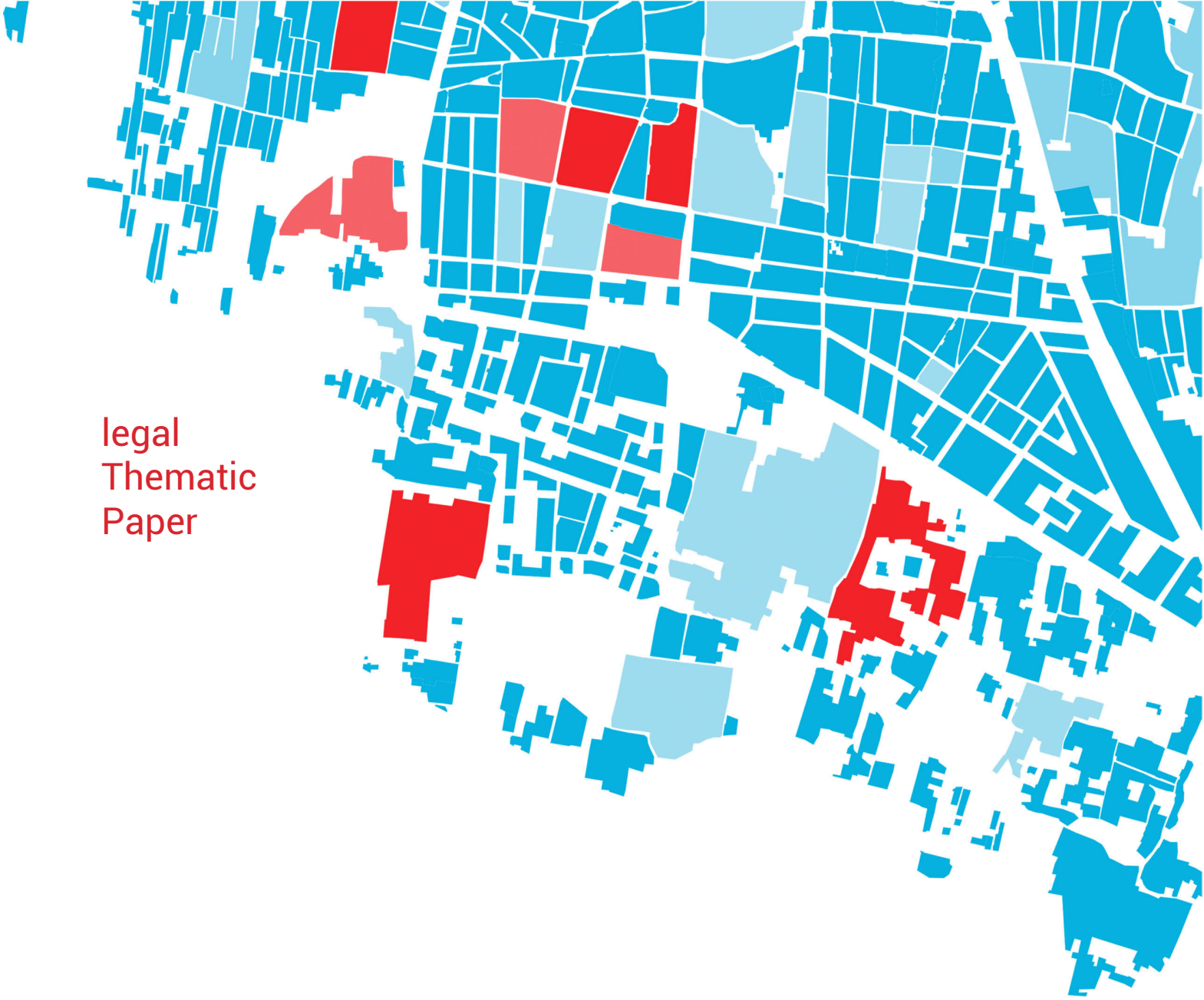

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HLP Rights and Security of **Tenure in Informal Settlements**

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01 Executive Summary

Security of tenure refers the level of effective protection enjoyed by individuals and groups against evictions — the permanent or temporary removal against the will of individuals, families and communities from the home and the land they occupy without the provision of, and access to, appropriate form of legal or other protection[1]. Through the legal framework of housing, land and property (HLP) rights, the state acts as the foremost entity safeguarding security of tenure for its population. However, populations residing in informal settlements tend to lack entitlements under the state's HLP framework and therefore have limited protections and recourse to justice in cases of eviction. Weak tenure security of this nature has long existed in Syria's numerous informal housing areas. The past decade of conflict has further eroded security of tenure in these areas as violence and severe structural damage caused their populations to flee elsewhere for safety and adequate shelter. As such, policy decisions related to urban planning and reconstruction in Syria will have a profound impact on the fate of informal settlements and the ability of informal tenure holders to return and gain access to adequate housing. Accordingly, this legal analytical and policy paper assesses both the development and current state of HLP rights and security of tenure in informal settlements with the aim of informing future international programming and domestic policy decisions addressing or otherwise impacting informal settlement communities in Syria. By considering the historic governance, legal and policy context of urban informality in Syria, this paper builds on extant Syrian policy and law to identify the most effective and feasible means to promote security of tenure in informal areas as the country rebuilds.

International Standards

International law and guidelines should inform government policy approaches and attitudes toward informal settlements in Syria. Several international law instruments enshrine the right to adequate housing and in so doing confer upon States (parties) the duty to "take the steps, individually and through international assistance and co-operation…to the maximum of its available resources, with a view to achieving progressively the full realization of the [right to adequate housing] by all appropriate means."[2] In Syria, where housing in informal settlements is primarily considered "inadequate" due to weak tenure security rather than the due to the unavailability of public services, facilities and infrastructure or inhabitability, Syrian informal housing policies and legislation should endeavor to make housing in such areas "adequate" by legalizing their tenure status whenever possible. This is supported by international standards on land governance[3] which assert that States should promote policies and laws to provide recognition to informal tenure which respect existing formal rights under national law as well as the reality of the situation and promote social, economic and environmental well-being. Moreover, the Syrian state is obliged to protect its citizens from forced evictions from their homes, including homes in informal settlements, and ensure its own urban planning, housing or any other policies do not result in forced evictions. The latter practically means that any involuntary resettlement procedures necessary for policies of urban renewal in informal settlement must provide sufficient access to appropriate forms of legal or other protection, including procedural justice protections. Finally, international standards on property restitution hold that the right to restitution applies equally to displaced persons who have legitimate informal rights as it does to those who have formal tenure rights. Accordingly, any property restitution mechanisms established for Syrians must be accessible to informal tenure holders and inclusive of informal tenure rights. Additionally, any urban redevelopment policies which could interfere with the right of displaced

[1] *Habitat III Issue Paper No. 9: Urban Land (2015).*
[2] *UN General Assembly, The International Covenant on Economic, Social and Cultural Rights, 16 December 1966.*
[3] *FAO, The Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forest in the Context of National Food Security (2012).*

informal tenure holders to return and repossess their HLP must ensure that persons displaced from informal settlements are informed of and have meaningful opportunities to participate in anyurban renewal procedures affecting their HLP.

The Evolution of Informality in Syria

Though the modern phenomenon of informality in Syria first appeared in 1948, the development of informal settlements across Syria has occurred through a series of waves and spurts of informal growth starting in the 1970s. Syria's modern informality arose in this period primarily due to a host of social, political, demographic, and urban planning factors: a lack of land stock caused by a rapid urban population growth, a rigid urban planning framework and a failure to construct a comprehensive social housing strategy targeting the poor and vulnerable. Until the early 2000s, no comprehensive strategy for addressing the issue of informal settlements in Syria existed beyond a scattered set of sporadic and ineffective initiatives aiming to prevent the further expansion of informal settlements. After 2000, however, policy changes to deregulate the real estate sector and liberalize urban development brought attention to the need to address the existence of informal settlements and abate their expansion. Various policy responses were adopted toward informality in this period: fines and demolition; legalizing and upgrading; urban renewal and redevelopment. However, these policies could not compete with the waves of rural-to-urban migration in the first decade of the 21st century that continued to feed the growth of urban informality in major cities. During the conflict, the many informal settlements which had been host to early protests, non-state actors and armed groups suffered from severe damage and high levels of displacement. New urban policies have aimed to redevelop these damaged informal areas oftentimes while their original population remains displaced, though in recent years many of the urban renewal projects suggested have been challenged or abandoned entirely due to practical and financial concerns.

Syrian Tenure Rights and Governance Framework

The diversity of circumstances and factors shaping the emergence and growth of informal settlements in Syria has created a range of informality typologies. Today these typologies manifest themselves within three forms in the urban context: tenure-based informality, planning-based informality, and construction-based informality. Tenure-based informality refers to informal development where possessors of land lack formal or semi-formal rights to the land they occupy; planning-based informality refers to informal development where the land is legally owned and occupied, but not allocated for development or zoned for a purpose different from the one used. Finally, construction-based informality refers to the construction of buildings or additions which violate the building code. The typology of an informal settlement — that is, the source of its unlawful status — plays a significant role in its degree of formality and therefore the tenure security its residents enjoy. Indeed, informal settlements exist across the tenure spectrum in Syria with some benefitting from greater statutory and customary recognition than others. The tenure continuum in this respect maps the type of land and type of rights in rem to the land where the informal settlement exists. The intersection between the type of land occupied and type of right claimed in informal areas determines the extent of tenure documentation available to informal tenure holders, and as such will in large part determine degree of tenure security in informal settlements. The primary types of documentation used to obtain tenure security in informal settlements includes: the Green tapu (permanent deed), temporary records (municipal registry), court records, and powers of attorney. While centralized government agencies such the General Housing Establishment (GHE), the Ministry of Local Administration and Environment (MoLAE), and the General Directorate of Cadastral Affairs (GDCA) have had significant roles in the

policy approaches towards informal settlements, the most important administrative stakeholders for these areas operate at the local level: the local administrative unit (LOU), local enforcement and police departments, and customary community leaders and *mukhtars*.

Syrian Legal Framework Related to Informal Settlements

Urban planning legislation, such as Law no. 5 (1982), played a significant role in the growth of informal settlements in Syria in the 20th century as long and bureaucratic urban planning processes incentivized the private development of housing in undeveloped areas before urban plans could be ratified and put to effect. As these informal areas grew, they became the primary subjects of building violation legislation. It was not until the turn of the 21st century, however, that legislation began to recognize and respond to informality as a problem greater than the mass contravention of building code and zoning violations. Several laws began to be issued to introduce the possibility of regularizing informal settlements, culminating in Law no. 33 (2008) which provided a mechanism for upgrading informal settlements by formalizing the existing tenure rights of residents therein. Simultaneously, legislation that sought to regularize informal settlements through redevelopment was adopted, either by means of land readjustment such as in Law no. 26 of 2000 or expropriation as in Law no. 15 of 2008. The land readjustment regularization approach has become the predominant policy initiative towards informal settlements since the crisis, as seen in the issuance of Law no. 23 (2015) and Law no. 10 (2018). Moreover, while regularization legislation was being issued in the past two decades, several pieces of building violations legislation were also issued in attempts to curb the further growth of informal areas. However, this approach failed to reflect the fact that the urban planning process and national housing problem were the root issues of informal growth in Syria, forces which could not be offset by punitive or remedial building violation legislation.

Assessment of Urban Policies Addressing Informal Settlements

Rigid urban development legislation and tolerant policies towards informal housing of the 20th century in Syria conspicuously contributed to the growth of informal settlements. From the turn of the 21st century, the Syrian government began to pursue urban policies and issue legislation which could regularize these areas while simultaneously reinforcing the prerogative of municipalities to demolish new informal development and punish violators of planning ordinances and building codes. With respect to the former, two regularization policies emerged and were largely pursued simultaneously but separately in the first decade of the 21st century: informal upgrading and urban renewal. The former has aimed to improve existing informal structures and spaces (as opposed to demolition and reconstruction) together with the legalization of extant land tenure, requiring the modification of master plan(s) in force. Urban Renewal, also referred to as redevelopment, is achieved through the clearance (i.e., demolition) and rebuilding of structures that are deteriorated, obsolete in themselves or are laid out in an unsatisfactory way. In Syria, land readjustment is the tool typically applied to facilitate urban renewal in informal areas. Both policies have their advantages and disadvantages and the choice of one over the other should be dependent on a number of contextual considerations such as the nature and scale of the informal development, urban planning objectives, environmental and public health factors, and damage and displacement rates. However, since the start of the conflict, informal upgrading policies have been largely abandoned while urban renewal approaches with varying degrees of safeguards for the tenure of pre-existing residents and rightsholders have instead been pursued.

Conclusions, Key Findings, and Recommendations

History has shown that urban informality in Syria is intrinsically linked to the country's urban planning and national housing policies. Without substantial adjustments to government policies in these areas, the enforcement of building code violation laws will continue do little to prevent the continued growth of informal settlements.

Attempts to regularize existing informal settlements should balance informal upgrading and urban renewal policies, as the uneven preference for the latter since 2011 has created real and perceived threats to the housing, land and property rights of informal settlement populations.

When feasible and under the appropriate conditions, informal upgrading should be prioritized to secure the extant tenure rights of informal settlement residents. This could be achieved by promoting an amended Law 33 (2008) — or alternatively a new piece of legislation based on Law 33 — which is adapted to Syria's post-conflict context and contains additional detail on the procedure for the legalization and integration of informal areas into urban master plans. The Social Domain Tenure Model (STDM) can support the application of regularization legislation adapted to the post-conflict context when formal reform or reissuance of legislation is unfeasible or requires significant delay.

Urban renewal by means of land readjustment can also be an effective way to regularize Syria's informal areas, especially those which have had significant levels of moderate and severe damage. However, these procedures pose a greater risk to the tenure rights of informal residents, most notably when displacement has been prevalent in these areas, and therefore substantial safeguards are necessary to ensure informal tenure rights are not neglected in the redevelopment process. This also means favoring a version of urban renewal which recognizes existing informal tenure rights and guarantees the return of informal tenure holders once readjustment and redevelopment works have been completed, as seen in Law no. 23 (2015).

02 Introduction

Informal settlements are defined as residential areas where **(1)** inhabitants lack legal tenure rights vis-à-vis the land or dwellings they inhabit, with modalities ranging from squatting to informal rental housing, **(2)** the neighbourhoods usually lack, or are cut off from, basic services and city infrastructure and **(3)** the housing may not comply with current planning and building regulations, and is often situated in geographically and environmentally hazardous areas.[4] The existence of informal settlements in a country indicates that urban planning and housing policies have not been adequate to meet the needs of its population, especially the poor, the marginalized and the disadvantaged. As such, the failure to address informality will result in uneven urban development and greater levels of socio-economic inequality.

In Syria, security of tenure, much more so that material factors like public services, infrastructure or building quality, is the primary feature which distinguishes informal areas from formal ones. This has continued to be true during the conflict, where informal settlements suffered disproportionate levels of violence, damage, and displacement compared to formal areas. As such, one can venture to say that security of tenure is at its weakest point for informal settlement communities, especially those who have been displaced from their homes.

In anticipation of comprehensive reconstruction efforts in Syria, the government again faces the longstanding policy question of how to resolve the issue of informal settlements. Urban redevelopment legislation issued throughout the conflict has indicated a policy preference for urban renewal, however, early efforts to implement these policies have been met with resistance and feasibility challenges. In light of this inflection point, this paper seeks to comprehensively assess how past law and policy in Syria has impacted security of tenure in informal settlements and to determine the most effective and feasible means to promote security of tenure in informal areas as the country rebuilds.

[4] *Habitat III Issue Paper No. 22: Informal Settlements (2015).*

The underlying premise is that improving security of tenure in informal settlements should be prioritized not only as the just recognition of legitimate HLP rights held by informal settlement residents, but also to promote balanced urban development and increased socio-economic equality in Syria.
Regularization, the process of transforming informal settlements into formal ones, is an indispensable means to achieve both these goals. However, while regularization can be used to strengthen the tenure security of informal settlement communities, it can also be used to undermine their security of tenure through demolition, resettlement and redevelopment schemes. As such, the specific variations of regularization policies must be considered. In assessing past law and policy in Syria, the following regularization approaches have been observed: demolition, legalization, expropriative redevelopment, land readjustment, and private-public-partnership (PPP) land readjustment. An examination of these policies is necessary to determine which, if any, should be further pursued, and how they should be adapted to the post-conflict context in Syria to best achieve inclusive tenure security and sustainable urban development.
The paper thus evaluates the impact of informal settlement policy approaches on security of tenure with the aim of informing future international programming and domestic policy decisions addressing (or otherwise affecting) informal settlement communities in Syria. Before doing so, however, it is necessary to establish the context for any such programming or policy interventions. First, the standards found in international law and guidelines which link to informal settlements and security of tenure will be explored. Then, the Syrian land tenure and governance framework, legal framework and policy framework surrounding informal settlements will be assessed. Based on this analysis, the paper will then conclude with key findings and recommendations on the approaches which best improve security of tenure while meeting future urban redevelopment needs in Syria.

03 International Standards

3.1. The Right to Adequate Housing

Broader than the human right to own property, the right to adequate housing is intended to ensure that everyone has a safe and secure place to live in peace and dignity, including those living in informal settlements without ownership rights. As given in the Universal Declaration of Human Rights (1948), all persons have the right to a standard of living adequate for the health and well-being of himself and of his family. This, as written in Article 25, includes the right to adequate housing. The International Covenant on Economic, Social and Cultural Rights (1966) reaffirms the right to an adequate standard of living including housing and continuous improvement of living conditions, with the UN Committee on Economic, Social and Cultural Rights interpreting the right to adequate housing as the right to live somewhere in security, peace and dignity[5]. As such the Committee identifies a number of criteria which must be met for certain forms of shelter to constitute "adequate housing."

For housing to be considered adequate, it must, at minimum, meet the following criteria:

1. *Security of tenure:* Occupants must have a degree of security of tenure which guarantees legal protection against forced evictions, harassment and other threats.

2. *Availability of services, materials, facilities and infrastructure:* Occupants must have access to safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage, and refuse disposal.

3. *Affordability:* The cost of acquiring and maintaining housing must not threaten or compromise the occupants' enjoyment of other human rights.

4. *Habitability:* The housing must guarantee

[5] *UN Office of the High Commissioner for Human Rights (OHCHR), The UN Human Settlements Programme (UN-Habitat), "The Right to Adequate Housing," Fact Sheet No. 21, Rev. 1, November 2009.*

physical safety, provide adequate space, and protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.

5. *Accessibility:* Housing must take into account

6. *Location:* Housing mut not be cut off from employment opportunities, health-care services, schools, childcare centre and other social facilities, nor can they be located in polluted or dangerous areas.

7. *Cultural adequacy:* Housing must take into account and respect the expression of cultural identity.

Informal housing areas often lack many if not all of these criteria. Accordingly, slum upgrading has been internationally acknowledged as an effective means of improving the housing conditions of informal settlement residents. Upgrading programmes can contribute to the realization of the right to adequate housing for informal settlement residents if they ensure tenure security to all, take into account women's rights and ensure non-discrimination in tenure schemes, and guarantee the full and meaningful participation of affected communities.[6]

In Syria, where informal settlements are largely defined by illegal tenure or construction status rather than by a lack access to public services, facilities, and infrastructure or by structurally inadequate shelter, the most pressing criteria to be addressed is that of tenure security. As such, it is recommended that Syrian informal housing policies and legislation endeavour to make housing in such areas "adequate" by legalizing their tenure status. This would be in line with the Syrian State's obligation to "take the steps, individually and through international assistance and co-operation…to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant [e.g., the right to adequate housing] by all appropriate means.[7] When legalization is not possible for legitimate reasons in the public interest,[8] informal settlement residents should be provided with access to alternative housing which meet all the criteria for adequate housing. In any case, policy responses to informal housing areas should never result the homelessness of affected residents.

3.2. Protections Against Forced Evictions

Weak tenure security is perhaps the most defining characteristic of informal settlements which puts informal housing residents at a greater risk of being subject to forced evictions. Forced eviction is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection[9]. Evictions of this nature constitute a human rights violation, regardless of whether the occupant in question has legal rights to their land or housing[10]. This is affirmed by the International Covenant on Civil and Political Rights (1966) which likewise states that all people should be protected against arbitrary or unlawful interference with their home. As such, in the design and implementation of informal housing policies special consideration should be given to realizing the right of informal housing residents to have a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats [11].

As a key safeguard against forced evictions and arbitrary displacement, States parties to the International Covenant on Economic, Social and Cultural Rights, including Syria, must ensure that "all feasible alternatives are explored in consultation with affected persons" prior to carrying out any evictions with a view to avoiding, or at least minimizing, the need to use force. This is particularly necessary for those evictions involving large groups such as entire informal housing areas. When evictions are deemed justifiable and necessary, as might be the case when seeking to regularize informal areas,

[6] Ibid.
[7] UN General Assembly, The International Covenant on Economic, Social and Cultural Rights, 16 December 1966.
[8] Legitimate reasons could include when legalization would lead to the unavoidable infringement of another private person's right to their property; to unsafe occupation conditions; to unavoidable harm to the environment; or to the obstruction of necessary services in the public interest (e.g., infra-structure, public spaces, hospitals, etc.).
[9] UN Committee on Economic, Social and Cultural Rights (UNCESC), "General Comment No. 4 on the Right to Adequate Housing," 1991.
[10] The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights
[11] UNCESC, "General Comment No. 4" 1991.

appropriate procedural protections and due process are essential. The procedural protections which should be applied in relation to forced evictions in informal areas include:

(a) an opportunity for genuine consultation with those affected;

(b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;

(c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;

(d) government officials or their representatives to be present during an eviction;

(e) all persons carrying out the eviction to be properly identified;

(f) evictions not to take place in particularly bad weather or at night unless consented otherwise;

(g) provision of legal remedies; and

(h) provision, where possible, of legal aid to persons who are in ned of it to seek redress from the courts.[12]

In any case, evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.[13]

3.3. Informality and Land Management

The Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forest in the Context of National Food Security **(2012)** provide protocols with respect to the treatment of informal tenure rights in land management and development. Where informal tenure to land exists, States should acknowledge it in a manner that respects existing formal rights under national law and in ways that recognize the reality of the situation and promote social, economic and environmental well-being. The Guidelines explicitly state that States should promote policies and laws to provide recognition to such informal tenure. The process of establishing these policies and laws should be participatory, gender sensitive and strive to make provision for technical and legal support to affected communities and individuals. In particular, States should acknowledge the emergence of informal tenure arising from large-scale migrations as have been the case over the course of the conflict in Syria. Finally, in a guideline that serves as a fundamental principle for all urban development projects, the Guidelines stipulate that where it is not possible to provide legal recognition to informal tenure, States should prevent forced evictions that violate existing obligations under national and international law.

The Guidelines provide that States should use land consolidation and land readjustment "to improve the layout and use of [land] parcels or holdings." In informal settlements, where the layout and use of land parcels has taken place in an unplanned and unregulated manner, land consolidation and land readjustment can improve the built environment of informal neighbourhoods and simultaneously regularize the tenure status of residents. Where such consolidation and readjustment procedures take place, the Guidelines specify that participants should be "at least as well off after the schemes compared with before." This would apply to informal tenure holders affected by informal regularization policies involving land readjustment. States are also advised to establish appropriate safeguards in projects using readjustment approaches. Any individuals, communities or peoples likely to be affected by a project should be contacted and provided with sufficient information in applicable languages. Technical and legal support should be provided. Participatory and gender-sensitive approaches should be used. Environmental safeguards should be established to prevent or minimize degradation and loss of biodiversity and reward changes that foster good land management, best practices and reclamation.

[12] *IBID.*
[13] *IBID.*

3.4. Right to Restitution

Also to be considered in the context of informal housing policies in Syria is the right of all refugees and displaced persons to be restored any housing, land or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore. Refugees and displaced persons who had informal tenure rights or resided in informal housing prior to their displacement are likewise entitled to property restitution or just compensation as given in the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons ("The Pinheiro Principles"). Article 1.2 specifically states that the right to restitution applies to all people who were arbitrarily or unlawfully deprived of "their former homes, lands, properties or places of habitual residence."

Since many informal communities in Syria have been subject to mass displacement, it is critical that the right to restitution is recognized for displaced residents when informal housing policies are considered in the current and post-conflict context in Syria. Urban renewal policies in informal settlements, which require demolition and reconstruction, can pose a substantial risk of delaying, obstructing or even denying displaced residents and rightsholders' right to be restored their housing. Accordingly, it is essential that all such policies honour the right of original residents to return to their homes by ensuring that displaced informal populations are informed of and have meaningful opportunities to participate in any urban renewal procedures affecting their HLP.

04 The Evolution Of Informality In Syria

From the onset of rapid urbanization in modern Syria, demographic growth in urban areas has consistently been accompanied by the growth of informal settlements. This informal growth is attributable to myriad of reasons the primary among them being inadequate housing policies and legal constraints to efficient urban planning. Though informal settlements in Syria first manifested as irregular housing areas hosting refugees from regional conflicts, such as Palestinians after the Nakba in 1948 and Syrians from the Golan Heights after the 1967 war with Israel, urban informality only began to develop at scale in the 1970s when rural-to-urban migrations began to approach their zenith.[14] Transformations in the rural environment in the decade prior — notably the 1963 agrarian reform and resulting changes in agricultural relations and land tenure such as subdivisions of arable land by inheritance[15] — had precipitated these waves of rural-to-urban migrations.

Legal and administrative tools to facilitate urban planning and land development were not sufficient to meet the housing demand of Syria's rapidly urbanizing population during this period. Law no. 9 of 1974 stipulated a detailed yet bureaucratic process for cities to implement urban master plans. The process[16] of developing master plans themselves often took decades, resulting in planning ordinances which failed to reflect the development which had already informally taken place in the intervening period. Law no. 60 of 1979 especially contributed to the growth of informal housing in peri-urban agricultural areas surrounding cities, as it restricted the development of these suburban expansion areas to the public sector which failed to develop them before informal construction fuelled by private capital developed there instead.[17] Moreover, Law 60 also replaced the land readjustment tool enacted in Law 9 (1974) with a less effective and fair expropriation tool. This almost completely stagnated urban expansion in the Syrian provincial capitals and thus played a major role in the proliferation of the informal housing.

In 1982, the Syrian State, through a decision by

[14] *Samir Aita, "Urban Recovery Framework for Post-Conflict Housing in Syria: A first physical, social and economic approach." Le Cercle des Economistes Arabes, Paris: September 2020.*
[15] *Ibid.*
[16] *McAuslan, Hussam Alsafadi, Urban Planning in Syria: General Overview and Recommendations for Improvement, this document was published with the support of the EU, September 2007.*
[17] *Unpublished report by Omar A. Hallaj on the HLP-Land Nexus in Syria.*

Baath Party's Country Leadership, acknowledged the existence of the informal settlements and ordered the provision of the basic services to these communities until a sustainable solution could be found. Nonetheless, informality continued to be treated as collections of building violations rather than a socio-economic issue rooted in insufficient affordable housing and inefficient urban planning and legal land development.[18] As such, only sporadic initiatives were conducted until urban policy reforms in the early 2000s introduced comprehensive strategies to address informal settlements in Syria.

Through these reforms, which in part aimed to deregulate the real estate market, the State introduced legislation to incentivize the regularization of informal settlements and to increase the provision of urban and peri-urban housing. Simultaneously, new laws intensifying the enforcement of building code violations were issued.

Law no. 26 of 2000 reformed the inflexible provisions of Law 60 (1979) which had restricted development in urban expansion areas to the State alone. The informal settlements which had formed in these de jure undeveloped expansion areas were addressed by Law 26, which provided municipalities with the opportunity to regularize them via land readjustment and zoning. However, Homs was the only major city to apply these provisions.[19] Not long after, Law no. 1 of 2003 was issued ordering the demolition of future building violations and prescribing severe fines and prison sentences for violators.

Nonetheless, informal development continued to grow as a major wave of rural-to-urban migration took place between 2003 and 2004 with half of the population of Al-jezireh agricultural area of northeast Syria[20] migrating to the suburbs of existing cities.[21] This was followed by the mass migration of Iraqi refugees to Syria between 2006 and 2007. A severe drought between 2007 and 2010 devastating agricultural production further exacerbated the development of informal urbanization.[22] By 2005, informal settlements constituted 25-30% of urban dwellings and more than 30% of dwellings in major cities such as Damascus, Aleppo and Homs.[23]

Textbox 1 : Informal Housing in Syria (2008)[24]

- House typology: 27.7% apartments, 72.3% single houses
- Average floor area: 103 sqm; average number of rooms: 3
- 50% of houses have reinforced concrete structural elements (columns and beams); 25.3% are without structural elements and 23.5% are built with stone.
- 88.4% of houses are owned; 7.4% of houses are rented.
- 99.2% of houses have access to the electric power, 96.9% have access to the public drinking water networks, and 94.3% have access to the public sewerage networks.
- 65.6% of houses have access to a nearby public health centre, 30% of houses have access to a nearby hospital, and 57.8% of houses have access to a nearby nursery.
- 93% of houses have access to a nearby primary school and 63.8% have access to a nearby secondary school.
- 71.6% of houses are connected to paved roads.
- The survey shows that there are no significant differences of demographic, social or economic nature between the formal and informal housing residents, indicating that poverty is not a primary cause of informality in Syria.

[18] Various authors, "State of Syrian Cities: 2016-2017," October 2017.
rights-in-syria.
[19] Omar A. Hallaj, "Urban Housing and the Question of Property Rights in Syria," 2017. https://syrianechoes.com/2017/12/21/urban-housing-and-the-question-of-property-rights-in-syria/
[20] The Aljezireh specificially refers to the largely agricultural region in northeast Syria between the Euphrates and Tigris Rivers including the Governorate of Raqqa, Deir Ezzour, and Hasakeh.
[21] Various authors, "State of Syrian Cities: 2016-2017," October 2017.
[22] Ibid.
[23] Samir Aita, "Urban Recovery Framework for Post-Conflict Housing in Syria," September 2020.
[24] Extracts from a national survey on informal housing conducted by the Central Bureau of Statistics (CBS) in 2008.

Another series of laws were passed in 2008 both responding to these informal developments and to broader policy discussions around informality based on a 2005 national assessment on informal housing.[25] Law no. 15 of 2008 was issued to facilitate private sector urban development and housing provision, including by redeveloping informal settlements and building affordable housing to host those evicted in the process. Law no. 33 of 2008 was introduced as the first piece of legislation exclusively aimed at regularizing the tenure status of informal settlements, specifically those characterized by the illegal subdivision of legally owned land. Finally, Law no. 59 of 2008 was issued to replace Law no. 1 of 2003 on building violations, reinforcing its harsh penalties but providing new opportunities for municipalities to choose to settle violations predating Law 1 (2003).

Informal constructions were more tightly controlled from 2008 until the beginning of the protests arising in March 2011. When demonstrations began, informal developers took advantage of public authorities' preoccupation with the civil unrest to put up new buildings and raise the height of existing ones (see Figure 1 below of satellite images demonstrating the acceleration of informal urbanisation in this period). This informal "building boom" was further facilitated by the State's apparent appeasement policy towards public discontent in such communities which included a conciliatory posture towards building violations.[26] However, as demonstrations shifted to armed conflict in 2012, many informal peri-urban areas became sites of active violence and were razed upon State reacquisition.

Figure 1: Illegal construction boom during the uprising of 2011 and 2012

Satellite images of plots located in Douma rural areas at the end of 2009 (left) and 2011 (right). Source: Google Earth.

Throughout the following years of conflict, a complex web of rural-to-urban and urban-to-urban IDP migrations created pockets of intense housing demand in certain cities at different times. While the complexity of these migrations and multiple displacements renders it difficult to accurately summarize informal development from 2012 onwards, it was observed that new housing demands in these cities were met by informal constructions primarily in the form of additions to existing housing units. Indeed, while in most cases the areas covered by informal settlements did not grow greatly, the density in certain neighbourhoods increased by over 10% or more.[27] In the meantime, the State issued a new set of urban renewal legislation which could be applied to damaged informal settlements. Legislative Decree no. 66 of 2012 established redevelopment projects in two informal Damascus neighbourhoods which rely on a process of land readjustment involving a private-public-partnership holding company. Law no. 23 of 2015 on urban development replaced Law no. 9 of 1974 as the key tool for implementing urban master plans and included reformed provisions allowing

[25] *Samir Aita, "Urban Recovery Framework for Post-Conflict Housing in Syria," September 2020.*
[26] *Valérie Clerc. "Informal settlements in the Syrian conflict: urban planning as a weapon." Alexandrine Press, 2014, Arab cities after 'the Spring', 40 (1), p.34-51. halshs-01185193*
[27] *Unpublished report by Omar A. Hallaj on the HLP-Land Nexus in Syria.*

for municipalities to choose to regularize informal areas within their jurisdiction via land readjustment as stipulated in Law 23 or to redevelop them via Law 15 (2008) on real estate investment or Legislative Decree 20 (1983) on expropriation. Law no. 10 of 2018 created a legal framework expanding the application of the land redevelopment model used in Legislative Decree 66 (2012) to the national scale where it could be applied in any Syrian city.

Some of these urban renewal policies, most notably Law 10 (2018), have been a cause of concern due to the disproportionate degree of damage and displacement affecting informal settlements across Syria. In fact, most of the damage to the housing stock – estimated at over 30% of the total value of the pre-war housing stock – is found in informal peri-urban areas and suburbs.[28] Accordingly, Law 10 (2018) was amended by Law 42 (2018) to better include displaced rightsholders in the land readjustment process. Specifically, Law 42 (2018) extended the period to submit housing, land and property rights claims in the designated area from one month to one year and enabled the civil courts to hear claims even beyond that period.

Even with such reforms, applications of urban renewal legislation in informal areas across Syria have been challenged and in certain cases, abandoned entirely. The Government has cancelled plans to include Yarmouk Camp in any future developments through Law 10 and as of 2021 residents have been able to recover their properties in the camp. Plans to include the industrial part of Qaboun neighborhood of Damascus are being challenged by the local business owners. Plans to develop Baba Amer neighborhood of Homs under Law 10 have been cancelled after a feasibility study found the project to be unfeasible. Currently two competing proposals exist and are being examined by Homs municipality: (1) developing Baba Amer under the less demanding Law 23 (2015) and (2) preserving the current situation to allow the displaced people to return and rehabilitate their damaged properties. It appears that the second alternative is prevailing as people have start receiving rehabilitation permits.

05 Syrian Tenure Rights And Governance Framework

5.1. Typologies of Syrian Informality

The long and complex history of informal development in Syria has resulted in a highly diverse set of informal typologies. Informality, manifested by the absence of a building permit, can be the result of distinct and overlapping factors ranging from the lack of legitimate tenure rights to non-compliance with planning ordinances to construction violations. As such, while their exact characteristics can vary in practice, informality in Syria can be loosely grouped into three typologies: tenure-based informality, planning-based informality, and construction-based informality.

1. Tenure-Based Informality

Also referred to as squatting, tenure-based informality signifies the illicit occupation and construction of public land (*Miri*[29] land; private state land) or private land owned by a third party. It has been estimated that a minority (between 25-30%)[30] of informal settlements are the result of squatting on public (or private state-owned land) or Awqaf lands. When this type of informality is carried out by a group of individuals collectively or over time, it leads to the formation of an informal settlement. Mazzeh 86 inside Damascus is one of the major informal neighbourhoods developed on state land. In peri-urban Miri lands, individuals with disposition rights (tassarouf) using the land for agricultural purposes have sold land plots to individual families who then proceed to construct houses on their own or through contractors. The new occupiers do not have formal legal titles to these plots but they have evidence in the form of a document of sale

[28] *Omar A. Hallaj, "Urban Housing and the Question of Property Rights in Syria," 2017.*
[29] *Miri: all lands that falls outside the boundaries of the built areas as defined by administrative units (or outside the boundaries of Master Plans). In miri land, the land rights are composed of two parts: 1) the "bare ownership" right that belongs to the state; and 2) the right of use or exploitation which can be acquired by individuals or other legal persons. The right to use miri properties is subject to legal texts relating to the right of ownership according to Article 772 of the Civil Code. The Syrian law requires that the right to use a property is returned entirely to the state if the beneficiary discontinues his/her use or exploitation of the land (directly or through others) for a period of time determined by law without excuse, or if he/she dies without heirs.*
[30] *Unpublished report by Omar A. Hallaj on the HLP-Land Nexus in Syria*

that they bought the land from someone who had the legal power to sell it, albeit not for the purpose for which it was to be used. As such, this type of informality will be further discussed in the typology of "planning-based informality." In contrast, there are limited circumstances of what might be called 'true' or 'genuine' squatters: individuals who simply occupied and began living on the land without any evidentiary record to show that they have some kind of 'title'. Finally, squatting on the private property of a third party has been observed to be even more rare in Syria, and when occurring, is typically small scale and does not represent overarching trends.

2. Planning-Based Informality

Planning-based informality refers to areas of mass contravention due to unauthorized development taking place on land that is legally owned and occupied, but not allocated for development or zoned for a purpose different from the one used. This has largely taken place in peri-urban areas within the master plan (such as Jaramana city, rural Damascus, and many neighbourhoods of Aleppo city) or expansion areas surrounding major cities. When this type of informality is carried out "collectively" in a given area it creates an informal settlement. Private owners of these lands have often illegally subdivided their land and sold or leased the individual plots to informal developers or occupants themselves. Informal buildings constructed on such plots may have multiple units hosting different occupants in the form of an apartment building. In other cases, an individual purchases the plot and builds on it him/herself. Effectively occupants and/or owners in informal areas of this nature have rights to the land but the land is either not allocated for development, not designated to be used for either commercial/ residential purposes, and/or cannot be legally subdivided. This type of informality can overlap with tenure-based informality as already described above. It can also overlap with construction-based violations when illegal subdivisions take the form of vertical additions to legally built structures. A majority, representing roughly 70% of informal settlements in Syria, can be characterized by these planning-based violations.

3. Construction-Based Informality

Construction-based informality refers to the construction of buildings or additions which violate the building code. These violations are individual unauthorized developments which are modifications of or additions to constructions that are not compatible with building regulations (e.g., setbacks of multi-stories buildings, building height and additional floor restrictions, restrictions to the subdivision/consolidation of apartments, buildable percentage of the land plot, unpermitted uses of common areas in residential buildings, use of residential properties for non-residential purposes, etc..). This type of informality has become increasing prevalent in the past two decades, but especially during the conflict, as informal development has taken the form of densification via vertical extension as opposed to the historic trend of informal expansion which had taken place throughout the 20th century in peri-urban agricultural expansion areas. Construction-based informality has been seen as amenable to settlement under recent legislation on building code violations (starting with Law 44 of 1960 and most recently Law 41 of 2012 and its amendment to Law 5 of 2020) which allowed for the settlement of certain violations committed before specific dates upon the payment of fines to the municipality. Settlement enabled the unauthorized development to be registered in the land registry.

The typology of an informal settlement, that is, the source of its unlawful status, plays a significant role in its degree of formality and therefore tenure security its residents enjoy. Indeed, informal settlements exist across the tenure spectrum in Syria with some benefitting from greater statutory and customary recognition than others.

The tenure continuum in this respect maps the type of land and type of rights in rem to the land where the informal settlement exists. The intersection between the type of land occupied and type of right claimed in informal areas determines the extent of tenure documentation available to informal tenure holders, and as such will in large part determine degree of tenure security in informal settlements.

5.2. Land, Real Property Rights, and Documentation in Informal Settlements

Land in Syria can broadly be divided into two categories: public land and private land.

1. Public, or state-owned land, takes a variety of forms: *(A)miri, Métrouké, murfaka, Métrouké mehmié, khalié mubah*. It can also refer to agrarian reform lands.
2. Privately-owned *mulk* lands generally refer to those enjoying freehold ownership. *Awqafs* represent a distinct type of private land owned and managed by a religious endowment.

Statutory rights to land include ownership (*mulkiyya*), disposition (*tassarouf*), beneficial use (*usufruct*), surface (*superficie*), access/easement, lease, mortgage, preference based on sale promise, and preference over free lands. Certain rights only apply to one type of land; disposition (*tassarouf*) rights, for instance, can only encumber State (*miri*) lands. Other tenure rights may exist under customary arrangements or be determined under contract law. Statutory rights can be registered with the permanent (GDCA) or temporary (municipal) registry (or other specialized registry such as housing cooperatives registry or the military housing registry), which provide absolute proof of tenure rights, while lease agreements are registered with the municipality. Though many rightsholders in informal settlements may have formally registered statutory rights to their land, as could be the case in planning-based and construction-based informality, various techniques of recognizing informal tenure and/or constructions have historically been accepted by the State as quasi legal means of securing tenure.

In addition to court records and power of attorney documents (see Box on Primary Tenure Documentation in Informal Areas), other tools have involved the registration in the cadastres of a small share purchased from the original owner(s) of the agricultural areas or transfer of shares in a collective ownership situation (masha'a). Financial statement issued by the finance directorates is a common and powerful proof of tenure rights in informal settlements given the fact that the financial departments hosts registries with accurate description of properties for tax purposes. Water and electricity bills have also been used as supplementary proofs of rights, especially for squatters.[30]

Nonetheless, the main problem with ownerships within violation areas is that tenure cannot be registered in the official records (permanent or temporary) because the authorities are not authorized to register physical changes in the properties registry unless they are consistent with the building permits. This is a clear defect that has reduced the functionality and utility of the land registry which no longer reflects the reality of tenure rights on the ground. This deficiency has led owners of such properties to go to courts in order to gain recognition of their rights.

[31] *Omar A. Hallaj, "Urban Housing and the Question of Property Rights in Syria," 2017.*

Textbox 2: Primary Tenure Documentation in Informal Areas

The following tenure documents can provide different levels of tenure security to occupants of informal settlements depending on their informal typology. The type of documentation available will vary based on the nature of the land occupied and tenure rights claimed.

- **Permanent Record/Green Tapu:** Rightsholders with property registered in the permanent GDCA record hold an official title deed known as the Green Tapu. This is the most widely used, effective and secure form of property evidence document. However, these usually refer to the registration of land parcels. The buildings that occupy these registered land parcels may not be as equally well documented. Many properties, especially in informal and farming areas, are only recorded and transacted through two secondary modalities: court order or power of attorney.
- **Temporary Records:** Managed by the municipality, temporary records only exist in the 12 central Governorate capitals. These records branch from the permanent record and carry its legal strengths. Since these registers were initially designed to register sub-divided urban parcels and building descriptions, the temporary record provides a higher level of security and precision of ownerships.
- **Court Records:** Court orders record decisions by the court to recognise the ownership of properties that are built on the land or endorse the transaction of these properties. These court orders are deemed to be strong and secure as they can recorded on the original cadastral register associated with the land parcel in question (when the land itself is registered). These court orders would document the proof of purchase of built structures on land but not the land ownership in cases of construction on State land. The court records resemble the old deed system where a new buyer would have to acquire the entire lineage of court orders from all previous holders of the property. Residents also used other legal instruments like suing each other in court and placing leans on property (or the brick-and-mortar construction on said property), effectively creating a formal court record documenting the residence and the address, the leans would then be removed amicably upon future sales.
- **Power of Attorney:** Notarized power of attorney, or Kateb el Adel is used to document a transaction transferring ownership or other rights to a property, typically in informal areas. When a transaction under these terms is conducted the only documents that stand as record are those that are given to each party of the transaction. No copies of these power of attorney records are kept by any government agency and no entry is made in the permanent land record. Only by retaining the physical power of attorney document is it possible to prove any transaction in an informal area; or to prove the rights to any development or ownership of informal properties. This is specifically pertinent to contracts between owners and occupants of a specific land parcel.

The degree of legal recognition (with evidentiary documentation) enjoyed by a property has direct implications on its value within the informal land and housing market and consequently influenced social protections of tenure rights in informal settlements.

Squatter settlements, for instance, generally suffer from the weakest security of tenure as Syrian law only recognizes the right of squatters to occupy land in the context of prescriptive acquisition (i.e., adverse possession).[32] The Penal Code explicitly punishes squatting[33] while urban planning legislation, including laws on urban development (Law 23/2015, Legislative Decree 66/2012, Law 10/2018), expropriation

[32] *Syrian Civil Code (Legislative Decree 82 of 1949), Articles 826, 917-18.*
[33] *Syrian Penal Code (Legislative Decree xx of 1949), Articles 557(1) and Article 723.*

(Legislative Decree 20/1983, Law 15/2008), and building violations (Law 40/2012), do not recognize the rights of squatters and typically only entitle them to take the debris of their constructions.
Informal settlements characterized by incompliance with planning and land use ordinances have stronger tenure security, as owners and occupants may have registered their share of an agricultural land and may also have official documentation (court orders, notarized Power of Attorney documents, Ministry of Finance statements) recognizing the ownership of their constructions. These documents have been increasingly recognized in Syrian urban law. Furthermore, regularization legislation, such as Law 33 of 2008 and certain provisions of Law 26 (2000) and Law 23 (2015), specifically have sought to fully recognize such settlements by legalizing their tenure status and integrating them into the competent urban plan.

Informal settlements characterized by construction violations alone have the strongest security of tenure, with the rights of owners, occupants and users even registered in the formal land registries. When their rights are registered in the permanent (GDCA) or temporary registry, their tenure status enjoys the absolute and probative force of protection under Syrian law. While owners and occupants of such buildings may be liable to the fines and fees prescribed by the relevant law on building violations, their buildings are typically eligible for settlement rather than demolition. Owners of buildings violating the municipal construction regulations would also still be eligible to have their construction valuated in entitlement and compensation frameworks stipulated by urban development legislation, although illegally built constructions/floors on top of legal constructions may not be valuated unless the competent authority decides to settle them.
Areas with higher standards of legalization enjoy the increased tenure security and higher market prices. However, social means of protecting tenure, primarily through networks of local corruption also contributed tenure security in informal areas. The more entrenched the settlements the more corruption has been likely to play a role in keeping the municipal police away.[34]

In peri-urban informal settlements, means of securing tenure rights were especially dependent on collective social norms and actions and only partially dependent on formal documentation. As countless residents and rightsholders in these areas have been displaced due to widespread damage and destruction inflicted by years of conflict, this fragile system of legitimizing property rights has been further weakened in two primary respects. First, the formal entities that issued documents (e.g., court records, notarized sale contracts, etc.) are no longer present to verify these documents. Second, the social valuation process where communities mutually supported the rights of their members as a collective means of preserving the property values of the whole community has been disrupted.[35]

5.3. Tenure Governance in Informal Settlements

Several formal and customary entities play a key role in the governance and land management of informal settlements. At the national and regional level, both the Ministry of Local Administration and Environment (MoLAE), the Regional Planning Commission, and the General Housing Establishment (GHE) have played a key role in facilitating policies of both regularization and renewal in informal settlements prior to the conflict.[36] The Ministry of Agriculture has also been designated as responsible for initiating the regularization of informal settlements in peri-urban agricultural lands as stipulated in Law no. 33 of 2008.

When informal settlements take place on formally demarcated land, the rights to the land should be registered in the General Directorate of Cadastral Affairs (GDCA). Oftentimes, when agricultural lands have been illegally subdivided, owners of the new plots have been able to register small shares of the agricultural area in the permanent GDCA cadastre. However, other authorities are relied upon to document rights to buildings in informal areas. These have primarily included the local courts, where court orders have been issued recognizing ownership rights to buildings but not to land, and the public notary, where notarized sale contracts serve as formal documentation of rights to constructions.

[34] *Ibid.*
[35] *Ibid.*
[36] *Valérie Clerc. "Informal settlements in the Syrian conflict: urban planning as a weapon." 2014*

Administrative units have the most integral role to play with respect to informal settlements. City councils and municipal planning departments oversee the design and implementation of urban master plans and are also given the prerogative to choose how to treat informal settlements in the course of urban planning and land management. Law 26 (2000), Law 15 (2008), Legislative Decree 40 (2012), Law 23 (2015), and Law 10 (2018) each provide opportunities for administrative units to choose how to address informal settlements in their jurisdiction: demolition, toleration and settlement of violations, upgrading and legalization, or renewal. Another related local stakeholder consists of the local enforcement departments and municipal police responsible for enforcing building violations. In the past, entrenched systems of corruption have largely mitigated the prosecution of building violations. Local elders and mukhtars also often play a role in establishing social norms recognizing informal tenure rights.

Textbox 3: Stakeholder Mapping in Informal Settlements

- **Residents of informal settlements:** In Syria informal settlement residents are generally low to middle income, with most being government employees, skilled workers or small business owners with variant unemployment rates. Tenure rights to their dwellings and shops vary, however, two forms are dominant: owners or renters. Social cohesion between residents varies: when the residents are from different backgrounds, horizontal cohesion between citizen tends to be subject to tensions and cultural differences between the different groups. Attachment to the neighbourhood tends to be strong due to the familial ties, because many of the residents have their businesses within the settlement itself, or because alternative housing solutions outside the neighbourhoods are simply unaffordable. The residents are, generally, the weakest stakeholder: they are poorly organized comparing to the other stakeholders and due to their low position on the scale of wealth, their voices are hardly heard when it comes to future development of their neighbourhood. Moreover, the legal system regulating the urban development does not promote inclusiveness or public participation.
- **Landowners and construction contractors:** These actors constitute a very powerful group, in some cases more powerful the municipality. The landowners subdivide their lands and sell the resulting plots while the contractors erect buildings. Together (with the municipality in collusion in the vast majority of cases) they are the main driving force of the expansion of informal settlements and the main obstacle in the way of any regularization initiative. Their influence is strongest in major cities like Damascus and Aleppo where profits from the informal development business are greatest.
- **Private land developers:** These actors are proponents of any effort to redevelop the existing informal settlements due to the business opportunities such projects bring. Their vision is often in opposition of the interests of the residents in that they seek to maximize profits by developing for higher income groups. As such, their interests are given more weight by municipal and/or governorate decision-makers than those of informal settlement residents.
- **Other stakeholders** (those which do not directly affect informal settlements but remain important):
  - **The Ministry of Public Works and Housing (MoPWH):** Through the institutions working under its umbrella, the MoPWH is the regulatory body drafting the housing, urban planning and real-estate development. Among the important institutions is the General Establishment of Housing (GEH) which develops several low-cost housing projects in different cities and maintains a significant land stock, the General Commission of Development and Real-Estate Investment (GCDRI), the real-estate development regulatory body and the Regional Planning Commission (RPC).
  - **General Directorate of Cadastral Affairs (GDCA):** In the informal settlement dynamic, the role of the GDCA, as the land record keeping authority in Syria, remains limited because real property transactions take place outside the formal cadaster. Nevertheless, GDCA become relevant when it comes to tenure formulization or redevelopment projects.

06 Syrian Legal Framework Related To Informal Settlements

6.1. Law no. 5 of 1982, amended by Law no. 41 of 2002 (Urban Planning Law)

The process of designing and regulating urban development inside the boundaries of the administrative unit for fixed period, known as master planning, is stipulated within the urban planning law no. 5 of 1982 which was most recently amended in 2002 under Law no. 41. The law divides master planning into four components: (a) the Planning Program (PP); (b) the General Regulatory Plan (GRP); (c) the Detailed Regulatory Plan (DRP); and (d) the building code. The Planning Program, General Regulatory Plan and Detailed Regulatory Plan must conform to the universally binding Urban Planning Principles issued by the Ministry of Public Works and Housing (MoPWH). However, since the MoPWH has not yet issued these principles, the old "principles adopted by the [now defunct] Ministry of Housing and Infrastructure remain valid."[37] These old principles were in fact developed in 1970 by the Higher Council for Planning Cities and Villages.

Law 5 (1982) is pertinent to the discussion of informal settlements in Syria in that the bureaucratic urban planning framework it stipulated limited the land stock available for legal development during a period of rapid demographic growth and urbanization. As such, it indirectly contributed to the illicit growth of informal housing areas in areas where perpetually delayed urban development was supposed to take place in the last decades of the 20th century. The law's key flaw was its long development cycle by which it takes several years, and sometimes decades, before the administrative unit's urban plan is certified. In the meantime, rapid urban growth reconfigures the city's demographic and urban form on the ground. Consequently, masterplans generally became out of date by the time they came into effect. This meant that master plans were always drafted to supply far less private land and housing than the actual level of demand required by the time they were implemented. This created a large demand for informal land and housing, which could be more quickly supplied outside of the state's urban planning framework.

6.2. Law no. 26 of 2000 (Law on Urban Expansion)

Law no. 26 of 2000 was issued to amend Law no. 60 of 1979 which regulated urban expansion areas, most notably, by restricting their development to the public sector. Because many informal settlements had developed in these urban expansion areas, Law 26 specifically made provisions allowing municipal governorate centres (i.e., capitals) to apply Law no. 9 of 1974 to rezone the "mass contravention buildings which may be found in the urban expansion areas or in the ratified master plans"[38] via land readjustment. This effectively provided municipalities with the opportunity to take a first step towards progressive regularization of informal settlements both within and without municipal boundaries.[39]

Law no. 9 of 1974 provides two methods of land readjustment to subdivide large land parcels and commons with the aim of implementing urban master plans: (1) subdivision of land initiated by the landowners ("partitioning"), in which case the municipality retains the rights to charge owners for the cost of developments and infrastructure; and (2) subdivision initiated by the municipality to create "organizational areas."[40] By the latter method the municipality is empowered to pool the individual properties in the area into one common property and redistribute parcels to rightsholders while retaining the right to transfer some of the land for profitable uses and to recover the cost of its investments. Law 26 (2000) introduced the first opportunity for this method of land readjustment to be applied to

[37] *Law no. 5 (1982), Article 2.*
[38] *Law no. 26 of 2000, Article 7.*
[39] *Omar A. Hallaj, "Urban Housing and the Question of Property Rights in Syria," 2017.*
[40] *Law no. 9 of 1974, Article 2.*

regularize informal settlements rather than to implement the ratified master plan in irregular settlements which would require their demolition.

6.3. Law no. 15 of 2008 (Real Estate Investment Law)

Law 15 (2008) allows Administrative Units to use expropriation to enable the private sector to develop urban areas for one of the following purposes: (1) establishing new urban communities; (2) addressing "the problem of slum areas"; (3) securing shelter to individuals receiving demolition warnings; (4) securing shelter to victims of natural disasters; (5) securing housing units to specific segments of society at favourable terms for persons with middle incomes; and (6) constructing advanced facilities for medical, educational, commercial and sports services. Projects that do not meet these conditions can still be pursued, however, if they "are licensed under the provisions of this Law [Law 15 (2008)] and its administrative instructions."[41]

In areas designated as real estate development zones, the Administrative Unit acquires the private properties therein via compulsory acquisition as stipulated in Legislative Decree 20 on expropriation. The Administrative Unit can then implement projects on the acquired real estate development zone "in coordination with the licensed real estate developers according to the provisions of this law." The law divides the responsibilities of the administrative unit and the real estate companies as such: "the competent administration provides the necessary lands" while "the real estate developer is committed to providing the required funding to implement the project."[42] The administration can acquire the services of the real estate developer either by tender or the attraction of proposals, meaning that while the administration has the final decision, real estate developers can submit their own project propositions. Under this model, there is little incentive for these private sector entities to prioritize the need of low-income persons when they could seek to develop in areas with high profit potential.

Article 20(G) of Law 15 specifically states that in real estate development projects located in slum areas or prohibited areas, the real estate developer is committed to secure the appropriate housing units for the residents of the project area and deliver them to the competent administration on the date of approving it as a real estate development area. The real estate developer can also provide cash compensation for the residents who wish to sell their right in the real estate development area. It is unclear, however, what valuation framework would be used to calculate compensation in such scenarios. The competent administration then evacuates the residents after they receive the alternative housing according to the applicable regulations. In effect, real estate projects in slum areas under Law 15 resettle informal communities to develop the area for other profitable purposes.

6.4. Decree no. 59 of 2008 (Building Code Violations Law — repealed)

Legislative Decree 59 (2008) upheld and extended the severe measures for dealing with building violations that had been introduced in Law no. 1 of 2003 (which Legislative Decree 59 replaced). The decree states that offending buildings (buildings constructed without a permit) and all construction offences (construction work contrary to the license granted), whatever their type, are to be demolished and their rubble removed at the expense of the responsible parties. Furthermore, anyone found responsible when the "offending construction" is committed is fined and given a prison sentence according to the nature of the violation. Persons responsible can include owners, possessors, occupants, contractors, supervisors or advisories of construction. Fines range from 200,000 Syrian pounds to 2 million Syrian pounds and criminal sanctions from three months imprisonment to three years imprisonment. Violations include: (a) buildings constructed beyond certified planning areas or administrative limits or upon areas forbidden to build upon; (b) buildings "without adequate

[41] *Law no. 15 of 2008, Article 14(D).*
[42] *Law no. 15 of 2008, Article 11(5(B).*

toughness," such that the construction may be subject to collapse; (c) buildings incompatible with the construction regulation/building code; (d) construction alterations absent a formal permit or in contravention of the permit granted; and (e) illegal subdivisions of land.

While Legislative Decree no. 59 of 2008 imposes harsh penalties for various types of building violations, it also permits the settlement of building violations in informal settlements which were committed prior to the enactment of Law no. 1 of 2003. The law allows municipalities to choose to settle these building violations by applying the provisions of Part 2 of Law no. 9 of 1974, which stipulates a process of municipal-initiated land readjustment. The building violations in question can be regularized by this land readjustment process whether they exist within or outside the approved municipal master plan. If they exist outside the extant plan, applying Law 9 (1974) would effectively integrate that area into the master plan. It should be noted that building violations existing prior to the enactment of Law 1/2003 are not automatically settled but may be settled if the municipality so chooses.

Furthermore, Article 6 of Legislative Decree 59/2008 prescribes that the Minister of Local Administration and Environment is to issue a decision specifying the types of building offences that are amendable to settlement (in addition to those existing prior to 2003) subject to specific controls and fines imposed on the offender. This limited the discretion of municipal authorities to settle of cases of violations on the condition of imposing fine on violator instead of removing his violation. The Local Council of the Administrative Unit is obliged to settle the specified offenses "if they are amendable to settlement" in accordance with the provisions of Legislative Decree no. 44 of 1960. Article 1 of Legislative 44 of 1960 establishes that building violations can be kept only if they: (a) do not violate the ratified master plan; (b) are not located in or transgressing on public properties; (c) do not deform the general landscape and; (d) are structurally sound.

6.5. Law no. 33 of 2008 (Informal Settlements Legalization Law)

Law 33 (2008) was the first, and remains the only, piece of specialized regularization legislation issued in Syria. The stated purpose of Law no. 33 of 2008 is to "fix the ownership of built real estates and the parts of the un-built real estate in specific residential areas in specific cadastral zones by giving them individual property status, correcting their descriptions and modifying their cadastral entries according to their current conditions."[43] This formalization process can be applied on private properties, State properties, institutions' properties and endowment properties.[44]

In practice, the law is intended to formalize illegally sub-divided agricultural estates by formally sub-dividing them de jure in a manner similar to Law no. 9 of 1974. However, unlike the former, Law no 33 (2008) only legalizes existing subdivisions, it does not replan and reorganize the area to integrate it the existing master plan. Informal residents in the applicable areas own a right to the land but lack a proper demarcation to the specific plot on which they have built, and thus do not have the possibility to obtain a building permit. By introducing the possibility of legal subdivision as given in Law 33 (2008), these smaller plots could be integrated into urban masterplans and registered in the permanent land registry.[45]

The procedure prescribed to regularize such informal settlements is as follows.The Minister[46] of Agriculture issues a decision announcing regularization in the areas designated by the Prime Minister. Upon announcement of implementing Law 33 in the designated area, the municipality prepares maps which show the external boundaries of the area and the numbers of the real estates that have to be redistributed, given individual property status, and have their building descriptions modified. The municipality also prepares detailed urban plans and topographical maps in coordination with the MoLAE with GDCA supervision. The municipality is also authorized to outsource the work of urban plan preparation to public or private organizations.[47]

[43] *Law 33 (2008), Article 2.*
[44] *Law 33 (2008), Article 18.*
[45] *Unpublished report by Omar A. Hallaj on the HLP-Land Nexus in Syria.*
[46] *These areas are designated by the Prime Minister on the proposal of the Minister of Agricultural and the Minister of Local Administration and Environment (Law 33 (2008), Article 3).*
[47] *Law 3 (2008), Article 5(c).*

A judiciary Committee is formed by decision of the Minister of Agriculture with jurisdiction to resolve ongoing HLP disputes in the courts, ratify property contracts awaiting registration by the Department of the Cadastre, and clear unprocessed inheritance transfer applications and requests concerning real estates in the relevant area. Upon the decision of its commencement, the Committee announces that it will receive applications related to property rights of the estates in the area for one (1) month. The Committee then takes decisions on the applications received for fixing or confirming real estate rights to a property, as well as on transferred court cases and on contracts transferred from the cadastral Documentation Bureau to adjudicate property rights in the area.

Upon the completion of all decision-making for individual HLP claims applications, court cases, contracts, and inheritance transfer applications, the Committee confirms the real estate rights in the area and determines rightsholders "by issuing decisions in the name of the Syrian people."[48] In doing so, the Committee lists the persons who have property rights in the area including their names, shares and estates, and a summary of the Committee decision. This list is published for one (1) month and the decisions of the Committee are open to appeal at the Court of Appeals in the area within this one-month period. Those who sue for rights after this period are ineligible to be restored their property, but they can claim monetary compensation from the owner of the property upon successful claim of their rights before the civil courts within two (2) years of the closure of the one-month publication period. In making its decisions, the Committee has the right to give compensation in cash for a claimant's property in the area as well as the right to give a claimant a piece of land larger than his/her share upon the claimant's payment for the additional area. The only fees explicitly charge to beneficiaries of the regularization is a fee equal to 10% of the estimated value of each estate or lot registered in the cadastral registry.[49]

The decisions of the Committee are the basis for opening a cadastral entry and first registering rights as specified by Law no. 186 of 1926 (on the delimitation, census and registration of real estates). The implementation of registration is not bound to wait until the resolution of appeals, as appeals are to be registered in the cadastral entry when they occur.[50] The Committee and its works are subject to juridical inspection as decided by the juridical authority.

6.6. Legislative Decree no. 40 of 2012 (Building Violations Law)

Legislative Decree no. 40 was issued in May of 2012 to replace Legislative Decree 59 (2008). The Decree essentially prescribes the same punitive measures as its predecessor with minor changes. With respect to the settlement of building violations, however, the Decree stipulates a new procedure which does not rely upon the application of land readjustment (via Law 9 of 1974) as seen in earlier building violation legislation.

Furthermore, the decree allows for Administrative Units to settle the building violations committed prior to the issuance of Decree 40, that is, prior to May of 2012,[51] as opposed to before 2003 which had been stipulated in Legislative Decree 59. However, for such violations to be settled the administrative unit must receive proof of the age of the building violation which pre-dates the enactment of the decree, and a technical report approved by the Engineer's Syndicate attesting to the durability and structural integrity of the building.

Furthermore, to settle a building violation the violator must pay a fee equal to double the benefit that the violator gained (or is expected to derive) from the increase in the value of the property, land and/or building.[52] However, the violator can be exempted from the fee if he/she removes the violation within a period not exceeding three (3) months from the date of being notified of the imposition of the violation fee. Additionally, the violator has the right to object to the aforementioned financial fee within fifteen (15) days of receiving notification of the same after paying an objection study deposit equal to 30% of the fee. The Administrative Unit must study the objection and decide on it within fifteen (15) days

[48] *Law 33 (2008), Article 11(c).*
[49] *Law 33 (2008), Article 19.*
[50] *Law 33 (2008), Article 11(h).*
[51] *Legislative Decree no. 40 of 2012, Article 6.*
[52] *This "benefit factor" is said to be specified in the Executive Instructions of Legislative Decree no. 40 (2012).*

from the date the violator registered it.

In addition to the aforementioned settlement fee, a fine of 25,000-50,000 Syrian pounds (equal to approximately 350-700 USD in 2012) is levied against owners, possessors or occupants of the real estate who built constructions or made modifications without obtaining a building permit or in violation of the license granted; (b) contractors, executors engineers, or supervisors who carried out the construction of violating buildings (absent or in contravention to their building permit); (c) employees of the administrative unit who are proven to have been negligent in performing their duty to monitor or suppress the violation.

Additionally, building violations for exceeding the total permitted building percentage within a property can be settled as long as the building is structurally sound and interconnected with the building block, does not "distort" the general look of the area, and complies with the building code in all other respects. To settle such violations, the violator must submit (a) a report from the Syndicate of Engineers as to the buildings structural soundness, and (b) a report from the Syndicate of Engineers verifying that the building can bear the floors required to be licensed in addition to (c) paying a fee equal to twice the utility of the area exceeding the exceeding the mandatory building percentage.[53]

Finally, building violations existing in informal housing areas are considered settled after being rehabilitated and having their property status rectified and entered into the organizational plan upon paying the prescribed fees.
The law also prescribes for the local council of the administrative unit to issue a decision establishing a mechanism to handle building violations that can be settled within the administrative boundaries. The Supreme Council of Local Administration is authorized to issue decisions to determine the types of building violations that can be settled based upon the proposal of the Minister of Local Administration.

6.7. Law no. 23 of 2015 (Urban Plan Implementation Law)

Law no. 23 of 2015 on urban planning was issued to replace Law no. 9 of 1974 and its amendments though it largely maintains the land readjustment zoning procedures stipulated by Law 9 with minor changes and improvements. The law provides for two avenues to implement urban land readjustment: (1) voluntary land division at the request of landowners and (2) land zoning by the municipality, which was referred to in Law no. 9 as the establishment of "organizational areas." The latter operation also proceeds with a formal decree of zoning followed by the consolidation of the area into one joint property with all rightsholders having shares in the property. Rightsholders, who are identified via the information provided by the Real Estate (GDCA) office, the municipal temporary registry and other "public authorities authorized by their founding statute to keep property records" are issued shares in the zoned area which are equivalent to the value of their property (or right in rem) just before the rezoning decree was issued. Affected rightsholders who were not included in the aforementioned registries can submit an application to the Dispute Resolution Committee (DRC) to claim their rights and receive shares in the readjustment area. The Preliminary Valuation Committee is responsible for estimating the value of each rightsholders' share and publishing a list of their estimates, which may be challenged at the Civil Court of Appeal. Disputes and claims regarding property rights are to be dealt with by the Dispute Resolution Committee, the determinations of which may also be appealed at the Court of Appeal. Finally, the Compulsory Distribution Committee issues a distribution announcement and reallocates land parcels according to the share of each rightsholder trying as much as possible to give them a parcel on or near the site of their old property. Within 30 days of the publication of the Compulsory Distribution Committee's lists of rightsholders, shares and distribution scheme, concerned parties may file comments via a written petition to the Committee Chair. The decisions of the Committee are also appealable before the Court of Appeals within 30 days of the distribution announcement.
The law is unique in Syria's body of urban planning and land readjustment legislation in that it explicitly provides a number of avenues, including regularization via the implementation of land

[53] *The fee is stated to be stipulated in the Decree's Executive Instructions*

readjustment itself, to deal with informal settlements in urban plans where occupants have rights to the land but occupy constructions not in line with the building code.

Article 3 of the law states that if the approved urban development plans include existing informal community settlement areas, the municipality can apply the provisions of (a) Law 23 (2015), (b) Law 15 (2008) on Real Estate Development and Investment (based on an agreement between the real estate developer and the owners or between the real estate developer and the municipality); or (c) Legislative Decree 20 (1983) on Land Expropriation to implement the urban plan of the area in a manner not inconsistent with the provisions protecting property rights in the Constitution. Only the former of these three options provides an opportunity for the regularization of informal settlements.

6.8. Legislative Decree no. 66 of 2012 (Urban Development in Informal Areas of Damascus Governorate)

Legislative Decree 66 (2012) allowed the Governorate of Damascus to engage in urban renewal projects in two informal peri-urban Damascus neighbourhoods — Kafar Souseh and Barzeh — through a form of land pooling and readjustment that bore resemblance to Law 9 (1974) on urban planning but omitted the many steps that existed in the old law for due diligence in respecting property rights[54] and provided development rights to the private sector[55] rather than exclusively restricting it to municipality.

Despite the fact that Legislative Decree 66 (2012) exclusively targeted informal settlements, the law makes no special provisions to ensure that the rights of informal tenure holders would be recognized for redistribution or that the value of informal budlings would be taken into account in share allocations. Like Law 9 (1974), Legislative Decree 66 (2012) allows for persons whose rights are not registered in the permanent land registry to submit an application declaring their rights with documents and papers corroborating their property rights (or copies thereof). The law instructs persons without such documents to indicate in their application the sites, borders, shares, and legal and juridical type of their alleged property or rights. However, the Decree explicitly excludes informal tenure holders from property valuation and share allocation and also entitles occupants of informal housing to a 2-year rental compensation equal to 5% of the value of the unit vacated. The exact procedure for this law will be explained in greater detail under the description of Law no. 10 of 2018, which effectively expanded the scope of applying the PPP land readjustment to all Syrian cities.

6.9. Law no. 10 of 2018 (Urban Development Law)

Law no. 10 of 2018 (amended by Law 42 of 2018) was issued to effectively extend the scope of Legislative Decree 66 (2012) such that urban renewal projects could be applied to damaged or informal areas in any Syrian municipality. Like Legislative Decree 66, Law 10 incorporates public-private partnership (PPP) into the land readjustment process to — presumably — shift the financial burden of post-conflict reconstruction via land readjustment from the State to the private sector. However, several issues related to security of tenure have been raised in part due to the private sector engagement in the land readjustment process under Law 10. These have primarily revolved around the concern that the application of Law 10 would enable private redevelopment of damaged urban neighbourhoods for profit with the effect of permanently displacing original rightsholders rather than guaranteeing their 'right of return' which should be an integral aspect of land readjustment. This has been an especial concern in informal settlements where tenure rights remain weak.

Though Law 10 lacks many of the specifications for land readjustment found in Law 23 (2015), the process leading up to the redistribution of

[54] *Unpublished report by Omar A. Hallaj on the HLP-Land Nexus in Syria.*
[55] *Law 19 (2015) on establishing holding companies by public authority bodies later allowed for the creation of the Damascus Cham Holding Company which managed the commercial shares of the designated neighbourhood. Law 5 (2015) was issued that same year to regulate and further incentivize the use of PPPs in urban redevelopment.*

land parcels (including the declaring the zone to be redeveloped, creating an up-to-date tenure database, conducting initial valuation estimates, the resolution of property rights disputes and claims, and announcing shareholders) is by and large the same in both laws. However, the two processes diverge beyond that point.

Law 23 (2015) establishes a Compulsory Distribution Committee which appraises properties in the readjusted zone and creates a scheme for the redistribution of land parcels to rightsholders consistent with the value of their shares and, when possible, with the location of their original property. In Law 10, the Reallocation Committee performs these same tasks to draft a reallocation table. After this table becomes conclusive, however, rather than simply redistributing the land parcels, the Administrative Unit maintains a paper and digital register of shares and issues certificates for shareholders which "shall be considered as official deeds."[56] For one year from the reallocation table publication date, shareholders can exchange shares amongst themselves or transfer them to external parties. The Municipality receives 0.5% of the nominal value of each share transfer.

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

The parcel allotment option allows shareholders to apply for a specific land parcel in the area equivalent to the nominal value of their shares. The shareholder must have shares equal to the value of an entire parcel to acquire it, otherwise (s)he will need to jointly apply with other shareholders such that they jointly have an amount of shares equal to the value of the parcel. If multiple separate applications for a specific parcel are submitted, the priority is given to the application with the earliest submission date. As such, original rightsholders enjoy no privileges in electing their desired parcel compared to new shareholders who purchased their shares.

The option to form a shareholding company provides an avenue for private development in the redeveloped area. Shareholders in the readjusted area can apply to the municipality to establish a shareholding company "with the objective of constructing and investing planned parcels in accordance to the company's internal regulations." Only a shareholding company can obtain more than one land parcel, which would be necessary to invest in constructing large residential or commercial developments in the area which could profit from the land substantial increase in value following the readjustment works. Law no. 19 of 2015 created a legal framework where Administrative Units can create joint stock holding companies wich can invest in urban development schemes such as that of Law 10.

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

With respect to financing the land readjustment, Law 10 establishes a fund to cover the expenditures of providing works, social housing and public services (infrastructure and utilities). The fund is maintained via bank loans, income resulting from the trade and sale of shares of planned parcels in the zone owned by the municipality, and "other sources." Specifically, the administrative unit profits from the trade of shares in the redeveloped zone and from its own sale of planned parcels at public auction. The administrative unit also can recover some of its expenses for infrastructure servicing and the construction of social housing through the free acquisition of land in the designated area, though this free acquisition cannot reduce the floor areas (square meterage) of land parcels allocated to rightsholders by more than 20%.

[53] *Law 10 (2018), Article 28(f).*

07 Assessment Of Urban Policies Addressing Informal Settlements

Rigid urban development legislation and tolerant policies towards informal housing of the 20th century in Syria conspicuously contributed to the growth of informal settlements. From the turn of the 21st century, the Syrian government began to pursue urban policies and issue legislation which could regularize these areas while simultaneously reinforcing the prerogative of municipalities to demolish new informal development and punish violators of planning ordinances and building codes.

While not necessarily appropriate for all instances of informal development, land regularization, also referred to as formalization, has been internationally recognized as a best practice for dealing with informality since is minimizes displacement, encourages the recognition of informal tenure rights, and fosters urban integration. Specifically, informal settlement regularization aims to legalize the tenure status of areas or settlements where development[57] (spatial expansion and/or densification) and occupancy are not in compliance with the legal, urban and environmental standards set by public authorities.[58] Two regularization policies emerged and were largely pursued simultaneously but separately in the first decade of the 21st century.

7.1. Informal Upgrading:

The upgrading of informal settlements aims to improve existing informal structures and spaces (as opposed to demolition and reconstruction) together with the legalization of extant land tenure, requiring the modification of master plan(s) in force.[59]

Policy development towards informal upgrading began in the early 2000s with the launch of several cooperation programmes with the western countries aimed at finding durable solutions for the expansion informal settlements. In 2005, the Municipal Administration Modernization Programme (MAM),[60] supported by the European Union, was initiated with the goal of reforming municipal administration and urban management in six Syrian cities. Unsurprisingly, one of the primary issues MAM focused on was informal housing. Detailed informal housing profiles for the six cities were made and the programme's international experts unanimously recommended the upgrading of the informal neighbourhoods. However, the second phase of the MAM programme came to a halt in 2011 and its European funds[61] were frozen.

Another cooperation programme, the Sustainable Urban Development Program (UDP), was launched by the German agency of international cooperation (GIZ) in 2007 and completed in 2010. The programme targeted the Governorates of Aleppo and Damascus and made recommendations similar to those of MAM.

[57] *Environmental and public health concerns and the need for public spaces are considered legitimate reasons to justify certain relocations of informal settlements. Ref: Edésio Fernandes, "Regularization of Informal Settlements,"*
[58] *Alain Durand-Lasserve, Valérie Clerc. Regularization and integration of irregular settlements," 1996.*
[59] *Le Clerc damascus*
[60] *Modernization Administration Municipality (MAM) Programme in Syria between 2003-2006*
[61] *The European Investment Bank and the French Institution for Cooperation and Aid*

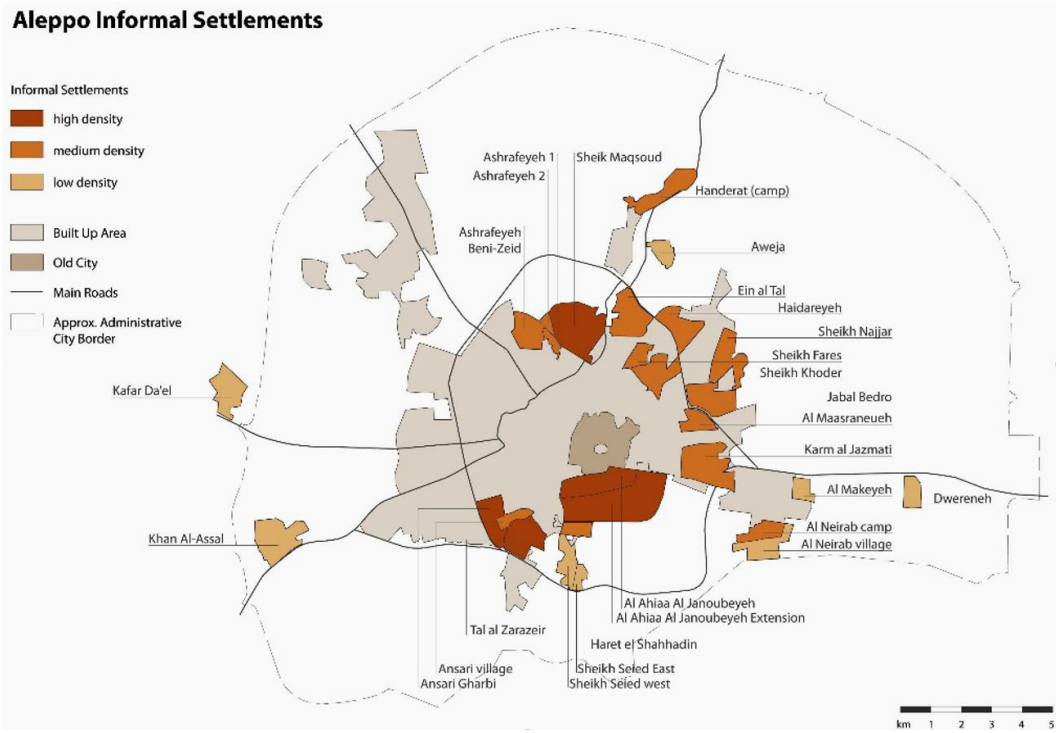


Figure 2: Within the GIZ study, the informal settlements in Aleppo were classified in term of density into three categories: High, medium and low. Additional classifications were also elaborated based on the stability and typology of the neighbourhood in addition to the tenure proof.

Consistent with the MAM and UDP programmes, the Syrian government issued legal instruments to facilitate regularization via informal upgrading in the mid-2000s. Law no. 46 of 2004[62] and Law no. 33 of 2008 were the two primary legal tools issued in the beginning of the 21st century to allow for the upgrading of existing informal settlements. As described in the previous section, Law 33 provided a process where illegally subdivided agricultural lands on the outskirts of major Syrian cities could be legalized through a formal process of subdivision and redistribution. Under Law 33, the administrative unit would be responsible for producing a new plan of the affected area, while a judiciary committee would be responsible for rendering decisions on rights to plots in the new plan based upon unprocessed inheritance applications, transferred court cases and contracts from the GDCA, and the HLP rights claims applications submitted by existing rightsholders. Though the Prime Minister is responsible for formally designating the areas to be subjected to Law 33, the decision-making as to which areas qualify for regularization in this manner is left in the hands of the Minister of Agriculture and the Minister of Local Administration and Environment.

Law 33 (2008) presently is the only piece of specialized legislation in Syria stipulating a process for the legalization of tenure in certain informal settlements. Because legalization supports the recognition of existing informal tenure rights and does not require the temporary or permanent resettlement of informal settlement populations, it represents a means of addressing informal settlements with low risks to tenure security and HLP rights. However, tenure legalization will not alone be

[62] *Law 46 (2004) was an amendment to Law no. 9 of 1974 on urban planning which has since been replaced by Law no. 23 (2015).*

sufficient to regularize many informal areas of Syria, especially when informal development has created unsafe and/or unhealthy living conditions due to unregulated building engineering and excessive densification. Informal settlements of this nature are likely to be more prevalent after the conflict, which has damaged pre-existing informal settlements and led to the development of new informal areas characterized by overcrowding, limited utilities and basic services, and unsatisfactory construction methods. As such, the application of Law 33 of 2008 will likely be limited in Syria's post-conflict environment.

Notwithstanding these limitations, it is recommended that the law be applied in the eligible areas whenever possible since the tenure security of informal settlement residents has been critically weakened over the course of the conflict and upgrading poses less risk to HLP rights than urban renewal. In spite of this, national authorities have prioritized policies of urban renewal in the post-conflict period, designating a number of damaged informal areas under Legislative Decree 66 (2012), Law 23 (2015), and Law 10 (2018), and completely neglected the possibility of utilizing Law 33 of 2008.
If applied in the post-conflict context, Law 33 would require certain amendments to respond to new challenges resulting from the conflict. This includes the following:

- *Extending periods and expanding methods of public announcement and notification.*

  To ensure that displaced persons are aware of and can participate in applications of Law 33, it is recommended that announcements of the commencement of regularization, of the invitation to apply to claim rights and of the determined list of rightsholders be posted in prominent places throughout the area to be regularized, and also published on digital media including government websites, online news sites, and social media platforms. Additionally, periods of public announcement should be extended to a minimum of 120 days (4 months).

- *Communication with displaced rights holders.*

  The Government is advised to undertake awareness-raising campaigns in the regularized zone to ensure that the procedures for claiming and protecting property rights, revocations of security clearance requirements, requirements of appointing legal representatives and other relevant information regarding HLP rights and civil documentation are clearly communicated to displaced and refugee populations.

- *Stipulate eligibility criteria for informal residents benefiting from regularization.*

  Displacement has disproportionately taken place in informal settlements, in certain cases resulting in other inter- or intra-city IDPs taking up residence in abandoned housing or structures in the affected informal areas both in good and bad faith. Without explicit eligibility requirements stipulating who is able to benefit from regularization and what documents they need to prove their eligibility, new unauthorized occupants may be able to obtain legal rights to another person's property. This is especially concerning as displaced informal tenure holders may have lost their proofs of ownership/tenure and other formal documentary evidences of their rights. Furthermore, stipulating eligibility requirements can better enable legitimate rightsholders to submit the appropriate documents and evidences needed to establish their rights in the informal zone. This can also provide greater transparency in the regularization decision-making process by mitigating arbitrary decisions on rights applicants and providing grounds for excluded rightsholders to appeal decisions they believe to be incorrect or unfair.

- *Extend the period to claim rights in the regularized zone.*

  The period to claim rights should be extended to a minimum of six (6) months to better enable displaced periods to participate, as they may need to obtain new documents, security clearances, and or powers of attorney. A rolling application intake over the course of one year with nominally increasing application fees could be another option of facilitating the inclusion of displaced persons in the regularization process while incentivizing expediency for applicants to avoid the fine. However, in the post-conflict context where the financial means of most are extremely limited, such fines should not be excessively high so that they inhibit participation.

- *Extend the period to appeal judicial HLP rights determinations.*

  The period given to appeal the rightsholder's list issued by the regularization committee should be extended from one (1) month to a minimum of six (6) month to ensure displaced tenure holders have the opportunity to appeal when needed. The period during which successful appellants can receive compensation from owners should be extended from two (2) to five (5) years. To expedite the appeals process (and compensate for the extended appeals deadline) a specialized quasi-judicial appeals committee could be established to hear appeals related to decisions made during the regularization process. The decisions of this committee could then be appealed at the Court of Appeals for successful appellants to receive compensation or other appropriate judicial remedy.

- *Reduce regularization fees.*

  The 10% regularization fee stipulated by Law 33 of 2008 may be excessively high in the post-conflict context where economic hardship and national inflation has prevailed. It is recommended that this regularization fee be lowered to 5%. If a 10% fee is absolutely necessary for the municipality to cover the costs of regularization, it is recommended that provisions be made to allow rightsholders to pay the 10% fee in small regular payments over an extended period of time, such as five to ten years.

The settlement of building violations under Law no. 40 of 2012 also provided an opportunity for administrative units to effectively legalize existing informal areas by settling building violations (construction offences or infringements of planning ordinances) which had been committed prior to May 2012. The law specifically states that building violations existing in informal housing areas are considered settled after being rehabilitated and having their property status rectified and entered into the organizational plan upon paying the prescribed fees.[63] This represents another opportunity to secure tenure rights in informal settlements.

Textbox 4: Settling Building Violations subject to Legislative Decree 40 (2012)

The following actions are necessary to settle building violations which are deemed amenable to settlement under Law no. 40 of 2012:

- Provide proof of the age of the building violation which pre-dates the enactment of the decree;
- Obtain a technical report approved by the Engineer's Syndicate attesting to the durability and structural integrity of the building
- Pay a fee equal to double the benefit that the violator gained (or is expected to derive) from the increase in the value of the property, land and/or building (or rectify the violation within 15 days of being given notice of the fee and submitting an objection to the fee with the payment of a 30% deposit for administration objection review).
- Pay a fine of 25,000-50,000 Syrian pounds depending on the nature of the violation and role of the violator.

Indeed, in the early years of the conflict the state was still considering policies of informal upgrading through domestic programmes which sought to curb the spread of informality and address the national housing strategy. In 2011, the Informal Settlements Upgrading and Rehabilitation National Programme (ISURNP) was initiated by the Ministry of Local Administration (in 2013 ISURNP along with

[63] *Legislative Decree no. 40 of 2012, Article 8.*

the housing and urban planning sectors became the mandate of the Ministry of Public Works and Housing). The first step of the program was a memorandum of understanding between MoLAE and the Regional Planning Commission (RPC) to establish the National Map of Informal Settlements (NMIS). Utilizing a comprehensive set of primary and secondary indicators, the National Map is anticipated to be an effectual tool for monitoring the development of informal housing in provincial capitals and prioritizing the necessary interventions and spending. However, the extent of progress towards the completion of this map to date remains unknown. It was reported that access constraints caused by the conflict created considerable difficulties in the development of the NMIS and that the information contained in the map are not considered to be of high quality at this time. In 2013, a Detailed Memorandum on the Treatment of the Informal Settlements prepared by MoPWH recommended the creation of a High Council of Housing with the responsibility of establishing a Housing National Strategy and a National Commission of Upgrading the Informal Settlements under the MoPWH umbrella with the mandate of establishing effective strategies for the informal settlements. The memorandum proposes a detailed executive programme for upgrading the existing informal settlements and underlines the necessity of a mid- and long-terms plans for avoiding the emergence of new informal settlements. Nevertheless, as the conflict carried on, urban renewal increasingly became the state's preferred policy towards informality.

7.2. Urban Renewal :

Also referred to as redevelopment, urban renewal is achieved through the clearance (i.e., demolition) and rebuilding of structures that are deteriorated, obsolete in themselves or are laid out in an unsatisfactory way.[64] In Syria, land readjustment is the tool typically applied to facilitate urban renewal in informal areas.

Policies of urban renewal in informal settlements were first introduced in Syria through Law no. 26 of 2000, which allowed for municipalities to choose to regularize informal settlements which had developed on peri-urban agricultural lands that had been designated for State-led urban expansion. The tool they were given to do this was land readjustment — land pooling and redistribution — as stipulated in Section II of Law no. 9 of 1974 on the partitioning, organization and construction of cities.

By this method the municipality could pool the individual properties in the informal area into one common property and redistribute parcels to rightsholders following development works while retaining the right to transfer some of the land for profitable uses (e.g., the construction of infrastructure and public spaces) and

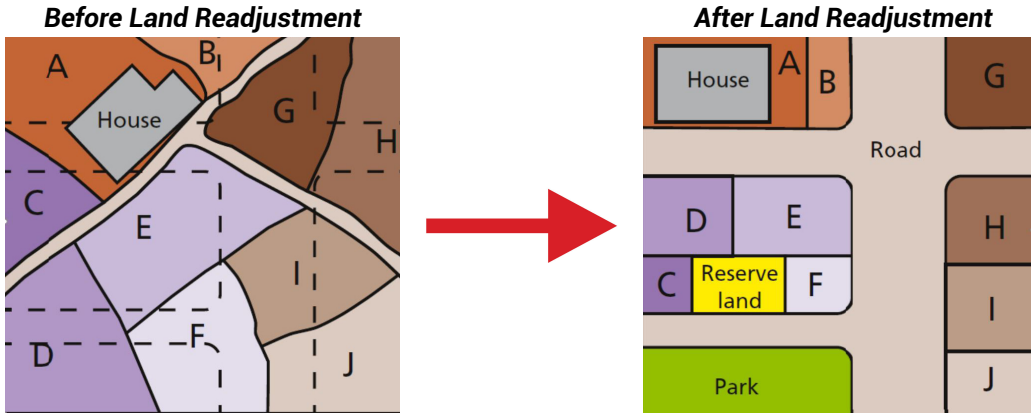
[64] *Britannica, The Editors of Encyclopedia. "Urban renewal." Encyclopedia Britannica, 25 May. 2017, https://www.britannica.com/topic/urban-renewal.*

Textbox 5: Land Readjustment

Land readjustment is an urban planning tool according to which private landholders voluntarily give up part of their properties in exchange for the better development of their lands in terms of plot lay-out, infrastructure and public services. This takes place through a process of land pooling, re-planning, infrastructure and public space servicing, and land reallocation.

As such, rightsholders give of their lands to receive a smaller though more valuable land parcel which could host multi-story buildings instead of single-story houses. Effectively, these landholders can have more living spaces, better living conditions and better economic enhancement prospects than before. Meanwhile, land acquired by the local government are used to implement public services (roads, pipelines and cable, public spaces, public building) and even construct residential building for low-income categories.

Land readjustment has also been an effective means of regularizing informal settlements characterized by inefficient, fragmented land use and limited basic infrastructure, public spaces, and utilities. However, successful land readjustment in informal areas must have strong community participation, accept a wide range tenure documentation, apply standardized and transparent valuation methods, be sufficiently self-financing, and share the benefits of land value capture amongst residents, the local authority, and any private sectors partners.



to recover the cost of its investments. The redistribution of land parcels is based on the value of the rightsholder's prior property and/or rights immediately prior to the issuance of the decree designating the area for redevelopment. However, Law 9 (1974) remains vague with respect to how properties are valuated, allowing for largely subjective decisions by a three-member the Committee of First Instance. The new redistribution of land rights is registered with the cadastral services.

Though land readjustment provided a new opportunity for dealing with peri-urban informality, almost all major Syrian cities neglected the opportunity to regularize in this manner. The only city to pursue this opportunity was Homs, which able to formally recognize nine areas in this through Law 26 by 2010 with the adoption of new zoning ordinances.[65]

Eight years after the issuance of Law 26, Law no. 59 of 2008 on building violations reinforced the

[65] *Omar Abdulaziz Hallaj et. all, "Urban Housing and the Question of Property Rights in Syria," October 2017.*

prerogative of administrative units to regularize mass contravention buildings via land readjustment by stipulating that the same section of Law 9 (1974), and its amendments, can be applied to settle building violations committed prior to the issuance of Law no. 1 of 2003 (on building violations).

Land readjustment wasn't the only tool applied to effect urban renewal in informal settlements. Also in 2008, the government issued Law no. 15 on real estate development which enabled the private sector to pursue urban renewal projects in informal areas via expropriation as a means of "address[ing] the problem of slum areas."[66] Practically, the law gave recourse for administrative units to expropriate urban land and property, in the manner stipulated in Legislative Decree 20 (1983), and transfer it to private real estate development companies who implement land development projects for a profitable public purpose.

When this public purpose was to renew informal areas, the administrative unit could expropriate the land where an informal settlement had developed (when the land was privately owned), evict and resettle its occupants, demolish the existing structures and rebuild the area to conform to local planning ordinances and construction regulations. Before evicting residents and tenure holders in the informal area, who would not be entitled to compensation unless they had legally registered or recognized rights to their land or housing, the real estate developer must secure the appropriate housing units for the residents of "the project area" (i.e., informal settlement) and deliver them to the administrative unit or pay cash compensation for the residents who choose compensation in lieu of alternative housing.[67] Only upon being given alternative housing or compensation can the municipality evacuate residents from the "project area." In sum, Law no. 15 of 2008 aimed to renew informal areas for legal and profitable urban development through a PPP real estate project which resettles pre-existing informal tenure holders in alternative housing units.

However, Law no. 15 of 2008 had no more success in effecting change in informal areas on the ground than earlier urban renewal legislation prescribing land readjustment. Though the private sector was expected to have the resources to be capable of resolving urban issues such as informality in ways that the public sector had not been able to up to that point, the rigid regulatory framework for land administration which remained from the pre-2000 era, along with a worldwide recession, hampered private sector efforts. Over 35 real estate companies were registered to shoulder projects under Law 15 (2008), some of which were even allocated public land for development works, yet none of them were able to build by 2011.[68]

Evidently, prior to the advent of the conflict a variety of approaches to regularizing informal settlements were being developed and tested: legalization and upgrading, public sector-led land readjustment, and PPP expropriative land redevelopment. While informal upgrading and urban renewal were being pursued by different national authorities simultaneously during this period, upgrading and public sector-led land readjustment was clearly viewed as a priority. Funding for informal upgrading projects was even incorporated into the eleventh five-year development plan (2011-2015) with 10.5 billion Syrian Pounds (approximately 225 million USD) anticipated to be used to upgrade 20% of the informal areas in the country.[69]

In the first year of the conflict, upgrading was further promoted as the preferred policy to address informality in response to the growing social unrest which had become especially strong in informal areas. Upgrading and legalizing informal areas best secure the tenure and housing rights of informal settlement occupants, posing little risk of eviction and/or resettlement. Urban renewal projects, especially those involving expropriation and the private sector, represented the greatest threats to the individual and collective tenure rights of informal housing communities. Accordingly, policies of informal upgrading and toleration of new informal development were advanced as appeasement measures due to their greater sensitivity to pre-existing tenure rights.[70]

[66] *Law no. 15 of 2008, Article 3(C).*
[67] *Law no. 15 of 2008, Article 20(G).*
[68] *Omar Abdulaziz Hallaj et. all, "Urban Housing and the Question of Property Rights in Syria," October 2017.*
[69] *Unpublished report by Omar A. Hallaj on the HLP-Land Nexus in Syria.*
[70] *Valérie Clerc. "Informal settlements in the Syrian conflict: urban planning as a weapon." 2014.*

However, from when uprising gave way to armed conflict in 2012, urban renewal quickly became the prevailing approach to informality as many settlements in urban and peri-urban areas became the front lines of hostilities. These informal areas were severely damaged, if not entirely razed, during conflict, leaving redevelopment as the inevitable policy choice for the Government of Syria to pursue. The government did not wait for a post-conflict national reconstruction framework, however, but immediately tested out a new method of urban renewal in Damascus under Legislative Decree no. 66 of 2012.

Effectively, Legislative Decree no. 66 of 2012 introduced an urban renewal methodology that adopted land readjustment as its primary implementation tool, as had been proposed in early urban renewal legislation (Law 26/2000 and Law 59/2008), but also integrated public-private-partnerships to facilitate (and finance) its implementation, as had been proposed in Law 15/2008 by the supervision of General Commission of Development and Real estate Investment (GCDRI), many informal areas were announced since 2010 as real estate development zones by GCDRI.[71] Like the informal neighbourhoods of Tal Al-zarazir and Haydaryya in Aleppo and Wadi Aljouz in Hama to be developed in a partnership with private developers who are committed to providing the required funding to implement the project.

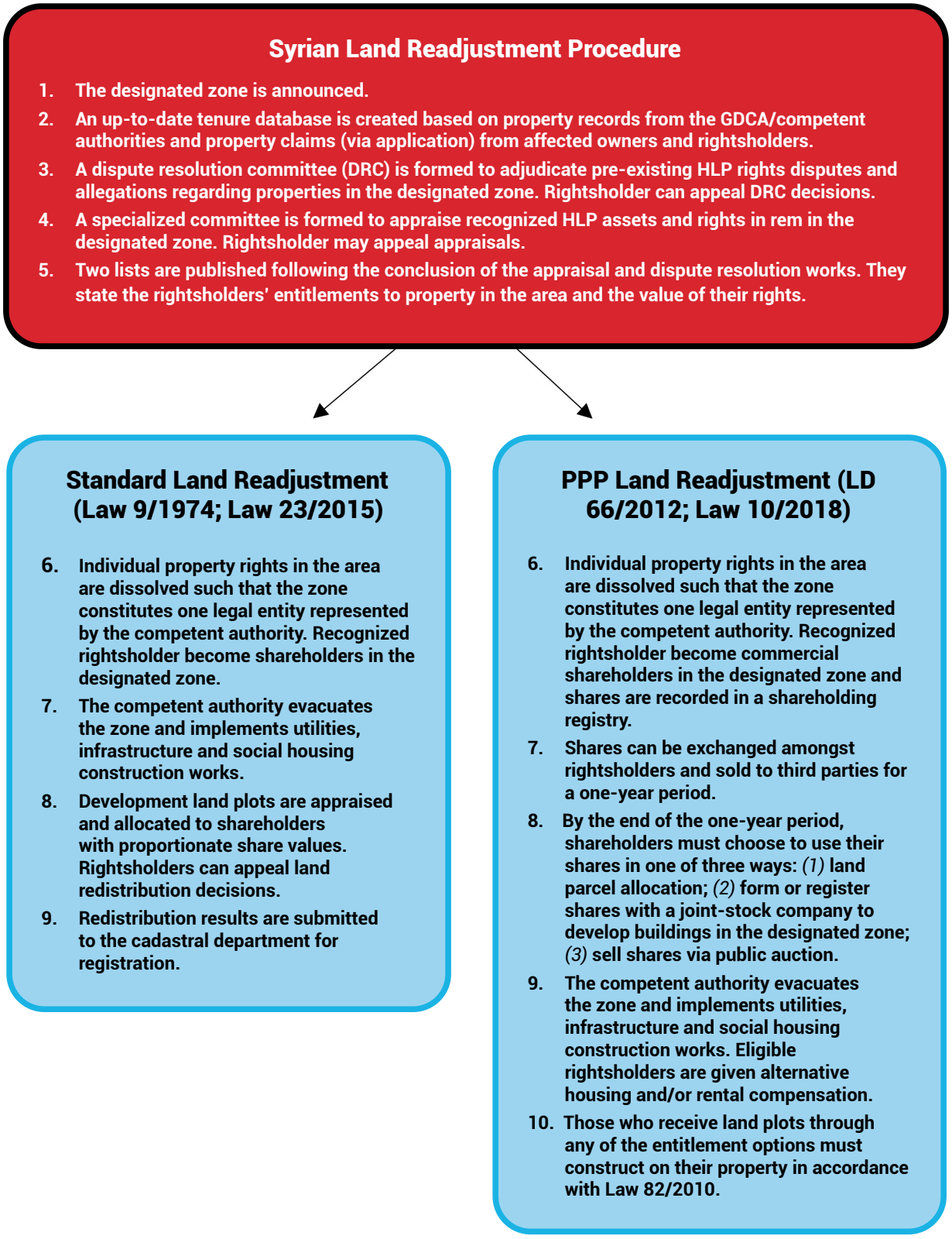
Legislative Decree 66 piloted this method of PPP land readjustment in two peri-urban informal settlements of Damascus — Kafar Souseh and Darya suburbs — before Law no. 10 of 2018 (and its amendment) was issued expand the application of this approach to urban renewal to all Syrian cities.

These laws (66/2012 and 10/2018) maintain many of the fundamental steps for land readjustment existing in earlier land readjustment legislation, however, they prescribed a new redistribution process which allows rightsholders' properties to be converted into exchangeable shares that can be sold at public auction and/or used to establish real-estate development firms. In contrast, under standard land readjustment procedure as given in Law 9 of 1974 (and its successor, Law 23/2015) shares can only be used for land reallocation. The latter approach secured recognized residents' "right to return" to the readjusted zone once demolition, reorganization and construction works were completed, while the approach introduced by Legislative Decree 66 and Law 10 substantially weakened the tenure security of residents, especially informal housing residents, in the designated zone.

The reason for this is that while Legislative Decree 66 and Law 10 offer land parcel allocation as one of the three ways shareholders can choose to use their shares, few shareholders residing in informal areas can receive shares valuable enough to be allocated an entire land parcel in the redeveloped area (especially since the land parcel will have accrued value through the redevelopment process, and this value increase is not captured in the share valuations of affected rightsholders). The other options introduced by Legislative Decree 66 and Law 10 — to form or register shares with a joint stock company to build, sell and invest in the zone — is primarily intended to allow the Administrative Unit to establish PPP holding companies to invest in the development zone, not to encourage communities to form their own holding companies. As such the remaining option to sell shares at public auction is anticipated to be the default choice of shareholders, especially as economic hardship has put many Syrians in a situation where liquidity is preferable to real property as a financial asset. In sum, the ability for affected persons, particularly the poor residing in informal areas, to exercise shares by options 1 and 2 (land allocation and form a joint stock holding company) is practically very limited, resulting in most residents in informal areas choosing to sell their shares and relocate.

[71] *http://www.gcdri.gov.sy/Abouts/Ar*

Figure 3: Procedural differences between regular and PPP land readjustment in Syrian law



Furthermore, while informal tenure holders who have legal rights to their land are eligible to receive shares in the designated zone, occupants of informal buildings are only entitled to 2-year rental compensation while squatters are only entitled to take the debris of their construction. In informal settlements on peri-urban agricultural lands, residents and rightsholders who obtained a registered ownership shares to the plot they occupy would be eligible to receive commercial shares in the designated zone under Legislative Decree 66 (2012) and Law 10 (2018). However, as already explained, the value of this share is highly unlikely to allow for the allocation of a land parcel in the redeveloped zone. Thus, a majority of these informal rightsholders would need to sell their shares and resettle elsewhere.

It should be emphasized that standard land readjustment which guarantees affected residents of the right to return through land redistribution is an internationally recognized best practice for informal regularization, since it promotes integrated urban planning and development and strengthens the tenure rights of informal tenure holders.[72] This approach could be advanced through Law no. 23 of 2015 on urban planning, which replaced Law no. 9 of 1974.

Law 23 (2015) makes explicit provisions allowing for the regularization of informal areas — specifically for illegally subdivided peri-urban informal settlements where occupants own shares of an agricultural land parcel — by rezoning designated areas through a process of land readjustment.[73] This process follows the same land readjustment procedure used in formal neighbourhoods; however, it allows for rightsholders in the designated informal areas to acquire building permits during the readjustment process "according to the division plans," that is the readjusted urban plans and reformed building code . These building permits are issued to property owners in the designated informal area such that the shares owned by the building permit applicant are equal to the surface area of their land plot (and building(s) thereon) necessitating the permit.[74] Effectively rightsholders are given building permits which cover the proportion of the agricultural land parcel they occupy.

This also can apply to scenarios where these shares take the physical form of apartment unit in a building constructed on a peri-urban agricultural land parcel. Law 23 states that if the informal area contains buildings which the municipality decides to preserve through the zoning process, the owner's total shares will also reflect the surface area of the building(s) preserved. If the total of shares issued to the owner is not equal to the surface area of their plot and/or building, then the owner is entitled to compensation for the difference, or, conversely, (s)he is required to compensate the municipality for the difference if given more shares than the surface area of the same.[75] Additionally, a financial guarantee determined by the administrative unit is collected from the shareholder to cover the expenses and costs of utilities servicing the area.

Although land readjustment requires the demolition and reconstruction of informal settlements, which is generally not preferred if the area can safely be upgraded and legalized without the temporary relocations of residents needed for land readjustment, in the present context where many informal housing areas have already been severely damaged due to the conflict, regularization via land readjustment may be the most appropriate recourse. Land readjustment as given in Law 23/2015 can develop devastated informal areas where informal tenure holders can benefit from greater tenure security and enjoy a better planned neighbourhood, with improved public services, infrastructure and public spaces. However, it is recommended that this process of land readjustment in informal areas be further elaborated to increase the transparency of the procedure and ensure that best practices, such as community consultation and public participation, are included.

The application of land readjustment to regularize damaged informal areas in Syria should integrate the following components:

- *Improve provisions for public notice and community consultation.*

[72] *Though when such land readjustment is done without the sufficient safeguards, it can result in gentrification that displaces the original community.*
[73] *Law no. 23 of 2015, Article 3.*
[74] *Law no. 23 of 2015, Article 16(a).*
[75] *Law no. 23 of 2015, Article 16(b).*

Public participation, which has historically been a weakness in Syrian urban planning policy and practice, will be critical to ensuring that displaced informal tenure holders do indeed benefit from such interventions and can incentivize their return. Affected residents and rightsholders in the designated zone can be better informed of the land readjustment process by including more information in the decree establishing the designated area including dates of key steps and deadlines, and details on where to obtain more information or challenge the land readjustment by appeal. Additionally, the practice of sending personal notice to affected landowners and holders of rights in rem in the designated area, can further bolster public awareness and participation in the land readjustment project amongst affected rightsholders. Furthermore, affected rightsholders, including both landowners, shareholders and holders of rights in rem to land, should be consulted early in the planning of the land readjustment process to inform rightsholders of the proposed land readjustment and its anticipated impact their tenure status and land holding, as well as to obtain the feedback and concerns of affected rightsholders which should inform future decision making.

- *Ensure mechanisms for dispute resolution have adequate support.*

  Fair and efficient dispute resolution structures will need to be available to handle HLP rights disputes which may arise between different claimants, including secondary occupants and displaced rightsholders. The Dispute Resolution Committee, as the designated entity responsible for HLP disputes, may need additional resources, both human and financial, to adjudicate disputes in a timely manner.

- *Provide financial compensation for building demolitions or allocations of social housing.*

  Informal housing which is not preserved by the administrative unit through the readjustment process will result in informal rightsholders being allocated plots of land without structures on them. Unless they are given just compensation for the value of their prior housing, rightsholders in informal areas will lack the financial means to construct their own housing (especially in the current economic conditions). As such, rightsholders should be financially compensated for the value of their constructions when they are demolished during land readjustment works. Otherwise, subsidized housing may need to be constructed by the administrative unit for these rightsholders.

- *Accept the broad range of tenure documents and evidences allowed for under Law 23 (2015).*

  To determine rightsholders in the designated zone, the administrative unit acquires copies of property records from the GDCA permanent registry, the municipal temporary registry and from "the public authorities authorized by their founding statute to keep property records."[76] In addition, Law 23 (2015) states that "owners and those involved in property rights in the area" can declare their rights by submitting an application "where they indicate their elected domicile within the scope of the administrative authority of the area, together with the documents and papers proving such rights, or copies thereof."[77] Documents which have been used as proofs of ownership or other rights in informal settlements, such as court records and notarized Power of Attorney documents, would constitute proofs of rights as described above. The law further allows for persons without proofs of ownership to "indicate in their application the sites, borders, shares and legal and juridical type of their alleged property or rights."[78] These provisions demonstrate a good practice of recognizing the various tenure types and means of documenting rights which have been prevalent in peri-urban informal areas.

- *Extend procedural deadlines for rightsholders.*

[76] *Law no. 23 of 2015, Article 19.*
[77] *Law no. 23 of 2015, Article 18.*
[78] *Ibid.*

Syria land readjustment law provides rightsholderswith the opportunity to appeal HLP rights valuations and land redistribution decisions to governorate civil court of appeals within 30 days of the announcement of the relevant decision the rightsholder seeks to challenge. When land readjustment is implemented in conflict and post-conflict contexts characterized by displacement, the deadlines for appeals of valuation decisions should be extended to three (3) months and deadlines for appeals of redistribution decisions should be extended to six (6) months to better include displaced rightsholders and safeguard their due process rights. International best practice also indicates that providing quasi-judicial bodies to hear appeals of decisions before the case proceeds to the civil courts can be an effective means of reducing costs and mitigating barriers to entry that rightsholders face when appealing land readjustment decisions.

- *Ensure valuation methodologies are standardized and transparent and consider share allocations based on land area rather than land value.*

Valuation poses a challenge to successful regularization via land readjustment in Syrian informal areas in two respects: (1) the conflict has disrupted land, housing and property markets which would result in alarmingly low appraisal estimates; (2) the land market in informal areas has been largely unregulated and influenced by systems of corruption resulting in inadequate market data. These two challenges compound historic issues with valuation in Syria where outdated valuation frameworks and the absence of an established, certified valuation profession have enabled subjectivity in HLP appraisals. The valuation framework proposed in Law 23 (2015) incorporates the use of specific market-like criteria to estimate property values, including the following:

1. The capacity of the administrative unit "city-town- municipality"
2. The location of the land, with the buildings and constructions that it contains within the urban development plan
3. The proximity to the centre of the administrative authority
4. The connection to urban areas
5. The availability of public utilities;
6. The zoning status and building regulations,
7. The trees, crops and other items on the property.[79]

While these criteria may be sufficient to produced accurate appraisals in formal areas, properties in peri-urban informal areas may be under-valued since these areas are typically on the fringes of cities and at times not included in the extant urban development plan (Criteria 1 and 2), may have more limited transportation infrastructure and public utilities (Criteria 4 and 5), and exist in violation of their zoning status and/or building code regulations (Criterion 6). If valuations appraise informal properties under this framework as they were prior to the decree to zone and regularize them, then it is unlikely that the value of the shares informal property owners will receive will be sufficient to allocate them adequate land or housing parcels in the redeveloped area. To better secure the tenure of informal residents and rightsholders through this regularization process, it is recommended that valuation approaches include a percentage of the value increased expected from regularization and redevelopment.

Otherwise, a valuation process based exclusively on land area, by which landowners receive a portion of their land (reduced proportionately by the percentage of land area the local authority acquired to provide infrastructure and public spaces) but at a higher value. Effectively, the redistribution of land parcels is based on the surface area of their original land holding, rather than on its appraised value. This may provide a more standardized method of conducting land readjustment in informal areas where numerous challenges to objection valuations exist. This would also better secure the tenure rights of original informal settlement residents, as they are assured to be reallocated a land parcel that ais reduced in size by no more than 50%.[80]

[80] *According to Article 4 of Law 23, the percentage of land the local authority can acquire at no cost can rise up to 50% in governorate capitals, and up to 40% in cities which are not governorate capitals.*

08 Conclusions, Key Findings And Recommendations

- Longstanding inequities concerning access to housing and the protection of HLP rights contributed to the conflict, and indeed continued to be reinforced through policies adopted during the conflict. Accordingly, these injustices need to be prevented in Syria's post-conflict reconstruction. Specifically, reconstruction and redevelopment projects in informal areas that ignore unregistered legitimate tenure rights or involve massive expropriation with or without adequate compensation need to be reformed or replaced entirely.

- Proposed urban renewal projects which demolish informal areas to develop the land through (PPP) real estate projects provide little recognition to former inhabitants of informal areas who have been displaced during the conflict. Moreover, renewal conducted under these instruments will either require the permanent eviction of informal tenure holders (in the case where the rightsholder lacks registered property rights) or incentivize the indefinite relocation of informal tenure holders (since tenure holders will likely be unable to afford plot allocation with their allocated shares).

- Advocacy with local authorities, specifically the municipal local council, to recognize all legitimate informal HLP claims, in general and especially during reconstruction works, should be a priority. This could be promoted either through upgrading regularization law like Law 33 (2008) or land readjustment law like Law 9 (1974) or Law 23 (2015), in order to remove common property ownership and to regularize informal settlements by integrating them into the general development plan and recording the new rights and property divisions in the land registry. However, since the laws lack many of the tools (with respect to data collection and implementation safeguards) necessary to be implemented in the post-conflict context, utilizing the Social Tenure Domain Model (STDM) mechanism will be essential to support the implementation of those laws.

- Legal mechanisms for recognizing and reconstituting tenure rights registered with public authorities outside the GDCA should be established to facilitate inclusive rights claiming procedures in land pooling and readjustment initiatives. A legal instrument(s) similar to Law no. 33 of 2017, which establishes a procedure to reconstitute lost, damaged or destroyed cadastral (GDCA) records, should be created to provide opportunities to reconstitute property documents kept by the municipal temporary registries and any other specialized registry (e.g., housing cooperatives registries).

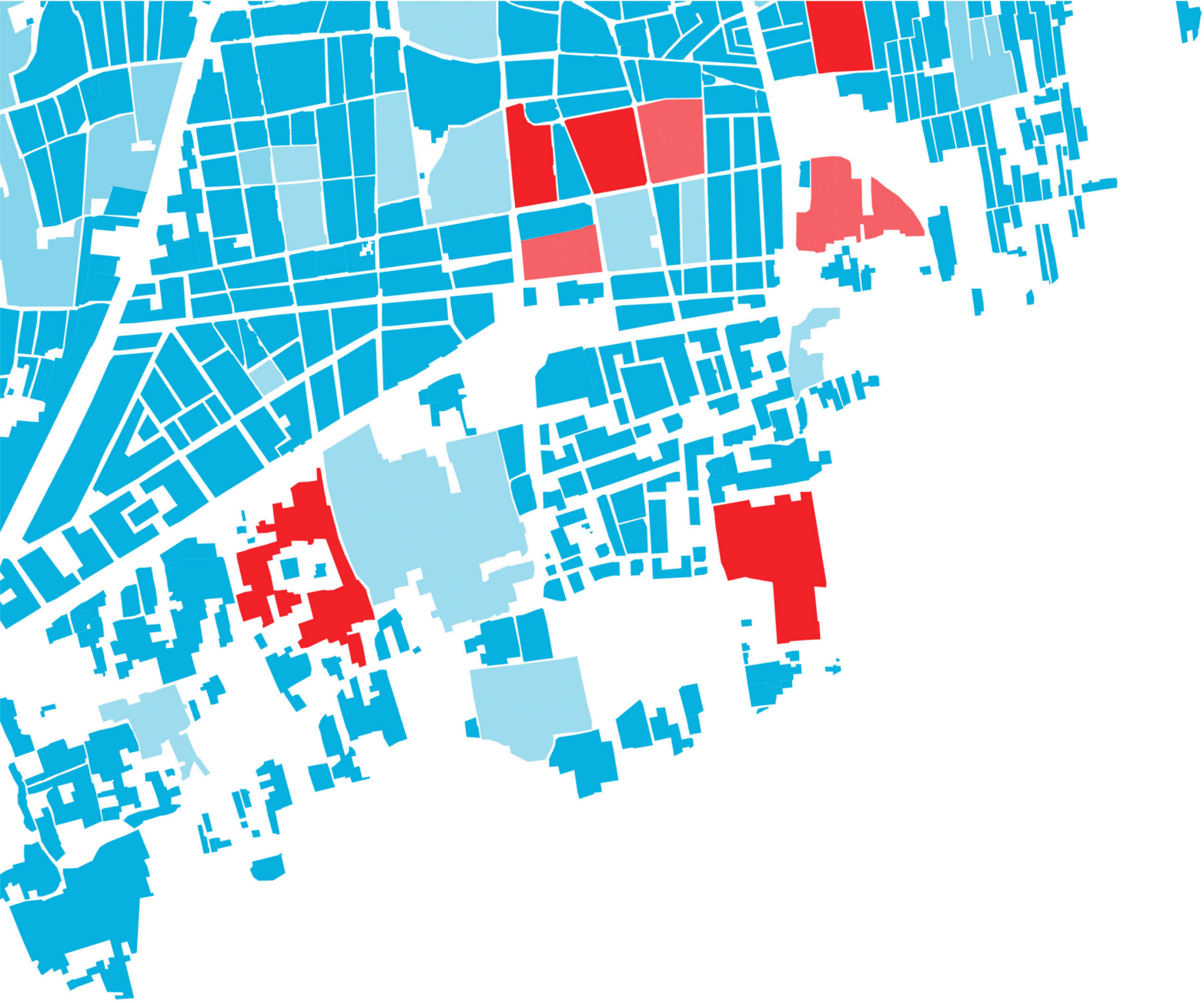
- In the context of property restitution, it will be necessary to establish and publicize standards, rules and regulations on restitution respecting informal land tenure systems and legal pluralism. This would uphold Principle 10 of the Pinheiro Principles, which guarantees all refugees and displaced persons the right to return not just to their legal residence but to their "former home, lands or places of habitual residence" (emphasis added).

- The Government is advised to undertake awareness-raising campaigns during the implementation of any regularization procedure, including Law 33 of 2008 and any of the land readjustment laws, to ensure that the procedures for claiming and protecting property rights, the applications related to property rights of the estates in the informal area and other relevant information regarding HLP rights and civil documentation are clearly communicated to displaced and refugee populations.

- HLP actors inside Syria are encouraged to support the implementation of the Law 33 of 2008, which provides a mechanism for land regularization in informal settlement and requires significant capacity in terms of funding, logistics and skilled human resources if it is to be implemented efficiently. However, implementation of Law 33 must be conducted with great care and due diligence as the regularization process affects several core human rights including the right to an adequate standard of living. In

the context of conflict, issues such as mass destruction of housing, displacement, family separation, missing people, loss of civil and HLP documents and others must be considered when such laws are stipulated and implemented.

- HLP actors inside and outside Syria should address the concerns expressed in this paper on the HLP rights in the informal settlements through advocacy and awareness-raising, namely: extending periods of public announcement/notification, rights claiming and appeals; incorporating community consultation in the early stages of the procedure and communicating with displaced rights holders. Awareness raising activities should target areas where refugees and displaced persons are currently residing (camps and neighborhoods) so that they can prepare in advance (e.g., by locating, collecting, or replacing their civil and HLP evidentiary documents) and actively participate in the procedure (e.g., submitting rights claim applications).



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