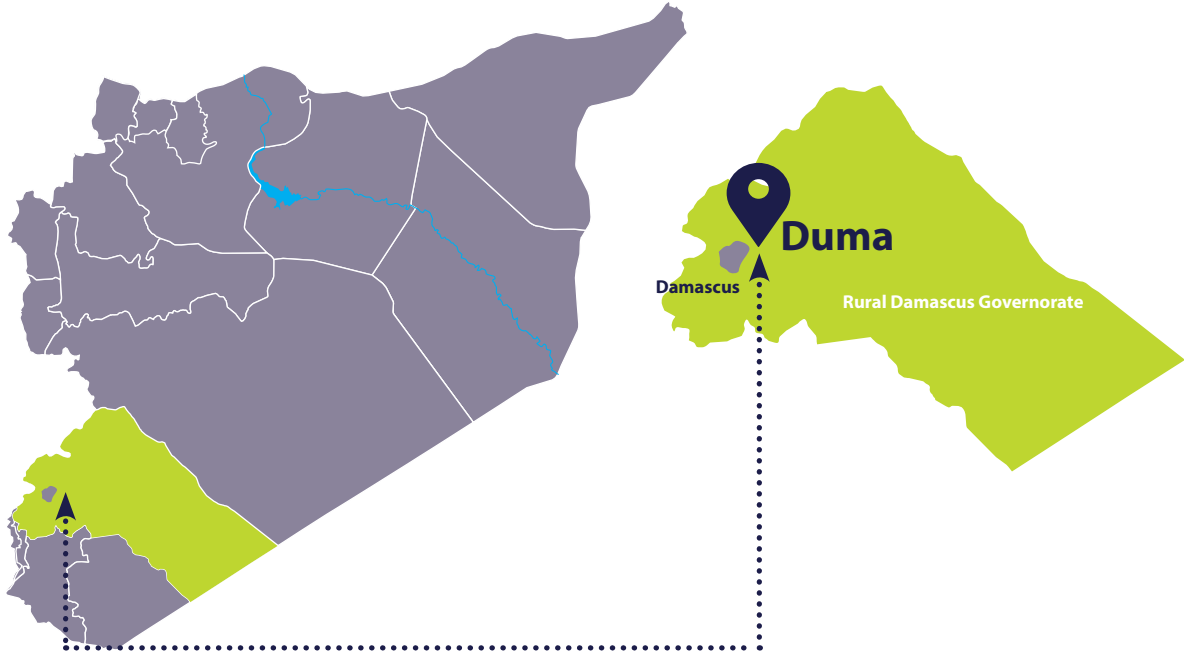
### Significant Challenges that Arose from the Practice

The most significant legal challenge in Daraa was the regime's abolition of all sales, signposting, and property transfers that took place during the alternative directorate's work period between the years 2014 to 2018, rendering its work null and void. The owners of those transactions had to re-register them with the regime's directorate, which created major problems, as many of those individuals were not able to access the directorate's offices in fear of being arrested. Almost 25% of the population in Daraa (based on pre-2011 population numbers) were displaced or left the country. It also became possible for any owner who sold their property during those years to deny that the sale was made.

### Summary

- The establishment of an alternative administration for Land Registries came as a response to the vacuum left when the area fell out of the regime's control. Throughout the years, the alternative administration worked to preserve the residents' property rights and document any changes in accordance with Syrian law.
- There was much focus on verifying ownership, by using information that the alternative administration had, or with the information it was able to access from the regime's land registries.
- Experts who were former employees of the land registry or lawyers in regime-held areas were instrumental in setting up the alternative directorates and its sub-offices, which enhanced the credibility of the work. Syrian laws were applied in the process, and there was no interference in the work by the armed opposition forces.
- All the results of the work of the Alternative Directorate for Property Interests in Daraa have been abolished by the regime for political interests. Because the transactions that were conducted via the alternative directorate are registrations of contracts, and regulation of financial and property rights of citizens, it is necessary not to abolish what has been documented, and include them as evidence of people's rights.

## II.Duma



Real estate area

**19,000 km<sup>2</sup>**



Population

**475,000**



Number of property registries

**2,076**

Entity or persons who reactivated Land Registry

Local Council and former employees in the department

Entity that supported and financed reactivation

Local Council, and Chemonics later supported an automation project

New Land Registry administration subordinate to

Local Council

Entire work period of Land Registry

5 years



Date/period regime lost control of the area

**2012**

Regime Administration

Uncertain

Number of workers



Date Alternative Administration for Land Registry was established

**2013**

Alternative Administration

**35**  
Employees

**Status of property registries:**

Recovered by regime  
Copies of registries were preserved

Average number of annual transactions:

**12,000**  
**16,000**



**2,400**



## 1- Background on the Status of Real Estate in the Area before the Conflict:

The city of Duma, the largest city in Eastern Ghouta, Damascus, is administratively classified as a central region in the Damascus Countryside province (Rif Dimashq). The province includes six other sub-districts, including Harasta, Nashabiyah, ad-Dumayr and others. The population of the region, according to a survey published by the Central Bureau of Statistics in 2014, was about 475,000, based on Resolution 1378 of the Ministry of Local Administration in 2011. The Land Registry Office in Duma oversaw 67 properties in its vicinity.<sup>7</sup> Duma's administrative borders include large areas of the uninhabited Syrian Badia up till the Iraqi-Jordanian borders. According to some sources, the area is more than 19 thousand square kilometers,<sup>8</sup> and the number of ownership records in the Land Registry Office in Duma is 2076 property registrations, with 65% agricultural land properties, 30% residential properties, and 5% industrial properties.<sup>9</sup> The Land Registry in Duma carried out between 12 and 16 thousand property transactions annually during the few years before the conflict.

### Challenges before the Conflict:

Duma, like other Syrian provinces before the conflict, suffered from the problem of a large discrepancy between the properties that were registered with the directorate, and the actual ownership of properties on the ground, especially residential properties. Adnan Taha, head of the alternative Land Registry Office that was established after the opposition took control of the area, said: "Most of the main cities in the province are surrounded by slums, and in most cases the area of these slums is comparable to the size of the city itself." What is meant here is that the slums were not built illegally, but they differ in terms of building specifications, and most of them are registered with the Land Registry as shares of common ownership.

Common ownership in Duma, as with other Syrian provinces, is due to legal and administrative obstacles that prevent owners from being able to correct and provide specifications of their properties to be able to match between the property's record and the property itself. Accordingly, Adnan Taha estimates that registered property representing the actual ownership on the ground is 70%, but includes all forms of ownership, not only residential properties.

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7) Based on an interview conducted by our researchers with Adnan Taha, head of the alternative Directorate of Property Interests in Duma, on May 05, 2020.

8) Atlas of Syria, 2018, at the link: <https://bit.ly/3bFyHpa>, last viewed Sep 09, 2020

9) Based on an interview conducted by our researchers with Adnan Taha, head of the alternative Directorate of Property Interests in Duma, on May 05, 2020.

## 2. Establishing an Alternative Land Registry in the Area:

### Sequence of Events:

The city of Duma and most of its areas fell to the Syrian opposition at the end of 2012, and local armed opposition forces, along with civil society initiatives, took control of the city. As was the case in Daraa, civil society initiatives worked with a wide margin of freedom during the first two years after the expulsion of the regime. A local council was elected in Duma, and a specialized Property Interests Committee was formed, and included former employees in the regime's Land Registry Office, whose task was to collect and preserve records, and to work on inventorying property documents and complementary papers that were already existent in the regime's Land Registry Office.

### Actors and Parties Reactivating the Land Registry:

As previously mentioned, after its establishment, the Duma Local Council appointed a Property Interests Committee that worked during the first quarter of 2013, to develop a plan to reactivate the Land Registry Office by training new cadres. Later, the committee supervised the Land Registry Office's work and development after its launch.

The practice in Duma was also distinguished by the establishment of a Property Judicial Committee affiliated with the local council, and the establishment of that committee came as an attempt to fill the void created by the absence of courts in the area, as during that period, courts were exclusively affiliated with the military factions. Adnan Taha said: "The committee worked to solve the outstanding problems between the registry and the court because previously the Islamist factions appointed an imam with the judge to make the final decision. Therefore, and based on that occurrence, we tried to limit their influence on the work of the land registry. I was even imprisoned for 16 days for this issue."

The new alternative Property Directorate in Duma, was composed of 35 employees, including four women, all who worked on a voluntary basis since the directorate's inception until about a year ago. Employees started earning salaries after the directorate received a grant from Chemonics, an American development company working in more than 150 countries around the world and was known in Syria as the Syria Regional Program.<sup>10</sup> Through this grant, the directorate developed its work, and was able to fully implement the project of digitizing records and property transactions in Duma.

### Features of the New (alternative) Land Registry:

The Real Estate Interests Directorate in Duma worked in accordance with the Syrian property law, otherwise known as Resolution No. 188/1926 and its amendments, and applied the same procedures that were in effect under the Syrian regime. Nonetheless, some procedures were excluded, such as the requirement for a financial clearance, which was impossible due to the inability to activate Directorate of Finance after it was destroyed by the regime. Adnan Taha says, "We set up temporary cadastres and forbade registering on the original cadastres. We stapled copies of the contracts on the cadastral certificate of the property being sold, in hopes that we

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10) For more about Chemonics, see the company's website at the link: <https://bit.ly/37TIRlo>.



can hand over all our work to the new government, so that contracts are checked before they are inked and registered formally.” Unfortunately, there was no new government, and workers in the Property Interests Directorate in Duma were forced to make difficult decisions before the regime returned to control the city.

The practice in Duma presented a progressive example in managing property records, and it developed a better workflow than what was carried out under the regime. Old and accumulated problems were addressed, and all property records and transactions were digitized - a long and arduous process that revealed significant gaps in the regime’s hardcopy records. The directorate also established the “single window” approach to facilitate procedures for citizens, and this was unprecedented for all of Syria. Additionally, the directorate worked in coordination with various institutions in the province, including the local council and its subsidiaries, such as the Civil Registration and others. However, the relationship with institutions associated with the military factions was more problematic, specifically with local courts that appointed imams or religious as judges, and this was one of the biggest obstacles

### Challenges during Operating:

The struggle between the civil society organizations in Duma embodied in the local council and its institutions, and between the armed forces embodied in the Islamist factions and their institutions, continued throughout the years when Duma was under opposition control. The local council, to a large extent, was able to protect the Directorate of Real Estate Interests from the interference of the armed factions. There was one problem, related to the judicial authority, and the problem appeared in particular in issues of inheritance, and the discord between the Syrian Customary Law and Sharia Law. While the Syrian Customary Law imposes an inventory for state lands (Amiri), the courts affiliated with the armed opposition groups in the region refused to carry out this type of inheritance process, and imposed the inheritance process based on Sharia instead. The Provincial Council tried to solve the problem by establishing the aforementioned Property Judicial Committee, but the matter ended with the arrest of its members. Adnan Taha says: “The faction came and arrested the official responsible for implementing the inheritance law according to State Law, and he was considered an infidel. We tried to convince them that state lands belong to the state and are not owned by a person, and the state has the right to distribute ownership equally between males and females, but to no avail. In my opinion, this was the only handicap in our experience in Duma.”

The difficulties in Duma did not end with the courts imposing Sharia Law, as the city in Eastern Ghouta suffered a siege that lasted for more than five years, from the beginning of 2013 until the reconciliation agreement was reached in March 2018. The reconciliation resulted in the displacement of about 66,000<sup>11</sup> of its residents. During those years of siege, military operations led by the regime and its allies against the people in the region did not stop, and included airstrikes and ground offensives, and the building of the Land Registry Office itself was bombed in 2014, but fortunately, the records were not damaged.

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11) Displacement in Eastern Ghouta, Jusoor Center for Studies, 2018, at the link: <https://bit.ly/3ewrFn9>, last viewed June 24, 2020.

### 3- Outputs of the Practice/Future Prospects

The Real Estate Records Directorate operated in Duma for nearly five years, during which it regulated about 12,000 property transactions, 80% of which were property transfer transactions. Until the last months of operating, work was being carried out on the temporary records. However, two months before Duma's residents were displaced, and when the department's staff were alerted that the regime might retake the area - a process of documenting all property transactions was carried out on the main records. Adnan Taha said: "When we were certain that we were going to be displaced, we had to confirm the properties on the original records and ink them (writing them in pen/write over the penciled records), so that even if the regime crossed them out, their trace would remain. This way, anyone who looks at the records later will find that this property had an owner who was stripped of his/her rights, and that the owner of this property will one day return to claim his/her land."

This was the most that the staff at the Real Estate Records Directorate could do to preserve the changes that occurred in the properties of the residents during the years when the opposition was in control of the area. The negotiators for the opposition in Eastern Ghouta were not in a position to raise the issue of recognizing real estate records or even include them as part of an auditing process. The regime ended up taking over the entire warehouse of contracts and dismissing their eligibility.

Prior to the displacement of the residents in Duma, which included almost all workers in its institutions, all records and contracts were handed over to the regime's Directorate General of Real Estate Interests via the Syrian Red Crescent. However, the alternative directorate's staff kept the entire archive of the property records and transactions that were dated until March 2018.

#### Significant Challenges that Arose from the Practice

As was the case in Daraa, the main challenge in Duma was the regime not recognizing the validity of sales, purchase, and distribution of inheritance shares and other transactions that were regulated by the alternative Real Estate Interests Directorate in Duma. Furthermore, the regime imposed owners to re-document their transactions in its directorates. Although the process of re-documentation is available for most of the residents who remained in Duma, it is not the same for the residents who were displaced under the reconciliation agreement, or those who left before it, and are not able to return to regime-controlled areas for fear of arrest and persecution.

The massive destruction of urban structures in Eastern Ghouta also adds a new dimension to the real estate problem, especially since about more than 34,000 buildings have been either totally or partially destroyed, according to a study by the United Nations Institute for Research and Training in March 2019.<sup>12</sup> Last but not least, the discrepancy between the registered land in the directorate, and the reality of ownership on the ground likely puts all

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12) SYRIAN CITIES DAMAGE ATLAS, UNITAR, 2019, link: <https://bit.ly/3826C9U>, last seen June 24, 2020.



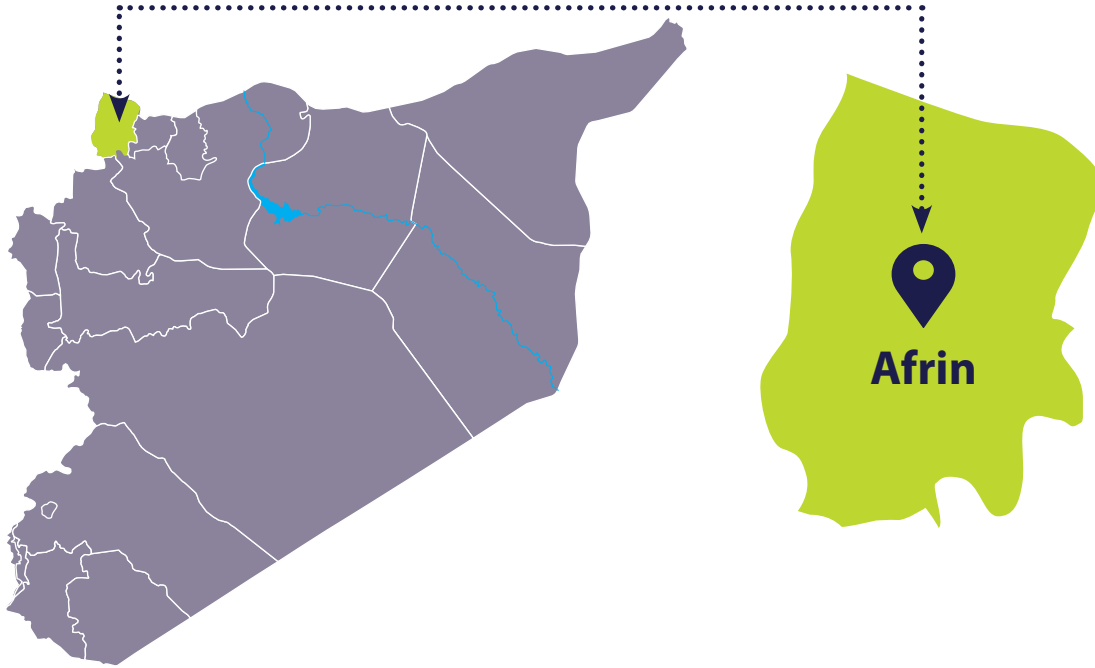


owners of property at risk of losing their ownership, as their ownership of property may not match registered records.

## Summary

- Duma's administrative practices reflected a great awareness of the challenges of the real estate issue in the region, through the establishment of the Real Estate Committee, which kept the records and their appendices, and subsequently supervised the work of the alternative Directorate of Real Estate Interests.
- Managing HLP records in Duma was done by adopting the Syrian customary law. The work of the alternative Directorate of Property Interests improved greatly compared to what it was under the regime. All HLP records were digitized, and the directorate facilitated procedures for citizens through the single window method.
- Those in charge of the work of the Directorate of Real Estate Interests were able to maintain a relatively wide margin of independence despite the challenges of civil and Islamist forces being in a perpetual state of conflict. The latter constantly attempting to enforce an Islamist trend to strengthen its political agenda, by marginalizing the rest of the parties.
- The alternative Directorate of Real Estate Interests in Duma ceased its operations after five years from its inception, with the displacement of most of its staff, along with about 20% of the population in Duma under the reconciliation agreement sponsored by Russia. The displaced cadres kept an electronic archive of everything, but the regime restored the original hardcopy records, and the entire warehouse of HLP contracts and registrations, and did not recognize any of the transactions that were regulated by the alternative directorate in Duma during the five years it operated. Those transactions are believed to be about 12,000 in number.

### III. Afrin



Real estate area  
**1,840 km<sup>2</sup>**



Population  
**492,801**



Number of property registries  
**Unknown**

Entity or persons who reactivated Land Registry

Afrin Local Council supported by the Turkish government

Entity that supported and financed reactivation

Turkish government

New Land Registry administration subordinate to

Afrin Local Council

Entire work period of Land Registry

less than 2 years



Date/period regime lost control of the area

**2012**

Regime Administration

**4**

Uncertain



Date Alternative Administration for Land Registry was established

**2018**

Alternative Administration

**6**

Employees



#### Status of property registries:

In the possession of the regime in Aleppo City  
Copies of registries were not preserved

Average number of annual transactions:

there was no land registry department, but a broker office only



transactions currently limited to rental contracts only



## 1- Background on the Status of Real Estate in the Area before the Conflict:

Afrin is located along the border with Turkey in the north of Aleppo province, and it forms the central administrative region named after it. It has six sub-districts, including Jindires, Rajo, Shaykh al-Hadid and others, with a total area of about 1840 square kilometers<sup>13</sup> and a population of approximately 430 thousand people, according to the latest United Nations data for the year 2020.<sup>14</sup>

Despite being central to its region, no Real Estate Interests Directorate was established in Afrin like in other areas. There was a sub-office that was established in 2009, limited to registering transactions and contracts in preparation for sending them to the Directorate of Property Interests' in Aleppo, where there was an office assigned for Afrin. Consequently, the database of HLP records for Afrin was in Aleppo city, and many of the residents traveled to the city to take care of their transactions. The regime had political reasons for linking Afrin to Aleppo city, as explained by most experts we spoke to on the HLP issue. Furthermore, because the region was of Kurdish majority, it made it vulnerable to marginalization and different treatment by the regime.

The absence of an authority or directorate in Afrin that oversees HLP issues has also led to delays in identifying and registering its lands. Although registering lands is a process carried out in all of Syria, at a rate of 97%,<sup>15</sup> Afrin's lands remained outside the cadastral plan and without legal existence. The team was not able to obtain the exact number, but according to what was reported by a lawyer working in the current land registry office in the city, it is a large number. Mid-2012, the regime left Afrin to the PYD authorities.

### Challenges before the Conflict:

The absence of a proper land registry office in the city, incomplete cadastral plans, and no database to support them, caused a series of challenges in Afrin. The border areas decree (as was the case with Daraa), posed another great challenge, which made carrying out any property transactions in the area impossible without security approvals. It was time consuming, and not cost effective, so citizens in Afrin resorted to dealing with external contracts, that were set up by private real estate offices or lawyers. Afrin, like other Syrian regions, also suffered from the problem of common ownership resulting from the delay in the screening processes and the inefficiency of the site plans, making the response to the requirements of the citizens and urban growth even more difficult. All the aforementioned factors widened the margin of discrepancy between what is registered/stored in the land registry databases, that are now solely in the possession of the Syrian regime, and the reality of properties and their ownership on the ground.

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13) Atlas of Syria, 2018, at the link: <https://bit.ly/3bFyHpa>, last viewed Sep 9, 2020

14) The United Nations Humanitarian Needs Assessment Program, periodic report for August 2020, unpublished data.

15) General Directorate of Real Estate Interests, First Annual Report, 2014, p. 14, available at: <https://bit.ly/3gUC3pr>, last viewed Sep 04, 2020

## 2. Establishing an Alternative Land Registry in the Area:

### Sequence of Events:

From 2012 to 2018, the Democratic Union Party (PYD) were in control of Afrin, and Afrin became one of the three cantons that formed what is known as the party's Autonomous-Administration. Among the institutions of the new administration was a property (HLP) division, and a municipality that worked to organize and sort out land transactions independent from the regime's, which were sold to civilians. Azad Othman, a member of the current local council in Afrin, says: "There is a problem now that cannot be solved. Twenty thousand new apartments that are not documented in the Aleppo city have no proof of ownership other than sales and purchase contracts regulated by the ruling party's (PYD) courts."<sup>16</sup>

When the PYD was in control of Afrin, thousands of new and old property transactions were organized through the property division, or through the Autonomous-Administration's courts. Many property owners registered their transactions twice, once with the Autonomous-Administration, and the second time with the regime's directorate in Aleppo - but of course that option was not available to everyone. Today, we do not know the number of those who documented their transactions with the Autonomous Administration without the system's records.

During the years when the PYD took over Afrin, and as a result of being relatively stable compared to its neighbors, when the conflict in Syria was at its peak; Afrin received frequent waves of displaced people (IDPs). The need for housing increased, which resulted in a large urban expansion of the town. However, the amount/area of expansion was unknown, and was not recorded in The Real Estate Division of the Autonomous Administration and was not registered by its municipalities. Consequently, there were two types of building violations - what was registered with the Autonomous Administration without access to the official records in Aleppo, and what was not registered in either of them.

In 2018, when the Syrian National Army took over Afrin, significant demographic changes took place. Approximately, half of the Kurdish population left Afrin,<sup>17</sup> and approximately, 100,000 displaced people from the countryside of Damascus, Homs, Aleppo and other areas lost to the regime under agreements arrived to Afrin. This demographic change was accompanied by large-scale seizures of properties, and a third layer of urban expansion outside the state plan came into existence. The HLP dilemma in Afrin may be the most complex in Syria, and the absence of a database of property records was not necessarily the biggest problem facing those in charge there.

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16) Interview conducted by the researchers with Mr. Azad Othman, member of the Afrin Local Council, on July 01, 2020

17) Khayrallah al-Hilou, Afrin after Turkish control: the political, economic and social transformations, Middle East Directions website, 2019, at the link: <https://bit.ly/3eaEN0m> , last seen on July 06, 2020.



## Actors and Parties Reactivating the Land Registry:

After more than two years of the Syrian National Army's takeover of Afrin, the practice of the alternative land registry there remains unclear. Although a property documentation office was established in the city in 2018, which gave citizens the necessary documents to regulate their property ownership, the process ceased after granting citizens about a hundred documents only, fearing forgery, and after the objection of some experts and specialists. Since then, the office's work is limited to documenting lease contracts only, according to one of the office employees, who preferred to remain anonymous.

The source also reports that about a year ago, the Property Documentation Office became a Property Records Office, following the establishment of a Survey Office.

The Survey Office was established in an attempt to overcome the problem of the lack of access to the database of owners of property. The Survey Office conducted a survey on the entire city of Afrin. During the survey, every street and every property was given a number, and the names of its occupants were documented regardless of whether they were the owners of that property or not. The source adds: "What took place was not a property survey in the strict sense of the word, but it can be said that it was a survey aimed at defining the reality of the HLP situation that exists today, and placing it within a numbering system that ensures that at least the number of properties, their occupants and addresses are known."

Azad Othman, a member of the local council in Afrin, added: "The main objective of the survey was to know who is in Afrin, and where they live exactly. We also benefited from this process by having owners come forward and present documentation proving ownership of 20% of properties in Afrin. These properties were registered in new records, and we left a two-year deadline for those who want to object to that process."

## Features of the New (alternative) Land Registry:

The local council in Afrin and its Real Estate Records Office, in addition to logistical support from Turkey, are working to prepare the foundation for launching a comprehensive property documentation process in the region. The process will kickstart property documentation procedures, however, it is a precarious and arduous process. Azad Othman says: "The Real Estate Records Office has gathered all the available resources related to HLP from the hardcopies that the regime left in its Real Estate Records Office, in addition to the PYD records from courts, municipalities and others, and even electricity and water bills that were collected to support the process of rehabilitating properties." Nevertheless, all the aforementioned sources are not sufficient to rebuild a database for properties in Afrin. Most have loopholes, and many of them are subject to fraud. Therefore, the Local Council is preparing to launch a process for re-registering properties according to clear legal foundations, and it seems that these foundations are still a subject of dispute among various actors who are in authority today.

Our source in the Real Estate Records Office says: "A critical stage lies ahead, many problems will arise including the problem of property believed to the Democratic Union Party (PYD), which

has been seized by some factions without clear legal procedures and without judicial rulings, and there are forces that exploit this to confiscate more property. There are also differences among the local administrative bodies and the influential powers in the region regarding the mechanism for registering property. The influential powers require the presence of the property owner in person in order to establish his/her ownership, according to the law in place in Turkey. We would recommend that the process must also be resolved through a legal agent of the owner. This is necessary because Afrin is a special case, as a large part of its population was outside Syria even before the revolution, and now that number has increased dramatically as many of its residents are wanted on charges of being supporters/members of the PYD. What we are basically trying to say, is that property must be registered in the names of its real owners, and then if they belong to any specific organizations, legal procedures must be taken against them before any property is confiscated.”

### **Significant Challenges that Arose from the Practice**

The number of staff working in the new Land Registry Department in Afrin does not exceed six employees, while the rest are all temporary contractors working for the department, often as field data collectors in surveying operations, and they do not have significant experience in this field. Consequently, the issue of trained staff constitutes a real problem for the new administration, as well as the low salary scale, which ranges between 75USD to 100USD per month, an obstacle to attracting new qualified and trained staff. The department also suffers from a lack of logistical support and is in need of computers and other technical equipment for the field teams.

The department also suffers from the domination of the factions stationed inside the city, as most of construction takes place under the supervision of factions. In fact, some of them invest in real-estate, which further complicates the HLP problem. Azad Othman says: “The factions dominate more than 60 % of Afrin, and we will not be able to find solutions until they leave the city.”

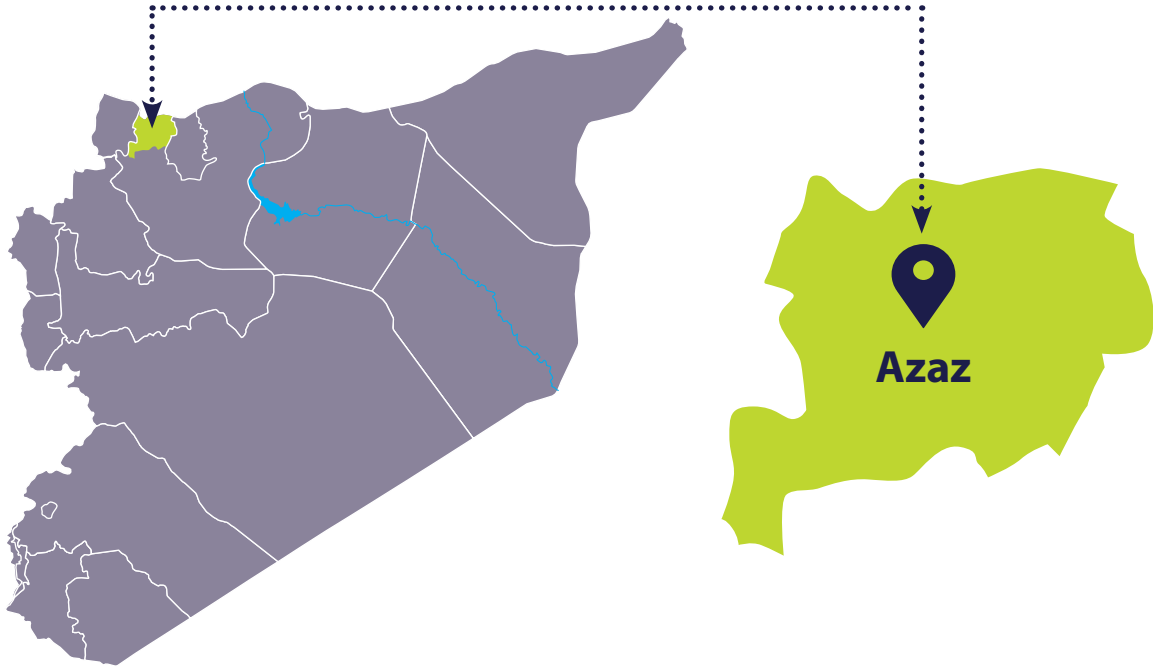
Finally, the entire Afrin region is administered today through local councils separated from each other administratively, so the Afrin City Council works almost independently from Jindires’s council, and the latter is separate from Rajo’s council. With the exception of some coordination that takes place between the sub-councils, there are no organizational links between them, like for example, a central council at the district level. This is what constitutes a major obstacle to the development of real estate work, as the Real Estate Records Department is affiliated with Afrin City Council, while its scope of work expands to include the entire region with its six districts. So, when it comes to, for example, expanding the organizational survey work to include the city’s countryside, coordination efforts will be needed with each local sub-council separately. Additionally, the absence of one source of reference for property, and the absence of a central financing fund, pose a significant challenge.



## Summary:

- The on-going practice of the alternative real estate records department in Afrin, which was established less than one year ago, started operating without a database that listed properties in their areas of operation. The real estate records department is still trying to take the first steps to bridge that gap by conducting organizational surveys that reflect the reality of the real estate situation — but only in terms of who is occupying those properties, and the existence of the property itself, without solving the problem of property rights. With the exception of a very small percentage, which prevents the Real Estate Records Department from carrying out ownership transfers and buy-sell transactions.
- Currently, there are three types of property in the Afrin that are not officially registered with any of the three successive authorities (the regime, the PYD, and the Syrian National Army). Some of them existed before 2011 under the regime, some were built during the years of the PYD rule between 2012 and 2018, and some were built recently in the last two years, and the number of these properties is estimated at tens of thousands.
- Demographic change also posed a major problem in relation to ownership of property, as about half of the original inhabitants of Afrin left or were displaced, while an estimated 100,000 who were also displaced, arrived from other regions.
- There is also a political dimension relating to security and administration in Afrin, which constitutes additional obstacles to the work of the Real Estate Records Department. Today, the Department has opened the door for citizens who are able to prove ownership of their properties, and in this it relies on documents supported by the testimonies of mukhtars and local committees formed for this purpose; but the procedures of that process are yet to be agreed upon unanimously by the various forces that are currently present there. Especially with regard to the requirement for the presence of property owners in-person, and the methods of dealing with persons without identity documents, or those with previously unregistered property.
- Finally, whatever directions the work of the Real Estate Records Department will follow in Afrin, and whatever degrees of success or failure that will be achieved in tackling the complex problems that characterize the reality of HLP in Afrin, the results of this experiment will remain linked to the political and military outcomes in Afrin, and other areas of the northern countryside of Aleppo such as Azaz, al-Bab and Jarabulus, which are still all managed through subsidiary councils of the Syrian Interim Government, in appearance, but without forming an interrelated administrative structure.

## IV. Azaz



Real estate area

**1,259 km<sup>2</sup>**



Population

**542,837**



Number of property registries

**2,060**

Entity or persons who reactivated Land Registry

Local Council in Azaz city

Entity that supported and financed reactivation

The local council in the first trip, and later the Turkish government

New Land Registry administration subordinate to

Local Council

Entire work period of Land Registry

Actually started in 2019 and is continuing



Date/period regime lost control of the area

**2012**

Regime Administration

-  
Uncertain



Date Alternative Administration for Land Registry was established

**2019**

Alternative Administration

**8**  
Employees



**Status of property registries:**

Available in Azaz

Copies of registries were preserved

Average number of annual transactions:

**4,500**



**1,000**





## 1- Background on the Status of Real Estate in the Area before the Conflict:

The area of Azaz is located northwest of the Aleppo province, on the border with Turkey, and has an area of about 1.3 thousand square kilometers,<sup>18</sup> with a large part of it under opposition control since 2013.

Experts and workers in the field of humanitarian response estimate that the population of Azaz today is approximately 542,837, according to United Nations statistics.<sup>19</sup>

Until mid-2012, the city of Azaz included an HQ for property records, The Real Estate Records Office, which included records of 148 properties in its vicinity, the most important of which are Marea, Akhtarin and Sawran. The Real Estate Records Office contained 2060 property records, along with the contracts archived in a warehouse containing contracts dated between 1997 to 2012, during which the office carried out between 3000 - 5000 transactions annually.

Former staff who worked at the Real Estate Records Office indicated that 80% of lands in Azaz are agricultural properties, and 18% residential properties, whereas industrial property did not exceed 2%.

### Challenges before the Conflict:

Azaz did not face the challenge of informal settlements before 2011, as it was not considered an area that attracted internal migration. However, it suffered from a number of other HLP-related problems, including the application of the Border Areas Decree on all its territories, which requires property owners to obtain security approval as a condition for conducting any property transfers or filing lawsuits. As a result, setting up external contracts outside the Property Interests Office became quite common. Furthermore, Azaz also suffered from the problem of common ownership, which forces citizens to pay high fees for inheritance transactions, which was not cost-effective for citizens, in addition to the administrative and legal complications that obstructed the process of dissolving common ownership. All of the above led to a large discrepancy between the number of registered records in the Real Estate Interests Office, and the reality of ownership on the ground, which is estimated by current employees in the Property Interests Office at about 40%.

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18) Atlas of Syria, 2018, at the link: <https://bit.ly/3bFyHpa>, last viewed Sep 09, 2020.

19) The United Nations Humanitarian Needs Assessment Program, periodic report for August 2020, unpublished data.

## 2- Establishing an Alternative Land Registry in the Area:

### Sequence of Events:

On July 19, 2012, local armed opposition factions took control of the Azaz area, including the city, located about 6 km from the Bab al-Salama border crossing with Turkey. Following the withdrawal of the regime, all governmental institutions ceased operations, and attempts to fill the institutional vacuum began. However, the process was thwarted when ISIS took over Azaz in October 2013. ISIS remained in Azaz until February 2014, when the local armed opposition factions returned and expelled the group from the area. Unfortunately, Azaz remained contested despite the opposition's takeover, and was lodged with booby traps until 2017. The area was repeatedly bombed by the regime forces, and the local opposition factions clashed occasionally with the People's Protection Units (YPG) of the Democratic Union Party (PYD) who were in control of neighboring Afrin. The complex military situation in the region between three powers, and the continuation of military operations over the years halted the initiatives of the alternative administration and slowed its development.

Being close in proximity with the Bab al-Salama crossing with Turkey, contributed to reviving the trade and transport sectors in the city, and secured a continuous flow of resources. The location of Azaz helped keep the area a major trade route between various areas of control in Syria for years. For example, it was a major route for the transport of oil trucks from the Autonomous Administration areas to the opposition-controlled areas.

After 2017, Azaz became part of the buffer zone agreement that was mediated by Turkey, and military operations began to decrease, with the exception of a few skirmishes in the vicinity - particularly mutual bombing with the neighboring Afrin. Even those occasional skirmishes stopped after Turkish-backed opposition groups took control of Afrin. The stability of Azaz made it a center for displaced people from various regions of Syria, including areas from Aleppo countryside, such as Minaq (Menagh) and Tall Rifat, Damascus countryside, Daraa, Homs, as well as Idlib and the northern countryside of Hama, following the regime's advancement there at the end of last year.

The mass displacement during the conflict, of which Azaz hosted a large segment of, caused a large, disorganized urban expansion in the vicinity of the cities and towns in the area. The makeshift camps that were set up for IDPs in the outskirts of the area, were transformed into what resembled villages and towns.

### Actors and Initiators Reactivating (reviving) the Land Registry Office:

The process of reviving the alternative Land Registry Office in Azaz was delayed by about five years, and slowly progressed until the office was officially established in February 2019. A large meeting was held that included the Court of Azaz, the Local Council, the Land Registry Office and the Free Lawyers Syndicate in Aleppo, at the Lawyers Syndicate headquarters in Azaz. At the time, all attendees unanimously agreed to start work in accordance with the Syrian Land Registry Law, and later, notary agencies were linked with the Land Registry.

The seven years preceding that meeting, can be divided into three phases, the first between



2012-2015, when the Land Registry Office's work in Azaz was completely stopped, and there was no entity to which citizens resorted to regulate their property transactions. The second phase, from 2015 until 2017, citizens became able to go to the local court of Azaz to regulate their property transactions through an office that registers contracts in the presence of the buyer and seller before the court, but without documenting anything in the land registry. The third phase was between 2017 and 2019, and it was the prelude to the establishment of the new alternative administration for the Land Registry Office. The Azaz Local Council assigned an office to function as such in the municipality center. The Land Registry Office had access to the entire property records of the area but was only offering applicants documents of ownership. Simultaneously, work was underway to further develop the office's capacity, and expand the services it provides, and during the following year the building of the Land Registry Office was restored with the efforts of the Azaz Local Council, and with the support and cooperation of the Land Registry Directorate in the Turkish province of Kilis. Additionally, all property records were photographed and the digitized copies were saved on hard disks, which are currently in the possession of the head of the Land Registry Office, awaiting the availability of appropriate resources and infrastructure to archive and compile them in a database. In February of 2019, a Land Registry Office was finally fully established in Azaz to regulate all HLP transactions.

### **Features of the New (alternative) Land Registry:**

The new alternative Land Registry Office adopted Resolution No. 188/1926 of the Syrian law, and followed the same old procedures as the regime, but canceled the security approval clause that was applied according to the Border Regions Decree, and exempted citizens from the property clearance document. Furthermore, a new procedure was introduced when transferring properties to citizens who do not originate from the area, as they are required to obtain the approval of the security authorities in the area, mainly embodied in the security offices of the armed opposition factions present in Azaz. Currently, work is underway to directly register property transactions on the original property records.

The Land Registry Office reports to the local council in Azaz and works under the supervision of its legal office. The work of local institutions in the area, such as the civil registry and the judiciary, is also coordinated. It also maintains a formal relationship with the Ministry of Local Administration of the Syrian Interim Government.

Currently, the new Land Registry Office occupies the same Land Registry Office building before 2012. The Azaz Local Council provided the office with all the basic equipment with the support of the Turkish government. It employs 8 staff members, all of whom are male, and who were appointed according to the official administrative structure in Syria. The number of current staff is roughly half the number of staff who worked at the office before 2012, and it has no branch offices.

The number of transactions that have been documented since the establishment of the Land Registry Office until the date of the data collection of this study in mid-2019, reached about 1500 transactions, divided between sales transactions and lawsuits, including about 350 contracts of ownership transfer from or to women.

In addition, the Real Estate Interests Office photographs all property records and links the pictures with numbers and owners' names, so that the department has an electronic index through which they can conduct the search for the names of the owners for auditors. This is how the records are digitized. These archives are available on a hard disk and are in the possession of the head of the Real Estate Interests Office. The hard drive also includes a program for documenting power of attorney for property (POAP), whereby the notary is required to send a copy of each POAP to the Land Registry in order to prevent tampering with the buying or selling of the property more than once.

The Real Estate Interests Office charges financial fees for property transactions it processes, a percentage of which goes to the local council in agreement with the Real Estate Interests Office. These fees vary according to the area and type of property, whether it is residential, commercial, or industrial, agricultural land, or land intended for housing.

Challenges during Operation:

The first challenge that faced the Real Estate Interests Office in Azaz was the random urban expansion as a result of the population increase. Most of the buildings are built on agricultural lands and are registered as common ownership in the land registry. With the increase in the number of these buildings, the fear increases that they will turn into an unresolvable problem, similar to cases in the cities of Aleppo and Damascus.

The second challenge is that many people are accustomed to relying on clandestine contracts in their property transactions, and those who tend to fix their transactions in the land registry are few. The number of transactions registered in the Real Estate Interests Office during the last year were barely half the number of transactions that were registered annually before 2011.

Third and last challenge, there is a large number of property transfers that took place in the seven years during which the Real Estate Interests Office operations were suspended, and the backlog is still an issue that needs to be addressed.

### **3- Outputs of the Practice/Future Prospects**

Establishing the Real Estate Interests Office in Azaz is considered one of the most important organizational steps taken by the Azaz Local Council, which seeks to fill the void caused by the absence of state institutions, with technical support from the Turkish government. One of the most important components of this practice, is the flexibility in approaching the Syrian laws that regulate the process, so that the main components of the documentation process have been preserved while providing alternatives or waiving some aspects (such as security approvals related to border areas and financial clearance) that are bureaucratic, and are not practical in the case of Azaz, which is still suffering from the absence of many government institutions.

As for the future prospects of property rights in Azaz, staff in the Real Estate Interests Office expect that the regulation and resumption of ownership transfer documentation processes will contribute to the revitalization of the real estate and residential projects sector in the northern countryside of Aleppo. Construction projects have started, and real estate traders started to work in the area, and many are investing their capital in housing, whether locals from Azaz



or IDPs who came to the town. This process contributes to reducing real estate chaos in the region.

It must be noted here that this experience and other attempts of the Real Estate Interests Office in Azaz are contingent on international and regional agreements and treaties governing the situation in the Euphrates Shield areas, which are currently completely dependent on Turkish support and protection. Especially since it is known that the Syrian regime refuses to acknowledge the work of any institution outside its authority. This affirms the necessity to include the issue of property documentation in the final negotiation dossier to recognize all transactions that have been made since 2012.

### Significant challenges that Arose from the Practice

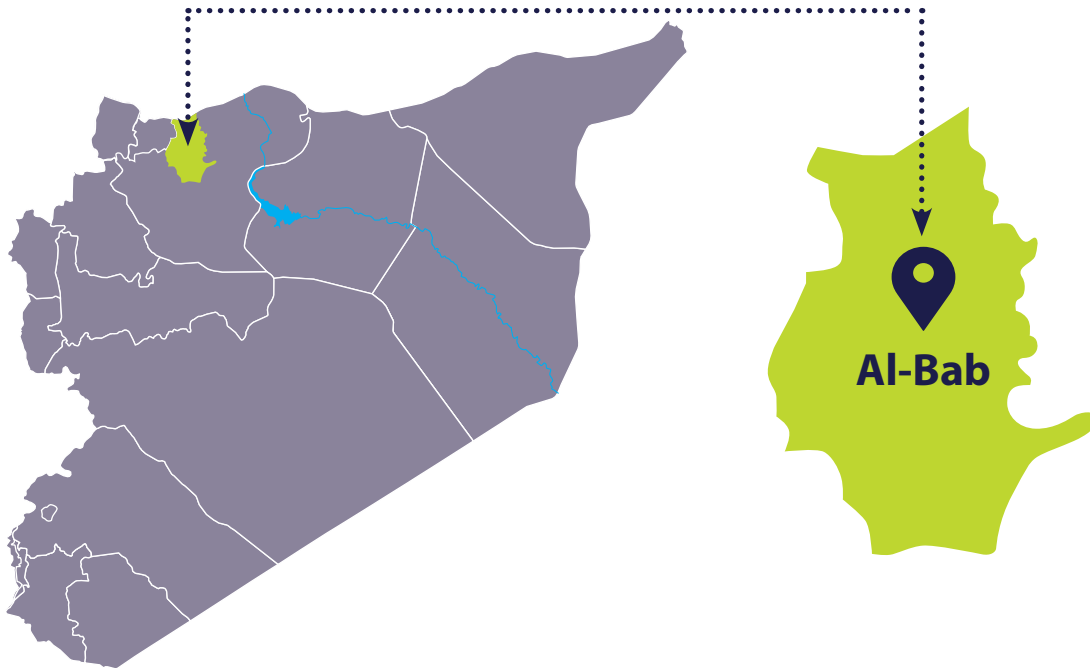
There are two main challenges to the Azaz alternative Real Estate Interests Office practice: There is a legal challenge due to the Syrian regime's refusal to acknowledge any transfers of property in areas beyond its control, which poses a threat to a large number of people in the area, especially IDPs, who may someday choose to return to their areas of origin.

An organizational and administrative challenge related to informal settlements, which were almost non-existent before 2012 in Azaz, but have increased dramatically in number over the past years as a result of the waves of displacement, which led to a significant increase in the population. Currently, there are talks between the Real Estate Interests Office and the Local Council in Azaz to establish site plans to reduce this problem.

### Summary:

- The alternative Real Estate Interests Office works to fill the institutional vacuum resulting from the absence of state institutions and services, so that residents' real property rights are guaranteed and documented.
- The land registry in Azaz, with the support of Turkey, is developing digital documentation mechanisms so that the preservation of these records is ensured regardless of security changes.
- There is keenness to work with governmental and legal institutions and human rights organizations in order to overcome the obstacles and problems facing the processes of documenting the transfer of ownership, whether it is the bureaucracy in Damascus, or the absence of the necessary legal and governance framework between 2012 and 2019.
- The alternative Real Estate Interests Office relies on specialists who were former employees of the regime's Land Registry, in cooperation with members from the Free Aleppo Lawyers Syndicate. It also follows the Syrian laws, and the Syrian administrative system as a reference at the present time, as Turkish support is limited to logistics.
- It is difficult to predict the future of the administrative and legal framework of areas like Azaz and the Euphrates Shield, as there is still no formal regional or international agreement regarding the areas and their future. However, it is clear that all actors involved are keen on documenting real property rights within a legal framework.

## V. Al-Bab



Real estate area

**2,000 km<sup>2</sup>**



Population

**207,352**



Number of property registries

**2,000**

Entity or persons who reactivated Land Registry

Local Council

Entity that supported and financed reactivation

Turkish government

New Land Registry administration subordinate to

Local Council

Entire work period of Land Registry

Two years and continuing



Date/period regime lost control of the area

**2012**

Regime Administration

-

Uncertain



Date Alternative Administration for Land Registry was established

**2018**

Alternative Administration

**12**

Employees



### Status of property registries:

Original records are missing, sparse databases are being worked on  
All available databases have been archived

Average number of annual transactions:

**4,500**



**4,000**



## 1- Background on the Status of Real Estate in the Area before the Conflict:

Al-Bab is located in the northeast of Aleppo province, 30 km south of the Syrian-Turkish border. The population of al-Bab and its rural areas is about 207,000, according to UN statistics.<sup>20</sup>

About half IDPs, according to estimates by experts and humanitarian workers.

Al-Bab and its rural areas have an area of 2000 square kilometers and extends from the village of Al-Rai in the north to Dayr Hafir in the south. It should be noted that part of that area today is under the control of the Syrian Democratic Forces (SDF) and the regime. Real estate properties in al-Bab are divided into 90% agricultural land and 10% residential property.

Al-Bab's countryside includes 400 towns and villages, each an independent site, while the al-Bab city has been divided into five sites, each with serial numbers, and records and cadastral plans for most of these sites. The land registry includes about 2000 records, with an average of 50 properties per record. As for the types of properties in the area, they are agricultural lands, state properties, housing associations, and agricultural lands, which make up most of these properties.

Before 2012, al-Bab was the headquarters of a property documentation office (PDO). This office has documented about 4000-5000 property transactions annually. In addition, about 800 transactions that were carried out through the notary public, until the regime's departments ceased to function in mid-2012. During the period of ISIS control of al-Bab from 2014 until early 2017, the latter transferred the ownership records to the city of Manbij, and they have not been restored to date.

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20) The United Nations Humanitarian Needs Assessment Program, periodic report for August 2020, unpublished data.

## Challenges before the Conflict:

The land registry in the chapter does not reflect the reality of real estate properties except to a limited extent for several reasons, including: the common ownership dilemma, as most lands are documented in the registry as agricultural land, with the exception of some individual cases of land and property whose description has been changed by the real estate commissioner. According to the current director of the land registry in al-Bab, Muhammad Hazz Ahmed, there are entire villages without any individual documentation of real estate and are still under common ownership.

Hazz Ahmed also points out that the regime did not expand the site plan of the area, and did not address the common ownership dilemma, which requires logistical capabilities and is a costly process, which exceeds the capabilities of individuals. Therefore, al-Bab residents became accustomed to documenting most property transactions with a notary public until the commonality was removed, and the description was amended, for example there were about 4000 sales transactions in the land registry annually, corresponding to 20,000 cases of sale documented by a notary public. This meant that the number of sales that were not done via the land registry were five times as much as the ones that were done through it. It was rare for individuals to sort out their property and land issues, in addition to thousands of judicial decisions, including lawsuits, seizure of property, property correction transactions, and others, due to the large costs. As a result, to get a grasp on the reality of real estate properties in al-Bab, it is necessary to refer to the land registry, notary public records, and judicial decisions combined.





## 2- Establishing an Alternative Land Registry in the Area:

### Sequence of Events:

Local armed opposition forces succeeded in ousting the Syrian regime from al-Bab in July 2012, and imposing their control over the entire northeast of Aleppo province, and since then the Syrian government institutions have no longer had any presence or role in the area, including the land registry, the courts and the notary public. At the beginning of 2014, al-Bab fell to ISIS, until February 2017, when Turkish-backed Syrian opposition forces launched an offensive against ISIS in al-Bab and succeeded in expelling it permanently. The city became part of what is currently known as the Euphrates Shield areas, which are under Turkish protection.

### Actors and Parties Reactivating the Land Registry:

In the period between mid-2012 and early 2014, when local Free Army factions controlled al-Bab, property records were transferred to the court to ensure their preservation, and there was also a local project to archive and make copies of the documents. However, after ISIS took over al-Bab, the situation changed drastically. ISIS reactivated the land registry, where their employees issued statements for the auditors. According to the Land Registry Manager in al-Bab, the mechanisms of the land registry that were implemented back then are still unclear. ISIS transferred 2000 property records with their contracts attached to the city of Manbij, which was under its control at the time, and so far these records and contracts have not been retrieved and are now in the possession of the Syrian Democratic Forces (SDF).

The Syrian regime, knowing the existence of these records, sent a committee to verify their existence, and tried to retrieve them, but failed to reach an agreement with the SDF officials. Furthermore, the notary public dossiers are also missing.

After ISIS was expelled from the city, many properties were partially or completely destroyed, including land and buildings. The residents' need for documents proving ownership increased after their copies of these documents were lost or damaged during military operations and battles. This period also witnessed great chaos, as the small percentage of people in al-Bab who joined ISIS left, while a large number of people who had left al-Bab when it was under ISIS control, returned. Additionally, a large number of IDPs also arrived to al-Bab from Homs, Damascus, Deir ez-Zor and Aleppo, and a number of them purchased properties there.

Further chaos resulted from the great destruction in the area that was a result of the battles and military operations, and according to the estimates of the local council and the Land Registry Directorate, about a third of the buildings in al-Bab were destroyed during the fighting, while another third were severely damaged. However, when military operations ended, and the situation in al-Bab became more stable, informal construction increased significantly, either to replace collapsed buildings or to build new homes without obtaining building permits that take into account site planning. This included major encroachments on agricultural lands and on private and public property.

In response to the urgent need to deal with this crisis, the local council in al-Bab established a temporary Real Estate Committee in July 2017 to restore and restructure the land registry,

and issue temporary documents to prove ownership until original records were restored. The Committee consisted of nine members, including representatives of the council and the legal and service office, as they collected the documents and real property data and data of mediators and lawyers, and data the council had obtained from the regime's Real Estate Documentation Office, as well as records from the city's municipality and the Finance Department.

Initially, the local council in al-Bab formed a committee specialized in real estate affairs, and the committee began issuing temporary ownership documents for certain uses, given by bringing four witnesses to prove ownership of the property. Notes were added to these documents that they do not lend themselves to selling and transferring ownership but are rather exclusively for administrative purposes.

The committee issued about 100 documents of this kind, after which the provision of this temporary document was stopped. Then it was agreed to pause the committee's work until the restoration of a real estate database was complete, and the Land Registry office was open again. The new Land Registry staff were able to obtain a hard disk containing a copy of 80% of pre-2012 Land Registry files for al-Bab before 2012 and the city of Tadif. It does not include the countryside of al-Bab. For the countryside, the city's Finance Department was responsible for filling in the gaps in the database. Likewise, citizens' property documents that were in their possession, were brought forward to be documented and added to the database, in a reverse process. So far, all of these available documents have been archived, and more than half of them have been digitized.

### **Features of the New (alternative) Land Registry:**

The Real Estate Documentation Directorate was established at the beginning of 2018, relying on documents collected from demolished buildings and former employees (as mentioned previously), under the auspices and supervision of the Legal Office of the Local Council in al-Bab, and with logistical and technical support from the Land Registry Directorate in Gaziantep, Turkey. The Land Registry in Gaziantep provided printers, computers, and printed cadastral plans. New cadastres were also printed, but no work has been done on them so far due to the incomplete database of properties.

Its name was changed from the Real Estate Documentation Office to the Land Registry Directorate, with subsidiaries including the Real Estate Documentation Office, the Documentation and Agencies Department (Notary Public), the Survey Department, and the Archive and Digitization Department. A committee was also formed to archive public and endowment properties. The directorate does not have any sub-departments.

Currently, the number of employees in the Directorate is 12, and according to the Director of the Land Registry, the number of employees is insufficient and is very little compared to pre-2012, especially since both the notary public and the Survey Department were not part of the land registry. Nevertheless, due to meager capacities, the number could not exceed the aforementioned number.



Although all employees are male, the director and members of the legal committee of the local council in al-Bab have confirmed that access to the office and its services is available to women, as there is no due process of gender discrimination. As for inheritance cases, they are decided by the judiciary, after which the judicial decisions are approved by the Directorate. Regarding property disputes, any dispute is referred to the civil judiciary, and some problems are addressed with other directorates of the Civil Registry and the Municipal Services Directorate in relation to personal documents and other similar cases.

During the year 2019, the new directorate regulated more than 4000 property transactions, divided between the Real Estate Documentation Office, which facilitated 778 transactions, and the Documentation and Agencies Department (Notary Public), which facilitated 3385 transactions. The same procedures are currently followed in the completion of property transactions, except that their registration in the original records is not possible, and the documentation is made in daily records and all transactions are archived electronically, and all files are saved until the original property records problem is solved, or an alternative one is approved.

As for the reference of the Legal Directorate, it is the text of Decree No. 188/1926 with some changes in the structure, as the notary public was linked to the Land Registry Directorate even though Syrian law stipulates that it is affiliated with the Ministry of Justice, but according to the Director of the Land Registry the change was made to facilitate the workflow of property transactions.

The authority that oversees the work of the Land Registry is the al-Bab Local Council, through the legal office that has appointed a legal committee of six members to supervise the department's work. There is no relationship or coordination with the Syrian Interim Government and its ministries.

The Directorate shall abide by the decisions issued by the judiciary on controversial matters, such as claims for ownership verification, lawsuits, seizure of property, correction of Title Plans, and others. There is constant communication and interest by Turkish officials to develop work and meet technical and logistical needs, in addition to communicating with other directorates in the area for coordination.

### Challenges during Operation:

The most significant problem facing the Land Registry Directorate in al-Bab is the lack of original property records. The fact that there is a great discrepancy between the reality of property ownership in al-Bab, and the records also poses an additional problem. There is also the problem of slums, which currently make up more than half of the area of al-Bab. The only solution to this problem is to expand a site plan accordingly, but such a project requires logistical capabilities and financing that exceed the capacity of the local council. Add to this, that the alternative directorate, like others, is functioning outside the jurisdiction of the Syrian state in Damascus, and the administrative and legal procedures there are only recognized by the local forces controlling al-Bab today.

There is also agreement from those concerned that there is a great lack of material and logistical support, as is the case in many of the areas studied in this report. Especially with regard to salaries and equipment, which are needed immensely given the large gaps in the property dossiers that require a huge administrative effort, and coordination with a real estate commissioner to restore records, and establish work mechanisms that end or limit the problems faced by staff in this field.

### 3- Outputs of the Practice/Future Prospects

The Land Registry Directorate in al-Bab is part of the organizational efforts of its local council, especially the legal office, which seeks to address the void resulting from the absence of state institutions. Additionally, it also seeks to address the chaos caused by ISIS during its rule of al-Bab, which led to the destruction and loss of a large part of the land registry records. The directorate's current efforts focus mainly on bridging the gaps and deficiencies in the land registry database in al-Bab and its countryside, with a focus on a flexible approach to the structure and hierarchy previously adopted in the regime's Land Registry. It also aims to organize the documentation and issuance of property-related documents and is working to digitize all records to avoid losing them again in the event of a new conflict.

Despite all the efforts made in this field, the future of property rights in al-Bab remains ambiguous like other areas in Syria. This is due to the lack of a clear and recognized political positioning there. However, what makes the situation in al-Bab different from other areas, and perhaps more dangerous, is the absence of original property records, and it is clear that the regime seeks to exploit this situation by trying to procure the archive of the original property records in al-Bab, which are currently in the possession of the Syrian Democratic Forces (SDF) in Manbij. It is important that this particular dossier is included in any international or regional negotiation effort related to Syria.

### Significant Challenges that Arose from the Practice

The Syrian regime's refusal to acknowledge any transfers of ownership in areas outside its jurisdiction, especially in light of its efforts to obtain the property records of the area that are currently in the possession of the Syrian Democratic Forces (SDF) in Manbij. This constitutes a threat to the property of a large number of the area's residents. There are also organizational

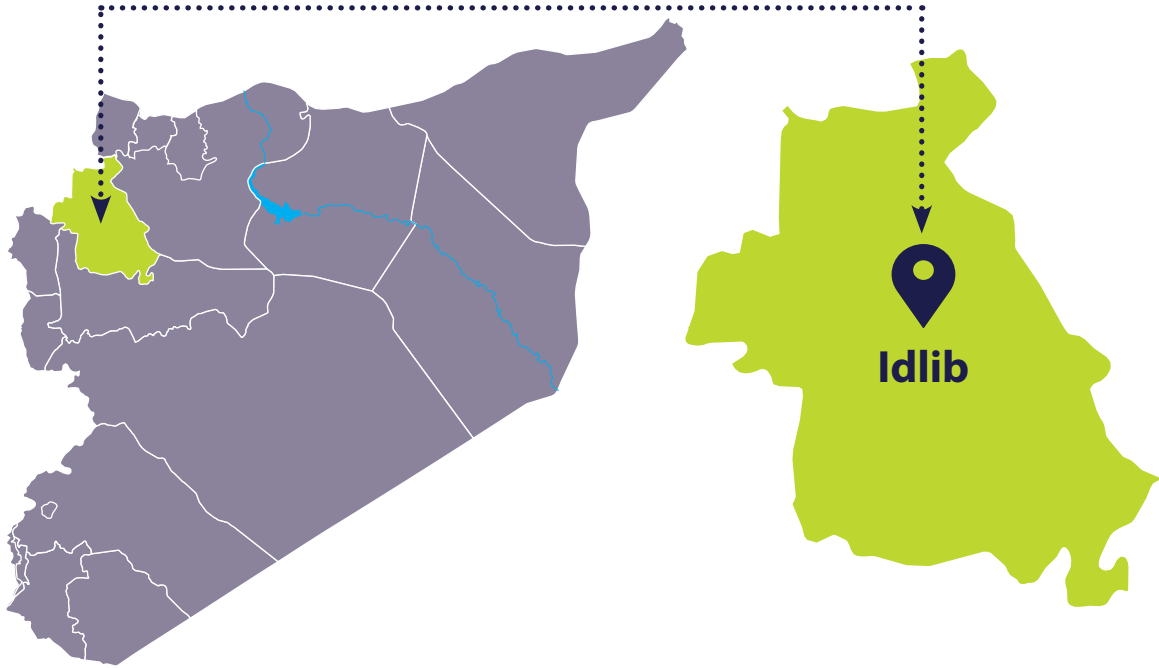


and administrative challenges, especially in light of the rapid spread of informal settlements and the doubling of the population as a result of forced displacement from other areas.

### Summary:

- The Real Estate Documentation Directorate in al-Bab is working to fill the void resulting from the absence of state institutions and services. It is also working to address the major imbalance in real estate surveys and the gaps that occurred as a result of the loss of all original property records during ISIS's control of al-Bab.
- Although the Land Registry Directorate relied on Resolution No. 188/1926 as a legal reference, their practice is characterized by the flexibility they exercised in the exceptional situation in al-Bab. The records are completely disorganized as a result of the loss of a large part of the records. Therefore, the directorate relied on a modified structure, and included both the notary public office and the survey department in its structure.
- The Directorate, with Turkish support, is keen on digitizing all documents and records, so that the preservation of these records is ensured should any new changes occur. Nevertheless, the Directorate is still in need of technical and financial support.
- The alternative Land Registry's practice relies on members of the Free Aleppo Lawyers Syndicate who have been trained by the Turkish government and the Land Registry in the city of Gaziantep, but there is still a lack of expertise in this field.
- It is difficult to identify future trends in al-Bab, as there is still no final regional or international agreement regarding the area and its future, and there is still no official recognition of the work of these alternative institutions.

## VI. Idlib



Real estate area  
**6,000 km<sup>2</sup>**



Population  
**2,8 M**



Number of property registries  
**10,000**

Entity or persons who reactivated Land Registry

Administration of the Alfateh Army

Entity that supported and financed reactivation

Administration of the Alfateh Army and later the Salvation Government

New Land Registry administration subordinate to

Administration of the Alfateh Army and later the Salvation Government

Entire work period of Land Registry

Since 2015 and continuing



Date/period regime lost control of the area

**2015**

Regime Administration

**300**

Uncertain



Date Alternative Administration for Land Registry was established

**2015**

Alternative Administration

**130**

Employees



**Status of property registries:**

Available in the city  
Copies of registries were preserved

Average number of annual transactions:

**16,000**



**17,000**



## 1- Background on the Status of Real Estate in the Area before the Conflict:

Idlib province extends over an area of 6000 square kilometers<sup>21</sup> in the far northwest of Syria on the border with Turkey. The population of the province in 2011 reached one and a half million, while the statistics of the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) indicate that there are currently 3 million people living in the opposition-held areas in Idlib province, and the western countryside of Aleppo (150,000-200,000 currently live in the two districts of Atarib and Darat Izza). In total, about 2.8 million people live in Idlib province, with most areas controlled by the Syrian regime today empty of its residents, such as Maarat al-Numan.

Until 2015, the regime/Damascus-affiliated Directorate General of Real Estate Interests, and its subsidiaries, the Survey Department and Land Registry Department, were still operational in Idlib province. Additionally, nine real estate documentation sub-offices were also operational in various towns and cities in the province, including the Idlib city, Arihah, Haram, Jisr al-Shughur, Maarat al-Numan, Khan Shaykhun and Saraqib.

The province's real estate records included 10,000 residential, agricultural, and industrial property records, with more than half being agricultural property.

Furthermore, documentation offices carried out about 16,000 transactions annually at the province level.<sup>22</sup>

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21) The Syrian Electronic Government Portal, at the link: <https://bit.ly/32cNHb3>, last viewed Sep 09, 2020

22) A phone interview conducted by our researchers with Abdul Karim al-Khader, former director of the Alternative Real Estate Records Directorate in Idlib, June 23, 2020

## Challenges before the Conflict:

Being a border province, Idlib suffered from the ramifications of the Border Areas Decree, which, as previously mentioned, restricts ownership transfers and other real estate transactions. The area of Jisr al-Shughur, especially its northern countryside, was the most affected by this decree.

This resulted in unofficial ownership transfers, and the records for some property in that area that were not identical to the reality of ownerships on the ground.

Informal settlements that were documented in the province before 2011 were about 10%, according to the former director of the alternative General Directorate of Real Estate Interests, that was established after the opposition took control of Idlib city. The highest number of informal settlements were concentrated in Idlib city. Some areas of the province were greatly affected by the disorganized sorting of land, and common ownership, such as the town of Maarat al-Numan, where ownership of lands has not been sorted among its individual owners, where the owner's share is documented without specifying the location of the property he/she owns. Areas in Saraqib countryside also suffered from the same problem. This resulted in an inconsistency of records. Additionally, the records of the Directorate General of Real Estate Interests did not include documentation of the properties of housing associations built by the Military Housing Corporation, in addition to a number of housing societies established by the unions, such as the Engineers and Pharmacists Syndicates, all of which were documented in the records of housing associations outside the Directorate General.

## 2- Establishing an Alternative Land Registry in the Area:

### Sequence of Events:

In April 2011, Idlib province witnessed a breakout of protests, in parallel with a number of other provinces and areas in Syria. Widespread demonstrations took place in most cities and towns in the province. The protests were mainly concentrated between the city of Saraqib in east of the province, and the Jabal al-Zawiya area southwest of Idlib. Since then, the Syrian regime met those protests with military violence, and these operations turned into more organized offensives that took place in Saraqib, Jabal al-Zawiya and border areas with Turkey such as Harm and Jisr al-Shughur. Eventually, those areas fell to the opposition forces. During 2012, most of Idlib province fell to the opposition, with the exceptions of Idlib city, Jisr al-Shughur and Arihah, that would remain under the Syrian regime's control until 2015.

During that period, non-ideological local forces as well as Salafi Islamic ones emerged in Idlib. Based on the changes, the Islamic Authority for Administering Liberated Areas was formed, and oversaw governmental institutions that were left by the regime in the wake of battle. The Islamic Authority allowed the independence of a number of departments, including the land registry departments. A reconciliation court linked to the Ministry of Justice of the Syrian regime was still operational in Saraqib, which allowed for those departments to continue their work in an official, albeit slower capacity.





Between 2012 to 2015, the Syrian regime's Directorate General of Real Estate Interests in the city of Idlib continued to accept the transactions from subsidiary departments. Documentation offices in those areas, such as in Khan Saykhun and Saraqib, continued their work at a normal pace, with a decline in the documentation of the transfer of new properties in the period between 2012 and 2015.

These procedures continued to take place until March 2015, when Islamic factions established an alliance under the name Jaish al-Fatah "Army of Conquest," and took control of Idlib city, Jisr al-Shughur and Arihah, so that the vast majority of Idlib Province became under opposition control.

### **Actors and Parties Reactivating the Land Registry:**

Following Jaish al-Fatah's takeover of Idlib city, the Directorate General of Real Estate Interests in the city secured the province's records in a safe place in the district, fearing that it would be destroyed as a result of the bombing. With the establishment of the Civil Administration of Jaish al-Fatah in mid-2015, the latter organized a meeting with the remaining staff members of the Syrian regime's Directorate General of Real Estate Interests, which had ceased operations at that stage. It was agreed that the work of the Directorate be resumed, and thus the work of the alternative directorate in the province began with financial support from Jaish al-Fatah via its Civil Administration office. One of our sources said, "The Civil Administration of Jaish al-Fatah was very understanding of the sensitivity of the real estate situation, so they never interfered in the work of the directorate."<sup>23</sup>

The Syrian regime refused to recognize the work of the Directorate since that date, and considered Idlib a "closed province," which is the description used by the regime to describe provinces outside its control, and suspends the operations of all state institutions there. Later, the regime issued Decree No. 12 of 2015, which stipulated the establishment of a special branch for Idlib province in the Directorate of Real Estate Interests in Hama city, relying on copies of the province's real estate records that were archived at the Directorate General of Real Estate Interests in Damascus. However, most residents in Idlib province preferred to work with the alternative directorate located in Idlib city, even for those residing in regime-controlled areas, as the alternative directorate was in possession of the province's original real estate records.

### **Features of the New (alternative) Land Registry:**

The alternative directorate worked according to the Syrian Real Estate Law that was in force before 2011, and it maintained the same administrative structure. It performed its operations directly on the original real estate records. The directorate's departments in Idlib city and its countryside were comprised of about 130 employees, most of whom were essential employees in the district, and they constituted about a quarter of the total number of employees before the opposition took control of the province, according to another source.<sup>24</sup>

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23) Same as previous source

24) A telephone interview conducted by our researchers with one of our sources, who used to work with the real estate services, May 03, 2020.

In the first five months, the Directorate worked to provide real estate registration data only, before it started documenting new transactions and real estate properties. The directorate maintained the same method of work of the regime, and according to the same regulations - with one exception: exempting citizens from financial clearance as the Finance Directorate in the city of Idlib ceased its operations.

Each sub-office maintained its own records, with a copy of those records available in the central directorate. The Real Estate Services Directorate in Idlib was able to pay the salaries of its staff through the fees it was charging for real estate transactions. Between 2015 and 2017, the Directorate did not receive any support except for the support provided by Jaish al-Fatah and is currently receiving support from the Salvation Government.

Non-governmental organizations (e.g. The Day After Organization), in cooperation with the Free Syrian Lawyers, digitized the real estate records of the Idlib countryside areas that were under the control of the opposition forces in 2014. However, the records were not used, as the departments continued working by using original records.

With regard to the relationship between the alternative directorate and the Syrian Interim Government; despite the existence of administrative relations and agreements between the two parties, the directorate did not report to the interim government. The directorate was supported by Jaish al-Fatah, who helped launch the alternative directorate's work, and provided it with financial support, but that ended in early 2018. The Salvation Government, which was closely affiliated with Hayat Tahrir al-Sham took control of the province, and the real estate directorate officially became a subsidiary to the Salvation Government, but without the latter's interference in its work. our source explains the matter by saying: "Because the majority of the faction fighters are from the area, and most of them own real estate, there was an implicit agreement on the necessity to preserve the Directorate of Real Estate Interests and its documents, and to keep its work outside of the conflict."<sup>25</sup>

Regarding its relationship with the judiciary, following the organization of courts, appointment of judges and lawyers, and the completion of legal features in court verdicts, court deliberations on estate were implemented by the Land Registry departments.

At the end of 2019, and as a result of the military escalation in Idlib province, the regime forces were able to control large areas of the province and two main cities in it, Maarat al-Numan and Saraqib, which led to the suspension of the work of the real estate documentation directorates in them, while work continued in the central directorate in Idlib And the districts of Jericho, Jisr al-Shughur, Dana and Harem.

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25) A telephone interview conducted by our researchers with Abdul Karim Al-Khader, a former member of the board of directors of the Alternative Real Estate Records Directorate in Idlib, June 23, 2020.



## Challenges during Operation:

Dealing with judicial rulings issued by courts that were formed by the opposition factions, was the biggest challenge of the Directorate of Real Estate Interests in Idlib. Especially since most of these courts adopted Islamic Sharia law as a reference instead of the Syrian Customary law, and the two laws diverge on many issues, including, for example, the issue of women's inheritance rights. Moreover, these courts did not abide by the Syrian Procedural Code, hence their decisions and rulings were dismissed by the Directorate.

The decisions and rulings of the aforementioned courts remained unrecognized by the Directorate until a civil reconciliation court was formed to operate according to procedural laws. However, the courts continued to issue decrees to implement inheritance laws in accordance with Islamic Sharia law, and so the Directorate officials had no choice but to recognize those rulings.

There was a challenge related to women's employment and the disapproval of female employees continuing to work in the directorate in Idlib, and only being allowed to work in sub-districts of local councils.

One of the major problems that faced the Directorate's work was the influx of large numbers of displaced people. Two point eight million people live in Idlib province, more than half of whom are displaced from other Syrian areas, according to United Nations (UN) data. This meant that many transactions carried out are of owners from other provinces. For the people of Idlib province, the Civil Registry Department, which had resumed its work in Idlib city provided reliable civil registration records, while records of IDPs were mostly located in regime-controlled areas, and many of the IDPs were unable to obtain their data from there, which resulted in problematic identification documents during the documentation and transfer of properties.

The IDP influx to Idlib exacerbated the problem of informal settlements, especially along the border areas, and in light of this, the Directorate refused to register buildings on agricultural lands pursuant to the executive regulations in force previously. This prevented the division of agricultural properties that have an area of less than 2.5 dunums, which was reflected in the conformity of the Directorate's records to the reality of properties on the ground.

### 3- Outputs of the Practice/Future Prospects

#### Outcome of the years of work:

Since 2015, the Directorate of Real Estate Interests in Idlib was able to maintain real estate records and continue to work in accordance with Syrian procedures and laws. The Directorate annually performs between 16,000 and 17,000 transfer transactions it continues to operate according to the same laws with a reasonable margin of independence.

The directorate was able to serve most citizens in Idlib province, in both opposition-controlled areas and regime-held areas. All citizens in Idlib preferred to conduct their transactions and transfer their properties through the main directorate in Idlib city as it is in possession of the original records, and is managed by the same staff, and in accordance with the same laws pre-2011.

Despite the regime re-taking control of large areas of the province in 2019, most notably Maarat al-Numan and Saraqib, the directorate was able to transfer the records of the branch offices in those cities and others to Idlib city. Today, it continues to provide services to the residents in regime-held areas, most of whom have moved to the opposition-controlled areas, thereby allowing them to access the directorate and conduct transactions through its offices.

The Directorate was also able to impose legal procedures according to the Syrian Procedural Code on some courts established by the opposition and Islamic factions. As a result, the Reconciliation Court was established between 2016 and 2017 in Idlib city and operated according to the Syrian Customary Law.

#### Significant Challenges that Arose from the Practice

Although the Directorate of Real Estate Interests in Idlib followed Law 188 issued in 1926, which is in effect in regime-held areas, the Ministry of Local Administration and the real estate departments of the regime refused to recognize the directorate's records after 2015, and considered deemed it a closed area. This caused major problems later in areas the regime regained, like Saraqib and Maarat al-Numan.



## Summary

- The resumption of work in the Real Estate Services Directorate in Idlib by its former employees, greatly resembled procedures of property transfer transactions in regime-held areas.
- The presence of the Real Estate Directorate in Idlib changed certain dynamics in the area, particularly with the opposition factions, who adhered to certain legal measures while the Real Estate Directorate operated in the province. An indication of the ability of independent administrative bodies to create margins of freedom that allow for better governance in their areas of operation.
- The demographic change in Idlib Province was a major challenge facing the Real Estate Interests Directorate's work.
- Despite the directorate's commitment to work according to the Land Registry Law issued in 1926, the Ministry of Local Administration of the regime's government refused to recognize the documents issued by the directorate, which created major problems in documenting the transfer of property in the areas it regained control of in 2019.
- The practice relied on staff with experience in real estate documentation and law, which allowed work to continue professionally, and increased the trust of residents in the work of the Directorate.

## Conclusion:

State institutions that provide civil services must be impartial in their work and provide their services to citizens regardless of their affiliations. In the case of Syria, the Syrian regime used these state institutions as tools of war against all those who oppose it. In all areas that fell out of the regime's control, all institutions ceased operations, and all services to citizens were suspended. Residents were burdened with the task of compensating for these institutions - a role they were not yet ready for. Nevertheless, many of those alternative institutions generally worked according to the laws of the Syrian state and its administrative structures pre-2011, with the consideration that these procedures can be merged into the structure of the Syrian state in the future.

Alternative entities in opposition-controlled areas suffered many challenges, including sieges, bombing, the absence of political actors that represent the needs of citizens in opposition-controlled areas. Likewise, there is no legal framework recognized for the work of these institutions. Such is the example of Duma, which presented an advanced model, as well as Daraa, by establishing an alternative database of real estate properties in the province, which the regime refused to recognize. Al-Bab and Afrin alternative administrations tried to restructure their databases to fully launch their services. In Azaz where the alternative land registry had a major problem in updating its records. In Idlib, where the Real Estate Directorate operates in a complex context, where it is overseen by the Salvation Government closely affiliated with Hayat Tahrir al-Sham (HTS).

Despite this, these administrations succeeded to some extent in dealing with a large number of difficulties, such as lack of funding and staff, and succeeded in meeting the basic needs of citizens in areas in opposition-held areas for many years. The result of the work of those years should not be exploited politically by any party to consolidate its authority or legitimacy, as it is ultimately related to the rights of individual citizens to their property. The regime's disregard for all real estate transactions that were carried out outside its institutions in the areas it regained control of indicates a great challenge for the future. Advocating for these rights is needed to reach any kind of future political settlement, whether with regard to the areas that the regime has regained or those in which alternative administrations are still active outside the regime's control.

### The Day After Organization would like to thank the experts who contributed to this research:

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**Adnan Taha** ..... Head of Land Registry Office in Duma, Head of Land Registry Office in Azaz

**Farook Abo Halawa** ..... Daraa Provincial Council

**Muhamad al-Fares** ..... Legal Office in Al-Bab Local Council

**Muhamad Haj Ahmad** ..... Head of Land Registry in Al-Bab



# Informal Housing in Syria Harvest of Decades of Neglect

(Research Paper)



## 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,<sup>1</sup> 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?

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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'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.<sup>2</sup>

### 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.<sup>3</sup>

### 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.<sup>4</sup>

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.<sup>5</sup>

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%.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup>

### **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.<sup>9</sup>

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.

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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;<sup>10</sup> 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.”<sup>11</sup> 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 plan<sup>12</sup> with no cadastral records indicating its reality as a neighborhood. The average area of each property in Jabal Badro is 40,000 m<sup>2</sup>, 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.”<sup>13</sup> 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.”<sup>14</sup> 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.”<sup>15</sup>

### 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.

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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.”<sup>16</sup>

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.”<sup>17</sup> Some of its powers include proposing real estate appropriation, demolishing and rebuilding real estate, and even reshaping residential areas. Many Syrian

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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.”<sup>18</sup> 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.”<sup>19</sup>

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.

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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,<sup>20</sup> 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 elite<sup>21</sup> 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.”<sup>22</sup> 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.”<sup>23</sup>

Some analyses<sup>24</sup> 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.'<sup>25</sup> 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,"<sup>26</sup> 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."<sup>27</sup> 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

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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.<sup>28</sup> 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.<sup>29</sup>

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.<sup>30</sup> 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,<sup>31</sup> and the detailed Zoning Plan No. 105,<sup>32</sup> all of which laid the legislative foundations for expropriating the lands of many informal settlements in Damascus. Likewise, the infamous Law No. 10<sup>33</sup> 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,<sup>34</sup> especially with the security services directly involved in issuing all kinds of identity papers.<sup>35</sup> 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

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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,<sup>36</sup> 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.

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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 reconstitute 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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# Syrian Regime Institutions for Real Estate Development and how they Operate

Analysis of the Regime's Approach to Real Estate Development  
in the Post-Conflict Period



## Executive Summary

Many studies have extensively interpreted and critiqued Syrian real estate laws, discussing their risks to property and housing rights. But few of them have gone deeper to understand the conditions behind those laws. For example, how do the regime's state institutions which are concerned with real estate operate under these laws? What is happening on the ground in areas earmarked for real estate development and reorganization?

This paper takes an interconnected perspective to shed light on the real estate development system in Syria, including relevant legislation and governmental institutions concerned with real estate affairs. It looks at the environment of real estate legislation. It also demonstrates how the multiplicity of laws framing development projects or reorganizing urban areas — and the different solutions and interaction methods proposed by each of those laws — give regime institutions the freedom to pursue different practices from one region to another, choosing each time those practices which best serve them.

The paper also focuses on new legislation that ignores the reality and effects of the conflict, especially with regard to the conditions for establishing ownership in areas under the regime's control. This is a deliberate disregard that may lead to depriving millions of Syrians of their rights.

Therefore, the study provides a brief overview of each of the ten government institutions, under three ministries, most connected to real estate affairs in Syria and involved in real estate development projects today. The study shows the extent of the lack of transparency and scarcity of information provided by these institutions on their projects and work. It also shows the confusion and lack of clarity regarding roles and objectives of each of these institutions, evidenced by conflicting statements of their officials and the limited content of information published on their websites. It seems that so far, they are mostly carrying out studies and plans separately from residents and rights-holders, while any real-time development consists only of demolitions.

In Section II, the study investigates the reality and developments within two residential areas: Al-Haidariya neighborhood in Aleppo and Al-Qaboun neighborhood in Damascus. Both of these are among the neighborhoods brought back under regime control, where large swathes were destroyed and the vast majority of the population had fled.

Although the legal status of the two neighborhoods is similar, and they are both classified as informal settlements, it was decided to apply different laws to each of them. Residents of Al-Haidariya who could provide proof of ownership of damaged or destroyed properties would receive alternative housing, while comparable residents of Al-Qaboun would receive shares in new real estate.

However, right now - and perhaps for some time to come - even those able to prove their ownership will not be able to take advantage of either of these options, because there is no clear idea about the projects' timelines. The two projects are still in the stage of approving plans and demolishing damaged properties; nothing has been provided even to residents recently evicted from Al-Haidariya, nor to residents of Al-Qaboun who have not to date been allowed to return, despite the passage of nearly four years.



## Introduction

At the end of May 2020, a local Facebook page, “Al-Haidariya is in Our Hearts,” made live broadcasts<sup>1</sup> from inside the Aleppo neighborhood, which regime forces had retaken from the opposition at the end of 2016. The broadcast was via mobile phone camera by a person who did not show his face, but spoke while walking through streets that initially appeared completely destroyed and deserted. Then he moved to less severely destroyed streets, where a few houses appeared to be inhabited, until he arrived at a wide and empty street surrounded by rubble and ruins of houses. The photographer said this was a new neighborhood street recently constructed by the municipality after removing hundreds of houses.

The live broadcast continued for more than half an hour. It received thousands of views and comments and hundreds of shares. Most of the interaction came from former residents of the neighborhood who had fled their homes. Commenters asked the photographer to go to certain streets or neighborhoods in the area. The young man apologized many times for not being able to meet the large number of requests. For many of the commenters on the broadcast, this video was the only way to access information about their homes, or what was left of them, in light of demolitions carried out by the regime in the neighborhood after it was retaken.

The video and interactions illustrate a fundamental aspect of the real estate problem in most areas of Syria that the regime has retaken. It reflects the ambiguity surrounding the work and intentions of the regime’s real estate development agencies, and the scarcity of information provided to both rights-holders and the general public. It also reflects how the displacement of a large portion of rights-holders—whether driven to seek asylum or forcibly displaced—left these people unable to even know what happened to their properties, let alone defend their rights to them.

The Syrian regime has found—with widespread destruction in the country and a large part of the population absent from their properties—a golden opportunity to get rid of real estate problems that have accumulated over decades as a result of its failure to manage housing in the country, and an opportunity to reap profits and use them to consolidate its control. The regime employs a security mentality in dealing with this issue, the same mentality which has spurred a decade of insurgency.

Most of the destroyed areas in the country are those that went out of regime control at some point in the years of conflict; thus, the regime is eager to ensure that those areas do not return to their previous demographic and urban compositions. To this end, at a time when regime institutions are facing real challenges in securing minimal levels of goods and services for the population in their areas, they frequently talk about plans for reconstruction and real estate development in Syrian cities. The regime continues to issue legislation, chart

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1) “Live from Al-Haidariya Neighborhood,” Al-Haidariya in Our Hearts’ Facebook page, video, 33:47, May 29, 2020, <https://bit.ly/2MfXsU>.

organizational plans, form executive committees, and other activities.

Officials make repeated statements on this issue. The Director of the General Commission of Development and Real Estate Investment said that there is a plan to address 157 informal settlement areas,<sup>2</sup> while the Minister of Public Works and Housing said that all “liberated” areas will be reorganized according to a new vision.<sup>3</sup>

This paper seeks to shed light on the most prominent aspects of the real estate development and reconstruction system the regime is developing for the post-conflict phase, which consists of two levels. The first is legislative; it includes a package of real estate laws, some old and others issued after the outbreak of the conflict in 2011.

The second includes central and local government institutions that have undergone many changes since 2011.

We note here that “real estate development” refers to the broader sense under which fall both reorganization and reconstruction projects, as well as other forms of intervention in urban structures.

This study is important because the topic also affects a number of root issues in the Syrian conflict-including the issue of refugees and their return, the issue of reconstruction, and stakes in restoring stability and building peace in the country as a whole.

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2) The website of the Ministry of Public Works and Housing, Al-Thawra Newspaper, June 4, 2017, <https://bit.ly/3pqRESk>, accessed on December 14, 2020.

3) Website of the Ministry of Public Works and Housing, a statement in a news report on Syrian Satellite TV, October 19, 2020, <https://bit.ly/2WKaU0v>, accessed on December 24, 2020.



## Methodology

In this paper, we use two parallel methodological approaches. The first is analytical, which relies on collecting maps and databases from various sources, including websites of government institutions, international databases, and published reports and studies on the topic. This approach aims to form an integrated picture, to the extent possible, of the most prominent legislations and government institutions involved in real estate affairs, and the assumed or realized roles for each of them.

The second is investigative and depends on communication and interviews with a variety of sources, including experts in the real estate field, and former or current employees in institutions concerned with real estate affairs, such as real estate registry departments, municipalities, and others. The goal of these interviews is to explore the realities of the applications of these laws and the work of the institutions on the ground. Within this framework, we focus on two areas within the cities of Aleppo and Damascus, and discuss the resulting effects.

## Section I: An Attempt to Deconstruct the Components of the Real Estate Development System

As mentioned above, the real estate development system supposedly consists of two levels. The first includes old real estate legislations and more recent ones enacted after the outbreak of the conflict. Taken together, these legislations form the general framework for real estate development. The second, which can be called the executive level, includes state institutions under the Ministries of Housing, Local Administration, and Defense. These two levels are not separate from one another, but rather are linked by a disputatious relationship. The legislations define the institutions working in this field and their roles; but those same institutions have the ability to propose and try to issue amendments to those legislations.

### A. Legislations & Laws: The Multiplicity of Legal Frameworks and Their Disregard for Urban Reality and the Population

The principle of state laws is to protect the rights of citizens. However, in the case of authoritarian and military regimes that have ruled Syria-in particular the Hafez al-Assad regime, which seized power in the early 1970s-the legislative authority has never been independent. Laws and legislations have become more of a tool for achieving the regime's goals of establishing its hegemony (dominion) and seizing control over society and the state. This approach remained prevalent throughout decades of Assad rule-both father Hafez and son Bashar. With the outbreak of popular protests and their development into an armed conflict in the country after 2011, the application of the "legislation to enhance hegemony" strategy expanded greatly, and we witnessed the issuance of a set of laws that would strengthen the regime's position in the ongoing conflict while weakening its opponents. These laws affect political, cultural, and security aspects of life, as well as property and housing rights-particularly in areas the regime took back from its opponents.

This section does not aim to enter into a critical analysis of the texts of Syrian real estate laws, nor to discuss their contents, which sometimes contradict international conventions and often the Syrian constitution itself. Many specialized studies have elaborated on this aspect.<sup>4</sup> Rather, we focus here on two problematic aspects that radically characterize real estate legislation in Syria. The first is **the multiplicity of legal references** that are supposed to address real estate regulation and development. The second is the **blatant disregard of new real estate laws** of the complex real estate reality in the country and the effects that years of conflict have left in most Syrian regions, in terms of urban building destruction and the absence of half the country's population from their properties.

**The multiplicity of legal references** is embodied in the existence of multiple laws to deal with the same situation without decisive standards defining the scope and application conditions

4) See "The Property Issue and Its Implications for Ownership Rights in Syria," The Day After, June 2019, PDF, accessed December 22, 2020, <https://bit.ly/3aykuM5>.

See also "Property Ownership and the Constitution," Syrian Lawyers Association, April 10, 2020, accessed December 24, 2020, <https://bit.ly/3hdH4Lx>.





of each of those laws. In Syria today, at least four laws are in force concerning real estate regulation and development, but their application scopes overlap—a situation that almost contradicts the idea of law itself as a unified reference for solving problems. The multiplicity of references creates a strange state of contradiction and ambiguity, giving authorities and administrative agencies a margin for maneuver by choosing the most suitable of those conflicting laws to eventually serve the regime’s agenda.

The following is a brief description of each of these four laws:

### **1–Law No. 5 of 1982: Urban Planning Law (amended by Law 41 of 2002)**

This law regulates the process of issuing general and detailed plans and building control systems, as well as the relationship between provincial councils and their executive offices (hereafter referred to as “the administrative body”) on the one hand, and the Ministry of Housing on the other. Although this law is only concerned with the mechanism for issuing organizational and detailed plans—it does not address executive aspects, compensation, and other issues discussed in the following three laws—it was recently approved for several areas in Damascus, including Al-Qaboun neighborhood and the Yarmuk Palestinian refugee camp. According to an official in the Damascus governorate,<sup>5</sup> the implication of applying this law is that the residents of these areas will not receive alternative housing.

Even with regard to the issuance of the organizational plans under Law 5 of 1982, the following laws contain articles that interfere with the contents of this law and contradict it on some points, especially with regard to the relationship between local and central authorities. Whereas Law 5 stipulates that the administrative body has the right to propose real estate areas and make their organizational plans in accordance with urban planning directions set by the Ministry of Housing, the following laws transfer that authority to other agencies.

### **2–Real Estate Development and Investment Law No. 15 of 2008**

Pursuant to this law, the General Commission of Development and Real Estate Investment was established, granted broad powers, and tasked with proposing the creation of urban development areas inside and outside an organization plan area, including demolishing or rehabilitating existing residential areas as well as creating new urban communities.

Many points within this law are still a matter of controversy among Syrian jurists, especially with regard to facilitations granted to real estate developers, terms of acquisition, compensation mechanisms, granting alternative housing and such.<sup>6</sup> However, the most serious point relates to how to verify rights-holders in informal settlement areas to be developed. Law 15 uses social surveys as a reference for this. However, implementation of this provision of the law at the present time threatens most refugees and displaced populations with loss of rights to their properties. These are the majority of residents in the neighborhoods and

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5) Damascus Governorate: There is No Alternative Housing for the Residents of Yarmouk and Qaboun, *Economic News*, July 7, 2020, <https://bit.ly/2WMITXj>, accessed December 25, 2020.

6) Khaled El Helou, Riyad Ali, and Mohamad Anwar Majanni, “The Property Issue and Its Implications for Ownership Rights in Syria,” *The Day After* (in partnership with The Associate of Peace, Justice and Documentation, Istanbul), June 2019, p. 36, <https://bit.ly/3mLw3SS>.

areas the regime has retaken, as is the case in the eastern neighborhoods of Aleppo and the eastern and southern neighborhoods of Damascus.

### **3–Urban Planning and Urbanization Law No. 23 of 2015**

This law gives the administrative body the power to propose areas for reorganization and real estate development. Article 3 of this law stipulates that if areas within the approved organizational plans have existing collective building violations, the administrative body has the right:

...to apply the provisions of this law, to apply the provisions of the Real Estate Development and Investment Law No. 15 of 2008 and its amendments, based on an agreement between the real estate developer and the owners or between the real estate developer and the administrative body, or to apply the provisions of the Expropriation Law in force for implementation of the organizational plan for the area, in a manner that does not contradict the provisions of Paragraph 2 of Article 15 of the Constitution.<sup>7</sup>

Therefore, Law 23 provides flexibility for the administrative body in choosing which of three laws it prefers to apply. Law 23 also provides a broad and flexible scope of application as well; in addition to areas where the administrative body wishes to implement their general and detailed plan, it also includes areas that have been subjected to natural disasters and wars, and areas that have been attached to organizational plans.

One of the most prominent problems in this law is that it grants authority to administrative units to utilize eminent domain in informal settlement areas, at rates of up to 50% in properties in the cities of provincial centers, and 40% in the countryside and other cities without compensation. Consequently, the owner is not entitled to claim compensation unless the deduction rate exceeds those percentages, and his/her right to compensation at that time is limited to what is deducted in excess of the specified percentages.

### **4) Law No. 10 of 2018 and its Amendments:**

This law came as a circular to Decree No. 66 of 2012, which provided for the creation of two planning areas within the general plan of Damascus to include all Syrian lands. It gives the right to the Minister of Local Administration to create one or more organizational zones within the general organizational plan. The law also stipulated a one-month period for rights-holders to submit documents that prove their ownership. This period was later extended to a year.

Of course, this law is still one of the most controversial laws for its conditions on ownership proof. The right-holder (or one of his relatives up to the fourth degree) is required to go to the headquarters of the administrative unit and present a set of documents; the reality, however, is that most IDPs and refugees are outside regime-controlled areas and cannot return to defend their real estate rights, whether due to security concerns or logistical reasons that prevent them from returning, such as their presence in other countries. Most of them will not even be able to ask one of their relatives to defend their real estate rights. Many were

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7) Urban Planning and Urbanization Law, Syria Code 23 (2015), §3 et seq.



displaced with their relatives, so they no longer have a relative to act on their behalf, and some fear for their relatives inside Syria if they do act on their behalf.

It is also important to refer to a point within the law, which is no less problematic than the others. Legal experts believe that this law prevents rights-holders from retaining the right to housing within the same area, as the law specifies three options for them as follows:<sup>8</sup>

- Allocation of Housing: Rights-holders will often be unable to access this option, because their shares will be less than their ability to buy an alternative house.
- Establishing a joint stock company: This option will not be available to IDPs especially. The greater opportunity will be available to merchants.
- Selling the share in public auction: This is the only option that will be available to most rights-holders, and absentee property owners might not be able to take advantage of it because they will often lose the opportunity to prove that they are the owners, based on what we have discussed above.

In summary, the overlap between the four legislations/laws in Syria today, with the presumption of good faith, can be described as a legislative defect that requires reform before any implementation that may lead to Syrians' loss of rights. In reality, however, it is difficult to presume good faith in the case of the Syrian regime, which has a long record of abusing laws. It can be argued that the matter is a deliberate policy, so that these laws become a toolbox for the regime, as described by the director of one of the Syrian civil society organizations working on the real estate issue. Each of the aforementioned laws imposes a different path to the course of real estate development processes for the regions, in terms of which agency decides on subjecting areas to development, which agency draws up the plans, and which agency carries out implementation, as well as how to deal with the rights of residents and other issues. Thus, the regime can determine the law that it wants to apply in the areas of its choosing.

This situation of multiple legal frameworks leaves a complex and ambiguous legislative environment, which many professionals are unable to understand and track its effects, not to mention rights-holders who may find themselves the victims of laws they do not understand. The lack of sensitivity of the aforementioned laws towards owners' rights also increases the risks in a country where the percentage of random housing is estimated at about 50% of the total number of housing, according to statements by the regime's former Minister of Housing.<sup>9</sup> This means these are not documented or identical to the records of the land registry. In such a country, it is assumed that real estate laws respond to this fact by finding innovative and effective methods to prove the rights of inhabitants of these areas, in case the legislator genuinely wants to ensure those rights. On top of that, the new laws issued during the conflict are supposed to take into account the effects of the devastation

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8) Phone interview conducted by the researchers with Judge Mohamad Anwar Majanni, legal consultant, located in Gaziantep, Turkey, on November 6, 2020.

9) A statement by former Minister of Housing, Hussein Arnous, Qasiyoun Newspaper, 2018, <https://bit.ly/2WEMcyR>, accessed on December 24, 2020.

left behind, which are clearly visible on buildings throughout Syria. These laws are also supposed to take into account the absence of about half of the country's population from their properties, especially in areas the regime has retaken from the opposition, where the majority of the population are away from their homes.

## **B - Institutions: Three Ministries and Dozens of Directorates Quarreling Under Lax Real Estate Laws**

Like real estate laws, the work of government institutions concerned with real estate affairs also overlaps. There are at least ten major government institutions working in the field of real estate regulation and development at various levels, from planning to implementation to supervision and follow-up. But it is nearly impossible to understand how these institutions relate to each other, and if any of those relationships are complementary.

The official websites of these institutions—the sole outlets for public information and opinion—show a significant dearth of transparency regarding projects and activities, touting only broad headlines for large reconstruction projects undergoing planning and news of meetings that rarely include details of discussions and conclusions.

In addition to the scarcity of information, officials in these institutions often issue conflicting statements. For example, the former Director of Urban Planning in Damascus Governorate, Eng. Ibrahim Diab, told a newspaper close to the regime in early 2020, that the Al-Qaboun area will be reorganized according to Law No. 10 of 2018.<sup>10</sup> Less than a month later, the Damascus Governorate Facebook page posted that the Damascus Governorate Council unanimously approved the detailed organizational plan for Al-Qaboun in accordance with the provisions of Law No. 23 of 2015.<sup>11</sup>

The following month, the Director of Technical Services in Damascus Governorate stated to another website close to the regime that “the residents of Yarmouk refugee camp and Al-Qaboun will not get compensatory housing, as a result of the two areas being organized in accordance with Legislative Decree No. 5 of 1982, while they will have regulatory shares.”<sup>12</sup>

The discrepancy in the statements of government officials has been repeated on more than one occasion. This reflects a state of confusion and a blurry vision within the institutions themselves.

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10) Completion of Al-Qaboun residential plan before mid-2020, Damascus Governorate: Committees for the distribution of properties and equity shares in Urban Al-Quaboun, Al-Thawra Newspaper, February 25, 2020, <https://bit.ly/3aF0Jm9>.

11) Damascus Governorate Council's Facebook page, accessed December 24, 2020, <https://bit.ly/2LY2UHa>.

12) Nawar Al-Dimashqi, Yarmouk Camp and Al-Qaboun Are Worse Than Khalaf al-Razi], Qasiyoun Newspaper, July 13, 2020, <https://bit.ly/2WL2R3z>.



The following is a brief overview of the most important government institutions currently involved in real estate affairs:

### **1–Governorate, City, and Municipal Councils under the Ministry of Local Administration**

Theoretically, it is assumed that local administrations are the supreme authority at the planning and implementation levels of real estate affairs in Syria. The Syrian Local Administration Law granted administrative units-governorate, city/town, and municipal councils-broad powers in real estate affairs. Article 65 of this law stipulates that “it is not permissible for any public, joint, cooperative, or private entity to construct any building within a city, town, or municipality, or carry out any work of change or demolition in an existing building, before obtaining a prior permit from the Executive Office.”<sup>13</sup> This refers to the executive offices of city and town councils.

According to Law No. 5 of 1982, administrative units are also given the power to prepare general and detailed organizational plans and building control systems for urban areas-whether expansions, reorganizations, or other-in line with the directions of regional planning and the principles established by the Ministry of Public Works and Housing. However, the reality is significantly different from what the legal text suggests.

Local administrations have not played a significant role in decision-making in Syria since the Ba’ath Party seized power in 1963. The party has been used to strengthen the regime’s control over local areas and their inhabitants since that time, while granting symbolic positions in local administration units to party-backed local elites entrusted with the task of establishing patronagenetworks.<sup>14</sup>

We can suggest two basic reasons for this. The first is related to the composition and method of forming local councils; the members of these councils have never been freely elected, but are appointed in some way. Consequently, most local council members are more like employees working for the central authority than elected representatives of the residents of their cities, towns, and so on. Secondly, the roles and powers given to ministries and central government institutions have often encroached on the jurisdiction of local administrative councils, especially with regard to proposing or approving real estate planning and development areas, or in matters related to the study and preparation of organizational plans.

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13) Local Administration Law, Syria Code 107 (2011), §65 et seq, <https://bit.ly/3mJcACh>, accessed December 14, 2020.

14) Agnes Favier and Marie Kostrz, “Local Elections: Is Syria Moving to Reassert Central Control?,” *Middle East Directions*, 2019, translated by Nabeel Sunbul, <https://bit.ly/3aH1tqY>.

## 2-The Regional Planning Commission

This commission was created by Law No. 26 of 2010, known as the Regional Planning Law,<sup>15</sup> and is located in Damascus. Its establishment came in line with the Syrian authority's orientation toward adopting the concept of regional development, linking Syrian regions with each other within "unified regions" according to their demographic, economic, and geographical characteristics. In such a system, each region forms an interconnected development unit that then links with other independent regions, becoming an integrated framework at the national level. At the time, it appeared this approach would solve the problem of unbalanced development in Syria.

The Commission is under the Supreme Council for Regional Planning, which includes twelve members, including the Prime Minister, the Ministers of Housing, Agriculture, Local Administration, and other cabinet positions, as well as the heads of government agencies such as the State Planning Authority and the Central Bureau of Statistics.

Theoretically, the Regional Planning Commission occupies the top of the pyramid of governmental institutions concerned with development in general, including real estate development. It is responsible for setting development strategies and regional and spatial development-including the foundations of urban planning-in an apparent overlap with the Ministry of Public Works Housing.

However, to date the Commission has not completed the draft of the national framework for regional planning, which was set as a main goal at its inception over a decade ago. In practice, it seems the Commission's role is largely nominal, as it does not even have a website. Although the Regional Planning Law requires the administrative bodies concerned with developing organizational plans to refer to their regional plan drawn up by the Commission, the reality is that there are organizational plans for several areas in Syrian governorates without corresponding regional plans.

## 3-The General Commission of Development and Real Estate Investment

The General Commission of Development and Real Estate Investment was established pursuant to Decree 15 of 2008<sup>16</sup> as an administrative public authority under the Minister of Housing, enjoying legal personality with both financial and administrative independence. The decree assigns broad and ambitious tasks to the Commission, such as "regulating real estate development activities, encouraging the role of the national private sector and local, Arab, and foreign investment in the building and reconstruction process." Decree 15 defined the objectives of this Commission as follows:<sup>17</sup>

- To establish integrated cities and suburbs.

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15) Damascus Bar Association Message Board, "Law No. 26 of 2010: Regulating Spatial Regional Planning and Development Law," June 27, 2010, <https://bit.ly/2KO7PKi>, accessed December 24, 2020.

16) See the text of the law here <https://bit.ly/38wrJBQ>, accessed on December 24, 2020.

17) "About Us: Targets," Syrian Arab Republic General Commission of Development and Real Estate Investment, accessed December 24, 2020. <https://bit.ly/34Y9nsz>.



- To secure lands for construction.
- To establish specialized and cognitive service areas.
- To develop and rehabilitate existing residential areas within the organizational plans.
- To address the issue of informal settlement.

We note that the Commission was given broad powers to create real estate development zones, whether inside or outside an organization plan. The establishment law stipulates: “Contrary to any text in force, the real estate development zone is created inside or outside the organization; its boundaries are defined and the administrative body responsible for it named by the Prime Minister, based on a proposal from [the Commission’s board of directors] after consulting with the administrative unit.”<sup>18</sup>

The latest report issued by the Commission in 2018<sup>19</sup> mentions the creation of 25 real estate development areas, as of the report issuance date, distributed mainly in the governorates of Aleppo, Hama, and Homs. According to the report, the Commission was studying the creation of 20 new real estate development areas, and looking into the situation of 23 housing informal settlement areas, including in Darraya in the Damascus countryside, Handarat in Aleppo, and other areas in Hama.

The Commission was also given power to grant and withdraw licenses for real estate development companies. The 2018 report stated that 56 real estate development companies had obtained their final license, and about 40 others have obtained an initial license.

#### **4–The General Company for Engineering Studies**

The General Company for Engineering Studies was created according to Law No. 12 of 2019,<sup>20</sup> as a public economic company under the Minister of Public Works and Housing, enjoying legal personality and financial and administrative independence. Its headquarters is located in Damascus. It replaced both the General Company for Technical Studies and Consultations and the General Company for Water Resources; these companies were abolished under this same law.

The regime has promoted the new company as the “Syrian engineering expertise house.” In accordance with the provisions of the law, the new company carries out studies and consultations in the field of construction and public works. Within its competence, it carries out the study, audit, and supervision of projects included in the plans of the public and joint sector entities, and any other party in agreement with them. It is also tasked with preparing detailed plans as stipulated in the law establishing it.

But it seems that the company’s work extends beyond that, as it discusses and develops planning frameworks and prepares general organizational charts as well. For example, the

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18) See the text of the Real Estate Investment and Development Law <https://bit.ly/34Koh5o>, accessed on December 24, 2020.

19) “Altaqrir Alsanawi 2018 [Annual Report 2018],” Syrian Arab Republic General Commission of Development and Real Estate Investment, PDF File, 2018, <https://bit.ly/3aFnE0T>.

20) See the text of the law here <https://bit.ly/3pkemv3>, accessed on December 24, 2020.

Company signed a contract with the Governorate of Rural Damascus in mid-2020, “to prepare the detailed and organizational plans necessary to create the suburb of Wadi Barada.”<sup>21</sup> It also provides technical services and consultations in several areas of Damascus and Aleppo. It supervises the stalled alternative housing project in Janoub al-Motahaliq and Khalaf al-Razi, which are covered by Decree No. 66 of 2012 in Damascus, currently known as Basilia City and Marota City, respectively.

## 5–The General Housing Establishment

The General Housing Establishment was created by virtue of Presidential Decree No. 683 of 1961,<sup>22</sup> and it is under the Ministry of Public Works and Housing. It is one of the oldest governmental institutions in Syria concerned with housing, and has traditionally been active in the field of providing social and traditional housing. It has undergone many changes over the years, the last of which was through Decree No. 26 of 2015, which defined its tasks as securing social housing and participating in the development of five-year housing plans. The decree also mandated it to deal with informal settlement areas and work as a real estate developer, in addition to granting it the authority to prepare general and detailed plans for lands allocated for its projects.<sup>23</sup>

There is a significant overlap between the roles and functions of this institution, the General Commission for Development and Real Estate Investment, and local administration councils. Likewise, the General Housing Establishment manages a group of youth, social, and labor housing projects in several Syrian governorates, the most important of which are in Rural Damascus, Lattakia, and Sweida. According to its 2019 report, the General Housing Establishment completed about 5,000 houses during that year, while it contracted to implement more than 27,000 houses.<sup>24</sup> It is reported that it is also managing the previously mentioned Marota City and Basilia City alternative housing projects in Damascus.

## 6–Construction Institutions

The executive arm of the government in the real estate field consists mainly of four institutions:

- The General Company for Building and Development (Ministry of Housing)
- The General Company for Roads and Bridges (Ministry of Housing)
- The Military Housing Establishment (Ministry of Defense)
- The Institution for the Implementation of Military Construction (Ministry of Defense).

Although each institution has a specialization and a field of work indicated by its name, their fields of work practically overlap with each other. The General Company for Roads and

21) Rural Damascus: The conclusion of a contract to prepare the organizational plans to create the Wadi Barada suburb, Syrian Arab News Agency, August 17, 2020, <https://bit.ly/3poZ08D>.

22) See the website of the General Housing Establishment <https://bit.ly/34HAiZw>, accessed on December 10, 2020.

23) See the text of the Decree No. 26 of 2015, published on the General Housing Establishment, <https://bit.ly/2Mbfzpn>, accessed on December 27, 2020.

24) 2012 Annual Plan, General Housing Establishment, PDF file, <https://bit.ly/353QG6P>, accessed December 27, 2020.





Bridges, for example, is currently working on the removal of rubble from areas in the eastern neighborhoods of Aleppo, which might be surmised to be the purview of the General Company for Building and Development.

Here, too, we have official contradictions regarding the nature of the work of each of these institutions, and the projects they are involved in on the ground. For example, regarding the Marota City and Basilia City alternative housing towers in Damascus, the General Housing Establishment website stated that the agency executing the project is the Military Housing Establishment,<sup>25</sup> while the official website of the Marota City project published that the executing agency is the General Company for Roads and Bridges.<sup>26</sup>

Regardless of which agency is entrusted with the execution, the alternative housing project, which was supposed to have been delivered to its beneficiaries within four years of the issuance of the 2012 decree - by 2016 - has not yet been delivered and is not expected to be completed for several more years. The evidence for this is that the works are still in the stage of laying the building foundations, amid a lack of funding.

## 7) The Directorates and the Specialized Committees

Announcements have been made by the regime over the past years about the establishment of directorates and committees in specialized areas or in charge of specific decrees, including the **Decree 66 of 2012 Implementation Directorate** under Damascus Governorate, and the **Committee for Resolution No. 940**, headed by the Minister of Housing, which is in charge of preparing plans for Damascus areas, including Al-Qaboun, Al-Yarmouk, and Jobar, in addition to the towns of Ain al-Fijah.<sup>27</sup>

Whereas the **Directorate** appears to be concerned with the executive level in allocating alternative housing divisions and paying the reasonable rent allowances to eligible residents, the **Committee** seems to play a more pivotal role. However, it is not known exactly what the relationship is between the local administrative bodies in the two governorates of Damascus and Rural Damascus and this committee, or to what extent those bodies contributed in preparing the plans, as information on this Committee is very scarce. We have been unable to find the text of the aforementioned resolution on the Council of Ministers Presidency website or any other government website.

The number of these committees and directorates is expected to increase with the expansion of the regime's plans and projects. The ambiguous powers and roles granted to them can constitute a legal tool and cover for practices that harm rights-holders.

Therefore, the situation at the administrative and executive level within the real estate development system is no less complicated and intertwined than the level of laws. More

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25) See the news on the General Housing Establishment website <https://bit.ly/3aAHme6>, accessed on December 16, 2020,

26) Preparation for the implementation of the works of the two residential towers (Bb64) and (Bb127), Marota City website, <https://bit.ly/37M6WuM>, accessed December 16, 2020.

27) Syrian Presidency Council of Ministers' Facebook page, <https://bit.ly/3ppRI4u>, accessed December 25, 2020.

than one party has the power to propose areas for real estate development or reorganization. Likewise, multiple bodies have the authority to prepare organizational plans.

But in the end, regarding Syrian governmental institutions, we should not forget that the laws and administrative systems in Syria are not the only references for the work of these institutions. Rather, the regime has established a parallel authority for decades, using the power of the security apparatus and a network of close associates and patronage. These dominate and interfere in the work of all these institutions.

We must also not forget the issue of widespread corruption in these institutions. Syria ranked 178th out of 180 countries in the Corruption Perceptions Index for 2019, according to Transparency International.<sup>28</sup>

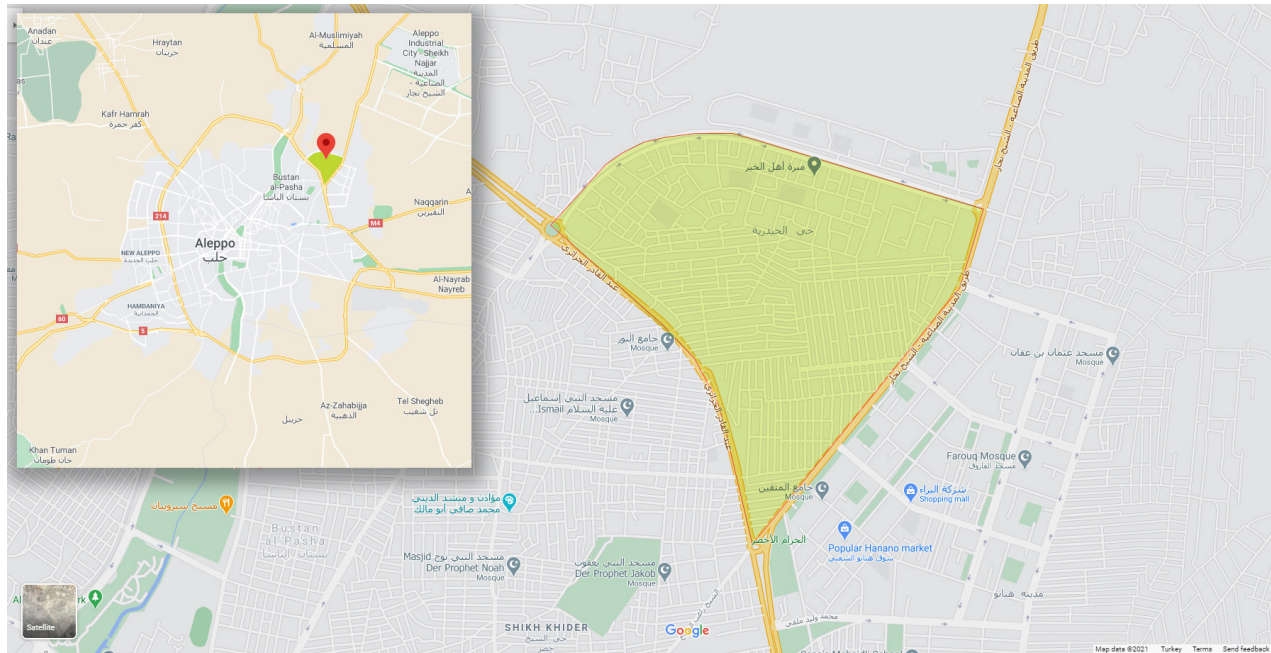
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28) "CPI 2019 Global Highlights," Transparency International, <https://bit.ly/3ruisCW>, accessed December 22, 2020.

## Section II: A Close Look at Two Neighborhoods in Damascus and Aleppo

### A. Case Study: Al-Haidariya Neighborhood in Aleppo City

#### 1–The Demographic and Urban Reality Before the Conflict



Al-Haidariya neighborhood is located in the northeastern section of Aleppo city; it is one of the most densely populated informal settlement areas (35–42% of the city’s population).<sup>29</sup> Before the outbreak of the Syrian revolution in 2011, its population was 100,000–120,000 people,<sup>30</sup> mostly Sunni Arabs and some Turkmen.<sup>31</sup>

The lands in this neighborhood have different types of ownership. There is a separate and organized section of land prepared for construction in the old Al-Haidariya area. State property is also present, as in the Jabal Al-Haidariya area in the neighborhood; this is land seized in the 1980s by intelligence officers who then sold it illegally, known locally as “intelligence lands.” The final section consists of agricultural lands on which informal settlements were built without permits.<sup>32</sup>

29) Informal Housing Enters Official Records: 50% of Syrian housing is informal, Al-Iqtisadi News, July 1, 2011, <https://bit.ly/2OeU09w>.

30) Figure estimated from a number of interviews with activists from Al-Haidariya.

31) Sima Naana, Syrian Turkmen: Their Origins, Their Distribution, and Their Role in the Syrian Revolution, Enab Baladi Newspaper, February 12, 2017, <https://bit.ly/2YniaQS>.

32) The Al-Haidariya Organization Project: Unclear Information and Lost Properties, Rozna Radio website, <https://bit.ly/3q5jeVH>.

## 2–The Most Prominent Changes in the Neighborhood During the Conflict

With the arrival of the protests opposing the Syrian regime in Aleppo city, Al-Haidariya neighborhood became a center for protest and anti-regime gatherings. By July 2012, it came under the control of Liwa al-Tawhid, which is affiliated with the Free Syrian Army. During that period, the regime’s bombing and attacks focused on the eastern neighborhoods of Aleppo city and areas surrounding Al-Haidariya, such as Masaken Hanano, which displaced a number of families into Al-Haidariya.

Consequently, at the beginning of 2013, Al-Haidariya became a target for attacks by regime forces—starting with artillery attacks and later with aerial- and barrel-bombardments—which caused numerous massacres and the destruction of many of its buildings and infrastructure.<sup>33</sup> This pushed a large number of Al-Haidariya residents to leave for other areas, such as the Aleppo countryside, Idlib governorate, and Turkey.<sup>34</sup>

With Russian military intervention to support the Syrian regime in September 2015, air and ground attacks from regime forces escalated, with new participation by the Russian air force along with Syrian, Iraqi, Lebanese, and Iranian militias,<sup>35</sup> until the regime regained control over a number of opposition neighborhoods in Aleppo, including Al-Haidariya on November 28, 2016.<sup>36</sup>

The large-scale military operations and daily bombardment, and the accompanying siege, destruction, and targeting of vital installations,<sup>37</sup> have led to a gradual departure of most of Al-Haidariya’s residents. Its population had declined to 41,466 in 2014, according to the Syrian Statistics Center.<sup>38</sup> As estimated by activists in and refugees from the neighborhood, by the end of 2016 only 12%–15% of original residents remained in the neighborhood. This figure has dropped to 1.5%–2% at the present time, due to the absence of basic services such as water and electricity, and the regime’s reluctance since it regained control over the neighborhood to make any contribution for renovation or reconstruction of destroyed buildings.<sup>39</sup>

With most original Al-Haidariya residents unable to return, fearing security prosecutions, several

33) The outcomes of the regime’s attacks on the neighborhood have been documented by a large number of media and news reports, and media outlets and social media including YouTube <https://bit.ly/2Nemakd>.

34) Rami Sweid, Here was Aleppo: The Map of the Great Catastrophe with its Massacre, Destruction, and Forcible Displacement, Al-Arabi Al-Jadeed, <https://bit.ly/38rjLtE>.

35) Koujan Obadah and Hassan Mutlaq, The Beginning of the End, or Pitfalls Followed by the Rise? The Resurrection of Aleppo: The Causes of Defeat and Possible Repercussions, Enab Baladi News, December 4, 2016, <https://bit.ly/3iVLyr0>.

36) The Syrian Observatory: The Opposition Has Lost Control of the North Aleppo’s Eastern Neighborhoods, France 24 News, November 28, 2016, <https://bit.ly/2WAHmr5>.

37) According to the Atlas of Destruction in Syrian Cities published by the United Nations Institute for Training and Research (UNITAR) in March 2019, the city of Aleppo witnessed the largest percentage of destruction in Syria, with 4,773 buildings totally destroyed, 14,680 buildings severely destroyed, and 16,269 were partially destroyed, bringing a total of 35,722 damaged buildings.

38) Number of Population According to the Areas Under Study in the Population Survey 2014, Aleppo, Syria Central Bureau of Statistics, PDF file, 2014, <https://bit.ly/36kSKru>.

39) Connecting electricity is the first and most important of their demands. The residents of Al-Haidariya Neighborhood demand the restoration of schools, street maintenance, and sanitation, Al-Jamahir News, <https://bit.ly/3pw8NtX>



former residents now living in Turkey and the northern countryside of Aleppo have reported receiving news indicating the regime's intention to settle a number of residents from Kefraya and Al-Foua in the Al-Haidariya neighborhood. However, this information is still unconfirmed, especially in light of the neighborhood currently undergoing a real estate reorganization and development process.

### **3–Aspects of the Real Estate Development Plan in Al-Haidariya Neighborhood**

In October 2018, Ahmed Homsy,<sup>40</sup> Director of the General Commission of Development and Real Estate Investment, announced that the Aleppo City Council had launched a real estate development project in the informal settlement areas of Aleppo, including an area of 28.8 hectares in the Al-Haidariya neighborhood, as part of a comprehensive real estate development program. On an area of 118 hectares, 42.12% is earmarked for residential buildings, and 12.27% for services. This program falls within the framework of the Real Estate Development and Investment Law No. 15 issued in 2008.<sup>41</sup> The project includes more than ten real estate development areas inside and outside the organizational plan of the city of Aleppo, including the areas of Al-Haidariya, Tel al-Zarazir, other areas in the west of the city, and the suburbs and the nearby countryside of Aleppo city, which are semi-empty areas whose residents have fled to the northern countryside of Aleppo and Idlib, or outside the country.

In the announcement, Al-Haidariya neighborhood was mentioned as being an area owned by the City Council and classified as a real estate development area, in accordance with Article 11 of Law No. 15, which gives the council the right to expropriate “property located within real estate development areas belonging to individuals, for the benefit of the administrative body and is registered in its name in the real estate registry by a Prime Minister, whether it is an individual property or a waqf property.”<sup>42</sup>

The actual implementation of the plan began in August 2019, when the Aleppo Governorate Council<sup>43</sup> issued written warnings it was about to demolish hundreds of homes in the neighborhood, compelling the remaining residents to leave. According to testimonies from neighborhood activists, the people evicted under coercion were forced to seek refuge in parts of Al-Haidariya not included in the demolitions, or to rent housing in neighboring areas such as the Masaken Hanano neighborhood. At no point did they obtain compensation or clarification from the City Council or the competent government agencies regarding their material rights in demolished and expropriated real estate.

The Military Construction Institution began carrying out the demolition and removal operations in the neighborhood in cooperation with the Aleppo City Council and the Technical Services Corporation in January 2019.<sup>44</sup>

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40) Starting a real estate development project in informal settlement areas in Al-Haidariya, Aleppo, Syrian Arab Republic Ministry of Local Administration and Environment, October 21, 2018, <https://bit.ly/2Ja6AVc>.

41) Real Estate Development and Investment Law, Syria Code Law 15 of 2008, <https://bit.ly/3hd1nZB>

42) Real Estate Development and Investment Law, §11.

43) The Regime's Municipality in Aleppo Asks Residents to Evacuate the Al-Haidariya Area to Begin Demolishing Hundreds of Homes, Jorf News, August 14, 2019, <https://jorfnews.com/?p=31306>.

44) “Real estate development” demolishes eastern Aleppo neighborhoods, Al-Modon, February 2, 2019,

The neighborhood witnessed a massive demolition of homes and residential buildings in Al-Haidariya roundabout and Jabal Al-Haidariya, from the end of the 40th Street until the highway from Al-Haidariya roundabout towards Bai'din roundabout north of the city, paving new roads linking Al-Haidariya and Hanano, and removing the rubble of destroyed houses to be used as material for paving roads.

The first phase of the project—estimated to cost more than 2.1 billion Syrian Pounds—was completed at the beginning of July 2020;<sup>45</sup> houses and apartments within the project's executive plan had been demolished, and the public services network and infrastructure constructed, including roads, sewers, sidewalks, and water. It was then ready for the General Commission for Development and Real Estate Investment to put up for investment, under the supervision of the Ministry of Public Works and Housing. According to Hussein Makhlof, Minister of Local Administration and Environment, the reconstruction project takes into account "the economic, social, and service dimensions ... [it] allows building 2,700 residential apartments"<sup>46</sup> in its first phase.

In light of the owners' absence, and with no specialized studies, it is difficult to estimate the number of neighborhood buildings demolished since the regime took control of it. However, what can be clearly seen by comparing available satellite images of the neighborhood between 2017 (the beginning of the regime's control over the neighborhood) and 2019 (the latest available images) is that entire urban blocks have been removed throughout the neighborhood, especially in its southwestern part.



Image 2: Aerial view of the southwestern part of Al-Haidariya Neighborhood, taken February 20, 2017. Source: Google Earth.

<https://bit.ly/36le67Z>.

45) Qusay Razzouk, Completion of the First Phase of the Real Estate Development Project in the Al-Haidariya of, Aleppo, Syrian Arab News Agency, July 1, 2020, <https://bit.ly/39rvutV>.

46) "Completion of the First Phase of the Real Estate Development Project in Al-Haidariya, Aleppo." URL.



Image 3: Aerial view of the southwestern part of Al-Haidariya Neighborhood, taken November 28, 2019. Source: Google Earth.

It is likely that the large-scale demolitions carried out by regime institutions in Al-Haidariya—as well as in Al-Qaboun neighborhood in Damascus, discussed later in this paper—were conducted under Law No. 3 of 2018, known as the Rubble Removal Law. This is another problematic law, receiving heavy criticism from Syrian human rights defenders due to it being used as a pretext for the demolition of undamaged or partially damaged buildings. This claim is supported by the fact that Law No. 3 ignored the necessity of having engineering and technical expertise within its committees; rather, the committee members were limited to:

- Employees of the real estate registry directorates
- The administrative authority
- A real estate judge named by the Minister of Justice
- A real estate expert named by the Governor
- Two representatives for the residents.

This is based on Article 4 of the law, which specified the method of forming the committees responsible for describing damaged buildings and the initial confirmation of ownership.<sup>47</sup> The absence of engineers from the description committees in this law results in demolition operations dependent not on objective and scientific grounds, but more on the decisions of administrative employees and the directives they receive. Several residents of Al-Haidariya neighborhood we spoke with during the preparation of this study indicated that demolitions often affect homes whose residents have been absent, regardless of their technical condition.<sup>48</sup>

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47) Law No. 3 of 2018 Rubble Removal Law, §4, Syrian Arab Republic Ministry of Local Administration, February 15, 2018, <https://bit.ly/39ZQfMb>.

48) A series of interviews conducted by researchers with residents of Al-Haidariya Neighborhood in November 2020.

Finally, it is necessary to address the issue of alternative housing for the evicted residents. Law No. 15 of 2008 states,

**The real estate developer shall provide alternative and suitable housing for the occupants of the project area and hand it over to the administrative body according to the social survey prepared by the administrative body for the area on the date of its approval as a real estate development area, or provide cash compensation for those who prefer. The administrative authority shall also evacuate the occupants after handing them the alternative housing and handing over the project site free of occupancies to the real estate developer, in accordance with the applicable regulations and the contract concluded between the two parties.**

Despite this, this point was not mentioned in any statement issued by officials of the Ministry of Public Works and Housing, the Ministry of Local Administration and Environment, the Aleppo Governorate, or the Aleppo City Council. Rather, the legal and human rights consequences of conducting a social survey in the region at the present time have been obscured, depriving people of rights, the majority of them internally displaced or refugees.

#### **4–A Summary of Al-Haidariya’s Case Study**

The effects and dimensions of the real estate development and planning processes undertaken by the regime in eastern Aleppo can only be understood by taking into account the circumstances surrounding them. Despite the fact that the reconstruction and real estate planning of informal settlements in Syria is of utmost importance, desperately needed in order to reduce the suffering of citizens, the policies pursued by the regime and its institutions in eastern Aleppo city are a significant indication of the regime’s true intentions. According to accounts from local residents and activists who follow the situation and developments inside Aleppo city, in addition to news reports on pro-regime websites, the launch of the real estate development project was preceded by the entrenchment of hostile policies against the people of these neighborhoods.

Multiple accounts from residents of the neighborhood suggest that the Syrian government and its institutions have neglected Al-Haidariya since regaining control over it at the end of 2016, procrastinating the restoration of services such as water, electricity, and sanitation. The Syrian government’s Education Directorate opened one school in the neighborhood, which had been destroyed by previous regime air strikes; but rather than repairing the school, the directorate merely equipped it with a small number of prefabricated rooms. The City Council of Aleppo prevented the reopening of the Jabir bin Hayyan and Salim Melku Jurbaqa schools, despite their readiness. Militias loyal to the regime also prevented Al-Azizi Bakery from reopening, forcing the people of Al-Haidariya to buy bread from the Masaken Hanano bakery instead.

Even worse was the City Council’s refusal to issue permits for people to renovate their homes and properties. This is in addition to the regime’s prevention, whether directly or through





local and foreign militias loyal to it, from allowing people to return to the neighborhood, forcing a large number of families to reside in nearby neighborhoods awaiting compensation or permission to return.<sup>49</sup>

With the project's commencement and the issuance of eviction orders by the governorate council, the regime's intention to strip the residents of their rights became fully clear. No evicted family has been compensated, nor have they yet been informed of any mechanism or legal framework to compensate them for their properties that were demolished or expropriated by the City Council.

Here it must be noted that those from Al-Haidariya neighborhood who are still in the city of Aleppo are a minority; most of them were forced to flee or seek refuge in neighboring regions and countries. They cannot return for various reasons, including fear of security persecution if they return and claim their rights. Even if they are able to return, Al-Haidariya is an informal settlement neighborhood; most of the residents have no ownership documents for their homes, as they were illegally built and not licensed or registered in the real estate registry. They have no land ownership, either. Any rights or evidence of ownership have disappeared with the regime's demolition of the buildings and homes.

The few people who still possess legal ownership documents, and have the ability to go to the City Council, seem to be no better off. The Aleppo City Council<sup>50</sup> issued a declaration in November, asking residents of properties located within Block B in the organizational plan and the surrounding streets in Al-Haidariya to go to the Hanano Service Directorate and submit a file containing all of the following:

- The rights-holder's identification documents
- The identification documents of all those residing at the property
- A certificate from the area's mukhtar ("village chief")
- A site plan showing the residence location issued by the Hanano Service Directorate
- A record of the electricity or water meter installation, specifying the property number and the date of installation
- A letter of undertaking endorsed by a notary that these papers are not considered to prove ownership

An official martyrdom document<sup>51</sup> for a family member at the property (the husband or one of his children) and an official war casualty document for the beneficiary

- A document of affiliation with the Syrian Arab army for the rights-holder or one of his children.

This is almost impossible for the majority of rights-holders, given that the region was one of the main centers of the anti-government movement. Also, the use of papers proving service

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49) The November 2020 interviews.

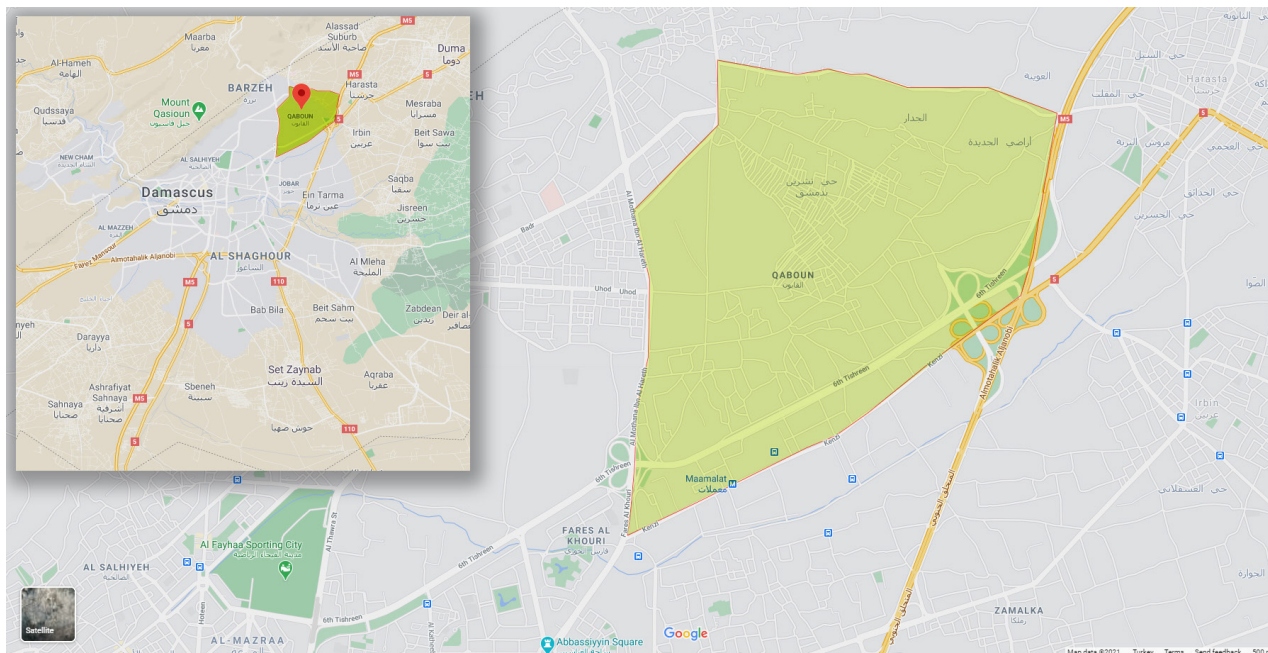
50) City Council Demands Residents of Al-Haidariya Provide Eight Identification Documents for Their Properties, Syria TV, November 12, 2020, <https://bit.ly/2LTf588>.

51) Martyrdom here means the death of an individual while serving in the Syrian regime army.

in the Syrian army as proof of ownership is a violation of the law and the rights of citizens. The situation in Al-Haidariya neighborhood is similar to many of the eastern neighborhoods of Aleppo targeted by the real estate development project. They are almost all empty of their residents and largely destroyed. This policy reinforces persistent concerns that real estate regulation and development laws are nothing but tools that protect the regime and the long-term interests of itself and its allies. In addition, these laws allow the government to strip real estate and property and later hand it over to investors loyal and close to the regime's leadership, establishing a corrupt economy that serves Assad and those close to him at the expense of the Syrian people.

## B. Case Study of Al-Qaboun Neighborhood in Damascus City

### 1-The Demographic and Urban Reality Before the Conflict



Al-Qaboun Neighborhood is located 4 km northeast from the city center of the Syrian capital, Damascus. The neighborhood is considered a gateway to Damascus from Eastern Ghouta, and the Damascus-Homs road crosses through it. Before the outbreak of the revolution, Al-Qaboun's population was 80,000–100,000, more than half made up of newcomers who had settled there from the Damascus Countryside, Damascus, Lattakia, and Tartus in the preceding decades.

Due to the strategic location of the neighborhood, the regime has set up military barracks around it, most prominently the Special Forces Command, the Military Police Command, the Police College, fuel tanks, Branch 211 of Military Intelligence, and a branch of Air Intelligence.



## 2–The Most Prominent Changes in the Neighborhood During the Conflict

Al-Qaboun, along with neighboring Barzeh, was one of the first and most prominent centers of peaceful protest and movement against the Syrian regime; the first demonstration in Al-Qaboun was on March 25, 2011. As the regime cracked down on demonstrations and initiated campaigns of arrest and the targeting of activists, the people of Al-Qaboun suffered systematic persecution by security and intelligence services. These same services targeted peaceful demonstrations with live bullets and sniper fire, leading to a number of massacres in the neighborhood. With the transformation of the unrest in Syria from peaceful movement to armed conflict, Al-Qaboun became the center of heated confrontations between Syrian regime forces and Free Army factions. The Free Army gained control in mid-2012, but the strategic nature of Al-Qaboun as an entrance to the city of Damascus did not allow for its stability. The regime made continuous attempts to storm it and targeted it with shelling, which led to tremendous damage in the area.<sup>52</sup>

The siege on Al-Qaboun also displaced most of its people. By 2014, its population had dwindled to only 3,617.<sup>53</sup>

By 2014, Al-Qaboun and the nearby neighborhoods of Barzeh and Tishreen had reached a semi-official truce with Syrian regime forces, which included providing water and electricity to the neighborhoods in exchange for opposition forces allowing the regime to reach a strategic road connecting Barzeh and Tishreen Military Hospital. However, according to the people of Al-Qaboun, the reality was closer to a siege.

With the expansion of the regime's control over a number of villages and towns in Eastern Ghouta and eastern Aleppo at the end of 2016, the regime and its allies focused on the outskirts of Damascus in preparation for regaining full control over Eastern Ghouta.

During February 2017, the regime and its allies targeted the region with a barrage of rockets and heavy artillery fire on the locations of Jaish Al-Rahman and Jaish Al-Islam in Al-Qaboun and the surrounding areas. After that, negotiations began between the regime and opposition forces. Those negotiations failed, and the regime began a ground offensive on February 26, in which it seized the majority of the agricultural area between Al-Qaboun and Barzeh. Regime forces continued to advance, taking advantage of infighting among the opposition factions.

On May 7, the Syrian army ceased hostilities in Al-Qaboun after opposition forces agreed to surrender and begin negotiations to evacuate the area. On May 13, the Syrian regime announced that it had completely captured Al-Qaboun, with the announcement of a deal with the opposition forces to transfer 1,500–2,400 fighters and their family members from Al-Qaboun to northern Syria. Evacuations began the next day.<sup>54</sup>

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52) Video: Photos show for the first time the extent of destruction in Al-Qaboun neighborhood of Damascus, The Orient, October 14, 2015, <https://bit.ly/3t4D59w>.

53) Population Survey 2014, Syria Central Bureau of Statistics, PDF file, 2014, <https://bit.ly/3pgPjJA>.

54) A New Forced Displacement in the Center of the Capital, Damascus: The Departure of Residents and Fighters from Al-Qaboun Neighborhood, Syria Net, May 14, 2017, <https://bit.ly/39sxWQU>.

According to the estimates of some residents of the city - most of whom were displaced in northern Syria-only a fraction of its original residents remained in Al-Qaboun by the end of May 2017.

### 3-Aspects of the Real estate Development Plan in Al-Qaboun Neighborhood

According to a Human Rights Watch report,<sup>55</sup> based on an analysis of satellite imagery, the Syrian regime began large-scale demolitions in Al-Qaboun in late May 2017, immediately after taking control of the neighborhood. The organization's report also confirms that demolitions are ongoing—including the destruction of intact homes not damaged by previous bombing—using bulldozers and excavators, in addition to highly explosive materials. The photos in the report show the transformation of the neighborhood, starting from the Al-Ba'la area near the Air Force Intelligence branch, then the Hawarneh Bridge area, and a completely destroyed area devoid of any building or housing unit.<sup>56</sup>

The report indicated that the regime is carrying out demolition operations without prior warning, without providing alternative housing, and without providing information about any compensation mechanisms for property owners and those who were forcibly evicted. The organization also stressed that the regime—despite the claims promoted to its allies in Moscow for the return of the displaced and refugees—has prevented displaced residents from Al-Qaboun and other neighborhoods that were under opposition control from accessing their properties in areas that were previously outside the regime's control.

In 2018, a few weeks after the passage of Law No. 10 in April, the Syrian regime announced that "Al-Qaboun will be subjected to the law."<sup>57</sup> The announcement provided no additional information on what the decision meant for the neighborhood and its residents, given that most of them were forcibly displaced, leaving it impossible for most to prove their property ownership within the conditions specified in the text of Law No. 10.

In September 2018, a member of the Executive Office of the Governorate of Damascus stated that "the governorate is preparing a new organizational plan for Al-Qaboun in accordance with Law 10, and that it has carried out a complete inventory of the houses in the neighborhood and will allow the owners of habitable houses to return to them within a short period of time, as the new plans are being prepared. The organized buildings in the neighborhood will not be covered by the new organization."<sup>58</sup>

By the end of August 2019, the Governorate of Damascus announced<sup>59</sup> that it had contracted

55) Syria: Residents Blocked from Returning, Human Rights Watch, October 16, 2018, <https://bit.ly/3cleyqG>.

56) Ninar Khalifa, "After expanding the area of destruction, the organizational plan for Al-Qaboun does not care about the rights of the people", Enab Baladi, October 31, 2020, <https://bit.ly/3pvr4rn>.

57) "The First Fruits of Law No. 10: The regime puts its hand on Al-Qaboun", Zaman Al Wasl, May 27, 2018, <https://bit.ly/2Mzwd3a>.

58) Adel Ibrahim, "Al-Qaboun Neighborhood: Between the Hammer of Time and the Anvil of Investment", The Popular Will Party, September 30, 2018, <https://bit.ly/3hb8O38>.

59) "The regime begins to implement Law No. 10 on the ruins of the destroyed Damascus Al-Qaboun neighborhood", the Al-Durar al-Shamiya, August 25, 2019 <https://bit.ly/3pxtlm7>



with the General Company for Engineering Studies to prepare Al-Qaboun's Residential Plan, which would include several residential, commercial, and service towers, in addition to investment buildings, hospitals, schools, and several other service centers for the city. On February 26, 2020, Director of Urban Planning in Damascus Governorate Ibrahim Diab<sup>60</sup> stated that the Al-Qaboun residential plan, which includes an area of 215 hectares, will be completed before the middle of this year. He added that the peculiarity of the Old Al-Qaboun area and the previously licensed and regulated areas have been taken into account in the plans, which will convert both parts of the residential and industrial neighborhood of Al-Qaboun into a residential commercial service area (55% of the project is residential, 36% for investment projects, and more than 12% for educational projects) that includes residential towers, investment buildings, hospitals, and commercial centers.<sup>61</sup>

In July 2020, Damascus Governorate released pictures of the proposed organizational plan for Al-Qaboun, announcing that residents' real estate would be converted into shares, distributed according to their ownership, and that objectors should go to the Governorate within 20 days of the announcement, at which point the plan would be approved by the Governorate and referred to the Ministry of Public Works and Housing for endorsement and issuance of a regulatory decree for the two areas in accordance with the provisions of Law 23 of 2015. This coincided with a statement by Muammar Dakak, Director of Technical Studies in Damascus Governorate, that the people of Al-Qaboun would not receive alternative housing, as a result of organizing the two areas according to Legislative Decree No. 5 of 1982. Alternatively, they would receive regulatory shares, due to the large financial burden on Damascus Governorate and its inability to secure the necessary funding for the construction of alternative housing in Marota City<sup>62</sup> (also known as Mezzeh Khalaf al-Razi), which is still faltering eight years after its announcement.<sup>63</sup>

According to claims on social media, tens of thousands of citizens have submitted objections to the plan, but Ibrahim Diab stated that only 2,050 objections from Al-Qaboun residents would be studied, and then the plan would be referred to the Executive Office of the Governorate Council, which in turn raises it to the Ministry of Public Works and Housing for endorsement of the regulatory plan and issue the decree governing the organizational area in accordance with the provisions of Law 23 of 2015.<sup>64</sup>

In spite of the successive decisions regarding the organization of the neighborhood, no step was taken on the ground, with the exception of demolitions and the removal of rubble. It is likely that these activities were also carried out in accordance with Law 3 of 2018.

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60) The statement is posted on the Facebook page of the Syrian Council of Ministers Presidency.

61) "Damascus Governorate: Al-Qaboun Project will be completed before the middle of this year", Enab Baladi, February 26, 2020 <https://bit.ly/2M2nGpd>

62) "The Housing Establishment opens the door for subscription to alternative housing apartments in the Marota City and Basilia City", Athr Press, September 28, 2020 <https://bit.ly/3cnQ9AX>

63) Ninar Khalifa, "After expanding the area of destruction, the organizational plan for Al-Qaboun does not care about the rights of the people," Enab Baladi, October 31, 2020, <https://bit.ly/3pvr4rn>

64) "Modification or Cancellation, an official to Al-Khabar TV: The Yarmouk and Al-Qaboun plans are under study", Al-Khabar TV, August 28, 2020 <https://bit.ly/3t7Tk5J>

A comparison of satellite imagery between 2017 and 2019 shows that demolition areas in Al-Qaboun are more extensive than their counterparts in Al-Haidariya. The following photos of the area adjacent to the Damascus-Homs highway show that most of the neighborhood's buildings that existed before the opposition left were leveled with the ground after the regime took control.



Image 5: An aerial photo of the southwestern part of Al-Qaboun Neighborhood, taken March 12, 2017. Source: Google Earth.



Image 6: An aerial photo of the southwestern part of Al-Qaboun Neighborhood, taken on October 31, 2019. Source: Google Earth.



In recent years, demolition operations and the removal of rubble have become a field for economic investment by businessmen close to the regime, recycling and converting the waste of destroyed buildings into construction materials. Among the most important names associated with Al-Qaboun is Muhammad Hamsho, a businessman close to Maher Al-Assad.<sup>65</sup> Hamsho, along with Samer Al-Fouz, is considered one of the biggest beneficiaries of the neighborhood's organizational plan issuance.

According to sources in the city of Damascus, both Hamsho and Al-Fouz are exploiting the harsh living conditions of the neighborhood residents and their fear of security prosecution, to force them to sell their lands and properties at a discount, in addition to seizing some properties in the absence of their owners. This is done with the condoning and complicity of the regime's security services, officers in the Republican Guard, and in cooperation with the popular committees' militias.<sup>66</sup>

This complicity has been evident since the regime regained control of the neighborhood. The security agencies and militia leaders re-zoned Al-Qaboun to a "military zone," under the pretext that it is a mine-infested area, and used intimidation to prevent residents from entering the neighborhood except with security clearances. In this case, entry is limited to Thursdays and Fridays, on foot (no vehicles), with the requirement that those entering Al-Qaboun leave their IDs at the entrance checkpoints.

The few families who did not leave the neighborhood and still live in Saha Al-Qahwa or Abniyat Ugarit suffer from restricted movement, and are often prevented from leaving without reason. They are also suffering from abuse by militias and security forces, whose aim is intimidation and forcing residents to leave and sell their property at low prices.

The current stalemate in the real estate organization operations can be considered a direct result of the intense economic crisis afflicting the Syrian regime, whose impact was doubled by the implementation of the Caesar Act by the United States, U.S. sanctions on the Iranian regime, and Moscow's failure to persuade international supporters to finance reconstruction operations in exchange for guaranteeing the return of Syrian refugees. Also, the spread of COVID-19 and the inability of the health sector in Syria to respond appropriately have also led to the freezing of any operations related to organizational plans.

This stagnation has recently been reflected in a laxity of security authorities with the people of the neighborhood. Recent reports from Damascus indicate that some of Al-Qaboun's people who reside in Damascus proper have begun to return to their homes—after obtaining permits allowing them to return, as they can no longer afford high rents in the Syrian capital in light of the current economic crisis. Residents have also been allowed to enter the neighborhood in their cars.

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65) Haba'a Shihada, "Mohammed Hamsho, "Corruption" with Multiple Entities and One Head", Enab Baladi, August 25, 2019 <https://bit.ly/3puDccc>

66) Ninar Khalifa, "After expanding the area of destruction, the organizational plan for Al-Qaboun does not care about the rights of the people," Enab Baladi, October 31, 2020, <https://bit.ly/3pvr4rn>

#### 4-A Summary of Al-Qaboun's Case Study

Despite the difference in the organizational frameworks, the intersection between the cases of Al-Haidariya and Al-Qaboun is evident in the absence of the majority of the residents of these two areas, the inability or impossibility of their return, and the inability or impossibility of proving their ownership, due to security or logistical reasons or the lack of necessary supporting documents. This reinforces the hypothesis that the regime's goal in proposing or planning reconstruction projects in these areas is nothing but a cover for the processes of dispossession, collective punishment, and a framework to facilitate a change of demographics in strategic areas for the benefit of the regime and its allies. In short, preventing the return of displaced persons and refugees to their home areas.

The appeals mechanisms included in the announcement of organizational plans are nothing but a flimsy framework for conferring legitimacy on these projects, as most real estate owners cannot file appeals. Most of the residents are displaced; in some cases, entire families have migrated and there are no relatives left in the area to be legally appointed to follow up on these issues.

The biggest challenge facing the people of these areas, whether they are inside or outside regime-controlled areas, is to prove ownership. There are no ownership documents available equating to a title deed registered with the real estate registry, especially in informal settlements, and the property owners are absent. This facilitates manipulation and falsification of court verdict documents in favor of pro-regime influential figures, with the support of its security and military services, to control and invest in the real estate. Here it must be noted that the issue will become more complicated over time when the heirs of these properties try to prove their ownership.

Additionally, there is a marked lack of transparency surrounding the announcement of organizational plans, their details, and legal aspects, especially with regard to compensation and shares in the areas subject to these plans. The value of the shares is not clear, and real estate owners are not given guarantees that they will return to live in the same neighborhood or be allowed to buy the same property. There is also uncertainty and ambiguity regarding the implementation timeline of the plans.

We can clearly see the regime's disorganization and inability to follow up and complete these projects. The focus has been only on issuing plans, demolishing real estate, and consolidating unfair regulatory laws without any future vision beyond excluding the original neighborhood residents and robbing them of their properties while providing generous gains for those close to the regime and its allies.





## Conclusions and Recommendations

- There are two distinct flaws in the legislative environment that is supposed to frame the processes of reconstruction and organization of urban areas in Syria:
  - Multiple and overlapping real estate laws. The legal effects of each of these laws overlap and create spaces of ambiguity that are difficult even for specialists to deal with. In this paper, we reviewed four laws related to real estate regulation and development, each of which includes a different course of procedures and involved parties, in terms of planning, implementation, nature of rights, methods of compensation and others. Each of these four laws has many problematic clauses and prejudice to property rights, but their combined existence represents the biggest problem, as it gives the regime's institutions the freedom to implement measures that best serve its interests in each region. State institutions would grant alternative housing to some regions while depriving others, and grant housing rights to some areas and not others.
  - A general disregard in real estate laws for the decades-long problematic reality of real estate in Syria and the significant changes that occurred during the years of the conflict regarding urban structures and the populations in most Syrian cities. New laws are legislated and adopted as if the country is stable; they require residents of destroyed areas—the majority of whom live outside Syria or in Syrian areas outside the regime's control—to appear before the regime's institutions and conduct ownership verification procedures. This blatant disregard of very solid facts and the application of legislation enacted for the pre-conflict reality are nothing but a cover for property abuse, and it is not difficult to interpret this as an approved policy. In the long run, there must be radical reform in the environment of Syrian real estate legislation, to ensure the regulation of what is now legal chaos and the adoption of more consistent and fair laws. Although lasting reform is a laborious process that will require special political arrangements, and years of experts' and specialists' work to accomplish it, the process should start now. In the short term—and at a time when the regime is issuing plans and launching new projects under these problematic laws at a breakneck pace, soon after which they falter—it is necessary to demand a halt of the implementation of these laws, and exert pressure at the international level to limit the regime's ability to expropriate the property of Syrian citizens. Laws more sensitive to property should alternatively be proposed.
- The apparent overlapping and ambiguous spaces in these laws are most entrenched at the executive and governmental institution levels involved in real estate affairs. The roles of local institutions overlap with central institutions; there are conflicting statements by government officials about the areas approved for development. All of which reflects a state of confusion among the institutions themselves. Widespread corruption in these institutions and the interference and patronage of the security services constitute additional factors demonstrating these institutions as fronts and executive arms that serve the agendas of the authoritarian regime above all else. Administrative reform here will be related to legislative reform and require political foundations, but for the foreseeable future it may be useful to have a specialized, impartial, and official mechanism or body whose mission is to search for

ways to establish the ownership of properties by population outside and inside the country and to deal with problematic cases of ownership.

- Regarding the implementation frameworks closer to the field of work and rights-holders—such as committees concerned with assessing damages and establishing rights, or field work teams in the areas of real estate reorganization and development—there appears to be a large degree of improvisation and inconsistency in the application of legal texts. For example, the remaining residents of the Al-Haidariya neighborhood in Aleppo were evicted without provision for alternative housing, in violation of Law No. 15 of 2008, specifically adopted in this case. The same applies to Al-Qaboun. While demolitions continue and new studies and plans are issued, and at the same time residents are prevented from returning, contradictory statements are issued about the nature of the legal text by which the neighborhood is being reorganized. Whereas the fate of hundreds of regime-reclaimed neighborhoods and areas are more ambiguous than the two neighborhoods in this study, all these measures suggest that the priority is for military and security forces to maintain control. They decide where to demolish and where or when residents can return. Without intervention, the next step will be to legalize all these practices with institutional legislation.
- In this complex scene, there is a clear absence of the judiciary's role in resolving property disputes. This is expected in light of the lack of independence and the corruption afflicting the Syrian judiciary. Consequently, the Syrian people do not have confidence in their judiciary. However, a more impartial and independent judiciary could play a pivotal role in dealing with problems of ownership proof in its many forms in Syria, especially since it was the judiciary who previously played a fundamental role in the improvisation of quasi-legal forms of property rights in informal settlements for decades before the outbreak of the Syrian conflict. The judiciary has the capability to resolve real estate issues, but not before undergoing a wide reform process.
- Looking at any of the aforementioned legislative, administrative, and executive problems leads us to the single great complex problem: the form of government in the country. If this central issue is not addressed, it becomes useless to deal with any of the other problems. There will be no just and responsive legislation without an independent legislative authority. There will be no development of the urban infrastructure without independent local authorities. State institutions will not be rid of corruption and inefficiency unless they clear their own halls of domination and interference by the security services and their patronage. Correcting the existing system of real estate development requires creative legislative, developmental, and engineering efforts in the aftermath of a war that followed decades of real estate chaos; but none of these efforts will be fruitful unless the politicization of the real estate issue and its use as a weapon in the conflict comes to an end.

**The Day After Organization would like to thank the experts who contributed to this research:**

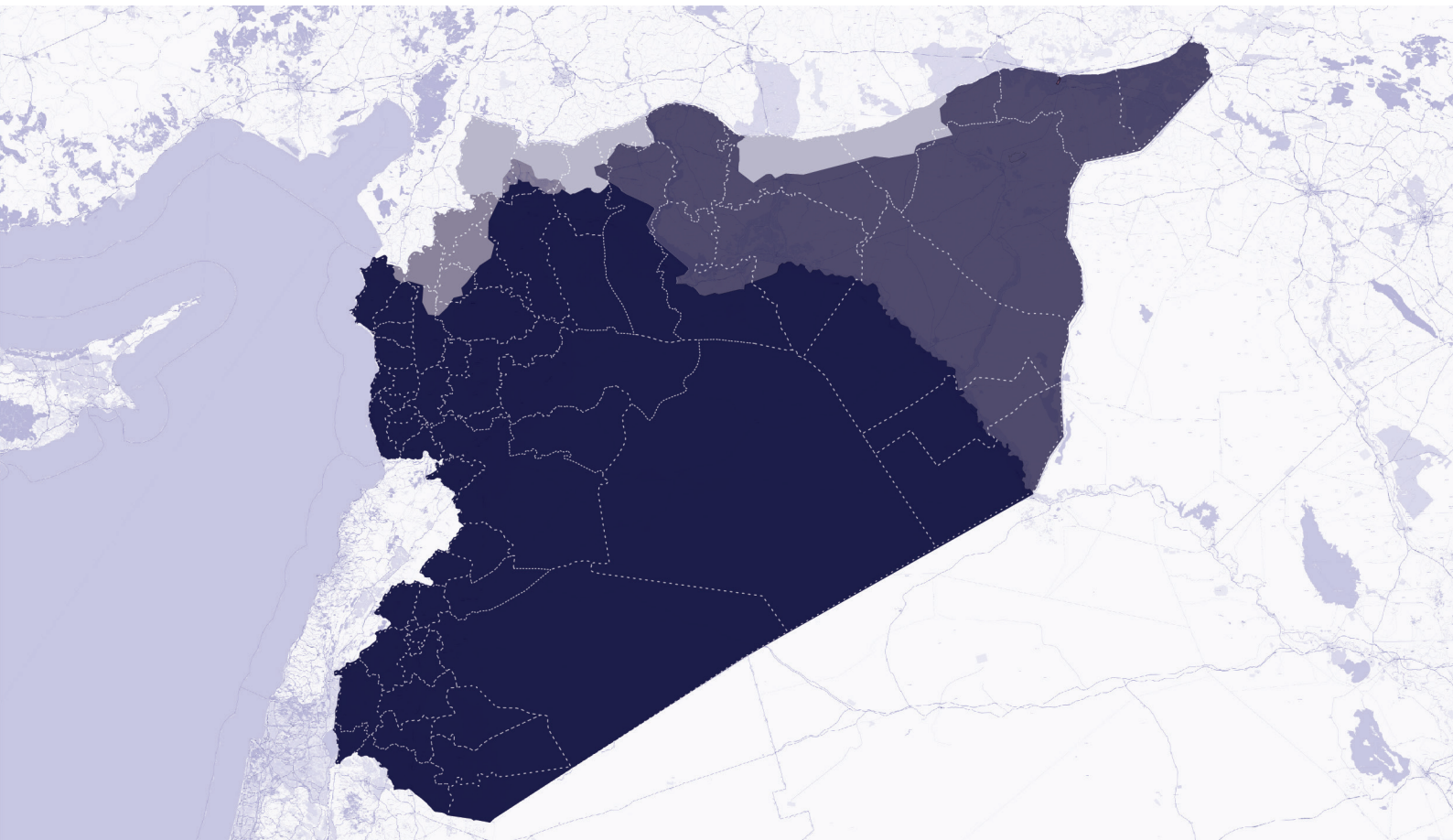
**Sulaiman Al-Qrafan** ..... Lawyer and member of the Constitutional Committee

**Firas al-Masri** ..... Former member in Aleppo Local Council - Civilians for Justice and Peace

**Mazhar Sharbaji** ..... Former Mayor of Darayya Municipality



# Property-Related Measures in Areas Outside the Regime's Control



## Executive Summary:

Although most de facto authorities in areas outside the regime's control have adopted organizational structures to legalize the status of properties similar to those that were officially approved in Syria, the issue of property rights faces a number of risks and complications. An essential part of these complications arises from the reality of the war and the continuous change in local actors, in addition to the desire of many forces to seize the property of absent Syrians who live in other parts of the country or outside the country as refugees fleeing the war.

Despite efforts at the level of local communities, and initiatives by former workers in land registry documentation departments in those areas, active forces in each area control the work of the relevant bodies. From a legal point of view, the process of documenting and preserving the property rights of Syrians is under the supervision of those military forces and authorities, and is conducted in a way that serves their interests. It is worth noting that during the years of the war, none of those forces hesitated to deprive Syrians with different political orientations of their rights, or to prevent them from utilizing these rights according to legal principles.

Perhaps there have not yet been cases on a large scale involving official change to existing organization plans, which would have affected property rights of individuals or public property in many ways. All the regions studied have witnessed appropriations by de facto authorities on civilian-owned property under different pretexts.

While some of these parties tried to offer alternatives or compensation, the complete appropriation and expulsion from the area remained an option for other actors.

The damage to residential buildings and private properties, and destruction by continuous and systematic bombing operations, is still the largest violation of property rights in Syria. This devastation imposes conditions whose problems cannot be solved except by compensating those affected by providing significant and qualitative assistance. On the other hand, military operations and bombing of public infrastructure and properties also leave individual properties uninhabitable, in light of the absence of services and facilities, which in turn affects property rights.

In view of these violations, IDPs and refugees can be considered the most vulnerable groups in terms of property rights. This is especially the case for those whom de facto authorities in areas outside regime control consider non-supporters of their ideological orientations, or with whom they have political, religious, or ethnic disagreements.

Appropriation of private property is considered one of the most common violations of property rights in northern Syria. This form of abuse is usually the appropriation of property with the aim of investing or benefiting from it, without changing its existing legal ownership, or the ability to legalize this appropriation (although recently there have been attempts to legalize appropriation, such as the Autonomous Administration's attempt to issue



the “Protection and Management of Absentee Property Law.” The law was subsequently suspended, indicating that de facto authorities in the Autonomous Administration and other regions may adopt this approach of issuing legal texts to legalize this process later). Based on these results, we recommend that the Syrian Constitutional Committee, which is currently in Geneva, emphasize the illegality of any of measures that are being or will be taken by illegal authorities within their areas of control, which aim at changing the status of property in the country.

We also stress the need to consider the issue of property rights, on a national scale, as a basic determinant of the future. This is an important issue on several levels, from the urgency of refugee and IDP return, to ensuring political and economic stability, and achieving civil peace in the future.

We also recommend that countries supporting de facto authorities protect property and prohibit changes to the physical descriptions of property. They should ensure Syrians have access to their rights and the ability to utilize them, wherever they are, regardless of their political position.

## Introduction

While people in regime-held areas face many dangers from new laws being issued posing a direct threat to property rights,<sup>1</sup> people in areas outside of regime control face another kind of danger, which is the absence of any established and clear legal reference, thereby presenting opportunity for a wide range of violations and arbitrary measures.

This research paper explores and describes organizational measures by all de facto authorities in the north of the country, within the Jazira region and in both the northern Aleppo and Idlib regions, by tracking procedures and work of property rights regulatory institutions in Syria: are the real estate directorates, land registry offices, or local councils.

In order for the research to be comprehensive, we found it necessary to investigate how keen de facto authorities are to preserve these records, and how they are managed in accordance with applicable Syrian laws.

This study divides the regions according to main actors (political authority) in each.

Accordingly, property rights measures in all regions controlled by the Autonomous Administration in northern and eastern Syria<sup>2</sup> were analyzed as one region. The AA is associated with the Syrian Democratic Forces (SDF)<sup>3</sup> who are backed by the US-led International Coalition.

These measures were analyzed on the same basis in areas under control of the National Army, supported by Turkey: treating the Syrian Jazira region between Tell Abiad and Ras al-Ayn, the northern countryside of Aleppo, and Afrin, as one region under the control of one party, despite organizational differences between them.

Finally, areas under the control of Hayat Tahrir al-Sham (HTS - formerly Jabhat al-Nusra)<sup>4</sup> and its associated Salvation Government in Idlib Governorate and the western countryside of

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1) For more information, see El Helou, Ali and Majanni, "Property Issue and Its Implications for Ownership Rights in Syria: Law No. 10 of 2018," The Day After, June 2019 <https://tda-sy.org/wp-content/uploads/2020/04/Property-Issue-and-its-Implications.pdf>

2) The Syrian Democratic Forces, supported by the International Coalition, whose People's Protection Unit constitutes its backbone, control the vast majority of Al-Hasakah Governorate, except for security areas under the Syrian regime in Al-Hasakah and Al-Qamishli cities. These forces also control the vast majority of Al-Raqqa, Deir Ezzor Countryside, and the East Euphrates. The Autonomous Administration, a civil entity linked to SDF, runs those areas in northern and eastern Syria.

3) The Syrian Democratic Forces (SDF) were established with the support of the US-led International Coalition through the merging of military factions, the most important of whom is the People's Protection Unit linked to the Democratic Union Party (the Syrian branch of the Kurdistan Workers' Party). SDF has controlled the vast majority of the Syrian Jazira, extending east of the Euphrates River in the northeast of the country, since the elimination of ISIS in the region in 2019. For more information, see the BBC report on June 8, 2019, <https://bbc.in/3lpengD>

4) Hayat Tahrir al-Sham (HTS) is an alliance that mainly includes Jabhat Fatah al-Sham, or what was previously known as Jabhat al-Nusra, which is a military faction that controls most of the northwestern areas outside the control of the regime. The terrorist-designated organization has announced its association with al-Qaeda. Later, HTS disassociated itself from al-Qaeda. HTS controls all areas outside the control of the regime in Idlib after battles with opposition factions and their dismantling of a number of those factions. For more information, see a report by Enab Baladi about HTS on August 13, 2020, <https://bit.ly/30JNVot>



Aleppo have been considered one region as well; while keeping in mind existing differences within the same region of control, for each of the researched regions . The factors that led to these differences are discussed in the paper.

The targeted period for investigation and observation is from the date the current authority took control over the region, to the date of preparing this research in December 2020.

## Methodology:

The researcher conducted 20 online interviews in November (all the interviews were conducted online because of the lockdown and travel ban due to COVID-19, as well as the fact that many of those interviewed were inside Syrian territories and unable to leave). The identities of interviewees are not disclosed for their protection, but there are references to their locations and work when their statements are discussed.

Some of these interviews were conducted during an extended seminar held by The Day After, in order to obtain common information and constructive opinions around property rights issues in regions outside the regime's control (i.e. beyond the range of application of the regime's legal regulations), which suffer from the absence of legal protection that guarantees individuals' rights.

The rest are one-on-one interviews with local and human rights actors, media activists, and relief and civil workers, both inside and outside Syria. These interviews were conducted in order to have a clear picture of the situation in those regions, regarding the organization of property rights documentation processes.

The fear of local activists and actors inside Syrian territories of the brutality of de facto authorities was the main challenge facing the researcher during the interviews. Additionally, the researcher was unable to access Syrian territory. Furthermore, conditions resulting from COVID-19 limited the ability to travel and meet directly with actors outside the country.





## 1 - Chapter I: Legal Backgrounds of Property-Related Measures

This chapter examines references, whether publicly declared or not, of regulatory measures and processes related to property and real estate rights in the regions under study. It also discusses how different references reflect on regulatory procedures and frameworks, the nature of these frameworks, and changes that the current situation imposes on the situation of property rights.

Three main questions were posed relating to the process of organizing property rights procedures. Those procedures were then investigated and compared in the areas of influence under study, which we have divided based on the following:

1. Actor directly controlling the region.
2. Pattern of legal measures and references.
3. Impact of the above on the daily life of residents and property rights in those regions.

In order to define controlling actors, or de facto authorities, we relied on the most common definition in international law. Accordingly, a de facto authority or de facto government is an entity that exercises “at least some effective powers over a region within the state” and that power is associated with a certain degree of political and organizational capacity. Moreover, such an entity intends to represent the region it governs or the entire country it controls or parts of it.<sup>5</sup>

As previously mentioned, this chapter treats procedures in the Autonomous Administration region as a single case, taking into account the differences and disparities within it. Areas under control of the National Army, between Ras al-Ayn and Tel Abiad in the north and in the northern countryside of Aleppo and Afrin, are also treated as one case (although they are not connected geographically, they fall within the sphere of influence of one party, and they have similar dynamics regarding property rights procedures).

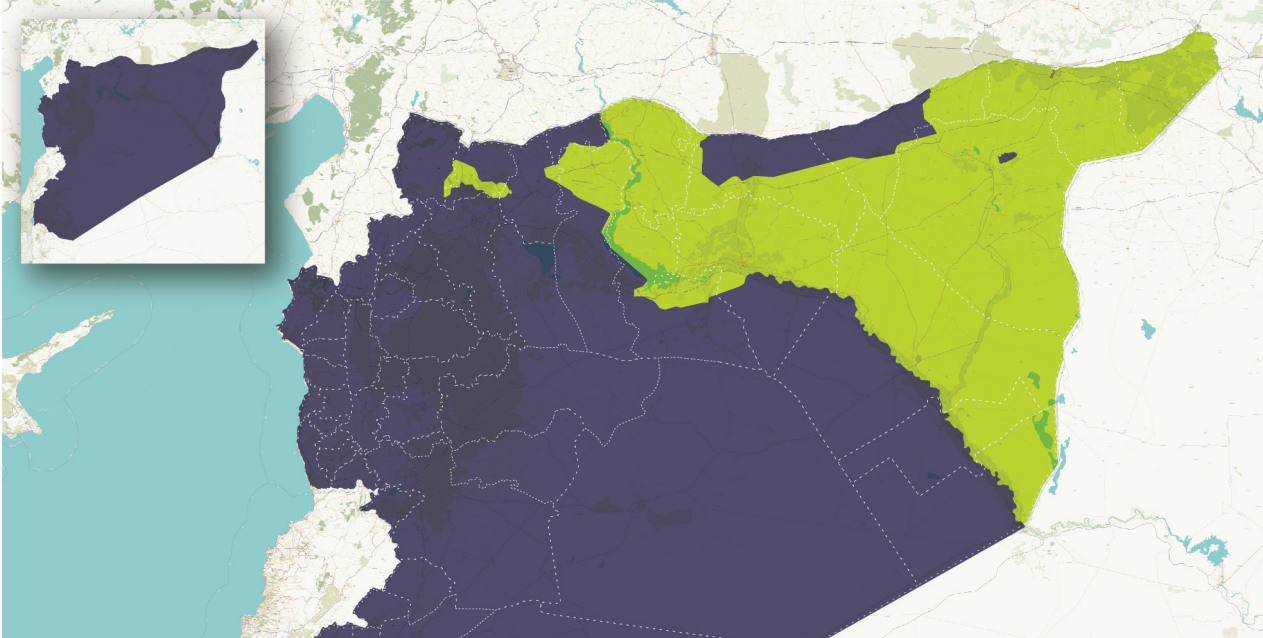
On the same basis, Idlib and the western countryside of Aleppo are taken as one region, as they are under the control of a single main actor, the HTS and its associated Salvation Government.

This chapter also includes a description of field incidents during the time of the interviews, with references to political and military backgrounds of each field situation.

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5) M. Schoiswohl, “De facto Regimes and Human Rights Obligations,” 2001, the Austrian Review of International and European Law, p.50.

## 1.1- Areas under the Autonomous Administration



The Autonomous Administration of northern and eastern Syria controls most of the area of the Syrian Jazira and al-Hasakah Governorate (except for regime-controlled security areas in al-Hasakah, al-Qamishli, and al-Qamishli Airport). It also controls most of the area of al-Raqqa Governorate and the eastern countryside of Deir ez-Zor Governorate, whose cities (Deir ez-Zor, Mayadin, and al-Bukamal) remain under the control of Syrian regime forces. This control is intersected with military presence in the area controlled by the National Army, which, during military operations in the fall of 2019, took control of the area between the cities of Ras al-Ain in the northwestern al-Hasakah Governorate, and Tel Abiad in the north of al-Raqqa Governorate.

The Autonomous Administration, whose influence is linked to the military control of its armed wing, the Syrian Democratic Forces (SDF), has in particular a theoretically clear division of administrative regions, and a clear structure for the three authorities: legislative, executive and judicial. Despite this, the power and influence available to the military wing, and elements directly related to the PKK, greatly affect legal procedures and executive decisions of the Administration, making it impossible to control the procedures it takes within a single legal framework.

Given that the General Council of the Autonomous Administration (the formal name for the legislative authority) did not approve alternatives to all the laws in force in pre-war Syria, this legislative confusion leads to an overlapping and sometimes conflict between laws.

In an interview, a lawyer working in the Autonomous Administration areas confirmed to us that “the Autonomous Administration courts, called the Diwan of Justice (previously called the People’s Courts), issue verdicts without always referring to laws, even those issued by the



Administration. Therefore, factors such as influential litigants and their connections with the Autonomous Administration authorities mostly influence the outcome of litigation.”

The Autonomous Administration of northern and eastern Syria, with its newest government emanating from the Syria Democratic Conference in the fall of 2018,<sup>6</sup> established executive offices corresponding to the ministries, including the Justice Office whose work corresponds to the Ministry of Justice. The real estate registries were attached to this office. There is also an office for real estate documentation in each of the districts (based on administrative divisions officially adopted by the Autonomous Administration).

### **I - Form of Organization:**

The Autonomous Administration was able to take control of paper assets in the real estate registry departments in the vast majority of their areas of control, which allowed them to operate these departments under a new name, “Land Registry Office”, and build on the archive in its possession.

Those offices were attached to the District Justice Office. There are two departments under these offices.

These two departments are the Department of the Interior, which undertakes the general administrative supervision of the work of the Land Registry Office, and the Department of Finance and Review, which regulates the finance of the Registry Office and receives fees from residents’ applications, such as real estate registration information.

In addition to this, there is a special section for surveying, with engineers and assistant engineers. Their task is to register and confirm the maps of real estate properties in the office’s area. Under this mechanism, the Land Registry Office maintains real estate records, maps and saves them, and shows them upon request.

We noticed that Autonomous Administration authorities have maintained almost the same administrative division of the Land Registry Office in its areas, which is the same division that has been followed in Syria since the decision to establish the Land Registry in 1926. A large number of former employees remained in their jobs within the land registry offices under the new conditions.

In an interview for the purposes of this research, an employee of the Land Registry Office said that the Administration authorities sought to keep the employees, who are familiar with and knowledgeable in details of the work, necessary for the continuation of the registry. They made changes in sensitive administrative positions in favor of persons appointed by the Administration, who work within its ranks or are close to it. The staff in those departments work in the same way they used to without any notable change.

By keeping the same mechanisms and personnel, the Autonomous Administration government seeks to ensure the official credibility of the documents it issues, even though

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6) “Is There a Difference Between the New and Old Autonomous Administration?” Al-Modon, October 4, 2018, accessed December 1, 2020 <https://bit.ly/3lhUHLs>

these documents are not recognized in any other region in Syria.

The courts in the Autonomous Administration regions recognize documents issued only by the Land Registry Office in each district. The relevant office communicates with the court officially when needed.

Additionally, we found that the regulation of property in the Autonomous Administration areas is not subject only to the authority of the Land Registry Office. For example, the Agriculture and Irrigation Committee in each district controls state-owned agricultural lands within its area, and regulates their investment, which often causes different damages to former property rights-holders.

Similarly, the Public Properties Committee controls –and regulates–the investment of other public properties, such as government buildings, infrastructure, and associated lands. These committees are subordinate to the direct executive authority, whether city or provincial councils, or executive council in the Autonomous Administration. These have almost absolute power to benefit from and invest in these properties.

One of the interviewees, who is a resident of al-Raqqa city and deals with Administration laws, said that the committees of the Civil Council are the only ones authorized to decide on public properties, large areas in Al-Raqqa city and the governorate in general.

On the other hand, this interviewee asserts that, up to now, no changes have occurred in the status of these properties, and only a small portion has been invested. This arbitrary investment has, consequently, caused significant harm to the people who were beneficiaries of these properties, as these properties had been rented out to them in permanent contracts because they work in governmental institutions in al-Raqqa, such as the Land Reclamation Corporation.

## II - The Legal Framework:

In the Autonomous Administration areas, the Land Registry Office operates according to decision No. 188 issued in 1926 to establish the land registry in Syria,<sup>7</sup> and its applicable amendments. Nevertheless, this reference has many exceptions, and most of these exceptions are based on the influence of informal power centers intertwined with the Administration structures, and there were no amendments or new laws applied on the ground regarding the process of organizing records.

When it was operating under the name of the Democratic Autonomous Administration, the Autonomous Administration attempted in 2015 to issue a Protection and Management of Absentee Property Law dealing with real estate property of the displaced. However, it reversed its decision due to the controversy that arose around it. Under the name of the Autonomous Administration of North and East Syria, it attempted to issue a law under the same name in 2020, which it also suspended as a result of widespread rejection and controversy surrounding its issuance.

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7) For more information, see “Property Terms: What is the Property Registry”, June 6, 2020, accessed December 1, 2020 <https://enabbaladi.net/archives/390928>



The suspended law considers that the absentee is a Syrian, who lives outside the Autonomous Administration's area and does not have first- or second-degree relatives residing in the area. This definition places the property of all refugees who do not have first- or second-degree relatives in the region at the disposal of a special committee under the Autonomous Administration, and thus threatens their right to utilize these properties as long as they are absent.

In this context, a number of laws contribute indirectly to preventing the residents from returning, such as the Law on the Duty of Self-Defense.<sup>8</sup> The Autonomous Administration of North and East Syria issued an updated version of the law in 2019 (temporarily suspended since April 2020 as part of measures to prevent the spread of COVID-19).

Practically, this law prohibits many young men and their families from returning or visiting their towns and neighborhoods, and from utilizing their properties there. This is especially the case as Autonomous Administration courts only recognize documents they have issued. For example, refugees from this region cannot issue power of attorney for their property from abroad through Syrian embassies or consulates, since the courts do not recognize documents issued by institutions of the Syrian regime.

The Autonomous Administration courts (or Diwans of Justice) adopt, in their legal reference, a mixture of laws issued by the General Council of Administration and some Syrian laws such as the Code of Procedure, which the Administration adopted under another name.

Here, it should be noted that some Autonomous Administration laws differ radically from the laws in Syria, including the Personal Status Laws. This is reflected in very important issues such as the distribution of inheritance. The Administration's regulation of personal status is not always applied. The Diwans of Justice may issue rulings that contradict the text of the Autonomous Administration laws themselves, taking into account some social and religious sensitivities.

Under this ambiguity in the application of laws and the different and conflicting sources of law, it is very difficult to control the legal framework in the region.

These conditions push the people to resort to regime institutions, which are still operating in several geographical pockets that permeate the Autonomous Administration's jurisdiction, specifically in the security area in al-Qamishli and al-Sabkhah area in al-Raqqa Governorate. The people seek to obtain ownership documents from the government of the Syrian regime. At the same time, the rulings of regime courts are difficult to implement, especially those issued after the establishment of the Autonomous Administration, resulting in many residents having to obtain rulings or documents twice, from both sides (the regime government and the Autonomous Administration).

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8) For more information, see "Activists Criticize the autonomous Administration's Law: Military Orders", August 9, 2020, accessed on December 1, 2020, <https://bit.ly/2OolvNf>

### III - Measures:

The Autonomous Administration government almost completely controls and supervises public property, with the exception of buildings and lands used as military bases for SDF, most likely to be military areas that the regime army used in the past, before they came under the SDF control.

While conducting the research, several cases were documented of Autonomous Administration's appropriation of private property, either directly or through allies from the PKK<sup>9</sup> (a citizen from the region confirmed to us that members of the party had seized his house during his absence outside the country, by virtue of the de facto force). However, many cases of direct appropriation of private property have not yet been documented. On the other hand, public properties in the Syrian Jazira, including major institutions, such as the Euphrates Dam and other dams and associated lands and properties, and relatively large agricultural and estate properties belonging to government institutions in the area, were almost all seized. This was facilitated by the fact that the Islamic State (ISIS) had previously displaced the residents of residential properties owned by government institutions, enabling it to take hold of these buildings as unoccupied real estate.

In the face of this chaos in organizing property and housing, there are from time to time relatively small initiatives by institutions affiliated with the Administration to implement housing projects and previously developed organizational plans. For example, the Civil Council of al-Raqqa is implementing an organizational plan that includes areas adjacent to the city,<sup>10</sup> which was put in place in the 1980s but not implemented until the time of this research.

Executive bodies of the Autonomous Administration have full powers in utilizing public institutions and properties and spaces considered public property, limiting the powers of the courts in this context. About this problem, an employee<sup>11</sup> of Autonomous Administration courts said his court had not considered any case relating to public property since its establishment, and that "even if such cases were brought before us, we will only be able to issue rulings that fit the executive authority's orientation". This situation is not a result of the lack of known laws, but more of pressures on the ground.

In the past, Al-Shaab Municipality (Municipality of the People) in al-Raqqa, which falls under the Civil Council, launched an expansion plan for neighborhoods in the northern city of Raqqa in June 2020, and opened the door for objections to the plan.

Despite the fact that the procedures followed in this plan are similar in their general legal framework to those followed in regime-controlled areas, the displacement of a large

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9) "Al-Raqqa: The Democratic North Brigade Seizes More Than 80 Houses Arbitrarily", December 9, 2020, <https://bit.ly/3tkDFiH>

10) "An Expansion Organization Plan in Al-Raqqa City: These Are the Details", July 4, 2020, accessed on December 1, 2020 <https://www.enabbaladi.net/archives/398251>

11) Interview with an administrative employee in one of the Autonomous Administration's courts in November 2020.



portion of Raqqa's population beyond the range of Autonomous Administration rule means in practice their inability to make any objections to the plan or examine its impact on their property rights.

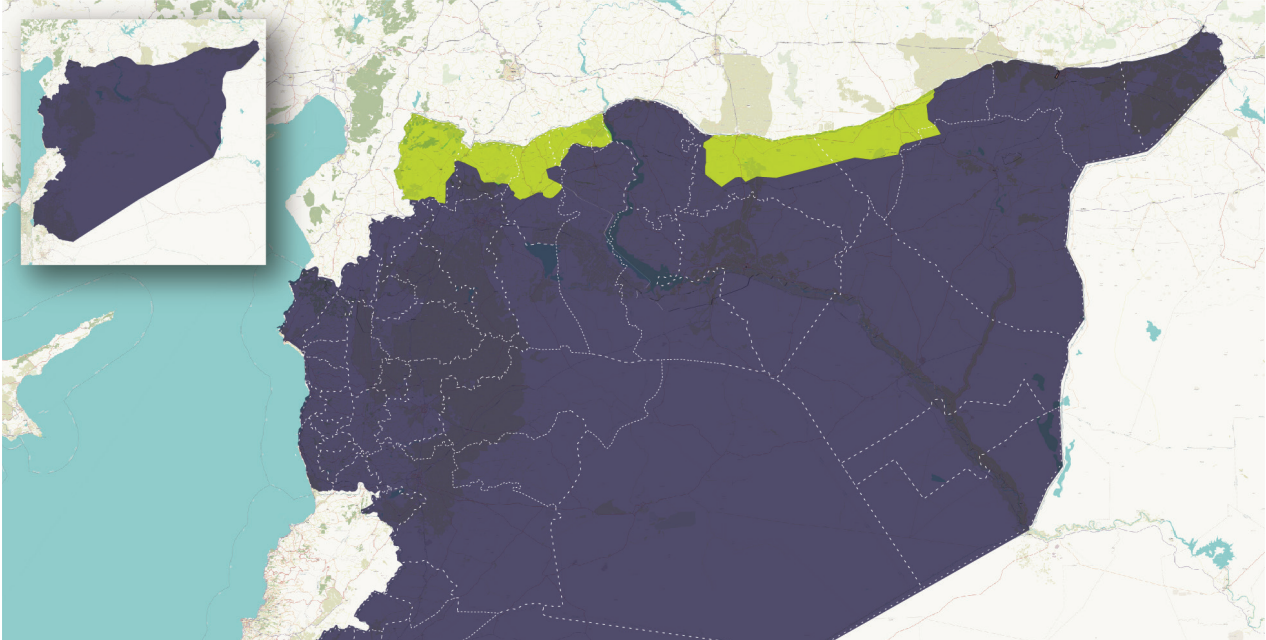
In practical terms, this situation also results in high likelihood of violations of property rights as part of the plan implementation. As mentioned above, the implementation of the plan has not yet actually begun.

Accordingly, urbanization remains as yet limited to two main scopes. The first is to rebuild buildings destroyed during battles in the region. This has not witnessed any large-scale change so far. This also applies to the cities that witnessed the most damage as a result of the battles, such as al-Raqqa city.

The second is off-plan construction. Despite the lack of accurate statistics on construction operations, interviews conducted with citizens and actors in the region confirm the existence of such activities, which are often carried out on state-owned land in the vicinity of major cities, such as al-Hasakah and al-Qamishli.

These unplanned construction works are mainly regulated by the increase in population numbers due to internal displacement to these areas, which are relatively quiet compared to other areas. This prompted the need for the emergence of a construction activity, necessitated by the increasing numbers of IDPs.

## 1.2- Areas of Control of the National Army:



The National Army forces control several regions in the north of the country. Currently, the control of these forces extends over the area between Ras al-Ayn and Tel Abiad in the Syrian Jazira, following military Operation Peace Spring launched by the Turkish army and carried out during fall of 2019. The Afrin region northwest of Aleppo is also controlled by these forces, following Turkey's Operation Olive Branch in 2018. The National Army forces also control areas in the northern countryside of Aleppo between Jarabulus and Azaz, following Operation Euphrates Shield against ISIS in 2018.

### I - Form of Organization:

The organization of the institutions that oversee the documentation of property rights differs in areas under the control of the National Army. While there is a land department in the city of Azaz in the northern countryside of Aleppo, and similar ones in the cities and towns of the northern countryside, the local councils in Afrin handle the work related to property rights. The lack of records in Afrin leads to many legal problems. The region's records are located in departments of the city of Aleppo, which is under the control of regime forces. The area between Tel Abiad and Ras al-Ayn is in a similar situation.

The Land Registry Department in Azaz kept its work according to Resolution 188 of 1926, which formally established Land Registry in Syria, and documents issued by the Land Registry Department are approved by the region's courts, which rely on Syrian laws in their rulings. The Land Registry Department is under the local city council.

With the Land Registry Department in Azaz maintaining the divisions previously approved in Syria and keeping a large number of its employees, its work is very similar to its work before 2011. Additionally, the Azaz Land Registry Department keeps real estate paper records and





cadastral maps of the area, which enables it to continue providing services to residents. These services are providing residents with documents proving real estate status and registering ownership change. The employees verify the changes to the same real estate sheet they have.

For its part, the government of the regime does not recognize any of the documents issued by the land registry departments in the northern countryside of Aleppo and the rest of the areas controlled by the National Army. There were cases of arrest of citizens who had presented documents issued by the Land Registry Department in Azaz in regime-controlled areas. Those citizens were trying to confirm their records in regime-controlled areas, according to information provided to us by a lawyer in the city of Azaz.

Regarding the status of the land registry in Afrin, the region has not had, as we mentioned, a land registry department since the start of military actions and control of National Army forces of the area. The local council does not have any old documents relating to the land registry, while the courts, actually subordinate to the dominant military force, do not establish property transfer in the area.

In turn, the courts established in Afrin do not recognize ownership documents issued by regime-held areas after 2011.<sup>12</sup>

This reality, with all its complexities, results in a situation in which no processes to prove ownership are carried out. This also allows seizure of properties while owners, inside or outside Afrin, are unable to claim their rights to their properties.

Likewise, there are no clear organizing processes to document property rights in the area between Tel Abiad and Ras al-Ain, which are controlled by the National Army following Operation Peace Spring.

The courts set up by the current authorities issue rulings in cases of transfer and confirmation of ownership, at a time when there is no land registry for that area. As is the case in most of the conflicting areas of influence in Syria, courts under the control and influence of the National Army do not recognize any documents issued by regime or Autonomous Administration governments at all.

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12) Interview with an activist from Afrin City conducted online by the researcher in November 2020.

**Table showing differences in forms of organization between areas controlled by National Army factions.**

Region	Land Registry Department	Legal Background	General procedures followed to prove ownership	The ability to implement court rulings
Northern Aleppo countryside (from Azaz to al-Bab)	Available under the local council	Resolution 188 of 1926 Syrian	Documents issued by the Land Registry Department, considered in courts	Good
Afrin	Unavailable	Unavailable	Rulings by courts in the region	Very weak
Operation Peace Spring (from Tel Abiad to Ras al-Ain)	Unavailable	Unavailable	Rulings by courts in the region	Very weak

## II - The Legal Framework:

In areas under the control of the National Army, courts generally follow Syrian laws, including the Criminal Procedures Law, while de facto authorities have not issued new laws.

Residents of these areas suffer from the lack of application of any laws. These courts, formed by local authorities, are under the control of military factions, which in turn affects their work. For example, courts formed by local authorities cannot summon any member of the military factions. This is also reflected in the absence of legal or regulatory controls that can help in preserving and documenting property rights. Court rulings may legislate some types of violations, such as building violations that are subject to very small fines not exceeding 300 Turkish liras, and legalizes the violation after paying the fine.<sup>13</sup>

On the other hand, in the northern countryside of Aleppo, property rights are addressed slightly differently from Afrin and eastern Euphrates. In northern Aleppo, the jurisprudence of the courts replaces the role that new regulatory laws would have played and Syrian laws remain in effect.

As most areas of the northern countryside came under the control of local factions, who naturally belong to these cities and towns, this allowed for stabilization of the situation. In Azaz and Marea, for example, the local council was able to a considerable extent to impose application of Syrian law, faring better than other regions in terms of regulation and control of property rights.

Moreover, the courts accept that citizens residing outside their cities and towns in northern Aleppo countryside and owning property there, obtain power of attorney issued by a notary in regime-held areas. However, this requires the person concerned to obtain security approval from the faction's military police,<sup>14</sup> and in many cases, this prevents the legal utilization of property rights.

13) Interview with a Syrian activist interested in property right issues conducted in November 2020.

14) Interview with a lawyer from Azaz City conducted online in November 2020.



### III - Measures:

Local councils oversee most of the public properties in the region, but a significant number of these councils cannot override the influence of dominant military factions. The latter have full authority over public spaces and properties through occupation or investment.

The influence of military factions in the region also extends to private property belonging to absentees. It could be argued that absentees and residents with opposing political views are the most vulnerable groups in this region in terms of property seizures and widespread violations of property rights.

In light of the inability of courts to implement rulings most of the time, the decisions of military factions regarding appropriation of public or private property are considered final under the status quo. The vast majority of these measures have not been withdrawn, giving them the status of a de facto law.

This situation, formed by the dominance of military authorities over property management, is especially the case in Afrin. We will discuss this in detail when tackling violations under Chapter II.

Procedures for appropriation of public and private property have so far been limited to occupation or investment. According to information we have obtained, no large-scale cases have ever been documented of changing the material conditions of these properties, with the exception of illegal logging campaigns in agricultural lands in Afrin which led to the loss of hundreds of hectares planted with olive trees.

As for expansion of the organization plan, the only town that witnessed an official announcement of such an expansion was al-Rai on the Turkish border. This town has the al-Rai border crossing, which was opened to facilitate the passage of people and relieve increasing pressure on the Bab al-Salama border crossing Azaz.

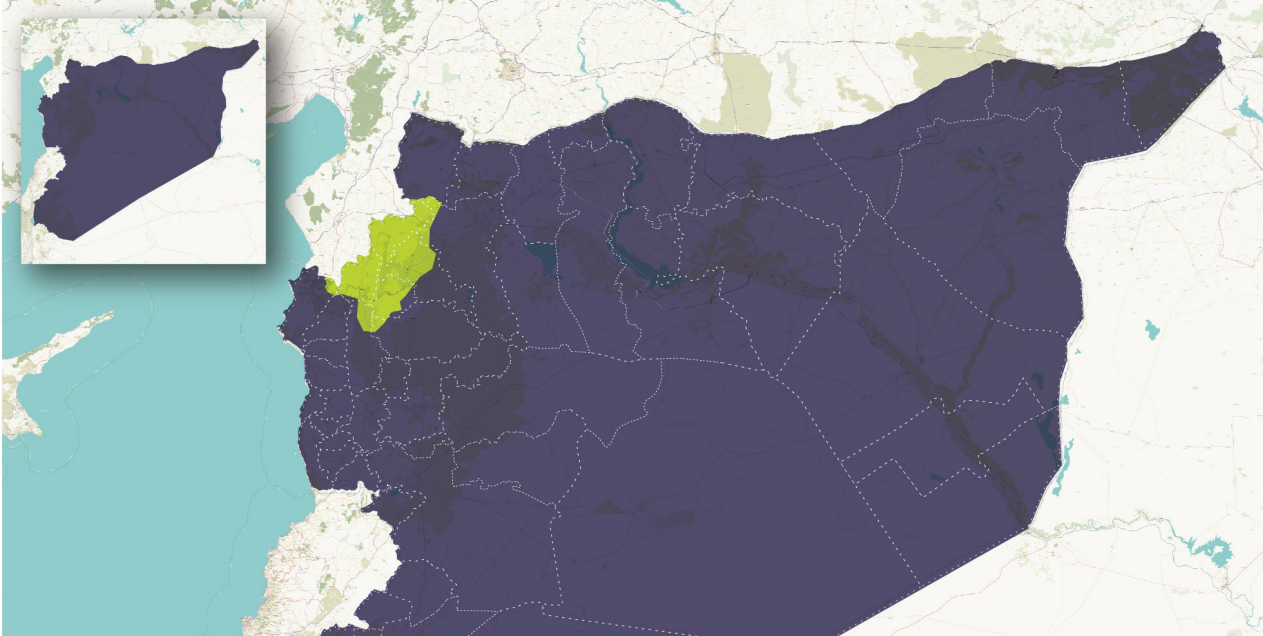
The local council of al-Rai issued a declaration stating that, in agreement with real estate owners, it had begun necessary construction to expand the town's organization plan, but did not announce details of the plan. Roads will be constructed and infrastructure rehabilitated as part of the expansion works, to enhance the possibility of constructing new buildings.<sup>15</sup>

This announcement can be considered the first of its kind in areas controlled by Syrian opposition factions.

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15) A statement by the Council of Al-Rai' Town on the new organization plan, <https://bit.ly/38Jnbce>

### 1.3 - Idlib and the Western Countryside of Aleppo:



Today, more than three million people live in Idlib Governorate and the western countryside of Aleppo, according to United Nations statistics.

The displaced make up a large proportion of this population. Parts of the region have been under the control of opposition factions since 2012.

This was followed by an extension bringing the entire Idlib Governorate under control a coalition of opposition and Islamist factions in 2015. Regime forces returned and in 2019 took control over parts of south and east Idlib Governorate, including the strategic cities of Maarat al-Numan and Saraqib.

Following the Turkish-Russian de-escalation agreement, battles in the region stopped in mid-March 2020. Since then, the distribution of military domains of control have been established as they were at the time the agreement was signed.

Administratively, Idlib and surroundings and the western countryside of Aleppo gradually came under the authority of the Salvation Government, unofficially linked to HTS, after a series of battles for influence between opposition factions and HTS eventually resulting in HTS sole control.

The Salvation Government was formed in a general conference, furtively sponsored by HTS who also appointed its members. According to a human rights defender from Idlib Governorate, "any second-class security personnel from HTS can contact the head of the Salvation Government and give him instructions."

HTS has always deliberately subordinated the Salvation Government to the authority of non-leading individuals within its ranks. This is a clear indication, according to the person we interviewed, that there are power differences between the two parties. "The Salvation



Government can do nothing but implement HTS decisions,” he said. “I have information that a minister has been trying for a month to meet the economic portfolio official at HTS to discuss issues related to work, but he has not yet been able to do so”.

There are ministries and departments under the Salvation Government and all local councils in the region have been attached, whether peacefully or militarily, to the authority of the Salvation Government. The nature of the Salvation Government’s relationship with a number of these councils is largely a superficial one, as they come under the Salvation Government in official records only, but enjoy relative independence in their work on a case-by-case basis. This is the result of a political will imposed by military considerations, i.e., to avoid widespread clashes with the local population, especially communities insistent on the independence of their local decisions.

### **I - Form of Organization:**

After taking control of Idlib city, workers in the Land Registry Department of Idlib Governorate recovered their records, which had been hidden to protect them. Work then gradually resumed in the Land Registry Department, which has sub-departments in the main cities of the governorate.

It should be mentioned that the Land Registry Department continued to work in conjunction with the Interim Government, which is affiliated with the National Coalition of Opposition Forces, until the establishment of the Salvation Government was announced in October 2017.

This announcement was followed by large-scale military operations by HTS, which gradually took control of most of Idlib Governorate and the western countryside of Aleppo, after eliminating or weakening the influence of Islamist and other opposition factions present there. .

As a result, the Land Registry Department in Idlib Governorate has come under the Ministry of Local Administration in the Salvation Government.

In parallel with these measures, the Land Registry Department in Atarib in the western countryside of Aleppo was brought under the Ministry of Local Administration and the Land Registry Department in Idlib, after HTS extended its control to those areas.

The Land Registry Department follows the same form of previous organization, with the same distribution of offices and divisions, adopted in the laws and regulations in Syria before 2011.

As employees had preserved property records, documents issued by the Land Registry Department are considered official and approved by the Salvation Government and its courts. The Department includes sub-departments for the main cities and countryside of Idlib. Possession of real estate records for certain cities was transferred to the central department in Idlib, after the regime took control of cities where a registry is located, such as happened in the cities of Maarat al-Numan and Saraqib.

The Land Registry Department under the Salvation Government provides planning maps for municipalities under the control of Government, which then assigns the Ministry of Local Administration to oversee and regulate public properties and the work of local councils and towns.

The Department's employees receive their salaries from the Salvation Government. Previously these payments were collected from fees imposed on real estate transactions. Most of the employees remained in their jobs in the Department despite the change in control.

Therefore, the Salvation Government supervises all public property in the region through the Ministry of Local Administration or through other related ministries. For its part, HTS often exercises direct supervision, outside the frameworks of the Salvation Government, over sectioning of public property in the region by virtue of its de facto authority.

Among these transgressions on public properties is that on the border crossing, operated by a committee informally but directly linked to the director of the economic portfolio under HTS.

## II - The Legal Framework:

Although the Land Registry Department relies in its organizational framework and administrative structure on the contents of Resolution 188 establishing the Land Registry in 1926, the Salvation Government does not adopt Syrian laws as a whole, but rather cancels any laws that contradict the provisions of Islamic law.

Courts of the Ministry of Justice under the Salvation Government issue rulings in accordance with Islamic law, imposing fundamental changes in decisions regarding property rights, such as in inheritance processes; Syrian laws impose a limitation of inheritance for "Amiri lands" (a term that dates back to the Ottoman period, indicating lands that belong to the state but which individuals have the right to invest in and utilize, and transfer this right to their heirs). In regular cases, Syrian laws require distributing in equal shares the inheritance of Amiri lands, regardless of gender of the heirs, while distribution of inheritance in regular owned property is carried out in accordance with the provisions of Islamic Sharia.

In cases involving the inheritance of Amiri lands, the courts of the Salvation Government apply inheritance law of Islamic Sharia on Amiri lands as well.<sup>16</sup> This creates contradictions with Syrian law. There are several other examples of this type of conflict.

Although the Salvation Government officially declares Islamic law and jurisprudence as the only legal reference, it has issued no civil laws, whether legal or statutory references.

In this situation, where there is no clear legal reference, courts can issue contradictory rulings in many cases, keeping quiet pressures exercised by HTS as de facto authority on the work of the Salvation Government as a whole and the work of its courts in particular.

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16) Amiri lands are governed by an Ottoman law adopted in modern Syrian laws, which stipulates giving both the male and the female an equal share of the inheritance; while in the Islamic Sharia, the son inherits twice the inheritance of the daughter, for example.



This considerable influence leaves no room for to issue rulings inconsistent with the direct interests of HTS. This is a consequence of HTS full and absolute authority over public and private properties it seized when it took control of the region, whether properties of absentees or of people forcibly expelled.

An employee in the Land Registry Department stresses that Department staff always try not to register any changes unless the property owner is present. “We have refrained from registering property to foreigners, members of HTS or other factions, but when there is a court order, it becomes impossible to ignore it,” he said. He added that there are cases where court rulings lead to appropriation of private property.<sup>17</sup>

It is also worth mentioning that the Salvation Government and its courts require security approval for power of attorney issued outside its areas for the purpose of utilizing and transferring property ownership in Idlib.

A lawyer cannot use power of attorney before obtaining such approval. This means it is almost impossible for anyone whose political positions do not align with HTS strict criteria to benefit from power of attorney. As a result, a significant number of IDPs and refugees from Idlib are prevented from utilizing their property in the region.

### **III - Measures:**

Theoretically, the Salvation Government has absolute powers over the management, investment, and supervision of public properties in the Governorate, but HTS enjoys the actual control on the ground.

Thus, HTS has absolute power to decide on properties and their purposes, and to control all proceeds from the investment of public properties and all fees and taxes imposed by the Salvation Government. It is the only party that decides on how these proceeds can be employed.

In addition, HTS and other factions in the region, such as Ahrar al-Sham and the Turkestan Islamic Party, systematically seized private property in areas whose residents had been displaced. Examples of this are the towns of Kafarya and I-Fuah, and Ghassaniya Village in Jisr al-Shughur Countryside.

While material descriptions of the vast majority of these properties have not changed and ownership not transferred in real estate records, land registry staff confirmed to us that factions control these properties by force, investing by renting them and collecting monthly returns or by permitting families of fighters to inhabit them.

With no legal framework, these procedures have become systematic, which leads us to consider this encroachment on property rights a general characteristic of the current situation in HTS-controlled areas.

Although there have been no changes to regulatory plans or work, Idlib Governorate has

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17) Interview conducted with a land registry office staff member in November 2020.

witnessed a wide construction movement, especially near the borders with Turkey, in the vicinity of Atmeh camps. Many of the camps were transformed into residential building areas, after purchasing from or reaching an agreement with landowners.

Additionally, despite the almost complete absence of infrastructure in the area, a significant influx of IDPs and new residents has increased the demand for housing, providing an opportunity for construction work to emerge outside the organization plan.

Most of these constructions are concentrated in border areas near the camps or near towns like Bidama. If cities in the governorate center, like Idlib, have witnessed an urban movement, they still have not overtaken expansion in the border areas, which are safer from aerial bombardment.

## **2 - Chapter II: Violations of Property Rights in Areas Outside Regime Control and Patterns of Violation**

This chapter presents case studies of three cities in northern Syria, in order to analyze patterns of property rights violations, draw a map of bodies responsible for these violations, and explain the most common types of violations.

The case studies will involve al-Raqqa city under the control of the Autonomous Administration, Afrin under the control of the National Army, and Jisr Al-Shughur in Idlib Governorate under the control HTS and its associated Salvation Government.

Each of these three cases can constitute a model and provide a comprehensive idea of the wide range of property right violations in areas outside regime control .

The patterns of violation will be analyzed based on region, in addition to a general analysis at the end of the chapter, to highlight factors most influencing the prevalence of property rights violations in northern Syria.

### **2.1- Al-Raqqa City:**

Al-Raqqa city is located in northeast Syria, about 160 km east of Aleppo, on the eastern bank of the Euphrates. It is the capital of al-Raqqa Governorate. Its affairs are currently managed by the Civil Council of Raqqa, affiliated with the Autonomous Administration, based on administrative divisions that the Administration created, and which differ from those that existed previously.

The population of the city of Raqqa before 2011 was about 220,000, according to official estimates issued by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA). The number of residents of Raqqa City, according to the estimates of May 2020, is 353,883 people, of whom 95,964 are IDPs.

SDF forces control Raqqa City since October 2017, following extremely violent battles with ISIS, who, at the height of its influence shortly after 2014, had taken the city for its capital of an area extending, over significant parts of Syria and Iraq.



The Autonomous Administration in the north and east of Syria established the Civil Council of al-Raqqa in the town of Ain Issa in April 2017. The Council moved to al-Raqqa city, and SDF seized control in the fall of the same year.



Satellite image of al-Raqqa city on October 16, 2017, showing the extent of destruction due to military actions.

### **Most prominent forms of violations of property rights and actors responsible for them:**

Public and private properties in al-Raqqa city were subjected to widespread encroachments during ISIS control of the city. However, this analysis will examine violations of property rights between 2018 and 2020, the period during which SDF and the Autonomous Administration were in control of the city.

The destruction of buildings and properties in air and artillery bombardment during battles is the largest violation of property rights in al-Raqqa city. A civil society organization worker from the city<sup>18</sup> reported, in an interview conducted for the purpose of the research, that about 75% of the city's urbanization has been partially or totally destroyed. Despite completion of rubble removal from main roads, many of the city's neighborhoods and side streets are still closed due to collapse of buildings on the banks.

A report<sup>19</sup> issued by the United Nations Institute for Training and Research at the end of 2017 estimated more than 12,000 buildings were affected by military operations in populated

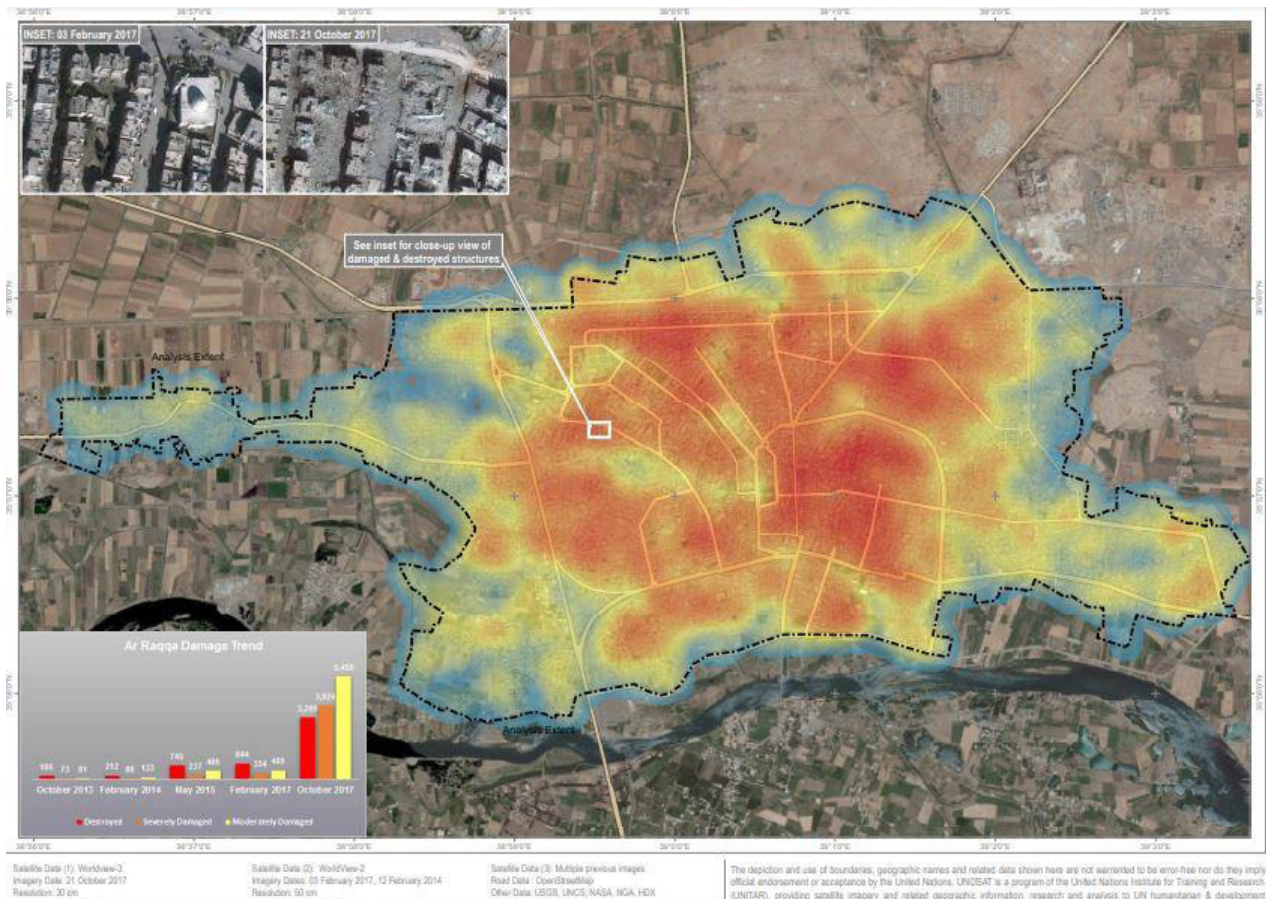
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18) Online interview conducted by the researcher with a civil society organization worker in Al-Raqqa city in November 2020.

19) A report issued by the United Nations Institute for Research and Training in December 2017 that estimates the damage in Al-Raqqa city since 2013, <https://bit.ly/3eGgVWw>

neighborhoods between 2013 and 2017, including 10,000 buildings damaged in fighting and bombardment between February and October 2017.

The report, which was based on analysis of satellite imagery of the city from 2013, 2014, 2015 and 2017, shows that 3,289 buildings were completely destroyed and 3,924 other buildings were significantly damaged during the same period.



In a press interview dating back to 2018, Ahmad al-Khadhir, a member of al-Raqqa Civil Council, stated that the city center had suffered high levels of destruction, up to 90%, while the damage in other areas ranged between 60% and 40%.

In addition to the destruction of battles, a number of cases were documented in al-Raqqa city of seizing homes and private properties, after SDF took control. The media reported a number of complaints from people displaced from the city during the rule of ISIS. Most of these complaints were of military factions taking over their homes despite filing lawsuits. A human rights defender from al-Raqqa city commenting on these cases noted that a large number of homes belonging to absentees, and which had not been destroyed, were seized by SDF, either for their strategic location to enhance the security needs of their forces, or for the purpose of housing displaced families.

The interviewee said he witnessed several times a refusal to hand over houses to the owners'



relatives, even with official powers of attorney endorsed by embassies abroad. Furthermore, some residents who tried to return to Raqqa found their homes occupied by relatives of SDF or displaced families. Solutions provided by the Administration were limited to perhaps providing alternative housing for owners of houses in dispute, but not of course a return to their original houses.

For some of those affected, as explained by a lawyer, their refusal to accept alternative housing was a protest against continuing property violations by new means. Acceptance of alternative housing is a legitimization of the illegal appropriation of houses. A report by Middle East Eye<sup>20</sup> provides witness accounts from alRaqqa city that the number of such cases has reached 80.

However, as it is not possible to verify these numbers, and as we compared accounts by city residents, it became clear to us that these violations have not yet reached the point of being a widespread phenomenon, although there is fear of possibly reinstating the Protection and Management of Absentees' Property Law. If issued, this law will grant legitimacy, on a large scale, to such practices in Raqqa city and all other areas of the Syrian Jazira, which are under the authority of the Autonomous Administration government in northern and eastern Syria. In general, the SDF and the US-led International Coalition who supported it with air strikes and artillery bombardments, are the de facto authority. Therefore, coalition forces and SDF are officially mainly responsible for the most severe violations of property rights in al-Raqqa city.

As mentioned above and according to numbers by the United Nations Institute for Training and Research, the damages inflicted on over 10,000 buildings were a result of military operations between February and October 2017, the period that witnessed the fiercest battles between SDF and ISIS.

This means that about 83% of the damage to buildings in al-Raqqa city occurred during that time, and as a result of air and artillery bombing accompanying military operations, the majority of which were carried out by the International Coalition and its allies on the ground. Although the US State Department and humanitarian agencies affiliated with the US government are providing support to early recovery programs, removing rubble and restoring services, humanitarian workers insist that these programs only meet a small portion of the city's needs for recovery.

The needs of the city are multifaceted. In terms of reconstruction, the most urgent needs are in infrastructure, and of course helping residents return by providing facilitations necessary for reconstruction of their homes.

As for arbitrary seizure of individual properties of absentees, whether they are inside or outside Syrian territories, the situation is the same.

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20) Hussam Hammoud, "Syria's Raqqa homeowners fight against illegal confiscation of their properties," Middle East Eye, August 30, 2020 <https://www.middleeasteye.net/news/syria-raqqa-residents-fight-illegal-sdf-home-confiscation>

SDF and the Autonomous Administration, the de facto authority in the region, in addition to the International Coalition that provides military and political cover for them, are the chief responsible actors. The researcher was able to document two cases in which affected people resorted to courts (the Diwan of Justice), but were unable to recover their property despite having fulfilled all legal requirements.

While alternatives were presented one time, including alternative housing for one of those affected families, this procedure contradicts the right of these families to take back and use their properties .

### Patterns of Violations in Al-Raqqa:

Probability	Owner Status			
	Lives in al-Raqqa	Lives in Al-Raqqa and holds differing political view	Does not live in al-Raqqa	Does not live in al-Raqqa and holds differing political view
Low probability for property right violation				
Average probability for property right violation				
High probability for property right violation				

### 2.2- Afrin Region:

Afrin is located in the north of Syria on the border with Turkey. Its center is Afrin city, which lies 70 km to the north, and west of the city of Aleppo. It includes Afrin city center and six other districts. Afrin is currently under the control of army troops.

Prior to 2011, the population of Afrin region was about 500,000.<sup>21</sup>

This number nearly doubled after 2011, as a large number of displaced people came from Aleppo Governorate and other areas due to its relative stability; however, the region witnessed large waves of displacement of its population fleeing military operations in 2018. According to estimates by UNOCHA, the population of the region today is 438,256, including 283,287 IDPs. This means that the region's population of IDPs today exceeds the number of its indigenous inhabitants.

Factions of the Syrian opposition have taken complete control of the Afrin region since March 2018, following Operation Olive Branch under decisive Turkish support aiming to expel SDF. These operations caused large waves of displacement, leading to a drop in the number of indigenous residents to a little over 150,000, compared to 500,000 before 2011.

Afrin is administered by local councils distributed over its seven districts. These councils are nominally linked to the Syrian Interim Government, but they are also unofficially linked to

21) "Five Things You Don't Know About Afrin", Enab Baladi, January 23, 2018 <https://www.enabbaladi.net/archives/200860>



the forces controlling the region.

### **Most prominent forms of violations of property rights and actors responsible for them:**

This section examines property rights violations between 2018 and 2020.

The United Nations Institute for Training and Research team had analyzed satellite imagery of Afrin after the military operations it witnessed at the beginning of 2018. The report,<sup>22</sup> jointly conducted with REACH, concluded that 196 buildings in the city were damaged in those operations, 67 of them completely demolished.

Most of the human rights reports focused on property appropriation as the most common violations of property rights in the region which has witnessed appropriation of residential and commercial properties as well as agricultural lands.

Some of these documented cases occurred while property owners were present and occupying their property. Many cases of appropriation of absentees' properties were documented, according to a human rights activist from the city.

In an interview for the purposes of this research, a human rights activist from Afrin city explains the mechanism of these violations: the military factions controlling the area "divide it into sectors, each controlled by one faction, and seize properties within their sector, especially those whose owners are absent, under the pretext of a family member's affiliation with the Turkish-banned Kurdistan Workers Party (PKK)." According to the interviewee, there have been documented cases where civilians were expelled from their homes and lands under the same pretext, while other properties were seized on a large scale to house IDPs coming from different regions.

Comparison of accounts by city residents and information we have access to, confirm that property appropriations match the proportion of displaced indigenous people. If two-thirds of the population are displaced today, then two-thirds of the properties in the city have been appropriated mainly by military factions (but also by civilian IDPs and administrative bodies overseeing the region). In this regard, a report<sup>23</sup> issued by the International Commission of Inquiry on Syria, indicates that factions controlling the region have committed what are suspected of being war crimes. Among these crimes are the systematic and widespread appropriations of land and property.

Also, United Nations reports indicate that the seizures of schools and hospitals by military forces have prevented them from operating normally, and subsequently weakened the capacities of the education sector.

This catastrophic regression is reinforced by the geographic distance between towns and villages and difficult roads, making these confiscated institutions perhaps the only option

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22) "Syrian Cities Damage Atlas," REACH, March 2019, <https://bit.ly/2PWwaA2>

23) "US Commission of Inquiry on Syria: No clean hands- behind the frontlines and the headlines, armed actors continue to subject civilians to horrific and increasingly targeted abuse," Relief Web, September 15, 2020, <https://bit.ly/2NpQ6dW>

left for residents, as these institutions are technically to serve the public. Local councils in the region normally control a large portion of public properties such as government institutions. The factions' control over some of those properties is a result of de facto authority.

### Patterns of violations in Afrin region:

Probability	Owner Status			
	Lives in Afrin	Lives in Afrin and holds differing political view	Does not live in Afrin	Does not live in Afrin and holds differing political view
Low probability for property right violation				
Average probability for property right violation				
High probability for property right violation				

### 2.3- Jisr Al-Shughour Region:

Jisr al-Shughur region is located in northwestern Syria within Idlib Governorate, near the border with Turkey, and the Orontes River passes through it. Its center is the city of Jisr Al-Shughur, which is located on the international road connecting the cities of Aleppo and Latakia, known as the M4. Strategically, this is considered the second most important highway in the country, after M5.

The area of Jisr al-Shughur is 1,077 square kilometers and its population before 2011 was about 150,000, according to the Central Statistical Office in Syria. Today, according to UNOCHA, its population is 304,087 including 148,285 IDPs.

The area is mainly controlled by two military factions: HTS and the Turkistan Islamic Party. The latter is a military ally of HTS and its members are from the Muslim-majority Xinjiang in China. The Turkistan Islamic Party is affiliated primarily with the Afghan Taliban and al-Qaeda. It came to Syria because of the relationship between al-Qaeda mother organization and its franchise HTS. This was when HTS was called Jabhat al-Nusra for the People of al-Sham. The Turkistan Islamic Party still has formal links with al-Qaeda; HTS has cut connections with al-Qaeda.

The Salvation Government associated with HTS supervises civil institutions in the region. Courts operate under this government which directly supervises services and the work of institutions in the region such as the local councils.

Despite the presence of the Salvation Government, the HTS official in charge of the economic portfolio still has wide powers in deciding on absentees' properties and other economic issues.



## **Most prominent forms of violations of property rights and actors responsible for them:**

Although Jisr Al-Shughur was exposed to extensive bombardment, there are almost no accurate estimates of the scale of destruction. Accounts by residents indicate that approximately one third of the city's buildings were damaged in bombardments. A relief activist recounts that so many buildings were damaged in the bombing that there is a resulting overpopulation in crowded areas. Consequently, it is now usual to find three families living in one apartment.

These accounts give us a glimpse of the situation regarding properties in the city, severely damaged in battle especially after opposition forces and the alliance of Islamic factions took complete control of the area in 2015, and in subsequent fighting in 2019 and early 2020 throughout Idlib Governorate.

According to a number of human rights reports,<sup>24</sup> and by comparing accounts by residents in interviews conducted for the purposes of this research, in addition to the bombing that damaged a large section of residential property, there were documented cases of organizations such as the Turkistan Islamic Party seizing private property.

This activity, taking place on a large scale, specifically targets villages whose inhabitants are Christian. Many of them were displaced, like in al-Ghassaniya village. The extremist jihadist organization considered seizing properties of people of other religions a natural right. This was strongly supported by HTS, allowing the Turkistan Islamic Party, the faction controlling the Islamic coalition which has full power over the region's resources, to seize many properties belonging to IDPs, especially Christians in Ghassaniya and other villages. The transgressions also included properties in the city of Jisr al-Shughur owned by Christians or by persons residing in areas controlled by the Syrian regime, under the pretext of their interaction with regime forces.

According to interviews conducted with land registry staff, their departments have refrained from registering these appropriations in their records, supporting the rights of the original owners. However, the owners are afraid to claim their rights for fear of arrest and execution by those organizations, which have previously carried out arrests and executions of detainees on unclear charges in random conditions and without trial.

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24) "Appropriation of Public and Private Property in Jisr Al-Shughur in Idlib Countryside", Syrians for Truth and Justice, September 25, 2017, accessed on December 1, 2020 <https://stj-sy.org/ar/262/>

## Infographic of patterns of violations in the region of Jisr Al-Shughour:

Probability	Owner Status			
	Lives in Jisr al-Shughur	Lives in Jisr al-Shughur and follows differing political view or religion other than Sunni Islam	Does not live in Jisr al-Shughur	Does not live in Jisr al-Shughur and follows differing political view or religion other than Sunni Islam
Low probability for property right violation				
Average probability for property right violation				
High probability for property right violation				

\* \* \*





## Conclusions:

- Most of the institutions concerned with regulating property rights in northern Syria tend to adopt the provisions of Resolution No. 188 issued in 1926 to establish the Syrian Land Registry, or a local version of it. However, this is not sufficient to regulate the work of these institutions, because de facto authorities in Northern Syria base their implementation procedures on a set of legal texts and references in conflict with Syrian law.
- The preservation of original property records of different regions, and keeping on land registry staff helped maintain some stability in the registries and protect property documents; a guard, although not strong enough, against violations of property rights, especially those leading to change in physical characteristics or arbitrary transfer of property ownership.
- Attempts to organize and document property rights in areas outside regime control are still early. They are not sufficient under current circumstances. They face many obstacles that prevent citizens living in another region or country from utilizing their property.
- Afrin is region with the highest number of documented property rights violations in northern Syria. This is due to several reasons: most importantly, the massive displacement of nearly two-thirds of the indigenous population, and the almost absolute powers of the factions. Courts do not have the power to issue binding rulings. The lack of actual organization and absence of the role of local actors have increased the frequency of these violations.
- Destruction and damage of residential buildings and private properties in bombardment remains the biggest and most far-reaching violation in Syria regarding property rights, and creates conditions that can only be corrected by providing significant assistance to those affected. Military operations and bombing of infrastructure and public properties have also left affected properties useless, especially in the absence of services and facilities. Infrastructure is necessary to meet the diverse interests of community members.
- IDPs and refugees are the most vulnerable groups in terms of property right violations, especially those considered by the authorities non-supporters or politically, religiously, or ethnically different.
- Appropriation of private property is one of the most common violations of property rights in northern Syria. Properties are usually seized for investment or benefit, with no change to the physical characteristics of the property or recourse to legally endorse the appropriation thus far (there have been signs of legalizing appropriation of property, including an attempt by the Autonomous Administration to issue a Protection and Management of Absentee Property Law. These steps are a warning that de facto authorities may issue laws to legalize this process at a later time).
- De facto forces have almost complete control over civil institutions responsible for property issues, which affects the role of these institutions.

## Recommendations:

### To regional and international actors in Syria:

- To hold the Autonomous Administration authorities responsible for property rights violations. The Administration must facilitate and provide assistance to Syrian refugees who wish to issue power of attorney to their relatives or others or to utilize their properties, and must not obstruct on the basis of ethnicity or political affiliation.
- To support early recovery projects in al-Raqqa city, which was destroyed in military operations led by the International Coalition in the fight against ISIS; and to assist civilians who want to return to their homes, by providing financial grants that pay part of the costs of rebuilding homes and commercial markets, with guarantees that this is not implemented by SDF.
- Permanent non-interference of military factions in the affairs of civilians. Full powers should be granted to elected local administrations that ensure adequate representation of the local population, and their active participation in decisions relating to their livelihoods, while ensuring the enforcement of judicial rulings on all parties.
- To facilitate the return of IDPs to their cities and towns which they fled due to military operations, and to ensure their safety and basic rights, including the right to reclaim their private properties and access basic services.

### To the Constitutional Committee:

- To emphasize the illegality of any measures taken by de facto authorities in their areas of control aiming to change property conditions in the country. To treat the issue of property rights as one of the basic determinants of work for the next stage, given its importance on several levels, not least of which is the urgency of refugees and IDPs returning. This paves the way for political and economic stability, cohesion of the societal fabric, and achievement of civil peace in Syria's future.

### To local actors and de facto authorities:

- To refrain from any transfer of property in the absence of the concerned parties, and to ensure the rule of law and independence of the judiciary. All measures relating to management of property rights must be temporary and suspended until a legitimate authority on a national scale takes over the issue of property records.

### To countries supporting de facto forces in Syria:

- To work on establishing a legal accountability mechanism for the violations, to prevent their recurrence, and to compensate the victims.
- To help local parties separate civilian institutions from the military, and to provide assistance to secure people's access to their property and to documents guaranteeing their rights.



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