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Afrin: Seizing Real Estate Property After Operation Olive Branch and Operation Peace

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Introduction

On 20 January 2018, the Turkish Army and supporting forces affiliated with the Syrian National Army (SNA), operating under the Syrian Interim Government of the National Coalition for Syrian Revolutionary and Opposition Forces, launched the Operation Olive Branch offensive against Syria's Kurdish-majority region of Afrin. As a result of this offensive, by 24 March 2018, Turkey occupied Afrin and its surroundings areas. Immediately following the operation, military groups began extensively and systemically looting the properties of Kurdish residents.

Months later, on 9 October 2019, the Turkish Army and allied armed groups affiliated with the SNA attacked the districts of Tell Abyad and Ras al-Ayn/Serê Kaniyê following the withdrawal of the U.S. troops from the region in a new assault into Syria termed "Operation Peace Spring". The assault involved serious abuses of human rights against civilians and gave Turkey and its allies full control over Tell Abyad and Ras al-Ayn/Serê Kaniyê on 27 November 2019.

After SNA armed groups extended their control over the aforementioned districts, they wreaked havoc on them, committing numerous violations against civilians. The violations included the arbitrary seizure of property and the expulsion of their mostly indigenous owners, particularly Kurds, who were forced to flee their homes.

These property seizures have serious consequences. At the very least, they impede the ability of displaced Syrians to return to their homes. At their most serious, they allude to the forcible demographic engineering of regions in Syria. In this brief paper, STJ studies the issue of property seizures, investigating their consequences and outlining possible solutions to address them today or in Syria's anticipated transitional phase. Additionally, we hope this paper will draw the attention of actors in Syria, both internal and external, to the seriousness of property seizures and the need include the issue in political negotiations.

The Practice of Real Estate Property

Since SNA forces entered Afrin and its surrounding area, they have decisively targeted the population's historically Kurdish component. SNA forces have displaced Kurdish families by looting their properties and arbitrarily kidnapping and arresting Kurds across the region, sometimes leading to incidents of torture and disappearances. The SNA seized private and public property, both movable and immovable, focusing especially on private real estate. Independent International Commission of Inquiry on the Syrian Arab Republic (IICISyria) confirmed the prevalence of these practices, documenting systematic and repeated patterns of looting and property appropriation.¹ Families who had property seized were often faced

¹ For more info, please check: Report of the Independent International Commission of

with a devastating reality: property losses made it impossible to remain in their home cities, and impossible to return to them if they left.

The SNA started to make real appropriations in the early days of its invasion, claiming that the seized estates belonged to members of the People's Protection Units (YPG) or to people had worked at institutions of the Autonomous Administration. However, our sources refuted the SNA allegations, confirming that appropriations were carried out randomly by writing “seized on the interest of an x group”,² on the walls of the property without asking who was living inside. Several people were also arrested on the allegation of affiliation with the YPG and the Autonomous Administration — even those who opposed the Autonomous Administration and had previously been arrested by its security forces.³ Furthermore, even when the SNA succeeded in seizing the property of those who were affiliated with the Autonomous Administration, it did not consider whether those individuals were merely civil servants with the Administration, or forcibly recruited to the YPG, which had instituted a policy of compulsory recruitment in the areas the Autonomous Administration controlled under the Self-Defense Duty law.⁴

The SNA also seized property on the pretext that the owners did not possess official property papers, neglecting the fact that sales in Tell Abyad and Ras al-Ayn/Serê Kaniyê are mostly based on the trust between the buyer and the seller and that the Syrian conflict has resulted in the loss or destruction of many identifying papers, including property documents.⁵ Regardless, the SNA is not legally responsible for adjudicating property disputes — that is the mandate of an independent and impartial judiciary. Even those who provided proof of ownership of their property and managed to keep them were not spared by the SNA, with affiliated groups carrying out arbitrary arrests and demanding money from families for the release of their loved ones.⁶ The SNA also imposed varying taxes on properties to drive their

Inquiry on the Syrian Arab Republic (IICISyria) of 14 September 2020, paragraph 46, <https://undocs.org/en/A/HRC/45/31> (last accessed: 24 January 2021).

² Ibid.

³ For more info: “Real estate seizures, utilization, and royalties... Who protects property rights in Afrin?”, Enab Baladi, 22 July 2020, <https://english.enabbaladi.net/archives/2020/07/real-estate-seizures-utilization-and-royalties-who-protects-property-rights-in-afrin/> (last accessed: 24 January 2021).

⁴ For the provisions of the law, see: In detail ... the Self-Defense Duty law of the Autonomous Administration of North and East Syria, Hawar News Agency, 22 June 2019, <https://www.hawarnews.com/ar/haber/d8a8d8a7d984d8aad981d8b5d98ad984-d982d8a7d986d988d986-d988d8a7d8acd8a8-d8a7d984d8b0d8a7d8aad98a-d984d984d8a5d8afd8a7d8b1d8a9-d8a7d984d8b0d8a7d8aad98ad8a9-d984d8b4d985d8a7d984-d988d8b4d8b1d982-d8b3d988d8b1d98ad8a7-h20204.html> (last accessed: 24 January 2021).

⁵ For more info please see: “The Property Issue and its Implications for Ownership Rights in Syria”, The Day After and Peace & Justice Studies Association, p. 87, <https://tda-sy.org/2019/07/01/the-property-issue-and-its-implications-for-ownership-rights-in-syria/> (last accessed: 24 January 2021).

⁶ Paragraph 52 of the aforementioned Report of the Independent International Commission of Inquiry on the Syrian Arab Republic.

owners out of them, and hence, from the area altogether, making it easier for the SNA to seize property under the pretext of their owners' absence.⁷

SNA armed group leaders, the Ministry of Defense in the Syrian Interim Government, and the Turkish government have failed to hold SNA members accountable for their arbitrary property seizures. That these groups have largely ignored them indicates their complicity in the practice and alludes to their intention to demographically change Kurdish-majority areas. Notably, property seizures continued outside of the context of Turkey's military operations. The SNA emptied some homes from their Kurdish inhabitants and settled in them families – mostly their own– from outside Afrin and Ras al-Ayn/Serê Kaniyê.⁸ Kurds who were allowed to stay in their homes were forced to pay taxes. Moreover, some properties were confiscated by decisions of local councils in those areas, including the home of the Kurdish activist Muhyedin Isso, which was turned into an institute for teaching Quran under the presence and supervision of the governor of Turkey's Urfa.⁹

Bringing Syrians from different areas and settling them into the homes of indigenous Kurds demonstrates Turkey's intention to demographically change regions in northern Syria which is now under the control and influence of Turkey and allied Syrian armed groups. Turkish President Recep Tayyip Erdoğan said "Turkey would seek to set up a safe zone in territories held then by the Kurdish-led autonomous administration in northeastern Syria to which between one million and three million Syrian refugees could return". This statement was preceded by the Turkish government forcibly returning dozens of Syrians to northern Syria.¹⁰

Property Seizure Violates Local and International Laws

The arbitrary property seizures in Operation Olive Branch, Operation Peace Spring, and other Syrian areas violates many international instruments and conventions, including the basic human right to property, given that denying a person property rights deprives he/she of a safe and decent life. Article 17 of the Universal Declaration of Human Rights states:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

⁷ "Real estate seizures, utilization, and royalties... Who protects property rights in Afrin?", Enab Baladi, 22 July 2020, <https://english.enabbaladi.net/archives/2020/07/real-estate-seizures-utilization-and-royalties-who-protects-property-rights-in-afrin/> (last accessed: 24 January 2021).

⁸ "Syria: Turkey-Backed Groups Seizing Property", Human Rights Watch, 14 June 2018, <https://www.hrw.org/news/2018/06/14/syria-turkey-backed-groups-seizing-property> (last accessed: 24 January 2021).

⁹ "Ras al-Ayn: IHH Turns two Seized Houses into Quran Institutes", STJ, 11 August 2020, <https://stj-sy.org/en/ras-al-ayn-ihh-turns-two-seized-houses-into-quran-institutes/> (last accessed: 24 January 2021).

¹⁰ "Repatriation" of Syrians in Turkey Needs EU Action", Human Rights Watch, 7 November 2019, <https://www.hrw.org/news/2019/11/07/repatriation-syrians-turkey-needs-eu-action> (last accessed: 24 January 2021).

Additionally, Article 5 of the [International Convention on the Elimination of All Forms of Racial Discrimination of 1965](#) “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights,” including “the right to own property alone as well as in association with others.” Both [Syria and Turkey are signatories to this agreement](#).

Article 8 of the [European Convention on Human Rights of 1950](#) states that “everyone has the right to respect for his private and family life, his home and his correspondence.” Moreover, principle 21 of the UN’s Guiding Principles on Internal Displacement states:

1. No one shall be arbitrarily deprived of property and possession.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular against the following acts:
 - (a) Pillage;
 - (b) Direct or indiscriminate attacks or other acts of violence;
 - (c) Being used to shield military operations or objectives;
 - (d) Being made the object of reprisal; and
 - (e) Being destroyed or appropriated as a form of collective punishment.
3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.¹¹

Consequently, real estate seizures practiced by Turkish-backed SNA armed groups which forcibly displaced their residents, especially indigenous Kurds,¹² constitutes a clear violation of international instruments and covenants — including instruments and covenants that Turkey and Syria are party to.¹³ And since those violations were committed on a large scale,

¹¹ Principle 21 of the Guiding Principles on Internal Displacement, adopted in Austria in 1998 and established at the fifty-fourth session of the Commission on Human Rights, <https://www.unhcr.org/en-us/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html> (last accessed: 24 January 2021).

¹² It is important to note that the forcible transfer or deportation from occupied territory of protected persons constitute a violation in itself, according to international humanitarian law, in accordance with Article 49 of the Fourth Geneva Convention of 1949. these violations are also considered war crimes in accordance with the convention establishing the International Military Tribunal in 1949. Nuremberg (Article 6-b). As well as the Rome Convention establishing the International Criminal Court (Article 8/2 - b).
<https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf>
https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.2_Charter%20of%20IMT%201945.pdf
<https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>

¹³ According to Article 147 of the Fourth Geneva Convention of 1949, Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: unlawful deportation or transfer or unlawful confinement of a protected

systematically and with the knowledge of the SNA leaders and the Turkish government, they fall under Article 8 of the Rome Statute of the International Criminal Court of 1998 – entered into force in 2001 – which states: “The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes”.¹⁴ Article 7 of the same Statute confirms that the deportation or forcible transfer of a population constitutes a crime against humanity.

The property seizures also violate Syrian law. By analogy with stipulation of the Syrian Law, seizure acts are considered violations according to the [Syrian Constitution](#)’s Article 15, which states that “Collective and individual private ownership shall be protected in accordance with the following basis”:

1. General confiscation of funds shall be prohibited;
 - a. Private ownership shall not be removed except in the public interest by a decree and against fair compensation according to the law;
 - b. Confiscation of private property shall not be imposed without a final court ruling;
 - c. Private property may be confiscated for necessities of war and disasters by a law and against fair compensation;
 - d. Compensation shall be equivalent to the real value of the property.

However, the majority of the seizures made in the areas we are addressing, if not all, were carried out without compensation.¹⁵ Further, the seizure of Kurdish families’ real estate property, especially those families composed of less than three members,¹⁶ and settling Arabs families from outside the region in them, violates Articles 18, 19, and 33 of the Syrian Constitution, which affirms the principle of equality among all citizens. Additionally, the SNA groups’ refusal to allow Kurds to return to their homes¹⁷ constitutes a clear violation of Article 38 of the Syrian Constitution that says:

1. Taxes, fees and overhead costs shall not be imposed except by a law;
2. The tax system shall be based on a fair basis; and taxes shall be progressive in a way that achieves the principles of equality and social justice.

The decision also violates Article 50 which states that “The rule of law shall be the basis of governance in the state.”

person...taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

¹⁴ Article 8, Paragraph 2 of the Rome Statute establishing the 1998 International Criminal Court.

¹⁵ “Turkey-backed forces seizing property in Syria’s Afrin”, HRW, 14 June 2018, [https://www.hrw.org/news/2018/06/14/syria-turkey-backed-groups-seizing-property#:~:text=\(Beirut\)%20%E2%80%93%20Turkey-backed,Human%20Rights%20Watch%20said%20today](https://www.hrw.org/news/2018/06/14/syria-turkey-backed-groups-seizing-property#:~:text=(Beirut)%20%E2%80%93%20Turkey-backed,Human%20Rights%20Watch%20said%20today) (last accessed: 24 January 2021).

¹⁶ Paragraph 47 of the report by the IICISyria issued in September 2020.

¹⁷ Paragraph 49 of the report by the IICISyria issued in September 2020

In addition to violating the Syrian Constitution, the property right violations discussed in this report violate Article 771 of the Syrian Civil Code promulgated by Legislative Decree No. 84 of 1949, which affirms that no one may be deprived of his property except in cases determined by law, and in return for fair compensation. They also violate Article 768 of the same Code that says: *“the owner has the sole right, within the limits of the law, to use, exploit and dispose of his/her property,”* and Article 770 which confirms that *“The owner of a property has the right to all its returns, products, and attachments, unless there is a text or agreement states the contrary.”*

SNA members request for owners to present ownership documents also interferes with the mandate of the Syrian judiciary, violating the principle of independence stipulated in Articles 132 and 134 of the Syrian Constitution, as well as Article 51 which states: *“The right to conduct litigation and remedies, review, and the defense before the judiciary shall be protected by the law.”* The same principle was also stipulated in the Syrian Judicial Authority Law promulgated by Decree No. 198 of 1961.

In addition, Articles 723 and 724 of Syria’s Special Penal Code clarify that punishment for the crime of property extortion is imprisonment for up to six months for anyone who does not carry a document of ownership or disposition and seizes either property in whole or in part. The penalty doubles to one-year imprisonment if the crime is accompanied by threat or coercion against the targeted property owner. Prison time increases to three years if the extortion is committed by a group of two-or-more armed people. Article 635 of the same Code imposes a sentence of three months to two years imprisonment with hard labor on anyone who threatens or forces another to put his/her signature on a document or to write one containing a pledge or a discharge, harming the victim’s wealth or the wealth of someone else. The penalty increases to three years to fifteen years with hard labor if the perpetrator threatens the victim with a weapon.

The Syrian Penal Code currently does not impose strict, deterrent penalties against violators of real estate rights. Additionally, the Penal Code has not kept pace with international criminal law, which considers these property violations as war crimes and crimes against humanity — especially when they committed systemically and on a large scale during armed conflicts with the intention of demographic engineering. As the sanctity of private property and the impermissibility of its seizure has become a basic principle of customary international law, the Syrian Penal Code must be amended to align with the international conventions which ensure the right to property and criminalize its violation.¹⁸

¹⁸ Jean-Marie Henckaerts: “Customary International Humanitarian Law”, ICRC, 2015, <https://www.icrc.org/en/doc/resources/documents/publication/pcustom.htm> (last accessed: 24 January 2021).

Legal Liabilities for Those Who Seize Real Estate Property

Seizing a property and expelling its inhabitants is considered a crime of property extortion in accordance with Article 723 of the Syrian Penal Code. The Article states that anyone who commits such a crime, whether individually, in partnership with others, or through another person or if he/she induced its commission or helped in any way, will be held accountable.¹⁹

Military commanders of armed groups and divisions shall be held criminally responsible for war crimes and crimes against humanity, including the extortions of property, committed by members under their effective command and control. Commanders also bear responsibility for crimes if they do not take all the necessary measures within their authority to prevent the commission of crimes, especially if they know, or should have known, that their forces were committing or intending to commit such crimes, and do not refer the matter to competent authorities for investigation and prosecution. The same applies to the President, who shall be asked to answer for the crimes committed by his subordinates who are under his effective authority and control.²⁰

These legal rules apply to the SNA commanders who order the perpetration of property violations, or at the very least learn about them from social media, media outlets, as well as civil society and human rights reports like the IICISyria of 2020 and do nothing in response. That, until today, perpetrators have still not been held accountable by their commanders which constitutes evidence of the latter's consent and blessing of such crimes.

The same also applies to the officials of the National Coalition for Syrian Revolutionary and Opposition Forces and those of the Syrian Interim Government, since the latter adopted the formation of the SNA.²¹ The Interim Government's Ministry of Defense has repeatedly declared that the SNA operates under his ministry and takes orders from it. Despite its knowledge of these violations, the Interim Government has not lifted a finger in response. Instead, the Interim Government attacked the IICISyria's report which addressed violations conducted in Operation Peace Spring and Operation Olive Branch saying: "Unfortunately, the IICISyria's report includes lies and political fabrications couched in a language that carries great hostility to the Syrian revolution that reaches the point of prejudice against the SNA and its institutions and lacks legal professionalism." The Interim Government added: "We strongly condemn the accusations, lies, intimidations and interpretations contained in this biased report almost verbatim issued by the separatist militias or the Assad regime and its allies against the SNA and the revolutionary forces."²²

¹⁹ Article 25 of the Rome Statute of the International Criminal Court.

²⁰ Article 28 of the Rome Statute of the International Criminal Court & Article 87 of the 1977 Protocol I annexed to the four Geneva Conventions of 1949.

²¹ "The Interim Government announces the formation of the Syrian National Army", Enab Baladi, 30 December 2017, <https://www.enabbaladi.net/archives/194981> (last accessed: 24 January 2021).

²² The full statement is available here:

<https://syriaig.net/ar/721/content/%D8%A8%D9%8A%D9%80%D9%80%D9%80%D8%A7%D9%86%20%D8%AD>

The Coalition's head, Naser al-Hariri, sent a letter to the head of the IICISyria asking for details on the alleged seizures in Afrin and Ras al-Ayn/Serê Kaniyê in order to refer them to the national judiciary in the liberated areas, investigate them, hold their perpetrators accountable, and redress those whose rights had been violated.²³ However, if the Coalition was sincere and serious in providing justice to those whose rights were violated, it could have investigated the seizure of the Kurdish activist Muhyedine Isso's home by the local council of Ras al-Ayn/Serê Kaniyê and the turning of it into an institute for teaching Quran under the presence and supervision of the governor of Turkey's Urfa.

As an occupying power, as described by the Amnesty International, the Turkish government must assume its responsibilities to ensure the safety of the population and maintain order in the areas of its influence.²⁴ A report by Amnesty International issued on 2 August 2018 determined that Turkey turned a blind eye to the violations committed by Syrian armed groups equipped and armed by it, including arbitrary detentions, enforced disappearances, and the confiscation and looting of property.²⁵ Furthermore, Human Rights Watch (HRW), in its annual report on the events which took place in 2019 in Syria, referenced violations committed by Turkey and allied armed groups in Operation Olive Branch areas in Afrin and Operation Peace Spring areas in north east Syria. These violations include the killing of Kurdish fighters, political activists, and paramedics, the looting and confiscation of property,²⁶ and the

[%D9%88%D9%84%20%D9%85%D8%A7%20%D8%AA%D8%B6%D9%85%D9%86%D9%87%20%D8%AA%D9%82%D8%B1%D9%8A%D8%B1%20%D8%A7%D9%84%D9%84%D8%AC%D9%86%D8%A9%20%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A9%20%D8%A7%D9%84%D9%85%D8%B3%D8%AA%D9%82%D9%84%D8%A9%20%D8%A7%D9%84%D8%AA%D8%A7%D8%A8%D8%B9%D8%A9%20%D9%84%D9%84%D8%A3%D9%85%D9%85%20%D8%A7%D9%84%D9%85%D8%AA%D8%AD%D8%AF%D8%A9%20%D8%A7%D9%84%D8%B5%D8%A7%D8%AF%D8%B1%20%D9%81%D9%8A%2014%20%D8%A3%D9%8A%D9%84%D9%88%D9%84%202020%20%D8%A8%D8%AE%D8%B5%D9%88%D8%B5%20%D8%A7%D9%86%D8%AA%D9%87%D8%A7%D9%83%D8%A7%D8%AA%20%D8%AD%D9%82%D9%88%D9%82%20%D8%A7%D9%84%D8%A5%D9%86%D8%B3%D8%A7%D9%86%20%D9%81%D9%8A%20%D8%B3%D9%88%D8%B1%D9%8A%D8%A7](#) (last accessed: 24 January 2021).

²³ "The National Coalition has reservations on some of what mentioned in the IICISyria report", 24 September 2020, <https://www.etilaf.org/all-news/news/%d8%a7%d9%84%d8%a7%d8%a6%d8%aa%d9%84%d8%a7%d9%81-%d8%a7%d9%84%d9%88%d8%b7%d9%86%d9%8a-%d9%8a%d8%aa%d8%ad%d9%81%d8%b8-%d8%b9%d9%84%d9%89-%d8%a8%d8%b9%d8%b6-%d9%85%d8%a7-%d9%88%d8%b1%d8%af-%d9%81%d9%8a> (last accessed: 24 January 2021).

²⁴ Art. 43. of the 1907 Hague Convention: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country." <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/0/1d1726425f6955aec125641e0038bfd6#:~:text=can%20be%20exercised.,Art.,Art>

²⁵ "Turkey turning 'blind eye' to Syrian rebel abuses in Afrin", Amnesty, 2 August 2018, <https://www.france24.com/en/20180802-turkey-turns-blind-eye-syrian-rebel-abuses-afrin-amnesty> (last accessed: 24 January 2021).

²⁶ "Turkey and opposition factions committed war crimes in Afrin and northeastern Syria", HRW, https://npasyria.com/blog.php?id_blog=6934&sub_blog=10&name_blog=%22%D9%87%D9%8A%D9%88%D9%85%D9%86%20%D8%B1%D8%A7%D9%8A%D8%AA%D8%B3%20%D9%88%D9%88%D8%AA%D8%B4%22:%20%D8%AA%D8%B1%D9%83%D9%8A%D8%A7%20%D9%88%D9%81%D8%B5%D8%A7%D8%A6%D9%84%20%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D8%B1%D8%B6%D8%A9%20%D8%A7%D8%B1%D8%AA%D9%83%D8%A8%D8%AA%20%D8%AC%D8%B1%D8%A7%D8%A6%D9%85%20%D8%AD%D8%B1%D8%A8%20%D9%81%D

participation of the Turkish forces, or at the very least, the choice to overlook violations committed in the Syrian areas Turkish forces occupy. As these violations are considered war crimes, Turkish officials can and must be held accountable for them.²⁷

However, victims do not need to wait for perpetrators to be prosecuted before filing to competent civil judiciaries to demand the restoration of their seized properties. Victims also can claim compensation for the damage caused to them as a result of these unlawful acts, in accordance with Article 165 et seq. of the Syrian Civil Code. This requires victims and entities defending human rights to take measures to restore the rights violated compatible with the phase Syria is undergoing. Current legal actions should anticipate Syria's transitional justice phase and how to achieve justice for the largest possible number of victims, and make legal decisions accordingly.

What Needs to be Done to Preserve Properties and Recover Them in the Future?

One of the requirements for implementing the pending political agreement is to ensure a safe and impartial environment that will provide those displaced within and outside of Syria safe and dignified return to their areas of origin and places of residence,²⁸ in accordance with Security Council Resolution 2254 of 2015. However, multiple challenges will impede this return, including the seizure of the property of many of the displaced. It is impossible for the displaced or refugees to think of returning to the homes that used to shelter them or to their farms from which they used to live if they have been plundered. If they return, many allegations and disputes will be brought before the commissions, bodies or courts that will form part of the forthcoming transitional justice program. This requires everyone who claims to own a property to provide the party examining the dispute with documents and evidence proving his/her claim.

This justice process requires the owner to keep all the documents proving his/her property ownership, such as title deeds (green deeds), boundary marking and registration reports, real estate records, court decisions, notary mandates, housing associations books, and outright sale contracts. The owner must also entrust back-ups of the mentioned documents to trusted people and specialized human rights organizations in anticipation of the damage or loss of these documents. In the event of any legal flaw in any of those documents, the owner must

[9%8A%20%D8%B9%D9%81%D8%B1%D9%8A%D9%86%20%D9%88%D8%B4%D9%85%D8%A7%D9%84%20%D8%B4%D8%B1%D9%82%D9%8A%20%D8%B3%D9%88%D8%B1%D9%8A%D8%A7](#) (last accessed: 24 January 2021).

²⁷ "If any armed group members were shown to be acting under the effective command and control of Turkish forces, violations by these actors may entail criminal responsibility for such commanders who knew or should have known about the crimes, or failed to take all necessary and reasonable measures to prevent or repress their commission", IICISyria report, p.69.

²⁸ Especially since the number of internally displaced Syrians exceeds six million, and the number of refugees exceeds five million, according to the report of IICISyria issued at the 40th session of the Human Rights Council held between 25 February and 22 March 2019.

promptly remedy it – if possible – with competent authorities. In case the process of transferring ownership is incomplete, it is best to complete it, whether it is through the real estate registry, the court, or at the notary office. In such cases, it is preferable to hire a lawyer to avoid making legal mistakes that may be difficult to correct in the future.²⁹

Because the Syrian government can no longer operate its institutions in the areas occupied by Turkey, it moved its courts to other areas; the Afrin court was moved to Aleppo, the Ras al-Ayn court was moved to al-Hasakah, and the Tell Abyad court was moved to As-Sabkha Nahiyah of the province of Raqqah.³⁰ Thus, claimers can file their real estate cases, especially those of confirming sale contracts, before those courts and obtain judicial decisions on which they can base until Syria undergoes its anticipated transitional period.

Additionally, the owner should keep all evidence which could support his/her claim in the future, like reports issued by local and international human rights organizations – we have already mentioned some in this report – and media reports confirming lootings and seizures by the SNA militias. In case the victim was extorted by those militias or forced to give up or sell his/her property for free or for a small fee, he/she can file a case named “hearing a witness who fears he will miss the opportunity to give his testimony in the future” before the interim relief judge.³¹ According to Article 86 of the Syrian Evidence Law, the possibilities of missing this opportunity are numerous, especially with the prolonged Syrian conflict, as the victim may travel, die, or disappear. The judicial decision which the victim would obtain after giving his/her testimony, would be significant evidence while claiming property ownership. It should be noted that victims do not have to wait for actors in the Syrian conflict to reach a political agreement and enter the transitional phase —they can currently file their cases when conditions permit.³²

In the event of reaching the anticipated political agreement and thus forming a transitional governing body, all judgments and decisions issued by the courts, the local councils, and the civil police formed in the areas controlled by the Turkish-backed SNA would be annulled. Thereby, decisions of real property seizure shall be considered null as well as dubious sale contracts concluded during the occupation of the areas addressed in this paper. This is due to the fact that the courts in Tell Abyad and Ras al-Ayn/Serê Kaniyê were forced to carry out orders by the Turkish government that contributed to their formation and the naming of their staff.³³

²⁹ Riad Ali: “With the various controlling parties...What are the available means to protect real estate properties in Syria?”, Enab Baladi, 28 June 2020, <https://www.enabbaladi.net/archives/396825> (last accessed: 31 January 2021).

³⁰ STJ obtained this information from lawyers present in Aleppo and al-Hasakah. The organization reserves its right to mention their names for their safety.

³¹ Article 79 of the Procedure Law No. 1 of 2016.

³² Riad Ali: “Role of the urgent judiciary in restoring real property”, Enab Baladi, 28 July 2020, <https://www.enabbaladi.net/archives/403982> (last accessed: 24 January 2021).

³³ Report by IICISyria issued at the 40th session of the Human Rights Council held between 25 February and 22 March 2019, p.70.

In this regard, we can draw upon the experience of the State of Colombia, in issuing The Victims and Land Restitution Law no.1148 in 2011. This Law enables those who were dispossessed of their property in the context of the armed conflict, whether by confiscation or by forcing them to abandon it, to demand the restitution of their property physically and legally. The Law also provides safeguards that are not present in the usual legal procedures. For example, the law allows the use of non-traditional and diverse types of evidence to support restoration claims, given that many applicants have lost identity papers due to being subjected to forced displacement. In addition, the law presupposes the absence of consent for transfers of land ownership between victims and any of those convicted of belonging to, cooperating with, or financing illegal armed groups.³⁴

Conclusion and Recommendations

The violations committed in Operation Olive Branch and Operation Peace Spring areas were systematic and large-scale. These violations, especially the seizure of real estate property, were premeditated and aimed at demographically changing Tell Abyad and Ras al-Ayn/Serê Kaniyê to eliminate the indigenous Kurdish presence in them.

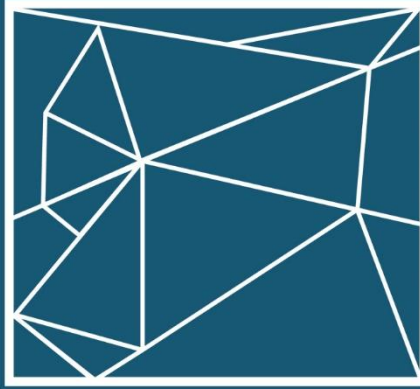
Reaching a political agreement that would end the Syrian tragedy requires a safe and neutral environment that encourages the voluntary, safe, and dignified return of refugees and internally displaced persons to their hometowns. This return, however, will not be possible if those who were displaced cannot restore property appropriated by the SNA. STJ recommends:

1. To form special international committees to examine violations related to property seizures in Operation Olive Branch and Operation Peace Spring areas. These committees would receive complaints from affected people and decide them on the basis of the documents and evidence presented, and the decisions would be subject to appeal before a competent civil court.
2. To provide for the constitution to write in the supremacy of international instruments and conventions over domestic law, especially those conventions related to human rights, including the right to property, which Syria has ratified. The national jurisdiction must be given the opportunity to apply these conventions in the event they conflict with the internal laws which must be amended in accordance with these conventions.
3. To have the transitional governing body, if formed, issue a law or decision considering all transfers of real estate ownership in Tell Abyad and Ras al-Ayn/Serê Kaniyê illegal, including those decisions passed by courts and local councils there. Whoever claims the validity of such a decision must present proof.

³⁴ Frances Thomson: "Land restitution in Colombia: why so few applications?", Forced Migration, <https://www.fmreview.org/latinamerica-caribbean/thomson> (last accessed: 24 January 2021).

4. To exert pressure on the National Coalition for Syrian Revolutionary and Opposition Forces and the Syrian Interim Government and affiliated military organs, represented by the SNA groups, especially from the western and European governments supporting and financing them to stop property violations in the areas under their influence.
5. To address the Turkish government through international bodies and organizations, such as the United Nations, to carry out the duties entrusted to it as an occupying power in the Syrian areas it controls, and to preserve the properties of the indigenous people living in them from looting and seizure.

سوريون
من أجل
الحقيقة
والعدالة
Syrians
For Truth
& Justice



History

Syrians for Truth and Justice was conceived during the participation of its co-founder in the Middle-East Partnership Initiative (MEPI) Leaders for Democracy Fellowship program, who was driven by a will to contribute to Syria's future. Starting as a humble project to tell the stories of Syrians experiencing enforced disappearances and torture, it grew into an established organisation committed to unveiling human rights violations of all sorts.

Convinced that the diversity that has historically defined Syria is a wealth, our team of researchers and volunteers works with dedication at uncovering human rights violations committed in Syria, in order to promote inclusiveness and ensure that all Syrians are represented, and their rights fulfilled.

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