



Due Diligence for Land-Based Programming

Technical Guidance Notes

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Objective

Focusing on post-conflict humanitarian and development interventions related to Housing, Land and Property (HLP), this guidance note provides practical assistance for performing due diligence as UN actors undertake land-based interventions in the Syrian context.

After a decade of internal conflict, more and more areas of Syria are gradually entering post-conflict status. In this environment, housing, land and property issues such as weakened security of tenure, insufficient shelter and incapacitated land administration systems serve as significant impediments to sustainable post-conflict rehabilitation and inhibit the return and resettlement of displaced persons. Furthermore, a post-conflict environment characterized by mass resettlement, property claim adjudication and weak institutional governance renders HLP issues susceptible to triggering renewed conflict. For these reasons, the resolution of housing, land and property issues has been recognized as foundational to the country's societal rehabilitation and development. Practically, in the Syrian context, this means UN agencies and international NGOs will increasingly seek to carry out HLP-related humanitarian and development initiatives.

Considering the sensitivity and impact of housing, land and property issues in crisis and post-crisis contexts, performing proper and comprehensive due diligence prior to and while undertaking humanitarian and development interventions in Syria has become a non-negotiable aspect of UN and INGO programming. In the context of humanitarian response and development programming, due diligence procedures will assess, treat, monitor and review identified risks to HLP rights and security of tenure. This Guidance Note will describe these risk management actions and make key recommendations for their application to HLP-related interventions in the Syrian context in order to provide operational due diligence guidance to the relevant UN agencies and recovery actors working

in Syria.

This note takes an operational approach to due diligence guidance by describing due diligence procedure and then making key operational due diligence recommendations for six specific activities and interventions which involve a strong HLP component.

The due diligence process is outlined to provide the baseline set of risk management procedures taken to avoid or mitigate harm done over the course of programming within the Syrian context. Specifically, the stages of conducting integrated due diligence – risk assessment, risk treatment, risk monitoring and risk review – are delineated. This process is rooted in a risk categorization framework based on the prevailing risk factors which have been observed prior-to and during the conflict in Syria.

The subsequent section makes specific due diligence recommendations for six land-based interventions and activities: the rental of land, housing and warehouses by UN/INGO entities; ERW/landmine clearance; debris removal and management; shelter and shop rehabilitation; infrastructure and public space rehabilitation; and land-based agricultural interventions. The annex provides a reference list summarizing the relevant Syrian laws and regulations dealing with or otherwise impacting HLP rights.

Accordingly, this guidance note is intended to advise UN actors and agencies as well as select international and national NGOs undertaking projects or programmes related to housing, land and property in Syria. It is especially relevant for development actors planning to undertake any of the HLP interventions discussed in this Guidance Note. Furthermore, the guidance note is addressed to UN agencies benefitting from government or private land allocation for uses such as housing, storage and training centres.

Introduction: Due Diligence For HLP Rights

Conflict renders housing, land and property rights especially susceptible to infringement. In Syria, the longevity of the conflict combined with mass displacement has further compounded the opportunities for HLP abuses to occur. Syria's roughly 12 million displaced persons have likely sustained the greatest share of these HLP abuses as military actors, community members, other displaced persons, and local leaders, authorities or elites take advantage of displaced persons' absence from their property. This has led to the prevalence of fraudulent or coercive property transactions, unlawful property confiscations, and secondary occupation with the result being that many persons occupying or claiming property in Syria may in fact have illegitimate rights to the HLP asset in question. It is critical that post-conflict humanitarian and development interventions do not acknowledge or formalize these ill-obtained HLP rights and further deprive true rightsholders of access to justice and judicial remedy. However, tracing these illegitimate HLP transactions following the conflict may be extremely challenging for both government (e.g., judicial) authorities and humanitarian and development actors for a number of reasons. Records of property transactions during the conflict have been limited and when done, have in many cases been conducted under the authority of various military groups which puts their authenticity in question.

Furthermore, both temporary land registries maintained by municipalities and permanent cadastral registries maintained by the General Directorate of Cadastral Affairs (GDCA), have suffered damage, and at times the destruction, of their records in different areas. Additionally, many displaced persons have lost their own civil and/or HLP documents during the conflict, leaving them with limited evidence of their pre-displacement HLP rights. Meanwhile, displaced persons, informal settlement inhabitants, women and other vulnerable

groups who already had limited tenure rights prior to the conflict will face additional limitations to access judicial remedy or otherwise re-establish their rights in the post-conflict reconstruction period. Especially as more Syrians return to their homes, competing claims to HLP will give rise to increased HLP disputes which may not be easily resolved by existing land rights adjudication and other judicial structures.

As such, the UN or other humanitarian or development actors planning to work in this context will be responsible for ensuring that their actions do not contribute to reinforcing HLP abuses, triggering latent risks to HLP rights, or otherwise weakening tenure security for affected beneficiaries and their communities. Since housing, land and property rights are an intersectional issue, a narrow approach HLP due diligence which only considers direct risks to HLP rights, such as those mentioned above, will fail to address the multitude of factors which contribute to upholding HLP rights and providing tenure security. For example, harm to the environment, to local economies, or to community networks and social cohesion, will also adversely impact HLP and tenure security rights in affected communities. Furthermore, due diligence should not only look at the full spectrum of factors which can directly or indirectly harm the HLP and tenure security of beneficiaries; it should also consider risks to the successful completion of the intervention itself as well as the risks which the implementing organization and its staff members bear in carrying out the intervention. These will include, for example, safety and security risks, regulatory risks, and reputational risks.

Bearing these factors in mind, for the purposes of this Guidance Note HLP due diligence is defined as a process of research and analysis preceding intervention implementation actions used to identify and treat risks to the enjoyment of housing, land and

property (HLP) rights and continuously advise how to carry out the intervention so as to avoid harm to persons, property, reputation and the environment. Identifying this spectrum of risks is the first step in conducting due diligence. As will be further described below, due diligence procedures are not

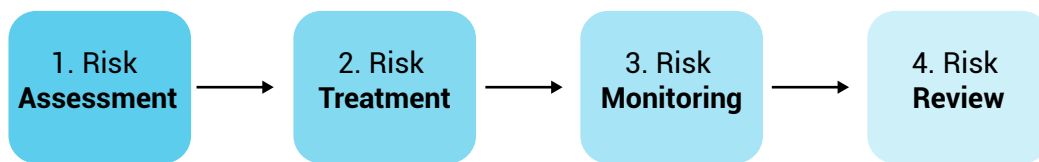
limited to identifying risks, but also include taking measures to appropriately treat these risks both prior to implementation and during implementation via risk monitoring. Finally, risk review should ensure that Do No Harm standards have been upheld once the intervention is complete.



Due Diligence Procedure

Based on UN standards and Enterprise Risk Management best practices, the following methodology describes the baseline set of risk management procedures for conducting due diligence.

Figure 1: Due Diligence Procedure



3.1. Risk Assessment

Assessing risks consists of identifying, analysing and evaluating risks to provide sufficient information at appropriate intervals for risk-informed management decisions. Risk identification requires recognizing risks within each of the following risk categories: stakeholder, regulatory, human rights and social, environmental, HLP, economic, safety and security, heritage, political, and reputational risks. Risk

evaluation requires an assessment of the probability (improbable, not likely, likely, probable, expected) and impact (negligible, minor, moderate, severe, critical) of each risk to determine the overall significance level each risk poses (low, moderate, substantial, high). Assessments of risk significance level should determine which risks can be accepted and which require a priority response.

Figure 2: Risk Categories for HLP Due Diligence in Syria



3.1.1. Risk Identification

Security of tenure, a key element of HLP rights, is determined by a number of factors outside the explicit area of housing, land and property law. The degree of security of tenure a person holds is a strong indication of the protection afforded to their HLP rights. Accordingly, when considering risks to HLP rights, an intersectional approach to risk identification should be used to recognize the

full extent of issues which may reduce security of tenure and therefore weaken the ability to exercise HLP rights. Housing, land and property-related interventions often pose a broad range of risks to tenure security in conflict and post-conflict contexts including but not limited to HLP issues. This is especially true in Syria, where a multiplicity of actors and complex set of power dynamics accompanying

varying levels of local and regional violence have created a diverse set of challenges for humanitarian and development actors seeking to actualize sustainable solutions. Accordingly, comprehensively addressing risks in such environments requires a systematic framework for risk identification.

In this respect, risk categorization is an essential tool for organizations and project implementors

to thoroughly survey risks in a given setting. Risk categories provide a broad frame of reference which can be applied to a range of contexts and through which situational or intervention-specific risks can be identified. Within Syria, the following risk categories have been identified as the most pertinent for organizations involved in interventions linked to HLP due to their direct or indirect impact on tenure security.

1. Stakeholder Risks

Risks related to the engagement and coordination of relevant government, NGO, and civilian stakeholders in the context of land administration fragmentation, the displacement of vulnerable groups and the emergence of an overlapping network of stakeholders related to housing, land and property with diverse, and sometimes contradictory, interests and influences.

Stakeholder Engagement and Coordination	The relevant stakeholders are not identified, consulted or engaged. Public participation and/or beneficiary participation is limited or absent. Lack of coordination amongst stakeholders results in duplicate work and programmatic or geographic gaps.
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2. Regulatory Risks

Risks related to compliance with the appropriate legislation related to HLP rights (property law, urban planning and development law, land administration and cadastral law, environmental law, etc.) that may impact the sustainability of the intervention and tenure security of intended beneficiaries.

Legal Compliance	The intervention fails to comply with the relevant national laws, building codes, and environmental regulations and/or with international law respecting HLP rights.
Legal Complicity	Compliance with certain laws aimed at reconstruction, such as Law 10 of 2018 (amend. Law 42 of 2018), may threaten the HLP rights of affected communities (especially informal housing areas).
Regulatory Ambiguity	The lack of clarity in the provisions of legislation, the absence of specialized legislation or the absence of implementing instructions for an issued piece of legislation hinders project implementors from ensuring legal compliance and exposes them to broader liability risks.

3. Social and Human Rights Risks

Risks related to the exclusion and disenfranchisement of vulnerable groups due to pre-existing inequalities related to gender, displacement, ethnicity, and political alignment which have been exacerbated due to conflict; in addition to diminished accessed to judicial remedy and the lack of inclusive public participation and consultation policies.

Gender and Women's Rights	Women, especially widows, have been divested of their rights to the property involved in the intervention due to the reinforcement of existing de jure and customary norms which prejudice their inheritance and HLP rights at large; Women are not engaged in decision-making related to the intervention.
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Exclusion of IDPs and Refugees	Displaced persons are neglected from participating in an intervention which may impact their housing, land or property and/or their rights thereto. The failure to identify and consult affected displaced rightsholders can leave their property susceptible to further HLP infringements such as secondary occupation or land grabbing.
Evictions and Resettlement	Communities at large or individuals within the affected community, including secondary occupants who are displaced and lack access to their own home or other adequate housing, will be evicted and/or resettled involuntarily due to the intervention.
Informed Decision and Public Participation	Community right to an informed decision is neglected and public participation is limited or absent due to the failure to publicly share information, conduct consultative community meetings, and maintain an internal grievance mechanism system for community members to access to air concerns or grievances.
Judicial Remedy	A lack of independent, accessible dispute resolution mechanisms prevents affected communities and intervention beneficiaries from accessing judicial remedy or redress of grievances.

4. Environmental Risks

Risks related to adverse impacts to the environment, climate change vulnerability, access to natural resources and agricultural productivity which may jeopardize affected persons right to adequate housing or trigger disputes over the allocation of resources and land use.

Access to and Use of Natural Resources	The intervention will impede access to and/or reduce the availability of natural resources, such as the water supply and arable or irrigated land, for the community and may encourage unsustainable land development.
Pollution/Waste Management	Failure to identify intervention by-products or properly manage waste adversely impacts the local environment and the community's ability to enjoy an adequate standard of living.
Agricultural Productivity and Food Security	The intervention can lead to reduced agricultural productivity due to impacts to agricultural land, natural resources, and land use which may harm the food security of surrounding communities.

5. HLP Risks

Risks which present a direct threat to the housing, land and property rights of affected persons due to selective rights recognition, triggered HLP disputes, compromised tenure systems, and illegitimate land acquisition, occupation or use.

Informality	The intervention fails to identify informal settlements and informal land-use leading to the forcible displacement of these groups, many of which have already fled during the conflict.
Illegitimate Property Acquisitions	The intervention may formalize fraudulent or coerced property acquisitions and/or unauthorized secondary occupancy of the property which has taken place during the conflict.

HLP Disputes and Dispute Resolution	The intervention triggers HLP disputes over the impact housing, land or property; Intervention implementors attempt to adjudicate competing claims to a property involved in the intervention rather than transferring the dispute to local customary dispute resolution mechanisms, leading to further tension, conflict or HLP right deprivations.
Land Grabbing	The intervention may make land parcels with unclear ownership and/or weak tenure security available to acquisition by a powerful individuals, group or organizations for purposes of speculation, extraction, resource control or commodification.
Secondary Occupation and Squatting	Interventions that do not identify programming beneficiaries and verify their HLP rights may make HLP assets available to secondary occupants and squatters if landowners and rightsholders remain displaced or are otherwise unable to exercise their HLP rights.
Community Cohesion and Social Tenure	The intervention may disrupt social cohesion and community networks that provide tenure security for vulnerable groups and consequently incite competition for land use rights.
Tenure Security of Leaseholders	Interventions can incentivize landlords to terminate lease agreements (either legally or illegally) and evict long-time tenants.

6. Economic Risks

Risks which pose a threat to the local economy of the beneficiary community including loss of livelihood, inflated costs of living leading to economic displacement (i.e., gentrification) and excessive post-intervention maintenance or management costs to beneficiaries.

Loss of Livelihoods	The intervention limits access to or the availability of sources of livelihood for beneficiaries or the local community at large.
Inflated Costs of Living	The intervention will gentrify the surrounding area, inflating the costs of living past what much of the local community can afford considering widespread the general impoverishment and lack of sufficient sources of income following the conflict.

7. Safety and Security Risks

Risks related to the safety and security of land-based programming implementors and beneficiaries which compromises the viability of the intervention and security of tenure of beneficiaries.

ERW/Landmines	The property subject to the intervention, or land in the immediate surrounding area, contains explosive remnants of war and/or landmines.
Conflict	Local, regional or national conflict and fighting will begin or resume over the course of the intervention impeding the implementation of the intervention and threatening the safety of implementors.
Tunnels	Tunnel networks exist under the city where land-based programming is planned; the improvisational nature renders their structural integrity questionable and risks their collapse.

8. Heritage Risks

Risks related to damaging or otherwise adversely impacting immovable cultural heritage as a result of land-based interventions which fail to identify heritage sites, improperly treat heritage sites or redevelop areas surrounding heritage sites.

Unidentified Heritage	Failure to identify a property involved in the intervention as culturally significant, or bearing culturally significant elements, results in a loss of cultural heritage due to improper treatment, maintenance or rehabilitation and potentially creates tension in the community.
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9. Political Risks

Risks related to political instability that continues to prevail in certain areas due to the presence of militias, NSAGs, or popular unrest in addition to risks related to a lack of political will backing land-based interventions can compromise the durability of interventions and tenure security of beneficiaries.

Government Commitment	Local, regional or national government or de facto authorities such as militias will not acquiesce to UN or INGO presence in the area or the intervention does not fall in line with local, regional or national government agenda due to conflicting ideology or political agenda.
Political Instability	Lack of stable and centralized political leadership, or widespread anti-government sentiment, seriously threatens the security of the intervention and may impede its implementation.
Change/Turnover in Government	Turnover in local, regional or national government either during or after the project will undermine the programmatic goals of the implementing organization by either prematurely ending the intervention or denying the intended beneficiaries the benefits of the intervention.

10. Reputational Risks

Risks which arise when aspects of the programming – such as the chosen area of intervention, beneficiary selection, or programmatic partnerships – associate the programming implementor with an undesired political stance or political agenda, whether at the local, regional or national scale.

Political Endorsement	Performing the intervention in a certain area implicitly associates the implementing UN agency or organization as endorsing a certain political group or figure on the local, regional or national level.
Social Privileging	Performing the intervention in a certain area benefits one group more than others, exacerbating tension related to post-conflict sectarian divisions and even instigating conflict.

3.1.2 Risk Evaluation

Assigning a significance level to risks is a useful way to determine the appropriate risk treatment option. Risks with high significance levels, for instance, tend to result in the termination of the risk-bearing activity. The two critical factors needed to determine risk significance level is risk probability and risk impact. To make risk probability, impact and significance level determinations consistent, a valuation system can be applied to quantify these indicators. By defining risk significance level as a product of risk impact and risk probability and by assigning numerical values to probability, impact and significance levels, respectively, risk significance can be quantifiably approximated to facilitate the process of determining the appropriate risk treatment actions. The risk significance matrix opposite visually represents the risk valuation system.

Risk Probability: Probability levels are assigned a value according to the likelihood a risk has of occurring. A risk is "improbable" if there is a 0-20 percent chance of it occurring; "not likely" if there

is a 21-40 percent chance; "likely" if there is a 41-60 percent chance; "probable" if there is a 61-80 percent chance; and expected if there is an 81-100 percent chance of occurrence.

Risk Impact: Risk impact levels are assigned value according to the degree of impact: 0.1 for "negligible" impacts; 0.25 for "minor" impacts; 0.45 for "moderate" impacts; 0.7 for "severe" impacts; and 1.0 for "critical" impacts. These numerical assignments accord impact levels more weight in determining significance level than probability.

Calculating Risk Significance Level: The product of the probability percentage value and the impact value constitutes the risk significance value. Risk significance levels are correlated to the values given in the significance level chart opposite. For example, if there is a 30 percent chance that a risk will occur ("not likely") and the risk has a "severe" impact (0.7), then its significance level would be quantified at 21 and therefore be considered "moderate".

Figure 3: Risk Significance Level Matrix

Impact	Critical					
	Severe					
	Moderate					
	Minor					
	Negligible					
		Improbable	Not Likely	Likely	Probable	Expected
Probability						

Significance Level		
High	61-100	
Substantial	36-60	
Moderate	16-36	
Low	0-15	

3.2. Risk Treatment

Based on the calculated significance level of each risk, risks can be managed by deciding the appropriate risk treatment option to take: terminate (eliminate the activity that triggers such a risk), transfer (pass ownership and/or liability to a third party), mitigate (reduce the probability and/or impact of the risk below the threshold of acceptability) or tolerate (accepting the risk level). Assign risk ownership to an individual/s within the organization who can be ultimately accountable for ensuring the risk is managed properly. In the case of risk escalation beyond the capacity of the risk owner(s), risk ownership must be transferred to the manager best suited to take accountability for the escalated risk. A non-comprehensive set of risk treatment options for the risks identified in the risk assessment are given below:

1. Stakeholder Risks

Stakeholder Engagement and Coordination

- Mitigate by identifying the relevant subject-matter and area-based stakeholders including the following: government administrations and institutions, local authorities (e.g., mukhtar) and city councils, national and international NGO actors, customary community and religious leadership, AOGs and militias, civilian community members and residents including vulnerable groups such as IDPs and women.
- Obtain the necessary permissions from local and/or national authorities to undertake the intervention in the given area.
- Conduct preliminary consultative meetings with the local community and intended beneficiaries regarding the plans for the intervention, taking their input into consideration.
- Coordinate with local authorities and national or international organizations regarding the intervention implementation and formalize MOUs with programming partners as needed.

2. Regulatory Risks

Legal Compliance

- Mitigate the risk of non-compliance with the relevant national regulations and building codes by identifying and reviewing the relevant HLP laws, building codes, and environmental regulations and integrate regulatory compliance checks as safeguards in each phase of the intervention. Acquire the services of a national

legal compliance officer as needed. See the Annex for information regarding specific pieces of relevant legislation.

- Mitigate the risk of non-compliance with international law respecting HLP rights by reviewing the toolkit on the right to adequate housing from the UN Office of the High Commissioner for Human Rights. Utilize these tools to conduct trainings on HLP rights with programming leadership and staff.

Legal Complicity

- If the property involved in the intervention has already been rezoned in accordance with Law 23 (2015) or redeveloped under Legislative Decree 66 (2012) or Law 10 (2018), mitigate the risk of reinforcing arbitrary forfeitures of HLP rights by verifying that displaced persons, informal tenure holders or other vulnerable persons did not lose their home as a result of the rezoning or redevelopment. Consult land registry records and conduct interviews to identify prior property owners and/or tenants to ascertain whether they were arbitrarily or unduly deprived of their property.
- The risk may be tolerated when pursuing programming supporting equitable applications of land readjustment via Law 23 (2015) by ensuring that rightful owners, occupants and tenants will retain their rights (or acquire corresponding rights) in the rezoned area. This can be done by supporting legitimate rightsholders to submit rights claims and pursue appeals.
- Terminate the intervention in the area in question when the intervention is only authorized as part of a redevelopment operation as given in Legislative Decree 66 or Law 10 which poses a higher risk of depriving residents of their HLP rights, for example, due to the displacement of rightsholders and the absence of compulsory redistribution of land parcels.

Regulatory Ambiguity

- Mitigate the risk by consulting qualified lawyers or legal experts on the issue where there is legal ambiguity. The relevant national, regional and local authorities can be consulted as well as needed. When clarity on the issue can be ascertained, proceed with the intervention and maintain contact with the legal experts and authorities who can provide guidance on how best to proceed.
- Tolerate the risk when the relevant regulations

remain unclear but local, regional and/or national governance structures have sanctioned or set a precedent of a certain interpretation of the regulation.

- Terminate the intervention when the regulatory situation cannot be clarified and programming would have to proceed disregarding the existing legal framework and without the support of local, regional or national authorities.

3. Social And Human Rights Risks

Gender and Women's Rights

- Mitigate the risk of reinforcing HLP deprivations experienced by women and widows by independently consulting women in the beneficiary community and of beneficiary families to ascertain whether women have been forced to give up their HLP rights to the property due to inheritance, loss of HLP documents, or other forcible means.
- Ensure women are included in all public participation aspects of the intervention and raise awareness of women's rights to housing, land and property amongst community members, especially local leaders, decision makers and female community members themselves.
- When possible, transfer the risk by directing women to NGOs or legal experts who can assist them in securing their HLP rights by, inter alia, obtaining the requisite documentation and legally asserting their inheritance rights.
- Terminate the intervention when it is probable or expected to result in restricted access to housing, land or property for women, the usurpation of women's rights to HLP or otherwise lessens women's security of tenure.

Exclusion of IDPs and Refugees

- Mitigate the risk of excluding tenure-vulnerable IDPs and refugees by undertaking community verification of the ownership status of impacted HLP assets and the sale/transaction history of the vacant properties involved in the intervention with consideration to whether original occupants were displaced due to conflict and have been barred from return.
- Liaise with family members, neighbours and other community members known to the displaced rightsholder to establish contact, if necessary, so that they can be informed of their rights and given the opportunity to participate in decision-making regarding the intervention.
- Maintain a referral system with organizations

working with displaced persons to contact and inform displaced persons whose HLP rights may be impacted by the intervention. When possible, take measures to support displaced persons in any rights claiming procedures related to the intervention.

- Terminate the intervention when it will perpetuate a prior confiscation or usurpation of the property in question from displaced persons.

Evictions and Resettlement

- When temporary displacement is necessary to implement the intervention, mitigate the risk of prolonged displacement by implementing the intervention within a sufficiently expedient timeframe and provide affected persons with alternative housing or an adequate rent subsidy for the duration of that period.
- When permanent involuntary resettlements are absolutely necessary to achieve the intervention, it can be tolerated only when evictions align with international standards on involuntary eviction and the right to adequate housing. Evicted occupants should be provided with alternative housing of a similar standard and, when possible, in a location near their prior place of residing, and/or, given monetary compensation for the loss of their residence and for any costs associated with resettling. This should apply to secondary occupants who have taken up residence in another's housing, land or property because they are displaced and lack access to their own housing.
- Terminate the intervention when it is likely, probable or expected that it will unavoidably result in the eviction or involuntary resettlement of community members without due process or just compensation or when resettlement will lead to the loss of sources of livelihood for affected persons.

Informed Decision and Public Participation

- Mitigate the risk of neglecting community concerns and grievances by ensuring that beneficiaries and other impacted communities' right to an informed decision is upheld at all times over the course of the intervention by implementing a communications plan that mandates regularly consulting community members through public meetings and publishing announcements when appropriate before taking major actions. Incorporate public participation into major programmatic decisions that impact the community.

- Grievance Mechanisms and Dispute Resolution
- To mitigate, establish a grievance mechanism for the community, rehabilitation beneficiaries and contracted labour that stipulates the scope of grievances to be addressed, procedures for informal and formal raising of grievances, record keeping and confidentiality.
- Identify and, when necessary, employ alternative dispute resolution mechanisms to resolve disputes either between beneficiaries or between beneficiaries and the intervention implementors. These can include formal or customary mediation services, for example.
- To transfer the risk, identify the available statutory and customary sources of dispute resolution within the city or community when grievances fall outside the scope of the implementing organization's internal grievance mechanism.

4. Environmental Risks

Access to and Use of Natural Resources

- Mitigate by assessing how the intervention may impact access to and availability of natural resources, such as water supply and arable land, for the community via Environmental and Social Impact Assessments (ESIAs) and comply with Syrian Environmental Impact Assessment legislation (Ministerial Order no. 225 of 2008). Ensure that the intervention, or UN or INGO presence itself, does not detrimentally outsource such resources from the community.
- Apply protective measures to all impacted areas that have natural resources used by the local community, especially resources that may impact agricultural productivity.
- Determine how the intervention will affect surrounding land-use, especially related to the development of peri-urban and rural land. Consult urban planners to discuss how to rehabilitate infrastructure and public space to encourage sustainable land development.

Pollution and Waste Management

- Mitigate pollution generation by the intervention by avoiding the production of hazardous waste and minimizing the generation of non-hazardous waste. Where unavoidable, minimize and appropriately dispose of waste by establishing and monitoring a sustainable waste management system for the intervention.
- Avoid the release of air, water and land pollutants, or where unavoidable, minimize and plan

- periodic checks to monitor all forms of pollution to ensure they remain at negligible levels.
- Comply with the regulatory pollution limits and standards stipulated by law including: Syrian Standard for maximum permissible levels of air pollutants (2003); Standard for maximum permissible levels of noise (2003); Hazardous Industrial Waste Classification (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 (2003); Drinking Water Quality Standard (No. 46/1996); Ambient Air Quality Standard (SNS No. 2338/2004); Energy Conservation Law (2009); and Licensing System for Ozone Depleting Substances (2006). Moreover, comply with Law no. 49 of 2004 on the Cleanliness Aesthetic of Administrative Units.
- When local waste management services have been shut down due to damage to infrastructure or political instability, avoid contributing to unsustainable and detrimental waste management practices such as dumping and unplanned landfill growth by adopting alternative waste management practices considering the local capacities.

Agricultural Productivity and Food Security

- Mitigate the risk of harming agricultural productivity and local food security by conducting environmental impact assessments which identify whether the tools and techniques used for interventions on arable land can cause direct harm to soil content and water sources. Impacts with a moderate to high-risk significance level will require programming implementors to find alternative tools or techniques to conduct the intervention which do not cause harm. Consult affected beneficiaries and community members regarding the intervention and risks to agricultural productivity to uphold all affected persons' right to an informed decision.
- Interventions in peri-urban areas should consider how their programming can influence urban growth, as urban expansion onto historically agricultural lands has been a source of reduced agricultural productivity for farming communities outside large cities (such as has been the case in Eastern Ghouta, for example). Accordingly, programming that influences the built environment should promote urban density rather than urban expansion whenever possible.
- Furthermore, it is critical that interventions do

not facilitate land grabs of agricultural lands which would deprive local populations of access to the productive resources indispensable to their livelihood. As such, it is critical that post-intervention handover procedures formally transfer possession of the impacted HLP back to its rightsholders. When needed, these rightsholders should be supported in registering their rights to ensure that they enjoy legal safeguards.

5. HLP Risks

Informality

- Mitigate the risk of prejudicing informal tenure rights by assessing the area where the intervention will be implemented for informal settlements and consulting the community as to informal uses of the land in the area of intervention.
- It should be noted that persons in informal settlements typically have weaker security of tenure because they lack rights to the land upon which their housing is built, but more often it is the case that informal settlements have rights to their land but have built contrary to the building code or land-use plan. As such, informal settlement residents will have varying levels of access to tenure security, with some even having access to State-recognized documents.
- Support informal tenure holders in registering their rights and resolving buildings violations when possible to increase their tenure security. Engage HLP experts and organizations as needed to do this.
- Coordinate with local officials to implement Fit-For-Purpose Land Administration tools to increase the tenure security of unregistered rightsholders or transfer this responsibility to UN-Habitat GLTN staff for their support in this respect.
- Terminate when informal tenure holders would be evicted and displaced without due process and/or compensation due the implementation of the intervention.

Illegitimate Property Acquisitions

- Mitigate the risk of formalizing fraudulent or unauthorized secondary occupancy by assessing the degree of displacement and demographic change which occurred in the area over the course of the conflict and verifying the HLP rights of beneficiaries.
- Transfer the risk by directing the rightful

landowner/rightsholder to trustworthy legal assistance in pursuing legal action against an unauthorized occupant/possessor who refuses to vacate. Transfer competing property claims to courts or customary dispute resolution systems.

- Terminate the intervention when rightful ownership or use-rights cannot be verified, and it is likely, probable or expected that fraudulent or coerced transactions occurred.

HLP Disputes and Dispute Resolution

- Mitigate the risk by deferring competing claims and other HLP disputes to community dispute resolution mechanisms overseen by mukhtars, local councils or community leaders as these mechanisms are often most efficient and their resolution is upheld by community trust systems. It is recommended to abstain from engaging with the property in dispute until the dispute is resolved.
- When dispute is prolonged or not being resolved by accountable methods, terminate the risk by refraining from engagement with the property.

Land Grabbing

- Mitigate the risk of enabling land grabbing by identifying and contacting intervention beneficiaries prior to initiating the intervention, especially if these beneficiary rightsholders are displaced and absent from their property. If the rightsholder is displaced, ensure that their rights are recorded and legally safeguarded by the competent authorities by supporting property registration procedures on behalf of the beneficiary when necessary.
- Transfer the risk by conducting formal handover procedures following the intervention either to the rightsholder, to an appointed family member, or to legal representative (verified by a notarized Power of Attorney document).
- Terminate when the rightsholder to the affected HLP cannot be identified, contacted, and/or securely given possession of the property, either directly, to an appointed family member or legal representative.

Secondary Occupation and Squatting

- Mitigate the risk of facilitating secondary occupation of housing, land and property following the intervention by verifying the HLP rights of all pre-existing occupants and by conducting formal handover procedures either to the rightsholder, to an appointed family

member, or to a legal representative (verified by a notarized PoA document).

- Ensure that all beneficiaries and affected tenure holders have registered their rights to protect them against claims of adverse possession by secondary occupants. To prescribe rights to vacant land, a secondary occupant would either need to possess the land for five (5) uninterrupted years in good faith based on valid reason, or they would need to possess the land for 15 uninterrupted years in “bad faith” (i.e., aware that they don’t have valid rights to the land while in possession). This only applies to rights which are not registered.
- Consult municipal authorities who have oftentimes been integral to regulating cases of secondary occupation in areas where secondary occupation has been prevalent. See the Guidance Note on Secondary Occupation jointly drafted by UNHCR and UN-Habitat for more detailed responses.

Community Cohesion and Social Tenure

- Mitigate the risk of undermining community cohesion and social tenure by remaining fully transparent not only with beneficiaries but also with the beneficiary community at large regarding the intervention. This means liaising with community leadership (i.e., mukhtars), engaging in consultative community meetings where community members can pose questions and air concerns, and conducting public handover procedures of rehabilitated housing, land or property.

Tenure Security of Leaseholders

- Mitigate lessee evictions indirectly resulting from the intervention by ensuring that all tenant beneficiaries have written and registered lease agreements which can protect them from unprocedural evictions. If a beneficiary lacks an agreement that is either written or registered, provide support for drafting and registering the lease agreement.
- Tolerate the risk when beneficiaries have written and registered lease agreements which should only allow for the early termination of the agreement upon mutual agreement of both parties, or, alternatively, in line with Law 20 (2015), when the lessor is willing to pay the lessee 40 percent of the value of the unit rented as compensation for early termination, with sufficient notice given.

6. Economic Risks

Loss of Livelihood

- To mitigate the risk of depriving affected community members of sources of livelihood, undertake (or when already conducted, access) an income survey of the area where the intervention will be implemented to determine income levels and pre-existing sources of livelihood. This can be conducted as part of an integrated Environmental and Social Impact Assessment (ESIA). Determine whether the intervention will restrict access to or deprive individuals or families of sources of livelihood, whether due to physical inaccessibility to land or due to the disruption of informal economies and associated services.
- When the intervention unavoidably limits or removes access to sources of livelihoods, the risk may be tolerated when the intervention stimulates renewed livelihood opportunities, particularly for the economically vulnerable.
- Endeavor to restore sources of livelihood that were temporarily restricted during to intervention. Provide alternative short and long-term sources of livelihood by employing local companies and independent contractors and reviving sustainable, formalized sources of livelihood.
- Conduct thorough vetting of all local contractors and employees.

Inflated Costs of Living

- To mitigate, assess the income and employment levels as well as extant costs of living (rent prices, basic services prices, transportation prices, food prices) of the area where the intervention will be implemented. Endeavor to ensure that the intervention provides increased affordability for the beneficiary community by alleviating shortages and formalizing black market war economies. Consult local authorities and councils regarding establishing safeguards against speculative development and private redevelopment/reconstruction schemes which may cause economic displacement.
- The risk may be tolerated when the increase in costs of living is sufficiently gradual and in line with the rate of development and revitalization of the local economy so that communities are not being displaced.

7. Safety and Security Risks

ERW/Landmines

- Mitigate the risk of explosive incidents by ascertaining whether the area has already been subject to ERW clearance and assess the risk level of remaining ERWs/landmines based on the history of conflict in the area and consulting the local community and authorities and national mine action experts such as those from UNMAS in Syria.
- When the probability of residual unexploded remnants of war in the area is any level above "improbable" (e.g., unlikely, likely, probable or expected), transfer the risk by engage experts to undertake non-technical and technical surveys to clear the area of ERWs as needed.
- When it is likely, probable or expected that ERWs or mines remain in the area and experts cannot be contracted to remove them in the required timeframe, the intervention should be terminated.

Conflict

- Mitigate the risks of renewed conflict by engaging the relevant stakeholders, e.g., local councils and AOGs to ensure UN or INGO presence doesn't stimulate conflict. Ensure the intervention does not privilege one social or sectarian group.
- The risk may be tolerated by maintaining contacts with local authorities who can monitor and report of an increased likelihood of conflict. It is recommended to have an exit plan in place in the case of emergency or conflict.
- Terminate an intervention with a high probability (> 41%) of renewed conflict and a moderate-critical impact level.

8. Heritage Risks

Unidentified Heritage

- Mitigate by assessing the area and/or properties which will be impacted by the intervention to identify any properties of cultural significance. If the cultural heritage or significance of a structure is in question, the community and heritage experts should be consulted regarding its cultural value. Heritage surveys can be conducted as part of integrated Environmental and Social Impact Assessments (ESIA).
- If a property, building or structure containing cultural heritage elements is identified, transfer the risk by consulting and, when needed,

employing, a heritage or restoration expert.

9. Political Risks

Government Commitment

- Mitigate by consulting with the necessary government stakeholders and authorities along with customary or de facto authorities and power brokers to obtain the necessary approval and permissions for the intervention, even if under informal agreements. Do not engage in any form of quid pro quo.
- Terminate the intervention when political opposition will unavoidably undermine the intervention or prevent beneficiary enjoyment of the intervention.
- Political Instability
- Mitigate the risk by assessing the pre-existing political stability of the affected area and assess risk significance of potential instability.
- Tolerate the risk if it determined to be sufficiently stable to undertake the intervention and achieve the programmatic goals of the implementing organization. Establish a security safeguard system by monitoring the political stability, communicating with local authorities and having an exit plan in place.
- Terminate the intervention when the political environment is not sufficiently stable to provide basis for the longevity of the planned programme intervention and implementors are exposed to significant risk due to instability.
- Change/Turnover in Governance
- Mitigate the risk by assessing the probability of government turnover and the degree to which it would affect the intervention prior to implementation. Mitigate the degree to which government changeover would impact the intervention by minimizing engagement in highly politicized areas.
- The risk may be tolerated if the assessed risk significance level is low to moderate.
- Terminate the intervention or abstain from immediate project implementation when the risk is substantial or high.

10. Reputational Risks

Political Endorsement

- Mitigate the risk by avoiding all actions or aspects of the intervention which associate the UN agency with an unintended political stance such as engagement with urban redevelopment legislation or location selection of interventions

(e.g., only rehabilitating areas with certain political affiliations/governance).

- Terminate the intervention or aspects thereof that risk political endorsement when political association is unavoidable.
- Social Privileging
- Mitigate the risk by undertaking ethno-sectarian and demographic surveys to assess where distinct social and sectarian groups reside within the area and understand which areas were associated with the GoS and which with rebel groups or other factions during the conflict. If necessary, expand rehabilitation project scope to include a diversity of groups.
- Terminate the intervention, or aspects of the intervention which give rise to the risk, when social privileging is unavoidable and bears a moderate, substantial or high-risk level of increasing social tension or causing conflict.

3.3. Risk Monitoring

Monitoring measures and mechanisms should be put in place to regularly reassess the significance (probability and impact) of each risk throughout intervention and inform risk management decisions. These mechanisms should include risk recording and risk reporting to ensure that the relevant risk information is available across all organization levels in a timely manner. Assign one or multiple team members the responsibility of monitoring certain risks via risk recording and reporting. Risk recording includes periodically, or at designated intervals, reassessing and documenting changes

in risk significance levels. Changes to risks or risks levels should then be reported to the risk owner. The risk owner is the primary party ultimately responsible for ensuring risk is being monitored sufficiently. Risk monitoring focal points should liaise with community representatives and local authorities to address risks, issues and community grievances as they arise over the course of the implementation. Based on the risk monitoring results, treatment modalities can be changed to accommodate the emerging circumstances.

Table 1: Risk Recording Template

Risk Owner(s)						
Risk Monitoring Focal Points (FP's)						
Identified Risk	Significance Level	Comments	Significance Level	Comments	Significance Level	Comments
Evaluating Officer Initials		Date		Date		Date
Risk Owner Initials		Date		Date		Date

3.4. Risk Review

Upon project completion, review risk management of the project to ascertain the status of the identified risks. Risk review should identify if the risk has been eliminated (no longer remains or no longer poses a threat), if the risk can be tolerated (when it has been sufficiently mitigated or the risk significance level remains low), or if the risk should be transferred to the competent party (often the beneficiary or governing authorities). Risk toleration requires at least one

individual from the project intervention team to act as a focal point to the beneficiary community for the purpose of facilitating community reporting mechanisms related to the intervention and its impacts. However, such a responsibility can be transferred to a local partner or willing community leader. Outside of risk elimination, risk ownership transferrals are typically the most sustainable option and require clear and careful communication.

Table 2: Risk Review Template

Risk Owner(s)		
Risk Management Focal Points (FP's)		
Identified Risk	Risk Status (Eliminated; Tolerated; Transferred)	Comments
Evaluating Officer Initials	Date	
Risk Owner Initials	Date	

Table 3: Summary Due Diligence Operational Template

Due Diligence Operational Template							
1.1 Risk Identification		1.2 Risk Evaluation			2. Risk Treatment	3. Risk Monitoring	4. Risk Review
Risk Category	Identified Risk	Probability (I, NL, L, P, E)	Impact (N, M, MD, S, C)	Significance (L, MD, S, H)	Treatment Options (Mitigate, Tolerate, Transfer, Terminate)	Risk Ownership (Individual/s)	Risk Status (Active, Inactive, Transferred)
Stakeholder Risks							
Regulatory Risks							
Human Rights and Social Risks							
Environmental Risks							
HLP Risks							
Economic Risks							
Safety and Security Risks							
Heritage Risks							
Political Risks							
Reputational Risks							

Intervention-Specific Due Diligence Recommendations

HLP due diligence will vary depending upon the context and nature of the planned intervention. These nuances will be explored in the due diligence recommendations for the six interventions discussed in this Guidance Note: the rental of land, housing and warehouses; landmine and ERW clearance; debris management; shelter and shop rehabilitation; infrastructure and public space rehabilitation; and land-based agricultural interventions. However, there are also certain HLP due diligence actions which are fundamental for any land-based intervention in Syria. These actions, which are described below, should serve as non-negotiable pre-requisites to all the interventions later described and any other land-based intervention.

i. **Assess and understand the HLP operational context.**

- Identify who has been responsible for land administration in the community to determine how property rights have been recorded historically (i.e., prior to the conflict) and how property records and transactions have been maintained over the course of the conflict. This should start from examining the official cadastral records kept at the local GDCA office, the municipal temporary registry (when applicable), court records and public notary records (for Power of Attorney documents), and any other non-registered records used to document rights in informal settlements and then expand to any spontaneous registration systems implemented by non-State actors or established in lieu of access to official cadastral services to register and transfer property. Though registration systems implemented by non-State actors will not be recognised by the government in areas that are again under government control, examining such systems should be done for the purpose of analysing the validity of transactions that are registered therein.
- Determine the degree to which the local community has State-recognized (such as

tabou, power of attorney statement, court order, registered lease) and alternative (such as utility bills, tax statements, unregistered lease agreement) documentary evidence of HLP rights. Additionally, assess the degree of active combat which occurred in the area over the conflict, the percentage of housing stock damaged, the level of ERW/landmine contamination, presence of tunnels underneath buildings, the degree of demographic change, and the prevalence of displaced persons/groups and secondary occupation.

- Ascertain whether Syrian law is still used/upheld and if not, then what customary or alternative legal systems are in place. Identify what mechanisms exist and are in use for HLP dispute resolution. Investigate what has happened to properties abandoned by displaced persons to determine the degree to which land grabbing, land confiscation, and secondary occupation has occurred.
- ii. **Be aware of local conflict dynamics.**
 - Assess the community to be aware of past and current armed conflict levels, political associations, the existing military power brokers and militias, and ethno-sectarian divisions within the community. This information will inform decision making for mitigating risks related to government commitment, safety and security, government changeover, social privileging and political posturing.
- iii. **Identify, map and establish links with key HLP actors and stakeholders.**
 - Perform stakeholder analysis to identify main HLP administration and management actors. These can include government entities, de facto authorities, sharia courts, mukhtars, host community representatives, IDP and refugee representatives and other humanitarian and HLP organizations. Map the relationships between these actors to identify gatekeepers whose

permission or assistance will be needed to enable the intervention and identify stakeholders who should be informed and/or consulted in performing the planned intervention.

- Members of the beneficiary community should be considered and treated as stakeholders, ensuring beneficiaries' right to prior and informed consent is honoured and public participation and consultation is prioritized. Furthermore, the community should remain informed throughout all phases of the intervention to promote transparency and trust.

iv. **Establish gender balanced community liaison focal points with knowledge of HLP to promote inclusive community participation and facilitate priority response to HLP issues.**

- Appoint individuals within the implementing team as community liaison focal points who are responsible for maintaining established links and communication with the community throughout all phases of the intervention process (information screening, planning and prioritization, implementation, post-implementation monitoring, evaluation and reporting). These representatives should include men and women to ensure female participation in the intervention planning and implementation process and assist in securing HLP rights for female-headed households. These focal points should also be trained and knowledgeable in HLP rights and local HLP dispute resolution mechanisms to address HLP issues and dispute that may arise during the implementation process.

v. **Establish links with humanitarian and development organizations that deal with conflict affected populations and land issues.**

- Intervention actors should coordinate and collaborate with HLP technical working group experts, organizations working on land issues in the community and organizations working with conflict-affected groups such as IDPs and refugees to establish durable solutions. Maintaining such relationships can assist in ensuring HLP issues and risks are properly identified and managed while also promoting a sense of neutrality to the community. Integrate these experts and organizations into a referral system for HLP, security of tenure, displacement and dispute resolution issues.

vi. **Establish a referral system for HLP disputes and**

displacement issues.

- Identify local civil society organizations and NGOs to whom community members can be referred regarding issues relating to strengthening security of tenure, for example by assisting them with obtaining formal HLP documents.
- Link with existing HLP dispute resolution structures by identifying the predominate HLP dispute resolution mechanisms and local courts to which beneficiaries can be referred in the case of HLP dispute or conflict related to the property in question.
- Additionally, maintain a referral system with organizations working with displaced persons, such as UNHCR or NRC for example, for issues related to displacement, such as when the owner of a property cannot be located due to displacement.

vii. **Conduct HLP rights verification**

Special attention should be given to treating direct risks to housing, land and property rights, such as formalizing fraudulent or illegitimate property acquisitions, inciting HLP disputes, enabling land grabbing or unauthorized secondary occupation. Mitigating these risks requires undertaking an evidence-based process of HLP rights verification. Due diligence in this respect should verify all forms of tenure rights to the properties being impacted by the intervention, including ownership, rental, use and access rights. These rights can be substantiated by collecting documentary proofs and supporting evidentiary information through the community liaison process. The following should be obtained for each beneficiary property:

- Official HLP documents such as tabou (land title deed), temporary land registry record, court decision, Ministry of Finance statement, notarized Power of Attorney sale agreement, or other officially attested documentation.
- When beneficiaries do not have these, supplementary evidences such as utility bills, tax statements, building violation notices, photographs and so on can be used in tandem with verification from reliable community sources.
- Official civil identification documents (e.g., national ID, family book, birth and/or marriage certificates).

The validity of these documents (HLP and civil) should be verified through the issuing institutions

whenever possible and compared against existing cadastral land registry records. Additionally, when verifying HLP rights against land registries, it is critical to check what, if any, restrictions have been registered on the property such as a lawsuit or seizure notice for a third party.

When beneficiaries cannot provide official (i.e., government attested) HLP and/or civil documents, the triangulation of affirming testimony from at least three reliable community sources such as community representatives, religious leaders, longstanding residents, local authorities, and neighbours to the property should be used to corroborate HLP claims. This should be done in addition to collecting other documentary evidences such as utility bills, tax statements, building violation notices, photographs

and so on. Special consideration of women, female-headed households and minors should be given in this process since many widows have been unable to register the death of their husband and/or have lost their marriage certificate, rendering them unable to transfer ownership rights over their HLP from the husband. Furthermore, it is recommended to document HLP rights verification by recording sources names, dates, rights established and contact details to maintain transparency and accountability in case future issues arise.

The following requirements (see Table 4: HLP Rights Due Diligence Checklist) further describe the necessary measures to conduct due diligence for HLP risks applicable to all land-based intervention.



Table 4: HLP Due Diligence Checklist

HLP Due Diligence Action	Completed	Not Needed	Incomplete
HLP operational context has been assessed via data-gathering and community and expert consultations.			
Key HLP actors and local stakeholders have been identified and mapped.			
Local conflict and explosive hazard levels have been assessed and security safeguards have been put in place.			
A referral system for HLP and displacement issues as well as HLP dispute resolution has been established.			
Gender balanced community liaison focal points with knowledge of HLP have been appointed and trained.			
The implementing team has been trained on HLP principles and HLP risks associated with the intervention.			
Priority setting has taken HLP rights and issues of the intended beneficiaries into account.			
Impact and risk assessments have taken special consideration of HLP risks.			
HLP criteria has been integrated into engagement or beneficiary eligibility standards.			
HLP due diligence to verify HLP rights and security of tenure has been undertaken.			
Beneficiary agreements have been signed by all the necessary parties.			
Clear reporting lines and inclusive grievance mechanisms have been established for the community.			
HLP issues have been referred to the appropriate organizations, experts or dispute resolution mechanisms.			
HLP/Community Focal Points have been assigned for post-implementation monitoring of HLP related issues.			
Post-implementation evaluation and reporting mechanisms include HLP issues and outcomes.			
Community grievance and feedback mechanisms are available beyond the immediate implementation period.			

4.1. Rental Of Land, Housing and Warehouses

Proper due diligence for UN and international organizations pursuing programmatic goals in Syria should begin prior to engaging in any type of humanitarian or developmental intervention. First and foremost, it is the implementing organization's responsibility to assess and evaluate the impact of their own presence on local, regional and national scales to ensure programming is compliant with Do No Harm (DNH) standards. This is especially critical in relation to the use of land, a resource that can be scarce and prone to triggering renewed conflict in periods following prolonged political upheaval. In the case of Syria, housing shortages, secondary occupation and informal property transactions have become prevalent characteristics of this post-conflict period and pose significant risks to UN and international organizations that may wish to rent land, housing or warehouses for the implementation and operation of site-specific programming. Performing careful and comprehensive due diligence prior to and while renting land, housing and warehouses, however, can significantly mitigate such risks, positioning the implementing organization to conduct their intended programming with greater security.

4.1.1 HLP Risk Identification

Programming implementors should conduct complete risk assessments as described in Section II, Subsection 1 (Due Diligence Procedure, Risk Assessment). In doing so, decision-making for the rent of land, housing and warehouses in Syria should take special note of the following risks:

- **Stakeholder Engagement and Coordination:** The relevant authorities are not identified and/or sufficiently consulted prior to acquiring the property which may lead to administrative obstacles and lack of political will from local authorities (whether de jure or de facto) in future programming.
- **Legal Compliance:** If the lease agreement is not registered with the competent municipal authorities, it is not considered an executable deed and therefore a lawsuit would have to be filed to enforce the terms of the lease. Furthermore, unless agreed otherwise, the lease cannot be terminated early except by mutual agreement with the lessor.
- **Evictions and Resettlement:** Acquiring land, housing or warehouses which displaced persons have occupied or squatted in because they have lost access to their own housing may render them homeless if adequate resettlement protocols or alternative housing provision is not made available. This would violate their human right to adequate housing.
- **Illegitimate Property Acquisitions:** Fraudulent and coerced property transactions, property confiscations, and secondary occupation occurring throughout the conflict presents the risk that the person in possession of the property to be acquired is not its legitimate rightsholder. Renting property from a property holder with ill-obtained HLP rights can formalize, or at minimum add a false legitimacy, to these rights, and prevent true rightsholders from recovering their property and/or rights thereto.
- **HLP Disputes and Dispute Resolution:** UN/INGO engagement with property that has been subject to ongoing HLP disputes related to ownership rights, use-rights, tenancy agreements and inheritance rights may renew such disputes and may embroil the UN organization in undesirable legal disputes. Housing shortages may further contribute to increased disputes.
- **ERW/Landmines:** As mines and explosive ordnances have been used throughout Syria in urban as well as rural areas, the risk of ERW or mine contamination on the property the UN intends to acquire may be high in certain areas. Furthermore, if explosive hazards are discovered on or around the property, the high cost and long process of ERW/mine decontamination may preempt acquisition or rental of the property.
- **Social Privileging:** UN presence can provide an increased sense of security and access to livelihoods to residents of the surrounding area. Choosing to rent property in areas which have already been privileged by the GoS, however, may contribute to further inequality reinforcement and social tension.
- **Political affiliations:** Obtaining government authorizations and/or working with corrupted or militarized local power dynamics to obtain permission to rent property may lead to community perceptions of UN political affiliation and a lack of neutrality.

4.1.2. Risk Treatment Recommendations

- **Contract mine action services when ERW/landmine contamination remains possible.**

Mitigate the risk of acquiring property contaminated by ERWs/landmines by ascertaining whether the property in question has already been subject to ERW clearance and assess the risk level of remaining ERWs/landmines based on the history of conflict in the area and consulting the local community and authorities. When the probability of remaining unexploded remnants of war existing in the area is greater than improbable, transfer the risk by engaging experts in undertaking non-technical and technical surveys to clear the area of ERWs as needed. Otherwise, the acquiring agency must identify another property where the absence of explosive devices can be guaranteed.

- **Survey existing sectarian divisions and consider the possibility of renting property in areas where Syrians may have weaker tenure security.**

When selecting property to rent for operational purposes, decision-makers should consider the existing socio-economic inequalities that may exist in the area, especially if the rental is taking place in an urban area where opposition forces once maintained partial or total control. Sectarian divisions have been prevalent in these cities since being recaptured by Government of Syria forces especially as the government has favoured certain communities and associated neighbourhoods (for example, with better basic services provision). Furthermore, UN presence in former opposition neighbourhoods can indirectly protect HLP rightsholders from mass property demolitions and confiscations which have been witnessed in such areas in the past. However, such possibilities will be constrained by security, operational and political factors.

- **Maintain independence from compromised governance structures and local power dynamics.**

Refrain from engaging with polarizing authorities and governance entities beyond what is necessary to obtain permission and security to operate in the area. Do not, in any case, contribute to corrupt power dynamics or make unofficial agreements with government and military actors operating in the area which would compromise the independence of future programming. Remain transparent with

beneficiary communities in future programming about relationships with government and local authority entities. If the desired property cannot be acquired without compromising the organization's commitment to independence, then renting property cannot be pursued in the area and alternative locations must be identified.

- **Consult the appropriate stakeholders to obtain permission to operate.**

In addition to consulting the UN resident or humanitarian coordinator, obtain the necessary permissions from national, regional and local authorities to rent property and operate in the area. These may include de jure as well as de facto authorities. Establish relations with the local or city council, as they are responsible for coordinating the management of urban areas and will be key decision makers for the community. Establish clear, efficient and effective lines of communication with the local community through which grievances or concerns may be voiced, taking special consideration of community members in the area where property is to be rented.

- **Integrate HLP criteria into engagement eligibility standards and verify the housing, land and property rights of sellers/lessors.**

Eligibility criteria are standards which must be met for the property rental to take place. HLP criteria should be integrated into these standards, including the following:

- Ownership/use rights verification;
- Whether land rights to the property are or have been disputed;
- Whether HLP rights were obtained before or during the conflict;
- Whether the owner is present or displaced;
- Whether sufficient security of tenure to the property can be guaranteed via the rental agreement.

UN actors should refrain from engaging with property that has been subject to unresolved HLP right disputes or ongoing HLP right disputes; property the ownership of which cannot be verified against official registries or government bodies; property the owner of which is no longer present in the community and cannot be securely contacted due to displacement; property where the owner/lessor refuses to register the lease agreement with authorities.

Eligibility criteria should also consider the type and level of accessible public services including, inter alia, water, electricity, wastewater and waste management. All HLP and related criteria should be weighed in ultimately determining the suitability of the property for its intended purpose.

To verify the rights of potential lessors, consult and coordinate with HLP and property law experts in the area. When the property is being rented from a private entity or person, the owner should provide documentation of their HLP rights (tabou, court decision, Power of Attorney) and civil documents (national ID, birth or marriage certificate). Request to view the cadastral records for the relevant property from the appropriate land registry (either the permanent record held by the GDCA or the temporary one maintained by the municipality) to verify they correspond to the information provided by the potential lessor. It would be considered high risk to engage with property where these records do not correspond. When accessing the cadastral records of the property, the zoning and land-use designations should be identified as should any rights' restrictions (mortgages, lawsuits, seizure notices, etc.). If the owner/lessor does not have rights registered in an official land-registry but instead has State-recognized ownership documentation, such as a court order or notarized Power of Attorney, these documents should be verified through either court records or public notary records. Spatial verification of the plot's cadastral demarcation should be done using high resolution satellite imagery. Document all verification information to maintain transparency and accountability in case future issues arise.

- **Draft, sign and register the lease agreement with the municipality.**

Appoint a Syrian legal representative to draft an appropriate lease agreement in coordination with the lessor and/or his/her legal representative. The lease agreement, once drafted and signed by both parties, should be registered with the competent municipal authorities. The procedure to register a valid and legal lease agreement includes the following steps:

1. **Submission of required documents:** The parties to the contract must submit the signed lease agreement, copies of their

identity documents, two photos of the parties and a Power of Attorney for any agents acting on behalf of the parties to the municipality in which the property is located. Additionally, the landlord must provide proof of ownership documents and the last (paid) electricity and water bills.

2. **Municipal registration:** The lease contract should be registered at the municipality or administrative unit where the relevant property is located. When registering the agreement with the municipality (or administrative unit), the property owner must pay: 1% of the monthly rental fee if it is not less than 500 SYP; 0.004% of the total rent due under the contract as a stamp duty; and 10 SYP financial stamp + 25 SYP Red Crescent stamps.
3. **Security Clearance:** Once the municipality registers the lease agreement, it sends a copy of it to the police station in the area. The police station conducts a security screening of the parties, verifying their identity and ensuring they do not have a criminal record. The police then communicate the results of the security screening to the municipality which will finalize the registration process.

As lease agreements registered under the provisions of Law 20 (2015) are subject to the *pacta sunt servanda* principle, the duration of the lease will only last for as long as stipulated in the agreement (and not automatically renew as was the case for lease registered prior to 2001). Absent any lawful reasons to terminate the lease (typically when either the lessor or the lessee fails to fulfil the responsibilities stipulated in the agreement), the lease can only be prematurely terminated upon the mutual agreement of both parties. Accordingly, the agreements should include a land-use duration that is appropriate to the programme intervention timeline. Provisions for early termination of the lease agreement should be included with explicitly defined terms for compensation if necessary.

Furthermore, it is recommended to avoid actions including the addition of fixed installation which may cause radical or permanent changes to the property even in the case where the rental agreement allows for such alterations unless it is absolutely necessary. Sufficient provision for such changes must be made in the lease

agreement otherwise the lessor must be first contacted and provide written authorization to conduct such additions or improvements. Additional construction permits from the municipality may be necessary to make certain significant changes and additions to the property. The time and cost need to obtain such permissions should also be considered prior to making decisions to alter the property.

- **Refrain from acquiring property housing secondary occupants who are themselves displaced unless sufficient alternative housing can be provided.**

The presence of secondary occupants should preclude a property from being leased by the relevant organization at large, as secondary occupation is a disqualifying eligibility criterion. This should especially be the case when the secondary occupants are displaced and cannot access their own housing, land or property since evicting them may lead to homelessness and violate their human right to adequate housing. Accordingly, unless alternative housing with sufficient security of tenure can be provided to these occupants, the property should not be acquired. Municipal authorities should be consulted regarding the possibility of finding alternative housing for such occupants as in a number of Syrian cities they have overseen the process of regulating cases of secondary occupation.

4.1.3. Risk Monitoring and Review Recommendations

Monitor HLP risks throughout the duration of the property rental and maintain community liaison representatives. HLP disputes and other issues related to the property may arise unbeknownst to the renting party. Accordingly, it is recommended to monitor HLP risk significance levels throughout the rental period, make the appropriate changes to the chosen risk treatment option and anticipate new HLP risks. Furthermore, the leasing organization should maintain a community liaison to who regularly surveys the community to mitigate the risk of formal disputes or any other sort of litigation arising. Review identified risks upon the conclusion

or termination of the lease to ensure all risks have been eliminated and no harm has been done to the community.

4.2. Landmine and Explosive Remnant Of War (Erw) Clearance

Landmine and explosive remnant of war (ERW) clearance is consistently prioritized by governments, humanitarian and development organization alike once hostilities have ceased due to the intractable obstacles posed by the contamination of land and buildings with explosive devices. Landmine and ERW contamination severely limit post-conflict humanitarian and development activities and consequently inhibits post-conflict economic recovery, physical reconstruction, and social rehabilitation.

The conflict in Syria has been especially devastating in this regard, with mine and ERW contamination prevalent in both rural and urban areas¹ spread across all fourteen governorates. As of 2021, explosive ordinance contamination is estimated to affect one third (33%) of populated communities in areas which experienced hostilities, moreover, one in two people in Syria are estimated to be at risk of explosive ordinance.² In 2020, an average of 76 explosive incidents per day were recorded, equivalent to one explosive incident every 20 minutes. Areas which have been or continue to be occupied by NSAGs report the highest concentrations of landmines and ERWs (and associated incidents). Aleppo, Idlib, Ar Raqqa, Deir Ez-Zor, Rural Damascus, and Dar'a Governorates have been particularly affected.³

The widespread and severe nature of mine and ERW contamination in Syria has had the effect of restricting movement preventing the provision of humanitarian aid, as well as inhibiting the return of displaced persons and property restitution. It has heightened demand on overwhelmed medical and health services and is a barrier to civilians meeting their basic needs as ERWs oftentimes target and render inaccessible key infrastructure such as hospitals, water sanitation facilities,

¹ More than one third (39%) of reported explosive incident occurred in residential areas, while 34 percent took place on agricultural lands and 10 percent on road and roadsides (UNMAS, "Facts and Figures: Victims of Explosive Ordinance Accidents in Syria," May 2020)

² OCHA, Humanitarian Response, Humanitarian InSight, FTS, "Humanitarian Needs Overview: Syrian Arab Republic," March 2021.

³ Ibid.

schools, and roads. Furthermore, as time passes, ERWs and mines will migrate due to flooding or erosion, spreading contamination risk. Children are especially susceptible to explosive hazard risks,⁴ as are displaced persons who tend to have limited knowledge of the explosive hazards in the area where they have resettled. Agricultural workers and construction workers are also disproportionately vulnerable to explosive risks.

Evidently the need for mine action in Syria is great. The aim of mine action is to transform inaccessible land into accessible land to support economic growth, livelihood accessibility, the conservation of protected areas, the return and integration of displaced people and the peaceful resolution of disputes. However, it is critical to recognize that removing mines and ERWs changes land values and can impact land rights and land use. As such, mine action organizations should take steps to recognize this important connection between mine action and HLP.

Landmine and ERW contamination limits access to land, resulting in a shortage of housing in urban settings and increased competition for resources in rural settings. Decontaminating and releasing cleared land without conducting HLP due diligence and understanding the local HLP context can lead to several HLP issues and rights deprivations such as land grabbing, HLP disputes and competition over resources, increased social tension, the use of land for illicit purposes and the exacerbation of gender inequalities. Mine organizations should integrate HLP due diligence into all phases of mine action to mitigate these risks to HLP rights. This will include comprehensively considering the land rights context in which mine actors operate and the short- and long-term implications of survey, marking, clearance, and land release.

4.2.1. HLP Risk Identification

- **Regulatory Ambiguity:** Syria does not presently have a National Mine Action Authority (NMAA), a mine action accreditation body or national legislation specifically dedicated to mine action standards and procedures.⁵ The absence of legally mandated standards and guidance allows for inconsistent applications

of decontamination procedures and hinders effective inter-organizational coordination for mine action interventions across Syria.

- **Gender and Women's Rights:** Clearance and land release procedures are at risk of failing to include women due to prevailing social norms, further limiting their HLP rights and exacerbating gender inequalities by depriving women and female-headed households of access to land.
- **Exclusion of IDPs & Refugees:** The clearance of property owned by displaced persons could lead to secondary occupation of their property once it has been cleared and declared safe if handover procedures are neglected.
- **Eviction and Resettlement:** Persons squatting on contaminated land or structures may be rendered homeless due to mine/ERW clearance operations without protocols for resettlement/alternative housing assistance.
- **Access to and Use of Natural Resources:** Mine/ERW clearance operations may privilege certain groups by allowing powerful individuals to take advantage of limited resources, such as irrigated land and water, at the expense of vulnerable groups once lands are cleared. Clearance in agricultural areas can also spark conflict related to competition over the use of natural resources.
- **Agricultural Productivity and Food Security:** Some clearance methods or the timing of their use (i.e., seasons) can result in a loss of topsoil and reduced agricultural productivity and food security.
- **Unverified Property Rights:** The failure to verify the HLP rights of mine action beneficiaries may formalize fraudulent property acquisitions and/or unauthorized secondary occupation.
- **HLP Disputes and Dispute Resolution:** Mine action operations can bring forth competing claims to cleared housing, land and property, and instigate new or existing HLP disputes. These disputes may contest the prevailing rights to the land in question or they may concern demarcation and land plot boundaries.
- **Land Grabbing:** Mine/ERW clearance can enable opportunistic individuals, groups, and/or entities to acquire decontaminated land parcels with unclear ownership and/or weak tenure security for purposes of speculation, extraction, resource control or commodification.
- **Informality:** Persons with informal tenure rights

⁴ Twenty-five percent of all recorded explosive incident victims have been children as of May 2020 (UNMAS, "Facts and Figures," 2020, supra n. 1).

⁵ Though the Ministry of Public Works and Housing issued Decision no. 66 of 2016 on the clearance of explosives and toxic substances in building debris removal, these procedures are very rudimentary and require substantial development.

to land that has been cleared are especially susceptible to land grabbing and other usurpations of their housing, land and property, and/or their rights thereto.

- **Secondary Occupation and Squatting:** Interventions that do not identify and verify programming beneficiaries may make HLP assets available to secondary occupants and squatters if landowners and rightsholders remain displaced or are otherwise unable to exercise their HLP rights.
- **Community Cohesion and Social Tenure:** Failure to publicly communicate with the community regarding mine clearance beneficiaries and failure to release land immediately after clearance weakens community confidence in the tenure rights related to the cleared property. Also, a lack of communication regarding the exact areas which were decontaminated leads to cleared land (and adjacent lands/roads) not being used.
- **Social Privileging:** Mine/ERW clearance can reinforce or exacerbate social, economic or political inequalities and existing tension by disproportionately benefitting local elites or certain political sympathizers, or simply by benefitting one population group more than another.

2.2 Risk Treatment Recommendations

Though specialized risk treatment, risk monitoring and risk review should be conducted for each distinct operation as described in Section II (*Due Diligence Procedure*), mine action organizations and staff can refer to the following guidance to respond to the aforementioned risks to HLP rights and tenure security (see Section III, Subsection 2.1) applicable to all mine action interventions.

- **Integrate HLP rights awareness into training for mine actors.** Mine action organizations should train their staff to ensure awareness about the relationship between HLP rights and mine action. Mine actors should be educated on HLP risks and trained to verify HLP rights and anticipate how mine action will impact HLP rights and future land uses. This is especially critical for increasing awareness amongst mine actors regarding how mine clearance and land release indirectly affects HLP, e.g., road ERW clearance abruptly renders many properties accessible, potentially inciting HLP disputes and land grabbing; clearing

agricultural land may create disputes over access to natural resources; clearing an urban property increases the land value of adjacent properties. Furthermore, mine actors should be able to identify when mine clearance is being planned to achieve political objectives, such as State expropriation or used to influence local power dynamics. Finally, mine actors should be trained on gender issues related to HLP as the conflict has produced a surge of female-headed households with limited security of tenure.

- **Include HLP rights data and community feedback in priority setting for mine action.**

Procedures for prioritizing which areas (e.g., agricultural vs. residential) and properties (land parcels and buildings) to decontaminate should integrate housing, land and property rights information to inform decision-making. This means that the HLP ownership and use rights situation for potential intervention areas and properties should be known before selecting which areas to prioritize. Areas with high levels of unregistered or disputed HLP rights, as well as those with high levels displacement, should be precluded from priority engagement by mine action organizations. It should be noted that land rights can be set as a determining factor in PRISMA (Priority Setting in Mine Action), an information management tool developed by GICHD (Geneva International Centre for Humanitarian Demining) to set mine action priorities based on various development factors. Furthermore, priority setting for mine clearance operations within an area should take place as part of the community liaison process such that that priorities for the community are considered main factors for choosing properties to engage with, surveying, releasing and handing over land.

- **Integrate HLP criteria into engagement eligibility standards.**

Eligibility criteria are standards which must be met for the mine action operation to immediately take place. HLP criteria should be integrated into these standards, including:

- The intention of the clearance and intended future land use;
- Property ownership/use rights verification;
- Whether land rights to the property are currently or have been disputed;
- Whether HLP rights were obtained before or during the conflict;

- Whether the owner is present or displaced;
- Whether the intended beneficiary will have sufficient security of tenure following the clearance;
- The terms of any existing land-use agreement.

Mine action organizations should be cautious to engage with property that has been subject to unresolved HLP right disputes or ongoing HLP right disputes; property the ownership of which cannot be verified; and property the owner of which is no longer present in the community and cannot be securely contacted due to displacement. Mine action organizations should refrain from engaging with property which will be used for illicit purposes.

- **Conduct HLP rights verification in tandem with non-technical surveying.**

HLP rights verification should be done in tandem with non-technical surveying to make informed decisions of whether the property question meets eligibility standards to continue with technical surveying and clearance operations or land release and handover procedures. Coordinate with and consult HLP experts and organizations in the area to conduct HLP rights verification. HLP rights should be verified through the existing official land registry records and evidentiary documentation provided by the rightsholder including HLP (tabou, court decision, PoA, MOF statement, etc.) and civil documents (national ID, birth or marriage certificate). The triangulation of affirming information from reliable community sources (including community representatives, religious leaders, longstanding residents, local authorities) can also be used when HLP documentation and official registry documentation do not correspond or when either is lacking. Document all sources and contact information to maintain transparency and accountability in case future issues arise.

- **Establish and maintain a referral system for HLP issues and disputes.**

Identify HLP organizations and legal aid to whom community members can be referred regarding issues relating to strengthening security of tenure, such as by assisting them with obtaining formal HLP documents. Link with existing HLP dispute resolution structures by identifying the predominate HLP dispute

resolution mechanisms and local courts to which beneficiaries can be referred in the case of HLP dispute or conflict related to the property in question.

- **Make land release and handover procedures public, transparent and gender inclusive.**

A formal ceremony or handover process with substantial community participation/attendance can aid in securing the tenure rights of the released land by increasing community awareness of who has HLP rights to the property. The land release and handover process should include a demonstration of the land's decontaminated state e.g., via a walk through with the beneficiaries, and an explanation of residual risks. Handover procedures should endeavour to include women and acknowledge their HLP rights.

- **Include community representatives to award Handover Certificates to rightsholders of cleared HLP.**

Handover certificates, while not having the authoritative status of property documents, can increase security of tenure to the intended beneficiaries and promote community confidence in the clearance process. In accordance with IMAS standards, the handover certificate should include detailed description of the survey method and risk assessment, signatures from local community authorities, future users of the land, representatives from the organization which carried out the assessment/clearance and, when appropriate, national authorities

- **Conduct handover procedures as soon as possible after completion of clearance operations.**

Conducting handover procedures immediately upon the completion of clearance operations can mitigate property disputes, misunderstandings, and increase confidence in land ownership and strengthen the security of tenure of beneficiary properties.

- **Explain the clearance process and delineate cleared plot(s) to promote transparency and community trust.**

Share information regarding the clearance with the community, including displaced members of the community, describing the exact area that was cleared, items found during surveying

or clearance, and any outstanding dangerous or suspected dangerous areas and their exact location. Walk around the cleared areas with beneficiaries to promote trust in the success of the clearance operations. Ensure women and children are included in information sharing and transparency procedures. Return, resettlement

and property restitution plans/efforts by other humanitarian or development organizations should coordinate with mine action and prioritize community transparency to ensure HLP rights are respected for displaced persons and returnees.

Table 5: HLP Risk Treatment Checklist for Mine Action

Checklist: HLP Risk Treatment for Mine Action	
Integrate HLP rights awareness into training for mine actors.	
Include HLP rights data and community feedback in priority setting for mine action.	
Integrate HLP criteria into engagement eligibility standards.	
Conduct HLP rights verification in tandem with non-technical surveying.	
Establish clear reporting lines and inclusive grievance mechanisms to monitor for HLP disputes.	
Establish and maintain a referral system for HLP issues and disputes.	
Make land release and handover procedures public, transparent and gender inclusive.	
Include community representatives to award Handover Certificates to rightsholders of cleared HLP.	
Conduct handover procedures as soon as possible after completion of clearance operations.	
Explain the clearance process and delineate cleared plot(s) to promote transparency and community trust.	
Include HLP issues in post-implementation evaluation and reporting.	

4.2.3. Risk Monitoring and Review Recommendations

- **Establish clear reporting lines and inclusive grievance mechanisms to monitor for HLP disputes.**

HLP disputes and other land-related issues may arise during ERW/mine clearance operations unbeknownst to mine action operators. Accordingly, the community should be easily able to report HLP disputes, issues and grievances to mine operators when they arise. It is critical to ensure that community reporting and grievance mechanisms are accessible to women and vulnerable groups. Establish Community Liaison Focal Points who are responsible for HLP-related concerns and trained in HLP issues. Community liaison focal points should include women and

represent a diversity of groups (ethnic, religious, gender, etc.) to ensure inclusive community engagement.

- **Include HLP issues in post-implementation evaluation and reporting.**

Post clearance assessments and reporting should determine whether the land is being used as intended by the targeted beneficiaries, whether land disputes have arisen, and whether any residual explosive hazards have been discovered. Sex and age information should be disaggregated to account for vulnerable groups.

4.3. Debris Removal and Management

The multiplicity of military actors and diversity of military tactics implemented throughout Syria's decade-long conflict has exacted as much, if not more, damage to urban and peri-urban areas as it has to rural areas. One impact of the violent bombardment of Syrian urban areas is immense damage to the structural fabric of cities including the destruction of housing and infrastructure. The accretion of building debris and rubble resulting from such damage not only prevents reconstruction efforts, but like ERW contamination, it also hinders the delivery of immediate humanitarian aid and presents severe community safety and health risks. As such, before government, humanitarian or development actors can work to rebuild damaged and destroyed structures, debris management operations will need to address the accumulation of wartime debris and the safety hazard posed by structurally unsound buildings.

Defined as "a mixture of building waste and rubble typically arising from damaged buildings and their demolition,"⁶ debris often hides explosive remnants of war, contaminates natural or community resources such as water supply, and reduces accessibility and availability to adequate housing. These impacts have been prevalent in urban areas that have endured substantial armed violence during the conflict, such as Aleppo, Homs, Deir Ez-Zor, Raqqa, Idlib and peri-urban areas surrounding Damascus such as Eastern Ghouta. In Aleppo alone, 14.9 million tons of debris had accumulated as of 2017 while Homs recorded 5.3 million tons of debris.⁷

As conflict debris usually includes damaged buildings and infrastructure, building materials (e.g., concrete, bricks, stone), furnishings, other miscellaneous products and personal belongings, debris management intrinsically requires engaging with housing, land and property rights. Performing debris removal without undertaking due diligence can result in the effective confiscation of moveable property and personal belongings and the avoidable demolition of repairable private housing. Additionally, debris management operations can render homeless displaced persons who may be squatting in damaged buildings because they

lack access to their own homes and/or alternative adequate housing. Furthermore, debris removal and disposal services contracted by the Government of Syria (or the relevant municipality) may facilitate land readjustment initiatives in informal and/or vacated neighbourhoods. These land readjustment procedures may cause certain displaced and/or informal tenure rightsholders to forfeit their rights when they are not recorded in an official land registry and when obstacles, such as lost documentation or security clearances, prevent them from formally claiming their rights.

In 2018, the Government of Syria passed Law no. 3 on the removal of the debris from damaged buildings or buildings which have been legally issued demolition notices. The law established a government-initiated process for undertaking debris removal and management operations within administrative units. The law primarily focuses on the conditions for claiming ownership of debris from private property and the procedures for its sale by the relevant administrative unit, while technical operations and requirements of debris management are largely stipulated in the Ministry of Public Works and Housing Decision no. 66 of 2016.

Specifically, Law no. 3 establishes a process for identifying, removing and selling debris from zones identified by the Governor. Concerns have been raised regarding the impact such procedures would have upon displaced persons and informal settlements considering the limited time frames for claiming rights and a provision allowing for government demolition of structurally unsound buildings illicitly constructed on public land. The latter could effectively enable the demolition of entire informal housing areas. Furthermore, widows are also susceptible to being denied HLP rights during the debris management process since proving inheritance rights requires civil documentation which often has been lost over the course of the conflict. It is also uncertain whether the fund produced by selling debris will be sufficient to compensate proven rightsholders since the substantial cost of debris removal operations are to be deducted from this fund. Furthermore, Law no. 3 omits valuation procedures for compensating owners of demolished buildings. While the law remains in force, it had not been put into practice as of March 2019.⁸

6 OCHA and UNEP, "Disaster Waste Management Guidelines," 2011; UNDP, "Guidance Note: Debris Management."

7 The World Bank, "The Toll of the War: The Economic and Social Consequences of the Conflict in Syria," July 2017.

8 PAX, Syria Legal Network, War Reparations Centre, "Legal Obstacles to Housing, Land and Property Rights in Syria," 2019.

4.3.1. HLP Risk Identification

- **Regulatory Ambiguity:** There is a lack of clarity in the legal environment of debris management as given in Law 3 (2018) with respect to who is required to file a claim to recover debris and personal belongings, how property claims for unregistered rightsholders will be treated, and how informal settlements will be treated. Additionally, the law currently lacks implementation instructions. It is also unclear how this law interacts with the Ministry of Public Works and Housing Decision no. 66 of 2016.
- **Exclusion of IDPs and Refugees:** Displaced property owners may not be able to claim the debris, movable property and personal belongings collected during the debris removal process due to time constraints, lost documentation and security clearance requirements. Furthermore, removing debris from private properties when the owner is absent can result in the land grabbing, secondary occupation, and property confiscation.
- **Evictions and Resettlement:** Housing demolitions which take place as part of the debris removal process can effectively result in forced evictions of rightsholders still residing in situ or in the permanent displacement of those already absent from their home. This can take place when demolitions are indiscriminately prioritized over conducting structural repairs without assessing the feasibility of repairs or consulting the preference of building owners and tenants.
- **Unsafe Occupation:** A lack of rigorous standards in assessing structural stability of remaining buildings and determining whether demolition is needed can lead to or further encourage the unsafe occupation of structurally unsound buildings.
- **Access to Natural Resources/Agricultural Productivity and Food Security:** Debris processing and disposal sites may adversely affect surrounding land values, agricultural productivity and access to and availability of natural resources, which in turn may impede the utility of productive lands and compromise the standard of living of surrounding communities.
- **Pollution/Waste Management:** When not properly accounted for in the debris rapid assessment or prepared for with sufficient protocols, debris removal can spread hazardous materials within debris and exacerbate the risk of community exposure to such materials. Furthermore, these materials can contaminate properties reducing their accessibility, habitability and value.
- **Informality:** Informal settlements are especially susceptible to demolition via the debris removal process given in Law 3 (2018) since many informal areas have been subject to severe armed conflict and damage during the conflict and most buildings will be found to be structurally unstable. This may threaten the tenure of residents since in certain cases, informal tenure holders only have the rights to their construction and not the land it was built upon. Consequently, such rightsholders may not be able to reconstruct on the same plot following demolition and are effectively rendered homeless without just compensation or alternative housing.
- **HLP Disputes and Dispute Resolution:** Properties with debris or damaged buildings may be subject to ongoing ownership or land use disputes. Removing debris from such property may exacerbate such disputes and put debris removal operators at risk. Debris removal can also instigate new HLP disputes as unavailable or unusable land becomes accessible and usable following debris removal.
- **Land Grabbing:** Lack of HLP verification and mechanisms ensuring security of tenure may enable land development schemes and resource extraction on the property where debris removal has taken place.
- **ERW/Mine:** As mines and explosive ordnances have been used throughout Syria in urban as well as rural areas, the likelihood of ERW or mine contamination in debris is high. Furthermore, the high cost and long process of ERW/mine decontamination may slow or prevent debris removal from taking place.
- **Unidentified Heritage:** If cultural heritage sites and areas are not identified or considered, debris from these sites and structures may be lost, disposed of or otherwise improperly handled. Cultural heritage surveys should be undertaken and debris from cultural heritage structures and areas will require special treatment to ensure all salvageable materials can be used for technical restoration and reconstruction efforts.
- **Political Endorsement:** As given in the procedure stipulated by Law no. 3 of 2018, the administrative unit will contract qualified public or private entity to remove and recycle debris. The reputational risks of performing debris removal activities as a government contractor are significant. Organizations which choose to

contract with municipalities must be sure that the debris removal process is free of political influence and that the process do not neglect the HLP rights of affected property owners. Assessments of structural stability, for example, must be guaranteed to be independent of politics.

4.3.2 Risk Treatment Recommendations

Though specialized risk treatment, risk monitoring and risk review should be conducted for each distinct operation as described in Section II (Due Diligence Procedure), debris removal organizations and staff can refer to the following guidance to respond to the aforementioned risks to HLP rights and tenure security (see Subsection 3.1).

- **Train debris removal actors on the procedures stipulated in Law 3 (2018) and their impact to HLP rights.**

Debris management organizations and actors should train their staff to ensure awareness about the relationship between HLP rights and debris management. Local government actors involved in debris management should also receive training on securing tenure rights in the context of debris removal. Debris management operators should be educated on HLP risks and trained to consider how debris removal will impact HLP rights and future land uses. This is especially critical for increasing awareness regarding how debris removal indirectly affects HLP, such as when clearing roads of debris abruptly allows access to land and properties, potentially inciting HLP disputes and land grabbing.

Furthermore, HLP training should include training on the relevant debris management protocols given in Law 3 of 2018 (See: Textbox I below). It is critical that debris removal actors understand risks this procedure may pose to the HLP rights of vulnerable groups such as displaced persons, women and widows, and informal settlement residents who may have limited capacity to prove their rights to debris and/or demolished buildings. Additionally, a safety briefing on explosive hazards and first aid training when working in dangerous areas should also be required for debris management actors and all staff/partners/beneficiaries should be well informed of safety procedures in place at the organizational level.

- **Coordinate with the municipal officials responsible for overseeing the debris management operations.**

Since the local government is the “owner” of the debris removal process, it is important to coordinate with the competent local officials to ensure that the process is taking place in compliance with the procedures stipulated by law. Additionally, by maintaining links with officials and establishing community liaison focal points, debris removal organizations can serve as intermediaries to ensure that the affected community has a means of communicating and voicing their concerns with local officials overseeing the debris removal process. Moreover, coordination with municipal authorities will allow debris removal implementors to monitor the government’s implementation of the HLP rights claiming process and concurrently assess their own reputational risks if the process neglects the rights of certain groups.

- **Advocate that priority setting for debris removal includes HLP as a determining factor.**

Debris removal operations should prioritize critical infrastructure such as roads, schools and hospitals to facilitate humanitarian aid delivery and essential services provision. However, displacement and HLP considerations should also be figured into priority setting for debris operations within cadastral districts. Debris management actors, especially UN entities, should advocate with the administrative entities responsible for prioritizing areas for debris removal to refrain from conducting debris removal in areas with vulnerable tenure status. For instance, conducting debris removal in areas where structural damage has been prevalent, and a majority of the original population has been displaced would be considered high risk. Conversely, areas with limited demographic change and displacement are less likely to be subject to ongoing HLP disputes and will have more property owners present to participate in the rights claiming process.

Debris removal actors can also facilitate community participation in this process. By appointing community liaisons to engage community members and customary community leaders, debris management operators can broadly assess the needs of community, including women and vulnerable groups, to inform priority setting decisions so their needs

are primary factors in choosing specifically where and when debris removal operations can and should be conducted.

Textbox 1: Debris Removal Procedure (Law 3 of 2018)

- a. The local **Administrative Unit (AU)** makes a request to the governor to identify the cadastral district and damaged buildings to be addressed.
- b. The Governor makes a decision regarding the district where debris management operations will take place. The decision is published for **15 days**.
- c. Property owners can apply to the AU to claim property rights in the cadastral district within **30 days** of the Governor decision publication.
- d. The AU produces a report on the cadastral district within **120 days** of the decision publication. The report provides details on damage quantity, estimated costs of debris removal, required equipment for debris removal, estimated debris value, and a map demonstrating the damaged buildings, relevant cadastral districts and owners of damaged buildings and private belongings.
- e. Upon submission of the AU report, the Governor establishes the **Ownership Description and Verification Committee (ODVC)** with the task of describing the private belongings and debris and verifying ownership within the relevant cadastral district.
- f. The ODVC creates an **inventory of damaged buildings** (including cadastral district name, parcel number, boundaries and adjacent parcels physical situation, damage degree, structural soundness of the building, recommendations whether to preserve, demolish partly or demolish completely the building), **verifies ownership rights** against the subdivision plans and ownership lists (as well as using utility bills, tax statements, neighbour testimony and field inspections), and produces an **ownership inventory** (including cadastral district name, parcel number, debris and private belongings owners, their respective shares and other necessary information).
- g. The ownership inventory is published and advertised by the AU for **15 days**. At this point, the AU can begin demolishing structurally unsound buildings on public property and removing the resulting debris. This includes private buildings which have been illicitly constructed on public land. Within **15 days** of the ownership inventory publication, the AU also sets an auction date to sell all collected debris.
- h. Within **30 days** of the publication of the ownership inventory, property owners can challenge the ownership inventory at the governorate Court of Appeals.
- i. Within **30 days** of the appeal cut-off date, the AU will begin receiving requests for recovering private belongings from proven property owners (those initially listed in the ownership inventory or those who successfully appealed). The AU will receive requests for 30 days.
- j. Owners who don't claim their property and/or submit a request within this period will have their building demolished and the debris taken by the expropriating authority. The AU is required to keep belongings considered valuable at a dedicated warehouse for recovery by those who prove ownership within **one (1) year**, after which the belongings are sold at public auction.
- k. The AU will sell the confiscated debris and belongings at auction. The resulting funds will be deposited into a bank account used for the purpose of compensating rightsholders whose rights are later proven. The costs of debris removal by the AU will be deducted from this fund.
- l. The AU has the unsold debris removed and recycled by its own means or via a qualified public or private entity.
- m. Rightsholders who fail to recover their private belongings and debris or whose rights have not been proven shall be compensated with an amount proportional to the auction price should they succeed to prove their rights.

The presence of ERWs should also be a priority determining factor for debris management operations. Information gathering activities and expert consultation from UNMAS should ascertain high risk, uncleared areas which will need to be avoided in favour of cleared or low risk areas. ERW/landmine screening and non-technical survey should also be conducted when the area has not already been established as mine/ERW free.

- **Conduct integrated impact assessments of debris removal and processing considering impacts to land.**

Integrated impact assessments should be conducted prior to conducting debris removal operations. These assessments should assess for joint environmental and social impacts to land, as environmental harm can oftentimes result in weakened tenure security. Specifically, impacts to agricultural productivity, natural resources and community health should be assessed both for debris removal operations and, separately, for determining a permanent debris disposal site or temporary debris processing site.

Debris processing, storage and disposal sites need to be identified and selected prior to engaging in debris removal. These sites need to be able to hold debris, rubble and potentially hazardous materials without causing harm to the environment or surrounding land, properties and natural resources. Environmental Impact Assessments as prescribed in Ministerial Order 225 (2008) may be required. Regardless of the legal mandate, debris management organizations should assess the surrounding land use of potential processing and disposal sites to identify human habitation, agricultural cultivation, natural resources and protected natural areas. Sites situated near communities, agricultural land or natural resources should have safeguards in place to ensure minimal adverse effects to surrounding communities, land and resources.

- **Integrate HLP rights verification into Rapid Debris Assessment.**

Rapid damage and debris assessments should identify the types of debris involved (household items vehicles, person possessions, bricks, broken concrete, reinforcing iron, wood, roofing, electrical wiring and piping, vegetative matter, etc.), the presence of hazardous materials by

type, the quantities (volumes) of different types of materials; and the location of different types of materials (houses, factories, public space). This assessment will be used to determine the scope of debris management efforts, specifically whether these efforts should be limited to certain types of debris, specific locations or specific types of beneficiaries.

HLP rights verification can be effectively integrated into the rapid assessment process to inform decisions related to the scope of the debris management efforts. After identifying the targeted areas for debris removal, collective initial HLP rights verification measures could be conducted in the areas one by one. In this respect, it is advised to coordinate with and consult HLP experts, lawyers and organizations in the area to verify HLP rights for the relevant properties. These can include NGOs in the area dealing with housing, land and property issues as well as experts such as current or former cadastral officials. HLP rights should be verified through evidentiary documentation including State-recognized HLP and civil documents against the prevailing cadastral land registry. When rights have not been registered in an official land registry, verification measures will need to triangulate affirming testimony from at least three reliable community sources. Document all sources and information to maintain transparency and accountability in case future issues arise.

However, it is unclear whether rights verification will be needed when rights claiming procedures are conducted by the Administrative Unit as given in Law 3 (2018). The provisions of the law require that, upon publishing a decision on the zone where debris removal operations will take place, property owners, their legal representative, relatives of the owners to the 4th degree, or "any interested party" can make a property claim. The claim application must include the applicant's address of residence, the location and boundaries of the property to which he/she claims rights, its legal type, ownership shares and the private belongings and the other claimed rights. The application shall be supported by original documents and proofs or replicas if the originals are not available. Debris removal organizations contracted in the context of Law 3 would only be responsible for upholding the rights of those recognized through this rights' claiming process.

- Ensure that all affected rightsholders are notified and continually informed of debris removal procedures, and utilize beneficiary agreements when necessary.**

Rightsholders impacted by debris removal operations should be legally notified of the start of the debris removal process and given sufficient timelines to engage in property claiming procedures. When debris removal is performed in the context of Law 3 (2018), it is the responsibility of the administrative unit to announce debris removal procedures in an area and invite rightsholders to claim their rights to collect their debris. However, it is recommended that in any case debris removal actors also provide notice to identified rightsholders and maintain information sharing procedures throughout the intervention process. Transparency is especially critical when structurally unsound buildings are demolished.

Furthermore, in cases where it would be feasible, it is recommended to make formal agreements with rightsholders for accessing and removing debris from private properties through the community liaison process. Beneficiary agreements would clearly establish the terms and conditions involved in debris removal. The agreement should clearly state the following: the involved parties with confirmation of identity; identification of land/property; acknowledgement of ownership status of property; provision that debris removal does not confer ownership rights; roles, responsibilities and liabilities of the signatories; scope of the debris management (debris removal, demolition of structurally unsound buildings, debris processing); and dispute resolution mechanisms will be employed in case of a dispute regarding the provisions of the agreement. The agreement should include protocols on what types of debris should be removed and disposed of and which debris the owner will keep, as well as protocols on personal belongings found in the debris. The agreement should also have conditions regarding the demolition of structures found to be structurally unsound and protocols for managing the resulting debris. These protocols should align with provisions on these matters given Law 3 (2018) and any other relevant legislation regulating debris removal. The beneficiary, representatives from the implementing organization, and at least one community representative witness should sign the agreement.
- Consider debris ownership when determining on-site versus off-site debris processing.**

Debris should be processed at the site of collection when a majority of the processed debris has been claimed and will be left for use by the owner. Off-site processing should be used if debris is to be eventually sold, disposed or otherwise not intended to be used by the original owner.
- Maintain and utilize the established referral system for HLP issues and disputes.**

When intended beneficiaries and affected community members do not have sufficient evidentiary documentation establishing their HLP rights and ownership rights over collected debris, refer them to organizations within the HLP sub-cluster in Syria who can assist with legal aid and other means of strengthening their security of tenure. This can be especially critical for widows and female-headed households who may need assistance proving their inheritance and HLP rights. When property owners cannot be identified or contacted due to displacement, refer inquiries to organizations working with displaced persons who may assist with identification and contact. Link with existing local HLP dispute resolution structures by identifying the predominate HLP dispute resolution mechanisms and local courts to which beneficiaries can be referred in the case of HLP dispute or conflict related to the relevant property.
- Publicly announce the completion of debris removal and inform the affected community of residual risks.**

The affected community should be clearly and publicly alerted when debris removal operations have been concluded and informed of the period within which they can make property claims to receive compensation. According to Law 3, property considered valuable collected by the Administrative Unit (or a contracted third party) during debris removal can be recovered within one year of collection upon proving ownership rights. The community should also be informed of residual risks such as hazardous material or explosives.
- Establish protocols for compensating rightsholders who failed to claim their property.**

Maintain a system through which property owners can retroactively make claims to property if they

were not present or able to make claims during the debris removal process. Have established verification, valuation and compensation protocols in place for such claims. When the government has been the responsible party for the debris management operations, inform claimants of the compensation protocol given

in Law 3 (2018), which holds that rightsholders who fail to recover their private belongings and debris or whose rights haven't been proven are to be compensated with an amount proportional to the auction price of their property and/or belongings should they succeed to prove their rights.

Table 6: Risk Treatment Checklist for Debris Removal

Checklist: HLP Risk Treatment for Debris Removal	
Train debris removal actors on the procedures stipulated in Law 3 (2018) and their impact to HLP rights.	
Coordinate with the municipal officials responsible for overseeing the debris management operations.	
Conduct integrated impact assessments of debris removal and processing considering impacts to land.	
Integrate HLP rights verification into rapid debris assessments.	
Ensure that all affected rightsholders are notified and continually informed of debris removal procedures.	
Make beneficiary agreements with affected rightsholders when needed.	
Consider debris ownership when determining on-site versus off-site debris processing.	
Publicly announce the completion of debris removal and inform the affected community of residual risks.	
Establish protocols for compensating rightsholders who failed to claim their property prior to debris removal.	

4.3.3. Risk Monitoring and Review Recommendations

- Monitor for HLP issues during debris removal via clear and inclusive reporting mechanisms.** HLP-related issues such as the spread of hazardous material, the discovery of explosive hazards, the return of absent owners and inheritance disputes may arise during debris management operations unbeknownst to debris management operators. Accordingly, the community should be easily able to report HLP issues and grievances to debris management operators when they arise. It is critical to ensure that community reporting and grievance mechanisms are accessible to women and vulnerable groups including persons with limited security of tenure such as informal

settlement residents and displaced persons. Establish Community Liaison Focal Points who are responsible for HLP-related concerns and trained in HLP issues. Community liaison focal points should include women and represent a diversity of groups (ethnic, religious, gender, etc.) to ensure inclusive community engagement.

- Monitor for HLP issues related to debris processing, recycling and disposal.** Removed debris and rubble is processed either for sale, recycling and reuse or disposal. All these processes can impact the land on and surrounding selected processing and disposal sites. Debris management organizations should

monitor processing and recycling operations such as crushing debris for aggregate or recovering construction materials, and disposal sites for groundwater pollution, the spread of hazardous materials, and other adverse impacts to land and property. Reporting and grievance mechanisms should be available to communities surrounding processing and disposal sites.

- **Include HLP issues in evaluation and reporting; maintain community grievance and feedback mechanisms beyond the immediate implementation period.** Post clearance assessments and reporting should determine whether groups or persons have been displaced from their land or shelter, whether property disputes have arisen, whether any residual hazardous material or explosive hazards have been discovered.

4.4. Shelter And Shop Rehabilitation

The widespread nature of the conflict in Syria combined with its concentration in urban and peri-urban areas has resulted in an unprecedented level of damage to residential and commercial infrastructure. As of 2017, almost a third of the housing stock across ten major Syrian cities had been either partially damaged or completely destroyed.⁹ Other assessments of various Syrian cities have consistently shown the housing sector to have sustained more damage than any other.¹⁰

In addition to severe damage to the housing sector, countless commercial buildings and souks have also been damaged or destroyed, some of which, like the souks in Homs and Aleppo, were celebrated pieces of cultural heritage woven into the historic residential fabric of their cities. The loss of shelter and lack of access to livelihoods has not only been a significant factor in the mass displacement of Syrians both internally and abroad, but damage to residential and business areas also acts as a barrier to return for displaced persons. Furthermore, the destruction of much of the residential sector has led to a severe housing shortage throughout Syria, particularly in the rental market. Consequently, the

lack of adequate housing has led many Syrians, especially displaced persons and female headed households, to occupy abandoned property and/or take up residence in partially damaged housing, a trend that poses significant security of tenure and health and safety risks.

A lack of sufficient housing supply has long been correlated with weakened HLP rights and security of tenure in Syria. The housing shortage resulting from damage to the housing sector during the conflict in fact only severely exacerbates the longstanding housing shortage which has existed in Syria since waves of rural-to-urban migration and rapid urban population growth began in earnest in the 1970s and 80s. This significantly contributed to the development of informal settlements in large Syrian cities, which, by 2010 housed 40-50 percent of the population in cities like Damascus and Aleppo.¹¹ Due to the limited legal security of tenure in many of these areas, persons who have been displaced from informal settlements over the conflict will have difficulty in proving their rights to their property upon their return, especially if their shop or housing has been damaged or destroyed.

Since, as mentioned, informal settlements in peri-urban areas have suffered from some of the most substantial levels of destruction in Syria, organizations planning shelter rehabilitation interventions will need to recognize the HLP context of the areas prioritized for intervention and assess the security of tenure of the intended beneficiaries. If the intended beneficiaries cannot establish their HLP rights before the law, it is unlikely that they will ultimately benefit from the shelter rehabilitation because they will be susceptible to future deprivations of their HLP assets. For this reason, in addition to the fact that repairing building violations is not sanctioned since the applicable laws prevent informal settlement inhabitants from receiving government issued building or rehabilitation permits, negotiations regarding formalization and coordination with local and national government actors would be necessary for shelter rehabilitations in any informal settlements. This is especially relevant as the government considers land readjustment and urban redevelopment projects via Law 23 (2015_ and Law 10 (2018) in highly affected urban areas, especially informal areas, which will

9 World Bank, "The Toll of the War," 2017.

10 A 2016 survey of damage in Aleppo, Hama and Idlib found that damage to the housing sector represented 68% of the total estimated damages across all sectors. Source: World Bank, "Syria Damage Assessment: Aleppo, Hama, and Idlib," 2017.

11 Abdulaziz Hallaj, Omar "Who Shall Own the City? Urban Housing, Land and Property Issues in Syria."

likely have the effect of redistributing land rights.

However, while informal tenure holders are rendered especially vulnerable since their HLP rights lack the legal safeguards associated with formal registration, all displaced persons will likely face some obstacle to the recovery of their HLP whether due to the loss of official HLP and civil documentation, fraudulent or coerced property transactions, secondary occupation, and government confiscations of property. If shop and shelter actors perform rehabilitations without conducting HLP due diligence, they risk formalizing illegitimate HLP rights, denying legitimate rightsholders of their rights, and rehabilitating shops and shelters to the benefit of future development speculation rather than civilian use.

4.4.1 HLP Risk Identification

- **Legal Compliance:** Heavy rehabilitations and reconstructions of damaged shops and housing must comply with existing municipal building codes by applying for a building (reconstruction) permit from municipal authorities. Incompliance risks the tenure security of the occupant and can result in substantial fines borne by the rightsholder.
- **Gender and Women's Rights:** Women's HLP rights are often limited by unequal inheritance laws and customs whereby they receive fewer inheritance shares or are even coerced to give up their full inheritance to male family members. Furthermore, women have often been unable to prove their HLP rights in the absence of their husband during the conflict since HLP documentation is typically registered in the husband's name. Rehabilitations which do not take special consideration women's HLP rights may further reinforce these gender inequities.
- **Exclusion of IDPs and Refugees:** Both displaced communities as well as informal settlements are likely to be excluded from non-humanitarian shelter rehabilitation unless special provisions are made. The original housing or shop owned by displaced persons will not be included in rehabilitation programmes unless the displaced owner, or their legal representative or verified family member, can be contacted to authorize such procedures. As such, if the implementing organization does not make efforts to contact displaced persons, their properties may be excluded from rehabilitation operations.
- **Evictions and resettlement:** Displaced persons squatting or occupying abandoned shops or shelters may be evicted and rendered homeless due to rehabilitation operations and a lack of standard operating procedures for resettlement.
- **Informality:** Informal settlements, from which many original residents have been displaced, are effectively excluded from shelter rehabilitation operations because, under the applicable laws, it is unpermitted to repair housing violations and constructions made without a building permit. Excluding these communities not only weakens their tenure rights but also may exacerbate social tensions between groups benefitting from rehabilitation and those not.
- **Illegitimate Property Acquisitions:** Coerced and fraudulent property acquisitions occurring during the conflict presents the risk that current occupants of the shelter or shop are not the legitimate rightsholders to the property. Conducting rehabilitations for beneficiaries with ill-obtained HLP rights, whether in good or bad faith, can formalize or otherwise support such rights and prevent true rightsholders from recovering their property.
- **HLP Disputes and Dispute Resolution:** As rehabilitations increase property value and reenable full use of the property, renewed HLP disputes related to use-rights, tenancy agreements and inheritance rights may arise.
- **Tenure Security of Leaseholders:** Property owners may desire to repossess their housing, land or property either for their own personal use or to lease out at a higher price once rehabilitations have been undertaken. This may result in early terminations of residential leases where the lessor is obligated to pay compensation to the tenant equal to 40 percent of the leased property.¹² However, tenants with unwritten or unregistered lease agreements will have weaker protections against exorbitant rent increases and unprocedural evictions. Additionally, in old city neighbourhoods a significant portion of the shops and apartments belong to old lease contracts. Shop or shelter rehabilitations affecting such buildings could incentivize evictions of these tenants by the original owner if due diligence and clear provisions regarding the continuance of the lease are not made.

12 Landlord and Tenant Law no. 20 of 2015, Article 12.

- **Inflated Costs of Living:** At the community level, rehabilitation interventions may cause costs of living in the affected areas to increase, while at the individual level, maintenance costs of the shop or shelter may rise following rehabilitation beyond what the beneficiary can support.
- **Unidentified Heritage:** The rehabilitation of heritage buildings, such as private housing in the historic Old City or historic souks, would require specialized treatment with a heritage and restoration expert supervising the process. Furthermore, heritage rehabilitations would require the permission of heritage authorities (Directorate-General of Antiquities and Museums) and compliance with national heritage legislation (Antiquities Law no. 222 of 1963) and special building code regulations such as those found in the Old Cities of certain municipalities. The failure to identify and/or properly restore such buildings represents a risk to Syria's cultural heritage as well as to sources of livelihood and social cohesion in impacted communities.
- **Social Privileging:** Shop and shelter rehabilitations can reinforce economic or political inequalities and exacerbate existing social tension by disproportionately benefitting certain populations within an urban area or by exclusively benefitting local elites or certain political sympathizers. Displaced persons will also have a lesser capacity to engage in HLP rights verification procedures necessary to facilitate shop and shelter rehabilitations. Thus if displaced persons are not explicitly included in the intervention planning, they are less likely to be beneficiaries of such interventions.
- **Political Endorsement:** In Syria, national reconstruction policies and the legal instruments which implement them may be politically influenced to undermine communities with historic ties to opposition groups. Shelter and shop rehabilitation actors may face reputational risks if their operations are seen as a means by which the Syrian government is strategically implementing these reconstruction policies.
- **ERWs and Tunnels:** External factors such as explosive remnants of war and underground tunnels pose safety risks for both rehabilitation implementors and shop/shelter beneficiaries, effectively preventing the beneficiaries' full exercise of their right to adequate housing.

4.4.2. Risk Treatment Recommendations

Though specialized risk treatment, risk monitoring and risk review should be conducted for each distinct operation as described in Section II (Due Diligence Procedure), shelter/shop rehabilitation organizations and staff can refer to the following guidance to respond to the aforementioned risks to HLP rights and tenure security (see Section III, Subsection 4.1).

- **Conduct HLP rights training for shelter actors.**
Due to the direct correlation between impacts to private property, such as shops and shelter, and HLP rights, organizations implementing shelter and shop rehabilitations should ensure implementing staff is trained on the principles of HLP rights and the HLP risks present from working in the Syrian context. Training on general HLP principles should include information on the right to adequate housing, the right to non-discrimination, the right to security of tenure, the right to access HLP rights, protection against eviction and the protection of the HLP rights of vulnerable and marginalized persons, particularly female-headed households, widows, displaced persons, and persons with disabilities.

Furthermore, shelter (and shop) actors should link with local HLP experts and organizations to receive training on the HLP risks posed by permanent shelter and shop repairs in the Syrian housing, land and property context. Some of the key HLP issues caused by the conflict in Syria which shelter actors should be aware of include HLP confiscations, secondary occupation, illicit property acquisitions, incapacitated land administration systems, loss of HLP and civil documentation among displaced persons, damage and destruction of cadastral documents, increased HLP disputes, demographic change, and land readjustment and redevelopment projects.

A safety briefing on explosive hazards and first aid training when working in high-risk areas should also be required for rehabilitation actors. All staff/partners/beneficiaries should be well informed of safety procedures in place at the organizational level.

- **Comply with the municipal building code when rehabilitating and/or reconstructing buildings.**
Consult local officials and lawyers to ensure

that rehabilitations are done in full compliance with the extant municipal building regulations in place. Compliance will be essential for obtaining building or reconstruction permits and consequently ensuring that beneficiaries have sufficient legal security of tenure. It should be noted that State-recognized civil and HLP documentation from the rightsholder will be necessary to obtain a permit.

- **Maintain independence from politicized reconstruction policies and procedures.**

Shelter and shop actors should be aware of the broader policy and legal framework surrounding reconstruction. This is especially critical in the Syrian context, where national reconstruction policies may be politically influenced.

As such, decisions by government authorities permitting or denying rehabilitation interventions to certain areas should be scrutinized. Additionally, for development actors supporting housing reconstruction, a highly cautious approach should be taken if they choose to support land readjustment and redevelopment initiatives prescribed under Law 23 (2015) or Law 10 (2018) amended by Law 42 (2018). When implemented in informal areas, these land readjustment procedures may effectively evict pre-existing informal tenure holders from their housing, land or property, as these laws may exclude certain types of informal tenure holders from receiving shares (i.e., land plots) in the redeveloped area. Law 23 (2015) has potential for facilitating equitable reconstruction through land readjust projects which can also recognize and formalize informal settlements. It is recommended to consult with the local administrative unit to encourage the use of Law 23 to formalize and rehabilitate informal settlements whenever possible. Engaging with Law 10 (2018) entails much greater risks due to its controversial PPP elements and redistribution scheme; as such rehabilitation actors should generally avoid supporting its implementation.

- **HLP should be a determining factor in priority setting for shelter and shop rehabilitations.**

As described above, the process of national reconstruction and property restitution will be highly political in Syria. Furthermore, decisions by UN and INGOs concerning which areas and communities to prioritize for rehabilitation efforts may be seen as politically influenced by

communities and institutions in Syria, as well as by the international community at large when not done with the upmost transparency possible.

Considering this, organizations should be clear about their criteria for prioritizing areas for structural reconstructions or rehabilitations and take HLP rights into consideration in the prioritization process. Shelter actors should abstain from prioritizing rehabilitation efforts in areas that have experienced high levels of demographic change, unregistered or unauthorized property transfers and sales, and HLP disputes; shelter rehabilitations in such areas pose risks of formalizing HLP abuses or illegitimate ownership. Instead, organizations should prioritize communities with acceptable security of tenure where HLP rights can be strengthened by the shelter and shop rehabilitation process. Regarding certain sensitive issues such as informal settlements, UN organizations should consult with local administrative units to discuss the possibilities of rehabilitating and regularizing informal settlements in a manner that respects the HLP rights of original residents. The possibility of utilizing Law 23 (2015) to do this could be proposed as an option. At a higher level, dialogue between the UN system in Syria and the GoS will need to take place to resolve issues related to shelter rehabilitation in informal settlements in a way that takes government concerns regarding the real or perceived implications of such interventions into consideration.

- **Conduct comprehensive environmental and social impact assessments.**

Shop and shelter actors should ensure that environmental and social impact (ESIA) assessments consider how the environmental impacts of shelter and shop rehabilitation could impact land tenure, including arable lands outside peri-urban areas. Additionally, explosive hazard risk assessments and non-technical surveying should be done at the earliest stages of the intervention, such as priority setting, since the discovery of explosive hazards would likely hinder intervention implementation as contracting mine action services typically entails a cost that is prohibitive to humanitarian actors.

- **Integrate HLP criteria into beneficiary eligibility standards.**

Eligibility criteria are standards which must be met for the intended shop or shelter rehabilitation to immediately take place for a given property. HLP criteria should be integrated into these standards, including the following:

- The intention of the shop or shelter rehabilitation and intended future land use;
- HLP rights verification;
- whether land rights to the property are or have been disputed;
- whether HLP rights were obtained before or during the conflict (property rights obtained during the conflict will require further investigation and verification);
- whether the owner is present or displaced;
- whether secondary occupants or squatters will need to be evicted;
- whether tenants have lease agreements sufficient to protect against eviction and safeguard against rent increases upon repairs for a specified period;
- and whether there are trusted and reliable dispute resolution mechanisms in the community.

Where certain criterions are not met, the resulting risks can be categorized, assessed, and addressed separately by either transferring, tolerating or terminating the intervention on the property.

It is generally recommended that shop and shelter actors refrain from immediately engaging with property that has been subject to unresolved HLP right disputes or ongoing HLP right disputes; property the ownership of which cannot be verified; property the owner of which is no longer present in the community and cannot be securely contacted. Shop and shelter actors should also refrain from rehabilitations which will in effect weaken security of tenure of the intended beneficiaries or contribute to the exclusionary redevelopment of informal settlements or inequitable land readjustment projects. Finally, the presence of ERW/landmines will render an area or property ineligible for rehabilitation barring the contracting of mine action services.

- **Verify the HLP rights of shop and shelter beneficiaries.**

Whenever possible, consult HLP experts and organizations in the area to assist with conducting HLP due diligence of the properties to be rehabilitated. Due diligence should verify the rights of the beneficiary, the ownership rights (if different) and any other rights in rem to the property held by a third party. HLP rights should be verified through government-recognized HLP documentation (tabou, registered lease agreement, court order, notarized Power of Attorney, etc.) and civil documentation. The validity of these documents should be verified through the issuing institutions and cross-referenced against the existing official registries whenever available. The land registries will also supply information on any third-party rights to the property, as such third party rightsholders may need to be consulted in the rehabilitation process in addition to the primary beneficiary who is in material possession of the property.

When beneficiaries lack government-issued HLP and/or civil documentation proving their tenure rights, it does not necessarily preclude them as shelter beneficiaries. Instead, the triangulation of affirming testimony from at least three reliable community sources can be used as verification, along with any supplementary evidence such as utility bills, photographs, building violation notices, and so on. These sources should include community leaders, representatives, longstanding residents and neighbours to further verify their rights.

Shop and shelter actors should take special consideration of IDPs, women and female-headed households in this process, as they may have more limited means to demonstrate their rights due to both material and social barriers. Additionally, persons who have lost their HLP or civil documents should be assisted in officially replacing these documents as part of the verification process. It is critical to document all information gathered and sources consulted to maintain transparency and accountability in case future issues arise.

- **Obtain the necessary permissions to operate by formalizing beneficiary agreements.**

Beneficiary agreements serve to formalize permissions granted by the beneficiary and clearly establish the terms and conditions

involved in rehabilitation process. The agreement should clearly state the following: the involved beneficiaries (including all rightsholders) with proof of identity; identification of property; acknowledgement of ownership status of property; proof of ownership of the property; rights, roles, responsibilities and liabilities of the signatories; scope of the rehabilitation (light repairs, structural repairs, partial reconstruction, total reconstruction); provision that rehabilitation does not confer ownership; and the dispute resolution mechanisms to be accessed in case the agreement is breached. The agreement should explicitly establish the beneficiary's written permission to access the property and conduct the rehabilitation. The beneficiaries (owner, household, tenants, etc.), representatives from the implementing organization, and at least one community representative witness should sign the agreement.

When the property is rented, the consent of the owner will be required to perform rehabilitation operations unless they only consist of light repairs.¹³ As such, the tenant beneficiary should be encouraged to register their lease agreement when not already done so that its provisions may be enforced in case of a future dispute due to, for example, an unreasonable rent increase following the rehabilitation.

- Maintain and utilize the established referral system for HLP issues and disputes.**
Link with existing local HLP dispute resolution structures by identifying the predominate HLP dispute resolution mechanisms and local courts to which beneficiaries can be referred in the case of HLP dispute or conflict related to the property in question. When intended beneficiaries and affected community members do not have sufficient evidentiary documentation establishing their HLP rights to the shop or shelter being rehabilitated, refer them to organizations within the HLP sub-cluster in Syria¹⁴ who can assist with strengthening their security of tenure. This can be especially critical for widows and female-headed households who may need assistance proving their inheritance and HLP rights. When property owners cannot be identified or contacted due to displacement, refer inquiries to organizations working with

displaced persons, such as UNHCR or NRC, who may assist with identification and contact.

4.4.3. Risk Monitoring and Review Recommendations

- Monitor for HLP issues by establishing clear reporting lines and inclusive reporting mechanisms.**
HLP-related issues such as inheritance or tenure right disputes may arise during shop and shelter rehabilitations unbeknownst to shop and shelter actors. Accordingly, the community should be easily able to report HLP issues and grievances to shop and shelter actors when they arise. It is critical to ensure that community reporting and grievance mechanisms are accessible to women and vulnerable groups including persons with limited security of tenure such as informal settlement residents and displaced persons. Appointed Community Liaison/HLP Focal Points should be responsible for community liaison related to HLP-related concerns.
- Maintain beneficiary grievance mechanisms beyond the immediate implementation period.**
At least one Community Liaison/HLP Focal Point from the implementing organization should be responsible for monitoring identified HLP risks and their risk significance level during and following intervention implementation. Reporting and grievance mechanisms should be available to beneficiaries and the affected community for an extended period following the intervention.
- Assess HLP issues via community liaison in post-implementation evaluations and reporting.**
In addition to reviewing all identified risks once the intervention is complete to ensure that they have been sufficiently treated, it is recommended that post-implementation assessments and reporting include HLP and tenure issues in addition to assessing for technical and quantitative outcomes. Furthermore, for the most accurate information, reporting and evaluation should not be performed only immediately following the intervention but also at longer post-implementation intervals to better evaluate the durability of tenure security

¹³ When the property has been severely damaged to the point of destruction, the lease would be considered terminated according to the Article 537 of the Civil Code.

¹⁴ See the Global Protection Cluster, Syria HLP Sub-Cluster at <https://www.globalprotectioncluster.org/field-support/field-protection-clusters/syria/>.

of the intervention beneficiaries. Community Liaison/HLP Focal Points can be responsible for conducting beneficiary evaluations at these intervals.

Beneficiaries can be asked the following: Has any payment been demanded from you, in breach of the beneficiary agreement? Have there been any other breaches of the beneficiary

agreement? If yes, was/is access to adequate dispute resolution support available to you? Are there any disputes over ownership of the shop or shelter? Do you feel confident that you can continue to stay in the shelter/operate your shop? Has there been any attempt to evict you and your household, or do you feel there is such a threat? Have any of those living on in rehabilitated buildings/shops been evicted?

Table 7: Risk Treatment, Monitoring and Review Checklist for Shop and Shelter Rehabilitations

HLP Risk Treatment, Monitoring and Review for Shelter/Shop Rehabilitation	
Conduct HLP rights training for shelter actors.	
Comply with the municipal building code when rehabilitating and/or reconstructing buildings.	
Maintain independence from politicized reconstruction policies and procedures.	
HLP should be a determining factor in priority setting for shelter and shop rehabilitations.	
Conduct comprehensive environmental and social impact assessments.	
Integrate HLP criteria into beneficiary eligibility standards.	
Verify the HLP rights of shop and shelter beneficiaries.	
Obtain the necessary permissions to operate by formalizing beneficiary agreements.	
Maintain and utilize the established referral system for HLP issues and disputes.	
Monitor for HLP issues by establishing clear reporting lines and inclusive reporting mechanisms.	
Maintain beneficiary grievance mechanisms beyond the immediate implementation period.	
Assess HLP issues via community liaison in post-implementation evaluations and reporting.	

4.5. Infrastructure And Public Space Rehabilitation

Extensive damage to basic services and social infrastructure across Syria has severely reduced quality of living standards for a vast majority of Syrians, exacerbating the humanitarian crisis caused by the conflict and specifically resulting in, inter alia, a deterioration in overall public health. As of 2017, 9.6 million people in Syria were living in areas with damaged basic infrastructure and over 50 percent of social infrastructure, such as educational and health facilities, had been rendered non-operational.¹⁵ Infrastructure damage has impacted all sectors of basic and social services in Syria.

As such, infrastructure and public space rehabilitation consist of the repair of publicly owned physical structures and facilities that provide essential and social services to the public including transportation (roads, bridges, tunnels, railways, airports and seaports), power (power plants, hydroelectric dams, electricity lines), water, sanitation and hygiene (water treatment plants, water pumping stations, water towers, sewage/wastewater treatment plants, water pipes, sewage systems), communication infrastructure (phone lines, cell service towers) and social services (educational and healthcare facilities) along with publicly owned property intended for communal use such as squares, parks and public markets.

The positive impacts of infrastructure and public space rehabilitations are multifaceted, meeting both immediate needs and providing sustainable solutions to enable physical and social reconstruction. The restoration of power, health, transportation and WASH infrastructure has immediate life-saving humanitarian impacts by increasing access to healthcare, facilitating the provision of humanitarian aid, reducing the spread of waterborne illness and improving overall health and hygiene. Meanwhile rehabilitations to public spaces, roads and educational facilities have positive development outcomes such as enabling economic revitalization via increased freedom of movement and access to commercial and social spaces, improving access to education, and encouraging the return displaced persons.

Infrastructure rehabilitation, especially basic services infrastructure rehabilitation, has a direct impact upon the HLP rights and security of tenure of affected communities. The human right to adequate housing entails access to basic services, materials, facilities and infrastructure ensuring occupants have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage and refuse disposal.¹⁶ Therefore, the provision of universal access to basic and social services is part of a state's obligations to honour its citizens right to adequate housing and, more broadly, right to an adequate standard of living.

Accordingly, infrastructure rehabilitations will be one aspect of honouring the HLP rights of Syrians. Conversely, the failure to include, or the explicit exclusion of, certain groups or peoples in social and basic services provision during infrastructure rehabilitation can result in the violation of Syrians' social, economic, and human rights. Infrastructure rehabilitation efforts should, therefore, endeavour to be as inclusive as possible by servicing a wide and diverse range of persons.

Furthermore, consideration should be given as to how restored access to basic and social services will impact property values and security of tenure in Syria, where access to such services is low and demand is high. The unequal provision of infrastructure services or access to public spaces may weaken the security of tenure of persons who benefit from servicing or lead to HLP disputes over the serviced property. It is also critical to recognize the role that basic services provision can have in formalizing HLP rights, as utility bills can be used as supporting evidence of HLP rights.

4.5.1 HLP Risk Identification

- **Stakeholder Coordination:** As basic services provision and public spaces are managed by public entities at the local level, rehabilitation actors without formal contracts or MOUs with the public entities responsible for overseeing basic services and public space maintenance can jeopardize the independence of the intervention and confuse the responsibilities of involved parties. Furthermore, the failure to

¹⁵ OCHA, "Humanitarian Needs Overview: Syrian Arab Republic," 2018.

¹⁶ UN Habitat & Office of the United Nations High Commissioner for Human Rights, "The Right to Adequate Housing: Fact Sheet No. 21/Rev. 1" (Geneva, Switzerland).

consult and coordinate with local authorities can inhibit local needs and priorities from being addressed.

- **Informed Decision and Public Participation:** Infrastructure and public space projects impact entire communities. Accordingly, rehabilitation interventions where information sharing with the community is neglected and public participation is limited or absent have an increased risk of causing harm and excluding vulnerable groups.
- **Evictions and resettlement:** Infrastructure and public space rehabilitations may displace persons squatting or otherwise occupying the defunct infrastructure or public space. Furthermore, displacements and resettlement due to the rehabilitation of public spaces may reduce access to informal sources of livelihood such as markets and street vending.
- **Pollution/Waste Management:** The failure to identify by-products of infrastructure rehabilitation or properly manage waste can adversely impact the local environment and public health of the community.
- **Illegitimate Property Acquisitions:** The abrupt reservicing of certain areas will increase property values and demand for land in the serviced areas. Accordingly, beneficiaries of basic services infrastructure rehabilitation without sufficient security of tenure can be pressured into giving up their HLP rights by local elites, development speculators, and local power brokers or other community members.
- **HLP Disputes and Dispute Resolution:** As renewed or improved access to basic services increases property value, renewed HLP disputes related to use-rights, tenancy agreements and inheritance rights may arise regarding properties serviced by rehabilitated infrastructure. Lands/buildings offered to establish public facilities (service centres, community centres) could be subject to an ongoing dispute the lending authority is part of (e.g., unresolved expropriation case) leading to an unexpected reputational risk affecting the implementing agency.
- **Informality:** Due to widespread destruction, displacement and limited tenure rights in informal settlements, restoring basic and social infrastructure in these areas may not be prioritized by international actors, preventing the return of displaced persons and neglecting those with vulnerable tenure security.
- **Exclusion of IDPs:** IDPs are often hosted in defunct educational facilities or other temporary shelters which may not be considered when

reservicing infrastructure.

- **Social Privileging:** Rehabilitations to infrastructure only benefitting certain neighbourhoods, cities or areas can reinforce economic or political inequalities and exacerbate existing social tension by disproportionately benefitting local elites or certain political sympathizers.
- **Inflated Costs of Living:** Costs of basic and social services may not be accessible to the most vulnerable even following rehabilitation of infrastructure due to increased demand and other financial barriers.
- **Political Endorsement:** Transferring management of rehabilitated infrastructure to local authorities in certain cases may risk contributing to corruption due to the prevalence of fragmented local power dynamics, political cronyism, and influence of militias and warlords.

4.5.2 Risk Treatment Recommendations

- **Integrate HLP into training for infrastructure and public space rehabilitation actors.**
Infrastructure and public space rehabilitations can impact the HLP rights and security of tenure of affected beneficiary communities, often unbeknownst to those implementing infrastructure rehabilitations. It is critical, therefore, that organizations implementing infrastructure rehabilitations ensure implementing staff is trained on the principles of HLP rights and the HLP risks present from working in the Syrian context. Furthermore, infrastructure rehabilitation actors should link with local HLP experts and organizations to receive training on the HLP risks posed by infrastructure rehabilitation in the Syrian HLP context. A safety briefing on explosive hazards and first aid training when working in dangerous areas should also be required for rehabilitation actors.
- **Understand legalisation regulating contracting with public entities for rehabilitation interventions.**
As the rehabilitation of infrastructure and public space lies within the responsibilities of the public authority, the most important national legislation that infrastructure rehabilitation actors should refer to is the law that regulates their relationship with the competent authority. In government-controlled areas, legal counsel for the organization should be familiar with Law

no. 51 of 2004 on the unified contracts system for public entities.

- **Ensure HLP is a determining factor in priority setting for infrastructure rehabilitations.**

As described above, the process of national reconstruction and property restitution will be highly political in Syria. Furthermore, decisions by UN and INGOs concerning which areas and communities to prioritize for rehabilitation efforts may be seen as political by communities and institutions in Syria, as well as by the international community at large when not done with the upmost transparency possible. Considering this, organizations should be clear about their criteria for prioritizing areas for infrastructure reconstructions or rehabilitations.

Conducting neighbourhood or city profiles of the areas where potential infrastructure or public space rehabilitation project are to take place can assist in providing transparent documentary evidence for prioritizing certain extensively damaged areas or areas with high percentages of persons in dire need of immediate access to health, water, and sanitation services. HLP assessments should be integrated into these profiles to further inform the infrastructure and community prioritization process. Areas which have experienced high levels of demographic change, unregistered property sales and transfers, HLP disputes and other HLP rights infringements such as property confiscation or secondary occupation should not be prioritized as basic service provision could formalize ill-obtained HLP rights or ignite HLP disputes.

Organizations conducting infrastructure and public space rehabilitations should also consult and coordinate with stakeholders including local authorities, such as the City Council, and community members themselves via the community liaison process when determining which areas to prioritize. This should ensure that community needs and local governance priorities are taken into account when selecting which projects to undertake.

- **Conduct integrated environmental and social impact assessments (ESIA) for the intervention.**

Integrated impact assessments should be carried out to inform the planning of infrastructure rehabilitations so that adverse impacts to land and tenure rights are avoided

or mitigated, and the intervention is compliant with Do No Harm standards. Specifically, infrastructure rehabilitation actors should ensure that environmental and social impact (ESIA) assessments include HLP issues in a comprehensive manner.

Especially with respect to repairing wastewater treatment systems and other infrastructure that pose contamination risks, be sure to assess the impact of pollution and where possible mitigate pollution generation by avoiding the generation of hazardous and non-hazardous waste. Where unavoidable, minimize and appropriately dispose of waste by establishing and monitoring a sustainable waste management system for the intervention. Avoid the release of air, water and land pollutants, or where unavoidable, minimize and plan periodic checks to monitor all forms of pollution to ensure they remain at negligible levels. When local waste management services have been shut down due to damage to infrastructure or political instability, avoid contributing to unsustainable and detrimental waste management practices such as dumping and unplanned landfill growth by considering and implementing alternative waste management practices considering the local capacities.

Additionally, explosive hazard risk assessments and non-technical surveying should be done at the earliest stages of the intervention, such as priority setting as infrastructure and public spaces can be contaminated by ERWs or landmines.

- **Maintain and utilize the established referral system for HLP issues and disputes.**

Identify HLP organizations to whom community members can be referred regarding issues relating to strengthening security of tenure following infrastructure rehabilitation and associated basic or social services provision. This can be especially critical for persons with weak security of tenure such as widows and female-headed households who may need assistance proving their inheritance and HLP rights. Link with existing local HLP dispute resolution structures by identifying the predominate HLP dispute resolution mechanisms and local courts to which beneficiaries can be referred in the case of HLP dispute or conflict related to the affected properties in question.

- **Transfer management responsibilities of rehabilitated infrastructure to a reliable, neutral third party.**

As the provision of basic services and maintenance of public spaces is intrinsically linked to the responsibility of the governing authority, engagement in the rehabilitation of infrastructure and public space can render the implementing organization especially susceptible to political and reputational risks in Syria. This is especially critical when transferring management responsibilities of infrastructure and public spaces upon rehabilitation completion. While the situation will vary based

on the local context, infrastructure rehabilitation actors should avoid conferring management responsibilities to corrupt local or regional governing institutions and power brokers. Furthermore, rehabilitating state-operated infrastructure may compromise humanitarian and development obligations to neutrality if not done in a transparent and accountable manner. Accordingly, the party left to operate the infrastructure should have the support of the community and be accessible by the community via grievance mechanisms and access to judicial remedy.

Table 8: Checklist for HLP Risk Treatment for Infrastructure/Public Space Rehabilitation

HLP Risk Treatment for Infrastructure/Public Space Rehabilitation	
Integrate HLP into training for infrastructure and public space rehabilitation actors.	
Understand legalisation regulating contracting with public entities for rehabilitation interventions.	
Ensure HLP is a determining factor in priority setting for infrastructure rehabilitations.	
Conduct integrated environmental and social impact assessments (ESIA) for the intervention.	
Maintain and utilize the established referral system for HLP issues and disputes.	
Transfer management responsibilities of rehabilitated infrastructure to a reliable, neutral third party.	

4.5.3. Risk Monitoring and Review Recommendations

- **Monitor for HLP issues by establishing clear reporting lines and inclusive reporting mechanisms.**

HLP disputes and other HLP-related issues may arise due to infrastructure rehabilitations within the beneficiary community unbeknownst to infrastructure rehabilitation actors. Accordingly, the community should be easily able to report HLP issues and grievances to infrastructure rehabilitation actors when they arise. It is critical to ensure that community reporting and grievance mechanisms are accessible to women and vulnerable groups including persons with limited security of tenure such as informal settlement residents and displaced persons. Establish HLP Focal Points who are responsible

for HLP-related concerns and trained in HLP issues.

- **Maintain beneficiary grievance mechanisms beyond the immediate implementation period.**

At least one Community Liaison/HLP Focal Point from the implementing organization should be responsible for monitoring identified HLP risks and their risk significance level during and following intervention implementation. Reporting and grievance mechanisms should be available to beneficiaries and the affected community for an extended period following the intervention.

- **Assess HLP issues via community liaison in post-implementation evaluations and reporting.** In addition to reviewing all identified risks once the intervention is complete to ensure that they have been sufficiently treated, it is recommended that post-implementation assessments and reporting include HLP and tenure issues in addition to assessing for technical and quantitative outcomes. Furthermore, for the most accurate information, reporting and evaluation should not be performed only immediately following the intervention but also at longer post-implementation intervals whenever possible to better evaluate the durability of tenure security of the intervention beneficiaries.

4.6. Agricultural Interventions

Agriculture has long played a central role in Syrian society as the backbone of the national economy. For decades, the government of Syria prioritized the agriculture sector in the national economy by enacting pro-agrarian land reform and supporting rural producers through a government-controlled system of subsidized inputs and market monopoly. However, in the 2000s the government began to retract support from agriculture to invest in other economic sectors. The subsequent agricultural austerity measures, combined with environmental factors, resulted in reduced food security and limited access to livelihoods in rural areas, which in turn contributed to the social unrest that unfolded into the 2011 uprising.

The current crisis has further devastated the once flourishing agricultural sector due to the loss of cultivated land, the displacement of farmers from unstable areas, the destruction of farm machinery and irrigation structures, shortages of farm inputs and fuel, and severely damaged infrastructure and compromised power supplies. The reduction in agricultural productivity, combined with international bans and sanctions against Syria and the impacts of the most recent COVID-19 public health crisis, have caused millions of Syrians to be food insecure, with women, displaced persons and returnees representing the most vulnerable.¹⁷

In total, Syria's agriculture sector has suffered losses and damage amounting to \$16 billion from the period between 2011 and 2016.¹⁸ As the root issues related to agriculture in Syria extend well before the conflict, an integrated and comprehensive policy for agricultural production and land use will be necessary to address the structural issues the industry faces coming out of the crisis. However, humanitarian solutions to conflict-induced problems, such as the repair of irrigation systems and rehabilitation of fallow land, can facilitate the immediate growth of agricultural productivity and economic activity, providing more Syrians with access to livelihoods, increasing food security and encouraging the return of displaced persons.

Securing the land tenure rights of beneficiaries, however, will be integral to the success of such interventions. Accordingly, organizations conducting programming impacting agricultural land must be aware of the existing land tenure systems and relationships tied to these lands.

Agricultural land tenure in Syria is characterized by its complexity as overlapping land rights, land reform regulations, and customary tenure systems make clearly defining HLP rights in rural areas difficult. Additionally, some rural areas have yet to be surveyed and demarcated for formal cadastral registration. These circumstances present a challenge for conducting HLP due diligence while undertaking agricultural interventions in Syria.

Agricultural land can be identified as either private land (*mulk*), State land (*Amiri*) or agrarian reform land. The latter specifically refers to State agricultural land that was expropriated under 1958 land reforms and either retained by the State or distributed to beneficiaries who have rights to possess, operate and manage their land, but do not own and cannot sell the land.¹⁹ Furthermore, individuals can have rights of disposal (*tassarouf*) over amiri lands, which are legally treated in the same manner as ownership rights.

Moreover, overlapping tenure rights can exist on these lands. These tenure relationships can include absentee owners, owner-operators, sharecroppers and tenants, land reform beneficiaries, tenants on public land, squatters on public land, squatters on

17 FAO, "FAO/WFP Crop and Food Security Assessment Mission to the Syrian Arab Republic," Special Report, Rome: FAO, October 2018.

18 FAO, "Counting the Cost: Agriculture in Syria after six years of crisis," Rome: FAO, 2017.

19 FAO, "Agricultural Policy and Economic Development Series, No. 8: Syrian Agriculture at the Crossroads," Chapter 12: Land Tenure and Labour Relations, Nadia Forni (Rome: FAO, 2003).

private land, laborers in State farms and landless laborers.²⁰ Each of these groups have distinct statutory and customary rights to agricultural land which need to be identified and recognized while undertaking land-based agricultural interventions. The conflict, however, has obscured these tenure rights due to displacement, land usurpation and confiscation, unrecorded HLP agreements and property transfers, unkept land registries, loss of HLP and civil documentation, damage to land records and ERW/landmine contamination.

4.6.1 HLP Risk Identification

- **Gender and Women's Rights:** As women are rarely given statutory or customary ownership rights especially in rural settings, land-based agricultural interventions may fail to include women and fail to identify or recognize female HLP rights to the land.
- **Exclusion of IDPs and Refugees:** Precluding displaced persons' land from interventions which could otherwise encourage their return or the re-cultivation of their land may leave their tenure rights susceptible to state revocation. The State has the right to revoke the tassarouf rights if the land is not cultivated for five (5) consecutive years. Moreover, the possession of agrarian reform lands can be revoked, the registration cancelled and the land recovered by the state and redistribution to another peasant if the land is not exploited.
- **Eviction and Resettlement:** Agricultural interventions may lead to evictions of secondary occupants or squatters on abandoned or vacant lands. Such evictions can render these groups homeless, especially as many secondary occupants are displaced themselves and cannot access their own housing, land or property.
- **Access to and Use of Natural Resources:** Communal resources such as irrigation infrastructure may be left to be managed by persons or groups who fail to manage the resource sustainably and equitably for the community either due to political motivations, corruption or lack of sufficient knowledge or training.
- **Agricultural Productivity and Food Security:** Land-based interventions in agricultural areas can cause harm to the agricultural productivity of affected lands if improper tools or techniques are applied.
- **Informality:** If the ownership, disposal (tassarouf), or land reform rights to the impacted land are not officially registered in the competent land registry, secondary occupants who cultivate and maintain uninterrupted possession of the land can acquire legal rights via adverse possession. Prescriptive acquisition can take place on private land after five (5) years of good faith possession based on valid reason or 15 years of bad faith possession. Prescriptive acquisition can take place on amiri (State) land after 10 years of uninterrupted possession and cultivation of the land.
- **Illegitimate Property Acquisitions:** As irrigating or rehabilitating land will increase its value, the HLP rights of landowners with limited security of tenure may be threatened by powerful elites, local warlords or development speculators.
- **HLP Disputes and Dispute Resolution:** Failure to clearly identify the intervention beneficiaries and their tenure rights to the property in question before and after the intervention may result in local disputes or conflicts over who has ownership, use and access rights to the land.
- **Land Grabbing:** Rehabilitating land with unclear ownership and tenure rights or rehabilitating common use agriculture infrastructure such as irrigation canals may incite land grabbing of property where the owner is not present or where ownership is disputed. The failure to conduct HLP verification and a lack of existing mechanisms ensuring security of tenure may lead to land grabs for the purposes of development schemes and resource extraction on the impacted property.
- **Secondary Occupation and Squatting:** The intervention may allow unauthorized squatters to take possession of private agricultural land if the landowner is absent or has been displaced. This may also take place when sharecroppers or tenant have assumed possession of the property beyond the duration of the sharecropping/tenancy agreement.
- **ERW/landmines:** Mines and explosive ordnances have been widely used throughout Syria in rural areas, the likelihood of ERW or mine contamination in arable lands is high. And with more people returning to their deserted lands, farming and herding activities are reported as a main cause of explosion incidents taking civilian lives or inflicting permanent injuries. Land-based agricultural interventions should ensure

20 Ibid.

that they do not encourage people to use land in areas where explosive contamination is likely. Supporting recovery projects in lands known to have witnessed armed confrontation will risk the further occurrence of explosive incidents if inspection and demining operations have not been conducted. On the other hand, the high cost and long process of ERW/mine decontamination may slow or prevent the recovery of unused arable lands.

- **Social Privileging:** Land-based agricultural interventions can reinforce or exacerbate economic or political inequalities and existing tension by disproportionately benefitting local elites or certain political sympathizers.

4.6.2. Risk Treatment Recommendations

Though specialized risk treatment, risk monitoring and risk review should be conducted for each distinct operation as described in Section II (Due Diligence Procedure), agricultural intervention implementors can refer to the following guidance to respond to the aforementioned risks to HLP rights and tenure security (see Section III, Subsection 6.1).

- **Ensure team members are briefed on and aware of HLP issues related to the intervention.** Teams implementing land-based agricultural interventions such as irrigation infrastructure rehabilitation should have a working knowledge of HLP issues and the existing tenure systems in the area of implementation. Workshops and informal briefings with local HLP experts can provide a baseline understanding on the development and current state of land tenure systems in the relevant area. This should include information on land types (State, private, land reform), prevalent tenure types (absentee owner, owner-operator, sharecroppers and tenant, squatters on private, squatters on public land, State farm laborers, and landless laborers), land markets (formal and informal property transaction mechanisms/systems), and the existing HLP dispute resolution mechanisms (arbitration committees and courts, local and customary conflict resolution and mediation).

Programming actors should also be aware of the land tenure issues affecting rural areas which predate the conflict. Since land reform beneficiaries cannot sell their land as they are not legal owners of the land (the State retains ultimate ownership), these lands have

been passed down and parcelled out to family heirs through generations in accordance with inheritance law and custom. The division of the land, along with changes to its ownership and use rights, with each passing generation has resulted in a fragmentation of ownership and land use rights to such a point that the land is no longer economically viable to support livelihoods. In many cases, informal agreements have been made to consolidate properties, transfer property rights or facilitate land use by a large landowning third party to make the property economically viable for the land reform beneficiary.

Additionally, illegal occupation and possession of private land had become problematic as sharecroppers and tenants who worked and lived on agricultural land found legal loopholes to obtain adverse possession of the land. This led to many landowners, especially absentee owners, to only contract temporary or seasonal labour maintain better security of tenure to their land. However, this in turn has contributed to the growth of landless laborers— agricultural workers not owning or renting land and without access to permanent employment— who lack tenure security. Furthermore, labour contracts and land agreements were often only formalized orally, which presents challenges for HLP rights verification and dispute resolution.

This knowledge will be essential for assessing beneficiaries against eligibility requirements, mitigating HLP risks, monitoring HLP issues and referring HLP disputes to local dispute resolution mechanisms. A safety briefing on explosive hazards and first aid training should also be provided when working in agricultural areas, including information on the safety procedures in place at the organizational level.

- **Priority setting for agricultural interventions should include HLP as a determining factor.** Historically high yield agricultural areas will be prioritized for irrigation rehabilitation and other land-based agricultural interventions. Much of the country's cropland lies in the northeast, north and central parts of the country including the governorates of Hasakeh, Raqqa, Aleppo, Hama, Deir ez-Zor, Homs and rural Damascus. While Syria has produced a number of agricultural products, wheat has historically been its predominate crop, making up a disproportionate

share of the country's agricultural production and being essential to Syria's agrarian economy. It is likely therefore that agricultural interventions will seek to target wheat production, 45 percent of which is concentrated in the al Hasakeh governorate. The degree of damage and explosives' contamination, security and accessibility, and beneficiary vulnerability will also be factors in priority setting for agricultural interventions.

Closely related to assessing security and beneficiary vulnerability, land tenure should also be considered a determining factor in priority setting. In areas with high rates of rural displacement or high proportions of IDPs and returnees, land tenure security will be limited. Organizations should prioritize areas with limited tenure security when they can take measures to strengthen the HLP rights of beneficiaries such as by supporting formal HLP rights registration processes or cooperating with local authorities to apply fit-for-purpose land administration tools.²¹ When tenure security cannot be strengthened in such areas, organizations should take proper precaution and risk mitigation measures to ensure HLP infringements do not occur during or following the intervention. ERW and landmine screening will also be priority factors in considering the viability and risk levels of engaging in certain rural areas.

- **Consult and coordinate with local authorities and stakeholders.**

Once a community or target beneficiary group has been identified, consultations with local authorities and community leaders will be necessary to gain access to the intended communities and ensure continued access throughout the intervention. Representatives from institutional stakeholders such as the Peasant Union (PU), the Chamber of Agriculture, Ministry of Agriculture and Agrarian Reform (MAAR), the Ministry of Social Affairs and Labour (MSAL), the Ministry of Endowment and Local Administrative Units may also need to be consulted to implement the intervention. These community representatives and stakeholders can also be critical sources of information on

local HLP rights, customary land administration and tenure systems and the prevailing dispute resolution mechanisms. Discussions of land and tenure rights should therefore be integrated into these consultations so intervention implementors can properly assess the HLP operational context and be better prepared to conduct HLP due diligence.

- **Conduct targeted environmental and social impact assessments with consideration to land tenure.**

Land-based agricultural interventions are especially likely to have direct impacts on natural resources, such as water and soil, and consequently impact the communities that rely on these for their livelihoods, food security, and tenure security. As such, integrated environmental and social impact assessments may be necessary to identify and assess priority risks posed by the intervention in this respect. It is recommended to conduct targeted impact assessments when assessing for environmental risks (pollution and waste management; access to and availability of natural resources; agricultural productivity and food security; etc.) in the due diligence process. This may require the services of experts in environmental impact assessments. Furthermore, depending upon the nature and scale of the intervention, Environmental Impact Assessments as prescribed in Ministerial Order 225 (2008)²² may be required.

Additionally, as landmine and ERW contamination has been prevalent in many rural areas of Syria, an explosive hazard risk assessment is paramount to ensuring the safety and security of the intervention implementor and the community.

- **Integrate HLP rights verification into engagement eligibility standards.**

Beneficiary eligibility standards may include requirements related to access to minimum land area, ownership of maximum land area, income sector and income regularity, crop farming experience, explosive hazard contamination and external assistance already received. HLP rights verification should be integrated into these

21 Fit-For-Purpose Land Administration promotes the use of flexible and pragmatic approaches that are affordable easy to establish and maintain, that are built on existing available technical, financial and human capacities, rather than responding to rigid, high-end requirements. Consult the Global Land Tool Network (GLTN) Fit-For-Purpose Implementation Guide.

22 See the Annex for more information on the requirements and procedure mandated by Ministerial Order 224/2008.

eligibility standards. To be eligible for agricultural programming, the beneficiary must have verified tenure rights to the land and the intervention must be in accordance with such rights (i.e., the intervention should not afford ownership rights and responsibilities on beneficiaries who only have access or use rights). When the beneficiary is not the landowner, the owner should be identified, contacted and he/she should give prior and informed consent to the intervention.

To verify beneficiary HLP rights, consult and coordinate with institutional stakeholders and HLP experts and organizations in the area. Typically, HLP and tenure rights should first be verified through official government-recognized civil identification and HLP documentation including tabou, court decision, or notarized Power of Attorney sale agreement. However, HLP and tenure rights in rural areas tend to have lower levels of registration than those in urban areas. Property sales and transfers are often done informally (especially concerning land reform land) while tenancy, sharecropping and labour agreements are typically not put in writing and/or unregistered. Resultingly, HLP verification will be especially dependent on the provision of supplementary evidence and the triangulation of affirming information from reliable community sources in addition to representatives from associations and organizations such as the Peasant Union, Chamber of Agriculture, agricultural cooperatives and agricultural extension units. A minimum of three corresponding community sources are necessary to verify HLP and tenure rights. All sources and information should be documented to maintain transparency and accountability in case future issues arise.

- **Formalize beneficiary agreements to obtain the necessary permissions to access and operate on land.**

When the subject of the land-based agricultural intervention is private property (such as privately owned land or wells) rather than public property or communal resources (such as irrigation canals and water pumping stations), the beneficiary will need to provide formal permission to the implementing organization to access and operate on their property. Beneficiary agreements can be used to formalize permission, clarify the intended beneficiaries of the intervention and establish the terms and conditions of the intervention including the

liability of the parties, contract duration and dispute resolution mechanisms to be utilized when necessary. The agreement should clearly state (inter alia):

- the involved parties (with confirmation of identity, identification of land/property);
- the roles, responsibilities and liabilities of the signatories, the scope of the intervention in subject matter and duration;
- the party responsible for management of the resource upon intervention completion; and
- the dispute resolution mechanisms which can be accessed in case of a disputes between the parties.

The agreement should also include a provision indicating that the intervention in and of itself does not confer property ownership or formalize HLP rights

- **Establish a referral system for HLP issues and disputes.**

Identify and link with existing HLP dispute resolution structures by identifying the predominate HLP dispute resolution mechanisms and local courts to which beneficiaries can be referred in the case of HLP dispute between beneficiaries themselves or between beneficiaries and third parties related to the property in question. Typically, the courts tend to be a last resort for parties to an HLP dispute in rural communities. Accordingly, it is critical that programming implementors liaise with community representatives to identify the primary alternative resolution mechanisms operating in the community.

- **Inform the community of the conclusion of programming completion.**

The community should be fully aware of who has access, use and management rights to the impacted public or semi-public resource (land, irrigation facilities, etc.). Accordingly, when the intervention is concluded, the implementing organization should make efforts to inform the community through formal handover procedures, public meetings, and the dissemination of awareness raising materials. Community awareness of rights to the impacted resource bolster its tenure security and build upon existing community social tenure networks.

- **Transfer rehabilitated communal resources either to the beneficiaries or a reliable, neutral third party.**

The transfer of management responsibilities for communal resources such as irrigation canals should be done publicly to promote transparency, community trust and accountability. Farmers unions (e.g., the Peasant Union) and irrigation committees may be appropriate parties to whom management responsibility may be conferred, especially when local governance and leadership remain politicized. However, the feasibility of this transfer must be taken into consideration. The party left to manage the resource should be properly trained on its operations to ensure sustainable and equitable

resource management.

- **Train beneficiaries on the proper use and management of the impacted resources.**

Beneficiaries of land-based interventions to private property such as fields and wells should be trained on how to sustainably manage such resources when appropriate. Training can build local labour capacity and prevent environmental degradation such as excessive depletion of groundwater or overuse of land and erosion. The implementing organization should monitor the management of the impacted resources for a set period to ensure proper management and provide assistance as needed.

Table 9: HLP Risk Treatment, Monitoring and Review Checklist for Agricultural Interventions

HLP Risk Treatment, Monitoring and Review for Agricultural Interventions	
Ensure team members are briefed on and aware of HLP issues related to the intervention.	
Priority setting for agricultural interventions should include HLP as a determining factor.	
Consult and coordinate with local authorities and stakeholders.	
Conduct targeted environmental and social impact assessments with consideration to land tenure.	
Integrate HLP rights verification into engagement eligibility standards.	
Formalize beneficiary agreements to obtain the necessary permissions to access and operate on land.	
Establish a referral system for HLP issues and disputes.	
Inform the community of the conclusion of programming completion (when programming involves a public resource).	
Transfer rehabilitated communal resources either to the beneficiaries or a reliable, neutral third party	
Train beneficiaries on the proper use and management of the impacted resources as needed.	
Establish clear reporting lines and inclusive reporting mechanisms to monitor HLP risks.	
Monitor for post-implementation HLP issues related to access and use of the impacted resources.	
Post-implementation evaluation and reporting includes HLP issues.	

4.6.3 HLP Risk Monitoring and Review

- **Establish clear reporting lines and inclusive reporting mechanisms to monitor HLP risks.**

Disputes surrounding HLP rights, access to natural resources or other land-related issues may arise during agricultural intervention operations unbeknownst to the implementing actors. Accordingly, the community should be easily able to report HLP disputes, issues and grievances to the implementing actors when they arise. Ensure that community reporting and grievance mechanisms are accessible to women and vulnerable groups. Maintain Community Liaison Focal Points who are responsible for HLP-related concerns and trained in HLP issues. Community liaison focal points should, whenever possible, include women and represent a diversity of groups (ethnic, religious, gender, etc.) to ensure inclusive community engagement.

- **Monitor for post-implementation HLP issues related to access and use of the impacted resources.**

At least one Community/HLP Focal Point from the implementing organization should be responsible for monitoring for issues such as HLP disputes, land grabbing and illicit land/resource use following intervention

implementation. This could apply to impacted resources such as irrigation facilities, irrigated land, grain collection and storage facilities. Reporting and grievance mechanisms should be available to beneficiaries and the affected community for an extended period following the intervention.

- **Post-implementation evaluation and reporting should include HLP issues.**

Post-implementation assessments and reporting should include HLP and land tenure issues in addition to assessing for technical outcomes (e.g., amount of land irrigated, number of beneficiaries, etc.). Furthermore, for the most accurate information, reporting and evaluation should not be performed only immediately following the intervention but also at longer post-implementation intervals. HLP issues to be assessed include determining whether groups or persons have been displaced from their land or shelter, whether property disputes have arisen, whether certain beneficiaries or vulnerable groups have difficulty in accessing the resource, whether adverse effects to the environment and natural resources have been observed, whether the resource is being properly managed, and whether the land rightsholders have security of tenure.



Annex: HLP-Related Syrian Laws And Regulations

Constitution of the Syrian Arab Republic (2012) – The Syrian Constitution protects the right of private ownership of property, specifying that it may not be removed except in the public interest, by a decree, with a corresponding final court ruling, and against fair compensation, which is deemed to be equivalent to the real value of the property (Article 15).

Syrian Civil Code of 1949 – In addition to the Constitution, the Civil Code is the original law regulating housing, land and property rights and, albeit to a lesser degree, land management. Syria's civil code classifies land in Syria into five types: *amiri* (state-owned), *mulk* (privately owned; immovable property "susceptible to full ownership"), *métrouké murfaka* (public land for use by a specific community), *métrouké mehmié* (public land for general use), and *khalié mubah* (state-owned land that has not been inventoried or delimited). It further stipulates ownership and use rights of these land typologies by describing disposal (*tassaarouf*), occupancy, usufruct, and *superficie* rights along with use rights of waqf land (charitable land endowment under Islamic law typically used for religious purposes).²³ The Civil Code also contains extensive provisions on contract law including lease agreements. It provides that if a property is completely destroyed during the lease, the contract will be automatically terminated, however, the tenant may have the right to occupy similar premises in the reconstructed building if the destroyed building is replaced. If the property is partially destroyed or becomes unfit for use, and the tenant is not at fault, the tenant can seek to either decrease the rent or terminate the contract if the landlord fails to restore the property to its original condition within a reasonable time. In the event of the death of either party to a lease, the lease continues and is passed to the heirs of the landlord or tenant, though the legal heir to the tenant can request to terminate the

agreement within six months of the tenant's death. It also includes provisions on the protection of land rights and stipulates the requirements for obtaining title via adverse possession.

Law 23 of 2015 (Urban Development Law) – The law on urban development stipulates the implementation of master and site plans in one of two ways: (1) land division at the initiation of landowners or (2) land zoning (i.e., land readjustment) at the initiative of the municipality. The latter method rezones neighbourhoods by identifying all existing rightsholders, settling HLP disputes and rights allegations, valuating individual properties in the area to determine individual shares, pooling the properties together and redistributing them such that the municipality acquires up to 40-50 percent of the lands in the rezoned neighbourhood for free to provide basic services (roads, public squares, parks, social housing, etc.), with any land acquired beyond the percentage limit being redistributed to rightsholders in accordance with the valuation of their individual shares prior to the redistribution. Zoning procedures can be initiated on unzoned urban expansion areas on the periphery of the city (where many informal settlements exist) to facilitate their integration into the master plan or in areas already zoned within the city. Once an area is declared to be rezoned, private land subdivision and land consolidation is not allowed and building permits are no longer granted (unless an area is recognized as an informal settlement in the land readjustment process by the local administrative unit). Rightsholders in the rezoned area are called to present proof of ownership or other rights in rem in an application indicating their elected domicile within thirty days of the decree establishing the area to be rezoned. If the rightsholder does not have proofs, they should "indicate in their application the sites, borders, shares and legal and juridical type of

²³ Stigall, Dan. E; The Civil Codes of Libya and Syria: Hybridity, Durability, Post-Revolution Viability in the Aftermath of the Arab Spring; Emory International Law Review, Vol. 28, Issue 1; 2014

their alleged property or rights." Rights claims will be cross checked against the rights recorded in the GDCA or similar land registry. Unsubstantiated property ownership allegations or disputes over rights in rem and personal property rights are heard by a Dispute Resolution Committee.

Law 39 of 2017 (Building Permit Fee Exemption Law)

– Exempts property owners from paying building permit fees, included the added fees, if they intend to carry out repairs in whole or in part on their properties to fix damages sustained "as a result of terrorist acts during the crisis."²⁴ The following conditions apply: the property must be located within stable areas, the repairs must not include added construction, the law is valid for one year following its promulgation. Replaces Law 21 of 2015.

Legislative Decree 66 of 2012 (Urban Renewal Law in the Damascus Governorate)

– Stipulates a process for establishing new urban zones within the administrative border of the Damascus governorate as part of the urban masterplan in two informal areas of Damascus city. The law allows the government to replace individual property rights with shareholder rights on the plot of land to be developed and reallocated. In practice, the law is being implemented in two peri-urban Damascus neighbourhoods: Marota City formerly Mezzeh – Kafar Souseh and Basilia City, formerly Barzeh. The implementation of the former has resulted in mass evictions and increased rental and housing prices in Damascus.²⁵

Law 10 of 2018 (Urban Renewal Law)

– Law 10 adopts the process for the establishment of new urban zones in the Damascus Governorate (Legislative Decree 66 of 2012) and applies it on a national scale. The law applies a public-private-partnership method of land readjustment to dissolve individual property rights and redevelop urban areas. When an area is designated for redevelopment, individuals in that area lose their individual property rights and are instead given shares in the new urban zone. Once an owner has been provided with shares, they are prevented from dealing with their former property in any way. Rightsholders are entitled to alternative housing or compensation equalling a two-year lease fee while land readjustment procedures are taking place. The law provides three options to shareholders as to how they may

use these shares: (1) parcel allotment, (2) combine stock to create shareholding company or (3) sell shares or parcel in a public auction. The third option is likely to be most common due to the increased prices or redeveloped land plots. To be eligible to receive a share, rightsholders must declare their rights by submitting an application defining their place of residence and supplementary documents (or copies thereof) supporting their rights, which consist of government recognized HLP documents. Persons who do not have such documents can submit an application stating the location, legal type of property, claimed shares and court cases filed for or against the property. Family to the fourth degree of relation to the rightsholder may exercise power of attorney on the rightsholders behalf to submit this application. Informal land tenure rights are not eligible to receive shares. This law is being implemented in Qaboun and has been planned in other areas such as the Baba Amr neighbourhood of Homs.

Law 3 of 2018 (Debris Management Law)

– Law 3 governs the removal and sale of debris from damaged buildings in Syria. It establishes a process for identifying, removing and selling debris from zones identified by the Governor. Claims for ownership of the debris can only be made after the Governor assesses the damage to the buildings and prepares a report. Claims can be made by property owners or relatives of the owners and these claims must include proof of ownership, or otherwise a description of the property when proof of ownership is not available. Following a process of report preparation to publish recognized ownership rights and a period of public review and objections, the owner can collect movable property from damaged buildings. Following the period given to collect moveable property and personal belongings, the government has the right to demolish structurally unsound buildings and contract debris removal services. While the law is currently in force, it had not been put into practice as of March 2019.

Law 20 of 2015 (Landlord and Tenant Law)

– The Landlord and Tenant Law regulates the relationship between landlords and tenants in newly reached lease agreements and retrospectively regulates older lease agreements reached through predated laws. It regulates evictions, defines the basis to determine rent value and puts in place protective measures for

²⁴ Cunial, Laura; Briefing Note: Housing Land and Property (HLP) in the Syrian Arab Republic;NRC; May 2016
²⁵ Ibid.

certain tenants. Law 20 (2015) upholds the *pacta sunt servanda* principle introduced in 2001 where leases are fixed with respect to their duration and rental rate according to the agreement of the parties to the lease. However, under Law 20, a lease will be considered renewed if a tenant continues living there with the landlord's knowledge after the conclusion of an agreed lease period as long as the rental agreement has been registered with the municipality. If it has not been registered, then the tenant can be subject to eviction by the landlord at any point. Law 20 also establishes that unless otherwise agreed, the landlord is responsible for the maintenance of the property and required to carry out major repairs as needed. If the landlord fails to maintain and/or repair the premises, a tenant can terminate the lease, reduce the rent or file a lawsuit against the landlord to request that the landlord carry out repairs or provide compensation. The main grounds for eviction as given in Law 20 include: failure to pay rent, neglecting upkeep of the premises or causing significant damage, subleasing the property without written consent, using the premises for purposes that differ from those specified in the lease agreement, deserting the leased premises without a reason for a period of one continuous year, and tenant insolvency or bankruptcy.

Legislative Decree 29 of 2012 (Reclamation of Agricultural Land) – Relates to authorizing the Irrigation Minister in agreement with the Minister of Agriculture and Agrarian Reform to decide land reclamation in any area in Syria in the public benefit. Land may be expropriated for agrarian reform against payment of compensations to owners of expropriated land, distribution and investment of reclaimed land, the maximum allowed limits of land ownership by individuals of reclaimed land and distribution of reclaimed land to peasants.

Ministerial Order 225 of 2008 (EIA Act) – Sets out the executive procedures for environmental impact assessments (EIAs) in Syria applying to construction projects initiated following the order's promulgation. Annex 1 provides the scope of the application of the EIA Act and stipulation of required actions according to project. Annex 2 provides the general or site-related screening criteria required to measure all impacts of a project. In its current form, EIA requirements generally do not apply for rehabilitation and restoration activities.

Glossary

Due Diligence: a process of research and analysis preceding project implementation actions used to identify and treat risks and advise how to carry out the project so as to avoid harm to persons, property, and the environment and to shield the implementing organization from liability where possible and appropriate.

Do No Harm (DNH): an operational principle grounded in avoiding exposing people to additional risk due to the implementing organization or person's actions. DNH standards often include a combination of the following characteristics: recognition of potential negative effects of interventions; consideration not only of beneficiaries but also the wider constituency of potentially affected persons; relationship-building with beneficiaries and stakeholders; opportunities to evaluate, alter and, when necessary, terminate intervention.

Enterprise Risk Management (ERM): a systematic approach used by businesses and organizations that seeks to support the achievement of strategic objectives by proactively identifying, assessing, evaluating, prioritizing and controlling risks across the business or organization.

Environment and Social Safeguard System (ESSS): a strategic approach to managing social and environmental risks posed by an intervention through the applications of tools and mechanisms which can prevent or mitigate the probability and/or impact of risks.

HLP Due Diligence: a process specifically aiming to mitigate HLP risks, such as formalizing fraudulent or illegitimate property rights, inciting HLP disputes or weakening beneficiaries' security of tenure; aims to inform HLP risk treatment decisions by undertaking an evidence-based process of verifying HLP rights and security of tenure.

HLP Rights: describe a person's rights to a home, land and property which are rooted in international

law guaranteeing the right to adequate housing, to an adequate standard of living, and to protection from arbitrary or unlawful intrusion upon the home. Housing, land and property rights should guarantee a home that offers shelter, safety and the ability to secure a livelihood.

Land Tenure: the relationship between a person or people and a piece of land which reflects what rights the person or persons have to the land. Tenure can range along a spectrum from squatting or occupancy rights to use-rights to ownership rights and can be recognized in either or both customary and/or statutory systems.

Rehabilitation: the repair and reconstruction of a damaged or destroyed property asset to its original use and service purposes, which may include an expansion of services and improvement of facilities. In relation to housing, land and property, rehabilitation of infrastructure, public space, shops and shelters refers to the repair, restoration and, when necessary, reconstruction of the damaged or destroyed structure or built space.

Restitution: an equitable remedy by which individuals or groups of persons who suffer loss or injury are returned as far as possible to their original pre-loss or pre-injury position. In the context of housing, land and property, it refers to the restoration of a person's rights and access to housing or property which they were forced to abandon or just compensation when such restoration is impossible due to damage or other irreconcilable reasons.

Secondary Occupation: persons who take up residence in a home or land after the legitimate owners/users have been forcibly displaced due to, inter alia, eviction, conflict, natural disaster, violence or the threat thereof.

Security of Tenure: reflects the degree to which a person or persons' land tenure rights are recognized and protected. Strong security of tenure should

protect an individual from arbitrary eviction and other unlawful intrusions upon an individual's right to adequate housing and an adequate standard of living. The highest degree of land tenure security will be achieved through both customary and statutory systems.

Vulnerable Groups: persons linked by a common characteristic or identity, such as gender, physical disability, ethnicity, religious belief, political belief, nationality, age or race, who are exposed to an increased risk of the infringement and deprivation of their rights.



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