

## PREVENTING AN UNJUST PEACE: HOUSING, LAND AND PROPERTY RIGHTS IN SYRIA AND THE RISK OF PREMATURE PEACEBUILDING

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### OVERVIEW

Syria is at a crossroads, and with that comes a heightened risk of premature peacebuilding. It is time for a more informed dialogue on guaranteeing the security and well-being of internally displaced persons (IDPs) and refugees who want to return to their homes and reclaim their property in any potential reconstruction process. The conflict in Syria has effectively reached its endgame but the post-conflict setting is characterized by a lack of strategy and momentum, and governments and multilateral actors remain divided on how to chart a viable way forward that is acceptable to all sides.

Syria can no longer be seen solely through a crisis response lens but the terms for sustainable peacebuilding—or even an inclusive peace process—remain elusive. A combination of factors, such as transformation of the Syrian conflict into a proxy war between regional powers and the overwhelming military advantage enjoyed by the Syrian Government and its allies, means that the playbook developed in the 1990s for ‘early recovery’ efforts to bridge the gap between humanitarian response and development-oriented peacebuilding has become virtually irrelevant. This dynamic is nowhere more visible than in the debate over housing, land and property (HLP) rights. Over half the population—13 million Syrians—have been displaced from their homes. Ongoing government efforts to confiscate the homes of accused ‘terrorists’ and engage in wholesale urban redevelopment of war-damaged urban neighbourhoods raise the spectre of millions of refugees never being able to return to the country and millions more IDPs being permanently marginalized.

United Nations-led and regional responses to HLP violations were painstakingly developed in the 1990s, but these tend to presuppose that the conflict parties can be pressured into painful but necessary compromises to allow former opponents to return and reclaim their homes. Such approaches offer few prospects of immediate success in the ongoing wrangling surrounding the constitutional process.

Through increased advocacy and actively seeking synergies on HLP—while putting the emphasis on Syrian ownership throughout—there is the potential to guarantee the security and well-being of IDPs and refugees who want to return to their homes and reclaim their property. The need could not be more urgent. Failure may not only doom Syria to being left behind in terms of the UN 2030 Agenda for Sustainable Development—it may also jeopardize peaceful development in the entire region.

### FOCUS

Syria is at the crossroads, and with that comes a heightened risk for premature peacebuilding. This session promoted a more informed dialogue on guaranteeing the security and well-being of IDPs and refugees who want to return to their homes and reclaim their property in any potential reconstruction process.

## **OBJECTIVES**

The session had two objectives. The first was to preserve the normative gains made during the 1990s related to the rights of conflict-affected civilian populations. This is related to the questions ‘What will be the fallout if HLP rights are not recognized in the Syria process?’ and ‘What type of precedent does that set for future peace negotiations?’ The second objective was to identify steps that can be taken to preserve the rights of Syrians in a context where the government is unwilling to make concessions and is proceeding unilaterally on HLP rights and other issues in a way that will irrevocably prejudice any possibility of return or reintegration for people displaced by the conflict.

## **KEY TAKEAWAYS**

The current situation in Syria creates a difficult backdrop to the issue of housing, land and property rights, with large numbers of refugees and IDPs, the destruction so far, and the need for reconstruction. The regime of President Bashar al-Assad is still in place with the support of its allies—regional actors with their own interests.

HLP law was an issue already before 2011, with many properties not registered (i.e. informal housing). As a result, many Syrians have no formal documentation to prove their property rights, as houses were often built without building permits.

Before and during the war, laws have been put in place to make sure that people cannot return, with effective measures taken to remove their property claims and to redistribute property. The priorities of the regime are clearly developed not according to the housing needs of the population but according to the regime’s political strategies, to expropriate as much land for its own purposes as possible.

Reconstruction is a central aspect of HLP rights: in the current situation, contributing to reconstruction means being complicit in war crimes. Reconstruction means consolidation of forced displacement and the legal changes made by the Syrian Government since the beginning of the conflict, as well as empowerment of the allies of the Syrian regime. In this regard the term ‘war crime economy’ is used to refer to the economic structures in place and being developed in Syria.

There is an interplay between civilian suffering, sanctions and HLP rights. Sanctions are a means to create leverage over the regime and its supporters to make the regime enforce HLP rights, but they have important implications for the local population.

The Syrian Government and its allies seem to care about the law and the UN, which creates an opportunity: international law has supremacy over certain Syrian internal laws. How can best use be made of this to guarantee the security and well-being of IDPs and refugees who want to return to their homes and reclaim their property in any potential reconstruction process?

Regarding the role of human rights: they have supremacy over certain Syrian laws; they can be an analytical tool in order not to be drowned in the details created by the many laws implemented by the Syrian Government; and they can demarcate the principled stance that must be taken by Europe. Europe seems to be in a state of fatigue. There are expectations that it should continue to try to resolve the conflict, but it is pulling out and reducing its involvement

Regarding women and HLP rights, in Syria it is usually the men who are listed on property documents, not the women. Women have no proof of property that they would be entitled to. There is awareness that this is an issue, but nothing has yet been done, and no recommendations have been formulated so far.

Related to the right of return is the question ‘Why did people flee in the first place?’ This was not due to economic needs or for better education, but rather due to torture and prosecution. Surveys conducted for potential returnees should more clearly analyse reasons why people do not return, rather than speaking generally about ‘security risks’. If the aim is to have people want to return, it is necessary to make sure that they have access to their rights and property before embarking on this course.

## RECOMMENDATIONS

- Europe is not as weak as it thinks it is. It needs to use reconstruction not only as a carrot but also as a stick. Advocacy can lead to change, especially when backed up by diplomatic and financial pressure. Europe should reframe the debate on HLP rights in terms of respect for human rights and Syria's obligations under international law.
- International powers and donors should use their influence to reverse the laws that were put in place. Reconstruction is happening under the guise of stabilization—it must be ensured that the rightful owners of property are protected.
- European governments need to take a principled stance, formulated together with academia and civil society.
- Create a narrative that Europe is not going to invest in a 'war crime economy'.
- Work not only towards HLP rights but also make sure that reconstruction is not used as a tool to perpetuate these illegal structures.
- Translate issues of HLP rights from highly legal terms into a language that can be understood by everybody and that highlights their importance.
- Take a much longer time perspective to work for solutions, rather than trying to secure quick wins. Use less public diplomacy and more confidence building, which is a prerequisite for peace.
- Since HLP not only a human rights issue, tie it to political and economic issues.
- Establish HLP rights in a greater welfare programme. This must be achieved in the political process.
- Since forced returns are not acceptable, uphold the principle of voluntary return. Returns can only happen when Syrians have their rights protected in Syria.
- Put in place international mechanism for HLP rights that build on the work of civil society actors that have started to compile property documentation; this mechanism should also take into account the issue of informal housing.

## SESSION QUOTES

'HLP is a means of warfare, used as weapon.'

'We are not talking about something long ago in the past. It is currently happening, and something can therefore be done about it.'

'Reconstruction will consolidate displacement and dispossession and empower regime cronies and financial backers of crimes who have set up the companies that would benefit.'

'Application of basic human rights standards—and some of the best practices that emerged from them—is the only feasible way of providing an effective response to both the immediate and long-term issues raised by dispossession and displacement in Syria.'

'There is no will on the part of the winners to cooperate.'

'Sanctions should be a tool, not the policy.'



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