

# "أمر إخلاء"

تحقيق استقصائي من إنتاج الوحدة السورية للصحافة الاستقصائية - سراج

تقرأونه قريباً على موقع درج

كنت تصرف المحكمة الشرعية  
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## Warrant for Eviction

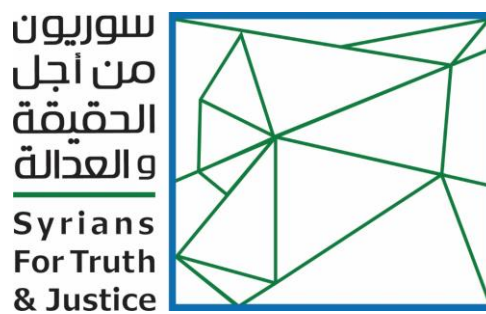
Houses Belong to Residents in Idlib ... a Sword Used by Hayat Tahrir al-Sham to Take Revenge of Adversarie



## About Syrians for Truth and Justice (STJ)

[Syrians for Truth and Justice \(STJ\)](#) is an independent, nongovernmental organization whose members include Syrian human rights defenders, advocates and academics of different backgrounds and nationalities.

The initiative strives for SYRIA, where all Syrian citizens (males and females) have dignity, equality, justice and equal human rights.



## About the Syrian Reporting for Accountability Journalism-SIRAJ

SIRAJ is an abbreviation for Syrian Investigative Reporting for Accountability Journalism, a Syrian investigative journalism group with the mission of training Syria journalists on the methodologies of investigative journalism, producing reports and investigates reports (both print and video) on Syria both in and outside of the country by Syrian reporters who receive support and funding from SIRAJ.

SIRAJ will address the Syrian journalists who want to produce such investigative reports, which cover the Syrian affairs, and the journalists will undergo a training on the basis of investigative journalism, and then get engaged in completing their reports for SIRAJ.





## Investigative Report

### Warrant for Eviction

*Houses Belong to Residents in Idlib...a Sword Used by Hayat Tahrir al-Sham to Take Revenge of Adversaries*

*The investigation was carried out under the supervision of the Syrian Reporting for Accountability Journalism-SIRAJ, in cooperation with Syrians for Truth and Justice(STJ).*



## Idlib-Soha al-Ali

To be divorced from her husband in absentia or to waive her house, were two solutions only two, to get out of the maze the Syrian lady was put in.

Mariam. A, 39, along with her conscripted husband in the Syrian regular forces, used to live in Ariha city located in Idlib province. In 2015, Jaysh al-Fateh controlled Ariha forcing Mariam's husband to flee to Dmascus, because the husband was considered to be a military advesay to Jaysh al-Fateh.

After the seizure, Ariha witnessed violent aerial bombardment so a large population from the city displaced, among with was the lady who feld to the adjacent city of Kafranebl. Following the bombardment, she, along with her children, went back to her two-room house but found another family resideing there. It was a family of a combatant of al-Nusra Front. They informed her that the house was confiscated because her husband was a "shabih" for the Syrian regime.

It has been three years now, Jaysh al-Fateh was dissolved and al-Nusra Front split from it, and changed its name to Hayat Tahrir al-Sham(HTS).

However, the thing that remained the same was that Mariam lost both her house and her husband.

## **The maze of restoring the house**

Mariam was not the only person whom house was confiscated; the presenter of this investigation counted the confiscation of 46 houses throughout Idlib province between 2013 and 2018 by Hayat Tahrir al-Sham(HTS)- formerly al-Nusra Front- that was called Jaysh al-Fateh before that. The presenter of this investigation had carried out interviews with persons whom houses were confiscated and went out on field visits to a direct survey in several towns and villages of Idlib.

The six-month investigative report showed that HTS used two pretexts to seize the houses, they either used the charge "Shabih for the Syrian regime" or "apostasy" without refer to a legal legislation. Members of the Sharia Court and the judiciary, affiliated to HTS, just head to the house and write the word "Attached" or "at the disposal of the Sharia Court" then the house becomes confiscated by HTS. After that, the civilian's journey starts in an attempt to restore the confiscated house. The majority of the civilians, being interviewed for this report, failed in restoring their houses given HTS courts lack impartiality because the courts, which pass a sentence to attach the house, is the same one that carries out the execution. In addition, the judges operating in the courts are not comotent, according to the owners of these houses and the eyewitnesses from the same area.

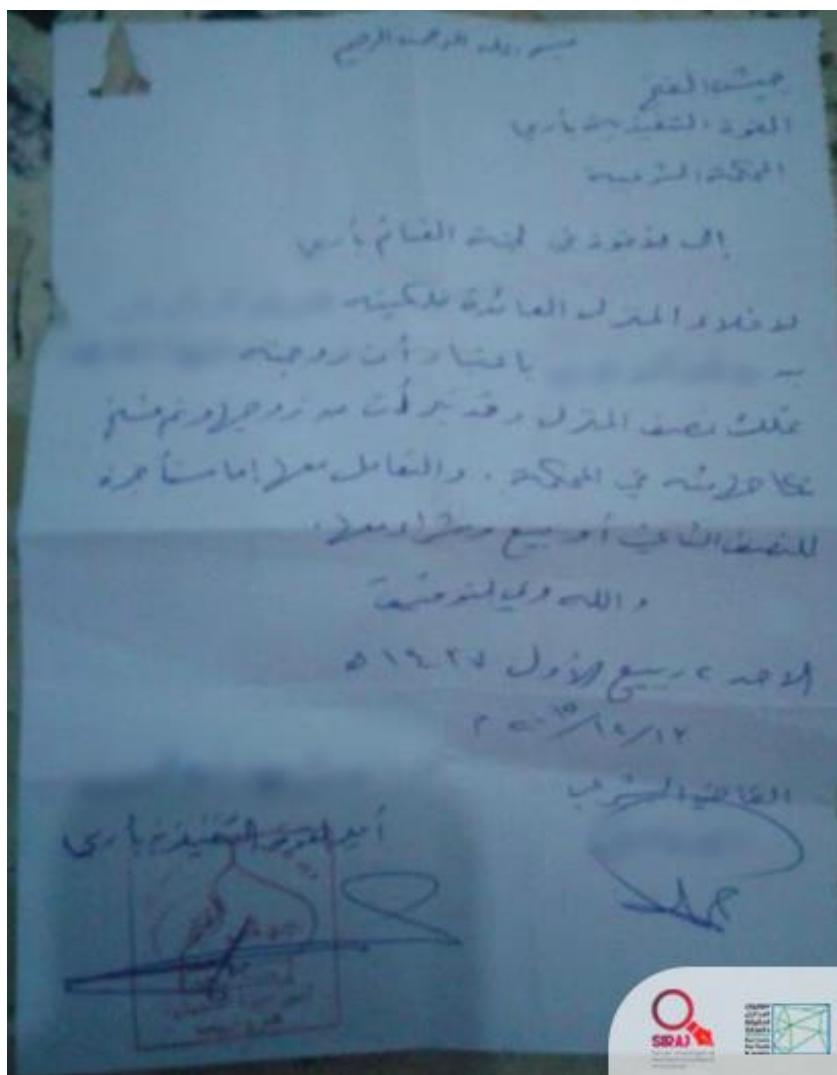


This act constitutes a breach to the rule 50 of the Customary International Humanitarian Law that states "the destruction or seizure of the property of an adversary is prohibited, unless demanded by imperative military necessity." This rule apply to non-international armed conflict, like the situation in Syria, and apply also to the members of non-state armed groups, like Hayat Tahrir al-Sham(HTS), according to a response obtained by the investigator of this investigation from the Syrians for Truth and Justice, a neutral organization to meet the complicated law needs that resulted from the Syrian conflict. The presenter of this investigation demonstrated that acts of members of HTS in seizure property and houses of the locals amount to clear violation of rules of the International Humanitarian Law (IHL) and is breach to their commitments, being a party to the conflict.

Mariam never gave up after the confiscating of her house. She started to knock doors of the pro-Jaysh al-Fateh Sharia Courts in an attempt to restore her house, which is the only shelter for her and her children.

She headed to the court and told them that she owns half of the house according to a document of selling and buying between her and her husband. However, they refused to give her back the house. After her insistence to restore her house, the judges told her that there was a solution which is to divorce her husband the "shabih" in absentia in exchange for giving her back the house. At first, she refused, but then she agreed to do that for two reasons; the first reason was to restore her house, and the second was losing the hope to be reunited with her husband who was in Damascus, she told the presenter of this investigation.

Late 2015, months after the confiscation of the house, Mariam stood in the pro-Jaysh al-Fateh court and divorced her husband in absentia under a document signed by the judge, who in turn, hurried to write a warrant to the new residents of the house for the immediate evacuation and returning it to its owners.

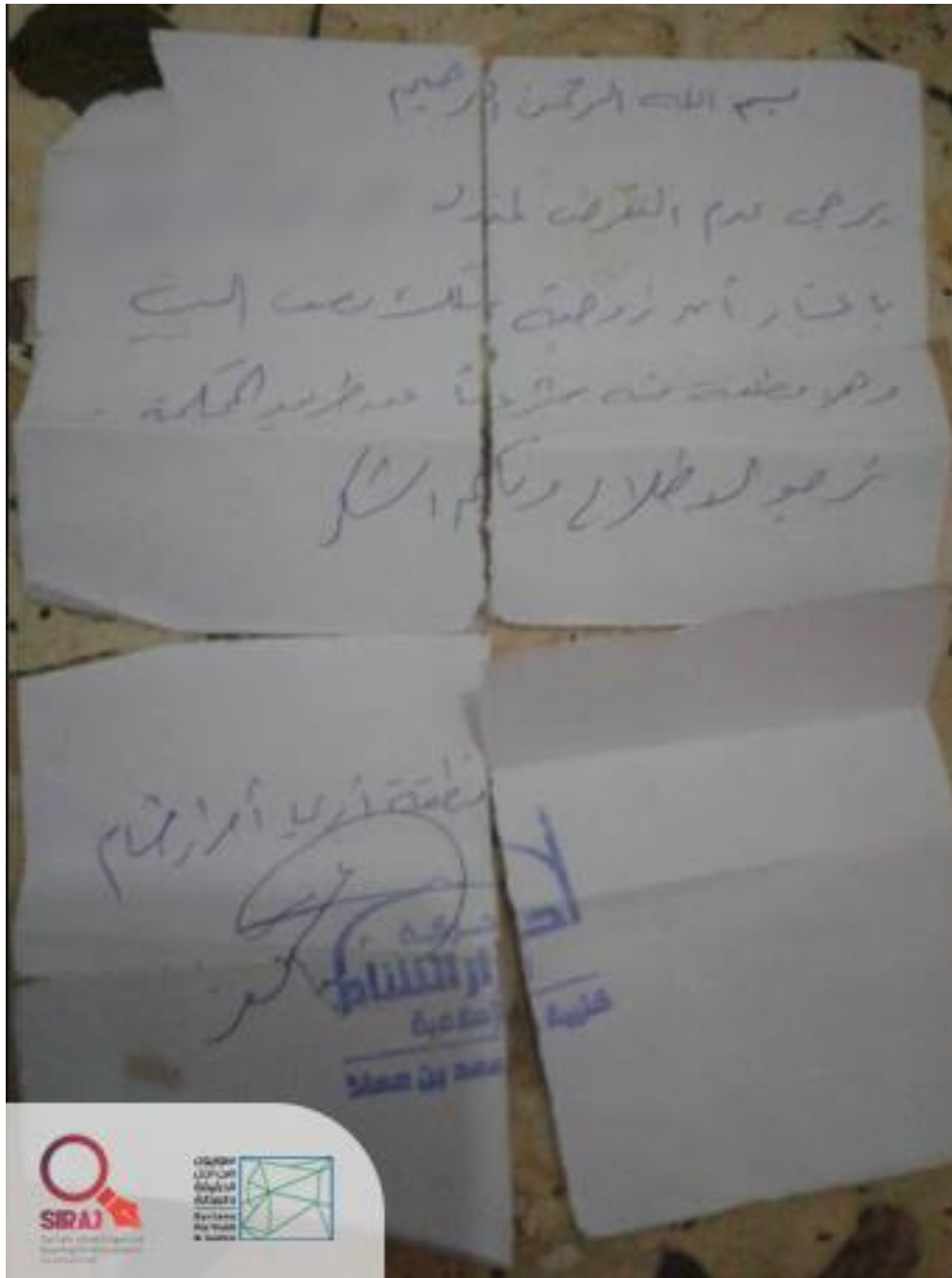


A warrant eviction of the house in favor of Mrs. Mariam after she divorced her husband and disowned him/exclusive to investigation

Furthermore, the judge lined a warrant stamped with the seal of HTS which chaired the security committee in Idlib under the faction of Jaysh al-Fatah. The warrant stated "Non exposure to Mariam's house due to the fact that she owns half of it and is divorced from her husband lawfully."

The trauma was that the family of the combatant of "al-Nusra Front", whom were living in the house, did not give any attention to the judge's warrant and refused to leave the house. Nonetheless, no action was taken against them by the court to force them out. Consequently, Mariam lost her husband in the first place and her only refuge in the second place.

At the last interview with the presenter of this investigation, Mariam said, "she will never ever return to this area because she was disappointed there" and then Mariam disappeared, and no one knew where she went.



A paper for non-exposure to Ms. Mariam/Exclusive for investigation

Jaysh al-Fatah was founded in March 2015, and was a union of seven factions, they were "al-Nusra Front, Ahrar al-Sham, Jund al-Aqsa, Jaysh al-Sunnah, Faylaq al-Sham, Jund al-Haq, Ajnad al-Sham". It was later dissolved and followed by "al-Nusra Front" split which was its most prominent components of al-Qaeda.



## At the Disposal of the Court

Abdulkarim Barbour, who hails from Saraqib city in Idlib countryside, displaced early in 2013, towards a safe village west of Aleppo as a result of escalating the shelling; he has dared not return to his home until this moment.

Almost three months after his displacement, specifically in April 2013, he found by accident a photo published on the social media of a wall of his own house written on it "at the disposal of the court".

Barbour added that he learned through friends of him inside the neighbourhood that "al-Nusra Front" is renting the house to its elements; "Syrian and immigrant elements affiliated to al-Nusra Front rotated on renting the house".

Barbour dare not sue against them fearful of reprisals, and fear prevented him from returning to the area in the first place, so, he left his house subject to fate.



The wall of the house belongs to Abdulkarim/exclusive





## Apostasy Accusation

Out of the 46 houses taken, which are documented by investigation, 7 of them were confiscated of "apostasy" accusation. Apostasy is blasphemy after adopting the Islam voluntarily, either by belief, or action, or saying, or doubt" according to the Islamic scientific references.

Among the Syrians whose houses were confiscated because of the "apostasy" accusation is the Syrian writer Ali Amin as-Suwayed, 49, who hails from Kafranbel city but has been living in Kuwait for more than 20 years.

As-Suwayed is the one who wrote the famous signs held by protesters in Kafranbel city. On April 28, 2015, he published an article on "all4Syria" website in which he criticized Abu Mohammed al-Jolani, leader of HTS. Therefore, HTS accused him of apostasy and confiscated his both houses in Kafranbel; knowing that his old parents lived in one of these houses, whereas his nephew lived in the other.

As-Suwayed says: "al-Nusra Front accused me of apostasy and that I was publishing infidel leaflets". He rejected these accusations and said he was proud being a Muslim. Moreover, he faced "allegations of apostasy" with a massive media campaign that involved several activists from Idlib who refused the charge that was never based on clear evidence. This prompted al-Nusra Front to abolish confiscation of his houses to hold back the wrath against it.

However, as-Suwayed adds that after the return of the houses, al-Nusra Front has been arresting, for more than 10 months, his nephew, Bashar as-Suwayed, 23 years old, who had resided in his second home on charges of communicating with his uncle and to practice pressure on him.

Currently, the city of Kafranbel is controlled by an opposition faction called Jaysh Idlib al-Hur, but HTS still has wide influence over the city and in the whole of Idlib province.



A wall of a house put at the disposal of HTS in Idlib province/exclusive



## Jihadists Have the Right to Seize Shabihs' Houses

The house of Um Mohammed and her family was saved from being seized by HTS at the last moments, after receiving a notification that she should evacuate it.

Wednesday, 18 December 2017, a person knocked at the door of Um Mohammed's house in Ma'arat al-Nu'man town, located south of Idlib, and informed her that she had to evacuate the house and review courthouse the following day; the man turned to be from the courthouse affiliated to HTS.

"Upon the judge, who was a sheikh, came in, he started asking about my children and their whereabouts; I replied that they were in Hama city, and that one of them is a civil servant at the central inspection, whereas the other is a taxi driver." Um Mohammed said.

The woman was shocked when the judge said that the court had decided to confiscate her house, arguing that her son was working with the Syrian regime, and that her house had to be evacuated within a month as maximum. Despite all her attempts to persuade him that she has no other place to shelter in, and that she her other three children had been killed during previous bombardment on the area, the judge did not alter his decision.

"When I asked the judge why he was taking thus decision, he replied **"Jihadists have the right to seize shabihs' houses"**

Before expiration of the time limit for eviction, Um Mohammed contacted a person close to HTS to mediate in order to undo the decision. Indeed, the person, whom identity was not disclosed by Um Mohammed, spoke with the Sharia judge at the courthouse to disregard, even temporarily, the confiscation of her house.

While mediation was being applied, both opposition factions Nur al-Din al-Zenki Movement and Ahrar al-Sham Movement merged under the name "Syrian Liberation Front" with the aim to fight HTS. Fierce battles began in Ma'arat al-Nu'man, and in early February, HTS withdrew from the city, so Um Mohammed's house was saved from being confiscated, but in mid April, HTS re-controlled the area again, thus raising fears for Um Mohammed on her house.

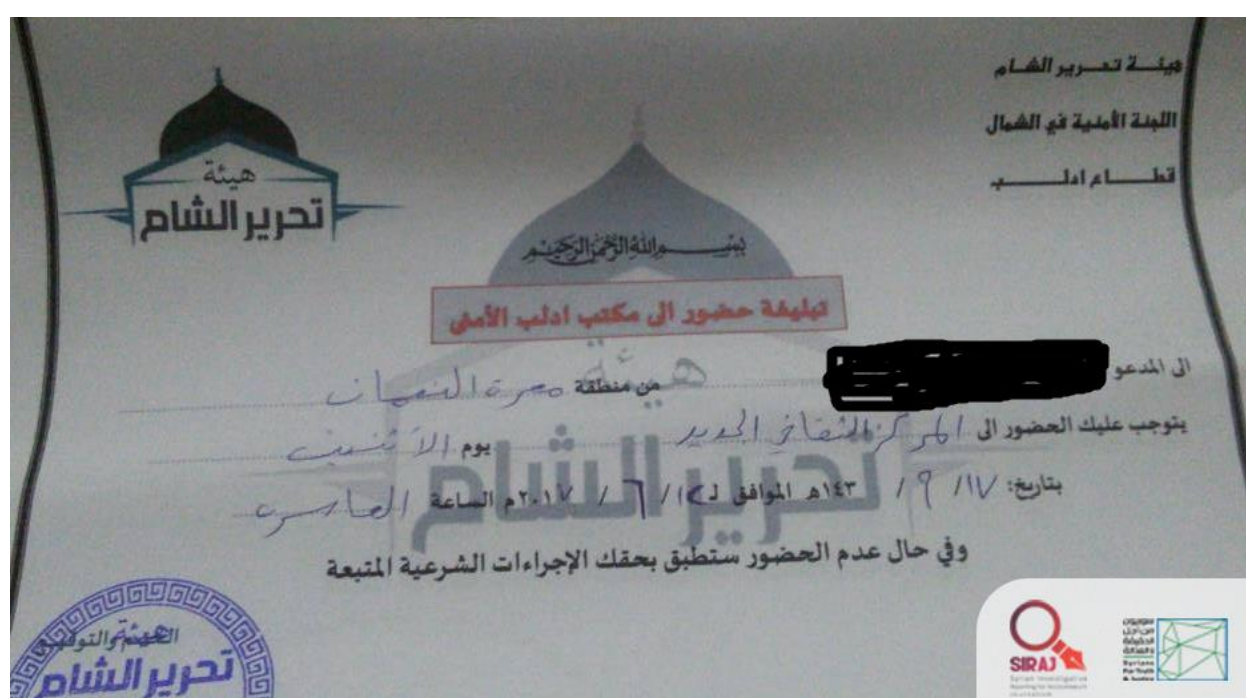
Um Mohammed was not the only person whose house was about to be confiscated by HTS in Ma'arat al-Nu'man. Last June 12, Um Rami, alias, received a telegram that she had to review the courthouse. When she went, she was told to evacuate the house where she was living, and which is registered in her son's name, who was a conscript in the Syrian regular forces.

The house was a two-storey building where the woman lived with her children on the first floor, whereas she was renting the second floor to earn a living. The judge informed her to give up the first floor, and to tell the renter to pay the monthly rent to the authority of HTS instead.



Um Rami added that she tried to claim that the house was registered in her name but did not have the necessary documents; she also tried to evade her son and tell them that she was not responsible for his actions, but all these attempts failed.

The attempts evolved to verbal altercation with the judge, but ended up with the retreat of HTS from the confiscation order in exchange for paying SYP10,000 monthly to the authorities of HTS for the house she was renting. Consequently, Um Rami lost her sole source of income, in the absence of any breadwinner.



The Communiqué received on June 12, 2017, by the woman from the Security Office in Idlib/ the courthouse affiliated to HTS/ exclusive

## Non-Neutral Courts

The lawyer Ghazwan Qrunful, head of the "Free Syrian Lawyers Association", a Syrian rights organization in Turkey, described the legal arbitration process that decide on houses cases in HTS courts as "a judicial circus tent".

He said: "It is natural that the property is not retrieved, since the entity that confiscated the house is the same that established the court". He explained that "all its judges are commissioners of the HTS authority and are not competent, hence, establishing these courts is incorrect and the methodology in which they operate is incorrect either because they do not have any law."





"Establishing such courts is another crime because when armed factions create alternative courts to the courts of the state, an offence of "**Grabbing the Judiciary**" is committed because the judge exercises an authority which nobody is entitled to exercise." Qurnful said.

"Legally what is being carried out is a crime of pillaging property, depriving a person of his right to benefit from his legitimate property lawfully", he added, pointing out that the court's penalty are "**petty crimes**" because there is no transfer of property, only temporary seizure.

The Syrian judge, Hussein Hamada, who has previously held several judicial positions in the Syrian government, considers that "the process of seizure of real estate has no legal billet; it is an assault on property and has no legal consequences". He said "Those who pass sentences like these must be held accountable", and added "this matter (Tashbeeh) must not be linked to seizure of the property because the property is safeguarded by the Syrian Constitution, and the pillage is only allowed for the public benefit and in exchange for fair compensation."

HTS relies in its judgment on a group of judges, whose scientific skills are unclear, and sometimes their true identity is unknown either. They are just known as Abu Mohammed, or Abu Hajer, etc. The judicial knowledge of those Sharia judges, who operate in these courts, is limited to a probation of 15 days; it is called "probation of preparing a Sharia judge", according to Ahmad Bakor, the Syrian lawyer who was living in Idlib.

This procedure of appointment and judgment contravenes Common Article 3 to the four Geneva Conventions, which "prohibits all parties to the conflict to pass sentences or carry out execution without a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

The guarantees of a fair trial are determined by article 14/3 of the International Human Rights Law, which requires the accused to be entitled several points in the court, such as informing him of the charge against him, giving him time-limit and facilities to defend himself or contact a lawyer, undue delay the judgment, the necessity to be tried in his presence or by a lawyer of his choice, and not to be compelled to confess guilt. According to the Syrians for Truth and Justice, HTS courts are void since they do not apply the standard guarantees of the International Human Rights Law.

As from the legitimate religious side, the Sheikh Ayman Mohammed, alias, a preacher and imam of a mosque in Idlib, indicates that "confiscation of private property must be the work of the governor, who is considered as guardian; it's not the work of the faction." He added "if this is possible for a faction, then other factions will have the same right since they are equal, hence creating complete chaos."



## Utilization not Pillage

We presented our facts to the Ministry of Justice in the "Syrian Salvation Government", being the only civil rights body in Idlib province.

**The Salvation Government was founded in Idlib in November 2017; it was chaired by Mohammed al-Sheikh and the civil administrations were received from HTS days after its establishment.**

The Minister of Justice of Salvation Government, Dr. Ibrahim Shasho said: "Since the establishment of the Salvation Government, there has been no decision to confiscate any house in Idlib."

He added: "There is no seizure, but those found guilty of "Tashbeeh", their houses are attached temporarily for the benefit of the displaced persons. We consider ourselves "necessity judiciary" and not a "stable judiciary" so we have the right to take advantage of houses but not the transfer of the ownership."

Dr. Shasho denied the seizure of any house without sentence from the court, saying: "The decision of evacuation is made only by a judgment of the Military Judiciary after hearing testimony of the residents of the Shabih's house; if it is he the breadwinner of the family, the house is not evicted, and when they have only one house, their house is not evicted either. But if they have two houses, then one of them is being evacuated for the benefit of a displaced family."

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**The investigation was carried out under the supervision of the Syrian Reporting for Accountability Journalism-SIRAJ, in cooperation with Syrians for Truth and Justice(STJ). Supervision: the colleague, Ahmad Haj Hamdo.**