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# What about the Return of IDPs to Areas Controlled by the Syrian Government?

## The Case of the Informal Settlement of Tadamun

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More than a decade of conflict in Syria led to the displacement of more than 12 million people, which is half of the country's pre-conflict population. As of June 2021, UNHCR registered 5,615,638 refugees in Syria's neighbouring countries.<sup>1</sup> 6,7 million people are internally displaced<sup>2</sup> in the four areas of control dividing the country.<sup>3</sup> The war also severely damaged the housing sector and infrastructure. More than 27% of the housing stock across the ten most important cities has been damaged according to World Bank estimates. The conflict has also created massive amounts of debris, which requires huge clearance efforts. Displaced people whose property was damaged now face the risk of dispossession.<sup>4</sup> According to nationwide surveys of the displaced population, housing is the fourth most important barrier to return, after damage, security and livelihoods.

Several reports have focused on the dispossession of populations expelled to opposition-controlled areas after the so-called reconciliation agreements.<sup>5</sup> Other accounts rightly pointed to the loss of civil status and HLP documents, the prospect of urban development projects, secondary occupation, security checks on claimants, detention, and falsification of documents as threats to property. Researchers have also examined housing market dynamics within the Syrian housing political economy.<sup>6</sup> However, few have assessed the risks of dispossession faced by displaced people resulting from the government's rubble removal mechanisms, including Law 3/2018.

An assessment of available demographic and mapping data at the sub-district (*nahiya*) level suggests that 3,6 million IDPs lived in government areas in August 2020<sup>7</sup>, of which 3,1 million originated from government areas (rather than having been displaced from opposition-held areas).<sup>8</sup> Most of these people have been displaced for more than five years (90%), mainly in urban areas (70%). Despite relative peace since mid-2018, when government forces and allied parties regained control of most of the country, returns have been low.<sup>9</sup> In 2020, most returnees to Central and South Syria (CSS) came from north-eastern Syria, rather than from CSS, i.e. from areas controlled by the Kurdish-dominated SDF, which concentrate only 8% of

<sup>1</sup> Regional Refugee and Resilience Plan in Response to the Syria Crisis, "2021 Progress Report", September 2021, <https://bit.ly/3ujC2x5>.

<sup>2</sup> HNO, 2021.

<sup>3</sup> The areas of control are 1) Government of Syria 2) Autonomous Administration of North and East Syria 3) Hayat Tahrir al-Sham (Idlib), and 4) under Turkish control after military operations in North Syria (Euphrates Shield, Olive Branch and Peace Spring).

<sup>4</sup> The World Bank, *The Toll of War*, July 2017, <https://bit.ly/39v35p7>.

<sup>5</sup> The reconciliation agreements so called by the Syrian authorities refer to the agreements negotiated, through Russia, with the besieged opposition forces to organise the evacuation to the areas they hold. For the opposition, this is a method of deporting the population. Several agreements have been reached, including the one in Tadamun in 2018.

<sup>6</sup> Samir Aita, *Urban Framework for Post-Conflict Housing in Syria*, 1 September 2020.

<sup>7</sup> This author's estimate is based on triangulation of the population data tables published at sub-district level in the HNO 2021 report, with the control map produced by ACLED for June/September 2020 (<https://bit.ly/3p1yGo2>). 2,6 million IDPs are displaced in the cities of Damascus, Jaramana and al-Tell (Rural Damascus), Homs, Aleppo, Hama, Deir Ezzor, Qudsiya, Raqqa Latakia, and Tartous.

<sup>8</sup> This estimate is based on the percentages of displaced persons established by HNAP, as available in several reports, in different regions of Syria. UN agencies and affiliated bodies are referring to GoS-controlled areas as Central and Southern Syria in their reports. According to these figures, 86% of all IDPs are originating from Central and Southern Syria, out of which 54% are still displaced there. This estimate is consistent with another calculation, also based on HNAP data, according to which 91% of IDPs in CSS originate from the same region. See HNAP, IDP Report Series 2020. *Past, Present and Future Intentions*.

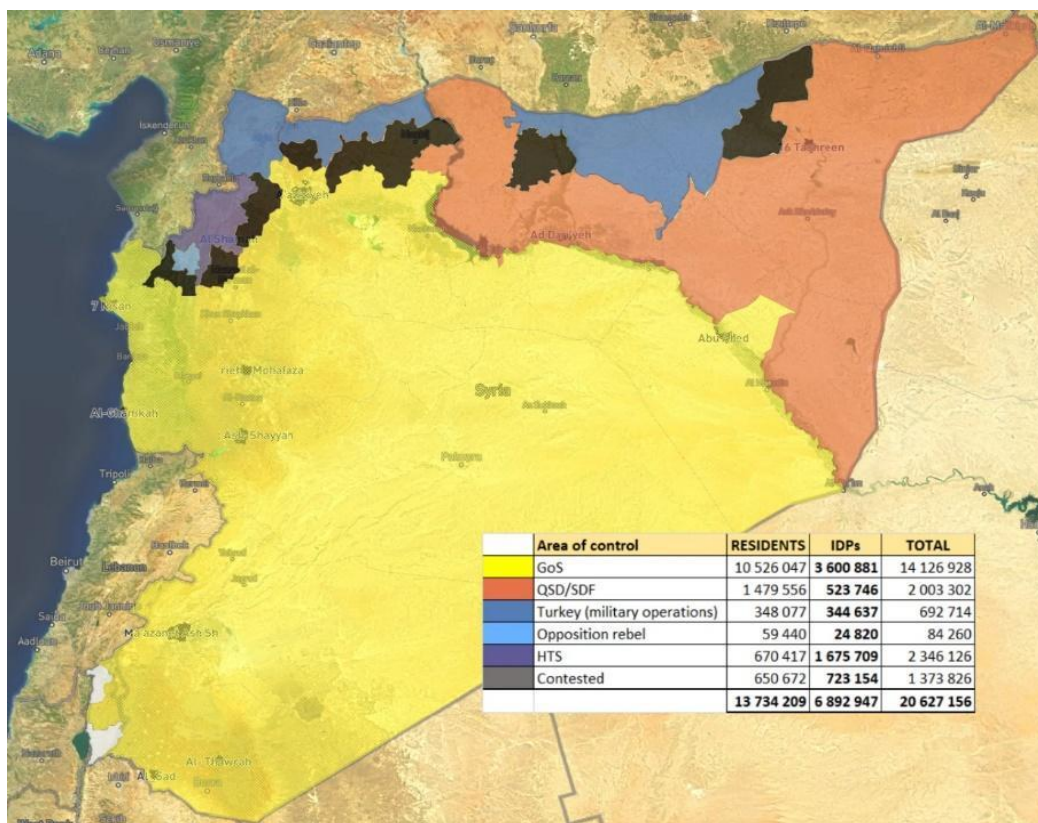
<sup>9</sup> HNAP, IDP Report Series 2020. *Past, Present and Future Intentions*

displaced persons from these territories.<sup>10</sup> The claim of the Syrian authorities in January 2021 that 4,9 million people returned contradicts these figures and seems unlikely.<sup>11</sup>

Building on previous analyses, this paper aims to interrogate Syrian authority policies regarding the housing, land and property rights of people from informal settlements currently displaced within areas controlled by the government of Syria (GoS). It aims to answer the following questions: Is this category of IDPs more likely to repossess their HLP rights than IDPs de facto resettled in opposition-held areas? Are restitution and compensation mechanisms available to them?

First, this article examines how the Syrian authorities limit the issue of land management to the General Directorate of Cadastral Affairs (GDCA) when they should consider its ecosystem and include other institutions, such as the Ministries of Justice and Finance that also produce proof of ownership used in informal and peri-urban neighbourhoods. The paper then analyses how Law 3/2018 legislates the removal of debris in damaged neighbourhoods, and negatively impacts the return of displaced people. In the third part, this article analyses a controversy between the local administration and the security services, both supporters of the Syrian leadership, concerning the law's implementation in the informal settlement of Tadamun. The recent publication of an investigation by *the Holocaust and Genocide Centre* of the University of Amsterdam into the commission of a massacre of civilians by members of the Syrian military intelligence service (branch 227) and the National Defence Forces (NDF) in April 2013,<sup>12</sup> invites the international community to pay more attention to this neighbourhood.

Map 1: Distribution of the population by areas of control (August 2020)



Source 1: The author, triangulating HNAP population data and ACLED map conflict<sup>13</sup>

<sup>10</sup> HNAP, Return Report Series 2020, Return Journeys and Conditions, 4.

<sup>11</sup> Muhammad Manar Hamijo, "Five Million Internal Migrants Have Returned Home" (in Arabic), *al-Watan*, 31 January 2021, <https://bit.ly/3DDkW73>.

<sup>12</sup> Uğur Ümit Üngör, Annsar Shahhoud, "How a Massacre of Nearly 300 in Syria Was Revealed", *New Lines Magazine*, 27 April 2022, <https://bit.ly/3KND0Pb>. See also Martin Chulov, "Massacre in Tadamon: How two Academics Hunted Down a Syrian War Criminal", *The Guardian*, 27 April 2022, <https://bit.ly/3w3lVz>.

<sup>13</sup> HNAP raw data is published in the Humanitarian Needs Overview. Areas of control published by ACLED correspond to the same period as the HNAP data (August 2020).

This article is based on knowledge developed on HLP issues before 2011, and relevant literature on securing property in informal settlements. It is also based on the analysis of media reviews, official statements, and official reports in addition to interviews with relevant actors.

## 1. Marginalisation of the Ministries of Justice and Finance in Securing HLP Rights in Informal Settlements

Since 2013-2014, the government has paid particular attention to monitoring the status of the GDCA's land records, to list documents damaged or destroyed during the conflict.<sup>14</sup> This focus has had the effect of marginalising institutions more broadly involved in securing HLP rights in peri-urban areas and informal settlements. This has had a negative impact on the HLP rights of displaced people from these areas. Indeed, in these areas, the GDCA land registers only record the plots as they existed prior to their informal urbanisation, and not through their subsequent subdivisions. To fill this gap, the informal subdivision of these plots and the property rights attached to them have, for decades, been documented through institutions other than the GDCA, such as the Ministries of Justice and Finances, or through social ties. This includes court decisions, power of attorney or tax documentation, and to some point oral testimonies before the *mukhtar*, which are kept by the administration and not only the right holder.<sup>15</sup> Despite the role of the courts, the notary public, the Ministry of Finance and the *mukhtar*, no measures to reconstruct this documentation have been adopted. The government's focus on the GDCA thus masks the retreat of the judiciary and the use of social ties in securing ownership.

### 1.1 Background on the Safeguarding of Ownership in Syria's Informal Settlements

Within 60 years, Syria's population almost multiplied by a factor of six. From 3,65 million people in 1953,<sup>16</sup> the estimated population reached 21 million in 2011.<sup>17</sup> Since the 1950s, the mass exodus of rural populations to the large cities and their outskirts, as well as secondary and intermediate cities, caused the urban population to grow sharply. The government's laissez-faire policy on housing supply means that many people built their own housing, which led to informal settlements. Informal settlements are usually constructed outside the urban plan or in violation to the urban code, although first generation settlements have entered the urban plan and benefited from upgrading policies. Informal settlements covered around 30-40% of the country's housing need before 2011.

Various practices emerged for securing property in such neighbourhoods. While the GDCA mapped and matriculated most lands in Syria,<sup>18</sup> many subdivisions of these matriculated plots were registered with other institutions in the form of shares (*ashum*). Designed as steps before registering assets with the GDCA, the government acknowledges these procedures and the documentation produced. These other institutions include the court, the notary public and the Ministry of Finance. In some cases, sales are secured by simple contracts between stakeholders, but are not registered in any institution. They are based on social networks and lack legal strength. The context-specific reasons for choosing one tool over another to secure transactions are beyond the scope of this article.

These practices have resulted in the production of documents kept at the owner's level and by the administration, but are difficult to gather in the current context, especially when lost by their beneficiaries. Indeed, the right holder bears sole responsibility for the evidence, even though the administration may also have a record of it. People who lack the political support

<sup>14</sup> An inventory of destroyed or damaged GDCA documents is reproduced in the 2014 GDCA annual report in an incomplete manner. However, the conditions of destruction of these documents, of which digital copies or microfilms exist, are not specified. In Homs, opposition groups have accused the authorities of intentionally destroying these records.

<sup>15</sup> Appointed by the administration, the *mukhtar* is responsible for providing evidence at the area level (*al-hay*), including residence.

<sup>16</sup> Etienne de Vaumas, « The Population in Syria » (in French), *Annale de Géographie*, 341, 74, January-February 1955, <https://bit.ly/3gWlmug>.

<sup>17</sup> The Syrian Central Bureau of Statistics. See GIZ, "HLP issues in Syria and Resulting Fields of Actions for Ongoing or Planned Programs of German Development Cooperation", May 2018, 15, unpublished.

<sup>18</sup> Commonly referred to as the Land Registry or Tabu, the GDCA was established in 1947 to merge the administrations created under the French mandate to map and record ownership.

or capacity to take collective action to recover this evidence of ownership from the administration are likely to waive their rights.

### **HLP Rights on Disputed Public Land**

The production of evidence is particularly difficult for inhabitants of public land settlements, estimated at 30% of informal settlements.<sup>19</sup> The high percentage is mainly a consequence of a law passed at the end of the 1970s (Law 60/1979), which obliges local authorities to expropriate and develop land that the owner had not developed within three years. As a result, owners of land expropriated under this law challenged expropriation order, taking legal action against it, in parallel to selling their land through the public notary or the court to newcomers, often rural migrants.

In these areas, the perception that these plots of land were sold at a low cost several decades ago, because they were condemned to eviction in the long term (20 or 30 years), explains the difficulty of dealing with the issue today, and even the dilemma of certain actors. Syrian law does not provide for any compensation for the residents of informal settlements on public land. It only considers the right to property, not the right to adequate housing.

### **Securing HLP Rights under the Ministry of Justice**

In peri-urban areas and informal settlements, two institutions under the Ministry of Justice are used to secure HLP rights, i.e. the judge and the notary public.<sup>20</sup>

The transfer of ownership by judicial means is a widespread practice. It is based on a fictional dispute between the seller and the buyer. The parties construct the dispute for practical purposes to secure the transaction. They then enter the court decision, which confirms the transaction, in the land register of the GDCA, which prevents the registration of any further transactions on the parcel concerned. However, the war in Syria destroyed many court records, which opened the door to HLP rights violations.

The use of powers of attorney (PoA), certified by the Notary Public (*kâtib il-'adl*), is also practised to sell part of a plot (as shares). Since the subdivision of the plot cannot be registered in the land register (for other legal reasons), it is in practice, certified before the notary. The final registration of the subdivision with the GDCA is thus brought forward, with the expectation of an extension of the urban plan. In this way, the seller gives the buyer (the agent) the power to carry out all the steps to register the sale with the GDCA, but also to sell the property to a third party. Indeed, this PoA may not be cancelled (*ghayr qâbila lil-'azl*) and the agent may mandate a third party (*haq tawkîl al-ghayr*), which is equivalent to selling the property to someone else.<sup>21</sup> Shares (*ashum*) of a property may thus have been sold several times by power of attorney, with the last buyer retaining all the previous powers (*tassalsul wakâlât*). On the administration side, the notary public keeps records of the sale in his registers. However, the lack of indexation by names of the beneficiaries in the latter's registers is an obstacle to their retrieval of documentation in the current context.<sup>22</sup> Over time, records have been damaged or destroyed. This kind of transaction is thus less secure than Court rulings, because power of attorney is not recorded on the Land Registry.

When conducting administrative procedures, the Syrian authorities recognise the alternative documentation described above, as well as other evidence of building occupation – such as tax documents,<sup>23</sup> electricity bills and testimonies by the *mukhtar*. Yet, no mechanisms exist for right holders to retrieve this documentation, nor for the administration to organise these records. The burden of providing proof remains on the individual's shoulders. The

<sup>19</sup> State of Syrian Cities, 2017.

<sup>20</sup> Since the implementation of Law 14/1974, temporary registers, which local authorities keep, record the ownership of buildings constructed with a building permit before registration with the GDCA. Although required by law, final registration with the GDCA has not been carried out, as temporary registers have existed in some cases for over 30 years. In many cases, the transfer of such property takes place before the judicial institution, either the court or the notary.

<sup>21</sup> Power of attorney may mention article 681 of the Civil Code.

<sup>22</sup> The rights are indeed indexed on the date of acquisition. The beneficiary must know the day on which he or she acquired his or her right so that the administration can retrieve the correct file. In the event of death, it will be even more difficult for the heirs to find proof of ownership.

<sup>23</sup> Myriam Ferrier, "Securing Property in Informal Neighbourhoods in Damascus Through Tax Payment", in *Popular Housing and Urban Land Tenure in the Middle East, Case Studies from Egypt, Syria, Jordan, Lebanon, and Turkey*, directed by Myriam Ababsa, Baudouin Dupret et Eric Dennis, Juin 2012, American University in Cairo Press, <https://bit.ly/3PvgHke>.

permissibility of certain evidence, notably electricity bills and testimony of the mukhtar, is also questionable and is left to the discretion of the administration. Press reviews show that the Syrian authorities have at times called on people to keep such proof of ownership. In practice, however, the use of this documentation is limited and depends on the resources an individual can mobilise (see section 3).

## 1.2 Shaping the Debate around Property rather than Housing Rights

This section shows how narratives have developed since 2013 and shaped the debate on the legitimate source of HLP rights. As it has developed, this debate has privileged reflection on property rights to the detriment of reflection on the right to housing (which should not be confused with the right to rent). Syrian authorities have focused on the GDCA registries and overlooked other registries when reconstructing proof of ownership. For their part, opposition media denounced the intentional destruction of cadastral documents by the armed forces in several localities and their possible manipulation at the time of reconstitution by the Syrian Authorities. This approach, focusing on property rights and cadastral documents rather than judicial and fiscal records, has effectively marginalised the concept of the right to adequate housing in the debate. In addition, to date, no inventory exists of the HLP documents that were kept at the court or the notary public level and later destroyed or damaged. By contrast, the GoS has frequently communicated on the state and reconstitution of GDCA records.

The retreat of the judicial system benefits security forces and affects the protection of property and housing rights. This is likely the result of several factors, including the overexposure of the GDCA over the court and the notary public, the lack of consensus on what constitutes ownership, and the GoS policy of dispossessing the judiciary of its prerogatives in the protection of property rights. The fact that the GDCA was placed under the Ministry of Justice in 1947, then under the Ministry of Land Reform in 1958, and finally under the Ministry of Local Administration (MoLA) in 2010, shows the institution's importance in the country's political order, and ongoing power games.

### ***The risk of demographic engineering***

In opposition-held areas and in cases identified in Homs and Deir Ezzor, people suspect that the Syrian authorities and its leadership intentionally destroyed land records to dispossess residents of their property and thus effect demographic change. The Syrian Human Rights Committee (SHRC) denounced the bombing of the GDCA records building of the city of Homs on 1 July 2013, and some activists described the bombing as a means of changing the city's demographics.<sup>24</sup> This event confirmed suspicions and focused public attention on certain registers to the detriment of others. In Deir Ezzor in 2018, the opposition repeated these accusations when reporting about the destruction of land and civil status documents held by courts by the Syrian forces and affiliated militia, after the city was taken over from the Islamic State.<sup>25</sup> However, this attack generated less public attention than the GDCA's destruction in Homs, perhaps because Deir Ezzor is located in the periphery. No inventory of the condition of these registers across Syria seems to exist.

This approach, which denounces the intentional destruction of land registers to dispossess opposition actors and carry out demographic engineering, may nevertheless be misguided. The desire to prove that demographic engineering is taking place, sanctioned by international law, thus takes precedence over the other debate that could have been conducted, that of the right to housing. It also fails to address the local complexities and social tensions that have existed between host communities and successive waves of migrants since the 1950s. For decades, organised illegal developers have built houses on public and private agricultural land with or without the consent of the owners, with the tacit agreement and even support of the

<sup>24</sup> The Syrian Human Rights Committee, "Government Military Forces Burn Land Registry in Homs" (in Arabic), 2 July 2013, <https://bit.ly/3FSUf07>.

<sup>25</sup> al-Itihad Press, "The Regime Forces Burn the Real Estate Records in Deir Ezzor" (in Arabic), 26 February 2018, <https://bit.ly/3lFXtts>.

local administration and/or security apparatus.<sup>26</sup> These dynamics have fuelled feelings of injustice, social tensions within neighbourhoods and ambivalent approaches to property rights. They also resulted in a lack of agreement on what constitutes ownership, which has certainly helped the Syrian authorities' ability to steer the debate on HLP issues.

Opposition groups today fail to address the effects of these complex dynamics. The treatment of ownership of houses built on public land illustrates the lack of consensus, as in the case of al-Haidariyya in the city of Aleppo. In 2019, some described the destruction of housing built on public land by Aleppo municipality to implement housing projects, as a violation of the right to property. Others considered the ownership rights as temporary because houses stood on land owned by the municipality.<sup>27</sup> The lack of consensus on these points and on how to address the housing issue explains the success of the Syrian authorities in focusing the debate on the GDCA.

### ***The Syrian Authorities' Narrative: The Focus on the GDCA***

The narrative and strategy of the Syrian authorities developed gradually over time. The GDCA's 2014 annual report constitutes the beginning of this narrative and states that important decisions were adopted in 2013, including the completion of an inventory of registers and their condition in wartime, the development of a GDCA data automation programme and the creation of a land database through the digitisation of data. This programme, adopted on 25 March 2013, resulted in the signing of a contract on 21 August 2013 between the GDCA and MoLA on the one hand, and the Syrian Company for Information Technology (SCIT) and the operators of the Organisation for Technological Industries (OTI) on the other, to carry out the automation of land data in Damascus.<sup>28</sup>

The Syrian authorities' strategy for shaping the property rights debate around the GDCA emerged publicly in 2015 and consolidated in 2016 and 2017. The Ministry of Local Administration, the Director of the GDCA, and the adoption of two pieces of legislation in 2016 and one in 2017 have increased media focus on the strategy.

Media reviews show that the GoS narrative first developed from the GDCA's 2014 annual report. The text provides an at times ambiguous version of the state of land records at the district level of each governorate. In Homs for example, the report states that the premises occupied by the security forces are not accessible but that the GDCA files and maps have been transferred to another location. The report does not reference destruction by the Syrian armed forces in 2013. The report merely concludes that a full inventory is not possible for security reasons, without further explanation.<sup>29</sup> Its director cited the report in various forums to blame terrorist groups for the destruction of the GDCA files,<sup>30</sup> dismissing the responsibility of Syrian forces. By indicating the existence of copies in a safe place,<sup>31</sup> the GDCA Director also indicates the reconstitution of damaged documents (Law 33/2017).

After three years of waiting, the Syrian authorities suspended the validity of opposition-held land registers in the areas it has controlled since 2012/2013<sup>32</sup> by adopting Legislative Decree 11 (LD 11) on 5 May 2016. Soon after, LD 12 was adopted to legalise the use of registers and digitised documents to prove ownership. Law 33, adopted in the following year, provides for the reconstitution of lost or damaged property documents via digital copies, but only addresses GDCA registers. These operations lack transparency and have been accused of

<sup>26</sup> Patrick Wakely and Razan Abdul Wahab, "Informal Land and Housing Markets in Aleppo," *GIZ and Aleppo City*, December 2010, 9-10, unpublished report.

<sup>27</sup> See above the section on informal settlements on public land.

<sup>28</sup> GDCA, 2014 Annual Report, 95.

<sup>29</sup> GDCA annual report, 2014, 83.

<sup>30</sup> MoLA, "Terrorism Targets Real Estate Services. Services Stop in Idlib, Raqqa and Deir Ezzor" (in Arabic), 7 December 2015, <https://bit.ly/3mObBTf>.

<sup>31</sup> SANA, "Director of Real Estate Interests in Damascus: Real Estate Contracts Are Archived in a Safe Place" (in Arabic), 14 August 2016, <https://bit.ly/3mR2X6q>.

<sup>32</sup> As an example, the GDCA records of the cities of Douma and Harasta, were kept under the opposition's control from November 2012 to April 2018, and sales registered.

manipulation.<sup>33</sup> As al-Watan newspaper reports, the GDCA director mentioned damaged records in Aleppo and Deir Ezzor, as well as some intermediate cities, and ignored records destroyed in Homs.<sup>34</sup>

Another concern is the role of land judges (*qadi 'aqari*) in reconstitution operations, which in fact hides a dispossession of the judicial institution in safeguarding rights. Indeed, since 2014,<sup>35</sup> land judges, appointed by the Minister of the Local Administration, have been subject to the authority of the GDCA, not that of the Ministry of Justice. This category of judges depends on the GDCA administratively and for their career advancement, and the Attorney General can remove their immunity. Here, immunity prevents, rather than guarantees, judges' independence.

Since the adoption of these legislations, the press in GoS controlled areas has regularly reported on the resumption of GDCA activities in several localities, such as the digitisation of files and the reconstitution of registers.<sup>36</sup> However, in addition to the lack of transparency in these operations, no mechanism exists to reconstruct the proof of ownership and occupation in peri-urban areas and informal settlements, which are required from IDPs in order to access their homes. While the Syrian authorities recognise alternative documents to the GDCA<sup>37</sup>, they leave it to the rightful owners to collect the judicial and fiscal documents from other institutions, without facilitating the process or even requesting their administration to provide assistance. Only individuals with additional support are able to claim their HLP rights, after receiving security clearance.

## 2. Law 3/2018 on Removal of Debris Is an Obstacle to Return

Debates around GDCA registers by Syrian authorities have undermined other forms of property security, including the property rights of displaced persons in peri-urban and informal settlements, and their ability to return. The risk to their rights is particularly high during debris removal operations, because these activities lack transparency. Obstacles to the return of the population, even when they have been displaced to areas controlled by the GoS, also include the need for a security clearance to return to their area of origin and to remove debris at their own expense.

### 2.1 Risks to Property Rights of Displaced Persons

The Debris Removal and Compensation Law 3/2018, passed just before Law 10/2018, received less attention than the latter although it can negatively impact displaced people from informal settlements. This impact is due to the limited timeframe for proving and claiming ownership (one month) and the right of authorities to demolish structurally unsafe buildings. As discussed in the section above, the judicial and fiscal documentation used in informal settlements to prove ownership is difficult to obtain from the administration. Although the one-month time limit to prove ownership is common in Syrian urban laws, the authorities' ignorance of massive population displacement and obstacles providing ownership and civil status documents violates the rights of citizens not registered with the GDCA. While the deadline for Law 10/2018 was extended to one year following international criticism, this was not the case for Law 3/2018.

Law 3/2018 established a governmental process for damage assessment, debris removal and management. The law is likely to facilitate large-scale demolition of "damaged" neighbourhoods, regardless of the level of damage, which is not monitored externally. The relevant local authority and the Reconstruction Committee, both controlled by MoLA,

<sup>33</sup> Ahmed Sawan, "The Dangers of the Law 'Reconstructing the Lost or Damaged Real Estate Document' on the Property of Syrians" (in Arabic), *Enabbaladi*, 28 September 2020, <https://bit.ly/313KGo>.

<sup>34</sup> Saleh Hamidi, "What Happens to Property Sold with False Documents?" (in Arabic), *al-Watan*, 5 July 2018, <https://bit.ly/3GjQKQI>.

<sup>35</sup> Law 16 adopted on 20 July 2014.

<sup>36</sup> Safira Ismail, "Qatmawi: Digitizing More than 540,000 Real Estates in the Governorates" (in Arabic), *SANA*, 13 April 2021, <https://bit.ly/3jdSwsz>.

<sup>37</sup> Nour Melhem, "The Local Administration Issues Executive Instructions for Compensation to Citizens Affected by Terrorist Acts" (in Arabic), *Syriandays*, 7 July 2013, <https://bit.ly/3a6JaKN>.

implement the law. The local authority assesses damage, checks residents' proof of ownership and decides which buildings will be demolished. The Reconstruction Committee is then expected to finance these operations. While many neighbourhoods have suffered destruction, frontline areas are particularly damaged.

## 2.2 Security Clearance as a Tool for Selecting Beneficiaries since 2012

Media analysis shows that early on in the conflict, Syrian authorities identified damage monitoring – carried out at the highest level in a very bureaucratic and centralised manner – as a key issue. In 2011, three months after the adoption of the first damage assessment and compensation measures in the governorate of Daraa, the government extended the mechanism to the national level to assess the economic impact and prioritise aid payments.<sup>38</sup> The Prime Minister ordered the damage assessment mechanism's creation under the responsibility of the Reconstruction Committee in 2013. The powerful MoLA chairs the mechanism, and the governor steers it at the local level.

In practice, the mechanism reserves compensation payments for populations loyal to the Syrian leadership, who can obtain the necessary security certificates and support to carry out the required procedures. By 2012, a police statement was required to file a claim for compensation, in addition to property documents and an ID copy. In 2014, the opposition press published about barriers to return to the old city of Homs, such as the obligation to provide security certificates from all intelligence services and property documents.<sup>39</sup> Media reports proved the preferential treatment of government supporters. Even SANA agency, a governmental outlet, reported that residents of al-Zahra in Homs, known for its support for Bashar al-Assad, received compensation a month after explosions damaged the neighbourhood in 2016.<sup>40</sup>

Despite obvious advantages for government supporters, even their compensation only covers a part of the damage. These compensations are calculated according to a scale applied to the estimated amount of damage but are nevertheless capped.<sup>41</sup> The press reported that government officials said that compensation should be spent on the rehabilitation of houses and not on other expenses, suggesting that this was not the use of the beneficiaries. Economic deterioration then caused Syrian authorities to suspend compensation payments in November 2016, even though it is still possible to file claims with the Syrian authorities. By the end of 2017, i.e. some months before the adoption of Law 3/2018, only 62,475 beneficiaries had received compensation out of 208,910 claims filed.<sup>42</sup> Few claims were addressed in proportion to those affected.

## 2.3 The Cost of Debris Removal Acts as a Deterrent

The mechanism discussed above, adopted by order of the Prime Minister in 2012, took on a legislative dimension in 2018 with Law 3. While the Syrian Authorities did not mention why Law 3 replaced the former mechanism, the law's context provides an explanation. Sometimes referred to as the "Rubble Removal Act" or "Compensation for Damage Resulting from Conflict or Natural Disaster Act", Law 3 is not the result of an international injunction to comply with compensation and restitution guiding principles.<sup>43</sup> The law obstructs rather than encourages the return of displaced persons, as residents must pay for rubble removal and other costs, such as electricity bills accumulated during the war.<sup>44</sup>

<sup>38</sup> MoLA, "Ghalwanji: Payment of the Remaining 50% of the Compensation to Citizens" (in Arabic), 6 December 2012, <https://bit.ly/3wVkpuz>.

<sup>39</sup> Abdul Salam Al-Shibli "What are the Conditions Imposed by the Regime on the Owners of the Old City of Homs to Return their Houses to Them?" (in Arabic), *Orient News*, 23 December 2014, <https://bit.ly/3CBmcYm>.

<sup>40</sup> SANA, "The Homs Damage Compensation Committee Calls on Citizens Whose Property was Damaged as a Result of the Terrorist Bombings in Al-Zahraa Neighbourhood" (in Arabic), 7 February 2016, <https://bit.ly/3vSGnyo>.

<sup>41</sup> Walid Mahithawi, "First Payment of 400 Million in Compensation for Damages Caused to Citizens by Terrorism in the Damascus Countryside" (in Arabic), *Thawra*, 9 May 2013, <https://bit.ly/3th10Cb>.

<sup>42</sup> MoLA, "Khamis, Chairman of the Reconstruction Committee: For a New Vision of the Commission's Work to Move from an Emergency Plan to a Comprehensive National Plan Based on Priorities" (in Arabic), 1 October 2017, <https://bit.ly/3wLYdTL>.

<sup>43</sup> Interview with an UN-affiliated actor, 2021.

<sup>44</sup> Shaam Network, "The Regime's Electricity Demands the Returnees to Yarmouk Camp to Pay Bills That They Have Accumulated for Years!!" (in Arabic), 27 July 2021, <https://bit.ly/3GOqOfY>.



The law's content is in line with previous mechanisms, such as to list and estimate the damage, to pilot priorities for intervention and raise reconstruction funds defined as priorities. While compensation payments were probably initially used to help government's supporters rehabilitate their damaged property, the logic of Law 3/2018 seems to go beyond this. As the Syrian army recaptures a significant part of the territory and the economy deteriorates, the law outsources the cost of clearance and reconstruction to residents.

Adopted prior to Law 10, Law 3 provides for rubble removal before the reconstruction of neighbourhoods by one of the three laws organising urban development (i.e. in addition to Law 10/2018, Laws 23/2015 and 15/2008). Law 3 appears to complement the GoS reconstruction strategy by resolving property issues within a limited timeframe to develop new real estate projects and attract investment. The scheme is based on the creation of a fund with one of the public banks on behalf of the local authority affected by the law. This fund, financed by the sale of debris of owners who have not raised claims, finances local authority clearance operations. This cost is also deducted from the compensation of owners who have declared their property rights.<sup>45</sup> Moreover, declarations by MoLA representatives suggest that debris auction profits are insufficient to compensate those who applied for it. In August 2020, Mu'taz Qatan, deputy minister of the Local Administration, indicated that the Reconstruction Committee would discuss how to finance this fund at its next meeting, without further information to date.<sup>46</sup>

The policy for the rehabilitation of damaged neighbourhoods and the compensation of affected populations lacks transparency and prevents return. Two years after the adoption of Law 3, the deputy minister of the Local Administration, Luay Kharita, stated that priority was given to the families of victims recognised as such by the GoS.<sup>47</sup> In practice, only part of the law – which relates to damage assessment and identification of buildings to be razed – is implemented, as the case of Tadamun shows. The next section addresses controversies surrounding the governorate's assessment of the damage in this area, located in the southern tip of Damascus governorate.

### 3. The Security Apparatus Factor on Returns and HLP: Tadamun Case Study

Although the GoS regained control of most of Syria in 2018, most people displaced within GoS areas have not been able to return to their place of origin. The case of Tadamun shows how returns are tightly linked to the resident's capacity to mobilise support, as well as the competition between supporters of the Syrian leadership over the implementation of Law 3/2018 on debris removal and the re-development of the neighbourhood under Law 10/2010.

The conflict has severed social ties, already strained by the authoritarian nature of the Syrian state prior to the conflict and led to the breakdown of property protection practices based on social ties and the administrative procedures discussed in part 1, to mitigate weak land tenure. As collective action is impossible without the support of co-opted personalities, displaced people have no means of asserting their rights when reconstruction projects, preceded by clearance operations governed by Law 3/2018, are imposed on them and remove evidence of their prior occupation of settlements.

#### 3.1 The Make-Up of Tadamun pre 2011 and Population Displacement post July 2012

Built on orchard areas (*Shaghur Basatin*) after the Syrian Israeli war in 1967 (the Six-Day War), Tadamun has grown to include heterogeneous populations from all Syrian governorates, with a majority stemming from Daraa Governorate. This diversity was due to the influx of IDPs from the Golan Heights (mostly Druze), and the effect of internal migration along and parallel

<sup>45</sup> Article 11/e of the administrative Instructions of the Law adopted 22 May 2018.

<sup>46</sup> Rural Damascus – Second Section of Duma, "The Local Administration Clarifies the Mechanism of Compensation for Damages in the Governorates" (in Arabic), Facebook, 31 August 2020, <https://bit.ly/3a2gin0>.

<sup>47</sup> Building Syria, "What Projects Have the Reconstruction Committee Approved for 2021?" (in Arabic), 2 February 2021, <https://bit.ly/2YzR5xw>.



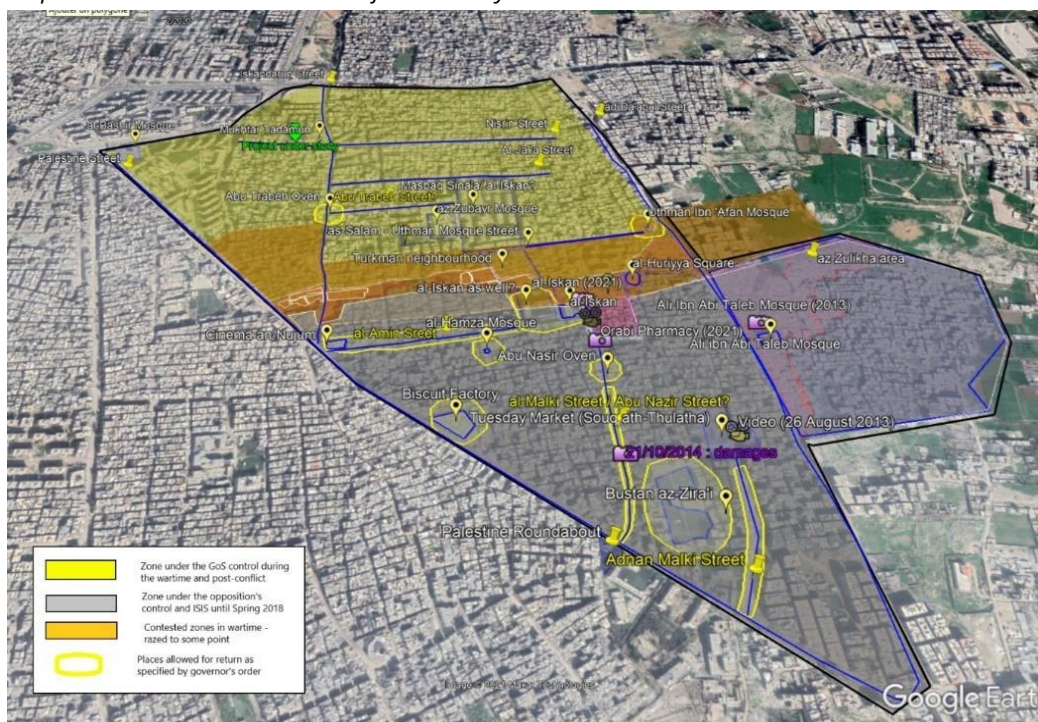
Heavy shelling and clashes in 2012-2013 caused the population to flee from eastern and southern Tadamun to other areas. The Syrian army heavily shelled al-Zuleikha in the eastern part of Tadamun during this time, documented by Human Rights Watch, and Tadamun lost most of its population,<sup>52</sup> except for in the northern part. In fact, wartime population estimates for Tadamun seem to refer to opposition-held areas, rather than the GoS-controlled northern zone. According to media reports, 95% of Tadamun’s population had fled to neighbouring areas by March 2014.<sup>53</sup> A survey conducted by the Syrian Central Bureau of Statistics (SCBS) for 2014 confirmed this estimate. UN data provides similar estimates for the following period: 1000 people lived there in 2016, 300 in 2017, and zero in December 2018,<sup>54</sup> which was not the case for the northern part.<sup>55</sup>

### 3.2 The issue of damage assessment and its impact on the return of displaced persons.

The recapture of the southern and eastern parts of Tadamun in the spring of 2018 by the Syrian authorities, after 6 years of fighting, has opened a new chapter for the inhabitants of this neighbourhood, the outcome of which remains uncertain. Damage assessment is a key issue for their return and the subject of controversy, as it allows the identification of areas to be demolished, due to the risk of collapse, and areas or buildings that can be rehabilitated. It also may justify the demolition of buildings when they could be rehabilitated, thus depriving displaced residents of the possibility of returning. Another risk factor for residents is the removal of debris, the cost of which is likely to lead residents who cannot afford the financial burden to waive their rights. Once demolished, IDPs from informal settlements also lose physical evidence of their house.

While the analysis of satellite imagery by the specialised UN agency UNITAR/UNOSAT provides an overview and trend of the damage in Tadamun, no independent organisation has been able to confirm its assessment on the ground. Crossed with the mapping of the conflict, it shows that damage is concentrated along the frontline (west to east), as well as the southern and eastern parts – controlled by armed groups of the opposition – and ISIS (from 2015 to 2018). By contrast, the northern area suffered little damage.

Map 3: Tadamun – Places allowed for return by the Governorate



Source 3: The author

<sup>52</sup> Human Rights Watch, “Razed to the Ground, Syria’s Unlawful Neighborhood Demolitions in 2012-2013”, January 2014.  
<sup>53</sup> Al-Jazeera, “The War Buried al-Tadamun Neighbourhood Under the Rubble” (in Arabic), 27 March 2014, <https://bit.ly/3uWIKQB>.  
<sup>54</sup> HNO data, 2019, <https://bit.ly/3KR4fbC>.  
<sup>55</sup> Interview with a former resident, 6 April 2022.

After the Syrian authorities regained control of Damascus in spring 2018, Tadamun and Jobar were the first neighbourhoods to which the Damage Assessment Law 3/2018 was applied. Despite its legal obligation, Damascus governorate communicated little about the law's implementation in this area, likely depriving IDPs and refugees of the information needed to come forward, establish their property rights, claim compensation and consider return.<sup>56</sup> Close analysis of the information available reveals the emergence of a controversy among supporters of the Syrian leadership over the extent of the damage, the need to demolish affected buildings and therefore the possibility of return. The governorate was indeed accused of overestimating the damage to demolish the buildings qualified as unsafe and thus facilitate the urban redevelopment of the area in accordance with Law 10. The media campaign against the governorate's assessment was carried out by residents who support the Syrian leadership and are close to or even part of the security apparatus.

### 3.3 The Security Services versus the MoLA: Negotiating Leadership

The analysis of the controversy damage assessment in Tadamun leads to three findings. Firstly, collective action against the assessment conducted by the Governorate was only possible because it was organised by residents linked to the security services with the media. Secondly, it shows how two groups loyal to the Syrian leadership negotiated their position on the issues of reconstruction and return, and how security services opposed the MoLA's monopoly on debris removal and targeted returns. Most of the people demanding to return to their homes were government employees, including army volunteers.<sup>57</sup> They nevertheless had to provide security clearance information and a signed undertaking.<sup>58</sup> Finally, it took the governorate two years to pass an order that defines areas that allowed for return. Adopted in 2020, the order was coordinated with mobilised residents. As of May 2021, only 2,343 returns were allowed.<sup>59</sup>

Few residents, who had the strong support of the security services and the NDF paramilitary group, led a campaign under the Facebook Page *the Migrants of Tadamun*. The campaign opposed the commission in charge of the evaluation work, led by the lawyer Faysal Sarur, a member of the Executive Council of the Governorate. The competition between MoLA and these residents intensified in Fall 2018, when MoLA and the Reconstruction Committee announced the redevelopment of the neighbourhood in accordance with Law 10/2018. Following the campaign's pressure, redevelopment was suspended.<sup>60</sup>

Rafet Zin, a photographer for the newspaper al-Watan, created the Facebook account of *the Migrants of Tadamun* in July 2018. The account has 13,762 followers (as of May 2021). Active members include Muafaq Muhamad, a journalist for al-Watan, and a lawyer, Uthman al-'Aismi. While these members challenged the damage assessment commission's work and results, they did not request compensation. According to the residents' report, 80% of the buildings had been little damaged and their owners could live there again.<sup>61</sup> The campaign started soon after the GoS retook control over the southern part of the neighbourhood, showing pictures of undamaged streets to contest the Law 3/2018 assessment.<sup>62</sup> Social media demands surfaced to take legal action against the damage assessment commission.<sup>63</sup>

Research shows that the group has links to paramilitary forces and intelligence services. Media coverage of Fadi Saqr's visits to the neighbourhood, widely covered by the page, is a point in case. As a head of the National Defence, Saqr was a resident of Tadamun, at least before 2011

<sup>56</sup> This campaign led by supporters of the Syrian leadership was brought to the author's attention by opposition media reporting on Tadamun. See Zaman al-Wasl, Residents of Tadamun are Upset After Their House Has Been Classified Uninhabitable" (in Arabic), 10 November 2018, <https://bit.ly/3u2iQ3T>. See also Syrian Observatory for Human Rights, "Residents of Al-Tadamun Neighbourhood, Near Damascus, Are Concerned About the Regime's Confiscation of Their Destroyed Homes" (in Arabic), 11 November 2011, <https://bit.ly/2QqgnDs>.

<sup>57</sup> Khulud Hassan "A New Return for the Displaced People of Tadamun" (in Arabic), *Golan Times*, 10 September 2020, <https://bit.ly/2W5wnl>.

<sup>58</sup> Enab Baladi, "Residents of al-Tadamun Neighbourhood Return Home on Condition of Signing a Pledge", 20 September 2020, <https://bit.ly/3ek1OBu>.

<sup>59</sup> Tadamun Online, Facebook, <https://bit.ly/2WaEShl>.

<sup>60</sup> Rafet Zein, "Faysal Sarur: No Urban Development for Tadamun" (Arabic), Facebook, 21 November 2018, <https://bit.ly/3gBtkTY>.

<sup>61</sup> Ali Khaznah, «Residents of Al-Tadamun Neighbourhood Reject Damascus Governorate Report" (in Arabic), *Shaam Times*, 7 October 2018, <https://bit.ly/3eRLNTu>.

<sup>62</sup> Rafet Zein, Facebook, 23 July 2018, <https://bit.ly/3FjtkTE>.

<sup>63</sup> Tadamun Family, Facebook, 27 September 2018, <https://bit.ly/3nTgDO7>.

and probably in the wartime. His paramilitary group was mobilised for debris removal to prepare returns, and thus assert the group's control over the neighbourhood, since 2019.<sup>64</sup> Saqr was responsible for the "Reconciliation" dossier from 2014 and now functions as the head of the Baath Party's youth and sports office in Damascus to rebrand himself.

Opposition media outlets also suggest that close links exist between certain inhabitants and the intelligence services. These outlets claim that the Nisrin Street militia, which was active during the war and probably after the conflict, is directly linked to the air force intelligence, the most powerful and feared security service. While links between the *Migrants of Tadamun* group and this militia are beyond the scope of this study, they are highly likely.<sup>65</sup> This likelihood is due to the support of General Bahjat Suleiman, who was reported on the *Migrants of Tadamun* Facebook page, in 2018.<sup>66</sup> This was soon after the MoLA and the reconstruction committee announced that Tadamun will be subject to urban development under Law 10/2018.<sup>67</sup> Suleiman was one of the most powerful Alawite officers in Syria, the former head of internal security in Syria and ambassador to Jordan until 2014. He died in 2021 from a Covid-19 infection. His support resulted in the suspension of Law 10/2018 in Tadamun, announced 15 days after the publication.

## Conclusion

Of the 6,7 million displaced people in Syria in 2022, 3,6 million were displaced in government-controlled areas, including 3 million in urban areas. Despite the relative stabilisation of these areas and official declarations about the population's return, IDPs face many obstacles in regaining their housing, land and property rights, which are a condition for return and would be a step towards a durable solution. Most of them have been displaced for more than five years.

First, the publicity given to the preservation and reconstitution of property rights held in the GDCA's cadastral registers (damaged or destroyed by the conflict) masks the lack of action to reconstitute other registers, i.e. those held by the Ministries of Justice and Finance. The latter, as together with oral testimonies, are widely used to preserve property rights in informal settlements, where a significant proportion of displaced people originate. By focusing their official statements on the GDCA, the authorities have effectively side-lined the Ministries of Justice and Finance from the process of securing property.

Second, a major obstacle to the return of IDPs is the requirement for security clearance, to access homes or obtain compensation. Instituted as early as 2012, obtaining such clearance depends not only on people not being involved with the opposition during the conflict, but also on their network and ability to obtain support for their application given the risks involved and the time taken to obtain it. Vulnerable people, such as women, are particularly at risk.

Finally, the mechanism set to clear debris of damaged neighbourhoods before rehabilitation or reconstruction, is not adapted to the return of displaced persons. Law 3/2018 on Debris Removal and Damage Compensation, adopted in parallel with Law 10/2018 on Urban Development, does not consider the HLP rights of displaced persons. Under this law, in line with the mechanism established by the Reconstruction Committee as early as 2012, governorate services assess damage and define buildings to be destroyed before urban development projects take place. Residents only have one month to file a claim for compensation and restitution. Although this one-month time limit is common in Syrian urban law the authorities refuse to consider the scale of population displacement and the ability of displaced people to gather the necessary ownership and civil status document. This refusal especially violates the rights of IDPs from informal settlements and peri-urban areas.

Although the government recognises that alternative ownership documents exist, it did not implement a policy that would allow displaced people to obtain these. The claimants are left to carry the burden of providing proof and pay the cost of rubble removal. In addition,

<sup>64</sup> Rafet Zin, *Facebook*, 14 June 2019, <https://bit.ly/3yfHDfO>; Rafet Zin, *Facebook*, 30 September 2019, <https://bit.ly/3uUAhfk>.

<sup>65</sup> Samer Suleiman, "al-Qazaz Neighbourhood and the Shabiha of Sharia Nisrin" (in Arabic), *al-Modon*, 13 August 2018, <https://bit.ly/2UXjrjw>.

<sup>66</sup> Rafet Zein, "About the Statement of Damascus Provincial Council Member Faisal Sarour about the Demolition of Informal Areas" (in Arabic), *Facebook page of Migrants of Tadamun*, 10 November 2018, <https://bit.ly/3sEgZEH>.

<sup>67</sup> The Reconstruction Committee, "Al-Tadamun Will be Fully Regulated" (in Arabic), *MoLA*, 14 October 2018, <https://bit.ly/3ejxk2s>.

compensation payments have been suspended since 2016. The informal settlement Tadamun, where Law 3/2018 was first implemented in August 2018, shows how the residents' ability to secure HLP rights depends on social ties to security apparatus members.

Despite official statements, people displaced in Syrian government-controlled territories are rarely able to access their property due to the many obstacles put in place by the Syrian authorities, especially when they come from peri-urban and informal areas where tenure is less secured.

The emphasis on the role of the GDCA in securing property rights, to the detriment of the role of other institutions such as the Ministries of Justice and Finance, is detrimental to IDPs from informal settlements and peri-urban areas. It also contributes, in a purely legalistic approach, to focusing the debate on property rights rather than on the right to adequate housing and the right to protection from forced eviction.

Analysis of policies for the removal of rubble and of Law 3/2018 shows that existing mechanisms also limit the return of displaced people, even when they are in areas controlled by the government of Syria. Heavily centralised under the Ministry of Local Administration and the Reconstruction Committee, this mechanism also requires IDPs to present a certificate from the security services to complete the process and request compensation and return.

The case study of Tadamun – an informal neighbourhood in southern Damascus, where Law 3/2018 on debris removal was implemented in 2018 – is instructive in two ways: It shows the tensions that can exist between two groups close to the Syrian leadership, the Ministry of Local Administration and the security forces, in reconfiguring the area and establishing ownership. Moreover, the example of Tadamun shows that the security forces won the case.

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