

Abstract: Housing, land and property (HLP) rights for Syrian women

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INTRODUCTION

Entering its eighth year of war, Syria has become one of the largest forced displacement crises in the world since World War II, with nearly 60% of its pre-conflict population having been forced from their homes.¹ There are 6.6 million people displaced inside Syria,² and millions more have fled across the country's borders, with about 5,6 million in neighboring countries, and another 1 million in Europe.³ According to UNFPA, those affected by the crisis include 3.29 million women of reproductive age and 4.31 million youth.⁴

Despite ongoing fighting and violence, few Syrians both IDPs as well as refugees are starting to return home, with reports estimating over 700,000 internally displaced individuals (IDPs) returnees country-wide since the beginning of the conflict⁵ and just above 100,000 refugee returnees since 2015⁶ including 23,416 refugee returns in 2018⁷. Understanding and addressing the housing, land and property (HLP) issues that have arisen during the conflict will be essential as all displaced persons have the right to restitution for any property which was taken, damaged, or destroyed during the war. However, this is much easier said than done in countries that suffered from armed conflict, and Syria is no exception– not just because of the scale of damage and loss, but also because of the convoluted and pluralistic systems of land governance in the country as well as the fact that HLP issues were a contributing factor to the conflict.

¹ Connor, P., “Most displaced Syrians are in the Middle East, and about a million are in Europe,” Pew Research, 29 Jan. 2018, available at <http://www.pewresearch.org/fact-tank/2018/01/29/where-displaced-syrians-have-resettled/>

² UNHCR: Syria Emergency, 2018, available at <http://www.unhcr.org/en-us/syria-emergency.html>.

³ Connor, P., “Most displaced Syrians are in the Middle East, and about a million are in Europe,” Pew Research, 29 Jan. 2018, available at <http://www.pewresearch.org/fact-tank/2018/01/29/where-displaced-syrians-have-resettled/>

⁴ UNFPA (2017) “Syria Humanitarian Emergency, UNFPA,” available at <https://www.unfpa.org/data/emergencies/syria-humanitarian-emergency>

⁵ IDMC (2017) “Returnees in Syria: Sustainable reintegration and durable solutions, or a return to displacement?”

⁶ UNHCR https://data2.unhcr.org/en/situations/syria_durable_solutions

⁷ UNHCR Durable Solutions for Syrian Refugees August/September 2018

While such challenges apply to all Syrians, the difficulties for women will be particularly acute, especially those who have lost husbands or other male relatives during the conflict. In addition to the devastation of war, discriminatory customs regarding the ownership, use and control of HLP assets, loss or lack of civil identity documents, and the rending of social safety nets all prevent women from claiming and enjoying their HLP rights.

AREA OF FOCUS

Based on extensive research and interviews with over 2000 Syrian internally displaced persons (IDPs) the paper describes the particular obstacles and challenges that women face and that prevent their ability to exercise HLP rights. This includes barriers based in both law and custom, as well as the complicating circumstances created by years of war and displacement. The findings of the research underscore the importance of targeted humanitarian interventions to support women to claim their HLP rights, which can play an essential role in economic and social outcomes for themselves and their families. The paper concludes with opportunities for engagement and puts forth concrete recommendations to the Government of Syria, international donors, humanitarian actors and policymakers to engage in a dialogue and begin preparing for the challenges that lie ahead. In this way the paper offers a contribution to gender promotion and reconstruction efforts, articulating the complex role of HLP in future and sustainable return and reintegration for Syrian women.

METHODOLOGY

The information presented in this paper is based on qualitative and quantitative data collection carried out by the organization, including interviewees with over 2000 Syrian IDPs. In addition to the field interviews, the findings are also drawn from the organization's years of service provision of counseling and legal assistance on these issues in Syria allowing for on-the-ground identification and verification of trends affecting Syrian women. The organization has undertaken extensive legal research and analysis on the relevant legal framework and policy. Such analysis is included in the report.

MAIN HLP CHALLENGES

Years of warfare have resulted in mass destruction and a breakdown in essential infrastructure and service provision in major cities like Aleppo and Homs, as well as smaller towns and villages. Not all property rights were documented before the war and records for land that was registered have been lost or destroyed. Throughout the conflict, land and property continued to change hands, sometimes in good faith, but sometimes also due to confiscation, theft, or desperation. Property disputes are already common, and these factors suggest that the number of disputes will likely increase as more Syrians return home, many times finding secondary and illegal occupants on their properties.

MAIN HLP CHALLENGES FOR WOMEN

Discriminatory norms

Syrian women face discriminatory laws, norms and practices around ownership, inheritance and decision-making regarding HLP assets. *Shari'a* law treats women differently from men in terms of the shares they receive through inheritance, with a general rule that males receive twice what females in the same inheritance group receive.⁸ In the case of the death of a spouse, if a woman has no sons, grandsons or other male offspring, she will receive a quarter of the estate, while if she has sons or other male offspring, she will receive an eighth of the estate and if she is one of several wives, she and the other wives will share the quarter or eighth of the estate between them.⁹ These provisions of Syrian law are generally in accordance with *Shari'a* law.

Discriminatory practices

Despite acknowledgement of women's rights under Syrian and *Shari'a* law, on the ground, an adherence to customary practices continues to deny women's abilities to own and control HLP assets and *Shari'a* law is often not applied. Key areas where this was noticed include a denial of inheritance rights from both fathers and husbands, practices about the use and control of a bride's *mahr*¹⁰, and rights and protections for divorced and widowed women. In addition legal protection is sometimes conditional (for example, in the case of an irrevocable divorce, if the husband can prove that the divorce is the fault of his wife, she loses her right to the dower agreed in the marriage contract¹¹).

HLP is most often recorded in men's names, leaving women unable to claim

In Syria pre-2011, women had comparatively weaker rights than men to their primary residence as women's names were often not included on HLP documents and there is commonly no provision in marriage contracts regarding HLP assets accumulated during marriage. This practice remains in place today and may have extremely negative implications for women in the case of divorce from, or on the death of their husbands, as, in such cases, the female not named on ownership documentation is likely to lose her home in light of the fact that there is no law on the splitting of assets accumulated during marriage.

Economic barriers and limited authority at the household level

The research demonstrates that women are more negatively impacted than men by the conflict in a number of economic respects. For instance, females were far less likely to work than males; were more likely to report that they were reliant on family members as their main source of income; and were more likely to report having no income. These findings highlight the increased vulnerability of females, who are more likely than men to be financially dependent on others for income. They also highlight the increased vulnerability of widows and divorced women who, it appears, are more likely to be dependent on extended family members outside of their household for income.

⁸ Article 277 Personal Status Law, Legislative Decree 59/1953

⁹ Article 268/2 and 268/3 Personal Status Law, Legislative Decree 59/1953

¹⁰ *Mahr* is a mandatory payment, in the form of money or possessions paid by the groom, or by groom's father, to the bride at the time of marriage, that legally becomes her property.

¹¹ Article 59 of Personal Status Law 59/1953, Legislative Decree 59/1953

During the course of NRC's assessment, it was reported that women are less likely to be decision-makers in their household and that males in the household often make decisions regarding the primary residence without consulting females in the household.

Lack of legal identity and civil documentation

The lack and loss of civil documentation is a major challenge for many Syrians. This factor compounds the HLP problems, as civil documentation and the capacity to prove one's legal identity is a pre-requisite to obtaining property documents and necessary for the recognition, exercise and full realization of HLP rights. For women, this is exceptionally difficult, as HLP documents would typically be in the name of their husbands, fathers, or other male relatives, so they would have to prove not only their own identity, but their relationship to these men. The research shows that displaced women are less likely to have identity documentation than men. For example, only two per cent of IDP women hold passports, compared with 21 per cent of men in south Syria. With husbands and fathers either killed or missing without confirmation of death, female family members are left in a legal limbo, unable to sell or inherit property, or to remarry.