



HOUSING, LAND
AND PROPERTY

Displacement, housing land and property and access to civil documentation in the south of the Syrian Arab Republic

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NORWEGIAN
REFUGEE COUNCIL

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ACRONYMS

CCCM	Camp Coordination and Camp Management
CRC	Convention on the Rights of the Child
FGD	Focus group discussion
HLP	Housing, land and property
HNO	Humanitarian Needs Overview
ICCPR	International Covenant on Civil and Political Rights
ICLA	Information Counselling and Legal Assistance
IDP	Internally displaced person
KII	Key informant interview
NGCA	Non-Government-controlled area
NRC	Norwegian Refugee Council
PNO	Protection needs overview
SOP	Standard Operating Procedure
UNHCR	United Nations High Commissioner for Refugees
WASH	Water, sanitation and hygiene

EXECUTIVE SUMMARY

Housing, land and property rights and civil documentation are critical needs of internally displaced people in southern Syria.

This research demonstrates that housing, land and property rights and civil documentation concerns are widespread among IDPs in southern Syria and a foundational concern for the entire humanitarian response. The findings further provide a bleak outlook for early recovery and development efforts given the scale and degree of destruction reported.

Weak protection of property left behind

- Almost 50% of respondents reported that their residence prior to displacement was either destroyed or damaged beyond repair.
- Only 9% of surveyed households report that they still have their property deed with them and in good condition.

Unsure tenancy situation

- Only 5% have written tenancy or rental agreements for their current accommodation and only 13% felt sure that their current tenancy arrangement would continue for more than another three months.
- Almost 25% of households cited forced eviction as a main reason for their re-displacement.

Disputes over informal arrangements are common

- Informal rental and hosting arrangements were reported as the most common cause of HLP-related disputes.
- IDPs commonly turn to diverse alternative dispute resolution mechanisms before seeking judicial interventions.

Limited civil documentation compounds vulnerability

- Only 7% of respondents reported to have access to any new, government-issued civil documentation.
- Women were particularly vulnerable, lacking alternative identification documents: only around one in fifty women reported possession of a passport, compared to more than one in five men. Women were also less likely than men to have a marriage certificate.
- Lack of civil documentation was reported as a hindrance to accessing humanitarian aid.

Births go undocumented

- One quarter of children under five had no formal record of their birth: not in a family booklet, on a birth certificate, or even on a birth notification document.
- Youths who turned 14 during the conflict – the age at which they would normally apply for a national ID card – were found to be at particular risk of having no documentation.

KEY RECOMMENDATIONS

1. Humanitarian agencies should ensure that a lack of civil documentation does not prevent access to humanitarian aid. More information should be sought on current practices relating to the reported requirement of identification papers by humanitarian agencies.
2. Humanitarian agencies should strengthen activities that promote tenure security for IDPs and protection against forced evictions. Key messaging to those at risk of displacement should reiterate the importance of safeguarding documentation.
3. Programmes aimed at providing information and assistance on safeguarding, updating or replacing documents should pay particular attention to women's disproportionate lack of civil and HLP-related documentation.
4. Protection and education actors should consider paying particular attention to the access to education for students without national ID cards, since proof of identification is a prerequisite for the completion of school grades 9 and 12.
5. Health and protection actors should consider the value of birth notifications, which can be issued by medical staff. These do not change the importance of birth certification, but they may support later applications for birth certificates and/or the registration of children in family booklets.



What are housing, land, and property rights?

Housing, land and property rights are about having a home free from the fear of forced eviction and a place that offers shelter, safety and the ability to secure a livelihood. HLP rights are referenced and defined in several international human rights instruments,¹ as well as in national law in Syria, for instance, in the Constitution of the Syrian Arab Republic.² Organisations providing protection and assistance to persons affected by conflict should respect the human rights, including HLP rights, of affected persons at all times, and advocate for their promotion and protection to the fullest extent. The concept of HLP includes the full spectrum of rights to housing, land and property held according to statutory or customary law or informally, both public and private housing, land and/or property assets.³

HLP rights include:

- the right to adequate housing
- the right of access to natural resources, such as land and water
- the right to security of tenure and protection against forced eviction
- the right to non-discrimination in accessing HLP rights, which often entails
- special protection for the most vulnerable and marginalized persons

The on-going conflict in the Syrian Arab Republic (Syria) has resulted in severe housing damage both in urban and rural areas. Multiple displacements, the destruction of housing and infrastructure, and lack of livelihoods and income-generating activities have forced both internally displaced persons and host populations to reside in over-crowded and sub-standard shelter conditions exposing them to significant protection risks.

The 2017 Syria HNO identified HLP rights as a protection issue in 93 per cent of surveyed sub-districts, including all 21 sub-districts in Dar'a and

1 For example, Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified by the Syrian Arab Republic in 1969, recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing”. The General Comments of the ICESCR are also binding upon the Syrian Arab Republic, including General Comment 4 on “The Right to Adequate Housing (Art. 11 (1) of the Covenant)” and General Comment 7 on “The right to adequate housing (Art.11.1): forced evictions”. A further example is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ratified by the Syrian Arab Republic in March 2003, which explicitly protects rural women from discrimination with respect to matters relating to HLP in Article 14 (2) (h) of CEDAW. The Guiding Principles on Internal Displacement also specifically address HLP issues, for example, the right to an adequate standard of living (Principle 18), protection from pillage and arbitrary deprivation of property (Principle 21), and responsibilities relating to the recovery of property (Principle 29).

2 See, for example, Article 15 of the 2012 Constitution of the Syrian Arab Republic which states: “Collective and individual private ownership shall be protected in accordance with the following basis: 1. General confiscation of funds shall be prohibited; 2. Private ownership shall not be removed except in the public interest by a decree and against fair compensation according to the law; 3. Confiscation of private property shall not be imposed without a final court ruling; 4. Private property may be confiscated for necessities of war and disasters by a law and against fair compensation; 5. Compensation shall be equivalent to the real value of the property.” Available at https://www.constituteproject.org/constitution/Syria_2012.pdf. Last accessed on 24 April 2017.

3 More information on the scope of HLP can be sourced from the HLP Area of Responsibility of the Global Protection Cluster, <http://www.globalprotectioncluster.org/en/areas-of-responsibility/housing-land-and-property/hlp-area-of-responsibility.html> and from Norwegian Refugee Council (2011) Housing, Land and Property, Training Manual.

Quneitra. Concerns regarding damage to land/property, and looting of private property were reported in all 21 sub-districts, while other widely reported issues included unlawful occupancy of property, unaffordability or unavailability of housing, or restrictions on access to property.⁴ Other HLP challenges include illegal and undocumented HLP transactions; HLP disputes; limited access to land for livelihoods; contamination of land by explosive hazards; and lack of civil and HLP documentation (the former being a prerequisite to obtaining HLP documentation). Displaced women face particular barriers to accessing their rights: they are less likely than men to have property documents in their name, less likely to be decision-makers in their household, and they are often expected to inherit less than would their male counterparts.⁵

Civil documentation is not only prerequisite to obtaining HLP documents and necessary for the recognition, exercise and full realization of HLP rights, it is also a cross-cutting enabler for other rights, including the right to education, adequate healthcare and freedom of movement. HNO data shows that 81 per cent of surveyed sub-districts nationwide reported lack or loss of civil documentation as an issue, including all 21 sub-districts in Dar'a and Quneitra. The most frequently reported reasons for lacking documentation in the south included loss, confiscation or never having obtained it; these reasons were reported in at least 19 out of the 21 sub-districts. That documentation services were unaffordable or unavailable was also cited as a reason for the lack of civil documentation in more than half of the sub-districts in Dar'a and Quneitra governorates.⁶

The risky or insurmountable challenges of acquiring, replacing or renewing expired civil documentation in Syria require attention, as do associated challenges for protecting HLP rights. There is a need for forward-thinking programming and policy change, particularly for those displaced by the current conflict. Such change should consider the particular barriers that displaced communities face and give enhanced focus to the protection of HLP rights as a cornerstone of multiple humanitarian sectors, such as shelter, CCCM, food security and livelihoods, and WASH, as well as an important catalyst to bridge to early recovery and development. Failure to consider HLP rights in the humanitarian response could compound existing inequalities and discriminatory patterns and could ultimately hinder the finding of durable solutions for IDP or refugee returns.

Noting the pervasive nature of HLP and civil documentation concerns presented in the Protection Needs Overview, the United Nations High Commissioner for Refugees (UNHCR) and the Norwegian Refugee Council (NRC) undertook an assessment to improve understanding of the HLP and civil documentation environment in non-government-controlled areas (NGCA) of Dar'a and Quneitra governorates. UNHCR and NRC undertook a similar study in northwest Syria, also in late 2016, coordinated through the Turkey Hub of the Whole of Syria coordination mechanism. This report presents the key findings from the research in the south.

4 2017 Humanitarian Needs Overview, p. 32. <http://hno-syria.org/data/reports/en/flip/index.html> and 2017 Protection Needs Overview p. 17. http://hno-syria.org/data/reports/2017_Syria_Protection.pdf p. 102 and p. 180.

5 "Housing, Land and Property (HLP) in the Syrian Arab Republic", Norwegian Refugee Council (NRC), Briefing note. May 2016. p.9 - 14.

6 2017 Protection Needs Overview p. 17. http://hno-syria.org/data/reports/2017_Syria_Protection.pdf p. 103 and p. 181.

METHODOLOGY AND VALIDITY

This assessment is based on qualitative and quantitative data. The research team surveyed 734 IDP households, covering all five districts of Dar'a and Quneitra. Despite some limits to access, the local humanitarian partner organisation who undertook the field work reached households in NGCAs in all but four sub-districts. The household survey data was complemented by 15 focus group discussions and 21 key informant interviews targeting local de facto authorities in NGCAs and decision-makers involved in housing, land and property rights as well civil documentation. One of the key informant interviews and three of the focus group discussions were held with Syrians in Jordan including some with technical expertise, complementing the 20 interviews and 12 discussions that were spread across 11 of the surveyed sub-districts of southern Syria. In Jordan, the focus groups were as follows: a group of women, a group of lawyers, and a group of men with knowledge of property registration.

Through surveys with 734 households, comprising 467 male respondents and 267 female respondents, the research team compiled a family member dataset of 4,047 persons. While the majority of data is at household level, the latter dataset reflects details for individual family members, for example, their possession or lack of valid identity documents. All male household survey respondents were heads of household, while only 8 per cent of female respondents were. The majority of female respondents were the highest status female in their household; they were surveyed in place of the head of household in order to ensure that female respondents were represented in the dataset.

The proportional selection of households in each sub-district was informed by IDP population data from the 2017 HNO. Given the focus on HLP, the location of IDP accommodation within the sub-district was used as a basic sample frame to ensure inclusion of a variety of locations, communities, shelters and tenure types. The research team liaised with local leaders to inform the sampling, while methods such as randomised door knocking were also used to mitigate local biases. Sampling was limited by security and access considerations: it was not possible to reach all sub-districts, nor to reach all parts of the 17 sub-districts that were surveyed. As such, one limitation to the dataset is that it does not represent all IDPs across Dar'a and Quneitra; instead, it only accurately represents IDPs in accessible parts, and it may over-represent those who are known to local leaders and, for example, those who are therefore included in locally compiled beneficiary lists.



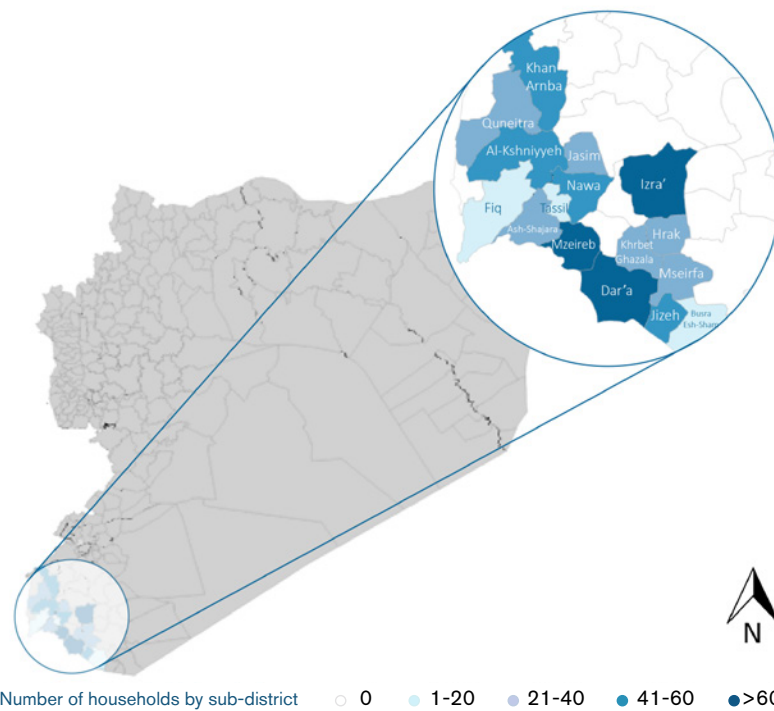


Figure 1: Household survey (n=734): Number of households by sub-district

KEY FINDINGS

This report identifies key HLP rights and civil documentation issues for internally displaced Syrians currently residing in Dar'a and Quneitra governorates. The research gathered information on the current situation of IDPs in displacement and, for example, the circumstances of their displacement and the reported status now of what was their primary residence prior to displacement from their place of origin.

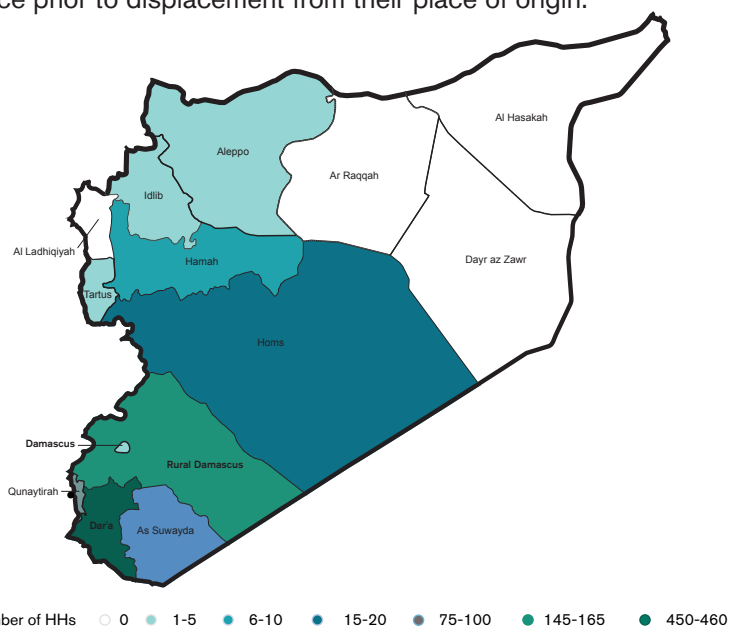


Figure 2: Household survey (n=734): Number of households by governorate of origin

Housing, land and property at place of origin

Overview of the Syrian HLP legal framework

The system and practice of land administration put in place during the Ottoman Period heavily influenced Syria's current land tenure systems. Examples include the use of the tabou⁷ to represent ownership rights over land and property; the use of witness testimony where documents were lost; and the role of Shari'a Courts to effect the transfer of property rights.

Significant law reforms were put in place after World War II, responding to demands for more equitable access to land. These policies established maximum amounts of land that could be held by individual families, with the aim of giving access to land to peasants, and ensuring that farmers obtained fairer shares of production in the case of sharecropping.⁸

The Syrian Civil Code of 1949 has played an important role in the development of the current land tenure system. The Code divides land into five categories:

1. mulk – Land “susceptible to full ownership lying within the perimeter of administratively determined built-up areas;”⁹
2. amirié (or miri) – Land owned by the State;
3. métrouké murfaka – Land owned by the State but subject to a right of use in favour of a collectivity of people, usually governed by local customs or administrative regulations;
4. métrouké mehmi – Land that belongs to the State at the governorate or municipality level, and which is part of the public domain;
5. khalié mubah – Amirie land that has not been inventoried and delimited, and on which the first occupant with the State's permission acquires a right of preference.

These categories still apply today; however, substantial overlap of different types of tenure coexists. Although officially abolished in 1958, customary laws, institutions and practice were very strong and influential before the crisis. Customary law is fused with Islamic law in Syria as it is throughout the Muslim world. Before the crisis, customary institutions had authority over rangeland management and benefited from implicit recognition by the State; accordingly, HLP dispute management and resolution was also a key function they performed.¹⁰

Sixty-nine per cent of respondents reported owning their primary residence at their place of origin, of whom 89 per cent reported that before displacement they were in possession of written documentation such as a tabou, a court decision or a contract of sale. The practice of renting was

⁷ Tabou is a technical term for a title deed in Syria. However, focus group discussions revealed that the same word is commonly used to refer to a range of less binding documents that might contribute to legal proof of property ownership.

⁸ Maximum Limit of Individually Owned Landholdings under Agrarian Reform Laws or Decrees of 1958, 1963, and 1980 (i.e. Law No. 161 of 27 September 1958; Legislative Decree No. 88 of 23 June 1963, With the Changes Made in Legislative Decree No. 31 of 14 May 1980 in parentheses) and Agricultural Relations Law (Law No.134) of 1958.

⁹ Syrian Civil Code, Art. 86(2).

¹⁰ Norwegian Refugee Council, 2016, op. cit., p.7 – 8.

not prevalent. In addition to the 69 per cent owning their residence, a further 24 per cent of households were residing with family members (i.e. not paying rent or mortgage). This appears to be in line with official figures from the Syria 2004 Population and Housing Census which reported 9 per cent of houses being rented in Dar'a and just 4 per cent in Quneitra.¹¹

Despite reportedly high levels of documented ownership prior to the conflict, the data suggests that housing, land, and property rights may become a significant challenge for the realisation of durable solutions, including return, and may create the conditions for HLP-related disputes in the post-conflict period. Notably:

- Almost half of respondents reported that their residence prior to displacement was either destroyed or damaged beyond repair.
- Despite the high rate of the population with property documents prior to the conflict, two thirds of respondents with previous documentation reported that it had been left behind, or had been destroyed or lost (see Figure 3). Only 63 of the 734 surveyed households reported that they have a tabou as proof of ownership for their land or residence and that it is still with them, and in good condition. The resultant lack of documented ownership increases the risk of insecure property rights and highlights the importance of key messaging to IDP communities and other communities at risk of displacement on the importance of recovering, retaining and protecting their HLP documentation wherever possible.
- Roughly half the respondents who reported ownership stated that the tabou was issued in their name alone, while the other half reported that the document was issued in someone else's name (most often a male family member). Women were much less likely to report holding a property document in their own name (9 per cent of women compared with 68 per cent of men).

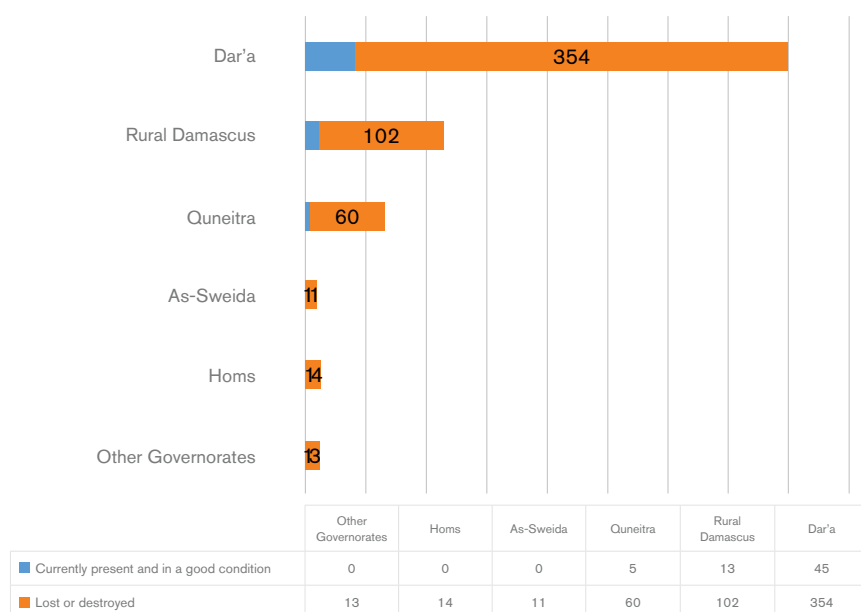


Figure 3: Household survey (n=734): Number of people whose tabou was lost or destroyed, by governorate of origin

11 OCHA ROSC Syrian Population 2004 Census Data, accessed 02 February 2017 at: <https://data.humdata.org/dataset/syrian-arab-republic-other-0-0-0-0-0-0-0>

Housing, land and property rights in displacement

Nearly two thirds of respondents reported that they live with host community members, with most of the remainder reported living in informal settlements (23 per cent) or in collective accommodation (9 per cent). Almost one in four reported living in a sub-standard accommodation type – an unfinished building or a partially tented/plastic-sheeted structure.

Almost one in five reported paying some form of rent to the owner or other party responsible for the property; almost all were paying less than 30 USD per month. Three per cent of the total sample reported paying higher monthly housing costs of between 30 and 60 USD. FGDs and KIs identified even these low rental payments as a key burden on IDP households, a cause of negative coping mechanisms and a source of increased risk of sexual and gender-based violence.

The displacement profile of survey respondents shows high levels of mobility and diverse drivers of displacement. Households reported an average of four displacements since their initial displacement. Ninety-two per cent of respondents stated that armed conflict and ensuing insecurity was the main reason for their displacement. For 37 per cent of those surveyed, access to better or more affordable housing was a reason for their displacement. Almost a quarter of households cited eviction as one of the reasons for which they had had to move residence; the proportion affected by eviction was slightly higher in Quneitra, 29 per cent, compared to 24 per cent in Dar'a. Reasons for evictions included accusations of ethical or moral violations, failure to pay rent, and poor relationships with local community leaders.



Respondents indicated that they have very weak security of residential tenure in their displacement. Only 5 per cent have written tenancy or rental agreements for their accommodation and the majority of respondents reported that they did not even have a clear verbal agreement on their tenure. As a further indication of highly insecure tenure, 87 per cent of IDP households were either partially or entirely unsure as to whether or not they could choose to remain in their current residence for a further three months from the time of the interview (see Figure 4). Respondents in Quneitra reported more insecure tenure, where 68 per cent were entirely unsure about their next three months, compared to 50 per cent in Dar'a. Focus groups also highlighted the absence or short duration of clear agreements as a significant concern.

Informal rental and hosting arrangements were cited as the most common source of HLP-related disputes that IDPs face in displacement. KIs and FGDs also identified as another key factor in disputes, the lack of access to specialised institutions or a universally accepted body with which to register property ownership or transactions. According to respondents, an informal hierarchy of dispute resolution is in place in both Dar'a and Quneitra. Formal processes are not commonly used to resolve disputes in the first instance. Instead, disputants try to resolve matters between themselves seeking a solution that may be quicker, less costly and more socially acceptable. If parties to a dispute cannot resolve an issue by themselves, they would seek the intervention of authoritative third parties, such as family members or local leaders, including the local mukhtar.¹² In the last instance, judicial decision-makers, including Shari'a courts or de facto civil courts may be called upon to intervene in a dispute.

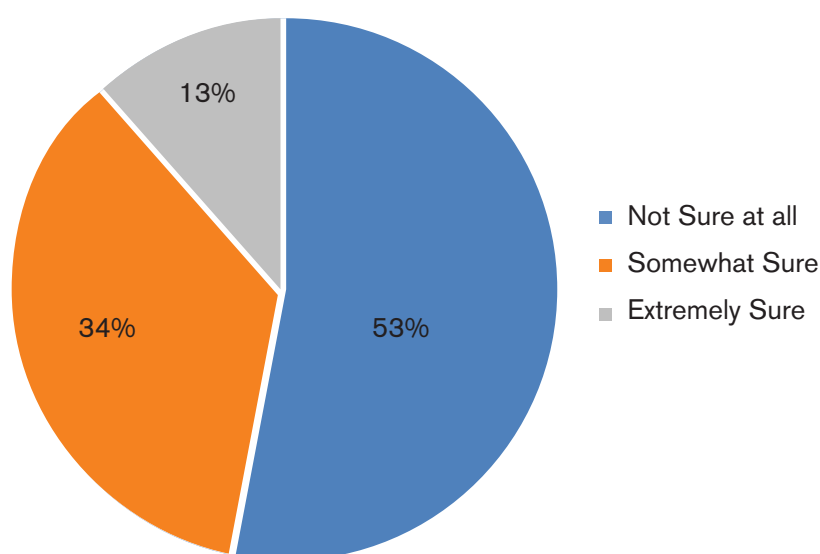


Figure 4: Household survey (n=734): Ability to reside in current residence in the next three months

¹² Mukhtar – Prior to the conflict, a local leader appointed by Syrian central government in an executive function at community level. Since the conflict started, sub-districts outside the control of the government may have appointed their own mukhtars in the absence of central government control.

Legal identity and civil documentation in displacement

Right to legal identity and civil documentation¹³

Civil registration is the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population, as provided through decree or regulation in accordance with the legal requirements in each country. This process establishes and provides legal documentation for such events.¹⁴

Civil registration refers to the recording of **vital events** within a given population. Such vital events are defined as the occurrence of any of the following: birth, still birth, legitimisation, recognition of parenthood, adoption, marriage, annulment of marriage, legal separation, divorce and death.

Birth registration is the continuous, permanent and universal recording within the civil registry of the occurrence and characteristics of birth, in accordance with the national legal requirements. It establishes the existence of a person under law, and lays the foundation for safeguarding civil, political, economic, social and cultural rights. As such, it is a fundamental means of protecting the human rights of the individual, and of the child in particular, as is clearly stated in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

Article 24 of the International Covenant on Civil and Political Rights:

1. "Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality."¹⁵

Article 7 of the Convention on the Rights of the Child:

1. "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless."¹⁶

¹³ See the "The Information, Counselling and Legal Assistance (ICLA) Guide to Legal Identity" (2016). Norwegian Refugee Council. Oslo, Norway. See also "Guiding Principles on Internal Displacement" noting, for example, Principle 1, regarding non-discrimination on the grounds of being internally displaced, and Principle 20 (1): "Every human being has the right to recognition everywhere as a person before the law."

¹⁴ United Nations, Department of Economic and Social Affairs Principles and Recommendations for a Vital Statistics System, Revision 3 (2014).

¹⁵ International Covenant on Civil and Political Rights <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/v999.pdf>

¹⁶ Convention on the Rights of the Child

Civil status refers to an individual's status as a result of a vital event. These can include birth, still birth, legitimisation, recognition of parenthood, adoption, marriage, annulment of marriage, legal separation, divorce, and death, when that event is officially registered or recorded with the relevant body.

Civil documentation is any official document issued by civil registrars or any other authorised body (e.g. courts) that provides proof of an individual's civil status as a result of a personal event. Civil documentation can relate to birth, still birth, legitimisation, recognition of parenthood, adoption, marriage, annulment of marriage, legal separation, divorce, and death.

Legal identity in Syria is referenced in Civil Status Law, which compels all Syrian citizens to register all life events (referred to as civil occurrences).¹⁷ Legal identity is the legal civil status obtained through birth registration and civil identification that recognizes the individual as a subject of law and protection of the state.¹⁸ The concept of legal identity has been included in Target 16.9 of the Sustainable Development Goals: "Provide legal identity to all, including birth registration, by 2030."¹⁹

In Syria, the Civil Affairs Department of the Ministry of Interior, and its civil registry offices, hold the responsibility to register and provide documentation of births, marriages, divorces and deaths, as well as issuing identity documents such as national ID cards. However, conflict and the widespread damage and destruction of many civil registry offices across the country have limited access to the civil registration and documentation processes of the Government of Syria. Registration of vital events has been severely impaired in the areas assessed. Moreover, as a result of the limitation in accessing official civil registration, de facto actors are engaging in providing documentation and a variety of documents are circulating.

As a result of the conflict, much of the population has had little access to documentation that was previously issued by civil registries, such as updated family booklets and national ID cards. Only 7 per cent of respondents reported that they currently have access to new government-issued documentation (see Figure 5), and mainly only through the use and payment of third-party facilitators. This process was described as risky and expensive, with costs ranging from several hundred to several thousand American dollars. One estimate points to payments of as much as 7,000 USD for a family booklet, with charges including transportation, official fees and other costs.

De facto authorities issuing documents were another source of civil documentation in non-government-controlled areas. Twenty per cent of respondents reported that they had access to de facto authority documentation, including ID cards, birth and marriage registration, and family booklets.

More than half the respondents reported that they had either lost their marriage certificate or that it had been confiscated, destroyed or left behind during their displacement. Marriage certificates in Syria are important prerequisites to obtaining a family booklet, registering births and

¹⁷ See Articles 14 and 15 of Civil Status Law Legislative Decree No 26/ 2007.

¹⁸ This concise definition is taken from the Inter-American Development Bank (IDB), Civil Registration and Identification Glossary (2010). <https://publications.iadb.org/bitstream/handle/11319/402/Civil%20Registration%20and%20Identification%20Glossary.pdf>

¹⁹ Sustainable Development Goals <http://www.un.org/sustainabledevelopment/sustainable-development-goals>

recording paternity, thereby conferring Syrian nationality on a child if the father is Syrian. Marriage certificates and the family book also pertain to inheritance, proving the relation of spouses or offspring to the deceased, and serving as the basis to claiming any share of an estate.

The situation for children is particularly grave. Almost a quarter of the surveyed household members aged 14 and above, and thus eligible for a Syrian national ID card, are without national ID cards. Almost half of children under five (304 out of 675), are not included in the household’s family booklet.

The family booklet is the first official government recognition of a Syrian child in relation to their existence, identity and nationality. Continued non-inclusion in the family booklet has negative consequences for Syrians, as it would render them unable, later in life, to obtain other documents, such as an ID card or passport.

One third of children under five (195 out of 675), are not only not listed in the family book but also do not have a birth certificate (Bayan al Wiladah).²⁰ Some of these children do have birth notification documents (Shihadet al Wiladah)²¹ but as most are issued in NGCAs, it is unclear whether they will be accepted by Government authorities.

The children who might be considered most at risk of lack of legal identity and of statelessness, are those whose existence is not recorded in any family booklet, on a birth certificate, nor even on a birth notification document. In the survey, over one quarter of children under five fell into this category.

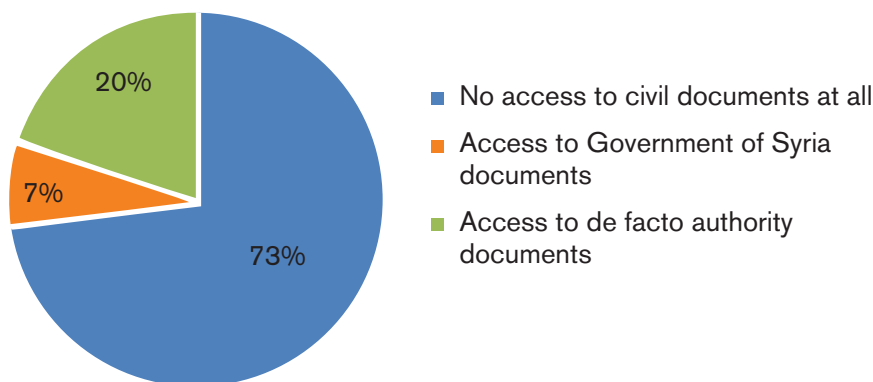


Figure 5: Household survey (n=734): Access to legal identity and civil documentation in displacement

20 Bayan al Wiladah– Birth registration certificate.

21 Shihadet al Wiladah – Birth notification is the notice of the occurrence of birth by an individual or institution to the registrar of vital events in a country. The notification is usually done by health institutions and birth attendants. The birth notification only has a record value, it is not a legal registration record. Prior to the conflict in urban areas hospital authorities issued birth notification documents and sent them directly to the civil registry department.

Importance of identity and civil documentation in displacement

The experience of the majority of respondents is that they need civil documentation in order to survive: to enjoy freedom of movement, to access safety, basic services, humanitarian assistance, and to ensure that their children can access education. Eighty-eight per cent of respondents stated that written identity documentation is necessary for a child to attend school. According to the Registration Instruction for the General Certificate Examination, No.534, ID cards are required in order for students to register for, and take, national Grade 9 and Grade 12 exams. In addition, about one third of respondents (29 per cent) reported that civil documents are required to move freely in their area of displacement.

All but seven respondents reported that civil documentation is required in order to receive humanitarian aid. In contrast, most humanitarian organisations report that they do not make official identification documents a prerequisite for humanitarian assistance. Preliminary enquiries suggest that some humanitarian agencies operating cross-border from Jordan advise their partners/staff/volunteers to accept alternative documentation from beneficiaries that do not have standard identity documents. For example, they could accept multiple witness statements or letters of affirmation from mukhtars or other local leaders. Further research is recommended to clarify current practices in Dar'a and Quneitra and to promote best practices.



Women's housing, land and property rights, access to legal identity and civil documentation

The assessment also explored women's housing, land and property rights and access to legal identity and civil documentation both prior to and during the current conflict. Securing HLP rights for women plays an essential role in economic and social outcomes for them and their families. As NRC has documented in other conflict-affected states, women face specific challenges securing their housing, land, property and civil documentation at all stages of armed conflict. Discriminatory norms and practices around ownership, inheritance and decision-making prior to a conflict also influence and often exacerbate the challenges that women face.²² Failure to identify these issues and seek integrated solutions increases the long-term costs of conflict.



As a result of conflict, social norms and legal practices, women's claim to housing, land and property that was theirs prior to displacement, is generally weaker than that of their male counterparts.²³ This was corroborated by survey data. Only 9 per cent of female respondents reported that their name alone appeared on the documentation of their residence prior to displacement (compared with 68 per cent of male respondents). Only 10 per cent of women were the sole decision-makers for their residence prior to displacement compared with 59 per cent of men. Researchers for this assessment were told that males in the household would often make decisions, regarding their place of residence prior to displacement, without consulting female members of the household.

²² See the Displaced Women's Rights to Housing, Land and Property project for more information. Available at: <http://womenshlp.nrc.no/>

²³ Nadia Forni, 2001, Land Tenure Systems Structural Features and Policies, FAO, p.33 and, Norwegian Refugee Council, 2016, op. cit., p.14.

One in five respondents stated that a wife receives no property in a divorce settlement. With regards to inheritance, the majority of men and women stated that this is governed by Shari'a law, and stated that women inherit less than men. The application of Shari'a is generally seen as giving a woman the option of receiving a share of inheritance that is half of the amount of what her male counterparts would each receive. However, women are often pressured to give away their inheritance rights in favour of their brothers or sons.²⁴ Women in this survey identified discriminatory inheritance norms more frequently than men, but all respondents stated that women inherit less than men.

Unequal access to legal identity and civil documentation prior to conflict is compounded during conflict and increases vulnerability. A woman's registered legal identity in the Syrian civil registration system both prior to the conflict and today is linked to that of her husband or father. As a result, an absence of marriage certificates and other civil documentation will disproportionately affect a woman's ability to exercise various rights.

Female respondents possessed fewer types of identity documents, including documents that permitted movement both within Syria and outside of the country.²⁵ For example, women were more likely to be without their marriage certificate in displacement: only 28 per cent of women had theirs compared to 39 per cent of men. Similarly, only around one in fifty women reported possession of a passport, compared to more than one in five men.



24 Gihane Thabet, 2005, Women in Personal Status Laws: Iraq, Jordan, Lebanon Palestine, Syria, UNESCO. Nadia Forni, 2001, Land Tenure Systems Structural Features and Policies, FAO, p.33.

25 Article 64 of the Syrian Civil Affairs Law (February 2017) states that family booklets can be issued to women or men. No preferential treatment is foreseen in the law. However, this law was not in place when information referenced in this report was collected.

