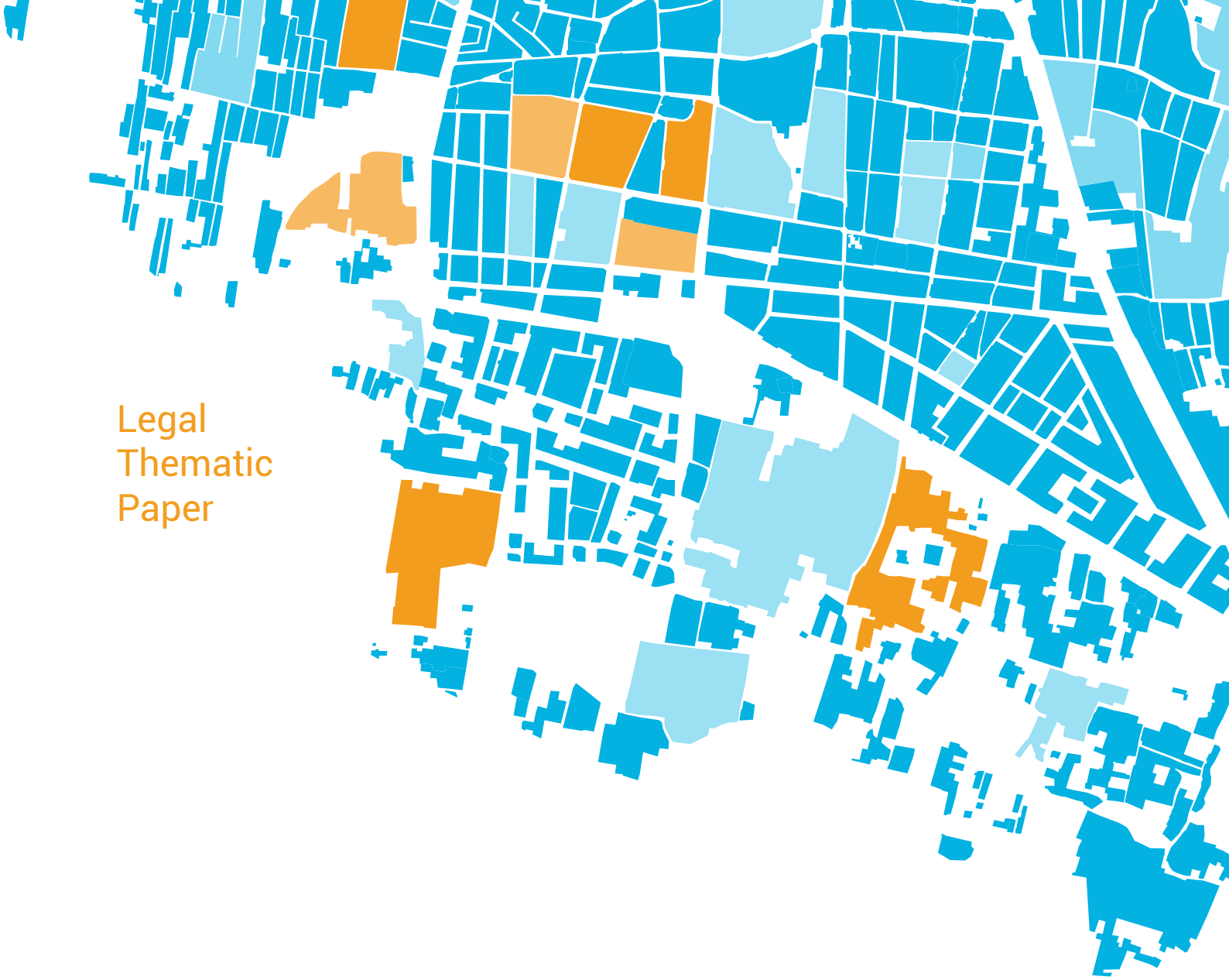

Legal
Thematic
Paper

Analysis Of Syrian Urban Law

February 2022

UN HABITAT
FOR A BETTER URBAN FUTURE

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01 Executive Summary

The urban environment is extremely complex, being the focus of human economic, social and political activity throughout the world. Any decision on its management can have a profound impact for millions. Hence, these decisions can be extremely challenging, often involving conflicting individual and collective interests. As a result, law plays a fundamental role in the management and development of the urban environment: It sets the rules for all interested actors to obey; it promotes accountability and provides the basis for stability and predictability in decision-making. Law is also one of the principal elements guaranteeing equality, providing the opportunity for the vulnerable and disadvantaged to be heard, considered and protected. Urban law, in this context, should be understood, not as a single text, but rather as an ecosystem, a collection of policies, laws, by-laws, decisions and practices that act, interact and evolve to cope with ever-changing circumstances and govern the management and development of the urban environment.

This paper will look at urban planning in Syria in all its four main stages: land allocation, urban planning and design, implementation of the infrastructure and allotment as well as consider specific urban issues which will play a critical role in Syria's reconstruction and sustainable development. The analysis of urban planning laws shall focus on their potential impacts on the most pressing challenges in Syria: displacement and population return, governance capacity and due process, recovery and investment environment, along with social and environmental concerns such as urban informality and sustainable natural resource management in reconstruction and rehabilitation.

The ***Introduction on the Syrian Urban Legal Framework*** presents the foundations to understanding Syria's urban law ecosystem. The section beings with key contextual explanations of urban planning and land development: demographic and urban governance. It then establishes the national framework for urban planning and its regional and local components, including key policy issues such as those regarding informal settlements and housing, which are examined in detail in the subsequent chapters.

Chapter 1 on Urban Land Development aims to present a comprehensive picture of the legal ecosystem of urban planning, urban implementation, urban maintenance, land administration, and financial Instruments in Syria. The contents of the pertinent laws are examined with respect to their intended purpose, relevant stakeholders, and procedure. They are also analysed within the socio-economic context in which they were issued to provide a greater understanding of how this body of laws has evolved from 1963 to present day. Conclusions and key findings respond to one of the most pressing questions for Syria today: How can Syrian cities build back better? And more specifically, which legal tools can effectively facilitate the reconstruction and sustainable development of Syrian cities with transparency, due process, and inclusivity?

Chapter 3 on Land Based Adjudication assesses the various modalities of the adjudication of land rights in Syria urban planning law. Accordingly, this section not only examines land-based adjudication in the context of the first registration of rights (typically corresponding with the demarcation and matriculation of unregistered land), but it also examines the significant role of land-based adjudication in Syrian law on land readjustment, informal housing regularization, cadastral reconstitution, and expropriation. This section aims to closely look at how determinations of land rights and the resolution of HLP disputes are prescribed in Syrian urban law, especially in more recently HLP legislation passed over the course of the conflict.

Chapter 4 on Entitlements and Compensation provides a thematic survey of the rights and benefits guaranteed to affected persons in certain circumstances under a variety of Syrian urban laws. Specifically, the section examines the entitlements and compensation granted to the applicable persons affected by expropriation, eviction, land readjustment, land regularization, conflict-induced damage of HLP, secondary occupation, and confiscation of property. An analysis of international standards on entitlements and compensation provides a framework for assessing fairness, access to due process, barriers affecting vulnerable tenure types, as well as economic and cultural adequacy in the Syrian legislative framework.

Chapter 5 on the Recovery of Lost and Damaged Cadastral Documentation examines two pieces

of legislation related to the reconstitution of the cadastre and land registry: Law No. 12 of 2016 and Law No. 33 of 2017. International standards and comparative case studies of are analysed with instances of international best practices presented as alternatives. The applications of such alternatives are examined in this paper to define specific policy and technical advice to the competent national agencies.

Chapter 6 on Environmental and Social Impact Assessments examines Syria's legal framework for social and environmental safeguards, specifically Ministerial Order No. 225/2008 (Environmental Impact Assessment Executive Procedures in the Syrian Arab Republic) and Article 4 of Law No. 50/2002 (Environmental Protection Law). These pieces of legislations are compared against international standards and international case studies of environmental impact assessment legislation to identify what gaps and areas for improvement exist in the present legislation. Conclusions and key findings assess the potential impact of the ESIA legal framework on post-conflict reconstruction and redevelopment, with special consideration given to populations affected by the destruction of private properties.

Chapter 7 on Environment and Climate Change looks at how the urban planning legislative infrastructure will be able to deal with the impeding environmental challenges and assesses its capacity to facilitate 'building-back-better' in a forward-looking manner that responds both to the damage induced by conflict and the threats posed by climate change. This section provides context on environmental land management in Syria and the environmental impact of the crisis. It then identifies Syria's International obligations related to the environment and domestic environmental legislation. Finally, a assessment of Syrian urban law with respect to climate change is undertaken to identify the measures which need to be adopted in Syrian urban law to adapt and mitigate the effect of climate change in reconstruction and sustainable redevelopment efforts.

1.1. Audience

In line with the requirements of the Joint Programme on Housing, Land and Property Rights (JP HLP) which highlights the aim of the thematic and legal analytical papers as to "enhance national and international understanding of the legal framework… from an operational perspective", this paper is primarily addressed to a limited audience consisting of UN agencies and INGOs involved in the Technical Working Group on HLP, classified experts, and certain Syrian governmental actors. This document is not for public distribution, dissemination or sharing in any form without the explicit and authoritative approval of the UN Habitat Syria Office given in writing.

1.2. Methodology

This paper has been developed based on existing materials such as laws and their implementation instructions, previous literature, the stakeholder mapping exercise, previous studies and initiatives to reform the urban law. Local subject matter experts and decision makers have been consulted whenever possible and legal experts from UN-Habitat's Policy, Legislation and Governance Section (PLGS) have strengthened the international dimension of the paper.

02 Introduction: Syrian Urban Legal Framework

The legal urban framework in Syria has a complicated structure comprising instruments that aim to develop land in a way responding to the country's socio-economic and environmental needs and in correspondence with the land characteristics and potentials. This framework is primarily managed by several ministries and institutions responsible for developing land policies, creating the necessary tools and legal instruments for implementing urban policies, and for regulating the actual implementation of these policies. The legal urban framework in Syria developed unsystematically upon the establishment of the cadastral system in 1926, the real estate rights system in 1930 and the first ever urban development law also in 1930.[1] From that point onwards, legal instruments were formulated spontaneously as direct responses to emerging urban issues, most of which originated with rural-to-urban population movement that marked Syria throughout the second half of the 20th century. As a result of these population movements, some urban centres expanded and transformed into populous nodes that then attracted more people with their greater job opportunities and better living conditions.

The reactive nature of the urban development framework has resulted in a body of legal instruments largely lacking harmony. The prescription of distinct, uncoordinated instruments for creating and for implementing urban planning is a marked example of this. Furthermore, the existence of multiple urban development instruments working in parallel with no clear criteria on which instruments are applicable on which cases creates confusion in the regulatory urban environment. These issues are exacerbated by the limited functional capacity of the institutions concerned with the urban framework. The eruption of the Syria crisis and the subsequent waves of displacement and the mass destruction of Syria's urban structure caused by armed conflict has resulted in tremendous changes of the urban environment rendering the current urban development framework less relevant to the prevailing realities on the ground. The legal instruments regulating the urban framework can be classified into planning, implementation, maintenance, and financial and institutional instruments. Examples of these laws are the urban planning law no. 5 of 1982 (planning instrument), the urban implementation law no. 23 of 2015 (implementation instrument), the building violation law no. 40 of 2012 (maintenance instrument), the real estate development law no. 40 of 2008 (financial instrument) and the local administration law no. 107 of 2011 (institutional instrument). In a perfect world, these instruments are supposed to behave as a comprehensive toolbox, or better as a set of modules where one would pick the pieces corresponding to each specific case and assemble them together to produce a working system. But as mentioned above, due to the special circumstances that accompanied the development of Syria including the most recent challenges presented by enduring conflict, this can hardly be considered the case.

This paper aims to draw the general picture of the Syrian legal urban framework (or what will be designated from now on by the term “urban law") by (1) clarifying the linkages between its different components, (2) demonstrating how they can be used as a integrated system in the context of urban development and (3) identifying the challenges facing the urban legal system and the institutions responsible for its implementation.

2.1. Syria's urban demography

According to the latest official population census carried out by the Central Bureau of Statistics (CBS) in 2004 updated with a projection in 2010, Syria had a population of 21,000,000 inhabitants. The war, however, has caused a significant decrease of the number of actual residents in the country. Moreover, the figures in that regard vary between the different sources. In an unpublished sampling carried out by CBS in 2015, the number of residents was cited as being 18,000,000 while the UN estimated this number to be 13,000,000 (HNO 2019). The majority of the population is primarily concentrated in the country's

1 in 1926, the four decisions 186, 187, 188 and 189 were issued, followed by the Resolution No. 3339 of 1930 which established the legal foundations of land tenure rights.

western flank where the major urban centres extend over the 'south-north corridor' described in the regional planning national framework.

In the 20th century and first decade of the 21st century, natural population increase alone did not account for the substantial urban growth experienced in Syria. Among other factors, there was the Arab-Israeli conflict between 1948 and 1967 which caused multiple migration waves of Palestinians and Syrians to Syria's major urban centres, the succession of major droughts between 1978 and 2008 in Syria's semiarid region, soil degradation in historically agricultural areas, and high unemployment rates and poor socio-economic conditions in rural areas. As a result, the urban population[2] in Syria grew from having 30.50 percent of the population residing in cities in 1950 to 43.5 percent in 1970, and again from 51.2 percent in 1995 to 53.9 percent in 2010. Had the crisis not occurred, it is estimated that the urban population would have reached 57.4 percent by the year 2025.

This uncontrolled urbanization generated significant distortions in the spatial distribution of populations (with 44 percent of pre-war residents living in only two governorates occupying 24 percent of the actual usable lands: Damascus and Aleppo). Additionally, it created tension between expanding urban areas and the surrounding rural communities due to ever increasing population pressure and limited natural resources and land stock which, furthermore, were subject to substandard institutional management.
The Syrian urban system has a hierarchical structure concentrated in the country's western parts along a South-North axis between Dara'a and Aleppo and the coastal region. Two mega cities — Aleppo (2,132,100 inhabitants) and Damascus (1,552,161 inhabitants) — dominate the urban scene, while there are 15 intermediate cities with populations ranging between 100,000 and 1 million, 72 small cities of 20,000-100,000 in population size, and 21 micro-cities with less than 20,000 inhabitants.[3]

City Rank	Population Range	# of Communities	% of Urban Population	% of Total Population	Remarks
Mega city	> 1 million	2	37%	20%	Damascus and Aleppo
Large city	300,000-1,000,000	3	14%	<8%	Homs, Lattakia and Hama
Medium city	100,000-300,000	9	15%	8%	Deir Ezzor, Raqqa, Hassakah, Tartous, Qamishli, Yarmouk, Sayydah Zeinab, Jaramana, Douma
Small city	50000-100,000	17	12.50%	<7%	17 communities including Sweida and Dara'a
Minor city	20,000-50,000	79	<22%	<12%	Minor city: 20,000-50,000 Administrative capital: a community with <20,000 residents designated by MoLAE as district capital.
Administrative capital	<20,000				

Source: The State of the Syrian Cities, 2004, Syrian Commission for Family Affairs and the Central Bureau of Statistics

2 According to the successful local administration laws, a community is considered urban center when its residents number exceeds a threshold specified in each version. Law 107 of 2011 defines that city as a community with more than 50,000 people. Moreover, district centers are considered cities regardless of their population number.
3 Figures were taken from the 2004 general census. The next round was planned to take place in 2011 but put on hold when the crisis erupted in the same year.

2.2. The Syrian local government system

The Syrian constitution states that "the Syrian Arab Republic is comprised of administrative units the number, boundaries, competence and degree of enjoying legal personality and financial and administrative autonomy of which shall be determined by law." The law determining these administrative units is the local administration law no. 107 of 2011 which created a decentralized governance system with the aim of strengthening the local governments so that they are able to lead the economic, social, cultural and urban development of their respective communities under clearly defined powers and competencies. Under this decentralized model, the role of the central authorities is limited to developing plans and policies at the national level, introducing modern technologies and implementing large projects.

The Syrian local administration system has dual territorial and governance aspect:

- From a territorial point of view, the Syrian territory is subdivided into territorial entities with the main objective of streamlining the enforcement of law. These entities are arranged hierarchically with the Governorate at the top level followed by districts and sub-districts. Each entity has its own capital city and is headed by an appointed official.
- From a local governance perspective, the Syrian communities are comprised of Local Administration Units (LAUs) with the following hierarchy: Governorates, Cities, Towns and Municipalities. The LAUs have local councils whose members are elected through public voting. The local council, in the case of Governorate, is headed by a Governor appointed by the president of the republic while, in the other LAU types, the local council is headed by a mayor elected by the local council.

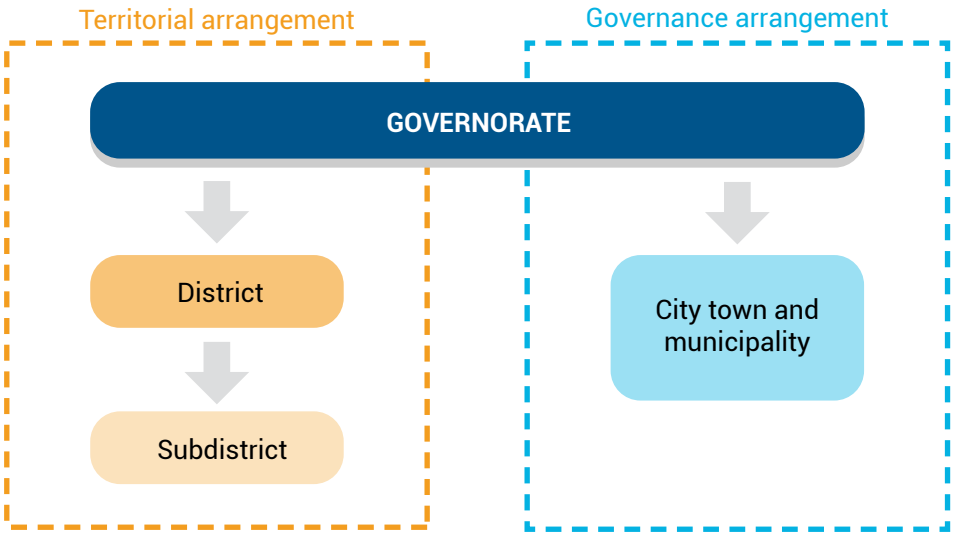


Fig. 1: The Syrian local administrative system

LAUs are financially and administratively autonomous. Their main role is, on the one hand, enforcing national laws, regulations and policies within their own jurisdictions, and on the other hand elaborating local development plans and providing public services, organizing their respective territory and promoting community participation. Cities, towns and municipalities are charged with developing and implementing their master plans respecting the relevant laws. This dual function of enforcing the national law and developing local policies takes place within the framework of what is referred to as "urban law" which consists of "the collection of policies, laws, decisions and practices that govern

the management and development of the urban environment."[4] Fig. 2 shows the main components of urban law in Syria. Legislations in Syria are issued by the Syrian Parliament (Assembly of People) at the central level. They are, then, translated into national policies and plans which, along with the laws themselves, inspire the local urban plans. Both laws and plans and policies inform urban development at the local level.

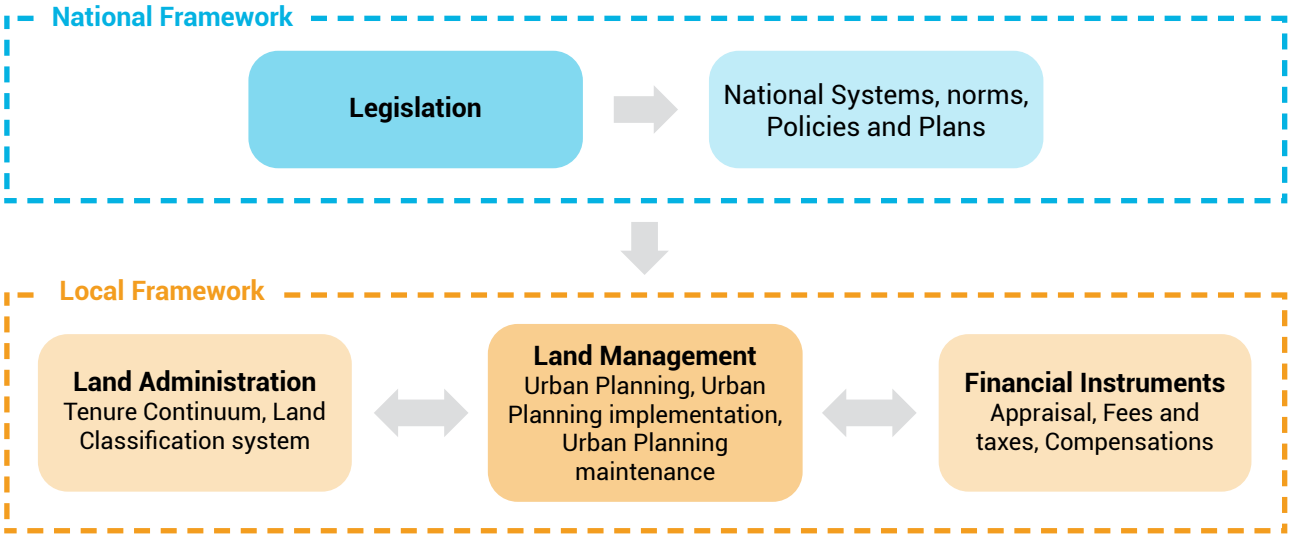


Fig. 2: The Framework of the Syrian Urban Law

2.3. The National Framework

2.3.1. Regional Planning

"Regional planning" is relatively new term in the Syrian planning sphere which is more familiar with "sectoral planning" as expressed in each of the 5-year development plans issued since 1960. After the issuance of these ten successive plans, the 11th plan (2011-2015) was suspended when the crisis erupted. The 5-year plans are usually developed by the State Commission of Planning (later renamed the Planning and International Cooperation Commission) based on inputs provided by the line ministries charged with the different economic and service aspects of regional and urban development. These plans are sectorial with loose interrelation between their different components and little attention given to the specificities including the differential (dis)advantages of the Syrian regions.[5] These shortcomings started to garner attention in the late 2000's and, as a result, the concept of "regional planning" appeared for the first time in "Syria 2025," a study commissioned by the Syrian Council of Ministers and carried out by a team of more than 20 Syrian primary researchers along with many additional subject-matter experts. This study subdivided the Syrian territory into five distinct regions: The Southern Region, the Northern Region, the Middle Region, the Coastal Region, and the Al-Jazeera Region (North-East Syria). The study then analyzed each region in detail to project its status in 2025. Though unpublished, this study inspired further initiatives towards multisectorial and area-based planning: a Rural Damascus Regional Plan was developed in 2007 followed by the Latakia Regional Plan in the same year and the Tartous Regional Plan in 2009. However, each of these plans used the governorate as the basic unit of regional planning and therefore disregarded the five regions

4 Urban rules and legislation, HABITAT III Issue Papers, May 2015, http://habitat3.org/wp-content/uploads/Habitat-III-Issue-Paper-5_Urban-Rules-and-Legislation-2.0.pdf

5 Under PICC, the regional planning concept actually existed in an embryonic form through the PICC department of regional planning but with no comprehensive results brought into being.

elaborated in the "Syria 2025" document. Therfore, these initiatives had two main shortcomings: the first is that they all lacked a general guiding framework, and most of their focus was directed inward, that is, on the "region" itself not taking into account its links with the neighboring "regions" and broader national development directions. This allowed the regional plans of adjacent regions to adopt conflicting development directions or include unnecessary duplications. The second shortcoming is that the plans defined regions according to governance structures ("governorates") rather than in terms of the homogeneity of natural, economic, and demographic, and other factors which better harmonize planning across the country. To consider the the lack of alignment between political and substantive characteristics in the governorates, take Tartous, for instance, which is in fact a sub-region of the greater coastal region while, in contrast, Homs extends over more than one region and at the same time is separated from the southern parts of the northern Hama province with which it forms one region.

The concept of "regional planning" finally formally materialized to regulate the regional planning efforts through the establishment of the Regional Planning Commission (RPC) according to Law 26 (2010). The National Framework of Regional Planning (NFRP or "National Framework"), a strategic planning document outlining the general strategies and principles that should guide the development plans at the local and regional levels as well as the national sectoral strategies. The National Framework aims at guiding and integrating the local and regional plans as well as the national sectoral strategies based on the country's regional and sectoral (dis)advantages and its supra-regional links. It was drafted in 2011 by the RPC but put on hold due to the crisis. However, in 2019, the basic directions of the national framework were drafted in an effort to update the national framework document to reflect the realities created by the conflict. This document identifies a two-phase exit from the crisis: Phase 1: transitional development (recovery) and Phase 2: sustainability. Both phases are intended to "promote the interconnection of local, regional and national development tracks."[6]

Regional Planning Law and Urban Development

In the language of Law 26 (2010), regional planning is an "integrated planning process translating, directing and regulating the socio-economic, cultural, tourist, environmental and other policies in all what is related to population, place, time and ecology taking in consideration the spatial dimension according to a comprehensive scientific methodology with the objective of realizing a national and regional development characterized by balance and sustainability. This planning shall take place through national and regional studies that show all the activities and projects that all public and private entities must adhere to." The law also defines the region as "a spatial entity of the territory of the Syrian Arab Republic that can be distinguished by its geographic, demographic, economic, ecologic or administrative characteristics."

Two regional planning levels have been established (Article 3):

- The national leve: represented by the National Framework of Regional Planning ("National Framework") which defines Syria's general developmental directions through the country's own characteristics and its supranational relation with the direct and farther neighbors and;
- The subnational (regional) level: defining the development plans of each region under the general directions of the national framework and the sectorial plans.

The law sets the following principles that each regional planning effort must follow (Article 4):

a. Sustaining the manifest and latent regional and national resources;
b. Providing the conditions for economic prosperity to take place within the region and the different regions in Syria in a balanced manner;
c. Securing the essential living requirements including services and job opportunity to all categories in a fair and balanced manner;
d. Preserving the natural environment and protected zones;
e. Preserving the cultural heritage and protecting the archaeological areas;
f. Protecting the natural environment from pollution, decreasing the consumption of fossil fuel and encouraging alternative power sources.

6 The draft document of the basic directions of the regional planning's national framework, http://damascusuniversity.edu.sy/hiorp/index.php?lang=1&set=3&id=548

Moreover, the law establishes the relationship between the regional and local planning levels. Article 4 states that regional plans, strategies and recommendations aim at "harmonizing the objectives and orientations of programs, plans and projects at the three spatial levels: the national, the regional and the local levels." Article 16 states that "the national [planning] framework determines the major urban concentrations…", while Article 25 entails that master plans be compatible with the requirements of regional plans. As such, the spatial planning system in Syria takes a hierarchical structure (Fig. 3) where regional planning must coform to a national planning framework while urban plans must adhere to the requirements of their respective regional plan.

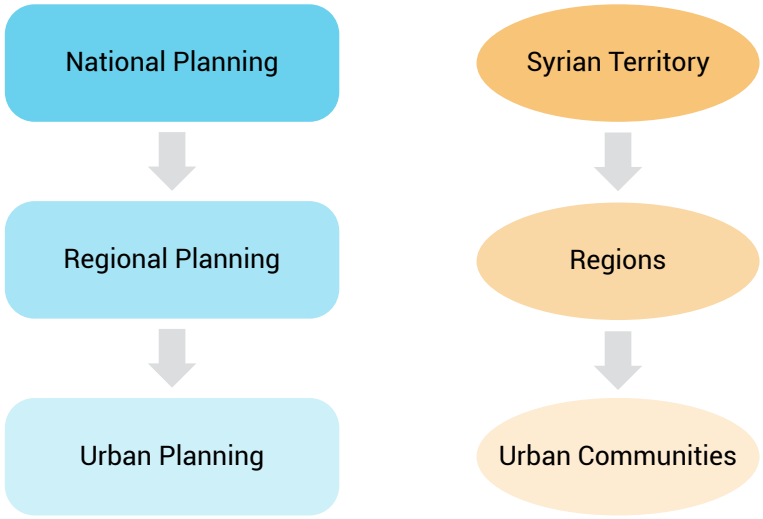


Fig. 3: The hierarchy of the Syrian territorial planning framework

2.3.2. Informal settlement policy

The informal settlements in Syria developed mostly in the 1970s and 1980s though the phenomenon dates back to the decades prior. A number of factors contributed to the growth of informality in Syria, among them:

1. The lack of land stock available for (legal) development caused by a weak urban planning framework. In particular, the urban planning law no. 5 (1982) is known for, inter alia, stipulating a long planning development cycle by which it may take several years before an urban plan is ratified. Moreover, Law 60 (1979) on urban expansion, which replaced the land readjustment tool enacted in Law 9 (1974) with an unfair and ineffective expropriation tool, caused a total stagnation to urban expansion in the Syrian provincial capitals thus encouraging the proliferation of the informal housing. Law 26 (2000) tried to adjust this situation by reintroducing the land readjustment tool but by then informality had already become an entrenched element of the socio-economic urban fabric of these cities.
2. The total lack of a comprehensive social housing strategy targeting the low-income and disadvantaged categories. Social houses at low rent have historically been almost absent, as the General Establishment of Housing (GES) and the other public cooperative housing entities were unable to cope with the rapid population growth of urban areas. The lending policy couldn't reach those who are most in need which left 33 percent of the urban residents with only one option: the informal settlements.

Until the early 2000s, no comprehensive strategy for addressing the informal settlements issue in Syria existed apart from sporadic initiatives. In 1982, the Syrian State, through a decision by Baath Party's

Country Leadership, acknowledged the existence of the informal settlements and ordered the provision of the basic services to these communities until a sustainable solution to this issue could be found. Several legislations were enacted with the main objective of putting an end to the expansion of the informal settlements through the demolition of illegal buildings that came into being after a date specified by law (laws 1 of 2003, 59 of 2008 and 40 of 2012). Furthermore, regularization legislation, such as Law 33 of 2008 and certain provisions of Law 26 (2000) and Law 23 (2015), specifically have sought to fully recognize such settlements by legalizing their tenure status and integrating them into the competent urban plan.

After the year 2000, the informal settlements became a central public policy issue in Syria. A number of cooperation programmes with the western countries were launched:

- In 2005, the Municipal Administration Modernization Programme (MAM), supported by the European Union was initiated with the goal of reforming the municipal administration and the management of the urban fabric of six Syrian cities. Informal housing was one of the issues that MAM specifically dealt with. Detailed informal housing profiles for the six cities were made and the programme's international experts unanimously recommended the upgrading of the informal neighbourhoods. The MAM programme (second phase) came to a halt in 2011 and the European funds (the European Investment Bank and the French Institution for Cooperation and Aid) were frozen.
- Another cooperation programme, the Sustainable Urban Development Program (UDP), was launched by the German Agency of International Cooperation (GIZ) in 2007 and completed in 2010. The programme targeted the Governorates of Aleppo and Damascus and gave recommendations regarding informality similar to those of MAM.

In 2011, the Informal Settlements Upgrading and Rehabilitation National Programme (ISURNP) was initiated by the Ministry of Local Administration and Environment.[7] The first step of the program was a memorandum of understanding between MoLAE and the Regional Planning Commission (RPC) on the establishment of the National Map of Informal Settlements (NMIS). On its completion, the National Map was anticipated to be an important tool in monitoring the development of informal housing in provincial capitals through a comprehensive set of primary and secondary indicators that could help prioritize interventions and spending. The extent of progress towards the completion of this map is so far unknown. However, it was reported that, due to the lack of access resulting from the conflict, considerable difficulties confronted the creation of the NMIS and the information contained in this map aren't considered to be of high quality.

In 2013, a Detailed Memorandum on the Treatment of the Informal Settlements prepared by the Ministry of Housing recommended the creation of a High Council of Housing. This Council would have the responsibility of establishing a National Housing Strategy and a National Commission of Upgrading Informal Settlements under the umbrella of the ministry which has the mandate of establishing effective strategies for informal settlements. The memorandum proposes a detailed executive programme to upgrading existing informal settlements and underlines the necessity of mid and long terms plans to avoid the emergence of new informal settlements.

Despite these efforts and with the exception of Law 33 of 2008 (a legislation developed exclusively for regularizing the tenure status of informal settlements), no coherent strategy exists to treat informal settlements and reconcile two conflicting views of the State towards this subject: informal settlement as legitimate communities in terms of tenure rights and the right of people to housing; and informality as an abnormal phenomenon that ought to be curbed to make room for an organized and predictable urban development.

2.3.3. Housing policy

Though not stated explicitly, certain articles of the Syrian Constitution do implicitly refer to the right to housing. Article 13(2) states that "the economic policy of the State aims at fulfilling the society's and individual basic needs through the achievement of economic growth and social equity in order to reach the comprehensive, equitable and sustainable development." Article 20 declares that "the State protects and promotes marriage and works on

7 Later, in 2013, ISURNP along with the housing and urban planning sectors became the mandate of the Ministry of Public Works and Housing ("MoPWH").

removing the material and societal impediments obscuring marriage." Access to housing, as a "basic need" of Syrian society and individuals and as a material necessity for viable marriage, could thus be construed an obligation of the Syrian government to its citizens.

Housing in Syria is provided through one (or a combination) of three modalities: public sector, private sector and cooperative housing. Public housing projects are constructed by the General Establishment of Housing (GEH) and by other smaller public housing agencies. Private-built housing is usually carried out either by landowners directly or commissioned to contractors. During the second half of 2000's, real-estate developers who entered the Syrian housing market primarily focused on high-end projects targeting the upper classes. As such, these private developments had a limited impact in bridging the growing gap between demand and supply of housing which was mainly affecting the lower and lower-middle classes. This housing gap was clearly expressed in the successive figures published by the Central Bureau of Statistics (see Figure 4).

Syria is considered among the first Arab countries which explicitly included housing in its public policy. Law 94 (1953) enabled the local governments of major cities to build and sell popular houses to certain low-income categories (public servants, employees and laborers) through interest-free credits paid over a seven-year span. The General Establishment of Housing (GEH) was established in 1961 with the mission of providing land and infrastructure to housing projects as well as selling land plots and constructing and selling housing units. The laws issued and policies elaborated in the 1960's and 1970's with the aim of easing the acquisition of low-income houses with suitable prices and favorable conditions were a clear expression of a vision advancing the state's social role in the housing sector. This vision however was not supported by the necessary resources and therefore has not been developed into strategies with clear targets. The primary resource which the cooperative housing sector lacked was land supply due to the meager contribution of public sector to the land market. Accordingly, this curbed the ability of the cooperative housing sector to play its expected role. Furthermore, the housing projects entrusted to public construction firms were consistently subject to errors, mistakes and delays. Furthermore, the lease law in force which, in practice, gave tenants unchallenged powers to occupy leased houses for an unlimited time, had the effect of deterring many owners from introducing their houses to the rental market. This exacerbated Syria's chronic housing shortage despite the state's efforts to introduce alternative lease arrangements that brought more balance to the owner-tenant relationship.

Moreover, this vision of social housing has gradually faded since the 1990's in favor of a more liberal orientation that looked at the private sector and large businesses as vital partners to address the country's housing challenges. In the Ninth 5-Year Plan (2000-2005), the government tried to elaborate a new vision conciliating the otherwise diverging social and economic orientations of the public and private sectors. It established direct subsidies and exemption policies in the interest of a "more advanced concept based on the necessity of creating favorable environment to enable investment in that important sector to bridge the gap between demand and supply…and strengthening the profitability of this activity." Acknowledging the shortcomings of the previous policies, the Tenth 5-Year Plan advanced among its long-term objectives the following: the development of the national housing strategy; addressing informal settlements; increasing the role of the General Establishment of Housing in providing low-income housing; increasing the private sector's share in housing supply and bringing foreign capital to the construction industry; alleviating the quasi-monopoly of freeholds in the housing sector by promoting innovative tenure arrangements; and the most telling objective of transforming the "role of the State from direct provision of housing to facilitating the provision of adequate housing to citizen…. by securing ready-to-build land lots, suitable funds and increasing the number of ready-to-use housing units." These proposals required restructuring the housing sector by empowering cooperative housing entities and the private sector to build more housing units, while the public sector was to focus on low-cost housing reflecting its social mission.

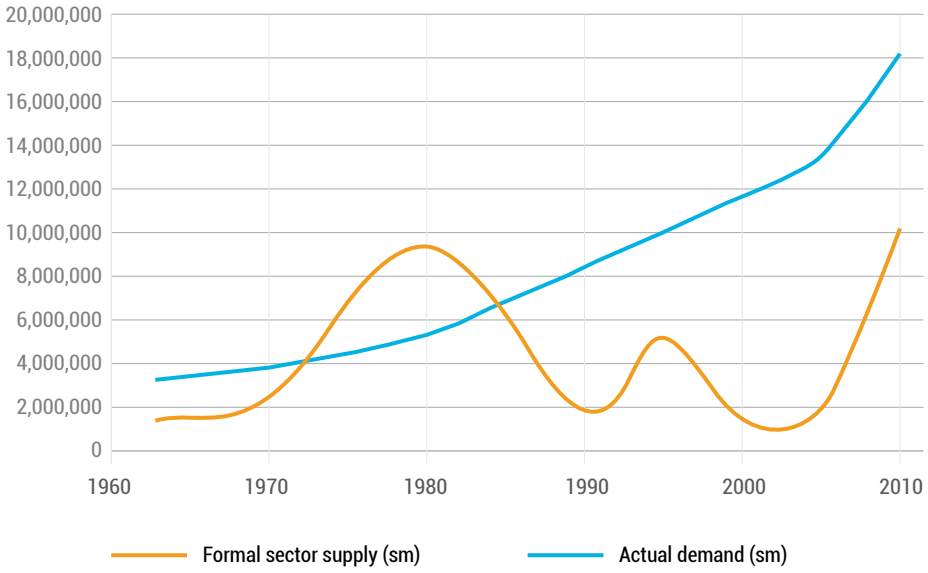


Fig. 4: Supply v. demand in housing sector

Social Housing vs. Popular Housing and Affordability

The term social housing is relatively new in Syria: it first appeared in 2008 with the stipulation of the Real-Estate Development Law no. 15. Instead, Syria was more accustomed with another term, "popular housing", with its stronger socialist connotation. While becoming widely used in the daily deliberations among the urban planning community, the term itself is ambiguous as no concrete definition of this term can be found in the Syrian laws and one must dig deeply in Syria's legislative archives to extract an approximate indicator of the Syrian legislator's understanding of the term's substance. Hence, while social housing is excluded from the real-estate development law's terminology section (Law no. 15 of 2008, Article 1), the law considers "projects of social dimensions" among its classification of real-estate development projects (Article 13) before clarifying that projects of social dimensions are those aiming at "the provision of housing [of characteristics] as required by the society with concessional terms… with economic areas and prices and installments affordable to the middle income category." The term appears frequently in subsequent laws free from any specific substance in what seems to be a symbolic gesture of compensation to Syria's low-income categories for the strong liberal directions that characterized the Syrian socio-economic environment since the turn of the 20th century and left the poor unprotected against market forces.

The affordable housing concept emerged in Syria for the first time in 1953 when Legislative Decree 94 allowed the municipalities of major cities to establish "popular housing units" for purchase by specific categories (laborers, employees and public servants) of the population through seven-year installments with zero interest rates. Currently, affordable housing is provided through one of two channels: the public sector or housing cooperatives. Moreover, social housing is prioritized in real-estate development projects (Law 15 of 2008) and included as an element of urban development under Law no. 10 of 2018, albeit casually in both cases.

This change of vision was reflected in a subsequent change in the Tenth 5-Year Plan's anticipated burden of housing provision amongst Syria's three housing modalities: it envisaged 10.3 percent of housing demand was to be secured by the public sector while 12.4 percent and 77.3 percent by the cooperative housing and private sectors respectively. This view to the new role of the state in housing sector was also reflected in drastic amendments made to the law regulating the General Establishment of Housing. While the GEH preserved its role of providing social housing units, it was now assigned planning and policy-making missions and allowed to practice real-estate development business alone or in partnership with private sector.

The Ministry of Public Works and Housing

The main goal of the Ministry of Public Works and Housing (MoPWH) is to implement the state's general policy with respect to housing (and public works) and foster sustainable urban development. This goal is achieved through contributing to the formulation of sustainable urban development policies, developing development plans and programs at the regional and local levels, and securing the necessary requirements for the progress of the housing sector. At the regulatory level, the MoPWH has the tasks of overseeing territorial planning at the national, regional, sub-regional and urban levels, regulating the activities of public housing entities, preparing and implementing the national housing strategy, overseeing and supporting the development of urban plans, enabling investment in housing sector, managing the cooperative housing sector, contributing to the development of housing finance policies, and developing policies and programs for the construction sector.

At the executive level, the MoPWH is charged with developing tools and standards for sustainable urban development, analyzing the housing sector needs and assets and developing the necessary data banks, updating the cooperative housing sector's rules and regulations, creating real-estate development zones that are compliant with the main regional planning directions and providing consultation and technical support in the territorial planning field.

Cooperative Housing Sector

The cooperative housing sector was first institutionalized with the enactment of Law no. 13 of 1981 on cooperative housing associations which provided a regulatory framework for a sector that, before that date, was operating on an ad hoc basis. To regulate the sector, Law 13 established a hierarchical structure under the umbrella of the Ministry of Housing and Infrastructure. On the top of this structure was the General Federation of Cooperative Housing which has branches in each of the Syrian governorates. In turn, these provincial branches were charged with regulating and monitoring the activities of housing associations under their respective jurisdiction.

The cooperative housing sector in Syria aims at responding to the needs for affordable housing respecting the state's socio-economic plans in the housing sector. This is envisaged to be achieved by establishing cooperatives that offer their members small to medium-sized residential units at cost price while the state contributes to further decreasing the acquisition cost by providing lands and subsidized building materials.

The share of residential units delivered by cooperative housing sector has been relatively meagre and as such its contribution in bridging the historically wide housing supply-demand gap in Syria has been quite limited. This is in part due to the fact that housing cooperatives were afflicted by corruption and favouritism and were also known to engage in an illicit land trade with the state-subsidized and serviced lands. Due to the latter, land intended to provide affordable housing often ended up in the hands of building contractors. This can largely explain the several initiatives made by the government to reform the housing cooperative sector, the latest of which brought the housing cooperatives under direct supervision of the Ministry of Housing and Public Works (Law no. 37 of 2019). This law also effectively dissolved hundreds of inactive cooperatives, the raison d'être of many was that they had been providing their management boards and their partners in the private sector with illicit profits.

03 Chapter 1: Urban Land Development

3.1. The Syrian Urban Local Framework

The local planning framework (Fig. 4) comprises of five building blocks: Urban Planning, Urban Implementation, Urban Maintenance, Land Administration, and Financial Instruments. These building blocks are intended to work in harmony, in accordance with the competent legal instruments and the national plans and policies that shape the urban communities.

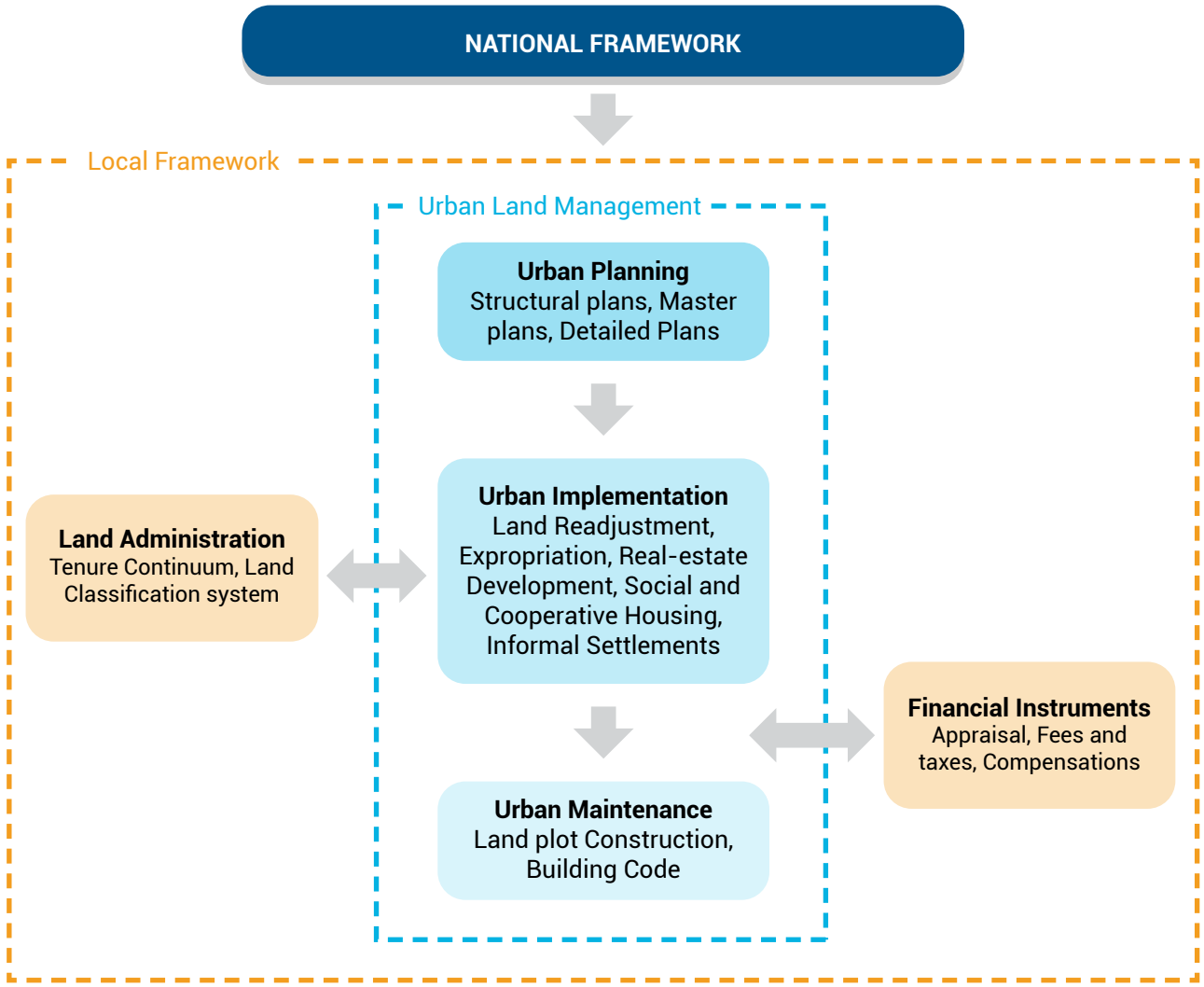


Fig. 4: The Syrian Urban Law's Local Framework

3.2. Urban Planning

Master planning is the main planning tool that Syrian governance bodies at every level use to direct the future development of communities under their jurisdiction. All physical development activities, whether public or private, must take place in accordance with the relevant masterplan(s) during the designated timespan in which the masterplan remains valid. Master planning is primarily regulated by the urban planning law Legislative Decree no. 5 of 1982, which has since been amended in 2002 under Law no. 41.[8] This legal framework divides master planning into four components: (i) the Planning Program (PP); (ii) the General Regulatory Plan (GRP); (iii) the Detailed Regulatory Plan (DRP); and (iv) the building code.

- **The Planning Program** identifies the city's future development trends and is defined by the Urban Planning Law (Article 1, Para b.) as "the program identifying the community's present and future needs following the urban planning principles and based on the characteristics of the community. The program shall specify the population and population densities and the types and numbers of public services and the required buildings."
- The **GRP** (the master plan) corresponds to the city scale and its main function is outlining the community's vision and future expansion trends. Article 1, para. c of Law 5 (1982) states that this takes place through "the determination of the boundaries of the built-up areas, the main road network, the applicable land uses [zoning] along with the building code."
- On the other hand, the **DRP** (the partial plan), corresponding to the neighborhood scale, adds further details to the GRP such as "the secondary and tertiary roads, the pedestrian paths and all urban details corresponding to the intended land use" (Article 1, Para. d) within the boundaries covered by the DRP.
- **The Building Code** as defined by the law's implementation instructions (Article 2) sets the rules governing the construction of new buildings. These rules are derived from the zoning requirements and contain among others: the building minimum and maximum area and frontal length; the percentage of the building's footprint area to the land plot area; the floor area ratio; the maximum building height and the number of floors and the setbacks. The building code's criteria are added to and considered part of the GRP. Moreover, these criteria are considered the basis of a by-law holding the same title issued by the MoPWH upon the municipal council proposal with the aim of regulating the future building activities in the city.

The Planning Programme, General Regulatory Plan and Detailed Regulatory Plan must be developed following the Urban Planning Principles (UPC). These principles, as defined in Article 1 are "the universal principles regulating the urban planning process and comprises the general engineering scientific principles governing urban planning and construction; and the steps and phases to be followed while developing the Planning Program."[9] The Urban Planning law directs the Ministry of Housing and Infrastructure (currently the Ministry of Public Works and Housing, MoPWH) to develop these principles and further states that until these principles are put in place, the current "principles adopted by the Ministry of Housing and infrastructure remain valid"[10] (Article 2). Since new principles have not at this point in time been issued, the old ones remain in force.

The four components of urban planning are developed through an incremental process consisting of three phases (see: Fig. 6). In each of these phases, one planning product is developed which serves as a staging platform to launch the subsequent phase and planning product. The exception to this is the building code, which can be considered a by-product of the GRP.

8 Before Law 5 (1982), the regulatory decree 983 (1965) formed the Higher Council for Planning Cities and Villages (HCPCV), a regulatory body chaired by the minister of municipal and village affairs (later the minister of local administration). In 1970, the council issued the Planning Principles, a guidance that urban planners were supposed to follow in the development of masterplans. Law 5 (1982) dissolved the HCPCV bringing urban planning under the ministry of housing but kept the Planning Principles document temporarily until an updated one is developed.

9 In this sense, master planning may be considered part of the National Framework mentioned earlier guiding development at the local levels.

10 The same principles developed in 1970 by the Higher Council for Planning Cities and Villages

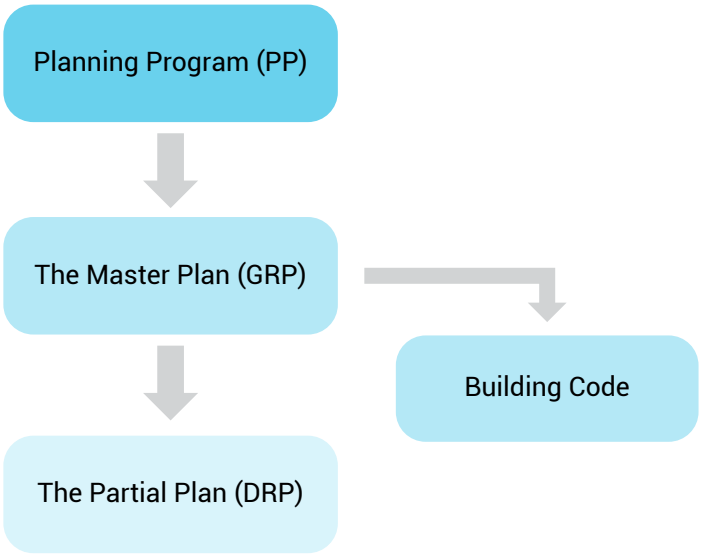


Fig. 6: The sequencing of the Urban Planning Law

- **Phase I: the development of the Planning Program:** The Local Administrative Unit (LAU) develops a planning program corresponding to the city's needs. The draft program is submitted to the MoPWH for approval. The MoPWH may request adjustments to the planning program within 20 days of the submission date. If no action was taken by MoPWH during the 20-day delay, the planning program shall be considered ratified.
- **Phase II: the development of the General Regulatory Plan:** The draft GRP developed by the LAU is examined by the City Council for approval. If approved, the draft GRP is published for one month for public review. Comments and objections raised by citizens are recorded duly and submitted along with the draft GRP to a Regional Committee chaired by the Governor, where these objections are addressed, and the draft GRP is adjusted accordingly and sent to the relevant authority for ratification. Issues considered by some of the Regional Committee members as violating the Urban Planning Principles or the Planning Program are raised to the Housing Minister to take decision within 30 days after which the Regional Committee send the adjusted GRP back to the relevant authority for ratification.
- **Phase III: the development of the Detailed Regulatory Plan:** the DRP is developed in the same manner as the General Regulatory Plan as described above.

The authority entitled to ratify the master and detailed plans varies depending on the level of the relevant community within the local administration hierarchical system scale as follows:

Product	Local Administration Level	Ratifying Authority
PP	All communities	MoPWH
GRP/Building code	Central cities/provincial capitals	MoPWH
GRP/ Building code	Other communities	The relevant Governorate Executive Bureau
DRP	Damascus	Damascus Governorate's Executive Bureau
DRP	Central cities/provincial capitals	MoPWH
DRP	Other communities	The relevant Governorate Executive Bureau

The periods for which the different urban planning components remain valid are addressed by the Urban Planning Law as given below:

- While the law doesn't explicitly specify the period for the Planning Program, its implementation instructions state that it "takes the form of a comprehensive report identifying the city's present and future needs for the coming 20 years."
- On the other hand, neither the law nor its implementation instructions specify the validity period of the GRP. But given the fact that the GRP must be preceded by a planning program, one can assume that 20 years is the validity period of GRP.
- The same applies to DRPs. Reading the law itself as well as its implementation instructions, it isn't clear whether DRPs should be developed upon the GRP ratification. But the common practice in Syria shows that DRPs are developed on an ad hoc basis as needed, that is whenever a sector of the city is open to development.
- Urban expansions necessitated by population growth entailing appending peri-urban lands to the existing master plan are considered a new master planning exercise and thus require a new planning Program an GRP.
- And finally, the law states the GRPs as well as the DRPs shall be open to the public comments and objections one year after these plans are ratified for the first time, a process that, thereafter, takes place every three years. Amendments to GRP and DRP that are deemed necessary are introduced and announced to public scrutiny in these one- or three-year intervals. The justification for this schedule is not clear since these intervals do not correspond to the city council's tenure, nor does it fit to the 20-year validity period of the Planning Program. Furthermore, this schedule reflects the legislator's naïvely optimistic view of the ease of implementing urban planning exercises, a view contradicted by realities on the ground where, in most times, the heavy bureaucratic burdens and the conflicting interests of stakeholders consume large part of the Planning Program validity period before the master plans can be ratified.[11]

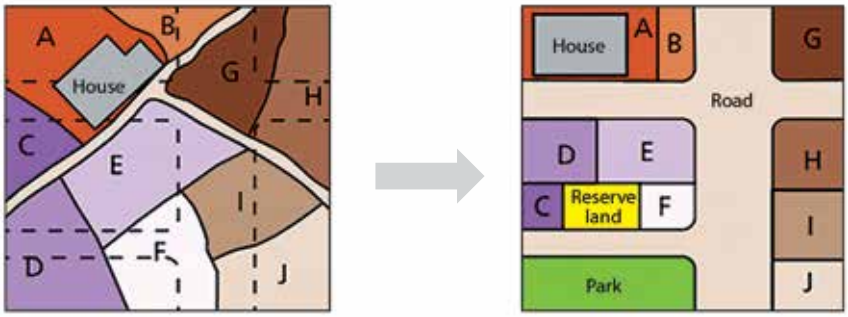
3.3. Urban Implementation

The urban implementation framework comprises the necessary tools to develop communities in line with the vision put forth in the general and detailed regulatory plans vis-á-vis urban expansion and urban renewal. This framework can be divided into two types of land acquisition tools: (1) Land readjustment, which is generally led by the municipality in accordance with the planning principals and regulations of Law 5 (1982), is used in a number of key laws including Law no. 9 (1974), no. 23 (2015), and no. 10 (2018); (2) Compulsory land acquisition is generally applied by the MoPWH to expropriate private land and property for social housing purpose (as given in Law no. 26 of 2015) or by private real estate developers where the local government has entered into partnership with real estate developers under the Law no. 15 of 2008.

3.3.1. Urban implementation by land readjustment

Land readjustment is a land acquisition tool according to which a community of private landholders give up proportion of their properties in exchange for a better, more efficiently planned neighbourhood and improved development of their lands through enhanced infrastructure and public services. Furthermore, another critical element of the development gains of land readjustment is the fact that affected rightsholders' lands, though made smaller in size, become capable of hosting multi-storey residential buildings which offer more living spaces, better living conditions and enhanced economic prospects compared to the extant substandard single-storey houses. Meanwhile, extra meterage freed up through land readjustment is used by the local government to implement public services (roads, pipelines and cables, public spaces, public buildings) and even develop residential buildings for low-income categories.

11 An extreme example of this fact is the case of Radar, Wadi Eshatter and Ras Eshoughry, three informal settlements in the coastal city of Tartous where the development of their DRP took 35 years before being finally ratified in 2008. (The source in Arabic: https://thawra.alwehda.gov.sy/_archive.asp?FileName=10105275682016111919155 9)



Before Land Readjustment

After Land Readjustment

Fig. 7: The Land Readjustment Concept- Source: 2016, UN-Habitat, Remaking the Urban Mosaic: Participatory and Inclusive Land Readjustment

In Syria, land readjustment was not part of the government's urban dictionary until the 1970s when the government introduced Law no. 9 in 1974 to respond to the rapid urban expansion the country had been witnessing at the time for which the traditional land acquisition tools had not been able to sufficiently address. Since then, this instrument took a complicated trajectory in Syrian urban governance, with its application interrupted by a number of setbacks reflecting the ambivalence of urban decision-makers to adapt this universal concept to the local conditions. This, to a great extent, accounts for the slow pace of putting the land readjustment tool into practice in the three decades after the enactment of Law 9. This period was followed by a series of quick mutations of the tool in the late 2010's and the years of the crisis which most recently produced the controversial Law no. 10 (2018) which attracted a great deal of concerned attention both inside and outside Syria. Currently, Law no. 10 (2018) and Law no. 23 (2015) serve as Syria's two primary land readjustment instruments which work in parallel to one another.[12]

This timeline of the development of the land readjustment instrument in Syria is illustrated in Figure 8 below.

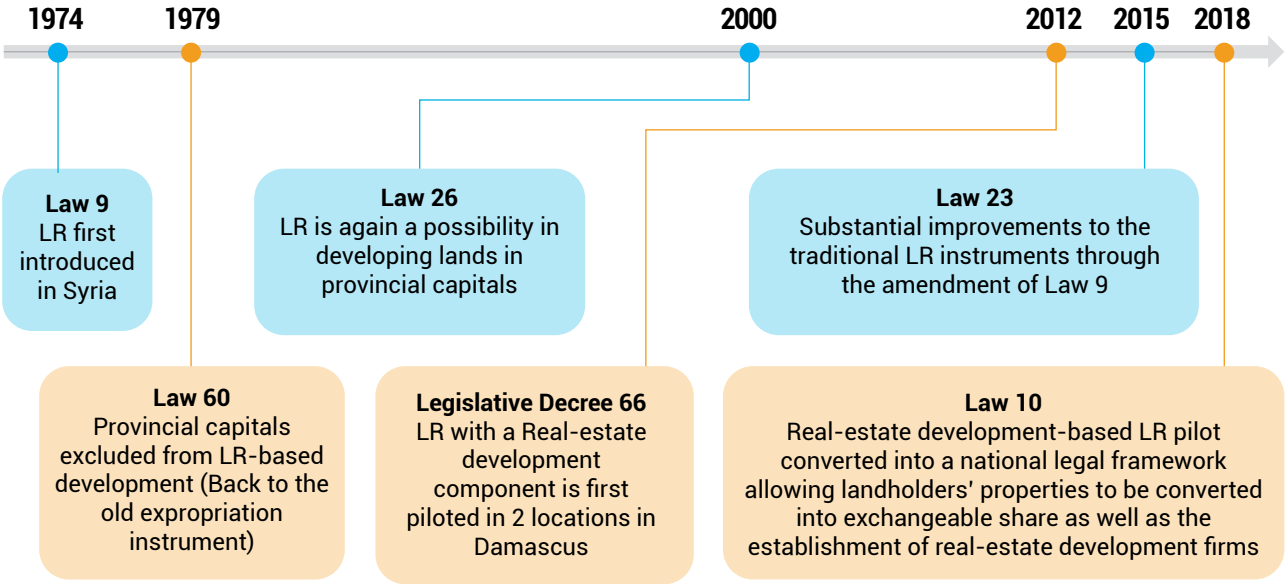


Fig. 8: A timeline of the development of Land Readjustment methodology in Syria

12 Even though law 9 (1974) was theoretically repealed and replaced by law 23 (2015), in practice, that law is still applicable in certain cases (in location where an old LR project under law 9 exists, though the municipality has the option to put them under law 23).

The common characteristics of Land Readjustment in Syria

While Syria's land readjustment laws differ slightly from one another in their development theory and ultimate aims, they share a common procedural structure and many elements of substance.

1. General structure: A land development zone where the urban development project will take place is established through a presidential decree. An up-to-date tenure database and cadastral map is created and rightsholders are invited to submit their property claims. Disputes over lands originally examined by civil courts are resolved or transferred to a Dispute Resolution Committee established for the readjustment project. An appraisal of properties in the development zone is carried out by an appraisal committee established specially for the readjustment project. Rightsholders are invited to challenge the initial appraisal results, which, when finalized, will be used as the basis of the consequent redistribution of land. After the conclusion of the initial appraisal and appeals, individual property rights in the development zone are dissolved into one consolidated property in which rightsholders become shareholders while the municipality manages the property and acts on behalf of them. The readjusted land development plots are drafted in accordance with the detailed regulatory plan and appraised for allocation to shareholders corresponding to the value of their individually-held shares in the development zone (and according to an additional set of specified criteria). Shareholders are invited to appeal the land parcel reallocation determinations. Once the land reallocation is concluded, the reallocation results are submitted to the cadastral department for formal registration.
2. Governance: The process is initiated by the central government and implementation is led and supervised by the local government.
3. Land allocation: A portion of the land in the designated readjustment zone is given up for free from rightsholders to the municipality for the purposes of providing public services and installing infrastructure such as laying streets, public spaces and public buildings. As such, no financial compensation is paid to rightsholders for the portion of their land forfeited (as is customary in land readjustment procedures at large). However, if a rightsholder is allocated a land parcel smaller than their proportionate share value, they are to be compensated by the public authority for the difference in value. The converse is also applicable when a rightsholder has been allocated a parcel larger than their proportionate share value.
4. Public participation and community engagement: Public participation is limited to the right to claim tenure rights in the designated area and submit objections to land readjustment decisions a posterori. As such, public participation lacks the critical elements of a priori participation in decision-making and community consultation. Specifically, community consensus on whether their neighbourhood should fall under land readjustment is not required nor is the community consulted on how their neighbourhood should look after development. Furthermore, rightsholders have very limited impact on how and when their appeals are addressed. Finally, the degree of inclusiveness for tenants and other vulnerable groups varies but in general it is manifestly weak.

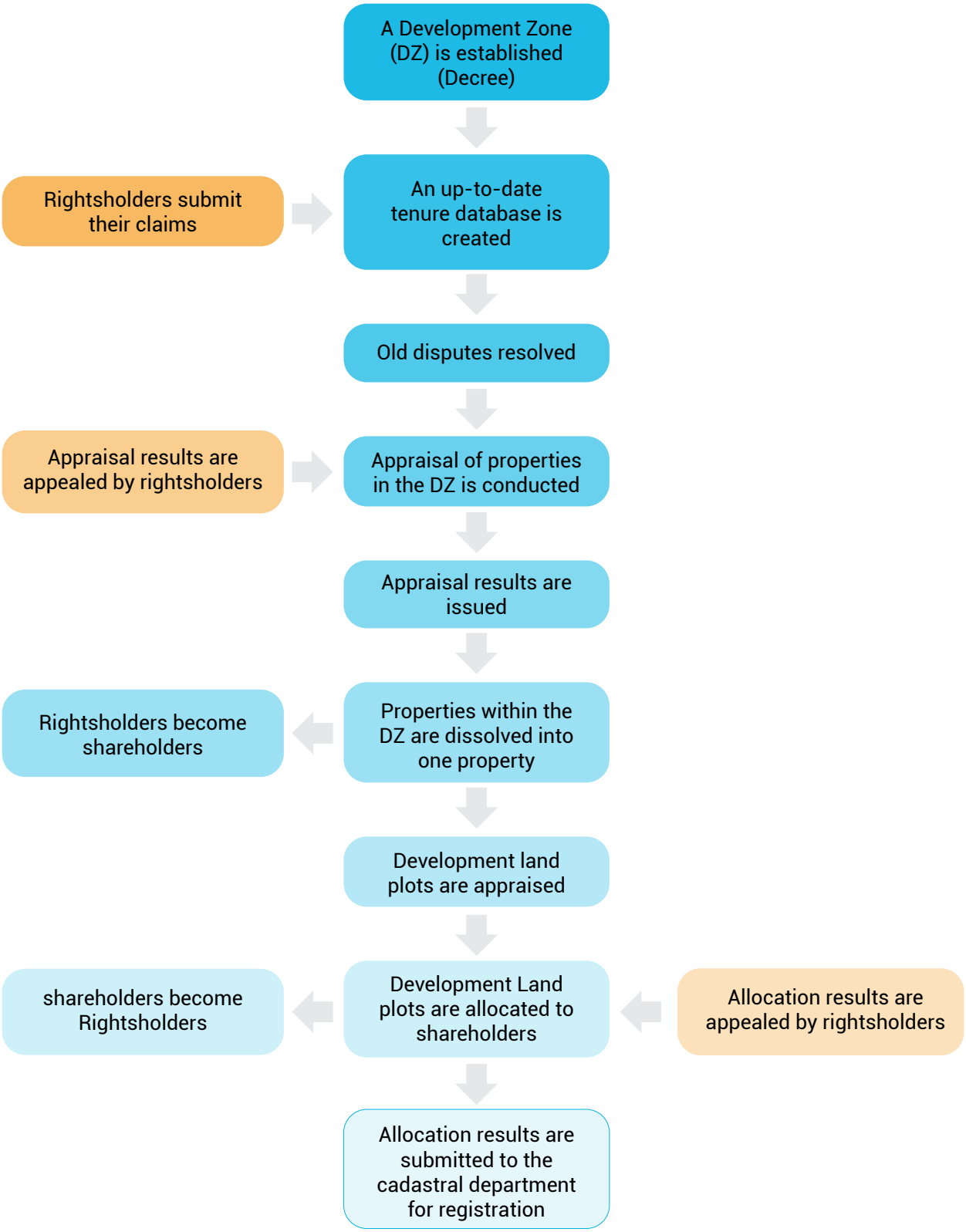


Fig. 9: General structure of Land Readjustment methodology in Syria

Law No. 9 of 1974 on Urban Development (Repealed)
Law no. 9 (1974) on the partitioning, organization and construction of cities was the first legal instrument instituted by the modern Syrian state to regulate urban plan implementation and create clear mechanisms for making land available for new developments. Indeed, the law introduced land readjustment mechanisms under the rubric of "tawzi' Jabri" or forced distribution of land,[13] which would define Syrian urban planning policies for the subsequent decades.

The law provides two methods of land readjustment to subdivide large (historically agricultural peri-urban) land parcels and/or replan underdeveloped or inefficiently organized areas in order to facilitate urban development and master plan implementation. The first of these is subdivision of land initiated and overseen by the landowners of a designated area ("partitioning"), in which case the municipality retains the rights to charge owners for the cost of developments and infrastructure. The second method is subdivision initiated and led by the municipality to create "organizational areas."[14] By this method the municipality is empowered to pool together land from property owners in the area and later redistribute replanned land parcels to owners while retaining the right to transfer some of the land to recover the cost of its investments in land reorganization, public space and infrastructure servicing.

The procedure for this process corresponds to the general structure of Syrian land readjustment described and illustrated above, where the designated zone is announced, land parcels and tenure rights thereto are identified (cadastral database and individual property claims), adjudicated (Dispute Resolution Committee), appraised (Committee of First Instance), consolidated (under management of the LAU), and reallocated (Compulsory Distribution Committee) based on the share values determined in the preliminary appraisal.

It should be noted that, in line with the definition of land readjustment, the property right(s) in this process do not transfer to the State in return for just financial compensation as would be the case in expropriation. Once an area was designated by public decree to be reorganized, the individual properties in the area were legally consolidated to constitute a common property shared by all right holders, with each having a share equivalent total estimated value of his/her property or in-kind right.[15] However, the municipality was authorized to take possession of 33 percent of the area free of charge to be allocated to roads, squares, gardens and public buildings. This proportion could rise to 50 percent if required by the general and detailed organizational urban plans being implemented, however, if the plan requires acquisition of more than 50 percent of the area, the municipality was required to pay for the additional land in line with the law on expropriation.[16]

While the land readjustment process as stipulated in Law 9 was exhaustive in detail, the cumbersome procedural bureaucracy of this process was a major barrier to its application by municipalities. This legitimate critique of procedural inefficiency has since come to characterize Syrian urban planning and development at large. The process of the municipal-led creation of organizational areas, for instance, legally required at least fourteen distinct steps many of which lacked time limits for filing appeals and rendering decisions. Furthermore, the exclusive reliance on formal committee meetings to make decisions regarding valuation, redistribution of plots and rights to property was an additional source of rigidity in the procedure stipulated by the law.[17]

Additionally, the failure to include any a priori community consultation, in the planning phases of the readjustment process for example, likely contributed to weak community buy-in and therefore increased appeals in appraisal and reallocation determinations.

Law No. 60 of 1979 on Urban Expansion (Repealed)
Law no. 60 (1979) on urban expansion was passed to manage the development of land outside of city limits such that it could be incorporated into municipal master plans. For two decades, Law 60 dictated the ability of Syrian cities to develop and incorporate peri-urban areas into municipal plans by exclusively restricting the development of such land to the public sector.

13 HLP Framework Paper pg. 21
14 Law 9/1973
15 Law 9/1974, Article 12.
16 Law 9/1974, Article 3B, 2-4.
17 McAuslan, Patrick, "Positive Planning: A New Approach to Urban Planning Law in Syria," 2008.

The law provided an alternative legal instrument for municipalities to bring expansion areas into the municipal master plans without engaging in the bureaucracy of Law 9 (1974). Instead, municipalities could compulsorily acquire the requisite property from landowners via expropriation in accordance with the rules and procedures established by the Civil Code and, later, the Law on Expropriation (Legislative Decree no. 20 issued in 1983). After expropriating the relevant lands, the municipality could divide the area into plots for construction and sell them at cost price to other parties for construction. The purchaser of the plot was then required to build upon it according to the use for which it was allocated, either for (1) public housing, housing cooperatives, and private use of individuals whose property was appropriated, (2) public buildings, or (3) "service buildings," such as markets, shops, commercial offices and so on. To prevent private speculation and enforce construction according to the purpose allocated by the municipality, purchasers were prohibited from selling the plot before completing construction works.

The lands expropriated for urban expansion were, for the purposes of valuation and compensation, considered agricultural areas whether they were in fact used for agriculture or not. This facilitated the extraordinarily low compensations original landowners received for the municipal appropriation of their property. The cost price at which municipalities were later able to sell the land included the price of these compensations as well as the expenses of public utilities infrastructure, preparatory studies and cadastral surveys, committee payments, and land clearance operations. Thus, the situation for original landowners was that they were deprived of their property as well as their home (in all likelihood) with meagre compensation, and then offered to repurchase the same piece of land (cleared of its structures) at a significantly higher price while also being responsible for financing its future constructions.

Accordingly, as conflicts around compensations for public acquisition and delays in land subdivision and construction works occurred, the sum effect of this law was that it took most of the buildable land out of the land and housing market.[18] The prices of urban lands available for private development rose significantly following the passage of this law. It is unsurprising, for these reasons combined with the high demand for housing due to growing urban populations, that these unincorporated and unconstructed peri-urban plots became prime sites for informal construction and housing developments. Indeed, as soon as private landowners learned of a possible designation of their land as an expansion area, they would try to sell their land for informal development since they could get a better price from private developers or private buyers who will build their own houses than they could get from the State.[19]

Law No. 26 of 2000 on Urban Extension Areas (Repealed)

Law no. 60 (1979), perhaps the most inhibitive of the urban planning instruments passed during Syria's socialist era, was finally amended in 2000 in attempts to break the cycle of slow planning being superseded by rapid urbanization. Law no. 26 (2000) allowed municipalities to address the development of informal settlements — "mass contravention buildings"[20]— in urban expansion areas by applying either land readjustment via Law 9 (1974) or compulsory land acquisition via Legislative Decree 20 of 1983. This allowed municipalities to choose the informal settlements they believed should be preserved by bringing them in line with the building code and formalizing them into the master plan as opposed to indiscriminately clearing them out for public housing development as mandated by Law 60. The flexibility Law 26 provided municipalities in diverging from their (defunct) master plans increased the supply of land in the market as expansion areas were more easily incorporated into municipal boundaries. However, most large cities chose not for formalize these settlements and instead used the liberalized regulations to implement new ordinances maintaining major rights of way and large-scale urban infrastructure mandated by the previous master plans.[21] Other reasons given for these cities' refusal to recognize their informal settlements in expansion areas were that many city officials were reputed to be engaged in real estate deals involving privileged knowledge regarding which detailed masterplans would be moved ahead for implementation. Alternatively, other officials may have resisted for fear of being sued by the original landowners whose property had been expropriated years before (under procedures stipulate by Law

18 Aita, Samir "Urban Recovery Framework for Post-Conflict Housing in Syria: A first physical, social and economic approach," 2019.
19 McAuslan, Patrick, "Positive Planning: A New Approach to Urban Planning Law in Syria," 2008.
20 Law 26/2000 amending Law 60/1979 on urban expansion areas.
21 Hallaj, Omar Abdulaziz, "Who Shall Own the City? Urban Housing, Land and Property Issues," 2017.

60) and where the informal settlements had since developed.[22] In any case, Homs was the only city which opted to formalize some of its settlements through Law 26.

Law 26 (2000) is considered to be the pioneering law in liberalizing the housing and urban development market. A number of other laws were passed in the early years of the decade which gradually unblocked investments in the real estate sector. Law 41 (2002) relaxed the provisions for creating master plans given in Law 5 (1982). Law 6 (2001) allowed for a gradual loosening of longstanding rental controls that had in practice prevented landlords from terminating automatically renewing lease contracts and as a result discouraged the supply of property assets to the rental market.[23] However, it wasn't until 2008 that a law was passed to truly bring the private sector into the urban planning process. This was a new policy direction of utilizing public-private partnerships (PPP) to implement urban planning initiatives and develop urban zones.

Legislative Decree No. 66 of 2012 on Establishing Two Zones Areas within the Governorate of Damascus and the Master Plan of the City of Damascus (In force)

Legislative Decree no. 66 (2012) represents the first application of PPP policies to land readjustment instruments. The decree allowed the Governorate of Damascus to engage in urban renewal projects in two informal peri-urban Damascus neighbourhoods — Kafar Souseh and Barzeh — through a form of land pooling and readjustment that bore resemblance to Law 9 (1974) but omitted the many steps that existed in the old law for due diligence in respecting property rights[24] and provided development rights to the private sector[25] rather than exclusively restricting it to municipality. The paucity of detail in the law posed especial risks to the housing, land and property rights of affected residents and rightsholders largely due the context of its drafting and application: the turn of the crisis from uprising to conflict between the Government and opposition forces.

The Syrian government had been engaged in the drafting of a new and progressive urban planning law prior to the onset of the conflict, but Legislative Decree 66 was quickly passed in 2012, reportedly, without the usual level of technical and political consultations. The decree enabled the Governorate of Damascus to undertake an urban planning task that was inconceivable less than two years before: enforce a new urban planning regulation to effectively clear out two largely informal Damascus neighbourhoods with high potential rentability.[26] These two peri-urban neighbourhoods witnessed significant levels of armed hostilities before falling back under Government control early in the conflict.[27] As such, the dangers of armed conflict, the physical damage to homes and infrastructure, and the political risks of association with the opposition led many residents to flee the area, which meant that the decree effectively sought to apply large-scale redevelopment without the presence of countless rightsholders.

Displacement especially affected rightsholders whose property rights were not registered with the GDCA, as the decree required them to formally apply to claim their rights or otherwise risk their forfeiture in the readjustment process. Successfully claimed rights (as well as those found in the GDCA records) were valuated and converted to commercial shares, which could be used in one of three ways: (1) allocation of land; (2) entry into a joint stock company to build, sell and invest in the zone; (3) sale of shares at public auction. Valuation assessments were not conducted by impartial third parties but by the local government, which as co-owner in the redevelopment project had reason to undervalue properties so as to maximize return on investment.

The primary substantive aspect of the decree which differed from the land readjustment procedure stipulated by Law 9 (1974) was the private sector management of the designated neighbourhoods after the individual properties had been pooled and rightsholders allocated shares. This aspect of the law, including the three share application options listed previously, will be further discussed in the analysis of Law no. 10 of 2018, which adopted the PPP framework of Legislative Decree 66, elaborated on its provisions and expanded its scope of

22 HLP Framework Paper
23 Ibid.
24 Unpublished report by Omar A. Hallaj on the HLP-Land Nexus in Syria.
25 Law 19/2015 on establishing holding companies by public authority bodies later allowed for the creation of the Damascus Cham Holding Company which managed the commercial shares of the designated neighbourhood. Law 5/2015 was issued that same year to regulate and further incentivize the use of PPPs in urban redevelopment.
26 HLP Framework Paper
27 Ibid.

application to any designated area of major Syrian cities.

Law No. 23 of 2015 on Urban Development (In force)
Law no. 23 (2015) on Urban Development replaced Law 9 (1974), and Law 60 (1979) as amended by Law 26 (2000), while by and large maintaining the structure and procedure for land readjustment given in Law 9. The law reverts to many of the clauses under Law 9 (1974) but provides less cumbersome steps for ensuring due process of law and better specifies deadlines to complete the many steps necessary to conduct the entire land readjustment process.

Like Law 9, Law 23 provides for two avenues to implement urban land readjustment: (1) voluntary land division at the request of landowners and (2) land zoning by the municipality, which was referred to in Law no. 9 as the establishment of "organizational areas." The latter operation also proceeds with a formal decree of zoning followed by the consolidation of the area into one joint property with all rightsholders having shares in the property. Rightsholders, who are identified via the information provided by the Real Estate (GDCA) office and applications submitted by rightsholders themselves, are issued shares in the zoned area which are equivalent to the value of their property (or other right in rem) just before the rezoning decree was issued. The Preliminary Valuation Committee is responsible for estimating the value of each rightsholders' share and publishing a list of their estimates, which may be challenged at the governorate civil Court of Appeal. Disputes and claims regarding property rights are to be dealt with by the Dispute Resolution Committee, the determinations of which may also be appealed at the Court of Appeal. Finally, the Compulsory Distribution Committee issues a distribution announcement and reallocates land parcels according to the share of each rightsholder trying as much as possible to give them a parcel on or near the site of their old property. Within 30 days of the publication of the Compulsory Distribution Committee's lists of rightsholders, shares and distribution scheme, concerned parties may file comments via a written petition to the Committee Chair. The decisions of the Committee are also appealable before the Court of Appeals within 30 days of the distribution announcement.

Law 23 stipulates that valuation of land in areas to be redeveloped will be based on market-like indicators in contrast to the fixed valuation framework stipulated by Law 7 (1974) and upheld by Law 9 (1974). The effect of this is that appraisal of properties located in neighbourhoods affected by the conflict will be determined in large part by their physical conditions. As such, while liberalizing the valuation framework to match market value is generally regarded as a positive step when a system of professional and independent valuers exists, market values in damaged neighbourhoods of Syrian cities are at historic lows leaving rightsholders with weak share compensations. This is a significant concern with applying land readjustment not only through Law 23 but also with Legislative Decree 66 (2012) and Law 10 (2018). However, it should be recognized that Law 23 differs substantially from the urban redevelopment laws Legislative Decree 66 and Law 10 in that it does not permit the transfer of property to PPP and keeps the local administration clearly responsible and accountable for steering the project while individual owners will be completely in charge of building their land plots. This minimizes the potential for the forfeiture of HLP rights and economic displacement vis-á-vis gentrification. Law 23 is also more amenable to the formalization of informal settlements compared to Syria's other land readjustment laws. Specifically, Law 23 explicitly prescribes land readjustment as a means to regularize informal settlements, while also allowing for other legal instruments (Law 15 of 2008 and Legislative Decree 20 on Expropriation) to be applied to deal with informal housing areas as the municipality sees fit.

In sum, Law 23 (2015) improves upon the provisions of Law 9 (1974) by stipulating the land readjustment procedure with greater detail and clarity and avoids the displacement risks posed by PPP redevelopment seen in Legislative Decree 66 and Law 10. Law 23 includes a number of provisions which may work to strengthen security of tenure such as the recognition of non-GDCA property registrations and dissemination of readjustment decisions via audio-visual media that would presumably be available to persons who are no longer residing in situ. Furthermore, Law 23 provides a number of explicit pathways for dealing with informal housing areas and addresses the issue of property valuation of leasehold rights. The law's specificity also provides further control and quality assurance with respect to the valuation process. Finally, Law 23 also provides some additional and/or clarified opportunities to appeal land readjustment decisions.

Law No. 10 of 2018 on the Creation of Urban Development Zones in a Master Plan (In force)

In 2018, Law 10 was issued to extend the mandate of Legislative Decree 66 to all major Syrian cities and clarify procedural details which were neglected in Legislative Decree 66. However, rather than leaving the law's implementation completely in the hands of the local government (Damascus in Legislative Decree 66), the new law required a presidential decree as a precursor to designating new areas for development, indicating a more centralized decision-making policy for national reconstruction and redevelopment.

Like Laws 9 (1974) and 23 (2015) on urban development, Law no. 10 (2018) on the creation of urban development zones within the master plan relies on a process of land readjustment in designated urban areas which identifies rightsholders, valuates their property or other rights *in rem* and provides rightsholders with proportionate shares in the redeveloped area which can be used for the reallocation of land in accordance with the value of their share.

However, unlike the aforementioned laws, Law 10 incorporates public-private partnership (PPP) into the land readjustment process in an effortt to shift the financial burden of post-conflict reconstruction via land readjustment from the State to the private sector. However, a number of issues related to security of tenure have been raised due to the private sector engagement in the land readjustment process under Law 10 (and Legislative Decree 66). These have primarily revolved around the concern that the application of Law 10 would enable private redevelopment of damaged urban neighbourhoods for profit with the effect of permanently displacing original rightsholders rather than guaranteeing their 'right of return' which is considered an integral aspect of land readjustment.

The process leading up to the redistribution of land parcels (including the declaring the zone to be redeveloped, initial valuation estimates, and the resolution of property rights disputes and claims) in Law 10 is consistent with historic land readjustment procedure. However, with respect to the redistribution of land parcels based on share value, the involvement with the private sector in Law 10 (and likewise in Legislative Decree 66) becomes apparent and makes for a very different procedure than the one found in either Law 9 (1974) or Law 23 (2015).

The latter two legislations provide for the Compulsory Distribution Committee which appraises properties in the *readjusted* zone and creates a scheme for the redistribution of land parcels to rightsholders consistent with the value of their shares and, when possible, with the location of their original property. In Law 10, the Reallocation Committee performs these same tasks to draft a reallocation table. After this table becomes conclusive, however, rather than simply redistributing the land parcels, the Municipality maintains a paper and digital register of shares and issues certificates for shareholders which are "considered as official deeds."[28] For one year from the reallocation table publication date, shareholders can exchange shares amongst themselves or transfer them to external parties. The Municipality receives 0.5 percent of the nominal value of each share transfer.

Within six months of the shares certificates being issued, shareholders are then able to apply to use their shares in one of three ways: (1) parcel allotment; (2) form a shareholding company with the objective of constructing, selling and investing the planned parcels; and (3) sale of parcels in public auctions.

The parcel allotment option allows shareholders to apply for a specific land parcel in the area equivalent to the nominal value of their shares. If multiple applications for a specific parcel are submitted, the priority is given to the application with the earliest submission date. Under this scheme, original rightsholders enjoy no privileges in electing their desired parcel compared to new shareholders who purchased their shares in the one-year transfer window.

The option to form a shareholding company provides an avenue for private development in the redeveloped area. Shareholders in the readjusted area can apply to the municipality to establish a shareholding company "with the objective of constructing and investing planned parcels in accordance to the company's internal regulations." Only a shareholding company can obtain more than one land parcel, which would be necessary to invest in constructing large residential or commercial developments in the area which could profit from the substantial land value increase following the

28 Law 10 (2018), Article 28(f).

readjustment works.

The final option entitles shareholders to apply to the municipality to sell parcels by public auction. Shareholders whose applications to the first and second options were rejected or who did not apply to any of the three options are subject to the provisions of sale in public auction. It should be noted that the municipality pays auction amounts to shareholders in semi-annual instalments, limiting shareholders' ability to access the full amount at any one time and fails to prescribe a deadline by which the municipality must distribute the full amount.

With respect to financing the land readjustment, Law 10 establishes a fund to cover the expenditures of providing works, social housing and public services (infrastructure and utilities). The fund is maintained through bank loans, income resulting from the trade and sale of shares of planned parcels in the zone owned by the municipality, and "other sources". Specifically, the municipality profits from the trade of shares in the redeveloped zone and from its own sale of planned parcels at public auction.

Upon its issuance, Law 10 faced a great deal of scrutiny from the international community citing human rights concerns for persons displaced from designated "redevelopment zones". Following discussions between the Government of Syria and UN representatives, Law no. 42 of 2018 was passed as an amendment to Law 10. The amendment (i) clarified that property claims were only required for rights not registered in the land cadastre, (ii) extended the time limitations for making such claims from one month to a year, and (iii) broadened the legal representation on behalf of absentee claimants if they are unable to be there in person.

3.3.2. Urban implementation by compulsory land acquisition

In addition to land readjustment, compulsory land acquisition (i.e., expropriation) has been a predominate legal instrument for urban implementation in Syria. Article 15 of the 2012 Syrian Constitution reserves the right of the government to remove private ownership "in the public interest by a decree and against fair compensation according to the law." According to this article, acts of expropriation must be imposed with a final court ruling and "compensation shall be equivalent to the real value of the property."

These provisions broadly align with international standards on expropriation, however, in practice, expropriation has historically been applied in Syria as the primary driver of urban planning rather than as a tool of last resort, and only since 2012 have valuations for compensation been legally required to correspond to real property values.

The primary piece of legislation governing expropriation in Syria, Legislative Decree No. 20 of 1983, has long conformed to the provisions of Syria's earlier Constitution which entirely omitted standards on valuation apart from the ambiguously interpreted requirement of "just compensation." Legislative Decree 20 formalized and regulated State use of expropriation, which was critical to the public sector-dominant urban policies of the socialist-era Ba'ath State.[29]

Under Legislative Decree 20, almost no public bodies are excluded from exercising expropriative powers. It allows for Ministries, administrations, public institutions, administrative bodies, and public sector bodies to expropriate real estates in the public interest. Furthermore, the decree permits administrative bodies to expropriate on behalf of other public entities and even on behalf of Ba'ath Party institutions and popular organizations.[30]

The law distinguishes two types of expropriation procedures. The first of these is the "normal" procedure where the public decree of expropriation is given, the GDCA is notified to prohibit further changes in property rights registration, a Settling Disputes Committee is formed to resolve HLP rights disputes over the properties to be expropriated, and a Primary Valuation Committee evaluates the real estates. Rightsholders are given the opportunity to object to the primary valuation, thereafter another committee revaluates the primary valuation decision, and then the expropriating body can possess the expropriated real-estates when their valuations have been rendered final and incontestable. Compensations are to be paid within five years of the expropriation decree (with an annual interest of six percent imposed on payments given beyond this time period, and an annual interest of eight percent

29 McAuslan, Patrick, "Positive Planning: A New Approach to Urban Planning Law in Syria," 2008.
30 Law 20/1983 on Expropriation.

imposed on payments given five years after the date of possession).[31]

The second type of expropriation given by law is "urgent expropriation," which allows for State possession of expropriated property as soon as the expropriation decree is made, before valuation procedures are concluded. Accordingly, rapid valuation and revaluation procedures are done by committee, but they cannot delay or prevent the implementation of expropriation works. The real estate occupant is given one month to vacate the building to be demolished. Urgent expropriations may be undertaken for the following reasons: (1) disasters requiring the immediate launching of works; (2) expansion or completing of an existing project; (3) security and defence projects; (4) construction of popular dwellings (i.e., social housing/housing cooperatives); (5) construction of education buildings; and (6) construction of dams, irrigation projects, railways and roads. The inclusion of the construction of housing cooperatives as a justification enabled municipalities to utilize urgent expropriation procedures to implement Law 60 on the development of urban expansion areas.

In both cases, valuations of property were supposed to correspond to the value of the land, the buildings and other constructions (including the value of trees if the real estate is planted).[32] However, the calculation of such values was not based market values as legal provisions stipulating that expropriation valuations must be based upon its "real value" was only recently introduced in the 2012 Constitution.[33] Consequently, Legislative Decree 20 allowed the government to base compensation amounts on out-of-date, fixed valuations that were far below fair market values for decades.[34] It was not until 2013 that the procedure for valuating compensation amounts became based on actual appraisal value.[35] A proposed replacement to Legislative Decree 20 (1983), which included a reformed system for valuation and compensation, was also introduced in 2013, though its adoption process has been postponed due to the ongoing crisis.

In sum, Syrian expropriation law requires a number of substantial modifications, most notably with respect to the following issues: (1) expropriation decrees cannot be challenged, only valuations of property can be challenged; (2) "public interest" has been interpreted loosely, allowing for a broad range of justifications for expropriation; (3) all public bodies including political (Ba'ath party) institutions are authorized to expropriate property; (3) compensation valuations have historically been consistently low, as they were not based on market values but on fixed, subjective valuations by public authorities; (4) the value of structures not permitted by the building code (informal constructions) on expropriated land are not recognized for any amount compensation; (5) the expropriating body can take possession of the expropriated property without any obligation to immediately pay any percentage of the compensation award (6) urgent expropriations allow for possession of property prior to valuation decisions and appeals, a practice of questionable fairness.

The issue of inadequate compensation is one of the most deeply imbedded issues in Syrian urban planning. By failing to pay fair market value compensation, public entities are incentivized to overutilize expropriation resulting in an excessive acquisition of land by the public sector which deters private investment and limits the private land market, as demonstrated by the use of urgent expropriation in the implementation of Law 60 (1979). Inadequate compensation further hampers efficient urban planning by incentivizing appeals of valuation decisions which delay the implementation of urban planning initiatives facilitated by expropriation.

Both of these issues — the restricted private land market and perennial delay in the implementation of urban planning initiatives — were key reasons that land and housing supply never met demand in Syria's rapidly growing cities, in turn contributing to the rise of informal settlements where residents exercise their HLP rights with limited tenure security. The constant threat of legal expropriation with little or no compensation, especially in informal communities that developed in peri-urban areas on the periphery of cities, has been cited as a source of resentment and distrust toward the State. Under this view, it is unsurprising that many of the initial protests of the conflict arose in these peri-urban informal suburbs, since by the time conflict erupted in 2011, many peri-urban expansion zones around the main cities

31 Ibid.
32 Ibid.
33 Constitution of the Syrian Arab Republic (2012), Article 15(5).
34 Tamam, Abdullah, "Syria's Land Expropriation Law: Profiting from the Public Good," Alakhbar English (2011).
35 Martin, Melissa and Vermeersch, Martijn, "Return is a Dream: Options for Post-Conflict Property Restitution in Syria," Syria Justice and Accountability Centre (2018).

were being incorporated into the formal zones of cities at a rapid pace.[36]

3.3.3. Real Estate Development

Despite the liberalizing policies of the early 2000s, urban development remained clogged in Syria and the extant urban planning instruments were still unable to respond to the constant demand for affordable housing. A specific type of real-estate development combining public expropriation powers and private development capital was envisaged as a solution to mobilize national and foreign investments to accelerate housing construction in areas of need.

Law no. 15 of 2008 established a regulatory body, the General Commission of Real-estate Development and Investment (GCRDI), with the mission of incentivizing investment in real-estate development. As such the GCRDI was responsible for: (i) promoting the role of the private sector, (ii) attracting foreign investments, (iii) supplying the housing and construction sector with the necessary lands for development, (iv) establishing new urban communities, (v) treating informal settlements and (vi) securing affordable housing to low-income categories.[37] To achieve this aim, the GCRDI was charged with regulating the real estate development profession, proposing real-estate development zones (RDZ), approving development proposals, setting incentives and exemptions, and identifying properties to be expropriated or purchased to create RDZ's.[38]

Law 15 enables the creation of shareholding real estate companies whose shares are owned up to 49 percent by foreign natural or legal persons on condition that no individual natural or legal person can hold more than 5 percent and 40 percent of shares respectively.[39]

A real-estate development company enters into a partnership agreement with the competent local governments defining terms and conditions of the development project and the rights and duties of both sides. Specifically,[40] these terms include:

- The developer shall register the resulting land plots and housing units to the cadastral department.
- Infrastructure shall be provided either by the developer himself or by the respective public service providers. Schools, hospitals and public buildings could be constructed by the developer at the expense of the respective public entities.
- In projects addressing informal settlements, the developer shall secure the necessary alternative housing or financial allowance to informal occupants after which the local government shall carry out the necessary evictions for the developer to launch the project.
- The agreement shall specify the number of housing units allocated to low-income categories.
- The developer shall comply with the project duration and the start-up date as specified in the agreement under pain of cancelling the project.

Lands required for real-estate development projects are acquired through the following means:

- Lands owned by the local government or state-owned lands are transferred to the local government.
- Expropriation of private lands.
- Utilization of land owned by the developers.
- Private lands the owners of which agree with the developer to include in the project.

In 2008, when Law 15 was passed, the ongoing global financial crisis effectively barred the involvement of foreign investors who could not afford to riski their available capital in uncertain markets. In practice, the low purchase capacity of Syrian investors represented an unsurmountable hindrance in every feasibility study carried out at the time by Syrian and foreign developers. The cost of capital for such projects was therefore inhibitive, and even if the government provided subsidized loans, freedom of movement of profits outside the country and many other exemptions, the few projects which would turn a profit were high-end units of the most luxurious type,[41] rather than the affordable housing which the law purported to support. Additionally, despite the modest improvements to the urban planning

36 Hallaj, Omar Abdulaziz, "Who Shall Own the City? Urban Housing, Land and Property Issues," 2017.
37 Law 15 (2008), article 2.
38 Law 15 (2008), article 7.
39 Law 15 (2008), article 19.
40 Law 15 (2008), article 20.
41 HLP Framework Paper
42 Hallaj, Omar Abdulaziz, "Who Shall Own the City? Urban Housing, Land and Property Issues," 2017.

framework in the years prior, many of the socialist-era regulations for land management remained and encumbered the works of the private real estate companies. Of the 35 companies which had been registered through the GCRDI, none managed to build a housing unit by the time the conflict erupted in 2011,[42] after which all development projects came to a full standstill (except the two slow-moving projects designated under Legislative Decree 66[43]).

3.4. URBAN MAINTENANCE

The urban maintenance framework comprises the instruments local governments rely on to enforce and maintain masterplans that were implemented using the different urban expansion and urban renewal instruments discussed. Urban maintenance instruments ensure that the gradual development and day-to-day activities taking place in cities does not undermine the main planning and development vision enshrined in the city's masterplan. Several instruments exist in this framework the most important of which are the building code and the law regulating building on plots.

3.4.1. Building code

Masterplans and building codes are strongly interrelated. While the masterplan is the policy document guiding the future development of the community and its spatial expansion directions, the building code can be viewed as the codification of the masterplan, reflecting its philosophy and translating its spatial arrangement into a set of written rules regulating issues such as the form, specifications, placement and dimensions of land plots and residential or non-residential buildings they host. Moreover, the building code addresses the practical aspects of implementing the master plan such as permits and construction works in terms of quality, timing and delays and the required qualifications of contractors and site engineers, public safety measures son on. Finally, the building code sets the rights and duties of the different stakeholders and elaborates on consequences of violations such as administrative injunctions, fines and ticket or even criminal charges either directly or in reference to applicable laws.

Hence, the building code is a local law which serves as a key reference point for architects, engineers of different specialties, contractors, municipal regulators, and other professionals engaged in urban development activities.

Building codes are issued in conjunction with masterplans following the same path stipulated by Law 5 (1982) and its amendments (Law 41 of 2002): first, a draft code is issued and published for public review upon its approval by the city council. Community objections are then addressed by the regional committee and sent back to the city council for adjustment. The adjusted version of the code is ratified by the minister of housing for provincial capitals and the municipal executive bureau for Damascus and other cities of less degree in the local administration structure.

Building codes of Syrian cities take a unified structure with variations corresponding to the special characteristics of each respective city.[44] Moreover, cities hosting traditional neighborhoods (the historic "old town") usually develop a special building code specifically for these areas which takes their particularities into consideration and stipulates the special protective measures with which they should be treated.[45]

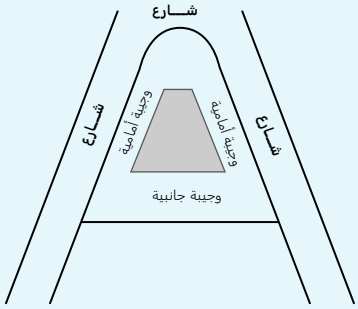
A typical building code contains the following elements:

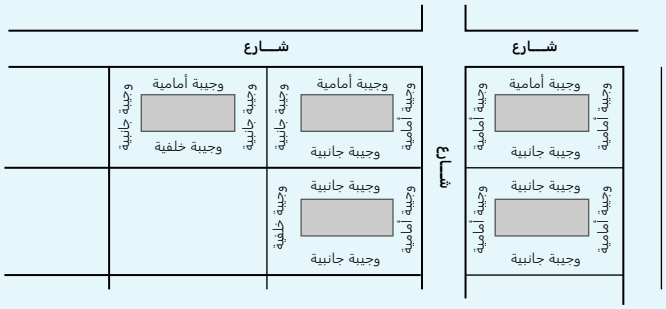
I. **Terminology:**
   An extensive set of definitions for legal, administrative, regulatory and technical terms used throughout the code such as plot, plot boundary, façade, setback, total building height, floor height, basement, actual area, built-up area, floor-to-area ratio, continuous building, separated building, floor subdivision, point pf reference, levels, and so on.

43 Marotta and Basilia cities in Damascus under Legislative Decree 66 (2012).
44 The building code for coastal cities contains special articles for recreational facilities, while special attention in given to basements in mountainous cities or those extending over complicated reliefs.
45 Aleppo's building code states clearly that" the old town and its protection buffer are subject to their own regulations"

Extracts from Tartous City building code:

- **Plot:** a parcel of land with known area, regular geometry and dimensions, legally recognized boundaries and at least one façade so that it can be built incompliance to the master plan and this building code. A lot may comprise more than one real-estate.
- **Street or Public Square:** the part of the public properties dedicated pedestrians of vehicles or to parks or public squares.
- **Façade:** a lot boundary bordering a street or public square.
- **Main Facade:** the façade overlooking the most important street in terms of width or rank in the masterplan. When the main façade isn't clear, it shall be designated by the [city's] executive bureau.
- **Lateral and back boundary:** a plot's boundary that isn't a main façade.
- **Setbacks:** the parts of the plot not allowed to be built that therefore should be open to sky except building projections allowed by this building code.
- **Depth:** the average distance between the main façade and the back boundary.
- **Front Setback:** the setback confronting the main façade.
- **Lateral Setback:** the setback confronting the lateral boundary and connected with the front setback.
- **Back Setback:** the setback confronting the back boundary with no connection with the front setback.





II. **Permit conditions:**
This section provides details on the process of applying for building/demolition permits. A typical building code includes the following chapters:

i. Building permits:
This chapter states clearly that no building can be built, nor existing building be modified, rehabilitated, reinforced or supplemented by additional parts without prior permit by the city council. Buildings erected without permits or in violation of the permit conditions are subject to demolition and violators can be sued in accordance to the laws and regulations in force.

In cases of shared ownership, building permit application shall be submitted by at least 75 percent of freeholders on condition that the remaining owners are notified duly.

Large buildings with a total number of floors and/or a total floor area exceeding limits specified by the building code require field engineers to be appointed. Moreover, concrete used for such building must be submitted to the necessary tests.

ii. Permit documentation requirements.
The application for building permits should contain the following documents:

- An application form stating the applicant's full name(s), address, contact information along with the names of the

designing and supervising architects and civil engineers.

- A cadastral map issued by the directorate of cadastral affairs (or by the city council for lands not registered iin the cadastral registry) less than three (3) months from the application date.
- A cadastral statement issued less than one (1) month from the application date.
- A financial acquittance for the land plot.
- A topographic drawing showing the location of the land plot and the building's footprint with the building's reference level and the levels of adjacent roads and sidewalks also enclosed. This map should be supported by evidentiary documentation of the necessary acts that have been done for the land plot to be in conformity with the zoning conditions (e.g., a sale contract of adjacent public properties required for the land plot to fulfill the minimum area requirement).
- The necessary contract for supervision services according to the building size.
- A full copy of technical drawings and design memos.
- The application is examined by the city and the building permit is issued within a specific delay stated in the building code on condition that the application has no faults or omissions.

iii. Demolition permits:
Demolition permits require that demolition works must be carried out under the supervision of a certified structural engineer with full consideration of the public safety requirements. A technical study for reinforcing the adjacent buildings should be enclosed if necessary.

In cases of shared ownership, the demolition permit application shall be submitted by at least 75 percent of freeholders on condition that the remaining owners are notified duly. Any building designated as monumental or traditional cannot be demolished.

A demolition permit should not be considered as a justification for evicting the existing occupants. The applicant should commit himself/herself before the notary to preserve the occupants' legal, financial and social rights. This commitment should be considered part of the application. Demolition works can be launched only after the occupants are evicted and a work order is issued by the city council.
The construction works of the new building should be launched directly after demolition of the old building is completed.

iv. Permit validity period:
As stated in Law 82 (2010) regulating the building of land plots within the cities, the building permit can be renewed on the condition of paying the applicable fees on the remaining unfinished parts of the building. Buildings erected after the expiration of the permit without a valid renewal are considered building violations.

The building permit can be modified or even cancelled if it fails to conform to the masterplans/building codes issued during the construction works. The building owner(s) shall then receive fair compensations for the executed works. The building permits can also be modified or cancelled without compensation if violating the building code in place when the permit was issued.

v. Consolidation and subdivision:
This chapter addresses the conditions and requirements for making property subdivisions and consolidation.
Vertical subdivision is permitted on condition that it would not introduce changes to the building function, and it can only take place after the following works are completed:

- Stairs and elevators with the necessary lighting.
- The shared elements such as the air raid shelter, building entrances and internal corridors, drinking water and wastewater piping.
- The building's exterior coating.
- The adjacent sidewalks.

Land subdivisions are permitted on the condition that the resulting land plot does not violate the dimensions allowed under the building code. If annexing part of the public properties to the land plot is necessary for the land plot to meet the allowed dimensions, or part of the land plot is necessary to be extracted and annexed to

the public properties, the building permit is only issued after the public land is annexed or the part of the land plot is extracted and consolidation or subdivision is registered at the cadastral registry. If the masterplan and the development plan necessitate the land plot to be subdivided so that part of it is annexed to an adjacent land plot, the building permit is only issued after subdivision is completed and registered to the cadastral registry.

vi. Inspection on construction works:
This chapter elaborates on inspection activities conducted by the city officials during the construction works.

vii. Occupancy certificate:
A completed building cannot be occupied before obtaining the necessary occupancy certificate. First, at the end of the construction works, the skeleton building is checked to ensure conformity with the permit conditions. At the end of the interior coating works, the building is checked for readiness for occupation and an occupancy certificate is issued.

VIII. **Building specifications:**
This section elaborates in detail the minimum specification of the building elements. For this purpose, buildings are classified according to the building function (Residential, commercial, industrial, etc.) and building type if applicable (continuous and separated buildings). Subjects covered under this section comprise:

i. Basements
ii. Underground car parks in residential buildings and multistorey car parks
iii. Sunshades and protrusions
iv. Fencing and partitions
v. Lighting and ventilation tunnels
vi. Internal design
vii. Attics
viii. Shared parts and service elements.

IX. **City zoning:**
This section provides detailed description of the different masterplan zones and for each zone sets a list of allowed constructions activities along with the minimum and/or maximum specifications the contractors should abide to. This section's degree of complexity varies depending on the relative importance of the city within the local administration hierarchy, which tends to mirror the technical capacity of the city staff. In Safita, a secondary city in Tartous governorate, the building code provides the minimum required specifications. For the first-degree residential zone, the building code states that:

i. Land plots should have an area between 360 and 1000 sqm.
ii. Minimum frontal length: 16 m.
iii. Maximum to built-up to land plot ratio: 35%.
iv. maximum setback lengths: 3 m frontal setback, 3 m side setback and 5 m back setback.
v. Maximum floor number: 3 of total height of 12 m maximum.
vi. Number of allowed additional floors: 2
    - 1 brick oblique roof floor.
    - A second additional floor is allowed on condition that the side setback width is increased to 4 m.

3.4.2. Enforcing the construction of vacant land plots

Building on vacant urban land plots (those within the municipal boundaries defined by the master plan) was first regulated in the mid-1970s to reinforce the government's efforts to keep pace with the emerging housing demand of Syria's growing urban population and to curb speculation on urban lands which was more profitable than investing in their construction. Two significant laws were passed supporting these policies: Law no. 14 (1974) encouraged the development of unconstructed land parcels within municipal boundaries while Law no. 3 (1976) restricted transfers of these parcels. Law 14 was replaced in 2010 with Law 82, while restrictions on transfers of urban lands were eased in 2013 (Law 26).

Law 82 is applicable to individual unconstructed land parcels located within cities' boundaries and to those larger peri-urban development zones designated under Syria's land readjustment laws (either Law 23 of 2015 or 10 of 2018). It also applies to properties expropriated for housing projects, real-estate development projects, cooperative housing projects and new urban community projects (Ministerial Decree no. 16 of 2007).

Law 82 introduces two significant policies incentivizing construction of vacant lands:

First, the law obliges original owners of unconstructed land parcels to obtain the requisite building permits within one year of their urban zone (and its constituent land parcels) coming under the law's jurisdiction. Moreover, it requires owners to then complete construction within a certain delay from the building permit date.[46] The law exempts buyers of vacant lands from the yearly land tax on the condition that construction is completed within three years of the purchase date. It also requires buyers of new dwellings to have their dwellings ready to use within one year of the acquisition date. Those who fail to meet these delays are subject to gradual penalties that can ultimately correspond to the selling price of the properties at public auction.
Second, the law establishes a fast track which authorizes owners of the relevant land parcels to, under specific terms and conditions, sell parcels and their dwellings to future owners even before construction is completed in order to allow them to recover part of the construction costs in advance. Since the GDCA cadastral registry does not allow for the registration of properties that do not yet exist, Law 82 embraces the Temporary Land Registry established by Law 14 (1974) for the purpose of formally registering these types of properties. The Temporary Registry is maintained by the municipality and used to register non-existent or incomplete dwellings of this type including the initial sale of these dwellings and their subsequent transfers. In this way the temporary land registry was established to provide a more rapid path to property registration than the one available by direct registration with the General Directorate of Cadastral Affairs (GDCA), which generally entailed lengthy processes, to facilitate the expedient sale and construction of plots within the municipal urban plan.

Law 82 is considered among the references used by building code developers in most Syrian cities. In some cases, it is indicated overtly and even when not, its provisions dictate the sections related to building permits and construction terms and conditions. However, a key observation in this regard is that Law 82 (and its predecessor) is only partially enforced and even then in a loose manner: delays provided by the law are rarely respected and construction works are largely dependent upon the capacity of the different stakeholders (contractors, developers, housing cooperative and lands owners). Additionally, registrations in the Temporary Registry are rarely transferred to the permanent GDCA registry upon the completion of construction as required by law due in part to limited enforcement.[47] This phenomenon has continued through the subsequent decades, compounding the property sales registered exclusively by the municipality in the temporary registry and eventually giving rise to the present-day issue of official urban property registrations being divided between two distinct administrative bodies without any legal mechanism for their reconciliation currently in force. Indeed, the GDCA property records in many Syrian cities are out of date for this reason, which may present a significant exclusion risk in any property restitution processes following the crisis as the Government has prioritized the reconstitution of GDCA cadastral records without any legal mechanisms presently in place for restoring damaged or lost records in the Temporary Registry.

3.4.3. Informality vs. Building violation

The State's recognition of the substantial difference between building violations and spontaneous settlements, and consequently the distinct means to address each of them, initially began to take shape in the early 2000s. The laws passed in that decade express a clear understanding of this distinction: building violations are straightforward regulatory breaches that must treated by prescribing laws to enforcing the applicable building codes, while, on the other hand, informality, being a social phenomenon, requires comprehensive treatment at the policy level. For this reason, informality is addressed in only one article of the successive laws on building violation passed since 2003[48] and only in a very general manner emphasizing the need to regularize informal settlements rather than demolish them. Law 40 on building code violations, for instance, states that "building violations in spontaneous residential areas [informal settlements] shall be settled after being upgraded, tenure rights to them formalized and they are included in the masterplan…"[49]

46 Three years to complete the skeleton building the main services for buildings up to six floors and four months for each additional floor on condition that the total construction time is less than five years.
47 Aita, Samir "Urban Recovery Framework for Post-Conflict Housing in Syria: A first physical, social and economic approach," 2019.
48 Law 1 (2003), Law 59 (2008) and Law 40 (2012).
49 Law 40 (2012), article 8.

Laws on the building violations

Legislative Decree no. 40 (2012) is the latest of a series of laws issued over the course of the last six decades to supress the proliferation of building violations. According to this legislation, a violating building is one "raised without building permit of construction works violating the [terms and conditions of] building permit."[50] This law introduces two policies to address building violations:

- Violations raised after the issuance of Law 40 shall be demolished and the resulting rubble removed at the expense of the person for whose benefit the building was established. Furthermore, violators, whether they be owners, contractors, supervisors, designers, or local officials, are subject to a set of financial penalties.
- Violations introduced prior to the law's issuance in May 2012 can be regularized if they are proven to be structurally sound, on condition of also paying the requisites fines and fees.

Legislative Decree 40 introduces a range of fines and penalties corresponding to the violation magnitude and its implications. The following[51] compromise the penalties stipulated in the law:

- A fine between 2,000 and 10,00 Syrian pounds per square meter,[52] a relatively heavy penalty in the comparison to the building costs that year (2012).
- Moreover, violators are also subject to prison sentence in the following cases:

    1. 3-12 months for building violation encroaching on public spaces, state or municipal lands, expropriated lands or those located in active urban development zones or when the building extends to the land plot's setbacks or when is higher than the height stated by the building code by more than 1 percent.
    2. 1-3 years when the building lacks the necessary structural strength, has more floors than is allowed by the building code or when the ground underneath an existing building is excavated or when is structural assortment is modified.
    3. The sentence becomes imprisonment with hard labour and fines are doubled if the aforementioned violations caused the building to collapse partially or completely.
    4. The sentence becomes no less than 10-year imprisonment with hard labour and the aforementioned violations are tripled if the collapse led to death incident.
    5. The prison sentences and fines are doubled if the violation is repeated.
    6. Owners or occupants who subdivide their land illegally are subject to 1-3 years imprisonment and 500-2000 million Syrian pound fine.

The penalties of Legislative Decree 40 were drafted severely, even when compared with its precedent (Law no. 59 of 2008 and Law 1 of 2003), in an effort to strengthen deterrence effects. Fines were increased significantly, and well beyond what was needed to compensate for the devaluation of the Syrian Pound. For instance, the base fine for building violations in Law 1 (2003) is a lumpsum 50,000 to 300,000 Syrian pounds, while Law 40 calibrates this fine to be heavier for larger building violations as mentioned earlier. Thus, for a medium-size building violation of a total area of 1000 square meters, the fine becomes a much more significant 600,000 Syrian pounds on the 6000 SP/sqm.

Law No. 33 of 2008 on the Formalization of Informal Housing Areas

Long prior to the crisis, the Syrian state had provided informal settlements with overt de facto recognition in the form of basic services and infrastructure almost equal to that of its formal counterparts. However, this partial concession to the legitimacy of informality did not extend to formal incorporation of property rights in the cadastral system for most informal owners. The permanent cadastral registry remained out of reach to most informal rightsholders mainly because informal buildings were the result of land subdivisions and construction works that took place without receiving the requisite municipal permits.[53] Consequently, not only were informal owners excluded from the credit system, and thus deprived of access to loans and mortgages, but

50 Law 40 (2012), article 1.
51 Law 40 (2012), articles 2,3 and 4.
52 Law 40 (2012), article 2.
53 The municipal law 172 (1956), article 116 states that: a) Subdivisions or arrangements of lands located within the municipality's boundaries into building land plots cannot take place unless they are supported with drawings ratified in advance by the mayor; b) Sale contracts or allotments requiring subdivision of lands can be registered to the cadastral registry only in reference to the drawing mentioned in sub-article a above". The subsequent local administration laws 15 (1971) and 107 (2011) have similar provisions.

municipalities also lost additional revenues they could have received had these properties been registered in the cadastral system.

In attempts to address the legal deficiencies of informality, Law no. 33 (2008) was issued to legalize large swathes of informal areas where the residents formally held a right to the land but did not have proper demarcation to the specific plot on which they had built, and therefore could not obtain a building permit.[54] Accordingly, the Law allowed for the recognition of de facto land subdivisions as individual real estates which could be duly registered in the formal cadastral system with rightsholders receiving official titles. However, limited national funding resources in the wake of the 2008 global recession followed by the start of conflict in 2011 ultimately frustrated the implementation of Law 33.

Nonetheless, Law 33 remains applicable in a number of contexts. Firstly, it can be used in tandem with urban renewal laws such as Law 23 (2015) to clarify and strengthen the tenure status of informal areas before their redevelopment. Law 23 (2015), for instance, states that land readjustment is a way to develop locations inflicted by natural disasters or wars or where the local government intends to implement a detailed regulatory plan (DRP).[55] The same law states that, before the rearrangement of lands, an inventory of properties located within the area is to be developed by the competent cadastral department[56] and updated by rightsholders right claimants.[57] Therefore, Law 33 (2008) presents itself as a natural first step to implement these projects and it also puts the informal owners in better position vis-à-vis the other stakeholders by transforming them into formal holders.

The application of Law 33 also opens new possibilities to improve living conditions in informal settlements. Not only will Law 33 formalize informal tenure rights, but it will also lead to the recognition of the existing land and vertical subdivision and thus to the inclusion of formalized neighbourhoods in the building code. This way, partial upgrades of individual properties can be made under municipal oversight, streets can be upgraded, additional floors can be added to existing buildings or building permits can be issued to replace existing buildings upon owners' request.

Finally, Law 33 contributes to improve tenure security in informal settlements that suffered large-scale damage during the conflict requiring massive removal of debris under Law no. 3 (2018). Since tenure rights in informal contexts largely depends on the physical existence of properties, clearing rubble away can lead to the loss of neighbourhood landmarks and residential buildings which serve as the primary evidence of informal tenure rights. As such, without due registration of tenure rights with the land registry (textually and in map form), rightsholders risk losing their properties permanently. And while Law 3 (2018) states that an inventory of properties must be carried out prior to any debris removal, the law isn't clear on how informal tenure rights are dealt with, allowing for discretionary interpretations in this regard.

3.4.4. Debris Removal

Before the crisis started in 2011, rubble was not a large-scale issue the country had dealt with in its near history due to the lack of any major natural or manmade disasters of the kind that would result in mass destruction.[58] Instead, the main source of debris typically were the products of building violation demolitions or demolitions done for the sake of public interest projects. For this reason, the Syrian legislative library lacked specialized legislation regulating the removal of debris in a comprehensive manner. Instead, rubble removal was only casually referred to in an uncoordinated manner across several pieces of law.

Since 2011, the conflict in Syria has produced large-scale debris accumulation in Syrian cities which would require extraordinary clearance, transportation and disposal capacity.[59] This debris accumulation has obstructed movement and access to residential units and thus obstructed the rehabilitation of infrastructure, basic services, shelters, shops and other productive assets.

54 HLP Framework Paper
55 Law 23 (2015), article 5/c.
56 Law 23 (2015), article 19.
57 Law 23 (2015), article 18.
58 Lest the destruction of the city of Quneitra after the war of October 1973 when the city was deserted totally, and rubble is still in place until now.
59 20 million tons of debris are estimated to be accumulated in Aleppo and Homs alone (2017, The World Bank, The Toll of War: The Economic and Social Consequences of the Conflict in Syria)

Debris removal before the war

The public cleanliness law 49 (2004) defines "rubble and construction works residues" under the category of municipal trash[60] forbidding the disposal of rubble in trash containers or in road and public spaces.[61] Instead the law requires "public and private parties generating construction works residues, rubble, excavation residues… to transport them to public landfills designated by the local administrative unit"[62] using suitable trucks.[63]

Rubble is also addressed within land acquisition and urban development laws. In these laws, rubble is considered a private belonging which an owner can dispose of within a specific delay after the expiration of which the competent public entity will remove the rubble.

Specifically, the expropriation law, Legislative Decree 20 (1983), states that "if the owner decides to demolish the construction within the delay specified by the expropriating authority, he has the rights to take the rubble in exchange. Otherwise, the expropriating authority shall remove the construction and take the rubble."[64] The law on building violations, Law 40 (2012), states that rubble generated by the demolition of building violations is "transported at the expense of the violator."[65]

Urban development law no. 23 (2015) states that appraisal of properties within the development zone takes place considering that rubble is left to the owner and that this rubble can be demolished and removed at the expense of the development zone when the delay set by the local administration units to owners to take their rubble has concluded. Furthermore, under this law owners of building violations encroaching on public or private properties are stated to be "only entitled to the rubble of their buildings."[66] Comparable provisions can be found in Legislative Decree 66 (2012)[67] and Law 10 (2018).

Conflict-generated debris

Debris generated on an industrial scale during the war led to the emergence of unregulated debris removal practices of rubble recycling, a shadowy business practiced by influential businessmen in an ad hoc and unsupervised manner given the absence of national policies and legal and regulatory frameworks regarding debris management. The issuance of Law no. 3 (2018) represented an official recognition of a need to remedy this chaotic situation and took a first step in the direction of regulating the debris management industrial chain by addressing its first ring, the removal of debris from private properties damaged by the crisis.

Law 3 primarily seeks to register private debris and belongings in the name of their owners before the rubble can be removed from their properties. Law 3 follows a registration procedure to identify rightsholders and their respective share that is common in many urban development-based laws (e.g., Law 23 of 2015 and Law 10 of 2018): the owners are given 30 days to submit, in person or through their relatives or legal representatives, whatever evidentiary documentation they hold confirming their tenure rights to supplement information in the cadastral registry. Meanwhile, the local administrative unit submits, within 120 days, a detailed report to the governorate estimating the private and public rubble quantity and value and the owners of the damaged properties along with a map showing the damaged buildings. The governor forms a committee chaired by a cadastral judge with two members selected by the rightsholders to develop, within 120 days, a detailed inventory of damaged properties and their owners. The inventory relies on the information provided by the municipal committee, the cadastral table and information submitted by the rightsholders along with detailed field survey. The inventory results are published and rightsholders are given a 30-day appeal delay before the appeal court, which is then required to decide on these appeals within 30 days. Then the rightsholders are given 30 days to apply to take their debris and belongings. Debris and personal belongings should be taken within 30 days after which the remaining debris is sold by the municipality at public auction. The sale value is deposited in a bank account for the interest of rightsholders who can be compensated if they later prove ownership of debris or belongings which were sold.

60 Law 49 (2004), article 1.
61 Law 49 (2004), article 6.
62 Law 49 (2004), article 5.
63 Law 49 (2004), article 3.
64 Expropriation Law 20 (1983), article 14.
65 Law 40 (2012), article 2.
66 Law 23 (2015), articles 47 and 51.
67 Legislative Decree 66 (2012), articles 39 and 43.

The main advantage of the law's recognition of debris as a private possession is that by allowing private individuals to monetize their debris, they will be able to recover part, no matter how small, of their loss suffered from conflict-induced damage. Moreover, by recording the rights claim to an official register, people participating in the process will be able to assert their HLP rights.

However, like many laws passed during the conflict, Law 3 (2018) lacks the necessary implementation tools, as no implementation instructions have thus far been developed by the government. Additionally, the discretionary implementation of the law remains a main source of concern as refugees with alleged opposition leanings will unlikely be to take part in the process even through their relatives who remain living in situ. Furthermore, some of the delays defined by the law seem too narrowly constrained. It is doubtful, for instance, that rightsholders will be able to prove their rights within 30 days since many of them may have lost their HLP documentation. This shortcoming is especially detrimental to the participation of refugees and displaced persons in the debris claiming process considering the long time needed to issue the necessary delegations for their representatives to act on their behalf.

Table 3: Syrian Urban Planning Laws with Amendments and Replacements

Urban Planning Legislation				
Original Law	**Classification**	**Description**	**Amended by**	**Replaced by**
Law 9 (1974)	Urban implementation	On partitioning, organization and construction of cities	Law 46 (2004)	Law 23 (2015)
Law 5 (1982)	Urban planning	On city wide planning	Law 41/2002	-
Law 14 (1974)	Urban maintenance	On building on plots	Law 59 (197)	Law 82 (2010)
Law 60/1979	Urban implementation	On urban expansion	Law 26 (2000)	Law 23 (2015)
Legislative Decree 20 (1983)	Urban planning	On expropriation	*Proposed amendment drafted in 2013, presently under review	-
Law 1 (2003)	Urban maintenance	On building violations and the removal of offending buildings	-	Legislative Decree 59 (2008); Legislative Decree 40 (2012)
Law 15 (2008)	Urban implementation	On real estate development and investment	-	-
Law 33 (2008)	Urban maintenance	On regularizing informal settlements	-	-
Law 66 (2012)	Urban implementation	On the creation of urban development zones in Damascus	-	-
Law 76 (2011)	Urban implementation	Regulate general establishment of housing work	-	Law 26 (2015)
Law 10 (2018)	Urban implementation	On the creation of urban development zones	Law 42 (2018)	-
Law 3 (2018)	Urban maintenance	Debris removal from private building	-	-
Law 99 (2011)	Urban maintenance	Cooperative housing	Law 37 (2019)	-

3.5. Land Administration

Land administration systems provide governments with the necessary infrastructure for securing land tenure rights, determining valuation and taxation of land, and managing the use of land and land development. Syria has a complicated land administration system where different agencies have distinct yet often overlapping jurisdictions over land administration.

In theory, the General Directorate of Cadastral Affairs (GDCA), established in the 1920's during the French mandate on Syria (and Lebanon) albeit under a different name, is the public entity with the mandate of managing immovable properties in Syria through a cadastral system comprising graphical (maps) and written (land journals/records) components. When these components are united, each property is identifiable through its location and boundaries as well as its written descriptions of rights and duties. As soon as a property is entered into the cadastral system, the GDCA keeps track of every event affecting its existence or characteristics by recording all changes through this system. These events could include subsequent subdivisions of a single property, consolidation of adjacent properties, property transfers, granting of new rights in rem (e.g., easements, usufruct, etc.), pawns, loans and other transactions, each of which would be registered in the system within the file of the relevant land parcel. In this way, the cadastral system, in theory, can remain up-to-date and reflect true status of these realties on the ground.

The mandate of the Syrian cadastral system applies at both the individual and social level. At the individual level, the GDCA is charged with protecting individual tenure rights through the satisfactory management of land registries as mandated by the constitution. Moreover, at the social level the cadastral system constitutes an important source of information for development projects at local and national levels. Syrian law and common practice, for instance, maintains that every city intending to launch an urban development project shall request the cadastral authority in its jurisdiction to create an inventory of properties and rights holders for the sake of compensation (if expropriation is to take place) or redistribution of land plots (in case of land readjustment).

However, in spite of its sophistication, the cadastral system was not in practice able to cope with the rapid socio-economic developments post-independence Syria witnessed, including the abolition of the old feudal system (1958 and afterward) and the mass migration of rural Syrians to major cities in search of job opportunities and better living conditions. Many of these migrants settled in Damascus and Aleppo which received much of the cashflows that poured in from the Arab gulf states following the 1973 Arab-Israeli war and the subsequent increase of oil prices. These developments led to the creation of parallel land administration systems which operated their own land records:

- The General Establishment of Agrarian Reform was established to carry out the monumental task of subdividing and redistributing large tracts of arable lands previously owned by feudal landlords to poor rural households in the early 1960s.
- The temporary land registry system(s) operated by major Syrian municipalities, public housing entities and many housing cooperatives appeared for the first time in the early 1980's with the marked expansion of housing projects in Syria. This system was initially established to enable the registered purchase of unfinished (or even yet unbuilt) housing units, which is not possible in the GDCA system.
- Moreover, the spread of building violations and the emergence of informal settlements (neighborhoods built in violation of the master plan/building code in force and without building permits) had the result of creating a de facto land administration system where informal houses are exchanged through consent sale contracts, notary deeds, court decisions and other means intended secure real property that cannot otherwise be registered at the official registries.

3.6. Financial Instruments

Direct and indirect local revenues are used to mobilize resources enabling Local Administration Units to deliver services and develop infrastructure. The direct revenues are those collected through local taxes and fees in addition to the LAU's share of fees and income taxes collected by the central government and conveyed through the MoLAE. To these are also added the aid and grants provided by the central government through the General State Budget. On the other hand, indirect revenues are collected through the municipal tools intended to regulate land development and land use. These tools fall under the land value capture approach.

The local administration units' Financial Code 37 (2021) provides that LAUs receive shares of the fees and taxes collected centrally as the following:

1. And of 10% of the annual immovable property taxes and income taxes.
2. The local administration system's share of each LAU is defined according to the following formula:

    - 12% to Damascus.
    - 12% to LAUs designated as developing LAUs.
    - 6% to LAUs designated as coastal seaport cities.
    - 5% to LAUs designated as touristic cities.
    - 65% to the other LAUs distributed on the basis of their respective population.

3.6.1. Land Value Capture

The essence of land value capture concept is that municipal development activities through direct investment in infrastructure or land development plans result in gains to the private wealth through tangible increases of the value of the privately owned lands without the landowners make any direct investment affecting the value of their lands. Implementing new streets or upgrading/improving existing ones, for instance, enhances accessibility to the near-by lands rendering them more attractive to wealthy buyers. The decision by the local authority to put some land tracts under urban development will bring investors ready to buy these lands at higher prices or to enter into partnerships with their owners. The argument is that part of the increment of private wealth generated this way is owed to be returned to the local authority through taxation. Land value capture tools have to achieve this purpose in order to cover the cost of the needed infrastructure. In Syria, two land value capture tools exist: the betterment tax and the annual tax on immovable properties.

Betterment tax

Betterment levies are a form of tax or a fee levied on land that has gained in value because of public infrastructure investments. This tax is imposed to recover part of the investment incurred by the local authority. The logic behind the betterment tax is that public investments in infrastructure generate gains to the benefit of the landowners in the area where these investments took place. These gains are distributed to landowners unequally based, among others, on the size of their respective properties and on their closeness to the implemented infrastructure. Consequently, the collected levies also differ.

The betterment tax is regulated by Law 98 of 1965[68] which in article 13 specifies the tax as half of the estimated gain based on the real-estate area after the deduction of setbacks imposed by the building code as well as those expropriated (or otherwise acquired by the municipality for free for public infrastructure and installations according to the urban development plan). Article 1 provides that betterment tax is imposed on built and unbuilt immovable properties and on lands improved as a result of public benefit works specified in the same article as:

1. The establishment, improvement or enlargement of roads of markets, public squares, parks.
2. The establishment of bridges, streams, canals or river covers.
3. The implementation of urban development plans.
4. The implementation of recreational and vacation projects.
5. Gains resulted from the amendment of zoning codes or constraints on the allowed land use.

68 Law 98 (1965) was recently repealed, and its provisions were embedded in the new local administration units' financial code 37 (2021)

6. Real-estate development zones.[69]

Areas subject to betterment tax are specified by the minister of municipal and rural affairs (currently local administration and environment) upon city council proposal (Article 3).[70] The total gain resulted by the public investment and the share of each real-estate of that gain are estimated by a tripartite committee appointed by the mayor based on their respective values (Article 6). Landowners are entitled to appeal committee estimates and the appeals are examined by a quinquennial arbitration committee (Articles 6-12).[71]

Since its introduction in 1965, it has not become clear how effectively has this tool been used. In this regard, two issued emerge. First, the estimation of gain resulted from public investment is by itself is evasive. There is no straightforward formula to calculate it and thus it is subject to the experience of the evaluating committee. It is a guesstimate rather than a science since no one can confirm whether the capital gain will really materialize as estimated or not. Moreover, it is not clear whether the tax should be calculated on the basis of quantitative criteria or if some qualitative ones, such as the improvement of quality of life, should also be included (and how and in what weight). Second, the real-estate actual and projected values are a constituent part of the exercise. However, in Syria, the market value is not clear. Therefore, the valuation committees will rely either on personal knowledge, which will likely be contested by the landowners, or on the nominal value registered to the financial departments' records (the common practice in these types of works requiring real-estate valuation), where the value of a real estate represents a small fraction of the actual value. Therefore, institutionalizing the betterment tax will require huge efforts in areas that are outside the scope of municipal mandates.

Annual tax on immovable properties

Tax on immovable properties is an annual tax paid by landowners on the basis of the value their respective real estates. In Syria the annual tax on immovable properties is regulated by Law 53 of 2006 which provides that built and unbuilt lands in urban communities and the countryside are subject to annual tax; this excludes those lands intended for agriculture or temporarily/permanently exempted by law (Articles 1- 4). The tax is calculated on the basis of estimated value of real estates as estimated by committees established for this purpose (Articles 7-10). The affected landowners are entitled to challenge the valuation results and the objections are examined by appeal committees (Articles 11-14). While the annual tax on immovable property is not a municipality-based tax but rather a tax collected by the financial departments and conveyed to the state's treasury, 10 percent is added to the estimated tax and paid to the municipalities.

As a common practice, the annual tax on immovable properties is based on the nominal real-estate values as registered in the finance records and as a result the amount received by the municipalities is much less than the amount due.

3.7. Summary Analysis Of Syrian Urban Planning Law

While not without positive aspects, the deficiencies of the legal and policy framework for urban planning in Syria have created root HLP issues that may have contributed to the popular uprising of 2011 and that continue to hamper the prospects of sustainable post-conflict urban redevelopment. Meanwhile certain urban planning legislation issued during the conflict could, if implemented without procedural safeguards and sensitivity to informal tenure rights, have the effect of excluding tenure vulnerable groups including informal rightsholders and the substantial number of rightsholders who remain displaced from their land, housing and property.

With respect to the former, the socialist era of urban land management, lasting from 1963 to 2000, instituted a number of urban planning policies, instruments and regulations that remained rigidly unchanged for decades, while the land and housing needs of the growing population of Syrian cities rapidly evolved. The problems of urban planning law and policy in this period can be summarized as follows:

69 Added in Law 37 (2021)
70 In the new municipal financial law 37 of 2021 by the city council.
71 One quinquennial committee established in law 27 of 2021 with two representatives of the affected landowners to carry out the valuation works and examine the objection submitted by the landowners. However, objections are limited to claims of physical or calculation errors in the valuation process.

- Reliance on a rigid master planning methodology of urban planning which strangles rather than guides urban development; master plans tend to be out of date by the time they are issued, no longer meeting the needs of the urban populace (re: Law no. 5 of 1984).
- Reliance on expropriation as the primary tool rather than last resort for implementing urban planning (re: Legislative Decree no. 20 of 1983; Law no. 60 of 1979).
- Inadequate valuation and compensation for expropriation causing delays in the implementation of urban planning initiatives due to mass appeals of initial valuations and incentivizing the over-acquisition of land by the public sector, reducing land in the market for private development (re: Legislative Decree no. 20 of 1983; Law no. 60 of 1979).
- Lengthy and cumbersome procedures delaying the implementation of urban plans and the initiation of construction works (re: Law no. 9 of 1974; Law no. 60 of 1979).
- Restrictions to private development in urban expansion areas effectively taking land out of the market and further exacerbating the supply-demand gap for housing (re: Law no. 60 of 1979).
- The establishment of a temporary registry which while more efficiently registering new rights in property failed to ever transfer these registrations to the GDCA permanent registry, a challenge for land administration and threat to tenure security now in the wake of the conflict (re: Law no. 14 of 1974).
- The failure of housing cooperatives to supply housing to low-income urban residents (re: Law no. 60 of 1974; Law no. 13 of 1981).

Together these issues worked to consistently frustrate the efforts of the Syrian state to supply sufficient housing to urban populations, which in turn led to the development of informal settlements where the tenure rights of residents and proprietors were vulnerable and ultimately insecure. By the 21st century informal settlements had grown at a pace that resulted in urban master plans being defunct before they were put in place. The policies of the next decade, from 2000 to 2010, aimed to liberalize urban planning procedures and comprehensively deal with informality. However, these laws and policies faced roadblocks as well:

- The inability of cities to integrate informal settlements into municipal plans despite legal provisions given allowing to do so (re: Law no. 26 of 2000).
- The introduction of PPP in land development which faced too many regulatory hurdles to produce housing units, while threatening informal settlements with expropriation for private development (re: Law no. 15 of 2008).
- The ineffective reinforcement of draconian laws on building violations which are largely undermined by systems of local corruption and expectations that future building violation laws will grant amnesty to past violations (re: Law 59 of 2008).
- The lack of financial capacity and political will to regularize informal settlements which initially resulted from financial and administrative impediments of the 2008 global recession and onset of political unrest in 2011, respectively, but presently appears to result from policy preference for urban renewal absent regularization (re: Law no. 33 of 2008).

In sum, the government's supply side urban planning policies prescribed by the discussed laws failed to ever meet the demand of growing urban populations due to the rigidity of urban planning, drawn out-procedures for plan implementation, delays in plan implementation due to compensation valuation appeals, the restriction of land for development to the public sector, excessive expropriation use and persistently undervalued compensation amounts. Though the land market was liberalized by policies of the first decade of the 21st century, the problem of informal settlements was never comprehensively addressed and supply for housing still could not be reconciled to meet demand. Resorting to public private partnerships failed to result in success due to the socialist-era red tape regulations still in place for urban land management and development. Furthermore, laws enabling PPP real estate development created fears that private commercial entities would be able to appropriate informal settlements for lucrative development schemes.

During the decade of conflict that followed the outbreak of hostilities in 2011, the Syrian Government instituted a number of urban planning instruments with a policy directive of urban renewal rather than urban upgrading of informal settlements. While these laws aim to address the reconstruction challenges posed by the conflict, the lack of both procedural safeguards within the text of the law itself, and community safeguards due to widespread displacement, pose a direct threat to the HLP rights of affected Syrians:

- The obstacles displaced persons have in claiming their HLP rights in urban redevelopment processes due to limited information sharing, time constraints, difficulties in finding a power of attorney or family representative, and lost HLP or civil documentation may result in the forfeiture of their property rights. This applies to affected displaced persons whose rights are not registered in the permanent or temporary land registry, a common occurrence in the informal areas which appear to be prioritized for redevelopment (re: Legislative Decree no. 66 of 2012; Law no. 23 of 2015; Law no. 10 of 2018). However, the Syrian government has taken measures to mitigate some of these barriers, as seen in Law no. 42 of 2018, which amends the time and appointed representation constraints of Law no. 10, and in the modifications to the rule on security clearance, which changed such that persons do not need security clearance to claim their rights from abroad.
- The conversion of real property to commercial shares in PPP land redevelopment schemes can weaken tenure security because commercial assets, such as shares, do not enjoy the same legal protections enjoyed by real property assets. Primary residential property, for instance, cannot be taken by creditors while commercial assets can be seized. This represents aa significant risk considering the extended period needed to undertake redevelopment works, in addition to the widespread financial vulnerability of Syrians in the country's current economic conditions (re: Legislative Decree no. 66 of 2012; Law no. 10 of 2018).
- Public-private parentship redevelopment schemes which allow for trading shares with third parties and provides shareholders with "options" to use their shares incentivizes private redevelopment of damaged urban neighbourhoods for profit with the effect of permanently displacing original rightsholders rather than guaranteeing their 'right of return.' Poor and/or informal rightsholders are especially susceptible, since their issued shares will likely constitute an insufficient amount to receive an entire land plot allocation, thus resulting in the sale of their shares and relocation elsewhere (re: Legislative Decree no. 66 of 2012; Law no. 10 of 2018).
- Limited entitlements for informal occupants such that while informal tenure holders who have legal rights to their land are eligible to receive shares in the designated zone, occupants of informal buildings are only entitled to two-year rental compensation while squatters are only entitled to take the debris of their construction (re: Legislative Decree no. 66 of 2012; Law no. 10 of 2018).
- The absence of community consultation and participation mechanisms, apart from appeal, in redevelopment legislation creates a state-driven process where community concerns and input are side-lined. Moreover, there is no opportunity to appeal the decision to apply redevelopment in the specific area designated, leaving the government free to make arbitrary redevelopment decisions without providing justification of why a given area needs to be redeveloped (re: Legislative Decree no. 66 of 2012; Law no. 23 of 2015; Law no. 10 of 2018).

3.8. Conclusions And Key Findings

Looking towards urban planning in the post-conflict environment, at this point every Syrian urban area can in effect apply four methods of implementing their masterplans:[72]

- First, municipalities can opt to continue implementing previous masterplans while restoring the housing stock and negotiating local deviation from the plan when necessary to allow for private citizens to carry own their building activity.
- Second, municipalities can use Law no. 15 (2008) to establish real estate development zones where the State will expropriate the existing properties and give them to private companies construct residential housing, notably for low-income persons, and develop land and, occasionally, informal settlements.
- Third, municipalities can use Law no. 23 (2015) to implement detailed plans alternative to the old masterplan either by rezoning the area using land pooling and readjustment as needed or by

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requesting landowners to sub-divide of their own initiative. The law can also be used to formalize certain informal settlement by bringing them in line with building code.

- Finally, municipalities can implement Law no. 10 (2018) amended by Law no. 42 (2018) upon prior presidential decree designating the area for redevelopment, which would pool individual real estates and convert them to commercial shares in a new development scheme implemented by PPP holding companies, with original rightsholders (who successfully claimed their rights if not documented in the GDCA registry) compensated in cash for the value of their share sold at public auction or in a congruent property in the new development scheme.

The first option would perpetuate the long-time problem of enforcing rigid and out-of-date masterplans on urban areas quite different from the ones for which the plan was designed, in effect failing to meet housing demand and sufficiently address other urban needs specific to the post-conflict context.

The application of Law no. 15 (2008) on the post-conflict urban environment has potential to fill the funding gap to address the enormous need for housing and infrastructure reconstruction and upgrading as the public sector will have insufficient financial means and human recourses to do so alone. However, as the law was passed prior to the conflict, it is uncertain if it contains enough protections to HLP rights and can rehabilitate Syrian cities in an equitable manner that prioritizes the need of low-income persons rather than seeking to develop damaged areas with high rentability exclusively for profit. Additionally, it is uncertain whether private developers will again face the same roadblocks to implementation due to red tape and regulatory challenges. Finally, the private development of informal settlements presents a direct threat to HLP rights, as private developers will profit more from redeveloping and effectively gentrifying such areas than from upgrading them for the use of its original low-income inhabitants.

The use of Law no. 10 of 2018 presents the same issues associated with engaging with the private sector for land redevelopment with little independent government oversight ensuring HLP rights and affordability are not sacrificed for profitable gain. In fact, the law implicitly incentivizes poor rightsholders to sell their shares in the redeveloped zone and relocate elsewhere since the value of their shares will not be sufficient to obtain a corresponding land plot in the redeveloped area, which has increased in value over the course of development works. This would especially be the case in informally subdivided peri-urban neighbourhoods.

The application of Law no. 23 (2015) appears as the most balanced choice for implementing urban plans in an effort to reconstruct and redevelop the urban framework of Syrian cities. The law keeps the local administration firmly in control of land pooling and readjustment projects needed to redevelop the city in mind for future growth and return of displaced persons. It allows for formalization of informal settlements in a manner that improves the tenure security of rightsholders rather than causing their displacement. It increases the efficiency of old Syrian urban planning laws without omitted the steps needed to undertake HLP due diligence and provide opportunities to appeal valuation decisions. Compensation valuations are still formulated in a manner that underappreciates property values in the law, a critical problem that needs to be broadly addressed in Syria's urban planning framework. However, it must be recognized that government administered land readjustment cannot alone meet the funding demands for redevelopment across the damaged urban infrastructures of Syria.

In any case, the legal instruments used for urban planning in post-conflict Syria should enable planning to take into consideration the necessary revitalization of urban life, of economic activities and of social cohesion. Immediate HLP issues, such as property restitution and reconstruction, should be addressed by these urban planning instruments in an equitable manner such that they allow for broad public engagement, especially in regard to rights claiming. Informal settlements should be redeveloped in a way that brings them up to building code, formalizing the tenure rights of its original residents rather than displacing residents for build higher-end residential constructions. Master plans should be gradually relaxed such that they guide development, with local administrations given the authority to adapt them as needed to meet the needs of residents, including displaced residents who intend to return. Legal mechanisms for recognizing and reconstituting tenure rights registered with public authorities outside the GDCA should be established to facilitate inclusive rights claiming procedures in land pooling and readjustment initiatives. Mechanisms for including

the private sector in real estate redevelopment with adequate safeguards for protecting HLP rights should be used while the use of expropriation to facilitate urban planning should be scaled back. The valuation and compensation framework in cases of expropriation should be readjusted to value land inclusive of its potential development value, as the crisis has critically devalued properties in highly damaged or destroyed areas. A primary goal of the redevelopment of Syrian cities should be the development of sufficient affordable housing to meet the needs of current populations as well as the forecasted populations with returns taken into consideration.

04 CHAPTER 2: LAND-BASED ADJUDICATION

Land-based adjudication refers to the judicial process of making a final and authoritative determination of the existing rights and claims of people to land. This may be in the context of first registration of those rights, or it may be to resolve a doubt or dispute after first registration. Furthermore, adjudication is also a standard procedure prior to the operation of land consolidation schemes.[73] The process of adjudication should reveal what rights already exist, by whom they are held and what restrictions or limitations encumber them. However, in practice when rights to land are ambiguous or uncertain, the process of adjudication can create a significant change in both the de jure and de facto land rights and land use.[74]

Accordingly, the process of adjudicating rights to property has a significant impact on tenure security. An adjudication process which recognizes legitimate HLP rights to land strengthens the tenure security of the rightsholder(s). An adjudication process that is compromised by corruption, excludes HLP claimants, or otherwise obstructs the exercise of legitimate HLP rights weakens security of tenure, if not causing the forfeiture of rights.

For this reason, adjudication procedures will play a critical role in restoring HLP rights and supporting property restitution procedures in the wake of mass displacement, unrecorded property transactions, unlawful property acquisitions, and secondary occupation occurring throughout the Syrian conflict. Moreover, equitable and independent adjudication processes will be necessary to protect fragile tenure rights in a post-conflict context characterized ambiguity. Furthermore, adjudication processes will serve to remediate HLP disputes which have arisen as a result of these issues.

4.1. Syrian Land Adjudication Legal Framework

Within the Syrian legal framework adjudication of land is a standard procedure given in urban planning legislation, especially as a prerequisite to expropriation and land pooling and readjustment procedures. However, more recently, land-based adjudication has also been applied in reconstituting cadastral documents and has been flagged as a significant issue in recent urban redevelopment legislation, specifically Legislative Decree 66 (2012) and Law 10 (2018). The following section will survey Syrian urban law which includes or establishes a process for the final and authoritative determination of existing rights and claims of people to land.

4.1.1. Resolution No. 186 On The Delimitation And Census Of Real Estates

The first legal instrument to formally adjudicate land rights in Syria's modern legal system, Resolution 186 of 1926 was instituted alongside Resolutions 188 and 189 to establish of Syria's cadastral system during the French Mandate period. While Resolutions 188 and 189 established the land register, Resolution 186 regulated the delimitation and census operations of real estate. Together these laws intended to map, register and describe each real estate and the right reals attached thereto.[75] The general procedure prescribed in Resolution 186 called for the matriculation of land via census, physical delimitation and registration operations under the supervision of the designated real estate judge (or conciliation judge) with initial mapping carried out by land surveyors from the Department of Surveying. During the surveying operations, the surveyor provisionally set markers on the ground to delimitate the boundaries of each real estate. The concerned property owners, neighbours, mukhtars and property right claimants were required by law to be invited to be present the day of the provisional delimitation to observe, assert and/or attest to the rights recorded. The surveyor would draw up

73 UNECE, 1996
74 FAO, Multilingual Thesaurus on Land Tenure, Chapter 4: Land Information Systems: Services and Tools of Public Land Administration, 2003.
75 General Directorate of Cadastral Affairs Background Paper.

and certify minutes to record property claims and disputes during operations, later listing rights claimants in a specific table in the Property Journal.

The real estate judge, who has ultimate jurisdiction and supervisory authority over the provisional delimitation and census operations, adjudicates rights based on the declarations and claims of ownership as recorded documents including claimants' declaration and justification of their claim as well as minutes drawn up by the surveyor including statements made by neighbours and the local stakeholders present at the delimitation. The adjudication process allows persons without property documentation to make a claim to property with a formal declaration. If occupation can be attested for a 10- or 15-year period (depending on the legal status and tenure type of the real estate), the occupant may be recognized as the owner. Otherwise, the property is registered in the name of the State.

Claimants can file an appeal of the judge's decisions before the Court of Appeal within 15 days of notification of the judge's decision. Upon final and incontestable decisions of adjudication, the responsible person form the Surveying Department affirms the judge's decision and certifies the final census minutes, the final cadastral plans and the final census table. Final plans are only drawn once the delimitation and census operations of the entire land district are closed in accordance with the judge's decisions. Rights to each delimited real estate are then registered in the Journal included in the Property book kept by the General Directorate of Cadastral Affairs.

4.1.2. Law No. 9 of 1974 on Urban Planning

In 1974, Law 9 was passed to standardize the procedure for implementing urban plans by means of land readjustment. This procedure was twofold: plan implementation either by the partitioning of real estates at the initiative of the landowners, or via municipal designation of organizational areas where land pooling and forced redistribution of rights took place. Accordingly, the procedures for land pooling and readjustment incorporate mechanisms for land-based adjudication to ensure all rights are accurately identified and properly claimed prior to redistribution.
The adjudication process proceeds as follows. Upon the publication of a decree designating the organizational area, the municipality requests the GDCA Department of the Land Registry to prepare a list of the real estate owners, of those with power to dispose of plots and those who have in-kind rights in realties within the area.[76] Following this, the real estates are appraised by a valuation committee with final valuations announced publicly to allow rightsholders in the area to challenge the initial estimate and/or claim ownership or any other right to one or more of the area's realties. This is done via application to the Dispute Resolution Committee (DRC).

The DRC, then, is responsible for adjudicating rights over the areas which were not already included or accurately demarcated in the cadastral records kept by the local GDCA registry. Furthermore, the law specifically states that all property rights disputes related to the real estates in the designated area which are ongoing in the civil court system should be transferred for resolution under the jurisdiction of the DRC.[77] The Committee consists of a judge, a representative from the GDCA Real Estate Office, and a representative from the municipality.

In making their decision, the Committee is excused from adhering to the procedures and time limits stipulated in the Law of Civil Procedure to presumably expedite the process. Additionally, to further reduce procedural hurdles, the Committee is authorized to resort to arbitration to settle the dispute with the consent of the disputing parties. Within four (4) months of the claim being filed, the Committee is bound to issue a decision. Committee decisions can be appealed at the Governorate Court of Appeals, where the decision rendered will be final and incontestable.

In the same year that Law 9 on "the partitioning, organization and construction of cities" was issued, another urban planning law was passed concerning the development of unbuilt real estates within municipal boundaries. Law 14 (1974) aimed to stimulate the development of unbuilt real estate

76 Law 9 of 1974 on partitioning, organization and construction of cities.
77 As given in Article 19 of Law 9 (1974): "A competent committee shall be created at the Administrative Body and shall have the power to examine all ownership claims or disputes on realties within the organizational area. All cases related to the area which were previously referred to courts of law without being settled by a final ruling shall be referred to this committee also."

within the city master plan. The law infamously authorized real estate developers to sell dwellings to future owners before their construction. To facilitate this, a temporary land registry was established facilitate the process of registering these properties which otherwise could not be registered at the GDCA until their development works and construction were completed. The temporary registry, held and maintained by the Municipality, was to be used to pre-emptively register rights upon the sale of the dwelling but prior to its construction. Accordingly, the establishment of this registry facilitated as an alternative form of first registration of rights which relies on forming contractual relations rather than judicial adjudication. The temporary registry files (1) the names of the building license applicants and the real estate descriptions, (2) the divisions plan showing the number of each division, and (3) the divisions' sales contracts as well as the subsequent sales.[78]

4.1.3. Legislative Decree No. 20 of 1983 on Expropriation

In a model almost identical to that of Law 9 (1974), Legislative Decree no. 20 (1983) on expropriation integrates land-rights adjudication into the compulsory acquisition process. The law requires the initial decree issued announcing the area to be expropriated to include a plan showing the estates and estate parts to be acquired, however, it is unclear if this plan includes cadastral information such as land registration as data from the GDCA. Indeed, the real estate registry is not referred to until later in the expropriation process, after the initial valuation of real estates by the primary valuation committee. As was the case in Law 9, individuals have 30 days from the publication of the announcement of the real estates' valuations to object to the primary evaluation and/or to claim their ownership or any other rights related to one or more of the expropriated real estates by a separate application deposited in the file of the Settling Disputes Committee (SDC).[79]

Like the Dispute Resolution Committee of Law 9 (1974), the SDC is given jurisdiction over all ownership claims or the in-kind disputes related to the expropriated area, in addition to ongoing cases of the same nature not yet settled by final court decision in the civil court system. The Committee is composed of a judge, a representative of the GDCA with a license in law, and a representative from the expropriating body with a license in law. Within four (4) months of the case being filed, the Committee has to render a decision which can be contested before the Governorate Court of Appeals. In the case of a dispute, the Committee has the authority to act as an arbiter to make reconciliation between the litigants and settle the case amicably. As stated, these provisions are nearly identical to those of Law 9 (1974). Many later methods of urban planning implementation relying on expropriation (including Law 60 of 1979 amended by Law 26 of 2000 and Law 15 of 2008) apply this process of land rights adjudication.

4.1.4. Law No. 33 of 2008 on the Formalization of Informal Housing Areas

A similar adjudication procedure is applied in Law no. 33 of 2008 on the formalization of informal settlements by "fixing the ownership of built real estates and the un-built parts of them in specific residential areas by giving them individual property status, correcting their descriptions and modifying their cadastral entries according to their current conditions."[80] Since the very premise of formalizing informal settlements is registering rights which are not recorded in the official GDCA registry, this adjudication process differs from that seen in Law 9 (1974) and Legislative Decree 20 (1983) since the process cannot be based upon the records kept by the GDCA. It should be noted that this formalization process is intended only to be applied to informal settlements where tenure holders have rights to the land, but not to the specific plot where they reside, which has been illegally subdivided within a larger, registered real estate.

Upon announcement of implementing Law 33 in a designated area, the municipality prepares maps which show the external boundaries of the area and the numbers of the real estates that have to be redistributed, given individual property status, and have their building descriptions modified. A judiciary committee is formed by decision of the Minister of Agriculture including a real estate judge (chairman),

78 Law 14 (1974) on Building on Plots
79 Legislative Decree 20 (1983) on Expropriation, Article 17.
80 Law 33 (2008) Press Release.

the Director of the Cadastre in the relevant Governorate, the Director of Surveys in the relevant Governorate, a representative of the Governorate, and an expert representative from the residents appointed by the Governor.

The Committee is given jurisdiction to resolve ongoing HLP disputes in the courts, ratify property contracts awaiting registration by the Department of the Cadastre, and clear unprocessed inheritance transfer applications and requests concerning real estates in the relevant area. Specifically, upon the the Committee's first adjournment and issuance of a decision of commencement, it formally requests that the courts transfer all cases related to real estate in the relevant area to adjudicate the ongoing cases. All contracts at the GDCA which are not registered within one month of the commencement decision are transferred to the Committee for ratification. The Chairman of the Committee, also from the instant of the decision of commencement, has the authority to correct mistakes and complete the missing cadastral documents,[81] and can additionally clear the inheritance and transfer applications and requests which had not been cleared up to that point. The Chairman does the latter by investigating the identification documents and registration of the inheritors and issuing a decision defining the names and shares of the inheritors, according to the legal category of the property and taking into account the death date relating to the estates.[82]

Also upon the decision of commencement, the Committee announces (via publication in the publication board of the building of the Governorate, the publication board of the Committee, and a distinguished place in the area[83]) that it will receive applications related to property rights of the estates in the area for one (1) month. Based on the applications received, court cases and contracts transferred, and inheritance transferal applications cleared, the Committee is to take the following actions to adjudicate property rights in the area.

- Take decisions concerning the applications for fixing or confirming real estate rights to a property.
- Take decisions and ratify contracts transferred from the cadastral Documentation Bureau.
- Take decisions on the cases transferred from the courts and take action upon the decisions made by the courts before transferral.

Upon the completion of all decision-making for individual HLP claims applications, court cases, contracts, and inheritance transfer applications, the Committee is to determine the rightsholders and confirm the real estate rights in the area by issuing decisions in the name of the Syrian people.[84] In doing so, the Committee lists the persons who have property rights in the area including their names, shares and estates, and a summary of the Committee decision. This list is published (in the publication board of the building of the Governorate, publication board of the Committee, and a distinguished place in the area) for one (1) month. The decisions of the Committee are open to appeal at the Court of Appeals in the area within this one-month period. Those who sue for rights after this period are ineligible to be restored their property, but they can claim monetary compensation from the owner of the property upon successful claim of their rights before the civil courts within two (2) years of the closure of the one-month publication period. In making its decisions, the Committee has the right to give compensation in cash for a claimant's property in the area as well as the right to give a claimant a piece of land larger than his/her share upon their payment of compensation for the additional area.

The decisions of the Committee are the basis for opening a cadastral entry and first registering rights as specified by Law 186 (1926). The implementation of registration is not bound to wait until the resolution of appeals, as appeals are to be registered in the entry when they occur.[85] As a safeguard against corruption, the Committee and its works (i.e. decisions) are subject to juridical inspection as decided by the juridical authority.

81 Law 33/2008 Article 9(5).
82 Law 33/2008, Article 9(6).
83 Law 33/2008, Article 10.
84 Law 33 (2008), Article 11(c).
85 Law 33 (2008), Article 11(h).

4.1.5. Legislative Decree No. 66 of 2012 on Establishing Two Zones Areas within the Governorate of Damascus and the Master Plan of the City of Damascus

Legislative Decree no. 66 (2012) was issued in the early stages of the conflict to allow the Governorate of Damascus to redevelop two neighbourhoods of Damascus utilizing a land readjustment scheme based on commercial shareholding. This projects allowed for the establishment of a commercial shareholding company managed by the governorate — the Damascus Cham Holding Company.[86] The law resembles Law 9 (1974) in its provisions on land adjudication, however, Decree 66 varies significantly from Law 9 in that rather than redistributing real property and property rights, it converts real property rights into commercial shares and distributes these shares to original rightsholders who can use them either for land parcel allocation, investment in a joint stock company or sale by public auction.

Like Law 9, the Directorate of Real Estates is requested to provide a list of the names of property owners in the zoned areas "identical to the real estate register entries" including any restrictions (mortgages, easements, etc.) listed on their deeds. Furthermore, the Governorate of Damascus forms one or several committees to prepare reports including maps and descriptions of the properties in the area including buildings, trees, and crops.

Concurrently, the Governorate invites owners of property and rights in rem in both zoned areas to declare their rights via an application which includes information regarding their elected domicile and any documentation available to them corroborating their property rights. If no corroborating documentation exists or is available to claimants, they should indicate in their application "the sites, borders, shares and legal and juridical type of their alleged property or rights." The invitation to claim rights is published in an announcement in a local newspaper, an audio-visual media outlet, the official website of the Governorate of Damascus and the bulletin boards of the zoned areas. Claimants, or their legal representatives including relatives, have 30 days from the date of the announcement's publication to claim their rights.

A Dispute Resolution Committee (DRC) is formed as the adjudicating body responsible for determining the property ownership allegations submitted by claimants. The DRC also has jurisdiction over any new or extant disputes regarding rights in rem within the zoned area. Accordingly, all pending cases before other courts involving property rights in the zoned area are required by law to be referred to the DRC for final resolution, and the DRC is vested with all the powers of the court with original jurisdiction in the matter. The DRC is also explicitly conferred with capacity to act as an arbitral committee upon the agreement of the parties to the dispute and can render decisions ex aequo et bono, or in accordance with what they deem fair rather than what is strictly prescribed by law. Decisions of the DRC can be appealed before the civil Court of Appeal in Damascus.

The adjudicated rights declared by the DRC (or the Court of Appeal), together with the uncontested rights transferred from the GDCA registry, form the basis of distributing shares to rightsholders based on the value of their property or rights in rem. Property owners, upon forfeiting their individual property rights, become "joint owners of zone shares,"[87] and instead of holding an official property deed, rightsholders are issued "certificates of jointly owned shares in the zones"[88] records of which are kept at the shareholding register of the Governorate of Damascus.

In sum, Legislative Decree 66 adjudicates land rights of the original, undeveloped real estates in a manner similar to that found in Law 9 (1974) utilizing a specialized committee to resolve HLP disputes and decide on property claim applications. However, unlike Law 9, these adjudicated rights are converted into commercial shares under management of a PPP shareholding company, which can be used to re-acquire real property rights, but may also be sold off or invested in a joint stock company.

86 The Damascus Cham Holding Company was only formally established later with the issuance of Law 19 (2015).
87 Legislative Decree 66 (2012), Article 25(e).
88 Legislative Decree 66 (2012), Article 28(f).

4.1.6. Law No. 10 of 2018 on the Creation of Urban Development zones in a Master Plan

Law no. 10 of 2018 procedurally mirrored Legislative Decree 66 in almost all respects including property rights adjudication. While the adjudication procedure by and large is the same as that described in Legislative Decree 66, and therefore does not require repeating, certain aspects of the adjudication process were further developed in Law 10.

Firstly, the law improves upon Legislative Decree 66 in that it expands the primary source of conclusive property rights data from the permanent GDCA records to also include property records kept in the municipal temporary registry and "other authorities charged with keeping property records."[89]

By means of its amendment, Law no. 42 of 2018, Law 10 also improves upon Legislative Decree 66 by providing rightsholders (whose rights are not registered in the GDCA, Temporary Registry or with other authorities keeping property records) with one (1) year to declare their rights to the competent municipality,[90] compared to the standard 30 day deadline prescribed in previous urban planning legislation. As prescribed in Legislative Decree 66, the application should define the applicant's place of residence and supplement the declaration with documents or copies of documents supporting their rights. If an applicant lacks supporting documents, their application should state the location and legal type of the property, the claimed shares or rights, and the court cases filed for or against the property. Relatives to the fourth degree of kinship or persons holding power of attorney are permitted to submit an application on behalf of rightsholders.

Then within one month of the closing date of the submission of ownership or real rights claims, the municipality forms a Committee (equivalent to the Dispute Resolution Committee of Law 9 or the Settling Disputes Committee of Legislative Decree 20) with the judicial power to adjudicate rights based on the rights-claiming applications filed with the municipality, any objections to ownership claims, and real rights disputes relevant to the properties part of the redevelopment zone. As in Legislative Decree 66, ongoing court cases in the civil court system are transferred to the committee. The municipal decision to form the committee is to also stipulate the deadline by which it must complete all of its requisite decision-making duties.

Consistent with the precedents set forth in earlier urban planning legislation, the committee includes a judge, a representative of the GDCA with a diploma in law, and representative of the municipality with a diploma in law. Committee decisions are appealable before the Governorate Court of Appeals before the urgent matters judge. Decisions are executed by letter either from the committee chair or the president of the court of appeals to the municipality communicating the conclusive adjudicatory decision made. Again, in accordance with precedent, the Committee is authorized to exercise the role of an arbitration committee upon request of the disputing parties.

Within one month of the completion of dispute resolution activities, the municipality develops two tables to be used in the reallocation process, (1) a table of shares comprising the rights holder's name, his/her shares in each parcel, and the equivalent value of the shares; and (2) an alphabetical table of rightsholders, comprising their aggregated share amount.[91] A reallocation committee later issues a final adjusted table of shares based on the reappraisal of the value of the planned land parcels. Rightsholders are invited to review the reallocation table and can appeal the decisions of the reallocation committee before the Governorate Court of Appeals. The municipality records the final shares in a paper and digital register and issues share certificates in the names of their respective holders. The record of shares held includes the serial number, the development zone and the shareholder's name and national number, the shareholder's shares, the total number of shares in the development zone, and all rights and duties transposed from the cadastral records or created through court decisions. The manner of reallocation takes the same form as that in Legislative Decree 66: shareholders can either receive a parcel equal to the value of their share, can establish a shareholding company with other shareholders, or sell their share by public auction.

89 Law 10 (2018), Article 5(a).
90 Law 10 (2018) originally limited this application period to 30 days, however, following considerable controversy upon the law's enactment, Law 42 (2018) was later issued to amend this provision and extend the application period to one (1) year to accommodate displaced persons.
91 Law 10 (2018), Article 23.

	Source of Tenure Data & Evidentiary Documentation	Adjudicatory Entity and Composition	Application	
Resolution 186	In-person claims and testimonies by claimant, neighbours, mukhtars, and/ or other local stakeholders.	Real Estate Judge (or Conciliation Judge)	Appointed by local decree or decision;.	First adjudication of rights (undelimited lands)
Law 9 (1974) Replaced by Law 23 (2015)	GDCA Land Registry. Rights Claiming Applications.	Dispute Resolution Committee (DRC)	A judge with the rank of Counsel appointed by the Minister of Justice (chair); a representative from the GDCA Real Estate Office with a law degree appointed by the Director General; a representative from the municipality with a law degree appointed by the mayor.	Land Readjustment
Legislative Decree 20 (1983)	GDCA Land Registry	Settling Disputes Committee (SDC)	A judge appointed by the Minister of Justice; a representative of the GDCA with a license in law appointed by the Director General; a representative off the expropriating body with a license in law appointed by the head of the expropriating body.	Expropriation
Law 33 (2008)	Rights Claiming Applications. Unconcluded property contracts, civil court cases and inheritance documents.	Judiciary Committee (Committee Chairman)	Real estate judge (chair); the Director of the Cadastre in the relevant Governorate; the Director of Surveys in the relevant Governorate; a representative of the Governorate; and an expert representative from the residents appointed by the Governor.	Regularization of informal settlements (adjudication to recognize rights based on illegal subdivisions)
Legislative Decree 66 (2012)	GDCA Land Registry. Rights claiming applications; unconcluded cases from the civil courts.	Dispute Resolution Committee (DRC)	A judge with the rank of Counsel appointed by the Minister of Justice; representative of the GDCA in the governorate holding a law degree appointed by the Director General; a representative of the Governorate of Damascus holding a law degree appointed by the Governor. The latter two having ten years of public service since the validation of their law degree.	Land Readjustment (PPP)

Law 23 (2015)	GDCA Land Registry, Temporary Registry and all other authorities charged with keeping property records. Rights claiming applications; unconcluded cases from the civil courts.	Dispute Resolution Committee (DRC)	A judge with the rank of Counsel appointed by the Minister of Justice (chair); a representative from the GDCA Real Estate Office with a law degree appointed by the Director General; a representative from the municipality with a law degree appointed by the mayor.	Land Readjustment
Law 33 (2017)	GDCA cadastral records. Rights claiming applications.	The Director of Cadastral Affairs (administrative reconstitution decisions); Cadastral judges (judicial reconstitution decisions)	Cadastral judges are appointed by the Minister of Justice.	Cadastral Record Reconstitution
Law 10 (2018)	GDCA, Temporary Registry and all other authorities charged with keeping property records. Rights claiming applications; unconcluded cases from the civil courts.	Dispute Resolution Committee (DRC)	A judge with the rank of Counsel appointed by the Minister of Justice; representative of the GDCA in the governorate holding a law degree appointed by the Director General; a representative of the municipality holding a law degree appointed by the mayor. The latter two having ten years of public service.	Land Readjustment (PPP)

Table X Summary of Land-Based Adjudication in Syrian Urban Legislation

4.2. Conclusions And Key Findings

Land rights adjudication is most often used in the context of the first registration of rights to land which occurs upon the demarcation and matriculation of land that had not previously been included in the cadastre of national land information system. However, land-based adjudication is also a key element of a number of other urban planning and land management operations, especially where formal land registration systems fail to reflect the true state of land tenure. As seen in Syria, these operations can include land readjustment, expropriation, informal settlement regularization, and cadastral reconstitution.

Within Syria's urban law framework, the only land-rights adjudication that is truly judicial in procedure takes place when land is demarcated and registered for the first time as described in Resolution 186 and when the cadastral judge performs cadastral reconstitution as prescribed in Law 33 (2017). The land-rights adjudication procedures stipulated in all other urban planning and land management

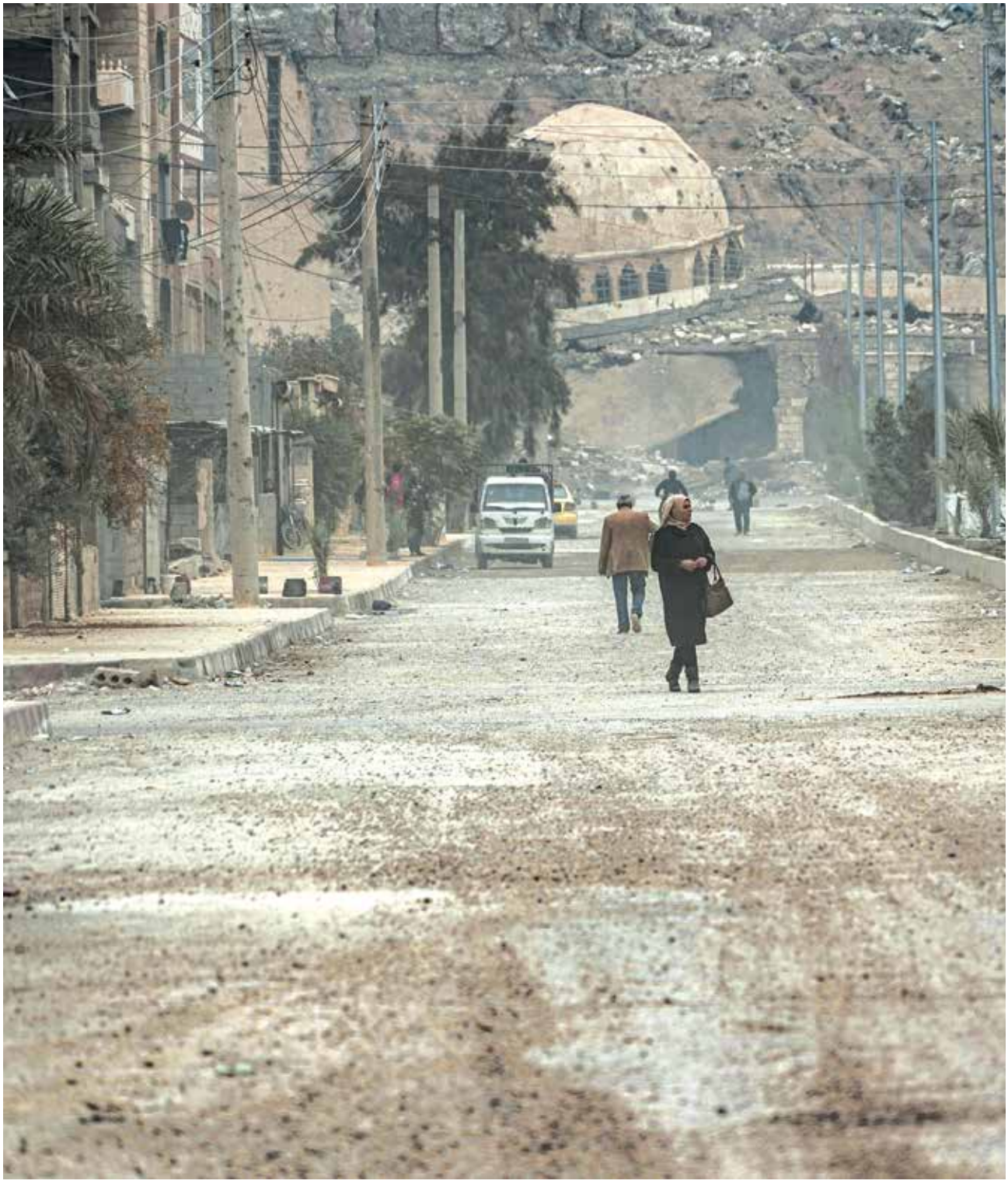
legislation rely on judicial decision-making in some capacity (that is, when the relevant dispute resolution committee includes a judge), however, the process is entirely administrative. Excepting Resolution 126 (1926)[92] and Law 33 (2017),[93] there are no formal legal proceedings which require the presence and testimony of rights claimants or their legal representative; instead, an ad-hoc quasi-judicial body renders decisions based on the information formally submitted to it, whether that information be sourced from rights-claiming applications, land registry data from the cadastral authorities, case files from the civil courts, or unprocessed inheritance documents. Outside of the urban law framework, land rights are judicially adjudicated in accordance with the Civil Law of Procedure when real estate disputes arise in the civil court system.[94]

With the slight procedural variations and nuances detailed in the preceding section and Table xx, the standard elements of land-rights adjudication in Syrian urban law can be summarized as follows:

1. **The Adjudicatory Body:** An ad-hoc quasi-judicial dispute resolution body is established. The entity is alternately referred to as the Dispute Resolution Committee (DRC), the Settling Disputes Committee (SDC), the Judiciary Committee or otherwise remains formally unnamed. The committee typically consists of a counsellor judge, a representative of the local GDCA Real Estate Office, and a representative of the municipality, governorate, or expropriating authority overseeing the urban land-based operation in question. The latter two representatives are required to hold licenses in law, and in more recent urban legislation they must also have 10 years of experience in public service. The judge is appointed by the Minister of Justice, the GDCA representative by the Director General of the GDCA, and the final representative is appointed by the head of the respective entity involved. In rendering its decision, the committee is exempted from the judicial procedures and terms stipulated in the law of civil procedure and may also act as an arbitral committee if so requested by the parties involved. When cases are transferred from the civil courts, the committee has all the powers vested in the court which had original jurisdiction.
2. **Land Rights Data and Supporting Evidence:** As most urban law adopts an administrative procedure for the adjudication of land and property rights disputes, decisions are primarily rendered on the basis on of the information submitted to it. This information includes cadastral records transferred from the GDCA, the relevant case files transferred from the civil courts, and the claims applications formally submitted by rightsholders themselves. Because the GDCA land registry records are known to not be up to date, it is especially important in Syria that land-based adjudication considers a broad range of alternative supporting evidences and records of housing, land and property rights. Recent urban legislation has done so: Law 10 (2018) and Law 23 (2015), for example, instruct claims applicants to supplement their applications with "documents or copies of documents supporting their rights." This broad wording allows for the submission of documents both official (notary documents, power of attorney documents, court decisions, property tax records, etc.) and unofficial (utilities bills, photographs, etc.). Moreover, these laws require the transfer of records from the municipal temporary registry or from any other authority charged with keeping property records, which should include the property tax records of the Ministry of Finance (which are considered the most complete set of land records in Syria). As such, Syrian urban law does well to allow a broad range of records and evidentiary documentation for the adjudication of land and property rights. However, in the context of mass displacement, it is recommended that the time period to submit claims applications be extended from 30 days to one (1) year, as done in the case of Law 10 (2018) as amended by Law 42 (2018).
3. **Appeals and Post-Adjudication Procedure:** The decision rendered by the adjudicatory commission is not incontestable and can typically be appealed within 30 days at the Civil Court of Appeal in the relevant governorate before the urgent matters judge. However, due to the costs involved and the infamous backlog of cases in the Syrian judicial system, this remedy may be practically out of reach for most Syrians. Moreover, displaced persons likely face

92 Resolution 186 (1926), Article 11: "On the appointed day, the engineer proceeds with the temporary determination of the real estate
93 Article 8(e) of Law 33 (2017) requires those who submit rights-claiming "objection" applications without supporting evidentiary documentation must be present in person while the objection is being examined otherwise the objection will be dropped.
94 Law no. 1 of 2016.

additional difficulty in appealing decisions since they may need to designate family members or other representatives via power of attorney to appeal on their behalf. Once all decisions have been conclusively rendered, either by the commission or Court of Appeal, the decision is executed by letter to the authority administering the urban procedure in question, which, as a consequence, will result in the updating of the official GDCA land records.



05 Chapter 3: Entitlements And Compensation

An entitlement is an individual's right to receive a value or benefit provided by law. In the context of this report, this section aims to examine the rights individual Syrians' have to receive compensation for the loss of real property or rights thereto in the context of urban legislation passed in the conflict and post-conflict period. Accordingly, the discussion of entitlements and compensation related to HLP rights can be described as two-fold: (1) entitlements and compensation exclusively for the damage or destruction of real property due to conflict; (2) entitlements and compensation for the loss of HLP rights (and consequentially, the loss of the real property linked to such rights) due to expropriation, eviction, confiscation, appropriation (i.e., squatting/secondary occupation), or land-based adjudication. It should be noted that entitlements and compensation do not only refer to monetary compensation but may also include a number of other remedial measures including, inter alia, the restitution of property title, exemption from fees, and the provision of alternative housing. Currently, Syrian law lacks a sufficient legal framework surrounding entitlements and compensation for property restitution (both for legitimate rightsholders and good faith/humanitarian secondary occupants) and the damage or destruction of real property.

5.1. International Standards

International humanitarian law clearly establishes standards for entitlements granted to remedy the deprivation of real property and/or associated HLP rights. These standards explicitly address the right to entitlements in cases of expropriation, eviction and secondary occupation of property, as will be examined below.

However, cases of entitlements and compensation related to HLP may also be viewed more broadly within the legal framework of human rights violations. The International Law Commission states in its Articles on the Responsibility of States for Internationally Wrongful Acts that a State responsible for an internationally wrongful act is under an obligation to make restitution as well as compensate for damage not made good by restitution.[95] The Articles state that an internationally wrongful act is an action that is (a) attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State. As such, the violation of human rights protected in binding international humanitarian law is an internationally wrongful act whether done in international or internal conflict. This would include the violation of one's right to property and adequate housing,[96] as well as the unlawful or arbitrary interface with one's home[97] or arbitrary deprivation of property.[98] A State which has committed any of the aforementioned human rights violations would then be responsible for providing restitution or compensation for the violation of HLP rights protected by international law. Restitution, according to the Articles, is meant to "re-establish the situation which existed before the wrongful act was committed"[99] while compensation is intended to cover "any financially assessable damage including loss of profits insofar as it is established."[100]

Specifically, in respect to forced evictions, the Commission on Human Rights Resolution 1993/77 recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with the evictees' wishes and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups. This standard would apply to evictions of good faith secondary occupants, or secondary occupants who are also displaced. It also should apply to residents of informal settlements who do not have formal rights to their land to housing. Consequently, evictions of informal settlements on public property must be accompanied by "immediate restitution,

95 International Law Commission, Articles on the Responsibility of States for Internationally Wrongful Acts (2001), Articles 34-36.
96 The Universal Declaration of Human Rights (1948), Articles 17 and 25
97 The International Covenant on Political and Civil Rights (1966), Article 17.
98 The Universal Declaration of Human Rights (1948), Article 17.
99 International Law Commission, Articles on the Responsibility of States for Internationally Wrongful Acts (2001), Articles 35.
100 Ibid., Article 36.

compensation and/or appropriate and sufficient alternative accommodation or land."

Table 5: HLP-Based Entitlements according to International Law and Legal Standards

International Law or Standard	Cause	Entitlement
The International Law Commission Articles on the Responsibility of States for Internationally Wrongful Acts (2001)	State's perpetration of an internationally wrongful act, e.g. violation of binding international human rights law	Restitution to re-establish the situation which existed before the wrongful act was committed; Compensation to cover any financially assessable damage including loss of profits insofar as it is established.
Commission on Human Rights, Resolution 1993/77	Forced Eviction	Immediate restitution, compensation and/ or appropriate and sufficient alternative accommodation or land.
"Hull Formula" (1936)	Expropriation	Compensation that is prompt, adequate and effective.
The Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forest in the Context of National Food Security (VGGT)	Expropriation	Just compensation in accordance with national law ensuring fair valuation.
	Forced Eviction	Alternative housing for those who would be rendered homeless (*inferred, specifically states that "evictions and relocations are not to result in individuals being rendered homeless").
Principles on Housing and Property Restitution for Displaced Persons ("Pinheiro Principles"), Article 2.1 and Principle 17.3	Arbitrarily or unlawful deprivation of housing, land and/or property	Restoration of housing, land and/or property or compensation for housing, land and/ or property that is factually impossible to restore as determined by yan independent, impartial tribunal.
	Eviction of secondary occupants	Alternative housing and/or land, including on a temporary basis.
	Eviction of good faith third party HLP purchaser due to fraudulent sale	State mechanisms to provide compensation.

With regard to expropriation, the widely accepted "Hull Formula" established in 1936 states that all persons whose property is expropriated are entitled to compensation that is 'prompt, adequate and effective.' The Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forest in the Context of National Food Security (VGGT) provides even more specific standards on expropriation. They state that States should expropriate only where right to land is required for public purpose and in doing so respect all legitimate tenure holders, especially vulnerable and marginalized groups, and promptly providing just compensation in accordance with national law ensuring fair valuation; it further states that evictions and relocations are not to result in individuals being rendered homeless or vulnerable to the violation of human rights. In light of these international standards, entitlements for persons whose HLP has been expropriated should include prompt and adequate compensation determined on the basis of a fair valuation process.

The Pinheiro Principles provides the basis for rightsholders' entitlement to the restitution of their pre-conflict HLP rights. As stated in Article 2.1,

"All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal."

The Pinheiro Principles also provides the basis for the entitlements of secondary occupants who are evicted to facilitate property restitution. Principle 17.3 states that in cases where evictions of secondary occupants are justifiable and unavoidable, States should take positive measures to protect those who do not have the means to access any other adequate housing other than that which they are currently occupying from homelessness and other violations of their right to adequate housing. States should undertake to identify and provide alternative housing and/or land for such occupants, including on a temporary basis, as a means of facilitating the timely restitution of refugee and displaced persons' housing, land and property. Article 17.4 states that in cases where housing, land and property has been sold by secondary occupants to third parties acting in good faith, States may consider establishing mechanisms to provide compensation to injured third parties.

5.2. Syrian Legal Framework On Entitlements And Compensation For Hlp

The following section aims to survey the entitlements and compensation provided in Syrian law related to housing, land and property rights. While the entirety of circumstances demanding entitlements and compensation for actions related to housing, land and property rights is too extensive to be catalogued in its entirety, some of the primary causes of action giving rise to entitlements and compensation are explicitly prescribed in Syrian law are mapped below. These causes for entitlements and/or compensation are assess in the context of the following urban operations and HLP issues: (1) expropriation (2) land readjustment; public-private partnership (PPP) land readjustment, and land readjustment informal settlements; (3) secondary occupation and property restitution; (4) damage or destruction of housing, land and/or property; (5) land-based adjudication and (6) State confiscation of property.

5.2.1. Expropriation: Entitlements and Compensation

Both the Syrian Constitution (2012) and the Syrian Civil Code (1949) explicitly prescribe that a person's right to property may only be legally infringed upon when the property is needed for the public interest and fair compensation corresponding to the property's value is given to the rightsholder(s). Specifically, Article 15(5) of the Constitution states that property owners whose property is expropriated for the public interest — or for necessities of war and disasters — shall receive compensation that is "equivalent to the real value of the property." Meanwhile, Article 771 of the Civil Code provides, more broadly, that "no one can be deprived of his property except in the cases and in the manner provided for by law and upon payment of fair compensation." However, throughout Syria's modern history, the legal mechanisms regulating the appraisal and valuation of expropriated property have largely failed to provide landowners and rightsholder with just compensation.

Legislative Decree 20 (1983) on Expropriation has long stood as the centrepiece not only of the Syrian legal framework surrounding expropriation, but also of the legal framework surrounding urban planning at large. Indeed, since the 1960s, expropriation has been the favoured mechanism to readjust land distribution, whether to implement agrarian reform or to execute urban masterplans. The reason expropriation has played such an oversized role in urban planning and land development in Syria is directly related to — and in fact a natural consequence of — its weak valuation and compensation policy. When property is accurately and fairly appraised according to market value, public entities cannot afford to excessively expropriate private property. However, since the application of Legislative Decree 20 has facilitated the undervaluation of property, expropriation easily became the tool of choice for municipalities to actualize urban plans. A close analysis of the law shall further elucidate the legal mandate for property valuation and compensation in Syria.

Legislative Decree 20 (1983) entitles rightsholders to cash compensation for their property or rights in rem according to the value of the land, its buildings, constructions, and planted trees. Additionally, apart from cash compensation, rightsholders are also entitled to the debris of their building if they themselves demolish it within the required timeframe.[101] The value of expropriated unbuilt plots within municipal borders is estimated by the governorate's executive bureau provided the price will not exceed 30% of the cost of structural construction for the floor area allowed according to the building permit of the area. This building cost is calculated according to the cost of buildings constructed by the public bodies supervising housing in the governorate. All other unbuilt land is considered agricultural, and its compensation value is fixed so as not to exceed ten times its annual return.[102] This fixed valuation framework — which resulted in property appraisals far below market values — is widely recognized as responsible for denying Syrians just compensation for the real property and rights in rem for decades.[103]

However, following the ratification of the new Syrian Constitution in 2012, an amendment to Legislative Decree 20 was proposed in 2013 to give effect to the provision made in the new Constitution which required that compensation for expropriated property be "equivalent to the real value of the property." While these amendments remain under review by legislative authorities and therefore are not yet in force, the valuation and compensation framework they establish is a marked improvement to the fixed valuation system which prevailed in the original legislative decree on expropriation.[104]

The amendment states that the expropriated real estates, whether they are located inside the administrative units' master plans or outside them, shall be evaluated according to the value of the land, the building, the plants and the other constructions by a three-person primary valuation committee, rather than according to the executive bureau of the Governorate as given in the original law. The valuation committee is required to include a specialized engineer; however, no other valuation qualifications or experience levels are explicitly required of the committee members in the current form of the law. The amendment also proposes additional factors to be considered in valuating for compensation purposes such that valuations can better reflect the property's market value. These proximate market value indicators include the location of the real estate (governorate centre, city, town, village, farm); its proximity to the city centre; the importance of the location regarding social, environmental, service, tourist and commercial aspects; its connection to urban areas and the availability of public utilities; and the building system in place in and around the property.

Furthermore, the amendment significantly increases the range of permissible valuations of unbuilt land parcels and constructed real estates. In respect to the latter, the land is valuated at a percentage of the building cost of constructing of the floor area permitted by the building code, ranging from 15 to 100 percent. The cost of the construction of the floor area is calculated on the basis of the cost of the buildings constructed in the expropriated area by the General Establishment for Housing, with the costs reappraised and revised every three years. These provisions evidently allow for a substantially higher compensation amount than allowed in the original text of Legislative Decree 20, where the percentage of the building cost used for valuation of land can only reach 30 percent at most. Likewise, for the valuation of land parcels and other real estates (i.e., agricultural real estates), their value is estimated at 15-20 times of their annual production taking into consideration the presence of irrigation systems, planted trees and fruits, and the stability of the natural area with respect to water resources. This 15-20 times is a marked increase from the 10 times the annual production limitation of the original text of Legislative Decree 20.

The proposed amendment also makes explicit provisions for the compensation of leaseholders to expropriated property which were largely absent in Legislative Decree 20. The latter decree only stipulates that rights in rem to expropriated properties, including leasehold rights, are entitled to monetary compensation, however, it does not specify precisely how rights in rem are valuated for compensation, leaving the appraisal of such rights to the discretion of the Primary Valuation Committee. The proposed amendment provides greater specificity. It suggests

101 Legislative Decree 20 (1983), Article 14.
102 Law 3/1976 (Article 6 as referred to in Article 14 of Law 20/1983: "The value of the expropriated real estates shall be evaluated according to the value of the land, the building and the other constructions. The land value shall be evaluated according to the provisions of Law 3/1976 and its amendments."
103 Tammam, Abdallah, "Syria's Land Expropriation Law: Profiting from the Public Good, Al-Akhbar (2011)
104 Syrian Law Journal, "Legislation Under Review," http://www.syria.law/index.php/legislation-under-review/.

that occupants (i.e., leaseholders) of constructed real estates expropriated for public use should be paid compensation that is equal to 25 percent of the leased property's appraised value if residential and 35 percent for commercial or industrial shops. With respect to lease rights to agricultural land, Legislative Decree 20 does clearly prescribe that for agricultural land with a rental contract between landholder and farmer, the landholder is entitled to 70 percent of the cash compensation while the farmer is entitled to 30 percent.[105]

Legislation	Entitlement	Valuation
2012 Constitution of the Syrian Arab Republic	Monetary Compensation	Equivalent to the real value of the property.
Legislative Decree 20 (1983)	Monetary Compensation	The value of land, its buildings, constructions and planted trees; estimation by governorate's executive bureau.
Proposed Amendment to Legislative Decree 20 (1983)	Monetary Compensation	The value of land, its buildings, constructions and planted trees with consideration to factors including location of the real estate, proximity to the administrative unit centre, importance of the location in regard to social, environmental, service, touristic and commercial aspects, connection to urban areas and the availability of public services; estimation by the Primary Valuation Committee.
Legislative Decree 66 (2012) Law 10 (2018) (amended by Law 42 of 2018)	• Commercial shares in the development zone. With these shares, shareholders are entitled to one of the following: (1) land parcel in the redeveloped zone equivalent to the value of shares held; (2) establishment of shareholding company to invest in and construct land parcels; (3) cash compensation for the value of the shares sold at public auction. • Alternative housing while constructions take place or annual rental compensation. • Exemption from cadastral registration fees.	Commercial shares distributed are to be equivalent to the appraised value of the property or real rights held just prior to the decree enactment. Rental compensation is given as an annual instalment equal to the one-year lease price of the property, which is evaluated as 5% of the appraisal value of the housing unit to be evacuated.
Law 23/2015	• Land parcel equivalent to shares allocated to the rightsholder for their property. • Exemption from cadastral registration fees. • Exemption from financial fees, local costs and other fees incurred for reconstruction in the case of properties affected by war	The appraised value of the property or real rights held just prior to the decree enactment

105 Law 20/1983, Article 15(3).

5.2.2. Land Readjustment: Entitlements and Compensation

Public-Private Partnership (PPP) Land Readjustment

More recent urban planning laws apply an alternative method of acquiring private land for urban redevelopment via public-private-partnership (PPP) land readjustment projects. Unlike expropriation, which directly acquires private land in exchange for monetary compensation, these operations entitle rightsholders to commercial shares which can be used in one of three ways explained in greater detail below.

Both Legislative Decree 66 (2012) and Law 10 (2018) on the establishment of redevelopment zones apply a process of evaluating individual property values and rights in rem, converting tenure holders' rights into commercial shares equal to the value of their property (or equal to the value of the rights thereto), and then allowing for the shareholders to use their shares to be either be reallocated a land parcel, form a shareholding company to jointly invest in real estates, or be compensated in cash for the share price sold at public auction.

More specifically, rightsholders in the designated area are entitled to receive commercial shares in the development zone equivalent to the appraised value of the property or real rights held just prior to the decree enactment.[106] With these commercial shares, rightsholders are entitled to the following: (1) application(s) for the allocation of a parcel in the redeveloped zone equivalent to the value of shares held; (2) application to establish a shareholding company to construct and invest planned parcels; (3) cash compensation from the sale of shares at public auction given to shareholder in semi-annual instalments.[107]

Rightsholders are also entitled to receive alternative housing while constructions in the redevelopment zone are underway, through the law gives the municipality a generous four-year period to provide alternative housing from the date of eviction notice. If those rightsholders who are eligible for alternative housing are not immediately provided with said housing, they are entitled to rental compensation in the form of annual cash instalments which are equal to the price of their property for a one-year lease (valued as 5% of the appraisal value of the housing unit to be evicted) until the allocation of alternative housing.[108] Additionally, Law 10 stipulates that rightsholders to properties included in the redevelopment zone are entitled to exemption from cadastral registration fees.[109]

As to the entitlements of evicted leaseholders, Legislative Decree 66 (2012) and Law 10 (2018) both state that leaseholders are entitled to shares equivalent to 30 percent (for residential occupation) or 40 percent (for commercial occupation) of the estimated value of the part of the parcel occupied.[110] Evicted leaseholders are also entitled to alternative housing until the completion of construction works and reallocation of parcels, though again the municipality has four years from the date of eviction notice to actually provide such alternative housing. If the alternative housing cannot be provided immediately, evicted leaseholders are entitled to rent compensation in yearly instalments equal to one-year lease (valued as 5% of the appraisal value of the housing unit to be evicted) until the allocation of alternative housing. Additionally, evicted shopkeepers are entitled to be given priority in the allocation of shops built by the municipality in the redevelopment zone through lease or purchase contracts carried out by closed public auction.[111]

Standard Land Readjustment

Law 23 (2015) on urban development provides a land pooling and redistribution framework that builds on the historic land readjustment framework established by Law 9 (1974). Unlike Legislative Decree 66 and Law 10, the land readjustment procedure of Law 23 does not involve public-private partnership (PPP); as such, the shares issued to rightsholders are not commercial shares as stipulated in the urban renewal laws, and as such can only be used for the redistribution of property in the readjusted area. In this way, rightsholders are entitled to be reallocated a land parcel equivalent to the value of shares held, which are, in turn, equal to the estimated value of the owner's original property and/or the rightsholder's right in rem prior to the announcement of rezoning.

106 Legislative Decree 66 (2012), Article 10.
107 Ibid, Articles 30-31.
108 Law 10 (2018), Article 43(b-e).
109 Law 10 (2018), Article 41.
110 Legislative Decree 66/2012, Article 43(c)
111 Law 10/2018, Article 45(c)

If the land parcel allocated to the rightsholder has a value greater than his/her shareholding value, the Compulsory Distribution Committee (CDC) determines the amount that the rightsholder should pay for the additional land allocated them. However, if the rightsholder is distributed a parcel with a value less than their shareholding value, he/she is entitled to receive monetary compensation equivalent to the difference as determined by the CDC.[112] As in Law 10, rightsholders to property in the rezoned area are exempted from cadastral registration fees.[113] Additionally, the law states that rightsholders of property affected by wars are entitled to be exempted from financial fees, local costs and other fees incurred for reconstruction.[114]

Furthermore, Law 23 (2015) states that holders of rights in rem, such as registered leasehold rights, are entitled to an equity share equal to 40 percent of the estimated value of the leased space for both residential and commercial tenants in accordance with the Landlord-Tenant Law no. 20 of 2015.[115] It grants the Dispute Resolution Committee discretion to further decide on the matter and states that tenants are not entitled to alternative housing. In contrast, agricultural lease agreements between a farmer and landowner are voided upon the formal announcement of land readjustment ("zoning") in the designated area, with the rights holding farmer granted compensation set as a percentage of the value of the land to be zoned, in accordance with the Agricultural Relations Law.[116]

Table 7: Entitlements for Evictions of Leaseholders Resulting from Expropriation and Land Redevelopment

Legislation	Entitlement	Valuation
Legislative Decree 20 (1983)	Cash compensation (agricultural and non-agricultural leaseholds)	For agricultural leaseholds, 70% of cash compensation goes to the landowner, 30% goes to the farmer. Not specified for non-agricultural leaseholds.
Legislative Decree 66 (2012)	Commercial shares; Alternative housing or rent compensation.	Shares equivalent to 30% (for residential occupation) or 40% (for commercial occupation) of the estimated value of the part of the parcel occupied. Rent compensation is given in yearly instalments and equal to one-year' lease price valued as 5% of the appraisal value of the housing unit to be evicted.
Law 10 (2018) (amended by Law 42 of 2018)		
Law 23 (2015)	Property shares (non-agricultural leaseholds)	Registered leasehold rights are entitled to an equity share equal to 40% of the estimated value of the leased space for both residential and commercial tenants. Agricultural lease agreements are rendered void and the landowner/primary rightsholder is granted the entirety of the property compensation, valued at a set percentage of the value of the land to be zoned. The farmer/agricultural lessee is not entitled to compensation.

Land Readjustment in Informal Settlements

Land readjustment and rezoning initiatives are likely to be pursued in urban or peri-urban informal housing areas in the post-conflict reconstruction period. Indeed, already Law 23 (2015), Legislative Decree 66 (2012) and Law 10 (2018) have been announced targeting informal housing areas in some of Syria's major urban centres including Damascus, Aleppo and Homs. Considering the various degrees of tenure (in)security in informal housing areas in Syria (where squatters on public land have the least secure tenure and persons with housing on illegally subdivided but legally owned and delimited plots with the most secure tenure), it is critical to assess what, if any,

112 Law 23 (2015), Article 38.
113 Law 23 (2015), Article 49(a).
114 Ibid, Article 49(b).
115 Law 23, Article 26(a).
116 Ibid, Article 26(b)

entitlements informal housing residents have in the case that their land is readjusted or redeveloped. In international law, all persons, including persons without legally recognized land tenure, are entitled to adequate housing. Consequently, States are obliged to ensure such that such tenure holders are not rendered homeless due to evictions resulting from redevelopment projects in informal settlements.

Historically Syrian urban legislation only entitled owners or occupants of informally constructed buildings to the debris of their construction. This is true of the longstanding precursor to Law 23 (2015) — Law 9 (1974) — and perpetuated in the practice of implementing Legislative Decree 20 (1983). Likewise, Law 23 (2015) stipulates that owners or occupants of illegal or unregistered constructions are only entitled to the debris of their buildings; however, it also provides that evictees also may be granted alternative housing if there is a surplus for distribution. The Dispute Resolution Committee is left to adjudicate further issues related to building violations and illegal occupancy.

However, if the rezoning decree given under Law 23 (2015) is intended to transform an informal settlement into a zoned area, the owners and occupants are in fact entitled to receive a building permit and shares equal to the surface area of the zone requiring permitting.[117] As such, land readjustment under Law 23 is not intended to enable mass evictions of informal settlements without the provision of compensation or alternative housing, but in fact enables the regularization of informal settlements. The more stringent provisions described above deal with ad hoc instances of building violations and illegal occupancy encountered in an otherwise ordinary land readjustment procedure, and should not be applied to informality at large.

Legislative Decree 66 (2012) and Law 10 (2018) similarly limit the entitlements of informal building owners or occupants to their right to take the wreckage of their constructions. Instead of providing a means to regularize the HLP rights in informal settlements as done in Law 23, these tenure holders are only entitled to two-year rent compensation with the annual compensation rate at 5% of the value of the residential unit to be vacated. Though Legislative Decree 66 and Law 10 do leave open the possibility of informal settlement residents receiving shares under the discretion of the Dispute Resolution Committee, these provisions provide much less tenure security than those of Law 23. It is for this reason (among others) that these two urban renewal laws were harshly criticized by the international community.

5.2.3. Secondary Occupation and Property Restitution: Entitlements and Compensation[118]

Possessing, indefinitely occupying or squatting upon private property without valid legal (or customary) tenure rights is constitution an infringement upon the HLP rights of the property owner and any holders of rights in rem to the property. While the nature of these occupations can vary substantially, original owners and rightsholders are, with special exceptions, entitled to the restoration of their property and restitution of their rights when their property has been unlawfully possessed or occupied. Occasionally, the property owner or rightsholder may also be entitled to compensation. As secondary occupation has reportedly been ubiquitous during the conflict and poses challenges to future urban redevelopment and reconstruction initiatives, the following section will elaborate on the relevant entitlements pertaining to squatting and adverse possession as prescribed in Syrian law.

The entitlements of landowners and other rightsholders to a property which has been subject to possessive appropriation by a third party via squatting and secondary occupation are given, in part, in the Syrian Civil Code. Article 768 stipulates that "the owner of a thing has alone, within the limits of the law, the right to use, enjoy and dispose of it," while Article 771 explicitly states that "no one can be deprived of his property except in the cases and in manner provided for by law and upon payment of fair compensation." On the basis of these provisions, the property owner's entitlement to the restitution of their property from unauthorized possessors (i.e., squatters or occupants) is taken for granted in the Civil Code's discussion of possessory rights and their limitations. The assumption made is that property owners are entitled to have their property restituted to them from unauthorized possessors of their property, whether these possessors have occupied in good or bad faith.

117 Law 23 (2015), Article 16.
118 For a more detailed analysis of legal rights and remedies regarding secondary occupation in Syria, see the forthcoming Guidance Note on Secondary Occupation in Syria produced by the HLP Technical Working Group.

The Law on Civil Procedures (Law 1 of 2016) gives practical effect to the principle of property restitution in cases of unlawful possession by a third party. Article 66 states that if a real estate owner loses possession (of the real estate), he may request during the year following the loss of the property (or the year following his knowledge of the loss of property if possession was gained in secret[119]) that it be returned to him. However, if the real estate owner has his property right registered in the Land Registry or similar registration, he may, at any time following the loss of possession, file a lawsuit for the restitution of possession against whoever acquired possession of the usurped property (even if such possession was done in good faith).[120] Therefore, if a property owner with registered rights loses possession at the hands of a possessor, he may file a lawsuit for the restitution of property even beyond the one-year window stipulated in Article 66.

Another source of legal recourse for the unlawful appropriative possession of property by a third party is provided in the Law on Local Administration. Specifically, in the case of a clear usurpation of property or corporal rights, Law 107 (2011) enables the provincial governor to decide on the necessary actions and compensations to make the current condition as it was before the usurpation.[121] By filing a complaint with the governor on these grounds, a police investigation determining the validity of the complaint may ensue according to the discretion of the governor (if (s)he finds the claim to have a sufficient cause of action). The governor then makes a decision based on the findings of the investigation, which could include, inter alia, an order of the removal of the occupant and payment of compensation for damages, the payment of compensation for the legal acquisition of the property by the third party, or that the third party continue to manage the property until the dispute can be resolved in court.

The primary exception to principle of property restitution for property owners would be a case of legally valid acquisitive prescription (also known as adverse possession) as given in the Syrian Civil Code. Articles 917 to 925 of the Syrian Civil Code describe the modalities of such acquisitive prescription. Specifically, it states that a person possessing an immoveable property for 15 years (uninterrupted) may acquire ownership rights over that property.[122] If that possession is in good faith and based on valid reason, the occupant may acquire ownership rights after only five years.[123] However, prescription does not apply to rights recorded in the land registry.[124] Thus, possessors of property are only entitled to property title by acquisitive prescription if the property was not registered in the land registry. Otherwise, original rightsholders are entitled to the restitution of their rights.

Not only is the property owner entitled to the restitution of his/her property, but (s)he is also entitled to the return of property in its original condition, without unnatural deterioration or loss. More specifically, Article 934 of the Civil Code states that the restituted property owner is entitled to compensation from a good faith possessor if the possessor received profit from actions causing or resulting in the deterioration of the property. While the compensation value given to the property owner in such a circumstance can only be equal to the amount the good faith possessor profited from such deleterious actions, the compensation value entitled to the property owner in the case of a bad faith possessor taking actions that cause or result in harm is not limited to the profit the possessor enjoyed but can fully cover the cost of such damages and their repairs/remediation.[125]

119 Civil Procedure Law 1/2016, Article 66.
120 Law of Civil Procedure no. 1 (2016), Article 70.
121 Local Administration Law no. 107 (2011), Article 45.
122 Syrian Civil Code, Article 917.
123 Syrian Civil Code, Article 918.
124 Syrian Civil Code, Article 925.
125 Syrian Civil Code, Article 935.

Table 8: Means of Acquiring Entitlements and Compensation for Possession of Property by a Third Party

Cause	Entitlement	Entitled Parties	Means of Seeking Entitlement	Relevant Legislation
Unauthorized occupation or possession of another's property	Restitution of property and rights thereto; Compensation for damage resulting in the deterioration of the property	Property owner; Holders of rights in rem	File a lawsuit at the civil Court of Conciliation based on the right to recover possession.	Civil Procedure Law, (1/2016), Articles 69-70
			File an urgent lawsuit at the civil Court of First Instance to expel the occupant.	Civil Procedure Law (1/2016), Articles 78-9
			File a complaint at the office of the provincial Governor based on the clear usurpation of property.	Local Administration Law (107/2011), Article 45
			File a case at the criminal Court of Conciliation based on a charge of the crime of squatting.	Penal Code (Legislative Decree 148/1949), Article 723

While legitimate owners and rightsholders are entitled to the restitution and restoration of their property, international law entitles all persons, including secondary occupants and unauthorized possessors of property, to adequate housing and protection from unprocedural evictions. Under certain circumstances, such occupants or possessors may be entitled to alternative housing or even compensation. However, the determination of such entitlements is dependent upon the nature of the occupation, which can vary significantly.

The distinction with the most significant legal implications on cases of secondary occupation is that of property possessed in good faith versus bad faith. Good faith possession or occupation takes place when the possessor believes that property in his possession truly belongs to him and thus is unaware that that his possession is in fact infringing upon another's property rights. In the urban context where almost all land has been delimited and registered, good faith possession most frequently occurs as a result of a fraudulent sale unbeknownst to the buyer. Bad faith occupation, alternatively, occurs when the possessor occupies or otherwise takes possession of immovable property while knowing it to belong to another. Consequently, the entitlements provided to evicted secondary occupants who possessed in good faith will differ from those provided to persons who possessed in bad faith.

This is exhibited in Article 934 of the Civil Code, which as previously discussed, places higher standards of financial accountability upon bad faith occupants than good faith occupants in regard to compensation for actions resulting in the deterioration of the property. Additionally, the Civil Code provides unique entitlements to good faith occupants. Article 929 entitles only good faith possessors to all fruits collected from the property while in his/her possession. Meanwhile, Article 930 states that the entitlements of bad faith possessors are limited to repayment for expenses spent during the collection of fruits from the property.

Furthermore, Article 931 describes the entitlements of good and bad faith possessors who have made improvements to a property which has been claimed for restitution. It first states that the possessor of the property which is restored to its true owner is entitled to be paid by the owner the amount equal to the necessary expenditures spent by the possessor to maintain and upkeep the property. If the constructions made by the possessor in good faith are of a greater value than the land, then the possessor may keep the land and constructions upon payment of compensation for the land to the original owner.[126] However, if the expenditures of the possessor were of the luxurious nature, the possessor cannot claim repayment from the owner, though (s)he is entitled to remove the works made

126 Syrian Civil Code, Article 889 as reference in Article 931.

provided (s)he restores the property to the original condition.

Other factors which may affect the entitlements given to secondary occupants are the occupant's intentions and needs. Extraordinary circumstances such as natural disaster or armed violence often result in waves of mass displacement which in turn leads to the large-scale abandonment of property and increases in homelessness. In such a context, as seen in Syria, internally displaced persons may illicitly occupy another's property not with appropriative intent but simply to meet their need for — and indeed fulfil their right to — adequate housing when return to their own home is unfeasible. In international experience,[127] such 'humanitarian' secondary occupations have been met with more conciliatory consequences and entitlements than the punitive measures typically prescribed for squatting in national law.

The Syrian government, however, has yet to pass any legislation governing secondary occupation in response to the mass displacement caused by the conflict. Until this occurs, the framework of possessory rights given in the Civil Code and squatting in the Penal Code[128] will prevail in determining the entitlements provided for evicted possessors and secondary occupants of property. Accordingly, the international standard of providing alternative housing to persons forcibly evicted and consequently rendered homeless is not currently met by Syrian law. Only the Law on Local Administration[129] provides a legal framework that, while not guaranteeing secondary occupants entitlement to alternative housing, may facilitate the provision of alternative housing to evicted secondary occupants who are themselves displaced persons without recourse to housing. The law does this by providing the provincial governor the general jurisdiction to investigate claims of secondary occupation and take a decision appropriate to the circumstance as revealed by the investigation.

Table 9: Entitlements of Original Owners and Evicted Secondary Occupants during Property Restitution (as given by the Civil Code)

Property Owner/Original Rightsholder	Evicted Secondary Occupant/Possessor
Restitution of property (before the possessor can validly acquire title via acquisitive prescription in the case of unregistered property rights) (Article 768, 771)	All fruits collected while in good faith possession (Article 929)
Return of the property in its original condition, without unnatural deterioration or loss (Article 931, 934-5)	Repayment for expenses for the collection of fruits while exercising bad faith possession (Article 930)
Compensation for the deterioration or loss of the property caused by a bad faith possessor or a good faith possessor (up to the amount profited from the deterioration in the case of the latter) (Articles 934-5)	Repayment for the necessary expenditures incurred by the possessor [to upkeep the property] (Article 931)
—	Right to take works made by the possessor/ occupant on the property which are of a luxurious nature. (Article 931)

127 As examples, both the Real Property Claims Commission (CPRC) in Bosnia in the 1990s and the Commission for the Resolution of Real Property Disputes (CRRPD) in Iraq in the 2000s provided secondary occupants who were themselves displaced persons unable to return to their homes with alternative housing as a part of post-conflict property restitution procedures. In the case of Bosnia, where alternative housing was scarce, IDP secondary occupants were occasionally given a lump-sum payment to procure their own housing or to restore their original damaged residence.

128 Article 723 of the Penal Code prescribes that persons convicted of squatting — seizing real estate or portion of real estate belonging to another without official document of ownership or disposition — shall be punished with imprisonment for a period ranging from two to six months.

129 Law 107 (2011), Article 45.

5.2.4. Damage or Destruction of HLP: Entitlements and Compensation

An entitlement to compensation for the destruction of property during conflict or disaster is granted as integral aspect of property restitution in international law. Principle 21.1 of the Pinheiro Principles states that when property restitution is "not factually possible," displaced persons have a right to receive compensation in lieu of the restitution of their property. Property restitution is only considered "not factually possible" in exceptional circumstances such as the destruction of housing, land or property.[130] Principle 21 further states that not only are displaced persons entitled to compensation for their destroyed property, but that they are also entitled to "have the option to repair or rebuild whenever possible." It also offers a hybrid of these two remedies as an appropriate option, stating that "a combination of compensation and restitution may be the most appropriate remedy and form of restorative justice" in certain circumstances.

Syrian law, however, does not have a legal framework for property restitution in force at this time. Consequently, the millions of displaced Syrians whose housing, land and/or property has been severely damaged or destroyed over the course of the conflict lack dedicated legislation guaranteeing their entitlement to compensation for the destruction of property or joint compensation and restitution of property such that they may return to their property and take actions reconstruct or repair it. However, Syrian law does provide such rightsholders with entitlements to the exemption of certain fees related to reconstruction.

Law 21 (2015), most recently updated by Law 39 (2017), entitled persons whose property was partially damaged "by terrorist acts" during the conflict to be exempted from fees to obtain building permits needed to carry out the necessary reconstructions and repairs upon application and approval from the appropriate judicial authority. However, the law is self-obsolescent. Its text makes provision for its own expiration upon the conclusion of one year from its issuance. Since, the law was last renewed in 2017, the exemption to building permit fees is not currently effective. Additionally, Legislative Decree 9 (2019) provides exemptions from building permit fees for "the families of martyrs and wounded personnel from the Syrian Arab Army and the Internal Security Forces once they apply to build, repair or renovate their homes."

An additional legislation that makes reference to entitlements for damaged or destroyed HLP is urban planning Law 23 (2015). Article 49(b) states that rightsholders of property affected by wars are entitled to be exempted from financial fees, local costs and other fees incurred for reconstruction. However, it is presumed that such exemptions apply only within the scope of rezoning procedures applied under Law 23 (2015) in response to structural urban damage resulting from war, conflict or natural disaster.

5.2.5. Land-Based Adjudication: Entitlements and Compensation

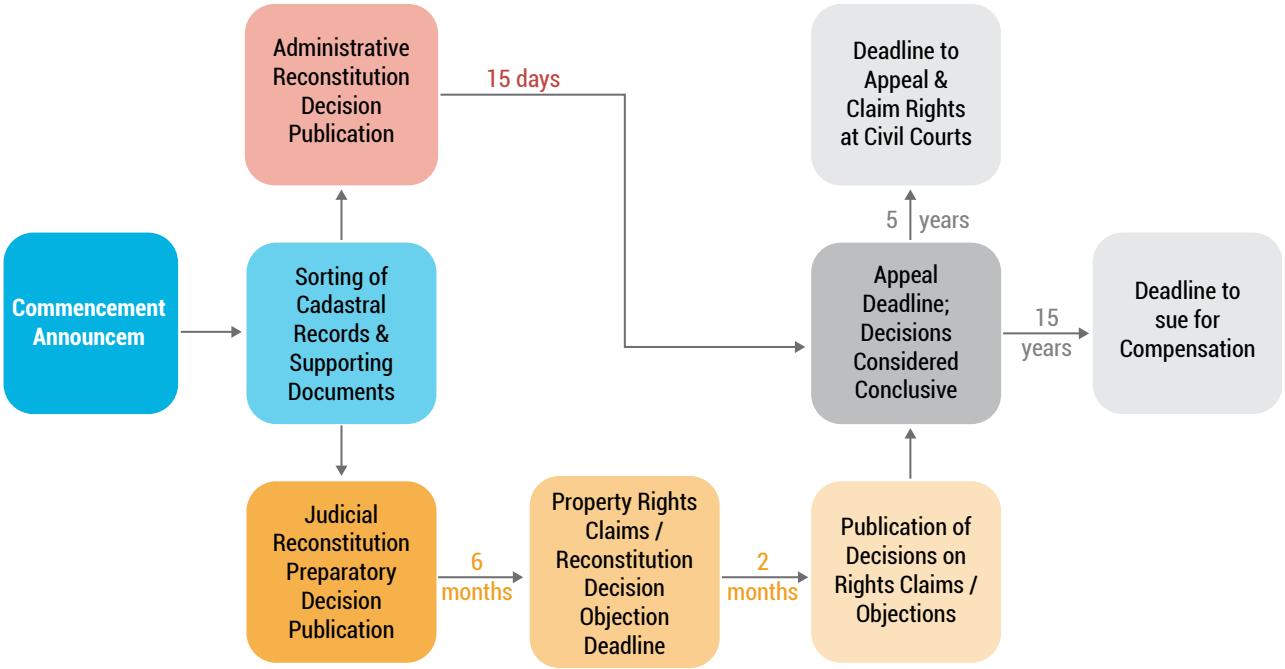
A number of Syrian urban planning laws (as well as other legislation related to HLP rights) provide rightsholders — whose rights are not already recorded in the GDCA Land Registry — with the opportunity to claim their rights via application and the provision of supporting evidence. The window provided for claiming such rights is typically rather short, in many cases limited to one month, in order to not excessively delay the law's implementation. However, this short timeframe can also unduly limit and in fact deprive persons of their HLP rights, an issue which presents even higher risk in the conflict and immediate post-conflict context where millions of Syrians remain displaced and thus may be unable to claim their rights via power of attorney with such short notice. Accordingly, to mitigate this risk many of these laws provide extended periods either to claim their rights before the civil courts, which may be able to restore their rights or provide for compensation. The following section maps the entitlements of rightsholders who fail to claim their rights in the designated rights-claiming period, but later succeed to prove their rights either before the civil courts or the judicial commission established by the relevant law.

Law 33 (2017) provides a mechanism to reconstitute cadastral records relying first on administrative reconstruction (when there are sufficient remaining property documents) and secondly on judicial reconstruction (when a real estate judge must investigate and request property claims for inspection and final adjudication). The law

130 Principles on housing and property restitution for refugees and displaced persons ("Pinheiro Principles"), Principle 21.2

provides a 15-day appeal period for administrative reconstitution decisions and a 6-month objection period for judicial reconstitution decisions. Upon successfully proving their rights before the civil courts, property rights claimants are entitled to have their rights restored if the court decision was made within 5 years of the conclusion of the aforementioned appeal/objection period. Otherwise, successful rights claimants are entitled to receive compensation upon affirmative decision of the civil courts within 15 years of the conclusion of the appeal/objection periods.[131] However, it fails to specify who is liable to pay compensation and how the compensation amount is determined.

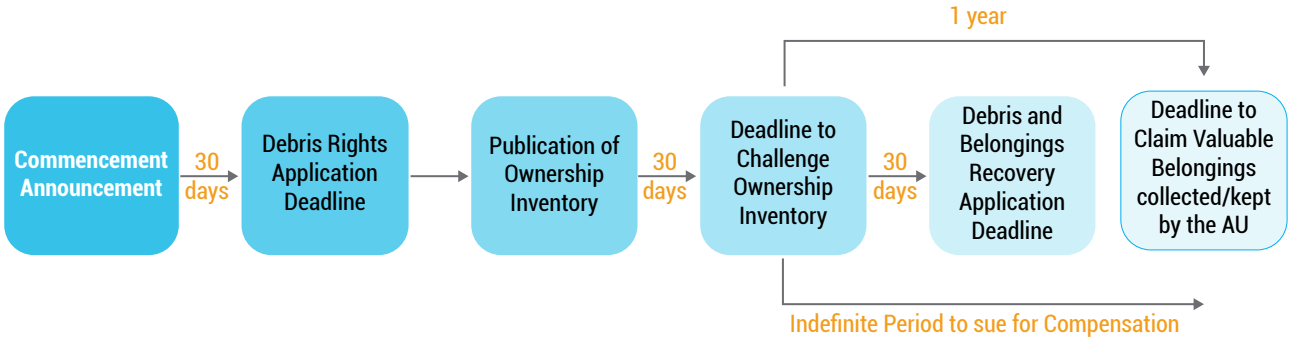
Fig. 10: Procedural Timeline for Claiming Entitlements and Compensation in Law 33 (2017) on Cadastral Constitution



Law 3 (2018) on debris removal and sale also allows rightsholders to claim compensation for private belongings and debris which they failed to recover during the debris removal proceedings. Law 3 gives claimants 30 days to initially apply to claim their rights for debris following the announcement of debris removal operations in a cadastral district. Then upon the publication of an ownership inventory, claimants have an additional 30 days to challenge the content of the inventory before the governorate court. Persons who successfully claim their rights by the conclusion of the appeal period have 30 days to request to recover private debris and belongings. Rightsholders who fail to recover their private belongings and debris or whose rights haven't been proved are entitled to receive compensation proportional to the auction price of their debris/belongings, should they succeed to prove their rights.[132] No deadline is given for claiming this compensation. Additionally, within one year of the conclusion of the ownership inventory appeal period, rightsholders are entitled to recover personal belongings which the administrative unit considered valuable and kept in a dedicated warehouse during debris removal operations. After the conclusion of the one year, the administrative unit sells the belongings at public auction, leaving rightsholders only eligible to claim compensation.

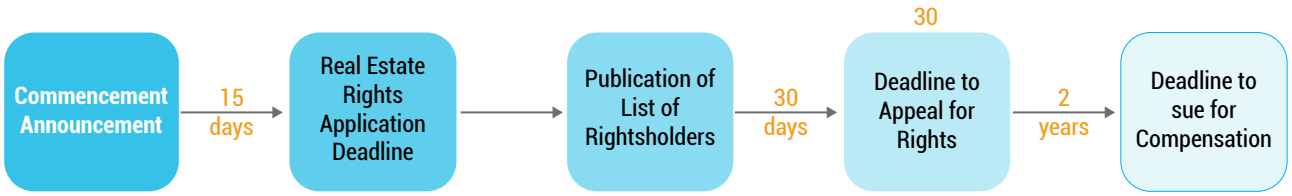
131 Law 33 (2017), Article 9(a).
132 Law 3 (2018), Article 10(b).

Fig. 11: Procedural Timeline for Claiming Entitlements and Compensation in Law 3 (2018) on Debris Removal and Sale



Law 33 (2008) establishes a legal mechanism to regularize informal settlements where residents lack a building permit due to illegal subdivision of plots (though the plot itself is registered). After the commencement of regularization procedures in an informal housing area is announced, tenure holders have one month to submit applications related to estates rights in the area. Based on the applications and other findings, the responsible committee publishes a list of property rights holders (including their shares and real estate), which is contestable before the governorate appellate court for one month following the list's publication. However, rightsholders are further entitled to receive compensation from the new owner of the plot by suing to establish their rights with the civil courts within two (2) years of the conclusion of the one-month appeal period.[133]

Fig. 12: Procedural Timeline for Claiming Entitlements and Compensation in Law 33 (2008) on Regularization of Informal Housing Areas



Legislative Decree 66 (2012), Law 10 (2018) amended by Law 42 (2018) and Law 23 (2015) establish mechanisms for land readjustment, all of which follow a similar procedure in regard to the adjudication of land and property rights. An announcement of redevelopment/rezoning is published, and within 30 days of its publication rightsholders are invited to apply to the submit their property claims (this period has been extended to one year for Law 10 under its amendment Law 42). Meanwhile, both a committee for appraising property and a committee for settling property disputes and adjudicating rights are formed. Before the latter committee (Dispute Resolution Committee), rightsholders who were not included in the initial list of shareholders published by the municipality can further pursue their claim. Decisions made by the Dispute Resolution Committee (DRC) can be appealed at the civil courts, at which point decisions become conclusive. The deadline for the DRC to make its decisions and complete its mission is left to be determined during the formation of the committee, and upon the conclusion of its works, the DRC disassembles. Following this, it is presumed by omission that persons who were not able bring a claim before the DRC during its operations must resort to lawsuit in the civil courts to prove rights and receive compensation or alternative remedy. However, unlike the aforementioned laws of this section, Legislative Decree 66, Law 10 and Law 23 fail to include provisions guaranteeing entitlement to an extended appeal period to obtain compensation or any other judicial remedy.

133 Law 33 (2008), Article 11(f).

5.3. Confiscation: Property Seizure without Entitlements or Compensation

In analysing the various modalities through which HLP rightsholders are entitled to compensation or other remedy, it is important to also recognize the legal instruments which exclude entitlements to original rightsholders while permitting State appropriation of housing, land and property assets.

The Counter-Terrorism Law no. 19 (2012) facilitates the court-ordered confiscation of immovable property for anyone charged with engagement in a terrorist organization, conducting acts of terror, supplying weapons for acts of terror, sponsoring or training acts of terror, threatening acts of terror against the government, promoting acts of terror, conspiring to perform acts of terror or knowingly failing to report acts of terror. Confiscation is defined by the law as the permanent deprivation of the right to dispose of movable and immovable property and the transfer of their ownership to the State pursuant to a judicial decision made by the infamous Counter-Terrorism Court. Anyone convicted of the aforementioned acts are liable to have their property permanently confiscated by the State without entitlement to compensation or any other benefit. The law does not stipulate any opportunity to appeal judicial decisions to confiscate property based on conviction of terrorist acts.

The vagueness of the charges listed in Law 19 along with the general and absolute confiscation measures is not consistent with international law standards and best practice. While international standards recommend that countries adopt measures to enable the competent authorities to confiscate property found to be the proceeds of, used in, or intended to be allocated for use in the financing of terrorism, terrorist acts or terrorist organizations,[134] it does not recommend the confiscation of property acquired from legitimate sources unless intermingled with the proceeds of crime.[135] Accordingly, the blanket confiscation of all property of those charged with terrorist acts given in Law 19 does not align with international standards.

Additionally, the breadth of the definition of a terrorist act and terrorist organization in the law allows for the Government of Syria to effectively confiscate the property of anyone involved in, associated with, or linked to State opposition (or anyone accused as such). According to the law, a terrorist act is defined as "any act that is intended to terrify people, disrupt public security, and damage the infrastructure or constructions of the State, committed by using weapons, ammunition, explosives, flammables, toxins, incendiaries, epidemiological or bacteriological gases whatsoever the type of these means, or by using any means that causes the same effect."[136] Furthermore, a terrorist organization is considered to be a "group of three or more people with the aim of committing an act (or acts) of terrorism." These definitions indeed are broad enough to affect thousands of Syrians who engaged in political, civic or humanitarian activities.[137]

Law 35 (2017) also enables State confiscation of assets without entitlement to compensation or any other benefit. The law allows the Military Recruitment Directorate to seize real and moveable assets of Syrian males who have failed to meet their obligations to perform a military service.[138] All Syrian males are required to have performed military service or paid the "age passing substitute" (i.e., fee), otherwise their real property remains susceptible to seizure without compensation.

134 Financial Action Task Force (FATF) Recommendations, B(4).
135 The Palermo Convention, Article 12(4).
136 Law 19 (2012), Article 1.
137 PAX, "Legal Obstacles to HLP Rights in Syria," March 2019.
138 Ibid.

5.4. Conclusions And Key Findings

In summary, the entitlements and compensations provided for in Syrian law related to housing, land and property rights vary to appropriately respond to the multitude of causes for entitlement, however familiar patterns of entitlement frameworks appear. Within this nuanced network of causes and entitlements, a number of themes, key findings and conclusions can be discerned.

Expropriation

The under-valuation of land and property has long undermined the fair compensation of entitled rightsholders whose HLP is expropriated by government entities. Recent changes (2012 Constitution and proposed amendment to Legislative Decree 20 of 1983) indicate a positive trend in rectifying the existing valuation system so that compensation amounts are more accurately proportioned to the property's market value, and therefore, fairer. However, until this amendment is passed, expropriations during the conflict and post-conflict reconstruction period will be able to exploit the market potential of undervalued urban property and deprive persons of their constitutional right to fair compensation.

Eviction (Urban Development and Land Readjustment)

Recent urban development (land readjustment) legislation which redistributes land via share allotment provides compensation to evicted leaseholders with shares equal to 30 or 40 percent of the value of the leased property. The 40 percent value compensation is consistent with Law 20 (2015) on Landlord and Tenant Relations, which provides that when evicting a lessee for the purpose of constructing a new building which replaces presently rented premises, the owner must compensate the evicted lessee with payment equal to 40 percent of the value of the residential property previously occupied.

However, informal tenure holders are largely denied any share allotment or compensation in these laws and only allowed to take the wreckage of their constructions. Considering the ubiquity of informal tenure in Syrian urban areas, along with the fact that a number of damaged informal housing areas have already been designated for rezoning or redevelopment under these laws, this entitlement framework effectively disenfranchises informal tenure holders of their HLP rights. To avoid this, municipalities could opt to apply the provisions of Law 23 (2015) to regularize informal settlements. These provisions for regularization should also be incorporated into Law 10 (2018) which municipalities have sought to apply in urban and peri-urban informal neighbourhoods. At a minimum, a resettlement scheme providing evicted informal settlement residents alternative affordable housing should be established.

For standard cases of expropriation under Legislative Decree 20 (1983), there is not an explicit provision stipulating compensation is that due to lessees for expropriated properties encumbered by a lease. In international case studies, this issue of lessee compensation in a case of state expropriation should be included in the provisions of the rental contract. However, when such provisions are absent, the prevailing court determination has been that compensation is only paid to lessees for (1) moving damages/costs and (2) the difference between the market value of the remainder of the lease at the time of expropriation and the contract value of the remainder of the lease (when the contract value is less than the market value, or in other words, when the lessee will need to pay more for a new lease than (s)he would have under the agreed rate of the rental contract). This policy is consistent with Law 20 (2015) and the Syrian Civil Code which require that compensation be paid to the lessee when the lessor requests and early termination of the lease.[139] It logically follows from this provision that an expropriating body which effectively causes the early termination of a lease should pay appropriate compensation to a lessee. However, further provisions need to be made in Syrian expropriation legislation to clarify the modalities of this type of compensation.

Secondary Occupation and Property Restitution

While the Syrian Civil Code and other foundational pieces of Syrian legislation provide a comprehensive framework regulating entitlements to both original owners and unauthorized possessors of property in cases of appropriative secondary occupation, there is an absence of legislation responding to the unique phenomenon of secondary occupation during Syria's decade-long conflict. Accordingly, the present legal framework does not meet the current and future needs of the millions of displaced Syrians who will

139 Syrian Civil Code, Article 572; Law 20 (2015), Article 12(G, H).

attempt to return to their homes in the coming years and require government-sanctioned restitution of property rights. A jointly administrative and judicial mechanism to exclusively hear and resolve claims for property restitution is needed considering the scale of displacement that has taken place over the course of the conflict. Additionally, the needs of secondary occupants and unauthorized possessors also require specialized legal consideration outside of the existing legal framework on possession and squatting. As a great deal of secondary occupants have taken possession of property as a result of their own forced displacement and loss of HLP rights during the conflict. Rather than imposing punitive measures or simply evicting such occupants from the property, restitution structures should be established with an entitlement framework that provides alternative housing or rental compensation for evicted secondary occupants (who have occupied property for humanitarian reasons) until they are able to return to their own home.

Damage and Destruction of HLP

Compensatory measures for the damage and destruction of property in Syrian law have been limited to exemptions from reconstruction permit fees and other financial fees and local costs related to reconstruction. However, the law providing the exemption on reconstruction permit fees has not been in force since 2018, and hence requires renewal. More broadly, however, Syrian law lacks a proper compensation scheme for those whose property has been damaged or destroyed over the course of the conflict. A property restitution framework which includes a mechanism for providing compensation for the damage or destruction of HLP to support claimants in reconstructing their property is needed.
Land-Based Adjudication

A number of pieces of Syrian legislation related to HLP require unregistered rightsholders to apply to claim their property and rights thereto. Some of these laws also include safeguard provisions which ensure that persons who miss the property claiming and appeals deadlines have either a later opportunity to reclaim their rights or receive compensation. The period given to claim compensation for delayed but successful property claims varies according to the nature of the HLP procedure the law deals with. Law 33 (2017) on the reconstruction of cadastral records provides claimants with a 5-year delay to reclaim rights and a 15-year period to claim compensation. Law 3 (2018) on the removal and sale of debris provides late claimants with one year to claim personal belongings deemed valuable by the authorities responsible for removing debris, and an indefinite period to claim compensation for the loss of their debris. Law 33 (2008) on regularizing informal settlements gives claimants two years to receive compensation for the forfeiture of their rights. However, a number of key recent HLP laws which prescribe rights claiming procedures fail to explicitly include a safeguard which allows for late claimants to receive compensation. While Law 23 (2015) and Law 10 (2018) do provide various opportunities for appeals and challenges during the land readjustment process, they fail to stipulate a period for claiming compensation beyond the land readjustment process. This omission does not exclude late claimants from bringing a lawsuit before the civil courts to obtain compensation, however, the failure to include a provision guaranteeing compensation in these laws makes it more difficult for both the courts to award and claimants to receive compensation in such circumstances.

Confiscation

As already described, Syrian laws which allow for the confiscation of HLP assets on the basis of charges related to acts of terrorism or avoidance of military service pose significant threats to the integrity of individual HLP rights. The breadth of the definition of acts of terrorism and the blanket confiscation of personal assets (as opposed to only the property which was used for or the fruits of terrorist acts) provide the government with excessive latitude to deprive persons of their property without entitlement to compensation or judicial remedy.

06 Chapter 4: Recovery Of Lost And Damaged Cadastral Documentation

6.1. Introduction

Over the course of the conflict, State-held property records in numerous parts of Syria have been subject to damage or destruction. The absence of cadastral and other land records is one of the most severe causes of tenure insecurity for Syrians, for both those displaced and those remaining in place. Damage to cadastral and land registration records amplifies the already present problem of the fragmentation of land administration in Syria across multiple record-holding institutional entities.

The General Directorate of Cadastral Affairs (GDCA) holds the permanent land registry and cadastral records, including, inter alia, census and delimitation minutes, cadastral maps, ownership indices, and real estate journals. The cadastral system has been in place since the French Mandate period, which established the Land Register under Resolution 188 (1926). Surveying and delimitation operations took place from then until the establishment of the GDCA in 1947, which created a centralized entity responsible for land registration and administration. The GDCA maintains its headquarters in Damascus, with a local governorate office in the capital of each governorate holding the property records within its jurisdiction. Copies of such records are, theoretically at least, held by the central GDCA office in Damascus. However, the complex, time consuming process of updating the numerous types of records held for one property by the GDCA combined with rapid urban growth from the late 1960s led to the formal land registration system becoming unable to meet demand for new registrations and official property transactions. Legally recognized Temporary Land Registries were established by Law 14 (1974) to meet the need for urban land development and rapid land registration. Other legal entities also became avenues for registering tenure rights: power of attorney sale documents certified before the Public Notary, court orders recognizing property rights, financial statements and property tax records kept by the Ministry of Finance, documents from the registries of Public Housing Cooperatives, and legal determination of heirs made by the Ministry of Justice. While these recognized means of registering property provided many avenues to establish tenure security, they also resulted in a decentralized land administration system that may undermine tenure security when property records are damaged and destroyed due to national crises such as conflict or natural disaster. In such a situation, as seen in Syria, many rightsholders may remain unable to exercise their HLP rights due the loss and/or destruction of their land records which very likely may not have been fully registered in the "official" land registry in the first place.

Especially with consideration to the need for property restitution procedures to accommodate the return of millions of displaced persons, the challenge in Syria is to ensure that the laws and policies addressing the reconstitution of land records and restitution of property allow for all tenure rights to be recognized and all rightsholders to be provided with the necessary documentation to be restored their security of tenure. This, however, must be balanced with sufficient safeguards ensuring due diligence and integrity in the reconstitution process.

6.2. International Standards On Cadastral Reconstitution And Property Restitution

The right to legal tenure security is given in several international human rights instruments, most notably, the International Covenant on Social and Economic Rights (ICSER). This right infers the obligation of States to maintain property records and land information systems which can be relied upon to support housing, land and property rights. Though customary HLP rights should be respected

and oftentimes can provide strong security of tenure at least at the local level, States must ensure that all persons are free from the threat of eviction or arbitrary interference with their property or housing by guaranteeing that all HLP rights have the opportunity to be registered and consequently recognized by the powers that be.

Deserving of further discussion, however, are the provisions made regarding housing, land and property records and documentation in the Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles). Recognizing that cadastral records and land information systems are often damaged if not entirely collapsed following conflict, and also recognizing the need for such documentation to establish security of tenure for returnees, the Principles explicitly prescribe that "States should establish or re-establish national multipurpose cadastral and other appropriate systems for the registration of housing, land and property rights as an integral component of any restitution programme, respecting the rights of refugees and displaced persons when doing so" (Principle 15.1).

The Principles go on to say that States should ensure that any judicial, quasi-judicial, administrative or customary pronouncement regarding the rightful ownership of, or rights to, housing, land and/or property is accompanied by measures to ensure registration or demarcation of that HLP to ensure legal security of tenure. In sum, property restitution procedures should be integrated into, if not proceeded by, cadastral reconstruction measures to ensure that persons who enjoy the restitution of their property have the official documentation needed to support lasting legal security of tenure.

Other international best practices for cadastral or land information system reconstruction as given in the Pinheiro Principles include the following: (1) the re-established registration systems should recognize the rights of possession of traditional and indigenous communities to collective lands; (2) States and responsible authorities should establish procedures for copying records including in digital format, transferring them securely and recognizing the authenticity of said copies; (3) States should provide copies of any documentary evidence in their possession to a restitution claimant at their request free of charge or for a minimal fee; (4) States may adopt the conclusive presumption that persons fleeing their home during a given period marked by violence or disaster have done so for reasons related to violence or disaster and are therefore entitled to housing, land and property restitution; and (5) States should not recognize as valid any HLP transaction made under duress or which was otherwise coerced or forced, either directly or indirectly, or which was carried out contrary to international human rights standards.

6.3. Syrian Legal Framework For The Recovery Of Lost And Damaged Cadastral Documentation

The widespread damage, destruction or loss of cadastral records has undermined entire land information systems during periods of conflict, necessitating legal mechanisms and policies to reconstruct such systems to improve tenure security and facilitate efficient and equitable property restitution processes.

Accordingly, in response to the damage of cadastral records during the conflict, the Government of Syria passed two relevant laws: Legislative Decree 12 (2016) on giving digital copies of real property records legal status to be used as replacements for damaged records, and Law 33 (2017) on the reconstitution of lost or damaged cadastral documents.

6.3.1. Legislative Decree No. 12 of 2016 on Granting Legal Status to the Digital Version of the Real Estate Gazette

Legislative Decree 12 (2016) aligns with the standards set by the Pinheiro Principles to "establish procedures for copying records (including in digital format)…and recognizing the authenticity of said copies" (Principle 15.4). Indeed, Legislative Decree 12 illustrates a good practice of allowing for digital

copies to stand in the place of actual property records when necessary. Not only will this aid the process of reconstructing the land cadastre, but it will also eventually support the restitution of property to displaced persons. Law 33 (2017) also demonstrates a good practice given in the Pinheiro Principles, namely that national multipurpose cadastral systems for the registration of HLP should precede property restitution procedures to ensure property restitution grants rightsholders secure, legally documented tenure rights. Law 33 (2017) will be more closely examined due to its primary role in dictating the reconstitution process.

6.3.2. Law No. 33 of 2017 on the Reconstitution of Lost or Partly or Fully Damaged Cadastral Documents

Law 33 of 2017 regulates the recovery of lost, or partially or completely damaged cadastral documents that were maintained and kept by the General Directorate of Cadastral Affairs before the crisis. Properties registered or otherwise recognized through different arrangements (i.e., municipal temporary registry, court orders, public notary attestations, ministry of finance, cooperative housing registry) and transfers that took place outside the official land registry during the crisis (or before) are out of the scope of this law and can be addressed only by the civil court system. Law 33 describes a recovery process that foresees either an administrative procedure when there are sufficient surviving cadastral documents cross-referencing the lost documents in a property journal, or a judicial procedure, for when a cadastral judge is needed to assess the remaining cadastral records and evidentiary documents to render reconstitution decisions. The initiation of the recovery process and the decision on the quality of the evidentiary documents for each Property Journal are based on the judgment of a commission established by the Directorate of Cadastral Affairs. This commission either finds sufficient documents for administrative reconstitution or it will compile supporting documents for judicial reconstitution. Administrative reconstitution decisions are published in an official gazette and are appealable 15 days from the publication of the decisions. If sufficient documents for administrative reconstitution are not found by the Commission, they pass on supporting documents to cadastral judges for a judicial reconstitution determination. The criteria and process for the judge's determination is not fully specified in the law. The cadastral judge then publishes a preliminary judicial reconstitution decision in a public gazette. After this preparatory judicial reconstitution decision is made and published, property title claimants are given a 6-month period to submit proofs and claim their rights, or object to the preparatory judicial decision. The judge must resolve objections within two (2) months from the end of the 6-month objection period. If a claimant fails to object in this period, they have five (5) years to claim their rights before a civil court and 15 years to claim compensation, both dated from the moment the administrative or judicial decisions become conclusive.

With respect to evidentiary documents, the executive regulations of Law 33 (2017) list the cadastral documents that enjoy an absolute power of proof. These include the land registry, daily registry of the head of the cadastral documentation office, demarcation and census maps, survey maps, maps drawn from planes and aerial imagery, cadastral contracts and documents, decisions of the cadastral judge, the cadastral registry's index of owners, book of registration applications, daily register of objections to the Director of Cadastral Affairs, the book of contract notifications, the book of applications related to technical procedures necessitated by contracts, the serial book of correspondences and the book of archive inventory. Alternative documents may be used in the judicial reconstruction of cadastral records as supporting evidence; however, these documents are not specified.

Requirements for public review in Law 33 hold that administrative reconstitution decisions be published in the official gazette and appealable within the first 15 days of publication. Preparatory judicial decisions are published in the official gazette and two local newspapers and subject to a public objection period of 6 months. Following the objection period, final judicial reconstitution decisions are announced in the cadastral court hall for 15 days, published in the official gazette and in one official newspaper. The executive regulations to the law also specify that the Directorate General shall launch a website dedicated to the reconstitution of cadastral documents with the aim of notifying the public of the reconstitution procedures and to publish the administrative and judicial reconstruction decisions.

Appeal periods vary in Law 33 according to the reconstitution process implemented. Claimants

can appeal administrative reconstitution decisions within fifteen (15) days of the publishing date of the decision. Following a 6-month public review and objection period, judicial decisions are also appealable before the civil appeal court within fifteen (15) days of the issuance of the reconstitution decision, however, it specifies that an appeal does not stop the process of the registration of cadastral records. The reliance on the judicial resolution of appeals, both before cadastral judges (in the case of appealing administrative reconstitution decisions) and the civil court (in the case of appealing judicial reconstitution decisions) brings concerns regarding the implementation capacity of the courts due to the large backlog of cases in the civil court system and the loss of human resources in the cadastral courts over the course of the conflict. It is recommended that this appeal period is extended at least to thirty (30) days as has been the case in other international contexts, and that provisions are made to specify the grounds upon which a claimant may file an appeal.

Concerning compensation measures, the only provision Law 33 makes regarding the compensation of property states that property claimants have a 15-year period from the publication of the reconstitution decision to claim material compensations. This 15-year period includes the initial five (5) year period in which claimants may reclaim their right to the property. The law does not specify how these material compensations are to be determined.

In sum, Law 33 offers a two-pronged process to recover lost and damaged cadastral documents. This framework is reflective of common practice for adjudicating contested land rights claims in many countries. There are significant questions regarding its application in a crisis setting, where capacity and resources may be quickly overwhelmed, and the volume of cases raises the political profile of the process. Notably, the law's reliance on a judicial process of cadastral reconstitution may very well be problematic considering the limited capacity of cadastral judges in Syria and number of persons whose records have been affected by conflict. Additionally, the law lacks specificity regarding how cadastral judges make their preparatory reconstitution decisions. Such specification could add an additional safeguard to ensure the integrity of the decision-rendering process. Its effectiveness could be improved if the following issues were addressed: expanding the list of evidentiary documents admitted, extending the timeline to object to judicial reconstitution decisions and provide evidence to support claims, incorporating larger community involvement in the recovery process and more effective outreach means, such as the use of social media and online platforms.

6.4. Comparative Analysis Of International Case Studies

Bosnia, Kosovo, Albania and Colombia are all nations which took measures to address the destruction of land records or collapse of a land information system over the course their respective conflicts. Depending on the prevailing circumstances of the post-conflict setting, these measures had different relationships with the property restitution process, as one tends to feed into the other. Some relied on the restitution process to supplement for the loss of cadastral records, while others passed laws to re-establish a national land registration system which supported the property restitution process. Syria's Law 33 (2017) falls into the latter group, with cadastral reconstruction measures preceding formal restitution procedures. However, it is useful to analyse the various legal mechanisms used to reconstruct land records and land information systems following conflict, as elements of these methods may be applied to improve the procedures already put in place in Syria. The laws of the case studies referred to henceforth are given as follows:

1. Bosnia's Law on Land Registry (2002) was passed to clarify legally recognized tenure rights and standardize the cadastre and land registration application following property restitution procedures put in place by the Commission for Real Property Claims of Displaced People (CRPC) Book of Regulations (1999).
2. Kosovo's UNMIK Regulations (1999-2000) establishing the Housing and Property Claims Commission in the immediate conflict aftermath. Kosovo's Law on Cadastre (2003) which aims to re-establish a cadastral system for the country four years after the end of the conflict

and contains section 29 regulating cadastral reconstruction.

3. Albania's Law on the Registration of Immovable Property (1994) creates a cadastral/land registry system in the wake of the privatization of property that had been held and collectivized by the state during the Soviet era. The Law on Restitution and Compensation of Property (2004) deals with the restitution of property to individuals whose property had been expropriated by the state and given to informal occupants after mass informal occupancy took place following the privatization of property.
4. Colombia's Law 1148 of 2011: Victim's and Land Restitution Law, which establishes a process of land restitution primarily to members of poor, rural Colombian communities, which often held land informally. The law was established to restore property to individuals and communities who had been subject to violence under paramilitary groups or displaced due to the threat of violence.

Firstly, in the reconstruction land information systems following conflict, consideration should be given to the relationship between cadastral reconstruction and property restitution. Both Kosovo and Albania created separate laws and institutions for cadastral/land registry reconstitution and property restitution. In the case of Kosovo, mass internal migration led to the prioritizing of property restitution before the formal reconstruction of the cadastre. In Albania, the establishment of the Registry of Immovable Property preceded the Law on Restitution and Compensation of Immovable Property. Accordingly, the immediacy of housing needs in post-conflict contexts plays a large role in determining whether and how to prioritize property restitution and cadastral reconstitution. Syria's law on cadastral reconstitution differs from the aforementioned laws in that its provisions on cadastral reconstruction are a law unto itself, while in the cases of Kosovo and Albania, provisions on cadastral reconstruction constitute a section of a law re-establishing the national cadastre (or registry of immovable property). The nature of Syria's law on cadastral reconstitution being decontextualized from a larger reform or reestablishment of the land registration process would seem to indicate that law's limited scope is problematic, since many HLP rightsholders are effectively left out of the reconstruction process due to the incomplete, out-of-date nature of the land registry prior to the conflict.

Laws on property restitution, such as those of Colombia and Bosnia, refer to the cooperation of officials from the relevant cadastral/property agency to assist in determining property restitution claims, indicating that a complete cadastre and existing property registry were useful if not necessary for effective property restitution. Since many Syrians were displaced due to the conflict in the areas where cadastral documents were damaged or destroyed, the process of reconstituting the cadastre will support if not implicitly result in the restitution of property titles. While it is an internationally recognized good practice for cadastral reconstruction to support restitution procedures, the primary problem with reconstructing cadastral records prior to property restitution is that displaced persons will have limited ability to engage in the reconstruction process while they remain displaced. Accordingly, post-conflict legal frameworks such as that of Syria which prioritize cadastral reconstruction over property restitution should make clear provisions to ensure the engagement of displaced persons in the cadastral reconstruction process by ensuring timeframes for making property claims are sufficiently long to accommodate displaced persons (and their decision to assign power of attorney to representatives to act on their behalf) and public information campaigns and reconstitution decisions subject to public review are sufficiently disseminated across local, national and international media platforms.

Consideration should also be given to the qualifying evidentiary documents used for the reconstruction of property records. The laws on property restitution typically specify the evidentiary documents needed for restitution in their claim application rather than in the law itself, as is the case in Albania. These applications allow for supplementary evidence, including endorsed or notarized statements from community members in the case that the claimants do not have a title of ownership. Albania's Law on the Registration of Immovable Property also allows from flexible proofs of ownership in registering first time rights, stating that, "If a person doesn't have such proof, they will make an application to the Registrar that contains a notarized, personal declaration of ownership, a survey plan of immovable property, notarized declarations from neighbours and other persons as to the correctness of the boundaries." In other cases, such as Colombia, documents that prove property title are mentioned, but a provision is made to allow for alternative evidence when those documents are not available. Syria's Law 33 is most similar to Colombia's in this regard, since it specifies

a detailed list of documents that demonstrate absolute proof for administrative reconstitution and provides a path for judicial reconstruction using unspecified alternative evidence. Kosovo's provisions on cadastral reconstruction favour resurveying over documentary evidence, and its regulations on property restitution allow for varied documentary evidence of property ownership due to the immediate post-conflict nature of the restitution. In sum, it is recognized as good practice for a wide range of evidentiary proofs of HLP rights to be accepted for consideration in cadastral reconstitution, with additional verification measures performed by the administrative authority as needed. Title deeds should not be required for claiming HLP righting as part of the cadastral reconstitution process since these have frequently been lost over the course of displacement.

As a wide range of evidences should be accepted for claiming HLP rights in cadastral reconstruction procedures, tenure rights recognized by such procedures should likewise be broad and inclusive. Bosnian law recognizes fractional share and joint ownership, mortgages, leasehold rights easements, usufruct rights and other rights of use in property ownership. In Colombia, informal tenure rights were included in the property restitution process, allowing for persons who occupied and exerted economic exploitation of land prior to their displacement to obtain title to the land as a part of property restitution. In theory, Syria's Law 33 demonstrates good practice in including non-ownership tenure rights in cadastral reconstruction, since all rights registered in the permanent land registry of the cadastre prior to their destruction are eligible to be included in reconstitution procedures. However, the law fails to consider tenure rights falling outside of the permanent cadastre records, which happens to affect a majority of Syrian rightsholders. Unlike property restitution procedures in Colombia, cadastral reconstruction in Syria does not take informal HLP rights into account.

A variety of methodologies have been applied to procedures for the reconstruction of land information systems and associated property restitution procedures. The laws on cadastral reconstitution, specifically in Kosovo and Syria, establish commissions for reconstitution with similar compositions, though the Kosovo law includes local officials (i.e., cadastral zone representatives where the reconstruction is performed) and an engineer of geodesy. The composition of Kosovo's commission indicates its greater emphasis on field surveying to ensure the accuracy of real estate boundaries in cadastral reconstruction, while the Syrian commission's composition of directors of relevant agencies indicates its more administrative process of cadastral reconstitution focused on the land registry. Section 29 of Kosovo's Law on Cadastre (2003) outlines a process for cadastral reconstruction in which the Minister appoints a Commission responsible for the execution of Plan for Reconstruction of the Cadastre which then is to "organize a public awareness campaign", "collect data from the field on the actual shape of cadastral units" and "collect information on unregistered transactions as well as information on other property changes." Based on the collected information, the Commission prepares a cadastral map with the reconstructed cadastral units and list of persons included in the process of reconstruction of property rights for the owners of cadastral units. The data used to reconstruct the map is displayed in a public edition lasting sixty (60) days and all inhabitants of the cadastral zone are invited to participate. All contests and appeals of the cadastral decisions are then handled through an appeals process.

In more immediate post-conflict settings, such as those in Kosovo and Iraq, commissions such as the Housing and Property Claims Commission and the Commission for the Resolution of Real Property Disputes, were created separate from any government agency or ministry to efficiently handle a mass influx of restitution claimants while having authoritative jurisdiction on the issue. Colombia's Victims and Land Restitution Unit as well as Bosnia's Commission on Real Property Claims of Displaced Persons (CRPC) are unique in that they take an active role in supporting the claimant in investigating and producing documents and proofs to effectively make their claim before restitution judges. Albania does not create a commission or committee, but rather re-establishes the cadastral agency to handle restitution, indicating the less urgent and more institutionalized approach it took to restitution.

Kosovo and Syria's methodologies are most similar in that they both contain administrative and judicial (or quasi-judicial) elements. Colombia and Iraq's property restitution processes are primarily judicial. Albania's process is almost exclusively administrative, performed through the relevant government agencies. It has been observed in international experience that in post-conflict contexts where a large quantity of property claims

is expected, restitution methodologies relying on judicial processes have been extremely inefficient due to the lacking judicial capacity of governments immediately following conflict. For the efficient restitution process, an administrative methodology is preferred in post-conflict settings. This would also imply that an administrative method of claimant-initiated cadastral reconstruction, where active fact-finding and verification procedures are done in part by the administrative body overseeing the reconstruction process, would a better practice to put in place in Syria than the current, quasi-judicial approach which places the burden of proof entirely upon claimants.

Finally, provisions regarding the public review of cadastral and property registration decisions should be considered. The cadastral reconstitution laws of Kosovo, Albania and Syria all contain provisions regarding the public review of cadastral or property registry decisions. Syria's Law 33 provides a 15-day period following administrative reconstitution and a 6-month objection period following judicial reconstitution followed by another 15-day appeal period when needed. Albania's law provides a 90-day period and Kosovo's a 60-day period. The reconstitution laws in Kosovo and Syria require decisions to be published in local newspapers in addition to a public edition or gazette. An extended period of public review before finalizing the reconstitution of a cadastral zone can provide an opportunity for community verification of property boundaries and claims. It is worth noting that while Syria's Law 33 provides the most generous review period of the three (for judicially reconstituted records, that is), the law is being implemented in an active, albeit waning, conflict period and deals more directly with property title restitution, in practice, than the cadastral laws of Kosovo and Albania. This means that a generous public review period is even more essential in the Syrian context, since many refugees and IDP's will take months if not years to return and easily miss the period of public review. Furthermore, in this context, provisions for the dissemination of cadastral reconstitution decisions, including maps of redrawn property boundaries, should be made beyond the immediate environment to displaced community members.

6.5. Conclusions And Key Findings

At what was considered the height of Syria's conflict, the Syrian government took measures to maintain the integrity of official State land and property records kept by the General Directorate of Cadastral Affairs and foresaw a path to reconstitute the increasing number of cadastral documents which had been lost, damaged or destroyed. Legislative Decree 11 of 2016 suspended the registration of real property rights in GDCA offices in areas outside the control of the government that were closed for security purposes. Legislative Decree 12 (2016) gave digital copies of GDCA records authoritative status to be used as the basis for cadastral reconstitution. Soon after, Law 33 (2017) and its implementing instructions were enacted, stipulating the procedures for reconstituting damaged and destroyed land and property documents. Evidently these laws were intended to mitigate the forces and circumstances which undermined State control of a social institution critical to the functioning of any society: the land registry. Each of the laws established a means to protect of one of Syria's key state institutions, the GDCA, and bolster the authoritativeness of the documents it issued and held. In examining how these pieces of legislation apply in both the present deescalated conflict period as well as in a formally post-conflict period, it should be recognized that these legal tools were developed to consolidate State control in a period of tremendous instability, not necessarily to anticipate a process for property restitution amidst transitional justice, as has been the case elsewhere. In any case, cadastral reconstitution has an inevitable impact on security of tenure and property restitution, and for this reason the legislation has been closely examined in respect to international standards and case studies on those subject matters. What now follows is a summary of findings based on said analysis.

Acknowledging the Limited Scope of Application

Law 33 (2017) aims to reconstitute cadastral documents held by the General Directorate of Cadastral Affairs. While it cannot necessarily be faulted for failing to have a scope of application beyond its intended aims (that is, a scope that is not limited to GDCA records but also deals with property documents kept with other public entities), it should be noted that Law 33 does not meet the need for broader reconstitution efforts and cadastral

reform. If a systematized property restitution effort is to eventually be made, either the scope of Law 33 will need to be widened or additional pieces of legislation will need to be passed to reconstitute legally valid property documents not held by the GDCA which acted as primary proofs of ownership or other rights, such as municipal temporary land registry records. Moreover, measures to reform the land registry such that property records in alternative registries and registration claims relying on court records, notarized power of attorney documentation are integrated into the GDCA registry should be prioritized.

Addressing the Risk of Excluding Displaced Persons
Since cadastral reconstruction has been prioritized over property restitution in Syria, many Syrian rightsholders will remain displaced while reconstitution procedures take place. Accordingly, Law 33 should make clear provisions to ensure the engagement of displaced persons in the cadastral reconstruction process by ensuring that timeframes for making property claims are sufficiently long and that public information campaigns and reconstitution decisions subject to public review are sufficiently disseminated across local, national and international media. A generous public review period is essential in the Syrian context, since many refugees and IDP's will take months if not years to return and would easily miss the objection period for judicial reconstitution decisions if such efforts are not made.

Considering this, the 6-month objection/claim period to preparatory judicial reconstitution decisions would benefit from being extended to one year. This would ensure that displaced claimants have sufficient time to become informed, gather evidence to support their claim, legally assign a power of attorney recipient, and file the claim/objection. The 5- and 15- year civil court appeal periods which are stipulated to follow this in Law 33 are consistent with Syrian Civil Code provisions on acquisitive prescription, which state that a possessor in good faith based on valid reason may obtain title after five years and a possessor in bad faith may obtain title after 15 years of uninterrupted possession. These time periods seem sufficient to accommodate delayed returns of displaced persons with property rights to claim.

Law 33's Executive Regulations state that the Directorate General shall launch a website dedicated to the reconstitution of cadastral documents with the aim of notifying the public of the reconstitution procedures and to publish the administrative and judicial reconstruction decisions. This is a good practice for extending public awareness to rightsholders who have been forced to leave their homes over the course of the conflict. Provisions for the dissemination of announcements regarding cadastral reconstitution procedures and judicial reconstruction decisions via social media could further support and expand the scope of awareness campaigns. Additionally, provisions which require that such announcements and decisions be published in two local newspapers should be amended to require that such announcements must be (1) published in at least one local and one national newspaper and (2) that they must be published both in print and online.

Expanding Evidentiary Documents and Shifting Burden of Proof
International standards and best practices collected from case study analysis indicate that both cadastral reconstitution and property restitution procedures benefit from accepting a broad range of alternative and supplementary evidence to support claims decision making. These will include evidences that may not be authoritative enough to provide the sole basis of proving a claim, but when compiled together can present a strong, if not definitive case for such a claim. These proofs could include, inter alia, endorsed or notarized declarations from neighbours and community members as to the correctness of the claim/or boundaries claimed, a notarized personal declaration of ownership or other right, power of attorney documents authorizing the claimant's property acquisition, tax and financial statements, utility bills, photographs, original copies of property transaction contracts, and building code violation notices. Law 33 and its executive instructions include a list of cadastral evidences used in administrative reconstitution that establish undisputed rights to a property, which is a good practice. However, a list of accepted alternative supplementary evidences should also be made in the executive regulations to broaden claimants' awareness of the documents they can and should include when they bring forward their claim following the cadastral judge's preparatory decision.

International case studies have also demonstrated the benefits of shifting the burden of proof from claimants to the judicial entity verifying claims and rendering decisions. This would require that the administrative entity responsible for the reconstitution

process — in the case of Syria, the reconstitution committee stipulated in Law 33 — take an active role in supporting the claimant in investigating and producing documents and proofs to effectively make their claim before restitution judges. However, in Syria, administrative and/or judicial capacity does not appear to be sufficient to take such an active role in all claims which may be presented. However, if possible, it would be recommended that this shift in the burden proof could take place in the Syrian reconstitution process when a claimant objects to the cadastral judge's preparatory decision. In such a case, the reconstitution committee should initiate investigative verification measures which would need to meet a certain standard of proof to reject a claimant's objection. This standard could require demonstration that the claimant's objection cannot be verified or is baseless.

Balancing Administrative and Judicial Methods of Reconstitution

International experience has demonstrated that predominantly judicial methods of cadastral reconstitution and property restitution place undue stress upon the judicial system following conflict and severely hamper the efficiency of the entire reconstitution or restitution process. This is a high risk in Syria, where at least 33,000 cadastral records have been lost, destroyed or damaged, and only 34 cadastral judges remained active as of 2016.

Law 33's stipulation of a joint administrative and judicial approach mitigates this slightly by designating the administrative path as the primary means reconstitution, with recourse to judicial reconstitution occurring only when necessary on the basis of incomplete supporting evidence. Furthermore, the law demonstrates a good practice in mandating the reconstitution committee a substantial role in the reconstitution process. This role includes identifying the damaged documents to be reconstituted, investigating and gathering cadastral documents that support reconstitution, classifying documents as sufficient for administrative or judicial reconstitution, and rendering decisions on cadastral documents which were determined to have evidence sufficient for administrative reconstitution.

However, in certain cadastral districts almost all cadastral records were lost, resulting an absence of authoritative evidences which would be used for administrative reconstitution. In this situation, all cadastral records would be required to be reconstituted by judicial means — that is, by cadastral judges and with much longer timeframes for objections and appeals. The heavy caseload experience by cadastral judges in such a situation would risk incentivizing rushed decisions by cadastral judges based solely on supporting cadastral documents provided from the reconstitution committee (as opposed to the alternative supplementary evidence discussed above). This could result in erroneous decisions, thus drawing out the reconstitution process by incentivizing claimant objections and appeals.

It is recommended that, rather than immediately resorting to judicial means after the reconstitution committee determines that there is insufficient authoritative cadastral evidence to reconstitute records administratively, claimants for the relevant real estates should be invited to submit an application with alternative supplementary evidence. The reconstitution committee would receive and verify the evidences attached to the applications. The file of cadastral documents and verified claimant-submitted evidences and applications would then be passed on to cadastral judges to make a determination. This would facilitate a broader range of evidences in the reconstitution process while ensuring verification safeguards, provide judges with greater evidentiary resources to make informed decisions, better integrate community participation into the decision-making process, and reduce the amount of objection and appeals judges would face upon their determinations.

07 Chapter 5: Environmental And Social Impact Assessments (ESIA)

Since the 1970s,[140] environmental impact assessment (EIA) laws and policies have been adopted globally in developed, emerging, and developing countries alike. The legal framework, scope, and quality of these laws vary widely; however, they all seek to advance the goal of sustainable environmental use and urban development in one way or another. More specifically, EIA's are used as a policy tool for reducing the negative environmental consequences of development activities and for promoting sustainable development.[141] Though less commonly formalized in law, environmental and social impact assessments (ESIA) offer an even more comprehensive mechanism for ensuring that urban development projects do not cause direct or proximate harm to the surrounding environment or communities.

EIA laws, and ESIA policies in particular, can also provide critical safeguards to housing, land, and property rights and promote due diligence in post-conflict urban redevelopment. Syria's post-conflict environment is characterized by weak security of tenure, widespread structural damage and environmental degradation. In such a context, EIA and ESIA requirements act as a prerequisite to implementing urban redevelopment and reconstruction projects which may otherwise exacerbate vulnerabilities related to the environment, such as agricultural land and water resources, and HLP rights, such as displacement and secondary occupation.

7.1. International Standards On Environmental Impact Assessments

While a number of international instruments regulating the use, management and protection of the environment incorporate provisions on social and environmental impact assessments, the OECD Recommendations on the Assessment of Projects with Significant Impact on the Environment (1979) provides the most clear and comprehensive set of model standards on the matter. The primary recommendations which it makes are as follows:

- Use environmental assessment as part of the planning, development and decision-making process for projects, plans and programmes having potentially significant impact on the environment.
- Establish clear scope and procedures for assessment of the environmental impacts and for determination of relevant mitigation measures as inputs to the planning and decision-making process in order to restore and enhance environmental quality.
- Incorporate analysis of reasonable alternatives in the assessment of environmental impacts of projects, plans and programmes with a view to arriving at an informed decision that includes best environmental considerations.
- Include practical and appropriate measures for consulting public authorities having functions and responsibilities relevant to the environmental impacts of projects, plans and programmes.
- Implement, where appropriate, practical measures for informing the public and for participation by those who may be affected at suitable stages of decision-making on projects, plans and programmes.
- Ensure that there are means of putting into effect measures derived from the environmental assessment of projects, plans and programmes.
- Implement appropriate practical measures for monitoring the effects on the environment of projects, plans and programmes that have been subject to environmental assessment.
- Institute, as appropriate, environmental

140 Most notably, since the U.S. National Environmental Policy Act (NEPA) was signed into law on January 1, 1970 (42 U.S.C. § 4321-4370a).
141 World Bank, 'Environmental Impact Assessment Systems in Europe and Central Asia Countries' (2002).

assessment procedures for projects, plans and programmes that might have significant transboundary impacts.

The Equator Principles likewise provide model guidelines for environmental and social impact assessments. The Principles are used as "a financial industry benchmark for determining, assessing and managing environmental and social risk in projects."[142] The Financial Institutions of the Equator Principles (EPFI) are obliged to only provide project finance and project-related corporate loans to projects that meet the relevant requirements of its ten Principles:

- Principle 1: Review and Categorization
- Principle 2: Environmental and Social Assessment
- Principle 3: Applicable Environmental and Social Standards
- Principle 4: Environmental and Social Management
- Principle 5: Stakeholder Engagement
- Principle 6: Grievance Mechanism
- Principle 7: Independent Review
- Principle 8: Covenants
- Principle 9: Independent Monitoring and Reporting
- Principle 10: Reporting and Transparency

Principle 2 requires EPFI clients to conduct an ESIA which "propose[s] measures to minimize, mitigate, and where residual impacts remain, to compensate/offset/remedy for risks and impacts to Workers, Affected Communities and the environment, in a manner relevant and appropriate to the nature and scale of the proposed Project." Principle 3 applies environmental and social standards according to the level of "environmental and social governance, legislation systems and institutional capacity designed to protect their people and the environment." Projects in non-designated countries must comply with IFC Performance Standards on Environmental and Social Sustainability and World Bank Group Environmental, Health and Safety Guidelines. Projects in designated countries must comply with relevant host country laws, regulations and permits that pertain to environmental and social issues. Furthermore, the Equator Principles includes in its list of possible impacts to be documented in an ESIA human rights violations related to HLP such as "land acquisition and involuntary resettlement", "impacts to Indigenous Peoples…including impacts to lands and natural resources subject to traditional ownership or under customary use", and, more broadly, "impacts on Affected Communities and disadvantaged or vulnerable groups" and "protection of cultural property and heritage." As Syrian impact assessment law (to be further analyzed below) only covers environmental impacts and lacks provisions for assessing social impacts such as those listed above, it is recommended that all private, NGO, or UN entities financing or otherwise contributing to redevelopment in Syria comply with IFC Performance Standards on Environmental and Social Sustainability, the World Bank Group Environmental, Health and Safety Guidelines,[143] and the European Bank for Reconstruction and Development (ERBD) ESIA Guidelines.

The ERBD ESIA Guidelines provide that greenfield projects, projects involving a major extension, or transformation-conversion projects which receive ERBD funding must comply with the following ESIA framework. This framework is stated to also apply to projects which might "result in significant adverse social impacts to local communities or other project affected parties" or "may involve significant involuntary resettlement or economic displacement."[144]

The ERBD requires such projects to conduct an ESIA including the following:

- **Non-Technical Summary:** a concise summary description of the proposed project; project rationale; the geographic area the project will influence; the existing environment in the area of influence; any significant environmental and social impacts; any significant issues or opportunities; summary of key aspects of the Environmental and Social Action Plan; residual risks; the approach to managing the environmental and social aspects of the project including monitoring activities.
- **Operational Framework:** outlining the policy, legal and administrative context of the ESIA; including the timeframe for and means by which the disclosure of information and public consultation will be undertaken.
- Project Description: Detailed, up-to-date

142 https://equator-principles.com/
143 Specifically, with respect resettlement, the World Bank Group Operation Manual on Involuntary Resettlement (OP 4.12) provide model standards.
144 European Bank for Reconstruction and Development (ERBD), Environmental and Social Policy, Appendix II, no. 31-32 (2019).

description and delineation of the proposed project within its geographic, environmental and socio-economic context including project alternatives.

- **Description of the Existing Environment:** Description of relevant aspects of the natural environment and socio-economic conditions in the project's area of influence. Relevant aspect would include, inter alia: land use and settlement patterns, climatic conditions, water resources (surface and groundwater), vulnerability to climatic change including potential water stress, key flora and fauna, landscape and visual issues, air quality, noise and vibration, social and socio-economic issues (demography, social composition, power relationships and governance issues, conflict and social tension, landownership and tenure, formal/informal economic activities, vulnerable groups, cultural heritage, community health, safety and security), occupational health and safety, labour issues and working conditions.
- **Potential Impacts:** Identification of environmental and social impacts that could be associated with the proposed project and its feasible alternatives, including local impacts, national impacts, transboundary and global impacts, and indirect and cumulative impacts.
- **Characterisation of Impacts and Issues:** Identification and characterisation of positive and negative environmental and social impacts in terms of magnitude, significance, reversibility/potential for mitigation, extent, and duration. Impacts should be explicitly linked to relevant stages of the project cycle: pre-construction phase, construction, operation and maintenance, decommissioning or closure and reinstatement. Social impacts can include the temporary or permanent acquisition of land, property, economic assets, migration into or out of the area, loss of employment or employment creation, social conflict, gender, indigenous peoples, cultural heritage, and involuntary resettlement.
- **Mitigation and Management of Impacts and Issues:** Outline of feasible, cost-effective measures to prevent or minimize environmental and social impacts to acceptable levels and address other environmental and social issues. With regard to social issues, mitigation measures should be developed in relation to policy frameworks, both domestic and international.
- **Residual Impacts and Risks:** Description of key residual impacts and their significance. Social risks are very context-specific and could include factors such as economici changes (e.g., inflation), political changes, unforeseen events (e.g., natural disasters),or lack of people with the necessary skills to implement mitigation measures.
- **Environmental and Social Opportunities for Project Enhancement:** Description of potential local environmental and socio-economic benefits of the project. Examples of social benefits include temporary or permanent job creation, opportunities to improve the housing conditions of people relocated, support to local schools, local supply change engagement and economic enhancement.
- **Action Plans and Management Systems:** Description of integrated and comprehensive management plans, programmes and systems for addressing the environmental and social impacts, issues and opportunities that have been identified through the ESIA process.
- **Analysis of Alternatives:** A systematic comparison of feasible alternatives to the project in terms of location, project technology, and/or design in terms of potential environmental impact.

7.2. Syrian Legislation On Environmental Impact Assessments

As stated, Syrian law only provides environmental impact assessment (EIA), not environmental and social impact assessment (ESIA). Nonetheless, the close link between environmental health and human wellbeing still renders EIA's a valuable tool for protecting both Syria's fragile natural environment and human communities in the post-conflict context. The Syrian EIA framework outlined in the Ministerial Order No. 225 (2008) Environmental Impact Assessment Executive Procedures in the Syrian Arab Republic and Article 4 of Law No. 50 of 2002 (Environmental Protection Law) plays a critical role in addressing environmental, social and economic issues related to urban development.

Strengthening the existing Syrian EIA framework, therefore, would improve its overall effectiveness in safeguarding Syria's war-torn environment and expanding its scope to include social impacts could also better protect the HLP rights of displaced Syrians in particular.

The General Commission for Environmental Affairs/ EIA Directorate issued the Environmental Impact Assessment (EIA) Executive Procedure (EP) on January 29, 2008. According to Annex 1 and Annex 2 of the EIA Executive Procedure, the developer should conduct and present an EIA study to the Ministry of Environmental Affairs according to the following steps:

1. **Screening:** To determine if the full EIA procedure will be applied. If the activity's size is below the threshold values provided in Annex 1 of the EIA Executive Procedure, the decision to carry out an EIA for the proposed project shall be made based on the analysis of the environmental sensitivity of the project area according to the screening criteria provided in Annex 2 of the EIA EP.
2. **Scoping:** The Scoping process is initiated when an EIA is determined to be compulsory. According to Article 5 of the EIA Executive Procedure, the Scoping process will clarify what content is to be included in the Environmental Impact Statement (EIS). The Developer, with assistance of an EIA Expert, must provide information about the activities and the environmental conditions in a proposed Scoping Document, as per the provisions of Annex 3 of the EIA EP.
3. **Preparation of an EIS:** According to Article 7 of the EIA Executive Procedure, the Developer is responsible for the EIS, carried out by an EIA Expert. The preparation cannot be initiated prior to the completion of the Scoping process including the review and submission of the Scoping Document.
4. **Review of EIS:** According to Article 8 of the EIA EP after the preparation of the EIS, the results will be reviewed by the Ministry of State for Environmental Affairs (MSEA) and its directorates in Syrian Governorates.
5. **Conclusion and Decision:** After completion of the assessment process, the Licensing Authority will prepare an Assessment Report, which will form the basis for the decision regarding licensing for the activities in question.
6. **Monitoring:** The EIA process does not end with the licensing of activities. After conclusion of the licensing process with integrated EIA, the activities must be monitored.

7.2.1. Assessment Of Syrian Eia Components

Urban Projects Requiring an EIA

The EIA applies only to new construction projects or alterations to existing construction and the resulting activities.[145] The law also provides a list of projects in Annex 1 that are subjected to the EIA procedures.[146] It does not explicitly state whether it applies to private projects, public projects or both. Also, the EIA does not extend to proposed legislation, programs, or policies.

Screening Requirements and Integration into Project Planning

The EIA law provides for general screening for a project. An EIA shall be performed if the Licensing Authority believes that a project is capable of having significant adverse environmental impacts on the basis of

an overall examination using the criteria listed in Annex 2.[147] Should a project be subjected to an EIA, the developer shall propose a scoping document to the General Commission for Environmental Affairs (GCEA) and its directorates in Syrian Governorates as early as possible in the preparatory stages of the project.[148] The law also requires the GCEA and its directorates in Syrian Governorates to carry out the monitoring procedures during all phases of the project and ensure the developer complies with the EIA and its conditions.[149] It also requires the GCEA to evaluate, every two years or when it is necessary, projects that do not require an EIA but are included in Annex I.[150]

Impact to Decision-Making

The law does not formally require the completion of the EIA before the project commences; however, the

145 Environmental Impact Assessment Executive Procedures in the Syrian Arab Republic, Order 2008, SI 2008/255, art 2(4) [herein after cited as EIAEP Syrian Arab Republic].
146 ibid (n 1) art 3.
147 EIAEP Syrian Arab Republic (n 12) art 4.
148 ibid art 5(1).
149 ibid art 11.
150 ibid art 3(2).

environmental approval will not be issued unless the EIA is completed and approved. The EIA procedures are a step in the licensing process in the project planning phase and before the commencement of on-site implementation procedures. The approval of the EIA by the GCEA and its directorates in Syrian Governorates is considered an 'environmental approval' and does not waive any required administrative permits or building licenses before the commencement of any construction.[151] The developer must submit an EIA within one year after the approval of the scoping document, otherwise, the scoping document expires and a new one must be prepared as per article 5(1).[152] Upon receipt of the EIA statement, the GCEA and its directorates of Syrian Governorates have one month to assess and approve it or request additional information.[153] If the scoping document is not approved, the reasons for denial must be clarified to the developer who shall modify the scoping document according to the supplied suggestions.[154] The developer is also required to provide the project site and alternatives that could be considered at the scoping stage of the EIA procedures.[155]

Public Participation

The Syrian EIA law does not allow for citizens to participate in the screening or scoping stages; however, citizens within the project area have the right to obtain information concerning the likely environmental impacts of an activity and to submit their opinion, taking into consideration the secrecy of the data and information. The developer must consider these inputs in the EIA. A public hearing is required after the completion of the scoping document and the EIA. The developer shall organize a public consultation in cooperation with the GCEA and its directorates in various Governorates to inform the public about the proposed activities according to the mechanism outlined in Annex 4.[156]

Agency Responsible for EIA Implementation

The Ministry of Local Administration and Environment is responsible for general guidance and supervision on the proper implementation of the EIA law.[157] The approval of a project that is subject to the EIA by the GCEA and its Environmental Directorates in various Governorates is considered the environmental approval. The GCEA is also the licensing authority and assigned to carry out the monitoring procedures during all phases of the project to ensure the developer complies with the EIA.[158] The EIA law does not elaborate on the composition of the GCEA.

Judicial Review

The law does not provide for any review of the EIA conclusions. However, it empowers the GCEA and its Environmental Directorates in various Governorates to seek legal actions in case of persistent non-compliance with the EIA and its conditions.[159]

Entitlement and CompensationMechanisms

The law does not include any entitlement and or compensation mechanisms beyond the ordinary judicial. avenues provided for in civil tort. Adverse environmental effects are addressed through monitoring and supervision by the GCEA which is empowered to issue warnings in case of non-compliance and seek legal actions in case of persistent non-compliance.[160]

151 EIAEP Syrian Arab Republic (n 12) arts 1(c) and 17.
152 ibid art 5(5).
153 ibid art 8(1).
154 ibid arts 5(2) and 5(3).
155 ibid art 5(1).
156 EIAEP Syrian Arab Republic (n 12) arts 6(1) and 9(2).
157 EIAEP Syrian Arab Republic (n 12) art 15(1).
158 ibid arts 17, 2(8), and 4(1).
159 EIAEP Syrian Arab Republic (n 12) art 11.
160 EIAEP Syrian Arab Republic (n 12) art 11.

7.3. Comparative Analysis Of International Case Studies

An international comparative analysis of EIA legislation in Syria, Iraq, Albania, Kosovo and Colombia utilizing criteria based in part on the issues assessed above in addition to various established methodologies including Fuller (1999)[161], Wood (1999)[162], Ahmed and Woods (2002)[163], and El-Fadl and El-Fadel (2004)[164] further helps demonstrate best practices as well as gaps and deficiencies in current applications of EIA law. The seven criteria assessed along with their main findings are given as follows.

- **For which urban projects are EIA's required:** Most of the EIA laws apply to all types of future activities that can cause significant adverse environmental impacts, however, only the laws of Kosovo and Albania explicitly state that the EIA applies to private and public activities. All of the laws include a list of projects or activities that may be or are subject to the EIA except for Iraq and Colombia. The legal provision in all of the laws regarding the type of activity that is subjected to the EIA is limited to 'projects' and does not extend to proposed legislation, programs, or policies, except for Colombia's EIA law.
- **Screening requirements and the integration of EIA into the project planning process:** Most of the laws require some form of preliminary assessment and provide the environmental authority with discretion in determining whether the proposed activity requires an EIA. Specifically, each of the laws requires some form of a preliminary assessment to determine whether the proposed activity requires an EIA, except for Iraq, where the law does not require a preliminary assessment. However, only in Syria and Kosovo do the laws provide criteria to aid the preliminary assessment. Laws in Syria, Kosovo, and Colombia provide discretionary decision-making authority to the relevant environmental authority to decide whether an EIA is required.
- **Extent to which EIA results inform and impact decision-making:** All of the laws require the EIA to be completed before the project commences, except for Syria. Syrian EIA law allows the construction to commence before the EIA is completed. Similarly, all of the laws require the completion of the EIA before the environmental decision (or environment statement as it is sometimes referred), except for Columbia where the law is ambiguous on this issue. Only Kosovo and Albania explicitly require developers to implement the protective, mitigating, and corrective measures contained in the EIA report or environmental approval.
- **Public participation in the EIA process:** The approach to public participation in most of the countries is focused on legitimizing the EIA process as opposed to strengthening the decision-making process. Public participation in most countries is in the form of information sharing which is considered the lowest level of participation. Only three countries' laws require a public hearing before the final environmental decision.
- **Opportunities for judicial or administrative review of EIA conclusions:** Only Kosovo and Albania's laws provide for a review of the EIA results, administrative procedures, or environmental decisions including allowing for citizens to petition the EIA process.
- **Link to entitlement and compensation mechanisms:** Three (Iraq, Albania, Colombia) out of the five countries' laws require compensations for environmental damages; however, only Albanian law requires compensation for those who are directly impacted or suffering the consequences of the environmental damage. This may be attributed to the fact the EIA's do not specifically require the consideration of social impacts of the project in question.
- **Rights and interests considered, protected, and compensated:** In two countries (Kosovo and Albania), the laws allow for exempting the EIA procedure for projects relating to national defence. Iraqi law stipulates the protection of water from contamination, air from pollution (including noise pollution), the earth and biodiversity. Colombian law considers the country's biodiversity and sustainable resources, notably its water sources and

161 K Fuller, 'Quality and quality control in environmental impact assessment' in J Petts, (ed) Handbook of environmental impact assessment (Vol. 2, Oxford: Blackwell, 1999) 55.

162 C Wood, 'Comparative evaluation of environmental impact assessment systems' in Handbook of environmental impact assessment (Vol. 2, Oxford: Blackwell, 1999) 10.

163 B Ahmad and C Wood, 'A comparative evaluation of the EIA systems in Egypt, Turkey and Tunisia' (2002) 22 Environ Impact Asses Rev 213.

164 K El-Fadl and M El-Fadel, 'Comparative assessment of EIA systems in MENA countries: challenges and prospects' (2004) 24 Environ Impact Asses Rev 553.

aquifer recharge areas, protected priorities. Syrian EIA law states that "the environmental sensitivity of geographical areas likely to be affected by projects must be considered"[165] with bird sanctuaries, national parks, biosphere reserves, water conservation areas, densely populated areas, and monuments given extra consideration. Only Colombian law considers the rights of minority communities.

The findings show that there are differences in each of the components considered in the analysis between countries stemming from the level of detail in which EIA procedures are regulated, as well as from the importance that each country has placed on the components of the EIA process, such as public participation and access to judicial reviews. Some components of the EIA frameworks are more advanced in some states, particularly in Kosovo and Albania than in the others. For example, the EIA systems in these countries have specified appealing provisions against the final decision as well as having a procedural specification of time limits. The provision of appealing against the final decision raises the transparency level in these countries' EIA framework.

The EIA frameworks also have similarities. All of the countries have laws or regulations that form the basis of their EIA framework. In terms of the components of the EIAs, there are similarities in areas such as access to information, requiring the EIA results before issuing the environmental decision, requiring a preliminary assessment, and measures for monitoring and enforcement. In most countries, the authorities responsible for overseeing the implementation of the EIA and the environmental decision exist at the ministerial levels. Likewise, there are some levels of interagency coordination in the EIA process. For example, in Syria, there is the GCEA and in Albania, there is the NAE which is part of the implementation of the EIA procedures.

Overall, of the five EIA laws, the Syrian EIA law ranks fourth, ahead of only Iraq. Kosovo's law is by far the most developed, in terms of its procedures, management, transparency, and participation followed by Albania and Columbia. The Syrian law is particularly weak in providing for administrative and judicial reviews of the EIA, protecting individuals and community rights, and entitlements and providing for compensations. The scope of application of the EIA is also limited to construction projects. Although the law provides for access to EIA-related information, the EIA report and environmental results are not presented to the public and the process for accessing such information is far from recommended best practices.

Environmental assessments should lead the development decisions informed by knowledge and data of the potential environmental impacts of proposed activities. However, EIA's in some countries are evidently designed to legitimize the decision-making process in development projects as opposed to providing for broad stakeholder participation and ensuring the application of safeguards against the detrimental impacts of such projects. Beyond improving the quality of environmental decisions, EIAs are a source of credibility and legitimacy in the decision-making process, which are especially important in post-conflict environments. The growing awareness of the connection between the environment, livelihoods as well as the implications of this nexus for human rights, and the likelihood of conflicts make it imperative that EIA procedures are robust, transparent, and participatory and move closer to the standards set by international best practices.

165 EIAEP Syrian Arab Republic (n. 12 of 2008), Annex 2.

7.4.Conclusions And Key Findings

Based on the above findings, the following actions are recommended to address the main weaknesses of the Syrian EIA legislative framework and increase its strength and effectiveness:

Expand the scope of the law
Expand the scope of the law to include all activities that can cause a significant environmental impact as opposed to limiting it to 'construction' projects only. Clarify the language of the law to make clear that the EIA applies to private and public activities. Most critically, Syria's EIA legislation either needs to be expanded to include assessments of social impacts, such as those which touch upon the land and conflict nexus, otherwise legislation for social impact assessments needs to be drafted to complement Syria's extant EIA law.

Require more detailed EIA reporting including preventative and mitigation measures
Require a detailed description of the project activities during the construction, operation, and production process, as well as the consequences of closing the activity, and decontaminating or restoring the area, to be included in the EIA. Clarify the language of the law to require the developer to implement preventative and mitigating measures included in the EIA report or environmental decisions.

Establish EIA pre-requisites to environmental licensing
Require the EIA results before the implementation of the proposed activity to ensure that it is used to inform the environmental decision and not used to rationalize or justify decisions already made. This can be done by requiring environmental approval before licensing or issuing permits for the proposed activity. This would reduce uncertainty and make the process more predictable by preventing situations where a developer has expended part of the project implementation budget and the EIA results support a disapproval decision.

Promote transparency and public participation
Remove the 'request for EIA-related information' and require the environmental authority to present EIA-related information to the public by publishing it on the ministry's website and making it available at the local government authority in the jurisdiction of the proposed activity. Further, require the EIA report to be presented to the public prior to the public hearing by making it available in the manner described earlier. The environmental decision should also be presented to the public. These would allow for more informed public hearings and public monitoring and scrutiny of the project during and after its implementation.

Provide avenues for administrative or judicial review of EIA decisions
Provide mechanisms for reviewing the EIA results, administrative procedure, and environmental decision which are accessible to the public and particularly to the affected community. The right to a review should be extended to an individual or individuals of the public and entities that promote environmental sustainability such as NGOs. Effective access to judicial and administrative proceedings including redress and remedy is vital for environmental fairness and credibility of the EIA decision-making process; they are also core pillars of the Aarhus Conventions on the Human Environment and the Rio Declaration on Environment and Development. It has been recognized as having global significance for the promotion of environmental governance.[166] Kosovo and Albania laws provide good models for incorporating mechanisms for judicial review in the EIA process.

Establish pre-emptive compensatory measures
Require the developer to make advance funds available or a bank guarantee or a separate compliance policy for potential environmental damages. This would ensure there are resources to cover the costs of correcting the damage. Entitle those individuals and entities directly affected and suffering from the consequences of the environmental damage to compensation. Expand the penalties that can be considered for non-compliance to include fines, suspension, and annulment of the environmental approval, and imprisonment in the case of repeated violations.

Establish protections for vulnerable groups
Include special protection of the rights of individuals and minority and vulnerable groups to protect their cultural, social, housing, and economic integrity. Provide special consideration (or exemption) for national defence projects, although the exemption should not include exemption of necessary preventative and mitigating measures.

166 Mekong Partnership for the Environment, 'Mekong EIA Briefing. Environmental Impact Assessment Comparative Analysis in Lower Mekong Countries' (2015).

08 Chapter 6: Environment And Climate Change

Competition over natural resources has long been as a recognized key factor contributing to land-based conflict.[167] Syria then, as a country long dependent on scarce natural resources with an economy historically dominated by a strong agriculture industry, may be more susceptible to the outbreak of conflict in this respect.

In the decades prior to 2011, challenges to sustainably manage natural resources increasingly presented themselves as rural-urban migration shifted the nation's demographic composition and economic activity towards urban consumption from rural production. A declining agricultural labour force with a diminishing supply of arable and economically viable land became responsible for a greater share of production as the country rapidly urbanized. State policies incentivizing water intensive crops and unsustainable irrigation methods further depleted scarce resources.

The failure of the governing authorities to sufficiently protect and manage these resources has been considered by many as a contributing factor in the unrest that precipitated the outbreak of hostilities in 2011. However, the international community has also cited factors outside the immediate influence of government policies — namely anthropogenic climate change — as a key contributor to Syria's conflict. The logic supporting this contention holds "that anthropogenic emissions of greenhouse gases contributed to Syria's drought [of 2007-2009]; that this drought led to large-scale migration; and that this drought-related migration was an important factor in Syria's early unrest."[168] The drought in question marked the driest year on the instrumental record in the Fertile Crescent region (2007-2008); and in the largely agricultural north-eastern Syrian governorates of Al-Hasakah and Deir Ez-zor, the driest three-year period was recorded from 2006-2009. Low crop yields and even crop failures in this period spurred above average rural-to-urban migration from northeast Syria to the urban peripheries of Syria's major cities including Dara'a, where some of the most influential mass protests took place in 2011. Anecdotal evidence links these events together, however, recent research has upon closer scrutiny found that "there is no clear and reliable evidence that drought-related migration was a contributory factor in civil war onset."[169] These findings do not rule out the climate change-conflict theory, however, it only clarifies that with the presently available evidence it cannot be stated as indisputable fact.

Even without linking the 2007-2009 drought to the onset of the conflict, climate change nonetheless poses a significant threat to the future sustainable development of Syria especially if its cities continue to grow as prior to the conflict. Without comprehensive regulatory measures and expert-informed resource management policies, agricultural livelihoods and land tenure will become less secure and urban communities will rely upon ever-more scarce and expensive natural resources such as water and fuel. To these baseline concerns the enormous impact of the conflict on the environment and urban development must be considered. The conflict has led to further degradation of Syria's fragile natural environment due to the pollution of air and water sources, burning and contamination of agricultural land with explosives, leakage of chemicals and damage and abandonment of unsafe industrial facilities. As such, sufficient legal and governance mechanisms need to be established and enforced in the post-conflict period such that reconstructions of Syrian urban areas promote sustainable land and natural resource use, support public health and food security, adapt to the risks and vulnerabilities of climate change, and consequently also diminish the risk of renewed conflict.

Environmental Management and Protection Prior to the Conflict

Syria faced a number of environmental concerns in the decades prior to the conflict, primarily including water pollution and scarcity, air pollution, waste management coordination, and mining industry pollution.[170] Deforestation had accelerated due to the expansion of human settlements, diminishing

167 UN Secretary General Guidance Note on Land and Conflict
168 Jan Selby, Omar S. Dahi, Christiane Fröhlich, Mike Hulme, "Climate change and the Syrian civil war revisited", Political Geography, Volume 60 (2017), pages 232-244.
169 Ibid.
170 PAX, "Amidst the Debris: A desktop study on the environmental and public health impact of Syria's conflict," 2015.

the nation's limited supply of natural forests. The intensification of agricultural activities and irrigation works had degraded and destroyed wetlands, while rivers were heavily polluted by industrial and agricultural emissions. Water resources were under growing pressure from population growth, urbanisation, impacts of climate change and the expanding agricultural sector. Water shortages due to persistent droughts and desertification continued to escalate. The ubiquitous reuse of untreated water in agriculture led to polluted surface and groundwater while contaminated river water was often used for irrigation. Specifically, the use of olive oil wastewater for agricultural irrigation contained additives which caused a reduction in soil fertility.
Recognizing the expanding needs of urban populations, the government's 10th Five-Year Plan set out to establish 200 water treatment plants that would reach 50 percent of the population. Meanwhile, few urban areas and no rural areas were connected to sewage water treatment and existing water treatment facilities did not meet international standards.

In relation to air pollution, permitted levels of pollution were relatively high and pollution limits were rarely enforced. High levels of sulphur dioxide, nitrogen oxides and carbon monoxide in Damascus and Aleppo were discovered. Meanwhile high lead emission occurred resulting from the limited regulation of fertilizer complexes, cement plants, crude oil extraction and petroleum refining. Air quality monitoring stations were stablished in Damascus, Aleppo, Homs and Latakia in 2009.
At the same time, a portion of domestic solid waste was collected by the municipality or private company while 80 percent was disposed at open dup sites on the outskirts of cities leading to air pollution due to released dioxin and other gases during open air incineration. Hazardous waste was identified as an important source of pollution due to inadequate handling hazardous and non-hazardous wastes, which were not disposed of separately but instead were commonly mixed with domestic waste. Additionally, prior to the conflict there was only one landfill dedicated to receiving hazardous waste.
In sum, Syria suffered from an absence of well-developed national monitoring system. Indeed, even before the outbreak of hostilities, general environmental quality was low due to improper water management, inadequate handling of wastes, lack of regulatory control of emissions from the industrial sector, the rapid development of a range of industries and a weak national system of environmental governance.

Impacts of the Conflict on the Environment and Public Health

The conflict, as can be expected, resulted in further degradation of the environment and competition for scarce natural resources. Attacks on oil refineries generated significant air pollution from persistent fires as well as local soil, surface water and groundwater contamination. The oil refinery in Homs came under repeated attack, with multiple fires resulting. US airstrikes targeted IS-controlled oil installations. This is especially problematic since Syria utilizes heavy crude oil with a higher proportion of potentially noxious substances such as heavy metals making it a particularly problematic soil and water contaminant; oil infrastructure has been targeted by armed groups since the beginning of the conflict. Oil pipelines have also been targeted in Homs. Additionally, the burning of crude oil for domestic purposes can release dangerous levels of pollutants, increasing skin and respiratory diseases in areas where crude oil has been stolen.

Furthermore, damage to industrial areas has presented an increased environmental and public health threat. Four industrial zones in Syria — Adraa (35 km from Damascus), al-Sheikh Najjar (15 km from Aleppo), Hasya, Deir Ez-Zor — were targeted with direct damage done to industrial sites in Homs, Hama, Damascus and Aleppo. Twenty-five pharmaceutical plants were destroyed; textile and plastics factories in al-Sheik Najjar endured heavy active conflict. Adraa, which contains heavy industry factories such as cement factories, chemical plants, oil and gas storage facilities, military production sites and water treatment plants, also experienced heavy fighting. The primary environmental and health concern is chemical release from industrial site damage.

Finally, heavy rubble and explosive remnant of war contamination presents a number of public health risks and prevents the rehabilitation and sustainable utilization of natural resources. The pulverized building materials of war debris generated a mixture of potentially toxic cement dust, household waste, medical waste, asbestos and other hazardous materials to which urban populations are routinely exposed to until ERW and debris removal operations can be undertaken.

8.1. International Standards And Instruments On Environmental Management

Syria's international obligations with respect to the environment and climate are found in the several multilateral environmental conventions to which it is party, including the following:[171]

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes

The Basel Convention is the most comprehensive global environmental agreement on hazardous and other wastes and aims to protect human health and the environment against the adverse effects resulting from the generation, management, transboundary movements and disposal of hazardous and other wastes. Syria signed the Convention and it went into force in 1992.

Convention to Combat Desertification (UNCCD)

The UNCCD was established to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification through effective action at all levels, supported by international cooperation and partnership arrangements, in the framework of an integrated approach. Syria ratified the Convention in 2003 and it is also party to the related AEWA and ACCOBAMS agreements.

Rotterdam Convention

The objectives of the Rotterdam Convention are to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to the environmentally sound use of those hazardous chemicals. Syria has accessed the Convention and it went into force in 2003.

Stockholm Convention on Persistent Organic Pollutants (POPs Convention)

A global treaty to protect human health and the environment from chemicals that remain intact in the environment for long periods, become widely distributed geographically and accumulate in the fatty tissue of humans and wildlife. In went into force in Syria in 2003.

Montreal Protocol on Substances that Deplete the Ozone Layer

The Montreal Protocol on Substances that Deplete the Ozone Layer is the landmark multilateral environmental agreement that regulates the production and consumption of nearly 100 man-made chemicals referred to as ozone depleting substances (ODS). The Protocol phases down the consumption and production of the different ODS in a phased manner, with different timetables for developed and developing countries. Under this treaty, all parties have specific responsibilities related to the phase out of the different groups of ODS, control of ODS trade, annual reporting of data, national licensing systems to control ODS imports and exports, and other matters. Developing and developed countries have equal but differentiated responsibilities, but both groups of countries have binding, time-targeted and measurable commitments. Syria acceded to the Protocol in 1989.

United Nations Framework Convention on Climate Change and Kyoto Protocol

The UNFCCC provides the basis for global action to protect the climate system for present and future generations. Syria joined the convention in 1996 via Decree no. 363 of 1995 and ratified the related Kyoto Protocol in 2006 by Decree no. 73 of 2005. Syria is a non-Annex country of the Kyoto Protocol, meaning that it is a "mostly developing country, vulnerable to the adverse impacts of climate change like desertification and drought" and as such is not bound to fulfill any goals or standards beyond any voluntarily entered into. Article 2 of the Kyoto Protocol, however, states that States

171 Delegation of the European Commission to Syria, Country Environmental Profile for the Syrian Arab Republic ("CEP Syria"), April 2009.

Parties should not "mismanage and fail to govern their water resources, and use old and inefficient technology in farming and agriculture" and Article 2(1)(a)(iv) suggests that States Parties should implement policies to further enhance "research on, and promotion, development and increased use of, new and renewable forms of energy." Syria has not voluntarily submitted an update report on its progress with respect to the targets given in the Protocol since 2010.

The Paris Agreement on Climate Change

The Paris Agreement is a legally binding international treaty on climate change adopted by 196 Parties at the Paris Climate Conference (COP 21) on 12 December 2015 and entered into force on 4 November 2016.The goals are the agreement are to limit global warming to below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels. Parties to the Agreement are obligated to take the requisite climate change mitigation measures by reducing emissions while also taking measures to adapt to climate change and minimizing its harm. Syria ratified the Paris Agreement in 2017.

8.2. Syrian Environmental Management And Protection Legislation

Law no. 12 of 2012 on Environmental Protection

The Environmental Protection Law no. 12 of 2012 repealed the previous Environmental Protection Law no. 50 of 2002 and set forth rules for protecting and developing the state of the environment in Syria and entrusts the Ministry of State for Environmental Affairs (MSEA) with these tasks. This Law makes provisions for criminal liability to be imposed on individuals whose actions in contravention to the provisions of the law prove detrimental to the environment. Law 12 also includes provisions for certain tax benefits that can be applied to importers of environmentally friendly materials and equipment. Though this Law establishes the Supreme Environmental Protection Council, though in 2017, the Prime Minister has since cancelled the council.

Ministerial Order No. 225 of 2008 Environmental Impact Assessment (EIA) Executive Procedures

In 2008, the General Commission for Environmental Affairs/EIA Directorate issued an Environmental Impact Assessment (EIA) Executive Procedure (EP). According to Annex 1 and Annex 2 of EIA Executive Procedure, the developer should conduct and present an EIA study to the Ministry of Environmental Affairs according to the steps described in Chapter 6 of this report: screening scoping, preparation of an environmental impact statement, review of the environmental impact statement, conclusion and decision, and monitoring.

Law no. 49 of 2004 on the Cleanliness Aesthetic of the Administrative Units

Law 49 (2004) along with its implementation instructions issued in 2008 obligated administrative units to secure public health in the urban environmental and the environmental conditions for waste treatment sites. The law makes specific provisions to regulate municipal waste, industrial waste, toxic and hazardous wastes, medical waste, and the general aesthetic in administrative units. Furthermore, Law 49 stipulates financial penalties to those, whether they be natural or legal persons, who violate the provisions given related to waste treatment and general aesthetic maintenance. The prohibitions which give rise to financial penalty include, inter alia:

a. To throw wastes of all kinds in rivers, watercourses, fountains and the lands beside them by the passersby or the owners of shops, coffee shops, restaurants and others.
b. To throw wastes of all kinds in seas, lakes or coasts.
c. To throw oils, grease, lubricants and similar substances of all kinds in containers and water surface areas or in public sewage and rivers or the watercourses or in the open. Whoever generates these substances must collect them in suitable cans and remove them to places specified by the council.

Electricity Law no. 32 of 2010

Law 32 (2010) provides a system of grants and permits to conduct electricity activities. The Law invites local and foreign investors to participate in the electricity sector either on their own or in partnership with the public sector. The Law allows for private investors to generate and distribute electricity to consumers and promotes investments in renewable resources.

Ain al Figeh Law no. 1 of 2018

Law 10 (2018) amending Ain al Fijah Law 10 (1989) enabled private lands surrounding the springs at Ain al Fijah, which serve as the water source to a large portion of the Damascus populace, to be expropriated and owners compensated with fair market value for their properties. The law prohibits people in the direct buffer zone of the springs from construction activity,[172] which effectively prevented the displaced community from returning to their homes as the law's passage followed a wave of conflict-induced damaged to the local community's residences.

Syrian Pollution Limits and Standards

Several sectoral laws, decree and standards have been issued in Syria to limit pollution and promote public health. These limits and standards are especially relevant to the urban environment where the increased prevalence of pollution in all forms can be attributed in part to population density as well as construction and industrial activity. As such, these provisions will be significant to urban reconstruction and risk management in the post-conflict context. They include the following:

- Syrian Standard for maximum permissible levels of air pollutants issued by the High Council for Environment Safety (2003)
- Standard for maximum permissible levels of noise issued by the High Council for Environment Safety (2003)
- Hazardous Industrial Waste Classification issued by the High Council for Environment Safety (2003)
- Liquid Effluents Specifications from Industrial Activities Discharged into the Wastewater Network (SNS No. 2580/2002)
- Criteria for Maximum Pollution from Industrial Waste into Water Environment, issued by the High Council for Environment Safety (2003)
- Syrian Standard for Occupational Health and Safety in Work Environment
- Drinking Water Quality Standard (No. 46/1996)
- Ambient Air Quality Standard (SNS No. 2338/2004)
- Energy Conservation Law (2009)
- Criteria for Energy Efficiency for Home Applications (Law no. 18/2008)
- Licensing System for Ozone Depleting Substances (2006)

Box: Ain Al Fijah Case Study[173]

The Syrian town of Ain al Fijah presents an example of how impacts to the natural environment resulting in the scarcity of natural resources gives rise to conflict as control over the resource marks both a practical and symbolic victory for the prevailing side. Ain al Fijah is a town located 25 kilometres outside Damascus in the watershed region where the Anti-Lebanon mountain range slopes down toward the city of Damascus. The rapid growth of Damascus in the 20th century led to the overconsumption of agricultural land for urban development and mismanagement of natural resources, of which water became the main limiting resource. As the water of the Barada river that once flowed through the city became polluted and dried up, the city's demand on water resources grew more strained. Ain Fijah was first tapped early in the 20th century by the Ottoman local administration. In 1907, official installed the first clean water pipe at the town's springs which fed into over 400 points of peri-

172 UN HABITAT, Ain al Figeh Case Study Report (2018).
173 Ibid.

urban and urban water distribution. Under the French Mandate, a French company received a concessional contract from the municipality (Syria's first PPP ownership) to build a water tunnel from the springs for the use of irrigation. This proposal however, was eventually rejected, and a later proposal by the municipality built the tunnel which gave drinking water rights to all of Damascus for a marginal fee. The local community at Ain al Fijah historically depended on employment at the Ain al Fijah pumping station.

When the Syrian uprising broke out, Ain al Fijah was only one gully form the Qalamoun Mountains that rebels used to access Damascus. Armed groups from multiple factions soon established a presence in the surrounding mountaintops. As a result, Ain al Fijah was labelled an 'opposition area' and later caught up in the Syrian Army and Hezbollah offensive to regain control of the rebel-held villages in the region. Ain al-Fijah town became a key battleground when rebels allegedly cut the water supply from its springs and created a humanitarian crisis for the 5 million plus people in Damascus. The Syrian Military soon gained control and occupied the town. After the springs were attacked, civilians were evacuated in the middle of the night by the Syrian Red Crescent. After the establishment of a ceasefire in the region, technical staff were later sent by the government to repair the water system at Ain al Fijah, though civilians were still barred from returning.

After the rebel weaponization of the springs for military gain, the Government of Syria, having felt the impact of water deprivation on the capital's security, operated under the auspices of counter-terrorism clauses to militarize the territory. The maximalist security response of the government toward the spring prevented the return of the local community to the town despite their historic stewardship of the spring.

In 2018, the Government of Syria passed Law 1 (2018) amended Law 10 (1989) which formerly regulated and protected the water source. Law 10 safeguarded the HLP rights of the community as integral to preserving and maintaining the spring. The law created a buffer zone by the water source where any human activity including construction, tourism or any other polluting activity was restricted. This was a narrow buffer zone that fit in between the town, which was considered the indirect buffer where human activity was not restricted, and the spring. Law 1 extended the restriction of human activity, including construction works, to the indirect buffer of the town. In this way the displaced population of the town is not able to return to rebuild their homes or engage in the activities needed to economically sustain life there.

The battle for control over Ain al Fijah represents the cost of natural resource scarcity on HLP rights and the right to adequate housing. It demonstrates the degree to which land-based issues such as competition for natural resources can transform into the weaponization of natural resources for military and political gain.

Urban Planning and Land Use Management Legislation

As described in Chapters 1 and 2, Syria has a rich body of legislation on urban planning and land management. This legal framework has a large role to play in the sustainable development and reconstruction of Syrian cities, as the design and governance of urban areas presents opportunities for development that is responsive to the future challenges posed by climate change. The most pertinent laws and decrees include the following:

- Legislative Decree no. 5 of 1982 on Urban Planning, as amended by Law no. 41 of 2002.
- Law no. 26 of 2010 on Regional Planning.
- Legislative Decree no. 107 of 2011 on Local Administration.
- Law no. 23 of 2015 on Urban Development.
- Law no. 10 of 2018 on Urban Renewal.

A detailed analysis of these laws can be found in Chapters 1 and 2 of this report.

8.3. Syrian Urban Law And Climate Change Assessment

This assessment of Syrian urban law examines the extent to which the legal framework for urban planning and land management in Syria is capable of responding to environmental challenges and climate change, which will be essential to promote its sustainable redevelopment following the crisis.

Governance and Institutional Arrangements

Multi-level governance in the climate change context has been defined as the "structural and institutional setting in which different levels of government distribute roles and responsibilities, coordinate and cooperate on climate action; as well as the specific instruments that are implemented at different levels of government to support and implement local climate action."[174] Urban law should ensure that there is both vertical coordination at different levels of government as well as horizontal coordination within the same levels of governance to promote sustainable climate action in urban planning and land management.

In Syria, urban planning operates at multiple organizational and operational levels where institutions coordinate to produce national planning frameworks, regional plans and urban plans.

Law 26 (2010) on regional planning states its goals to be the preparation and integrated implementation of regional plans at both the national and regional levels. With respect to climate change, it lists the following among its seven regional planning principles:

- preserving the natural environment and identifying the areas that must be protected;
- preserving natural resources, especially water, air and land;
- protecting the environment from pollution in all its forms, reducing the consumption of fossil fuels, and encouraging the use of clean alternatives to energy.

Moreover, Article 5(3) states that regional plans are prepared via an integrated scientific approach that includes "determination of the areas in which development must restricted under special conditions or that must be protected, including the sanctuary of water resources, fertile agricultural lands, environmental reserves, forests, archaeological and tourist sites, and valuable landscapes at different levels."

The Supreme Council for Regional Planning and the Regional Planning Commission coordinate to produce the national framework for regional planning and the regional plans, with the former responsible for approving the drafts produced by the latter. The national framework should define the "development centers, areas of major urban gatherings, development axes and environmental protection areas in accordance with the national strategy for protecting the environment and tourist areas…" while the regional plans "work to achieve coordination and compatibility in the future vision of development and land use between…the national sectoral plans, the organizational plans [urban master plans], and other local plans." To produce the regional plans, the Regional Planning Commission must work "in coordination with the relevant ministries, the State Planning Commission and the governorates to achieve horizontal and vertical coherence in light of the local development initiatives and the comprehensive national framework." The planning directorates located within the governorates are then responsible for implementing regional plans after their drafting and approval.

Urban organizational plans must then conform to the appropriate regional plan. Urban plans at the local level in Syria include the construction planning fundamentals, the planning program, the general organizational plan, the detailed organizational plan, and the building code. Multiple entities at various levels are responsible for developing, approving and implementing these plans: The Ministry of Public Works and Housing (MoPWH), the regional technical committee, the executive office of the governorate, municipal planning directorates, and local city councils. Unlike the Law on Regional Planning, the Law on Urban Planning (Legislative Decree 5 of1982) does not explicitly endorse environmental protection, climate action, or environmental sustainability.

As such, Syrian urban law includes provisions for inter-institutional coordination among national and subnational governments, across line ministries at the national level, and among local jurisdictions that belong the same metropolitan area. In practice, however, horizontal coordination has been less consistent than vertical coordination in urban

174 GIZ, Multi-Level Climate Governance Supporting Local Action (GIZ 2020).

planning and governance in Syria. For example, environmental directorates do not consistently coordinate with planning directorates. Because legal provisions on decentralization and regional planning have yet to practically go into effect, isolation exists between the central and the local planning authorities and between the planning and the implementation departments within the same authority causing decisions to be outdated and creating a forum for inter- and intra-institutional conflict. Moreover, coordination in urban planning specifically related to achieving climate action goals and sustainable development is only provided for loosely, with environmental protection being cited as a guiding principle of regional planning and national planning frameworks. Environmental governance entities are not sufficiently integrated into the planning process as prescribed by law.

The Law on Urban Planning allows for a very limited amount of engagement from civil society in the urban planning process. Civil society organization (CSO) representatives occasionally have access to decision-making at the local and regional level and enjoy regular meetings with neighbourhood committees. However, even this engagement in decision-making has only been in relation to local services. Citizen engagement in urban planning as provided by law only takes place at a very late stage of the urban development process in the form of a 30-day right to appeal. This is stipulated in the Legislative Decree no. 5 of 1982, which makes provisions for consulting "all persons involved in the announced project" once the urban plans (general and detailed organizational plans) have been initially drafted.

Private sector actors contribute to and influence urban planning in Syria in many ways, starting from private sector interest groups (e.g., chamber of commerce, the crafts' union, etc.) representation in the Regional Technical Committee. Yet, this representation is contingent upon the Governor's invitation, which is typically only given when matters related to the specific private sector interest group arise.[175] Private sector involvement also takes the form of private engineering consultancy companies who are contracted by local authorities to carry out the planning, design, and formulation of many Syrian urban areas. Furthermore, since a wave of neoliberal policy reforms were implemented at the start of the 21st century,[176] there has been increased private sector involvement in urban development through legislation enabling public-private partnership (PPP) urban development and real estate projects.

The law specifically stipulates that all involved persons must be invited to review the drafted urban organizational plans.[177] The invitations are required to be delivered personally, or otherwise announced in two local newspapers or in one of the capital's newspapers that is popular among the announcing agencies. Visual and non-visual media throughout the nation can also be utilized depending on the assessment of the administrative unit. "Involved persons" (or, as given in Implementation Instructions No. 2, "people that are concerned with the project") have 30 days from the date of the announcement to challenge the plan(s) by submitting a motion documenting the basis of the objection. A regional technical committee, chaired by the city/town mayor, investigates the objection, and sends its conclusions, studies, and results to the agency responsible for the approval and release of the plan(s). When modifications are made to the plans, they can be reviewed and challenged in the same manner as described above. In practice, however, the public notice is not well advertised to the public, and it does not cover a sufficient time-period with the limited media used for this purpose.[178] In sum, this form of public participation in urban governance has a limited effect over urban development decision-making and urban land-use decision-making.

As such, Syrian urban planning law provides limited participatory opportunities for civil society and business stakeholders, and while the law does requires stakeholder and community identification by notifying "involved persons" of draft urban plans to which they can object, citizen participation in this manner takes place only when the urban plans have already been developed. Urban plans may be modified based on the input of "involved persons", however, the plan is reissued a full year later, after which point it can only be modified every three years. There are no dispute or appeal mechanisms provided by law apart from the initial opportunity given to "involved persons" to challenge the plans by submitting a formal motion of objection to the Regional Technical Committee. As such, legal provisions also do not

175 Ibid.
176 Aita, S. (2019). Ibid
177 Legislative Decree 5 (1982), Article 5(B).
178 Hassan, S. Ibid.

stipulate requirements that participatory processes be tailored to specific community needs. This limits the degree to which community concerns related to climate, environmental and public health issues can be raised and considered in the urban planning process.

With respect to requirements for data collection and sharing arrangements of climate sensitive information among different institutions dealing with urban planning and climate planning, the Regional Planning Law (26 of 2010) establishes a Regional Information System (RIS) which includes "all geographic, economic and environmental information necessary for the process of planning and managing regional development." Government ministries and public and private entities must provide requested information for the RIS including anything related to development plans and projects, government projects and private sector projects. However, the law does not stipulate requirements for the RIS which explicitly require the data collection and sharing of climate sensitive information among different institutions dealing with urban planning and climate planning. Moreover, this system has yet to be practically implemented, and as aa result informal systems and data sharing remains weak in Syria.

Urban Planning Structure and Procedure

The Local Administration Law (no. 107 of 2011) provides that local councils "are responsible for the affairs of the local administration and all the activities conductive to developing the province economically, socially, educationally, and architecturally." Article 30 of the Law further specifies that these activities should be in accordance with a balanced sustainable development in the field of planning, amongst other fields including transport, roads, irrigation, drinking water and sanitation, services, and public utilities. City, town, and municipality councils are specifically able to "participate and express opinion about the regional spatial plans within scope of the administrative unit"[179] and "[give] approval of the architectural and urban systems in accordance with the laws and regulations in force."[180] Executive Offices are responsible for executing the resolutions of their council and performing the tasks of the local council. Article 62(8) of the Local Administration Law stipulates that the Executive Office is responsible for laying the foundations and procedures for the granting of building permits and administrative licenses.

Legislative Decree no. 5 of 1982 on urban planning further clarifies the roles of local bodies in urban planning. It stipulates that "the responsible administrative agency" for each city, town, or village is responsible for preparing planning programs and general and detailed organizational plans for their respective city, town, or village. Accordingly, in ordinary circumstances, local councils at the city, town and township levels should be responsible for developing and revising urban plans (as well as for making decisions regarding how to treat informal areas). However, during the conflict, the central Government of Syria has exerted greater influence in local urban planning processes.

However, neither these laws nor the regional planning law make provisions for inter-municipal collaborations beyond administrative boundaries for urban and infrastructure planning; neither do they include provisions that require local governments to build and improve their capacities to implement their mandates.

The Regional Planning Law prescribes the development of the National Framework for Regional Planning which in many ways serve the function of a national territorial plan. This Framework defines the following:

- The appropriate planning regions…and the regions of a special nature, if needed.
- Development centers, areas of major urban gatherings, development axes and environmental protection areas in accordance with the national strategy for protecting the environment and tourist areas in accordance with tourism development strategies and areas for the protection of cultural heritage and axes of mineral wealth.

However, beyond the broad mandate of the protection of the environment, the National Framework does not explicitly by law coordinate with national climate plans and policies, nor does it include legal requirements to assess the climate vulnerability of the implementation of the National Framework and the levels of greenhouse gas emission associated with its implementation.

179 Legislative Decree 107 of 2011, Article 60(2).
180 Legislative Decree 107of 2011, Article 61(4)).

Nonetheless, prior to the conflict, environmental policy sought to coordinate climate plans with development plans. The reform agenda of the 10th Five-Year Plan (FYP) for 2006-2010 (Law no. 25 of 2006) stressed the importance of achieving a sustainable use of resource and promoted the use clean and renewable energies. It sought to remedy (1) poor sector coordination and failure to consider the environment as essential in approaches for formulating the development plans; (2) poor public awareness as regards the environment and absence of deterrent controls for environment protection; (3) lack of comprehensive environment surveys and lack of data bases; and (4) lack of clear-cut sectoral policies aimed to reduce the environmental impact of past planning practices, which led to evident environmental damages. These action points are further supported by Syria's National Environmental Strategy and Action Plan (NEAP) issued in 2003, which identified environmental priorities for the country and set up a general framework for environmental planning until 2010. Land degradation, in part associated with unsustainable urbanization and urban expansion developments, and water issues were recognized as the most critical environmental problems.

Regional territorial plans in Syria "work to achieve coordination and compatibility in the future vision of development and land use between development projects in the national sectoral plans and between each of the national sectoral plans and the organizational plans and other local plans." Regional plans must be drafted in accordance with the national framework for regional planning and they presumably deal with interregional projects such as integrated transportation networks and infrastructure systems. Again, climate vulnerability and greenhouse gas emissions are not stipulated to be assessed prior to the implementation of regional plans. However, it should be noted that the State Planning Commission, which is also represented in Syria's supreme environmental authority, the Council for Environmental Protection and Sustainable Development, is in part responsible for reviewing regional territorial plans and thus may integrate environmental issues into the regional plan.

At the local level, Syrian urban planning requires the formulation of spatial plans for urban areas which conform to regional plans and the national framework for regional planning. Foremost of these urban plans are the general organization plan and the detailed organizational plans, which determine the area's construction boundaries, the usage of all land plots within the planned area and the building plans and construction details for such lots, as well as the network of roads, pedestrian walkways, and public areas in the planned area.

Urban planning and land management in Syria has historically been highly centralized, with urban land being classified based on permittable use. For example, for many years government-designated urban expansion areas on the periphery of cities could only be developed and constructed upon by the public sector, though in practice the private sector simply constructed informally instead. These rapidly expanding informal settlements have posed environmental sustainable development challenges, as they are increasingly encroaching on historically agricultural land which is suffering from degradation. Within the municipal boundaries of the urban area, the Planning Program is responsible for defining the suggested distribution of different facilities (e.g., industrial facilities, public facilities, residential dwellings) in the urban area. Specific areas, for example, are zoned exclusively for industrial use, though in many cities these areas have experienced informal urban densification with the unlicensed construction of residential and commercial units.

The Planning Program is supposed to be a forward-looking master planning tool which determines both the current and future needs of an urban area for a period of 20 years. The Program specifies the urban area's population, demographic distribution, and the suggested density for such distribution among different land-use areas. Furthermore, it should also contain the number of all industrial/residential/public facilities in the area, the network of all major roads, the width of roads and road classifications and indicate the direction in which the population should grow. However, in practice, the approach of master planning 20 years in advance has led to a rigid urban development approach that does not flexibly meet the needs of urban areas or adapt to environmental sustainable development challenges when, for example, population growth is greater than expected, as has been the case in cities across Syria for the past 50 years. Stipulations that require plans to meet the future needs of an urban area not include any specific provisions for assessing future land needs and identifying land safe from the effects of climate change. To make urban master plans more climate-responsive in Syria, the procedure to modify and update plans should be made simpler

with assessments and modifications made annually based on, inter alia, climate risks and climate adaption options which may arise.

Climate Assessment and Adaptation Measures

Syrian urban planning law fails to include requirements to produce climate risk and vulnerability assessments to assess current and estimated future vulnerabilities and risks as part of the urban planning process. It is recommended that climate assessment requirements be integrated into the urban planning process at the local, regional and national levels. These requirements should define the methods and processes to conduct risk and vulnerability assessments including the following:

- Inclusive and participatory measures allowing for the engagement of citizens and civil society.
- Climate hazard lists and mapping identifying potential climate hazards and where they are most likely to occur.
- Identification of people, property and economic sectors exposed to risks arising from climate change.
- Publication or public access to climate risk and vulnerability assessments and climate hazard maps.
- Regular review of hazard maps at least every 10 years.

In this manner, climate risk and vulnerability assessments should inform the formulation of urban plans. Once they have been developed in draft form, urban plans should also be assessed through environmental impact assessments like those required for certain urban development, construction and industrial projects under the Environmental Impact Assessment (EIA) Executive Procedures (MoLAE Ministerial Order No. 225 of 2008).

Furthermore, neither Syrian urban law nor Syrian environmental law make provisions for identifying and prioritizing adaption options for climate risks and vulnerabilities which could be identified via risk and vulnerability assessments. Such prerogatives have remained in the realms of environmental policy in Syria, namely in the National Environmental Strategy and Action Plan (NEAP), the National Strategy and Action Plan for Climate Change Adaptation, and the Initial National Communication of the Syrian Arab Republic to the UN Framework Convention on Climate Change,[181] all of which were issued prior to 2012. The latter, in fact, reports the findings of a climate vulnerability assessment and describes adaptation measures to climate change. This assessment focuses on precipitation levels, water resources, agricultural production, natural ecosystems (forests, marginal steppe and grazing zones, and biodiversity), land degradation and desertification, energy, and public health. However, there is a clear gap between these climate assessments and urban planning in Syria. It is recommended that, in coordination with the adoption of climate change risk and vulnerability assessments, legal requirements be made to determine available climate adaptation options in the urban planning process.

These adaptation requirements should prescribe the following:

- Assessment of adaptation options with respect to time, cost, benefits and barriers to implementation.
- Identification of both infrastructure-based and ecosystem-based adaptation measures.
- Prioritization and selection the preferred adaptation options with stakeholder engagement.
- Establishment of targets to improve the adaptation of urban areas with measurable and verifiable benchmarks against which progress can be assessed.
- Assessment of the urban plan's ability to meet local, sub-regional and national governments' climate change strategies, adaptation targets and measures.
- Integration of identified climate vulnerabilities and exposure of land parcels to climate hazards into land information systems.

Adaptation options prescribed in urban planning frameworks can include the following:

- Total and partial restrictions on land use and development in hazard prone areas;
- Public land buffers between sea and rivers, and land;
- Riparian setbacks with width based on scientific assessments and projections;
- Coastal setbacks with width based on scientific assessments and projections;
- Integrated coastal zone management plans

181 Ministry of State for Environmental Affairs (MSEA), "The Initial National Communication of the Syrian Arab Republic to the UN Framework Convention on Climate Change", Chapter 3: Vulnerability Assessment & Adaptation Measures to Climate Change (2010).

that integrate climate change adaptation considerations;
- Planning the location of essential infrastructure out of high-risk areas prone to extreme weather;
- Planning sewer systems, storm drains and wastewater treatment plants based on predicted rainfalls, flooding (sea/river), and densification with a time horizon of at least 20 years;
- Nature-based storm water management; and
- Planned evacuation routes and locations for low-risk safety areas in case of extreme weather events.

Legal measures would need to be issued to ensure that planning and design standards for adaptation to climate risks and vulnerabilities are implemented, monitored and enforced through the development approval process. These provisions should link the approval process for urban planning and land development to the findings and evidence from climate risk and vulnerability assessments. Provisions should also include monitoring mechanisms linked to effective enforcement measures to ensure compliance with the approved urban plan or development project.

With respect to climate adaptation related to informal development, urban informal settlements have historically had access to urban basic serves such as sewage, electricity, and water, however, unplanned urban expansion and densification in the form of informal development has exacerbated of number of environmental concerns in Syria. Informal expansion, for example, has contributed to the degradation and loss of agricultural land surround urban areas, while informal densification has increased pressure on basic services contributing to public health risks. The damaged and destruction which took place in countless informal settlements across Syria during the conflict has brought about further environmental concerns related to industrial pollution and chemical and explosives contamination.

Post-conflict urban planning should adopt measure to reconstruct and formally plan these areas in an environmentally sustainable manner while recognizing and even strengthening the security of tenure of original residents. Currently, Law no. 23 of 2015 on urban development and Law no. 10 of 2018 on urban renewal are the primary laws which can implement urban planning and redevelopment works in informal areas. Both of these laws utilize land readjustment as a means to redevelop these areas by changing the shape and configuration of land plots, a process which can also be used to support urban climate adaptation measures. However, like Syria's other urban planning legal instruments, these land readjustment laws do not explicitly prescribe measures to ensure the climate resilience of upgraded informal settlements such as by conducting climate vulnerability and risk assessments prior to implementing land readjustment projects. Furthermore, these laws lack public participation mechanisms and community-led data collection procedures such as surveys, maps, and household enumerations. Specifically with respect to Law 10 (2018), the PPP nature of the land readjustment scheme poses a significant risk to the tenure security of informal residents primarily by creating incentives for economic displacement from the redeveloped area.

In cases where contamination or climate risks are so severe that adaptation measures are insufficient, there are no provisions of Syrian law to support the relocation of populations from areas at risk of the effects of climate change to ensure their safety and health (after all reasonable on-stie alternatives and solutions have first been explored). In fact, the Ain al-Fijeh Springs Law no. 1 of 2018 which intended to protect a vital water source for the Damascus populace also enforced the unprocedural expropriation of private land belonging to villagers who were evacuated from their homes during the conflict. The law prohibited those in the direct and indirect buffer zone of the springs from undertaking construction activity, and as a result has effectively prevented the displaced community from returning to their homes which suffered from substantial conflict-induced damaged. Legislation such as Law 1 (2018) which aims to protect scarce natural resources at the cost of private housing, land and property rights need to ensure that relocations are planned with inclusive consultation and engagement with affected communities and justified by risk and vulnerability assessments which consider all alternatives to relocation. Furthermore, as desertification increases and displaced communities remain barred from returning to their homes due to explosives contamination, chemical pollution and agricultural land degradation, legal provisions should be issued to facilitate planned relocations in those locations where rehabilitation and re-habitation remains unfeasible. Relocations should adhere to international human rights standards by being inclusive, participatory, transparent, and

providing relocation sites before occupation with livelihood opportunities water and food security, sanitation, education and health facilities.

Finally, Syrian urban law and environmental law should include provisions that require the assessment of greenhouse gas emission of different urban planning and land development options. Such provisions would ideally require:

- The assessment of the greenhouse gas emission associated with the existing urban form and the estimation of existing carbon sinks
- The production of different planning scenarios and the estimations of the greenhouse gas emissions and carbon sink potential associated with each scenario
- The assessment of the plan's ability to meet the local, sub-regional and national governments' climate change strategies and plans, greenhouse gas reduction targets and measures
- Urban planning targets to reduce greenhouse gases with measurable and verifiable benchmarks against which progress can be assessed.

Sustainable Urban Design Principles

Syrian urban planning law lacks substantive measures promoting the adoption of sustainable urban forms. Such measures would include provisions or regulations that promote connectivity by establishing minimum standards for streets, street design standards for walkability and plot design rules for a walkable streetscape. They could also include provisions requiring mixed land use and optimal urban density to promote accessibility to jobs, housing, services and shopping.

The threat of desertification and the damage caused by the conflict makes it essential to promote a network of urban green spaces in national, regional and local reconstruction policies and plans. Syrian urban law should support such policies through regulations which establish minimum standards for green spaces, requiring the adequate distribution of green spaces across the city in a balanced manner and linking the planning of a network of green areas to water bodies.

Furthermore, Syrian urban law can be reformed to promote energy saving in buildings through the reconstruction process. Specifically, municipal urban planning or land development entities which are planning or reorganizing neighbourhoods can be required to consider:

- The wind and sun direction when deciding the orientation and the layout of streets
- The thermal properties of urban surfaces
- The plot design which would achieve optimal orientation of the buildings for the purpose of energy saving in buildings.

Financial Mechanisms

In the long term, Syrian urban planning systems will need to be able to create a flow of resources to finance climate change mitigation and adaption in urban planning. Legal provisions facilitating such financing could stipulate the following:

- Earmarked intergovernmental fiscal transfers to local governments for climate change mitigation and adaption in urban planning
- Designation of local governments with the responsibility to collect locally generated revenues and the authority to decide how to spend locally generated revenues, as well as include requirements for local government to earmark resources for urban planning and climate change
- Creating an enabling environment that facilitates the mobilization of investment capital
- Provisions that allow local government to receive a public credit guarantee by the national government.
- Provisions that create frameworks for public private partnerships.
- Economic and non-economic incentives to support climate change mitigation in urban planning

Local governments can be empowered to promote climate change adaptation and mitigation in part through the implementation of Syria's Local Administration Law no. 107 of 2011. Though this law would need to be complemented with legal provisions requiring local administrative units to earmark resources for urban planning and climate change, the law provides a key catalyst for sustainable urban development at the local level through fiscal autonomy. With respect to legislation regarding public private partnerships (PPP), the Syrian government has in recent years issues such laws, however, their financial feasibility has been found to be lacking and in need of reform. Moreover, amended or new PPP legislation must better protect the housing, land and property rights of residents from private development which prioritizes profit and drives economic displacement.

8.4. Conclusion And Key Findings

It is evident that the degradation of the environment, especially in times of armed conflict, has a substantial impact on people's ability to exercise their right to adequate housing. Air and water pollution pose direct health risks, building debris and explosive remnants of war pose a severe safety threat, while the degradation of agricultural land causes food insecurity. Accordingly, this increases the competition for land use-rights and natural resources, which may contribute to the reactivation of conflict. As seen by the example of Ain Al-Fijah, the scarcity of water and political importance of water resources lead to government weaponization of a natural resource for political advantage, depriving a historic community of its long-held HLP rights in the process. Accordingly, it is clear that a strong legal and policy framework for environmental management and protection will be necessary to mitigate some of the risks posed by the environmental degradation caused by the conflict, which in turn has serious implications for the ability of thousands if not millions of Syrians to enjoy and adequate standard of living including adequately safe and healthy housing. The integration of environmental goals, standards and considerations into the urban planning framework is an initiative that requires prioritization such that the redevelopment and rehabilitation of Syrian urban areas can foster sustainable development rather than short-term recovery which perpetuates the exhaustion of scarce natural resources.

Prior to the conflict, the Syrian government had begun to develop both environmental and urban governance policies which would have increased coordination between administrative entities overseeing these issues. For example, environmental directorates were established in each of Syria's fourteen governorates and could theoretically horizontally link to regional and local urban planning bodies. However, these institutional policy initiatives have failed to make their way into law. Specifically, Syrian urban law lacks requirements for the oversight and input of environmental agencies and institutions in the urban planning process. Moreover, Syrian urban law lacks substantive measures requiring the consideration of environmental concerns and climate change mitigation and adaptation practices. The Law on Regional Planning (Law 26 of 2010) is the first urban planning instrument to explicitly refer to environmental concerns in planning practices. Accordingly, measures pertaining to the environment and climate change need to incorporated and further developed in Syrian urban law and harmonized with Syrian environmental law. The key recommended developments of Syrian urban law with respect to the environment and climate change include the following:

Inter-Institutional Coordination between Environment and Urban Planning Entities
Inter-institutional coordination of government institutions and agencies with mandates related to the environment and urban planning and development requiring the environmental approvals in the urban planning process. Environmental instituions include the Ministry of Local Administration and Environment, the Council for Environmental Protection and Sustainable Development, the General Commission for Environmental Affairs, the Environmental Directorates while urban planning entities include the Ministry of Public Works and Housing, the Regional Planning Commission, the Supreme Council for Regional Planning, Technical Planning Directorates, etc.

Climate Change Vulnerability and Risk Assessments
These should be used to assess current and estimated future climate change vulnerabilities and risks as part of the urban planning process. It is recommended that climate assessment requirements be integrated into the urban planning process at the local, regional and national levels. These requirements should define the methods and processes to conduct risk and vulnerability assessments.

Climate Change Mitigation and Adaptation Measures
It is recommended that, in coordination with the adoption of climate change risk and vulnerability assessments, legal requirements be made to determine available climate adaptation options in the urban planning process and prioritize their implementation. Adaptation options prescribed in urban planning frameworks can include the following:

- Total and partial restrictions on land use and development in hazard prone areas;
- Public land buffers between sea and rivers, and land;
- Riparian setbacks with width based on scientific assessments and projections;
- Coastal setbacks with width based on scientific assessments and projections;
- Integrated coastal zone management plans that integrate climate change adaptation

considerations;
- Planning the location of essential infrastructure out of high-risk areas prone to extreme weather;
- Planning sewer systems, storm drains and wastewater treatment plants based on predicted rainfalls, flooding (sea/river), and densification with a time horizon of at least 20 years;
- Nature-based storm water management;
- Planned evacuation routes and locations for low-risk safety areas in case of extreme weather events; and
- Climate adaption and, when absolutely necessary, relocation measures for informal settlements or other communities susceptible to sever climate risks.

Environmental Impact Assessment (EIA) Requirements
Urban plans should also be subject to environmental impact assessments like those required for certain urban development, construction and industrial projects under the Environmental Impact Assessment (EIA) Executive Procedures (MoLAE Ministerial Order No. 225 of 2008).

Greenhouse Gas Assessment
Syrian urban law and environmental law should include provisions that require the assessment of greenhouse gas emission of different urban planning and land development options. Such provisions would ideally require:

- The assessment of the greenhouse gas emission associated with the existing urban form and the estimation of existing carbon sinks
- The production of different planning scenarios and the estimations of the greenhouse gas emissions and carbon sink potential associated with each scenario
- The assessment of the plan's ability to meet the local, sub-regional and national governments' climate change strategies and plans, greenhouse gas reduction targets and measures
- Urban planning targets to reduce greenhouse gases with measurable and verifiable benchmarks against which progress can be assessed.

Sustainable Urban Form and Design Practices
These include urban plans and regulations (i.e., building codes) which promote sustainable urban forms through, inter alia, networks of green spaces, plot orientation, energy-saving building design, urban density and connectivity, and sustainable transportation infrastructure.

Financing for Sustainable Development
In the long term, Syrian urban planning systems will need to be able to create a flow of resources to finance climate change mitigation and adaption in urban planning. Legal provisions facilitating such financing could stipulate the following:

- Earmarked intergovernmental fiscal transfers to local governments for climate change mitigation and adaption in urban planning
- Designation of local governments with the responsibility to collect locally generated revenues and the authority to decide how to spend locally generated revenues, as well as include requirements for local government to earmark resources for urban planning and climate change
- Creating an enabling environment that facilitates the mobilization of investment capital
- Provisions that allow local government to receive a public credit guarantee by the national government.
- Provisions that create frameworks for public private partnerships.
- Economic and non-economic incentives to support climate change mitigation in urban planning

08 Annex I: Index Of Syrian Urban Legislation

Urban Planning Legislation				
Original Law	**Classification**	**Description**	**Amended by:**	**Replaced by:**
Law 9/1974	City-wide planning	On partitioning, organization and construction of cities	Law 46/2004	Law 23/2015
Law 5/1982	City-wide planning	On urban planning	Law 41/2002	
Law 14/1974	Construction	On building on plots	Law 59/1979	Law 82/2010
Law 60/1979	Expansion	On urban expansion	Law 26/2000	Law 23/2015
Law 20/1983	Expropriation	On expropriation		
Law 1/2003	Informal settlements	On building violations and the removal of offending buildings		LD 59/2008
Law 15/2008	Real estate development	On real estate development and investment		
Law 33/2008	Informal settlements	On regularizing informal settlements		
Law 66/2012	Land readjustment	On the creation of urban development zones in Damascus		
Law 10/2018	Land readjustment	On the creation of urban development zones	Law 42/2018	

09 Annex II: Entitlement And Compensation Matrix

Cause	Applicable Int. Law/Standard	Entitlements and Compensation in Syrian Law	Applicable Syrian Law
Damage or destruction of real property in wartime or armed conflict	All persons have the right to compensation for damage resulting from a State's perpetration of an internationally wrongful act (International Law Commission, Article 36)	Exemption from building permit fees.	Law 21/2015 Presidential Decree 39/2017
		Rightsholders to properties in the area which have been damaged by war are entitled to exemption from fees incurred for reconstruction	Law 23/2015, Article 49(b)
Expropriation for urban planning/ land readjustment	Prompt, adequate and effective compensation (Hull Formula); prompt provision of just compensation in accordance with national law ensuring fair valuation (VGGT)	Cash compensation corresponding to the value of the real estate just before issuance of the expropriation decree including the value of the land, the building and other constructions, including planted trees.	Law 20/1983
		Commercial shares in the development zone equivalent to the appraised value of the property or real rights held just prior to the decree enactment. One of the following: (1) application(s) for the allocation of a parcel in the redeveloped zone equivalent to the value of shares held; (2) application to establish a shareholding company to construct and invest planned parcels; (3) cash compensation from the sale of shares at public auction given to shareholder in semi-annual instalments.	LD 66/2012 Art. 3, 10 Art. 29 Art. 30 (parcel allocation), Art. 31 (shareholding company) Art. 32 (sale at auction
		Land parcel equivalent to shareholding value which is equivalent to the original value of the property or right in rem. In the case the parcel reallocated has a value less than the value of shares held by the rightsholder, cash compensation is paid to the rightsholder for the difference. Rightsholders to properties in the area are entitled to exemption from cadastral registration fees. Rightsholders to properties in the area which have been damaged by war are entitled to exemption from fees incurred for reconstruction.	Law 23/2015
		Commercial shares in the development zone equivalent to the appraised value of the property or real rights held just prior to the decree enactment. One of the following: (1) application(s) for the allocation of a parcel in the redeveloped zone equivalent to the value of shares held; (2) application to establish a shareholding company to construct and invest planned parcels; (3) cash compensation from the sale of shares at public auction given to shareholder in semi-annual instalments. Exemption from cadastral registration fees	Law 10/2018 Art. 3, Art. 10(a) Art. 30 (parcel allocation) Art. 32 (shareholding company) Art. 32 (sale at auction) Art. 41

Cause	Applicable Int. Law/Standard	Entitlements and Compensation in Syrian Law	Applicable Syrian Law
Eviction for urban planning/ land readjustment	Right to immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with the evictees' wishes and needs, to persons and communities that have been forcibly evicted (Resolution 1993, Commission on Human Rights)	Entitled to cash compensation equal to the value of the leasehold.	Law 20/1983
		Shares equivalent to 30% (for residential occupation) or 40%. (for commercial occupation) of the estimated value of the part of the parcel occupied. Alternative housing until the completion of construction works and reallocation of parcels (period not exceeding 4 years) Yearly instalments equal to one-year lease (valued as 5% of the appraisal value of the housing unit to be evicted) until the allocation of alternative housing.	LD 66/2012., Art. 43(c)), Art. 44 (b-e), Art. 45(a)
		Shares equivalent to 40% of the estimated value of the leased space. Not entitled to alternative housing.	Law 23/2015
		Shares equivalent to 30% (for residential occupation) or 40%. (for commercial occupation) of the estimated value of the part of the parcel occupied (residential occupation) Yearly instalments equal to one-year lease (valued as 5% of the appraisal value of the housing unit to be evicted) until the allocation of alternative housing.	Law 10/2018, Art. 43(c) Art. 44(b-e)
Eviction for the restitution of property	Alternative housing and/ or land for such occupants, including on a temporary basis (Pinheiro Principle 17.3); Mechanisms to provide compensation to injured third parties in the case of good faith sale (P.P. 17.4)	Compensation for necessary improvements and maintenance required to upkeep the property when possessed in good faith.	Syrian Civil Code, Article 931

Cause	Applicable Int. Law/Standard	Entitlements and Compensation in Syrian Law	Applicable Syrian Law
Eviction from illegally constructed building or informal settlement on State land or private land	Right to immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with the evictees' wishes and needs, to persons and communities that have been forcibly evicted (Resolution 1993, Commission on Human Rights)	If the rezoning decree is intended to transform an informal settlement into a zoned area: Building permit and shares equal to the surface area of the zone requiring permitting. If the rezoning decree is not intended to transform an informal settlement into a zoned area: The debris of their buildings. Alternative housing if there is surplus available (up to the discretion of the Office) The DRC can adjudicate cases regarding building violations and illegal occupancy.	Law 23/2015
		The debris of their buildings/constructions Allocation of alternative housing (if there is surplus, up to the discretion of the Governorate of Damascus) DRC may decide on ownership and rights of building violations and illegal occupancy of private property Two-year rent compensation with the annual lease compensation set at 5% of the value of the residential unit to be vacated (renting occupant of an illegal building)	Law 66/2012 (Art 43(a-b), Art. 44(a, e))
		Take the debris of constructions Allocation of alternative housing (up to the discretion of the executive bureau) Receive shares for the parcel (up to the discretion of the DRC) Two-year rent compensation with the annual lease compensation set at 5% of the value of the residential unit to be vacated (renting occupant of an illegal building)	Law 10/2018 (Art. 43(a-b, d), Art. 44(a-e)
Loss of legitimate HLP rights due to failure to apply or appeal for rights within the requisite timeframe	N/A	Upon successful lawsuit at the civil courts, restitution of rights within 5 years, or compensation within 15 years of the end of the initial appeal period.	Law 33/2017
		Compensation for the value of the debris and private belongings determined by price sold at auction.	Law 3/2018
		Compensation form the new plot owner if successful lawsuit occurs within two (2) years of the end of the one-month appeal period.	Law 33/2008

Cause	Applicable Int. Law/Standard	Entitlements and Compensation in Syrian Law	Applicable Syrian Law
Confiscation of real property by the GoS	UN Convention Against Transnational Organized Crime (Palermo Convention) International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation (FATF)	Court ordered confiscation of immovable property for anyone convicted of engagement in a terrorist organization, conducting acts of terror, supplying weapons for acts of terror, sponsoring or training acts of terror, threatening acts of terror against the government, promoting acts of terror, conspiring to perform acts of terror or knowingly failing to report acts of terror.	Law 19/2012
Appropriation of real property by third party	Right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore (Pinheiro Principles)	Restitution of property via lawsuit. Compensation for damages and deterioration caused by the occupant/possessor of the property.	Syrian Civil Code, Article 934

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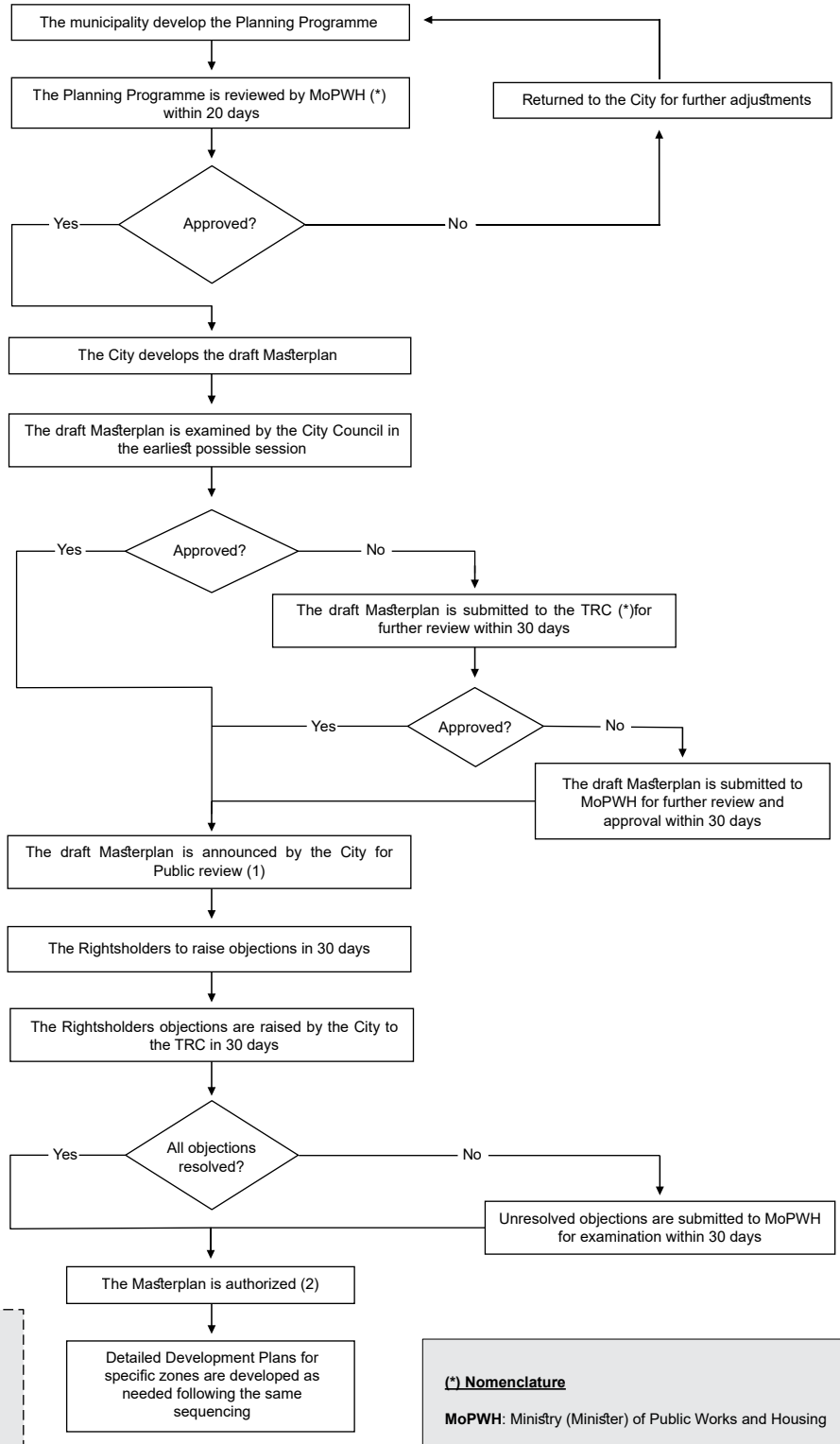
Law 5 (1982) On Urban Planning **- Flowchart**



(Notes)

(1) The draft Masterplan is displayed in the City hall and an announcement is published newspapers and possibly in TV and radio stations

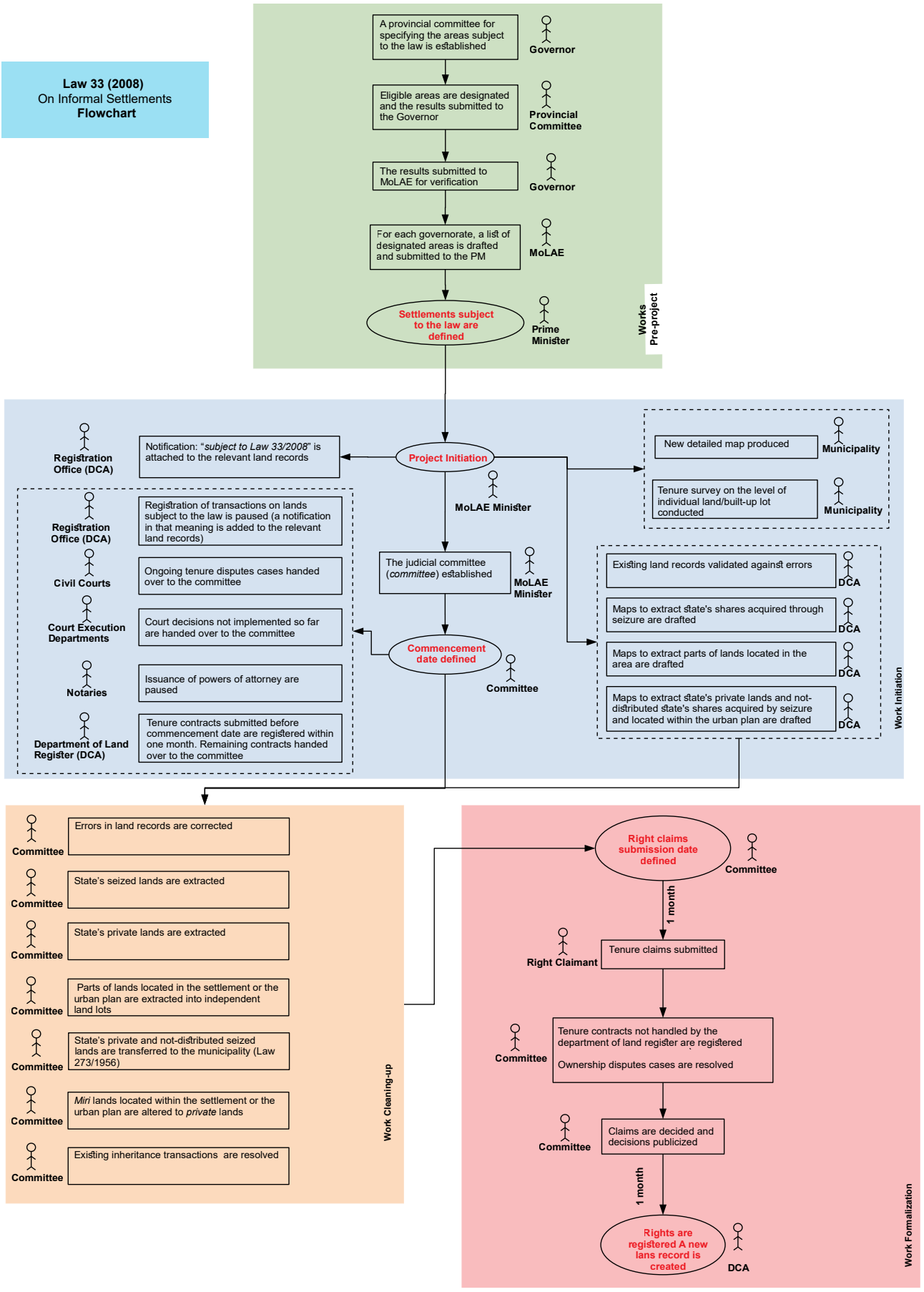
(2) The Masterplan is issued by the following authorities: The provincial capitals: Minister of Housing Other cities: The competent governorate's executive bureau

(*) Nomenclature

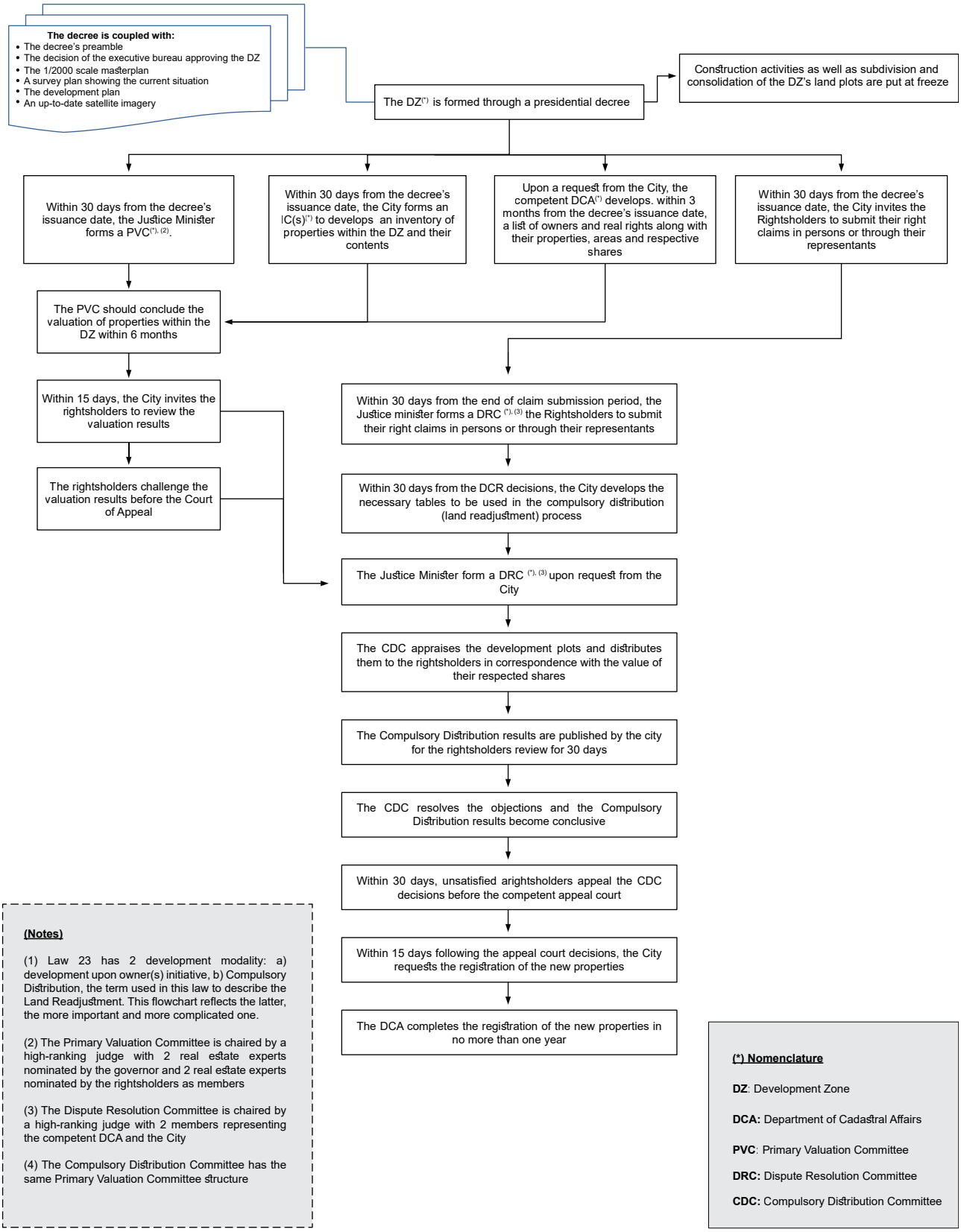
MoPWH: Ministry (Minister) of Public Works and Housing

TRC: Technical Regional Committee formed by the Housing minister to address specific issues along the Masterplan development process. Members of this committee are officials at the governorate level, representants of peasants union and line ministries, urban planners and the mayor

Law 33 (2008)
On Informal Settlements
Flowchart



Law 23 (2015) On Urban Development (1) - **Flowchart**



(Notes)

(1) Law 23 has 2 development modality: a) development upon owner(s) initiative, b) Compulsory Distribution, the term used in this law to describe the Land Readjustment. This flowchart reflects the latter, the more important and more complicated one.

(2) The Primary Valuation Committee is chaired by a high-ranking judge with 2 real estate experts nominated by the governor and 2 real estate experts nominated by the rightsholders as members

(3) The Dispute Resolution Committee is chaired by a high-ranking judge with 2 members representing the competent DCA and the City

(4) The Compulsory Distribution Committee has the same Primary Valuation Committee structure

(*) Nomenclature

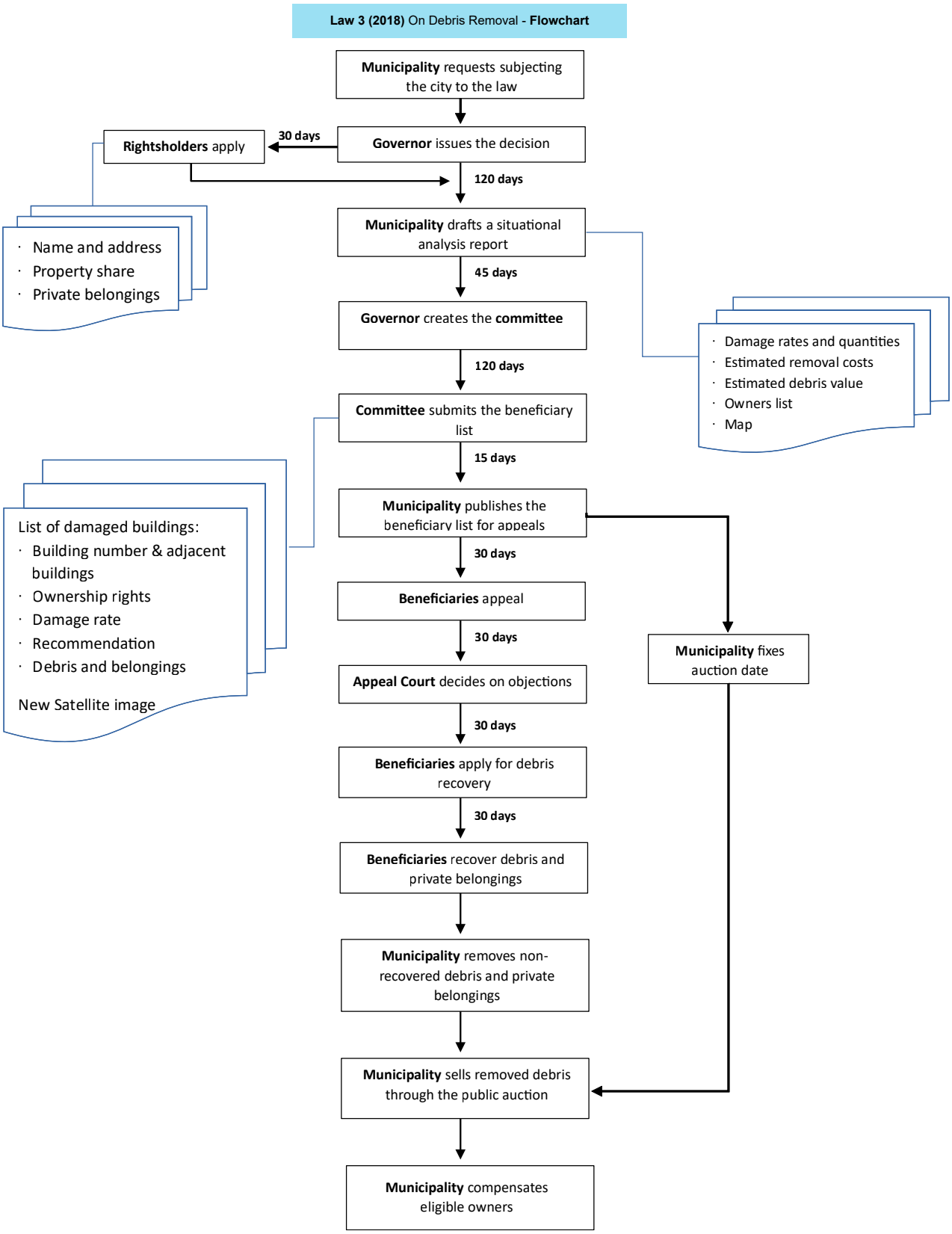
DZ: Development Zone

DCA: Department of Cadastral Affairs

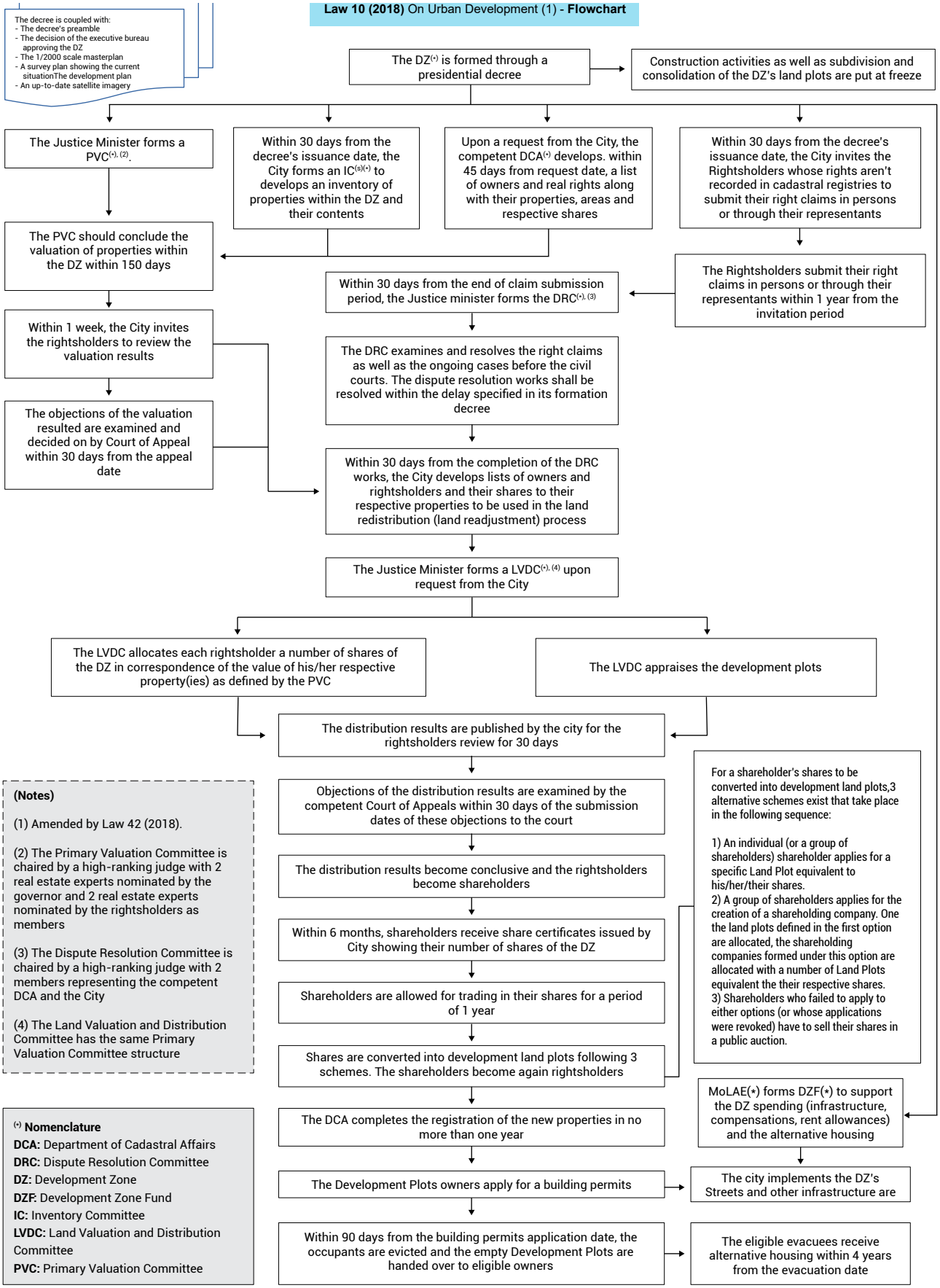
PVC: Primary Valuation Committee

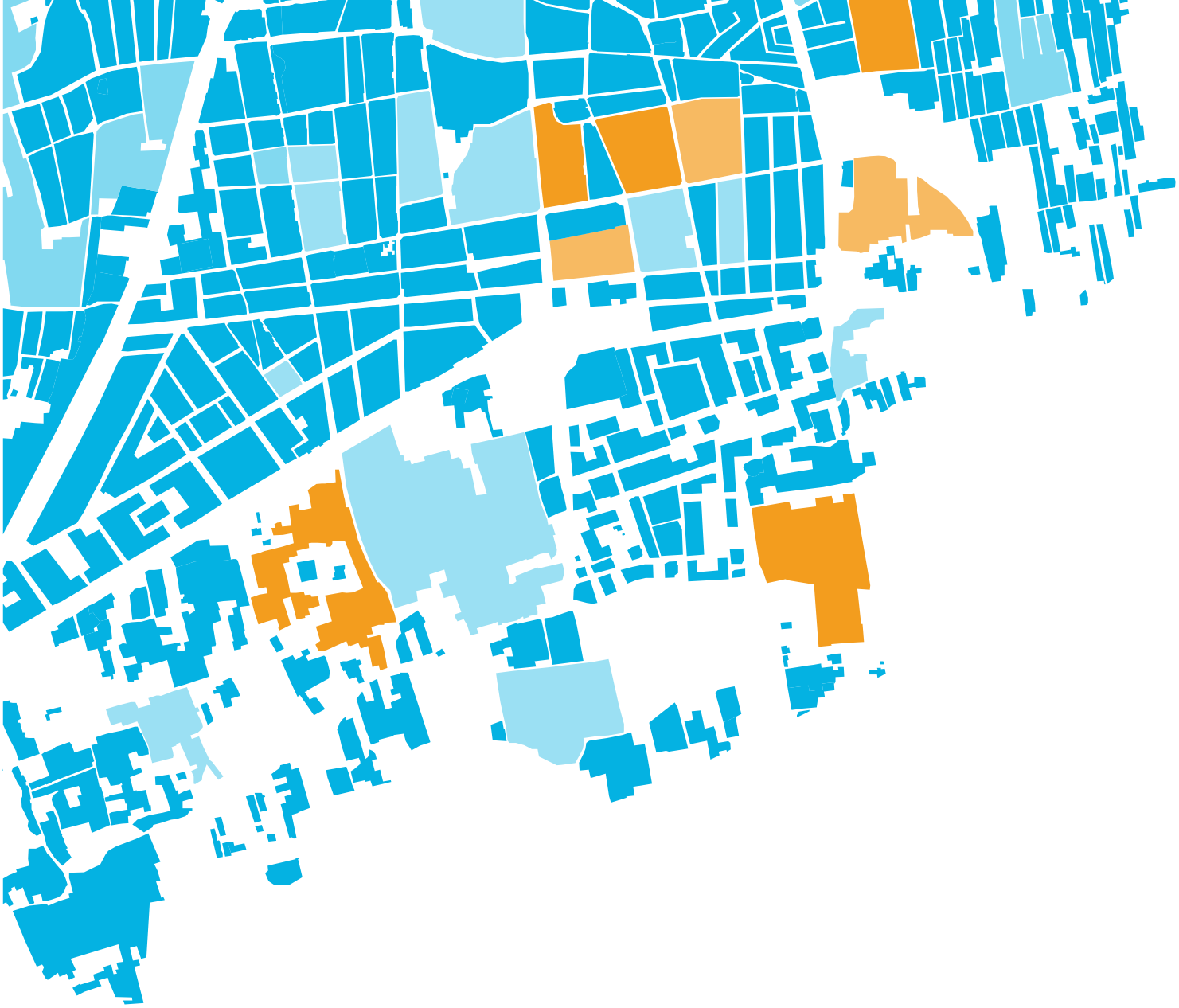
DRC: Dispute Resolution Committee

CDC: Compulsory Distribution Committee


Law 3 (2018) On Debris Removal - Flowchart
Municipality requests subjecting the city to the law
Governor issues the decision
30 days
Rightsholders apply
120 days
Municipality drafts a situational analysis report
45 days
Governor creates the committee
120 days
Committee submits the beneficiary list
15 days
Municipality publishes the beneficiary list for appeals
30 days
Beneficiaries appeal
30 days
Appeal Court decides on objections
30 days
Beneficiaries apply for debris recovery
30 days
Beneficiaries recover debris and private belongings
Municipality removes non-recovered debris and private belongings
Municipality sells removed debris through the public auction
Municipality compensates eligible owners
Municipality fixes auction date
· Name and address
· Property share
· Private belongings
· Damage rates and quantities
· Estimated removal costs
· Estimated debris value
· Owners list
· Map
List of damaged buildings:
· Building number & adjacent buildings
· Ownership rights
· Damage rate
· Recommendation
· Debris and belongings
New Satellite image

Law 10 (2018) On Urban Development (1) - **Flowchart**





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