



Guidance Note on **Fit-For-Purpose** Land Administration for Syria

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Executive Summary

Syria has a long history of land administration which laid the groundwork for the management of land rights and land-based resources in recent decades. The modernization of the land administration system, however, has been too slow, hindering the ability of institutions with land-related mandates to establish adequate legislative frameworks, tools and procedures capable of meeting the rapidly evolving needs of the Syrian society. To address the pre-existing shortcomings and the new challenges emerged with the conflict, Syria should introduce elements of fit-for-purpose land administration. Fit-for-purpose (FFP) land administration refocuses the attention of land administration services towards meeting the needs of people in their relationship with land, and contributes to the development of a more sustainable land administration system capable of securing land rights and supporting the key land administration functions that are needed in a post-conflict settings.

This Guidance Note has been developed in the framework of the Joint Programme "Strengthening Capacity to Address Immediate and Post-Agreement Housing Land and Property Issues" (HLP JP) to guide the understanding of the Technical HLP Working Group, and its partners, in addressing land administration issues in Syria in a strategic and fit-for-purpose manner. The paper investigates the Syrian legal and administrative framework and explores key areas of application of FFP principles for improving Syria's land administration and introducing positive changes in the cadaster and in the processes guiding the regularization of informal settlements and the provision of adequate housing. The Note provides an overview of key international references defining why the fit-for-purpose land administration approach is relevant for the Syrian context and how it could be introduced - such as the Sustainable Development Goals (SDGs), the Voluntary Guidelines on the Responsible Governance (VGGTs), and the UN Secretary General Guidance Note on 'The United Nations and Land and Conflict' - and describes the following key concepts:

The fit-for-purpose land administration approach applies spatial, legal and institutional methodologies that are most fit for the purpose of providing secure tenure for all and ensuring the functioning of the key land administration functions in a given context. The fit-for-purpose approach is affordable, flexible, inclusive, participatory, and can be incrementally upgraded towards more precise, technically specialized, detailed and sophisticated land administration systems.

Conflict sensitive fit-for-purpose land administration draws on the fit-for-purpose land administration approach to which it adds the following practices: (1) it assesses proposed land administration solutions against the "do no harm" principle; (2) it incorporates social reconciliation, peacebuilding, and state building considerations; and (3) it complements the available land administration tools with transitional justice tools for land dispute resolution and adjudication.

The continuum of land rights is an inclusive approach which recognizes the existence of a broad spectrum of land tenure types (e.g. rights of use, occupancy, lease, ownership, etc.) each with its own specific characteristics, level of legal recognition and tenure security. The continuum of land right concept is very important to improve land administration in Syria by adopting fit-for-purpose land administration principles.

The Syrian land administration system

In Syria, land administration functions - intended as land tenure, land use, land development, and land value, in addition to land dispute resolution and data infrastructure - are governed by legal, institutional, and administrative structures through several ministries or, in certain situations, via collaborative efforts coordinated by the Council of Ministers.

Land tenure - Estimates indicate that half of the Syrian population is tenure insecure, the main reasons

include damage and destruction of the housing stock, forced displacement, state fragmentation, pre-existing dysfunctions and pervasive corruption of the land sector. A functioning paper-based **cadastral system** is in place in the 14 governorates, covering about three quarters of the country's land. However, cadastral information is not connected and compatible with other spatial data, such as land use plans or natural resources maps. The process of establishing, amending, and transferring property rights in the cadastre is complex and time-consuming. Currently, temporary registries are existing in parallel to the land registry and, although considered legal, they do not contribute to creating a unified land and property registry that allows all the information to be maintained, used and analysed for effective decision making. Further, the cadastre would not be able to manage the land and property issues related to the mass displacement, HLP rights' violations and related land disputes.

Land use - Land use planning expertise in Syria is insufficient and out of date: existing plans are poorly implemented, regional land use plans cover just a small portion of the region and are seldom revised, and the issue of informal settlements is often ignored.

Land development - Land development in Syria is hindered by bureaucratic restraints and a shortage of instruments for the public to acquire land for public use: land readjustment interventions typically last years, and expropriation is regarded as one of the primary causes of informal development, as people prefer to sell their land in informal markets instead of facing government expropriation behind minimal recompense.

Land valuation and taxation - The land valuation function is divided into two distinct components: determining the value of land and property and computing and collecting income from land-based taxes. A land and property taxation system, based on the nominal value of properties, is in place in both urban and rural areas, while a system for determining the value of buildings as well as the market value of properties has been devised, however it is limited to registered land and deemed insufficient.

Land disputes resolution - Syria features a dual legal system, with separate secular courts hearing civil and criminal cases, and religious tribunals. The current judiciary system would not be capable of dealing with the large number of disputes expected

as result of the mass displacement, alternative dispute resolution systems and transitional justice mechanisms will need to be put in place.

Technical framework and spatial data infrastructure - Cadastral maps are a pivotal component of the land registration system, they possess the same evidential authority as the other components and serve as the baseline for defining land borders in the event of a dispute.

The impact of the crisis on the land administration system

The war had a severe effect on the land administration system's capacity to provide services to the Syrian population, resulting in the near-complete stoppage of land administration activity. Part of the cadastral documents, including certain components of the registry system, were destroyed or lost as a consequence of the conflict, and many people lost their tenure documents following displacement. Secondary occupations and fraudulent sales of property arose, and numerous procedures have been pushed deeper towards informality.

Adopting fit-for-purpose land administration in Syria

Syria would benefit from the adoption of fit-for-purpose land administration approaches led by land institutions and participated by the key land sector stakeholders. This Guidance Note describes key elements recommended that Syria considers, together with reforms options and related guiding recommendations.

Key shifts needed to transition towards fit-for-purpose land administration - To transition towards a fit-for-purpose land administration in Syria, key land sector stakeholders will have to undergo behavioural and cultural change; the legal framework will have to be revised; capacities will have to be developed; processes will need to shift from predominantly judicial to predominantly administrative to ease the burden of land administration on the courts and remove many of the bottlenecks; the land and property registration system will need to embrace the continuum of land right; high accuracy surveys mandated in regulations will need to be revised and expanded to accommodate a range of methods to measure and record spatial unit boundaries; expedients to foster gender equality and the

protection of women's rights to land will have to be introduced; the restrictions for operating in the land and property sector will have to be lifted; institutions will have to be more coordinated and integrated; and, finally, land information will have to provide transparency and accountability of the land administration institutions.

Development of a national strategy - In addition to the key shifts described above, a national Strategy will need to be developed, considering the country context and the existing spatial, legal and institutional frameworks. Such strategy must identify the main purpose of the reform of land administration; define and guide the implementation of priority FFP land administration interventions; indicate the reviews and reforms needed in the spatial/legal/institutional frameworks; and define the capacities needed to implement and sustain FFP land administration interventions.

The purpose of the fit-for-purpose land administration reform - The process of defining the purpose of fit-for-purpose land administration reforms would need to be inclusive, participatory and multi-stakeholder, and competing interests would need to be balanced. In this Note, the purpose is drawn from the recommendations included in the Guidance Note on Land and Conflict for Syria¹ and the Land Administration assessment² conducted by UN-Habitat. This includes: providing affordable housing; clarifying land rights and resolving land related disputes; providing secure access to agricultural land in rural areas and increase its productivity; addressing and repairing the HLP violations occurred during the conflict and prevent further HLP violations; increase women's ownership, joint ownership, and land tenure security; providing reliable information on land ownership and land use of private and public land for decision-making; and enlarging the revenue basis to finance reconstruction, services and infrastructure.

Priority fit-for-purpose land administration interventions - Drawing from the purpose defined above, priority fit-for-purpose land administration interventions include: reforming the land and property registration system; unifying the land records; reconstituting lost or partly, or fully, damaged cadastral documents; and supporting the regularization of informal settlements. Additional

important fit-for-purpose land administration interventions that could tackle urgent priorities in Syria include: collecting and georeferencing housing, land and property claims and supporting evidence; supporting humanitarian and early recovery activities with information on land ownership and housing, land and property rights, including rehabilitation of housing (and commercial buildings), debris management and clearance of ERW/UXOs; strengthening land tenure security and improvement of productivity of agricultural lands through land consolidation; reforming the spatial framework, in line with fit-for-purpose land administration principles; developing awareness and capacities of the key land sector actors to lead the fit-for-purpose land administration reform process, design and implementation.

Reforming the cadastre to become 'fit-for-purpose'

- Reforming the Syrian cadastre to become a unified, digital and multipurpose system is essential to achieve all the purposes set above. The Note presents the main features and steps towards reforming the cadastre in a "fit-for-purpose" manner. Some essential political decisions would need to be taken, before the technical aspects of the reform are addressed; these relate mostly to the institutional location and functions around land registration and to decentralisation of operations and decisions.

The features - The land and property registration system must be progressively upgradeable with different land and property information consolidated into a single database that encompasses all types of land and ownership and use rights. Further, financial departments' records should be integrated into the property registration or, ideally, connected to them. The process of updating and amending information in the system must be both administratively and technically simplified, less expensive, less bureaucratic, and less dependent on the submission of extra paperwork, and should allow to register or update records of properties that are not in full compliance with planning and building standards. Additionally, the framework should include information supplied by individuals, especially when official data is not necessary or accessible. Registry operations should be gradually and incrementally decentralized. Further, it is necessary to promote and expedite the registration of informal tenure rights, representing the reality

1 UN-Habitat/GLTN (2021). Technical Guidance Note on Land and Conflict for Syria (unpublished).

2 UN-Habitat (2021). Land Administration in Syria: Analysis and Recommendations (unpublished).

on the ground, and the transfer of temporary land records to the permanent registry. A wide variety of forms of evidence should be accepted and supported in the short and medium term and harmonized and streamlined in the long term. A transitional system for collecting and verifying land and property claims and issuing interim registration certificates should be put in place and subsequently be included into the cadastre.

The steps - For reforming the cadastre in a “fit-for-purpose” manner, the following steps should be developed: (1) agree on the need of establishing a multipurpose digital cadastre with key institutions; (2) put in place a process for the review and recognition of tenure types; (3) define the information to be included in the digital and multipurpose cadastre; (4) modify laws and regulations limiting the flexibility of the boundary definition used in the FFP approach; (5) provide legal status to legitimate rights covered in the FFP land administration; and (6) pilot, refine and scale up the process.

Unifying the land and property records - The finance departments' records should be linked or – preferably - incorporated into the property registry, together with records of state lands, desert lands, agricultural and agrarian reform lands, waqf properties, etc.

The steps - For the transition towards the reformed, simplified, digital, unified and multipurpose cadastre, the following steps should be developed: (1) define the workflow indicating the steps to be followed; (2) describe institutional roles and responsibilities for each step; (3) develop data management and protection protocols; (4) implement an incremental process of transitioning the information into the cadastre; and (5) ensure transparency and public availability of information.

The transitional database should be designed through multistakeholder processes in way that allows to record and store different types of information regarding people, land parcels and properties, tenure relationship and related supporting evidence. The customization of the STDM software (or of an alternative platform) should be undertaken accordingly.

Reconstitution of lost or damaged cadastral documents - The conflict resulted in the destruction, damage and loss of many property documents. The Syrian government is leading interventions for the reconstitution of lost or damaged cadastral

documents, in some cases with support of international organisations, through two avenues: (1) the administrative path where the reconstitution is done based on the existing cadastral documents, and (2) the judicial path where the cadastral documents are not sufficient to reconstitute the lost land records and the rights holders are called to prove their HLP rights claims. A due process compliant with international standards will need to be put in place to reconstruct lost and damaged documents, starting with cadastral documents, while ensuring the respect of the rights of all groups. Few ongoing efforts aiming at preserving copies of land and property records and conserving complementary or alternative evidence of land tenure relationships have been put in place by international organisations with the support of civil society organisations.

Regularisation of informal settlements - The Syrian government will not be able to address the Syrian population's housing demand without regularizing some of the informal settlements. Law 33/2008 set the basis for such regularization and fit-for-purpose land administration can provide the practical implementation tools to implement these provisions after a political decisions on the settlement eligibility requirements has been taken. The incremental registration of land rights in the official cadastre, allowed by the flexibility of the FFP approach, is a key component of this process. The main challenge will be safeguarding the rights of people displaced at the time when the process of regularization takes place. An incremental approach would be required to enable the mapping of housing, land, and property claims and their verification, as well as the appeal by members of communities displaced inside and outside Syria when needed. Such initiatives should be accompanied by dedicated conflict resolution systems.

For areas and properties that are eligible for regularisation, there are two key doable paths: (1) easing of restrictions, and (2) including informal settlements in the cadastre. These approaches are further described below.

Easing of restrictions - The restrictions that push existing cadastral records to informality should be as much as possible removed, the process of dealing with irregularities should be less rigid to allow the inclusion of (most of the) land and properties developed outside the approved masterplan or without construction license; simplifying inheritance practices should be prioritized; and registry's

functions should be decentralized as much as possible in a gradual and incremental manner.

Including in the cadastre informal settlements

- Community-based participatory enumeration approaches should be undertaken. Identification and adjudication are a vital part of this process and opportunities should be made available for the local community to check and agree on the evidence of land rights collected. In the prevailing context of mass displacement and properties'

destruction, an incremental step by step process would be necessary. This will allow to map the housing, land and property claims, verify them and provide sufficient time for review and – if necessary – appeal by members of the communities living in displacement inside and outside Syria. Dedicated dispute resolution processes should accompany such interventions. The piloting of such HLP rights' clarification process would be an important first step to collect lessons learnt and incorporate them into the overall design of the regularization process.



Acronyms & abbreviations

COVID-19	Coronavirus Disease 2019
ERW	Explosive Remnants of War
FAO	Food and Agriculture Organization
FFP	Fit-for-purpose
FIG	International Federation of Surveyors
GDCA	General Directorate of Cadastral Affairs
GIZ	Gesellschaft für Internationale Zusammenarbeit
GLTN	Global Land Tool Network
HLP	Housing, Land and Property
IDP	Internally Displaced Person
IOM	International Organization for Migration
IT	Information technology
LAS	Land Administration System
LR	Legislative Resolution
MDPI	Molecular Diversity Preservation International
NGO	Non-governmental organization
SDGs	Sustainable Development Goals
SG	Secretary General
STDM	Social Tenure Domain Model
UN	United Nations
UNDP	United Nations Development Programme
UN-Habitat	United Nations Human Settlements Programme
UNHCR	United Nations High Commissioner for Refugees
UXOs	Unexploded Ordnances
TL	Transnational Law
VGGTs	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WB	The World Bank

Glossary of key terms

Cadastre - A cadastre is a parcel-based and up-to-date land information system containing detailed information over specific parcels of land, such as geometric description and location. Cadastral records are often linked to other records describing the nature of the interests over the parcel, and the ownership or control of those interests. In addition, it often contains information over the value of the parcel and its improvements. A cadastre can be established for fiscal purposes (e.g. valuation and equitable taxation), for legal purposes (e.g. conveyancing), and/or for assisting land management and land use (e.g. for planning and other administrative purposes).

Compensation³ - Compensation is a process usually established by the state to provide or ensure fair and just recompense for any loss - personal, real or other - including loss of property and loss of the rights or interests over a property. Compensation in the form of land and common property resources is usually considered the preferred type of compensation, however, other type of compensation also exist, such as cash compensation - usually applied in case of expropriation of land from the state. Compensation is fair when it equals, at a minimum, the good expropriated in terms of quality, size and value.

Fit-for-purpose land administration - Land administration systems that are fit-for-purpose are systems designed for the purpose of managing current land issues within a specific country or region. They are directly connected with people's needs and country-specific requirements, and they aim at achieving security of tenure for all and sustainable land use management. The fit-for-purpose approach is affordable, flexible, inclusive, participatory, and can be incrementally upgraded towards more precise, technically specialized, detailed and sophisticated land administration systems.

HLP claims - Housing, land and property rights

claims are the assertion of a claimant's HLP rights through the submission of an official claim record supported, when available, by relevant HLP evidence. Claims are usually submitted by the person with the stronger tenure relationship to the housing, land and property claimed. Multiple claims can be submitted for the same property thus originating competing claims. Competing claims are usually verified through land dispute resolution mechanisms. In context of displacement and return, the collection of HLP claims represents the first step towards establishing a HLP restitution and/or compensation process.

HLP violations - HLP violations are the infringement of a person's (or of a group of people's) housing, land and property rights. Documented HLP violations follow under four main types⁴: (1) destruction (or physical damage) of housing, land and property as a result of the conflict; (2) eviction from origin or from place of displacement; (3) confiscation or expropriation of land, housing or property; and (4) lack of compensation as an integral component of the restitution process. HLP violations are very common in context of conflict and displacement, and among vulnerable groups such as women, ethnic minorities, etc.

Land and property registry - A land and property registry is the institution or office responsible for land registration, they reflect the legal frameworks of the country in which they operate and therefore can differ from place to place. A land and property registry issues and stores up-to-date and ownership-based records describing and determining the rights to the land and encumbrances thereto.

Reconstitution - Reconstruction is the process of reconstructing housing and basic infrastructures destroyed, or damaged, as a result of conflict or natural disaster.

³ GLTN, UN Habitat (2013), Evictions, Acquisition, Expropriation and Compensation: Practices and selected case studies.

⁴ UN Sub-Commission on the Promotion and Protection of Human Rights (2005), Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles).

Regularization (of informal settlements)⁵ – Regularization is the process combining the legalization of land tenure arrangements with the upgrading of public services, livelihood opportunities, and social support structures in informal settlements. The legalization of tenure security in informal settlements is pivotal to reduce the threat of forced eviction from formal authorities and to improve dwellers' living standard.

Restitution⁶ - Restitution is a procedure designed to restore the Housing Land and Property (HLP) rights of displaced people, aiming at providing permanent housing solutions for all returnees. Restitution processes are usually established in contexts of return (post conflict and/or displacement) following the collection, registration and verification of the HLP claims submitted by claimants with a tenure relationship to land(s) and property(s) claimed. Such process can be carried out by national and local

judicial bodies or by international organisations with the support of local civil society organisations and NGOs.

Social Tenure Domain Model (STDM) - There is a gap in the conventional land administration systems such that customary and informal tenure cannot be easily handled. There is a need for complimentary approaches in land administration. STDM is a pro-poor, participatory and affordable land tool for recording people to land relationships along the continuum of land rights, independently from their level of formalization or legality. The STDM has been developed by the Global Land Tool Network and UN-Habitat to support pro-poor and fit-for-purpose land administration, particularly in developing countries, countries with very little cadastral coverage, and in post conflict settings. For more information: <https://stdm.glttn.net/>



5 Manandhar, R. (2019), Land Readjustment for Regularization of Informal Settlements.

6 UNHCR (2005), Housing, Land and Property Rights in Post-Conflict Societies: Proposals for a New United Nations Institutional and Policy Framework.

Introduction

Syria has a long history of land administration which laid the groundwork for the management of land rights and land-based resources in recent decades. The modernization of the land administration system, on the other hand, has been too slow, hindering the ability of institutions with land-related mandates to establish adequate legislative frameworks, tools and procedures capable of meeting the rapidly evolving needs of the Syrian society. This inadequacy was evident already before the war both in urban areas, with a great part of the population living and working in settlements and buildings with varying degrees of informality, and in rural areas, with poorly managed natural resources and insufficiently protected and regulated land uses and rights.

The last decade of conflict and the current COVID-19 outbreak further exposed the fragility of the Syrian land management system and accentuated some of its shortcomings, with a continuous decline of trained human resources, as well as the destruction of land administration infrastructure such as offices, databases, and archives. The state does not have sufficient resources to deliver on its land administration responsibilities and the currency depreciation further hampered Syrian institutions' ability to carry out their functions, equip their offices, and acquire the needed products and services. This has added to the Syrian population's difficulties in obtaining affordable housing due to the widespread damage of the housing stock, mass displacement, and the decreased purchasing power of the majority of Syrian households.

To address the pre-existing shortcomings and the new challenges emerged with the conflict, it is recommended that Syria builds on its long land administration traditions and legal and institutional

frameworks, and introduces elements of fit-for-purpose land administration.

The approach to land administration known as "fit-for-purpose"⁷ (FFP) refocuses the attention of land administration services towards meeting the needs of people in their relationship with land, rather than towards the creation, operation, and maintenance of the technical solutions themselves. The fit-for-purpose land administration approach introduces innovative and pragmatic elements that are tailored to the country's contexts and evolving needs. It is particularly beneficial to contexts where conventional land administration approaches are not performing well due to a combination of factors such as high costs compared to the purchasing power of the majority of the population, unrealistic requirements of specialized human resources, cumbersome and bureaucratic procedures, large discrepancies between the property registry and the reality on the ground, large number of disputes, etc. Land administration systems that are fit-for-purpose are directly connected with country-specific requirements, they are affordable, flexible, inclusive, participatory and they can be incrementally upgraded to fit future needs for more precise, technically specialized, detailed and sophisticated land administration systems.

The fit-for-purpose land administration approach was initially developed by the World Bank and the International Federation of Surveyors⁸, and was then widely adopted by a wide and diverse number of partners, including the UN. The Global Land Tool Network and UN-Habitat developed a guidance document to adapt it to country level⁹ needs. This also offers entry points that can benefit the modernization and reform of the land administration in Syria, by connecting technological advancements

⁷ UN-Habitat/ GLTN, (2016) Kadaster, Fit-for-Purpose Land Administration - Brief.

⁸ Enemark, S., Bell, K. C., Lemmen, C. H. J., & McLaren, R. (2014). Fit-For-Purpose Land Administration. FIG/Worldbank Publication, International Federation of Surveyors (FIG), Copenhagen, Denmark).

⁹ Enemark, S.; McLaren, R.; Lemmen, C. Fit-for-Purpose Land Administration—Guiding Principles for Country Implementation; GLTN; UN-Habitat: Nairobi, Kenya, 2016.

to the continuum of land rights while gradually developing a more sustainable land administration system capable of securing land rights and supporting the key land administration functions that are needed in a post-conflict setting.

4.1. Objective and scope of the Note

This Guidance Note on Fit-For-Purpose Land Administration for Syria has been developed in the framework of the Joint Programme “Strengthening Capacity to Address Immediate and Post-Agreement Housing Land and Property Issues” (HLP JP) to guide the understanding of the Technical HLP Working Group, and its partners, in addressing land administration issues in Syria in a strategic and fit-for-purpose manner.

The paper presents an overview of the fit-for-purpose land administration approach applied to the Syrian land administration system (LAS): it investigates the Syrian legal and administrative framework and explores key areas of application of FFP principles with the intention of improving Syria's land administration overall and, in particular, introducing positive changes in the cadaster, and in the processes guiding the regularization of informal settlements and the provision of adequate housing for all. The Note intends to broaden and deepen the understanding of how the fit-for-purpose land administration approach can support the current development and humanitarian priorities in Syria, through short- and long-term interventions.

This Guidance Note is considered an internal document not for public distribution.

4.2. Target audience

The target audience of this paper includes UN actors involved in the development or implementation of land administration processes, particularly UN agencies with land-related mandates, such as UN-Habitat, FAO, UNHCR, UNDP, IOM, UN Resident Coordinator's Office, etc., and bilateral organisations with land-related interests.

Although the paper is primarily addressed to the UN, it will also be of interest to the UN's partners in Syria, including key multilateral and bilateral partners, without whom the UN's engagement would be

impossible or ineffective, and to strategic national and international partners, particularly those with expertise in land and housing, land and property rights issues.

4.3. Methodology

The paper has been developed by international land sector experts through desk study analysis of existing assessments, reports, outcome documents of ongoing or completed land interventions and projects, good practices from comparative contexts and discussions with land sector professionals and practitioners. More in detail, the paper is based on the conclusions of the “Land Administration in Syria: Analysis and Recommendations” report (UN-Habitat/GLTN, 2021) and on the recommendations of the “Technical Guidance Note on Land and Conflict for Syria” (UN-Habitat/GLTN, 2021).

International References

This section provides key international references defining why the fit-for-purpose land administration approach is relevant for the Syrian context and how it could be introduced.

The Sustainable Development Goals

Solutions to global land issues relate to poverty alleviation, social inclusion and stability, investments and economic development, environmental protection and natural resource management. These land matters are embedded in the Sustainable Development Goals (SDGs) that form a blueprint for the attainment of a sustainable future agreed to by world leaders. The 2030 Agenda presents a historic and unprecedented opportunity to bring the countries and citizens of the world together to decide and embark towards new paths to improve the lives of people everywhere. This Note does aim at describing the SDGs in detail but rather at drawing the attention to the fact that the SDGs include land-specific targets and indicators (under Goals 1, 2, 5, 11 and 15), as well as other targets (Goals 10 and 16)¹⁰ for which land is relevant. This has led to the need of creating a core set of land indicators that have national application and global comparability, which culminated in the inclusion of indicators 1.4.2 and 5.a.1. Having indicators on land ownership and rights in the SDG framework provide an opportunity to routinely generate comparable, sex-disaggregated data to support evidence-based decision making on responsible land governance

for sustainable development¹⁰. Further, the land-related SDG indicators are defined in a way that clearly points at some of the key approaches presented in this Note as essential for improving land management and land administration in Syria, namely the continuum of land rights and fit-for-purpose land administration.

The Voluntary Guidelines on the Responsible Governance of Land Tenure

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs)¹¹ set out principles and internationally accepted standards for the responsible governance of tenure: public, private, communal, indigenous, customary and informal (FAO, 2012). The VGGTs are the main international land-related international framework. Although not described in this Note, the VGGTs are widely documented and complemented by a wide number of technical guides¹² addressing specific aspects of land governance. It is important to note that the VGGTs equally recognize the foundational approaches presented in this Note, including the continuum of land rights – described with the concept of ‘legitimate land rights’ in the VGGTs – and fit-for-purpose land administration, many elements of which are described in the Guidelines themselves and the supporting technical guides.

10 FAO, World Bank and UN-Habitat (2019), Measuring Individuals' Rights to Land: An Integrated Approach to Data Collection for SDG Indicators 1.4.2 and 5.a.1.

11 FAO (2012), Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of Food Security.

12 The FAO technical guidelines can be found at: <http://www.fao.org/tenure/resources/collections/governance-of-tenure-technical-guides/en/>. These include: 1. Governing land for women and men: A technical guide to support the achievement of responsible gender-equitable governance of land tenure; 2. Improving governance of forest tenure: A practical guide; 3. Respecting free, prior and informed consent: Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition; 4. Safeguarding land tenure rights in the context of agricultural investments: A technical guide for government authorities involved with the promotion, approval and monitoring of agricultural investments; 5. Responsible governance of tenure and the law: A guide for lawyers and other legal service providers; 6. Improving governance of pastoral lands; 7. Responsible governance of tenure: A technical guide for investors; 8. Governing tenure rights to commons; 9. Creating a system to record tenure rights and first registration; 10. Improving ways to record tenure rights; 11. Valuing land tenure rights; and 12. Strengthening civic spaces in spatial planning processes.

Fit-for-purpose land administration

The Fit-For-Purpose (FFP) Land Administration approach was developed to address the challenges of implementing the global sustainable development agenda, which cannot be achieved without having good land governance in place, including the operational component of land administration systems. The fit-for-purpose concept enable the implementation of these global standards in developing countries. Even though security of tenure is now at the top of the global agenda, there is a “security of tenure gap” between countries that have efficient and effective land administration systems in place and those that do not. On a global scale, 30 per cent of countries currently have a functioning administration system in place, and 70 per cent do not.

For many decades, attempts to establishing land administration systems in developing countries have been made without much success. Constraints relate to a range of legal, institutional and political issues, but also to the fact that the implementation of conventional western-style land administration systems is simply too costly, time consuming and capacity demanding. It is estimated that, with current rates and methods, it will take many decades, probably centuries, to achieve global coverage. The Fit-For-Purpose Land Administration approach focuses on providing security of tenure for all. However, it is recognized that by providing the spatial, legal and institutional frameworks for this purpose, such frameworks will also provide the basis for building land valuation and taxation systems, as well as systems for land-use planning and control¹³.

The Fit-For-Purpose Land Administration approach has been recognized and supported by the International Federation of Surveyors (FIG) and the World Bank, and it was described in a joint publication (FIG and WB, 2014). In 2016, UN-Habitat, the Global Land Tool Network and Kadastre International issued a publication containing the guiding principles for country implementation of fit-for-purpose land administration¹⁴, to provide direction and guidance for designing country-specific strategies for implementing the approach. This Note draws on such publication.

A functioning land administration system (LAS) facilitates the implementation of land policies and provides the infrastructure through which governments secure land tenure rights, determine land value and taxation, manage land use and plan land development¹⁵. To create the conditions for sustainable social and economic development, peace and stability, these functions must complement each other and be supported by adequate legal and institutional frameworks, land information infrastructure and disputes resolution mechanisms. A land administration system is considered “fit-for-purpose” when it applies the spatial, legal and institutional methodologies that are most fit for the purpose of providing secure tenure for all and ensures the functioning of the key land administration functions that are priority in a given context at a given time. Fit-for-purpose land administration allows governments to establish national land administration systems at an affordable cost within a reasonably short time which can be then incrementally upgraded over time. This approach is guided by three key principles: focus on purpose, flexibility, incremental improvement¹⁶. According to these principles, to design “fit” technical solutions, it is necessary to first clearly define the purpose of the intervention; then apply flexibility in the design of the technical means to meet the existing local constraints (e.g. financial constraints, limited availability of human resources, timeframe, etc.); and, finally, foresee the incremental improvement of the system in place to provide continuity. More in detail, a fit-for-purpose land administration system is:

- **Flexible** in the spatial data collection approach;
- **Inclusive** in the scope;
- **Participatory** in the approach to data capture and use;
- **Affordable** to establish and operate, both for governments and people;
- **Reliable** in terms of information;
- **Attainable** in implementation timeframe and cost;
- **Upgradeable** over time in response to social and legal needs, and to emerging economic opportunities.

The fit-for-purpose approach provides a new, innovative and pragmatic solution to land

¹³ UN-Habitat/GLTN and Dutch Cadastre (2016).

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

administration needs. It is suitable for countries – like Syria – where conventional land administration approaches, that are based on foreign land administration traditions and applied without being sufficiently upgraded and reformed over time, are failing to deliver good land management at the required scale. Some of the most common challenges that fit-for-purpose land administration approaches address are: elevated costs, lack of specialized human resources, bureaucratic requirements, lengthy procedures. The FFP land administration refocuses the sector towards responding to the immediate needs of people in their relationship with land, in line with the continuum of land rights concept, rather than on the development and maintenance of the technical solutions that are in place. Four critical practices comprise the fit-for-purpose approach:

- **Creation of opportunities for updating, upgrading and improvement** – The spatial framework should be continuously updated, periodically upgraded, and gradually improved as necessary or suitable to accomplish land policy goals and objectives.
- **Use of general boundaries rather than fixed boundaries** - Using general boundaries (i.e. not precisely determined boundaries) to identify property areas is adequate for the majority of land administration functions, particularly in rural and semi-urban settings.
- **Use of aerial imageries rather than field surveys** - Using high-resolution satellite/aerial imagery is adequate for the majority of land administration applications and is three to five times less expensive than field surveys.
- **Definition of accuracy according to the intended use rather than the technical standards** - Accuracy of land information should be seen as a function of the information's intended purpose.

To create and maintain a functioning and efficient land administration system, significant and sustained efforts must be conveyed in updating and maintaining the system to enable it meeting the ever-changing demand and priorities. Reforming Syria's land management system is therefore a priority, not just in light of its shown deficiencies¹⁷, but also in light of the Syrian people's and government's fast developing needs and aspirations.

As is the case for all countries where land

administration instruments were imported and only minor adjustments were made over time, an in-depth knowledge of the Syrian land administration system is necessary to introduce fit-for-purpose adjustments to the existing processes, instruments, legal and administrative frameworks in place. This requires multi-stakeholder discussions led or co-led by the most relevant institutions.

Conflict sensitive land administration

A land administration system clarifies the tenure relationship between people and land, and it allows to determine who has which right(s) over what land, for how long and under which obligations. A functioning land administration system is therefore an indispensable conflict prevention, conflict management and dispute resolution tool. It governs land use through a set of established rules and creates a reliable source of information to prevent or resolve land disputes arising from lack of clarity and uncertainty over land ownership, land tenure, land use, and land value.

In conflict-affected contexts, the functioning of land administration mechanisms is often hampered: land registries do not reflect the changed reality on the ground or are destroyed; the country's norms and regulations, designed to respond to peacetime needs, cannot manage land-related conflict and settle land disputes, which are in turn intensified by forced displacement and eviction, secondary occupations, unlawful allocations and sales, lack of a recordation systems, etc.

Violent conflicts negatively influence land allocations and use, and hinder the functionality of dispute resolution mechanisms which lose legitimacy or get supplanted by conflict-based forums. Establishing or re-establishing functioning land administration systems is essential for peace and state building, as well as preventing a relapse into conflict. In the context of Syria, this cannot be accomplished only via traditional land management methods. Conflict sensitive fit-for-purpose land administration draws on the fit-for-purpose land administration approach to which it adds the following practices: (1) it assesses proposed land administration solutions against the “do no harm”

17 UN-Habitat (2021), The Land Administration in Syria: Analysis and Recommendations (unpublished).

principle; (2) it incorporates social reconciliation, peacebuilding, and state building considerations; and (3) it complements the available land administration tools with transitional justice tools for land dispute resolution and adjudication.

Conflict-sensitive fit-for-purpose land administration can be used to assist UN and non-UN interventions in Syria aimed at clarifying individual and/or group land use rights, resolving land disputes, reconstructing land and property records, managing return, etc. Conflict-sensitive fit-for-purpose land administration promotes good land governance and political solutions when land is a root cause and/or a proximate factor of conflict¹⁸.

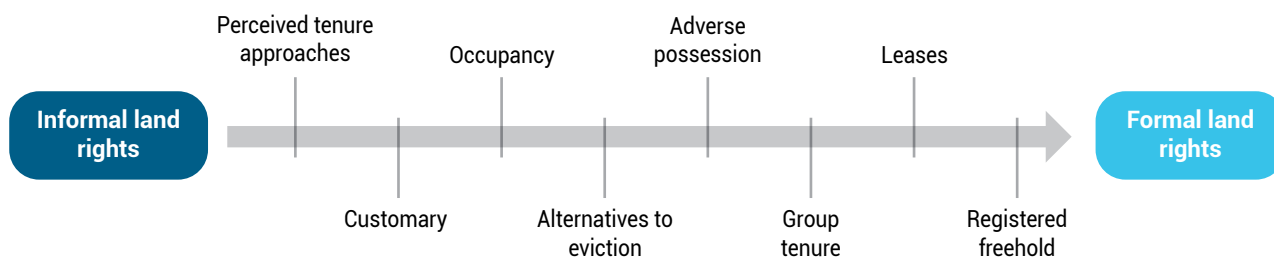
While there is no international framework that specifically contextualises fit-for-purpose land administration for conflict settings, an article on 'Fit-for-Purpose Land Administration in Violent Conflict Settings' was published in 2021 on the MDPI Land

Journal¹⁹. This Note draws on the findings included in the article which are based on literature review and analysis of case studies, some of which are from the Arab region – such as Iraq and Sudan – and very relevant for Syria.

Continuum of land rights

Land tenure is commonly described in opposing terms: formal/informal, legal/ not legal, secure/ insecure, de facto/de jure contributing to a politic of exclusion. Yet, a broader and more complex range of tenure arrangements exists between these extremities creating a “continuum” of land rights (see figure 1). The continuum of land rights is an inclusive approach which recognizes the existence of a broad spectrum of land tenure types (e.g. rights of use, occupancy, lease, ownership, etc.) each with its own specific characteristics, level of legal recognition and tenure security.

Figure 1: Schematic representation of the continuum of land rights.



The rights along the continuum may be documented and undocumented, formal and informal, for individuals and groups, including pastoralists, slum dwellers, displaced people, etc. They may be legal or not legal, and they may overlap. Registered individual ownership is often perceived as one of the

appropriate and legitimate forms, as is in the case of Syria (see figure 2), however the most appropriate form/s depends on the context and, particularly, on the social, cultural and economic needs of local communities as well as on the needs of responsible land administration authorities at a given time.

18 UN-Habitat/GTLN (2018), How to do a Root Cause Analysis of Land and Conflict for Peace Building.

19 Augustinus, C. and Tempura O. (2021), Fit-for-Purpose Land Administration in Violent Conflict Settings.

Figure 2: Schematic representation of the continuum of land rights in Syria.



The continuum of land rights advocates for the gradual strengthening of land tenure arrangements as most appropriate to the context, and it provides an effective, scalable and time efficient way to improve tenure security for all. The continuum of land rights is embraced by UN-Habitat and GLTN partners, and by a wide range of international and national actors, some of which use different names for defining similar concepts (including FAO and the European Union). Several countries already merged it into their national legislations while others only in their land administration approaches.

The continuum of land right concept is very important to improve land administration in Syria by adopting fit-for-purpose land administration principles. The rigidity of the legal and administrative systems pushed millions of people into informality or into semi-formal arrangements that constrains land-related investments, weakens land tenure security, and increase the political clientelism. One of the main gains of adopting the fit-for-purpose land administration would be to bridge the gap with formal and non-formal /not fully formal settlements with the aim of progressively reconciling the two domains in an unified one that can support land tenure security and adequate housing for all.

The UN Secretary General Guidance Note

The UN Secretary General Guidance Note on 'The United Nations and Land and Conflict' was issued in March 2019 to guide the UN System on how to better address issues of land and conflict, and to ensure a more effective engagement in its humanitarian, peace and development interventions. The Guiding Principles section calls for strategic, incremental and timely interventions, and it directly points to Fit-For-Purpose Land Administration.

The UN Secretary General Guidance Note states that "There are a number of technical tools on land to better support local communities, for instance, through incrementally strengthening security of tenure using fit for purpose approaches to scale up the delivery of land documents for the poor and vulnerable. Incremental approaches that are strategically targeted may often be required to strengthen the land system, particularly when there is a need to address lack of political will or national technical capacity gaps and intermediate results should lay a foundation for long-term impact.

The 'fit-for-purpose' approach to support land administration, developed by the World Bank and UN, links new advances in technology to the continuum of land tenure types to build sustainable land systems that provide secure land rights suited to conflict contexts. 'Fit-for-purpose' approaches can be rapidly deployed, are flexible, inclusive, participatory, affordable and support accountability. A number of countries are already implementing some of these approaches, including in conflict contexts"²⁰.

20 UN (2019), Guidance Note of the Secretary General: The United Nations and Land and Conflict

The Syrian land administration system

Key features of the land-related legal framework

Syria has a highly developed legal framework governing land matters which has been evolving since the Ottoman era, and a broad and continuously expanding body of land-related laws, decrees, and resolutions. The land sector saw several legal changes throughout the war, resulting in an extraordinary rise in legislative activity, with over 50 new laws and legislative decrees issued or revised. New legislations are first debated in parliament and then promulgated by the presidency, decrees on the other hand are issued directly by the presidency and are subsequently submitted to the parliament for approval. Cabinet or ministers are in charge of issuing resolutions (i.e. decisions, executive orders, circulars, etc.) which once issued can only be amended by the issuer.

As of 2021, the corpus of legislation governing land and property rights in Syria counts about 160 laws²¹. This legislative body establishes a strong foundation for regulating HLP concerns in Syria, both in government-controlled and opposition-held regions. Since the outbreak of the war, the following legislation has been enacted²²: (1) legislation affecting informal settlements; (2) legislation affecting land and property registration responding to conflict-related challenges and ensuring political loyalty; (3) legislation affecting landlord-tenant relationships; and (4) legislation affecting ownership of boarder and foreign land.

These legislative attempts intended to establish the state's sovereignty, accomplish particular military

goals, address new land and HLP-related difficulties that arose during the conflict, and increase the government's financial income²³. However, the international community denounced some of these recent amendments for wat was considered as a failure to adhere to international frameworks, while the existing legislation already favored regime supporters (e.g. legislative decree 11/2016 or legislative decree 66/2012). Additionally, during the war, laws have often been enacted without sufficient review or consultation with the technical specialists and non-state players who might be impacted by them, resulting in a legislation that does not completely represent the original legislative intent, or which is not able to deliver the envisaged results. The primary legal instruments regulating land tenure, land planning and development, as well as real estate appraisal and taxation, are listed in Annex 1, while a more detailed review of Syria's land-related legislation was conducted by HLP Technical Working Group partners and is available in Arabic and English through an online database with restricted access. This could be made available in the future to a broader group of UN agencies and national and international partners. Finally, issues in the Syrian legal framework that require critical attention have been examined in greater detail in the report "The Land Administration in Syria: Analysis and Recommendations,"²⁴ which looks at the challenges related to security of tenure, property restitution and compensation, cadastral reconstruction, dispute resolution, urban planning, etc.

21 Unpublished, UN-Habitat (2021).

22 UN-Habitat/GLTN (2021), Technical Guidance Note on Land and Conflict for Syria.

23 Housing, Land and Property Issues in Syria and resulting fields of actions for ongoing or planned programmes for German Development Cooperation, GIZ, 2018.

24 Unpublished, UN-Habitat (2021).

Key features of the Syrian land administration system

Land administration is composed of four key functions: land tenure, land use, land development, and land value. Land dispute resolution and data infrastructure are integral components of these functions, all of which are governed by legal, institutional, and administrative structures. In Syria, these functions are carried out by several ministries or, in certain situations, via collaborative efforts coordinated by the Council of Ministers.

There is an unsolved strain between government institutions' desire to exert strict control over all land-related activities and their inability to do so efficiently and in the collective interest: processes are excessively bureaucratic and cumbersome creating an environment conducive to corruption and informality. Apart from being affected by their own deficiency, the various components of the land administration system operate separately: public institutions with land-related functions frequently lack sufficiently defined mandates and ways of working together, as well as insufficient human and financial resources to function effectively. Land-related systems have little information exchange and interoperability, resulting in bottlenecks, duplication of effort, and higher costs. The ongoing conflict and the Covid-19 outbreak have exacerbated some of the current Syrian land management system's shortcomings, and further challenges are expected ahead.

Land tenure - Land tenure defines the relationship between people and land, including land-based resources. It defines people rights and responsibilities over a specific area of land and land-based resources, fixing the length and conditions of such rights. Estimates indicate that half of the Syrian population is tenure insecure²⁵ but no consolidated data is available. The main reasons include damage and destruction of the housing stock, forced displacement, state fragmentation, pre-existing dysfunctions and pervasive corruption of the land sector.

In Syria, there are several types of land tenure rights: **registered land ownership** rights are considered the most secure kind of land rights; they may be held individually or collectively; they are identified via the

tapoo (also known as "the green *tapoo*"); and they are recorded in the land registry or in temporary registries. **Long-term land rights** on state land are also considered very secure. These are not ownership rights, but rather use rights subject to specified restrictions and requirements. Long-term land rights encompass usufruct rights on private ownership land (as evidenced by a summary of the registry's record); group use rights over protected easement lands (as evidenced in property registry); commercial rent (as evidenced by a document released by the finance department with the taxpayer's name); rent to public entities subject to mandatory renewal; land tenure via agricultural cooperative groups (as shown by an official certificate issued by the Ministry of Agriculture); usufruct rights on state-owned lands (as shown by a summary of the registry's records); and land tenure for Palestinian refugees.

Along with long-term land rights, **short-term land use rights** are transitory rights gained via rental agreements between the landlord and renter. These include residential rents registered with the municipality to which the property belongs. Two lease agreement types exist: (1) lease contracts under the old lease law allows for the renter to occupy the house for unlimited period (these contracts terminate if the building collapses or is destroyed) and; (2) lease contracts under the new 2015 lease law issued which adopt the *pacta sunt servanda* principle providing thus better security to the landlords and allowing for more vacant properties to enter the rental market. The agricultural land rental through sharecropping agreements is widely used but rarely registered because the tenant could have the right to claim 20 – 40 per cent of the land at the conclusion of the agreement.

There are several instances when land tenure rights are **not recorded** in any of the official land registry systems as a result of administrative or legal obstacles or because the properties are located in informal areas. The most common types of unregistered land rights in Syria are **consent sale agreements**, which are stipulated between the seller and buyer in the presence of witnesses and are not registered with any government agency; **court rulings**, which are used to legitimize transfers that could not be registered (e.g. because the structure violates land use plans or is located in an area where construction is prohibited); and **utility**

25 Ibid.

bills, which are particularly prevalent in informal settlements. The strength of these rights and kinds of proof varies significantly by area and political context. While unregistered land rights in informal settlements were considered secure before the war, they deteriorated substantially over the past decade, after informal communities have sustained substantially more damage and displacement than other neighbourhoods.

Numerous **types of evidence** are used to uphold land and property rights in the country. The most prevalent types of proof have been enumerated above, however there are three more common form of evidence: ownership by judicial ruling, **ownership by irrevocable power of attorney**, and **tax records** provided by finance agencies.

The rules governing access to land and property ownership do not discriminate between men and females, with the exception of inheritance regulations governing *mulk* lands, which follow Islamic inheritance rules. However, a recent UN-Habitat household survey of Syrian refugee communities in Lebanon revealed that very few women own property, and they are frequently compelled to renounce their inheritance shares in favour of their male relatives. Very few women are keen to take legal action against family members in order to assert their inheritance rights, since this could jeopardize family relationships and deprive them of the needed family support. A significant impediment to inheritance for many women, especially displaced women, is a lack of legal documents supporting inheritance procedures, most notably marriage and death certificates.

A functioning paper-based **cadastral system** is in place in the 14 governorates of Syria, covering about three quarters of the country's land. However, cadastral information is not connected and compatible with other spatial data, such as land use plans or natural resources maps. Decision makers currently depend on cadastral data for planning purposes, the IT component of the data infrastructure does not allow to gather, analyse, and exchange land-related data with decision makers, limiting their ability to take timely evidence-based decisions. Additionally, the finance departments' records for property taxation purposes are not linked to the cadastre, resulting in duplication of work and decreased efficiency.

The process of establishing, amending, and

transferring property rights in the cadastre is complex and time-consuming owing to the great amount of paperwork and steps required, as well as corruption. The cadastre is not the sole legally acknowledged method for registering and managing land and property rights, and informal land registration practices coexist with legally authorized ones. Given the strict nature of the land registry which does not allow for the registration of uncompleted buildings as "full-fledged" properties, as well as the accelerating urban and economic development, Law 14 of 1974 (amended later on by Law 82 of 2010) was stipulated with the aim of preserving tenure rights to residential buildings under construction. Under this legislation, administrative units' authorities were able to create "temporary registries" for buildings having building permits but not being built yet, corresponding to each of such buildings a property sheet valid until the issuing of the "residence permit" indicating the completion of the construction in compliance with the master plan and building code in force.

Once received, the temporary property sheet is to be moved to the permanent land registry. The temporary land registry was established to provide a faster path to property registration than the direct registration with the General Directorate of Cadastral Affairs (GDCA), which generally entailed lengthy processes. This was meant to facilitate and expedite sale and construction of plots within the municipal urban plans. However, the complexities of the transfer process, the tendency of many owners to avoid paying the due administrative units, and their desire to occupy their apartments as soon as possible, even before the issuance of the residence permits, led to the process of transferring the temporary registries' contents to the permanent one being widely ignored. In addition, the fact that numerous newly built residential buildings suffer from deviations from the building permit plans causes further delays to the process. As a result, these registries, temporary in nature, have become *de facto* permanent, acting in a similar way to the permanent land registry. Temporary registry departments thus issue title documents and document tenure transfer agreements even after the construction is completed and the building occupied. The exorbitant volume of records kept in temporary registries makes it even harder to register them in the permanent cadastre. However, the different stakeholders are eager not to relinquish an apparently winning card: temporary registries are *de facto* permanent ones, although they are not able to support the physical and geometric aspects

of the registration²⁶ and their processes are way less rigorous and secure than those applied at the cadastral departments. Currently, the cadastre is not able to manage the land and property issues related to the mass displacement, HLP rights' violations and related land disputes. **Transitional mechanisms** will need to be established with a well-defined strategy and set of procedures to guarantee that they do not devolve into another alternative land registration system. Therefore, the newly created land and property records will have to be fed back into the official cadastre.

Similarly, in rural areas, the agrarian reform initiated in the 1950's led to the allocation of tens of thousands of land tracts to the poor and landless peasants. As the bureaucratic nature of the cadastral system was not able to keep up with the speed of these land transactions and therefore a new registration system was established under the auspices of the Ministry of Agriculture to record the transfer of lands from the former feudal landlords and from the state itself to the new owners. With time, this ensuing land registry became a de facto parallel "agricultural" cadastral system.

Land use - Land use refers to the process through which individuals and the public regulate the use of land. Syria's planning approaches are centered on city and village master planning, whereas land use planning in rural areas has been confined to setting rules and limits on permitted land uses and establishing protected lands and buffer zones. The land administration capacity assessment²⁷ indicated that national land use planning expertise is insufficient and out of date: existing plans are poorly implemented, regional land use plans cover just a small portion of the region and are seldom revised. While adequate and updated urban plans exist for major and rapidly growing metropolitan centers where their enforcement is substantially greater than in other localities, the issue of informal settlements is often ignored.

Land development - Land development is the process of using resources such as capital investments, labor, and administrative procedures to enhance land and allow a more diverse and efficient land use. Land development in Syria is largely undertaken via the implementation of masterplans

through the issuance of building licenses, the monitoring of construction operations, and the establishment of public infrastructure and utilities. The implementation of masterplans is governed by one of four common arrangements: 1) a land could be partitioned by the owner, in which the owner initiates the process by applying for a municipal permit to subdivide his/her land in accordance with the master plan; 2) a land developer could buy a number of adjacent land plots or hold a partnership agreement with their owners and apply for a real estate development license; 3) alternatively, land could be expropriated by the municipality (or by a public housing agency) and developed subsequently and finally; 4) the development could take place through the land readjustment arrangement where partitioning is initiated by the municipality and the resulting development plots are reallocated to the owners, in proportion to their ownership (this process is regulated by two laws: law 10 of 2018 and law 23 of 2015 where the first is more applicable in vibrant cities that are more attractive to developers). The property development process is hindered by bureaucratic restraints and a shortage of instruments for the public to acquire land for public use: land readjustment interventions typically last years, and expropriation is frequently perceived as unjust to the communities affected, to the point where it is regarded as one of the primary causes of informal development in Syria, as people prefer to sell their land in informal markets instead of facing government expropriation behind minimal recompense.

Land valuation and taxation - The land valuation function is divided into two distinct components: determining the value of land and property, and computing and collecting income from land-based taxes. In Syria, a land and property taxation system, based on the nominal value of properties, is in place in both urban and rural areas. The Ministry of Finance is responsible for maintaining land tax records at the governorate and district levels. These records encompass both constructed and unbuilt properties and include a complete description of their physical attributes, current use, and an estimated value computed in accordance with the law's criteria and principles and subsequent implementation instructions. A system for determining the value of buildings as well as the market value of properties

26 In 2017, a circular issued by the council of ministers' office (273/15/2017) ordered the transfer of the contents of temporary registries back to the cadastral system in three years. This order hasn't been executed yet in a satisfactory manner.

27 Unpublished, UN-Habitat (2021).

has been devised, however it is limited to registered land and deemed insufficient²⁸. Land taxation records are used only for tax collection purposes and are not intended to replace land registers.

Land disputes resolution - The land sector's capacity to handle land-related conflicts is critical to the operation of any country's land administration system. Syria features a dual legal system, with separate secular courts hearing civil and criminal cases, and religious tribunals. The present civil court system is regarded to be well-structured and mostly focused on resolving conflicts and disagreements over property rights and parcel boundaries. It is not prohibitively costly, at least in terms of official costs, but it is very slow because of lack of digitization and a massive backlog of cases. Sharia courts provide critical land management functions, including determining inheritance shares in line with Islamic law and issuing inheritance certificates. In 2012, Damascus formed the Counter Terrorism Court, a special court that applies counterterrorism provisions, condemned for failing to adhere to international fair trial norms and due process. The current judiciary system is not capable of dealing with the large number of disputes expected as result of the mass displacement caused by the ten-years long conflict, alternative dispute resolution systems and transitional justice mechanisms will need to be put in place.

Technical framework and spatial data infrastructure

- In the Syrian Land Administration System, cadastral maps are a pivotal component of the land registration system. As a result, they possess the same evidential authority as the other components and serve as the baseline for defining land borders in the event of a dispute. Cadastral maps are generated using land surveys as enshrined by the basic cadastre law. These surveys are supported statements made by the owners and their neighbors who are responsible of indicating the boundaries of their respective. Aerial photography extensively used to create topographic maps reflecting realities on the ground isn't used to create cadastral maps though they can be used as supporting evidence²⁹. While the great majority of lands in Syria have previously been

demarcated and censused, cadastral maps are still in the draft stage for around half of these lands due to incomplete topometric calculations. Additionally, maps quality varies depending on the surveyors' skill and is influenced by obsolete technological procedures and a cumbersome bureaucratic system. Although access to land information in Syria should be public, cadastral maps and topographic maps are still subject to administrative restrictions and approvals. Land use data must be gathered from a variety of sources, and there is no unified body to refer to for information on the legal and regulatory status of lands. Online resources are extremely scarce, and only a few maps and charts used in scientific study and reports have been published.

28 A new land valuation and taxation law issued in 2021 instructed the ministry of finance to reevaluate properties based on their (near) market value. So far, the scope of this law is limited to the taxes on lease and sale agreements as well as the administrative fees owed to the General Directorate of Cadastral Affairs. As the law is new and its application seems stumbled, it is too early to estimate the impacts of this law.

29 While modern areal or satellite imagery has a resolution that allows capturing physical boundaries of rural lands, areal imagery in the 1920s (when the cadastre laws in Syria were issued for the first time) were of low quality and thus unreliable to capture land features. Land surveys still remains the only legally recognized method to create cadastral maps in Syria since the law has not been updated to accommodate to the technological achievements in this field.

The impact of the crisis on the land administration system

The war had a severe effect on the land administration system's capacity to provide services to the Syrian population, resulting in the near-complete stoppage of land administration activity. Government projects were halted or delayed, while private sector investment stopped abruptly in the majority of governorates. Everywhere, except in a few cities like Damascus, Hama, Latakia, Tartous, and Al-Sweida, master planning and land development operations ceased. Real estate investment came to a sudden standstill, while infrastructure construction and upkeep dropped. Due to declining government finances and inadequate human resources, resulting from migration and displacement, the tenth five-year plan's initiative was shelved, and the government shifted its priority to other concerns. However, the informal housing sector continued to expand on land not designated for housing in the masterplan, eventually meeting the great majority of the population's housing demands.

Meanwhile, the conflict accelerated the implementation of many government reforms, notably the modernization of several government agencies. The General Directorate of Cadastral Affairs (GDCA) benefitted from this trend by intensifying the efforts to archive a vast collection of land records and initiating the digitization of land register operations. Part of the cadastral documents, including certain components of the registry system, were destroyed or lost as a consequence of the conflict. A number of laws have been enacted in the last few years to address this issue the most important of which is law 33 (2017) regulating the reconstitution of lost/damaged cadastral documents. Several structures and equipment belonging to different land registration bodies sustained varied degrees of damage while physical land boundaries were wiped out accidentally or deliberately. Because of displacement, many people lost their tenure documents. Secondary occupations and fraudulent

sales of property belonging to persons who fled their homelands arose, and numerous procedures have been pushed deeper towards informality, resulting in a significant decrease in the number of property contracts. To combat this tendency, additional administrative limits on property sales, lease contracts, and property-related powers of attorney (e.g. pre-approvals, payment of energy bills, etc.) have been introduced, with mixed effect.

There has been a near-complete halt to urban and regional planning projects; the pre-2011 national framework for regional planning has become outmoded, necessitating a full revision process. Due to the high inflation rates generated by the depreciation of the national currency, land and house prices have increased in comparison to incomes. However, the process of upgrading the land value system has stopped, and earnings from land administration fees have decreased as a result of the downturn in property transactions and contracts recordation.

Adopting fit-for-purpose land administration in Syria

Syria would benefit from the adoption of fit-for-purpose land administration approaches. What that would in practice mean and entail would depend on the decision taken by the relevant national institutions and key land sector actors that would be involved in re-thinking the Syrian land administration, or key aspects of it. Institutional reforms are lengthy processes. Land administration reforms are no different. Advanced economies reform their land administration rules and procedures often, to adjust to the evolving policies and society needs and to take advantage of the technological innovations becoming available.

As an example, in Spain, forms of land registries were in place since the time of the Roman empire, but the first 'modern' cadastre was introduced in the XVIII century as a fiscal equality tool. Major reforms in its functioning took place in the XIX century and twice in the XX century, where two main waves of reform were enacted in the mid-60s and in the early 80s, when a digital, multipurpose cadastre was introduced.

Similarly, in the Netherlands, a modern land administration system was introduced in the XIX century mostly for fiscal purposes. Four major reforms were introduced since then aiming at linking different land-related information: the legal, the physical, the fiscal, physical planning, development control, public acquisition of land, land taxation, and management of natural resources. As happened in Spain, some of these reforms were opposed and influenced by different interest groups (landowners, lawyers, notaries, etc.). The current set up of the land administration is the result of the negotiated agreements among these groups.

In countries where reforms are introduced frequently, the system evolve gradually and it is relatively easy to progressively update it. This is particularly true

for countries that already transitioned to digitalized land registration systems.

In countries – like Syria – where this is not the case, reforms can require major efforts as technical options and policy decisions touch upon many key elements of the design of the system. Thus, substantive new capacities would have to be created, important modernization efforts would be required, new collaborations and interoperability among institutions would need to be established.

For the purpose of this paper, it is important to clarify that it is not possible to describe or prescribe fit-for-purpose land administration interventions in the absence of a process led by the leading land institutions and participated by the key land sector stakeholders where the design of the reformed land administration and land registration system is negotiated. This Guidance Note will therefore describe the key elements that it is recommended Syria considers, and few proposed reforms options with some related guiding recommendations.

This can serve to sensitize the key partners on fit-for-purpose land administration and initiating the debate which is expected to create a basis of consensus on the areas that could be further looked at.

The key shifts needed to transition towards fit-for-purpose land administration

The following shifts need to be introduced in the transition towards fit-for-purpose land administration in Syria.

1. **Behavioural and cultural change** across the key land sector stakeholders will be essential. The technology-driven surveying precision is not at the centre of the issue; this might raise some resistance among land professionals. Overall, resistance to change needs to be overcome, together with the recognition of the benefits of the change.
2. **Revision of the legal framework** will be required to provide the flexibility to accommodate FFP land administration. Changing the laws might be time consuming and require buy in from politicians, but incremental revisions through decrees or similar instruments can be considered.
3. **Development of the required capacities** will be needed to introduce and scale up reforms at a sufficient pace and rhythm, so that the process does not get undermined by too long delays or stalling. Formal organisations, such as GDCA and other institutions directly involved in the change must ensure awareness, buy in and up to date skills of their members and staff. The largest change will be focused on the public sector where this may involve some institutional and organizational reforms. Academic institutions should embrace FFP land administration and create a new generation of land professionals.
4. **Shift from predominantly judicial to predominantly administrative processes** will be needed to ease the burden of land administration on the courts and remove many of the bottlenecks. The situation is now significantly complicated by the crisis, this requires judicial or quasi-judicial or transitional justice processes to administer, regularize or transact the large number of properties owned or used by displaced Syrians. The long-term vision should nevertheless aim at limiting judicial processes to the minimum.
5. **Shift from a land and property registration system that supports a limited range of tenure types towards one that embraces the continuum of land rights** will be required. The formal land administration system supports individual property rights to ownership. However, a broad range of processes exist to provide land tenure security and prove ownership of land and properties that were acquired, developed or transacted in an irregular or informal way. Communal tenure is not very common in Syria and it is rarely recorded. Temporary registries are existing in parallel to the land registry and, although considered legal, do not contribute to creating a unified land and property registry that allows all the information to be maintained, used and analysed for effective decision making.
6. **Revision of the specifications for high accuracy surveys mandated in regulations** will be required. Specifications will need to be expanded to accommodate a range of methods to measure and record spatial unit boundaries, including through remote sensing technologies, satellite images, etc.
7. **Expedients to foster gender equality and the protection of women's rights to land** will need to be introduced. This can be achieved through a wide range of technical and procedural changes. Some of the most crucial are, among others, the promotion of joint ownership and the inclusion of more women in land administration.
8. **Restrictions for operating in the land and property sector need to be lifted** to include a

range of stakeholders that can legally operate in the land sector. These can include private sector actors, associations of land users, etc. The roles can be defined and regulated by dedicated institutions, also in charge of quality control. Private sector can give important contributions to this shift.

9. **Fragmented land institutions limiting the integrated management of land need to be shifted towards coordinated, integrated institutions** that collaborate for improving the management of the land administrations functions (tenure, use, value, development, disputes' resolution, land information).
10. **Accessible and transparent land information** need to be ensured, within the constraints of privacy, to address lack of information and support accountability and transparency in the delivery of the land administration and of the land administration institutions.



A national strategy

To implement fit-for-purpose land administration in Syria, a national Strategy needs to be developed, and customised considering the current the country context and the existing spatial, legal and institutional frameworks. This Note is an initial step towards the establishment of such process which can be undertaken in parallel with other work being implemented by land sector actors in Syria, and which builds on the analyses already undertaken including those led by UN-Habitat on land administration³⁰.

The strategy must:

1. Identify the main purpose of the reform of land administration (key goals that the reformed system must deliver).
2. Define and guide the implementation of priority FFP land administration interventions.
3. Indicate the reviews and reforms needed in the spatial, legal, and institutional frameworks.
4. Define the capacities needed to implement and sustain the priority FFP land administration interventions, including a change of mindset of existing personnel

The strategy will lead to its implementation, including detailing further and implementing the components indicated.

The purpose of the fit-for-purpose land administration reform

Previous reports, including UN-Habitat assessment (2021), pointed to the need of reforming Syria's land administration sector. The fit-for-purpose approach (rather than the technological solutions-oriented approach in place) should be used to refocus the purpose to be achieved to avoid wasting precious

resources and time on building and maintaining land administration, and land and property registration systems that will be ineffective to meet current and future country needs and that will soon become outdated. In accordance with this approach, the "what", in terms of the end outcome for society and communities, should be looked at first followed by "how" this could be achieved through the most "fit" solution for achieving the purpose ("the what").

This Guidance Note introduces fit-for-purpose land administration to selected stakeholders of the Syrian land sector. The process of defining the purpose of fit-for-purpose land administration reforms will need to be inclusive, participatory and multi-stakeholder. As briefly described in the cases of Spain and the Netherlands, competing interests will need to be balanced through a series of discussions in dedicated forums hosting political and technical actors and where the different interest groups are represented, including those of religious and ethnic minorities, and those of people displaced inside and outside the country. Further, it is important that civil society groups take part in these consultations and different land users and users of land administration services are involved.

The authors of this Note did not hold consultations with government and non-governmental stakeholders on the purpose of the fit-for-purpose land administration reform in Syria. The purpose presented below is drawn from the recommendations included in the Guidance Note on Land and Conflict for Syria³¹ and the Land Administration assessment³² conducted by UN-Habitat. The purpose includes:

1. **Providing affordable housing**, particularly through regularization of informal settlements, fostering the rental housing market, and promoting housing repairs and reconstruction (including through loans).

³⁰ Unpublished, UN-Habitat (2021).

³¹ Unpublished, UN-Habitat/GLTN (2021).

³² Unpublished, UN-Habitat (2021).

2. **Clarifying land rights and resolving land related disputes** in a way that protect the rights and respond to the needs of all (owners, users, people displaced inside and outside the country, good faith investors, etc.) and that is time and cost efficient. This will enable voluntary returns, establish the foundation for reconstruction and support social economic development.
3. **Providing secure access to agricultural land** in rural areas and increasing the productivity of agricultural land through land consolidation; in addition to securing the rights to forestry and pastures and addressing landlessness.
4. **Addressing and repairing the HLP violations** occurred during the conflict (through restitution, issuing and re-issuing land related documentation, etc.) and preventing further HLP violations.
5. **Increasing women's ownership, joint ownership and land tenure security.**
6. **Ensuring the availability of reliable information** on land ownership and land use of private and public land for decision-making (e.g. for urban development, planning, provision of services and infrastructure, etc.).
7. **Enlarging the revenue basis** to finance reconstruction, services and infrastructure.



Priority fit-for-purpose land administration interventions

Drawing from the purpose defined above, priority fit-for-purpose land administration interventions are proposed in this Note. For the implementation, as for the national fit-for-purpose land administration strategy, multistakeholder' discussions and processes would be required. It is envisaged that this Note can trigger some of these discussions and guide the stakeholders taking the lead. The Note will discuss the following priority interventions:

1. **Reforming the land and property registration system**, which needs to be incrementally transformed into a unified, digital and multipurpose cadastre (or 'fit-for-purpose cadastre').
2. **Unifying the land records.**
3. **Reconstituting lost and/or partly, or fully, damaged cadastral documents.**
4. **Supporting the regularization of informal settlements.**

There are other important fit-for-purpose land administration interventions that could tackle urgent priorities in Syria:

1. **Collecting and georeferencing housing, land and property claims and supporting evidence.** This is an important intervention to preserve HLP evidence of people displaced outside or inside or the country, including in areas currently outside the government control or disputed among different groups.
2. Supporting humanitarian and early recovery activities with information on land ownership and housing, and land and property rights, including **rehabilitation of housing** (and commercial buildings), **debris management and clearance of ERW/UXOs**, and supporting agricultural sector through, for instance, fair and evidence-based

distribution of subsidized inputs to peasants based on their tenure rights.

3. **Strengthening land tenure security and improving productivity of agricultural lands through land consolidation.** Law 166 /1967 facilitates the redistribution of scattered properties in agricultural areas and their consolidation into larger properties with the owner's agreement, to improve production efficiency and agricultural investment. Fit-for-purpose land administration would be very useful in this context, particularly to update the records and reflect the situation on the ground, as inheritance, sales and purchases have often not been recorded. The updated records will be then used as a point of departure for farmers and the GDCA to embark in land consolidation efforts.
4. **Reforming the spatial framework**, in line with fit-for-purpose land administration principles, and taking advantage of modern technologies should also be considered. The completion of cadastral maps in areas where demarcation and census work has been completed - approximately 45 per cent of the total number of cadastral districts or *cazas* – is a challenge, because it leads to incomplete land registries. A recently completed assessment of the Syrian Land Administration³³ referred to bibliography that indicated the need of updating the National Geospatial Data Infrastructure, developing a new map projection, implementing the new geodetic frame, removing obstacles hampering civilian use of coordinates, GPS/GNSS and geospatial information and developing modernized legislation to provide for increased and widened use of geospatial information.

The first two interventions presented above are further described in a complementary Guidance

33 Ibid.

Note on the Applications of the Social Tenure Domain Model, one of the main fit-for-purpose land administration tools that can be used to carry out fit-for-purpose land administration interventions.

Finally, a process to **develop awareness** and understanding of fit-for-purpose land administration among the key land sector actors - including government departments, academia, judiciary, land professionals, and personnel of international organisations - needs to be put in place. **Capacities** to lead the fit-for-purpose land administration reform process, design and implement priority interventions and accompany the necessary legal, institutional and spatial reforms will need to be developed at different levels.

Reforming the cadastre to become 'fit-for-purpose'

An updated, comprehensive and accessible database of land and property records is the backbone of good land administration. Syria cannot emerge from the crisis and embark on a sustainable path towards peace, stability, social and economic recovery without it. Reforming the Syrian cadastre to become a unified, digital and multipurpose system is essential to achieve all the purposes set above. The current Syria's cadastre is an important institution that since the independence made significant progress in safekeeping and protecting the land tenure security of Syrians. Yet, land registries are still incomplete and have become out of date.

Many transactions are taking place in the realm of informality or fragmented across multiple coexisting registration and management systems. This negatively affects the provision of adequate housing and concurs in the creation, continuation, and expansion of informal settlements. The prevention of land disputes and the effective settlement of resolved disputes, including by registering the decisions taken require a functioning cadastre. This also applies to the settlements of HLP violations occurred during the conflict. A dysfunctional land registration and land information system has an adverse effect on the quality of decision-making and impedes its implementation. If linked or combined with the records of the finance department, a functioning cadastre boosts the collection of property taxes and other land-based revenues. Although, increasing women's access to land and properties would require a holistic approach

incorporating legal, administrative and cultural factors, a better functioning cadastre – easier and cheaper to access, operate and interact with – would lift some of the main barriers that women face in accessing and securing their rights.

If only one fit-for-purpose land administration intervention would have to be chosen, the reform of the cadastre to become a 'fit-for-purpose cadastre' should be it. Reforming land registration procedures and updating the records takes time. It can take over 20 years to have a fully functional digital, multifunctional, and unified land registration system in contexts that are comparable to that of Syria. It is therefore important to set this process in motion as soon as possible, regardless of the political transition's discussions or of the possible future changes to the institutional arrangements around it. This Guidance Note does not describe the possible options for institutional reform around the cadastre, as this goes beyond the technical nature of the Note. However, in the process of reforming the cadastre, there would be some merit for the Syrian institutions to discuss the following issues: What is a good balance between centralizing essential cadastral services and decentralizing its day to day functions? What functions and decision-making powers should be delegated to the field offices? How are the urban and rural aspects reconciled? Where would be the most appropriate institutional home for the cadastre and GDCA? What would be the competencies and duties of different Ministries, in terms of sharing and updating information and taking some of the decisions regarding land registration? Such decisions are important to ensure that the technical decisions, described below, are in line with the political ones.

The features

According to the fit-for-purpose strategy, the land and property registration system must be progressively updated (**upgradeable**) to become a digital and multifunctional system that is maintained and used by several entities to grant efficiency and cost effectiveness. Different land and property information must be consolidated into a single database that encompasses all types of land (**inclusive**). Along with ownership rights, individual and collective land use rights should be documented. Joint ownership of land and houses should be promoted and expanded. This will contribute to enhancing women's land tenure security, which is in urgent need of improvement.

Additionally, the cadastral system should be set to capture state and agrarian reform lands that are now administered by the directorate of state lands (Ministry of Agriculture and Agrarian Reform), and other entities, to promote transparency and ensure good administration of public assets, agricultural seized and expropriated land, desert land, *waqf* land (under the management of the Ministry of Endowment) etc. Long term land uses should also be included in, or at least linked to, the cadastral database. The financial departments' records should be integrated into the property registration or, ideally, connected to them. The inclusion of information on the nominal and market worth of properties is a critical step toward the establishment of a single multipurpose register into which various institutions can feed and extract data.

The process of updating and amending information in the system must be both administratively and technically simplified, less expensive, less bureaucratic, and less dependent on the submission of extra paperwork. Currently, the land and property registration system does not allow to register or update records of properties that are not in full compliance with planning and building standards. These restrictions should be eased or removed, even if only for a specific window of time. It is more detrimental to the collective interest to have a property registration system that does not tolerate even minor irregularities but excludes a high proportion of properties, than having a more flexible system that better reflects the reality on the ground.

Additionally, the framework should include information supplied by individuals (**crowd sourcing**), especially when official data is not necessary or accessible (**participatory**). Registry operations, including those for acquiring and modifying attributes, should be gradually and incrementally decentralized. Currently, the land and property registration system prohibit the registration or modification of records for properties that do not adhere to all applicable planning and construction regulations. However, it is necessary to promote and expedite the registration of informal tenure rights, currently controlled by Law 33/2008. Reforms are required to remove some of these constraints, as it is less beneficial to the community interest to have a property registration system that is rigid and excludes a large percent of properties rather than a more flexible system capable of representing the reality on the ground (**flexible**).

The transfer of temporary land records to the permanent registry should be expedited, if necessary, with the use of ad hoc technology solutions. Legal and institutional constraints impeding this transfer should be removed or alleviated. This task should be delegated clearly to the various institutions that handle temporary registers, while data management procedures should be (re)defined (including data entry, verification, analysis, modification, sharing, etc.). Finally, interim measures should be implemented to prevent the increasing separation and fragmentation of the country's land registration system, particularly in areas not under government control.

People are resorting to a wide variety of forms of evidence to claim their land rights. This should be accepted and supported in the short and medium term to ensure the protection of tenure rights of people who have lost their land documents during the conflict or who have faced difficulties with registering their land rights for a variety of reasons. A wide variety of forms of evidence should remain accepted for people who are displaced within, or outside, the country or other categories of people who are facing particular challenges in regarding personal documentation, access to justice and other processes that affect their ability to access formal land documents.

In the long term, once institutions and administrative processes are normalized, a fit-for-purpose cadastre is in place, and peace and stability in Syria are restored, the evidence supporting land rights and land use should be harmonized and streamlined. This is to reduce the burden posed on different institutions to balance the weaknesses of the land administration system and, in particular, to avoid burdening courts and other institutions, releasing substandard evidence, and generating parallel and double-standard procedures.

To meet the challenges resulting from the mass displacement, a transitional mechanism must be developed to rapidly add a great number of new records to the cadastre. These records will result from the processes of safeguarding, rebuilding, and reissuing land and property certificates, from restitution processes, land disputes, and the regularisation of informal settlements. Such surge of requests would be otherwise unmanageable for the Syrian cadastre in the short term, while it is being reformed. It is thus indicated to implement **a transitional system for collecting and verifying land and property claims**

and issuing interim registration certificates that may subsequently be included into the cadastre through a streamlined and expedited procedure. Such system should have a clear timeframe (e.g., five years), a defined scope, and follow clear protocols, including those for the transfer of information to the cadastre.

The steps

For reforming the cadastre in a “fit-for-purpose” manner to become a unified, digital and multipurpose system presenting the features described above, the following fit-for-purpose land administration’s steps should be developed:

1. **Agreeing on the need** of establishing a multipurpose digital cadastre with key institutions. This needs to include undertaking consultations and multistakeholder discussions, agreeing on roles and responsibilities and on the overall institutional framework. This can be established by decree, including the process of transitioning the information.
2. **Establishing a process for the review and recognition of tenure types** to identify all tenure rights that are considered legitimate³⁴. This will result in a set of categories of legitimate rights officially agreed upon, which are legitimate under the current legislation or the proposed revised legislation. Further, this will ensure that the FFP approach can record and register all rights across the country and create a truly national land administration solution. To adapt to the different Syrian contexts, this process can also be decentralized and – within some national guidelines – the recognition of legitimate tenure rights can be delegated to the regional level. The legislation will have to be updated accordingly.
3. **Defining the information to be included in the digital and multipurpose cadastre.** The information to be included should be divided in “essential information” – which should be limited – and “additional information”, not to lose all the additional information that might be already available for some properties. Information over properties should be incrementally upgradable and verifiable over time. Administrative steps, rather than judicial, should be relied on even if some of the information is to be included as ‘to be verified’ and only lead to the issuing of provisional land certificates in the interim.

4. **Introducing FFP recordation approaches for marking the boundaries of spatial units** and ‘just necessary’ rather than complete proof about persons may well require that modifications be made to the corresponding laws and regulations (e.g. mandatory use of specific surveying equipment, data quality specifications and complete evidence on persons such as citizenship, marriage, death and divorce certificates). These unnecessary constraints will have to be removed to accommodate flexibility under the FFP approach.
5. **Passing an overarching law to provide legal status to legitimate rights** covered by the FFP land administration, while detailed land laws can then be updated at a later stage. This would avoid stalling the process as legal changes take a long time to be implemented.
6. **Piloting the process, refining, and scaling up** is required. A pilot location needs to be identified to test and fine-tune the process before replicating it and scaling it up to other locations. Ideally, to start, this should be a location that was not heavily affected by the conflict in terms of destruction and displacement.

Unifying the land and property records

Unifying the land records is equally a technical and a political process. It entails moving towards the complete (progressive) decommissioning of the registries and databases kept by some institutions, while keeping separate but linked other information included in other database (e.g. rental contracts, etc.).

On the political side, the institutions keeping land and property records must buy-in to the need of consolidating the records in one registry and iron out the institutional arrangements to do so. Detailing how a political agreement can be forged is beyond the scope of this Note, but it is likely the most important component of merging land and property records. On the technical side, step by step processes should be developed, including technical, legal and institutional requirements. The transition can then be introduced in phases and incrementally applied.

³⁴ As defined in FAO (2012), Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forestry in the context of Food Security.

The institutions keeping temporary records - such as municipalities, the General Establishment for Housing and housing cooperatives and possibly the agrarian registries- are the most important actors that need to be part of this process. The transition of **temporary records** to the cadastre should be prioritized, with the support of ad hoc technical solutions facilitating such transfers, if necessary.

Financial departments hold registries with accurate properties' description for tax purposes. The properties' description included often expresses a more accurate reality and offers more powerful proofs of ownership in informal areas. Such finance departments' records should be linked or, preferably, incorporated into the property registry. Information on nominal and market value of properties should also be included and this is a key step towards the creation of a multipurpose registry where different institution feed in and draw data from. Records of **state lands, desert lands, agricultural and agrarian reform lands, waqf properties**, etc., currently under the mandate of directorate of state lands and other institutions, should also be merged into the same registry. Ownership and long-term land use arrangements should be recorded. Finally, other public entities keeping documentation relevant to land and properties, such as **the judicial courts and the notary offices**, should also work towards transforming or transitioning some or their records into the land and property registry (e.g. irrevocable power of attorney or court rulings).

The steps

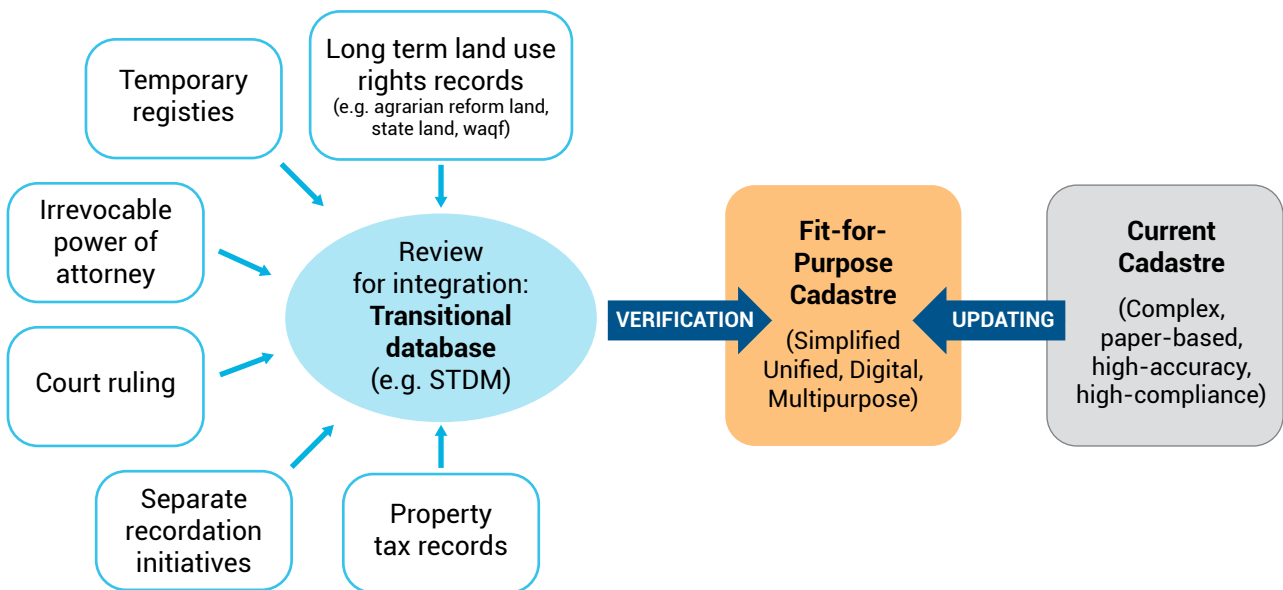
For the transition of each typology of information into the reformed, simplified, digital, unified and multipurpose cadastre (described in Section 9.1), the following fit-for-purpose land administration's steps should be developed:

1. **Drafting a workflow indicating the steps to be followed.** The steps should be as few and simple to enact as possible, and each of them should describe the institutional, legal and spatial requirements. Administrative decisions should be preferred over judicial decisions, although possibility of contestation should be provided.
2. **Entrusting institutional roles and responsibilities for each step.**
3. **Developing data management and protection protocols** (including data entry, verification, modification, analysis and sharing, processes for contestation and resolution of disputes, etc.).

4. **Transitioning the information into the cadastre in an incremental way.** The possibility, for people in Syria and outside, of providing additional documentation and proofs of ownership (or user) rights should be provided, together with the possibility of contesting the steps taken to transition property records into the cadastre.
5. **Ensuring transparency and public availability of information** (within the respect of privacy) to build trust in the process, protect housing, land and property rights of land owners and land users, and prevent corruption and forgery.

A schematic representation of the process of unifying land and property records into a simplified, unified, digital, multipurpose (or fit-for-purpose) cadastre is presented below in Figure 3.

Figure 3: Schematic representation of the process of unifying land and property record in a fit-for-purpose cadastre.

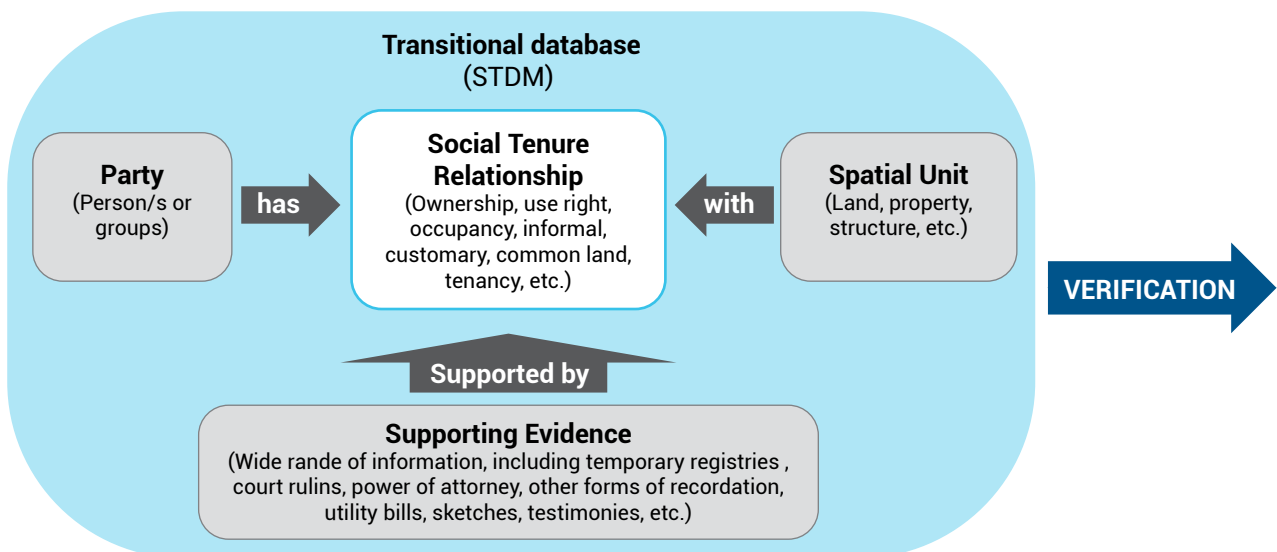


The key elements of this process foresee the design of the fit-for-purpose cadastre (see Section 9.1) and of the transitional database that has the function of review and integrating the multiple set of non-homogeneous information existing in the different temporary registries and databases. Such review and integration process could be handled by one of the most widely used fit-for-purpose land registration systems, the Social Tenure Domain Model.

The transitional database should be designed in way that allows to record and store different types

of information available (in the various temporary registries, records, and other formal and informal information repositories) regarding people, land parcels and properties, tenure relationship and related supporting evidence. The transitional database will need to be designed through multistakeholder processes, and the customization of the STDM software (or of an alternative platform) should be undertaken accordingly. A schematic representation of the transitional database is presented below in Figure 4.

Figure 4: Schematic representation of the transitional database.



The information stored in the transitional database will then need to be **verified** administratively, whenever possible, or judicially if needed. This 'review for conversion' is a due diligence process to determine whether the rights recorded in the

transitional database meet a set of conditions to allow its transition into the fit-for-purpose cadastre. The review process, for example, will investigate the procedure followed to create the right and determine if it is legal, extra-legal, legitimate or non-legitimate.

Legitimate		Non-legitimate
Legal	Law followed in letter and spirit; usually documented via titles	Law followed in letter but not in spirit; titles gotten via unethical processes
Extra-legal	Society and/or historical accepted access to land; no (official) documents	Criminal land access

Possibility to contest and appeal must be provided, particularly because of the risks posed by the mass HLP violations and the prevailing wide-spread displacement. Any outstanding claim by third parties should be identified and investigated. Further, the process should be inclusive and not discriminate against people outside the country or displaced in areas where conventional land administration services cannot be accessed. Sufficient time for the public to know about the process, engage in it, provide information or object to inaccurate recordation must be provided. For example, the titles issued could be considered transitional until – for instance – 10 years have passed since transition from the transitional database has taken place.

Simplified mediation and dispute resolution mechanisms will have to be put in place to accompany this process, and accompanying legislation - at the most appropriate level - will be required.

Reconstitution of lost or damaged cadastral documents

The conflict resulted in the destruction, damage and loss of many property documents. In Aleppo, as well as in Deir Ezzor, and to a less degree in Rural Damascus and Homs, cadastral records have been heavily affected, as well as other types of documents. In Homs city, for example, the temporary registry was burnt down however, a complete digital copy of that stock remained intact and it is being used to create another paper-based replacement. Housing records held in housing cooperatives, court files and notaries warehouses were destroyed. Some of the buildings and equipment belonging to different land

registration authorities were damaged to varying degrees, and many displaced people lost their tenure documents as a result of displacement.

To address this issue, Law 33 of 2017 was put in place for the reconstitution of lost or partly (or fully) damaged cadastral documents. However, some of the Syrian land sector actors have legitimate worries that such law could be used to validate and legalise fraudulent sales, or housing, land and property rights violations perpetrated against people who were forced to flee their properties.

On the other hand, it is important to reconstruct lost and damaged documents, starting with cadastral records. A due process compliant with international standards must be put in place to ensure the respect of the rights of all groups. Special attention will have to be placed in ensuring that categories who are particularly vulnerable to violations are adequately protected. This includes refugees, internally displaced people, women - particularly widows and those who lost personal documentation proving their relationship to male relatives-, discriminated ethnic or religious minorities, people with low literacy, etc.

The Syrian government is leading interventions for the reconstitution of lost or damaged cadastral documents, in some cases with support of international organisations. There are two main avenues for such reconstitution: (1) the administrative path where the reconstitution is done based on the existing cadastral documents, and (2) the judicial path where the cadastral documents are not sufficient to reconstitute the lost land records and the rights holders are thus called to prove their HLP rights claims. The process takes an investigative character: for each lost or destroyed land record, the

pieces of evidence (existing cadastral documents) are inspected and chronologically ordered to see if they form an interrupted chain leading to the last state before the land record was lost. If yes, then the administrative path is taken or else the judicial one is triggered under which, the rightsholders (in person or through a relative or a legal agent) are invited to submit their claims supported with whatever evidence available in their hands. The cadastral judge examines the submitted evidence (including verbal testimonies) and issues the appropriate judgment for each case. In both avenues, the rights claimants are entitled, within the delays set by the law, to contest the reconstitution results before the civil courts.

Because of the importance of such interventions, few ongoing efforts aiming at preserving copies of land and property records and conserving complementary or alternative evidence of land tenure relationships have been put in place. Non-governmental organisations and civil society groups are digitizing copies of land and property records with the support of and in coordination with international organisations. Such efforts led to the collection of digital copies of several tens of thousands of documents being now stored in safe locations.

Further, international organisations have established a database for the collection and georeferencing of the Housing Land and Property rights' claims, and related supporting evidence, of Syrian refugees. Such database stores and safeguards HLP documentation that can be used to reconstitute land and property documents and support restitution, compensation and dispute resolution processes that may be established in the future. Such process, which can be expanded to other refugee and displaced communities, including those in northwest and northeast Syria, is described in more detail in the 'Guidance Note on the Use and Application of the Social Tenure Domain Model' that complements this Note.

A Thematic Analytical Paper on Reconstitution of Lost or Damaged Cadastral Documents³⁵ including wide contextual analysis of Law 33 (2017) assesses strengths and weaknesses of the law and inspects its potential risks on HLP rights. Further, a comparative analysis with similar cases from other countries

affected by civil unrest and conflicts was conducted. With regard to this law, the fit-for-purpose land administration approach would add value by putting in place simple, flexible and targeted procedures to simplify a seemingly complicated process. A wider range of evidentiary documents could be accepted (with the application of the Social Tenure Domain Model), rights' claimants could be consulted and involved through a community-based participatory process (not necessarily a judicial one), and community support could be sought to streamline the inspection and verification of tenure rights and to resolve potential disputes between conflicting claimants.

An important decision to be made on the reconstituted document is how complete the reconstituted land sheet should be. While the law 33 states that the process must result in a document identical to the lost or destroyed one, it would be more feasible – and fit-for-purpose - to have a document that captures the latest status of the property only (when the document was lost). At a later stage, previous information can be progressively added. Such an approach will minimize the time required to have a working cadastral sheet that can strengthen the security of tenure and can be used by the affected people to sell, rent, rehabilitate or reconstruct their properties.

Regularisation of informal settlements

Informal settlements in Syria are a widespread phenomenon, particularly on the outskirts of major cities, along the main roads, in rural areas, and near bodies of water. In Syria, "informal settlements" refers to all those settlements that have developed outside of the areas designated for development in master plans and/or without the required building permits. While the majority of these settlements are not slums in the sense that they are not affected by all the deprivations that compose the definition of slums³⁶, there are occasional instances of overpopulation and substandard construction. The majority of properties in informal settlements are legally documented, even if they are not registered or their information is not updated in the registration system. Such properties are commonly purchased

35 UN-Habitat (2021), unpublished

36 UN-Habitat (2003), *The Challenge of Slums: Global Report on Human Settlements 2003*.

and sold on the market, often with the support of legal papers. This is due to a widening disparity between supply and demand; an imbalance in development between rural and urban areas; a scarcity of affordable housing; the growth of the informal market; a rise in housing costs; and an ineffective implementation of urban development legislation and the absence of effective housing strategies.

The Syrian government will not be able to address the Syrian population's housing demand without regularizing some of the informal settlements, recognising land and property rights, and gradually incorporating them into the official land and property register. Already before 2011, law 22/2008 addressed the regularization of informal settlements and a number of interventions took place on this basis, particularly in Hama and Tartous.

With the conflict, the situation became much more complex as the level of destruction and displacement from informal settlements is extremely high and the informality poses additional challenges to those who lost their properties or were victims of housing, land and property rights' violations and need to recover their properties.

As of early 2021, there seems to be a heightened interest in formalizing and regularizing informal settlements. The fit-for-purpose land administration can facilitate the regularisation of informal settlement but first political decisions on the settlement eligibility requirements must be taken. A participatory and inclusive approach for the regularization of informal settlements must be created and then translated into suitable legislative and administrative frameworks, planning laws, and planning regulations. The strategy's overarching components, such as institutional roles and duties, and the eligibility criteria, must be incorporated into a national framework, while adaptation and implementation must be decentralized and handled at the local level. The participation of local communities, both those living in the area and those who have been displaced, must be a central part of the process.

The incremental registration of land rights in the official cadastre, allowed by the flexibility of the FFP approach, is a key component of this process as the

regularization of informal settlements must result in the registration of properties in the cadastre. This will need the relaxation of certain administrative norms and an overall enhancement of the system's functionality, as detailed in the Technical Guidance Note on Land and Conflict for Syria³⁷.

The main challenge that requires extreme attention and the adoption of do no harm approach and human rights-based approach is the need of safeguarding the rights of people displaced at the time when the process of regularization takes place. Further, an incremental approach would be required to enable the mapping of housing, land, and property claims and their verification, as well as the appeal by members of communities displaced inside and outside Syria when needed. Such initiatives should be accompanied by dedicated conflict resolution systems. Piloting a procedure for clarifying HLP rights would be a crucial initial step towards the overall design of the regularization process. Equally critical is determining the future of informal settlements that do not meet certain requirements for regularization, such as environmental concerns, to avoid the development of new informal settlements. A phased approach is recommended for the regularization of informal settlements in Syria, with the support of fit-for-purpose land administration approaches.

Preliminary decisions

There are political decisions about the eligibility criteria for the regularization of informal settlements that must be agreed upon before the land administration can play a role in enacting such decisions. The discussion of this process, as well as what to do with informal settlements that do not qualify for regularization and how to prevent the formation of new informal settlements, are beyond the scope of the Note but it are described in the Guidance Note on Land and Conflict for Syria³⁸. For areas and properties that are eligible for regularisation, there are two key doable paths: (1) easing of restrictions, and (2) including informal settlements in the cadastre. These approaches are further described below.

37 Unpublished, UN-Habitat (2021).

38 Unpublished, UN-Habitat (2021).

Easing of restrictions

Fit-for-purpose land administration entails the simplification of land administration processes to have as few, simple and easy to implement steps as possible. Therefore, the following restrictions should be eased to favour the regularisation of informal settlements in Syria:

- The restrictions that push existing cadastral records into informality should be, to the extent possible, removed.
- Subdivisions of plots should be simplified
- The steps required for updating records should be revised, simplified, made less bureaucratic and less reliant on the provision of additional documentation. This would contribute to reducing corruption.
- The process of dealing with irregularities should be less rigid to allow the inclusion of (most of the) land and properties developed outside the approved masterplan or without construction license, with few clearly defined exceptions.
- The simplification of inheritance practices should be prioritized, without compromising the safeguards for protecting the rights of family members, particularly women and girls.
- The registry's functions need to be decentralized as much as possible, in a gradual and incremental manner, including functions of creating, altering and transforming properties.

Including in the cadastre informal settlements

Law 33/2008 sets the basis for the regularization of informal settlements. Fit-for-purpose land administration can provide the practical implementation tools to implement these provisions. Such interventions can take place in a decentralized and locality-specific manner, although whenever possible, coordination with national level need to be ensured for a smooth transition of the regularized land and property records into the cadastre.

Community-based participatory enumeration approaches that rely on participatory data collection should be promoted and technically assisted, when needed, by skilled personnel from technical cadastral offices and/or national or international

partners with relevant expertise. Group recordation can also be allowed in cohesive communities – as for example in Kenya³⁹ or Mexico⁴⁰ – to protect the communities from external claims or pressure, leaving the internal subdivision to a later stage. Identification and adjudication are a vital part of this process and opportunities should be made available for the local community to check and agree on the evidence of land rights collected and “sits around the map” together. In this social process, people can determine that their own rights are correct and that there are no conflicting claims. Locally trained land officers should guide these activities that can be co-managed by community representatives and the formal governmental land institutions.

In the prevailing context of mass displacement and properties' destruction, an incremental step by step process would be necessary. This will allow to map the housing, land and property claims, verify them and provide sufficient time for review and – if necessary - appeal by members of the communities living in displacement inside and outside Syria. Dedicated dispute resolution processes should accompany such interventions. A specific mechanism for the official valuation of the structures and land and the way of reaching agreement for related compensation of private and public landowners who might have lost their plots needs to be developed. The piloting of such HLP rights' clarification process would be an important first step to collect lessons learnt and incorporate them into the overall design of the regularization process.

39 Securing Land Tenure Security through Community Mapping in Kenya, <https://gltn.net/2018/07/20/watch-securing-land-tenure-security-through-community-mapping-in-kenya/>

40 Ejido land tenure and registration system: Mexico case study', UN-Habitat and GLTN, 2015

Annexes

Annex 1. Overview of land-related legal instruments in Syria

The tables below provide an overview⁴¹ of the main legal instruments regulating land tenure, land planning and development, and the real estate appraisal and taxation in Syria. Translation and

analyses of Syrian laws has been done by HLP Technical Working Group members and detailed analysis of each are available separately.

Properties ownership and tenure laws

Law/Resolution	Subject	Notes
Resolution 186 LR 1926	Regulating demarcation and census procedures for registration of real rights	
Resolution 188 LR 1926	Regulating the land registration system	
Resolution 189 LR 1926	Implementation of instructions for Resolution 188/1926	
Law 84/1949	Civil Code, containing special chapters for contracts, real estate, and property ownerships	Repealed Resolution 3339 / TL of 1926
Decree 132/1952	Creating the Central Registry Directorate concerned with preserving copies of property contracts that take place in GDCA in all governorates	
Decree 337/1956	Giving the microfilm copy of cadastral records the same evidentiary power as the origin	
Law 252/1959	State's Land Law	
Law 3/1962	Confiscating lands exceeding specific ceilings, and placing them at the ministry of agriculture's disposal for distribution to landless farmers	Amended Law 161/1958
Decree 166/1968	Distribution of state-owned agriculture lands to landless farmers	
Law 20/1983	Expropriation Law	Repealed Law 20/1974

41 Extracted from "Land Administration in Syria: Analysis and Recommendations", UN-Habitat, 2021.

Law 65/2001	Marine Public Property Law	
Law 56/2004	Law of Agricultural Relations regulation relations between landowners and land labour	Amended Law 134/1958
Decree 82/2010	Allows municipalities to keep temporary registry of under construction buildings to record properties rights until construction is completed	Repealed Law 14/1974
Law 99/2011	Regulating housing and cooperatives	Repealed Law 17/2007
Law 16/2014	Regulating the work of cadastral judges and providing them immunity in the context of certifying demarcation and census results, and deciding on lawsuits and disputes thereto	Repealed Law 89/1959
Law 26/2015	Regulating the General Establishment of Housing	Repealed Decree 76/2011
Law 12/2016	Giving the digital copy of property records the same evidentiary power as of the paper origins	New legislation
Law 33/2017	Addressing damage and loss of land registry documents, and the issuance of alternatives enjoying the same evidentiary power as of lost or damaged origins	New legislation
Decree 53/2006	Property Tax Law, which includes the registration of property characteristics and owners in the records of the Ministry of Finance	Amended Law 178/1945
Law 6/2001	Lease Law (Cessation of the obligatory renewal of lease agreements for Housing Purposes)	
Law 33/2008	Eliminating commonality of property inside and outside the master plans - the aim is to give each owner or occupant in the built areas a title deed for his property	Useful for registering of informal houses
Decree 40/2012	Building violations, stating violations that can be settled if committed before the law's issuance and those that cannot be settled	This is the latest of a series of similar laws: Decree 59/2008, Law 1/2003, Law 44/1960
Law 15/2014	Regulating the work of notaries	Repealed Law 54/1959
Law 31/2018	Law of Endowments Awqf - Property management and investment	It replaced a set of laws and decrees the first of which dates back to 1949

Land planning and development laws

Law/Resolution	Subject	Notes
Law 166/1967	Land readjustment of agricultural properties to address the excessive fragmentation of land	
Decree 5/1982 Law 41/2002	Master Planning of urban lands (Cities, Towns, Villages, and Urban Communities)	
Law 3/1984	Land reclamation and land redistribution to farmers (e.g. irrigation projects, soil improvement, etc.)	Repealed Law 11/1971
Decree 10/1986	Farming investment	
Resolution 198/1987 Resolution 186/1985	Recreational investment	Issued by the Supreme Council of Tourism
Decree 57/2004	Creation of industrial cities, management, exploitation	
Law 31/2005	Water Code, Defining Water Resources Protection Areas	
Law 26/2006	Classification and Protection of Public Roads	
Law 62/2006	Desert "Badia" Lands Law and its Protection	Repealed Decree 140/1970
Law 15/2008	Creating the Real Estate Development and Investment Authority, licensing real estate development projects, the real estate development and investment profession	
Law 26/2010	Creating the Regional Planning Commission, rights and duties, development and approval of regional plans, structural plans	
Law 99/2011	Regulating housing and Summer Cooperatives	Cooperatives exist since 1950 with Law 65
Circular 4/2017	Licensing installations and projects outside master plans and settlement of the existing ones	
Law 10/2018	Creating development zones within master plans	Derived from Decree 66/2012
Law 23/2015	Implementation of master plans through two methodologies: • Dividing the lands at the request of the owners according to the master plan • Dividing of lands collectively into master plans by municipalities	Repealed Law 9/1974 and Law 26/2000 amended Law 60/1979
Decree 26/2015	On the General Establishment for Housing	
Law 6/2018	Law for the Protection of Forests - Maintenance – Exploitation	Repealed Decree 25/2007

Real estate appraisal and tax laws

Law/Resolution	Subject	Notes
Law 429/1948	Properties transactions and GDCA fees	
Decree 26/2013	Calculation of expropriation values	Repealed Law 3/1976
Law 41/2005	Properties sales Tax	Extracted from income tax law 24 of 2003
Decree 53/2006	Properties Tax and Estimated Financial Value	Repealed Law 178/1945
Law 39/2008	Establishing the Real Estate Finance Supervisory Authority	
Law 8/2012	Regulating the profession of properties appraisers	
Resolution 8/2016	The General establishment for Housing operations system - evaluation of properties units	Resolution by the Minister of Public Works and Housing
Law 31/2018	Endowment "Awqaf" Law - Estimation of rental and exchange values for endowment properties	Modified a set of laws and decrees dating back to 1949

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