



## **Housing, Land and Property Rights for Syrian Women in Contexts of Internal Displacement: Challenges and Opportunities**

*Promoting better access to housing, land and property rights for Syrian women will be essential for supporting solutions to internal displacement in the context of peacebuilding and recovery from protracted conflict*

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Housing, land and property (HLP) rights constitute one of main challenges for persons displaced due to the conflict in Syria since 2011. The [Humanitarian Needs Assessment Programme](#) (2020) revealed that 74% of internally displaced households across Syria who own or owned property in their place of origin prior to the displacement reported that their property was damaged or destroyed. The overall findings of the [Multi-Sector Needs Assessment](#) (2021) also indicated that 50% of communities reported concerns for HLP issues. Nationwide, the most common HLP concerns reported at household level were damage/looting of land or property, lack of documents, or disputed ownership.

The pressure of family, society and traditions, *gender-specific* and *conflict-related* constraints or abuse of the legal illiteracy contribute to affecting displaced women to lose the HLP rights. The last decade of conflict in Syria further exacerbated the challenges already faced by women due to the destruction of social networks and weakening of the State institutions and the rule of law. In the state of emergency, most of Syrian women found themselves without a male support and became the main breadwinners for their families. In addition, some areas of Syria have limited properties and lands available because they were destroyed by the war. Due to the limited number of available properties and land, men's rights remain prioritized, and women are excluded. Women's HLP rights are the main conditions to guarantee security, economic stability and protection in the context of peacebuilding and recovery.

## Conceptualising Housing, Land and Property Rights

HLP rights cover the full spectrum of rights related to housing, land and property that exist in a variety of forms, such as customary and statutory laws, and mixed legal systems. HLP rights also cover public and private rights, as well as common, joint and individual rights. According to [a study conducted by the Norwegian Refugee Council](#) (NRC), HLP rights are about entitlements to having a home, free from the fear of forced eviction; a place that offers shelter, safety and the ability to secure a livelihood.

The [Sustainable Development Goals](#) (SDGs) describe ownership and control over land and other forms of property, as well as inheritance as key issues to promote reforms and give women equal rights to economic resources. SDG 5 is dedicated to achieving gender equality and empowering all women and girls. Under Goal 5, Target 5.A directs countries to undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance, and natural resources, in accordance with national laws.<sup>1</sup>

The [Special Rapporteur on the human rights of internally displaced persons](#) provided a thematic [report](#) at the Human Rights Council's 47<sup>th</sup> session in 2021 on Housing, land and property issues in the context of internal displacement. The Special Rapporteur looks at the impact of these issues on the human rights of internally displaced persons and how they can be addressed. The report also validates the view that patriarchal, statutory, customary, religious, and social norms disadvantage women in terms of access to land and in terms of ownership and inheritance of land. The Special Rapporteur calls upon all stakeholders to protect women's HLP rights regardless of age, marital, civil or social status and independently of women's relationship with male household or community members.

The [Guidance Note on land and conflict issued by the World Bank Group](#) also propounds the view that women tend to have weak security of tenure and to have customary or subsidiary land rights as these rights are often not recognized

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<sup>1</sup> - FAO is the custodian agency of target 5.A, which is monitored by two indicators, a 'de facto' indicator on women's land tenure rights land, indicator 5.a.1, and a 'de jure' indicator on women's land rights in the legal framework, indicator 5.a.2. See: FAO, Measuring SDG Indicator 5.a.1, Background Paper, available at: <http://www.fao.org/3/i8808EN/i8808en.pdf> (accessed 18 October 2021).

and because vulnerable people often lack awareness, means or trust in institutions; they face difficulties defending their land against confiscation or occupation. Courts are often inaccessible to them and customary dispute resolution mechanisms may discriminate against them.

## **Legal Basis for the HLP Rights of Women in Syria**

In the international framework, the HLP rights are based on key provisions within the [Universal Declaration of Human Rights](#) (UDHR), the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), the [International Covenant on Civil and Political Rights](#) (ICCPR), the [Convention on the Elimination of all Forms of Discrimination Against Women](#) (CEDAW), and the [Pinheiro Principles on housing and property restitution for refugees and displaced persons](#) (UN Sub-Commission on the Promotion and Protection of Human Rights). The [Guiding Principles on Internal Displacement](#) (GPID) sets out the rights of IDPs and guarantees women's equal rights to shelter and housing. This is indicated in principle 7 and 18 of the GDIPs which states that "Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies".

At the level of Syria's national legal framework, several articles of [the Syrian Constitution](#) (2012) confirm the religious pluralism. [The status, rights and position of women are also stipulated in the Personal Status Law](#) (2019). The Constitution grants equality to all its citizens in article 33(3), expressed in following terms: "Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed." Furthermore, it stipulates: "[t]he state shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life, and the state shall work on removing the restrictions that prevent their development and participation in building society" (Article 23). Article 33 of the Constitution also commits Syria to promote and sustain gender equality and non-discrimination. Moreover, Article 15 defines the protection of private property in absolute terms, and Article 17 maintains the right to inheritance in accordance with the applicable laws. Those legal dispositions formally provide a solid basis to ensure the respect of the women's HLP rights. Perhaps, those legal dispositions are denied by local practices regarding land, property and ownership access and control by displaced women.

Traditionally, the application of Islamic inheritance laws would allow women to inherit half the share of their male counterparts. This applies to all forms of property except *amiri* lands, which are inherited in equal shares ([Syrian Civil Code](#), 1949). Moreover, *Sharia* law provides significant protections for women's inheritance rights: it provides inheritance rules, which are supposed to cover needs of women within the family of the deceased husband with their own specific shares, and support women's rights under Islamic law to access, retain and manage their own land and wealth. Women's rights in relation to inheritance under the *Shari'a* signified an improvement upon their pre-Islamic position and historically stood in marked contrast to the less privileged position of women in Western societies, during the last century. Nowadays, and despite barriers and constraints that influence women's access to inherited land and their lesser shares in comparison with men, inheritance remains an important source of access to land for women.

### **Barriers to Displaced Women accessing HLP Rights in Syria**

The internal displacement of populations reveals additional factors that need to be urgently addressed to secure the HLP's rights of women in policy and at an institutional level. While Islamic jurisprudence and the legal system in Syria provide no explicit barriers for women to access, use and gain control over land, existing widespread practices discriminate against women in accessing their HLP rights. Important obstacles result from social norms, traditions and customary practices that not only limit women's autonomy in accessing property, land or housing; but also constitute main limitations to addressing women's specific rights. The main barriers to women's access to HLP rights have to do with the actual context of Syria, which particularly relate to displaced women. Some of them are gender-specific, such as the denial of inheritance rights and difficulties over security of tenure faced by divorced or widowed women. Others are conflict-related and impact-specific, usually resulting from internally displacement situation.

#### *Gender-Specific Challenges to Women's HLP Rights in Syria*

Gender norms and roles have been significantly impacted by the conflict in Syria. Many women are actually *de facto* the heads of households in many areas. However, several displaced women, or those who have lost husbands or male

relatives are in difficult situations resulting from their limited access to the HLP's rights. Particular attention must be paid to securing women's legal access to property, housing and land owned by their missing relatives, without putting them under the threat of expulsion or expropriation. Those issues also highlight the importance of taking into account different factors that can facilitate the recognition of women's rights recognition, namely, supporting them to issue their civil documentation, providing them with legal awareness about their rights, offering them legal counselling and assistance to address justice in dispute resolutions.

### 1. Registration and Ownership of Land Under a Male Relative's Name

In Syria, women own less agricultural land, despite their right to inherit the land granted by Personal Status Law. In 2006, women owned only 5.3% of agricultural land, and land holdings owned by them were on average smaller than those owned by men, as per the report of the [Japan International Cooperation Agency](#). The results of [the 1994 Agricultural Census](#) show that the number of landowners in Syria reached 610,000 holders, among whom the percentage of male landowners was 94.7%, while the percentage of women landowners was only 5.3%. The data provided for 2002 demonstrate a similar trend: 95% male farmers and only 5% of female farmers. The rate of assets related to agricultural resources was 82.5% for men and 57.4% for women, although women's general contribution to agriculture was estimated at 40%.

The researcher conducted semi-structured interviews with land registry professionals and humanitarian legal aid providers in October 2021. They confirmed that it is not common for women to register property under their names, especially in rural areas where the main way to inquire the property is through inheritance. They estimated that only 15% of women own or share a house or real estate on their name.

The [report](#) of the [Special Rapporteur on the human rights of IDPs](#) also supports the view that most women gain access to land and housing through their male relatives and risk losing these assets in cases of divorce or widowhood, particularly if they do not have male children for whom they can keep the land in custody. Even when ownership is registered, it is mostly under the name of men. This makes it particularly difficult for women to establish their right over the

property when their male relative dies or disappears during displacement, conflict or disaster. In such cases, access to personal documentation is essential for women to prove their relationship to the deceased or missing person and initiate inheritance procedures.

## 2. Depriving Women from Inheritance

Despite the legal right to inheritance shares, denial of inheritance rights was identified as one of the most important issues faced by women in relation to their HLP rights. This statement is confirmed by results of a [field study](#), which was conducted on violence against women in 2005 by the General Union for Women, the Syrian Commission for Family Affairs, the Central Bureau of Statistics and the United Nations Housing Fund. The study covered 1,891 households from urban and rural areas in fourteen provinces and indicated that 17.4% of women did not receive any legal inheritance (among which 14.7% women in urban areas and 20.2% in rural areas), and only 24% of women received compensation for part of their inheritance.

In most rural contexts, women reported that the refusal to waive their inheritance rights were threatened with disapproval and ostracism from other family or community members, and in the extreme cases, they have been subjected to verbal abuse or physical violence. The same attitude was observed not only in case of request to surrender their inheritance share but also during the procedure of sale of land or apartments because the transaction cannot be completed without the signature of all co-owners, including women. For this reason, pressure is often exerted on women to either give up the power of attorney or renounce their share in a property. Justification of practices that result in depriving women of their inheritance rights over the property, land or other assets result from the wish to maintain agriculture property within the same family and avoid its fragmentation.

## 3. Difficulties over Security of Tenure Faced by Divorced or Widowed Women of Missing and Absent Husbands

The concept of shared matrimonial property does not exist in the Syrian law. In practice, it can compromise any legal claim of women regarding their housing rights. Usually, only the male name is recorded on documentation relating to

ownership of a house. This practice can have extremely negative consequences for women in case of divorce, or death of their husbands. A study conducted by NRC in 2017 on [displacement, housing, land and property and access to civil documentation](#) highlighted that the absence of a female name on the ownership documents can compromise her rights to claim the property rights. It implies for women to lose their home and housing rights because there is no law on the splitting of assets accumulated during marriage.

The [Humanitarian Response Plan](#) revealed that most female-headed households, including widows, are in particular need of legal assistance to access inheritance, custody and other family-related issues. This underscores the importance of local authorities' support to ensure the issue of personal documents, especially for internally displaced women. Although most internally displaced persons can be considered vulnerable in terms of their housing, land and property rights, displaced women face specific challenges in relation to tenure. They tend to have weak security of tenure which exacerbates the pre-existing vulnerabilities and limits opportunities to improve living conditions.

Regarding the inheritance and property of the missing person, the interviewed lawyers stated that family members have a right to file a lawsuit to confirm the state of his death. This procedure is preliminary to access the inheritance, and in case of doubts, the court will appoint a tutor to represent his interest of the death or missing person during the process. Regarding the wife of the missing person, the legal way to claim her share or rights from her husband's property is to fill a police report to establish the evidence about the period and duration since the disappearance of her husband. Based on the police report she can address her claim to court. A missing person is considered dead after four years from the date of his missing in circumstances of war. In addition to the police report, two external witnesses must confirm the absence of the missing husband for a period of more than four years. Lawyers agree on the importance of registering the death of missing husbands after the legal period of four years has passed.

Another problem was identified in relation to restitution claims. Many women who lost or have been separated from their husbands are not able to claim marital property by lacking a formal marriage certificate. As per the [Study for the World Bank Conference on Land and Poverty](#), restitution and compensation should take into account the existing pluralistic legal system of land governance

and customary practices that existed before the conflict and were impacted by a high number of internally displaced persons. On the other hand, some cases are among the most vulnerable – widows, divorced or abandoned women. Those women are often forced to leave the land and house of their deceased or former husband, or to remarry to a relative or another villager to remain in the same community.

### *Conflict-Related and Socio-Economic Specific Challenges to Women's HLP Rights in Syria*

Women's capacities to secure their HLP rights are significantly determined by local context, existing institutions, their origin and situation of displacement or resettlement due to conflict. In Syria, many young women experienced disruption in their access to education during the last decade, and as result, they have low level of legal awareness and rights knowledge. The level of education decreased among different social groups and populations. The majority of Syrian women are not aware of relevant legislation and framework that can be used to protect or negotiate their rights in patriarchal systems. They have less access to the justice regulation system and legal counselling due to low economic, education and social status than their male counterparts do. The analysis also reveals a range of practical barriers that limit Syrian women's access to land whether they are displaced or not.

#### 1. Lack of Civil and Property Documents

Lack of civil documentation continues to be a key protection concern regarding HLP rights. In most cases, receiving legal assistance from NGOs requires an internally displaced person to present an identity card, family booklet, and a lease contract. Perhaps, many IDPs left their basic documentation behind them when leaving their homes in emergencies, or lost it in confusion of multiple displacements, or had it confiscated or damaged. Several internally displaced women often lacked the main documents requested to claim their inheritance rights before the courts, such as death certificates or marriage contracts.

Before the conflict in 2011, many persons lived on land that was in fact publicly owned or for which property rights could only be tenuously proven through locally specific customary law. Many civil and land registries have been destroyed,

as well as documents proving ownership of property. This has compromised the ability of many thousands of people internally displaced from rural Damascus or other parts to request duplicate documents regarding home or property rights. As the situation in Syria is improving, the number of people wishing to return to their homes is increasing. The loss of property or personal documents constitute a major challenge to specific subgroups of IDPs, such as single women and minorities, whose civil status or rights were not recorded to the same extent as for other citizens.

## 2. Illiteracy and Lack of Awareness of HLP Rights

Low literacy level impedes women's understanding of the law and their ability to claim HLP rights, address the court or acquire land or other properties. In rural areas, female illiteracy rate is high because of [limited access to education](#) and low income. In addition, many women have no access to information, lack of confidence, experience and resources to obtain what they are legally entitled to. There is no specific data found by the researcher on the general literacy rates and awareness of rights of IDPs compared to non-IDPs.

## 3. Poverty and Lengthy of Judicial Procedures and Disputes

The [World Food Programme](#) (WFP) reports that a record 12.4 million people — 60% of the Syrian population of whom more than the half are displaced persons— are food insecure, according to the results of the nation assessment conducted in late 2020. This is by far the highest number ever recorded in Syria that can contribute further to the risks of gender-based violence and harmful practices. Poverty and lack of financial resources mean that women cannot access HLP rights independently from men. Most displaced women cannot afford to cover fees to bring cases before the judiciary which may cost between 300,000 to 800,000 Syrian pounds (\$120- \$320 as per the national official exchange rate as of October 2021) including the fees of lawyers. Displaced women have been hard-hit financially, with almost limited income sources to support their family. To elaborate on HLP cases, the issue is related to some judicial procedures, starting with the case that requires notifications to the heirs and takes a long time, and it is a problem. The huge number of cases before the judges forces them to give long deadlines that may usually bypass two months. When the notifications of the heirs are complete, there are other procedures that do not come in favour of the

woman by the heirs who rely on procrastination of the case. It leads the woman to boredom and to forfeit her right. At the least the executive procedures that follow the issuance of the ruling of inheritance are very complicated, especially if the property is not cleared. Once again, this requires the woman to resort to the judiciary, to sort her share as little as possible, because the property is not divisible. In addition, the costs of the cases represent an important aspect for the woman, who is often unable to cover them, which can result in withdrawal from filing the case, especially when a woman considers that she wins a little and needs to pay a lot.

In response to this observation, the [UNHCR](#) obtained the official approval from the Syrian authorities to conduct free- of- charge HLP legal aid activities through implementing partners of [Syrian Arab Red Crescent](#) and [Syria Trust for Development](#) NGOs starting from October 2020. Legal support and assistance are provided to the most vulnerable groups with focus on women and children. The legal services help them to register their main personal events and issue civil documentation including HLP documents before the Land Registry and courts. Legal issues concern property registration, lease agreements, damages claim and the procedures to issue alternative HLP documents. Around 300 lawyers are involved under the Legal Aid program in the Syrian governorates including more than 54 lawyers in Damascus and Rural Damascus only. The Program is designed to reach beneficiaries, women and men, in local communities through the legal counselling, awareness raising and legal interventions before courts and land registry departments.

### **Promoting Access to HLP Rights by Displaced Women: The Way Forward**

The following points suggest ways that humanitarian organisations and relevant authorities can improve its work on behalf of displaced women to promote their access to HLP rights.

There is an urgent need to raise understanding of practices that can compromise displaced women's access to land or HLP's rights. To explore different opportunities regarding Islamic conceptions and statutory law, as well as juridical practices help to identify gaps and barriers related to gender inequality in addressing those issues. Further steps at the policy, institutional and operational levels including any operational interventions to address displaced women's HLP

rights need be designed with consideration of local specificities and real needs of displaced women.

Humanitarian organisations should increase the awareness campaigns, advocacy and initiatives to improve displaced women's enjoyment of their HLP rights with provision of legal, financial and psychological support. They should support the conduction of a series of roundtable discussions or workshops on access to HLP rights from a gendered perspective. Intersectoral mechanisms to ensure institutional responsibility for access to land in IDP situations are also necessary. Local committees of displaced women should be established to focus exclusively on HLP rights. Engagement with community elders on social behaviour change dialogues should be initiated by the NGOs and other humanitarian actors.

Drawing on the [2021 ABC for a Gender Sensitive Legislation](#), the hurdles to women's access to justice should be removed and Women seeking access to justice should be granted free legal assistance and be adequately informed of their rights and the relevant laws assisting them. Laws should also ensure women access to justice in formal courts rather than in traditional or community courts. Women and other beneficiaries in need to legal aid should be referred to the active NGOs on the ground to receive legal consultations and attend legal awareness session on property, inheritance and proof of ownership.

Young men, religious or community leaders to introduce transformative changes should be involved in such campaigns. The campaigns to raise legal awareness of women should be launched especially in rural areas. Inclusive and multi-level approaches should address structural inequality that contribute to discriminations of women and result from their lower legal, economic or social status.

The role of the civil society and local leaders in the communities such as Mokhtars, tribal leaders, municipalities, Local and women Committees, as well as Agriculture and Irrigation committees should be enhanced to support equal women access to land and removing barriers.

The authorities should collect national statistic disaggregated by gender, age and other factors to support target policies and programs development and implementation. Gender and women's rights should be integrated in transformative approach in all policies and programs, not only those that target

women and girls as per the supporting evidence lied in the findings of the Conceptual paper on the [Gender Gap in Assessing and Measuring Gender related Land Inequality](#). Perhaps, the most important remains advocacy and change in laws to adapt them to realities and reinforce their enforcement mechanisms to responding to legal and right claims. This piece of research concludes on the importance of raising involvement of government and legal institutions to reinforce transformative approach in women's empowerment programmes. In addition, the legal counselling and assistance need to be improved to overcome the barriers and obstacles that Syrian displaced women face in accessing or claiming their HLP rights.

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