



PREPARED BY:

Sawa for Development and Aid



سوا للتنمية والإغاثة
Sawa for Dev & Aid

HOUSING, LAND AND PROPERTY CHALLENGES AND RISKS

facing Syrian refugees in Lebanon in the
light of growing pressure towards return



Housing, Land and Property Challenges and Risks Facing Syrian Refugees in Lebanon in Light of Growing Pressure Towards Return

This research paper explores the most paramount challenges and risks related to housing, real estate and land (HLP) facing Syrian refugees in Lebanon in general, and those intending to return to Syria in particular. It analyzes how the current challenges in Lebanon, coupled with structural difficulties in Syria (legislative, executive, and judicial) threaten these refugees' rights both currently and in the event of their return home.

This research paper is a part of a broader conceptual and procedural research examining Syrian refugees in Lebanon.

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Executive Summary

The Syrian political landscape differs significantly from previous displacement experiences that were both **widespread** and **protracted**. Neither activism nor military conflict has succeeded in changing the existing political regime. Meanwhile, prospects for reconstruction, transitional justice, accountability, or any form of legal, material and physical integrity, let alone free and democratic elections, remain largely unattainable in the current situation.

Therefore, return is an option only for some, rather than all Syrian refugees. It is not always an agreed-upon choice for all family members, with the disintegration of family and community ties threatening serious consequences for the viability and sustainability of return.

In Lebanon, in particular, the protracted displacement of Syrian refugees has resulted in their inability to make free and informed decisions, especially in light of growing pressure towards their return, with complete absence of legal guarantees related to safety and protection in Syria whether during or after return.

The “push factors,” i.e. those that push Syrian refugees in Lebanon towards returning to Syria, manifest themselves in poor to non-existent housing options, human rights violations, economic vulnerability, and a lack of prospects in the future.

Moreover, Syrian refugees in Lebanon are particularly vulnerable to such pressures towards their return, because they lack reliable sources of information about how to return and the security conditions inside Syria. In addition, Syrian refugees in Lebanon face the risk of having their informal settlements and temporary tented camps demolished, as well as forced return to Syria, by the Lebanese General Security or other Lebanese political groups.

Pre- and post-return trends are critical for assessing respect for international human rights, protection of Syrian returnees, and prospects of peace and reconciliation in Syria. With regard to international human rights, the “right of return” to the country of origin can itself be jeopardized, including the principle of non-refoulement, a well-established international human right. Some Syrian returnees, for example, have been forcibly conscripted in the military, of otherwise subjected to arbitrary arrests, detention, torture, forced disappearances, exploitation and trafficking, and other grave human rights violations.

Syrian authorities require to verify Syrians wishing to return, and investigate those who returned spontaneously without prior official security verification. In addition, Lebanese law does not allow the returnees to seek international protection after these human rights violations are committed in Syria, given they receive a “ban from entry” at the border crossings upon their return to Syria.

The dynamics of conflict and reconciliation in Syria both determine and impact the possibilities and motives for return. The absence of any political settlement at the national level allows the security and military services to adopt different practices between different regions in Syria, as many Syrian regions do not have reconciliation committees, for instance.

Moreover, attitudes towards refugees and internally displaced persons (IDPs), who are themselves returnees from another region, vary depending on the specific historical associations of associations such as engagement in the revolution, the ensuing military conflict, and religious, ethnic, and political affiliations. In addition, instead of government institutions, various relief agencies and organizations are responsible for providing basic services, such as access to water, electricity, gas, education and health care. But this access is often discriminatory and based on political or sectarian

affiliations. Indeed, return of refugees can reinforce sectarian dynamics, as well as broader social, political, religious, and ethnic tensions. One example would be real estate disputes which cause refugees to lose their property, thereby becoming a decisive factor in the decision to return or not return.

While it is likely that most Syrian refugees will remain in Lebanon in the near future, some refugees have self-organized their return in the past few years, using unofficial border crossings, while others have coordinated with reconciliation and return committees to organize their return. Furthermore, the high risks have prompted some refugees to break up the union of their families, organizing partial returns for an indefinite period, or to send one family member (mostly a woman) to explore for them before they make the decision on behalf of the rest of the family.

Relevantly, the current reality poses urgent questions about the real estate and property rights of “rights holders,” especially Syrian refugees and IDPs, in light of growing real estate concerns in Syria. These concerns stem either from conditions predating the conflict, such as underdevelopment or administrative and legal-legislative failures, or from newer developments that are increasingly complex and negative, especially as the Syrian authorities continue issuing laws capitalizing on the war.

All of the above, with no political settlement in the horizon, and with the repercussions of evermore protracted displacement and the absence of realistic, contextual solutions (ones which approximate the level of sustainability achieved in other contexts), lead to a situation where even the minimum thresholds of protection for Syrian refugees cannot be guaranteed. As such, there are no prospects for “**safe, voluntary, informed, and dignified**” return, nor by extension for “safe” access, direct or indirect, to HLP rights in Syria.

The two issues of return and HLP rights are conditionally linked in this context. It is not possible to secure safe access to HLP rights in Syria without securing the three aforementioned return conditions. The exception, i.e. requesting indirect access to these rights without returning, is also not possible, given the complete absence of any official “cross-border” and “reconciliatory” mechanism that recognizes the claims of Syrian refugees to their HLP rights in their country of origin. All such mechanisms are subject to restrictions imposed upon refugees by the Syrian authorities.

By contrast, if the Syrian authorities continue to adopt the same zoning/real estate development policies, HLP rights emerge as an issue independent from the issue of return. In other words, threats to the HLP rights of Syrian refugees will continue regardless of whether they return, so long as the authorities do not adopt a political (and policy) approach that creates a comprehensive national reconciliatory framework, recognizing the critical and coercive conditions of IDPs and refugees, and removing all restrictions to their access to HLP rights, e.g. extending the deadlines provided for in the laws given the war circumstances. In the Syrian context, however, all laws related to recognizing HLP claims enforce strict deadlines to prove ownership, in addition to requiring either their in-person attendance or legal representatives with security approval. Regarding post-return housing conditions, a parallel study conducted by Sawa for Development and Aid (2020) surveyed 500 returnees in regime-controlled areas (Rural Damascus, Homs, and Homs countryside), half of whom owned houses or lands in Syria. The study shows that the main challenges impeding the returnees’ access to land and housing are: substantial damage; security permits to access, restore and reconstruct; blocked access to the area; a sense of insecurity; and dispossession and expropriation by others. A group of returnees also reported that other housing problems relate to: “the house is only temporary;” “more than one family live

together;” “rents are high and participants fear forced eviction;” or “the house is too far.”

This study shows that the problem of “unconfirmed documents of title” in the cadastral register is at the core of the HLP challenge facing Syrian refugees and IDPs, in addition to the severe levels of destruction and damage that have affected large swathes of the country, **especially in informal housing areas that are not on the cadastral register.** Added to these two are the complex and varying security dynamics between different Syrian regions; the difficulty of accessing information; poverty and lack of financial means to cover the costs of claims; limited awareness among the IDPs and refugees themselves of the extent of HLP threats in Syria, especially with civil society organizations (CSOs) failing to take the real estate and housing rights for refugees and IDPs into account.

Methodology

This paper applied a deductive analytical approach, wherein it collected databases from various sources, such as websites and previous studies, and examined the relevant legal legislations (especially with regards to HLP), researching the supposed will of the legislator and the purpose of these legal texts. The aim has been analyzing the implications of said texts and the ways to implement them on the ground, and then studying their impact and connection to the challenges facing refugees and IDPs, as well as their role in the HLP crisis in Syria. We also applied an investigative approach, conducting interviews with various sources, including HLP experts, to examine how these laws are going to be applied on the ground; as well as to surveying and conducting individual interviews with Syrian refugees in the Bekaa region, in an effort to gain insight into different perspectives and cases. This investigative approach has been critical in terms of the interlocutors, whether during individual interviews or focus groups, since our researchers have diversified the demographic backgrounds to cover as much of the Syrian social and political landscape as possible.

In addition, our toolkit has also included a desk study of the legal texts regulating urban planning in Syria, including all the laws and the HLP problems emerging from them, in addition to an examination of the literature, research and papers analyzing these laws and linking them to the HLP challenges and risks facing Syrian refugees and IDPs.

Finally, we have also led six focus groups with Syrian refugees in the Bekaa region (25 women, 26 men), supplemented by four others in Tripoli (16 women, 18 men), which contributed to the design and implementation of a survey of 200 Syrian refugee families (57% males, 43% females) in the in the following areas of the Bekaa Valley: Bar Elias, Saad Nayel, Al-Omariya, Talabaya, and Al-Marj.

Attributes of Survey Respondents

The quantitative results of the survey revealed the following:

- 92% of refugee respondents have registered with the High Commissioner for Refugees (UNHCR): 70% before 2015 (refugees recognized by the UNHCR) and 22% after 2015 (asylum seekers), and the remaining 8% are never registered.
- 81% of the refugee respondents live in temporary tented camps, while 10% live in rented apartments, 6% in unequipped shelters (shops, warehouses, etc.), and 3% in other accommodations.
- The monthly rent for tents ranges between 100 and 150 thousand LBP, while that for apartments ranges between 250 and 400 thousand LBP.
- 80% of families are provided for by the a, 16% by a wife, 3% by a son, 1% by a relative.
- 62% of heads of households are jobless, 38% work as day laborers.
- 23% do not have any income, 32% depend on humanitarian aid.

1. Contextual Preamble: Conditions of Return from a Bilateral Perspective (Lebanon-Syria)

1.1 Return of Refugees to Syria in light of the Current Situation in Lebanon

The Syrian uprising that erupted in March 2011 turned into a war that led to the largest refugee crisis in the current era (UNHCR, 2016). Since 2011, more than 6.6 million people have been displaced within Syria, while 5.6 million people have become refugees outside Syria (UNHCR, 2018). The three main countries that took in Syrian refugees were the neighboring countries: Lebanon, Turkey and Jordan. While Turkey and Jordan developed some policies to regulate the influx of Syrian refugees, Lebanon initially adopted an open-border policy, often referred to as a “**no-policy policy**.” Receiving more than 1.5 million Syrian refugees, Lebanon has become the largest refugee-hosting country worldwide in terms of percentage from total population. Nevertheless, Lebanon has not ratified the 1951 Refugee Convention or its 1967 Protocol, and until 2013, the Lebanese government had not regulated its border with Syria, resulting in little to no distinction between incoming visitors or immigrant workers, on the one hand, and refugees on the other. Furthermore, the Lebanese government has chosen to officially refer to refugees as “IDPs” rather than “refugees,” as international law requires fewer protective obligations for IDPs.

As such, the absence of a clear administrative policy for the Syrian displacement (or international protective policies) meant that the Lebanese General Security has the upper hand in managing the arrival and residence of refugees in Lebanon, although the municipalities have also implemented their own local regulations, such as illegally imposing indefinite night curfews on refugees.

By 2013, after the peak of the refugee influx from Syria, the Lebanese government began implementing some restrictive measures, initially targeting Palestinian refugees from Syria. While restrictions on refugees were beginning to take shape at the time, it was in October 2014 that a clear shift took place from “no-policy policy” to an introduction of explicitly restrictive policies aimed at reducing the number of refugees in Lebanon. This new policy sought to both limit the unlimited influx of Syrians and encourage those residing in Lebanon to return home. It did so by requiring Syrians to have a Lebanese sponsor, renew their residency permits with a valid identification document, and pay an annual fee of 200 USD to maintain their legal status in the country. This policy was soon followed, in December 2014, by a circular from the Ministry of Labor that restricted the economic sectors open to Syrians to cleaning, construction and agriculture. A few months later, in May 2015, the Lebanese Ministry of Social Affairs requested that the UNHCR stop the registration of refugees.

These policy developments since 2014 have left the majority of Syrian refugees in Lebanon without valid residency (about 74% in 2017), and without the ability to register with the UNHCR in hope of receiving either humanitarian assistance or offers to return home. This situation has further exacerbated the living conditions of Syrian refugees in Lebanon, leading to tensions between the host community and the refugees. In conjunction with an escalation of military operations, and the expansion of the Syrian authorities’ territorial control between 2017 and 2018 at the expense of that of the opposition, the Lebanese government and various political parties have repeatedly called for the return of Syrian refugees.

The UNHCR has conducted a series of regional surveys on Syrian refugees’ perceptions and intentions. These surveys reveal changes of aspirations for return on an annual basis. The latest report, published in 2019, showed that 5.9% of refugees intended to

return to Syria in that year, while 75.2% hoped to return one day (UNHCR, 2019; similar findings were echoed in the latest Policy Briefing by Innovation for Poverty Action, IPA, 2020). It appears that while the refugees had different perceptions of return, the majority wished to return home at some point in the future. Surveys therefore show that many refugees wish to return to Syria, and that some refugees have already ventured back home in the past year. However, return does not appear to be a viable option for many others, and it has become clear that living and security conditions in Syria have the greatest influence on refugees' decision to return, leading many to aspire for moving elsewhere.

1.2 Return of refugees in Light of the Current Situation in Syria

A recent study conducted by the Innovations for Poverty Action (IPA) examined the reasons behind refugees' intentions to return to Syria, concluding that the aspirations of refugees about return are mainly about the situation in Syria rather than the conditions in the host country. The findings indicate that a large number of refugees who intend to return continue to live in Lebanon and expect to stay there for a period of time due to the unsafe situation or uninhabitable conditions in their areas of origin in Syria. This is an indication that many refugees are unlikely to return unless they ensure safety and access to services and opportunities. The primary precondition for return to Syria that has been identified is safety and security. Some recent reports have argued that this precondition includes security sector reform, ensuring increased safety and security upon return, and offering guarantees for those who had fled the country since 2011. Safety cannot be achieved as long as military conscription remains mandatory and the fate of detainees and missing persons remains largely unknown.

Many regions from which refugees escaped enjoy some form of security and stability. While some regions are under the control of militias or foreign armies, others are under

the control of the Syrian authorities, which poses a threat to most dissidents. As a result, the return of dissidents to Syria may risk their freedom and endanger them to arrest and prosecution upon arrival. Likewise, the policies adopted by the Syrian authorities have created barriers to any return, including maintaining the mandatory military service law that conscripts all males between the ages of 18 and 42 into the Syrian army. Many Syrian refugees stated that the safety precondition must be coupled with a political transition and changes in local administrations. Other preconditions highlighted economic and living conditions in Syria, such as the jobs, basic needs, public services, access to education and the ability to rebuild damaged infrastructure.

Furthermore, numerous studies have shown that refugees often lack access to accurate information about the conditions in their areas of origin, which makes their decision to return all the more difficult. Their decisions is therefore affected by a mixture of circumstances in both Lebanon and Syria, and their aspirations go beyond staying in Lebanon or returning to Syria to migrating somewhere else and starting anew.

2. HLP Issues in Syria Predating the Refugee Crisis

Prior to 2011, Syrian urban planning laws did not consider the real estate priorities or concerned themselves with the population growth and successive migrations from the countryside to the city. Syrian legislators failed to contextualize these laws within a strategic vision that prioritizes the most urgent needs. Instead, laws were issued on an ad hoc basis, and were always insufficient and inadequate to solve pressing real estate issues **holistically**, including the need to recognize property ownerships in informal settlements (where about 40% of the Syrian population resided before the conflict), a major regulatory need in the real estate sector.

Syria's different cadastral records (tapu, temporary, housing associations, etc.) do not represent the HLP reality in the country. There is a huge gap between reality and the cadastral register due to unrecognized and unregistered informal housing areas, while the ongoing "delimitation and legal formulation" processes were either incomplete or pending, which partly explains the many HLP legislation and laws. Despite the legislator's attempts to link these legislations, the incoherence remained clear, especially in light of the fragmented and inadequate nature of these laws, and their undue complexities and bureaucratic requirements to establish any legal rights. Indeed, such complexities have forced many to follow **less legal** means to establish their ownership, with these supposedly "secondary procedures" becoming the primary means of proving ownership: formalistic lawsuits to confirm sales, notarized power of attorney (PoA) to give rights, and other legal instruments such as invoices or witnesses (especially in informal areas).

Real estate laws have also given several judicial bodies the jurisdiction to rule on HLP disputes, and a number of these laws have established committees with judicial capacity and authority to look into such disputes. However, these laws have often nullified the

judicial authority, delegating it to administrative committees with certain judicial attributes. Therefore, these administrative bodies along with the executive authority, have had the capacity to exercise judicial powers, with the competent courts sidelined and with no administrative apparatus being developed or qualified enough to implement zoning plans. The long and complex procedures and the backward and corrupt administrative units have been the most prominent obstacles to the implementation of Law No. 9 of 1974, whose failure manifested in incomplete and outdated master whose preparation and implementation have taken much longer than anticipated. Moreover, given the rapid urban growth, it was necessary to provide newcomers with livelihood means, including housing, jobs, and infrastructure, in order to meet their needs regardless of the master plan. **This is how slow and inadequate master plans have contributed to random and informal real estate development,**¹ failing to keep pace with the population growth or cover the increasing need for new building zones. Many people from lower classes have lost their properties in return for meager compensation, or sold their shares due to perceived zoning plans in exchange for fictitious gains that fell too short of the expected high prices supposedly resulting from real estate development. In addition, many have opted for buying or building in slum or informal areas called “building violations.” These violations led the legislators to think of efficient and quick measures to enable the administrative bodies to re-divide and zone the lands, in order to meet the need for zoning and selling building zones for reasonable costs. Thus came Law No. 60 of 1979, which identified one single route for preparing any land for construction in governorate centers: local administrative units acquiring lands and distributing building zones, whether to public or public-private (joint) bodies such as housing associations and private individuals. As such, Law No. 9

¹ See: Patrick McAuslan and Housam Safadi, “On urban planning in Syria: an overview with suggestions for reform,” EU-funded expert report, 2007, p9. The Arabic version of the report was used for the reference.

was no longer applied to newly urbanized areas² in governorate centers, but it is rather the local administrative units who should acquire and zone their areas.

Consequently, Law No. 60 has created huge problems. **Excessive use of acquisition**³ in zoning processes has resulted in great injustices, especially for real estate owners whose lands were expropriated and who were unfairly compensated. In addition, the Acquisition Law No. 20 of 1983 was largely deficient. On the other hand, the application of this law did not lead to a decrease in land prices. On the contrary, it led to higher prices because the acquisitions benefited real estate dealers, while those who were prioritized to buy the lands – provided that they pay for it – ended up buying lands close to their original homes with much higher prices than their earlier compensations. This has prompted many to move to informal settlements, where land prices were much lower. In its purpose, the law had stipulated that it intends to empower administrative bodies to zone and regulate unzoned and unregulated lands, which were originally agricultural lands, and to put them in the market in order to cover the need for building zones at cost, thereby decreasing land prices (as stated in the law's rationale). In addition, the government also expanded the interpretation of the law (through instructions or notifications). As such, while the legislation related to urbanizing areas (the name of the law), the instructions additionally included all unbuilt real estate located within the master plans of cities, and considered every land exceeding the maximum area-limit for obtaining construction license subject to the provisions of the law. The government also requested the administrative bodies to acquire all lands subject to the provisions of Law No. 60 of 1979 within a relatively short period, which led to the acquisition of large

² Urbanized areas in the context of this law refer to all real estate and parts thereof that are yet to be planned and zoned but nonetheless located within an approved master plan. See Article 1 of Law No. 60 of 1979.

³ Excessive use of acquisition tended to favor more acquisition than actual development, which brings to question almost all master plans. See: "On urban planning in Syria...", *ibid.*, p17.

lands, and placed huge financial burdens on these bodies. Law No. 60 of 1979, therefore, has negatively raised the prices of lands needed for construction, **contrary to its own rationale**, thus removing large swaths of land from urban planning due to their acquisition, freezing the real estate already acquired, limiting the total area of build-ready lands and ending up unduly increasing their prices.⁴ Further impacts of these laws manifested in the encroachment on the property of people through unfair acquisitions and cheap compensations, not to mention deepening the housing crisis. Indeed, **the opposite of the intended effects happened, i.e. the growth of informal settlements simultaneously with the zoning**. Whenever an area is declared ready for urban planning, or whenever a land on the outskirts of a city or town becomes likely to be declared ready for planning, people would go ahead and buy it from its owners, who get much better prices through “illegal” sales than they would from compensation allowances. In short, the administrative unit acquiring a land for development purposes became rather a waste of time, since it was almost inevitable that informal real estate development would begin to “fill the void” during the period between the declaration and actual development.⁵

⁴ See Marwan Sabbagh, “Legal Factors in the Social and Economic Dimensions of the Housing Crisis Syria,” Syrian Economic Sciences Association, 22 July 2019.

⁵ See: “On urban planning in Syria...,” *ibid*.

3. Major HLP Challenges Facing Syrian Refugees in Lebanon

To simplify our analysis, we applied a procedural definition of what we call “complex legal status of Syrian refugees.” “Legal complexity” describes the prolonged and accumulated legal vulnerabilities, starting from pre-conflict Syria up until the current legal and economic situation in Lebanon. In Syria, legal vulnerability for a refugee means all matters related to formalizing their personal status (for refugees and their family members) and HLP status (unrecognized ownership), as well as their inability to return to formalize said statuses. As for Lebanon, it means a refugee’s inability to obtain renewable legal residencies, leaving their personal status unformalized (including family members) and their basic rights as a refugee (according to international standards) or IDP (in the eyes of the Lebanese state) unrecognized by the Lebanese law. The legal complexity increases or decreases according to **the required financial and time cost, the refugee’s ability to represent themselves legally (or by proxy in both Syria and Lebanon) and to fulfill the necessary legal conditions (requirements for inheritance distribution, death, formalizing marriage, etc.)** in order for their property to achieve a sound legal status in the country of origin. Legal vulnerabilities also overlap with other vulnerabilities, such as economic vulnerabilities, further limiting a refugee’s ability to cover the costs and thus to achieve the desired legal status.

To simplify, we take the example of a refugee in Lebanon who had been stateless in Syria (along with their family) and who is unable to return – or for that matter to register or update his personal status. This refugee’s property falls under the *amiri* category (i.e. state-owned), but it had been destroyed and will likely be subject to a new zoning plan. He lives in Lebanon without a valid residence permit, which means that he and his family cannot have a proper personal status in Syria. This example represents the most “two-sided” legal vulnerability, and therefore the most complex in terms of

financial and time costs, as well as in terms of legal requirements. The degree of legal complexity reflects why and to what extent a refugee is unable to regularize their legal status (or that of their property). Furthermore, the notion provides us with a greater understanding of the risks facing them and their HLP rights. Finally, it is worth noting that **not all cases are even solvable**, as some legal statuses are subject to different circumstances and obstacles that denies refugees access to their rights.

3.1 Legal Challenges in Lebanon

As Figure 1 below shows, only 15.5% of the Syrians surveyed have legal residency in Lebanon, 57.5% had their residencies expired and are unable to renew them, and 27% had entered illegally and are unable to settle their legal status.

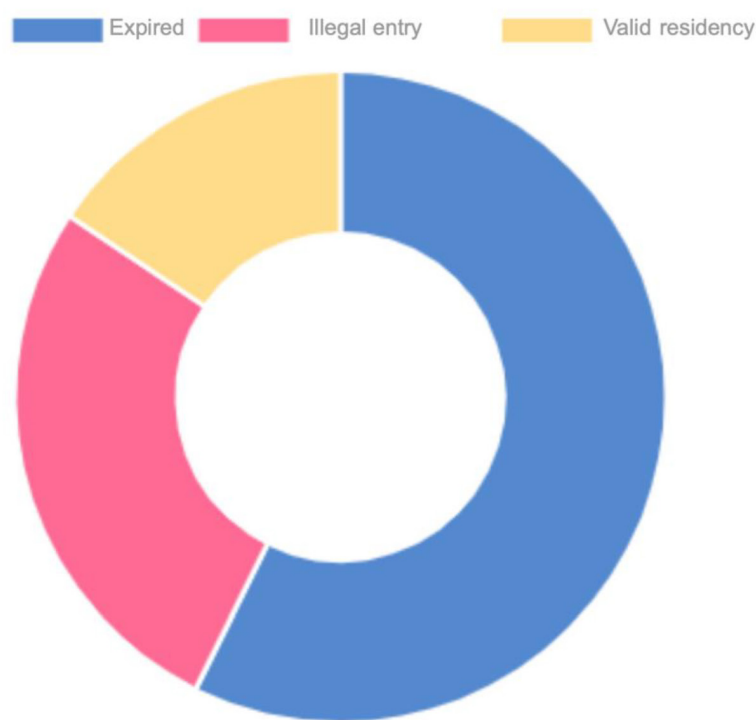


Figure 1: Percentage of surveyed Syrian refugees according to their legal/illegal status in Lebanon.

The “**sponsorship regime**” is one of the major obstacles preventing the legalization of Syrian refugee presence in Lebanon. Many respondents recount that they were vulnerable to exploitation through “brokers of sponsorships” because they needed to

renew their residency permits. Obtaining work permits in Lebanon is almost impossible, since Lebanese employers do not registered their Syrian workers in the Ministry of Labor in order to avoid the procedures, costs and insurance fees required. In other cases, Syrian workers cannot be registered in the first place, given the percentage of foreign workers allowed by Lebanese law. Thus, there are financial reasons why Syrians cannot obtain legal status as residents of Lebanon.

The Lebanese government's systematic policy of denying Syrian refugees legal residency has further eroded their rights. For instance, many Syrians are fearful of entering a Lebanese governmental department, appearing before a court, or filing a complaint in the event of any assault or abuse. Marriage documents, for example, cannot be registered in the Lebanese civil service unless one of the two spouses has a valid residence permit. Therefore, they often obtain a judicial ruling proving the marriage without completing the registration process, which means that such a marriage is not registered formally with the Syrian embassy or Syrian personal status records. In addition, lacking a valid residency permit complicates any travel to Syria, since the Lebanese law stipulates that "any foreigner residing illegally in Lebanon is banned from re-entering Lebanon, and is given the choice to settle their status or not. In both cases, they are banned from entering Lebanon for a period ranging from one to five years, and they may be permanently banned from entering Lebanon." Many Syrians travel and return to Lebanon illegally (via informal border crossings), which makes them vulnerable to exploitation and abuse. Notably, cases of illegal entry and exit have increased recently following the Covid-19 expensive requirements, in addition to the requirement by the Syrian state to exchange 100 USD with its SYP equivalent upon entering Syria at the exchange rate set by the Syrian Central Bank. As such, legal challenges experienced by the refugees stem from their illegal residence in Lebanon, which puts in a legally

precarious position in terms of their rights. Our findings show that 87% of the respondents have had legal troubles, as shown in Figure 2, while 91% could not reach any solution.



Figure 2: Types of legal troubles faced by Syrian refugees in Lebanon.

3.2 Legal Challenges in Syria

A. HLP documents that are not officially registered in Syria: The quantitative findings of the survey show that 43% of respondents have properties unregistered in the Syrian cadastral register, though they have confirmation documents like a court ruling, notarized PoA, or sales contracts. On the other hand, 52% of respondents do not have any paper documents currently. Of these 52%, 24% do not have paper documents at all – i.e. they own informally in slum areas and their proof of ownership are rather circumstantial such as utility bills and other fees – and the remaining 28% had either lost their documents or had them destroyed in the midst of war and displacement. The following Figure 3 shows the types of HLP proof of ownership the surveyed refugees have.

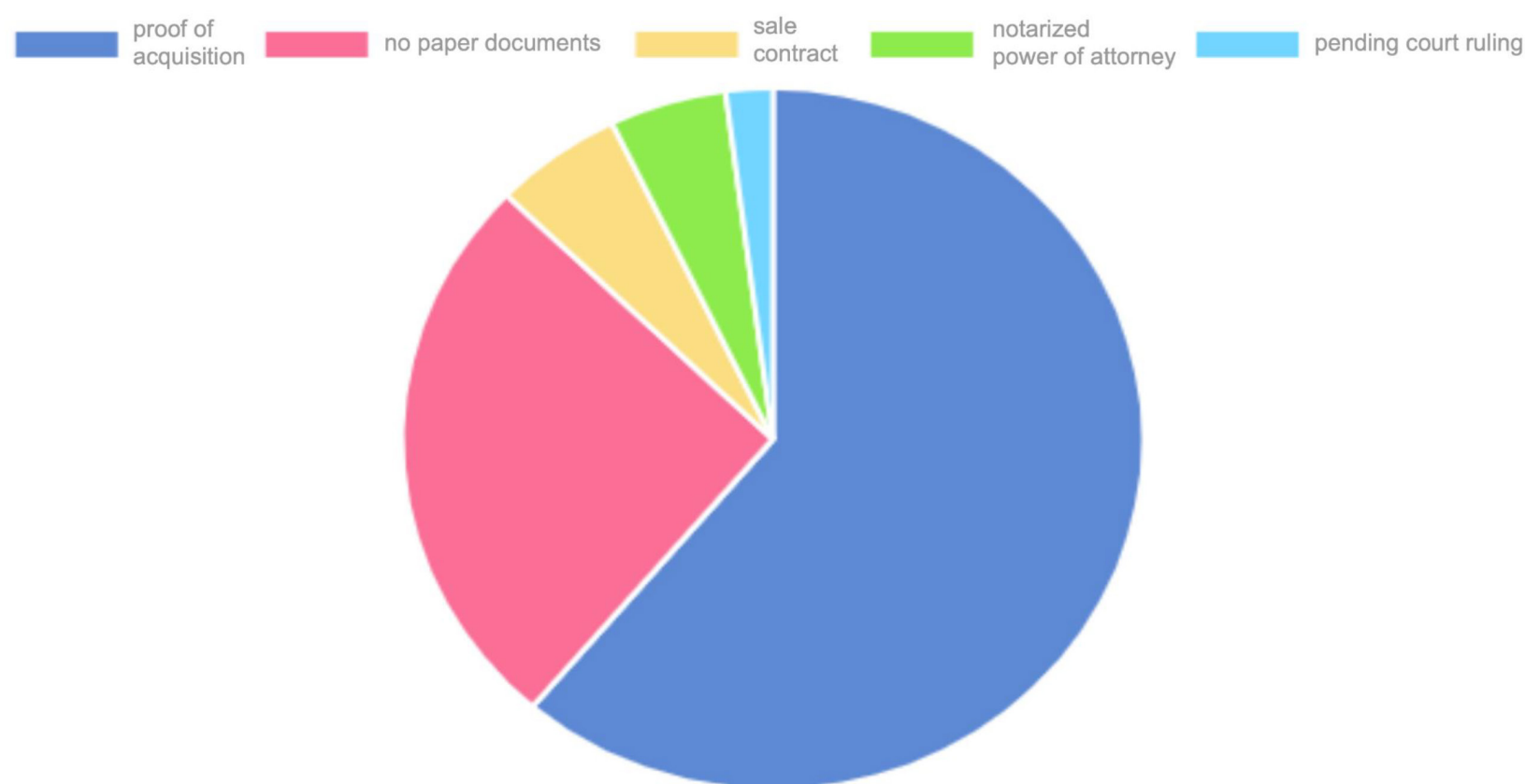


Figure 3: Types of proof of ownership possessed by the group responding to the questionnaire.

B. HLP disputes: It was found that 37% of the respondents had various HLP disputes before. Figure 4 below shows the distribution of these disputes according to the type of proof of ownership available to the refugees surveyed. While these disputes constitute a real threat to HLP rights, the threats even double they are associated with non-existing or insufficient proof of ownership – like sales contracts or other informal paper proof, without corresponding cadastral records. Another major risk is forged documents or sales, given the spread of fraud networks exploiting either the absence of refugees and IDPs or the security challenges precluding their access to legal means of establishing their rights. These disputes, as shown in Figure 4, can be summarized as follows.

Occupation

It is found that 20% of the surveyed refugees questionnaire had their property occupied, either by influential people, persons connected to the security forces, or militias in control of the territory. There are many occupations that occur within the same family, mostly as violations of women's rights by either male brothers or husbands, with the aim of depriving these women of their inheritance shares. Occupations increase in areas characterized by sectarian diversity. Many refugees from Homs, for example, specifically the western Homs countryside such as Al-Qusayr and Tell Lalah, spoke of occupations by Hezbollah-affiliated fighters or militias, either of properties within the built towns or out in agricultural areas.

In these cases, the Syrian law allows the property's owner to expel the "usurper," provided that the conditions of usurpation are met in accordance with the provisions of the Penal Code.⁶ The property's owner must then prove their ownership or produce the legal basis for their right to the property, or else they would be considered a usurper themselves. Here emerges the real threat of losing HLP rights for those unable to obtain proofs of ownership, whether due to the conflict and the subsequent insecurity conditions, or because they lost their paper proof during the war and failed to document their rights in the cadastral register. This applies even to people who have official proof of ownership. Furthermore, many of the sales contracts were either not recorded in the cadastral register, or not followed by an official transfer of ownership which technically left property registered under the old owner's name. The reality was exploited by many former owners who took possession of their sold property. This has put many refugees in a peculiar legal vulnerability, whereby they have to establish their ownership in order to claim the property back. In addition, initiating any procedures to

⁶ Article 307 of the Syrian Penal Code.

expel a property usurper requires hiring a lawyer and paying many legal fees, including for checking and investigation, and such costs are often too high for returnees. In addition, a lawsuit can stay in court for more than a year, costing the returnee exorbitant amounts, with no guarantees that the usurper will be eventually expelled. In many cases, the usurper would enjoy influence or have connections within the regime, which would influence the judicial ruling in their favor either due to pressure or outright bribery.

Judicial Disputes

It was found that 11% of respondents had legal disputes with other individuals, whether before or during the conflict. The problem of real estate disputes with refugees is exacerbated by their inability to return and represent themselves legally and safely, as well as the failure to register their real estate previously with the cadastral register. It is further exacerbated by the requirement of security clearances, such as security interrogation or conscription for the military, which limit their ability to legally confirm the sales of their property. Moreover, sales contracts were more often than not unofficial written bonds, with the seller remaining the official property owner in the cadastral records. The property can therefore be sold and have its ownership transferred unofficially to the buyer under mere goodwill, in which the latter has no choice but to claim compensation under the sale contract. More dangerously, many unofficial sales contracts have either been lost or damaged due to military operations and displacement conditions. Additionally, as a result of dispersion of families between Syria and Lebanon, either due to displacement or partial return, disputes within the families have noticeably increased, especially as regards distribution of inheritance.

Confiscations

It was also found that 3% of the surveyed refugees had their property confiscated under the rulings of the Terrorism Court and the Military Field Court. Confiscation is a financial punishment in which the defendant's assets are forcibly expropriated and transferred to the state without compensation, and it is considered a subsidiary punishment. Confiscation has two types. The first is public confiscation, in which all the money and property of the defendant is confiscated, and the Syrian constitution does not include this punishment and prohibits public confiscation. The second type of confiscation is private confiscation, in which one asset or certain assets are confiscated, which is the confiscation adopted by the Syrian Penal Code. Private confiscation requires a final court ruling, and is also permissible in exceptional cases such as war or natural disasters in return of fair compensation.⁷ Punitive confiscations, however, resulted from the rulings of the Terrorism Court established by Law No. 19 of 2012 ("Counter-Terrorism Law"). This court has considered nearly 91,000 cases since its inception, and has so far sentenced 2,147 Syrians, mostly in absentia, in addition to seizing the property of 3,970.⁸ The Counter-Terrorism Law provides for a freezing by the general prosecutor – or their authorized representative – of all the movable and immovable assets of whoever commits a crime stipulated in this law so long as sufficient evidence exists. The stated aim of the confiscation is to guarantee the rights of the state and those affected by said crimes. In addition, the court is granted the power to confiscate the movable and immovable assets, their proceeds, and everything used or intended for use in the crime, as well as the dissolution of the terrorist organization if that applies.⁹ Many Syrians consider the Terrorism Court as a politicized instrument aimed at eliminating opponents

⁷ Article 15 of the 2012 Constitution of the Syrian Arab Republic.

⁸ Syrian Network for Human Rights, "Most Prominent Violations of the Terrorism Court in Syria," 15 October 2020.

⁹ Article 11 and 12 of Law No. 19 of 2012.

and stripping them of their properties and assets. In addition, most human rights experts agree on the unconstitutionality of the court, given that it is a court of exception that does not consider the right to a fair litigation and the right to defend the accused. Indeed, the court has issued many rulings based on confessions extracted under torturous pressure in the security branches, most often with no hard evidence, contrary to the rulings of the Syrian Court of Cassation that stress the insufficiency of such deniable and unsubstantiated confessions. Moreover, the court is exempted from being bound by any rules or laws, as it has the right to hold its sessions in the arc or in the judge's office, with no guarantees of fair trial like in the criminal justice system. For example, there is no right to appeal against the judge's decision, and the accused often suffer prolonged detention periods before being brought before the judiciary.

Expropriations

The currently effective Acquisition Law No. 20 of 1983 has not taken into account the protection of private property, basing its rationale on the notion of public interest. Justice, however, requires balancing between the public and the private interest, as represented by the constitutionally protected right to private property and to the protection thereof. The Law's problem also appears in the event a property is marked as expropriated for decades without implementation or compensation, or with a belated implementation that includes reselling the property to individuals or to the private sector.

The great injustice citizens have been exposed to is the undervaluation of their real estate that do not reflect the real prices, which violates of the provisions of the Constitution that provide for expropriation conditioned by both the public interest and a fair compensation.¹⁰ In addition, a later decree provided for an expropriation immune to

¹⁰ Article 15 of the 2012 Syrian Constitution.

judicial oversight in accordance with Law No. 20 of 1983.¹¹ This makes the law in need of amendment unconstitutional, since the Constitution does not allow for immunizing an action or decision from judicial oversight.¹²

Furthermore, the 2012 Syrian Constitution permits expropriation for public benefit in return for fair compensation.¹³ The Civil Code, moreover, emphasizes the protection of private property, making it forbidden to deprive anyone of their property except in cases established by law and in return of fair compensation.¹⁴ While the expropriation mechanism exists in most countries, and are often utilized by states for public benefit, conditional upon fair compensation in the eyes of the private owner, the legal reality in Syria is significantly different. After the Expropriation Decree, the expropriated land is valued according to the provisions of the Law No. 3 of 1976, that is, the value of the land does not stem from its current value, but rather from an appraisal mechanism that does not account for increased prices.¹⁵ That owner of the expropriated property is not meant to make huge profits, but should at least receive fair compensation proportional to the real value of their expropriated property; a compensation that would enable them to buy another property in a similar or the same area, with the same specifications in terms of space and technical standards. Despite the possibility of objecting to the valuation before the review committee, which issues its final, non-appealable decisions, this committee does not enjoy the required independence. It is composed of four members, headed by a judge appointed by the Minister of Justice, and two of its members represent the state and only one represents the owners. The committee takes

¹¹ See: Article 7 of Decree No. 20 of 1983.

¹² Article 51 of the 2012 Syrian Constitution.

¹³ Paragraph 2 of Article 15 of the Syrian Constitution.

¹⁴ Article 771 of the Syrian Civil Code.

¹⁵ Article 14 of the Expropriation Law No. 20 of 1983.

its decisions by majority or unanimity.¹⁶ The law obliges the expropriating entity to deposit the compensation in the bank within a maximum period of five years, and it prohibits re-valuing the property when paying the compensation, making it sufficient to pay the owner an interest without taking into account the price changes over time.¹⁷ In addition, in the event the state refrains from carrying out the works for which the expropriation took place, the owner cannot return the compensation and restore their property, which then remains registered under the state's name and only the state enjoys the right to use it.

Only if the land was agricultural and suitable for cultivation, and the expropriating entity decides it can be cultivated, then its former owners are prioritized and offered the chance to purchase it back, provided that they accept the price determined by the entity.¹⁸ All of these shortcomings in the Acquisition Law constitute not only conceptual defects but also allow the state to acquire private properties at low prices and then sell them. This has been an old problem. Between 2000 and 2011, acquisition procedures served multiple private interests irrespective of public benefit. These iniquitous expropriations that occurred in all Syria cities were among the reasons for the protests that erupted in 2011. For example, many lands in Al-Moadamyeh had been expropriated for the benefit of the emerging class of businessmen in 2008, shockingly at the 1985 prices that were hundreds of times lower than the market prices in 2010. The expropriated areas in Al-Moadamyeh reached 75% of the suburb's lands, which contained 120,000 olive trees that largely contributed to income for local population.

The same story is heard time and again, with dozens of properties expropriated in Kafr Sousa, Daraa, Homs and other Syrian cities and towns. In all these cases, the state would

¹⁶ Articles 23 and 24 of the Acquisition Law No. 20 of 1983.

¹⁷ Article 25 of the Acquisition Law No. 20 of 1983.

¹⁸ Article 35 of the Acquisition Law No. 20 of 1983.

expropriate properties for public benefit but pay compensation based on a 30-year-old valuation, only to sell the properties to businessmen.¹⁹ As such, the Acquisition Law has been used against citizens and returnees. Even for those whose ownership has confirming cadastral records, expropriation can still be used “legally” to deny them return to their lands and homes in exchange for meagre compensation.

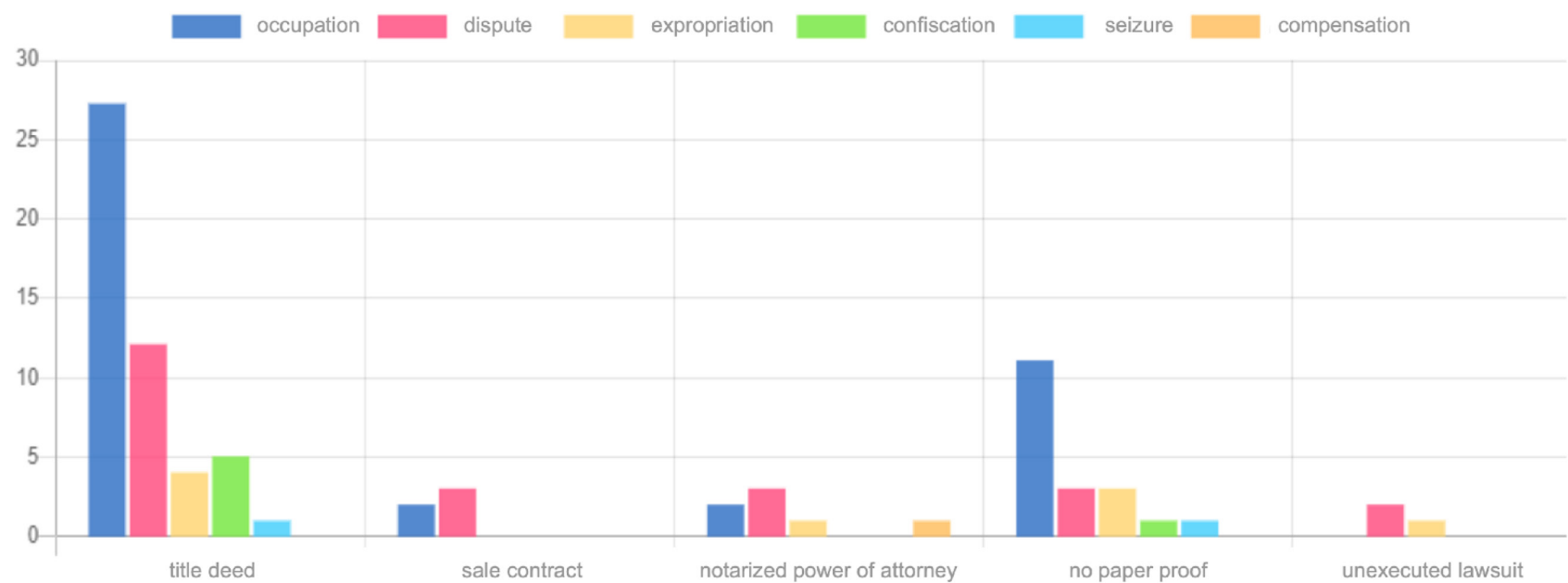


Figure 4: Types of real estate disputes according to the paper proof owned by the surveyed refugees.

Seizures

Precautionary seizure is an instrument utilized by a creditor to preserve their right from potential loss. In applicable cases, the seized assets remain in the hands of the owner, but their power to dispose of the seized assets becomes restricted.

The Syrian Civil Procedure Code lists the cases in which precautionary seizure is placed on the debtor’s funds.²⁰ However, placing a precautionary seizure on the movable and immovable assets of citizens has become a major threat that may lead to them losing

¹⁹ Muhammad Jamal Barout, *The Past Decade in Syria: The Dialectic of Stagnation and Reform*, Arab Center for Research and Policy Studies, Beirut, 2012, p. 317 and 318.

²⁰ See: Articles 314 to 380 of Law No. 1 of 2016 and the Syrian Civil Procedure Code.

assets altogether, including their real estates. Syrians face two types of such threatening seizure: precautionary seizure by the Terrorism Court and the Judicial Police, and executive seizure by certain financial departments targeting those who absconded from military service at the age of 42 or above.²¹

Precautionary Seizure by the Terrorism Court and the Judicial Police

When a citizen is referred to the Terrorism Court, their movable and immovable assets are immediately seized. The court bases its precautionary seizure actions on Article 11 of Law No. 19 of 2012 (the Counter-Terrorism Law), which provides for precautionary seizure of movable and immovable assets of anyone being tried before the Terrorism Court for any of the crimes stipulated in the Counter-Terrorism Law. In addition to being unconstitutional, this seizure is executed by an exceptional court which does not adhere to the basic rules of criminal trials.²² For instance, this court does not commit to the publicity of the trial, as a trial sometimes takes place in the judge's office. The judge is also exempt from adherence to the rules and procedures during their interrogation, as he may interrogate the defendant without a defense lawyer. Not only can a defendant's request of a lawyer be ignored, but even the request of forensic medical examination to prove torture, and therefore challenge the confessions they had made under torture, can also be ignored.

On the other hand, the court's in-absentia rulings are not subject to retrial in case the defendant was arrested, unless they surrender themselves voluntarily.²³ This violates the provisions of the Syrian Code of Criminal Procedure, which states that if the absent defendant surrenders themselves to the government, or is arrested before the they can

²¹ Article 1 of Law No. 39 of 2019, amending the Military Service Law No. 30 of 2007.

²² Article 7 of Terrorism Court Law No. 22 of 2012 which states: "While preserving the right of defense, the court is not bound by the rules stipulated in the legislation in force in all the roles and procedures of prosecution and trial".

²³ Article 6 of Law No. 22 of 2012.

benefit from the statute of limitations, the ruling and all other ongoing decisions as of the issuance of the arrest warrant or the decision of the time-limit shall be deemed void, and the trial shall be repeated in accordance with normal procedures.²⁴ Furthermore, the court relies mainly on reports of security forces, even if a defendant presents evidence that proves that he is not guilty. In this case, the judge writes to the security branches, often without expecting a response, before proceeding to sentencing the defendant according to the same questionable reports, with the latter forced to sign them under threat and torture. Judges often do not ascertain the information of security reports, and ignore cases of torture even when it is visible on the defendant's body. Moreover, given the law stipulating for the establishment of the court, it is an exceptional court that is not independent, as it includes both civilian and military judges appointed by a presidential decree based on a proposal from the Supreme Judicial Council, whose head is none other than the President of the Republic, and most of whose members are subject to the executive authority.²⁵ Additionally, the Public Prosecution enjoys broad powers to refer anything believed to be related to terrorism to the Terrorism Court.²⁶

Since the court is exceptional, and does not guarantee fair trial standards, it is criticized as being an instrument to undermine dissident. Given the lack of integrity or independence, the court's issuance of precautionary seizure decisions on the movable and immovable properties of the defendants, whether arrested or not, is a serious violation. Precautionary seizures cannot be canceled until the judge's decision is issued, and only if the defendant is judged innocent. If convicted, the seizure becomes permanent and there are no legal ways to challenge it. In the case of fugitives who were

²⁴ Article 333 of the Syrian Code of Criminal Procedure.

²⁵ Article 2 of Law No. 22 of 2012.

²⁶ Article 3 of Law No. 22 of 2012.

not arrested to be tried before the court and who did not surrender themselves, the precautionary seizure of their assets turns into an executive seizure once they are convicted in absentia, with the state seizing their movable and immovable assets, including their families' houses. There is no way to avoid precautionary seizure except surrendering oneself to the court, in which case there is a chance of being convicted and losing the assets or otherwise acquitted and restoring them. In addition, not only does the law give power to place precautionary seizure to the court, but it also allows the judicial police to request in writing that the Minister of Finance take the necessary precautionary measures on the movable and immovable assets belonging to the defendant. This often takes place in cases of crimes against the state's internal and external security, and those listed in Counter-Terrorism Law No. 19 of 2012.²⁷ This has a significant impact on Syrian women and men, especially refugees and returnees, as it threatens their HLP rights and directly affects their decision to return, let alone the impact on their living conditions as they lose the ability to live or use their properties. A woman from Daraa countryside had her husband arrested at a checkpoint in Damascus, and his whereabouts have remained unknown ever since. In 2014, she met a lawyer who assured her that he can get information about her husband and help him if she pays him a certain amount of money. This prompted her to go back to her village in Daraa to sell her husband's land to a relative, only to find out that the land had been seized by the state. What's more, the state had also seized another land that she had inherited from her father. The woman confirmed that the seizure was made in accordance with the provisions of Decree No. 63 of 2012, meaning that it was issued by the judicial police, which not only seized the husband's assets but also those of his wife, contrary to the provisions of the very legislative decree. The woman did not have enough money to hire a lawyer and lift the seizure of the land, so she had to accompany her brother's

²⁷Article 1 of Legislative Decree No. 63 of 2012.

family, who had sought refuge in Lebanon where she currently lives. She suffers from poverty and destitution, and she says that had her land not been seized she would not have stayed in Lebanon.²⁸

Although lifting the seizure on assets remains possible, it requires hiring a lawyer, which is a considerable cost for many, in addition to other governmental fees. Furthermore, a person requesting that the seizure be lifted or hiring of a lawyer for that purpose can lead to their arrest should they be wanted. Therefore, they are left with two options: either enforced disappearance, since the security forces may not even recognize their arrest, or trial before the Terrorism Court, an exceptional court that lacks judiciary independence. This means that the risk is not only financial but may also undermine the person's freedom and life. If the person is already forcibly disappeared or detained, and their spouse's assets were seized according to Decree No. 63 of 2012, then the latter may submit a request to have the seizure lifted directly, which can be costly and have no guarantees.

Direct Executive Seizure by Financial Departments

While the Law of Military Service No. 30 of 2007 and its amendments stipulated that those required to serve and have exceeded the mandatory service age (42 years) without having served or been exempted are obligated to pay an exemption fee of 8,000 USD, or its SYP equivalent according to the official exchange price bulletin issued on the date of payment by the Syrian Central Bank. After the payment, the person's record is updated according to Public Revenue Law. This person's designated recruitment division often gives them a grace period of three months from the date he they receive the exemption approval, after which they can be punished by imprisonment for one year if they fail to pay the amount, with the value collected in

²⁸ Roula Baghdadi, "Returnees Impacted by Syrian Laws," unpublished paper, Sawa for Development and Aid, 2020.

accordance with the provisions of the Public Revenue Law.²⁹ However, an amendment was made to this article, which had already been fundamentally unfair. Now, the person who fails to pay the exemption fees has their movable and immovable assets executively seized, rather than precautionarily, that is, all their assets are immediately affected without the need to warn them.³⁰

Forgery of Absentee's Documents

Forgery has constituted one of the most prominent violations faced by those fleeing the Syrian tragedy. Many spoke of forgery and property theft, amidst rampant corruption, exploitation of refugee status, and poor access to accurate information. Many sales and purchases have been made through forged papers, as well as through influential militias leaders. In 2014, an HLP expert spoke of frightening numbers of forgery operations. According to him, cases of forgery have reached 30,000 in Damascus and Rural Damascus alone, followed by 8,000 cases in Aleppo, then 6,000 in Homs and 5,000 in the remaining governorates, all between 2011 and 2014.³¹ Furthermore, a Syrian judicial source stated recently that HLP fraud in Damascus has decreased by 80 percent compared with previous years. He said that many gags were caught forging ownership documentation in the Al-Maliki neighborhood in Damascus.³² In a statement to the Syrian newspaper *Al-Watan*, the source said that investigations showed how forgers sold the same properties to more than one person, noting that there were many expatriates who had filed lawsuits to stop the sale of their properties. In a statement to the *Al-Watan*, the **Minister of Justice Ahmad Al-Sayed said that a number of judges were under trial in the Supreme Judicial Council because they had issued rulings to**

²⁹ Article 5 of Legislative Decree No. 33 of 2014 amending Article 97 of the Military Service Law No. 30 of 2007.

³⁰ Article 1 of Legislative Decree No. 39 of 2019.

³¹ See: Double Alienation: Networks Seize Syrians' Real Estate by Forgery – Economic (2014).

³² See: Economy Today , “ Decreased rate of fraud in Damascus real estate to 80% “, April 26, 2017.

transfer ownership of real estate based on forged PoAs. Cases of counterfeit sales have continued to happen in various ways. A con man could sell a house they do not even own through a “forged judicial PoA,” a false address, or a sales contract bearing the owner’s “fake fingerprint.” The con man can cooperate with one or more “partners” to present them as a “bona fide buyer,” using a trick known as “smuggled property” that would make the case roll and roll in court corridors. Conveniently for these con men, the penalty for such criminal fraud is at most imprisonment for a year.³³ Such fraudulent sale, however, can be rescinded even after the court ruling and registration in the cadastral register. This is why the sold property is often resold to a third person. In this case, the claim that the reseller acquired the property fraudulently is often countered by the good faith of the third person, to whom the ownership is transferred. This is all based on the provisions of the Cadastral Register Law No. 18 of 1926, which is the applicable and enforced law in these matters.³⁴ In the jurisprudence of the General Commission of the Syrian Court of Cassation: “The real estate right in rem is transferred to the acquiring person in the cadastral register regardless of the reason of transfer, and regardless whether the action resulting in the obligation to transfer the right in rem is sound or flawed.” If it turns out that the first transfer of ownership was “flawed” and that the right in rem was transferred without reason, then the aggrieved person has no choice but to file a lawsuit against the perpetrator of the flawed transfer. The lawsuit should cite “enrichment without reason,” because the bona fide buyer had bought the property according to cadastral records and should have their ownership protected, even if their seller had obtained the property deceitfully. So long as the bona fide buyer had not known of the deceit, they should be protected, and the aggrieved party’s claim

³³news, “ real estate smuggling in Syria...War-fueled workmanship !”, February 24, 2017.

³⁴See Article 13 of the Land Registry Law issued by the decision 188 LR of 1926 and Articles 17-31 of the determination and liberation system issued by Resolution 186 LR of 1926

should be limited to the original seller who had forged the paper proof.³⁵ Even the penal ruling that considers the judicial PoA a forged document does not fall within the bona fide buyer category according to Article 13 of Resolution No. 188 of 1926.³⁶ Given the aforementioned numbers, we can only imagine the magnitude of fraud and property theft operations that have occurred since 2011. This requires innovative and just legal solutions that compensate the citizens who lost their rights and properties most severely and unjustly. These solutions should move away from the existing corrupt systems that require a long time to be reformed. In fact, Syria ranked third in Transparency International's Corruption Perceptions Index,³⁷ with indicators of corruption multiplying dozens of times since 2011.

3.3 Rezoning with Limited Access and Inability to Establish Rights

The legal framework of urban planning suffers from many defects that threaten the rights of citizens risk complicating any future planning prospects. There is fear of reproducing old failures that have contributed to many HLP challenges over the past decades. Furthermore, urban planning considerably overlaps with rights in rem, it will therefore inevitably collide with the accumulating HLP challenges in Syria, especially those related to displacement and destruction in different region. This multi-layered challenge affects both the success of any urban planning in the near future, particularly as regards the housing needs of the population, and the rights of citizens in the event their properties fall into the zoned areas. After 2011, many urban planning laws have been issued, indicating the Syrian government's vision of reconstruction in general, and its plan to reconstruct the heavily damaged areas in particular. Legislative Decree No. 66 of 2012, for instance, provided for the development of informal settlements in the

³⁵ General Assembly Resolution No. 282 Basis 655, 25 May 2014.

³⁶ General Assembly Resolution No. 109 Basis 1444, 18 May 2009.

³⁷ Alhurra, "The World's Corruption Index.. How Arab Countries Ranked", 23 January 2020.

southeast of Mazzeh (Mazzeh and Kafr Sousa districts), and the development of the Southern Ring Road area (Mazzeh, Kafr Sousa, Qanawat Basateen, Daraya and Qadam districts). This decree included harsh conditions such as a thirty-day time-limit for citizens to establish their HLP rights, which was hard to meet in light of war, displacement and security challenges. It therefore resulted in many losing their HLP rights, especially with the spread of informal settlements and unregistered ownerships (PoAs, court rulings, sales contracts, etc.). Significantly, many were unable to establish their HLP rights due to security reasons. Moreover, the decree was problematic in the level of discretion it allowed administrative bodies to enjoy, its litigation mechanisms, its underfunding, and its reliance on a poor and corrupt public administration that would create a considerably different reality from what legal texts provide for.

Shortly afterwards, Law No. 23 was issued on 8 December 2015 as a general law for urban planning and zoning. Despite its flaws and loopholes, it contains reasonable guarantees of HLP rights, yet before enough time passes to test its viability, Law No. 10 of 2018 was issued, elaborating on Decree No. 66 with some amendments. This recent law allows for the creation of one or more redevelopment zones within the general zoning scheme of administrative units, based on the proposal of the Minister of Local Administration and Environment, as well as on approved general and detailed studies and plans and an approved economic feasibility study. Therefore, the law regulates the same matters that fall within Law No. 23, despite the fact that the latter had been just issued and barely applied. Here, the overlapping poses a real question about the purpose of issuing Law No. 10 of 2018, instead of relying on Law No. 23 of 2015 or amending it if not it was deemed as falling short of urban planning needs. It is notable that there are no measures obligating the executive authority to apply any of these two laws to the redevelopment zones, given that the creation of said zones occurs by a

decree in accordance with either law. Law No. 23, however, limited these areas to certain cases, while Law No. 10 left the door open and only required economic feasibility. Any reconstruction process will therefore bring with it a serious threat of property loss, especially in the event of rezoning the areas left behind by rights holders, whether this rezoning was under Law No. 23 of 2015 on Urban Planning or Law No. 10 of 2018 on the Creation of Redevelopment Zones. Despite the fundamental differences between both laws in terms of application cases, allowed expropriation, mechanisms of discretion, distribution and handover of zoned areas, the application of either of the two laws will lead to major threats to refugee properties due to the HLP reality and the executive and judicial environments in Syria. These threats appear mainly on two levels:

- **Mechanism for Establishing Rights:** According to the provisions of Law No. 23 of 2015 and Law No. 10 of 2018, after the issuance of the zoning decree for the region, the administrative unit within which the regulatory body operates (governorate, city, municipality) must use various media within less than a month to announce the zoning of the area in question. Within a year of this announcement, everyone who claims a property within this area (such as a court ruling, PoA, contract, etc.) must submit a declaration of their rights to their property. If the right holder is traveling or wanted by security forces, or otherwise unable to come to Syria, one of their relatives up to the fourth degree can act on their behalf (including cousins, uncles and aunts). It is not required that the relative acting on their behalf hold official legal representative, and it is sufficient to produce a family record proving their kinship. Following the claim, a “dispute resolution” committee will form and enjoy full judicial powers, and will be exempted from compliance with the Code of Procedure, and the right holder must wait appear before this court to establish their right. They may resort to the Court

of Appeal if necessary. Right holders who did not challenge the dispute resolution committee may prosecute them before the ordinary judiciary. One of the major drawbacks of this law is its timing, as it is applicable to areas devastated by war and abandoned by residents, who have been either IDPs inside or refugees abroad. Therefore, the short period given to people to establish their rights raises serious concerns that owners of properties in these areas might be lost. This is especially the case when the majority of property owners in these areas did not have official cadastral records, but rather owned properties according to court rulings, judicial PoAs or other documents.

- **Valuation of Properties Within Rezoned Areas:** Laws 23 and 10 provide for the valuation of properties within the rezoned area according to their current status, including buildings, constructions, trees, plants, rights in rem and the claimed rights, all to be estimated fairly while taking into account the real value. An administrative body has thirty days from the date of the zoning decree to form a committee or more to list the properties within the area, describe them in detail and building records of their contents – such as buildings, trees, plants and others. The committee can use aerial photography to help other committees. What is problematic, however, is that the discretion given to said committees work in ordinary circumstances but not exceptional ones. These mechanisms do not note the untenability of truly valuating real estate in destructed and sabotaged areas, and often use the current conditions right before the issuance of the zoning decree.

Owners of destroyed properties throughout the Syrian territory were supposed to receive compensation. The Ministry of Local Administration and Environment indeed announced the disbursement of 52 billion SYP, up until 2018, as compensation for

damaged private and public buildings, including 20 billion to compensate private buildings. Previously, the Director of the Damage Office in the Rural Damascus governorate announced the disbursement of 2.46 billion SYP in compensation to citizens up until 20 January 2019. The value of damages in Rural Damascus alone had until 30 November 2017 amounted to 961.6 billion SYP, including residential and tourist properties, shops and factories, let alone damages to infrastructure and government and service facilities. Individual compensations were capped at 10 million SYP. On 4 August 2019, Deputy Minister of Local Administration and Environment Moataz Kattan revealed that there were about 208 thousand requests for compensation for damages to private buildings, pointing out that compensation for private property was still in place. The delay in disbursement, he added, was due the liberation of large territories, which meant considerable infrastructure damage and hence freezing the disbursement of compensations. Additionally, Kattan added that registration for private compensation was still open, and only temporarily suspended to accommodate other compensations for public properties. In reality, most citizens did not receive compensations, and even for those who did, compensation was minimal and too meagre to compensate for the damage. All refugees we met in Lebanon over the course of this research told us that they had not received any compensation, and that most of them were unable to register for compensation due to their displacement and inability to return. In addition, many complained about favoritism in compensation schemes in Homs, while others spoke more specifically about sectarian considerations, especially in western Homs countryside such as al-Qusayr and Tell Kalakh. In sum, the government barely compensated a few of those affected, and only with small amounts that did not actually compensate. Notably, these compensations fail to take into account the inflation and rise in prices of building materials as a result of the collapse of the Syrian currency, whose exchange rate reached 3000 SYP against 1 USD. Undoubtedly, those who

received compensation were not refugees, since all our interlocuters said that neither received compensation nor managed to return to register for these meager sums they heard about from people in their areas. They also heard about favoritism and sectarian and regional biases in distributing the amounts. If future compensation is to be distributed to those affected, records and documents of municipalities and local administrative units can be consulted. But how can refugees establish their rights if most of them were unable to carry out such basic procedures as assessing the damages of their properties? A complete loss of their rights certainly looms large and threatening.

4. Non-Legal Obstacles in Syria Precluding Return

4.1 Inability to Return as a Main Obstacle to Direct Access to Property

The findings of our qualitative analysis of why and how Syrian refugees decide to return (with regards to their access to property) converge with the findings of the above-mentioned literature. Factors such as security, economic situation, similar living conditions between Lebanon and Syria, the damage to properties and assets, and the absence of basic services all remain at the root of any return decisions. Notably, the conditions in Lebanon no longer constitute a decisive factor when compared to the conditions in Syria, since the economic situation in Lebanon has become negligible and almost similar to that of Syria. As such, return for large numbers of Syrians will not constitute any added value in terms of living conditions, especially with the security factor limiting people's access to property and any livelihoods associated with them. Indeed, a majority of refugees believe that improving their own livelihoods in case they return requires access to capitals, especially those based on land and real estate and other income-generating assets (agricultural, workshops, etc.) and regardless of the damage. To many specific groups (i.e. residents of a specific locality who are subject to the same return conditions, meaning they often experience the same conditions and make similarly informed decisions), return does not mean returning to the area / locality of origin where the assets such as properties exist, but rather experiencing displacement or temporary settlement in areas close to the area of origin (or the intended area of return) until return becomes permitted in terms of security clearance and access to the properties, thereby restoring this properties and using them as income-generating assets becomes possible. Furthermore, return does not only mean just access to the properties, since any previous revolutionary activism by the returnee (even for those who "settled their status" with the security forces) or any of their co-owners in the

property (family members and others) will mean not only that the property cannot be accessed or invested, but that it can also be unavailable either due to seizures or confiscations by the Terrorism Court and Military Field Court, due unresolvable disputes with other individuals, or due occupations by groups/individuals with military/political connections within the regime. At the same time, restoration or reconstruction remain suspended due to the complex administrative and security requirements in restoration requests, as well as the financial shortfall and the inability to secure the necessary licenses for reconstruction.

4.2 Security Reasons

Despite all the legal and non-legal challenges, and despite the stressful economic and livelihood reality, many Syrian refugees in Lebanon cannot return to Syria, and a significant percentage of them do not wish to return. The survey shows that only 13% intend to return in the future. Among the reasons the majority of them do not intend to return is the security concern, and a decade-long memory that makes them fearful of returning in light of the current security situation. Many respondents mentioned the complexities of the security settlement for returnees. In Homs, residents were allowed to return to their homes in neighborhoods where security settlements are available, but only approved names were allowed in. Moreover, a security settlement by itself is no guarantee that no arrest or abuse will take place again, especially due to malicious informants and snitchers. Many people who returned were subjected to arrest and detention, or at least to security harassment such as repeated summonses and investigations by the security forces. Some told us that he had been subjected to extortion and paid large sums of money to the security forces to be released, despite having never been involved in any activism or expression of political opinion. These cases are frequent under the complete dominance of the security forces and the

adoption of a collective punishment policy against certain population, with complete absence of judicial authority.³⁸

On the other hand, returnees face a different challenge manifested in social discrimination. This stems from the stigma resulting from having been refugees, and from linking that to previous political positions taken vis-à-vis the events that took place after March 2011. In Jouret al-Shiyah, for instance, some refugees returned following a prolonged security clearance process. As they could not live there due to the destruction, they rented houses in the neighboring area of Aal-Waer. When they tried enrolling their children in a school, the school's administration said that priority should be given to Al-Waer population or those who had remained in Al-Waer since the beginning of "events," whereas children of newcomers will have their classes afternoons.³⁹ Additionally, some people from Tell Kalakh in the western Homs countryside said that the Lebanese and Syrian security forces were in coordination when the UNHCR approved of their return, but most of those who hail from Tell Kalakh were either arrested or forced to return back to Lebanon to escape prosecution.⁴⁰

In Kafar Nasej in the Daraa governorate, after the agreement in August 2018 between the opposition forces and the Syrian government under Russian auspices, people were allowed to return to the town so long as those wanted "settle their status" with the security forces. However, a large number of residents remained displaced and unable to use their homes due to the huge destruction and the inability to restore them.⁴¹ Residents of many areas are not allowed to return properly. Maarat al-Numan is strategically located in southern Idlib countryside on the Aleppo-Damascus International Road, and it had had a population of 100,000 people. A respondent from that town told

³⁸ Individual interviews and focus groups with Syrian refugees in the Bekaa Valley, Lebanon.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ The Syria Report, "Northern Daraa Countryside Prevents Return," 6 January 2021.

us that after the government forces took control in 2019, all residents of Maarat al-Numan fled their homes, since everyone considers themselves wanted by the Syrian government. “All the population were cornered” (in rebel-held “liberated” areas in Idlib, as he put it), and if one decides to return their neighbors and relatives would consider him a regime agent. Nevertheless, the respondent does not feel safe in government-controlled areas, simply because he hails from Maarat al-Numan, a town whose population has consistently expressed their opposition to the government throughout the preceding years.⁴²

4.3 Economic Conditions in Syria

The Syrian economy has suffered greatly due to the destruction of most regions. The gross domestic product (GDP) shrank from 60.2 billion USD in 2010 to 12.4 billion USD in 2016, according to the Central Bureau of Statistics.⁴³ With the recession of military operations in most regions, and as the Syrian government forces regain control over a number of formerly rebel-held regions, reconstruction begins to emerge as a significant challenge facing Damascus. The United Nations (UN) estimated reconstruction costs at about 400 billion USD, while international studies and other experts estimate Syria’s needs between 250 to 400 billion USD.⁴⁴ The Syrian conflict has had severe impact on the country’s urban infrastructure. The World Bank estimated that a total of 316,649 housing units have been targeted during the war, in addition to 78,339 residential buildings destroyed, and 238,311 units partially damaged. According to World Bank’s examination of 10 Syrian cities, 27 percent of all homes have been impacted, 20 percent partially damaged, and 7 percent completely destroyed.⁴⁵ In a detailed UN statistic on

⁴² Individual interviews and focus groups with Syrian refugees in the Bekaa Valley, Lebanon.

⁴³ Joseph Daher, “The Political Economic Context of Syria’s Reconstruction: A Prospective in Light of a Legacy of Unequal Development,” research project report, European University Institute, 2019.

⁴⁴ Russia Today, “Assad Reveals to Russian’s Deputy Prime Minister the Cost of Reconstructing Syria’s Economy,” 13 December 2018.

⁴⁵ George Somi, “Syria under Pinheiro: Reformulating Syrian Domestic Law for Decentralized Reconstruction,” translated by Muhammad Shamdin for Harmoon Center for Contemporary Studies, originally published in Brooklyn Journal of International Law, 18 December 2019.

the rate of destruction in Syria, Aleppo ranked first with a total of 35,722 destroyed buildings, followed by Eastern Ghouta with 34,166 buildings.⁴⁶

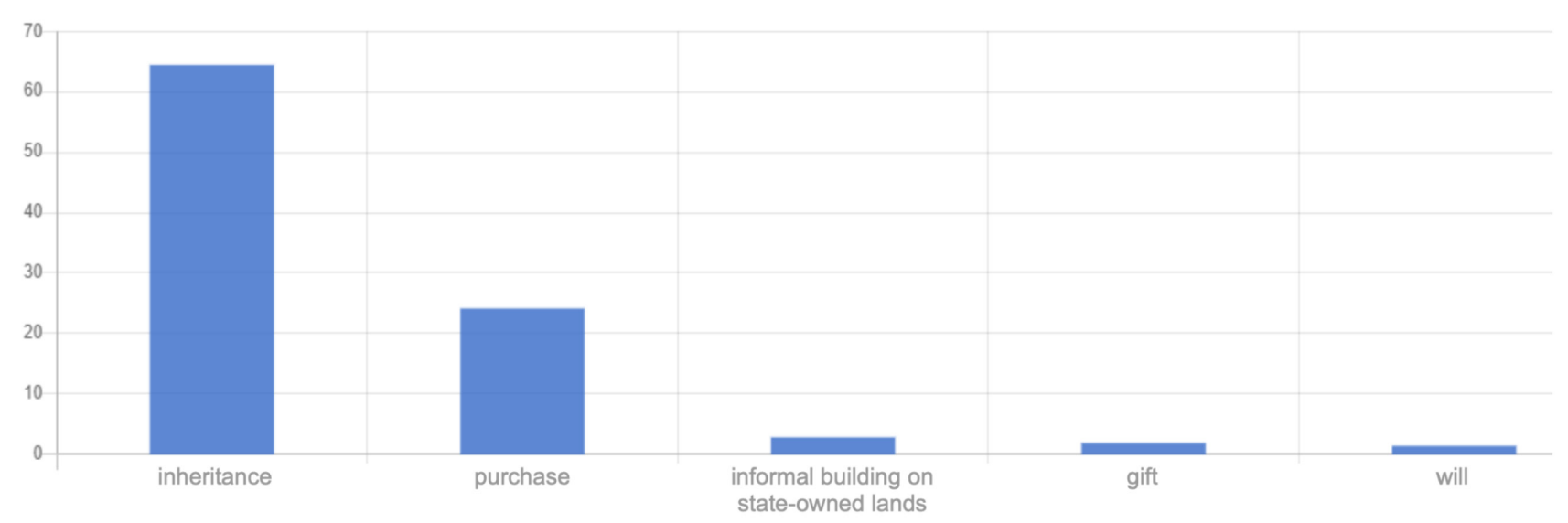


Figure 5: The legal mechanism for real estate transfer of ownership according to the surveyed respondents

The survey conducted for this research showed that 93% of the respondents own real estate in Syria, and only 7% do not. Among those who do, 51% own the entire property, while 49% own shares. This is either a result of “common properties” or of the fact that said properties were passed down to them through inheritance, especially for women. These findings reveal that the Syrians have reasonable real estate ownership. Some of our respondents said they own more than one property, although some many of these properties are disputed, as shown earlier. In addition to these disputes, there has been massive destruction inflicted on most Syrian properties after 2011, causing further legal complications, especially with the accompanying destruction of infrastructure, public centers, and service institutions in most cities and villages. Most of these properties, 71%, were transferred to their new owners through inheritance, while 2% were and 1% wills. By contrast, 26% of the properties had been purchased before 2011, and 3% were

⁴⁶ The study’s criteria for measuring destruction was as follows: the building is completely destroyed if the damage is 75-100%, severely destroyed if it is 30-75%, partially destroyed if it is 5-30%. For more, see: “In Numbers.. Detailed UN Statistics on the Percentage of Destruction in Syrian Cities,” Enab Baladi, 18 March 2019.

built informally on state-owned property (Figure 5). As for damage and destruction, 76% of respondents said their properties were damaged to varying extents: 41% totally and require rebuilding, 32% partially and require restoration, 3% lightly and require repairs, but 24% barely. In addition to the destruction caused by the war, most properties in areas that witnessed hostilities had been looted. Most refugee respondents experienced systematic theft of furniture and machinery, and those who had agricultural lands lost their equipment, crops and even trees due to militia actions. Most of these cases were part of a collective punishment policy against anti-regime towns and regions (Al-Qusayr, Tell Lakh, Maarat al-Numan). Figure 6 shows the extent of destruction according to the type of real estate ownership. Our findings indicate the significant damage to residential homes and agricultural lands. This constitutes a major obstacle to return for who lost not only their homes but also their livelihoods, especially for refugees coming from rural areas that depend primarily on agriculture.

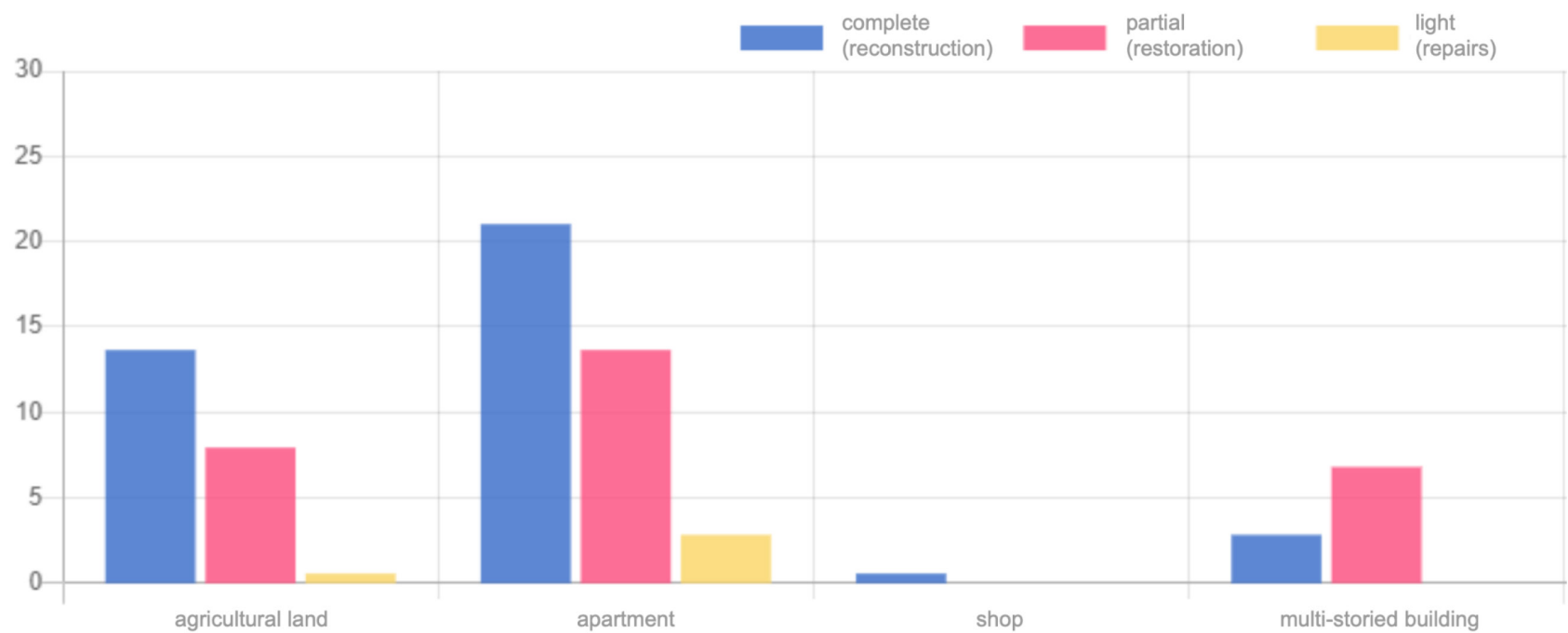


Figure 6: Extent of destruction by type of real estate ownership.

The loss of capital, the destruction of properties and agricultural lands, the inability to pay rent costs amidst a severe economic crisis, the lack of job opportunities, low wages, are all additional obstacles to the return of refugees to their areas of origin. This is especially the case when these areas suffer considerable destruction of infrastructure, almost complete absence of basic services such as electricity, transportation, official departments, and healthcare centers (Figure 7). Indeed, more than 50% of the areas from which the respondents were displaced are destroyed and suffer an almost complete absence of services.

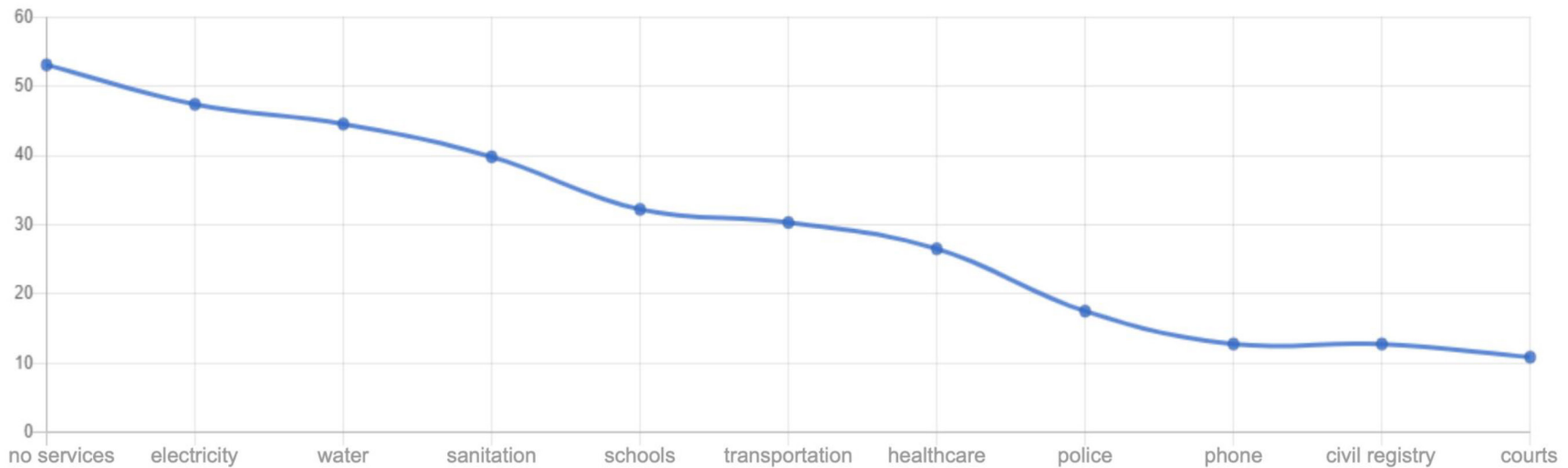


Figure 7: Services in the respondents’ areas of origin in Syria

4.4 Inability to Access HLP Knowledge

All legal and non-legal challenges faced by refugees affect the protection of their HLP rights. We found that 61% of the respondents did not take any action to solve their HLP problems; 39% tried to solve them, mostly through relatives residing inside Syria or by actually returning; only 29% could bear the financial burdens of hiring a lawyer to defend their rights; while 13% resorted to mediators and security-affiliated persons to solve their HLP problems. Most of these problems are about occupation or usurpation, in which case owners have to pay the usurpers to recover the property. Notably, 50% of

the respondents believe that judicial action is useless, that it is a waste of time and money, and that the judicial institution will not do them justice in the end, especially in the face of influential or rich transgressors. Their belief is reinforced by previous experiences of having their rights and dignities violated upon for political reasons.

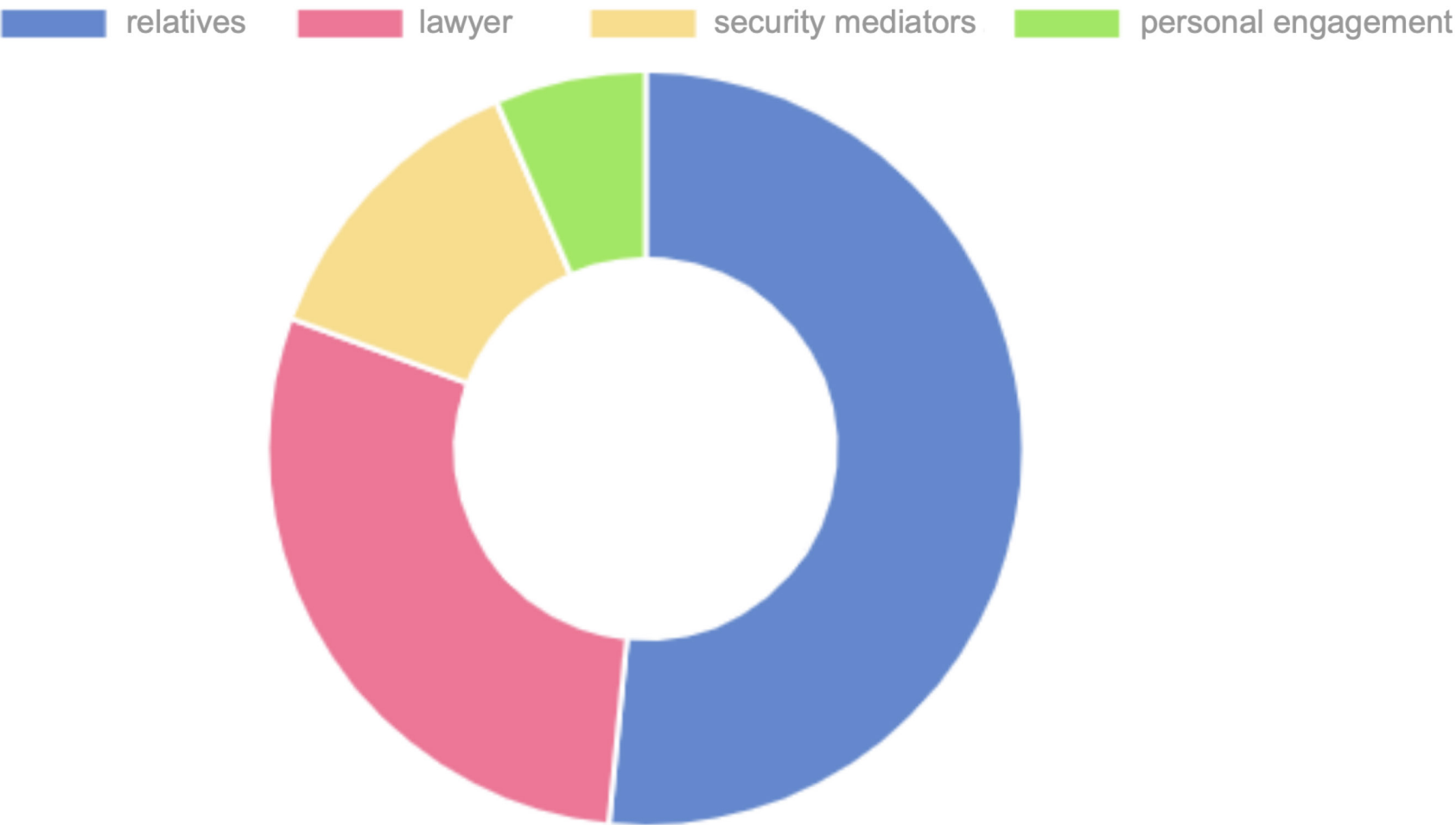


Figure 8: Means to solve legal problems

Security and financial reasons top the list of obstacles that prevent refugees from protecting their legal rights, resolving their HLP disputes, and registering their properties (Figure 9).

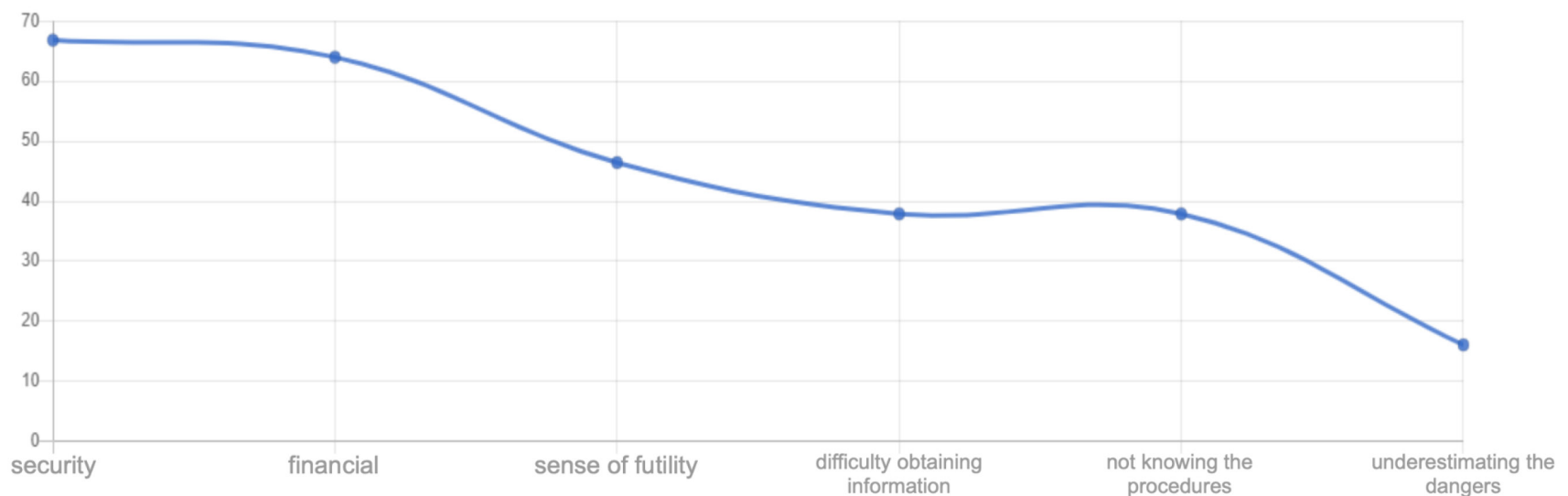


Figure 9: Obstacles to solving legal problems in Syria

On the other hand, the absence of personal engagement by refugees stems from little to no awareness of what legal procedures to follow, or even an underestimation of the dangers involved. Many citizens suffer legal and HLP problems without knowing that they might be losing their rights, especially with regard to commonly owned real estate or those without legally recognized proof or cadastral record. As such, they are unaware of the procedures required to protect their rights from being lost, which makes them vulnerable to fraud, forgery and extortion. More than 85% of respondents have little or no legal knowledge (Figure 10), whereas no specialized NGOs provide legal support to such people. Only 1% confirmed that they had received legal assistance from NGOs in Syria, even though they did not receive satisfactory assistance that protected their rights. Most specialized NGOs in Lebanon provide legal support to refugees within Lebanon, without helping them untangle the legal complications inside Syria. These legal complications are multiplied by the conditions of displacement, financial difficulties, lack of access to information, inability to return due for fear of security persecution, destruction of property, lack of services in the area of origin, and finally the spread of poverty and unemployment. Moreover, there is the problem of PoA that needs to be carried out through the Syrian Embassy. This is untenable for most refugees

due to restrictions on their freedom of movement in case they do not have valid residency permits, in addition to the relatively high cost, starting from 100 USD for the embassy in addition to lawyer and litigation fees.

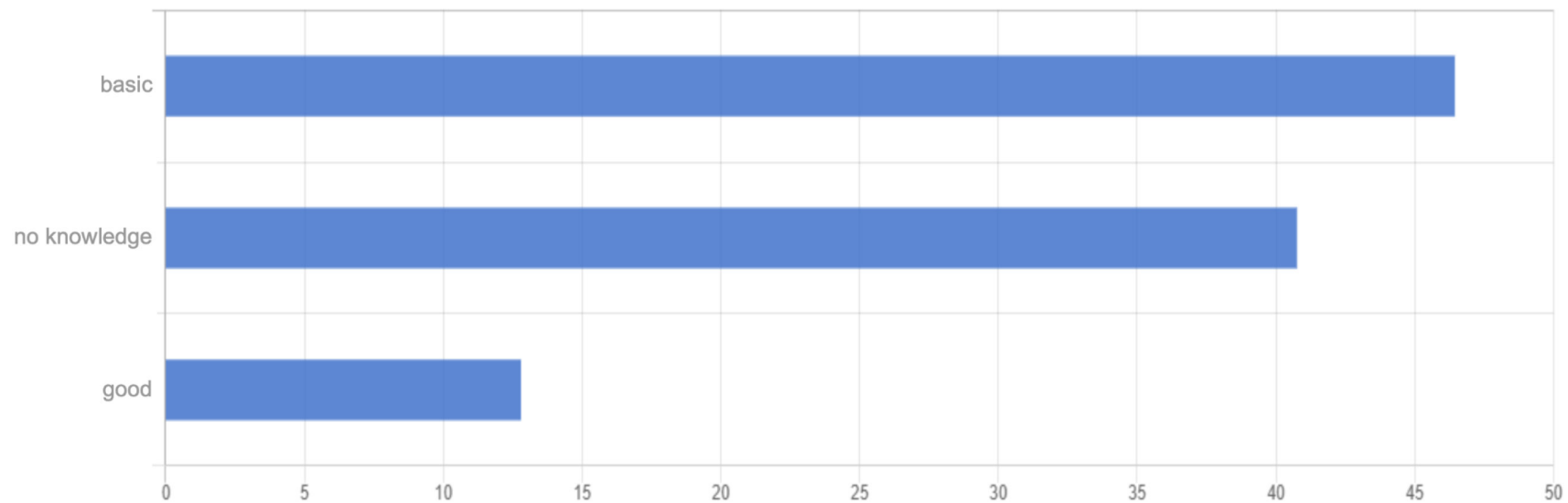


Figure 10: Self-assessment of legal knowledge

4.5 Ill-Prepared Civil Society in HLP Issues

The qualitative content of joint workshops with active civil society organizations (CSOs) in Lebanon and Turkey sought to validate the findings of our qualitative analysis of the survey, as well as the legal analysis of the economic and social impact. Six workshops have been conducted, distributed equally between Lebanon and Turkey, targeting civil society representatives working on programs targeting Syrian refugees in both countries, in addition to legal and urban experts, technical experts in former local councils in Syria, and other civic activists. The workshops were designed using an inductive method, then cross-checking with the findings of the survey. The workshops tackled two main axes. The first focused on the challenges that refugees face in establishing their ownership; confronting the issues that threaten their rights; and what proposals can be put forth to address these problems. The second axis focused on the

civil society's approach to HLP issues in Syria; what precludes Syrian refugees' voluntary and safe return in terms of legal challenges, risks that threaten their HLP rights, and their right to housing; what solutions are possible; and how the civil society can intervene in this context.

The conclusion was that the Syrian civil society is hardly involved in HLP issues in terms of intervention and impact. It was found that the following reasons can explain why:

- Lack of faith in the ability to influence and change policies of refugee-hosting countries, primarily Lebanon. In fact, the opposite has been happening, that is, the policies of the Lebanese government and of donors are the ones shaping the response of CSOs to a large extent. At the same time, support allocated to Syrian refugees is decreasing, and priorities are given to supporting basic survival, instead of discussing rights in Syria. In addition, the restrictions imposed by the authorities in host communities have greatly contributed to shifting the programming away from human rights towards relief and development. In Lebanon in particular, many CSOs have adopted an approach of joint efforts with other Syrian CSOs in other countries where restrictions on pro-refugee advocacy programs are less severe. These CSOs (especially those concerned with research) work jointly to produce the evidence and develop the messaging necessary for advocacy programs in Lebanon, before sending them to Syrian CSOs and networks active in Europe and Turkey to develop the necessary advocacy solutions.
- Insufficient awareness, as most CSOs fail to appreciate the gravity of the HLP reality and the importance of HLP rights in achieving a voluntary, dignified and safe return as a major road to sustainable peace in the future.

- The association of HLP issues with a series of laws and legislation that require specialized expertise. For example, urban planning laws, expropriation laws, counter-terrorism laws, the law for removing the ruins of damaged buildings, civil law, etc. A wide door is open for research tackling the legal structure affecting urban planning, and how CSOs can include it in their upcoming projects. In parallel, the high complexity of the HLP issue requires political, urban, economic, social and legal expertise in order for CSOs to engage more effectively in this arena.
- While Syrian civil society must play a civic role in both a human rights and a developmental sense, rather than in a political sense, CSOs consider the Syrian opposition entities as having largely failed in representing the aspirations of Syrians in general and refugees in particular. They have even failed in creating a coordination mechanism with civil society, so that a level of integration between the political sphere and civil action sphere enhances the role of Syrian political activity in the diaspora. On the other hand, research is needed to explore the role of opposition-affiliated political entities that advocated for HLP issues in Syria and contributed to their inclusion in the current negotiating tracks.

Conclusion

Intentions and decisions of Syrian refugees in Lebanon change depending on the circumstances in both countries, albeit in less and less balanced manner. Changes in “economic and security” conditions in Syria have become the decisive factor in shaping the intentions and decisions of return. Despite the relative decrease of refugees intending to return, their percentage remains relatively high. Among all the factors that shape the intentions and decisions of return, the security factor is considered the most important. Syrian refugees wishing to return are subject to no less than forced deportation or exile, given the restrictions on their return by the authorities in Syria. Therefore, a return that is “safe, voluntary, and dignified” remains largely a challenge, especially with Syrian refugees in Lebanon unable to establish their HLP rights in Syria.

Even for returnees, the degree of damage (and the inability to repair or reconstruct), along with the access restrictions imposed by security authorities, constitute two important challenges to return. On the other hand, confiscations of refugee properties under the rulings of the Terrorism Court and the Military Field Court poses a serious threat to the HLP rights of refugees.

The absence or loss of official paper proof attesting to the ownership of real estate is also a major HLP challenge. By contrast, the destruction in private properties and infrastructure and the absence of cadastral records or official description of informal housing areas pose further threats to HLP rights. The “forced deportation” of Syrian refugees in Lebanon, or the “absence of rights holders” along with the absence/loss of paper proof, makes the absentees’ properties vulnerable to various forms of appropriation and fraud.

The state-owned “amiri” lands (whether registered or unregistered) are additional threat to the HLP rights of refugees. Even the compensation might be lost in the future in case no official paper proof were available, especially in case the amiri land was redeveloped and rezoned. Even without redevelopment, the properties can be lost simply to de-facto forces under the pretext of the absence of the original owners/right holders.

Economically speaking, the fact that IDPs and refugees (and even others) have lost capital based on real estate property, either due to destruction, systematic looting or theft by government-affiliated militias or any de facto forces is another factor impeding the return of refugees and all efforts of early recovery and reconstruction. Indeed, loss of capital is among the factors that dissuade refugees from returning to areas other than their own areas of origin.

Furthermore, rezoning may constitute an opportunity for real estate brokers, government-backed local investors and international powers to begin the reconstruction process. Future rezoning portend real estate disputes between owners, investment companies and real estate developers, especially those unable to prove their ownership of property. In particular, if Law No. 10 is applied to a region, limiting the alternative housing to the occupants of the property and the recognized owner of property will lead to a huge loss for refugees and IDPs. Similarly, free and unrestricted expropriation (according to Law No. 10) will lead to unjustifiable enrichment of administrative units at the expense of citizens, despite using pretext of public facilities. Finally, entrusting the Principal Appraisal Committee with too much discretionary power will mean unfair compensation and extreme undervaluation of real estate falling within the zoning plan.

Socially speaking, the danger remains that the zoning plans will be utilized to bring about “demographic change” in some regions deemed important by the central authority. This will manifest in taking advantages of expropriations and redevelopment, the inability of real estate owners to establish their rights within the specified time limits. This may lead to class segregation, a dismantling of social networks, and changing the urban and social identity of the redeveloped areas. In terms of gender, the wives of detainees and those forcibly disappeared still lack the right to legally dispose of properties registered in the names of their husbands. In addition, gendered social customs and norms continue to deprive women of the right to own property or to inherit.

Policy Approach

Through our research, our policy approach provides a summary of proposed solutions and recommendations to support HLP rights. These include supporting transitional solutions that address current and historical contextual problems related to HLP rights by placing these rights at the center of any negotiations for political settlement, as well as ensuring the necessary constitutional reforms. Such reforms include: ensuring the protection of properties in the absence of refugees; ensuring fair compensation for destroyed of properties and looted assets; monitoring and investigating all forms and patterns of violations of HLP rights, such as fraud, seizures, confiscation and other violations perpetrated by all parties to the conflict, be they affiliated with the government or any de-facto forces. Importantly, these proposed solutions should be informed by the demands of those most affected both outside and inside Syria, including refugees and IDPs whose informed, voluntary, safe, and dignified return must be ensured as the most important condition aimed at protecting HLP rights in Syria.

First: On the Political Level

Properties and real estate issues must be placed as a top priority of the political agenda (by explicitly stipulating real constitutional guarantees that protect HLP rights and ensure adequate housing for all citizens, while also ensuring the separation of powers and an independent, proactive judiciary). The aim should be to allow a safe, voluntary, informed and dignified return for refugees and IDPs to their areas of origin. This requires support for a just political solution that leads to a genuine democratic transition that reflects the aspirations of Syrians at all levels. In parallel, it is necessary to draw up a plan for gradual legislative, executive and judicial reforms, especially with regard to the following:

- Reconsidering some of laws regulating urban planning (Law No. 23, Law No. 10 and Decree No. 5 of 1982).
- Reforming the administrative body responsible for the implementation, especially the implementation of zoning and development, in addition to reforming the electoral process of administrative units, turning them into democratic units emanating from the free and true will of the local population and expressing their aspirations. These units should then be given the major role in urban planning, with the central authorities limited to planning, legislation and regulation, as well as the introduction of modern technology methods and the implementation of nation-wide projects that administrative units would be unable to implement.
- Subjecting the urban planning process to the administrative judiciary with regard to the length of the planning period, the appropriation of real estate for the public benefit or expropriating them without implementing the zoning plan.
- Researching the appropriate legal mechanisms to establish real estate ownership in areas where titles have been lost, taking into consideration the “absence or displacement of owners, as well as the unregistered sales contracts between sellers and buyers, forged sales contracts... etc.”
- Solving the problem of informal settlements, whether those established on state-owned areas or on private property. The solution must not be at the expense of citizens’ rights to housing. Rather, it should be constitutionally stipulated that every citizen has the right to adequate housing, and that it is the state’s duty to secure this right so that citizens can enjoy it on an equal basis.

- Exempting refugees and returnees from fees, taxes, and other costs accumulating over the past years with regard to their properties.
- The development of legal mechanisms by the Ministry of Justice and the Bar Association to provide assistance to citizens in obtaining their rights and ensuring their civil records free of charge.
- Repealing all discriminatory laws against women, criminalizing all forms of violence against women, establishing a special constitutional body to achieve equality between women and men, committing the state to establishing medical, educational and psychological support centers and shelters to protect battered women, providing all appropriate facilities and adequate housing, and developing economic plans to enable them to enter the labor market.
- Finding suitable temporary housing for the returning IDPs and refugees whose homes were damaged, in collaboration between the public and private sectors, in addition to international bodies, and providing the necessary facilities for this.
- Solving the problem of undervaluation of real estate in destroyed areas, considering the housing and compensation for war victims and citizens whose property was damaged the duty of the state and not that of individuals.
- Reconsidering Decree No. 5 of 1982, and amending its provisions to conform to the Local Administration Law No. 107, thus giving a greater role to local administrative units in preparing zoning plans, in addition forming the regional technical committee on fair bases so that it has balanced representation between the central authority, the local unit, as well as the owners, with participation from the judiciary.

- Develop clear and accurate criteria to determine which of Laws No. 10 or No. 23 will be applied in implementing the zoning plans and creating redevelopment zones.
- Reconsidering all the problematic texts and articles in Laws No. 10 and No. 23 that affect the rights and properties of citizens and the urban planning process.
- Finally, there must be reform at the constitutional level, i.e. providing for real guarantees that protect HLP rights and provide adequate housing for all citizens, in addition to ensuring the separation of powers and an independent, proactive judiciary.

Second: On the Civil Society Level

Given the real estate risks facing refugees, and the required reforms at the political, legislative, executive and judicial levels, civil society can play a constructive role in confronting the threats to refugee properties and overcoming the challenges they face in this field. Intervention can be made at several levels:

- Carrying out advocacy campaigns for legislative and executive reforms, supporting studies and research, drafting modern legislative texts, and proposing amendments to some laws.
- Building expertise and benefiting from the experiences of other countries regarding HLP issues.
- Establishing mechanisms to provide free legal advice to refugees in Lebanon. A legal network with some actors inside Syria to secure legal support for refugees can be created for the following:

- Awareness of HLP ownership laws, urban planning laws for individuals, organizations and the legal community.
- Designing awareness and networking sessions with lawyers, civil society actors and experts in order to obtain the paper proofs and legal documents required to protect HLP ownerships.
- Building a legal network that provides all forms of legal and material support, ensuring the documentation of paper proofs for refugees and IDPs lest they lost their rights due to their distance.
- Engaging communities in the decision-making, policy-making and development of basic needs.
- Forming local committees based on common interests, directly representing the real stakeholders and coordinating between citizens at home and abroad with the aim of protecting their HLP rights, and facilitating and enabling the work of these committees through other community organizations.
- Documenting and archiving social and spatial identity as a step that mitigates the effects of undermining local identities in Syria, and formulating a heritage and cultural perspective – rather than political – to create a common cause concerning all Syrian social groups.

Third: On the Donor Level

Other suggestions and recommendations that donors can implement to preserve HLP rights are:

- Supporting CSOs specialized in HLP in terms of documentation, preservation and advocacy.
- Pressure the Syrian government to reform its more recent laws and decrees that served special interests and aimed to rob Syrians of their property, such as Law No. 10.
- Providing financial compensation to those affected and displaced who lost their property, especially women who do not have a breadwinner.
- Providing support with expertise and solutions for original owners to take back their properties.
- Providing international expertise related to reparations.
- Providing support for projects and programs that facilitate access to documents and documentation of legal rights.
- Supporting organizations that work to secure adequate housing for women and victims, or that provide care for victims' families.

Resources

Laws and Regulations

Cadastral Register Law No. 186 LR of 1926.

Delimitation and Legal Formulation Resolution No. 186 LR of 1926.

Syrian Civil Code No. 84 of 1949.

Syrian Penal Code promulgated by Legislative Decree No. 148 of 1949.

Code of Criminal Procedure promulgated by Legislative Decree No. 112 of 1950.

Law No. 9 of 1974 on Zoning and Urban Planning.

Law No. 60 of 1979 on Urbanization, amended by Decree No. 26 of 2000.

Decree No. 5 of 1982 amended by Law No. 41 of 2002 on Urban Planning.

Decree No. 20 of 1983 on Expropriation.

Law No. 22 of 2012 on Counter-Terrorism.

Legislative Decree No. 63 of 2012 regarding the Judicial Police's authority to request in writing that the Minister of Finance issue precautionary seizure order without a court ruling.

Syrian Constitution of 2012.

Decree No. 66 of 2012.

Decree No. 59 of 2008, repealed by Decree No. 40 of 2012 on "Building Violations."

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Law No. 23 of 2015 on Zoning and Urban Planning.

Law No. 1 of 2016 on Proceedings.

Law No. 10 of 2018 amended by Law No. 24 of 2018.

Law No. 32 of 2019 on the Syrian State Council.

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